

TERM OF COMMISSION: July Session of the May Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District II Commissioner Skip Elkin
Deputy County Clerk Shawna Victor

The meeting was called to order at 1:34 p.m.

Subject: Public Hearing on Appeal by Teddy Ray Trust Regarding Nuisance Ordinance Violation

Elton Fay, representative of the Teddy Janet Ray Trust, 11 N. Fifth Street, Columbia, and John Patton, County Counselor, were present on behalf of this item.

John Patton stated the ordinance provides that if someone is cited for a violation of the nuisance ordinance they have the right to appeal the violation. That determination is made by the Health Department. Mr. Fay sent a letter to the Commission a few weeks ago asking for a public hearing on the appeal. This was originally scheduled to be heard on July 2, 2002. Mr. Patton stated he was informed Mr. Fay was given verbal notice of the hearing. At that meeting, no one was present and he requested the hearing be tabled until Mr. Fay and his client could be present.

Commissioner Stamper apologized to Mr. Fay for any inconvenience that was caused due to communication problems but this item was tabled so he could be present.

Mr. Fay stated the telephone records were checked and they did not receive any notice of the public hearing that was scheduled on July 2, 2002. The first notice that was received was a letter from the Deputy County Clerk.

Mr. Fay stated this is an interesting issue because his client has been cited for failure to mow grass on a lot that she owns, which is adjacent to the Lake of the Woods Subdivision lagoon. This property is immediately west of the lagoon. Mr. Fay and his client are not sure if the Boone County Commission or the Boone County Regional Sewer District has a contract dealing with this lot. There is a contract with Capitol Railroad Contracting Company to hook that lagoon and sewer system to the main sewer system for the City. After it has been hooked into the system, the lagoon is to be drained and filled. Mr. Fay's client, at no time, gave that company, the County Commission or the Boone County Regional Sewer District permission to deposit approximately 40 loads of soil and debris on her lot. This soil has been on that lot since January 2001. When his client went out during the spring to mow this lot last year, she discovered that the lot had approximately 40 loads of soil and debris. His client had tried to find out who had dumped the soil and

debris on her lot.

Currently, there is a pending case in the Division V Circuit Court against the Capitol Railroad Contracting Company for trespass on the property asking for a rental fee, asking that the soil and debris be removed, and an environmental inspection be performed on the property after the soil and debris is removed to certify that there is no contamination of the surface of the lot. After that testing has been completed, they are asking the top soil be replaced and that the lot be seeded to its previous condition.

At this point in time, Mr. Fay's client is unable to mow the grass or do anything with the weeds because either the Commission or the Boone County Regional Sewer District dumped soil on this lot. Commissioner Stamper stated the Boone County Regional Sewer District has done this.

Mr. Fay stated the Sewer District has allowed their contractor to trespass on his client's lot. He believes the proper citation in this should be to the Capitol Railroad Contracting Company that deposited the soil and debris on this lot because his client has no way of removing the weeds from this lot at this point in time. Mr. Fay has instructed his client, after speaking with Engineering Surveys and Services Environmental Inspectors, not to do anything to the lot until an agreement is made on how the lot can be inspected. They do not know where this debris came from or knowing what is in the debris. As late as this morning, CNA Insurance Company has contacted his office and has indicated they are in the process of processing the claim, which has come about because of the lawsuit that has been filed.

Commissioner Stamper asked who CNA is representing. Mr. Fay stated they are representing Capitol Railroad Contracting Company. Mr. Patton stated they are representing John Massey.

Mr. Fay requested the Commission issue a new citation to the proper party to remove the weeds because his client will not take responsibility until they are certain the property is not contaminated.

Commissioner Stamper asked Chris Smith, Senior Environmental Health Specialist with the Health Department, if she had any comments. Chris Smith stated she had received complaint about the lot and that is why she issued the notice of violation. The Health Department determined the citation should be issued to the Teddy Ray Trust because they are the owner of the lot.

Commissioner Stamper asked how big the lot is. Mr. Fay stated the lot is approximately 1/3 of an acre. Ms. Smith stated the lot size is 82' x 150'.

Commissioner Stamper stated if the Commission does not approve the appeal and order the public entity to mow the weeds, then Mr. Fay and his client would have an additional

claim in this case against the contractor. He asked Mr. Patton if it was possible to do as Mr. Fay suggested which is to issue a new citation. Mr. Patton stated the ordinance uses the term "property occupant" and a property occupant is a person that either owns the property or person who has possession or charge of the property. In this instance, both parties are responsible for the maintenance of the weeds. He believes the ordinance would include people who lease property. He is not sure if the contractor would qualify as a property occupant. One could say the contractor took charge or possession of the property when the soil and debris was piled on the property. The contractor can be cited if the Commission wishes to do so and it would be the contractor's obligation to defend himself. The contractor can make an appeal to the Commission, which the Commission can either approve or deny the appeal. The County does not prosecute these violations. It would be up to the Prosecuting Attorney's Office to initiate the enforcement or this could be brought to a Civil Court.

Commissioner Stamper asked if the work on the lagoon is complete. Commissioner Elkin stated no.

Commissioner Stamper asked how much work is left to be done. Mr. Fay stated he drove past the area just before this meeting and there is work being done today. He believes the lagoon has been hooked up to the City's system and they are in the process of draining the lagoon at this point. He noted the pending lawsuit charges when they took possession of the lot, which is in effect what they did, the owner of the lot is entitled to a monthly rental fee, which will be established by the Court. They have forcibly taken a month to month tenancy from the landowner from the time they have occupied the lot. Their insurance company has indicated there is no problem in paying a rental fee and removing the soil and debris but their coverage does not cover any contamination of the property. Mr. Fay's client does not know where these piles came from and whether it is contaminated or not and his client would be held liable if it is contaminated to clean up the land. He believes this will be worked out. Mr. Fay has spoken with Larry Henderen about this and if the piles are removed and 18" of top soil is removed, the remaining soil is tested for contamination and new top soil is placed on the land, then this should take care of the situation. This would be less expensive than if each pile was tested and not removed from the land.

Commissioner Stamper asked Mr. Fay if it is his impression that these piles were being used as stock pile to fill in the lagoon after it is drained. Commissioner Elkin stated yes. Mr. Fay stated he believes the contractor assumed this land was owned by the Sewer District even though it is owned by his client.

Commissioner Stamper asked what the status of the situation and if the contractor could remove the piles or is this suspended until the outcome of the lawsuit. Mr. Fay stated they wanted the Environmental Engineer to inspect the piles as they are removed and have an agreement as to how the land will be inspected after the piles are removed.

Commissioner Stamper asked if there was an injunction about the contractor doing anything on this tract of land. Mr. Fay stated if the contractor wants to trespass more they can.

Commissioner Elkin stated he is unsure of the exact time table, but the contractor wanted to use those piles to fill in the lagoon. He believes if the contractors could have access to the land then the work could be completed this month. Mr. Fay stated they have requested the contractors not go back onto the land until an agreement has been reached. As of this time, there is no agreement.

Commissioner Stamper stated the Commission has not been in a situation like this and there was no weed ordinance until a few years ago. He believes Ms. Smith was in the right to cite the issue. A condition was found that should not have been there. He understands why Mr. Fay's client cannot mow in its current condition. He requested some advise on how to deal with this situation.

There was no further public comment on this issue.

Commissioner Stamper asked for the preferences of the Commission or Legal Counsel. Mr. Patton stated this should be deferred for a while to allow the Sewer District and John Massey time to resolve the matter with the property owner. The County's objective is to have the weeds cut.

Mr. Fay noted his client would not object if the contractor would let them know if they want to cut the weeds.

Commissioner Stamper stated it is to his understanding that the contractor cannot go on the property until an agreement is met. He asked Ms. Smith if she had an opinion on this issue. Ms. Smith stated in order to resolve the problem the contractor will have to have access to the property.

Commissioner Elkin asked Mr. Fay if the contractor could go on the property to cut the weeds. Mr. Fay stated there would be no objection to this.

Commissioner Stamper moved to suspend the Notice of Violation of the Boone County Public Nuisance Ordinance Section 5.7 as cited to the Teddy Janet Ray Trust, for Lot 8 Fairway Meadows, 1 Demaret (Parcel #17-313-11-01-174.00 01) for a 30 day period, from today's date. It is further ordered that Commissioner Elkin, Liaison Commissioner to the Boone County Regional Sewer District, will work with the Boone County Regional Sewer District Manager to coordinate the mowing of the grass and weeds on said lot.

Commissioner Elkin seconded the motion.

Mr. Fay and his client had no objection to the motion.

There was no further discussion and no public comment.

The motion passed 2-0. **Order 306-2002**

Subject: Purchasing Department

Marlene Ridgeway, Purchasing Department Buyer, was present on behalf of these items.

A. Bid Opening for Bid 49-09JUL02 (Benson Road Improvement Phase)

Commissioner Stamper opened the bid from Don Schnieders Excavating.

- Bid Form (Revised) Base Bid: \$130,651.00
- Alternate "A" Bid: \$130,219.00
- Addendum Acknowledgement (Addendum One and Two), Completion of Bidder's Qualifications, Anti-Collusion Statement, Signature and Identity of Bidder, Bidder's Acknowledgement, and Bid Bond: YES

Commissioner Elkin opened the bid from JC Industries.

- Bid Form (Revised) Base Bid: \$95,464.90
- Alternate "A" Bid: \$122,979.90
- Addendum Acknowledgement (Addendum One and Two), Completion of Bidder's Qualifications, Anti-Collusion Statement, Signature and Identity of Bidder, Bidder's Acknowledgement, and Bid Bond: YES

Commissioner Stamper opened the bid from C.L. Richardson.

- Bid Form (Revised) Base Bid: \$123,494.28
- Alternate "A" Bid: \$117,256.65
- Addendum Acknowledgement (Addendum One and Two), Completion of Bidder's Qualifications, Anti-Collusion Statement, Signature and Identity of Bidder, Bidder's Acknowledgement, and Bid Bond: YES

Commissioner Elkin opened the bid from APAC.

- Bid Form (Revised) Base Bid: \$126,524.15
- Alternate "A" Bid: \$107,941.20
- Addendum Acknowledgement (Addendum One and Two), Completion of Bidder's Qualifications, Anti-Collusion Statement, Signature and Identity of Bidder, Bidder's Acknowledgement, and Bid Bond: YES

Commissioner Stamper asked if Alternate "A" is an additional amount. David Mink, Public Works Director, stated that Alternate "A" is for additional work.

Commissioner Stamper stated these bids would be referred to the Purchasing Department for review and will be brought back forward with a recommendation for award.

B. Second Reading and Award of Bid 40-25JUN02 (HVAC Renovation – Boone County Courthouse)

Commissioner Stamper moved to award bid 40-25JUN02 for HVAC Renovation – Boone County Courthouse to J. Louis Crum of Columbia, Missouri per the recommendation of the Purchasing and Public Works Departments.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 307-2002**

C. Second Reading and Award of Bid 32-18JUN02 (Tires – Heavy Trucks and Large Equipment)

Commissioner Elkin moved to award bid 32-18JUN02 for Tires – Heavy Trucks and Large Equipment to Cross Midwest Tires.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 308-2002**

D. First Reading of Bid 48-27JUN02 (Asphalt Paving and Overlay)

Marlene Ridgeway stated she and the Public Works Department have reviewed and recommend award to APAC-Missouri for having the lowest and best bid meeting the minimum specifications.

APAC was the previous contracted vendor. The bid tabulation shows a comparison of last year's prices compared to the 2002 contract prices.

The total contract price is \$278,155.95 to be paid from organization 2040 account 71100.

There was no discussion and no public comment.

Commissioner Stamper stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available meeting with an appropriate order for award.

Subject: Public Works

A. Second Reading and Approval of Wastewater Operations and Maintenance Agreement

Commissioner Elkin stated this agreement is for the Sewer District to take over maintenance operations of the lagoons at Public Works.

Commissioner Elkin moved to approve the Wastewater Operation and Maintenance Agreement with the Boone County Regional Sewer District.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 309-2002**

B. Second Reading and Approval of Gillespie Bridge Road Speed Limit Change

Commissioner Elkin moved to approve the recommendation from the Boone County Public Works Department to increase the speed limit on Gillespie Bridge Road between the Perche Creek Bridge and State Highway UU from 40 mph to 50 mph.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 310-2002**

Subject: Second Reading and Approval of Insurance Settlement Proceeds for Boone County Fairgrounds

Commissioner Elkin stated this is to note the Commission's intent to use the proceeds from the insurance settlement from the storm damage in May at the Boone County Fairgrounds.

Commissioner Stamper asked if Commissioner Elkin was aware of any internal objection to this. Commissioner Elkin stated he has received comments from the Boone County Auditor on the procedures of this issue. The way the procedure works is any insurance proceeds go into a general revenue funds by State Statutes according to the Auditor.

Commissioner Stamper asked if it was Commissioner Elkin's impression that prior to any of these proceeds being expended or assigned out of the general revenue fund, there would have to be a budget amendment with a 10 day public hearing period before the amendment is approved. Commissioner Elkin stated that was correct. The purpose of this motion is

just to express the intent of the Commission. All State Statues procedures would have to be followed.

Commissioner Elkin moved to agree that all insurance settlement proceeds in the amount of \$541,907.00 (\$521,907 from Traveler's Insurance and \$20,000 from MARCIT) relating to the damage from a storm on May 8, 2002 shall be reinvested into a separate Boone County Fairgrounds Fund.

Commissioner Stamper seconded the motion.

Wendy Noren, Boone County Clerk, stated this is the wrong thing to do. She spoke with Commissioner Miller last week about this issue and Ms. Noren thought she would convey this information to the other Commissioners. The County has serious insurance cost increases primarily due to September 11, 2001 targeting County and Municipal governments. The insurance industry sees these entities as a prime target. The County's property insurance has already doubled and possibly increase two-fold because the County can no long get a Blanket Policy, a Schedule Policy is the only type of policy the County can get. There are many cost differences between these policies. The building that had the most damage was worth \$20,000 but under the Blanket Policy, the worth of the building was \$500,000. That building was purchased for \$20,000. The County will not receive the same dollar amount for the Courthouse if that building was destroyed.

The County's Worker Compensation rates are predicted to increase over \$100,000 than what the rates were last year.

The County is also seeing problems in the County's claims, costs, and in the Health Insurance pool. Ms. Noren anticipates, at the rate things are going, there will be a \$380,000 plus deficit this year that the Commission will need to come up with funding for.

She believes the Commission needs to set their priorities. Not so much as to where the money came from because if that is the way the County worked, then the Collector would have all the money from Property Taxes, the Treasurer would have all the money from Sales Taxes, for example. This is not the way the County works, money goes into the general revenue fund. The Commission determines what priorities for the governmental functions of County government need to be met and she believes this what the Commission should do.

Ms. Noren did speak with the County Auditor and the Auditor said there would need to be a budget amendment to do anything with this money.

Commissioner Stamper stated there will be opportunities in the future to debate specifically on how this money will be used. The issues raised by Ms. Noren are valid, important and they also have to be sustainable in nature. They will require on going levels

of financial support.

Ms. Noren stated hopefully some of these issues will abate in a few years. She believes, based on crises, for example in 1985, there were problems with Asbestos and the County's liability policies increase dramatically but decreased after five years.

The County also has to pay for higher deductibles. She noted one of the policies has increased from a \$5,000 to \$25,000 deductible. Fortunately, the County does not have that many losses in this neighborhood but it has been figured on a five year average, this will cost the County an additional \$70,000 per year. There are not similar increases in revenue. She stated when the Commission made the commitment to purchase the Fairgrounds; the Commission said there would not be any public money put into the Fairgrounds. This is public money. These are proceeds that go to general revenue and she believes the Commission should stick with that.

Commissioner Stamper stated these are proceeds that would not have occurred if the damaged had not occurred at the Fairgrounds. Ms. Noren stated this also would not have occurred if the County did not have a Blanket Policy. She believes targeting this income to something the Commission agreed they would not put public money into is wrong.

Commissioner Stamper stated he sees things differently because the proposal is to express the Commissions intent to reinvest the income that came from damage on the site to reserve it for that site. He believes if the Commission had decided to rebuild then the money would have gone towards rebuilding the structures that are not going to be rebuilt. The Commission was receiving questions about this and felt the need to express what the intent was in this area.

Ms. Noren stated she does not know who the Commission was receiving questions from but the money received from these proceeds is based on premiums the County has been paying over the years in a mutual agreement. It did not come from the Fairgrounds. The County has paid hundreds of thousands of dollars in premiums over the years. The County is getting a return on this and she believes the Commission needs to look at what their priorities are in meeting the governmental functions of this County.

Commissioner Stamper stated nothing that is done today will limit that. This will happen as part of the routine budget.

There was no further discussion and no public comment.

Commissioner Stamper asked how the Commission would like to proceed with this issue. Commissioner Elkin stated he believes the Commission should move forward with this issue.

The motion passed 2-0. **Order 311-2002**

Subject: Second Reading and Approval of Boone County Registration and Permit for Vicious Dogs

Commissioner Stamper moved to approve the Boone County Registration and permit for Vicious Dogs and Permit Fee, in the amount of \$275.00 to be paid annually, for all declared vicious animals in Boone County.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 312-2002**

Subject: Authorize Use of the Courthouse Grounds (Democrat Stump Speaking)

Commissioner Elkin moved to authorize the use of the Courthouse Grounds on August 2, 2002 from 5:00 to 7:00 p.m. for the Democrat Stump Speaking by the Boone County Democrat Central Committee.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 313-2002**

Subject: Appointment to Road and Bridge Advisory Committee

Commissioner Elkin moved to reappoint James K. Cunningham to the Road and Bridge Advisory Committee for a four-year term that will expire on May 25, 2006.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0. **Order 314-2002**

Commissioner Reports

Commissioner Stamper

Missouri Veterans Commission

Commissioner Stamper stated the Missouri Veterans Commission has announced

information about pre-certification for burial in the Jacksonville Veterans Cemetery. This document was submitted to the Public Record.

Jail Visitor Report of June 26, 2002

Commissioner Stamper submitted the Jail Visitor Report of June 26, 2002 to the Public Record. The Boone County Board of Jail Visitors inspected the Boone County Jail on June 26, 2002. He requested this document be forwarded to the Facilities Maintenance Department.

Kutaisi Salt Drive Agreement

Commissioner Stamper stated the Commission has received notice of an agreement between the City of Columbia and ACTS. ACTS will use approximately 1,000 square feet of the old Nowell's Building on Worley to store salt for the Kutaisi Salt Drive.

Memo from Health Department Regarding Crescent Meadows

Commissioner Stamper stated he requested the Health Department look at conditions at Crescent Meadows Trailer Park. These are the findings, as cited on the Memo dated May 14, 2002:

- 20 unlicensed or inoperable vehicles
- 12 lots with miscellaneous appliances
- 14 lots with tires and/or miscellaneous automobile parts
- 5 lots with weed violations
- 7 lots with miscellaneous junk (furniture, insulation)

The Health Department is working on citing people appropriately as those conditions exist.

Commissioner Elkin

None to report at this time.

There was no public comment.

The meeting adjourned at 2:17 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner