

TERM OF COMMISSION: February Session of the February Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
County Counsel John Patton
Deputy County Clerk Melanie Stapleton

The meeting was called to order by the Presiding Commissioner at 9:00am.

Subject: Suggested Conditions for Windy Point Development

Stan Shawver stated that during a work session with the County Commission, they requested that he prepare a list of possible conditions for the Windy Point Development to be brought forward for a discussion today.

Stan Shawver stated that he was present to bring forward a list of 13 possible conditions. He stated that conditions 8-13 were conditions that were previously discussed and were part of the original staff recommendations introduced in the July 1999 Planning and Zoning Commission meeting.

Stan Shawver stated that conditions 1-7 were ones that were points of interest of the County Commission and/or comments given during testimony by concerned citizens. He stated that there was an extensive set of covenants and restrictions that went with this development. He stated that he and County Counsel John Patton reviewed those covenants and restrictions and found that very few of those items would be of general concern to the public of Boone County. He stated that therefore those covenants and restrictions would not be listed on the Conditional Use Permit. He stated that the covenants and restrictions that he and John Patton found to be usable were incorporated into the list of conditions.

Commissioner Stamper stated that the significant changes that occurred from the time of that the proposed development was originally presented was: requirement for the model year (of the manufactured home) be no older than 5 years from the date of being placed on the site, the 7,000 sq ft lot allocation (including green space or road right-of-way), and the condition concerning usable green space.

Commissioner Stamper stated that they would hold further discussion on this agenda item until Commissioner Vogt arrived.

Subject: Budget Revision for Out of County Housing

Major Brewer presented a report on out of County housing for December 1999. *The report is available with the Commission Order adopting the budget revision.* He stated that the Jail is almost at maximum use again. He reported that there are only 7 individuals being housed out of County at this time.

Commissioner Miller asked Major Brewer to explain why the October 1998 out of County housing figures were so high.

Major Brewer stated that October is a peak year and those figures are usually high.

Commissioner Miller moved to authorize a budget revision as follows:

AMOUNT	(increasing) ACCOUNT	(decreasing) ACCOUNT
\$43,550	1255-71100 Outside Services	1255-10100 Corrections Salaries

Said revision is to cover the cost of out of County housing for December 1999.

Commissioner Stamper seconded the motion.

There was no discussion.

The motion passed 2-0. **Order 39-2000**

Subject: Approve Equalization and Maintenance Plan 2000/2001

County Assessor Tom Schauwecker stated that State law requires the Assessment Fund to be separate from the Road & Bridge Fund, etc. He stated that State law also mandates that the Assessor’s Office prepare a detailed, 2-yr Maintenance Plan. He stated that the information in the document includes the number of personnel needed, workflow, functions and responsibility.

Tom Schauwecker stated that the State Tax Commission reviewed the plan. He stated that the County Commission has to approve the 2000/2001 Boone County Equalization and Maintenance Plan. He noted that half of all of this revenue is sent back to the County from the State Tax Commission, therefore the County has to justify all of its action.

Commissioner Miller moved to approve the Equalization and Maintenance Plan for 2000/2001 as presented by County Assessor Tom Schauwecker.

Commissioner Stamper seconded the motion.

There was no discussion.

The motion passed 2-0. **Order 41-2000**

Subject: Mount Zion Church Road Petition

Gerald LaForce, 5150 Mount Zion Church Rd and Carol McGrath, 3851 Mount Zion Church Rd presented the petition, Dust Control Petition For Residents of East Mount Zion Church Road, on behalf of those that signed it.

Gerald LaForce stated that this road represents 1.6 miles of land, 39 parcels and 26 houses. He stated that the dust is awful along Mount Zion Church Road and sometimes it is not possible to see the houses. He stated that they would like to have chip/seal placed on the road to control the dust

Commissioner Miller asked if anyone knew the date of the last traffic count on this road.

Gerald LaForce noted that no one had been out to perform a traffic count on the road in a long time.

Carol McGrath concurred with Mr. Laforce’s comments. He stated that the road is a dead end and the dust is awful.

Commissioner Miller asked if there was access to the conservation area.

Gerald Laforce stated that there is access to the conservation area. He stated that there is a lot of traffic in this area.

Gerald LaForce stated that if you follow the trail far enough it will eventually lead to Finger Lake State Park.

Carol McGrath stated that Mount Zion Church Rd draws a lot of fishers and hunters and creates a lot of traffic.

The County Commission accepted the petition.

Commissioner Stamper stated that it would be referred to the Public Works Department for review.

Gerald LaForce stated that the main safety issue for this road is the sharp drop where the road has eroded and the danger that presents to traffic.

John Stuckey, 10730 N Forest Park (another resident of the neighborhood that signed the petition) stated that his main concern is the safety hazards presented by the conditions of the road. He stated that there is a real sharp drop on Mount Zion Church Road, where the road has eroded. He stated that every time it rains, the road becomes a watershed. He stated that whatever gravel has been placed on the road washes down. He stated that the soft spots and hills in the road are also areas of concern because of the sharp drop on the side of the road.

Commissioner Stamper thanked everyone for their comments and reiterated that the petition would be referred to the Public Works Department.

Subject: Report on Boone County Regional/Sewer District activities

Commissioner Stamper submitted the memorandum from the Boone County Regional Sewer District meeting (listing their current activities) for the public record. The list was as follows:

- Breezewood*-sewers under construction, a bill of sale pending.
- Clearview*-improvements in progress
- Coleman/Bernard* extension-completed
- Copper Creek*-construction is complete, bill of sale pending
- Crestwood Hills*-plat 1 and phase 2 are completed
- Fall Creek* and filter STEP-completed, bill of sale pending
- Gilbane* extension-completed, bill of sale pending
- Hillview Acres* extension-lots 63 & 64 completed
- Kemp* extension-completed
- Fairway Meadows* 002-lagoon closure
- Lake of the Woods* extension-Gary Evans completed
- Lake of the Woods* center-completed, bill of sale pending
- Lake Capri* blk 2-not completed
- Little Oak* extension-completed
- NewTown*-construction of sewers is completed
- Pin Oak*-sewers are constructed
- Spencer Hills* plat 1 & 2-sewers are constructed, bill of sale is pending

Subject: Fairgrounds Report

Commissioner Stamper also reported that he met with Vicky Russell this morning regarding Fairgrounds issues (specifically personal property). He stated that he would present a list of items, for possible acquisition, to the County Commission in a future meeting. He stated that they hoped to be able to articulate the list back to the Fair Board so that the information could be

included in the RFP for the Fairgrounds. He also noted that Vicky Russell gave some very positive feedback on the RFP for the Fairgrounds.

Subject: Second Reading of Petition and Public Hearing for the Vacation of R. A. Nursery Rd (partial)

Commissioner Stamper stated that this petition was first read into the public record during the 1999 November Adjourned Term meeting.

Commissioner Stamper convened a public hearing on the second reading of the petition.

There was no one present that wished to comment on the matter.

Commissioner Stamper noted for the public record that this petition relates to R. A. Nursery Rd, which was realigned 300' to the north. He stated that a property owner adjacent to this site requested vacation of the remaining portion of the road.

Commissioner Stamper closed the public hearing.

Commissioner Stamper moved to approve the Petition for the Vacation of a Public Roadway (R. A. Nursery Rd, partial) as described in said petition and authorize the Public Works Department to execute the necessary documentation to vacate said roadway.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 39A-2000**

Subject: Public Hearing on Budget Amendment for correction of 1999 Agent fees

Commissioner Stamper stated that this budget amendment was read into the public record in a prior meeting and then received a ten-day waiting period for public comment before being scheduled for a public hearing for approval.

Commissioner Stamper convened a public hearing on the budget amendment.

There was no one present that wished to comment.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to approve a budget amendment as follows:

AMOUNT	(increasing) ACCOUNT
\$270	3800-86900 Paying Agent Fees
\$270	3800-03712 Interest Long-term

Said amendment is to correct an insufficient budget amount for payment of the 1999 agent fees.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 40-2000**

Subject: (continuation) of Suggested Conditions for Windy Point Development

Stan Shawver recapped the points discussed earlier in the meeting regarding this agenda item.

Stan Shawver stated that he edited the list since his first appearance in the meeting. He stated that conditions 1-8 were conditions of Commission interest/public comment and conditions 9-14 were recommended by staff. {The list of condition is part of the public record and is on file for this year.}

Stan Shawver suggested that the adoption of this set of conditions would require redesign in the plan. He stated that the developer could prepare a review plan and a subdivision plat that complies with the conditions. He stated that the Planning and Zoning Commission is experienced in reviewing plans. He stated that it could be of service if the plans were to have to go through the Planning and Zoning Commission after approval of the conditions.

Commissioner Vogt asked if this type of sequence had ever occurred in the past.

Stan Shawver stated that the County Commission has never had an issue this extensive in the past.

Commissioner Vogt reported that she received a call from Keith Kirkpatrick, chair of the Planning and Zoning Commission. She stated that Keith Kirkpatrick is in favor of having the plan go through the Planning and Zoning Commission again once the conditions are approved.

Commissioner Miller stated that if the infrastructure were to change as a result of the conditions, then she would see the need for the plan to go through the Planning and Zoning Commission again. However if the infrastructure would not change, then she would not see the need.

Commissioner Vogt asked: how much time will it take to send the plans through the Planning and Zoning Commission again.

Stan Shawver stated that it would take approximately thirty days.

After discussion, the County Commission decided to have Stan Shawver review the road right-of-ways in the subdivision and the right-of-way adjacent to the lot to determine what should be included in the 7,000 sq ft minimum lot size.

Stan Shawver stated in response to a question posed by Commissioner Stamper that the Boone County Regional Sewer District would ensure that the sewer improvements are put in place.

Commissioner Miller asked that the term "owner" be defined in the conditions to include immediate family.

Commissioner Stamper called Craig Van Matre (attorney) and Cris Burnam (applicant) to give testimony.

Craig Van Matre thanked the County Commission for their time spent on reviewing this matter. He stated that the County Commission was not being faithful to the higher density that would be needed in order to pay for the expensive improvements that are being required. He stated that they would like to try to meet the conditions set by the County Commission, however their engineer has not had an opportunity to figure things out because the issue of the 7,000 sq ft lot size was unclear. He asked if the applicant would be allowed to include the road right-of-way of all the streets that abut the mobile home lots in the 7,000 sq ft minimum lot size.

Commissioner Stamper stated that this was the divided preference of the County Commission.

Cris Burnam stated that he would like to see some of the green space that directly abuts the mobile home park included in the 7,000 sq ft minimum lot size. He stated that they would need additional time to look at the figures again. He stated that the lots that were proposed (9 extra-large lots) were over 25,000 sq ft. He stated that the idea behind those lots was to insert a 25-50 ft setback strip that could be deeded to single family homeowners. He stated that the County

Commission did not like this idea, however those lots could have helped pay for the expensive off-site sewer improvements.

Commissioner Miller asked if the Boone County Regional Sewer District wanted the entire area to be on one sewer system.

Commissioner Stamper answered affirmatively.

Commissioner Vogt stated that the sewer improvements and wastewater system were a couple of the main reasons that she supported the development.

Craig Van Matre stated that they were hoping that the Boone County Regional Sewer District would help with some of the costs of those improvements.

Cris Burnam stated that the Boone County Regional Sewer District suggested that the he wait until the plan for the development is approved before discussing the budget.

Commissioner Miller stated that many times the Boone County Regional Sewer District pays for extra capacity for areas surrounding a proposed development so that the system is available when the surrounding area transitions. However she stated that this was the only type of situation in which she was aware of that the Regional Sewer District would pay for improvements.

Commissioner Stamper stated that this particular issue has forced the County Commission to hold discussions on this type of housing that have never been held before. He also stated they have been forced to look at this request and every request in the spirit of “do we have a tolerance for this type of housing in the community?” He stated that the greatest surprise for him was that there are ones that deny that there should be this type of housing. He stated that it is far easier to protect these units (from a law enforcement aspect) if they are in one location.

Commissioner Stamper stated that from the County Commission’s perspective, if the applicant is looking at a different discharge point, then the development is not going to work. He stated that the sewer system must be improved if there is going to be additional housing in this area. He stated that the he did understand the economic standpoint and the need for a financial return by the developer.

Cris Burnam stated that they would work on the numbers and provide comments to the County Commission by the end of the week.

Commissioner Stamper asked if there was anyone else that wished to speak on this matter.

Philip and Cindy Lochhaas, 7501 N Hwy VV came forward.

Philip Lochhaas asked if the company (developer) would cease to exist once the development is put in place. He asked if the operation of the trailer lot rentals would be a separate business from the Windy Point Development.

Commissioner Stamper stated that ownership of development is not normally a discussion for the Conditional Use Permit. He stated that the prosecutory authority would be in charge of enforcing the regulations.

Philip Lochhaas stated that he was concerned about the maintenance of the fence and who would be responsible for that.

Commissioner Stamper stated that the owner would be responsible for that. He stated that the wording could be changed to make the developer and owner responsible for that maintenance.

Cindy Lochhaas asked if the homeowners’ association could be responsible for the fence.

Commissioner Vogt stated that the developer would own all of the property and therefore be responsible for maintaining it in its entirety.

Philip Lochhaas asked if the fence line would replace the existing livestock fences that are on the property. He stated that they would like to see the fence far enough away from the livestock fences to ensure that they would not be held responsible for part of the maintenance costs.

Commissioner Stamper stated that the fences are supposed to be constructed along the entire boundary of the PRD. He stated that he did not know if the developer could construct the fence along the existing fenceline.

Stan Shawver stated that the applicant could not.

The engineer for the applicant stated that the fence could be located 1 ft off of the property line/existing fence line.

Philip Lochhaas asked if the lot numbers were renumbered.

Commissioner Stamper stated that the Burnams might be required to redesign and then do some renumbering.

A gentleman from the audience stated that he did not believe that this development was a public necessity due to the fact that there are a number of vacant properties in the community.

The County Commission expressed that public necessity can not be based on the number of vacancies.

Craig Van Matre stated that the County Commission would receive a revised plan by the end of the week.

The County Commission decided to discuss the Windy Point issue again during the February 29th Planning and Zoning County Commission meeting.

There were no Commissioner Reports given.

There was no public comment.

The meeting adjourned at 10:20am.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner