

TERM OF COMMISSION: July Session of the May 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 Counselor John Patton  
Deputy County Clerk Michelle Malaby  
Director of Planning and Building Inspection Stan Shawver

The regular meeting of the County Commission was called to order at 7:00 p.m.

**SUBJECT: Donation of Artwork**

Olin and Phyllis Fugit were present to donate a signed and numbered print of a sketch created by Steve Kelton in 1994. Ms. Fugit stated the Government Center is a beautiful building, built under the direction of this County Commission. Ms. Fugit stated the print is probably familiar to many people present. She hopes this donation will influence others in the private sector to work with local government to increase the amount of artwork in the Government Center and on the Courthouse Square.

Mr. Fugit stated he hopes Boone County citizens enjoy the sketch.

At the request of Commissioner Miller, Ms. Fugit read the inscription at the bottom of the print, a quote of a statement made by US Rep. Willard Vandiver in 1899, "I come from a state that raises corn, cotton, cockleburs and Democrats. Frothy eloquence neither convinces nor satisfies me. I am from Missouri. You have got to show me." Ms. Fugit stated she believes Judge Larry Bryson commissioned the sketch during his last run for office.

Commissioner Stamper accepted the print on behalf of the citizens of Boone County and thanked the Fugits for their generosity.

Commissioner Vogt stated they will find a wonderful place in which to hang the print.

**SUBJECT: Public Hearing on Planning and Zoning Issues**

Director Shawver reported **Terry and Annette Thornhill request to establish a private family cemetery on one acre located at 4655 N. Yeager Road, Columbia.** The property is located two miles northwest of Columbia on Yeager Road, a gravel, county maintained road. The property is zoned A-2 (Agriculture), as is all surrounding land. A house on the property was completed in May, 1996. The applicants own 20.06 acres. No additional utility services will be needed if this request is granted. There have been no previous requests submitted for this property. The 1973 Master Plan and 85 percent complete draft of the 1996 Master Plan designate this area as suitable for agriculture and rural residential land use. Staff notified 17 property owners of this request. At their meeting on July 18, the Planning and Zoning Commission voted to recommend denial of the request. The Thornhills have appealed that decision. A copy of the appeal and other pertinent information have been distributed to the commission.

Annette Thornhill reiterated points made in the appeal. Ms. Thornhill stated they are willing to move the site to the edge of the woods to a point which is adjacent to the driveway, but which is not close to the road. Ms. Thornhill stated their two sons are grown. They are willing to state in writing they will not cause problems if the land is sold to someone outside the family who wants to prohibit access.

Commissioner Vogt stated she lives in the country and has considered this. The information provided indicates the applicants do not want to be embalmed. They want to be buried on their property and they do not care if the cemetery is maintained or identified as a cemetery.

In response to questions from Commissioner Vogt, Ms. Thornhill stated laws regarding this request are vague. There are requirements relating to deaths resulting from infectious disease. The only marker they might have would be simple white crosses such as those placed along highways.

Commissioner Miller stated section 214.132 RSMo. states, "any person who wishes to visit an abandoned family cemetery or private burying ground which is completely surrounded by privately owned land, for which no public ingress or egress is available, shall have the right to reasonable ingress or egress for the purpose of visiting such cemetery." This opens the door for people to tromp on someone's private rights. She cannot support this request.

Commissioner Stamper request public comment. There was no response.

Ms. Thornhill stated the key word in the statute is reasonable. Her children are willing to be more than reasonable. They are willing to state in writing that if the property is ever sold to someone outside the family they will give up all rights to access the land.

In response to a question from Commissioner Stamper, Mr. Shawver replied this County Commission has not heard a request like this. The most recent request of this nature was at least eight years ago. He believes this is the fourth request for a family cemetery during his fourteen years with the county. Previous requests were approved. Times were simpler then. Conditional use permits have been issued for animal cemeteries with extensive conditions. Conditional use permits for family cemeteries typically have not had conditions placed upon them.

Commissioner Stamper stated a family cemetery could last a long, long time. They have apparently been enough of a problem that a statute was written to address them. A potential buyer would have to be made aware of the cemetery. They could not disrupt it.

Commissioner Vogt noted if this is approved the land could not be used for anything else.

Ms. Thornhill noted it would be difficult to clear the land for farming. It is thickly wooded.

Commissioner Vogt replied new technology could allow it to be used in the future. That does concern her.

In response to a question from Commissioner Vogt, Ms. Thornhill stated she requested one acre be set aside for this use because it was a nice round number.

In response to a question from Commissioner Vogt, Director Shawver replied the County Commission can place reasonable conditions on approval of the request. Statutes indicate the County Commission can regulate the depth at which a human body is buried.

In response to a question from Commissioner Stamper, Mr. Shawver replied this request does not require a unanimous vote

In response to a question from Commissioner Stamper, Commissioner Miller replied she has a problem with the future not being considered. Statutes allow reasonable ingress and egress. What is reasonable? She keeps thinking about problems the county had with Hamilton Cemetery. She does not believe cemeteries should be placed next to the road. If the road needs to be widened, the county would have to pay to move the bodies. However, if ingress and egress are to be provided, it should not be across the entire property.

Commissioner Stamper noted there are many family cemeteries now. There appears to be a provision in the law for them.

Commissioner Miller agreed many exist, but stated she does not want to add more.

Commissioner Vogt stated a person should be able to use their property within the confines of the law. Commissioner Vogt moved that the County Commission of the County of Boone approve a request by Terry and Annette Thornhill to establish a private family cemetery on one acre located at 4655 N. Yeager Road, Columbia, with the following conditions:

- public ingress and egress be identified for the county, with an easement dedicated for that purpose, and;
- Boone County will never use public funds to support or maintain the cemetery.

Mr. Shawver inquired if Commissioner Vogt intended for the easement to be recorded?

Commissioner Vogt replied yes.

Commissioner Stamper seconded the motion and asked Mr. Patton for his opinion.

Mr. Patton replied if the commission approves the request, it should require an administrative plat of the cemetery. The purpose of identifying cemeteries is so that 50 or 100 years from now places where human remains are can be located. If an easement is dedicated and recorded but the cemetery is not platted, there will be a land use record showing a conditional use permit for a cemetery. If it is not also shown on a survey, it cannot be identified when an area is developed. This problem has occurred. Statutes dealing with public and private cemeteries are convoluted. He recalls that maintenance can be foisted upon the county.

In response to a question from Mr. Patton, Ms. Thornhill replied at this point the cemetery is intended for her and her husband. What her sons and their wives do is up to them.

Mr. Patton stated use of the cemetery could be limited to the Thornhills to avoid an ongoing governmental maintenance problem.

Mr. Shawver stated statutes provide that a private family cemetery **may** be conveyed to the County Commission for maintenance to perpetuity. A trust can be established for maintenance. The amount of the trust is not specified.

Commissioner Stamper stated that is not an issue here.

Commissioner Miller replied it might be. The condition that public funds not be provided for maintenance could be in conflict with the statute. They may have a legal right to dedicate the cemetery.

Mr. Patton stated if multiple family members are eventually buried there, they could set up a trust fund which could be foisted upon the county.

Commissioner Stamper stated no one has said anything about trust funds.

Mr. Patton stated that is why he suggested the commission consider limiting burial if that is the applicants intent.

Commissioner Vogt moved to modify the motion to include the conditions that:

- the burial site be limited to use by Terry and Annette Thornhill, and;
- the burial site be platted or surveyed.

Ms. Thornhill inquired if the cemetery could be used by immediate family?

Commissioner Vogt agreed to modify the condition to read:

- the burial site be limited to use by Terry and Annette Thornhill and their immediate family, not to exceed six people.

Commissioner Stamper stated he is not interested in expanding the limit from two to six.

Commissioner Vogt retracted the modification of the condition.

At the request of Commissioner Stamper, Commissioner Vogt stated the motion is to approve a request by Terry and Annette Thornhill to establish a private family cemetery on one acre located at 4655 N. Yeager Road, Columbia, with the following conditions:

- the burial site be platted,
- public ingress and egress be identified for the county, with an easement dedicated and recorded for that purpose,
- the burial site be limited to use by Terry and Annette Thornhill.

Commissioner Stamper seconded the motion and asked Ms. Thornhill if she is aware of the expense involved with surveying and platting the site.

Commissioner Vogt stated she would like to include the condition that:

- Boone County funds will never be used to support maintenance of the cemetery.

Commissioner Stamper stated he is not convinced that is possible, but he will agree to the condition.

Mr. Patton stated the area of the permit should be defined as that which is platted. If the Thornhills decide to have a smaller plot, the entire acre would not be tied up.

Commissioner Vogt agreed to modify the motion to add the condition that:

- the area of the permit be defined as that which is platted.

In response to a question from Commissioner Stamper, Mr. Shawver estimated the cost of surveying one acre at less than \$1,000, but added only a surveyor could provide an exact amount.

Ms. Thornhill replied okay.

In response to a question from Commissioner Vogt, Mr. Shawver replied a conditional use permit must be exercised within one year to be valid. The survey would have to be filed within one year.

Commissioner Vogt stated she has had problems with several private cemeteries in her district. Most problems related to ingress and egress. The motion addresses that.

Commissioner Stamper stated the County Commission seems to be making something complex out of something that should have been simple. Adding \$1,000 to the cost creates a heavy load.

Commissioner Vogt replied they will save several thousand dollars by not being buried in a public cemetery.

Stephen Heying, a local surveyor, stated as a surveyor he has a lot of experience with private cemeteries. He can think of examples which were nightmares. At the corner of Primrose and Route E, there is a three acre piece of ground which contained private, unmarked, unmaintained burial plots. Before the individual could close the purchase of the property he had to have the people who were owners of record previously move the remains from the property because he intended to develop the three acres. It impeded the development. The relatives were disinterested. When he prepared to plat the property, a group of people who locate private cemeteries became involved. Protection of burial sites is extending to locations such as where the Titanic sank. Another example in Boone County is Mill Creek Subdivision. There was an unlocated family cemetery on the property. When the property was subdivided, the cemetery had to be located and access provided. Again, the family was disinterested in the site. Another example is Smiley Lane. It took a long time to secure right-of-way for the road because of a family cemetery. It seems that any time there are remains, other than ashes, they need to be locatable in the future. Once sites can be reached which could not be reached in the past, problems with access and use of the property arise. Burial sites have rights which affect free use of land.

Commissioner Stamper called for the vote. The motion failed unanimously.

Commissioner Miller moved that the County Commission of the County of Boone deny a request by Terry and Annette Thornhill to establish a private family cemetery on one acre located at 4655 N. Yeager Road, Columbia.

Commissioner Vogt seconded the motion and commented she would like grant the request, but listening to comments from the audience persuaded her the cemetery would not benefit Boone County citizens. She does not want to create a huge process or public expense for the future.

Motion passed unanimously. **Order 427-96.**

Commissioner Stamper, addressing Ms. Thornhill, stating she brought the commission a matter it has never discussed before. The issue is somewhat volatile. Commissioner Stamper apologized for not being able to grant their wishes. The commission deals with issues which set precedent and which will outlive the commission by many years. The commission makes decisions the best way it knows how.

Mr. Shawver reported **Dick and Liane Huckfeldt request a permit for self-storage units on 1.02 acres located at 24201 N. Fairgrounds Road, Sturgeon.** The site is located one quarter mile north of Sturgeon on Fairgrounds Road. The property is zoned C-G (General Commercial), as is land to the north. Land to the south, east and west is zoned A-R (Agriculture-Residential). This property was rezoned from A-R to C-G in March, 1996. This request will not result in the need for increased utility services. The 1973 Master Plan designates this area as suitable for agriculture and rural residential land use. The 85 percent complete draft of the 1996 Master Plan designates this area as suitable for residential use. Staff notified seven property owners concerning this request. Mr. Shawver circulated photographs of the site. The Planning and Zoning Commission voted to recommend approval.

Mr. Huckfeldt stated they own existing self-storage units in Sturgeon. They feel there is a need for more storage units. There is no room to expand at the location of the existing units. Therefore, they purchased this property for that purpose.

Commissioner Stamper called for public comment. There was no response.

Commissioner Vogt moved that the County Commission of the County of Boone approve a request by Dick and Liane Huckfeldt for a permit for self-storage units on 1.02 acres located at 24201 N. Fairgrounds Road, Sturgeon.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 428-96.**

Mr. Shawver reported **Pat A. Olson requests a permit for an agri-business on 21.6 acres located at 7400 S. Rangeline Road, Columbia.** The property is located 5.5 miles southeast of Columbia on Rangeline Road, north of the intersection with Highway AB. The property is zoned A-1 (Agriculture), as is all surrounding land. The applicant owns 21.6 acres at this site and an adjoining 11.2 acre tract. There is a house and shop building on the property. The applicant proposes to sell livestock bedding. A 2,000 square foot warehouse will be constructed for storage. There have been no previous requests submitted for this property. The 1973 Master Plan and the 85 percent complete draft of the 1996 Master Plan designate this area as suitable for agriculture and rural residential land use. Staff notified twelve property owners of this request. The Planning and Zoning Commission voted to recommend approval with the condition that sales be limited to non-mechanical, livestock oriented products, to be sold or stored in a new building no larger than 2,400 square feet in size. Mr. Shawver distributed photographs of the property and proposed product.

Ms. Olson had no additional comment.

Commissioner Stamper called for public comment. There was no response.

In response to a question from Commissioner Vogt, Ms. Olson replied she will purchase and resale the packaged bedding.

In response to questions from Commissioner Stamper, Ms. Olson replied the bedding is composed of pine wood shavings. Ms. Olson offered to show him some. The operation will consist mostly of wholesale sales.

Commissioner Miller moved that the County Commission of the County of Boone approve a request by Pat A. Olson for a permit for an agri-business on 21.6 acres located at 7400 S. Rangeline Road, Columbia, with the condition that sales be limited to non-mechanical, livestock oriented products to be sold from or stored in a new building no larger than 2,400 square feet in size.

Commissioner Vogt seconded the motion and asked if this operation will increase traffic to and from the property?

Ms. Olson replied in large part, the product will be delivered to this site then redistributed on a daily basis to another site. She does not believe this operation will have a major impact on traffic.

Motion passed unanimously. **Order 429-96.**

Mr. Shawver reported **Donald and Marjorie Wayland request approval of a final plan and plat for Wayland Planned Residential Development on ten acres, more or less, zoned A-1, located at 7630 S. Warren School Road.** This site is located three miles southwest of Columbia on Warren School Road, a gravel, county maintained road. Surrounding property is zoned A-1. The site is located in the Columbia School District and Consolidated Public Water District No. 1. Planned residential development regulations allow a configuration of two lots, only one of which can have a building site. The other tract cannot be developed, but can be used for agricultural activities. The three acre tract will be sold to their nephew, David Roberts. There have been no previous requests submitted for this property. The Planning and Zoning Commission approved the request.

Commissioner Miller moved that the County Commission of the County of Boone receive, accept, and authorize the Presiding Commissioner to sign a final plan and plat submitted by Donald and Marjorie Wayland for Wayland Planned Residential Development on ten acres, more or less, zoned A-1, located at 7630 S. Warren School Road.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 430-96.**

Mr. Shawver presented the **minor plat of Greenwood Subdivision, located in Section 22, Township 51 North, Range 12. The property is zoned A-2. Travis and Jackie Greenwood are the owners. Donald E. Bormann is the surveyor.** The property is located about 2.5 southeast of Sturgeon on Johannsen Lane and about 1.25 miles south of Highway CC.

Commissioner Vogt moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the minor plat of Greenwood Subdivision, located in Section 22, Township 51, Range 12. The property is zoned A-2. Travis and Jackie Greenwood are the owners. Donald E. Bormann is the surveyor.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 431-96.**

Mr. Shawver presented the **minor plat of Sidoniah Smith Acres, located in Section 5, Township 48, Range 14. The property is zoned R-S (Residential Single Family). Sidoniah M. Smith is the owner. Brian David Dollar is the surveyor.** The two lot subdivision is located on the south side of Highway 40 and north of Old Highway 40 west of Columbia.

Commissioner Miller moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the minor plat of Sidoniah Smith Acres, located in Section 5, Township 48, Range 14. The property is zoned R-S. Sidoniah M. Smith is the owner. Brian David Dollar is the surveyor.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 432-96.**

Mr. Shawver presented the **minor plat of Cypress Acres, located in Section 1, Township 48, Range 14. The property is zoned R-S. Edward J. Petersheim is the owner. James V. Patchett is the surveyor.** Cypress Acres is a three lot subdivision located on Highway 40 east of Trails West Boulevard. Mr. Shawver stated lots two and three are tier lots which exceed the maximum depth of 250 feet. The Board of Adjustment granted a variance from the requirement in May, 1996, provided the lots share a common drive to a certain point. Mr. Petersheim plans to build a house on lot one and selling the existing house on lot two. Lot three will be held in reserve.

Commissioner Miller moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the minor plat of Cypress Acres, located in Section 1, Township 48, Range 14. The property is zoned R-S. Edward J. Petersheim is the owner. James V. Patchett is the surveyor.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 433-96.**

**SUBJECT: Correct Amount of Contract Award, Blackfoot/Roemer/Obermiller Road Improvement Project**

Ms. Malaby explained the item for the Public Works Department, stating the amount of the award should be \$1,342,935.06. Bid documents indicate a unit price of \$30 for an item. The unit price should have been \$300. Totals contained in the bid documents are correct. When the bid tabulation was prepared by the Purchasing Department, they used the \$30 figure to arrive at their total, which was \$2,160 less than it should have been. The discrepancy does not change who the low bidder is.

Commissioner Miller moved that the County Commission of the County of Boone amend the contract amount for the contract with Don Schnieders Excavating, Inc. for construction of Blackfoot/Roemer/Obermiller Road to \$1,342,935.06.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 434-96.**

The meeting adjourned at 7:59 p.m.

Attest:

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Don Stamper  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

\_\_\_\_\_  
Karen M. Miller  
District I Commissioner

\_\_\_\_\_  
Linda Vogt  
District II Commissioner