

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  
Deputy County Clerk Michelle Malaby  
County Counselor John Patton

The regular meeting of the County Commission was called to order at 7:35 p.m.

Planning and Building Inspection Department Director Stan Shawver reported **Beverly K. Hargis requests to rezone from A-1 (Agriculture) to A-2 (Agriculture) 9.10 acres, more or less, located at 15700 N. Wright Road, Hallsville.** This site is located approximately two miles northeast of Hallsville on Wright Road, a gravel, county maintained road. There is a mobile home on the site. Row crops were on the remainder of the property until this year. Surrounding property is zoned A-1. The site is in Hallsville School District and Public Water Supply District No. 4. There have been no previous requests for the property. The 1973 Master Plan and 85 percent complete draft of the 1996 plan designate the area as suitable for agriculture and rural residential land use. Staff notified ten property owners concerning the request. At the Planning and Zoning Commission meeting on June 20, a motion to recommend approval of the request failed. The applicants filed an appeal.

In response to a question from Commissioner Stamper, Mr. Shawver replied the Planning and Zoning Commission did not make a motion to deny the request.

Ms. Hargis, 14500 N. Level Road, Hallsville, stated her mother gave her this property. Her grandfather gave it to her mother. Ms. Hargis stated she has taken care of her mother, who is bedfast, for seven years. Her daughter and son have helped her a great deal. She would like to give part of the land to them so they can build homes there. She would like to keep part of the property for herself in case she needs to be by her children. She is willing to divide the land in half if that is all the commission will allow.

In response to a question from Commissioner Stamper, Ms. Hargis replied her property on Level Road is not adjacent to this property.

Commissioner Stamper opened the public hearing.

Ms. Hargis' daughter, Tina Grindstaff, 15700 N. Wright Drive, stated she would like to build a house on the property. Ms. Grindstaff asked if this request is not approved and her mother leaves the property to her and her brother, will they have to go through this process?

Commissioner Stamper replied that depends on how the land would be used.

Joe Hargis, 14500 Level Road, stated he would like to build a house on the property.

In response to a question from Commissioner Stamper, Mr. Shawver replied testimony at the Planning and Zoning Commission meeting focused on the issue of spot zoning. Most of the area is used for row crops. The Planning and Zoning Commission felt the increase in density would be out of character with that part of the county.

In response to a question from Commissioner Miller, Mr. Shawver replied family transfers must comply with the minimum lot size for the zoning district.

In response to a question from Commissioner Stamper, Mr. Shawver replied courts have ruled that spot zoning, on its face, is not legal.

Commissioner Stamper commented it is not like the applicant is requesting industrial zoning in the middle of an agricultural zoning district.

Commissioner Vogt commented Wright Road is sparsely populated. However, she is not opposed to A-2 zoning in that area. She does not believe it would devastate the neighborhood. No one has expressed opposition.

Commissioner Stamper stated he would be more comfortable with two lots.

In response to a question from Commissioner Vogt, Mr. Shawver replied A-2 zoning allows lots as small as 2.5 acres in size.

Mr. Patton commented people use the term "spot zoning" loosely. To be found illegal, spot zoning must be detrimental to surrounding land and use of the property must be inconsistent with that of surrounding property. A lot of cities and counties have outdated master plans. The courts judge this issue on a case by case basis.

Commissioner Miller stated she is in favor of helping the family.

Commissioner Vogt moved that the County Commission of the County of Boone approve a request by Beverly K. Hargis to rezone from A-1 (Agriculture) to A-2 (Agriculture) 9.10 acres, more or less, located at 15700 N. Wright Road, Hallsville.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 380-96.**

Mr. Shawver reported **Donald and Marjorie Wayland request approval of a review plan for Wayland Planned Residential Development, on 10 acres, more or less, zoned A-1, located at 7630 S. Warren School Road, Columbia.** The site is located approximately three miles southwest of Columbia. Warren School Road is a gravel, county maintained road. Surrounding property is zoned A-1. The site is in Columbia School District and Consolidated Public Water Supply District No. 1. Regulations for planned residential developments allow two lots. One can be used as a building site. The other lot cannot be developed, but can be used for agricultural activities. No previous requests have been submitted for the property. The 1973 Master Plan and 85 percent complete draft of the 1996 Master Plan designate the area as suitable for agriculture and rural residential land use. Staff notified nine property owners concerning the request. The Planning and Zoning Commission voted to recommend approval.

David Roberts, 8151 S. Warren School Road, stated he currently lives on property owned by his aunt. Approval of this request will allow him to buy property from his aunt on which to live. She owns 500 acres on Warren School Road.

Commissioner Stamper opened the public hearing.

Leslie Canole, 7900 S. Warren School Road, stated David Roberts is her brother. If the commission approves the request he will be her neighbor. She is in favor of the request.

Renee Roberts stated she is David Roberts' wife. The land in question has been in his family a long time. They are starting a family and want to live near family.

Commissioner Miller moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, a review plan for Wayland Planned Residential Development, on 10 acres, more or less, zoned A-1, located at 7630 S. Warren School Road, Columbia.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 381-96.**

Mr. Shawver presented the minor plat of **Barnhart Subdivision, located in Section 2, Township 48 North, Range 12 West. The property is zoned R-S (Residential-Single Family). Marguerite F. Barnhart is the owner. Nathan D. Lacy is the surveyor.** The three lot plat is located on the west side of Lakeland Drive. It is about one mile north of the intersection of Lake of the Woods Road and St. Charles Road. The area being subdivided contains 2.01 acres. The R-S zoning is the original 1973 zoning. Water service is provided by Public Water District

No. 2. There is a 4-inch water line on the west side of Lakeland Drive. Sanitary sewer is available. The plat has 70 points on the point rating scale. The Planning and Zoning Commission approved the plat.

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 Barnhart Subdivision, located in Section 2, Township 48 North, Range 12 West. The property is zoned R-S. Marguerite F. Barnhart is the owner. Nathan D. Lacy is the surveyor.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 382-96.**

Mr. Shawver reported **Rockbridge Estates Block 3-A is a final plat of a planned residential development located south of Columbia off Old Plank Road.** Block 3-A consists of several lots which were originally platted as recreational land. The property changed hands in 1993. The lots were vacated and authorization to re-plat was given. The Planning and Zoning Commission approved the re-plat. All improvements have been installed. Chris Drive originally extended from either side of the recreational lots. The owner built the section of Chris Drive through the lots to county standards.

Commissioner Miller moved that the County Commission of the County of Boone receive, accept, and authorize the Presiding Commissioner to sign, the final plat of Rockbridge Estates Block 3-A.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 383-96.**

**SUBJECT: Master Plan Revisions**

Present were Planning and Zoning Commission Chairman Keith Schnarre, 1991 N. Farwest School Road, Centralia, and Planning and Zoning Commission Secretary, Long Range Plan Steering Committee Co-Chair and Plan Working Group Chairman Keith Kirkpatrick, 720 S. Hickory Grove School Road, Rocheport.

Commissioner Vogt recognized the presence of Centralia City Manager and Long Range Plan Steering Committee member Lynn Behrns.

Mr. Kirkpatrick noted Mr. Shawver is a voting member of the Plan Working Group. Mr. Kirkpatrick reported the Long Range Plan Steering Committee held an open house on May 20, 1996 to give the public an opportunity to comment on the 85 percent complete draft of the Master Plan prepared by Booker Associates. A number of useful comments were received. The Plan Working Group met June 10, 1996 to discuss comments received at the open house and received by mail thereafter. Twelve changes are proposed, in addition to 23 changes recommended by the Plan Working Group on April 8, 1996.

Mr. Schnarre reported the Plan Working Group presented the plan to the Planning and Zoning Commission at its last meeting. The Planning and Zoning Commission voted to forward the plan to the County Commission with the recommended changes. It is recommended the changes be forwarded to Booker Associates for completion of the plan.

Commissioner Vogt noted the recommended changes have been distributed to the County Commission. The Commission can delay action to review them again if necessary.

Commissioner Miller inquired about a recommended change concerning Dothage Road.

Mr. Shawver summarized the history behind the recommendation.

Commissioner Miller stated she believes the County Commission should accept the recommended changes and commend the Long Range Plan Steering Committee, the Plan Working Group and Commissioner Vogt for their work.

Commissioner Vogt moved that the County Commission of the County of Boone accept the recommendation of the Planning and Zoning Commission that recommended changes be forwarded to Booker and Associates for completion of the Master Plan.

Commissioner Miller seconded the motion.

Commissioner Stamper stated the commission noted the lack of a current long range plan when it took office. The revision has been a long process. Those involved in the revision process are to be congratulated for their work.

Commissioner Vogt stated she would like to file all the Long Range Plan Steering Committee reports created during the drafting of this document with the county and with the library so people can see what was done. She would like to remind the County Commission of the need to discuss a "visioning" committee.

Motion passed unanimously. **Order 384-96.**

**SUBJECT: Report on Planning and Zoning Commission Discussion of Proposed Nuisance Ordinance**

Mr. Shawver reported the Planning and Zoning Commission discussed the proposed nuisance ordinance at its last meeting. They had several concerns. The first was what is driving the need for an ordinance? They were not involved in discussions of the need over the past few years. Their greatest concern is the section on weeds. As the ordinance currently reads, it will apply to any subdivision with 25 homes or more. There are many subdivisions with 25 lots which are three to seven acres in size. A large tract would require a substantial lawn tractor to keep weeds under control. A suggestion was made that lot size or density might be a more appropriate way to restrict weeds. For example, lot sizes of one half acre or less where weeds might have more impact on others than larger lots would. There was also concern for the emergency provisions which allow the county to mitigate a hazard then take steps to recover the cost of doing so. Mr. Shawver stated Commissioner Gerardi questioned whether people are ready for the weed police and that the ways of the City are trying to bleed into the affairs of the people in the County. Mr. Gerardi said his neighbors would be incredulous to learn someone might have the opportunity to tell them they have to cut their weeds. Mr. Shawver stated Commissioner Gerardi lives in an area with fairly large lots and was concerned with government encroachment on people's rights.

Commissioner Miller stated the intention of the ordinance was to deal with subdivisions like Clearview and Trails West rather than those with five acre tracts. She has a constituent whose neighbor would not mow the weeds in a drainage area. Consequently there were rats. The constituent wanted to shoot the rats. The police wouldn't let him shoot the rats so he had great big rat traps with rats in them hanging on his fence. A mechanism is needed to deal with such problems. The feedback provided by the Planning and Zoning Commission is exactly what the County Commission was looking for.

Commissioner Vogt commented the minutes indicate Commissioner Marley stated it cannot be enforced and there is no need for more "stuff" on the books. Commissioner Vogt asked can this ordinance be enforced?

Commissioner Miller replied yes, why couldn't it be?

Commissioner Vogt replied lack of manpower is one major reason things cannot be enforced. Commissioner Vogt agreed there is a problem. She has received many calls about trash and weeds. People cannot believe their government can do nothing to give them relief.

Commissioner Stamper stated it is frustrating to receive calls you can do nothing about. The first nuisance ordinance draft went too far. Subsequently, this more moderate ordinance was drafted. Commissioner Stamper asked Mr. Shawver to draft wording, reflecting the change suggested by the Planning and Zoning Commission, for Farm Bureau and the Board of Health to review.

Commissioner Miller noted the ordinance is totally complaint driven.

Commissioner Stamper called for public comment.

George Brakhage, 7852 S. Hill Creek Road, stated he lives on a two acre lot. He would like to know how they will distinguish between a weedy nuisance and a wildflower garden. In terms of principle, the lot size is irrelevant. Mr. Brakhage stated he is President of the local chapter of the Native Plant Society.

Commissioner Miller replied if you do not mow your grass, she considers it weeds even though grass is not considered a weed. They are trying to prevent people from letting their yards go to the point it collects trash and attracts nuisances.

Mr. Brakhage stated when you drive around the countryside and see tall vegetation, some of which is native grass, some is quite attractive. They have blooming characteristics which appeal to some people. He can understand the need to respond to someone simply letting their yard go, but there needs to be a way to accommodate people who are interested in things which are not weeds in the classical sense.

Commissioner Miller agreed wording can be added to say the ordinance does not prohibit native plants and grasses--

Mr. Brakhage replied he will leave it to the commission, which is pretty clever about such things. He respects and understands the problem.

Larry Berve, 2061 S. Alamos Place, stated the land in the backyards along Alamos Place are steep. If a new neighbor moves in and complains, will he have to try to mow the steep area?

Commissioner Stamper replied yes, if the complaint were found to have substance as a risk to public health.

Mr. Berve asked how will the county enforce the ordinance? It does not seem to be able to enforce the ordinances it has concerning businesses in subdivisions. There has been a business in El Chaparral for two years. He has complained about it, but nothing has been done.

Commissioner Stamper stated he thinks that is an illogical comparison. If Mr. Berve would like the commission to solve that problem, he should raise that problem. Mr. Berve is welcome to offer criticism on this proposed ordinance.

Commissioner Stamper again directed Mr. Shawver to provide draft wording to the commission for presentation to Farm Bureau and the Board of Health.

**SUBJECT: Discuss Survey of Wilton**

Commissioner Stamper stated the County Commission received a petition signed by 15 to 20 citizens residing in the area known as Wilton. The petition indicates there is confusion over property lines, building locations and road easements and requests the County Commission fund a survey of all lots and property in Wilton. Surveys have been done in Wilton. Commissioner Stamper stated he advised a surveyor who came to see him today, but who could not be present tonight, that he would be given an opportunity to speak before the commission acts on the request. Commissioner Stamper stated this situation is a mess, but he does not know that it is the county's mess.

Gene Basinger stated he is a land surveyor with offices at 914 N. College, Columbia. Very little surveying of record has been done in Wilton. He was contacted to do a survey in Wilton. Another surveyor was in process of surveying two lots. Mr. Basinger stated he believed it was in the best interest of the people to not involve a second surveyor so the other surveyor prepared the surveys. It is cheaper to survey several lots at one time. After the survey was complete, someone contacted him and said they believe it is wrong. He was eventually persuaded to review the situation. His professional opinion is that it is not correct. He has no proof of that. He has not surveyed there. There is a plat of Wilton, which was originally called Spencer. As far as that plat is concerned, you then use all the surveys you can find to try to put the town back together. He spoke with the surveyor who performed the work. He may not be wrong, technically. However, in

addition to existing surveys, you have to look at trees, fences, water courses, buildings, etc. Some people are happy with the surveying which has been done and some are unhappy. He believes this problem will not get any better. People there need some relief. It is not fair for one person to shoulder the cost of straightening things out. It would be taxpayer money well spent to survey the whole area and set controls. Then anyone who wants a lot surveyed can hire any surveyor they want to prepare a survey. This is a unique situation. It is not fair to the citizens of Boone County to pay to stake every lot in Wilton. There are controls in most Boone County communities. Typically, a surveyor will spend a considerable sum of money to set the controls. After they are set, he can prepare surveys at a reasonable cost. The initial investment is recovered as he prepares surveys. Surveyors tend to refer people to the surveyor who set the controls.

In response to a question from Commissioner Stamper, Mr. Basinger estimated the cost of setting controls at \$3,000 to \$5,000.

Commissioner Miller asked how would this fit in with monumentation for the geographic information system (GIS)?

Mr. Shawver replied he is not sure how extensive monumentation of corners for GIS will be. The State encourages counties to pursue monumentation of section corners and grant funding is available. Surveyors have actively pursued that of their own volition.

Deborah Hatcher, 831 W. Route M, Hartsburg, stated she hired Steve Heying to prepare a survey. She asked the Highway Department to look at where he placed the markers in the ditch. They said to pull the markers up. They said there is a brick marker in the yard showing the edge of the State's right-of-way. They said the rest of the property is hers. Ms. Hatcher stated the property had to be surveyed before the Sheriff's Department would do anything about her neighbor parking his car on her part of the alley. When she told Mr. Heying what the State Highway Department said, he said he did not survey the property, he marked it off. Commissioner Miller told her neighbor not to park his cars in the alley or she would have him arrested. He still does. She cannot use the alley because her neighbor would shoot her windows out.

In response to a question from Commissioner Stamper, Mr. Patton replied the county has statutory authority to spend money to monument section corners. Beyond that, he has serious concerns about expending public funds to survey privately owned tracts. He has not had time to research the matter.

At the request of Mr. Patton, Mr. Basinger explained what it means to set controls.

Mr. Patton if it were for some county purpose it might be acceptable.

Commissioner Miller stated there are county streets there.

Commissioner Stamper stated he fears that no matter what the county does, it will not satisfy anyone. The residents need to come to consensus on how to solve their problem. Commissioner Stamper asked Mr. Patton to research the matter in further detail.

**SUBJECT: Discuss Prosecuting Attorney's Request for Ordinance Making Sewage Disposal Resulting in Contamination of Groundwater Unlawful**

Mr. Patton stated when the county wrote the ordinance concerning on-site wastewater, it did not duplicate state law. State law provides for injunctive relief only, initiated by the Prosecuting Attorney. Misdemeanor prosecution does not cause the property owner to fix the problem. The Prosecuting Attorney would like to have the option to prosecute. The last revision of Chapter 701, the State law, allows counties to enact stricter regulations. Mr. Patton stated he does not see any harm in granting the request. A section would need to be added to the ordinance. One hearing must be held. Notice of the amendment must be published after passage.

At the request of the commission, Mr. Patton agreed to prepare the amendment.

Commissioner Stamper asked Ms. Malaby to post the item on a future agenda, once the amendment has been prepared, in order to provide time for public comment.

**SUBJECT: Architect/Engineer's Certificate of Approval and Recommendation of Acceptance, McBaine Levee**

Commissioner Miller moved that the County Commission of the County of Boone authorize the Presiding Commissioner to sign the attached Architect/Engineer's Certificate of Approval and Recommendation of Acceptance for part of the McBaine Levee.

Commissioner Stamper seconded the motion. Commissioner Vogt abstained because she was out of the room when the motion was made. Commissioner Stamper and Commissioner Miller voted in favor of the motion. Motion passed. **Order 385-96.**

**SUBJECT: Reports from Commissioners**

Commissioner Stamper reported on his attendance at the grand opening of a rock quarry on Route VV. The quarry should have an 80 year life.

**SUBJECT: Public Comment**

Mr. Berve asked is the county going to do anything about roads in El Chaparral Subdivision?

Commissioner Vogt stated she asked the Public Works Department to provide statistics on the amount of money spent on various subdivisions of similar size and structure. El Chaparral leads spending for projects and maintenance. She does not know what Mr. Berve is complaining about.

Mr. Berve replied the roads are falling to pieces. The culvert the county put in was done as a favor to the builder developing six lots. It was not necessary. The road was fine. It never floods.

Commissioner Vogt replied the people who live there would disagree. They were being flooded.

Mr. Berve stated he has lived there for twenty years and has never seen water over the road.

Commissioner Vogt stated it is apparent they have a difference of opinion on what needs to be done to the roads. The Public Works Department is addressing the roads in El Chaparral in the same manner as they address them elsewhere. They require more money. The county cannot continue to give El Chaparral roads preferential treatment.

Mr. Berve replied he is not asking for preferential treatment.

Commissioner Stamper read the information on road maintenance Commissioner Vogt obtained: El Chaparral, \$65,000; Lake of the Woods, \$41,000; and Georgetown, \$45,000.

Mr. Berve stated the roads in the other two subdivisions are not as rough as those in El Chaparral.

Commissioner Stamper asked Mr. Berve to provide a list of exactly what he would like to have done.

Mr. Berve replied okay. Other than crack sealing, he has never seen the county do anything to maintain the roads.

Commissioner Vogt replied they have patched concrete all over the subdivision during the last two years.

Mr. Berve did recall one patch on Alamos.

Commissioner Stamper reiterated his request for a list.

The meeting adjourned at 9:00 p.m.

Attest:

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Don Stamper  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Linda Vogt  
District II Commissioner