

TERM OF COMMISSION: May 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 Melanie Stapleton

The meeting was called to order by the Presiding Commissioner at 1:30pm.

Commissioner Stamper welcomed immediate, past-Presiding Commissioner Frank Graham back to the Commission Chambers.

Subject: Open Bids for Trobridge NID and 15-11MAY99-Boone County Maintenance Work Shop Bldg

Beckie Jackson stated that there were three bids received for the Trobridge NID Project.

Trobridge NID

Commissioner Stamper opened a bid on behalf of Frech Paving , Columbia MO. A bid bond was submitted along with a statement of bidder's qualifications and list of contracts completed. The total bid was \$190,512.75. Addendum 1 was acknowledged. There was an anti-collusion statement. A signature page on behalf of the bidder and a bidder's acknowledgement.

Commissioner Miller opened a bid from APAC-Missouri of Columbia. There was a statement of bidder's qualifications, acknowledgement of Addendum 1, anti-collusion statement, signature and identity of the bidder, bidder's acknowledgement, and the bid bond. The total bid was \$156,963.35.

Commissioner Vogt opened a bid from Christensen Construction Company. Addendum 1 was acknowledged. A bid bond was included. The total bid price was \$163,610.

Commissioner Vogt stated that she had spoken to Frank Abart about a complaint from a constituent about some work being done by a crossing.

15-11MAY99-Boone County Maintenance Work Shop Bldg

Beckie Jackson stated that they received five bids and the only thing that needed to be read was the response form and acknowledgement of Addendum 1 and 2.

Commissioner Stamper opened a bid on behalf of JC Industries, Inc. The bid had been signed and notarized. The total bid for Addendums 1-2 inclusive was \$114,700. Alternate 1 was \$12,080 and the Rock Excavation per cubic yard was \$200. There was a bid bond included.

Commissioner Vogt opened a bid from Synercon Construction Co. The bid for Addendums 1-2 inclusive was \$101,108. Alternate 1 was \$12,762 and Rock Excavation per cubic yard for trench rock was \$150 and \$85 for slab rock.

Commissioner Miller opened a bid from Prost Builders of Jefferson City. The bid for Addendums 1-2 inclusive was \$124,900. Alternate 1 was \$11,700 and Rock Excavation per cubic yard was \$500. There was a bid bond and a non-collusive affidavit included.

Commissioner Stamper opened a bid on behalf of Cal Construction, Inc. of Fulton. The bid for Addendums 1-2 inclusive was \$117,811. Alternate 1 did not have a total. Rock Excavation per cubic yard was \$400. There was a bid bond and non-collusive affidavit.

Commissioner Vogt opened a bid from Wisch Vaughn Construction Co. of Jefferson City. The bid on Addendums 1-2 inclusive was \$110,800. Alternate 1 was \$10,730 and the Rock Excavation per cubic yard was \$250. There was a bid bond and anti-collusion statement included.

Commissioner Stamper stated that these bids would be returned to the Purchasing Department for review and returned to the Commission with a recommendation for award.

Subject: Discussion on Goodson Road

Commissioner Stamper stated that the Commission received a request from the Boone County Historical Society to address the question of ownership of Goodson Rd (which is a part of the Booneslick Trail). He stated that the Public Works Department had been asked to review it. Frank Abart was present to give a report on the subject.

Frank Abart stated that the County ceased to maintain this road in 1981 by mutual agreement with the adjacent landowners. He stated that the Public Works Department was asked to review the status of the road in regard to right-of-way. He stated that the opinion of the Public Works Department was that this was not a public right-of-way. He stated that the Boone County Historical Society disagreed with that conclusion. He stated that County Counsel John Patton was asked to give a legal opinion on the subject. He stated that John Patton's response was that "Goodson Road is likely a County public road."

Frank Abart stated that he stood by the legal assessment that Goodson Rd was a public road, however it was not maintained by the County.

Commissioner Stamper welcomed Frank Graham and his guest.

Greg Olson-Curator for the Boone County Historical Society and Frank Graham, immediate, past President of the Boone County Historical Society came forward.

Greg Olson stated that he would make comments in reference to a correspondence that Don Sanders sent to the Commission on March 19, 1999. He stated that Don Sanders had planned to be here, however his illness prevented him from coming.

Greg Olson stated that the Boone County Historical Society had two interests/reasons for wanting to see this road remain in the public use. Quoting from Don Sanders' letter, Greg Olson stated that Goodson Rd could be "the only road surviving in Boone County that is truly a pristine remnant of the Booneslick Trail." He stated that this road had existed probably since about 1808.

Greg Olson stated that the second reason was that this road provided access to another, privately-owned piece of the trail that had not been cultivated or used in any public way for many years. He stated that this piece of the trail had been featured in the newspaper and could at some point be donated to the public use as an original, remaining section of the Booneslick Trail.

Commissioner Miller asked: What is the total goal of this? What are we [being] asked to do by the Boone County Historical Society and the property owners? She stated that to designate this road as historic and acknowledge that it should to be preserved was one thing, however she wanted to know if there was more.

Greg Olson stated that it was in the interest of the family (private property owners) to eventually see the piece of property that joins Goodson Rd and contains about 1/2 mile of the Booneslick Trail held by the public trust. He stated that the Boone County Historical Society would like to see Goodson Rd remain a public right-of-way because it provided the only public access. He stated that he did not foresee the privately-owned portion of the Booneslick Trail (that adjoined Goodson Rd) being anything more than just a piece of preserved trail at a historic site.

Commissioner Vogt stated that she had a long conversation with Don Sanders about this subject. She stated that the desire for some of the private, property owners and the Boone County Historical Society was to identify the road as it runs through Boone County. She stated that some of the trail was still being used as road. She stated that eventually the desire might be to sign the road, so that the public would know that it is a historical road.

Commissioner Vogt stated that her idea was that the County could sign [over] the portions of the trail that belong to the public (and are used for roadways). Then, as people sell off pieces of the property (that contain portions of the trail), the Boone County Historical Society could make an effort to buy those pieces of property (or have them donated or acquired in some way) and identify the trail in that way.

Commissioner Vogt stated that she had not heard anything that suggested that the County Commission do anything about the acquisition. She stated that the purpose was just to identify the trail as it runs through Boone County and make it a historical avenue.

Commissioner Miller stated that this was similar to the discussion that was held concerning Vawter School Rd. She stated that if the name of the road were ever changed to Nifong, it would still be a historic Vawter School Rd (underneath).

Commissioner Stamper stated that he agreed with everything that Commissioner Vogt said. He stated that the Commission should be honest with one another and acknowledge that there was a gap between Goodson Rd and what is currently the Henderson property. He stated that the gap was about 700 acres that was formally owned by Lance Henderson. He stated that Mr. Henderson had bought the land back in the 1930s.

Commissioner Stamper stated that Mr. Henderson had made sure that this land was never touched. He stated that the Henderson family did desire to preserve this corridor for some future use. He stated that the 700 acres was on the market and the Henderson family was willing (in an agreement of some kind) to either pencil this portion out or survey this portion out and give it to the County or the Boone County Historical Society. He stated that this would be a critical aspect to the access of it (Booneslick Trail). He stated that there were some landowners adjacent to that gap. He stated that these landowners were not opposed to this, however they were not willing to grant an easement for anyone that would want access to this part of the road. He stated that this was the issue that Don Sanders and the Henderson family had hoped could be resolved.

Commissioner Stamper stated that the goal was to preserve the Booneslick Trail and to eventually allow the public (through a public roadway where the trail used to be) to have access to it. He stated that there was interest in the County to set aside places that people wanted to preserve.

Commissioner Vogt stated that one of the ways that County government could assist the Boone County Historical Society in land use was if someone would come along and plat that property out, then the County would have it identified as a historical right-of-way, trail, or road. She stated that the historical site could be recognized through the platting process.

Commissioner Miller stated that the timing was ideal with all of the historical things that were coming down the pike. She stated that this would be a good time to do this. She stated that she was never opposed to this, however she had not been clear as to what was expected from the County.

Commissioner Stamper stated that if at some point and time, it was interpreted that the use of this (Goodson Rd?) could serve the public good, then there could be a request for the County to engage in exercising an easement or acquisition of this in some way. He stated that the ultimate desire would be to connect these two and if at some point in time this part of the County was ever developed, there would be potential to have a linear park (?) that is much like the MKT Trail.

Commissioner Vogt stated that Commissioner Stamper had a little different view of this than she. She stated that another thing that could happen was for Boone County Historical Society to always be on the lookout and when the property became available, make that purchase of right-of-way and dedicate it to public use. She stated that she had not heard anything from the Boone County Historical Society asking that the County purchase or acquire any of the property. She stated, however, that the Boone County Historical Society would not want the County to let someone come in and plat that property out without identifying that the trail was there.

Commissioner Stamper stated that the Commission was very interested in the preservation of the trail. He stated that if there were specific ways that the County Commission could be a part of the preservation, he hoped that the Boone County Historical Society would let them know that.

Greg Olson stated that the meeting that Commissioner Stamper had been invited to (at 1:00pm on May 27) had been an initial meeting of the Booneslick Trail Commission. He stated that there were several people (historians) from Boone County and around the State of Missouri that were going to look for ways to recognize these kinds of sites.

Commissioner Stamper thanked the gentlemen for coming out.

Subject: City of Columbia Annexation

Commissioner Stamper stated that the County had been notified by the City of Columbia that they had received a request from Tom and Linda Atkins to annex 55.5 acres located approximately 200 feet west of Scott Blvd, south of The Hamlet Subdivision. He stated that the annexation appeared to be compact and contiguous.

Subject: Authorize a Closed Session

Commissioner Stamper stated that the County Commission's authority to meet and discuss acquisition of real estate had been questioned by local media. He stated that the City of Fulton's right to meet and discuss land acquisitions was challenged in *Spalding vs City of Fulton*. He stated that local media had cited the Missouri Supreme Court decision that found that the City of Fulton had frequently not discussed the lease or the land acquisitions in their closed sessions. He stated that it was also found that in order to participate in a closed session, the public entity needed to be a principal in the land acquisition. He stated that this issue had been brought to the County Commission's attention and they had in turn discussed it with Acting-Legal Counsel (County Counsel John Patton was on vacation at this time).

Commissioner Stamper stated that he believed that County Counsel John Patton had been the lawyer for the City of Fulton and had defended that position [however he was not certain of the position that County Counsel John Patton had taken]. He stated that he had asked the Acting-Legal Counsel to take a look at this issue. He stated that the Acting-Legal Counsel expressed that this was not her primary area of practice. He stated that it was Acting-Legal Counsel's interpretation that this was not a violation of law and that this discussion would involve an acquisition in which they (the County would be involved). He stated that in researching it further, the intent of the closed session was to discuss the potential acquisition of two separate, properties and in both cases the County Commission was a partner with the trustees involved in the acquisitions.

Commissioner Stamper stated that the County Commission had invited the other elected officials to hear the briefing [that would be held during closed session]. He stated that the County Commission's options were either cancel the closed session and wait until County Counsel John Patton was present to advise them of the legality or proceed with the meeting under the position that they were giving consideration to an acquisition by two public bodies. He stated that the general of the agency that questioned [the legality of the closed session] was present today. He invited that individual to make comments.

Jim Robertson, Managing Editor of *The Columbia Daily Tribune* stated that he had spoken with the Missouri Press Foundations' attorney on two occasions about this subject and it was clear to the attorney that the question [that would be addressed during the closed session] was whether the County Commission would be a signatory on the contract to purchase. He stated that, basically, the negotiations were not on their table.

Commissioner Vogt stated that the other party could not buy this property without the signature of the County Commission.

Jim Robertson asked if their (County Commission) signature would be on the contract for purchase.

Commissioner Vogt stated that this was correct.

Jim Robertson stated that he would protest a decision to go ahead with the closed meeting.

Commissioner Stamper: "Protest is so noted. Anything else?"

Jim Robertson stated that the agenda fell short of satisfying the notification procedures in the Open Meetings and Records Law. He stated that there should be a reason for closing the session in specific.

Commissioner Stamper stated that for the record that the notice with that information was posted on the upstairs board.

Commissioner Vogt moved to authorize a closed session immediately following the 1:30p.m. County Commission meeting to discuss leasing, purchase, or sale of real estate by a public government body where public knowledge of the transaction might adversely affect the legal consideration therefor as authorized by Section 610.021 (2) RSMo.

Commissioner Miller seconded the motion.

Discussion: Commissioner Miller stated that she was in agreement with Commissioner Vogt. She stated that if the other party could not make their purchase without the signature of the County Commission, then she felt as though the County Commission was very much a party to the purchase.

Commissioner Vogt stated that by law she could not report to Commissioner Stamper or to Commissioner Miller about something of this nature without being in session. She stated that if she did not tell the Commission something in this way, how else would she be able to tell them?

The motion passed 3-0. **Order 207-99**

Commissioner Reports

Commissioner Stamper

Commissioner Stamper stated that they had a brief discussion some time ago about the fountain. He stated that they had been waiting for the first Twilight Festival before turning the fountain on. He stated that it did not look like the plan with the blocks would be done at that time. He asked if it was the pleasure of the Commission that the fountain be turned on for the first Twilight Festival.

Commissioner Miller and Commissioner Vogt agreed that the fountain should be turned on.

Commissioner Stamper stated that he would instruct Chuck Nichols, Facilities Maintenance to do so.

Commissioner Stamper stated that he did not know if he would be back for the Memorial Day Celebration. He stated that there was a need for one of the Commissioners to present a wreath on behalf of Boone County.

Commissioner Miller stated that she would be able to present the wreath.

Commissioner Stamper stated that it was the intent of the Commission to try to schedule a couple of work sessions on the Fairgrounds for the upcoming week. He stated that the County Commission had tentatively scheduled a public discussion of the Fairgrounds for June 8th.

Commissioner Miller

Commissioner Miller gave no report. She stated that she would gather her reports this weekend and report at the next meeting.

Commissioner Vogt

Commissioner Vogt reported that the Boone Health Report Card Committee had met the previous evening. She stated that there were a lot of people present. She stated that those who were present were separated into committees. She stated that there was a student present. She also stated that they had a public relations committee that would be doing public service announcements. She stated that two students in the room offered to work on the public service announcements.

There was no public comment.

The meeting was adjourned at 2:10pm.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner