

TERM OF COMMISSION: October Session of the August 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 9:33 a.m.

**SUBJECT: Award Bid No. 77-22JUN95, Janitorial Services**

Purchasing Director Rebecca L. Jackson provided a bid tabulation and stated the Facilities Maintenance Department recommends award to the low bidder, Krystal-Klean. Since they are a new business, the department attempted to determine whether they can deliver the service as bid.

Commissioner Miller moved that the County Commission of the County of Boone award bid 77-22JUN95, Janitorial Services for Courthouse and Southern Public Works Facility, to Krystal-Klean in the amount of \$1,300 per month for the period of November 1, 1995 through July 31, 1996.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 525-95.**

**SUBJECT: Agreement with Krystal-Klean for Janitorial Services**

Commissioner Stamper moved that the County Commission of the County of Boone approve the attached agreement between Boone County and Krystal-Klean for the provision of janitorial services for the Courthouse and Southern Public Works facility.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 526-95.**

**SUBJECT: Report from University Extension**

4-H Youth Specialist and Adventure Club Coordinator Marty Baker; 4-H Youth Specialist Scarlett Richardson; Regional Health and Nutrition Specialist Vera Massey Nichols and County Program Director Ron Higgonbotham were present. A written report was distributed and reviewed.

**SUBJECT: Public Administrator Budget Revision: Additional Employee**

Public Administrator Connie Hendren reviewed her memorandum to the Commission dated October 3, 1995, regarding her need to fill the vacant deputy position in her office.

In response to a question from Commissioner Stamper, Ms. Hendren replied the employee will share her office or the outer office, depending on where they decide to locate their file cabinets.

Commissioner Stamper stated he would rather place the employee somewhere in the Courthouse that is not being used, rather than crowding them into the current office. He would at least like to discuss it with Judge Conley.

Commissioner Miller moved that the County Commission of the County of Boone authorize the following budget revision:

<b>Organization</b>	<b>Account</b>	<b>Description</b>	<b>Transfer From</b>	<b>Transfer To</b>
1123	86800	Emergency Fund	\$4,064	
1200	10100	Salaries & Wages		\$3,417
1200	10200	FICA		\$ 261
1200	10300	Health Insurance		\$ 340

Cont.

1200	10350	Life Insurance	\$ 6
1200	10375	Dental Insurance	\$ 30
1200	10400	Workers Compensation	\$ 10

Explanation: Additional staff in Public Administrator's office.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 527-95.**

**SUBJECT: Discuss Amendments to Subdivision Regulations (Plat Vacation)**

Mr. Patton stated alternative one is most desirable in terms of dealing with the lawsuit issues. The third alternative is his second choice. If the commission wants input from property owners, a requirement can added that property owners within a subdivision where vacation is proposed be notified in writing. It is possible the alternatives can be refined. He is open to other ideas.

David Rogers, 813 E. Walnut, Columbia, representing Rhodes-Payne, presented a fourth alternative. Mr. Rogers stated there is a significant difference between zoning and platting. Platting is an administrative process. Zoning is a legal, political process. With zoning, the commission weighs the right of a property owner to use their land with the effect the use might have on neighbors. Platting is a matter of meeting the rules. This issue first arose about five years ago in the Basinger case. The County Commission tried to deny a plat which met all requirements because there was neighborhood opposition. The court ruled that the plat be approved. This led to the so called Stamper Rule, where one hundred percent approval of neighboring property owners was required in order to replat land. This was the rule until May when it was eased somewhat to require majority approval. Both forms of the rule are an unlawful delegation of authority. The alternatives prepared by Mr. Patton all have a procedure where replatting can occur if subdivision restrictions or covenants have been recorded in such a manner that potential buyers are aware of the possibility of plat vacation. *Sims v. Eckhardt* says it is also an unlawful delegation if you try to give your authority to subdivision restrictions or covenants. Mr. Rogers summarized the facts of the case. Mr. Rogers stated he believes all three alternatives proposed by Mr. Patton would "die on the vine." The first alternative has some standards, but they are mushy, fuzzy, feel good things. They are standards which might be considered in zoning, but not in platting. Mr. Rogers stated he loves what he wrote. Section 1.8.1.2 includes things you should be looking at in terms of vacating a plat.

In response to a question from Commissioner Stamper, Mr. Rogers replied including a traffic study in section 1.8.1.2 would be reasonable.

The Commission agreed to a schedule a work session on the issue and advised Mr. Rogers they will notify him of the date.

**SUBJECT: Revise Commission Order 13-95 Regarding Approval and Execution of Real Estate Acquisition Agreements for the Road Improvement Program**

Public Works Department Manager of Design and Construction Tom Ratermann reviewed proposed changes to the current right-of-way acquisition policy contained in Commission Order 13-95. The Department proposes an eight point policy outlined in a memorandum to the Commission dated September 22, 1995 by Right-of-Way Agent Karin Spradlin.

Commissioner Miller stated she disagrees with the wording after the comma in the last line of number six, which concerns trees.

Commissioner Stamper asked how would Commissioner Miller word the sentence?

Commissioner Miller stated she would leave the wording out.

Commissioner Vogt stated there might be situations where the Department needs flexibility in order to work with the property owners.

Commissioner Miller replied if the County has the right of way or easement the county should have the right to remove trees. If trees outside the easement or right-of-way need to be removed that is a different story.

Commissioner Stamper stated Commissioner Miller should elaborate on what she finds to be offensive with the wording. He believes it is benign.

Commissioner Miller replied the county policy on trees is clear. If the county buys one tree, it will buy a bunch.

Commissioner Vogt stated the purpose of the policy is to create a less rigid approach to addressing capital improvement projects. Many situations have been encountered which prompted the commission to change the policy. She is not threatened by the proposal to make the tree issue less restrictive. People are concerned about trees. In some instances, their concerns are very valid. She wants to be able to work with people.

Commissioner Stamper moved that the County Commission of the County of Boone revise the Right-of-Way Acquisition Policy for the 50 in 5 Road Improvement Program, previously contained in Commission Order 13-95, to read as follows:

The Presiding Commissioner is authorized to approve and execute Real Estate Acquisition Agreements which pertain to Boone County's five year road improvement program, approved on April 20, 1993 pursuant to Commission Order 150-93, and which program commenced in June, 1993. The Presiding Commissioner is authorized to sign Real Estate Acquisition Agreements containing any of the provisions of the Boone County right-of-way policy herein set forth. Any other stipulations agreed upon between Boone County personnel and the property owner(s) shall be heard, decided and acted upon by the County Commission.

**1.) MONETARY LIMITATION FOR AUTHORIZED STIPULATIONS:** Authorized stipulations shall not exceed \$3,000 per right-of-way tract. Any or all of said stipulations in excess of \$3,000 per right-of-way tract shall be heard, decided and acted upon by the County Commission.

**2.) FORM OF RIGHT-OF-WAY:** Boone County shall accept easements, rather than quit-claim deeds, for the purpose of obtaining right-of-way, unless otherwise agreed upon between the county and the property owner(s).

**3.) FENCES:** Boone County shall reimburse the property owner(s) up to one dollar per lineal foot for replacement fence material as requested by the property owner(s) prior to execution of the Real Estate Acquisition Agreement between the county and property owner(s). The property owner(s) shall assume responsibility for the purchase and installation of said fence material. The county may dismantle and remove existing fence upon request by the property owner(s). The property owner(s) shall assume responsibility for relocation of an existing fence, if necessary.

**4.) DRIVEWAYS AND PROPERTY ENTRANCES:** Existing driveways and property entrances shall be returned to a condition similar to or better than that in existence prior to construction of the road project, using gravel, concrete or asphalt materials, as applicable, provided that existing driveways are in compliance with current county regulations prior to construction of the road project. Existing culverts shall be replaced at county expense as necessary. If no driveway or property entrance exists at the time of construction, the county shall provide, at county expense, a property entrance, complete with culvert and cover as necessary, from the county road as improved to each legally subdivided lot owned by the property owner(s) as of the date of the Real Estate Acquisition Agreement between the county and property owner(s).

**5.) DAMAGES FOR MORE THAN STANDARD RIGHT-OF-WAY:** In the event the county requires more than the standard right-of-way width from the property owner(s) in order to complete the road project, the county shall compensate the property owner(s) for any damages to land of the property owner(s) located outside the standard right-of-way area.

**6.) TREES:** Boone County shall not indiscriminately remove or damage trees located within the right-of-way area. The county shall allow certain trees to remain in the right-of-way area, to be determined on an individual basis in accordance with county road design specifications, as mutually agreed upon between the county and property owner(s) prior to execution of the Real Estate Acquisition Agreement between the county and said property owner(s). The county shall not provide monetary compensation for trees which are removed or damaged in the right-of-way area due to construction of the road project, unless otherwise agreed upon between the county and the property owner(s) as herein provided.

**7.) UTILITIES:** Any affected utilities located within the right-of-way area shall be relocated as necessary at county expense. The county shall retain exclusive control over utility coordination within the right-of-way area and shall issue final approval of relocation of any affected utilities.

**8.) RECONVEYENCE OF RIGHT-OF-WAY:** In the event the road project is abandoned or cannot be completed within a period of five years from the date of the Real Estate Acquisition Agreement between Boone County and the property owner(s), the county shall reconvey the right-of-way to the property owner(s).

Commissioner Vogt seconded the motion. Commissioner Vogt and Commissioner Stamper voted in favor of the motion. Commissioner Miller voted in opposition to the motion. Motion passed.  
**Order 528-95.**

**SUBJECT: Authorize Use of License Agreement for Easement Acquisition for the 50 In 5 Road Improvement Program**

Mr. Patton stated the Public Works Department wanted an alternative acquisition agreement. Apparently the problem has been that survey and construction work do not necessarily work in tandem. They wanted a method where the county could obtain permission to perform work on a proposed new right-of-way prior to survey work being done. They suggested the county use a license agreement which is simply permission to perform work within a right-of-way area, defined--prior to survey--as between existing fence lines on the road or 25 feet from the center of the existing road. Mr. Patton stated he is very uncomfortable using fence lines because the width between them varies so much. He recommends the county use a definition of a certain number of feet from the center of the existing road. However, he wrote the agreement as requested. The property owner gives the county the right to improve and maintain the road right-of-way within the defined limits and contemplates that the county will survey the right-of-way, develop a legal description and attach a permanent right-of-way easement which the property owner agrees to sign within thirty days of completion of the road project. The county would not receive a permanent easement until survey work is complete and the easement area is defined. The agreement will allow the department to proceed with projects where major redesign is not required. The agreement provides that the county will not begin work until temporary rights, signed by all property owners in the project area, have been secured.

Mr. Patton asked is there a problem with using the feet from center approach?

Mr. Abart agreed it would be preferable, but it is easy for a landowner to see the area between fences and understand what is requested. It would defeat the purpose of the license agreement to have to expend time and manpower to mark the areas.

Mr. Patton stated using the between the fence method will mean the county will end up with a bunch of permanent easements of various widths. Fifty years from now--

Mr. Abart replied attempts to standardize the amount of right-of-way have been unsuccessful.

Commissioner Stamper stated the commission accepts that the county will have irregular right-of-ways on certain roads. They have struggled with how to deal with reluctant landowners. The department came up with the idea of addressing roadways individually.

Commissioner Miller moved that the County Commission of the County of Boone approve, and authorize the use of, the attached Right-of-Way Acquisition Agreement.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 529-95.**

**SUBJECT: Request Use of County Commission Chambers for Art Exhibit, Regional AIDS Interfaith Network (RAIN)**

Bob Bailey stated the Regional AIDS Interfaith Network provides non-medical compassionate care to people with HIV or AIDS. There are over 200 volunteers. There are currently eighteen care friends, or people who have HIV or AIDS. They would like to inform the commission of a community awareness raising event.

RAIN Executive Director Cheryl Smith stated nationwide AIDS is the leading cause of death for people aged 25 through 34. Missouri is ranked ninth in the nation in terms of the number of HIV cases. As of six months ago, 1,240 people living in Missouri had HIV, not including those living in St. Louis and Kansas City. People are becoming infected in their teen or early adult years. The Center for Disease Control estimates eighty percent of people who are positive for HIV do not know they are positive. RAIN requests the use of the Commission Chambers for three weeks next fall for an exhibit of art created by Jason Dilley which is intended to raise awareness. The exhibit would start in conjunction with the Fall Festival. The title of the exhibit is Life Mask: Face to Face. Ms. Smith played a videotape about the exhibit.

In response to a question from Commission Stamper, Ms. Smith replied they would like to hang the masks on the Commission Chamber walls. They would not charge admission to see the exhibit.

Commissioner Stamper stated the County Commission is supportive of RAIN and is interested in participating.

Commissioner Vogt stated the Commission Chamber is a good place to have the exhibit.

Commissioner Stamper stated County Commission meetings can be held elsewhere if need be.

Ms. Smith replied the hours the exhibit is open can be altered to allow commission meetings to take place in the Chambers.

Commissioner Miller commented AIDS education is needed. It is natural for people to be frightened of things they are ignorant of. This exhibit should help educate people.

**SUBJECT: Notice of Proposed Forest Service Land Transaction**

Commissioner Stamper summarized the notice and stated it will be posted for public viewing.

**SUBJECT: County Clerk Budget Revision: Moving and Mileage Costs Associated with Move to Records Retention Center**

Commissioner Stamper moved that the County Commission of the County authorize the following budget revision:

<u>Organization</u>	<u>Account</u>	<u>Description</u>	<u>Transfer From</u>	<u>Transfer To</u>
1123	86800	Emergency Fund	\$60	
1131	59200			\$60

Explanation: To cover moving/mileage costs incurred during move of records from warehouse in southern Boone County to Johnson Building.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 530-95.**

**SUBJECT: County Clerk Budget Revision: Hanging File Brackets, Accounts Payable Files**

Commissioner Miller moved that the County Commission of the County of Boone authorize the following budget revision:

<u>Organization</u>	<u>Account</u>	<u>Description</u>	<u>Transfer From</u>	<u>Transfer To</u>
1123	86800	Emergency Fund	\$600	
1131	23000	Office Supplies		\$600

Explanation: To cover cost of new unbudgeted hanging file brackets for Accounts Payable files. Unanticipated cost associated with move to Government Center. Anticipated the brackets would come with the file cabinets, but they did not.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 531-95.**

**SUBJECT: Human Resources Budget Revision: Subscriptions/Publications, Printing and Other Supplies**

Commissioner Vogt moved that the County Commission of the County of Boone

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 532-95.**

**SUBJECT: Public Comment**

In response to a reminder from Ben Basye, 15001 W. Highway 40, Rocheport, of his concern about the border dispute between Howard and Boone County, Commissioner Stamper replied the commission will set the date for a work session on the matter in its staff meeting next Tuesday.

**SUBJECT: Reports from Commissioners**

Commissioner Stamper reported the Fall Festival on the Courthouse Square was a success.

Commissioner Miller reported the Ashland Fall Festival was also a success, with the greatest attendance ever. The park shelter was dedicated to Bob Sapp who was killed in an attempted robbery of South County Bank last year.

The meeting adjourned at 11:15 a.m.

Attest:

\_\_\_\_\_  
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