

TERM OF COMMISSION: April 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
Deputy County Clerk Michelle Malaby

The regular meeting of the County Commission was called to order at 1:36 p.m.

SUBJECT: Open Bid 32-28MAR96, Bearfield NID

Responses to the request for quotation were opened as follows:

<u>Company</u>	<u>Location</u>	<u>Bid/No Bid</u>
Aplex Inc.	Linn, MO	Bid
Blacktop Paving Co.	Columbia, MO	No Bid
Boone Construction Co.	Columbia, MO	No Bid
Central Bridge Co.	Columbia, MO	No Bid
Construction Market Data	Mission, KS	No Bid
Epple Construction Co.	Columbia, MO	No Bid
Hall & Riley	Boonville, MO	Bid
Kidwell Construction, Inc.	Kingdom City, MO	No Bid
Knipp Construction Company	Columbia, MO	No Bid
Professional Contractors & Engineers, Inc.	Columbia, MO	No Bid
Reinhardt Construction Co.	Centralia, MO	No Bid
Richardson and Bass Construction Co.	Columbia, MO	Bid
Don Schnieders Excavating Company, Inc.	Jefferson City, MO	Bid
Stockman Construction	Jefferson City, MO	Bid
Washington Construction	Tipton, MO	No Bid

SUBJECT: Open Bid 37-04APR96, Asphalt Paving for Ash Street Parking Lot

Responses to the request for quotation were opened as follows:

<u>Company</u>	<u>Location</u>	<u>Bid/No Bid</u>
Seal-Rite Asphalt & Paving Co.	Auxvasse, MO	No Bid
Boone Construction Co.	Columbia, MO	No Bid
Central Bridge Co.	Columbia, MO	No Bid
Christensen Construction Co.	Fulton, MO	Bid
Frech Paving Co.	Columbia, MO	Bid
Hall & Riley Paving Co.	Boonville, MO	Bid
Higgins Asphalt Paving Co., Inc.	Tipton, MO	Bid
Tim Loutzenhiser	Auxvasse, MO	Bid
Richardson and Bass Construction Co.	Columbia, MO	Bid
Washington Construction	Tipton, MO	No Bid

SUBJECT: Open Bid 44-04APR96, Ammunition

Responses to the request for quotation were opened as follows:

<u>Company</u>	<u>Location</u>	<u>Bid/No Bid</u>
Black Hills Ammunition	Rapid City, SD	Bid
Gulf States Distributors	Montgomery, AL	Bid
Precision Delta Corp.	Ruleville, MS	Bid
Simmons Gun Specialties	Spring Hill, KS	No Bid
Targetmasters	Columbia, MO	Bid
Zero Ammunition Co., Inc.	Cullman, AL	Bid

SUBJECT: Budget Amendment: Contract with Missouri Division of Family Services

Circuit Court Administrator Robert L. Perry presented the budget amendment. Mr. Perry stated the contract period expires in June. It is anticipated it will then be extended for a twelve month period. The contract is directed toward providing increased services to abused, neglected children who are wards of the court and are placed in the custody of the Division of Family Services for out of home placement and to children who reside in their own home. The purpose is to reduce the length of time children stay in out of home placement as well as bringing about a reduction in the level of care as quickly as circumstances permit. The money is for one additional full time deputy to work on child abuse neglect cases and a half time deputy in Callaway County.

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

Organization	Account	Account Title	Increase
1243	03528	Reimburse Personnel/Projects	\$15,687.08
1243	10100	Salaries & Wages	\$13,075.44
1243	10200	FICA	\$ 1,000.27
1243	10300	Health	\$ 1,360.00
1243	10350	Life	\$ 20.00
1243	10375	Dental	\$ 120.00

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 210-96.**

SUBJECT: Parking Committee Report

Recorder of Deeds Bettie Johnson stated the Parking Committee met March 21, 1996. The southern part of the Clark lot has changed ownership. The contract for those spaces expired April 1, 1996. The northern part of the lot is under contract to a different individual. She received verbal notice on Monday that the purchase option will be exercised and the county will lose the spaces on the northern part of the lot. On March 21, the Parking Committee agreed to recommend the county lease the southern portion of the Clark lot for the remainder of the year. The county previously paid \$9 per space. The rate will increase to \$13 per space. The spaces are now paved and marked. The Parking Committee also discussed a re-application by the Public Defender's office for assignment to the Guaranty Lot. The committee does not believe it is appropriate to approve the request. The spaces were offered on a rental basis. Only three people were interested. Improvement of the Guaranty Lot will likely result in increased use. There are many use violations on the Johnson Building lot. Installation of gates should take care of that problem. An employee suggestion was received that several Courthouse employees be designated to check the lot due to their proximity to the lot. It is probably reasonable to do so. Violations would be referred to her office to verify the violation using the records they maintain.

Commissioner Miller moved that the County Commission of the County of Boone authorize the lease of 13-14 parking spaces on the southern part of the Clark Street lot at a rate of \$13 per space for the remainder of 1996.

The Commission will notify the Public Defender that use of parking spaces on the Guaranty Lot will be retained due to the pending loss of other parking spaces.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 211-96.**

Commissioner Vogt stated she was using the telephone while parked in the spaces designated for officeholders and department heads who work in the Government Center when a mother parked in the space next to her. Commissioner Vogt stated she got off the phone for a moment and informed her the spaces are assigned to the county. The woman informed her the director of the child care unit at the church told her she could park there.

Ms. Johnson stated spaces are frequently used as a nursery loading zone. Normally it is not a problem. She is not aware of authorization being given to use the spaces. She will check on it.

SUBJECT: Award Bid 42-02APR96, Used Vehicle

Purchasing Department Director Beckie Jackson stated the prices on this bid are good for a limited time. She was unable to obtain Auditor certification or approval by the attorney prior to the meeting. Standard forms have been used. She does not foresee difficulty in obtaining certification or approval. Ms. Jackson recommended award to Cornell Motors, the low bidder.

Commissioner Stamper moved that the County Commission of the County of Boone award bid 42-02APR96, Used Vehicle, to Cornell Motors, Inc. in the amount of \$13,500 with a credit of \$3,500 for the trade-in of a 1989 Ford Thunderbird. The County Commission does hereby approve, and authorize the Presiding Commissioner to sign, the attached agreement, the 1989 Ford Thunderbird title and fixed asset disposal form, pending approval by the Auditor and County Counselor.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 212-96.**

SUBJECT: Employment Hearing Decision (Transcript of Proceedings)

COMMISSIONER STAMPER: We are now at 2:00 o'clock, a time when we had scheduled the employment hearing decision on the case--the appeal made--or the hearing held as a result of the arbitrator's report. I'd like to call us to order for that purpose and make some introductory comments and then we will have discussion of the commission. Our purpose in discussing this matter is to render a decision today on the outcome of the hearings held by the County Commission, in the review it had with the staff and all those who testified concerning the discharge of an employee from our Public Works Department. The history that goes along with this case includes an event, which has been adequately described in a number of different hearing processes, a decision on behalf of management and the county to release an employee, an appeal by that employee, which ultimately lead to an arbitration process, an arbitrator's report which the County Commission found to be in conflict with the facts as they knew them, and that recommended the reinstatement of the employee, and then a hearing process held by the county to allow us to have additional factual disclosure. Our responsibility at this point is to discuss that factual disclosure on the public record, and through a process of discussion, render a decision on whether or not to accept the arbitrator's report and whether or not to reject the arbitrator's report and take action relative to that. And so, that is what we will do for the purpose of discussion. It is not a hearing. It is not a debate. There will be no discussion that will be entertained except from the commissioners and the commissioners rendering their opinion and their position on the facts and the findings as they were presented to us. So that's the way we plan and intend to handle this. All discussions will be a part of the public record and will be maintained as a part of the public record as such, as is our responsibility in the open process. We now will go to discussion of the commissioners. Who would like to go first?

COMMISSIONER MILLER: I can. The last time we had the hearing, there were several documents that I personally requested that had to do with the delivery tickets--if there was any times on those--to deal with the asphalt. And then Rosie James's personal notes were discussed and that was going to be provided. And the oil distributor vehicle maintenance records, to see if the oil distributor was broken down or if it was actually in working order. In going through our testimony that day, there are many discrepancies. And I'd like to point out some of those that really bother me. In Mr. Morton's testimony, he stated that the oil machine was not, let's see, that the, that there wasn't any oiler on the job site, and that they had, they had paved without the oiler or oil being on the road, which was against policy. And yet, in another statement, he said that we're up a steep hill, we've got slick oil up on top of the hill. Well, that's all in the same day and in the same--if the oiler wasn't there and they paved without the oiler why was the road slick with oil? All out of the same testimony of Mr. Morton. Another thing that concerns me is the testimony that Ms. James and Mr. Abart gave that Mr. Morton had said that he had only flagged for three to five minutes. However, when he was under oath, it was twenty to thirty and everyone else had said it was twenty to thirty to that point. So, I find a lot of controversy in the testimonies from the same people. Mr. George also had conflicting testimonies and he had stated that his memory was better in March than it was back in July and October when the incident happened. So, I find that quite strange. And, so those are questions that came to my mind that I, I think warrant discussion. And the records from the oiler shows that it was never out of a, out of a, work. It was on the job. Mr. Nichols had testified that, that the oiler had already sprayed. And so, there's some conflict there. And I, when you start looking at trying to make a decision, you have

to determine where the truths are and where the inconsistencies are. And those are the inconsistencies I have found.

COMMISSIONER VOGT: I too have gone through the testimonies repeatedly, and looked at the evidence that we have been able to collect about the event on July the 12th. And after listening to the testimony of all the people concerned, looking at all the information that we have, it certainly, in my estimation, is more than probable that the oiler was on the project that day. We have no evidence to tell us that it wasn't. The discrepancies between the timing, appear to be twenty to thirty minutes rather than five to ten minutes that Mr. Morton decided to go flag. I found it hard to have any confidence in Mr. George's testimony. He said that his memory was better eight months after the event than it was 24 hours later when his, his testimony at those two times contradict itself. I have come to believe that Derrick Morton did choose to reject the direct orders of his supervisor and took it upon himself to flag traffic rather than to rake asphalt. I just find nothing in the testimony or the evidence to show otherwise.

COMMISSIONER STAMPER: This is really a very interesting thing to go through, because the County Commission was extraordinarily careful when this event occurred. We saw that staff went through a very careful check and balance and that before we made the decision--and it was a decision the County Commission was engaged in--before that decision was rendered to the employee, we evaluated the events of day and what we knew about the events of the day. For we knew, due to the nature of the activities, we might end up very well where we are today. And that we wanted to make sure the things we had done and the steps we had taken, had properly gone through the facts and ascertained those facts. And so, staff comes to us with findings. We cross examine staff on those findings and we find that there is cause to release the employee. Now, we are coming back some time later, and over a series of hearings, of depositions, and through an arbitration process, the story becomes more, and more, and more confusing. Things begin not to add up. My two colleagues have adequately pointed out it becomes a question of credibility. It becomes a question of who you believe, and what you base that belief on. There is conflicting testimony over who flagged and how long they flagged. There's conflicting testimony over when the road was sprayed and how it was sprayed. There's conflicting testimony on everyone's behalf about whether or not Mr. Morton chose to make a decision to flag and not rake the asphalt or exactly how that unfolded. And, you can see in Bobby Craig's testimony, in Bill Nichol's testimony, in Derrick Morton's comments, Larry George's comments, conflicting stories--along with Mr. Abart's and Ms. James', conflicting stories. There's one theme that rings true in all this testimony. I believe from the testimony I've seen and the events that occurred that I knew of the day that they reported to me in everyday sense, that an employee of that department was given a directive and that he chose not to follow that directive. He did not come back and discuss it with the person that gave the directive about why he chose to do that or why he chose not to follow the directive that was given to him. But he made a conscious decision not to follow the directive. In any organization I've ever served in, we can't have that. And so it's my recommendation as a member of the County Commission, after going through the process we've been through, that we uphold the original decision of department and we overturn the arbitrator's report and that we uphold the termination of Mr. Morton.

COMMISSIONER VOGT: Is that a motion?

COMMISSIONER STAMPER: I'm asking for additional comments or reaction to my testimony, then I'm ready to make a motion.

COMMISSIONER VOGT: I do think that we have deliberated over this issue and looked at it from every angle that we can look at it. And I agree that it keeps coming back to what I consider to be the truth that Mr. Morton just did not react to the directive in a positive way. That he chose to do something that his supervisor--do something other than what his supervisor had asked him to do that morning. And I would move that the County Commission uphold the Public Works Department's termination of Derrick Morton.

COMMISSIONER STAMPER: It's been moved. Is there a second?

COMMISSIONER MILLER: Second.

COMMISSIONER STAMPER: Moved and seconded. Discussion of the motion? Hearing none, all those in favor of the motion as stated, say aye.

COMMISSIONER MILLER: Aye.

COMMISSIONER VOGT: Aye.

COMMISSIONER STAMPER: The motion carries. (**Order 213-96**) We conclude action on this item. Thank you ladies and gentlemen. We'll now move on to item number six.

SUBJECT: Applications for Permits to Use Courthouse Square

Commissioner Stamper moved that the County Commission of the County of Boone approve an Application for Permit for Organization Use of Boone County Courthouse Grounds by the Columbia Public Schools/Columbia Chamber of Commerce for Partners in Education Week Kick-Off Celebration on April 29, 1996 from 5:45 p.m. through 8:00 p.m. The group may use the Government Center atrium in the event of inclement weather.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 214-96.**

Commissioner Stamper moved that the County Commission of the County of Boone approve an Application for Permit for Organization Use of Boone County Courthouse Grounds by the American Legion and Memorial Day Committee for the Memorial Day Salute to Veterans Ceremony on Monday, May 27, 1996 from 8:00 a.m. through 12:30 p.m.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 215-96.**

SUBJECT: Community/Social Service Agreements

Commissioner Vogt moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, the attached Community/Social Service Agreements with the Central Missouri Area Agency on Aging for Home Delivered Meals and Congregate Meals at the Centralia Center and with the Boone County Council on Aging for Individual Care Management and Volunteer and Support Services.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 216-96.**

SUBJECT: City of Columbia Notice of Voluntary Annexation

Commissioner Stamper summarized the notice from the City of Columbia regarding the Wiechert/OFW voluntary annexation request. The area is not very compact, but it is contiguous.

Commissioner Miller stated this annexation is in the courts due to sewer and water service. She noticed Public Water District No. 2 will continue to serve this property. That is a start in the right direction. The water district has an eight inch main line beside the property. The developer can connect without having to put in new lines for the City to serve the property.

Commissioner Stamper stated he had a discussion with City of Columbia Mayor Darwin Hindman this morning. Mayor Hindman requested Stan Shawver or another county designee be volunteered to work with city staff to better define the Columbia urban service area. Land within that area would be targeted for annexation. Once the area is defined, parties can debate the provision of services and road maintenance issues.

SUBJECT: Authorize Disposal of Various Fixed Assets

Ms. Malaby noted at one time lists of fixed assets proposed for disposal were circulated to offices and departments to determine interest in any of the items. The need to resurrect the practice has been noted.

Commissioner Stamper moved that the County Commission of the County of Boone authorize disposal of the attached list of fixed assets after the list has been circulated among elected officials and department heads for seven days to give them an opportunity to determine their need for any of the items. It is the expectation of the County Commission that all items to be disposed of in the future be handled in the same manner.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 217-96.**

SUBJECT: Declare Election of Hospital Trustee

Commissioner Stamper moved that the County Commission of the County of Boone declare Jed Angell elected hospital trustee for Boone County for an unexpired term of two years, commencing on April 5, 1996, pursuant to provisions 115.124 RSMo. and that the number of candidates for hospital trustee did not exceed the number of positions to be filled at the April, 1996 election. The Presiding Commissioner is hereby authorized to sign the certificate of election.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 218-96.**

SUBJECT: Courthouse Square Art Display Agreement

Commissioner Vogt moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, the attached COURTHOUSE SQUARE ART DISPLAY AGREEMENT with the City of Columbia and Boone County Courthouse Square.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 219-96.**

Commissioner Vogt stated she has not selected the second review committee representative.

SUBJECT: Agreement with City of Columbia for Health Clinic Facility Location Study

Mr. Patton stated he sent the agreement to the Auditor after he reviewed it yesterday.

The commission felt they had approved the agreement previously. In the event they had not, Commissioner Miller moved that the County Commission of the County of Boone authorize the Presiding Commissioner to enter into an agreement with the City of Columbia for a health clinic facility location study.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 220-96.**

SUBJECT: Conditional Use Permits

Mr. Patton stated the commission approved several conditional use permits on April 2, 1996. Last year, he and Mr. Shawver devised an actual permit. The permit includes the findings of fact and legal conclusions required for this type of decision. The commission needs to adopt the permits and direct the Presiding Commissioner to sign them. Conditional use permits are considered to be contested cases under the administrative procedure act. The issuance of the permits needs to be formalized to avoid potential problems.

The commission requested the item be placed on the agenda for next Tuesday.

SUBJECT: Authorize Presiding Commissioner to Attend Columbia Chamber of Commerce Planning Retreat

Commissioner Stamper requested authorization to attend the retreat at the Lake of the Ozarks at the county's expense. The event begins at 2:00 p.m. on Friday and runs through Sunday. He has attended for the past five years. It is a good event to work with the business community and Chamber of Commerce.

The commission did not object.

SUBJECT: Authorize Closed Meeting to Immediately Follow

Commissioner Miller moved that the County Commission of the County of Boone authorize a closed meeting immediately following the regular County Commission meeting on April 4, 1996, as authorized by section 610.021 (3) RSMo. to discuss the hiring, firing, disciplining or promoting of a particular employee by a public governmental body when personal information about the employee is discussed or recorded.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 221-96.**

SUBJECT: Reports from Commissioners

Commissioner Stamper reported on his discussion with Mayor Darwin Hindman this morning.

Commissioner Stamper reported an open house will be held for the Pin Oak Neighborhood Improvement District on April 23, 1996 from 4:00 p.m. to 8:00 p.m. to discuss final details.

Commissioner Stamper reported John Smith of Jefferson City, Missouri accepted the position of Manager of Design and Construction effective April 29, 1996 at a salary of \$45,000.

Commissioner Stamper reported the Public Works Department will be forwarding is recommendations for road sales tax grants to cities for 1996.

The meeting adjourned at 2:40 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner