

TERM OF COMMISSION: March 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
 County Counsel John Patton
 Deputy County Clerk Melanie Stapleton

The meeting was called to order by the Presiding Commissioner at 7:00pm.

Commissioner Stamper stated that the primary purpose of this meeting was to discuss planning and zoning issues. He stated that the format for the meeting would be as follows: staff report, comments from applicant or agent of applicant, public hearing, rebuttal by applicant or agent of applicant, discussion of the commission. He also asked that all those giving comments sign in, state their name and address for the public record and state if they are in support of or opposition to the issue. He also asked that testimony be succinct and focused.

Commissioner Stamper stated that the County Commission had another issue to discuss before addressing the Planning and Zoning agenda.

Subject: Imaging Acquisition

Bob Ormiston stated that the Information Technology Department has been attempting to upgrade the imaging system for 2-3 years. He stated that the Auditor, Recorder, and Assessor worked to finalize the solutions.

Bob Ormiston stated that the budget revision for the imaging acquisition was approved last week. He stated that at that time he requested the right to waive the public bidding process and grant approval for purchases through the State and NACo contracts due to the immediate need for the new, imaging system. He stated that the County Commission requested additional information about the hardware and software and the costs before approving the request. He presented the following information sheet regarding the imaging acquisition:

MAJOR COMPONENTS OF IMAGING SYSTEM

Component Name	Availability	% of Total W/O Prof. Svcs	% of Total With Prof. Svcs
Servers (3)	Available off contracts	27%	18%
Scanners (3)	Available off NACo contract with Wareforce	24%	16%
Optical Jukebox	Available off NACo contract with Wareforce	12%	08%
Backup System	Available off NACo contract with Wareforce	2.7%	1.8%
Optical Platters	Available off NACo contract with Wareforce	3.1%	2.0%
Kofax Ascent Capture	Available from Word-Tech at 13% discount	10%	6.5%
Optika eMedia	Available from Optika at 90% discount (upgrade) pricing	10%	6,7%
Miscellaneous	Available off contracts or direct from publisher	3.9%	2.6%
Professional Services	Available off contracts or direct from publisher		34%

Bob Ormiston stated that the total cost of the new imaging system would be \$249,819. He stated that the total cost of all equipment not available through State or NACo contracts was \$16,300.

Commissioner Stamper stated for the public record that the County does not normally handle

purchases in this manner. He stated that whenever possible the County takes every opportunity to go through the normal bidding procedures, policies, and processes. He stated however that the need for the new imaging system was so urgent that the County is considering making an exception in this situation.

Commissioner Vogt stated that she met with the Purchasing Director, Beckie Jackson, earlier today. She stated that Beckie Jackson was very concerned about the handling of this acquisition. She stated that Beckie Jackson requested that in the future the Purchasing Department be included in any discussions of this nature in light of their expertise in addressing these kinds of issues.

Commissioner Miller stated that this was a reasonable request.

Commissioner Miller moved to authorize the Information Technology Department to order the available hardware and software through State and NACo contracts and authorize the purchase of the remaining software through the County's existing contract with Word-Tech.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 113-2000**

Subject: Request by C. Kenneth and Jacquelyn S. Davidson and Bernie E. and Patricia A. Kile on behalf of Telecorp Communications Inc. for a transmission facility, including a 300' tower to be located at 22801 S Demarco Rd., Hartsburg

Stan Shawver gave the following staff report:

This property is located 7 miles south of Ashland on the west side of Highway 63. The property is zoned A-2 (Agriculture) as is all of the surrounding property. The site is within the Southern Boone school district. It is within the Union Electric service area. Water service is not a prerequisite for this land use. The applicant proposes to place a Transmission Facility on this tract that will include a 300' tower. Staff has reviewed the application and found it in order for consideration by the Commission. Due to the height of the proposed tower, a total of 67 property owners were notified of this request. The master plan designates this area as being suitable for agriculture and rural residential land uses. The proposed use is consistent with the master plan and staff recommends approval, subject to compliance with all requirements of the zoning regulations.

Stan Shawver stated the Planning and Zoning Commission made a motion to approve the request. The motion received unanimous approval.

There were no questions of staff.

Commissioner Stamper called for the applicant or the agent of the applicant to come forward to give testimony.

Donald Mitchell, Devine Tower, Inc., 1900 N Providence Ste 27 was present on behalf of the applicants. He introduced Chuck Smith (Construction Manager), Ken Chan (RF Engineer for Telecorp project), Lanny Shepherd (SR RF Engineer for Telecorp), Terrence Bollar (RF Engineer/Representative of Southwestern Bell) who were also present on behalf of the applicants. He noted that Bernie and Patty Kile (applicants) were in the audience.

Donald Mitchell submitted the Conditional Use Permit application and packet for the public record.

Donald Mitchell stated that Telecorp was formed in 1998 for the purpose of developing wireless service. He stated that Telecorp is the largest AT & T affiliate in the country. He stated that

Devine Tower International Corporation has contracted with Telecorp to develop the infrastructure for the Mid-Missouri region. He stated that Telecorp plans to establish a permanent regional office in Columbia, MO.

Donald Mitchell stated that the term PCS stands for Personal Communication Service and refers to that portion of radio frequency that was auctioned off in six bands by the FCC during the mid 1990s. He stated that Telecorp is building a 100% digital system that will offer digital phone, voicemail and pager service in one package.

Donald Mitchell stated that Devine Tower is currently involved with the establishment of 40 transmission facilities in the Mid-Missouri region. He stated that the goal is always to find a suitable tower or structure on which to co-locate. He stated that to-date Devine Tower is expecting to co-locate on 75 facilities. He stated that the two sites that bracket the proposed site both involve co-location—the water tower in Ashland and an existing tower in Jefferson City.

Donald Mitchell presented the map of the (linking) sites. He asked Ken Chan to come forward to comment on the map.

Ken Chan, RF Engineer illustrated on the map the coverage that the linking sites would provide. He stated that the green illustrated the suburban coverage and the blue illustrated the highway coverage.

Donald Mitchell stated that Devine Tower Inc is not the only user that has a need in this area. He stated that three additional users requested space on the towers. He also noted that Devine Tower Inc went through a very thorough process of seeking out pre-existing tower sites before making their request. He stated that the sites they reviewed were inadequate for their purposes. (See Planning and Zoning Commission minutes 3-16-00).

Donald Mitchell presented the survey and illustration of the site.

Donald Mitchell stated that Devine Tower Inc worked very hard to meet the requests of the Planning and Zoning staff. He stated that their application covered all 72 items and received the recommendation of staff and the Planning and Zoning Commission. He respectively requested approval of the request.

Commissioner Stamper convened a public hearing on the request.

Wayne Hause, 7050 E Claysville Rd stated that he is opposed to the tower site request. He stated that his house has a view of the skyline, which will be marred by the presence of a tower. He stated that he has enjoyed peace and quiet in this location since 1984. He stated that power outages occur in this area all of the time. He questioned the effect that the tower would have on those outages when thunderstorms occur in the future. He stated that the tower will be for competition, not need. He urged the County Commission to deny the request. He submitted pictures of various towers that were unattractive additions to their surroundings. He stated that the neighborhood would have no guarantee that other additions will be made to the tower once it is place. He also noted that towers are never painted.

Laurie Lovell, 2258 Westbrook Dr stated that she would have a direct view of the tower from her residence. She stated that her concern is aesthetics vs. profit. She stated that it seems that beauty always gives way to profit motives, but she feels that it should not be this way. She stated that a lot of people move into the area for the view. She stated that the neighborhood would not get any compensation for the disruption of their beautiful area. She posed the question: Is this necessary?

Patricia J. Ritchie, 23600 S MO River View Dr urged the County Commission to deny the request. She stated that Devine Tower Inc has not adequately demonstrated why other locations are not under consideration, such as the Central MO Correctional Facility tower. She stated that “there are other areas for this ugliness than our agricultural area.” She further stated that she felt that the need for this tower for cell phone and digital phone purposes has been exaggerated. She urged the County Commission to deny the request for the good of Boone County.

Brian Nodine, 23600 S MO River View Dr stated that “aesthetics is the best thing Missouri has going for it” and urged the County Commission to deny the request.

Penny Roscoe, 23441 S MO River View Dr stated that her main concern is that the area would be vacated and the tower would remain on the property (out of use). She stated that she likes to have company at her home and would enjoy being able to entertain her guests without having to look at the tower. She noted that this is a very hilly area and if one tower is needed, then perhaps in the near future other towers will be needed as well. She stated that she felt the opinions of southern Boone County residents were not being taken into consideration in this matter. She wanted to know who would be responsible if there was a problem with the tower. She urged the County Commission to consider this request strongly.

There was no one else that wished to speak.

Commissioner Stamper closed the public hearing.

Commissioner Stamper called the agent of the applicant for rebuttal comments.

Donald Mitchell stated that this request was made to improve the PCS wireless communication in the area. He stated that when an owner leaves, according to the terms of a Conditional Use Permit, removal/improvements must be made within 90 days. He stated that it is difficult “to make a tower look pretty.” He stated that this site would pick up signals better than any other in the area. He stated that the site is zoned A-2 with the nearest residential house over a ¼ mile away. He noted that Southwestern Bell (one of the affiliates) is not licensed for Callaway County.

Ken Chan stated that this site would provide coverage for the Jefferson City area as well.

Lanny Shepherd, Senior RF Engineer stated (in response to a question posed by Commissioner Vogt) that all of the Telecorp towers are grounds and therefore attract lightning to the ground as they are designed to do. He stated that Telecorp provides the device that grounds lightning as a safety element for themselves as well as the surrounding area.

Commissioner Stamper asked if it would be fair to characterize this request as the federal government mandating that all providers grant users access to this service along highway corridors.

Donald Mitchell stated that this was a pretty accurate statement.

Commissioner Stamper stated that there is a proliferation of these towers along *transportation* corridors.

Donald Mitchell stated that this is the area where the service is needed.

Commissioner Stamper asked what the tower would cost.

Lanny Shepherd stated that construction of this particular site would cost between \$100,000-\$130,000.

Donald Mitchell stated that there would be space for a public safety antennae on the tower.

Commissioner Miller stated that a person (Wayne Hause) who presented pictures earlier showed towers with “large dishes.” She asked if this particular tower would have those large dishes.

Donald Mitchell stated that there would not be room for those dishes on this particular tower.

Commissioner Miller asked if the towers would become obsolete and be replaced by satellites.

Donald Mitchell stated that at present satellite technology is very expensive.

Commissioner Stamper stated that the reason for the proliferation of towers in the Ashland area is that the plateau of the area lends itself to a less expensive tower (construction). He stated that over a period of time Boone County has developed a very extensive section in its Planning and Zoning regulations titled Tower Regulations. He stated that the goals were to limit the proliferation of towers in Boone County, require co-location, and anticipate the future of the wireless communication revolution. He stated that there are 72 points that must be met as a part of the criteria before a Conditional Use Permit for a tower is granted. He stated that when a company meets those criteria, the government has very little authority to refuse their right to use the land. He stated that the County Commission did not anticipate the FCC demanding that all companies be provided with access to these communication routes.

Commissioner Stamper stated that the testimony and CUP application (of Devine Tower Inc. and Telecorp) is indicative that the company has met the conditions. He stated therefore, the County Commission has very little authority to refuse. He stated that if the County Commission were to refuse the CUP, the matter would probably be resolved (in favor of the company) in Circuit Court.

Commissioner Miller concurred with Commissioner Stamper's comments.

Commissioner Vogt stated that she felt that this tower would improve communication to aid to those in crisis situations in this area.

Commissioner Stamper stated that if any of the residents of the neighborhood have concerns about the tower regulations, they should express their concerns to the County Commission.

Commissioner Stamper moved to approve a request C. Kenneth and Jacquelyn S. Davidson and Bernie E. and Patricia A. Kile on behalf of Telecorp Communications Inc. for a transmission facility, including a 300' tower to be located at 22801 S Demarco Rd., Hartsburg.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 114-2000**

Subject: Request by Lake of the Woods South LLC to rezone 27.74 acres from R-S (Single Family Residential) to C-GP (Planned Commercial) located at 5700 E St Charles Rd, Columbia

Stan Shawver gave the staff report as follows:

This property is located just east of the Columbia City limits. The property is zoned R-S (Single Family Residential). Property to the south and east is zoned R-S. Property to the west is zoned R-S, however, approval has been granted for 11.96 acres of Planned Commercial, pending submission and approval of both a Review Plan and a Final Development Plan. To the north, property is zoned C-G and M-LP. It should be noted that the land designated M-LP has not had a final development plan approved. The 27.74 acres included in this request are vacant. The applicant is requesting the land be zoned C-GP. A review plan has not been submitted for this property. If approved, the applicant will have to submit a review plan, final development plan and follow platting requirements before any development may begin. The master plan designates commercial land use at this area of the I-70 corridor. It should be noted that while the master plan designates this area as being suitable for commercial development, the master plan does not specify the amount of land to be used for such purposes. Additionally, there is already commercial zoning adjacent to this site. The applicants received approval last month for C-GP zoning on the adjacent 11.96 acres located to the west. Water service will be provided by Public Water District No. 9. The site is within the Columbia School District. Staff notified 138 property owners concerning this request. Staff recommends approval of this request, provided that review plan, final development plan and subdivision plats are submitted in conformance with regulations. Additionally, staff suggests that when a review plan is presented, the commission should consider limiting the range of uses allowed on this site.

Stan Shawver stated that the Planning and Zoning Commission made a motion to approve the

request. The motion received six yes votes and two no votes.

There were no questions of staff.

Commissioner Stamper called the agent of the applicant for testimony.

Brian Harrington (on behalf of Allstate Consultants), 3312 Lemone Industrial Blvd stated that there was a prior request for an M-LP tract last month. He stated that Allstate Consultants decide to withdraw that request and return with a request for C-GP zoning. He presented a letter in favor of the request signed by four of the five adjacent homeowners. He stated that the traffic concerns would be addressed when the review plan is submitted.

There were no questions of the applicants.

Commissioner Stamper convened a public hearing on the request.

Bob Northup, 4471 Park Lane spoke in favor of this request. He stated that this request would provide needed services in the area. He also stated that traffic congestion would decrease.

Clifford Mings, 5310 St Charles Rd, spoke in favor of the request. He stated that he came forward with a similar request last year that was denied because Lake of the Woods Subdivision only has one entrance. He stated that a condition should be made that before any development or sale of the property, the owners must put a street in for the Lake of the Woods Subdivision.

Dale Perkins, 5219 St Charles Rd stated that he was present when Clifford Mings was denied his request last year. He asked what kind of use these people (Allstate) could have that with C-GP zoning.

Commissioner Stamper stated that Allstate could exercise any of the C-GP uses in the book. He cautioned Dale Perkins on comparing this request to any other.

Steve Long (president of E Lake of the Woods Homeowners' Association, 5631 E Rocky Mountain stated that there was good turnout at the meetings with the developer. He stated that most concerns were addressed. He stated that the subdivision is against the bulk-head turnarounds and would rather maintain cul-de-sacs.

Commissioner Stamper called for rebuttal testimony from the agent.

Brian Harrington agreed with the testimony of Steve Long. He stated that the Homeowners' Association agreed that Lake of the Woods Subdivision did not wish to be connected and that the best place for a second access would be through a southern extension of Grace Lane.

Commissioner Vogt stated that she believes the subdivision is making a huge mistake with the bulk-head turnarounds in regard to emergency management. She stated that she would not stand in the way of the request.

Commissioner Miller stated that she also disagrees with the bulk-head turnarounds. She stated that she believes this area needs an access road.

Commissioner Miller stated this is a very appropriate request and she understood the concerns of the neighborhood.

Commissioner Stamper stated that he felt the interests of the County would be protected with approval of the request.

Commissioner Vogt moved to approve a request by Lake of the Woods South LLC to rezone 27.74 acres from R-S (Single Family Residential) to C-GP (Planned Commercial), located at 5700 E St Charles Rd, Columbia with zoning to take effect upon approval of the final development plan.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. Order 115-2000

Subject: Request by Fairway Meadows Corp to approve a final development plan for Deerfield Ridge Planned Residential Development located at 4001 State Highway K, Columbia

Stan Shawver gave the staff report as follows:

This property is located on the north side of Route K approximately ¼ mile west of Arrowhead Lake Estates. The adjacent zoning districts are A-2 to the north, south and east, and A-1 to the west. The property is currently being developed. The final plat for Phase 1 was approved by the Planning and Zoning Commission in December 1999 and is on hold pending completion of infrastructure.

The preliminary plat and the review plan for this development were approved with 4 conditions, only one of which applies to the first phase.

- Condition number three of the review plan approval states that Lots 2,6,7 and 17 shall be prohibited from accessing directly to Route K. A note indicating this restriction has been placed on the final plan. Therefore, this final plan is in compliance with the conditional approval of the review plan.

Water service will be provided by Consolidated Public Water District Number 1. There is a six-inch water main currently available to the property, which cannot provide the required fire flow for the development. The district has plans to upgrade service to the area by interconnecting two pressure zones and installing an 8-inch main. The Water District anticipates that the upgrades necessary to provide fire flow to the development will be completed prior to the completion of the waterlines within the development.

Wastewater disposal will be provided by construction of a Septic Tank Effluent Pump or STEP system. The effluent will be pumped to the Arrowhead Lake Estates treatment plan operated by Boone County Regional Sewer District. The Developer will be responsible to upgrade the plant to provide the necessary treatment capacity. Current Sewer District specifications stipulate that STEP systems may only be built to serve subdivisions with lots that are two acres or larger. The developer has been granted a variance from that requirement by the Sewer District Board.

The property scored 76 points on the rating system.

Staff recommends approval of the final plan.

Stan Shawver stated that the Planning and Zoning Commission approved the request.

There were no questions of staff.

Commissioner Miller stated that this is an excellent way to use the topography.

Commissioner Miller moved to approve the request by Fairway Meadows Corp to approve a final development plan Phase 1 of Deerfield Ridge Planned Residential Development located at 4001 State Highway K, Columbia and authorize the Presiding Commissioner to sign the document.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. Order 116-2000

**Subject: Petition to vacate and re-plat lots 21-25 of Paradise Hills Estates Block 4.
Submitted by Russell F. Devenney**

Stan Shawver stated that a public hearing should be held on this matter. He stated that all property owners within 1000' were notified of the request.

Commissioner Stamper convened a public hearing on the request.

There was no one that wished to speak.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to authorize the vacation of lots 21-25 of Paradise Hills Estates Block 4.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 117-2000**

Commissioner Miller moved to authorize the re-plat of lots 21-25 of Paradise Hills Estates Block 4.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 117A-2000**

**Subject: Petition to vacate and re-plat lots 1-2 of Rustic Rail Acres. Submitted by
George James**

Stan Shawver stated that these lots were platted by the owner about a year ago. He stated that the owner was in the process of platting a third lot when the Planning and Building staff realized that the dimensions had changed. He stated that staff requested that the owner vacate and replat those two lots. He stated that all property owners within 500' were notified.

Commissioner Stamper convened a public hearing on the request.

Jack Donlon, 578 N Grace Ln stated that he is concerned about the health, safety and welfare of this area in regards to the request by the property owner. He presented pictures that demonstrated poor maintenance of the property, which resulted in health hazards. He stated that the property owner has sprayed toxic chemicals on weeds, which were the result of poor maintenance by the request owner, on his (Jack Donlon's) property without his permission.

The County Commission agreed to table this request until the situation could be reviewed further.

**Subject: Petition to vacate and re-plat lots 17-18 of Cornell's Friendly Acres.
Submitted by James and Delores Cornell**

Stan Shawver stated that this property was platted in the late 1960s/early 1970s. He stated that the owner wished to build a house on the property and the above request had to be approved before that could occur.

Commissioner Stamper convened a public hearing on the request.

There was no one that wished to comment.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to authorize the vacation of lots 17-18 of Cornell's Friendly Acres.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 118-2000**

Commissioner Miller moved to authorize the re-plat of lots 17-18 of Cornell's Friendly Acres.

Commissioner Vogt seconded them motion.

There was no discussion.

The motion passed 3-0. **Order 118A-2000**

Subject: South Ashland Estates Plat 1A. S27-T46N-R12W. A-2. Craig and Pamela Isenberg, owners. C. Stephen Heying, surveyor

Commissioner Miller moved to receive and accept South Ashland Estates Plat 1A and authorize the Presiding Commissioner to sign the document.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 119-2000**

Subject: Strawnville. S27-T50N-R14W. A-2. Carrie M. Strawn Revocable Trust, owner. Nathanael E. Kohl, surveyor

Commissioner Vogt moved to receive and accept a minor plat for Strawnville and authorize the Presiding Commissioner to sign the document.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 120-2000**

Subject: Courthouse Grounds Use for Mid-Missouri Peaceworks on April 16, 2000

Commissioner Vogt moved to authorize the Mid-Missouri Peaceworks to use the Commission Chambers and Courthouse Grounds on 4/16/00 from 1pm until 5pm to hold a Mobilization for Global Justice Support Gathering.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 120A-2000**

Subject: Public Notices from the U S Army Corp of Engineers

Commissioner Stamper stated that the County received two notices from the U S Army Corp of Engineers. He stated that the first notice was for the proposed issuance/renewal of General permit boat docks on the Missouri, and navigable portions of the Big Blue, Gasconade, Grand, Lamine, and Osage Rivers. The second notice was for the initiation of a 90-day process for States and Tribes to handle their Section 401 water quality certification under the Coastal Zone Management Act. He requested that the notices be posted on the public notice board.

Subject: Case No. GE-2000-543, Application of Missouri Association of Natural Gas Operators for a permanent waiver from certain provisions of 4 CSR 240-40.030

Commissioner Stamper stated that the County received notice of the above referenced case. He submitted notice for the public record and asked that it be posted on the public notice board.

Commissioner Reports

Commissioner Miller stated that she received feedback from Farm Bureau on the Nuisance Ordinance. She stated that Farm Bureau would like the County Commission to review Section 5.37. She stated that they feel that the owner should be responsible instead of the tenant in Section 5.37. She also noted that Farm Bureau wants to ensure that government programs on private property are not considered nuisances. She stated that she would forward the information to County Counsel John Patton.

County Counsel John Patton stated that he recently edited a section of the Nuisance Ordinance due to a concern (voiced by Gerald Worley, Health Department) that the present regulations are too restrictive on the agricultural exemption for weed control. He stated that any property in an agricultural district would be exempt once the revised Nuisance Ordinance is approved, unless it is subdivided as a subdivision.

Commissioner Miller stated that she was requested by the city of Columbia Parks Department to bring forward a request for the White House Holiday Tree Celebration (in recognition/along) the Santa Fe Trail. She stated that the city would like to park the tree and the cards (for the public to sign) on the Courthouse Square.

The County Commission agreed that the request would go through the normal Courthouse Grounds use process.

Commissioner Vogt

Commissioner Vogt did not give reports.

Commissioner Stamper

Commissioner Stamper did not give reports.

There was no public comment.

The meeting was adjourned at 9:20pm.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner