

TERM OF COMMISSION: December Session of the November 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 9:30am.

Subject: Public Hearing for the Proposed Amendment to the Subdivision Regulations

Stan Shawver presented the document *Order Adopting Amendments to Subdivision Regulations*. He stated that the amendment addresses with administrative surveys, major plats, minor plats, and multiple use plats. He stated that under the regulations; no plat shall be approved which is subject to, or encumber or make publicly dedicated roads or streets or utilities subject to any other easements or encumbrances with the following exceptions: recorded non-exclusive utility easements which have had utilities installed within them as they are designed, judgement liens and mechanics liens and instruments of security except that they have to be released in part that deals with the roads and utilities that are on the plat, publicly maintained roads and streets or road and street right of way, and recorded land use covenants or restrictions as long as they have no effect on the roads, streets, or utility easements.

Stan Shawver stated that this is coming forward per a utility that has been negotiating an exclusive easement in an area that would include or was located where a public road has been proposed. He stated that the road would require dedicated easements and therefore would require a splitting of rights in order to allow the road or to state whether a utility could use the road. He stated that the County's opinion is that this is not in the best interest of the public.

Commissioner Stamper asked if there were any questions of staff.

There were no questions of staff.

Commissioner Stamper asked if there was any response from the utilities on the proposed amendment.

Stan Shawver stated that he did not receive any comment from the utilities.

Commissioner Stamper convened a public hearing on the proposed amendment.

Gene Baysinger, (offices at) 300 St James St, stated that the proposed amendment is very complicated. He stated that he was not sure that he could read the intent of the proposed amendment (as stated by Stan Shawver) in the actual document. He stated that he questions what will actually occur in these kinds of situations. He stated that most tracts of land in Boone County have easements on them. He stated that any time easements are exclusive, non-exclusive, or blanket easements, there is no real definition of where the easement is located. He stated that according to the proposed amendment, the removal of the easement would be required on any property where a road is located or proposed before the survey plat can be approved.

Gene Baysinger stated that the document also discusses covenant restrictions that are not in conflict with the requirements. He stated that his question is: who will determine if the covenants or restrictions are in conflict? He stated that he sees a situation where there will not be anymore subdivision administrative surveys/ multiple use plats in Boone County because "it already takes forever to get the easements vacated. He gave an example of a situation in the city of Hallsville.

Gene Baysinger stated that the proposed amendment speaks of unrecorded liens. He stated that “no one can prove that an unrecorded lien exists.” He stated that it would be impossible to include the portion about unrecorded liens, then insist that all of those liens are released, removed or satisfied before approval.

Gene Baysinger stated that the problem seems to be between the County and utilities. He stated that if this is the case, then “the problem should be worked out between the County and the utilities.” He stated that something that will create this kind of a problem should not be included in the subdivision regulations. He stated that if this amendment were adopted as proposed, then the cost of administrative surveys would increase tremendously. He stated that “in most cases the administrative survey would not take place” because people would be unable to satisfy the criteria.

Commissioner Stamper stated that he had a different interpretation of the amendment. He stated that what drove the amendment was that a utility’s attempt to place, in conjunction with a plat, their easement superior to all other easements including roadways. He stated that the County could not allow this. He stated that as the County reviewed its regulations, a loophole or crease was discovered. He stated that this loophole needed to be closed so that the roadway design and every other easement on the property was not driven by the utility. He stated that it was very unusual that a utility would try to do something like this. He stated that the County believes that adoption of this rule closes the loophole. He stated that the proposed amendment states that the County will not allow exclusive utility easements to stand in the way of roadway positioning and roadway land.

Gene Buasinger stated however that there are exclusive easements on almost every piece of land in Boone County. He stated that trying to have these removed is nearly impossible. He stated that any utility that is given an easement across a property would not abandon the land to accommodate someone who wants to build a road on that property.

John Patton, County Counsel stated that there is a difference between exclusive and non-exclusive easements. He stated that the exclusive easement states: that the holder of the property has the right to control that ground to the exclusion of all others and to use the ground for any purpose it deems appropriate within the provision of the granting documents. He stated that usually an easement, unless it states that it is exclusive, is considered non-exclusive which means that there can be multiple easements over the property and the rights are concurrent. He gave the example of a utility corridor. He stated in a utility corridor, no party has superior rights over the others. He stated the only obligation is that one party can not interfere with the other parties’ use of the individual utility easements. He stated that the proposed amendment excludes from its application utility easements which have utilities installed on them prior to the date of adoption. He stated that this document is not trying to affect persons that have utility easement in place. He noted that the County also does not want roads or utility easements to be subject to mortgage liens. He pointed out that there were four exceptions stated within the amendment.

John Patton stated that the purpose of the regulation is to keep the public utilities, private utilities, and the County--when it maintains roads--on even and equitable footing with one another. He stated that if there are exclusive easements placed on a property prior to the platting or construction of a road, then that easement holder would have a right to dictate the conditions of future maintenance.

Gene Baysinger stated that there should be a very tight definition of exclusive included in the document. He stated that lienholders would not release their liens on the portion of land where the road lies or is proposed, except perhaps on a subdivision plat. He stated that the administrative surveys would not come about due to the inability to release the mortgage.

Commissioner Stamper stated that he did not feel that Mr. Baysinger had a good comprehension of the document. He stated that the County Commission is responsible for promulgating these kinds of rule and protecting the interest of the public.

Gene Baysinger stated that the public interest are not being served by the document as it stands.

Commissioner Stamper asked if there was anyone else that wished to speak.

There was no one else that wished to speak.

Stan Shawver stated that this amendment would not stop development in Boone County. He stated that an administrative survey is a survey of land on more than 10 acres but less than 20 acres. He stated that the Planning & Building Inspection department reviews about four or five a month. He stated that this would increase time for the property owner researching land. He stated that oftentimes the owner is looking for a quick sale. He stated that sometimes the liens are satisfied and sometimes they are not. He stated, for the purpose of selling 10 of their 30 acres is in order to pay off and/or reduce debt (partial release), the amendment could be confusing to a bank.

Commissioner Miller noted that the administrative survey is supposed to be a quick turnaround as opposed to the platting process.

Stan Shawver stated that the concerns of individuals like Mr. Baysinger could probably be satisfied by the removal of the section regarding the release of liens and encumbrances.

John Patton stated that the County Commission could eliminate the portion of the amendment which requires the removal or release of liens and allow time for research on the issues. He stated that if that section was found to be of significant concern, then the County Commission could add it in at a later date.

The County Commission agreed to strike out that portion of the amendment.

Commissioner Stamper moved to adopt the revision and authorize the Presiding Commissioner to sign the Subdivision Regulations of the *Order Adopting Amendments to Subdivision Regulations* as modified.

The document read as follows:

ORDER ADOPTING AMENDMENTS TO SUBDIVISION REGULATIONS

NOW, on this 5th day of December, 2000, the County Commission of Boone County, Missouri met in regular session and entered the following order pertaining to amending the Boone County Land Use Regulations, Chapter I, Subdivision Regulations:

IT IS ORDERED that the Boone County Land Use Regulations, Chapter I, Subdivision Regulations be amended by adding 1.5.10 as follows:

1.5.10 **Prohibited Encumbrances**-No Administrative Survey, Major Plat, Minor Plat, Multiple Use Plat, as the terms are used in these regulations, shall be approved under these regulations which subject or encumber, or make publicly dedicated roads or streets, road or street right of way, or utility easements to be shown or platted on an Administrative Survey, Major Plat, Minor Plat, or Multiple Use Plat, subject to easements or encumbrances except for: (a) recorded non-exclusive utility easements which have had utilities installed within them and have been used for the purposes granted prior to the adoption of this section 1.5.10 (b) judgment liens, mechanic's liens and instruments of security for debt, whether recorded or unrecorded, such as deeds of trust, mortgages, contracts for deed, leases with purchase options, and other instruments of security for debt (c) publicly maintained roads and streets or road and street right of way, and (d) recorded land use covenants, restrictions, and other encumbrances which are unrelated to and have no effect upon roads, streets, or utilities, and which are not in conflict with the requirements and provisions of this chapter.

IT IS FURTHER ORDERED that this order be effective from and after its date of adoption.

IT IS FURTHER ORDERED that a copy hereof by forthwith transmitted to the Director of the Department of Planning and Building Inspection for inclusion in the printed regulations.

WITNESS the signatures and seal of the Boone County Commission on the day and year first above written.

Boone County, Missouri
By Boone County Commission

Attest:

Presiding Commissioner

Boone County Clerk

Commissioner Miller seconded the motion

There was no discussion.

The motion passed 3-0. **Order 481-2000**

Commissioner Stamper asked Stan Shawver how this amendment would affect the County's pending circumstances.

Stan Shawver stated that it was his understanding that the utility has not been successful in acquiring the exclusive easement. He stated that this document gives the County the right to deny the exclusive easement.

Commissioner Stamper noted that in this situation, the utility is halting work on a given plat relative to the installation of water lines.

Commissioner Miller asked if the utility is required to provide water to a development.

John Patton stated that he had not researched that matter.

The County Commission requested that John Patton provide them with feedback on this matter.

Subject: Approval of Roadway Maintenance Acceptance Certificate for Wilson Turner NID

John Watkins, Project Development Manager was present on behalf of this item.

John Watkins stated that the right of way for this Neighborhood Improvement District was accepted in the spring of 2000 so that the public money could be used. He stated that he is now requesting that the roads be accepted as publicly maintained roads. He stated that the roads are located off of Wyatt Lane, north of Hwy PP.

Commissioner Vogt moved to approve and authorize the Presiding Commissioner to sign the Roadway Maintenance Acceptance Certificate for the Wilson Turner Neighborhood Improvement District-Turner Road and Wilson Turner Road as outlined in the attached documentation.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 482-2000**

Subject: Cooperative Agreement for Management Services between the Boone County Regional Sewer District and Boone County

John Patton, County Counsel stated that this was an arduous process. He stated that all parties involved are now satisfied with the wording. He noted that the Boone County Regional Sewer District Board of Trustees approved the document at their last meeting. He stated that the document is ready for approval by the County Commission.

Commissioner Vogt noted that this agreement would be very helpful to Boone County.

Commissioner Stamper stated for the public record, that the adoption of this agreement represents a new relationship between Boone County and the Boone County Regional Sewer District. He stated the County Commission appointed the board members in the past, based on an agreement between Boone Electric Cooperative and Bob Alderson. He stated that the management agreement would now be through the Planning and Building Inspection Department under P & BI Director Stan Shawver.

Commissioner Stamper moved to approve the Cooperative Agreement between Boone County and the Boone County Regional Sewer District and authorize the Presiding Commissioner to sign said agreement.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 483-2000**

Subject: First Reading of a Budget Amendment for the Award from the Office of State Courts Administrator for Juvenile Division Drug Court

Bob Perry, Court Administrator stated that this year the State Legislature approved \$375,000 to the State Court budget for Drug Court treatment. He stated that the Circuit Court budget committee decided to use the funds for juvenile and family court programs currently operating around the state. He stated that the Boone County Circuit Court was awarded \$48,480 for Drug Court treatment services during fiscal year 2001. He stated that the budget amendment is in the amount of \$8,810, which will be applied toward the purchase of alcohol and drug testing and for 22 hours of program consultation. He stated that the balance of the funding would be included in the 2001 Budget.

Commissioner Stamper stated for the public record, that the County Commission has received a report from Bob Perry, Court Administrator concerning the award of a \$48,810 grant from the Office of State Courts Administrator for Juvenile Division Drug Court treatment services during fiscal year 2001.

Commissioner Stamper first read a budget amendment as follows:

AMOUNT	(increasing) ACCOUNT
\$990	1243-71101 Professional Services
\$7,820	1243-85620 Other Medical
\$8,810	1243-03451 State Grant Reimbursement Revenue

Said budget amendment is OSCA funding for Drug Court.

Commissioner Stamper stated that this budget amendment would return to the Commission agenda for a public hearing for approval following the ten-day waiting period for public comment.

Commissioner Vogt asked Bob Perry if figures are kept on the number of people seen in the Drug Court in Boone County in a year.

Bob Perry stated that he could provide those figures to Commissioner Vogt.

Subject: Resignation from the Boone County Board of Park Commissioners

Commissioner Stamper moved to accept the resignation of Cindy Forbis from the Boone County Board of Park Commissioners.

Commissioner Vogt seconded the motion.

Discussion: Commissioner Stamper stated that he believed that her resignation was in response to the workload at the Boone Retirement Center.

Commissioner Vogt noted that Cindy Forbis, Director of the Boone Retirement Center is very busy. She stated that the County Commission appreciates the time that Cindy Forbis has given to the Board of Park Commissioners

The motion passed 3-0. **Order 484-2000**

Subject: Report on Boone County Health Trust Committee meeting on November 16, 2000

Commissioner Stamper stated that there were minor increases in the cost of certain portions of the insurance plan/benefits. He stated that Kay Murray, County Treasurer and chairperson of the Self-Health Trust Committee made a presentation to the County Commission regarding the changes on November 29th. He submitted the written report from the Boone County Health Trust Committee meeting on November 16th for the public record.

Subject: Report on the Public Safety Joint Communications Committee Meeting on Wednesday November 22, 2000

Commissioner Stamper stated that there was a ribbon-cutting ceremony for the Joint Communications Center last night. He encouraged the Associate Commissioners to visit the site. He stated that the new center is much quieter and has a more pleasant atmosphere.

Subject: Hazardous Substances Emergency Events Surveillance (HSEES) Program

Commissioner Stamper stated that this report is a result of the County's relationship with the Missouri Department of Health. He stated that each quarter the County receives a report of the hazardous substances emergency events in the area. Commissioner Stamper submitted the report for the public record.

Subject: Employee Suggestion

Commissioner Stamper stated that the County received two suggestions: for a suggestion box and functional windows and outside seating at the Courthouse.

Commissioner Miller asked if there is a place to set up a table and chairs outside of the Courthouse.

Commissioner Vogt stated that there was an area on the west side of the Courthouse.

Commissioner Miller stated that it would hard to say how that would be affected by the renovations.

Commissioner Stamper stated that the suggestions would be held until the next Commission work session with the Human Resources Director.

Subject: Position Vacancies

Commissioner Stamper submitted the list of position vacancies for the public record.

Subject: Plotter/Scanner Purchase

Commissioner Miller stated there were plans to replace this piece of equipment, which is currently housed in the Recorder's Office, during the budget process. She stated that however that a duplication seemed to exist because part of the funds for the replacement were in one budget and part of the funds were in another budget. She stated that the funds for the purchase that were not included in the Recorder's Office was taken out of the budget by the Auditor. She stated that during the process however, the piece of equipment stopped functioning altogether. She noted that the equipment is used daily by the Recorder's Office.

Bettie Johnson stated that this piece of equipment is a blue-line and does not have networking capability. She stated that the plan was to move from the blue-line to a plat scanner plotter that would network with all of the departments (GIS, Recorder's Office, and Assessor's Office).

Bettie Johnson stated that the departments have identified a couple of pieces of equipment that are available on a plat scanner and plotter. She stated that the departments visited concerning the uses for the various pieces of equipment. She stated that they identified "front end uses for the GIS and Recorder's Office that were high end uses and uses for the Assessor's Office that were low end." She stated that "on the output, the Assessor's Office was higher end and the other two offices were lower." She stated that the departments were considering dividing up the initial cost of the equipment. She stated that maintenance is calculated on "a square foot run on arrears per user." She stated that the equipment allows for auditing within the software itself, so that the usage can be identified and cost allocated without any problems.

Bettie Johnson stated that one piece of equipment, which is about \$30,000, does not have the photo gray ability to scan. She stated that in visiting with the GIS Department and Assessor's Office, they stated that the photo gray will probably become available in a digital format. She stated that there are services currently available to perform the photo gray at a relatively low cost. She stated that this piece of equipment could provide good front-end experience. She noted that the photo gray could not be added to the initial piece of equipment. She stated that the equipment would have to be upgraded. She stated that the departments are trying to determine whether it would be better to lease the equipment and allow for the upgrade in the lease or to make an outright purchase of the equipment. She stated that she is trying to find information regarding the life of the equipment.

Bettie Johnson stated that the initial piece of equipment would only allow two different types of media to print on at any one time. She stated that the upgrade would allow six rolls of media at any one time. She stated that the difference is between a \$30,000 and a \$50,000 piece of equipment. She stated that the three departments feel that it might be better to begin with the \$30,000 in order to gain an experience curve. She stated that if they find that the use is greater the equipment provides or that the lack of the other options is a problem, then they could look at either replacing or having add-ons.

Commissioner Miller asked if this equipment would be paid for equally by all three departments from the Assessment Fund.

Bettie Johnson stated that this approach was suggested by the Auditor’s office. She stated that the old equipment is owned and sits in the Recorder’s Office. She stated she approached the purchase in the manner that she did in the budget. She stated that she would not object Recorder’s Office funds being used for the initial purchase. She stated however, if the Auditor had justifiable reasons for wanting the purchase split three ways, then that could be considered as well. She stated that the ongoing maintenance is intended to be allocated and the equipment allows for auditing and cost recovery of that money.

Commissioner Stamper asked Bettie Johnson if she had any feeling for the Auditor’s concerns.

Bob Ormiston stated that the Auditor did not want two funds allocating the same piece of equipment.

Bettie Johnson attempted to paraphrase June Pitchford’s comments. She stated that the Auditor stated that there are times and reasons for these funds. She stated that the Auditor did not want to see times where the funds were used inappropriately or unfairly. She stated that the Auditor was trying to be fair about how this equipment was purchased and allocated.

Commissioner Stamper stated that if the County Commission authorized the initial purchase then they could request that the departments come back and explain how it would be paid for.

Commissioner Miller moved to authorize the purchase of the initial piece of equipment around \$30,000 and authorize the Information Technology Department, the Recorder’s Office and the Assessor’s Office to come back with the appropriate paperwork for the Presiding Commissioner to sign.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 484A-2000**

There were no Commissioner Reports given.

There was no public comment.

The meeting adjourned at 10:35am.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner