

TERM OF COMMISSION: July Session of the July Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Commission Chambers

PRESENT WERE: Presiding Commissioner Kenneth M. Pearson
District I Commissioner Karen M. Miller
Deputy County Clerk Kristina Johnson

District II Commissioner Skip Elkin was absent.

The meeting was called to order at 1:30 p.m.

Purchasing

1. Bid Opening for 39-22Jul10 Oakland Church Road

| | Commissioner Pearson | Commissioner Miller |
|--|----------------------|---------------------------------|
| Bid Tabulation | APAC Missouri | Christensen Construction |
| Bid Total \$ | 284,209.45 | 264,217.00 |
| R.A.P./ R.A.S. Deduction per ton \$ | 2.00 | 2.00 |

2. Bid Opening for 38-22Jul10 Lake of the Woods

| | Commissioner Miller | Commissioner Pearson |
|---|----------------------|---------------------------------|
| Bid Tabulation | APAC Missouri | Christensen Construction |
| Bid Total \$ | 339,853.25 | 387,479.00 |
| R.A.P./R.A.S. Deduction per ton \$ | 2.00 | 2.00 |

3. Bid Opening for 35-15Jul10 Country Hill

| | Commissioner Miller | Commissioner Pearson | Commissioner Miller |
|----------------------------|---|------------------------------|-----------------------------|
| Bid Tabulation | South Side Trucking & Excavating | StockMan Construction | Steve and Associates |
| Bid Total \$ | 83,611.00 | 130,285.00 | 126,331.47 |
| Bid Alternate Total | 13,315.00 | 18,820.00 | 12,702.85 |

Health Department

Kala Gunier from the Health Department was present on behalf of this item.
Mary and Donald Unnerstall from 1223 Clinkerscale were present on behalf of property 910 W.

Peabody Road.

4. Abatement for 910 W Peabody Road E ½ SW Exc Sur 554-315 (parcel # 06-903-35-00-016.01 01) (first and second reading)

Ms. Gunier stated she believed the man and woman next to her are the property owners. Ms. Gunier stated they did receive a citizen complaint about this property back on April 13th. This has taken a while because the original notice was not signed for and then this was posted in the newspaper. Ms. Gunier stated she did not get a hold of the owner until the owner actually called her to reschedule the hearing and his phone number is not listed in the phone book so she was able to obtain his number when he called her. In addition they have had to reschedule a couple of times so this has dragged on a while. In her communication with the owner he does not wish to move the vehicles and he does not feel that they are visible from the road. Ms. Gunier stated she does have a couple of pictures in the packets that were taken from the driveway. At this time, the vehicles are difficult to see from the road because the grass is so tall, but obviously when these pictures were taken in June the grass was not as tall.

Commissioner Pearson inquired if all the procedural stuff has been taken care of in terms of trying to contact the owner.

Ms. Gunier stated she looked in the phone book originally to try and find the contact number for the owner and there was none but he did receive the hearing notice because that goes first class mail. After that point he did call Ms. Gunier and there was some discussion about moving the vehicles.

Mr. Unnerstall asked who the complainant was.

Ms. Gunier stated the complainant wishes to remain anonymous. They never told her their name and they call on a weekly basis to find out the status of this property.

Mr. Unnerstall stated she knows that it is the adjacent property owner. There is only one that is a problem. Mr. Unnerstall stated he has the right to his own machinery.

Ms. Gunier stated some of the things that are present are not machinery.

Mr. Unnerstall stated they are to him.

Ms. Unnerstall stated besides that some of these things are wrong. Such as the Nissan listed is not present but rather it is a Toyota.

Ms. Gunier stated that the vehicles are unlicensed and they do the best they can with what they have.

Commissioner Miller stated but you are not saying the vehicle, whatever it is, is not there.

Ms. Unnerstall stated yes.

Commissioner Pearson asked if the vehicles were operable.

Ms. Unnerstall stated most of them.

Commissioner Pearson asked if the vehicles could be moved.

Ms. Unnerstall stated with some work. None of these vehicles have batteries in them at this point. The vehicles have been there for two years. It is not like this is something new. In fact, these have been there when the neighbor bought his property.

Mr. Unnerstall stated the only thing new is the neighbor.

Ms. Unnerstall stated she does not know that he has a real right to complain since they were there prior to the purchase of the property.

Commissioner Miller stated the County has regulations that do not allow this.

Ms. Unnerstall asked what you are not allowing.

Commissioner Miller stated the County is not allowing vehicles to be parked anywhere when they are inoperable and not licensed.

Ms. Unnerstall stated but they are on our property and they are not right by the road.

Commissioner Miller stated we understand that the vehicles are on your property but they can be seen from the road or we would not be able to take pictures.

Ms. Unnerstall stated barely.

Commissioner Miller stated she can see them in the pictures pretty well.

Ms. Unnerstall stated this whole thing is ridiculous.

Commissioner Miller stated in the winter you would be able to see them very well because there would be no brush.

Mr. Unnerstall asked if the Commission would be satisfied with him planting a row of Cedar Trees so nobody could see anything.

Commissioner Miller stated they would not be able to grow fast enough.

Ms. Unnerstall stated unless someone sits by the driveway nothing can be seen with the exception of one Winnebago.

Commissioner Miller asked Ms. Gunier where she sat when she took the pictures presented before the Commission.

Ms. Gunier stated some of them were taken from the end of the driveway. Underneath each picture is a description of where it was taken from.

Mr. Unnerstall asked where from the end of the driveway.

Ms. Unnerstall stated she believes the complaint is malicious.

Commissioner Miller asked if there was a barn that they could park the vehicles in.

Ms. Unnerstall stated not one the vehicles could be parked in. She stated she could license the vehicles. Ms. Unnerstall stated and believe her if she goes through the trouble of licensing the vehicles they are going to be parked real visible. She stated that is just how ridiculous she believes this thing is.

Commissioner Miller stated she understands that you believe this is ridiculous but there are regulations and the County is required to treat everybody the same from our regulation.

Ms. Unnerstall asked exactly what the problem is.

Commissioner Miller stated that they are visible, they are non-licensed, immobile and this is a junkyard. The vehicles are sitting out there for them to rust. They serve no purpose for the owners or the environment for that matter.

Ms. Unnerstall asked but whose business is that.

Commissioner Miller stated having a bunch of vehicles around is not authorized under our ordinances.

Mr. Unnerstall stated he read the County's ordinances today.

Commissioner Miller asked which ordinance he read.

Mr. Unnerstall stated ordinance number 9.

Ms. Unnerstall stated so, we could build a fence and lock it or we could license them.

Commissioner Pearson stated they would have to not be visible.

Ms. Unnerstall stated but what is clearly.

Commissioner Pearson stated let us not be argumentative here. If a person can take a picture of the vehicles they are visible.

Ms. Unnerstall stated right.

Commissioner Pearson asked what the purpose of keeping these vehicles was.

Mr. Unnerstall stated parts.

Commissioner Pearson asked if Mr. Unnerstall had other vehicles that need these parts.

Mr. Unnerstall stated no. Mr. Unnerstall stated he is a collector of Ford engines.

Commissioner Pearson stated what the purpose behind the Toyota engine is.

Ms. Unnerstall stated well, we do not care about that Toyota.

Commissioner Pearson stated the point is that you should have a purpose for having these things, they should not be visible, and this does look like a junkyard.

Ms. Unnerstall stated maybe if you were close enough it might look like a junkyard but if you are driving by then no.

Commissioner Pearson asked the vehicles could be moved so that they are not visible.

Ms. Unnerstall stated it would involve getting them towed.

Commissioner Pearson stated if the County has to abate this property the vehicles will be towed away and they would be stuck with the bill.

Mr. Unnerstall stated the County would be illegal.

Commissioner Pearson stated if necessary the County will go to court and take action that way.

Mr. and Ms. Unnerstall stated let us do it.

Commissioner Miller stated the County did just go through this with another property and they were ordered to move all of their vehicles. Commissioner Miller stated if they would like to go through this expense this will also be tax billed.

Commissioner Pearson stated the County will let their County Attorney deal with this and if the County is successful you will be ordered to move these and if you do not you will be in contempt.

Mr. Unnerstall stated he is in great contempt just by the fact that he is served by a city person.

Commissioner Pearson stated there is a City County Health Department and part of that

operation has to do with nuisance abatements.

Mr. Unnerstall asked if the County did not have its own personnel.

Commissioner Miller stated not for the Health Department. There is no need to double the administration costs.

Commissioner Pearson stated the operation of the Health Department is essentially a shared cost.

Ms. Unnerstall stated she believes the Commission should consider their rights.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the attached Finding of Public Nuisance and Order for Abatement of a public nuisance located at 910 W Peabody Road, (parcel # 06-903-35-00-016.01 01).

Commissioner Pearson seconded the motion.

There was no discussion.

The motion carried 2 to 0. **Order # 354-2010**

There was public comment.

Ms. Gunier asked if the Commission would like the Health Department to go through with the abatement proceedings or should we go through the County Attorney.

Commissioner Miller stated go through CJ Dykhouse the County Attorney. Commissioner Miller stated since the Unnerstall's would like to go to court, the County Attorney can figure out the next steps. Commissioner Miller stated the Unnerstall's may have the abatement packet from Commissioner Elkin's packet.

Mr. Unnerstall stated Article 6 of the United States Constitution "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The 6th Article of the US Constitution does not give you the right to send this person out there to trespass on his property.

[Note: This is the Fourth Amendment (IV)]

Commission

5. Public Comment

6. Commissioner Reports

The meeting adjourned at 2:06 p.m.

Attest:

Wendy S. Noren
Clerk of the County Commission

Kenneth M. Pearson
Presiding Commissioner

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner