

TERM OF COMMISSION: April Session of the April Adjourned Term

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

PRESENT WERE: Presiding Commissioner Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
County Counselor C. J. Dykhouse
Director Resource Management Stan Shawver
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 7:00 p.m.

University of Missouri

1. Proclamation recognizing the University of Missouri Extension 100th Anniversary

Commissioner Atwill said that today we will be recognizing the University of Missouri Extension 100th Anniversary. There are several in attendance today from that organization and we welcome them to speak.

Vicky Miserez said she is excited to celebrate the 100th year of the Extension. She has had close to 50 years of experience, in various capacities, with the Extension. Starting out as a youth at 9 years old in the 4H program and continuing through college working in that program, then the state 4H program and then hired as a professional. She would like everyone to come out to the Central Missouri Events Center this Saturday for the 4H BBQ from 4:00 p.m. to 7:00 p.m.

Marie Pasley said that the actual anniversary is May 8th but the celebration will be on May 1st. Everyone is invited and the festivities will begin at 10:30 a.m. at the Carnahan Quadrangle.

The Commissioners thanked Ms. Miserez and Ms. Pasley for coming today to speak on this occasion.

Commissioner Thompson read the following proclamation:

Whereas, The Smith-Lever Act of 1914 established the Cooperative Agricultural Extension Service, which allowed people from across the state to benefit from the knowledge of our land-grant universities; and

Whereas, In the beginning, MU Extension workers demonstrated how to improve the yield and quality of agricultural products and how to benefit from better nutrition; and

Whereas, As communities developed in urban areas, MU Extension's programs evolved to address new challenges; today's programs include after-school youth leadership curriculums in federal housing developments, as well as food and nutrition education for those with limited resources; and

Whereas, Since 1960, MU Extension has offered continuing education programs in fire and rescue, law enforcement and nursing; and

Whereas, MU Extension connects communities with the resources of the University of Missouri to provide access to practical education and research that will help people solve problems, develop skills and build a better future; and

Whereas, MU Extension creates a better Missouri by providing lifelong learning, addressing environmental concerns, developing a workforce for a stronger economy, discussing global food systems and improving public health; and

Whereas, For 100 years, MU Extension has partnered with Missourians to convey research-based knowledge such that it helps improve lives and communities throughout the state.

Therefore, on behalf of the citizens of Boone County and all of Missouri, the Boone County Commission does hereby recognize MU Extension for 100 years of success and expresses its support of the next 100 years.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby adopt the attached proclamation recognizing the University of Missouri Extension 100th Anniversary.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #192-2014**

Resource Management

2. Request by Ralph and Rosalee Higgins Family Trust on behalf of Capital Quarries and APAC Missouri, Inc., for a temporary asphalt plant on 100 acres located at 23300 S. Hwy 63, Hartsburg.

Stan Shawver read the following Staff Report:

This request was considered by the Planning & Zoning Commission during their April 17, 2014 meeting.

The minutes for the Planning and Zoning Commission meeting of April 17, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The site is located on the east side of U.S. 63, approximately one mile north of the Callaway County line. The current use of the property is for a rock quarry. The quarry was probably opened prior to 1973. In 1974, a conditional use permit was approved to allow construction of underground warehouses in the underground mine area of the

quarry. In 2005, a conditional use permit for placement of a temporary Asphalt Plant was issued to APAC for this location. The property is zoned A-2(Agriculture) as is property to the west and south. Adjacent zoning to the north is A-R(Agriculture-Residential) and Callaway County adjoins to the east. This is all original 1973 zoning. The property scored 43 points on the rating system.

The request is to allow temporary placement of a portable asphalt plant. The asphalt will be used fulfill a contract with Missouri Department of Transportation for repaving U.S. 63 South between Jefferson City and Columbia. The contract is expected to be complete by 1 September 2014. The contract requires the hours where paving activities will occur to be between 7:00 P.M. and 6:00 A.M.

Operation of a portable asphalt plant used for a specific construction project is allowed in the A-2 district as a conditional use. The application must meet the criteria for issuance of a conditional use permit. Those criteria are addressed as follows:

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Several possible sets of impacts have been identified including: air emissions, groundwater contamination and noise.

APAC is required to hold an air quality permit issued by the Missouri Department of Natural Resources Air Pollution Control Program. APAC has been issued such a permit and has submitted a relocation request to have the permit applied to this site.

APAC has a general stormwater discharge permit issued by the Water Pollution Control Branch of DNR. DNR conducts periodic inspections at the sites in use. An annual report is submitted to DNR which includes the outfall number and a soil sample from the year (March, June, November, December) when rainfall occurred.

The United States Environmental Protection Agency(EPA) requires APAC to develop a Spill Prevention, Control and Countermeasures Plan. The plan must be prepared by a registered civil engineer. The plan establishes procedures for storage of large quantities of fuel or petroleum products and procedures for dealing with spills. APAC's plan is on file with the planning department.

State and federal agencies have regulations in place to ensure that impacts to air quality, groundwater or surface water quality will not endanger the public health, safety or welfare.

Similar conditional use permits raised concerns about noise. The proposed use will generate additional noise. Much of the additional noise will be generated during nighttime hours due to restrictions in the contract. It should be noted however, that the proposed plant will be located in a quarry where there are no restrictions on hours of operation.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

Noise and odors will be noticeable and will temporarily diminish but not be injurious to the enjoyment of other property in the immediate vicinity. Regulations enforced by state and federal agencies should be adequate to ensure that there are no long term impacts to ground or surface water.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

There is no indication that the proposed use will have a negative effect on property values.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The site has direct access to U.S. 63, which is also the project site. Other utilities already exist on site.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

The proposed use will not impede the development of the surrounding area. It may have a long term positive effect on the area due to the resulting upgraded surface of U.S. 63.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

The contract between MoDOT and APAC requires all heavy activity to be done during off peak traffic hours. In addition, the purpose of locating the asphalt plant at this location is to minimize the distance that asphalt has to be hauled, which reduces impact to the road system.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

The proposal conforms to other applicable regulations of the A-2 zoning district.

Zoning Analysis: The improvement and repair of public rights of way is an obligation of

government. The impact of making those repairs can range from minor inconvenience, such as a single lane being closed for repair, to intense intrusion into one's home life, such as the expansion of a road way from two-lane to four-lane that requires a complete shut-down. The placement of a temporary asphalt plant falls closer to the complete road shut-down than the single-lane closure. It generates noise, odor, and can cause traffic patterns to change during its hours of operation. However, the hours of operation mandated by the terms of APAC's contract with the Missouri Department of Transportation and the permits and practices required by the Missouri Department of Natural Resources and US Environmental Protection Agency should mitigate those impacts. The project is irritating and intrusive, but also time-limited and specific in scope.

Staff recommends approval subject to the following conditions:

1. All equipment and materials used for the production of asphalt at this location shall be removed within 60-days of the date the paving project is complete.
2. Asphalt produced at this location may only be used on the Highway 63 resurfacing project.

The Planning & Zoning Commission conducted a public hearing on this request during their April 17, 2014 regular meeting. There were eight members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend approval of the request with the suggested conditions. The motion passed with a unanimous vote in favor of the motion, so it comes forward with a recommendation for approval.

Mr. Shawver noted that the two conditions placed with this Conditional Use Permit were

taken from a previous CUP from 2005 that the Commission granted for the re-surface of Highway 63.

Commissioner Miller asked if there were any problems from that CUP in 2005.

Mr. Shawver said there were none reported to the County.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Robert Hollis said he is here on behalf of APAC. He has no formal presentation tonight, but the presentation presented to the Planning & Zoning Commission is accessible for the Commission as Staff has it for any additional information the Commission may want. There are two representatives from APAC to answer any questions the Commission might have.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request. There were no additional speakers.

Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request. There were no speakers and Commissioner Atwill closed the Public Hearing.

There were no comments or questions from the Commission.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by Ralph and Rosalee Higgins on behalf of Capital Quarries and APAC Missouri, Inc., for a temporary asphalt plant on 100 acres located at 23300 S. Hwy 63, Hartsburg with the following conditions:

- All equipment and materials used for the production of asphalt at this location shall be removed within 60-days of the date the paving project is complete.
- Asphalt produced at this location may only be used on the Highway 63 resurfacing project.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #193-2014**

3. Petition submitted by SS4US, LLC to vacate and re-plat Lot 2 of Pin Oak Subdivision Block III, as shown in Plat Book 20, Page 9 of Boone County Records and located at 1312 N Pin Oak Blvd., Columbia.

Stan Shawver said the Commission has a copy of the petition submitted by SS4US under the signature of David T. Butcher from Crockett Engineering Consultants. The request is to vacate lot 2 of Pin Oak Subdivision, Block III so it can be re-platted into two lots. In accordance with the Subdivision Regulation, Section 1.8.1.3, prior to an authorization for a lot to be vacated or to be re-platted, the County Commission is required to conduct a Public Hearing during which they will take into consideration the following criteria; character of the neighborhood, traffic conditions, circulation, proper location alignment, improvement of streets and roads within and adjacent to the subdivision, property values in the subdivision, public utility facilities and services and that it will not generally adversely effect the health, welfare or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

David Butcher from Crockett Engineering said he is here representing SS4US LLC. This has been a contentious property over the years and it will be one today. There are a few good things with this request. First, if this is allowed, it would be in keeping with the character of the neighborhood. In the original platted documentation, this subdivision mimics the one to the east. Those lots have been further sub-divided and no longer resemble the original lots. They now represent a more dense development. When the subdivision was originally created, there was a sewer system restriction which did not allow for further denser development. They all had on-site sewer systems and did not have enough resources to build a system. Through the years, the sewer system has been upgraded through a NID.

Mr. Butcher said that each house was built on one side of the property. It is his understanding this was done with the intention that it would be further sub-divided once the infrastructure was in place to allow such a thing to happen. The only way to share in the expense of the infrastructure is to have more people share in that infrastructure. So this is an appropriate way to divide the land.

Commissioner Miller asked about the lot sizes on McAlester Lane (Lake of the Woods Road) and if they still are the same size as originally platted.

Mr. Butcher said that the depth of the lot is not as important as the width when going down a street. Our proposal will be 100 feet wide from the original 200 feet wide. The property belonging to Mr. Sorrells on McAlester Lane, who has been opposed to this from the onset, has been divided. He created a lot to the north of his property that is 125 feet wide. So at one time, he too, felt the need to have a 125 foot division of his land. It is appropriate. It fits in with the area. 100 feet is a lot of space between houses.

Of the houses within the 500 foot radius that have been notified, the majority of those properties are already smaller lots and are sized appropriately. Mr. Doolady, who is here tonight, has been opposed to this. He has a large tract of land and his neighbor to the south, Ms. Bundy, has contacted me with the desire to divide her property in the future.

Concerning property values, the scare is that once you allow people in, you are going to have the slums. Your house won't be worth what it was yesterday. All of these properties are in excess of one acre. Most people buy a piece of property for its potential, not what it is today. We hope we are investing in something and it will provide us with more than what was paid for it. The potential of these properties is that they can be further sub-divided. The property values lie in the ability to do something more than what it is today. The infrastructure is in place. With the new High School and further development in the area, it is time to open up this neighborhood to further development.

The Commissioners had no questions for Mr. Butcher at this time.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf

of this request.

Carolyn Colvin said she has watched the south side of town explode with new development and with that comes stable and increased property values. It is encouraging to see this on our side of town. It brings new families, new opportunities, new infrastructure and just good things in general. She encourages this new development if nice homes are built. It is close to where she lives and it would be added value to what she already has.

Commissioner Atwill asked Ms. Colvin to identify where she lives in the neighborhood.

Ms. Colvin says she lives to the west of Lake of the Woods Road, not specifically in the neighborhood that is being discussed tonight.

The Commissioners thanked Ms. Colvin for speaking tonight.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request.

John McCullen said that he too lives in an adjacent area. He heard about the potential for the split of the lot. He has been interested in construction and any new development that may come to the northeast part of town. It would be nice to have some new development without having to go past the High School. New construction helps out property values and benefits all who live nearby.

The Commissioners thanked Mr. McCullen for speaking tonight.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request.

Russ Armstrong said he owns Anderson Homes and is a principle of SS4US. He said the minimum lot size in Boone County is 7,000 sq. ft. If this lot is split, it still will be three times the size of the minimum requirement. From the street, the perception is that there will be a very large lot with a very small house on it. The current house on the property is 45-47 feet wide. If a similar size is built on the split, there will be about 60 feet between houses

and that will still be very spacious. New construction does add to the stability of the neighborhood and the property values in that neighborhood.

The Commissioners thanked Mr. Armstrong for speaking tonight.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request. There were no other speakers.

Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request.

Kurt Doolady said he has been here before on this particular lot as well as the Bundy lot. The discussion has been on the impact of this house. Everyone that has spoken in favor of this is in business. They are here to increase their profitability. I live on this street. The neighborhood was blocked off in sizable lots. The comparable lots in the adjacent areas were divided without County approval in previous years and that is how they came into existence. When the subdivision was platted out, it was before the upgraded sewer system and either septic and/or lagoon systems were in place. When the Sewer District came through, all of us living on the street were assessed to pay for the upgrade to the new sewer system. So the sewer system was paid for by the property owners. When I developed my house, I had to pay for a natural gas line extended to my property. My neighbor to the north was allowed to subdivide his two acre tract into two one acre tracts. It made those tracts much narrower. My lot is 224 feet wide by approximately 400 feet deep.

Mr. Doolady said that if you look down Pin Oak, all the lots are in this similar caliber of 1 and 2 acres as designed. Mr. Sorrells, who could not be here tonight, has been in opposition and is still in opposition to this request. All of the neighbors were surprised that this petition was able to come forward again to the Commission for consideration so quickly. The neighbors hope that the past decisions to oppose will continue. We are all well aware of the development in the area. There is commercial property at the first roundabout and with the new High School and forthcoming elementary school, there are multiple neighborhoods being worked on in that area.

Mr. Doolady said he does not see how building a new house and changing the look of the street is increasing property values. It will definitely change the look of the street. This particular house in question and some others had to be positioned on their lot to accommodate their sewer system. Once the new sewer system went through, they had to close their lagoons. It wasn't positioned there for further development, but appropriately placed on the property for the sewer system at that time. I am not leaving the area. I like the rural setting with the closeness of the various services. Also, would the new house be private ownership or rental. The lot across from this one has a rental on it and the owner of the property has come forward trying to sub-divide and build another rental.

Commissioner Atwill asked Mr. Shawver what the set-back requirement would be on a new house built on this lot.

Mr. Shawver said that for RS zoning, the set-backs are 25 feet from the front property line, 25 feet from the rear property line and 6 feet from the side property line.

Commissioner Atwill asked what the set-back is on the existing house.

Mr. Shawver said he did not know.

Commissioner Atwill asked if there is anyone else present that would like to speak in opposition to this request.

Hollie Spencer said her lot is just north of the lot in question. She has been there since 1997. She has taken out the lagoon system and paid for the upgraded sewer system and has done a lot of re-modeling on the lot. The main problems she sees with this is that before anything can be done, major improvement of the roads and the addition of a storm drainage system is needed for the whole street which would be paid for by the owners of the properties on the street.

Ms. Spencer showed the Commission pictures of the two properties, her property and the property in question, after a large rainfall. The pictures showed water running down naturally formed ditches and forming a mini lake on both properties and also running over the road.

Commissioner Miller asked if there is a culvert there.

Ms. Spencer said there is not. She has asked about putting something there and was told no, can't do that. She likes big lots and likes her property and would never sell unless there were circumstances beyond her control. Her fear is that eventually re-zoning could make the area consist of multiple family dwellings.

Commissioner Atwill asked Mr. Shawver how the flooding issue would affect the ability to build on the lot.

Mr. Shawver said the site would need to have drainage so it would need engineering design on the construction process.

Commissioner Atwill asked who has that responsibility.

Mr. Shawver said that is the responsibility of the owner/builder. They can't drain onto another property. They can't flood their own house or any other house.

Commissioner Atwill asked how the process would work if an application came to Resource Management for a building permit.

Mr. Shawver said that the inspectors would check the property as it is being developed to assure there is proper drainage and no affects on other properties.

Ms. Spencer said that these two properties are the low spot in the whole neighborhood and the water from Golf Blvd. flows downhill and congregates there. If the ground level is raised on the other property for construction, it will totally flood her property and house.

The Commissioners thanked Ms. Spencer for speaking tonight.

Commissioner Atwill asked if there is anyone else present that would like to speak in opposition to this request. There were no other speakers.

Mr. Shawver said he would like to confirm several statements make by Ms. Spencer and Mr. Doolady. Mr. Shawver said that the reason the lots were sized the way they were was to

accommodate an on-site waste water system.

Commissioner Miller noted that it is part of the record.

Mr. Shawver said that is correct as entered into the record. Also, as entered into the record is the staff memorandum from the past December meeting giving the history of the subdivision and the development of the area which made reference, when consulting the 1992 Assessor aerial photographs, you can see the lagoon placed in the corner of each lot and positioned such that they had the right distance from adjoining houses and their own home. One could not build on those lots without the on-site waste water system and the separation.

Commissioner Miller said they have seen the flooding on the two lots and there is a drainage problem and asked Mr. Butcher how he would handle this from an engineering perspective.

Mr. Butcher reviewed the topography of the area as shown from the overhead projector and said that if a house was to be built on the property in question, a culvert would be required to allow a natural flow. He also said that we just experienced a monumental rain storm and that amount of rain is very rare. With these types of rain, all bets are off. The natural ditches should carry the water away and Public Works should look into putting in a culvert regardless of whether this land division is allowed or not. That is my expert opinion as a professional and that opinion has no bearing on the division of this lot.

Mr. Butcher said that the placement of the houses has a 50 foot building line as shown in the original plat. It would be prudent that any house built on this property not be build any closer than any of the others. Any closer to the road would change the character of the neighborhood. Mr. Doolady and Ms. Spencer were assessed approximately \$7,000 each for the sewer system. If there were more people in the neighborhood, it would have been a lesser amount. The infrastructure is there.

Mr. Butcher also said that they are not asking Ms. Spencer to move or sell her home. She can keep her big, spacious lot. We are just asking to allow another neighbor. As for the property values, Mr. Doolady has fought diligently to keep his neighborhood untouched. This portion of the neighborhood is beginning to have a stigmatism of indivisible. These properties are no

longer divisible. If that is the case, then the one acre tract of land is no more valuable than a smaller lot in the neighborhood because all you can build is one home. It is important that anyone is allowed to keep their lots. We are not affecting their properties. They have beautiful homes and great spacious open areas. My clients don't want that look and want to split their lot.

Ms. Spencer has talked about the vacant lot between the houses. As you drive down this street, you get the feeling that something is missing. There should be a house there. These open spaces on these lots used to be sewer systems. They are no longer needed. The space is prime for a new home. Ms. Bundy has expressed an interest in doing this as well. She is fairly close to Mr. Doolady's property. The neighbor to the north of Mr. Doolady has been allowed to divide the lot. That is the same width as what we are proposing, 100 feet wide. It has not affected his property or house at all. This property is ready to move on to the next stage.

The Commissioners thanked Mr. Butcher for his thoughts on this issue.

Commissioner Atwill asked if there is anyone else that would like to speak in rebuttal on the petitioners behalf. There were no other speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Atwill said that the Commission should take into account the testimony that occurred on December 30, 2013 and make that part of the record as well as the staff memorandum.

(The minutes of the December 30th meeting and the staff memorandum are incorporated herein by reference.)

Commissioner Miller said that Mr. Sorrells, Mr. Doolady, Ms. Bundy and Mr. Bossaller all spoke at the December 30th meeting.

Commissioner Atwill asked for comment from the Commissioners in order to make a decision on this request.

Commissioner Thompson said she has two questions to deal with; the stormwater issue and the set-back. The set-back piece would really impact the character of the neighborhood within this area. The adjacent areas are very different. Golf is very different from Pin Oak. Looking at the petitioner's lot, if the house were towards the back of the lot, and be consistent with the other homes in the area, I would be more comfortable. It would not disrupt the neighborhood as much as one that could be built much closer to the road under the regulations.

Commissioner Miller asked if conditions can be put on this request for things like a 50 foot set-back and stormwater plan.

Mr. Shawver said approval of a subdivision plat or re-plat is based on what the zoning and subdivision regulations allow. Zoning in that area is RS and the set-back is 25 feet. When Pin Oak Block II and Block III were platted, they put in a 50 foot set-back, there was not a requirement. We can't condition a vacation and re-plat on requiring a 50 foot set-back. If the lot is vacated, one vacates the set-back, easements and everything else. All would have to be re-done.

Commissioner Miller said that if the property is vacated, and then re-platted, a requirement could be included in the re-plat for a 50 foot set-back.

Mr. Shawver said that is a zoning stipulation that has nothing to do with the subdivision regulations. There is not a public purpose beyond what the regulatory requirements and the subdivision regulations are.

Mr. Dykhouse said that the plat could be presented that meets the regulations which are viewed and then there would be a use of discretion on the Commissions part.

Commissioner Miller said that the stormwater issue can be dealt with. They would need a stormwater permit and take care of any other problems.

Mr. Shawver said that lots smaller than one acre are not required to have a stormwater permit.

Commissioner Miller said that one cannot put problems onto someone else.

Mr. Shawver said that is really a civil issue between property owners.

Commissioner Miller said that is not a fair place to go then.

Mr. Dykhouse said that is an important distinction about the stormwater ordinance based on the size of this lot. Our land disturbance trigger process is one acre or more and we tested that and received a lot of public input as to where we drew that line.

Mr. Butcher asked if there were a promise in testimony to have a 50 foot set-back would that be at least adherence enough to give protection when it comes to re-platting.

Mr. Dykhouse said he appreciates the earnestness, but if he is fired by his client and they hire someone else, they can't be held to that.

Mr. Butcher said that if I am representing him and he is promising in public testimony to do so.

Commissioner Miller said if it was a civil issue, they could use the minutes as a civil defense that they didn't follow through.

Mr. Shawver said that neither he nor Mr. Dykhouse is advocating one way or the other. Just want to make sure that the Commission is not putting a comfort in regulations allowing something or not allowing something that is not there.

Mr. Dykhouse said the next conversation would be the harder conversation when they come in with a set-back that meets the regulations and staff at that point would recommend approval.

Commissioner Thompson said because it would meet the regulations and it would be an abuse of discretion to deny it.

Russ Anderson asked if a plat can be submitted with the request and if denied, then allow us to come back with the set-backs at 50 feet.

Mr. Shawver said that the standard condition of approval is that the vacation does not take effect until a re-plat is submitted and approved. It does not mean they can't come back and re-submit a re-plat that shows 25 feet and in all other respects meet the requirements. We then would be obligated.

Commissioners Miller and Thompson said that the bigger concern is the stormwater.

Commissioner Miller said, by law, you can't raise the lot and create a buffer that puts more water on a neighbor as I understand it. Raising the land and making it like a berm. The water is already pooling at that point and now it would all pool in the neighbors lot.

Mr. Dykhouse said there is a section on discharge in the Stormwater Ordinance that encompasses some of the things that Commissioner Miller is talking about. Whether or not that would be triggered, I don't know that staff is prepared to analyze that in this instance. What is clear is that the land disturbance permit process and all the things that go with that is not triggered.

Commissioner Miller said she was looking more at the State Regulations where you can't dump your water on someone's property and create a nuisance.

Mr. Dykhouse said that when the land disturbance permit applies when doing stormwater infrastructure security, one of the key components is you need to deal with the drainage on your land.

Commissioner Atwill said there was a very heavy rain in a very short period of time. The consistency of the size of the lots on the back side justifies dividing this lot.

There were no further comments or questions.

Commissioner Atwill asked for a motion.

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve the petition by SS4US, LLC for permission to vacate and replat Lot 2 of Pin Oak Subdivision Block III, located at 1312 N Pin Oak Blvd., Columbia.

Said vacation is not to take place until the re-plat is approved.

Mr. Shawver said that before there is a second on this motion, for clarification, your recommendation that the petition and public testimony supports the tests that are outlined in Section 1.8.1.3 of the Subdivision Regulations.

Commissioner Atwill said he concurs with that.

Commissioner Atwill asked for a second to this motion.

There was no second to the motion

Commissioner Atwill asked if there is another motion.

Commissioner Thompson said with apologies, that without the assurance we can have the set-back and water issues dealt with, we are compelled to find that without that assurance, the character of the neighborhood would be adversely affected.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby deny the petition by SS4US, LLC for permission to vacate and replat Lot 2 of Pin Oak Subdivision Block III, located at 1312 N Pin Oak Blvd., Columbia.

Commissioner Miller seconded the motion.

Commissioner Miller also said that if there were a guarantee that the stormwater issued could be handled, she would approve the request. She stated she was headed in that direction, but cannot create a civil problem because we do something that we don't have the tools in our toolbox to make sure the problem is taken care of.

Commissioners Miller and Thompson voted in favor of the motion. Commissioner Atwill voted to oppose the motion.

The motion carried 2 to 1. **Order #194-2014**

4. Petition submitted by H-Town Properties to vacate and re-plat County View Acres, excluding Lot 54, as shown in Plat Book 7, Page 74 of Boone County Records, and located at 14001 N Old Number 7, Harrisburg.

Stan Shawver said that this is a 62 lot subdivision platted in 1964 before there were any land use or subdivision regulations. It is located in northern Boone County on Old #7 Road. The zoning is A-2 and we have received a petition to vacate and re-plat. The present lots are small and narrow with a minimum size of 2 ½ acres per A-2 zoning and very difficult to deal with. H-Town has petitioned to vacate and re-plat in accordance with Section 1.8.1.3 of the Subdivision Regulations of Boone County which says that the Commission can entertain such request with a Public Hearing.

Commissioner Miller asked how wide the lots are.

Mr. Shawver said anywhere from 70 to 100 feet.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Steve Proctor said he is a professional surveyor and is here representing H-Town. There also are two representatives of H-Town here as well. The proposal is to re-plat into approximately 10 lots for more upper scale Single Family homes around 2,000 sq. ft. The sites would be created along the lake. They have had the concept review and the only way to proceed is with a vacation.

The Commissioners thanked Mr. Proctor for speaking.

Commissioner Atwill asked if there is anyone else that would like to speak on behalf of this request.

Josh Stephenson said he is a member on H-Town Properties. The land was purchased knowing it was divided into small, narrow lots. The hope is to divide this into mostly 10 acre tracts with a few 3 ½ acre tracts. We would like to build nice homes and keep the integrity of

the area.

Judd Price is also a member of H-Town Properties and wanted to add that there is a demand in this area for the types of homes they would like to build.

Commissioner Miller asked if the lots to the east have homes on them.

Mr. Shawver said they are surveyed lots of five acres and greater and do have homes on them.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request. There were no additional speakers.

Commissioner Atwill asked if there is anyone present that would like to speak in opposition of this request. There were no speakers.

Commissioner Atwill closed the Public Hearing.

There were no additional comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** a petition submitted by H-Town Properties to vacate and re-plat County View Acres, excluding Lot 54, as shown in Plat Book 7, Page 74 of Boone County Records, and located at 14001 N Old Number 7, Harrisburg.

Said vacation in not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #195-2014**

5. Greenwood Acres. S22-T51N-R12W. A-2. Melvin and Shirley Greenwood, owners. David T. Butcher, surveyor.

Stan Shawver said he does not physically have the Greenwood Acres Mylar for Commission signature at this time.

Commissioner Atwill said this item will be tabled and rescheduled at a later date.

6. First reading; Approval of Security Agreement and Cash Deposit for 10140

Alexander Drive

Stan Shawver said that this is a Land Disturbance Security for pending restoration. This is located at the old site of Furniture World at Rt. O and I-70.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

7. Second reading; Budget Revision for payment one time collection event by Mid Missouri Solid Waste management District (1st read 4-24-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget revision to appropriate funds for the one-time collection event sponsored by the Mid Missouri Solid Waste Management District.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1360	71100	Solid Waste	Outside Services		5,000
1123	86800	Emergency & Contingency	Emergency	5,000	
				5,000	5,000

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #196-2014**

8. Second reading; Consultant Services Agreement with Benton & Associates, Inc. (1st read 4-24-14)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Consultant Services Agreement with Benton & Associates, Inc. for design and bidding services for the removal and replacement of Boone County Bridge No. 3070006 on Mexico Gravel Road.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #197-2014**

Purchasing

9. Second reading; Bid Award 14-27MAR14 – TRMSS Fog Seal Pavement Preservation 2014 (1st read 4-24-14)

Commissioner Miller noted that the list of project locations has been added to the memo as requested at the first reading.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby award bid 14-27MAR14 – TRMSS Fog Seal Pavement Preservation 2014 to Christensen Construction Co.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #198-2014**

10. Second reading; Bid Award 11-21MAR14 – Robotic Total Station (1st read 4-24-14)

Commissioner Miller noted that the memo now contains an explanation of the equipment purchased as requested at the first reading.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 11-21MAR14 – Robotic Total Station to Griner and Schmitz, Inc. for the purchase of a Topcon DS Series Compact Auto-Tracking Total Station.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #199-2014**

11. Second reading; Cooperative Contract 3-130925TV – Light Excavators (1st read 4-24-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the utilization of the Missouri Department of Transportation Cooperative Contract 3-130925TV to purchase one (1) Kubota KX057-4 Compact Excavator from Crown Power & Equipment Co., LLC of Columbia, MO and dispose of one (1) 2006 Case Backhoe.

The terms of this Cooperative Contract are stipulated in the attached Purchase Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Purchase

Agreement and Request for Disposal form.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #200-2014**

12. Second reading; Bid Award 17-28MAR14 – Lawn Care Maintenance & Seasonal Grounds Services Term and Supply (1st read 4-24-14)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 17-28MAR14 – Lawn Care Maintenance & Seasonal Grounds Services Term and Supply to Truescape, LLC of Fulton, MO.

The terms of the bid award are stipulated in the attached Purchase Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Purchase Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #201-2014**

13. Second reading; Bid Award 12-27MAR14 – 2014 Preservation Chip Seal (1st read 4-24-14)

Commissioner Miller noted that the project locations have been added to the memo as requested at the first reading.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby award bid 12-27MAR14 – 2014 Preservation Chip Seal to Missouri Petroleum Products Company, LLC.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #202-2014**

14. Second reading; Amendment Number One to 42-05NOV13 – Consulting Services for the Children’s Services Board (1st read 4-24-14)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve Contract Amendment Number One to 42-05NOV13 relating to Consulting Services for the Children’s Services Board.

The terms of this amendment are stipulated in the attached Contract Amendment Number One. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Amendment Number One.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #203-2014**

County Counselor

15. Second reading; Budget Revision to transfer funds for the pending federal litigation (1st read 4-24-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget revision to appropriate funds for pending Federal

Litigation.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1123	86800	Emergency & Contingency	Emergency	100,000	
1126	71105	County Counselor	Legal Services		100,000
				100,000	100,000

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #204-2014**

Commission

16. Public Hearing on Budget Amendment for Phase I architectural services related to the County Security System Master Plan

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on this issue. There were no speakers and Commissioner Atwill closed the Public Hearing.

17. Second reading; Budget Amendment for Phase I architectural services related to the County Security System Master Plan (1st read 4-15-14)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment for Facilities Maintenance to establish a budget for Phase I architectural services related to the County Security System Master Plan.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
6200	71101	Capital R & R	Professional Services		15,960

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #205-2014**

18. Second reading; Consultant Services by architects Design Group (ADG) for the County Security System Master Plan (1st read 4-15-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the attached Consultant Services Agreement with Architects Design Group for services relating to Phase I of the County Security System Master Plan.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #206-2014**

19. 1st & 2nd reading; Appointment of Todd McCubbin to the Boone County Family Resources Board of Directors

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby appoint the following:

Name	Board	Period
Todd McCubbin	Family Resources Board of Directors	March 22, 2014 through March 22, 2017

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #207-2014**

20. 1st & 2nd reading; Appointment of Robbie Sapp to the Health Trust Committee

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby appoint the following:

Name	Board	Period
Robbie Sapp	Health Trust Committee	March 22, 2014 through March 22, 2017

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #208-2014**

Commissioner Miller noted that Mr. Sapp is the Public Works representative on the Health Trust Committee as required by the Trustee Agreement.

21. Public Comment

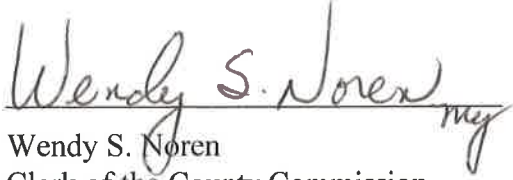
None

22. Commissioner Reports

None

The meeting adjourned at 8:41 p.m.

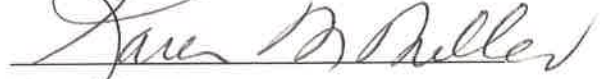
Attest:



Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Janet M. Thompson
District II Commissioner

