

**MINUTES**  
**BOONE COUNTY FISCAL COURT**  
**Boone County Administration Building**  
**Fiscal Courtroom (1<sup>st</sup> Floor)**  
**Burlington, Kentucky**  
**Tuesday, February 13, 2007**  
**5:30 P.M.**

**ITEM I.**

**CALL TO ORDER**

Judge Gary W. Moore called to order the meeting of the Boone County Fiscal Court.

Present: Gary W. Moore, County Judge/Executive  
Cathy H. Flaig, Commissioner, District 1  
Charles E. Kenner, Commissioner, District 2  
Terri Moore, Commissioner, District 3  
J.R. Schrand, County Attorney  
Jeff Smith, Assistant County Attorney

Staff: Lisa Buerkley, County Treasurer  
Robin Curry, Assistant County Administrator  
Col. Les Hill, Sheriff's Department  
Melanie M. Morris, Executive Assistant  
Jeffrey S. Earlywine, County Administrator/Deputy Judge/Executive  
Louis Kelly, Fiscal Court Clerk  
Greg Sketch, County Engineer

**ITEM II.**

**APPROVAL OF MINUTES**

Commissioner Moore moved, seconded by Commissioner Kenner, to approve the Minutes from the meeting of January 16, 2007. Judge Moore called for a vote on the motion, MOTION PASSES (3-0).

Commissioner Flaig abstained from voting due to her absence at the last meeting.

**ITEM III.**

**PUBLIC HEARING**

A public hearing was held for the purpose of receiving comments regarding proposed licensing requirements and regulations for sexually oriented businesses and employees within Boone County.

Upon Calling the Public Hearing open, Judge Moore turned the time over to County Administrator Jeff Earlywine. Mr. Earlywine asked the Fiscal Court Clerk to show proof that the advertisement had been advertisement according to the requirements of KRS Chapter 424. Following proof of advertising Mr. Earlywine explained that following this hearing would be a first reading for an ordinance establishing licensing requirements for sexually oriented businesses, with a corresponding ordinance establishing zoning requirements to follow in the coming months. Mr. Earlywine then introduced Scott Bergthold, who would be giving a presentation on the negative secondary effects of sexually oriented businesses and explain the contents of the ordinance.

Mr. Bergthold explained that sexually oriented businesses engage in protected conduct under the First Amendment. However, the Supreme Court has held that local governments can regulate these businesses to help mitigate the negative secondary effects that they may have on a community. He stated that evidence of such secondary effects must be included in the official public record.

Mr. Bergthold proceeded to present the Court with land use studies, crime reports, judicial opinions, investigator affidavits, and anecdotal reports – all of which gave evidence of negative secondary effects of



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Bob Brown, president of Boone County Knothole, also believed that there should have been more public input prior to instituting the fee. He also stated that 37% of Knothole players will never use the fields selected for improvement and therefore it was unfair for them to pay.

Jeff Keener, representing various Little Leagues and Babe Ruth leagues stated that he supported the usage fee because the current fields do not meet the minimum requirements to hold tournaments. He said the fields were not safe and that usage fees are a normal part of youth baseball. He also noted that the \$15 fee was a small price to pay for the proposed improvements.

Following Mr. Keener's remarks, Judge Moore wanted to note that he had received several emails complaining about the usage fee when the County recently built a dog park. Judge Moore wanted to clarify that the dog park was built with private donations and that the County merely fronted \$15,000 for construction, but that amount would be paid back. Judge Moore also noted that the County had agreed to waive the fee for any child who could not pay due to financial hardship.

Luanne Friend addressed the Court asking why different sports were being charged different fee amounts. Judge Moore replied that a formula was used to come up with the fee and that formula included the amount of children participating and the cost of field maintenance.

Following the remarks Judge Moore noted that the Fiscal Court was not taking any action on this matter at the meeting and would take all of the comments under advisement and notify the citizens if any future action was planned.

**ITEM V.**

**PERSONNEL MATTERS**

Commissioner Flaig moved, seconded by Commissioner Kenner to approve Resolution 07-22, a Resolution of the Boone County Fiscal Court promoting Karen Montgomery from Secretary 1 to Secretary 2 in the Public Works Department. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit V A)

Commissioner Moore moved, seconded by Commissioner Flaig to approve Resolution 07-23, a Resolution of the Boone County Fiscal Court approving the hiring of Jo Halterman as Secretary 2 in the Parks Department. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit V B)

Commissioner Kenner moved, seconded by Commissioner Moore to approve Resolution 07-24, a Resolution of the Boone County Fiscal Court approving the hiring of Cathy Thibault as Office Manager 2 in the Parks Department. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit V C)

Commissioner Kenner moved, seconded by Commissioner Flaig to approve Resolution 07-25, a Resolution of the Boone County Fiscal Court approving the hiring of Brad Schwenke as Parks Superintendent. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit V D)

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**ITEM VI.**

**ORDINANCES**

**First Reading, Sexually Oriented Business Regulations**

First reading was given for an ordinance repealing and replacing chapter 111 of the Boone County code of ordinances, establishing licensing requirements and regulations for sexually oriented businesses and employees within Boone County, Kentucky.

Second reading was tentatively scheduled for the March 13<sup>th</sup> Fiscal Court meeting.

**Second Reading, IDI-Holt Zone Change**

Second reading was given for an ordinance of the Boone County Fiscal Court approving, with conditions, for a request of Industrial Developments International (applicant) for Donald and Evelyn Holt (owners) for a zoning map amendment, such zoning map amendment being a zone change from Rural Suburban Estates (RSE) to Industrial One (I-1) for a 1.098 acre site located at 2392 Graves Road, Boone County, Kentucky.

Judge Moore asked if there was anyone present who wished to speak against the proposal, seeing none he asked the Court members if they wanted to entertain a motion.

Commissioner Flaig moved to approve the Ordinance, Commissioner Kenner seconded the motion. Judge Moore called for a vote, ALL PRESENT VOTING AYE (4-0) (Exhibit VI B)

**Second Reading, Hebron Kroger Zone Change Request**

Second reading was given for an ordinance of the Boone County Fiscal Court approving, with conditions, for a request of Anne McBride, McBride Dale Clarion (applicant) for Michael A. Conner and Linda H. Conner (owners) for a zoning map amendment from Suburban Residential Two (SR-2) to Commercial Two/Planned Development (C-2/PD) for approximately 15.3 acres of an approximate 24 acre site generally located on the southwest corner of the KY 20/KY 237 intersection, Boone County, Kentucky; and approving, with conditions, of a concept development plan in a Commercial Two/Planned Development (C-2/PD) zone for approximately 8.7 acres of an approximate 24 acre site generally located on the southwest corner of the KY 20/KY 237 intersection, Boone County, Kentucky.

Following the reading, Judge Moore invited anyone in support of the measure to speak to the Court.

Representing the developers, legal counsel Gerald Dusing, stated that this project had received significant scrutiny by the Planning Commission and KY Transportation Cabinet and that the proposed site could effectively handle the traffic increase. To further discuss the traffic situations he turned his time over to Jack Plfum, project traffic engineer, to discuss the traffic concerns.

Mr. Plfum stated that the developer had given several proposals to ensure that the traffic impact would be minimal. He noted that the road is currently rated at "C" and that the proposed development, along with improvements, would allow the road to maintain a "C" rating.

Following Mr. Plfum's remarks, Judge Moore asked if anyone wished to speak out against the proposal.

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Bob Flick stated that he had legitimate concerns regarding the traffic on KY 237. He desired a second opinion on the traffic studies and noted that this was an important decision that could not be undone and wished for the Fiscal Court to take more time to deliberate this decision.

Mr. Dusing, using his rebuttal time, noted that the project exceeded all of the standards set by the KY Transportation Cabinet and Planning and Zoning Commission and that the traffic concerns should not be grounds for denial.

Following the public remarks Judge Moore opened the floor to discussion by the Fiscal Court members.

Commissioner Flaig expressed concerns about the Fire Department having a red light there. She also expressed concerns over the traffic increase from this project, the current grading at the crest of the hill, and whether or not the road could receive higher level of service (LOS) rating than "C". Mr. Plfum responded by saying that the Fire Department would have the ability to get a red light and that the current LOS grade of "C" was consistent with roads in Boone County and that only rural roads receive an LOS "A" rating.

Commissioner Moore expressed concern about making a left turn out of Kroger onto KY 20 under the proposed plan. Mr. Plfum stated that the timing of the traffic signal should make the intersection effective and safe.

Judge Moore asked if residential increases were taken into account when they made the traffic studies. Mr. Plfum stated that residential increases from the time of the proposal to the opening day were factored into the study.

Commissioner Moore asked if there would still be a connection to Galerie-au-Chocolate. Mr. Dusing stated that the connection was a condition of approval and would be part of the development.

Judge Moore asked if the fuel canopy design would be similar to the Kroger Marketplace in Liberty Township. Representatives from Terra Firma stated that the design would be altered to a more simple design as to be more aesthetically pleasing.

Following these comments Commissioner Kenner stated that going into this meeting he was concerned about potential traffic issues, but that those issues had been resolved and he made a motion to approve the ordinance. Judge Moore asked if there was a second, seeing none, the motion failed for lack of a second.

Commissioner Moore stated that she was not ready to make a decision on this matter and made a motion to table this issue until the February 27<sup>th</sup> meeting. Judge Moore, noting that the Fiscal Court had until March 6<sup>th</sup> to take action on this matter, seconded the motion and called for a vote. The motion to table the ordinance until February 27<sup>th</sup> was approved (3-1) with Commissioner Flaig voting against the motion.

**First Reading, IDI-Chipman Zone Change Request**

Kevin Wall gave a presentation and first reading was given for an ordinance of the Boone County Fiscal Court approving, with conditions, for a request of Industrial Developments International (applicant) for William and Betty Chipman (owners) for a zoning map amendment, such zoning map amendment being a zone change from Agricultural Estate (A-2) to Industrial One (I-1) for a 5 acre site located at 11685 Dixie Highway, Boone County, Kentucky.

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Second reading was tentatively scheduled for the March 13<sup>th</sup> Fiscal Court meeting.  
**First Reading, Beckman Coulter KJDA**

First reading was given for an ordinance of the board of commissioners of the Boone County Fiscal Court, Kentucky providing for a credit of its occupational license fee for new employees as part of an economic development project by Beckman Coulter, Inc. under the Kentucky Jobs Development Act (KRS 154.24.010-150).

Second reading was tentatively scheduled for the March 13<sup>th</sup> Fiscal Court meeting.

**ITEM VII.**

**JUDGE'S REPORT**

Commissioner Moore moved, seconded by Commissioner Kenner to approve Resolution 07-26, a Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, appointing various members to the Boone County Building Commission. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII A)

Commissioner Flaig moved, seconded by Commissioner Moore to approve Resolution 07-27, a Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, appointing Jack Lillie to the Northern Kentucky Area Development District Council. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII B)

Commissioner Kenner moved, seconded by Commissioner Moore to approve Resolution 07-28, a Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, re-appointing James M. Daugherty to the Sanitation District No. 1 Board of Directors. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII C)

Commissioner Flaig moved, seconded by Commissioner Kenner to approve Resolution 07-29, a Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, appointing Tom Ollier to the Boone County Citizen Corps Council. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII D)

Commissioner Moore moved, seconded by Commissioner Flaig to approve Resolution 07-30, a Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, re-appointing Greg Staley and Chief William Martin as alternate representatives to the Boone county Building Inspector Appeals Board. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII E)

Commissioner Kenner moved, seconded by Commissioner Flaig to approve Resolution 07-31, Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, appointing Jennifer L. Gulick to the Boone County Urban Forest Commission. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII F)

**ITEM VII.**

**OLD BUSINESS**

There was no old business before the Court at this meeting.

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**ITEM IX.**

**ADMINISTRATIVE MATTERS**

Commissioner Kenner moved, seconded by Commissioner Flaig to approve Resolution 07-32, a Resolution of the Boone County Fiscal Court re-establishing the Boone County Building Commission under authority of KRS 67.450. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit IX A)

Commissioner Flaig moved, seconded by Commissioner Kenner to approve Resolution 07-33, a Resolution of the Boone County Fiscal Court awarding the bid for an equipment trailer to Southeastern Equipment Company. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit IX B)

Commissioner Moore moved, seconded by Commissioner Flaig to approve Resolution 07-34, a Resolution of the Boone County Fiscal Court authorizing the purchase of furniture in the Public Works Department. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit IX C)

Commissioner Kenner moved, seconded by Commissioner Flaig to approve Resolution 07-35, a Resolution of the Boone County Fiscal Court awarding the bid for the landslide stabilization of Williams Road to Necamp Construction Company. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit IX D)

**ITEM X.**

**NEW BUSINESS**

There was no new business before the Court at this meeting.

**ITEM XI.**

**FISCAL MATTERS**

Commissioner Moore moved, seconded by Commissioner Flaig, to approve invoice reports dated 02-09-07 & 02-12-07 and prepaid invoice reports dated 01-19-07, 01-26-07, & 02-02-07. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0).

Commissioner Kenner moved, seconded by Commissioner Moore to acknowledge receipt of the Audit Report for Fiscal Year 2005. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0).

**ITEM XII.**

**ADJOURNMENT**

Commissioner Moore moved, seconded by Commissioner Kenner, to adjourn the meeting, ALL PRESENT VOTING AYE (4-0). The meeting was adjourned at 8:40p.m.

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**CLERK CERTIFICATION**

I, Louis Kelly, having been appointed to the office of Fiscal Court Clerk, do hereby certify that this is a true and accurate record of the actions taken by the Boone County Fiscal Court at the meeting of February 13, 2007.

\_\_\_\_\_  
Louis Kelly  
Fiscal Court Clerk

Date: \_\_\_\_\_