

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 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 Flaig, Commissioner, District 1
Charles E. Kenner, Commissioner, District 2
Terri Moore, Commissioner, District 3
Bob Neace, County Attorney
Jeff Smith, Assistant County Attorney

Staff: Lisa Buerkley, County Treasurer
Tim Williams, Assistant County Administrator
Col. Les Smith, County Sheriff
Melanie M. Morris, Executive Assistant
Jeffrey S. Earlywine, County Administrator/Deputy Judge/Executive
Blair G. Schroeder, Fiscal Court Clerk
Greg Sketch, County Engineer

ITEM II.

APPROVAL OF MINUTES

Commissioner Flaig moved, seconded by Commissioner Kenner, to approve the Minutes from the meeting of September 4, 2007. Judge Moore called for a vote on the motion, MOTION PASSES (4-0).

ITEM III.

DELEGATIONS

There were no delegations before the court

ITEM IV.

PERSONNEL MATTERS

Commissioner Moore moved, seconded by Commissioner Kenner to approve Resolution 07-187, A Resolution of the Boone County Fiscal Court appointing Joe Hopperton As Golf Course Mechanic Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit IV A)

Commissioner Flaig moved, seconded by Commissioner Kenner to approve Resolution 07-188, A Resolution of the Boone County Fiscal Court approving the hiring of Special Event Workers for the Parks Department, ALL PRESENT VOTING AYE (4-0). (Exhibit IV B)

ITEM V.

ORDINANCES

First Reading, One Eleven Engineering and Surveying Zoning Map Amendment

Second reading was conducted for Ordinance 07-21 of the Boone County Fiscal Court approving, with conditions, a request of One Eleven Engineering and Surveying PLLC (applicant) for Arlinghaus Builders Inc. (owner) for a zoning map amendment, a conditional use permit and a variance to reduce the 275 foot spacing requirement between adjacent driveways on Dixie Highway, such zoning map amendment being a zone change from Industrial Two (I-2) to Industrial One (I-1) for a 5.83 acre site generally located directly across from the Dixie Highway Trotten Lane, intersection and immediately south of the property at 8318 Dixie Highway, Boone County, Kentucky.

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 2007
5:30 P.M.

Judge Moore opened the floor for public remarks; however no one present wished to address the court either in opposition to or support of the zoning map amendment.

Commissioner Kenner moved, seconded by Commissioner Flaig to approve the Ordinance. Judge Moore called for a vote on the motion, MOTION PASSES (4-0). (Exhibit V A)

Second Reading, Regarding ATV Regulations and Penalties

Second reading was given for Ordinance 07-22 amending Chapter 93 of the Boone County Code of Ordinances to add regulations and penalties pertaining to the use of an all terrain vehicle, dirt bike or motorcycle off road in a manner which constitutes a public nuisance. (Exhibit V B)

Assistant County Administrator Tim Williams briefed the Fiscal Court that last May they were presented with a petition from the residents of Garden Estates (Rose Petal Drive) requesting that restrictions be placed on All Terrain/Off Road Vehicles. This request was due to excessive noise and dust created by said vehicles. Tim informed the court that in order to ensure all points of view were considered when drafting this ordinance, the county created an ad-hoc committee of residents, farm interests, property rights advocates, and ORV/ATV enthusiasts to discuss the issue.

Judge Moore then acknowledging that there were citizens present in the court room that wished to address the court both in opposition and support, he then yielded the floor to citizens who were oppose to the said ordinance.

John Haymore, a resident on Rose Petal Drive, addressed the Court stating that he uses his ATV's to teach his boys to ride safely and that they try to be respectful of those in the neighborhood. He feels as though this ordinance goes to far in limiting property rights, and suggest that the ordinance should pertain primarily to modified mufflers on ATV's.

Ron Eberson, a resident on Kirby Dr. in Burlington, addressed the Court stating that he feels as though the term nuisance is too subjective. Generally speaking members of society tolerate various types of noises and dust from time to time and he is concerned about how this ordinance will be enforced. Mr. Eberson also raised concern over the extent of the fine.

Now seeing that there was no one else present to speak out in opposition of the ordinance, Judge Moore opened the floor to those residents in favor of the ordinance.

Paula Gietz, a resident of Rose Petal Drive, gave her testimonial as to her relationship with the neighbors who prompted the original petition in May. Stating that the use of the ATV's are being used in close proximity to their property and that the noise is extremely loud for long periods of time.

David Hunsader, Rose Petal Drive Resident and petition's originator, stated to the Court that the noise and dust stirred up by the ATV's in their neighborhood prevents residents from being able to enjoy their property. He stressed to the court that they have tried to be respectful of the ATV owner's rights, but that the ATV owners are not respecting their property rights.

Seeing that all parties had addressed the Court Judge Moore then opened the conversation to the Court. Commissioner Flaig questioned how the \$ 500 dollar fine was determined.

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 2007
5:30 P.M.

Assistant County Attorney Jeff Smith reminded the Court that this was maximum fine of \$500 dollar's and that this by no means would be levied to first time offenders, but that a more minimal fine would usually be issued.

Assistant County Administrator Tim Williams wanted to address the court concerning the enforcement of this ordinance stating that law enforcement officers were being asked use their best judgment in handling complaints regarding ATV/ORV use, just as they are asked to in many aspects of their job. Mr. Williams stated that this ordinance can be reevaluated at a later date to measure its effectiveness and if necessary be amended to better serve all parties.

Commissioner Flaig moved, seconded by Commissioner Kenner to approve the Ordinance. Judge Moore called for a vote on the motion, MOTION PASSES (4-0). (Exhibit V B)

Second Reading, Autumn Woods Subdivision

Second reading was conducted for Ordinance 07-23 of the Boone County Fiscal Court approving, with conditions a request of Long Branch Development, Inc. (Applicant) For AF Investments LLC, Riegler Family LLC, Benjamin A. Riley, Patricia A. Riley, Donel Tanner, Alberta Tanner, Arlinghaus Investments LLC, And Robert Schroder (Owners) for zoning map amendments from Agriculture (A-1), Agricultural Estate (A-2) And Rural Suburban Estates (RSE) to Suburban Residential One/Planned Development (SR-1/PD) for 339.3 acres and Commercial One/Planned Development (C-1/PD) for 5.39 acres, both for a 344.69 acre total area generally located between the south side of Longbranch Road across from the Barrone Street intersection and the north side of Hathaway Road, including the property at 2505 Longbranch Road AND properties to the east, west, and south of 2505 Longbranch Road, the property at 2444 Hathaway road and properties to the north of 2444 Hathaway Road, Boone county, Kentucky, and providing the recommendation be forwarded to the Boone County Fiscal Court, Burlington, Kentucky. (Exhibit VC)

Judge Moore polled those in the audience to see if any wished to speak in favor or opposition to the proposed ordinance, seeing none Judge Moore then opened the floor to the Court for discussion.

County administrator Jeff Earlywine briefed the Court as to the final conditions of approval regarding this ordinance.

The Developer, Bob Hawksley, Fischer Homes, present at the Court meeting addressed the Court accepting the final conditions.

Commissioner Flaig moved, seconded by Commissioner Kenner to approve the Ordinance. Judge Moore called for a vote on the motion, MOTION PASSES (4-0). (Exhibit V C)

Second Reading, Regarding the Roslyn Wachs Zoning Map Amendment

Second reading was conducted for an ordinance of the Boone County Fiscal Court approving, with conditions, for a request of Gerdes & Flesch Custom Homes (Applicant) for Roslyn Wachs, Trustee (owner) for a zoning map amendment, such zoning map amendment being a zone change from Agricultural Estate (A-2) to Rural Suburban Estates (RSE) for a 50.59 acre site generally located on the north side of Burlington Pike, between the properties at 3300 and 3446 Burlington Pike and across from the Burlington Pike/Saddle Ridge Drive intersection, Boone County, Kentucky. (Exhibit V D)

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 2007
5:30 P.M.

County Administrator Jeff Earlywine briefed that Court regarding recent discussions with the developers regarding trail easements on the Wachs property. The developers articulated their position that they are not willing to grant the easements within the subdivision.

Judge Moore acknowledge that there was much discussion regarding this Ordinance at the last meeting on September 4th and asked those present if there were any new items regarding this matter that needed to be addressed that the floor would be opened.

Carol Woods, Boone County resident, took this opportunity to express her disappointment to the Court and noted that she does not feel that her safety concern for the intersection has been addressed by the court.

After Mrs. Woods addressed the Court, Judge Moore opened the floor to the rest of the courtroom for discussion, seeing none the Judge opened the floor to the Commissioner's.

Commissioner Kenner moved, seconded by Commissioner Moore to approve the Ordinance. Judge Moore called for a vote on the motion, MOTION PASSES (4-0). (Exhibit V D)

ITEM VI.

JUDGE'S REPORT

Commissioner Flaig moved, seconded by Commissioner Moore to approve Resolution 07-189, A Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, Re-appointing Addia Wuchner as a Representative of the General Assembly to the Northern Kentucky Convention and Visitors Bureau. Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VI A)

Commissioner Kenner moved, seconded by Commissioner Flaig to approve Resolution 07-190, A Resolution of the Boone County Fiscal Court approving the action of Gary W. Moore, County Judge/Executive, appointing Sal Santoro to the Northern Kentucky Convention and Visitors Bureau. Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VI B)

ITEM VII.

OLD BUSINESS

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

ITEM VIII.

ADMINISTRATIVE MATTERS

Commissioner Flaig moved, seconded by Commissioner Moore to approve Resolution 07-191, A Resolution Adopting The Northern Kentucky Solid Waste Management Plan 2008-2012 Update Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VIII A)

Commissioner Flaig moved, seconded by Commissioner Kenner to approve Resolution 07-192, Resolution Adopting and approving the Execution of a Memorandum of Agreement between the Boone County Fiscal Court and the Commonwealth of Kentucky, Transportation Cabinet, Office of Special Programs, For the amount of \$243,000 to construct a concrete sidewalk five feet wide and 4,218 in length along Limaburg Rd. Any cost in excess of \$243,000 for the project will be the responsibility of the Boone County Fiscal Court. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0) (Exhibit VIII B)

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 2007
5:30 P.M.

Commissioner Kenner moved, seconded by Commissioner Moore to approve Resolution 07-193, A Resolution of the Boone County Fiscal Court awarding the bid for a rubber tire loader/backhoe to Southeastern Equipment Company. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VIII C)

Commissioner Flaig moved, seconded by Commissioner Moore to approve Resolution 07-194, A Resolution of the Boone County Fiscal Court awarding the bid for two new dump truck beds, snow plows, and salt spreaders to Kaffenbarger Truck Equipment. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VIII D)

Commissioner Moore moved, seconded by Commissioner Kenner to approve Resolution 07-195, A Resolution of the Boone County Fiscal Court authorizing the Boone County Water District to institute eminent domain proceedings necessary to complete the project known as North Bend/River Road Water Main. Only after good faith negotiations with the property owner were exhausted.

Judge Moore instructed the court that this resolution may not have to be enforced, because negotiations were still taking place between the property owner and the Water District. However, this resolution would serve if negotiations failed.

Dave Koenig, Representing the Water District, addressed the court clarifying the portions of land would be effected by eminent domain during the installation of the water line. Mr. Kaenig also noted that because of this easement there would be an alternate water source to thousands of residents if the primary water main broke or became inoperable during construction that would be taking place on Longbranch Road.

Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VIII E)

ITEM IX.

NEW BUSINESS

There was no new business before the court

ITEM X.

FISCAL MATTERS

Commissioner Kenner moved, seconded by Commissioner Moore, to approve an invoice report dated 09-18-07 and prepaid invoice reports dated 09-07-07 & 09-14-07. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit X A)

Commissioner Moore moved, seconded by Commissioner Flaig, to approve Fiscal Court Order #1, A Fiscal Court Order of the Boone County Fiscal Court authorizing transfers in the amount of \$4,621 within the adopted Fiscal Year 2007-2008 Budget. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0) (Exhibit X B)

ITEM XI.


ADJOURNMENT

Commissioner Moore moved, seconded by Commissioner Kenner to adjourn the meeting, ALL PRESENT VOTING AYE (4-0).

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
Tuesday, September 18, 2007
5:30 P.M.

CLERK CERTIFICATION

I, Blair Schroeder, 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 September 18, 2007.


Blair Schroeder
Fiscal Court Clerk

Date: 10-2-07