

MINUTES
BOONE COUNTY FISCAL COURT
Boone County Administration Building
Fiscal Courtroom (1st Floor)
Burlington, Kentucky
September 23, 2008
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
Robert Neace, County Attorney

Staff: Lisa Buerkley, County Treasurer
Col. Les Hill, County Sheriff
Jeffrey S. Earlywine, County Administrator/Deputy Judge/Executive
Blair G. Schroeder, Fiscal Court Clerk
Tim Williams, Assistant County Administrator
Robin D. Curry, Assistant County Administrator
Greg Sketch, County Engineer
Jeff Smith, Assistant County Attorney

ITEM II.

APPROVAL OF MINUTES

Commissioner Kenner moved, seconded by Commissioner Moore, to approve the Minutes from the meeting of September 23, 2008. Judge Moore called for a vote on the motion, MOTION PASSES (4-0).

ITEM III.

DELEGATIONS

Boone County Jaycees

Judge Moore took this time to recognize the Boone County Jaycees for all of their hard work that their organization does not only in Boone County, but also throughout Kentucky.

Boone County Announces Adjustment of Ad Valorem Tax Rate

Judge Moore took this opportunity to announce that the County would have to take corrective action to adjust the Court's previously adopted Ad Valorem Tax Rates. Moore noted that according to state statutes it is required that taxing districts set their property tax rates within 45 days of the certification of the property tax roll by the Kentucky Revenue Cabinet. County staff discovered shortly after the second and final reading of the 2008 property tax on September 9th that passage had exceeded the 45 day deadline by several days. Judge Moore went on to say that per state statute, any taxing district that passes its tax rate outside of this deadline must use its compensating tax rate for that year.

In light of this Judge Moore announced that he had issued an Executive Order setting the new property tax rates for 2008 at \$10.2 cents per \$100 dollars of assessed value for real property and \$15.4 cents per \$100 dollars of assessed value on personal (tangible) property, per statute and legal guidance from County Attorney.

County Administrator Jeff Earlywine noted that the County staff assumes full responsibility for the error and that this oversight in no way should reflect on the members of the Court.

Judge Moore noted that County tax bills will reflect this change in rate and that no action by the taxpayer will be required.

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Judge Moore opened the floor to regarding this issue.

Commissioner Flaig asked Judge Moore how this oversight was brought to his attention.

Judge Moore noted that it has always been his custom since taking office, to confer with staff prior to submitting County tax rates to the state. It was during this time that the staff reviewed County compliance with all state and federal statutes to make sure that the County was adhering to the utmost ethical and legal standards. It was during this process that the staff identified the oversight.

Judge Moore noted that while the County had acted in compliance with the intent of the statute, which is to make sure that fiscal courts have their rate set in time to be able to mail out resident's tax bill, the County had not acted in strict compliance with the letter of the law.

It was at this time that Judge Moore requested the Court that they acknowledge notification of his Executive Order amending the Ad Valorem Tax Rates for 2008.

Commissioner Kenner moved, seconded by Commissioner Moore, to acknowledge notification of an Executive Order by Judge/Executive Gary W. Moore accepting the Compensating tax rate for Boone County. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0).

ITEM V.

PERSONNEL MATTERS

There were no personnel matters before the Court at tonight's meeting

ITEM V.

ORDINANCES

Second Reading regarding the East Bend Properties (Beil Road) Zoning Map Amendment

Administrator Earlywine opened with several brief remarks regarding history of this request.

Judge Moore noting that there were those present who wished to speak both in favor of and against this proposal opened the floor for comment from those who were in favor of this request.

Brandon Rayborn, of Erpenbeck Consulting Engineering (represents applicant), made several remarks regarding their request for a Zoning Map Amendment. Mr. Rayborn spoke in further detail regarding the surrounding areas zoning history and identified key points outlined by the Planning Commission.

Karl Smith, applicant, addressed the Court stating his view as to why he would like the County to accept his request. Mr. Smith noted that there is a great deal of growth that is taking place near his home and believes that if he were to sell his home a new zoning classification would be beneficial to not only the resale value of his property, but also provide greater opportunity to accommodate the growth in such an area of the County.

At this time Judge Moore opened the floor to those who were opposed to this zone change.

Arnold Caddell, resident at 2221 Beil Road, remarked to the Court that he as well as other neighboring property owners were oppose to this request. Mr. Caddell further noted to the Court that the Planning Commission did not approve this requests with an overwhelming mandate, citing a 7 to 5 approval margin by the board and a 2 to 2 tie in committee.

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At this time Judge Moore referred to the Planning Commission's report identifying the various findings of facts both in favor and in opposition of the request.

Judge Moore opened the floor to the Court for discussion.

Commissioner Flaig asked if there was already a buyer looking to purchase the property?

Mr. Rayborn and Mr. Smith noted that at this time they were planning on waiting for action from the Court regarding this issue prior to seeking buyers.

Commissioner Moore stated that she had concerns over accepting the zone change without clearly knowing what type of business, building, or establishment would be.

Commissioner Kenner shared Moore's concerns stating that he did not want to create a standalone property uniquely zoned.

At this time Commissioner Moore made a motion, seconded by Commissioner Kenner, to deny the Planning Commission's request for an Ordinance of the Boone County Fiscal Court approving, with conditions, for a request of ECE, Inc. (applicant) for East Bend Properties, LLC, Carl Smith And Lynn Smith (owners) for a Zoning Map Amendment, such zoning map amendment being a zone change from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.8 acre site located at 2151 and 2171 Beil Road, Boone County, Kentucky, adopting the findings of fact for the denial as provided by the Planning Commission. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE, motion passes (4-0).

ITEM VII.

JUDGE'S REPORT

There were no items to report before the Court at tonight's meeting

ITEM VII.

ADMINISTRATIVE MATTERS

Agreement to Purchase One Acre Parcel Adjacent to Hempfling Orchard Property

At this time Assistant County Administrator Tim Williams gave a brief presentation regarding the potential acquisition of property adjacent to the Hempfling Orchard Property that is currently owned by the County and the site of a future Soccer Facility.

Mr. Williams further noted the benefit and value that the one acre parcel of land would add to the current property owned by the County, citing the elimination of a need for a retaining wall estimated to cost \$50-75 thousand dollars. Williams also remarked how this parcel would be potentially developed in conjunction with the future plans of the Soccer Complex.

At this time Commissioner Flaig stated that she did not have all the necessary packet information to feel comfortable voting on this matter. Flaig stated that she would abstain from voting for or against any motion to act on this matter.

Judge Moore moved, seconded by Commissioner Kenner to approve a Resolution of the Boone County Fiscal Court hereby authorizing Gary W. Moore, County Judge/Executive to purchase a one acre parcel of property adjacent to the Hempfling Orchard Property. Judge Moore called for a vote on the motion, Motion passes (3-0, 1 abstention). (Exhibit VII A).

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Commissioner Flaig did abstain from voting on this matter.

Approving the Recommendation of the Boone County Tax Board regarding the Homeless Point in Time Count.

Commissioner Kenner moved, seconded by Commissioner Flaig to approve a Resolution of the Boone County Fiscal Court accepting the recommendation of the Boone County Tax Board to contract with the Welcome House Of Northern Kentucky, Inc. to complete the Homeless Point in Time Count. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit VII B)

ITEM VIII.

OLD BUSINESS

There was no old business before the Court at tonight's meeting

ITEM IX.

NEW BUSINESS

At this time Judge Moore acknowledged the severe wind storms that took place throughout the County last week. Judge Moore noted that the County had been working hard with various agencies to clear roads and help meet resident's needs. Judge Moore commended the Public Works Department and Boone County Emergency Management Director Dan Mayer and his staff for their hard work and timely response.

ITEM X.

FISCAL MATTERS

Commissioner Flaig moved, seconded by Commissioner Moore, to approve an invoice reports dated 9-23-08, and pre-paid invoice report dated 9-12-08, 9-16-08, 9-19-08. Judge Moore called for a vote on the motion, ALL PRESENT VOTING AYE (4-0). (Exhibit X A)

ITEM XI.

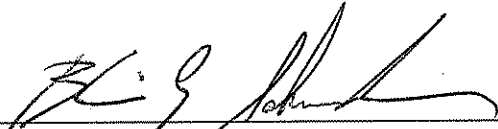
ADJOURNMENT

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

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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 23, 2008.



Blair G. Schroeder
Fiscal Court Clerk

Date: 9-24-08