

**Boone County Historic Preservation Review Board**  
**Meeting Minutes**  
**October 14, 2004**

The Boone County Historic Preservation Review Board met in their regular monthly meeting on the above date in the Old Boone County Clerk's Building behind the Administration Building.

- I. **Call to Order** The meeting was called to order by Chair Pat Fox at 5:05 PM.
- II. **Roll Call** Review Board members present were Chair Pat Fox, Vice Chair Don Clare, Bob Schrage, and Bridget Striker. Also present were Matt Becher representing the Staff of the Boone County Planning Commission; Jan Hancock, Recording Secretary; and guests Judge/Executive Gary Moore; David Geohegan with the Boone County Planning Commission; Debbie Kennedy with The Boone County Recorder, and Jan Garbett.
- III. **Approval of Minutes** The Minutes of the September 9, 2004 Review Board meeting were presented for approval. Mr. Schrage moved to approve the Minutes as presented. The motion was seconded by Mr. Clare and approved by all.
- IV. **Old Business – Matt Becher**
  - A. **Walton South Main Street National Register District** Mr. Becher stated that Margo Warminski made a great presentation in Louisville and the only problem with the nomination was the map, which was too small. Mr. Becher prepared a large map and sent it to Kentucky Heritage Council. It should all go to the National Park Service tomorrow and, hopefully, Walton South Main Street National Register District will be listed by the end of the year. Mayor Trzop wants to make a nice publication and celebrate the history of Walton. Only one person has said no to individual National Register District Nominations on North Main Street, everyone else is all for it. The Mayor and City Council have promoted it and educated the residents.
  - B. **2004 – 2005 CLG Grant** Mr. Becher stated that he received a letter saying that Boone County received a \$15,000 grant, which is \$9,000 in federal money and \$6,000 from Fiscal Court. The project to do ten to fifteen individual nominations around the county was fully funded. He made a list of prospective properties and fifteen have tentatively agreed. He has prioritized the list as follows (1) Dr. Crisler House on South Orient Street, (2) Frank Milburn Machine Shop in Burlington (a Criterion B Nomination due to its association with an important person), (3) 109 North Main Street in Walton (J.G. Tomlin house), (4) 133 North Main Street in Walton, (5) 91 North Main Street in Walton, (6) 93 North Main Street in Walton, (7) 95 North Main Street in Walton, (8) Dinsmore Farm Manager's House, which is on the other side of the street and not included in the original nomination -- it

would be a nationally significant site rather than a locally significant site, (9) James T. Grubbs house in Taylorsport, (10) John Walton Farm (not confirmed yet), (11) Dr. Rouse House (Rosebrook Art Center), (12) Coad Farm on Beaver Road, (13) James Blackburn House on Dixie Highway, (14) Kottmyer House, (15) Joel Garnett House off Conner Road, and (16) the John Dempsey log house. There is also a backup list. He is not an expert on National Register Nominations and hopes to get a consultant on board and to get ten good nominations out of the fifteen to satisfy the terms of the grant. He expects that some properties will drop out and some will not be eligible. Mr. Clare stated that it needs to be stressed to the property owners how much it would cost if they did it themselves. Mr. Becher stated that he has tried to do that, but some people just do not want to be on the National Register.

**C. Winter Review Board Retreat** Mr. Becher stated that the Winter Review Board Retreat is set for January 13, 2005 from 4 PM to 9 PM with a dinner break. Mr. Costello talked about having it at the Florence Nature Center. Ms. Fox stated that the retreat has been held there before and it was a nice facility. Mr. Becher agreed and commented that it is also free. The Board still needs to find a facilitator. Jane Cassady, who is the former CLG coordinator for the state, is interested but there is an issue of the cost. He has given her quote to Mr. Costello and if he is not agreeable to the cost, then we will look for someone else, or see if the price is negotiable. Once the facilitator is on board, we will establish an Agenda.

**D. Other** (1) **Burlington National Register Nomination** Mr. Clare asked for an update on the Burlington National Register District. Mr. Becher responded that there are no changes and he does not have a letter saying why it was rejected or what is needed to make it acceptable. He believes he may have to document the buildings that are outside the boundary and state why they are not included. He will have to show why they have changed so drastically that they cannot be included. (2) **Jonas Clore Post Office and House** Mr. Becher stated that the Jonas Clore Post Office and House in Belleview were moved last week and will be preserved. (3) **Adult Education Series** Ms. Striker stated that if the Board wants to have the education series next spring, the library needs the information by the next meeting. Mr. Becher stated that Judge Tony Frohlich will do Thomas Zane Roberts and questioned who will do Mary Ingalls. Mr. Clare suggested Brenda Hartmann. Mr. Striker stated that Split Rock is Don Miller, which leaves Middle Creek. Mr. Becher questioned doing a presentation on the Petersburg excavation. Ms. Striker will coordinate with Mr. Becher to plan the series. (4) **Stites Property** Mr. Becher stated that the proposed wastewater treatment plant is going to start back up on the Stites property after four years. The survey work was done five years ago, but the project has been tied up in court. The Phase II investigation to get an expanded look at the properties will start on October 25.

## **V. New Business**

### **A. Proposed Boone County Cemetery Task Force discussion**

Ms. Fox welcomed Judge Moore, Mr. Geohegan and Ms. Garbett and thanked them for coming this evening. Judge Moore stated that at the Fiscal Court meeting a couple of weeks ago, there was a delegation which included Jan Garbett, a family member from Georgia of one of the descendents buried in the South Fork Church

Cemetery, and others. He stated that this is an area under this Board's direction and leadership. He stated that the possibility of expanding what this Board is doing and having a task force either under this Board or in partnership with this Board can be discussed. He stated that moving South Fork Cemetery did not come through Fiscal Court for approval. South Fork Church went through state Vital Statistics, which is another process that can be used to move a cemetery, and there is some discussion as to whether it was done correctly or not. State statute allowed South Fork Church to take that direction and Fiscal Court cannot override state statute. What went wrong and whether they followed the process correctly or not is between South Fork Church and the state, and Fiscal Court has no jurisdiction. However, it is something that we do not want to happen again. He stated that if an ordinance is passed that people have to get approval by this Board and then by Fiscal Court, it will not change the state law that allows someone to go through Vital Statistics. If this Board wants, it can lobby to try to change state law but it will likely be opposed because in other parts of the state they may not want the law changed. He stated that this Board has a lot of experience and knowledge in regard to cemeteries and he felt that it was better to work through this Board than to create a new entity. Mr. Clare stated that the teeth in Cemetery Regulations come from local legislation, which overrides the state, based on his experience and what he has learned from National Trust and other areas. He stated that this Board feels unanimously that what happened was a criminal act, in addition to being morally and ethically wrong and this Board wants to press charges. Judge Moore responded that he believes charges would need to be brought by someone who was harmed, such as a descendant. Mr. Clare stated that if this Board is a steward of the cemeteries, then this Board needs authority and power. Judge Moore stated that the information he received from the County Attorney and from Jim Parsons is that we cannot forbid people to use the process of going through state Vital Statistics. He stated that we have the ability to put more teeth into our process. Mr. Clare stated that we could make the cemetery a local landmark and put our own regulations on it. Mr. Becher agreed. Mr. Schrage stated that state law backs up landmarks. Judge Moore stated that it would have to be done for every cemetery in the county and there are family cemeteries that are not listed and not known to the Board. He stated that the process may have to begin with the developer before it becomes a landmark. Mr. Schrage questioned Fiscal Court's priority in regard to cemeteries – was development of the Haines property more important than the preservation of an historic cemetery? Judge Moore explained that it is more of an issue of proving or disproving that abandonment has occurred or not occurred. If a cemetery has not been visited by descendants for ten years and it is not being maintained, it is considered abandoned. Notice to the descendants goes in the newspaper and if no one comes forward to object, it is Fiscal Court's responsibility to declare it abandoned and the owner can get permission to move it. If someone comes forward and says they have visited it in the last ten years, it is not abandoned and does not meet the qualifications to be moved. If they meet the criteria, Fiscal Court has to allow them to move the cemetery. Mr. Clare stated that he believes unincorporated Boone County has the power just like they do in Covington. Judge Moore responded that cities have

more authority than counties on these types of issues. He explained that the sentiment not to rubber stamp a request to move a cemetery has grown in Fiscal Court because of the bad incidents, which no one envisioned, that have taken place with some that were approved. People have to prove it is necessary to move the cemetery – which is one of the reasons more and more entities are not going through the Fiscal Court process. There have been cemetery moves in the last couple of years that did go through Fiscal Court – but not any more because of the growing sentiment. Vital Statistics is the path of least resistance. The cemetery moved from the site of the new Federal Express facility did not come through Fiscal Court. Mr. Clare stated that we should respect what our ancestors did when they made the land use determination of burying someone there for perpetuity and we should abide by that. Judge Moore stated that there was a situation where a relative came in and spoke in favor of relocation. Because the grave was on a farm with no road to get to it and there were cows there, having their relatives buried in a church cemetery would be a better situation for them. He stated that a procedure needs to take such cases into consideration. Ms. Striker stated that people are now starting to go through Vital Statistics and are getting consultants to help them through the process. She stated that there has to be a way to at least make that route more difficult. She believes that by lobbying we would at least move forward on the state level. She stated that the Board was discussing the Cemetery Preservation Plan last month in regard to what got into the ordinance and what did not get in. This Board thought cemeteries were protected on a certain level and they have not been. Mr. Schrage asked if the County Attorney could research and tell the Board what the options are and what is currently in the law. Judge Moore stated that some issues may be outside of this Board's authority and there may be another way for things to happen, which can be explored. He understands the Board's concerns and agrees that we need to have more definite policies and procedures, but we need more facts and information before we act. Ms. Striker stated that when moving a cemetery cannot be avoided, then the bodies need to be reburied with respect. The American Indian Movement did a ceremony in Petersburg and showed respect for their ancestors. She stated that people should not be put in mass graves and headstones should be reset. It needs to be well documented where the graves were moved to and questioned where the reports are on the cemeteries that have been moved. Judge Moore stated that none of the cemeteries moved through Fiscal Court were allowed to be put into mass graves and the bodies were reburied by a process. He would not vote to rebury people in mass graves without services and Fiscal Court has not done that. The cemeteries that were done that way were done through Vital Statistics. Ms. Garbett stated that a task force officially appointed by Fiscal Court may carry more weight. She stated that the idea was that the task force would include the Historic Preservation Review Board and extend to community members outside of the Board. She stated that possibly Fiscal Court could consider appointing the Johnson-Wilson Cemetery organization to be the task force and work with this Board. The task force could be accountable to Fiscal Court with their findings and recommendations. The task force could look into requesting funding for the small cemeteries as there are family cemeteries that need repairs. She explained that when she and Ms. Striker,

along with Debra King from Johnson-Wilson Cemetery Association, spoke with the County Attorney, they were told this was a state issue and the State Attorney General said it was a county issue. They filed the Affidavit to force someone to take responsibility and look at this issue. She stated that when South Fork Christian Church applied for the permit, it said on the front that written permission had to be obtained from the next of kin. There were many omissions in the permission and ethical process. She stated that the process needs to be defined and the loopholes closed. She stated that a temporary (six months) task force should look at things closely. Judge Moore stated that the County Attorney is the legal advisor to Fiscal Court. He stated that legal advice is needed, as well as exploring the history and experience of other communities that have done a good job of handling this issue. He stated that he knew that this Board was familiar with these issues and did not want to take action before speaking with the Board this evening. He stated that there are differences in city authority and county authority and it is not unusual for a city to have more authority than a county on many issues. He does not think that Fiscal Court has the ability to override state law, but can get a legal opinion. He stated that there was no application from South Fork Christian Church to the county and it is not a situation where Fiscal Court dropped the ball. Ms. Fox stated that this Board invited representation from Fiscal Court and from the Planning Commission this evening and appreciates that Judge Moore and Dave Geohegan are present and listening to what the Board is saying. She stated that the Cemetery Preservation Plan is a series of recommendations that do not have any teeth to them. She questioned what the next step is to accomplish what the Board wants to do. Judge Moore stated that he prefers to work through this Board until there is a need to expand. He suggested that Jan Garbett represent the Johnson-Wilson Cemetery Association and she can bring others from her group, and that this Board, the County Attorney, a Fiscal Court Commissioner, Jim Parsons, and he work together to study and find out what our abilities are and then it will be up to Fiscal Court to adopt it or not adopt it. Mr. Becher suggested that there also be a funeral director involved. Mr. Clare suggested inviting someone from another community who has experience with this. Judge Moore stated that Kentucky is a strong property-rights state and we need to work within Kentucky law – or try to change it. He stated that once a developer buys a property, they are the property owner. Mr. Schrage stated that possibly part of that process of preserving cemeteries is to come up with incentives to help people keep cemeteries. Judge Moore discussed some of the communities, like Hempstead, that have worked around cemeteries. Mr. Schrage asked Judge Moore to comment in regard to the idea that this Board cannot raise money. He stated that this Board wants to preserve cemeteries. He feels that if the Board wants to raise money to start a foundation to preserve cemeteries, the Board should be able to do that. He stated that profits from the Burlington Book are going to the Old Burlington Cemetery and a letter was recently sent out for contributions to the Old Burlington Cemetery. Judge Moore stated that he believes Fiscal Court would be receptive to creating a 501(C)3 Corporation to raise money to preserve cemeteries because it is a win-win situation for everyone. A non-profit charitable corporation can accept contributions. Ms. Garbett stated that Johnson-Wilson Cemetery Association has

that ability. Mr. Clare stated that he did not know that this Board can raise money and put it in Johnson-Wilson's 501(C)3 Corporation. Ms. Striker responded that this Board probably cannot do that. Ms. Fox stated that this Board wants to raise money. Mr. Clare stated that the Board wants to get a revolving loan to help with any preservation activities. He believes that there will be more situations like the one in Petersburg which will require money and people to do the work. Mr. Geohegan stated that the Board needs to get a legal opinion on whether it can raise funds or not. Mr. Schrage stated that this Board has a retreat coming up and part of that meeting will be to set some priorities and discuss them with Mr. Costello. He stated that the Board may be able to work with Fiscal Court through Mr. Costello to get funds. Mr. Costello has told this Board that ideas can be presented to him to be included in the Budget. Ms. Fox asked Mr. Geohegan if he had any comments. Mr. Geohegan stated that it sounds like this Board, with a few appointments, will actually be a task force. The task force will have a life span and it will not exist after the matter is presented to Fiscal Court. Mr. Clare questioned how to get the ball rolling. Judge Moore responded that he will do that and he will try to get the others involved. Ms. Fox asked that they attend the next meeting of this Board. Ms. Garbett questioned setting a timeframe. Judge Moore responded that he would like to have a first meeting with all the parties before setting a timeframe. He does not want to set a timeframe until we have more information. He questioned what South Fork Church is saying about this situation. Ms. Garbett responded that the church is saying that they did not need written permission and did it correctly. The minister did not return Debra Kaye's calls and he did not return Ms. Striker's call. The minister said in the newspaper that the church did not have to get permission because they were moving graves within the same property, and that the reinterment was done in a respectful manner. Ms. Garbett disagreed and stated that the regulations apply and they needed to get permission from the next of kin. She stated that Doug Stith was not there and had appointed someone to take care of it, which he is allowed to do. She stated that even though there were individual containers, they were put in a mass grave and the tombstones were set up on the ground. They never bothered to contact the libraries or this Board or even their own church records to find records of these individuals. She stated that Johnson-Wilson's position is not that what Doug Stith did is criminal, but any legal repercussions go to Mr. Stith because he signed the permits. Accountability is a big issue in the cemetery relocation process. Mr. Geohegan commented that because of potential liability, Mr. Stith may not want to come to the task force and say anything. Judge Moore stated that it may be better to have another funeral director, possibly from Grubbs or Linneman or Bullock in Hebron. Mr. Becher stated that the archaeologist (Jeff Tingle) who works for the company that figured out a way to move cemeteries through Vital Statistics knows the law well and he could be asked to come to the task force meeting. Ms. Fox stated that at the next meeting there will be a representative from Fiscal Court, a representative from the Planning Commission, a representative from Johnson-Wilson Cemetery Association, a funeral director, Jim Parsons, and an archaeologist. Mr. Becher suggested Jeff Tingle or Jeanne Kreinbrink as the archaeologist. He prefers Jeff Tingle because of his knowledge of the Vital Statistics approach. Judge Moore

stated that the County Attorney (J. R. Schrand) will also attend. He stated that the first meeting will be with this Board and then a designated task force will be appointed. Ms. Fox stated that at the next meeting, we will set up parameters of what we want to accomplish and look at what we are allowed to do. She would like to accomplish this before Christmas.

**B. National Preservation Conference followup and presentation by Don Clare**

Mr. Clare stated that he has a visionary idea from everything he learned in Louisville and at National Trust. He stated that there are forty-six Preserve America communities in Kentucky and we are #1 in the nation. Boone County is getting well known and is one of two countywide CLG's (Jefferson County is the other one). People recognize that Boone County is in Kentucky because of the Preservation Plan and the Tourism Plan. Kentucky is the #1 state in using ISTEA money (Intermodal Surface Transportation Enhancement Act), which can also be applied to pedestrian and bicycle-type activities. His idea is for a Mary Ingalls bicycle trail going from Petersburg, where the county has the public landing and parkland, all the way to Big Bone using ISTEA money. It would be a 50-50 match. There can be restroom facilities and a trail with welcome centers. It would be an economic incentive for the western end of the county, provide parkland and utilize the Petersburg public landing. Along the trail would be the Aurora Ferry landing, Split Rock, Woolper Creek, Kirby Rock etc. going toward Rabbit Hash and the little Methodist Church and on past Gunpowder Creek Landing and Hamilton Landing. All the landings are historic river related areas which could benefit from the Preserve America grant, ISTEA money, and federal preservation grants. It is something we can do for pedestrians and bicyclists – and then there will be a need for restaurants and gift shops. It will help preserve historic buildings and give them another use. If they are used commercially, they will get tax incentives. Judge Moore stated that he would be in favor. He and his wife ride their bicycles along Route 8 and he believes this would be a great asset for that part of the county, which is scenic and beautiful. He stated that the biggest challenge would probably be everyone flocking there and it getting too busy. Mr. Clare stated that it is the 250th anniversary of Mary Ingalls and that is the way she escaped from Big Bone. He would like to dedicate this as the Mary Ingalls Trail. Judge Moore stated that there is an application now to ISTEA for the community of Burlington for \$342,000 to replace old sidewalks, and it can also be used for historic signage and streetlights. The governor will be announcing the recipients of this year's ISTEA money in two or three weeks. He has been lobbying and feels good about our chances. It will be the first ISTEA money we have gotten in the six years he has been here. Mr. Clare stated that the next round of awards will be called SAFTEA and they still have a lot of money available. Even if you are an ISTEA recipient, you are eligible for SAFTEA. Judge Moore stated that he believes you have to finish the first one before you get another one. He stated that Congress adjourned without approving SAFTEA and it will not happen until after the first of the year, which gives us time to get applications in. SAFTEA will last six years and there will be an annual application to the state for those grants. The state Transportation Department decides who gets those awards. Mr. Clare stated that we are a Preserve America community and have National Trust backing, the

Ohio Scenic River Valley Byway, and even the Farmland Trust is interested – it could even be off the road, which is where the Farmland Trust comes in -- and that funding is available. Judge Moore stated that everyone is competing for roads and trails, but if you get designations such as scenic byway, Preserve America, and historic preservation, you are in different pots of money -- the competition is less and you are more likely to get funds. He stated that he may attend this Board's meetings from time to time to know better what the Board is working on and let the Board know some of the things Fiscal Court is working on. Judge Moore left the meeting at this time.

- C. Preservation Priorities Fall Newsletter** Mr. Becher stated that the Newsletter will go out in early November. It will probably just be four pages. The county is paying for copies of the brochure he and Bob Jonas put together which has all the events for Christmas weekend and it will be inserted in the Newsletter. They looked at distributing it through The Boone County Recorder but the cost was too high. Ms. Striker stated that the library will also distribute the brochure. Mr. Geohegan stated that Matt Becher and Bob Jonas did a great job on the brochure. Mr. Becher stated that the Old Clerk's Building will be in use as a display area for a wreath auction, but he will make the brochure available in the building.

There being no further business to come before the Board, Mr. Clare moved to adjourn. Ms. Striker seconded the motion and it was approved by all. The meeting adjourned at 6:54 PM. The next meeting of The Historic Preservation Review Board will be on November 11, 2004 at 5 PM in the Old Clerk's Building behind the Administration Building.

Respectfully submitted,

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Jan Hancock, Recording Secretary

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Matt Becher, Rural/Open Space Planner  
Boone County Planning Commission

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Pat Fox, Chairperson  
Historic Preservation Review Board

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Date