

**APRIL 4, 2005 THE 1<sup>st</sup> DAY OF  
THE APRIL ADJOURNED TERM**

The County Commission met in the Associate Circuit II Courtroom at 9:06 a.m. pursuant to adjourn with Chuck Pennel, Presiding, Ron Herschend, Western District, and Danny Strahan, Eastern District present. The following proceedings were had and made a matter of record.

The prayer was led by Danny Strahan followed by the pledge.

**ACCOUNTS ALLOWED**

Commissioner Strahan made a motion to approve accounts payable warrants # 88410 through 88551 and manual warrant # 4326. Commission Pennel seconded the motion. Motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

**DIAMOND HILL COURT  
ROAD PETITION**

Commissioner Herschend read a petition to establish Diamond Hill Court as a county road. The following description was read: Diamond Hill Court a public road, 40 ft width as per recorded Platte of Riverside Estates blocks A, B, C, D, and is 186 ft in length with an 80 ft Cul-de-sac in Section 13, Township 22 North, Range 22 West. Herschend then read the recommendation of the county engineer saying that a water valve needs to be cut down and taken in as a Class 5 until work be done making it a Class 3.

Commissioner Herschend made a motion to accept Diamond Hill Court as a Class 5 road. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

**SCHOOLHOUSE ROAD**

It was decided that Commissioner Herschend will write the Harding's a letter regarding Schoolhouse Road and the issue was scheduled for discussion on April 25, 2005.

**AMENDMENT TO ANIMAL CONTROL ORDINANCE**

Presiding Commissioner Pennel addressed the Commission in regards to an amendment to the animal control ordinance. Pennel went on to read a proposed code given to him by Jim Berry that was drafted about animal control by the State Health Department. Pennel suggested the Commission amend the Animal Control Ordinance with Section 5 (vicious dogs) of the proposed code to require any owners of vicious dogs to confine their animal in a kennel or in their homes.

Commissioner Herschend suggested the Commission adopt it but invite public comment in two weeks, April 18, 2005, on the issue.

Bob Paulson, County Counselor, stated that the code was well written but suggested the Commission specify the definition of a vicious dog before taking public comment at the April 18, 2005 meeting.

### **COURTHOUSE ENTRANCE TRESSA LUTTRELL**

Tressa Luttrell, Administrator, suggested the Commission notify the public as to the entrance of the Courthouse being changed.

Commissioner Herschend suggested that he and Luttrell get together and make an equipment list along with Jimmie Russell in order to send her out to do a bid.

Commissioner Pennel stated that an elected officials meeting was held last week and there was a positive response to making one entrance to the County Courthouse.

The Commission scheduled a work session for the following day to further discuss plans for the new entrance to the Courthouse.

### **MONTHLY BUDGET REPORT RICK FINDLEY**

Rick Findley, Auditor, stated that he has the monthly budget report and has turned it over to Donna Neeley, County Clerk, to go over a few issues. Findley will e-mail the rest to the Commission later in the week.

### **PRIOR MINUTES**

Commissioner Strahan made a motion to approve as amended the minutes from April 1, March 30, 29, 28, 24, 23, 21, 10, 9, and 3. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

### **BRANSON MEADOWS TIF**

Commissioner Herschend asked for clarification as to what Rick Findley, Auditor needs to do with the Branson Meadows TIF.

Commissioner Pennel suggested the Commission set up a work session with Branson to discuss this issue.

It was decided that Rick will draft an e-mail explaining that if Branson want to pursue the issue further a work session will be set. Findley will submit the e-mail to the Commission for approval before sending it to Branson.

## **COUNTY CLEAN UP**

Presiding Commissioner Pennel reminded everyone about the up-coming county clean up and stated he would like to use Road and Bridge funds to hire someone to oversee prisoners in the county road cleanup.

Commissioner Herschend made a motion to direct Dan Ratermann to write a job description of the overseer so the Commission can proceed.

The Commission decided that Bob Paulson, Counselor, will look into legal issues involving prisoners on the side of the road and if state roads are included in that or not.

Tressa Luttrell, Administrator, asked what the overseer would do in the winter when there would be no county clean up. Pennel suggested that it be a seasonal job.

Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

## **PUBLIC COMMENT BRENT BLEVINS & RON HOUSEMAN**

Brent Blevins asked if the Commission would listen to Ron Houseman about a situation concerning a special road district and the Commission agreed.

Ron Houseman addressed the Commission based on advice of past commissioners about a road that had previously been taken in by the County Commission. Houseman stated that according to the minutes on record at the County Clerk's Office on February 13, 1979 a petition was presented to dissolve the Forsyth Special Road District in charge of taking in the road. May 21, 1979 the County Court transferred all of the funds from the district and all the equipment into the ownership of the County Court Judges (now the County Commission). Houseman went on to explain that the road has been barricaded and suggested the Commission write a letter requesting that the road be opened.

Commissioner Herschend stated that he had spoken to the property owner and asked if she would open the road, which she agreed to but never followed through.

Bob Paulson, County Counselor, expressed a concern that if the Commission takes down the gate and it is not a county road they would suffer the consequences. Ron Houseman mentioned likewise if someone was to get injured climbing the fence and it was a county road the County would be liable.

Commissioner Strahan suggested having the Prosecutor write a letter to the property owner officially requesting that she open the gate. Strahan stated that in the past the prosecutor has opened the road with the Presiding Commissioner.

John Simperts, Staff Writer Branson Daily Independent, asked if this discussion was on the agenda and stated it was unfair to make a decision without having the other party present.

Commissioner Strahan reminded Simperts that this was public comment and stated that the party has been contacted and notified about the situation by the Commission.

Commissioner Pennel asked Bob Paulson to write a letter to the individual explaining the situation of this issue and suggested that a meeting be scheduled next Wednesday giving the involved parties an opportunity to come in and discuss the issue.

### **SHEILA WYATT**

Sheila Wyatt, Collector, acknowledged that on the 2002 personal property tax there are 53 abatements, which the law requires her to present to the Commission, that will be taken to the Personal Property Department to write and she asked to be notified when they have been abated.

Ordered that the Commission recess.

**Reconvened  
10:33 am**

### **FINNIS KEYS CONDEMNATION**

Commissioner Herschend addressed the Commission in regards to the engineering and design of storm water treatment that has been underway for several weeks. Herschend stated that Finnis Keyes shared at a previous meeting that he had some question on whether or not the Commission had done what they needed to in regards to the request to go to condemnation. Herschend explained he wanted to reiterate the desire to move forward with the process and publicly review the request for condemnation.

Dan Ratermann, Road & Bridge Engineer, gave a brief summary of the counties involvement with the water drainage and treatment project explaining that flooding had occurred in various political subdivisions. Ratermann stated the county hired Great River Engineers to help with the project.

Spencer Jones, Great River Engineer, explained why the portion in question is important to the project. Jones stated "the problem that we have is that there is a large drainage area upstream of the sub-division that drains across the properties that are on the north and east boundary lines of the sub-division. The off-side area consists of about 20 acres, 8 of those acres will be served by a collection system north of the property, and the remaining 12 is served by the east collection system." Jones went on to explain that the goal is to catch the water before it gets to those properties and put it into an adequate

storm system so it can be carried through storm pipes to discharge at Hwy 76. Jones proposed building a 2 ft earth berm to catch the water designed for a 100-year flood.

Finnis Keys, a representative of one of the properties, had some questions concerning this issue and a general discussion ensued.

Commissioner Pennel requested that Finnis Keys write down his concerns, the price he wants, and other questions or comments he has and submit them to the Commission in writing so they can discuss them and work them all out. Keys stated that he would submit his concerns to the Commission after the appraisal of his property.

Commissioner Herschend clarified that the Commission as a whole want to go forward with this project.

### **GOOSEBERRY COURT**

Dan Ratermann, Road & Bridge Engineer, stated that he went out to look at Gooseberry Court and it needs to be cut down 5 to 7 ft. Ratermann estimated that the cost of this project would be \$175,000 to \$200,000 because there is a water and sewer line in the hill that would have to be moved. He proposed another solution to construct another road back in the property and make it one-way, which would mean you come in on Gooseberry and come out on another road.

Commissioner Strahan asked Ratermann to find out who owns the property in which the new road would be built.

Commissioner Herschend made a motion to table Gooseberry Court until Dan Ratermann talks to the property owner. Commissioner Pennel seconded the motion: Pennel (yes), Herschend, (yes), Strahan (yes).

### **RECESS**

Commissioner Herschend made a motion to recess. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Ordered that the Commission recess.

Minutes taken and typed by: Hillary Bargman