

**DECEMBER 12, 2005 THE 19TH DAY
OF THE OCTOBER ADJOURN TERM**

The County Commission met in Associate II Circuit Courtroom at 9:01 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 Sally Catlett followed by the pledge.

**ROAD PETITION
HILLMAN/THISLE ROAD**

Louis Goebel Jr. addressed the Commission regarding a letter that was sent out describing a different road than the one he petitioned. Goebel explained that the petition he received stated that he wanted to establish Thisle Road as a county road however, he was just asking for a public right of way to Hillman Drive instead. Goebel clarified that he does not want the county to maintain the road; just open it has a public right of way.

Commissioner Herschend explained to Goebel that his request is difficult because he is asking that the county establish a public road in the middle of another non-county road. Goebel clarified that he is just asking for one section of the road to be open for public access. Goebel asked if a non-public roads needs to have connecting access points?

Bob Paulson, County Counselor answered that there can't be a public road that nobody can get to, there has to be a way to get to the road.

Louis Goebel showed the Commission on the map the section of land he is requesting to be made into a public road and explained that it is just one section on the eastern most part of the road. A general discussion ensued.

Bob Paulson stated that just because a road is dedicated to the public doesn't mean it is a public road. Commissioner Strahan asked about the statute that says if the public uses a road for an amount of time it becomes a public road? Paulson responded that in RSMo 228.190 it states, "...all roads that have been used as such by the public for ten years continuously...shall be deemed legally established roads." Paulson added that he is not sure if it applies to a platted subdivision, explaining either the road is taken in or it is left for a court to decide whether it is a public road or not. A general discussion ensued.

Randy Haes, Road and Bridge commented that he could not drive the road because there were stumps dumped in middle of it but the road seemed otherwise passable.

Commissioner Herschend read a remonstrance to this petition stating that 12 registered and 11 non-registered voters signed to stop the action of opening the road for public access, stating that the road has never been open to the public.

Nancy Hawk presented the Commission with pictures and documents of the road. Hawk stated that when the public uses the road, there is always trash thrown everywhere. Hawk added that there are no houses along the road and it would be wasteful for the county to come in and spend money taking in the road. Hawk also pointed out that there was some confusion as to where the road is actually located.

Commissioner Herschend explained that Goebel just wants to be able to access his lot on the platted road and expressed a concern about stopping a property owner from having access to the road. A general discussion ensued.

Presiding Commissioner Pennel stated that he understands the concern about not wanting trash dumped on the road however, is not sure whether it is the Commissions place to declare it a road or not. Hawk clarified that no one in the subdivision denies that it is a platted road and that no one is denied access for walking on it however, feels that the county should improve other roads that have people living on them.

Commissioner Herschend made a motion to table this for 30 days and to ask Mr. James Negly to clear everything that he has placed on the road that prevents property owners from traveling on the road and in the event that the subdivision is not used by all owners, then the county will proceed accordingly. Herschend added that the property owners are due access because they have purchased land.

Commissioner Strahan added that the question about where the road is located needed to be straightened out with 911 in case of an emergency in the area. Commissioner Strahan seconded the motion to table the petition. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

CLEARWATER DRIVE ADDITION

Presiding Commissioner Pennel stated that the petition for Clearwater Drive was tabled on September 19, 2005 and he has now looked at the road. Commissioner Pennel made a motion to take in Clearwater Drive for county maintenance. Pennel added that it looks like its been asphalted twice and the county has maintained it all the way down to Corp property. The motion died for the lack of a second

Randy Haes explained that his report claims there are three dwellings however, only two of them actually have access off of Clearwater Drive.

Commissioner Herschend clarified that only one house is being served by the road and one dock. Herschend explained that the county used to carry permits for public access to docks but stopped because of the Corp fees and added that to access a dock for a subdivision concerns him.

Commissioner Pennel stated that the county has maintained the road for sometime and the expectation is there. Pennel added that they are only talking about maintaining 25% of the road and asked if we should just maintain it down to the Corp land. Commissioner Herschend stated that they would be doing that for one home with only a 15 feet road surface.

Norman Van Liew addressed the Commission stating that this has been going on for a long time and that the people who bought property along Clearwater Drive were under the assumption that it is a county road and would be maintained by the county. Liew added that the dock situation is not a part of the petition and that the road is used by everybody in subdivision to go to lake. Liew explained that the county has maintained the road for years. Liew asked about the statute that says if the county maintains something for a certain number of years then it becomes a county road? A general discussion ensued.

Commissioner Strahan stated that the county tries to keep as much lake access open as possible however; they have no control over Corp property. Strahan added that he doesn't the county can maintain it without Corp permission.

Commissioner Herschend made a motion to take in the portion of Clearwater Drive from the intersection to the driveway of residents as a Class 6, with no snow removal, maintained at its current width. The motion died for the lack of a second.

Commissioner Pennel stated he his hesitant about snow removal because there is not a turnaround unless they put it on Corp land. Commissioner Strahan suggested finding someone who would give property for a turnaround.

Commissioner Pennel made a motion to table this issue and talk to the Corp to see if a turnaround can be established. Commissioner Herschend seconded the motion to table. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Note: The Commission plans to get back to this by end of the year.

AGENDA RE-ADJUSTMENT

Commissioner Herschend made a motion to re-adjust the agenda to move Hospital Road up so Bob Simmons could address the Commission instead of having to wait until 10:00 a.m. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

HOSPITAL ROAD BOB SIMMONS

Bob Simmons addressed the Commission regarding a new Hospital road on behalf of Skaggs Hospital. Simmons explained that they have been discussing an

alternative access to the hospital due to the estimated increase in traffic when Branson Landing is finished. Simmons stated they should be seeing more concentrated traffic in the area, which could potentially cause difficulty getting emergency vehicles to Skaggs Hospital. Simmons presented the Commission with a map of the proposed road.

Bob Phillipps, Skaggs CEO explained that this would allow a second access to the hospital off of Epps Road. Phillipps stated that they will be putting in a new orthopedic surgery building and this would give access to the local community. Phillips added that if a disaster happens downtown there would be access to the hospital.

David Miller stated that with engineering they estimate this project will cost \$2.27 million total, which includes a right of way for two lanes.

Presiding Commissioner Pennel asked about the intersection at K Hill? Miller responded that it would be a one-way T intersection from the north.

Commissioner Herschend asked if anyone has talked to state about doing an emergency vehicle interchange? Miller answered that the state said “no” because of certain clearances and sight distance regulations. Herschend then asked if putting a bridge right off of Roark would save money? Miller explained that a bridge would be more expensive. Herschend then suggested going through Branson North and purchasing homes to punch through to the hospital. A general discussion ensued.

Commissioner Strahan stated that the requirement of an easement is the main thing of interest to lower the cost of the project. Terry Dody, City of Branson stated that they have met and are willing to recommend that Planning and Zoning get the easement. Dody then suggested that the Commission contact Sandra and Cookie to see if it can be acquired. Commissioner Herschend asked Dody, if this were built in joint venture, would the City of Branson take over the maintenance? Dody answered that the project would be in the City of Branson they would maintain it, unless the county wants to maintain the road.

Commissioner Herschend then asked what the timetable would be for the reimbursement schedule? Dody answered that there is a list of prioritized projects including a master transportation plan and since this is not yet on the list, it would be 10 to 15 years before the city could reimburse the county.

Commissioner Strahan stated he is interesting in providing services but doesn't know where the county will be until more specific figures are presented.

Commissioner Herschend asked, if the county were to say they could get this project done for \$2 million, would the city be able to pay the county back within five or six years? Dody stated that he feels confident the project will be less than \$2 million and if that were the case then “yes” it is possible but he does not want to say for sure. A general discussion ensued.

Commissioner Herschend stated that he would be looking at a split with helping financially and doing construction. Herschend also suggested putting Commissioner Strahan on a committee for further planning. Herschend added that he feels this is a community project.

Commissioner Strahan suggested also looking into grant possibilities through the Ambulance District and stated he would like some figures. A general discussion ensued.

It was decided that a work session would be scheduled in 30 days to further discuss these issues.

Dick Clark stated that it would be more appropriate for Branson Landing, the state, and the City of Branson to fund this project. Commissioner Pennel responded that the state is not in on this.

Donna Neeley, County Clerk posed the question, if this project were so important why wouldn't they move it up on their master plan.

Art Beck expressed that it sounds like the hospital is trying to get a road put in for there future development and that the state would corporate with them if it was put to a vote of the people. Commissioner Pennel stated that they have tried working with the state several times. A general discussion ensued. No motions were made and no votes taken.

SEWER BOARD APPOINTMENT

Presiding Commissioner Pennel stated that the appointment for sewer board is coming up at the end of the year

Commissioner Herschend stated he has a sense of what the appointment would be however, is not in concurrence at this point. Herschend added that they have asked Larry Van Gilder to be in a continuous position whether with his employer or not. Herschend requested a work session be scheduled by Wednesday to review the positions for the board members. No motions were made and no votes were taken.

RIVERBEND WATER EXTENSION

Randy Haes, Road and Bridge presented the Commission with plans to put in a pipe to extend Riverbend. Commissioner Pennel stated that he visited with Dave Stewart who does not have problem with it has long as the Department of Natural Resources approves the plans. Haes further stated that he is going to do the extending himself as far as permits and that there will be no crossings on the existing road. Haes added that future improvements would be discussed at a late time. Haes stated that water lines go up both sides of the road that the county will be responsible for not hitting.

Commissioner Strahan expressed a concerned about Haes working on easements when there are water lines involved. A general discussion ensued.

Commissioner Herschend made a motion to deny the request as presented. Commissioner Strahan seconded the motion to deny. The motion passed by vote: Pennel (no), Herschend (yes), Strahan (yes).

BUDGETS

Commissioner Herschend stated that he received notification on purchase requisition request from the Auditor that some accounts were over budgeted. Herschend added that some elected officials were not clear on their budgets and recommended the Commission request the budget officer to meet quarterly to discuss budgets line item by line item. Commissioner Strahan expressed that he would be more comfortable meeting on a semi annual basis in the interest of being time wise.

Rick Findley, Auditor explained that each department head receives a report whether they request it or not and that he usually makes everyone aware of expenditures outside of line items. Findley added that time wise it is not as feasible to meet quarterly as it is to meet semi annually. Herschend stated that he feels they ought to be working with elected officials in July to catch the problem early rather than having someone be over budget. Findley explained that he tries to send reports monthly.

Commissioner Herschend stated that today and tomorrow he would like to sit and discuss this years expense because the county may be deficit spending this year and he would like for the commission to understand that. No motion were made and no votes taken.

ENGINEERING SERVICES AGREEMENT VENICE ON THE LAKE AND OZARK BEACH

John Soutee, Sewer District Administrator addressed the Commission regarding a contract from Great River Engineering for a plant study facility for Ozark Beach. Soutee explained that it has been reviewed and approved by the Sewer Board and now awaits the signatures of the Commissioners. Soutee stated that the amount is \$68, 700 dollars plus an addition \$13,000 dollars for a fly over which would provide information that could be used on the GIS.

Commissioner Herschend made a motion to approve the agreement and funding payment as approved by the Sewer Board. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

ROCKAWAY BEACH WATER SYSTEM

John Soutee stated that he met with the City of Rockaway Beach and got a better understanding of their situation with trying to improve the water system. Soutee explained that they are still in debt and that their current system was built in the 80's.

Commissioner Herschend explained that regional assets were taken from the Rockaway Beach plant but values were never assigned to municipalities. Herschend further explained that they continue to have to pay to the benefit of everyone using the tower. Herschend expressed that he feels there is some responsibility to reimburse them out of the fees and treatment income received from wastewater facilities. No motions were made and no votes were taken.

TITLE III MONIES

Donna Neeley, County Clerk stated that she received a letter from Mark Ramsey, Protem Fire Protection District in regards to Title III Monies. Neeley asked the Commission if they want an invoice or report from the entities applying for Title III Monies. Commissioner Strahan stated a list would be appropriate

PRIOR MINUTES

Commissioner Herschend made a motion to approve minutes from December 5, 2005. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

ACCOUNTS ALLOWED

Commissioner Pennel made a motion to approve accounts payable warrants # 92293-92394 and manual warrant # 4428. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

TIF COMMISSION

Presiding Commissioner Pennel stated the Commission that needs to decide on the Branson Hills TIF Commission.

Commissioner Herschend made a motion for Gary Groman and Presiding Commissioner Chuck Pennel to continue serving on the TIF Commission. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (abstain), Herschend (yes), Strahan (yes).

BOARD OF EQUALIZATION

Donna Neeley, County Clerk stated that the Commission needs to determine what members to put on the Board of Equalization for 2006.

Commissioner Herschend made a motion to continue as a Commission and Assessor serving on the Board of Equalization for 2006. Commissioner Strahan seconded the motion. The motion passed by vote: 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).

RECONVENE

The County Commission met in County Commission Office at 4:20 p.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.

VACATION TIME EILEEN COOPER

Commissioner Pennel made a motion to carry over Eileen Cooper's vacation time into 2006. Commissioner Herschend seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

ACCOUNTS ALLOWED

Commissioner Herschend made a motion to approve the payment of accounts payable manual warrant #4299. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).