

**MAY 19, 2008 23rd DAY OF
THE APRIL ADJOURNED TERM**

The County Commission met in the Associate Circuit Courtroom at 10:02 a.m. pursuant to adjourn with all members present and the following proceedings were had and made a matter of record.

Prayer was led by Commissioner Pennel followed by the pledge.

ACCOUNTS ALLOWED

Commissioner Strahan made a motion to approve accounts payable warrants #303717-3037724 and 303748-303830. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (abstain), Strahan (yes).

ALS BAKE SALES

Commissioner Herschend made a motion to approve the ALS Team to hold a Bake Sale in the courthouse hallway. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

PETITION FOR INCORPORATION OF VILLAGE

Commissioner Pennel commented that a Petition for Incorporation of Village of Powersite Oak Hill was delivered to the Commission Office on Friday, May 16th by Donna Neeley, County Clerk. Clerk Neeley stated that all signatures on the petition have been verified.

Commissioner Pennel asked Counselor Paulson if he had any comments regarding the Petition. Counselor Paulson stated that he would need to review the petition.

Commissioner Herschend made a motion to table the request for the Petition for Incorporation of the Village of Powersite, requesting that the Commission schedule a work session to discuss what level of legal review we would like to have. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

**COMMISSIONER STRAHAN
ADDRESSING MR. SMITH'S CONCERN ABOUT SHERIFF'S DEPARTMENT
SALARIES**

Commissioner Strahan stated that Mr. Smith commented about salary increases for the Sheriff's Department at last weeks meeting and added that the Commission agreed with and supported a per diem factor of \$37.50. Commissioner Strahan stated that he has a call into our State Representative, Dennis Wood to see if there has been any new legislation passed regarding this issue

Commissioner Pennel commented that when he attended the Legislative Partnership Conference in Jefferson City last week, the consensus was to bring in more dollars for the Sheriff's Department.

COUNSELOR PAULSON NUISANCE/FILING FEE

Counselor Paulson requested approval for a filing fee on a nuisance case, along with service fees. He stated that he needed two \$35.00 checks for service fees and one \$90.00 check for the filing fee. Counselor Paulson commented that this particular nuisance case has been ongoing for quite some time.

Commissioner Herschend made a motion to approve fees to move forward with this case. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

COUNTY FUNDING TREATMENT OF INJURED ANIMALS

Counselor Paulson stated that he was asked by the Commission to give a legal opinion on whether or not it was legal for the county to pick up and/or care for injured animals. He stated that the county has a dog ordinance that was passed and the statutes permit us to do that for the health and safety of the county. Counselor Paulson commented that his legal opinion was that there is no law stating otherwise.

Commissioner Pennel referred back to a meeting that was held between the Commission and the Humane Society, adding that at the meeting there were four individual offers made of \$500 each to help care for the animals. Commissioner Pennel proposed to move forward with the issue.

Commissioner Herschend made a motion to deny because the county should not accept private funds for the care of injured animals. Commissioner Strahan did not second, but noted that the issue is much deeper than the offer, rather there needs to be a level of cooperation from all parties involved for the treatment of animals.

Commissioner Herschend stated that he was informed that there was a Humane Society donation jar set on the table at the Plumb Nellie Days, which Animal Control Employees, in uniform, were working at. He also noted that it confused the public. Commissioner Pennel stated that he was present at the Plumb Nellie Days and that it was not there. Commissioner Strahan commented that he received a telephone call from a couple of citizens asking about the Humane Society donation jar.

Commissioner Pennel made a motion to table this issue until a work session could be scheduled. Commissioner Herschend seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

**COUNSELOR PAULSON
RESPONSE TO DISCUSSION PARTICIPATION QUESTION**

Counselor Paulson stated that he was asked by the Commission to give his legal opinion to a question raised by Mr. Schanz. He responded in the form of a letter and it read as follows:

I was asked to respond in writing to the question you posed at the County Commission meeting on Monday, May 12, 2008. The question as I remember was substantially the following:

Is it legal/ethical for a County Commissioner accused of nepotism relating to the operation of Taney County's Animal Control Department to participate in discussions regarding the charges and in discussions regarding animal control?

After reviewing applicable statutes and cases I can find no statutory or ethical provision that prevents Presiding Commissioner Pennel from participating in discussions regarding the nepotism charges against him or from discussing animal control issues.

I have found no authority for the County Commission to take any action regarding the allegations of nepotism. I believe that the specific allegations have been discussed enough, and the matter should be left to those with authority to act. The only relevance the allegations have to the County Commission is as motivation to review the county's hiring practices, including the use of volunteers in order to prevent the occurrence of nepotism or discriminatory hiring or appointment practices in the county.

In conclusion, it is not productive for anyone to discuss the specific nepotism allegations in a county commission meeting, however Commissioner Pennel may participate in any such discussion that does occur. Further, Commissioner Pennel has a duty to participate in debate and actions regarding county business such as the operation of animal control, unless he has some conflict of interest on a specific issue.

I hope you find this helpful. If you have any questions, please do not hesitate to call.

Commissioner Herschend thanked Counselor Paulson for his opinion.

**JAMES STRAHAN, COUNTY ASSESSOR
CLOSING OF THE BOOK FOR 2008**

James Strahan, County Assessor reported to the Commission that he had turned over the 2008 Book to the County Clerk's Office on May 15th, per statute, where she placed her seal.

**JAMES STRAHAN, COUNTY ASSESSOR
REPORT ON HOUSING FOR NEW CONSTRUCTION**

James Strahan, County Assessor reported to the Commission that he had turned over the New Construction Report to the County Clerk's Office on May 16th, per statute, where she placed her seal.

Assessor Strahan stated that inside the book are some points of interest that he thought the Commission would want to know. The points of interest are as follows:

- Taney County's housing industry is suffering
- Institutionally owned housing in 2006, was 58
- Institutionally owned housing in 2007, was 124
- Predicting the numbers of institutionally owned housing to at least double in 2008
- Reduced pricing
- 6.73% increase, which attributed to the Branson Landing Project, Hilton & Retail Space/Condos
- In 2007 there was a 4.88% increase
- A certain School District took a huge decrease in Personal Property
- The housing community has taken a huge hit in Taney County

Assessor Strahan commented how appreciative he was to all the staff and the IS Department for all their hard work.

**FRANK PRESTON,
ROAD AND BRIDGE SUPERINTENDENT**

Frank Preston, Road and Bridge Superintendent, publicly commended Chris Berndt, Emergency Management Director, for all his efforts during the flood.

PUBLIC COMMENT

Bob Schanz commented on the donation cup for Humane Society at the Animal Control booth. Commissioner Pennel stated that he would be happy to answer any of Mr. Schanz's questions in the Commission Office after the meeting.

Art Beck stated that he noticed a problem with the curbing on the southeast corner of the Judicial Center and asked who was going to be responsible.

EXECUTIVE SESSION

Commissioner Herschend made a motion to go into an Emergency Executive Session for threatened litigation per section 610.021.1. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Commissioner Herschend made a motion to table till the county could get to a phone to contact the individual. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Commissioner Strahan made a motion to go out of executive session. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Minutes taken and typed by Nikki Lawrence.

RECONVENE

2:30 p.m.

Commissioner Herschend made a motion to go into executive session pursuant to RSMo. 610.021.1 in order to communicate the Commission's decision to the appropriate individual citizen. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

Commissioner Herschend moved that he would be comfortable in ordering 20 tons of 1" clean from Tablerock Asphalt upon receiving a copy of Mr. Mike Sagato's original receipt and that Mr. Sagato is responsible for the delivery costs. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (no).

Commissioner Herschend made a motion to go out of executive session. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

FRANK PRESTON & TRESSA LUTTRELL WORK SESSION

Frank Preston, Road Superintendent and Tressa Luttrell, County Administrator met with the Commission to discuss various issues.

1. Judicial Facility: Ms. Luttrell informed the Commission that she was almost finished with the furniture bids for the new Judicial Facility and would ask permission to allow County Counsel to review prior to sending them out since there are a lot of legal issues included in the invitation. The County Commission noted that it would be fine and asked about a time line. Ms. Luttrell stated that as soon as she was completely finished she would let them know and give a time line at that time. Ms. Luttrell further added that she had already spoken with Counselor Paulson and he was aware that she was bringing it to the Commission.

Mike Smith, Construction Manager informed the Commission that the bids for the interior signs had been received and that the "Takeform" brand will be 12 weeks out.

Mr. Preston informed the Commission that there was 1,200 pair of line for the telephone that would need to be moved for Shorty Cooper Street. Mr. Preston noted that he had received an estimated cost of \$15,000 to have those lines moved. Mr. Smith stated there was also a fiber line right above the telephone line and suggested that if there was any way for the county to move the contours of the road it would greatly benefit the county. Mr. Preston stated that he would look at the layout of the road again.

2. Mowing: Mr. Preston noted that there had been several minor incidents with the mowing crews, so he would be creating mowing maps that would show sharp

drop offs or things that are covered up in the tall grass. Mr. Preston added that this would ensure that the mowing crew would have all the facts.

3. Fox Trail Road: Mr. Preston indicated that all property owners have been accounted for and are in agreement of the new maintenance plan.

Commissioner Herschend made a motion to proceed with Fox Trail Road. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

4. New Sweeper: Mr. Preston informed the Commission that the new Sweeper had been delivered and that he would like for 3 operators and a mechanic to be trained on the machine. The training will not cost the county anything but noted that it was in Iowa. Mr. Preston added that his intention was to send one each from the East, West, and the Work Order Crew as well as a mechanic.

Commissioner Strahan made a motion to send 2 from the west side, 1 east, 1 work order and a mechanic. Commissioner Herschend asked why they would send someone from the work order crew. Mr. Preston noted that crew is working Fridays. Commissioner Herschend noted that he would like for Mr. Preston to look at longevity before making a decision on who would be going. Commissioner Pennel asked about sending a mechanic on each side. Commissioner Herschend seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes). Commissioner Herschend noted that the Commission should be informed of who would be going and when.

5. Cemetery Roads: Mr. Preston requested direction as to whether the county does any prep work on cemetery roads since the Memorial Weekend was approaching. Commissioner Strahan noted they previously had been doing the roads to the cemeteries.

Commissioner Herschend made a motion that the county identify the active cemeteries in the county and ensure that the public can get to them with minimal maintenance; county or private. Commissioner Pennel questioned the term "active". Commissioner Herschend suggested that a list be compiled. Commissioner Strahan again noted that the road & bridge employees know what ones have been done. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

6. Various Road updates: Mr. Preston gave the Commission updates on various road projects within the County. One being Nolan Road. Commissioner Herschend questioned that that road hadn't been done yet and added that Steve Redford had promised to get that road finished.

Mr. Preston commented that on Clevenger Cove Road there is a property owner where the existing edge of the pavement is cutting into their property. Commissioner Herschend noted that he would go look at the property with Mr. Preston.

Commissioner Herschend inquired to Range Road. Mr. Preston noted that they had not been able to get out there yet. Commissioner Herschend stated that he would personally be going out there to cut the fence out for 20 feet and roll it up to allow the property owner to have access to his property.

Commissioner Herschend noted that there are 4-5 families on Foggy River Road that have smelly sandbags that need to be disposed of. Mr. Preston asked if they should be going on private property to remove them. Commissioner Herschend noted that he would like for it to be done this week. Mr. Preston stated that he would need a hold harmless document prepared. Counselor Paulson noted that he would have it available tomorrow as Mr. Preston had reminded him a few times.

RECESS

5:03 p.m.

Minutes taken and typed by Tressa Luttrell.