

**JULY 14, 2008 5th DAY OF
THE JULY ADJOURNED TERM**

The County Commission met in the Associate Circuit Courtroom at 9:04 a.m. pursuant to adjourn with Commissioner Pennel and Commissioner Strahan present and the following proceedings were had and made a matter of record.

Prayer was led by Helen Souttee followed by the pledge.

ACCOUNTS ALLOWED

Commissioner Strahan made a motion to approve accounts payable warrants #304639-304740 and manual warrant #4859-4860 and 4863. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

PRIOR MINUTES

Commissioner Pennel made a motion to approve prior Commission Minutes dated 6/30/08, 7/1/08, 7/2/08, 7/3/08, 7/7/08, 7/8/08 and 7/9/08 with minor changes. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

SHADY LANE ROAD PETITION

Mr. Preston, Road and Bridge Superintendent, stated that due to the recent weather conditions, Shady Lane has not been reviewed. Commissioner Pennel read Shady Lane Road Petition into the record and it read as follows:

Petition for Establishment Change or Relocation of Public Road located in Big Creek Township and described as Section 11, Township 21N, and Range 17W.

Commissioner Pennel made a motion to table Shady Lane Road Petition. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

Commissioner Pennel commented that hopefully the Commission will be able to look at this next week.

BLANSIT ROAD

Commissioner Pennel stated that the issue at hand was brought to his attention by Ms. Carol Orr, with a request to close Blansit Road. He had communicated to Ms. Orr there had to be a public hearing to allow residents to voice their opinion. Commissioner Pennel noted that he received a call from the property owner at the end of the road, who owns 370 acres, and he is not in favor of closing the road because that would leave him no access to his property.

Commissioner Strahan commented that there were an equal number of people that are for and against this action.

Ms. Carol Orr stated her reasons for wanting Blansit Road closed are as follows:

- trespassing
- fences damaged
- creek bank damaged
- shooting guns
- too much traffic

She also stated that if the road was vacated, it would stop all of the traffic going down to the creek, which is on private property. Ms. Orr also noted that there is a compromise to this problem.

Commissioner Pennel asked Ms. Orr if she had a compromise in mind. Ms. Orr stated she would like there to be a gate that only homeowners had a key to. Commissioner Pennel suggested a neighborhood watch program.

Commissioner Herschend entered the meeting at 9:10 a.m.

Mr. Tim Leist stated that he has used the creek for several years and has always been respectful when crossing someone's property. He also stated that he agrees with the property owners in that when some people go to the creek via private property there is no respect. Mr. Leist noted that on many occasions he has gone down and cleaned up trash and even went as far as hauling items to the Transfer Station during the county clean-up. He also commented that he is not in favor of closing the property.

Commissioner Herschend wanted to make sure that the right message is sent to public; if Blansit Road were to close, it would be to service the residents of that road and not to allow access to the creek as there are other access points that are not on private property.

Mr. Wendell Clare noted that he was not concerned about the creek, but trespassing and damaging of private property. He also stated that on the 4th of July he had trespassers on his property that tried to steal his canoe and if he would not have been there, it would have been taken. Mr. Clare is in favor of placing gate that only property owners have the key to.

Ms. Paula Moriuchi stated that she enjoys driving down Blansit Road, but there is a lot of illegal activity that occurs down there. She also noted that there has to be a solution but does not know what it should be and is unsure on closing the road.

Ms. Carol Sharp submitted a letter from her brother, to the Commission. She also commented on the illegal activity that happens by the creek and on Blansit Road. Ms. Sharp also noted that she just wants to people to stay off of her property and that she is in favor of closing the road.

Commissioner Herschend asked Sheriff Russell if there was a letter from the property owners that says that trespassers are to be charged or does the property owner need to call each time it happens. Sheriff Russell stated that would be a question for the Prosecutor.

Mr. Rex Asselin commented on violation of property rights. He also noted that he attended the meeting to be a support for his neighbors.

Ms. Anna Roberts read a letter from her mother, Patty Roberts, who was unable to attend. The letter read as follows:

I regret that I cannot personally attend this morning's meeting to hear discussion on the matter of Bull Creek access via Blansit Road in Walnut Shade. Please accept this letter as my contribution to the discussion.

For the past twelve years, our family has lived on Highway 160 at the corner of Coffee Road. Our home is located one-tenth of a mile from where Blansit Road (a.k.a. "the creek road") turns off Highway 160.

We are very thankful to live so close to Bull Creek. We like to walk and bike on the creek road, we canoe the creek and float it in inner tubes, and we often swim at "Big Rock", a swimming hole located one-half mile upstream from the Highway 160 bridge.

For as long as we have lived here, there have been issues with "outside" people who frequent the Big Rock area. Before the creek road was repaired – maybe eight or ten years ago? – people trespassed through the properties now owned by Lanes and by Ms. Orr, in order to get to the creek. The people who owned those properties at the time had to take extreme measures to prevent people from illegally accessing their land. Signs and fences were ineffective, and ultimately, large boulders had to be brought in to keep trespassers out.

My understanding and observation is that once the creek road had been repaired and was being regularly maintained, visitors to Big Rock tended to use the creek road instead of the neighbors' property.

My family and I have talked over the years with numerous people we've met while swimming at Big Rock. When we ask where they live, they almost NEVER say Walnut Shade. Ozark, Springfield, Highlandville, Nixa, and Bolivar are some of the places they have mentioned, and a lot of people have told us that they have been coming to Big Rock to swim, picnic, and/or camp for many, many years. On several occasions, people at Big Rock have told me that they came there to swim as young children, and now they are bringing their own young children to their favorite swimming hole.

We realize that, unfortunately, there is a lot of unsavory activity occurring in or near our neighborhood. We suspect that SOME of the people who travel the creek road are using and/or selling drugs. We distinctly remember the car crash and death that occurred on that road a few years ago. We regret that, because of the activities of some of those who access the creek here, we must be extremely careful in allowing our children to walk or bike on the creek road or to swim at Big Rock.

Because our own property does not abut the creek or the creek road, and because we live about one-half mile from Big Rock, our family has not been directly affected by the traffic, trespassing, litter, noise, and other problems that some of our neighbors have faced. I have been told that since the creek began flooding so much this spring – denying people access via the creek road – those problems for our neighbors have gotten worse. I am very sympathetic to their concerns, and I can imagine how I would feel if I were in their positions.

In a perfect world (or a perfect Taney County), it would be nice if only nice people were allowed to use Blansit Road and the swimming hole at Big Rock. However, I really don't think such a plan could be enforced. It seems to me that either everyone must be allowed to go down there, or else everyone must be forbidden.

Our family has discussed several possible options to help reduce the problems our neighbors are experiencing, including:

1. Taney County converts Blansit Road from a public county road to a private road. Whoever owns property that abuts the creek then fences and/or posts the land as he or she sees fit and deals with trespassers personally or through legal channels. In that case, we sincerely hope our neighbors would allow our family to access the road and swimming hole.
2. Taney County continues to maintain the road, a parking area is allowed under the Highway 160 bridge, and a gate is installed across Blansit Road just past the parking area. Only pedestrian or bicycle traffic would be able to get past the gate. Out-of-area people could park under the bridge and walk the half mile to picnic, swim, or camp at Big Rock. Over time, this might discourage some of the would-be capers and party-ers.

However, as I see it, either of these options could potentially cause problems, including:

- A) If the road is not maintained (and hence not drivable) or if it is permanently blocked off, the neighbors may have the same problems they have had these past months when the road's been flooded.
- B) If people drive a long way on a hot day to swim or camp at the spot they've come to for a decade, and find that they can no longer get there, they will be angry. Angry people may be inclined to take out their anger in inappropriate ways (defacing property, violence, etc.)
- C) If the county is legally bound to provide drivable access to the property on the far side of the low water bridge at the end of Blansit Road, then either an unmaintained road or a permanent gate would be unacceptable.

In Summary, although I do not know all the ins and outs of the county laws that apply to this situation, I strongly suspect that there is not a legal way for those of us in this neighborhood to have our cake and eat it, too. That is, for the local resident – and ONLY the local resident – to have access to this stretch of Bull Creek.

I would GREATLY appreciate being informed of what the county decides to do on this matter (SASE enclosed), and I thank you for your time in reading this letter.

Sincerely,

Patricia S. Roberts

Homeowner and Registered Voter near Bull Creek in Walnut Shade

Mr. Harry Styron commented on access closure and how it would take away any access to his property. He also stated that if there is no access to the gravel bar then it would tremendously slow down on the people partying at the creek. Mr. Styron suggested putting concrete filled pipes along the road to keep people from parking on the road, which would keep from driving on private property. He also noted that if the road was closed and the road became private, the burden to maintain the road would shift to a select few and Mr. Styron. To date, Mr. Styron has not had any offers of compensation or to help share the burden.

Mr. Art Beck commented on rights as a property owner and being on the high water mark of the creek bank.

Ms. Carol Orr submitted a letter from a property owner, Mr. Vance Deitz, to the Commission, along with pictures of people trespassing on private property.

Commissioner Strahan stated that this is a very sensitive issue with him, in that he has been a lifelong resident of Taney County and has seen creek accesses closed constantly, which puts a burden on residents.

Commissioner Herschend moved for an interim solution, to put up a county maintained sign that says "Public Access at Low Water Bridge Crossing Only, All Others Are Trespassing and Subject To Prosecution", which will also be paid for by the county and to leave the road opened. In addition, he added to the motion that the Taney County Sheriff's Department would provide patrol and enforcement twice daily.

Sheriff Russell addressed a problem with Commissioner Herschend's motion; what if the individual says that they had previous permission from the landowner.

Commissioner Strahan commented that the sign would be interfering with citizens' rights and it would be setting precedence across the county for anyone to get a sign on any county road because the property owner did not want trespassers.

Commissioner Pennel read paragraph 4 from Mr. Dietz' letter, which read as follow:

Your letter requests my views on maintaining this road. If the county is to maintain the road along the stream, then it is their responsibility to work with other county officials to ensure that its use is lawful and does not result in the destruction of private property. If the county officials are unable to coordinate their actions to ensure this, then the road should be closed. An alternative would be to put a parking lot at the highway and let individuals walk-in. They would need to understand that even walking-in from the highway does not give them the right to trespass, that it should be made clear that firearms and alcohol are never allowed, and that trash must be carried out. Since some residents may need access up the stream bed, the road in question could also be gated with access only to residence who demonstrate a need to pass through to reach their property.

Motion died for lack of being seconded.

Mr. Bob Schanz commented on the signs and suggested putting up no parking signs and have the Sheriff's Department monitor the situation and if warranted, issue citations.

Commissioner Herschend left the meeting at 10:25 a.m.

Ms. Roxanne Young commented that she supports the community efforts but is opposed to closing the road. She also noted that she is not having the problems that the other property owners are having.

Commissioner Herschend re-entered the meeting at 10:28 a.m.

Ms. Young stated that she makes a continuous effort to make her presence known to others and that has seemed to cut down on the illegal activities. She commented that she would hate to see another access on Bull Creek cut off to the public.

Ms. Sue Stewart commented on the happenings at the creek and stated that the same thing was going on 30 years ago and that not everyone who goes to the creek is doing something illegal.

Mr. Styron stated that if the Commission is not going to vacate the road; then there must be an ordinance adopted. He also commented that it is not the job of the County Commission to mediate for the landowners.

Commissioner Pennel noted that he appreciated all the comments and suggestions from everyone, but states that it is not a wise decision to vacate the road. Commissioner Herschend also commented on the public hearing.

Commissioner Herschend made a motion to not go ahead to try to relocate/improve Blansit Road at this time. Commissioner Pennel stated that he does not remember discussing relocation or improvements of Blansit Road. Mr. Preston stated that this year the county has spent \$12,600 on Blansit Road. Commissioner Pennel requested from Mr. Preston that no more monies spent on this road unless directed by the entire Commission. The motion died for a lack of a second.

Commissioner Strahan publicly apologized to Ms. Orr for how he sounded and some of the comments he made, but not for the content of the issue on the telephone.

Commissioner Strahan made a motion to recess for 5 minutes. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

RECESS
11:03 a.m.

RECONVENE
11:09 a.m.

Commissioner Pennel made a motion to amend the agenda on Commissioner Herschend's behalf and move his issue first. Commissioner Herschend seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

MS. SHARON ENGELER

Commissioner Herschend asked the Commission to consider taking a piece of equipment over to Ms. Engeler's property and blading her private road. He also noted that Ms. Engeler feels that it was damaged as a result of water flow off of the county road.

Commissioner Herschend made a motion to table this issue until the Shop Talk meeting on Tuesday, July 22nd. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (yes), Strahan (yes).

COMMISSIONER HERSCHEND

Commissioner Herschend publicly wanted to clarify that there was a statement in the Taney County Times regarding K-dock that was incorrect. He stated that all homeowners and the boat dock owners have keys.

COMMISSIONER PENNEL PARKSLEY/K-DOCK

Commissioner Pennel made a motion, that on an emergency basis only during high water, to maintain the portion of the road beyond the gated emergency road to a minimum maintenance, where Parksley and Warren Road meet. Commissioner Strahan commented about petition process and how long it is taking. Commissioner Pennel has been in contact with Mr. Hansen, K-dock owner. Commissioner Herschend stated that he was not comfortable with seconding the motion. Motion died for lack of being seconded.

Commissioner Strahan made a motion to table until he could speak with Mr. Hansen. Commissioner Pennel stated that Ms. Yvonne Tucker, property owner, is currently working on completing the necessary paperwork. Commissioner Herschend seconded the motion. The motion passed by vote: Pennel (abstain), Herschend (yes), Strahan (yes).

Commissioner Herschend left the meeting at 11:30 a.m.

NUISANCE CASES

Commissioner Pennel made a motion to table Nuisance Cases until this afternoon during the Commission's Work Session. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

AMERICAN CHILDREN'S SAFETY NETWORK

Commissioner Pennel stated that in an effort to raise funds to focus on children's safety, the American Children's Safety Network is requesting to place a box in the license bureau to recycle old license plates.

Commissioner Strahan made a motion to table until this afternoon's Commission Work Session. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

EAGLE SCOUT RECOGNITION LETTER

Commissioner Pennel made a motion to send a letter of congratulations to 4 men with the Eagle Scouts. Commissioner Strahan seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

PUBLIC COMMENT

Mr. Art Beck commented on an airplane being off of the runway at the Taney County Airport. Commissioner Strahan noted that this is currently under investigation by the FAA.

RECESS
11:42 a.m.

Minutes taken and typed by Nikki Lawrence.

RECONVENE
1:00 p.m.

The County Commission reconvened in the Commission Office at 1:00 p.m. with Chuck Pennel, Presiding and Danny Strahan, Eastern Commissioner present.

BOB PAULSON **WORK SESSION**

Counselor Paulson met with the Commission to go over his work schedule for the week and to give a brief update of any legal issues. Commissioner Pennel asked Counselor Paulson to set up a work session with the Commission and Assessor Strahan to discuss the STC case and to also contact the State Tax Commission regarding the recent discussion with Jim Kyle and the request to increase by 34%.

SEPTAGON **WEEKLY UPDATE**

Mike Smith, Construction Manager for the Judicial Facility gave the Commission an update on various issues for the week.

FRANK PRESTON & TRESSA LUTTRELL **WORK SESSION**

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

1. Lakeshore Drive: Mr. Preston noted that crews have been working at Lakeshore Drive 24/7. There will be seven trucks delivering the boxes on Tuesday. Mr.

Preston added that there will be full time traffic control and two construction cranes on site. Mr. Preston noted that the crew finally caught up with the water by using some big pumps which were loaned to us by the City of Branson, the City of Hollister and SJ Louis.

2. Bee Creek: Mr. Preston commented that he had spoken with John Hooker, from the Sewer District who indicated they needed an additional two weeks before the paving project could start.
3. FEMA: Mr. Preston informed the Commission that the assessment team would be here on 7/15/08. Commissioner Strahan asked if K-Dock was going to be on the list to get help with. Mr. Preston noted that he would try to get an answer.
4. No Parking Ordinance: Mr. Preston noted that he was preparing to have the signs placed per the "No Parking Ordinance" and wanted to make sure the areas were correct. Savannah Place, Spring Meadows, Country Club Estates and Meadow Ridge/Horizon Hills
5. Study of Residential Sales: Assessor Strahan presented the Commission with a contract for a study of residential sales between Taney County and Gary Coleman, MAI.

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

6. Lakeshore Drive: Mr. Preston discussed the box flair ends for the Lakeshore Drive Bridge noting that there are three options: Bid it out to bid, look at building it locally or for the concrete crew to build them at a cost of \$22,000 to \$26,000. Mr. Preston noted that he would do some further research and speak with Spencer Jones from Great River Engineering.

RECESS

2:17 p.m.

RECONVENE

2:19 p.m.

7. Transfer Station Recycling: Mr. Preston inquired if the Commission was interested in conducting a feasibility study on the recycling of metal at the Transfer Station. Commissioner Pennel noted he had brought up the issue a couple of times as the Commission has been criticized on the issue. Commissioner Strahan indicated that it could pay for an employee if the county was to sell the material.

8. Dump Truck Repair: Ms. Luttrell informed the Commission that the bid for the repair of one of the dump trucks had been reviewed by Mr. Boone who recommended Peterbilt for \$10,865.15. Commissioner Strahan made a motion to approve said bid as recommended. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).
9. Correctional Communication System: Ms. Luttrell presented the bids for the Correctional Communication System for the new Judicial Facility. This system allows the jailers to keep in contact with central control without inmates hearing the conversations. Ms. Luttrell noted that she received two bids; Communications Associates and Radio Communications Specialists which has been reviewed by the Sheriff. The Sheriff's recommendation is to accept Radio Communications Specialists in the amount of \$11,276.19.

Commissioner Strahan made a motion to approve said bid as recommended. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

10. Casey Road: Ms. Luttrell noted that in balancing Herion's invoice, she noticed that the Construction Costs did not match. In going over the documents Ms. Luttrell found that Change Order #5 was approved by the Commission in April, however Herion and Great River did not show this change order on their documents.

Ms. Luttrell stated she contacted Great River and went over the documents with Mr. Lundstrom who directed her to cancel Change Order #5 as in the negotiations of the stabilizing material; Change Order #5 was no longer needed. Ms. Luttrell requested that the Commission rescind the motion of approval so that the records would reflect the correct Construction Amount.

Commissioner Strahan made a motion to rescind the motion to approve Change Order #5. Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), Strahan (yes).

EXECUTIVE SESSION

Commissioner Strahan made a motion to go into executive session pursuant to RSMo. 610.021(3). Commissioner Pennel seconded the motion. The motion passed by vote: Pennel (yes), Herschend (absent), 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 (absent), Strahan (yes).

It should be noted that no motions were made and no votes taken.

Minutes taken and typed by Tressa Luttrell.