

## **BUTLER COUNTY BOARD OF COMMISSIONERS**

**Tuesday, July 24, 2001**

Commission Chairman, Bill Shriver, called the Butler County Board of Commissioners to order. Present was Commissioners Randy Doll & Will Carpenter; County Administrator, Jay Newton; and Commission Secretary, Marcy Zwall.

### **CPAAA 2002-2003 AGING SERVICES PLAN**

Connie Rausch, Director of Department on Aging; Ray Vail, Director of Finances for Central Plains Area Agency on Aging (CPAAA); & Annette Graham, CPAAA Director; presented a Plan for Aging Services. This plan covers Butler, Harvey & Sedgwick counties; is for the fiscal year 2002 through 2003; and is to be submitted to the Kansas Department on Aging.

Commissioner Carpenter moved to approve the Area Plan for fiscal years 2002 through 2003; and authorize the Chairperson of the Sedgwick County Commission to sign. Commissioner Doll seconded the motion. Motion carried 3-0.

### **LOCAL INITIATIVE FUNDING PARTNERS GRANT**

Connie Rausch, Director of Department on Aging (BCDOA), requested permission to seek a Local Initiative Funding Partners grant from the Robert Wood Johnson Foundation. Ms. Rausch informed the Board that a local grant maker, in this case Butler County, would need to propose a funding partnership (Butler County = \$175,284 over 4 years; Foundation = dollar for dollar match) with the Robert Wood Johnson Foundation on behalf of the BCDOA. Essentially, this would enable the hiring of a Community Nurse Service Coordinator for consultations, wellness checks, medication monitoring, etc. An approval from the Board would not commit the County to these funds, but merely allow Ms. Rausch to submit a grant.

Commissioner Carpenter moved to allow the Department of Aging to seek funding from the Robert Wood Johnson Foundation for a Local Initiative Grant, and allow the Chair to sign.

Commissioner Doll seconded the motion. Motion carried 3-0.

### **ROSE HILL NEIGHBORHOOD REVITALIZATION PROGRAM**

Mark Detter, Rose Hill City Administrator, presented & reviewed a Neighborhood Revitalization Program for Rose Hill to be approved. Clark Allemang, County Appraiser was also available for discussion. The scope would cover primarily along Rose Hill Road, but also a little bit of East Rose Wood (170<sup>th</sup> St.) & West Silknitter to the City limits on the west side & East Silknitter to the Burlington Northern R/R tracts; down Rose Hill Road to School Street. Businesses moving into this stretch within the next 5 years would have the opportunity to take advantage of this program. Mr. Detter wishes to reserve this for commercial properties to encourage growth in that area. There were 3 permits issued for commercial property that came in after January 1, 2000. Mr. Detter would like to backdate this program to include these; otherwise this would strictly be available for new businesses. He also told the Board that the Rose Hill City Council is in agreement with the concept of this program. His intentions are to follow the plan & format currently being used by the City of El Dorado. Commissioner Shriver

commented that he did not feel comfortable back dating this, but would be supportive of the idea if it began January 1, 2002. All Commissioners were in agreement that the concept would be beneficial for Rose Hill. They were pleased with promoting growth in that city. Mr. Allemang explained to the Board that his department does most of the work on a project like this. Therefore, although he also felt this was "good for the community", he was concerned about the time & effort involved. Mr. Detter said that there would be a 5% Administration Fee charged to the businesses, which all would come back to the County.

Commissioner Doll moved to approve the Rose Hill Neighborhood Revitalization Program, with a starting date of January 1, 2002; specifics & details are to be worked out with County Administrator, Jay Newton and County Appraiser, Clark Allemang. There is to be no backdating of the tax bills.

Commissioner Carpenter seconded the motion. Motion carried 3-0.

#### **COMMUNITY CORRECTIONS KDOC FY02 LINE ITEM & NARRATIVE BUDGET**

Chuck McGuire, Community Corrections Director, presented the FY02 line item & narrative budgets to be approved for submission to KDOC. Mr. McGuire informed the Board that this is an annual process, mandated by statute, & has been approved in the past. Further, he noted that after submission to KDOC, they notify Community Corrections of the allocation amount, which is broken down in line item & narrative form. While this year's allocation is approximately \$7,000 less than FY01, this difference can be absorbed – based on actual FY01 expenditures. Mr. McGuire also reminded the Board that his department relies heavily on KDOC funding for operation. Commissioner Carpenter moved to approve the Kansas Department of Corrections (KDOC) Community Corrections FY02 line item & narrative budgets & submit it to KDOC.

Commissioner Doll seconded the motion. Motion carried 3-0.

#### **SCHOOL RESOURCE OFFICER TRANSFER**

SRO Scott Duryea & Butler County Undersheriff, Kelly Alexander approached the board with a request to transfer Circle School District SRO, Scott Duryea, from the jurisdiction of Towanda Police Department to the Butler County Sheriff's Department. Mr. Duryea was a deputy for the Sheriff's Department for several years prior to the implementation of the Circle SRO program. Sheriff Cox informed the Board that Circle SD Superintendent, Dr. Albers, approached the sheriff's department about the transfer of jurisdiction, due to their contract with the Towanda Police Department being up for renewal. Dr. Albers also stated that 100% of Duryea's expenses would be born by the Circle School District.

Commissioner Carpenter moved to place the position of SRO Scott Duryea under the jurisdiction of the Butler County Sheriff's Department; and authorize the signing of the contract with the Circle School District; funding to be entirely by Circle School District. Commissioner Doll seconded the motion. Motion carried 3-0.

**STREET LIGHTING AGREEMENT**

Darryl Lutz, County Engineer, & Phil Hughey, Assistant County Engineer, presented an amended street lighting agreement between Butler County and KG&E. This is a new agreement replacing the contract, which has expired.

Commissioner Doll moved to approve the amended street lighting contract between Butler County and KG&E, for the Beaumont street lights & railroad crossing lights; and allow the Board to sign.

Commissioner Carpenter seconded the motion. Motion carried 3-0.

**RECESS**

The meeting recessed for 15 minutes, at 9:50 a.m.

**RECONVENE**

The Regular Session reconvened at 10:15a.m., with the exception of Commissioner Carpenter.

**PLANNING & ZONING COMMISSION RECOMMENDATIONS:**

Todd Kennemer, Planning Commission, was available for discussion on all of the following items.

***PL-01-11 – Jonathan Busenitz request for Lot Split:***

The Owner of Lot 1, Block 1 of Liberty Estates Addition (NW 10<sup>th</sup> St., between County Line Road & Butler Road), wishes to divide his 10-acre lot into two, 5-acre tracts, which is the minimum lot size in this addition. Mr. Kennemer notified the Board that the proposed split meets all the requirements, including an additional right-of-way, & does not fall under the previously set moratorium.

Commissioner Doll moved to approve the lot split (Case #PL-01-11), from one 10-acre tract into two 5-acre tracts.

Commissioner Shriver seconded the motion. Motion carried 2-0. (Commissioner Carpenter was not available for action on this item.)

***Res. 01-21 – Article 17, Floodplain (FP) District Amendment:***

Due to updated floodplain maps for portions of unincorporated areas of Butler County, updated floodplain regulations are required by FEMA. This amended Article 17 meets the latest requirements.

Commissioner Doll moved to adopt Resolution 01-21, amending Article 17, Floodplain District of the Butler County Zoning Regulations.

Commissioner Shriver seconded the motion. Motion carried 2-0. (Commissioner Carpenter was not available for action on this item.)

***Res. 01-23– Ewing Rezoning request from AG to RR (#RZ-01-13):***

This is a request for rezoning of Ms. Ewing's land in order to plat a 5-acre tract to build a new home on. It is located one mile north & one mile east of Rose Hill on 140<sup>th</sup> St. Said

tract lies outside the city limits but within the growth ring; however, Rose Hill's Administrator, Zoning Administrator & Engineer feel this falls within their "Draft Comprehensive Plan" (not yet completed). This request was also submitted prior to the moratorium.

Commissioner Doll moved to approve Resolution 01-23 (Case #RZ-01-13), rezoning land located one mile north & one mile east of Rose Hill on 140<sup>th</sup> St., from Agriculture to Rural Residential.

Commissioner Shriver seconded the motion. Motion carried 2-0. (Commissioner Carpenter was not available for action on this item.)

**Res. 01-22 - Prairie Rose Chuck Wagon Dinner & Entertainment facility (#CU-01-04):**

Also available for discussion were the following:

Darryl Lutz, County Engineer

Clark Allemang, County Appraiser

Thomas Etheridge, Prairie Rose Chuckwagon President

Mr. Kennemer briefly reviewed the records on file regarding the history of the Prairie Rose Chuckwagon (PRC), including the current Conditional Use Permit (CUP), Building Permits, etc. Also submitted were the minutes from the Planning & Zoning Board Meeting, dated July 5, 2001. In addition, Mr. Kennemer informed the Board that out of all the neighbors within a 1000' radius (required for legitimate protest), only two submitted an official protest.

Questions arose regarding how the property was being taxed since it was agricultural (AG) land being used commercially. Mr. Allemang explained that AG land is taxed according to its use, not its zoning. Since only approximately 7-10 acres of the PRC's total 80 acres is being used for commercial purposes, only that amount is being taxed as Commercial Use, the balance is being taxed as AG use. Further, he noted that AG buildings are assessed at the same rate as Commercial (25%) – the tax amount simply depends on the building's appraised value.

Mr. Newton inquired as to why the request is for a CUP, not a Rezoning from Agricultural to Commercial. Mr. Kennemer explained that should the PRC cease to exist, a Commercial zoning would allow any commercial outfit to replace it; therefore, Planning & Zoning wants to stay away from rezoning if at all possible. Doll voiced his concern about monitoring the proposed CUP, should PRC outgrow that one. Newton agreed and went on to say that he felt a CUP should be more general as opposed to specifics needing "policing".

Another major concern of the Commissioners was the road leading to PRC (Parallel Road). Initially, the Township opted to wait and "see what happens"; not knowing what potential problems might arise. All parties present agreed that the traffic count is too high for a gravel road. Mr. Lutz stated that the type of road needed would depend on the

type of traffic (heavy trucks or vehicles vs. cars). He noted that heavier vehicles would warrant a 4-5" thick asphalt, plus an upgraded roadbed. However, he commented that sporadic RV traffic did not constitute "heavier vehicles". Mr. Lutz estimated approximately \$200,000 for a new mile-long road, depending on the width of the right-of-way. Commissioner Doll inquired as to the possibilities of a Benefit District. Mr. Lutz agreed that might be an option.

*<Commissioner Carpenter rejoined the meeting at approximately 11:00a.m.>*

Commissioner Carpenter communicated that he perceived the situation to have "been abused" and was worried that the new CUP would be handled the same way. He went on to comment that he wanted to figure a way to show Mr. Etheridge that was not acceptable.

Mr. Etheridge was invited to address the Board. He briefed the Board on the history of the property and the motive for opening the PRC. Further, he remarked that he had no intentions of moving from his family's farm.

Mr. Etheridge explained to the Board that when the idea of PRC was originated, not knowing the necessary process, he approached Mike Bertrand (Planning & Zoning Director at that time) who encouraged Mr. Etheridge to "dream big" when applying for the original CUP, since it would be more difficult to change each time. After building the Livery, Amphitheater & Welcome Center (all under the original CUP), the Opera House was built to meet the "indoor facility" requirement by the Board at that time. Mr. Etheridge informed the Board that at that time he notified Mr. Bertrand that 6 months per year of operation would not pay for the new facility; being open all year would be necessary. In addition, Mr. Etheridge asked Mr. Bertrand if the Board needed to be addressed at that time. Mr. Bertrand declared that he had "latitude & the ability to interpret their intent, so hold off." Mr. Etheridge noted that this was the same answer received when he approached Mr. Bertrand prior to building the "Happy Trails Theater". Moreover, Mr. Etheridge was also advised that there would be no problems unless a neighbor complained. Now that a complaint has been received, & there is a new Planning & Zoning Director, Mr. Kennemer has gotten involved. He has affirmed that PRC is outside of the original CUP, it needed to be modified, and he & Mr. Etheridge have drafted a comprehensive plan.

Mr. Etheridge admitted that the PRC was far more successful than he or anyone expected. However, he adamantly declared that this was a surprise and by no means an attempt to deceive. Further, he expressed his resentment to any implications of such.

Commissioner Shriver acknowledged that Mr. Etheridge may have been misinformed & misled regarding the process, and now better understands why he "did what he did". He went on to stress, however, that from this point on, Mr. Kennemer must follow exactly what the CUP says and has no "latitude". The Board must finalize all decisions.

Mr. Etheridge presented Financial Data that was reviewed by the Commissioners. He also mentioned to the Board that he felt the PRC was a great benefit to the County. Mr. Etheridge informed the board that the PRC employed 6 families & 18 part-time workers, all County residents; it has increased the value of the property; it provides wholesome family entertainment; and brings attention to the state as well as promotes the county.

For the record, Mrs. Earl Taylor, Mr. Etheridge's mother-in-law, spoke on his & the PRC's behalf, in support of both.

The Commissioners agreed that the road issue needed to be explored prior to final approval of this CUP.

Commissioner Carpenter moved to table the item on the Prairie Rose Chuckwagon for 30 days, pending a report from Darryl Lutz about the cost of the road. Commissioner Doll seconded the motion. Motion carried 3-0.

Commissioner Shriver asked Mr. Lutz to research the least expensive solution to the road issue. Further, he requested Mr. Kennemer to be prepared to discuss the option of rezoning this tract at next week's meeting.

#### **PURCHASE CARD PROGRAM**

Ron Roberts, County Clerk, requested this item be tabled until next week, due to lack of time. The Commissioners agreed.

#### **EXECUTIVE SESSION & ADJOURNMENT**

Commissioner Doll moved to go into Executive Session until 12:45p.m. to discuss land acquisition & non-elected personnel. Further, he moved to adjourn the meeting after the Executive Session.

Commissioner Carpenter seconded the motion. Motion carried 3-0.