

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, May 20, 2008

CALL TO ORDER

Commission Chairman Dan Woydziak called the Butler County Board of Commissioners to order at 9:00 a.m. Present were Commissioner Will Carpenter, Commissioner Jeff Masterson, Commissioner Randy Waldorf, Commissioner Mike Wheeler, Administrator Will Johnson, Jr., and Clerk Recorder Tammy Bridges.

ITEM #1 –CONSIDER APPROVAL OF PAYMENT OF THE SERVICE AGREEMENT WITH PHYSIO CONTROL FOR CARDIAC MONITORING EQUIPMENT

Grant Helferich, Director of EMS, came before the Board for approval of the payment of the Service Agreement with Physio Control for Cardiac Monitoring Equipment. The balance due for January through May of 2008 is \$2,793.31 and is included in the 2008 Budget.

Commissioner Waldorf motioned to approve the payment to Physio Control in the amount of \$2,793.31 for the balance of the service agreement. Commissioner Masterson seconded the motion. Motion carried 5-0.

Commissioner Woydziak requested Mr. Helferich to update the Board on EMS billing.

Commissioner Wheeler asked Mr. Helferich about transporting psychiatric patients.

Commissioner Woydziak said he would like Mr. Helferich to update the Board on emergency calls coming in as compared to last year and how many stations are being utilized.

ITEM #2 –CONSIDER APPROVAL TO ALLOW THE CHAIR TO SIGN THE “DETERMINATION OF LEVEL OF REVIEW” TO ALLOW FOR AN ENVIRONMENTAL REVIEW AT 135 N MAIN, EL DORADO FOR A NEW BAKERY BUSINESS

Dave Alfaro, BCED Director, came before the Board for approval to allow for an Environmental Review at 135 N Main, El Dorado for a new Bakery Business.

Commissioner Carpenter motioned to allow the Chairman to sign the Determination of Level Review document as required which will allow the applicant to continue to pursue funding through SCKEDD for the opening of a new bakery business in El Dorado, KS. Commissioner Wheeler seconded the motion. Motion carried 5-0.

ITEM #3 –CONSIDER APPROVING CONTRACTS FOR CULVERT LETTING NO. 63

Darryl C. Lutz, P.E., Director of Public Works, came before the Board for approval of contracts for Culvert Letting No. 63 for the construction of 8 Reinforced Concrete Box Culverts and Bridges throughout Butler County.

Commissioner Wheeler motioned to approve the contracts for Culvert Letting No. 63, Bridge 1 through Bridge 8 inclusive with LMK Concrete Construction, Inc., Lindsborg, KS in the total amount of \$393,148.70 and authorize the Chair to sign the required contract documents. Commissioner Carpenter seconded the motion. Motion carried 5-0.

ITEM #4 – CONSIDER APPROVING A NOTICE OF AWARD FOR THE CONTRACT FOR THE E-WASTE BUILDING AT THE LANDFILL

Darryl Lutz, P.E., Director of Public Works, came before the Board for approval of a Notice of Award for the Contract for the E-Waste Building at the Landfill. Mr. Lutz said they are working on alternative heating systems. He asked DAB Construction to provide a bid for a hydronic floor system, and they are proposing to do the work for \$6,900. Mr. Lutz said they are looking at two alternate types of systems to heat the water; either using landfill gas or a waste oil boiler.

Commissioner Waldorf motioned to approve the Notice of Award to DAB Building Systems, Inc., El Dorado, KS for the e-waste building project with a base bid of \$248,862 and \$6,900 for the tubing for the flooring heat system and authorize the Public Works Department to negotiate for the heating source and authorize the Chair to sign. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #5 – REVIEW INFORMATION REGARDING A GAS LINE EASEMENT AT THE LANDFILL

Darryl Lutz, P.E., Director of Public Works, came before the Board to review information regarding a Gas Line Easement at the Landfill. Staff at the landfill talked to the local gas office about the existing service line and whether that could be tapped into. The gas company said they could convert it to a low pressure main which would allow the county to cut a ½ mile off of the length of line needed. The cost would be approximately \$10,000. The Board discussed using methane gas or propane as alternate heat sources. Mr. Lutz said they are looking at generating money for the landfill by selling the methane gas and the carbon credits. No action was taken.

ITEM #6 – RECEIVE AND DISCUSS OPTIONS FOR COLD MIX VS. HOT MIX ASPHALT OVERLAY WORK PLANNED FOR THIS SUMMER

Daryl Lutz, P.E., Director of Public Works, came before the Board to discuss options for the Cold Mix vs. Hot Mix Asphalt Overlay work planned for this summer. Recommendation to the Board is to purchase 20,000 tons of 50% RAP Hot-Mix from APAC at a cost of \$25.50 per ton, for 2 Maintenance Overlay Projects.

Commissioner Wheeler motioned to authorize Public Works Department to purchase up to 20,000 tons of 50% RAP hot-mix from APAC at a cost of \$25.50 per ton for two maintenance overlay projects. Commissioner Carpenter seconded the motion. Motion carried 5-0.

Commissioner Wheeler asked about Dianna Harms. Mr. Lutz said he is calling the caretakers of the property who are Bob & Nancy King. Mr. Lutz has contacted the zoning department for the septic system requirements. He will meet with additional septic system contractors for pricing. Mr. Lutz is attempting to set up a meeting to review options.

Commissioner Carpenter asked about mowing in the county. Mr. Lutz is proposing to do single passes instead of two passes on each side of the road. He noted that the mowers that are on order are wider than the ones currently being used.

Commissioner Woydziak asked about the chip seal on 165th St. for SW Butler Quarry. Mr. Lutz said they are still planning on doing the project this summer.

RECESS

Commissioner Woydziak recessed the Board meeting at 10:00 a.m. for 5 minutes.

RECONVENE

Commissioner Woydziak reconvened the Board meeting at 10:05 a.m.

Mr. Lutz noted that Mission El Dorado is requesting reduced landfill fees for the week of June 7-14, 2008. Mission El Dorado assists people in making repairs or improvements to their homes that cannot do it on their own. Mr. Lutz recommended allowing the reduced fees. The fees would be: CDSP - \$3.00; CUT - \$.50; CW - \$1.00; CWGR - \$5.00; and CWP - \$.50.

Commissioner Wheeler motioned to allow reduced fees at the landfill for Mission El Dorado for the week of June 7-14, 2008. Commissioner Carpenter seconded the motion. Motion carried 5-0.

APPROVAL OF ADDS AND ABATES

Commissioner Waldorf motioned to approve Adds & Abates #2349 dated May 20, 2008. Adds in the amount of \$0.00 and Abates in the amount of \$3,905.06. Commissioner Carpenter seconded the motion. Motion carried 5-0.

OTHER ITEMS OF BUSINESS TO COME BEFORE THE BOARD OF COUNTY COMMISSIONERS

Commissioner Wheeler asked about the charges for the inmates at the jail.

Commissioner Carpenter and the Board discussed the possibility of auditing the townships.

Commissioner Waldorf asked about the Fox Lake meeting tomorrow. Commissioners Waldorf and Wheeler will attend.

Administrator Johnson commented that Quad counties would be June 16, 2008 at Prairie Rose.

Administrator Johnson said according to the purchasing policy, the departments have to inform the Board of purchases over \$5,000. He said the Sheriff Department is bidding a UTV vehicle.

Administrator Johnson and the Board discussed the railroad property and Prairie Travelers.

Administrator Johnson said due to the lack of participation at the County picnic, the County will sponsor a day at the Broncos game for the employees and families. Commissioner Carpenter suggested an evening function during the week instead of a weekend.

Scott Stoskopf, Computer Services Director, came before the Board to discuss problems with the computers. He said we will be contracting with a network engineer and are waiting on paperwork and a cost from Alexander Open Systems. Mr. Stoskopf stated that as of this morning the file server is wonderful and there are no error messages. The exchange server had to be rebooted because internal e-mails wouldn't go, but our external e-mails were working. Microsoft says we need to replace our exchange server with a 2007 costing \$10,000. This is budgeted for next year. Mr. Stoskopf noted that we are looking at pricing to add more blade servers to our server banks. He stated that the servers are functioning, and mechanically we don't have any errors. We've had

a series of things happen and we fix those and something else will happen. Mr. Stoskopf will report back to the Board after he talks to the engineer.

RECESS UNTIL 7:00 P.M. FOR SEWER DISTRICT #8 MEETING

Commissioner Carpenter motioned to recess the Board meeting until 7:00 p.m. tonight. Commissioner Wheeler seconded the motion. Motion carried 5-0.

RECONVENE MEETING 7:00 P.M.

Commissioner Woydziak reconvened the Board meeting at 7:00 p.m. Present were Commissioner Will Carpenter, Commissioner Randy Waldorf, Commissioner Mike Wheeler, Administrator Will Johnson, Jr., and Clerk Recorder Tammy Bridges. Commissioner Jeff Masterson was absent.

Commissioner Woydziak introduced the commissioners, administrator, and staff to the residents of Sewer District #8.

ITEM # 7- DISCUSSION WITH RESIDENTS OF SEWER DISTRICT #8 CONDITIONS STIPULATED BY THE KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT FOR ABANDONMENT OF THE EXISTING LAGOON

Administrator Will Johnson started the conversation by pointing out the Kansas Department of Health and Environment (KDHE) Administrative Order, highlighting the portion on page 4 titled Required Actions which reads: “A. Butler County Sewer District #8 Wastewater Treatment Facility shall be abandoned and the wastewater shall be directed to the City of El Dorado as identified in the Feasibility Study as approved by KDHE. This sewer connection shall be completed no later than September 1, 2008. B. Butler County Sewer District #8 Wastewater Treatment Facility’s lagoons shall be properly abandoned and the area restored to the current area contours and status by September 1, 2009.” Under the Penalty section, the Order also states “failure to comply with the Required Actions in this Order will result in issuance of a penalty under K.S.A. 65-170d. ... a civil penalty in an amount of up to \$10,000 for every such violation. In the case of a continuing violation, every day such violation continues shall, for the purpose of this act, be deemed a separate violation.”

Administrator Johnson prepared a spreadsheet showing the difference in taxes for the residents if their property is annexed. Administrator Johnson stated that the average increase is approximately 27% or about \$535.

Commissioner Woydziak opened public comments from the residents.

Darrel Erikson came before the Board and said they are 100% opposed to annexation. He said when the city commission made the motion they did not say that we could not connect to their sewer system. They said they didn’t want to annex us. There was no motion made for annexation or attachment to the city. Mr. Erikson said the documentation says they are adjacent to the city. He said the only place we are adjacent to the city is one pinpoint at Boyer Rd. and Towanda St. He commented that 99.99% of that total area is rural. Mr. Erikson said they like their lifestyle; they can build a bonfire, have up to 2 horses, shoot ducks off the pond, and does not want to pay increased taxes. Mr. Erikson said he wants to utilize the facilities of the city without annexation. He stated that the city has an ordinance stating they can’t allow that, but Mr. Erikson stated that all the city would have to do is make an exception to that ordinance.

Commissioner Woydziak said we could request the city to connect the area to the city sewer system and not annex them, but the County doesn't have the authority to tell the City to service the area without annexation.

Kimberly Blake said El Dorado City Ordinance #13.16.050 allows rural sewer districts to connect to the El Dorado sewer system. Ms. Blake said the city council members were instructed by the City Manager that they had no choice but to annex the area to connect to the sewer system. Mr. Lutz said it's a policy decision from KDHE and every 5 years the NPDS permit is renewed to operate the lagoons. KDHE's policy is when it's feasible to connect to a publicly operated treatment works, that's what they are going to require. Mr. Lutz noted that KDHE's opportunity to renew the permit to put that stipulation in required us to do the feasibility study. The feasibility study was extended while trying to work with the city to figure out the connection process and who was going to do the annexation and who had the legal authority. KDHE now has set a timeline of September 1, 2008.

Ms. Blake said the representative from KDHE told her that this wasn't their only option. Ms. Blake said KDHE wants to do away with the lagoons based on the feasibility study. But, if the residents wanted septic tanks or on-site lagoons, they could go to the county and ask for them.

Cliff Rodgers came before the Board and asked if he could put in their own septic systems. Administrator Johnson said he didn't think the sanitary sewer codes would allow it.

Jim Hatfield came before the Board and stated that the Order gives them the right to appeal by requesting a hearing and stating specifically in what way the Order is unlawful or unreasonable. He noted the loss of liberties and privileges they have living in the country and the rural way of life they have is a violation of the 14th Amendment.

Commissioner Carpenter said he agrees with everything they are saying about the rural way of life and understands how they feel. He said they could go to the City of El Dorado because they have the ultimate decision in connecting the sewer without annexing the area.

Pastor Wade Graber came before the Board and said the residents don't want to be annexed and understands that annexation is not a determination this commission makes. He asked the Board to acknowledge to the state that they understand the mandate and to present the request to not be annexed to the city of El Dorado. Commissioner Woydziak said as Chairman of the Board, he could go to the city council with that request. Pastor Graber said a lot of things would be interrupted if they were annexed; they have youth groups and bon fires, worship by the pond, Campus Crusade for Christ gatherings from the college, and Sunday school classes meet there. He said it's not only our home, but a place of ministry and would like for it not to be interrupted.

Connie Rodgers came before the Board and said they would be willing to pay the additional amount of taxes just to stay in the county and connect to the sewer without annexation.

Darrel Erikson came before the Board and stated that we have great service maintaining our road when it snows or when it is icy. He feels the road won't be serviced as well if they are annexed.

Evelyn Saferite came before the Board and stated that the property across from them would never be developed because there are 80 heirs who own that property.

Darren Schwindt came before the Board to thank the Board for trying to help them. He wanted to clarify where the line would be drawn if they become annexed. Mr. Lutz presumed the entire subdivision, which goes to the center of the road. Commissioner Woydziak said we usually request they take the whole road so the county doesn't have to maintain half a road. Mr. Schwindt was concerned that the roads won't be maintained by the city. Administrator Johnson said the city has been using a liquid deicer that works very well.

Mr. Lutz said the residents are very well represented. He said 11 of the 14 homeowners are here. Administrator Johnson stated that Mr. Shipman called him and said he wouldn't be able to attend.

Jack Buckner came before the Board and stated that the last time the city tried to annex them, they said when the road got too many potholes in it, they would dig it up and put in gravel. Administrator Johnson said he hasn't heard anything about that.

The Board and Administrator Johnson discussed the procedures for abandonment of the lagoons.

John Grange, State Representative for the 75th District, came before the Board and noted that the commissioners have been asked eloquently by this group of people to speak on their behalf to the city and thinks there are some valid arguments. Mr. Grange feels the proximity issue is a stretch and could be used as an argument. He said the lagoons are apparently in compliance and may need some work. Mr. Grange believes the meeting with the city should go forward and wants to work on an agreement to extend KDHE's deadline.

Commissioner Woydziak closed public comments from the residents.

Mayor Tom McKibban stated that people in this room have harassed some city employees. Commissioner Woydziak noted that comments should be directed toward the elected officials. Mayor McKibban said the city commission is listening to the 14 residents of Sewer District #8 and also the other 13,000 citizens in the city. Mayor McKibban commented that we want this to be civil and are tired of the council being harassed.

Commissioner Carpenter motioned to direct a member of the Commission to convey the wishes of Sewer District #8 to the city commission on a date yet to be decided. Commissioner Wheeler seconded the motion. Motion carried 4-0.

Since City Manager Herb Llewellyn and Commissioner Woydziak are out of town on the meeting dates in June. Commissioner Woydziak is planning to attend the city commission meeting of July 7, 2008. Administrator Johnson expressed concern over the September 1 deadline. Commissioner Woydziak feels that he can talk to KDHE to get the deadline extended.

Administrator Johnson said the unreasonableness of the deadline is grounds for appeal and will present an appeal to the Board of Commissioners for review at the meeting of Tuesday, May 27, 2008.

ADJOURNMENT

Commissioner Wheeler motioned to adjourn the meeting of the Board at 8:36 p.m. Commissioner Carpenter seconded the motion. Motion carried 4-0.