

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, October 11, 2022

(00:00:10)

CALL TO ORDER

Commission Chair Kelly Herzet called the Butler County Board of Commissioners meeting to order at 9:00 a.m. Present were Commissioner Marc Murphy, Commissioner Jeff Masterson, Commissioner Dan Woydziak, County Administrator Will Johnson and Clerk Recorder Jennifer Currier. Commissioner Mike Wheeler was not in attendance.

(00:00:19)

INVOCATION

Pastor David Griffis, Heaven Sent Ministries, presented the invocation.

(00:02:24)

APPROVAL OF MINUTES

Commissioner Murphy motioned to approve the minutes from the October 4, 2022, Butler County Commission meeting as presented. Commissioner Masterson seconded the motion. Motion carried 4-0.

(00:02:47)

PUBLIC COMMENTS

There were no public comments.

(00:03:01)

ITEM #1 – DARREL BARRETT REQUEST FOR CHANGE IN ZONING FROM AG-80 TO AG-40 ON PROPERTY LOCATED AT 1013 NE 60th ST EL DORADO, KANSAS

David Alfaro, Community Development Director, came before the Board for approval of a request for a change in zoning from AG-80 to AG-40 as requested by Darrell Barrett. Mr. and Mrs. Barrett own a tract of land that contains 87+/- acres located at 1013 NE 60th St El Dorado. They are requesting the change which would allow them to split off 40 acres. The majority of land within the immediate area is zoned AG-80 but the change in zoning and the goal of splitting the property in half will result in tracts of land that would be similar to tracts that currently exist and would not be considered detrimental to the area. State Statute required all landowners within a 1,000' radius be notified of the proposed change and staff did not receive any comments for or against the request and with that the Planning Commission approved the request by a vote of 4-0.

Commissioner Masterson motioned to approve the request for a Change in Zoning from AG-80 to AG-40 and direct the Chairman to sign Resolution No. 22-36. Commissioner Woydziak seconded. Motion carried 4-0.

(00:05:03)

ITEM #2 – REQUEST FOR A CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL AS SUBMITTED BY JONATHON CROSS ON PROPERTY LOCATED AT 20465 SW TAWAKONI RD, DOUGLASS, KANSAS

David Alfaro, Community Development Director, came before the Board for approval of a change in zoning from AG-40 to RR on 39+/- acres as submitted by Jonathon Cross. Mr. Cross owns a tract of land that contains 39+/- acres and zoned AG-40. Mr. Cross has requested a change from AG-40 to RR on the property located at 20465 SW Tawakoni Rd Douglass, Kansas, which would allow him the opportunity to split the property into two tracts. The property is surrounded by both AG-40 and RR zoned properties so that change in zoning would not be detrimental to the area as there would be similar tracts of land located within the immediate area. State Statute required all landowners located within a 1,000' radius be notified of the request and staff did not receive any comments for or against the request. The Planning Commission approved the change by a vote of 4-0.

Commissioner Woydziak motioned to approve the request for a change in zoning from AG-40 to Rural Residential on property located at 20465 SW Tawakoni Rd and direct the Chairman to sign Resolution No. 22-37. Commissioner Murphy seconded. Motion carried 4-0.

(00:06:46)

ITEM #3 – REQUEST FOR CHANGE IN ZONING FROM AG-40 TO RESIDENTIAL ESTATES (RE) ON PROPERTY LOCATED AT 8189 SW PARALLEL RD. BY STEVE PERSONS.

David Alfaro, Community Development Director, came before the Board for approval of a request for a change in zoning from AG-40 to RE on property located at 8189 SW Parallel Rd Towanda, Kansas. Steve Persons owns a tract of land that contains 38+/- acres and is requesting to change the zoning to RE which would allow him to split the property into two tracts allowing for the construction of a new single-family residence on the newly created tract. The property is located in an area that has AG-40 zoned properties but immediately to the west is a tract of land, also owned by Mr. Persons, that is currently zoned RE. State statute required all landowners within a 1,000' radius of the property be notified of the request and staff did not receive any comments for or against the request. The Planning Commission approved it by a vote of 4-0. Staff also recommends approval.

Commission Chair Herzet motioned to approve the request for a change in zoning from AG-40 to RE and direct the Chairman to sign Resolution No. 22-38. Commissioner Murphy seconded. Motion carried 4-0.

(00:08:33)

ITEM #4 – REQUEST FOR A CHANGE IN ZONING FROM AG-40 TO RE ON PROPERTY LOCATED AT 12210 SW 190TH ST. DOUGLASS, KANSAS AS SUBMITTED BY BRAD SIMMONS, OWNER OF ENDOR HOLDINGS LLC.

David Alfaro, Community Development Director, came before the Board to discuss a request for a change in zoning from AG-40 to RE. Brad Simmons owns a tract of land located at 12210 SW 190th St Douglass, Kansas and zoned AG-40. Mr. Simmons is requesting to rezone the 78+/- acres to RE and, if approved, he plans on platting the property into a single-family subdivision with 10-12 home sites. The property is directly south of the Butler Air Park that also has 12 single-family homes built surrounding the runway. With the location of the runway and the fact that there is no rural water in the area to supply potable water to the home sites and the increase in traffic on the township roads the approval of the change could be detrimental to the area. It was noted that several months ago Mr. Simmons submitted a similar request and that request was

denied for the same reasons. State statute required all landowners within a 1,000' radius be notified of the requested change and a large number of property owners spoke against the request. The Planning Commission denied the request for a change by a vote of 4-0 and staff supports the recommendation.

Commission Chair Herzet motioned to deny the request for a change in zoning as submitted by Brad Simmons. Commissioner Woydziak seconded. Motion carried 4-0.

(00:13:40)

ITEM #5 – REQUEST FOR A CONDITIONAL USE PERMIT FOR THE OPERATION OF A HUNTING LODGE ON PROPERTY LOCATED AT 1580 SW 80TH ST EL DORADO, KANSAS AS SUBMITTED BY RANDY YOUNG

David Alfaro, Community Development Director, came before the Board for approval of a request for a Conditional Use Permit (CUP) for the operation of a hunting lodge on property located at 1580 SW 80th St El Dorado, Kansas. Mr. Young provides a guide service for water fowl hunts that he conducts on different properties located throughout Butler County. Mr. Young has no intentions of allowing hunting on the site, which only contains nine+/- acres and does not have a pond on the property. Mr. Young stated that hunts will be conducted from November through February and will consist of three days with hunts occurring on a weekly basis. Each hunt will consist of four to six hunters; there will not be a large number of individuals staying in the lodge at any given time. The property is zoned Rural Residential and is used as a farm homestead. Mr. Young is in the process of constructing a lodge/home on the site and is keeping an existing outbuilding. State statute required all landowners be notified of the request for the CUP and staff did not get any comments for or against the request. As with all CUPs, conditions are placed on the property and the Planning Commission and staff recommend the following:

- 1) The use of the property will consist of a hunting lodge only.
- 2) The property will not be used for any hunting but may be used for the shooting of clay pigeons when hunters are staying at the lodge.

Randy Young was present for questions.

Commissioner Woydziak motioned to approve the request for a Conditional Use Permit and stated Conditions as submitted by Randy Young on property located at 1580 SW 80th St El Dorado and direct the Chairman to sign Resolution No. 22-39. Commissioner Murphy seconded. Motion carried 4-0.

(00:17:28)

ITEM #6 – UPS REPLACEMENT - BID OPENING

Lew Harter, Information Technologies (IT) Director, and Kevin Norman, IT Department, came before the Board to receive and open sealed bids for the purchase of replacement UPS's for the IT Data Center and the 9-1-1 Center. It was proposed that the name and location of the vendor be read along with the bid price; staff will tabulate and evaluate then return with a recommendation for purchase. The bid tabulation as follows:

TGS	Wichita, Kansas	East Annex	\$26,512.10
TGS	Wichita, Kansas	Courthouse	\$1,066.06

Commissioner Masterson motioned to approve the bids received and opened for replacement UPS's and to direct staff to tabulate the bids, to evaluate the equipment offered and to return at a later time with a recommendation for purchase. Commission Chair Herzet seconded. Motion carried 4-0.

(00:19:54)

ITEM #7 – REQUEST TO GO SOLICIT BIDS FOR THE REMODEL OF THE AUGUSTA PUBLIC SAFETY BUILDING

Travis Cornell, Facilities Management Director, came before the Board for approval to solicit bids for the remodel of the Augusta Public Safety Building. EMS is in more demand and needs more room for new staff. The remodel will make two new bunks and a bigger dayroom for staff but will take room from Augusta Public Safety so the County will need to build a mezzanine on the fire side of the EOC Building for the room EMS is acquiring. Gravity Works Architecture will solicit bids from commercial contractors and return the bids for the Commissioners to open.

Frank Williams, Emergency Medical Services Director, and the Board discussed the convenience of having an ambulance stationed in the area.

Commissioner Woydziak motioned to allow Facilities Management and Gravity Works Architecture to solicit bids for the remodel of the Augusta Public Safety Building and bring the bids back before the Board. Commissioner Murphy seconded. Motion carried 4-0.

(00:23:40)

ITEM #8 – BIENNIAL BRIDGE INSPECTION PROGRAM – ENGINEERING AGREEMENT

Darryl Lutz, Public Works Director, came before the Board for approval of an agreement for engineering services related to required biennial bridge inspection work for the County. At a minimum of every two years every highway bridge with a 20 foot span or longer is required to be inspected by certified bridge inspection personnel. An inspection report and narrative are updated and new bridge sufficiency ratings are calculated for each bridge. Butler County has approximately 434 bridges that require this inspection. Butler County utilizes an engineering consultant for this work due to the amount of time and certified personnel required to perform this work. This is a mandatory program under both state and federal law and must be completed in order to be eligible to obtain federal funding for road and bridge projects. On August 23, 2022, the Board authorized Mr. Lutz to negotiate with Finney & Turnipseed to provide the required professional services. Finney & Turnipseed has submitted a proposal for work required under the Kansas Department of Transportation (KDOT) bridge inspection and reporting criteria. The cost is \$67,800, which is \$7,000 more than two years ago; the fee increase is approximately 11.5 % higher. The fee proposal includes complete new bridge inspection records for several new or rehabilitated bridges since the last inspection and also includes the estimated cost of 12 month follow up inspections required on nine bridges. The fee, however, does not include fracture critical inspections that require specialized equipment. A separate proposal will be submitted once equipment requirements are known for special fracture critical bridges. The fee proposed is

below the County's CIP estimate of \$72,000. This work is mandatory work, which will need to be started by December 2022 and completed by April 2023.

Commissioner Masterson motioned to approve an engineering agreement with Finney & Turnipseed, Topeka, Kansas to conduct the 2022-23 biennial routine bridge inspection work for Butler County in the total lump sum amount of \$67,800 not including special fracture critical inspections and authorize the Chair to sign. Commission Chair Herzet seconded. Motion carried 4-0.

(00:28:35)

ITEM #9 – CULVERT LETTING NO. 77 – NOTICE TO CONTRACTORS

Darryl Lutz, Public Works Director, came before the Board for approval of Notice to Contractors for Culvert Letting No. 77 for the construction of six reinforced concrete box structures throughout the County. Each year approximately 30 structures are requested for replacement by Townships and by County staff, with most of the structures being eligible. Six structures have been selected for 2022 based upon available budget. Staff completed plans for the construction of each project and notified each of the Townships of the selection. Project plans are ready to be put out for bid. Letting No. 77 includes the construction of six box structures including one structure that is bridge sized. The letting date for the project is proposed for Tuesday, November 8, 2022 at 9:30 a.m. The prospective bidders will have an option to tie their bids for each project or to bid each project alone.

Commissioner Masterson motioned to approve the Notice to Contractors for Culvert Letting No. 77 for the construction of six reinforced concrete box structures throughout Butler County and to set the letting date for 9:30 a.m., Tuesday, November 8, 2022, and authorize the Chair to sign. Commissioner Murphy seconded. Motion carried 4-0.

(00:33:03)

ITEM #10 – HOUSEHOLD HAZARDOUS WASTE (HHW) RE-USE PROGRAM - PORTABLE BUILDING

Darryl Lutz, Public Works Director, came before the Board for approval to purchase a portable building for the Landfill to store HHW reuse materials at the Landfill. For several years the County has operated a HHW collection program and an e-waste collection and recycling program. Over the last few years operations at the Landfill for these two programs have changed due to COVID-19 and due to a significant decline in demand for e-waste recycling. The Landfill still receives a lot of HHW materials that can be reused by the public. These materials for re-use primarily consist of paint, household cleaners, and lawn and garden products. Staff is proposing to set up a small portable building near the front entrance of the Landfill to offer re-usable products to the public. This would help offset the cost a having these materials managed for hazardous waste disposal. Staff has obtained cost estimates from three local vendors for pre-fabricated portable buildings. The buildings proposed are 14' x 24' with a single walk door and window. The buildings are finished on the outside and unfinished on the inside. The lowest and best bid proposal was provided by Supershed of Augusta, Augusta, Kansas, in the delivered and setup price of \$10,735. Staff is recommending the County approve resuming a scaled back re-use program and approving the purchase of the portable building. The bids are following:

**BUTLER COUNTY PUBLIC WORKS
 BID TABULATIONS
 Landfill Portable Building**

Bid opening: Wednesday, October 5, 2022

Company	Graceland Portable Buildings	Supershed of Augusta	Supershed of Augusta
Location	<i>El Dorado, KS</i>	Augusta, KS	Augusta, KS
Brand	Graceland	Derksen	Derksen
Size	14' x 24'	14' x 24'	14' x 24'
Cost Installed	\$ 10,870.00	\$ 12,785.00	\$ 10,735.00
Comments:	Standard Stain Wood Metal Roof 2x3 window, 36" door	Ash Gray Metal siding Metal Roof 2x3 window, porch rails, 36" door	Wood, Paint -clay Shingle Roof 2x3 window, porch rails, 36" door

It is recommended that Butler County purchase (1) - Portable Building for the Butler County Sanitary Landfill from bidder meeting and exceeding all specs, Supershed of Augusta, in the amount of \$10,735.00.


 Michael R. Craft, Assistant Director of Public Works

10-4-22
 Date

Commissioner Woydziak motioned to approve the restart of the HHW materials re-use program at the landfill and to approve the purchase of a 14' x 24' portable building from Supershed of Augusta, Kansas for the total purchase price of \$10,735 including delivery and setup. Commissioner Masterson seconded. Motion carried 4-0.

(00:38:43)

ITEM #11 – EIGHTMILE CREEK BRIDGE ON SW PRAIRIE CREEK RD AND PRAIRIE CREEK BRIDGE ON NW BUTLER RD – ENGINEERING AGREEMENTS

Darryl Lutz, Public Works Director, came before the Board for approval of separate agreements for engineering services for two proposed bridge replacement projects for the Eightmile Creek Bridge on SW Prairie Creek Rd east of Rose Hill and for the Prairie Creek Bridge on NW Butler Rd one and a half miles north of Parallel. Butler County maintains 433 bridge sized structures throughout the County in addition to over 2,000 culvert sized structures. The Department of Public Works has identified several bridges on County and Township roads that are in need of major repair work or replacement. Two unplanned priority projects have been proposed for funding through the Kansas Department of Transportation (KDOT). On September 6, 2022, the Board authorized Mr. Lutz to negotiate the engineering agreements with Finney & Turnipseed, the County's bridge engineering consultant. Public Works developed detailed scopes of services for each project location. Finney & Turnipseed reviewed the scopes of services and prepared engineering proposals to provide the required design services and to prepare detailed plans and specifications. Public Works has reviewed the engineering proposals and found them to be well within the expected range of cost. Following are the proposed costs for engineering services:

- Eightmile Creek Bridge on SW Prairie Creek Rd - \$42,800
- Prairie Creek Bridge on NW Butler Rd - \$57,400.

Public Works typically expects engineering fees from low overhead firms to be in the range of 6-9% for major replacement projects. Smaller projects that require a similar amount of design work, however, may have fees go as high as 12-15%. The fee of \$42,800 for the Eightmile Creek Bridge on SW Prairie Creek Rd is at 10.7% of the preliminary construction cost estimate and is below the County's internal estimate of \$45,000. The fee of \$57,400 for the Prairie Creek Bridge on NW Butler Rd is at 7.65% of the preliminary construction cost estimate and is below the

County's internal estimate of \$65,000. All of the fees are well within the expected ranges. Staff is recommending that the proposals for engineering services be approved.

Commissioner Masterson motioned to approve separate agreements for bridge design services with Finney & Turnipseed Consulting Engineers, Transportation & Civil Engineering, LLC, Topeka, Kansas related to two unplanned bridge replacement projects for the Eightmile Creek Bridge on SW Prairie Creek Rd east of Rose Hill in the amount of \$42,800 and for the Prairie Creek Bridge on NW Butler Rd one and a half miles north of Parallel in the amount of \$57,400 and to authorize the Chair to sign each agreement. Commissioner Woydziak seconded. Motion carried 4-0.

Mr. Lutz and the Board discussed the road closures for the bridge repairs.

(00:47:28)

Lew Harter, Information Technologies Director, returned to the Board for approval of the bid for purchase of the replacement UPS's for the IT Data Center and the 9-1-1 Center. Staff is recommending the purchasing from TGS, Wichita, Kansas, in the amount of \$26,512.10 for the East Annex and \$1,066.06 for the Courthouse for a total of \$27,578.16.

Commission Chair Herzet motioned to approve the purchase of the replacement UPS's for the IT Data Center and the 9-1-1 Center from TGS of Wichita, Kansas, for the amount of \$27,578.16. Commissioner Murphy seconded. Motion carried 4-0

(00:48:11)

ITEM #12 – CHARTER RESOLUTION FOR DESIGNATION OF COUNTY COMMISSION MEETING TIMES AND DAYS

Will Johnson, County Administrator, came before the Board for approval of Charter Resolution 22-35 for designation of County Commission meeting times and days. State statutes require Counties in excess of 50,000 residents to establish meeting times and dates by resolution for meetings twice per week at a designated place. The Board desires to designate one meeting per month at a location other than the normal meeting place for the purpose of taking commission meetings to various communities. The County adopted a Charter Resolution 05-58 in December of 2005 exempting itself from the requirements of 19-209 and allowed the Board to meet at a location outside the courthouse on a day and time prescribed by the Commission monthly. The County Commission met at various locations monthly for about a year and because of a lack of public attendance went back to the regularly scheduled meetings. Over time the Commission has reduced its schedule to once weekly on Tuesdays at 9 AM. The designation of a population by statute that is not uniform to all counties makes the statute a non-uniform statute. By the powers invested by the legislature counties are able to charter out of non-uniform statutes through the counties limited home-rule authority. A charter resolution has been developed to accommodate the desire of the County Commission to allow for the meetings to occur once weekly. The Commission can add meetings in excess of the Tuesday meeting, but must meet once weekly on Tuesday unless it is a holiday or the Commission lacks a quorum. Because it is a Charter Resolution the document must be published twice in the local paper and is subject to a protest petition.

Commission Chair Herzet motioned to approve Charter Resolution 22-35 establishing the meeting times and days for the Butler County Commission. Commissioner Murphy seconded. Motion carried 4-0.

(00:52:50)

VOUCHERS

Commissioner Murphy motioned to approve vouchers dated October 11, 2022, in the amount of \$2,515,504.08. Commissioner Woydziak seconded the motion. Motion carried 4-0.

Commissioner Woydziak motioned to approve vouchers dated October 18, 2022, in the amount of \$31,300.00. Commission Chair Herzet seconded the motion. Motion carried 4-0.

Commissioner Masterson had a question concerning the insurance graph; Administrator Johnson stated there was a mistake and he would have it corrected.

(00:55:16)

ADDS & ABATES

Commissioner Woydziak motioned to approve Adds in the amount of \$90.28 and Abates in the amount of \$715.96. Commissioner Masterson seconded. Motion carried 4-0.

(00:55:30)

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

Administrator Johnson and the Board will hold a work session at a later date to discuss the difficulty in hiring County Prosecutors.

Administrator Johnson, Pam Dunham, GIS/Mapping Director, and the Board discussed the agenda for Government Day which takes place October 25, 2022.

Administrator Johnson and the Board discussed travel to and from the upcoming KAC Conference.

Administrator Johnson will be out of the office October 12-19, 2022.

(01:09:38)

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 9:55 a.m. Commissioner Masterson seconded the motion. Motion carried 4-0.