

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, February 1, 2022

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 Dan Woydziak, Commissioner Jeff Masterson, Commissioner Mike Wheeler, Commissioner Marc Murphy, County Administrator Will Johnson, and Executive Assistant Anna Wealand.

(00:00:00)

INVOCATION

Pastor Rick Neubauer, First Baptist Church of Augusta, presented the invocation.

(00:01:00)

APPROVAL OF MINUTES

The Board noted several amendments to be made:

- Correct the Call to Order paragraph to reflect Commissioner Wheeler's absence.
- Correct the sentence fragment ending in "but" in the third paragraph on page three.
- Correct the sentence fragment ending in "the" in the second paragraph of page five.
- Correct the motion in Item #3 to reflect "motioned to approve."

Commissioner Woydziak motioned to approve the minutes from the January 25, 2022, Butler County Commission meeting as amended. Commissioner Masterson seconded the motion. Motion carried 4-0-1. Commissioner Wheeler abstained due to his absence last week.

(00:03:11)

PUBLIC COMMENTS

There were no public comments.

(00:03:23)

ITEM #1 –NITU TRANSFER TO THE CITY OF AUGUSTA

Administrator Johnson came before the Board for the consideration of the submission of a Statement of Willingness to Assume Financial Responsibility to the Surface Transportation Board (STB) transferring the Notice of Interim Trail Use (NITU) to the City of Augusta for the railroad property located between mile post 485.2 (Whitewater River) and 488.35 (North right-of-way line US 400). Butler County acquired rail property between Andover and Augusta in 2001 for the purpose of securing a corridor between the two cities for possible utility placement and or possible public trail use. The salvage value of the property was determined to be beneficial and the County designated salvage revenues be utilized to create an economic development fund. The rail property was salvaged in 2004 for approximately \$350,000 and was left vacant and unused for several years. During such time as it was not being used a lawsuit was filed with the Department of Justice (DOJ) for revocation of property ownership back to the adjoining property owners and property owners were compensated for the right-of-way. The County then requested from the Cities of Andover and Augusta their interest in transferring

ownership of the property within their city boundaries and the area between the cities. The City of Augusta took ownership of the property within its City limits and the Notice of Interim Trail Use (NITU.) The City of Andover took over responsibility of the NITU within the City limits of Andover and then extended its management responsibility to US 400. The County continues to hold a NITU of the right-of-way between the Whitewater River and US 400. At a Commission Meeting in November of 2021 the County Commission directed staff on a 3-2 vote to work with Legal Counsel to draft a document to transfer the remaining section of ROW to the City of Augusta.

Staff has worked with Legal Counsel to develop the transfer document. The County received the transfer document in December and forwarded to the City of Augusta for execution. The City of Augusta has agreed to take on the NITU from the Whitewater River to the north side of US 400 and executed the Statement of Willingness to Assume Financial Responsibility on January 17, 2022. The documents, upon approval of the Board, will be forwarded back to Legal Counsel to file with the STB and the NITU will then be transferred to the City of Augusta. After approval from the STB the City of Augusta will then be responsible for the right-of-way from the main line on the east side of Augusta to the north right of way of US 400. All documents have all been prepared by Terrence Huelskamp, Legal Counsel for Butler County.

Commissioner Masterson confirmed with Administrator Johnson that once the NITU is transferred to the City of Augusta the County will no longer have responsibility for the right of way. Administrator Johnson stated the County will ensure all parcels have been properly transferred to the appropriate entity and process Quit Claim Deeds as necessary to ensure the whole right of way is correctly and legally transferred.

Commissioner Masterson motioned to approve the submission of Statement of Willingness to Assume Financial Responsibility to the Surface Transportation Board (STB) transferring the Notice of Interim Trail Use (NITU) to the City of Augusta for the railroad property located between mile post 485.2 (Whitewater River) and 488.35 (north right of way line US 400.) Commissioner Wheeler seconded. Motion carried 3-2. Commissioners Woydziak and Murphy dissented.

Commissioner Woydziak stated his dissention stems from the fact that some landowners do not enjoy having property abutting public land.

Administrator Johnson informed the Board to the NITU transfer will be submitted today.

(00:08:30)

ITEM #2 – KDOC FISCAL YEAR (FY) 21 YEAR END STATISTICAL REPORT

Monty Herbert, Community Corrections Deputy Director, came before the Board to recommend the Commission review and authorize the Chair to sign the annual year-end report the Community Corrections department submits to the Kansas Department of Corrections (KDOC) reporting the number of successful closures and percentage. Community Corrections tracks successful and unsuccessful closures of adult community corrections clients and reports those to the state quarterly. By statute this annual report requires the JCAB board president's signature and the County Commission.

Mr. Herbert informed the Board the report was delayed in presentation due to a KDOC system update; the report is usually presented in October of each year. Mr. Herbert stated the report consists of data from July 2020 through the middle of April 2021.

Commissioner Woydziak motioned to approve the FY21 KDOC annual statistical report for the 13th JD Community Corrections department and authorized the chair to sign. Commissioner Murphy seconded. Motion carried 5-0.

(00:11:04)

ITEM #3 – OLDER AMERICANS ACT CONTRACT FOR FY 2020-2021 BETWEEN BCDOA AND CPAAA

Administrator Johnson came before the Board to recommend the Board of Commissioners consider approving the FY 2020-2021 Older Americans Act Case Management and Assessment Contract between Central Plains Area Agency on Aging and the Butler County Department on Aging. The Older Americans Act program is an in home service program administered by the Central Plains Area Agency on Aging for Butler, Sedgwick, and Harvey Counties. Since the beginning of the program Butler County Department on Aging has provided the assessment and management of any clients in Butler County receiving these in home services. The Kansas Department for Aging and Disabilities Services (KDADS) is requiring that the Central Plains Area Agency on Aging have a contract with the Butler County Department on Aging in order to continue to provide these services. The first of these contracts was signed in November of 2016 to cover FY 2017. The new fiscal year began October 1, thus this agreement is to extend the current contract for one year, running October 1, 2021-September 30, 2022.

Butler County has historically served as the assessment and case management entity for this program. Intakes are completed by Butler County Department on Aging staff. Assessments are then scheduled in individual homes to determine the clients' needs for services by evaluating activities of daily living and the services are monitored by the Butler County Department on Aging staff. Case Management services are provided by the Butler County Department on Aging Director for all clients on this program. Butler County clients benefit from having this program administered locally rather than relying on these services to be provided from Wichita; however, all information is shared with the Central Plains Area Agency on Aging, as they are the responsible party for the Older Americans Act Program. Files are audited quarterly by the KDADS to assure compliance with the Field Service Manual approved by KDADS. Butler County pays match for the Older Americans Act services. Because Butler County pays match, it is in the County's best interest to have local staff determine the amount of services clients need in their homes. Butler County does receive reimbursement for the Older Americans Act Case Management and Assessments, which totals almost \$7000.00 this fiscal year. There are no changes to the contract from the previous year.

Commissioner Masterson asked as to the term of the agreement; Administrator Johnson provided the needed answer.

Commissioner Masterson motioned to approve the FY 2022 Older Americans Act Case Management and Assessment Agreement between Central Plains Area Agency on Aging and Butler County Department on Aging. Commissioner Woydziak seconded. Motion carried 5-0.

(00:14:09)

ITEM #4 – ANNUAL MOTOROLA SUA PAYMENT

Jeremy Seglem, Emergency Communications Director, approached the Board for the authorization of the Director to pay an invoice in the amount of \$95,427.96 to Motorola Solutions for the annual System Upgrade Agreement. In order to manage the statewide radio system the Kansas Department of Transportation (KDOT) and Butler County must maintain current software versions. Butler County executed a new six year contract with Motorola in 2017 to provide shared upgrades. The County's partnership with KDOT on the radio system has proven to be very beneficial to the County operationally by providing a state-wide footprint on limited channels and a regional footprint on all channels. Additionally, by taking advantage of KDOT's offer to utilize their controller the County has experienced significant cost efficiency. One of the "down sides" to this relationship is that all of the components of the system must utilize compatible software versions. It is not possible for Butler County to upgrade its software without KDOT upgrading the software of the components that communicate with County components, and vice versa. This requirement naturally puts KDOT in the driver's seat when determining the schedule for system wide upgrades. \$95,427.96 is a budgeted item through Strategic Communications; this is year six of an existing six year contract.

The Board asked questions regarding the payment and the amount; Mr. Seglem provided the answers. Commission Chair Herzet asked Mr. Seglem if he is happy with the Motorola system and upgrades; Mr. Seglem replied that he is.

Commissioner Masterson motioned to authorize the Emergency Communications Director to make payment in the amount of \$95,427.96 to Motorola Solutions for the annual System Upgrade Agreement. Commissioner Wheeler seconded. Motion carried 4-1. Commissioner Woydziak dissented.

Commissioner Wheeler asked if the County was aware of the system upgrade payments when the County entered into the agreement; Commissioner Woydziak stated the County was not aware and was informed the upgrades would be taken care of, hence the reason why he votes against the SUA.

Commission Chair Herzet asked if all of the mobile radios have been mobilized out in the field; Mr. Seglem replied some of the radios have yet to be mobilized due to some fire departments' desiring to upgrade radios. Commissioner Masterson confirmed with Administrator Johnson and Mr. Seglem that upgrades will be shouldered by the fire departments desiring the upgrades.

(00:21:11)

ITEM#5 – NEXT GENERATION 911 ANNUAL PAYMENT

Jeremy Seglem, Emergency Communications Director, came before the Board for the authorization of the annual payment for NG911. In 2017 Butler County entered into an agreement with the Kansas 911 Coordinating Council for NG911 call handling equipment and

participation on the statewide ESI Net. Text-to-911 capability was achieved shortly after migrating to ESI Net. Geospatial routing is now enabled in Butler County, improving call routing and location accuracy utilizing a state wide mapping program. The hosted solution cost is \$108,360 per year for six dispatch positions.

Commissioner Masterson asked as to what the result would be should the County choose not to pay the fee; Mr. Seglem replied the County would have to build its own IP network or utilize an old line. Commissioner Woydziak asked how often the texting to 911 capability is utilized; Mr. Seglem stated texting to 911 is not highly utilized. Commissioner Woydziak expressed his concern with Emergency Communications beginning to accept more and more means of communication and the problems which can arise when more venues are accepted; the Board discussed the various concerns regarding the topic.

Commissioner Wheeler motioned to approve the payment to the Kansas 9-1-1 Coordinating Council in the amount of \$108,360 for 2022 NG911 services. Commissioner Murphy seconded. Motion carried 4-1. Commissioner Woydziak dissented.

Commission Chair Herzet asked Mr. Seglem of how many staff members he is currently in need; Mr. Seglem stated Emergency Communications is not fully staffed but is not bad off.

Crystal Noles, Department on Aging Director, obtained Commissioner Wheeler's signature on the Benton Senior Center.

(00:27:43)

ITEM #6 – ROAD VACATION ORDER FOR NW 60TH ST BETWEEN NW OHIO STREET RD AND K-196 HIGHWAY IN PLUM GROVE TOWNSHIP

Darryl Lutz, Public Works Director, came before the Board for the receiving of a Report of Viewers and the consideration of approving an order related to a petition to vacate public road right-of-way for NW 60th St between NW Ohio Street Rd and K-196 Highway in Plum Grove Township. The County previously received a petition from Mr. Donovan Claassen requesting the vacation of road right-of-way for NW 60th St from NW Ohio Street Rd east a little over one half mile to the west line of K-196 Highway in Plum Grove Township. The road segment proposed to be vacated is presently a dirt road in poor condition. Mr. Claassen is a landowner on the north side of the road proposed to be vacated. The minimum requirement for a petition for road vacation is for any adjacent property owner to sign the petition. On January 4, 2022, the Board of County Commissioners accepted the petition, appointed Commissioners Kelly Herzet, Jeff Masterson and Mike Wheeler as road viewers and set the date of Tuesday, February 1, 2022, at 8:00 a.m. for the viewers to meet at the road location to hold the viewing. The County is following statutory procedures and requirements for vacating public roads.

The appointed road viewers met at the place of beginning of the described road and received comments from interested parties. The road viewers noted there were more people present at the viewing than anticipated but none voiced opposition to the proposed closure. Commissioner Masterson asked if anything will be done on the east end; Mr. Lutz stated KDOT will be notified. Commissioner Wheeler noted the property owner to the north intends to farm over the

closed roadway and no one in attendance at the viewing expressed opposition. Commission Chair Herzet stated one of the adjacent landowners no longer lives in Kansas and will be selling the property adjacent to the road. Commission Chair Herzet noted he did not hear any objections voiced by anyone in attendance.

Commission Chair Herzet motioned to receive the Report of Viewers related to the petition requesting the vacation of NW 60th St between NW Ohio Street Rd and the west line of K-196 Highway in Plum Grove Township, to find in favor of the Report of Viewers and that said road right-of-way be hereby ordered vacated and authorized the Chair to sign the order. Commissioner Wheeler seconded. Motion carried 5-0.

(00:34:15)

ITEM #7 – RIGHT OF WAY ACCEPTANCE AND APPROVAL – SW BUTLER RD PROJECT FROM K-254 TO PARALLEL

Darryl Lutz, Public Works Director, approached the Board for the consideration of the acceptance of the dedication of easements and rights-of-way for several tracts related to the SW Butler Rd Improvement Project from K-254 north to Parallel. The SW Butler Rd Improvement Project from K-254 to Parallel is a federal aid project funded through KDOT. The final plans are nearly completed and Butler County staff has been working with property owners on right-of-way and easement acquisition. In June 2019, the Board of County Commissioners approved right-of-way values and authorized the Director of Public Works to begin the right-of-way acquisition process. Contacts have been made with all property owners and official offers based upon approved values have been presented. Some of the right-of-way and/or easements forms have now been signed and returned to the County for acceptance and remittance of any settlements or payments such as fence replacements, encroachment damages and landscape item replacements. Due to the project being funded with federal funds, Butler County must follow very strict requirements for acquisition of right-of-way. Mr. Lutz provided easement documents and right-of-way documents that have been received thus far which included a summary of the settlements for approval of payment. Mr. Lutz asked the Board to accept the dedication of the easements and rights-of-way and to approve the payment of settlements negotiated by staff. Right-of-way acquisitions for this project are included in the adopted CIP for Butler County and staff is following KDOT approved procedures for acquisition of real property for project right-of-way.

Commissioner Wheeler verified with Mr. Lutz that the project location is north of K-254. Commissioner Masterson asked how much the County is paying Mike Hinnenkamp; Mr. Lutz explained the payments.

Commissioner Murphy motioned to approve the acceptance of dedications of easements and rights-of-way and to approve the settlements negotiated for Project No. 8C-4935-01, the SW Butler Rd Improvement Project from K-254 to Parallel as presented and authorized the Chairman to sign the documents. Commissioner Masterson seconded. Motion carried 5-0.

(00:41:54)

ITEM #8 – RIGHT OF WAY ACCEPTANCE AND APPROVAL – DRY CREEK BRIDGE ON SW RIVER VALLEY RD

Darryl Lutz, Public Works Director, approached the Board for the consideration of the acceptance of the dedication of easements for right-of-way for tracts related to the Dry Creek Bridge replacement project on SW River Valley Rd. The Dry Creek Bridge replacement project on SW River Valley Rd is a County-funded bridge replacement project in the County's adopted CIP. The final plans are complete and Butler County staff has been working with property owners on right-of-way and easement acquisition. The Board of County Commissioners previously approved right-of-way values and authorized the Director of Public Works to begin the right-of-way acquisition process in October. Agreements have been reached with all property owners and official offers based upon approved values have been presented. The project requires three tracts of right-of-way and one temporary construction easement from three property owners. Settlements from two property owners have already been completed and approved. Staff has received signed right-of-way documents from the third property owner for approval and acceptance. The project is expected to be ready to advertise for bids in early February 2022. Mr. Lutz presented easement documents and right-of-way documents to the Board and asked the Board to accept the dedication of the easements and rights-of-way and to approve the payment of settlements negotiated by staff. The payments and settlements are based upon approved unit price values for permanent easement and will include any additional cost to cure items such as fence replacements. Right-of-way acquisitions for this project are included in the adopted CIP for Butler County; staff is following approved procedures for acquisition of real property for project right-of-way.

Commissioner Masterson asked if the road will have to be closed for the project and if so, how long the closure would last; Mr. Lutz replied the road will need to be closed for about six to eight months.

Commissioner Murphy motioned to approve the acceptance of dedications of easements for rights-of-way and to approve the settlements negotiated for Project No. BR20E9-27-4(21), the Dry Creek Bridge replacement project on SW River Valley Rd and authorized the Chairman to sign the documents. Commissioner Wheeler seconded. Motion carried 5-0.

(00:44:38)

NON-AGENDA ITEM

Mr. Lutz stated himself and Administrator Johnson met with the City of Andover yesterday to discuss the extension of the US 54 past the County line to Prairie Creek Rd. Administrator Johnson stated his chagrin with not being involved in the initial discussions between KDOT, Sedgwick County, and the City of Wichita. Administrator Johnson stated he will present the Board with a letter of support for KDOT with no financial commitments from the County. The Board, Administrator Johnson and Mr. Lutz discussed various aspects of the project's planning, design, and execution.

Commissioner Masterson motioned to send a letter of support to KDOT for the extension of the US 54 past 159th St. with no financial commitment from Butler County. Commissioner Woydziak seconded. Motion carried 5-0.

Mr. Lutz stated he has a very rough draft of the support letter and will pass it along to Administrator Johnson for finishing. Administrator Johnson said someone will deliver the letter today.

(00:55:08)

VOUCHERS

Commissioner Wheeler motioned to approve vouchers dated February 1, 2022, in the amount of \$405,142.46. Commissioner Murphy seconded the motion. Motion carried 5-0.

Administrator Johnson stated he received information regarding the Advanced Correctional Care at the Detention Center and is working to thoroughly review the data but stated he did notice a full time on-site nurse was added last year in anticipation of an uptick in US Marshall inmates. The addition of a nurse could explain the cost increases the Board has noticed. The Board and Administrator Johnson discussed the Detention Center's staffing levels and the number of inmates safe to hold at certain staffing levels.

Commissioner Masterson asked about the County's contract with the US Marshalls. Administrator Johnson stated Ryan Adkison, Finance Manager, is in the process of negotiating with the US Marshalls and updated the Board on the status of the negotiations and possibilities, along with timelines.

(00:59:18)

ADDS & ABATES

Commissioner Wheeler motioned to approve Adds in the amount of \$47.80 and Abates in the amount of \$149.38. Commissioner Murphy seconded. Motion carried 5-0.

(00:59:40)

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

Commissioner Wheeler stated Ron Peters, President of Fire District #6, passed away. Fire District #6's Fire Board has requested Commissioner Wheeler appoint Damon Bing of 301 N Water, Latham, Kansas, to the fire board. Damian Korte has assumed the position of fire board president.

Commissioner Wheeler motioned to appoint Damon Bing of 301 N Water, Latham, Kansas, to the Fire Board of Fire District #6. Commissioner Masterson seconded. Motion carried 5-0.

Commissioner Wheeler inquired about the status of the street light request from Steve Shannon of S.D.S. Inc. Administrator Johnson stated Mr. Shannon recently contacted him about the issue. Administrator Johnson stated the County cannot set up a benefit district in the area in question and explained to Mr. Shannon the County most likely would not be willing to become involved with street lights without a benefit district and set a precedence. Commissioner Woydziak asked why the City of El Dorado has not annexed the Industrial Park; the Board and Administrator Johnson stated the businesses located in the Park have indicated they do not want to be annexed.

Commission Chair Herzet stated he has a meeting with the K-254 Corridor Development Association at 11:30 a.m. in Bel Aire on Friday.

Commission Chair Herzet commented on the status of the Sunlight Children's Center.

Administrator Johnson notified the Board the next phase of the Event Center will be on the agenda next week for a contract with Gravity Works Architecture. Administrator Johnson stated he discovered a grant for which the County can apply and may receive but solid numbers need to be obtained in order to successfully apply for the grant. The Board and Administrator Johnson discussed the fact the Event Center will most likely require a County-wide sales tax for capital cost but the center should support its operations. Commissioner Woydziak asked where the funds for the study and designs will come; Administrator Johnson stated the grant and American Rescue Plan (ARP) funds can be used.

Commission Chair Herzet stated he had a dinner with the Butler County Conservation District Thursday evening but it has been cancelled.

The Township Meeting is March 8th.

Commissioner Wheeler inquired if Commissioner Woydziak and Administrator Johnson are attending the NACo conference; Commissioner Woydziak and Administrator Johnson confirmed they will not be in attendance.

Administrator Johnson informed Commissioner Wheeler the County has terminated its relationship with TimeClocks Plus and requested a refund for software costs associated with the program. Administrator Johnson stated the issues encountered were numerous, long-term, and not resolved.

(01:14:55)

ADJOURNMENT

*Commissioner Woydziak motioned to adjourn the meeting of the Board at 10:15 a.m.
Commissioner Wheeler seconded the motion. Motion carried 5-0.*