

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, March 27, 2018

CALL TO ORDER

Commission Chairman Dan Woydziak called the Butler County Board of Commissioners to order at 9:00 a.m. Present were Commissioner Jeff Masterson, Commissioner Marc Murphy, Commissioner Ed Myers, Commissioner Mike Wheeler, County Administrator Will Johnson, and Clerk Recorder Chelsea Noel.

INVOCATION

Pastor Wanetta Baldwin, Community of Christ Church, El Dorado, presented the invocation.

APPROVAL OF MINUTES

Commissioner Murphy motioned to approve the minutes of the Butler County Commission meeting from Tuesday, March 20, 2018 as written. Commissioner Masterson seconded the motion. Motion carried 4-0-1. Commissioner Wheeler abstained due to his absence last week.

(00:01:42)

PUBLIC COMMENTS

There were no public comments.

(00:02:02)

ITEM #1 – PUBLIC WORKS MOWING TRACTORS – BID OPENING

Darryl Lutz, Public Works Director, came before the Board to open and receive sealed bids for the purchase of three mowing tractors for the Public Works Department. Following are the bids received:

Ravenscraft Implement Inc.	Whitewater, KS	\$240,450.00 (3)
Straub International	Wichita, KS	\$78,000.00 (1)
Wichita Tractor Company	Wichita, KS	\$235,000.00 (3)
Schmidt & Sons	Winfield, KS	\$79,550.00 (1)
Prairie Land Partners	Wichita, KS	\$92,445.17 (1) \$274,935.51 (3)

Commissioner Masterson motioned to accept the bids received and opened for three mowing tractors for the Public Works Department and directed staff to tabulate the bids, to evaluate the equipment offered and to return at a later date with a recommendation for purchase. Commissioner Murphy seconded the motion. Motion carried 5-0.

(00:06:34)

ITEM #2 – REQUEST FOR A CONDITIONAL USE PERMIT (CUP) FOR THE PLACEMENT OF AN ANTENNA FOR RURAL BROADBAND ON EXISTING WIND TURBINE BY JOHN (ROCKY) BOURGET ON PROPERTY LOCATED AT 9355 SW 110TH ST., AUGUSTA, KS

David Alfaro, Community Development Director, came before the Board for approval of a request for a CUP for the placement of an antenna for rural broadband on existing wind turbine by John (Rocky) Bourget on property located at 9355 SW 110th Street, Augusta. Mr. Bourget erected a wind turbine on his property in June 2017 with the goal of providing his own electricity and selling excess power out on the electric grid. Due to a requirement from WESTAR that the Turbine have a Commercial classification Mr. Bourget hasn't been able to sell the power. Recently he was contacted by DBM Communications about the possibility of placing an Antenna to allow for the broadcasting of Rural Broadband on the Turbine to provide low cost Internet Service to rural customers. Mr. Alfaro stated if the CUP is approved Mr. Bourget would be allowed to sell his excess power to WESTAR. The request was approved 7-0 by the Planning Commission.

Commissioner Murphy motioned to approve a request for a CUP for the placement of an antenna for rural broadband on existing wind turbine by John (Rocky) Bourget on property located at 9355 SW 110th Street, Augusta and directed the Chair to sign Resolution No. 18-07. Commissioner Myers seconded the motion. Motion carried 5-0.

(00:09:38)

ITEM #3 – HOMESTEAD LOT SPLIT FOR ARRINGTON FAMILY TRUST ON PROPERTY LOCATED AT 3838 SW 220TH ST., DOUGLASS, KS

David Alfaro, Community Development Director, came before the Board for approval of a 9.37 acre Homestead Lot Split on property located at 3838 SW 220th Street with the placement of a 70+/- Acre APO on remaining property. The property is primarily used for farming activities and staff felt the request met the criteria for such a split. All landowners within a 1,000' radius were notified of the request and no comments were received.

Commission Chairman Woydziak motioned to approve the request from the Arrington Family Trust for a 9.37 acre Homestead Lot Split with the placement of a 70+/- acre APO on a portion of the remaining property and directed the Chair to sign the APO Agreement. Commissioner Murphy seconded the motion. Motion carried 5-0.

(00:11:24)

ITEM #4 – DAVID STACKLEY FLINT HILLS EQUESTRIAN ESTATES FINAL PLAT

David Alfaro, Community Development Director, came before the Board for approval of the Final Plat for Flint Hills Equestrian Estates, submitted by David Stackley, on property located on the East side of NW Highway 77 between NE 75th & NW 85th Streets. David & Faith Stackley own a tract of land containing 159 acres of land. On December 9, 2017 the Butler County Commission approved a change in zoning from AG-80 to PRD-B residential zoning classification. This classification allows for the creation of smaller tracts of land for small subdivisions in rural locations. The tracts will contain their own personal Water Wells as well as Waste Systems. The Final Plat contains ten 1.5 acre tracts of land and 33 acres of Open Space as required per the PRD-B zoning classification. The Planning Commission felt that all areas of concern had been addressed and approved the Final Plat by a vote of 7-0.

Commissioner Wheeler motioned to approve the request from David Stackley for a Final Plat for Flint Hills Equestrian Estates and directed the Chairman to sign the Final Plat. Commissioner Myers seconded the motion. Motion carried 5-0.

(00:14:43)

ITEM #5 – CONDITIONAL USE PERMIT (CUP) FOR CEDAR POINT ROCK QUARRY SOUTH OF AUGUSTA

David Alfaro, Community Development Director, came before the Board for approval of a Conditional Use Permit submitted by Jake & Nick McClure for the operation of a rock quarry for the Commercial Extraction of Limestone on property located on SW Highway 77 between SW 120th & SW 130th Streets. The quarry would be operated by Warren Harshman and identified as Cedar Point Rock Quarry. Mr. Alfaro stated the area has several homes in close proximity to the impacted area and the applicant has taken measures to ensure that their properties will not be impacted by the operations of the quarry. Mr. Alfaro stated a pre-blast Survey was offered by the applicant to residences within 2,000' of the quarry perimeters prior to the start-up of the operations to establish baselines on the conditions of their properties. The Planning Commission heard public comments from the landowners regarding the potential impact to the landowners and decided any impact would be minimal and approved the request 4-3 but did recommend certain conditions be placed on the CUP. Mr. Alfaro stated a protest petition was received from the opposing landowners. However, legal counsel reviewed Kansas Statute 12-757A which states no city or county may establish procedures regarding the adoption of special use or conditional use permits for mining operations which require the approval of more than a majority vote. Commissioner Myers discussed the traffic impact at the prospective quarry and the necessity to improve the intersection at SW Highway 77 and SW 120th. Mr. Alfaro stated the applicant would be required to make a significant improvement to the intersection.

Ray Connell, Attorney representing Carrie Casey, came before the Board to present information pertaining to this CUP request. Attorney Connell stated his client was opposed to the CUP for many reasons such as noise and dust from rock blasting, truck traffic coming and going from the property without adequate turn lanes, and health and safety concerns. Attorney Connell stated the CUP request for the rock quarry is not an immediate concern and felt the applicant should return when the rock from the Southwest Butler Rock Quarry is exhausted.

David Sundgren, Sungroup Real Estate, came before the Board and provided an opinion as to how the rock quarry could have a negative effect on these properties. Mr. Sundgren stated the homes could have a decrease in value anywhere from 20-50%.

Patrick Hughes, Attorney representing the applicants, came before the Board and stated the initial concerns of the CUP were adequately addressed by the applicants which supported the Planning Commission's conclusion to support the CUP.

Warren Harshman, Quarry Operator, stated he realized the concerns of the neighbors and discussed why the property is appropriate for a quarry. Mr. Harshman stated rock quarries supply rock to the County, Townships, Cities and private organizations and believes it is important for the community to have a local source of rock. Mr. Harshman stated this particular site met all of the requirements and noted the applicants would do whatever is needed to make this a safe location. Mr. Harshman noted the location has the quality and depth of rock that is needed for a quarry and did not feel the quarry would have a negative impact on the neighborhood.

Darren Bannon, Quarry Operator, came before the Board and discussed hours of operation and loading and unloading times at the quarry. Mr. Bannon stated on average 120 trucks per day would be coming and going from the quarry. Mr. Bannon felt it is important to maintain the

ability to be able to crush rock in the event of a natural disaster. Mr. Bannon stated he would like the hours of operation to be from 7 a.m.-5:30 p.m.

Commissioner Myers stated he spoke with some of his constituents who have expressed dissatisfaction with living near a rock quarry for many reasons such as dust, noise, and pollution.

Troy Newman, 10529 SW 30th, Towanda, came before the Board to share his thoughts and provided his opinion on living next to Bergkamp Rock Quarry. Mr. Newman stated he lives less than one mile from Bergkamp Rock Quarry and expressed his dissatisfaction of noise, dust, and truck traffic from the quarry.

The following residents came before the Board in opposition to the request for reasons such as noise, dust, pollution, truck traffic, decrease in property value, and the possibility of more traffic accidents on SW Highway 77: Starlet Hunt, Scott Sullivan, Charles Smith, and Johnna Smith.

(01:56:20)

RECESS

Commission Chairman Woydziak recessed the Board meeting at 10:55 a.m. for 5 minutes.

RECONVENE

Commission Chairman Woydziak reconvened the Board meeting at 11:00 a.m.

Commission Chairman Woydziak thanked everyone for addressing their concerns to the Board in a professional manner.

Commissioner Wheeler stated he could not support the CUP and understood why the residents were opposed to the rock quarry. Commissioner Wheeler felt sympathetic that this operation could interrupt the peace and quiet of their home. Commissioner Wheeler also stated he is supportive of lucrative business investments but not when it would intrude on the quality of life of the surrounding neighbors.

Commissioner Myers (*amended on April 3, 2018 to add the following: stated based on his experience with seismic exploration techniques, felt the neighbors' concerns about adverse effects on ponds and springs were reasonable*). Commissioner Myers also felt the rock quarry would negatively impact the characteristics of the area and stated he could not support the request for a CUP.

Commission Chairman Woydziak felt the applicants were well prepared and felt inclined to support the rock quarry.

Commissioner Murphy stated the applicants addressed all of his initial concerns and was supportive of the CUP.

Commissioner Masterson stated his initial safety concerns had been adequately addressed by the applicants and did not feel the CUP would have a negative impact on the value of the homes in the area. Commissioner Masterson felt inclined to support the CUP.

The following language was suggested to be added to the conditions of the CUP: Any entrance and design upon SW Highway 77 must be approved by KDOT before quarry operations begin, emergency operations could be allowed by request to the Board of County Commissioners or

Zoning Administrator during a natural disaster, hours of operation from 7:00 a.m. to 5:30 p.m. Monday-Friday and 7:30 a.m. to 12:00 p.m. on Saturdays, posting of No-Truck Traffic on SW 120th inside the quarry property by the operator.

Commissioner Murphy motioned to approve the CUP for the commercial extraction of limestone by Cedar Point Rock Quarry acting as the agent for Jake and Nick McClure and directed the Chair to sign Resolution No. 18-08 with the following changes: modification of operations of hours to 7:00 a.m. - 5:30p.m., the inclusion of a clause allowing operation during a natural disaster, changing condition #4 to posting of No Truck Traffic on SW 120th inside the quarry property by the operator, KDOT must approve any entrance onto SW Highway 77 and the quarry would not commence until improvements are completed. Commissioner Masterson seconded the motion. Motion carried 3-2. Commissioner Wheeler and Commissioner Myers opposed.

(02:29:58)

VOUCHERS

Commissioner Wheeler motioned to approve vouchers for March 27, 2018 in the amount of \$337,591.88. Commission Chairman Woydziak seconded the motion. Motion carried 5-0.

(02:30:15)

COMMISSION ADDS & ABATES

Commissioner Masterson motioned to approve Adds & Abates #2681 dated March 27, 2018; Adds in the amount of \$340.98 and Abates in the amount of \$15,542.86. Commissioner Murphy seconded the motion. Motion carried 5-0.

(02:30:35)

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

Don Engels, Butler County Clerk, came before the Board and announced he is retiring on May 4th and stated the Republican Party appointed Tatum Stafford as the next Butler County Clerk.

Mr. Engels stated the Clerk's Office received a letter from the Secretary of State's Office stating the Federal Government signed into law a budget that included \$380 million on previously unallocated HAVA funds to be distributed among the states for election improvements.

Commission Chairman Woydziak thanked Mr. Engels for his service to Butler County.

Commissioner Myers stated his 6th grandson was born over the weekend.

Darrin Devinney, County Attorney, came before the Board and invited the Commissioners to attend a remedial training on the Kansas Open Meetings Act at the next Planning Commission meeting on April 3rd.

The Commissioners will be hosting a Town Hall meeting on Monday, April 9th at 5:30 p.m. at Rose Hill City Hall for the purpose of presenting two intersection improvement options to the public for the planned reconstruction at SW Butler Road and SW 150th Street.

(02:38:00)

ADJOURNMENT

*Commission Chairman Woydziak motioned to adjourn the meeting of the Board at 11:41 a.m.
Commissioner Murphy seconded the motion. Motion carried 5-0.*