

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, March 28, 2023

(00:00:00)

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 Jeff Masterson, Commissioner Marc Murphy, Commissioner Darren Jackson, Commissioner Dan Woydziak, County Administrator Will Johnson, County Counselor Terry Huelskamp and Clerk Recorder Jennifer Currier.

(00:00:05)

INVOCATION

Commissioner Masterson presented the invocation.

(00:00:47)

APPROVAL OF MINUTES

Commissioner Masterson motioned to approve the minutes from the March 21, 2023, Butler County Commission meeting as presented. Commissioner Murphy seconded the motion. Motion carried 5-0.

(00:01:09)

PUBLIC COMMENTS

Tatum Stafford, County Clerk, came before the Board to discuss the purchase of an extended warranty for the County's election equipment and a pay increase for four employees by eliminating a vacant full time position. The Board was in favor and requested Ms. Stafford return with documentation as an agenda item for next week's meeting.

(00:05:59)

ITEM #1 - HOMESTEAD LOT SPLIT ON PROPERTY LOCATED AT 11746 SW HIGHWAY 77 AUGUSTA, KANSAS, AS SUBMITTED BY MAC BENNINGTON

David Alfaro, Community Development Director, came before the Board for approval of a five +/- acre homestead lot split with 35+/- acre APO on property located at 11746 SW Highway 77 Augusta, Kansas. Mac Bennington owns a tract of land that contains 238+/- Acres and is zoned AG-40. Mr. Bennington proposed to split a 5+/- acre tract of land and place a 35+/- acre APO on a portion of the remaining property. The property is primarily used for farming activities and Staff feels the request meets the criteria for such a split and it is appropriate to place an APO on the 35+/- acres. State Statute required all landowners located within a 1,000' radius of the site be notified of the request and Staff did not receive any comments for or against the request. The Planning Commission approved the request by a vote of 6-0. Staff supports the recommendation as well.

Roger Cutsinger, Savoy Surveying, was present for questions.

Commissioner Murphy motioned to approve the request for a Homestead Lot Split on property located at 11746 SW Highway 77 Augusta, Kansas, as submitted by Mac Bennington and

directed the Chairman so sign the APO Agreement. Commissioner Masterson seconded. Motion carried 5-0.

(00:07:52)

ITEM #2 - HOMESTEAD LOT SPLIT ON PROPERTY LOCATED AT 8501 NW 60th ST POTWIN, KANSAS, AS SUBMITTED BY BLAINE BUSENITZ

David Alfaro, Community Development Director, came before the Board for approval of a 10+/- acre tot split with placement of a 70+/- acre APO on property located at 8501 NW 60th St Potwin, Kansas. Blaine Busenitz owns a tract of land that contains 195+/- acres and is zoned AG-80. Mr. Busenitz proposed to split a 10+/- acre tract of land with placement of a 70+/- acre APO on a remaining portion of the property. The property is primarily used for farming activities and Staff feels the request meets the criteria for such a split and it is appropriate to place an APO on the 70+/- acres. State Statute required all landowners located within a 1,000' radius of the site be notified of the request and Staff did not receive any comments for or against the request. The Planning Commission approved the request by a vote of 6-0. Staff supports the recommendation as well.

Roger Cutsinger, Savoy Surveying, was present for questions.

Commissioner Masterson motioned to approve the request for a Homestead Lot Split on property located at 8501 NW 60th St Potwin, Kansas, as submitted by Blaine Busenitz and directed the Chairman to sign the APO Agreement. Commissioner Murphy seconded. Motion carried 5-0.

(00:09:56)

ITEM #3 - HOMESTEAD LOT SPLIT ON PROPERTY LOCATED AT 4460 SE 20TH ST EL DORADO, KANSAS, AS SUBMITTED BY DARIUS SEMISCH

David Alfaro, Community Development Director, came before the Board for a five+/- acre homestead lot split with a 35+/- acre APO on property located at 4460 SE 20th St El Dorado, Kansas. Darius Semisch owns a tract of land that contains 66+/- acres and zoned AG-40. Mr. Semisch proposed to split a five+/- acre tract of land and place a 35+/- acre APO on a portion of the remaining property. The property is primarily used for farming activities and Staff feels the request meets the criteria for such a split and it is appropriate to place an APO on the 35+/- acres. State Statute required all landowners located within a 1,000' radius of the site be notified of the request and Staff did not receive any comments for or against the request. The Planning Commission approved the request by a vote of 6-0. Staff supports the recommendation as well.

Roger Cutsinger, Savoy Surveying, was present for questions.

Commissioner Jackson motioned to approve the request for a Homestead Lot Split on property located at 4460 SW 20th St El Dorado, Kansas, as submitted by Darius Semisch and directed the Chairman to sign the APO Agreement. Commission Chair Herzet seconded. Motion carried 5-0.

(00:12:09)

ITEM #4 - REQUEST FOR A CHANGE IN ZONING FROM AG-80 TO AG-40 AS SUBMITTED BY JASON DOHRMAN ON PROPERTY LOCATED AT 0 SW PURITY SPRINGS RD DOUGLASS, KANSAS

David Alfaro, Community Development Director, came before the Board for approval of a change in zoning from AG-80 to AG-40 on property located at 0 SW Purity Springs Rd Douglass, Kansas, at the NW Corner of SW 170th and SW Purity Springs Rd. Jason Dohrman owns a tract of land that contains 80+/- acres and has requested to rezone the 80+/- acres, which will allow him to potentially split the property into two 40+/- acre tracts. The property is located in an area that has AG-40 as well as RR zoned properties. If the property is split into two 40 acre tracts, the tracts would be similar in size to properties currently located in the area and not detrimental to the surrounding properties. State Statute required all landowners located within a 1,000' radius of the site be notified of the request and Staff did not receive any comments for or against the request. The Planning Commission approved the request by a vote of 6-0 and Staff supports the recommendation as well.

Commissioner Woydziak motioned to approve the change in zoning from AG-80 to AG-40 and directed the Chairman to sign Resolution No. 23-08. Commissioner Jackson seconded. Motion carried 5-0.

Mr. Alfaro and the Board discussed the regulations currently in place for Pole Barns and the need to possibly update the regulations. Mr. Alfaro presented the Board with documents to review and will return with an Inspector at a later date to discuss the subject further.

(00:29:08)

ITEM #5 - DISASTER RELIEF DETERMINATION AND ORDER

Debra Studebaker, County Appraiser, came before the Board for approval of disaster relief for one applicant for damage that occurred as a result of the tornadoes on April 29, 2022. The State of Kansas adopted through statute the ability for County Commissioners to abate taxes on homesteads and structures that have been impacted by disasters, which would include fires, tornados, flooding or earthquakes. The Board approved Resolution No. 22-19 on May 17, 2022, establishing a policy for property tax abatements of properties impacted by disasters. One application has been reviewed by Ms. Studebaker and qualifies for disaster relief as outlined in K.S.A. 79-1613 and Resolution No. 22-19. The estimated tax relief abatement of the one qualified property is \$2,935.

Butler County Commissioners Disaster Relief Determination and Order

Q Ref	Parcel ID	Property Address	Applicant	Structure destroyed by 50% or more of market value	Declared Disaster by Governor	Source of Damage	Date of Destruction	Abatement- After Jan 1 taxes not paid	Refund-After Jan 1 and at least part of taxes paid	Documents Provided by Applicant	No Abate or Credit	Abate/Credit of % of Assessed Value then prorated	Applicable Tax Year
R24057	304-20-0-40-01-017.00-0	1400 E French Ct	Rickie & Donna Haywood	Yes	Yes	Tornado	4/29/2022	X		Photos		100% of SFD	2022

Commissioner Masterson motioned to approve disaster relief from one applicant for damage that occurred as a result of the tornadoes on April 29, 2022. Commissioner Woydziak seconded. Motion carried 5-0.

(00:31:44)

ITEM #6 - PUBLIC WORKS DEPARTMENT EQUIPMENT - BID OPENING

Darryl Lutz, Public Works Director, came before the Board to receive and open sealed bids for the purchase of a new commercial zero turn mower for the Landfill Division of the Department of Public Works. Public Works develops and maintains an equipment replacement plan for all of its divisions. The plan is used as a tool to help budget for equipment replacement and is incorporated into the County’s current CIP and adopted budgets. Equipment, however, is operated until it is ready to be replaced. Several pieces of equipment are ready for replacement or purchase in 2023, which will include some equipment carried over from prior years. In January 2023, Public Works received permission from the Board to go out for bids for several pieces of equipment including a commercial zero turn mower for the landfill. Staff has developed the preferred specifications for the equipment and have solicited bids from equipment vendors in the Wichita market. It was proposed that the name and location of each vendor be read along with the bid price and the equipment make and model being bid. Staff recommended that all bids received and accepted by the Board be tabulated and evaluated by staff and a recommendation for purchase be returned at a later date. The Bids are as follows:

BUTLER COUNTY DEPARTMENT OF PUBLIC WORKS				
BID TABULATIONS				
(1) 30 HP, 60" Deck Riding Lawn Mower				
Bid opening: Tuesday, March 28, 2023				
Company	Hoover Mower Sales	Hoover Mower Sales	Hoover Mower Sales	Ravenscraft Implement, Inc.
Location	Benton, KS	Benton, KS	Benton, KS	Whitewater, KS
Make	SCAG	SCAG	SCAG	Grasshopper
Model	STTI-61V-31BV	STCI-61V-32BV	SCZTI-61V-38CV-EFI	335
Year	2023	2023	2023	2023
TOTAL PRICE for (1) Riding Lawn Mower	\$ 12,635.00	\$ 10,399.00	\$ 12,284.00	\$ 14,803.91
Comments:	2 yr parts & Labor no hour 30 day wear item warranty 3 yr on engine no hour	2 yr parts & Labor no hour 30 day wear item warranty (belts, tires) 3 yr on engine no hour	2 yr parts & Labor no hour 30 day wear item warranty 3 yr on engine no hour	Commercial Warranty 3 yr unlimited hours
Delivery Date	4-15-23	4-15-23	4-15-23	n/a
Company	Maximum Outdoor Equipment & Service	Maximum Outdoor Equipment & Service	Maximum Outdoor Equipment & Service	Maximum Outdoor Equipment & Service
Location	Andover, KS	Andover, KS	Andover, KS	Andover, KS
Make	Grasshopper	Grasshopper	Grasshopper	Ferris
Model	335/ 60" rear discharge	335	337 G5 EFI	ISX 3300
Year	2022	2023	2023	2023
TOTAL PRICE for (1) Riding Lawn Mower	\$ 11,997.00	\$ 12,997.00	\$ 12,671.00	\$ 14,996.00
Comments:	3 yr limited no hour limitation 2 years parts & labor 3rd year parts only	3 yr limited no hour limitation 2 years parts & labor 3rd year parts only	3 yr/1250 hr. limited Commercial parts & labor for 2 yrs. 3rd year parts only	4 yr/500 hr. whichever first unlimited hr. during first 2 yrs. Engine 3 years Suspension 5 years
Delivery Date	in stock unit only	30 days from PO	30 days from PO	45-60 day from PO

Commissioner Woydziak motioned to approve the bids received and opened for a commercial zero turn mower for the Landfill Division of the Public Works Department and to direct Staff to tabulate the bids, to evaluate the equipment offered and to return at a later date with a recommendation for purchase. Commissioner Masterson seconded. Motion carried 5-0.

(00:35:33)

ITEM #7 - PUBLIC WORKS DEPARTMENT EQUIPMENT - BID AWARD

Darryl Lutz, Public Works Director, came before the Board for approval of the award of bid for the purchase of two new rubber tire wheel loaders for the Highway Division of the Department of Public Works. The Department of Public Works develops and maintains an equipment replacement plan for all of its divisions. This plan is used as a tool to help budget for equipment replacement and is incorporated into the County's current CIP and adopted budgets. Equipment, however, is operated until it is ready to be replaced. Several pieces of equipment are ready for replacement or purchase in 2023 which will include some equipment carried over from prior years. In January 2023, Public Works received permission from the Board to go out for bids for several pieces of equipment including two rubber tire wheel loaders for the highway division. Staff developed the preferred specifications for the equipment and solicited bids from equipment vendors in the Wichita market. Bids were received from four vendors for the requested equipment. The lowest bid received for equipment meeting essential requirements was offered by Foley Equipment Co. for a Caterpillar loader. Victor L. Phillips had a lower bid for a Case loader, but, had several exceptions to the specifications. Murphy Equipment offered a bid for a John Deere loader model that did not meet one or more critical requirements even though John Deere offers a model that meets all of the requirements. Foley included a five year/2,000 hour power train warranty at no extra charge and offered immediate availability for delivery. Due to the John Deere model offered not meeting specifications, staff is recommending the purchase be awarded to Foley Equipment Co. for the Caterpillar loader.

Commissioner Woydziak motioned to approve the award of bid for two rubber tire wheel loaders for the Highway Division of the Public Works Department to Foley Equipment Co, Wichita, Kansas, for Caterpillar model 938MHL loaders for the lowest and best bid meeting all specifications in the total delivered amount of \$509,054. Commission Chair Herzet seconded. Motion carried 5-0.

(00:38:34)

ITEM #8 - PIPELINE AGREEMENT – SW BUTLER RD PROJECT FROM K-254 TO PARALLEL

Darryl Lutz, Public Works Director, came before the Board for approval of a pipeline relocation agreement 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 project plans were completed in the Spring of 2022 and the project is currently under construction. Staff has coordinated and completed all the utility relocation work for phone, electric, water and fiber. The project, however, requires the lowering of one pipeline crossing for a KPC natural gas pipeline and the relocation of a cathodic protection system grounding bed. Staff has coordinated the pipeline lowering work with KPC to be completed this Spring after the road is closed for construction. KPC and County staff have been working

through negotiations on splitting of costs and terms of an agreement. County Counselor Terry Huelskamp has been engaged in the process to work with the KPC attorney. The general terms of the agreement have been worked out and legal counsel is currently resolving legal terms in the agreement. Phillips 66 owns the cathodic protection system and has been waiting for KPC to finalize an agreement prior to moving their grounding bed. A copy of the agreement with KPC Pipeline, LLC, was presented to the Board. In general the agreement stipulates that KPC will lower one of their pipelines under the new SW Butler Rd alignment and the County will pay for 60% of total actual costs to KPC, excluding attorney's fees. KPC will complete lowering the pipeline by May 31, 2023, which allows the company to get past peak natural gas pumping season prior to shutting down the pipeline. The estimated total cost of the work is \$253,732.82; the County's share would be \$152,239.69. Butler County proposed the 60% split which represents the proportion of additional right-of-way acquired for road purposes relative to the total right-of-way for road purposes at the pipeline crossing. Sufficient funds are available in the CIP estimate to cover this expense. Staff is waiting for one additional estimate for Phillips 66 to relocate a cathodic protection system grounding bed. That cost is expected to be around \$50,000, which was included in the CIP budget.

Commissioner Masterson motioned to approve the pipeline relocation agreement with KPC Pipeline, LLC, for Project No. 8C-4935-01, the SW Butler Rd Improvement Project from K-254 to Parallel with an estimated upper limit of cost to Butler County of \$152,239.69 and to authorize the Chairman to sign the agreement. Commissioner Murphy seconded. Motion carried 5-0.

(00:43:26)

ITEM #9 - BID AWARD – ANNUAL PIPE CULVERT PURCHASES

Darryl Lutz, Public Works Director, came before the Board for approval of the award of bid for the annual purchase of pipe culverts for the Public Works Department. Each year Public Works solicits bids for the purchase and delivery of pipe culverts used by the Highway Division for entrances and cross road drainage structures. Bids were requested from corrugated metal pipe culvert vendors that serve this region of the state. The Board opened and accepted bids from four vendors. Staff tabulated the bids and has evaluated the bids for conformance. The lowest overall bid meeting all the specifications was offered by J&J Drainage Products, Hutchinson, Kansas, in the total delivered amount of \$66,968.90. The bid included one alternate bid for a culvert that met or exceeded the County's specifications.

Commissioner Woydziak motioned to approve the award of bid for annual pipe culvert purchases for Butler County to J&J Drainage Products, Hutchinson, Kansas, in the total low bid amount of \$66,968.90 including delivery to Butler County. Commissioner Jackson seconded. Motion carried 5-0.

Mr. Lutz informed the Board that the designs for the round-a-bout located at Ohio St and SW 20th is in its final phase. Mr. Lutz discussed the possible detours for the area during construction.

Commissioner Woydziak inquired about the Haverhill Rd Project; Mr. Lutz stated the project should be ready to go out for bid around September.

(00:54:03)

ITEM #10 - TRANSFER OF PROPERTY TO SOUTH CENTRAL MENTAL HEALTH

Will Johnson, County Administrator, came before the Board for approval of a Quit Claim Deed transferring property located at 2821 N. Brookside Dr Augusta, Kansas, to South Central Mental Health (SCMH). SCMh has operated its Administrative offices at 520 E. Augusta Ave for over 20 years. When the Department on Aging moved its offices to the Point in Augusta, the County tried to transfer the old office space to another entity for several years until the SCMh found a use for it and opened the Hangar for after school activities. In 2020, when the County built the new EOC facility, the County platted the property surrounding the Augusta Public Safety and specifically carved out a lot for SCMh so the County could transfer to SCMh the Administrative building and the old Department on Aging facility at a later date. In 2006, the County set a policy through a Resolution for the disposition of surplus property. In order to dispose of real property according to the policy public notification is required. As such, Resolution 23-06 served as the public notice and now the Commission can formally approve a quit claim deed on the 520 E. Augusta Ave Augusta, Kansas, facilities to SCMh. The County Appraiser has the buildings valued at \$193,850.

Commissioner Masterson motioned to approve the Quit Claim Deed transferring surplus property located at 510 E. Augusta Ave Augusta, Kansas, to South Central Mental Health (SCMH). Commissioner Woydziak seconded. Motion carried 5-0.

(00:56:49)

ITEM #11 - TRANSFER OF PROPERTIES FROM PUBLIC BUILDING COMMISSION (PBC) TO BUTLER COUNTY COMMISSION

Will Johnson, County Administrator, came before the Board for approval of a Quit Claim Deed transferring PBC properties to the Butler County Commission. The County financed the construction of the Augusta Public Safety Facility, District Court and the Butler County Detention Facility in 2001. Since the projects were financed with revenue bonds through the PBC they were required to be leased to the County until the bonds were retired. Once the bonds were retired in the fall of 2021 properties were then eligible to be transferred to the County Commission. This is a simple transfer of the properties from the PBC to the County Commission via a Quit Claim Deed. This will be the last action clearing up titles to County properties financed by the PBC for the County.

Commissioner Masterson motioned to approve the Quit Claim Deed transferring PBC properties to the Butler County Commission and allow the Chairman to sign. Commissioner Woydziak seconded. Motion carried 5-0.

(01:01:07)

VOUCHERS

Commissioner Masterson motioned to approve vouchers dated March 28, 2023, in the amount of \$979,971.63. Commissioner Woydziak seconded the motion. Motion carried 5-0.

Commissioner Murphy questioned a voucher paid for a dog run; Administrator Johnson stated the charge was for the Sheriff's Department and was paid for out of the gift/donation fund.

Commissioner Masterson inquired about the Travelers Insurance that is being paid by every department; Administrator Johnson explained what it covered for each department.

(01:07:54)

ADDS AND ABATES

Commissioner Woydziak motioned to approve Adds in the amount of \$782.86 and Abates in the amount of \$510.24. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:08:15)

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

Commissioner Jackson informed the Board of the resignation on Wayne Chambers, Hickory Township Trustee, effective April 2023. Mr. Chambers asked that Jake Grow be appointed as Interim Hickory Township Trustee.

Commissioner Jackson motioned to appoint Jake Grow as Interim Hickory Township Trustee. Commissioner Woydziak seconded the motion. Motion carried 5-0.

Commissioner Woydziak and the Board discussed concerns about the Fair Board.

Administrator Johnson reminded Commissioner Jackson, Commissioner Masterson and Commissioner Woydziak that next Tuesday is the road viewing located at SW 80th and Boyer.

Administrator Johnson announced that the remodel of the fourth floor is complete.

Administrator Johnson will be out of the office this afternoon for training.

Administrator Johnson discussed with the Board a letter from the City of Newton concerning fees for the use of their EMS service to some Butler County townships and towns in the northwest part of the county.

(01:25:45)

RECESS

Commission Chair Herzet called the meeting to recess at 10:26 a.m. for five minutes.

(01:24:47)

RECONVENE

Commission Chair Herzet reconvened the meeting at 10:31 a.m.

County Counselor Terry Huelskamp went over the Kansas Open Meeting Act (KOMA) regulations with the Board and discussed the need to document name, date and time of conversations with persons concerning County issues. Mr. Huelskamp stated this should be a standard practice.

Administrator Johnson and Mr. Alfaro discussed with the Board the upcoming Butler County Planning Commission meeting taking place on April 4th concerning the proposed solar farm.

(01:37:09)

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 10:41 a.m.

Commissioner Masterson seconded the motion. Motion carried 5-0.