

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, April 23, 2019

CALL TO ORDER

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

INVOCATION

Dr. Tim Mace, Emmaus Mennonite Church, Whitewater, presented the invocation.

APPROVAL OF MINUTES

Commissioner Woydziak motioned to approve the minutes of the Butler County Commission meeting from Tuesday, April 16, 2019 as written. Commissioner Masterson seconded the motion. Motion carried 5-0.

(00:01:57)

PUBLIC COMMENTS

There were no public comments.

(00:02:04)

ITEM #1 – STAPLES & AT&T TELECOMMUNICATION TOWER REQUEST FOR CONDITIONAL USE PERMIT (CUP) ON PROPERTY LOCATED AT 4819 SW SANTA FE LAKE RD, TOWANDA, KS

David Alfaro, Community Development Director, came before the Board for approval of a request from Ann Staples and AT&T Telecommunications for a CUP located at 4819 SW Santa Fe Lake Road, Towanda, KS. The Planning Commission denied the request on February 5th and on February 26th the Board of County Commissioners heard the request and felt the application request should be sent back to the Planning Commission for further discussion after receiving a letter from legal counsel representing AT&T. On April 2nd the Planning Commission re-visited the case. After having the opportunity to review the letter sent from Legal Counsel with AT&T and reading the response from Terry Huelskamp, Legal Counsel for the County, it was determined that the reasons given to deny the request at the February 5th meeting were not considered "substantial evidence" and would not be valid in court if the request for denial was challenged. After hearing comments from those in attendance a motion was made to approve the request and was approved by a vote of 3-2 by the Planning Commission. At this time, AT&T is not interested in discussing a secondary location. Mr. Alfaro stated there is a 150 day window from the day the application is submitted and that window expires on May 12th. If there is no action taken, the request will be automatically approved.

Glen Klocke, AT&T Representative, came before the Board to address questions and concerns about an alternative location for the telecommunication tower and stated why it was not in the best interest to move the tower. Mr. Klocke stated it is not an option to start over and redesign the entire search area.

Harris Butler, 11199 SW 50th Street, Towanda, came before the Board to answer questions from the Board. Mr. Butler stated he has owned the property since 1999 and owned the air strip attached to the property since 2000. Mr. Butler stated the airstrip is private. Mr. Butler provided a letter in regards to operational safety hazards, health concerns and an alternate location for the telecommunications tower. According to the Federal Aviation Administration (FAA) study, the private air strip is not a concern to AT&T. It was also noted the applicant was informed of the private air strip in the area before the first Planning Commission meeting when the tower was discussed. Commissioner Myers stated Mr. Butler's request to the FAA charting his air strip predates AT&T's application. Commissioner Myers stated the proposed location from AT&T is not the only feasible location in the area. Commissioner Myers also stated Mr. Butler submitted affidavits from several pilots who use his air strip that the tower would be a potential hazard. Terry Huelskamp, Butler County Legal Counsel, addressed the Board and discussed what substantial evidence would be in a court of law. Administrator Johnson stated regardless of the decision there is going to be litigation. If you rule on the validity of the airstrip, the County will end up in district court.

Commissioner Masterson motioned to deny request from Ann Staples and AT&T Telecommunication Request for a CUP located at 4819 SW Santa Fe Lake Road, Towanda, KS based on the substantial evidence submitted because the tower height and location impedes the airstrip. Commissioner Myers seconded the motion. Motion carried 5-0.

(00:42:23)

ITEM #2 – MANN'S ATP & SKYWARD LAND SERVICES CONDITIONAL USE PERMIT FOR PLACEMENT OF A COMMUNICATION TOWER ON PROPERTY LOCATED AT 7865 NW 80TH STREET, POTWIN, KS

David Alfaro, Community Development Director, came before the Board for approval of a CUP for the placement of a communications tower on property located at 7865 NW 80th Street, Potwin, Kansas. Mann's ATP, in conjunction with Skyward Land Services, are proposing to erect a 190' Self-Supporting Telecommunications Tower inside a 60' X 60' fenced compound with a total leased area of 100' X 100' for the placement of Communications equipment such as antennas, equipment shelters and cabinets. The proposed Wireless Infrastructure is critical to ensure that all citizens have true access to advanced technology and information which ultimately will have economic benefits to the area. The property is a cattle feed lot with another feed lot across the road to the North. Both tracts of land are owned by Mann's ATP. Mr. Alfaro stated all of the reasons submitted for denial are not substantial evidence and there is also no evidence of property value decreases. Mr. Alfaro stated he received a letter from ATP's legal counsel asking the Commissioners to table the request to allow ATP time to negotiate with AT&T.

Patrick Erwin, Skyward Land Services Representative, came before the Board to discuss his clients' business plan. Mr. Erwin stated his client would like to build a new tower to provide reasonable and fair rental terms to other carriers.

Commissioner Woydziak stated he would not support the letter of request to table the item because they have had ample opportunity to address their problems prior to the meeting. Commissioner Myers stated he does not feel there is anything to be lost by tabling the item and there is still a reasonable amount of time left in the 150 day window to approve the request.

Commissioner Masterson motioned to approve the request to table the request for a CUP for the placement of a communication tower on property located at 7865 NE 80th Street, Potwin, KS until Tuesday, May 7th. Commissioner Myers seconded the motion. Motion carried 4-1. Commissioner Woydziak opposed.

(00:58:30)

ITEM #3 – PUBLIC HEARING – SPECIAL EVENT PERMIT

David Alfaro, Community Development Director, came before the Board to hold a public hearing and receive comments on a request for a Special Event Permit from Walter Burress to allow for the crushing of rock on property located at 9251 SW 115th Street, Augusta, Kansas, for no longer than three weeks. This Permit will allow him to contract with a crusher and crush rock that has been placed upon his property and then haul it to a construction site not located in the area.

Commission Chairman Murphy opened a public hearing at 10:01 a.m.

There were no comments during the public hearing.

Commission Chairman Murphy closed the public hearing at 10:02 a.m.

(01:01:15)

ITEM #4 – SPECIAL EVENT PERMIT REQUEST

David Alfaro, Community Development Director, came before the Board for approval of a request for a special event permit from Walter Burress to allow for the crushing of rock on property located at 9251 SW 115th Street, Augusta, Kansas, for no longer than three weeks.

Commissioner Woydziak motioned to approve the request for a special event permit from Walter Burress to allow for the crushing of rock on property located at 9251 SW 115th Street, Augusta, Kansas, for no longer than three weeks. Commissioner Murphy seconded the motion. Motion carried 5-0.

(01:01:55)

RECESS

Commission Chairman Murphy recessed the meeting of the Board at 10:02 a.m. for seven minutes.

Commission Chairman Murphy reconvened the meeting at 10:09 a.m.

(01:02:02)

ITEM #5 – ROAD ANNEXATION BICENTENNIAL FIRST ADDITION

Will Johnson, County Administrator, came before the Board for approval of Resolution #19-08 consenting to the annexation of certain roads by the city of Andover. The City of Andover recently annexed the Bicentennial First Addition Replat as part of the Yorktown project and through an error in the legal description did not annex the road right-of-ways. In order to expedite and rectify the mistake the City of Andover has requested the County's consent to annex.

Commissioner Woydziak motioned to approve Resolution #19-08 consenting to the annexation of certain roads by the City of Andover, KS. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:04:11)

ITEM #6 – BUTLER COUNTY WEST CENTRAL COMPLEX PARKING LOT REVIEW AND POSSIBLE AWARD BIDS

Dan Ingalls, Facilities Management Director, came before the Board to review bid proposals for the construction of a parking lot at the West Central Complex, also known as the Community Corrections parking lot.

David Stewart, Gravity Works Architecture, also came before the Board and requested the bid for the construction of the parking lot at the West Central Complex be awarded to SPS Paving, El Dorado, Kansas in the amount of \$179,672.00.

Commissioner Myers motioned to accept bid proposals for the construction of the parking lot at the west central complex and to award the bid proposal for the amount of \$179,672 to SPS Paving, El Dorado, KS. Commissioner Woydziak seconded the motion. Motion carried 5-0.

(01:08:30)

ITEM #7 – APPROVAL OF THE FY20 ADULT BEHAVIORAL HEALTH GRANT FOR COMMUNITY CORRECTIONS

Ann Carpenter, Community Corrections Director, came before the Board for approval of the FY20 Adult Behavioral Health Grant for Community Corrections in the amount of \$22,330. This grant provides funds to assist clients in paying for behavior health services that are being supervised by Community Corrections within the 13th Judicial District.

Commissioner Masterson motioned to approve the Behavioral Health Grant application for fiscal year 2020 in the amount of \$22,330.00 and authorized the Chair to sign. Commissioner Woydziak seconded the motion. Motion carried 5-0.

(01:09:58)

ITEM #8 – APPROVAL OF THE FY20 ADULT COMMUNITY CORRECTIONS COMPREHENSIVE PLAN AND ANNUAL BUDGET FROM KDOC IN THE AMOUNT OF \$426,758.48

Ann Carpenter, Community Corrections Director, came before the Board for approval of the FY20 Adult Community Corrections comprehensive plan and annual budget from KDOC in the amount of \$426,758. This grant application is the annual comprehensive plan and annual budget for the state general fund KDOC funds.

Commissioner Myers motioned to approve the FY20 Adult Community Corrections Comprehensive Plan and annual budget from KDOC in the amount of \$426,758. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:14:14)

ITEM #9 – APPROVAL OF THE FY20 JUVENILE COMPREHENSIVE PLAN AND BLOCK GRANT

Ann Carpenter, Community Corrections Director, came before the Board for approval of the FY20 Juvenile Comprehensive Plan and Block grant in the amount of \$573,688.58 to fund juvenile programs. This grant partially funds Tri-County CASA Inc., SCARF Child Advocacy Center and Big Brothers Big Sisters locally, along with the juvenile programs in Community Corrections.

Commissioner Masterson motioned to approve the FY20 Juvenile Comprehensive Plan and Block Grant in the amount of \$573,688.58 and authorized the Chair to sign. Commissioner Woydziak seconded the motion. Motion carried 5-0.

(01:16:33)

ITEM #10 – THIRD QUARTER BUDGET ADJUSTMENT FOR JUVENILE BLOCK GRANT BUDGET

Ann Carpenter, Community Corrections Director, came before the Board for approval of the third quarter budget adjustment request in the amount of \$9,157.52. The final quarterly allocation was not received prior to the time the quarterly financial report was to be completed, causing a shortage in available funds for salary. After the 4th quarter allocation was received the funds were available for the remainder of the fiscal year.

Commissioner Woydziak motioned to approve the budget line adjustments in the amount of \$9,157.52 and authorized the Chair to sign. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:18:18)

ITEM #11 – BID AWARD- NOXIOUS WEED DEPARTMENT HERBICIDES

Darryl Lutz, Public Works Director, came before the Board to approve the award of bids for the annual purchase prices of herbicides for the Noxious Weed Department to Sims, Osborne, KS as recommended in the tabulation of bids in the amount of \$5,590.50 and to Van Diest, Lindsborg, KS in the amount of \$3,760.20.

Commissioner Masterson motioned to approve the award of bids for the annual purchase prices of herbicides for the Noxious Weed Department as recommended in the tabulation of bids and to approve the initial purchase award to Sims, Osborne, KS in the amount of \$5,590.50 and to Van Diest, Lindsborg, KS in the amount of \$3,760.20. Commissioner Woydziak seconded the motion. Motion carried 5-0.

(01:20:43)

ITEM #12 – LIQUID ASPHALT BID AWARD

Darryl Lutz, Public Works Director, came before the Board to approve the award of purchase for liquid asphalts for the Highway Department. The Public Works Department purchases 600,000 to 800,000 gallons of liquid asphalt each year for asphalt road maintenance work and for the annual chip seal program. Staff recommended purchasing CRS-1H, CRS-1HM, HFMS-1 and SS-1H from Ergon Asphalts, CHFRS-2P from Coastal Energy, and the TR-Fog from Wright Asphalt.

Commissioner Woydziak motioned to approve the award of purchase of liquid asphalts for 2019 to Ergon Asphalts and Emulsions, Kansas City, Kansas, as having the lowest net cost for CRS-1HM, CRS-1H, HFMS-1 and SS-1H liquid emulsified asphalts delivered to or picked up at El Dorado, to Wright Asphalt Products, Dodge City, KS for TR-Fog delivered and to Coastal Energy Corp., Willow Springs, MO for CHFRS-2P delivered. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:23:29)

ITEM #13 – CAT STEEL DRUM ROLLER REPAIRS

Darryl Lutz, Public Works Director, came before the Board for approval of estimated cost repairs to the Caterpillar CS-563 steel drum roller operated by the Highway Division of the Department of Public Works. The Highway Division operates one small steel drum roller for patching work and for small projects. The estimated cost of repair work is \$9,985.35.

Commissioner Myers motioned to approve estimated cost of repair work by Foley Equipment Company to the Caterpillar CS-563 steel drum roller for the Highway Department in the estimated cost of \$9,985.35. Commissioner Wheeler seconded the motion. Motion carried 5-0.

(01:26:00)

ITEM #14 – 1ST QUARTER INVESTMENT IDLE FUNDS REPORT

Donna Farthing, Butler County Treasurer, came before the Board to receive and file the quarterly investment on idle funds report as of January 1, 2019 to March 31, 2019. No action was taken.

(01:31:00)

ITEM #15 – PROPOSED 2019-2023 CIP WORK SESSION (ROAD & BRIDGE)

Ryan Adkison, Assistant County Administrator/Finance Director, and Darryl Lutz, Public Works Director, came before the Board for discussion on the proposed 2019-2023 Capital Improvement Plan (CIP). The Proposed 2019-2023 CIP totals \$63,066,145 or \$10,992,615 more than the prior year amount of \$52,073,530. No action was taken.

(02:04:15)

RECESS

Commission Chairman Murphy recessed the meeting of the Board at 11:11 a.m. so the Commissioners could attend a luncheon at the El Dorado Senior Center.

Commission Chairman Murphy reconvened the meeting at 12:30 p.m.

(02:04:32)

VOUCHERS

Commissioner Woydziak motioned to approve vouchers for April 23, 2019 in the amount of \$366,845.75. Commission Chairman Murphy seconded the motion. Motion carried 5-0.

(02:04:45)

COMMISSION ADDS & ABATES

Commissioner Woydziak motioned to approve Adds & Abates #2724 dated April 23, 2019; Adds in the amount of \$43.50 and Abates in the amount of \$33,639.54. Commissioner Masterson seconded the motion. Motion carried 5-0.

(02:05:06)

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

Commissioner Wheeler stated he received a phone call about the continuance of Christmas with Friends and discussed the continuance of the program.

Commissioner Myers stated he attended the NACE Conference last week.

Commissioner Woydziak stated he also attended the NACE Conference.

Administrator Johnson stated he searched all of the Fire District Resolutions and based off of his findings, the fire districts passed a resolution in 1999 stating they have five board members and serve two year terms.

(02:19:10)

ITEM #16 – WORK SESSION – ELECTION EQUIPMENT

The Board of County Commissioners received a demonstration of election/voting equipment from Election Systems and Software and Henry Adkins & Sons. No action was taken.

(02:19:33)

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 12:45 p.m. for a demonstration of election equipment starting in the east annex and ending in Administrator Johnson's office. Commissioner Myers seconded the motion. Motion carried 5-0.