

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, May 14, 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

Father John Lanzrath, St. John's Catholic Church, El Dorado, presented the invocation.

APPROVAL OF MINUTES

Commissioner Woydziak motioned to approve the minutes of the Butler County Commission meeting from Tuesday, May 7, 2019 as written. Commissioner Masterson seconded the motion. Motion carried 5-0.

(00:02:23)

PUBLIC COMMENTS

Jamie Downs, Butler County Health Department Director, came before the Board to inform the Commissioners that they are offering a free tetanus shot clinic in Augusta today for any Butler County citizen who was affected by the flood waters or debris in the City of Augusta.

Keri Korthals, Emergency Management Director, came before the Board for approval of Resolution #19-10, an emergency declaration for Butler County.

Commissioner Woydziak motioned to approve Resolution #19-10, an emergency declaration for Butler County. Commission Chairman Murphy seconded the motion. Motion carried 5-0.

(00:09:51)

ITEM #2 –PARTIAL ROAD VACATION REQUEST ON SW 110TH STREET EAST OF SW INDIANOLA ROAD – ACTION

Darryl Lutz, Public Works Director, came before the Board to approve the tabled item related to a petition filed by the City of Augusta to vacate a portion of SW 110th Street adjacent to the Augusta Municipal Airport east of SW Indianola Road in Bruno Township. Mr. Lutz stated Josh Shaw, Augusta City Manager, sent an email to the Board that included documentation and a letter from the County in 2011 expressing support of an extension of the airport runway and possibly a road vacation. The Board discussed entering into an agreement with the City of Augusta for actions taken to vacate the road or relocate the roadway. Administrator Johnson stated the Commission could agree to not close the road until the FAA begins construction. Commissioner Masterson stated he felt more informed now that he has received more information from the City of Augusta and he thinks the process to vacate the road is being statutorily followed. Commissioner Myers felt this particular situation does not meet the criteria to vacate the road and stated he is uncomfortable proceeding with vacating the road based on statutory requirements. Mr. Huelskamp stated it is up to the City of Augusta to comply with the statutory requirements. Mr. Lutz stated the Board can unilaterally make the decision to vacate the

road. Administrator Johnson suggested not taking action until the County has an agreement with the City of Augusta.

Josh Shaw, Augusta City Manager, came before the Board and stated the City of Augusta needs a letter of support from Butler County in support of the road closure in order to move forward with the FAA's Master Plan. Commissioner Myers inquired about the possibility of putting the runway over the road or to re-route the road in a different way. Mr. Shaw stated that is not a feasible option at this time.

Mr. Shaw thanked Butler County Emergency Management and the Butler County Landfill for the assistance they provided to the citizens of Augusta during and after the flood last week.

Greg Keiter, 12718 SW 110th Street Augusta, came before the Board to represent his neighbor, Tim Byram, 12763 SW 110th Street Augusta, who is opposed to the road closure and runway extension. Mr. Keiter stated himself and the rest of the neighbors in close proximity are against closing the road. Mr. Keiter also felt the FAA should have contacted the landowners and thought they should also receive a copy of the FAA's Master Plan.

Mike Lager, 12229 SW 120th Street Augusta, came before the Board in opposition to the road closure. Mr. Lager stated if they choose to close the road there will be more traffic on 120th street which would be more road maintenance for the Township. Mr. Lager stated none of the property owners in the area are in favor of closing the road and stated the Board does not understand the negative economic impact this could have.

Colin Ellse, 12128 SW 120th Street, came before the Board in opposition to the request. Mr. Ellse inquired about the process for residents of Butler County to be consulted on an expansion process for the City of Augusta's business and the impact it would have on the residents. Administrator Johnson stated that would be defined by the FAA.

Administrator Johnson stated if the County chooses to move forward with the road closure they need to have an agreement in place with the City of Augusta. Commissioner Masterson stated he would be in favor of closing the road once acquisition of the land has taken place and once all property owners have been notified. Commissioner Wheeler felt the road should stay open until the point of construction begins. Commissioner Myers was unconvinced that the County should vacate the road rather than the City because of land acquisition.

Commissioner Woydziak motioned to direct staff and legal counsel to draft a letter of agreement that indemnities the County and does not close the road until annexation, land acquisition and construction begin. Commission Chairman Murphy seconded the motion. Motion carried 4-1. Commissioner Myers opposed.

(01:09:07)

RECESS

Commission Chairman Murphy recessed the meeting of the Board at 10:09 a.m. for 6 minutes.

Commission Chairman Murphy reconvened the meeting of the Board at 10:15 a.m.

(01:09:27)

ITEM #1 – IPS CUP REVOCATION

David Alfaro, Community Development Director, came before the Board for discussion from IPS regarding clean-up efforts undertaken by IPS and to consider either approval of additional clean-up time or initiation of a cease and desist order by legal counsel. On March 19, 2019 the Commissioners made a motion allowing IPS until May 1, 2019 to clean up the property or face a potential motion to Cease and Desist operations. Through bi-weekly updates representatives of IPS have come before the Commission keeping them up-to-date of their progress. On May 1 staff revisited the site and could see that progress was being made. Staff recommended an extension of thirty days with continued updates every two weeks. Mr. Alfaro stated he drove out to the site today and it appeared that Mr. Riley had made progress since Mr. Alfaro's last visit. Commissioner Woydziak asked Terry Huelskamp, Butler County Legal Counsel, what is entailed in a cease and desist order and what the timeline would be. Mr. Huelskamp stated the Board could give notification to IPS immediately that they are not allowed to manufacture or process any materials on the property. Mr. Huelskamp stated if the Board decides to move forward with a cease and desist order the result would be contrary to what the County desires of Mr. Riley, but also stated at some point in time, the Board is going to have to take action and move forward because the CUP has been revoked. Commissioner Myers inquired about what could be listed within the cease and desist order such as no longer shredding plastic but storing materials on the property as well. Mr. Huelskamp stated as long as the Board has a factual basis and as long as it was listed in the original CUP they can include it in the cease and desist order. Mr. Alfaro asked Mr. Huelskamp what the timeline would be on the cease and desist order going to District Court. Mr. Huelskamp stated in most cases it would be within twenty one days of the petition being served to the defendant. Commissioner Masterson stated he is in favor of allowing Mr. Riley and IPS staff additional time to clean-up the property and to reduce the fees at the landfill. Commissioner Woydziak inquired about the possibility of lowering the landfill fees to \$1/ton and then setting up a plan for Mr. Riley to pay an additional \$4/ton at a later date. Mr. Riley stated he does not have any extra funds available. Commissioner Woydziak inquired about what is in the trailers currently on the property. Mr. Riley stated some of the materials in the trailers are going to be moved to the new location and some of the trailers are going to be processed at the landfill. Mr. Riley stated he is trying to accomplish cleaning up the property and thinks he can finish in thirty days if he is granted reduced fees at the landfill. Commissioner Woydziak stated it is going to cost the County more money to haul the material to the landfill than it would if they reduce the fees for Mr. Riley. Commissioner Woydziak stated he would be in favor of reducing the fees to \$1/ton and coming up with a plan for Mr. Riley to pay back an additional \$4/ton at a later time.

Commissioner Masterson motioned to approve an additional 30 days for cleanup activities by IPS with reduced landfill fees to \$1/ton until June 11, 2019. Commissioner Woydziak seconded the motion. Motion carried 4-1. Commission Chairman Murphy opposed.

(01:38:34)

EXECUTIVE SESSION

Commissioner Woydziak motioned to recess to Executive Session under the following exceptions to the Kansas Open Meetings Act starting at 10:45 a.m. the public session resuming at 11:00 a.m. this 14th day of May 2019 for consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship, to protect the interests of the County. Commissioner Masterson seconded the motion. Motion carried 5-0. Present were Commissioner Masterson, Commissioner Murphy, Commissioner Myers,

Commissioner Wheeler, Commissioner Woydziak, County Administrator Johnson and Butler County Legal Counsel Terry Huelskamp. No action was taken as a result of the Executive Session.

(01:39:31)

ITEM #3 – ANNUAL CONTRACTED HIGHWAY STRIPING FOR COUNTY PAVED ROADS – BID OPENING

Darryl Lutz, Public Works Director, came before the Board to receive and open sealed bids for the 2019 annual highway striping work for County maintained paved roads. Following are the bids received:

	Unit price/mile for one year		Unit price/mile for 3 years					
			All 3 years have the same price with no increase			Year 2020 has a 5% increase from year 2019 and year 2021 has a 15% increase from year 2019		
	<u>RoadSafe Traffic Systems, El Dorado, Ks.</u>	<u>Straight-line Striping Inc. Nebraska</u>	<u>RoadSafe Traffic Systems, El Dorado, Ks.</u>			<u>Straight-Line Striping Inc., Nebraska</u>		
			2019	2020	2021	2019	2020	2021
Skip line only/mile	\$280.00	\$104.00	\$315.00	\$315.00	\$315.00	\$104.00	\$109.20	\$119.60
Passing zone and right edge/mile on new chip sealed roads with 24 mil paint and 9 lbs beads per gallon	\$1,395.00	\$1,167.00	\$1,495.00	\$1,495.00	\$1,495.00	\$1,167.00	\$1,225.35	\$1,342.05
Retrace all 3 lines/mile with 21 mil and 9 lbs of beads per gallon	\$1,300.00	\$1,026.96	\$1,397.50	\$1,397.50	\$1,397.50	\$1,026.96	\$1,078.31	\$1,181.00
New overlay with county marking center line	\$1,325.00	\$886.92	\$1,430.00	\$1,430.00	\$1,430.00	\$886.92	\$931.27	\$1,019.96

Commissioner Masterson motioned to accept the bids received and opened for highway striping work for Butler County and directed the Department of Public Works to evaluate the bids and to return at a later date with a recommendation for action. Commissioner Myers seconded the motion. Motion carried 5-0.

(01:45:00)

ITEM #4 – RURAL RECYCLING TRAILER DROP-OFF PROGRAM – SUSPENSION OF SERVICE

Darryl Lutz, Public Works Director, came before the Board for approval to suspend the County’s Rural Recycling Trailer Drop-Off program. Butler County has been operating a trailer drop-off residential recycling program in the rural areas of Butler County for many years. This program is provided in cooperation with most of the cities in the County. As part of the program the City of El Dorado agreed to accept collected materials and to process and market them. Butler County, in turn provided payment to the City based upon a proportionate share of costs less revenues

received based upon tonnage of recyclables received. The market for recycled materials has changed significantly over the past few years and the City of El Dorado recently put the County on notice that they will no longer accept household recyclables from the County for processing. Mr. Lutz recommended that the County consider suspending the current rural recycling trailer drop-off program until feasible options can be found for accepting household recyclables.

Commissioner Wheeler motioned to approve a plan to indefinitely suspend the County's rural recycling trailer drop-off program and to set an effective date of July 1, 2019. Commissioner Myers seconded the motion. Motion carried 5-0.

(01:49:05)

ITEM #5 – CONSTRUCTION ENGINEERING AGREEMENT – FOURMILE CREEK BRIDGE PROJECT ON SW 120TH STREET

Darryl Lutz, Public Works Director, came before the Board for approval of an agreement with KDOT for Butler County to provide construction engineering services related to the Fourmile Creek Bridge replacement project on SW 120th Street located south and east of Andover. KDOT requires an agreement for construction engineering work for projects administered by KDOT. Butler County will receive federal aid reimbursement for construction engineering services for up to 80% of the County's actual cost. The County's not to exceed estimate of cost for construction engineering is \$73,067.67.

Commissioner Woydziak motioned to approve the agreement with KDOT for Butler County to provide construction engineering services for KDOT Project #8C-4909-01, the Fourmile Creek Bridge replacement project on SW 120th Street, located south and east of Andover and authorized the Chair to sign the agreement. Commissioner Masterson seconded the motion. Motion carried 5-0.

(01:51:51)

ITEM #6 – BUTLER COUNTY TITLE VI PLAN

Will Johnson, County Administrator, came before the Board for approval of the Butler County Title VI Plan. Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. The Title VI Plan is to ensure that the County is in compliance with the provisions of Title VI of the Civil Rights Act of 1964. Currently, Public Works and the Department of Aging receive Federal Transportation funds and are required to have a Title VI plan. Administrator Johnson stated Public Works does not have an approved Title VI plan and the Department of Aging has an approved plan which needs to be updated.

Commissioner Woydziak motioned to approve the Butler County Title VI Plan as presented and allowed the Chair to sign. Commission Chairman Murphy seconded the motion. Motion carried 5-0.

(01:54:25)

ITEM #7 – PERSONNEL POLICY REVISIONS

Melissa Riley, HR Director, came before the Board for approval of modifications and updates to the Butler County Personnel Policies and Guidelines. Mrs. Riley stated the last updates made to Butler County's personnel policies were in 2015 and after thorough review of the policies revisions have been made to sections 6, 10, 13, and 16. *Commissioner Myers provided the*

following amendment on May 21, 2019: “Commissioner Myers proposed the following refinements to the proposed modifications: change “funeral leave” to “bereavement leave” in Section 10.2.A.4; change “2 years” to “1 year” in Section 13.2.A; and delete the phrase “on a pro-rated basis for the reimbursement” in Section 13.2.G.”

Commissioner Myers motioned to approve the 2019 modifications and updates to the Butler County Personnel Policies and Guidelines (Amended on May 21, 2019 to add “with the proposed changes”). Commissioner Wheeler seconded the motion. Motion carried 5-0.

Administrator Johnson and the Board wished Melissa Riley good luck in her future as her last day working for Butler County is May 17th.

(02:17:04)

ITEM #8 – SHERIFF DETENTION VEHICLE REPLACEMENT 2019

Tony Wilhite, Butler County Undersheriff, came before the Board for approval to purchase two cars and one passenger van that would be utilized at the Detention Facility for the purpose of transporting inmates. The delivered price for each car is \$25,278.00 for a total of \$50,556.00 from Parks Motors and John K. Fisher, El Dorado, put together a bid for a 2019 GMC Savana Passenger van in the amount of \$29,390.00.

Commissioner Woydziak motioned to approve the purchase of two Dodge Chargers vehicles and one GMC Passenger van in the amount of \$79,946.00 from Parks Motors and John K. Fisher, INC. Commissioner Masterson seconded the motion. Motion carried 5-0.

(02:24:19)

VOUCHERS

Commissioner Wheeler motioned to approve vouchers for May 14, 2019 in the amount of \$494,401.18. Commission Chairman Murphy seconded the motion. Motion carried 5-0.

(02:24:40)

COMMISSION ADDS & ABATES

Commissioner Woydziak motioned to approve Adds & Abates #2726 dated May 14, 2019; Adds in the amount of \$27,451.02 and Abates in the amount of \$39.22. Commissioner Masterson seconded the motion. Motion carried 5-0.

(02:27:57)

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

Commissioner Wheeler and Commissioner Myers plan to attend the Pipeline Forum tomorrow at the El Dorado Civic Center.

Commission Chairman Murphy stated he plans to attend the Law Enforcement Breakfast tomorrow at Augusta High School.

Administrator Johnson stated the County has lowered the landfill fees per a request from the City of Augusta to help the citizens who were affected by flood damage.

Administrator Johnson stated he will be on vacation Wednesday, May 22nd and Thursday, May 23rd.

Administrator Johnson stated he will be doing the last interview for a new Human Resources Director today.

(02:40:05)

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 12:01 p.m.

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