

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, June 28, 2022

(00:00:09)

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 Marc Murphy, Commissioner Jeff Masterson, Commissioner Dan Woydziak, County Administrator Will Johnson, and Clerk Recorder Jennifer Currier. Commissioner Mike Wheeler was not present for the meeting.

(00:00:14)

INVOCATION

Reverend Christine Gilson, Retired, presented the invocation.

(00:02:05)

APPROVAL OF MINUTES

Commissioner Woydziak motioned to approve the minutes from the June 21, 2022, Butler County Commission meeting as presented. Commissioner Masterson seconded the motion. Motion carried 4-0.

(00:02:25)

PUBLIC COMMENTS

There were no public comments.

(00:02:41)

ITEM #1 –CONDITIONAL USE PERMIT FOR AN EVENT VENUE, ANDY WALLER, BOULDER CREEK RANCH, LLC

David Alfaro, Community Development Director, came before the Board for approval for a Conditional Use Permit (CUP) for an Event Venue, submitted by Andy Waller, Boulder Creek Ranch, LLC, on property located at 11229 SE Ellis Rd. Leon, Kansas. Mr. Waller is requesting the CUP to allow for the operation of an Event Venue to host weddings and other events on the property. The Venue will provide a unique opportunity to either utilize an existing structure or the outdoors for activities that will provide access to nature. Access to the site is off SE Ellis Rd. and just south of SE Hwy 400 and all parking will take place onsite. The property surrounding the site is also owned by Mr. Waller. One thing that needs to be taken into consideration is the potential of up to 200+/- cars leaving the site and all trying to access US Hwy 400; in normal conditions that should not be an issue but with that number of vehicles it could create an issue. State Statute required all landowners located within a 1,000' radius of the site be notified. The property owners across SE Ellis to the east expressed concerns with possible damage to their fence after an event; Mr. Waller and that property owner have discussed the handling of that type of issue if it were to occur. The Planning Commission approved the request by a vote of 5-0 with the following conditions:

- 1) All parties are allowed to occur Monday - Sunday between the hours of 9:00 a.m. to 11:00 p.m.
- 2) All parking will be onsite; no parking will be allowed on SE Ellis Rd.

Mr. Waller was present for questions.

Commissioner Masterson motioned to approve the request for a CUP as submitted by Andy Waller, on property located at 11229 SE Ellis Rd. Leon, Kansas and direct the Chair to sign Resolution 22-26. Commissioner Woydziak seconded. Motion carried 4-0.

(00:06:39)

ITEM #2- HOMESTEAD LOT SPLIT AS SUBMITTED BY JASON KUBIK

David Alfaro, Community Development Director, came before the Board for approval of a Homestead Lot Split. Jason and Carey Kubik own a tract of land that contains 77+/- acres located at 1330 SW Prairie Creek Rd. The Kubiks are requesting a 5+/- acre Homestead Lot Split with a 35+/- acre APO on some 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 property. State Statute required all landowners located within 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 5-0 and Staff also recommends approval as well.

Commissioner Woydziak motioned to approve the request for a Homestead Lot Split with APO on property located at 1330 SW Prairie Creek Rd. and direct the Chair to sign the APO Agreement. Commissioner Murphy seconded. Motion carried 4-0.

(00:08:15)

ITEM #3 – CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL (RR) AS SUBMITTED BY BRAD SIMMONS, OWNER OF ENDOR HOLDINGS, LLC

David Alfaro, Community Development Director, came before the Board for approval of a request for a change from AG-40 to RR. Brad Simmons, owner of Endor Holdings, LLC, owns a tract of land that contains 78+/- acres located at 12210 SW 190th St. Douglass, Kansas and is requesting to change the zoning from AG-40 to RR. With the change in zoning Mr. Simmons is proposing to plat the north 58+/- acres into a rural single-family subdivision. Immediately north of the property is a development known as Butler Airpark. The subdivision consists of 11-single family dwellings and a grass airstrip approx. 2,650' long. With the existence of the airstrip, concerns about a proposed subdivision are valid. The air park is not covered by an Airport Overlay District; the property surrounding it should be taken into consideration as it could impact any and all activity associated with planes taking off and landing. Also, the infrastructure in the area could not support a new rural subdivision. Currently the property does not have access to a public water system. Mr. Alfaro reached out to Sedgwick County Rural Water District No. 3, who serves property close to the land in question and Sedgwick County Rural Water District No. 3 stated they are not certified to serve the property and the next closest water supplier is north approx. one and a half miles; with that being said all new homes would need to have a water well drilled for their water use. Staff's recommendation, if the change is approved, would be that a water study be performed to determine the amount of water in the area and if it would support a future residential subdivision. SW 190th St. and SW Tawakoni Rd. are both gravel Township roads. additional traffic to and from the area could create a negative impact on the transportation system. After hearing comments from neighbors in the area and staff's recommendation for denial due to the lack of adequate infrastructure, the Planning Commission

agreed that the request should be denied. The Planning Commission voted to deny the request for a change in zoning by a vote of 5-0 and Staff supports the recommendation as well. To overturn the recommendation for denial would require a Super Majority of the Commission.

Several of the neighbors were present.

Commissioner Woydziak motioned to deny the request for a Change in Zoning from AG-40 to RR due to the lack of infrastructure to support a future subdivision and its location adjacent to the Butler Airpark. Commissioner Masterson seconded. Motion carried 4-0.

(00:14:32)

ITEM #4 – CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL (RR) SUBMITTED BY ANDREW ENTZ.

David Alfaro, Community Development Director, came before the Board for approval for a change in Zoning from AG-40 to Rural Residential. Mr. Entz owns a tract of land that contains 20+/- acres, zoned AG-40, located on SW Indianola Rd. The property is located just north of SW 40th St. on SW Indianola Rd. Mr. Entz requested to rezone, which would allow him to split the land into four equal tracts on which he and other family members will construct new single-family residences. The properties will have access to public water and septic or lagoon systems that will handle the waste. The small increase in traffic traveling on SW Indianola and SW 40th St. should not have a negative impact on the gravel township roads. State Statute required all landowners 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 5-0 and staff supports the recommendation as well.

Commissioner Masterson motioned to approve the request for a change in zoning from AG-40 to RR on property located at 0 SW Indianola Rd and direct the Chair to sign Resolution No. 22-25. Commission Chair Herzet seconded. Motion carried 4-0.

(00:17:04)

ITEM #5 – FINAL PLAT FOR HARRISON ACRES AS SUBMITTED BY JIMMY HARRISON

David Alfaro, Community Development Director, came before the Board for approval of a final plat on property owned by Jimmy Harrison. Mr. Harrison owns a tract of land that contains 34+/- acre located at 11783 SW 50th St. Towanda, Kansas. The final plat will consist of two five acre tracts and one 24+/- Acre tract with an existing residence on the property. The two five acre tracts will have access off of SW Tawakoni Rd. and the large tract will maintain its existing access off of SW 50th St. Due to the plat only containing three tracts it is considered a small plat so a preliminary plat is not required. The property is zoned RR and the size of the proposed tracts meet the necessary acreage requirements for the RR zoning classification. Rural water is available and either a septic or lagoon will be required to handle the waste. The County Surveyor and the County Engineer have reviewed the plat and were comfortable with it as presented. State Statute required all landowners located within a 1,000' radius of the site be notified of the proposed plat and comments were received but none negative. The Planning Commission approved the request by a vote of 5-0 and staff supports the request as well.

Roger Cutsinger, Savoy Company, was present for questions.

Commissioner Woydziak motioned to approve the request for a final plat as submitted by Jimmy Harrison and direct the Chair to sign. Commission Chair Herzet seconded. Motion carried 4-0.

(00:19:08)

ITEM #6 – FINAL PLAT FOR PITTMAN ACRES AS SUBMITTED BY JEREMIAH PITTMAN ON PROPERTY LOCATED AT 3412 SW 90th ST. AUGUSTA, KANSAS

David Alfaro, Community Development Director, came before the Board for approval of a final plat for Pittman Acres as submitted by Jeremiah Pittman. Mr. Pittman owns a tract of land of 28+/- acres located at 3412 SW 90th St. Augusta, Kansas, and is proposing a final plat that will consist of two five acre tracts and one-18 acre tract. All three tracts have existing single-family residences on the properties and will utilize existing access points off of SW 90th St. Due to the plat only containing three tracts it is considered a small plat so a preliminary plat is not required. The property is zoned RR and the size of the proposed tracts conform to the minimum acreage requirements for that zoning classification. The County Surveyor and the County Engineer reviewed the plat and are comfortable with it as presented. State Statute required all landowners located within a 1,000' radius of the site were notified of the proposed plat and while comments were received, none were negative. The Planning Commission approved the request by a vote of 5-0 and staff supports the request as well.

Commissioner Woydziak motioned to approve the request for a Final Plat as submitted by Jeremiah Pittman and direct the Chair to sign the plat. Commissioner Murphy seconded. Motion carried 4-0.

(00:21:18)

ITEM #7 – SERVICE AGREEMENT WITH A PRODUCTION COMPANY LLC FOR SUPPORT OF 2022 DAM JAM MUSIC FEST

Keri Korthals, Emergency Management Director, came before the Board for approval of a Service Agreement between Butler County and A Production Company LLC for emergency services support of the 2022 Dam Jam Music Fest. On Saturday, July 23rd, the Dam Jam Music Fest is scheduled to take place at the Walnut River Campground at the El Dorado State Park. The production company has requested that Butler County assist with the public safety arrangements, providing on-site medical first aid and medical transport capabilities, law enforcement, and emergency communications. The County's legal counsel drafted a service agreement to formalize the arrangements and expectations and to provide for reimbursement of \$7,920 for the County's costs.

Commissioner Woydziak and Commission Chair Herzet would like to have payment in advance or a letter of credit in the future.

Commissioner Woydziak motioned to approve the Service Agreement between Butler County and A Production Company LLC for support of the 2022 Dam Jam Music Fest and authorize the chair to sign. Commissioner Masterson seconded. Motion carried 4-0.

(00:30:16)

ITEM #8 – APPRAISER OFFICE PAY MODIFICATION AND STAFF REDUCTION

Deb Studebaker, County Appraiser, came before the Board for approval to eliminate the CAMA Operator position and spread the position’s pay amongst all non-exempt Appraiser Office staff at a rate increase of \$0.90 per hour per employee effective July 10, 2022. The elimination of the CAMA Operator position provides the opportunity to increase pay for current staff in an effort to enhance staff retention. The Appraiser’s Office will be able to better serve the taxpayers by having experienced staff rather than constant turnover and training of new staff. The Appraiser’s Office will be able to perform more efficiently and be able to provide more knowledgeable customer service. The CAMA Operator position is budgeted at \$34,680; 17 non-exempt staff members multiplied by \$0.90 per hour and 2,080 hours per year equates to \$31,824. Not only is the requested change less than the 2022 requested budget, it will also save the cost of possible benefits.

Commissioner Masterson suggested rounding the \$0.90 increase per hour up to a \$1.00 and the Board agreed.

Commissioner Masterson motioned to approve the request to eliminate the CAMA Operator position and increase current non-exempt staff pay by \$1.00 per hour per employee effective July 10, 2022. Commission Chair Herzet seconded. Motion carried 4-0.

(00:33:37)

ITEM #9 – ANNUAL RENEWAL OF THE PINE TECHNOLOGIES SUPPORT CONTRACT FOR JUSTWARE

Lew Harter, Information Technologies Director, came before the Board for approval of the annual renewal of the Pine Technologies support contract for Justware. Pine Technologies has provided support for the Justware software since 2020. Staff would like to extend the current contract for an additional year. Pine Technologies has proven themselves to be a valuable asset to the County in maintaining the proper operation of the Justware software that the County Attorney's office relies on. The total cost to extend this contract from July 1, 2022 through June 30, 2023 is \$26,000.

Service Term	Service Fees
July 1, 2020 – December 31, 2020	\$13,000
January 1, 2021 – June 30, 2021	\$13,000
July 1, 2021 – June 30, 2022	\$26,000
July 1, 2022 – June 30, 2023	\$26,000
Total	\$78,000

Commissioner Masterson motioned to approve the one year renewal of the Pine Technologies support contract for Justware in the amount of \$26,000 and authorize staff to sign all purchase documents as needed. Commission Chair Herzet seconded. Motion carried 4-0.

(00:35:36)

ITEM #10 – ROSE HILL ROAD CULVERT REPLACEMENT - CRANE EXPENSE APPROVAL

Darryl Lutz, Public Works Director, came before the Board for approval of payment for the services of a crane company related to setting the new precast concrete box sections on Rose Hill Rd. Belger presented an invoice to Butler County for the crane services related to the installation of precast concrete box culvert on Rose Hill Rd. The invoice is in the amount of \$11,457 for two days of crane time, plus one hour of overtime and two hours of truck time. The invoice is in line with a price quote received in January for one day of work. Staff is recommended the invoice be approved for payment.

INVOICE

BELGER® SINCE 1919

Cartage Service, Inc. Invoice: 797655

WORK PERFORMED BY: WICHITA, KS 316-943-0101 Customer: 080598

BUTLER COUNTY PUBLIC WORKS
ATTN: ACCOUNTS PAYABLE
121 SOUTH GORDY
ELDORADO KS 67042 DATE: 06/17/22

TERMS
NET DUE ON RECEIPT OF INVOICE. STATEMENTS
WILL ONLY BE SENT ON PAST DUE ACCOUNTS.

Please remit to: Belger Cartage Service, Inc. P.O. Box 207808, Dallas, TX 75320-7808		PLEASE PAY BY INVOICE					
DATE	ORDER	SERVICE	WEIGHT	TIME		RATE	AMOUNT
				HRS	MIN		
06/17	045715	6/14-110-TON, TT, RIGGER DAY RATE					5,168.00
		6/14-110-TON, TT, RIGGER OT RATE		1		811.00	811.00
		6/15-110-TON, TT, RIGGER DAY RATE		2		155.00	5,168.00
		TRACTOR, TRAILER ONLY					310.00
WORK DESC..		WORK AS DIRECTED TO RIG AND HOIST CULVERT SECTIONS. WORKED PER KELLY PLETCHER					
PICKUP AT..		VICINITY OF 1003 N ROSE HILL RD ROSE HILL, KS (AT PRIMROSE AND ROSE HILL' RD					
DELIVER TO.		AS DIRECTED POC KELLY PLETCHER PH 316-322-0301 Sales tax exempt#KSN3NWG08J P. O. NUMBER: ROSE HILL CULV T O T A L---->`					11,457.00
		TERMS--NET DUE UPON RECEIPT A FINANCE CHARGE OF 1 1/2 PER- CENT PER-MONTH ON ALL PAST DUE WILL BE CHARGED. OUR F.E.I. NUMBER IS 44-0528444.					

Commissioner Woydziak motioned to approve the payment of an invoice to Belger Cartage Services, Inc., Wichita, Kansas in the total amount of \$11,457 for two days of crane work to set the pre-cast concrete box sections for the Rose Hill Rd. culvert project near Primrose Addition. Commissioner Murphy seconded. Motion carried 4-0.

(00:39:49)

ITEM #11 – BOMAG LANDFILL COMPACTOR ARTICULATION JOINT REPAIR

Darryl Lutz, Public Works Director, came before the Board for approval of the cost of repair work for the articulation joint on the Bomag landfill compactor in use at the County landfill. The landfill operates two Bomag landfill compactors; the articulation joint on the newer Bomag developed a lot of slack in 2021. Berry Tractor quoted an estimated repair cost in November 2021 in the amount of \$32,561.34. Berry Tractor believed the repair work would be a warranty repair and Staff proceeded to have the necessary repair work performed. Upon completion of the work Berry Tractor advised the County that Bomag Company deemed the repair work as normal wear and tear and denied warranty coverage. The County challenged the warranty denial and Berry Tractor reduced the actual repair cost to \$23,598.94. Staff continued to challenge Berry

Tractor that the work should be under warranty and Berry Tractor appealed to Bomag to no avail. Staff is requesting to proceed with paying the reduced bill and to take the wear issue into account in the future when the landfill compactor is replaced.

BERRY TRACTOR
 A DIVISION OF BERRY CORP. INC.
 www.berrytractor.com

WICHITA, KS 67213
 930 S West St
 716.943.2266 - 800.293.4246
 Fax 716.943.3393

GARDEN CITY, KS 67846
 3520 W Jones
 426.277.2299 - 800.475.2290
 Fax 426.277.2256

TOPICKA, KS 66869
 1726 SW 45th St
 785.265.8500 - 800.854.4509
 Fax 785.266.3606

SPRINGFIELD, MO 65803
 2608 NW Byham
 417.231.2651 - 800.854.7995
 Fax 417.231.5077

Invoice Reprint
 INVOICE # 01070762
 LOCATION 01
 DATE 12/28/21
 PAGE 2 OF 3
 ACCOUNT# 068314

REMIT TO: P.O. BOX 848019 Dallas, TX 75284-8019

BILL TO
 068314
 BUTLER CO-KS PUBLIC WORKS HWY D 1
 121 S GORDY ST STE 200
 EL DORADO, KS 67042-2951

SHIP TO
 BUTLER CO-KS PUBLIC WORKS HWY D 1
 121 S GORDY ST STE 200
 EL DORADO, KS 67042-2951

BERRY TRACTOR
 A DIVISION OF BERRY CORP. INC.
 www.berrytractor.com

WICHITA, KS 67213
 930 S West St
 716.943.2266 - 800.293.4246
 Fax 716.943.3393

GARDEN CITY, KS 67846
 3520 W Jones
 426.277.2299 - 800.475.2290
 Fax 426.277.2256

TOPICKA, KS 66869
 1726 SW 45th St
 785.265.8500 - 800.854.4509
 Fax 785.266.3606

SPRINGFIELD, MO 65803
 2608 NW Byham
 417.231.2651 - 800.854.7995
 Fax 417.231.5077

Invoice Reprint
 INVOICE # 01070762
 LOCATION 01
 DATE 12/28/21
 PAGE 3 OF 3
 ACCOUNT# 068314

REMIT TO: P.O. BOX 848019 Dallas, TX 75284-8019

BILL TO
 068314
 BUTLER CO-KS PUBLIC WORKS HWY DEPT
 121 S GORDY ST STE 200
 EL DORADO, KS 67042-2951

SHIP TO
 BUTLER CO-KS PUBLIC WORKS HWY D 1
 121 S GORDY ST STE 200
 EL DORADO, KS 67042-2951

ORDER NUMBER	ORDER DATE	JOB NUMBER	CUSTOMER P/O NUMBER	FREIGHT TERMS
01083340	11/04/21			Allow
WRITTEN BY Markley Sims		CONTACT Anita or Jane		SHIP VIA Field Service Truck
PAYMENT TERMS Charge Net/30		CUSTOMER EQUIPMENT CODE 2471		F.O.B.

PRODUCT DESCRIPTION	QUANTITY OPEN	QUANTITY SHIPPED	QUANTITY BACKORDERED	PRICE	UM	EXTENSION
INSTALLED CENTER HITCH BOLTS TORQUING TO 412 NEWTON METERS. INSTALLED STEERING CYLINDER PINS AND GREASE LINES. RECONNECTED ALL PREVIOUSLY REMOVED HOSES AND ELECTRICAL CONNECTIONS. REPLACED O RINGS ON ALL 4 DRIVE HOSES. FUEL FILLER NECK. REINSTALLED FINAL DRIVE COVERS WITH NEW O RINGS. PUMPED FUEL BACK INTO TANK. FILLED HYDRAULIC TANK AND FINAL DRIVES WITH NEW OIL.						
COMMENTS: INSPECTED FINAL DRIVES WHILE COVERS WERE OFF AND NO ISSUES WERE FOUND. BRAKE RELEASE HOSE, RIGHT FRONT DRIVE MOTOR SOLENOID VALVE SIGNAL WIRE, AND ARTICULATION PIN GREASE LINES WERE DAMAGED WHILE PULLING MACHINE APART. THE HOSE WAS REPLACED AND A NEW WIRE WAS RAN FOR THE DRIVE MOTOR SOLENOID VALVE. NEW GREASE LINES WERE RAN TO ARTICULATION PINS. PUMPED HYDRAULIC OIL IN THROUGH FILTER CART WITH 6 MICRON FILTER. TO PUMP OIL IN, THE HYDRAULIC FILLER SCREEN HAD TO BE REMOVED AND THE GASKET TORE IN THE PROCESS. INSTALLED NEW GASKETS FOR FILLER STRAINER AND CAP.						
05290001 ROLLER BEARING	1	1	0	6963.90	EA	6,963.90
57002193 SCREW	40	40	0	22.31	EA	892.40
09430134 HOSE	1	1	0	101.20	EA	101.20
09430160 LUBRICATION HOSE	1	1	0	51.69	EA	51.69

ORDER NUMBER	ORDER DATE	JOB NUMBER	CUSTOMER P/O NUMBER	FREIGHT TERMS
01083340	11/04/21			Allow
WRITTEN BY Markley Sims		CONTACT Anita or Jane		SHIP VIA Field Service Truck
PAYMENT TERMS Charge Net/30		CUSTOMER EQUIPMENT CODE 2471		F.O.B.

PRODUCT DESCRIPTION	QUANTITY OPEN	QUANTITY SHIPPED	QUANTITY BACKORDERED	PRICE	UM	EXTENSION
06220374 LOOP RING	4	4	0	4.22	EA	16.88
05545803 UNION	2	2	0	9.38	EA	18.76
05001607 O-RING	1	1	0	48.96	EA	48.96
05001607 O-RING	1	1	0	48.96	EA	48.96
PTS-FREIGHT FREIGHT	1	1	0	104.00	EA	104.00
104725 MOBIL DELVAC GEAR OIL 80W-140 SYNTHETIC GEAL OIL 35L.8	1	1	0	358.89	EA	358.89
107486BT MOBIL 46 OIL 55 GAL DRUM	2	2	0	1976.76	EA	3,953.52
05552848 HOSE ASSY.	1	1	0	193.13	EA	193.13
05824013 KIT,SEAL	1	1	0	10.91	EA	10.91
08191-05420 SOCKET LABOR	2	2	0	1.37	EA	2.74
						10,833.00

MERCHANDISE TOTAL	FREIGHT & MISC	TAX	TOTAL CHARGES	DEPOSIT BALANCE	DEPOSIT APPLIED	DEPOSIT AMOUNT	INVOICE TOTAL
23,598.94	0.00	0.00	23,598.94	0.00	0.00	0.00	23,598.94
							KANSAS - BUTLER - EL DORADO - 0.00

Continued

Commissioner Woydziak motioned to approve the payment of costs to Berry Tractor for articulated joint repair work on the Bomag landfill compactor in the amount of \$23,598.94. Commissioner Murphy seconded. Motion carried 4-0.

(00:46:44)

VOUCHERS

Commissioner Woydziak motioned to approve vouchers dated June 28, 2022, in the amount of \$452,179.75. Commissioner Masterson seconded the motion. Motion carried 4-0.

Commissioner Woydziak questioned one payment to the County. Administrator Johnson responded that it was for specials and storm water fees for the Judicial Center.

(00:47:21)

ADDS & ABATES

Commissioner Woydziak motioned to approve Adds in the amount of \$1,812.24 and Abates in the amount of \$2,386.42. Commissioner Masterson seconded. Motion carried 4-0.

(00:47:47)

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

Commission Chair Herzet will not be in attendance for the meeting on July 5, 2022.

Commissioner Woydziak, Administrator Johnson, the Board and Julie Winslow, P.O. Box 22 Rose Hill, Kansas discussed an email concerning the trustee of Pleasant Township.

Administrator Johnson scheduled a meeting with Darrin Devinney, County Attorney, for next week for legal advice on the Pleasant Township concerns.

Administrator Johnson will be out of the office on July 7, 2022.

Administrator Johnson informed the Board the Budget meetings will begin on July 11, 2022.

(01:01:30)

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 10:01 a.m.

Commission Chair Herzet seconded the motion. Motion carried 4-0.