

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, June 30, 2020

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 Mike Wheeler, County Administrator Will Johnson, and Clerk Recorder Chelsea Noel. Commissioner Dan Woydziak was absent.

INVOCATION

~~Pastor Jordan Friesen, First Baptist Church, El Dorado,~~ *(Amended on July 7, 2020, to change to "Commissioner Masterson presented the invocation.")*

APPROVAL OF MINUTES

Commissioner Myers motioned to approve the minutes of the June 23, 2020, Butler County Commission meeting as written. Commissioner Wheeler seconded the motion. Motion carried 4-0.

(00:01:21)

PUBLIC COMMENTS

There were no public comments.

(00:02:22)

ITEM #1 – MASTER PLANNING AGREEMENT BUTLER COUNTY FAIRGROUNDS

Will Johnson, County Administrator, came before the Board for approval of an agreement with Gravity Works Architecture for Master Planning services related to future Butler County Fairgrounds. Currently the County has budgeted \$10,000 in the 2020 CIP for a master plan for a future fairgrounds and multi-use facility. The current fairgrounds are in need of major repairs and upgrades, plus the site lacks the space needed to host anything other than a basic County 4H fair. Further, the site lies on property that prohibits the future expansion of water treatment facilities for the City of El Dorado. In 2019, the County finally received permission from the Tulsa Corps of Engineers to begin working with the Kansas Wildlife and Parks on a sub-lease of property located below the ~~dam~~ *(Amended on July 7, 2020, to change to "dam")* and commonly known as the Honor Camp. Administrator Johnson stated this plan would provide the framework necessary to make a decision by the County and Fair Board on the future of the project and whether or not it is viable. Administrator Johnson also noted staff would work with the Commission to appoint a Committee who would then provide input to the architects as they develop preliminary plans and costs.

Shelby Varner, Butler County 4H Member, came before the Board and discussed the importance of a new 4H Fairgrounds for Butler County. Ms. Varner stated the current facility is not accommodating for changes in the types of livestock participants show, and hoped that by utilizing the former Honor Camp site, more people will become involved in 4H. Ms. Varner presented the Commission with a check in the amount of \$868, from the profits of a spring livestock show, to go towards the cost of the study and provide information to the Commission of the need for new or upgraded facilities.

Commissioner Wheeler motioned to approve the service agreement with Gravity Works Architecture for Master Planning services related to future Butler County Fairgrounds in the amount of \$10,000. Commissioner Masterson seconded the motion. Motion carried 4-0.

(00:13:11)

ITEM #2 – REQUEST FOR CHANGE IN ZONING FROM AG-40 TO RESIDENTIAL ESTATES AS SUBMITTED BY THOMAS AND KAREN ON PROPERTY LOCATED AT 15754 SW 40TH ST, BENTON

David Alfaro, Community Development Director, came before the Board for approval of a change in zoning request from AG-40 to Residential Estates as submitted by Thomas & Karen Williams on property located at 15754 SW 40th Street, Benton. The applicant is requesting to rezone the 15+/- acres, which would allow them to split the property into two tracts allowing their daughter to build a new residence on approximately five acres of the property. Thus creating a 5+/- acre tract and a 10+/- acre tract after the split. All property owners located within a 1,000' radius of the property were notified and Staff did not receive any comments for or against the request. The Planning Commission approved the request by a vote of 5-0. Commissioner Wheeler inquired about the aerial photo.

Commissioner Masterson motioned to approve the request for a change in zoning from AG-40 to Residential Estates on property located at 15754 SW 40th St. and directed the Chairman to sign Resolution No. 20-15. Commissioner Myers seconded the motion. Motion carried 4-0.

(00:16:25)

ITEM #3 – REQUEST FOR CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL AS SUBMITTED BY JEFF & JAMIE HAENGGI ON PROPERTY LOCATED AT 15247 SW 130TH ST, ROSE HILL

David Alfaro, Community Development Director, came before the Board for approval of a request for change in zoning from AG-40 to Rural Residential as submitted by Jeff & Jamie Haenggi, on property located at 15247 SW 130th St. Rose Hill. The applicant is requesting to rezone 3+/- acres which will allow them to sell the newly created tract and allow the new owner to build a single family residence on the newly created tract. RR zoning allows the creation of tracts ranging in size from 3-10 acres and this request falls within that range. All landowners within a 1,000' radius of the property were notified of the request and aside from the one noted call; staff did not receive any other comments for or against the request. The Planning Commission approved the request 5-0.

Commissioner Masterson motioned to approve the request for a change in zoning from Ag-40 to Rural Residential on property located at 15247 SW 130th St. and direct the Chairman to sign Resolution No 20-16. Commissioner Wheeler seconded the motion. Motion carried 4-0.

(00:18:40)

ITEM #4 – E911 CONFIGURATION

Lew Harter, Butler County IT Director, came before the Board for approval of a contract with ISG to configure E911 on the Cisco phone system in the amount of \$8,200.00.

Commissioner Myers motioned to approve the contract agreement with ISG for E911 configuration in the amount of \$8,200.00. Commissioner Wheeler seconded the motion. Motion carried 4-0.

(00:21:35)

ITEM #5 – WORK SESSION – COVID19 - UPDATE

Will Johnson, County Administrator, came before the Board to give an update on COVID-19. Administrator Johnson stated there are two main issues that are top priority for the Board at the time. Administrator Johnson stated we continue to have a spike in cases, including one new hospitalization. The first issue Administrator Johnson discussed was the emergency declaration. Administrator Johnson stated the County would still receive SPARKS funding without the declaration and Remdisivir will still be available when needed. Administrator Johnson recommended extending the declaration because it keeps the door open for personal protective equipment and it costs the County nothing. Administrator Johnson stated Butler County does not have a policy for a masking mandate and felt this was a tactical decision on Governor Kelly's part. Administrator Johnson stated the masking mandate is not enforceable but everyone should still practice social distancing when they can, and if you can not, wear a mask. If the Board chooses to remove themselves from the masking mandate, the Board must develop a health order. Administrator Johnson stated he still needs time to do research on the order and he is unfamiliar with this topic. Administrator Johnson suggested meeting with the Board on Thursday night for a special meeting to adopt a health order exempting Butler County from the masking mandate. Commissioner Masterson stated that because of the way this bill was written, Butler County has the authority to remove themselves from the masking mandate. Administrator Johnson felt it is important that Butler County gives guidance to its constituents and develops a resolution to formally adopt to exempt themselves from the mandate. Commissioner Myers stated that after reviewing House Bill #2016, the Board of County Commissioners can issue an order relating to public health that includes provisions that are less stringent than the provisions that are issued state wide by a Governor. Commissioner Myers stated it is important that a policy is set in place for Butler County as soon as possible.

Jamie Downs, Butler County Health Department Director, came before the Board to discuss COVID-19. Mrs. Downs stated the Board has not had much of a consultation on masks. Mrs. Downs stated in her professional opinion, masking does make a difference and advised the Board to consult other health officials also for their concerns. Mrs. Downs stated the State of Kansas had 905 new cases over the last weekend, and Butler has had 19 new cases in the last two weeks. On average, each positive case has an average of at least five contacts that must be contact traced. Mrs. Downs stated we only have five contact tracers in Butler County, and an emergency declaration must be in place to access contract tracers from the State. Mrs. Downs expressed that Walmart, SBA Urgent Clinic and the Health Department are no longer offering testing and felt that it is disheartening that Butler County citizens can not get tested in Butler County. Mrs. Downs stated hospitals now have limited space and stressed the importance of continuing the emergency declaration. Mrs. Downs stated everyone should be taking health precautions at all times, staying six feet apart and wear a mask. Commissioner Masterson stated he would argue that there are many more cases out there and there is no way to trace them. Commissioner Myers discussed the list of symptoms for COVID-19.

John Laffen, 301 Sunflower, Andover, came before the Board in regards to the Governor's masking mandate. Mr. Laffen stated he is not in favor of a masking mandate and encouraged the Board to consider the effects of requiring everyone to wear a mask. Mr. Laffen also stated he appreciated Commissioner Myers reading House Bill – 2016.

Jared Pearce, 12233 NW 60th, Potwin, came before the Board in opposition to the masking mandate and stated it is unenforceable to mandate everyone to wear a mask. Mr. Pearce also disagreed with the probable cases counted as positive COVID-19 cases.

Marci Laffen, 301 Sunflower, Andover, thanked the Board for their progressive stance on the COVID-19 pandemic. Mrs. Laffen stated she is a registered nurse and does not agree with the response that the Governor is taking. Mrs. Laffen felt this is a ~~politic~~ (*Amended on July 7, 2020, to change politic to "political"*) scheme and felt the Board should be defending the rights of the constituents. Mrs. Laffen stated COVID-19 is making it impossible for people to live their lives and does not think social distancing or staying six feet apart is going to make any difference. Mrs. Laffen thinks this virus has been around for much longer than anyone really knows and does not want to be stripped of her God given rights by being forced to wear a mask.

Susan Gabriel, 1833 Chelsea Dr, El Dorado, came before the Board and expressed the importance of wearing a mask. Ms. Gabriel stated it is going against public safety by not wearing a mask. Ms. Gabriel stated she is an older woman who is more susceptible to the COVID virus and she wears a mask to protect herself and to protect others and would hope everyone else would do the same.

Anna Busenitz, 15457 NW 140th, Newton, came before the Board in opposition to the masking mandate. Mrs. Busenitz felt we are experiencing a lack of independence and freedom by requiring people to wear masks and she feels they are useless. Mrs. Busenitz stated the virus is smaller than a mask and did not feel that wearing a mask would stop anything. Mrs. Busenitz also stated the CDC has a track record of corruption.

Michael Busenitz, 14340 NW 70th, Whitewater, commended the Board for their work while dealing with this COVID-19. Mr. Busenitz felt it was disheartening that fear is being passed around in America. Mr. Busenitz stated America is founded on citizens' freedoms as individuals and citizens should not be required to have any mandate to stay indoors or shutdown businesses, as the repercussions are horrible.

Heather Smith, 720 State St, Augusta, came before the Board in opposition to Governor Kelly's masking mandate and asked the Board to write a less stringent order for Butler County.

Jordnn Cogan, El Dorado Resident, came before the Board and expressed the importance of asking the residents of Butler County to wear a mask. Mrs. Cogan felt it would be selfish to be against wearing a mask and does not understand why the Board would not want to do everything they can to avoid getting sick from the virus. Mrs. Cogan also felt it is important to keep the emergency declaration in place for when PPE is needed, as shortages have already been a problem. Mrs. Cogan hoped that the Board would do whatever they can to help save a life.

Jesse Busenitz, 13802 NW 80th, Whitewater, came before the Board in opposition to the masking mandate. Mr. Busenitz stated he does not agree that facemasks would stop particles from touching your face. Mr. Busenitz stated he is sympathetic to anyone who is susceptible to the virus but does not want our economy to shut down because of it.

Brandi Lane, El Dorado Resident, SBA Board of Trustees, came before the Board and expressed her opposition to the County's response to the Emergency Declaration expiration. Mrs. Lane expressed the importance of keeping the declaration in place because Butler County hospitals

already have a shortage of personal protective equipment (PPE). Mrs. Lane stated Susan B. Allen hospital only has four ventilators. Mrs. Lane stated this virus should not be compared to Influenza and does not feel that Butler County should have to suffer from any deaths to realize that the Emergency Declaration is very important. Mrs. Lane felt all of the evidence that has been presented to the Board of County Commissioners thus far has been downplayed, and does not feel that the Board has the best interest in mind of Butler County constituents. Mrs. Lane felt that asking citizens to wear a mask is not taking away their freedoms, it is simply being respectful.

Keri Korthals, Emergency Management Director, came before the Board to discuss personal protective equipment (PPE) and the emergency declaration that is in question. Ms. Korthals gave the Board a breakdown of how much PPE has been distributed thus far in Butler County. Ms. Korthals stated over 107,000 items of PPE have been distributed to Butler County entities. Ms. Korthals stated we have 26 requests for PPE support at this time. Ms. Korthals stated we are not in imminent danger at this time of running out of PPE, unless we have a significant outbreak. Ms. Korthals stated that without having the declaration we do lose certain capabilities. Commissioner Myers inquired about the possibility to extend the declaration if cases start to spike even more. Ms. Korthals informed the Board that yes, the Board can extend the declaration at a later time but with the declaration we have case management support, state support, access to state lab testing and a much faster turnaround for testing. Ms. Korthals also stated that she would like to start aggressively stock piling for long-term needs for Butler County vendors. Ms. Korthals stated she understands the Commissioners' thoughts on the alarmist perception to the constituents, but she does feel the smart option is to extend the declaration. Commissioner Masterson stated at this time he is not supporting extending the Emergency Declaration.

Commission Chairman Murphy motioned to extend the Emergency Declaration plan to coincide with the State of Kansas to July 6, 2020. Commissioner Wheeler seconded the motion. Motion failed 2-2. Commissioner Masterson and Commissioner Myers opposed.

(01:53:56)

MASKING MANDATE

Commissioner Myers motioned to allow the County Commission to find that based on COVID-19 in Butler County, mandatory masking is not necessary or desirable at this time and directed staff to prepare a policy/order based on House Bill #2016 and to inform the public expeditiously that the Board of County Commissioners do not intend to make any statewide order for mandatory masking applicable to the residents of Butler County and to hold a special meeting on Thursday, July 2nd at 6 p.m. to adopt the order exempting Butler County from the masking mandate if the Governor moves forward with the masking mandate. Commissioner Masterson seconded the motion. Motion carried 3-1. Commissioner Wheeler opposed.

(01:57:22)

RECESS

Commission Chairman Murphy recessed the meeting of the Board at 10:59 a.m. for five minutes.

Commission Chairman Murphy reconvened the meeting of the Board at 11:04 a.m.

(01:57:38)

ITEM #6 – WORK SESSION – SPARKS (STRENGTHENING PEOPLE AND REVITALIZING KANSAS) FUNDING

Will Johnson, County Administrator, came before the Board for a work session to discuss Sparks Funding. The State of Kansas has received \$1.2 billion in CARES act funds, which is being distributed out to counties to be used for COVID related expenses. The State has developed a SPARKS task force who has developed a three-phased approach for distribution. Administrator Johnson presented a power point on funding distribution and how counties will accept the funds. Administrator Johnson stated Butler County must have a plan in place for how they will spend the funds by August 15th, and they will get notification back from the state in thirty days after they submit their plan.

Michael Smith, Wheat State Manor Nursing Home, came before the Board to discuss how COVID-19 has affected the residents of the nursing home and how they have had to change their day-to-day operations to keep the residents safe.

Administrator Johnson asked the Board to take time to think about the smartest way to spend the SPARKS funding in some way related to COVID-19.

Ryan Adkison, Assistant County Administrator/Finance Director, stated the Department of Treasury would be offering guidance on acceptable ways to utilize SPARKS funding.

(03:01:20)

VOUCHERS

Commissioner Masterson motioned to approve vouchers for June 30, 2020, in the amount of \$285,880.31. Commission Chairman Murphy seconded the motion. Motion carried 3-0.

(03:01:43)

ADDS & ABATES

Commissioner Masterson motioned to approve Adds & Abates #2772 dated June 30, 2020; Adds in the amount of \$1,653.60 & Abates in the amount of \$9,154.18. Commission Chairman Murphy seconded the motion. Motion carried 3-0.

(03:02:02)

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

Administrator Johnson informed the Board that he spoke with Larry Crouse, Butler County Horticulturist, about the dying Blue Spruce tree in front of the Court House, which is used as a Christmas tree. Administrator Johnson stated he wanted guidance from Mr. Crouse in writing to have the tree removed.

Tatum Stafford, Butler County Clerk, informed the Board of County Commissioners that as of July 31, 2020, she would be shutting down the Driver's License office at the Court House. Mrs. Stafford stated she has lost one employee, one employee will be going on maternity leave and her other office staff members are busy with elections. Mrs. Stafford stated 5,700 people have requested mail-in ballots for the Primary election on August 4th and this is a very busy time for her office. Commissioner Masterson felt that it was very important to keep Driver's License services in El Dorado and hoped that a different office would take it over by July 31st.

Administrator Johnson stated the Andover Senior Center luncheon is cancelled for the time being.

The Court House will be closed on Friday, July 3rd.

The Board of County Commissioners will be meeting on Thursday, July 2nd at 6 p.m.

(03:18:03)

ADJOURNMENT

Commissioner Wheeler motioned to adjourn the meeting of the Board at 12:25 p.m.

Commissioner Masterson seconded the motion. Motion carried 4-0.