

**BUTLER COUNTY BOARD OF COMMISSIONERS**  
**Tuesday, October 22, 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, Assistant County Administrator Ryan Adkison, and Clerk Recorder Chelsea Noel. *Commissioner Mike Wheeler was absent.*

**INVOCATION**

Commissioner Myers presented the invocation.

**APPROVAL OF MINUTES**

*Commissioner Myers provided the following amendments: Change “ChildStart” to “HeadStart” in Item #2 and change the word in Item #4 from “county sized” to “bridge sized”. Commissioner Myers motioned to approve the minutes of the Butler County Commission meeting from October 15, 2019, as amended. Commissioner Masterson seconded the motion. Motion carried 4-0.*

(00:04:10)

**PUBLIC COMMENTS**

There were no public comments.

(00:04:16)

**ITEM #1 – JOHNSON REVOCABLE TRUST REQUEST FOR HOMESTEAD LOT SPLIT ON PROPERTY LOCATED AT 8205 NW HIGHWAY 77 EL DORADO, KS**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of a request for a 5+/- acre homestead lot split with a 75+/- acre APO on property located at 8205 NW Highway 77, El Dorado, Kansas, as submitted by the Melvin and Alta Johnson Revocable Trust. The property is primarily used for farming activities and staff felt the request met the criteria for such a split and placement of the APO on the 75+/- acres. As required by State Statute all landowners within a 1,000' radius of the property were notified of the request and staff did not receive comments for or against the request. The Planning Commission approved the request by a vote of 5-0.

*Commissioner Myers motioned to approve the request for a 5+/- acre homestead lot split with the placement of a 75 +/- acre APO on property located at 8505 NW Highway 77, El Dorado, Kansas, as submitted by the Melvin and Alta Johnson Revocable Trust and directed the Chairman to sign the APO Agreement. Commissioner Masterson seconded the motion. Motion carried 4-0.*

(00:05:29)

**ITEM #2 – JOHNSON REVOCABLE TRUST REQUEST FOR A 10 +/- ACRE HOMESTEAD LOT SPLIT WITH A 77 +/- APO ON PROPERTY LOCATED AT 12499 NE BLUESTEM ROAD, BURNS, KS**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of a request for a 10 +/- acre homestead lot split, with a 77 +/- acre APO on property

located at 12499 NE Bluestem Road, Burns, Kansas, as submitted by the Melvin and Alta Johnson Revocable Trust. The property is primarily used for farming activities and staff felt the request met the criteria for such a split and placement of the APO on the 77+/- acres. As required by State Statute all landowners within a 1,000' radius of the property were notified of the request and staff did not receive comments for or against the request. The Planning commission approved the request by a vote of 5-0.

***Commissioner Woydziak motioned to approve the request for a 10+/- acre homestead lot split with the placement of a 77 +/- acre APO on property located at 12499 NE Bluestem Road, Burns, KS as submitted by Melvin and Alta Johnson Revocable Trust and directed the Chairman to sign the APO Agreement. Commissioner Myers seconded the motion. Motion carried 4-0.***

(00:06:35)

**ITEM #3 – HOWARD TRUST & MICHAEL CRANE REQUEST FOR A CHANGE IN ZONING FROM PRD-A TO AG-40 ON PROPERTY LOCATED AT 18524 SW HUNTER ROAD, DOUGLASS, KS**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of a request for a change in zoning from PRD-A to AG-40 on property located at 18524 SW Hunter Road, Douglass, Kansas. The Howard Trust and Michael Crane own three tracts of land that combined contains 110+/- acres located at 18524 SW Hunter Rd. Douglass, KS. The applicants are requesting to rezone the 110+/- acres which will allow them to combine the three tracts, plus a small 2+/- acre tract, creating a 112 acre parcel also owned by the Howard Trust and Michael Crane. The ultimate goal is if the rezone request is approved the applicants will then request, at a future date, a ten acre Mortgage Lot Split with the placement of a thirty acre APO on a portion of the newly created tract. The property is bound by AG-40 zoned property on three sides and RR on the fourth. Rezoning to the AG-40 classification would not be detrimental to the area. As required by State Statute all landowners located within a 1,000' radius of the property were notified and one individual expressed some concerns. He was concerned that the change in zoning would allow the owners to build several single family residences when in fact the proposed zoning change is restrictive. The PRD-A zoning classification would have allowed for an entire subdivision to be built allowing for numerous homes to be built in the area. The change in zoning will only allow for a maximum of two single family residences which will also require the placement of two APO Agreements. After hearing from Staff and the Planning Commission the neighbor was okay with the request. The Planning Commission approved the request by a vote of 5-0.

Debbie DeHoff, Howard Trust Representative, came before the Board and explained why the property was originally zoned as PRD-A, and stated the owners of the property now want the zoning to be restored as agriculture land.

***Commissioner Woydziak motioned to approve a request for a change in zoning from PRD-A to AG-40 as submitted by Michael Crane and Howard Trust and authorized the Chairman to sign Resolution #19-34. Commission Chairman Murphy seconded the motion. Motion carried 4-0.***

(00:12:10)

**ITEM #4 – LEIS ENTERPRISES, LLC REQUEST FOR A CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL (RR) ON PROPERTY LOCATED AT 13597 SW BUTLER ROAD, ROSE HILL, KS**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of a request for a change in zoning from AG-40 to RR as submitted by Leis Enterprises LLC on property located at 13597 SW Butler Road, Rose Hill, Kansas. Leis Enterprises L.L.C. owns a tract of land that contains 37+/- acres located at 13597 SW Butler Rd. The applicant requested to rezone the 37+/- acres which would allow them to potentially split out and sell an 8+/- acre tract of land which would allow for the continued operation of the business being operated under the C.U.P. that exists on the property. The property has AG-40, Residential Estates, Residential, Rural Residential and the City of Andover zoning classifications surrounding the property. The change in zoning from AG-40 to Rural Residential will not be detrimental to the area. As required by State Statute all landowners located within a 1,000' radius were notified of the request and staff did not receive any comments for or against the change. The Planning Commission approved the request by a vote of 5-0.

*Commissioner Woydziak motioned to approve the request for the change in zoning from AG-40 to Rural Residential as submitted by Leis Enterprises L.L.N. and directed the Chair to sign Resolution 19-35. Commissioner Masterson seconded the motion. Motion carried 4-0.*

(00:13:45)

**ITEM #5 – ALAN COKELEY REQUEST FOR A CHANGE IN ZONING FROM AG-40 TO RURAL RESIDENTIAL (RR) ON PROPERTY LOCATED AT 11493 SW HIGHWAY 77 AND 11397 SW HIGHWAY 77, AUGUSTA, KS**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of a request for a change in zoning from AG-40 to RR as submitted by Alan Cokeley on property located at 11493 and 11397 SW Highway 77, El Dorado, Kansas. The applicant is requesting to rezone the 22+/- acres which will allow him to combine and then split the property into two tracts. Mr. Cokeley is then proposing to build a new single family residence on one of the newly created tracts. As required by State Statute staff notified all landowners within a 1,000' radius of the property and staff did not receive any comments for or against the change. The Planning Commission approved the request 5-0.

*Commissioner Masterson motioned to approve the request for the change in zoning from AG-40 to Rural Residential as submitted by Alan Cokeley and directed the Chairman to sign Resolution #19-36. Commissioner Woydziak seconded the motion. Motion carried 4-0.*

(00:15:10)

**ITEM #6 – CITY OF ANDOVER ROAD ANNEXATION REQUEST**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of Resolution 19-37, consenting to the annexation of a certain road (Frey Street) by the City of Andover. The City of Andover, recently through unilateral annexation, annexed property adjacent to South Frey Road off of US 400 and west of Butler Road. While doing the property annexations the City of Andover failed to annex a small section, South Frey Road. The error was discovered when an adjoining property owner called to have maintenance performed on the road. Since this time the City has worked to provide the County with the information necessary to perform the annexation of the roadway in question.

***Commissioner Woydziak motioned to approve Resolution #19-37 consenting to the annexation of a certain road (Frey Street) by the City of Andover, Kansas. Commissioner Masterson seconded the motion. Motion carried 4-0.***

(00:16:56)

**ITEM #7 – CONTRACT AGREEMENT FOR REAL PROPERTY TAX FORECLOSURE AND AUTHORIZING RESOLUTION**

Ryan Adkison, Assistant County Administrator, came before the Board for approval of a contract agreement for real property tax foreclosure sales with the Kelly Law Offices, L.L.P. Kelly Law Offices is currently performing our personal property delinquency collections and tax sales and is one of the few firms in the state contracting for tax foreclosure sales. Most counties utilize their County Counselor to perform the sales, but we have selected to separate this service from our legal counsel. The cost for Kelly Law firm is \$175 per parcel which is a relatively low fee, considering most legal firms are now charging \$150-\$175 per billable hour. This is a flat fee for the sale and is all inclusive and is a \$25 per parcel increase from the previous contract. Commissioner Myers inquired about how many parcels would be included in the 2015 tax foreclosure sale. Donna Farthing, Butler County Treasurer, stated 156 properties were sent to the title company but the total of properties to be included in the sale has not been solidified at this point because many will have their taxes paid before they go to the sale.

***Commissioner Woydziak motioned to approve a contract agreement for real property tax foreclosure sales with the Kelly Law Offices, L.L.P. and authorized Resolution #19-33, initiating tax foreclosure sale proceedings and allowed the Chair to sign. Commission Chairman Murphy seconded the motion. Motion carried 4-0.***

(00:19:50)

**ITEM #9 – SW BUTLER ROAD PROJECT AT SW 150<sup>TH</sup> STREET – UTILITY AGREEMENTS**

Bronson Webb, Assistant Public Works Director, came before the Board for approval of utility agreements related to the SW Butler Road Project at SW 150<sup>th</sup> Street. The proposed road improvement project and roundabout intersection on SW Butler Rd at SW 150<sup>th</sup> St is a federal aid project approved for funding through WAMPO. The project plans are complete and the project is proposed to go to bid in February 2020. Counties are required to enter into agreements with utility and pipeline companies with structures or easements affected by federal aid construction projects. Four utility owners have lines or structures impacted by this project. AT&T, Butler REC, Cox Communications and the City of Rose Hill all have utility lines that will be impacted by our project, requiring an agreement. This project is in the adopted County CIP and is funded through the Special Bridge Building Fund. The only utility relocation costs that may have to be paid for by the County would be with Butler REC.

***Commissioner Woydziak motioned to approve the separate utility agreements with Cox Communications, AT&T Butler REC and the City of Rose Hill related to KDOT Project No. 8 C49-42-01, the SW Butler Road improvement project and roundabout intersection at SW 150<sup>th</sup> Street and authorized the Chair to sign the agreement. Commissioner Masterson seconded the motion. Motion carried 4-0.***

(00:26:26)

**ITEM #8 – 3<sup>RD</sup> QUARTER IDLE FUNDS REPORT**

Donna Farthing, Butler County Treasurer, came before the Board to present the 3<sup>rd</sup> quarter Idle Funds Report to the Board. No action was taken.

(00:31:10)

**NON-AGENDA ITEM**

Pam Dunham, GIS Mapping Director, came before the Board along with County Clerk, Tatum Stafford, to introduce the new elections hub website, created by ProWest, to the Commissioners. Mrs. Dunham displayed the functions of the website and stated it is very user-friendly. Mrs. Dunham stated this website is not replacing the Butler County website, it is just an enhancement. The website shows polling locations, election dates, early vote sites, voter district boundaries, who to contact for voting questions, and the different precincts. Commissioner Masterson asked how Mrs. Dunham plans to make the public aware of the new website. Mrs. Dunham stated she plans to post it on social media and send out a mailer. Mrs. Dunham stated the website is not live yet but will be soon.

(00:57:49)

**ITEM #10 – APPROVAL OF LEASE PURCHASE AGREEMENT FOR RESCUE SQUAD**

Ryan Adkison, Assistant County Administrator/Finance Director, came before the Board for approval of Resolution 19-32, authorizing Butler County to enter into a lease purchase transaction, the proceeds of which would be used to pay the costs of acquiring certain equipment for use in the County, and to approve the execution of certain documents in connection therewith. On December 11, 2018, the commission authorized staff to request bids for the purchase of a new heavy rescue truck. On January 29, 2019, the commission accepted three bids and directed staff to analyze the bids and bring back a recommendation for action at a later date. On April 16, 2019, the commission approved the purchase of a vehicle from Maintainer Custom Bodies at a price not-to-exceed \$486,465 and the purchase of Paratech Rescue Equipment through Conrad Fire Equipment at the price not to exceed \$49,954 for equipping the truck. On May 28, 2019, the commission approved the purchase of new election equipment without issuing debt, as was initially planned, due primarily to healthy fund balances in the election reserve fund and general fund reserve fund and a good price point after negotiations. Therefore, this freed up debt payment capacity for the rescue squad payment. On August 27, 2019, the commission authorize staff to issue a RFP, analyze the results and bring back a recommended action and all necessary documents for issuing up to \$500,000 in debt for a new rescue squad truck. The proposed lease purchase agreement would require annual funding of \$54,383.26 over the next ten years. The 2020 Budget includes a Rescue Squad LPA payment of \$60,000. Commissioner Myers stated he does not feel this is a large enough purchase to justify going into debt. Mitch Walter, Gilmore & Bell, came before the Board and stated U.S. Bank added a pre-payment premium in the agreement that states the County can buy their way out of the lease at any time, but the County would be paying 103% of the outstanding principal.

*Commissioner Woydziak motioned to approve Resolution 19-32 authorizing Butler County to enter into a lease purchase agreement, the proceeds of which would be used to pay the costs of acquiring certain equipment for use in the County, and approved the execution of certain documents in connection therewith. Commission Chairman Murphy seconded the motion. Commissioner Myers opposed. Motion carried 3-1.*

(01:08:43)

**VOUCHERS**

*Commissioner Myers motioned to approve vouchers for October 22, 2019, in the amount of \$124,122.23. Commissioner Masterson seconded the motion. Motion carried 4-0.*

(01:09:06)

**COMMISSION ADDS & ABATES**

*There were no Adds & Abates.*

(01:09:20)

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

Commissioner Myers noted he has interest in attending the KAC Conference in November.

(01:15:31)

**ADJOURNMENT**

*Commissioner Woydziak motioned to adjourn the meeting of the Board at 10:15 a.m. Commissioner Masterson seconded the motion. Motion carried 4-0.*