

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, August 23, 2011

CALL TO ORDER

Commission Chairman Bruce Harris called the Butler County Board of Commissioners to order at 9:00 a.m. Present were Commissioner Jeff Masterson, Commissioner Peggy Palmer, Commissioner Mike Wheeler, Commissioner Dan Woydziak, County Administrator Will Johnson, Jr., and Clerk Recorder Tammy Bridges.

APPROVAL OF MINUTES

Commissioner Wheeler motioned to approve the minutes of the Butler County Commission Meeting of Tuesday, August 16, 2011, as written. Commissioner Masterson seconded the motion. Motion carried 5-0.

PUBLIC COMMENTS

There were no public comments.

ITEM #1 – RECESS TO EXECUTIVE SESSION FOR CONSULTATION WITH AN ATTORNEY FOR THE BODY OR AGENCY WHICH WOULD BE DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP

Commissioner Woydziak motioned to recess the Board to Executive Session at 9:03 a.m. for 12 minutes, with the public session resuming at 9:15 a.m., 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 Wheeler seconded the motion. Motion carried 5-0. Those in attendance were Commissioners Harris, Masterson, Palmer, Wheeler, Woydziak, Administrator Will Johnson, County Counselor Norm Manley, and Attorney Ed Keeley.

RECONVENE

Commissioner Harris reconvened the Board meeting at 9:15 a.m. No action was taken as a result of Executive Session.

ITEM #4 – RECOMMEND APPROVAL OF THE CHANGES TO THE LOCAL EMERGENCY PLANNING COMMITTEE (LEPC) ROSTER FOR 2011

Jim Schmidt, Emergency Management Director, came before the Board for approval of the changes to the Local Emergency Planning Committee (LEPC) Roster for 2011. The LEPC voted to approve Janice Powers, Butler County Health Department Director, as the new Health Representative.

Commissioner Woydziak motioned to approve changes to the 2011 LEPC Roster and appoint Janice Powers to the Butler County LEPC. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #10 – CONSIDER APPROVAL OF AN AMENDED INTERLOCAL LAW ENFORCEMENT AGREEMENT WITH THE CITY OF DOUGLASS FOR THE BUTLER COUNTY SHERIFF TO PROVIDE POLICE PROTECTION FOR THE CITY OF DOUGLASS

William Johnson, County Administrator, came before the Board for approval of an amended Interlocal Law Enforcement Agreement with the City of Douglass for the Butler County Sheriff to provide police protection for the City. Recently a deputy assigned to Douglass resigned and as a result, the City of Douglass entered into discussions with the Sheriff Department to reduce the number of deputies assigned to the City from four to three. The reduction of one officer will reduce the monthly cost for the City of Douglass from \$12,879 to \$9,753 for 2011 and the projected cost in 2012 from \$172,925 to \$130,904. Officer coverage will be reduced from 24-7 coverage with four officers to a rotating schedule in the evening with two of the officers and an officer working days Monday through Friday. Commissioner Woydziak asked about the savings to the County. Administrator Johnson commented that it would save approximately \$15,000 in benefit costs plus a vehicle. Commissioner Woydziak stated he spoke to KaLyn Nethercot, City of Douglass, and noted the City is comfortable with the contract.

Commissioner Woydziak motioned to approve the amended Interlocal Law Enforcement agreement with the City of Douglass for the Butler County Sheriff to provide police protection for the City of Douglass and allow the Chair to sign the contract. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #2 – RECOGNIZE THE EFFORTS OF BUTLER COUNTY EMERGENCY MANAGEMENT, SUSAN B. ALLEN MEMORIAL HOSPITAL AND THE BUTLER COUNTY HEALTH DEPARTMENT IN OBTAINING A GRANT TO PROVIDE 400 NOAA WEATHER RADIOS AT NO CHARGE TO RURAL RESIDENTS, ELDERLY AND DISABLED CITIZENS, CHILD CARE PROVIDERS AND GROUP HOMES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS. ADDITIONALLY RECOGNIZE THE CITY OF DOUGLASS FOR DISTRIBUTING 100 WEATHER RADIOS TO CITIZENS OF THEIR COMMUNITY (9:30 A.M.)

Jim Schmidt, Emergency Management Director, came before the Board to recognize the efforts of Butler County Emergency Management, Susan B. Allen Memorial Hospital (SBA), and the Butler County Health Department in obtaining a grant to provide 400 NOAA Weather Radios. The complete cost of the project was \$10,000; of that, the grant paid \$7,500 and the remainder was taken care of by SBA, the County Health Department, and Emergency Management. A Weather Radio was presented to Carrol McHenry. Mr. McHenry thanked the Commissioners, SBA, and the Health Department for their help and support. He also thanked Emergency Management for the radios and noted they will help a lot of people with early warning. Kathy Walter, Flinthills Services, commented on the radios received and presented a radio to Tim Vinduska. David Shaw, Susan B. Allen Memorial Hospital, said the hospital was very pleased to participate in this program. Janice Powers, Butler County Health Department, stated she was delighted to help with the weather radio program. Dick Elder, National Weather Service, addressed the Commissioners and said Butler County has come a long way over the last 20 years, remembering the Andover tornado. He stated our Emergency Management agency is second to none in the State of Kansas. On behalf of the Board, Commissioner Harris thanked everyone involved and stated he appreciated all the work that went into this project. Commissioner Woydziak spoke on behalf of the City of Douglass and noted appreciation of this benefit being provided to the folks of the City. Jim Schmidt commented that getting these radios out to the citizens of the county is a tremendous benefit. Mr. Schmidt introduced Jeanne Bunting, State of Kansas Division of Emergency Management, who administers the program. She stated it was good to see the end result of a program like this. No action was taken.

ITEM #3 – PRESENTATION OF THE KCEM CERTIFICATION TO KERI KORTHALS, ADMINISTRATIVE ASSISTANT WITH EMERGENCY MANAGEMENT

Jim Schmidt, Emergency Management Director, introduced Brian Stone, Cowley County EMA and South Central Regional Representative for Kansas Emergency Management Association (KEMA) who came before the Board to present the Kansas Certified Emergency Manager (KCEM) Certification to Keri Korthals, Administrative Assistant with Emergency Management. Keri began her career with Emergency Management in May 2009, with a degree in accounting and previous experience in corporate finance management. The fact that she has already met all the stringent requirements for certification as a Kansas Certified Emergency Manager in this short time is tribute to the type of employee and individual Keri is. Commissioner Harris presented Keri with the KCEM Certification. The Board congratulated Keri on her accomplishment. No action was taken.

ITEM #5 – CONSIDER APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW DENNIS & BRENDA YARNALL TO UTILIZE A PROPERTY LOCATED IN THE RR RURAL RESIDENTIAL ZONING DISTRICT TO OPERATE AN AGRI-TOURISM BUSINESS

Rod Compton, Planning & Zoning Director, came before the Board for approval of a Conditional Use Permit (CUP) to allow Dennis & Brenda Yarnall to utilize property located in the RR Rural Residential zoning district to operate an agri-tourism business. The Yarnall's own 80 acres and are requesting a CUP to establish an operation known as Cardinal Creek Farm. In addition to operating a Christmas Tree Farm, they would like to offer after school educational sessions for school children; facilities for use by community clubs, artist retreats and workshops, a venue for school field trips, educational day camps on a scheduled basis; overnight primitive camping for scouting, church, 4-H, and similar non-profit groups; Native American pow-wows, etc. The Planning Commission met on August 2, 2011 and approved this request by a 6-0 vote with the condition that the applicants work out and execute an agreement with the township regarding road improvement and/or maintenance issues to the township's satisfaction. Commissioner Palmer stated an agreement has been reached between the applicants and Spring Township. Mr. Yarnall presented an agreement and Commissioner Harris read the following into the record: "This agreement is between Spring Township and Dennis and Brenda Yarnall. Spring Township agrees to rebuild 110th St. east of Pickrell Street for ½ mile. The Yarnall's agree to reimburse Spring Township two-thirds of the total cost, but not to exceed \$4,332 and furnish a culvert for their driveway. The township will install and provide the rock at no charge. Signed by the Treasurer of Spring Township and the Yarnall's."

Commissioner Palmer hereby finds that the request is compatible with nearby uses; that it is consistent with the spirit and intent of the regulations; and that it would not represent an undue burden to transportation and service facilities in the area; and motioned to approve the request by Dennis and Brenda Yarnall for a Conditional Use Permit to establish an agri-tourism business as previously described on this property subject to the conditions noted previously, and authorize the Chair to sign Resolution 11-24. The site for which the Conditional Use Permit is to be located is described as: The West Half of the Southeast Quarter of Section 26, Township 27 South, Range 5 East of the 6th P.M., Butler County, Kansas. Commissioner Wheeler seconded the motion. Motion carried 5-0.

RECESS

Commissioner Harris recessed the Board meeting at 9:56 a.m. for 5 minutes.

RECONVENE

Commissioner Harris reconvened the Board meeting at 10:01 a.m.

ITEM #6 – CONSIDER APPROVAL OF REQUEST BY JIM PENWELL FOR A HOMESTEAD LOT SPLIT WITH APO IN ORDER TO SEPARATE AN EXISTING HOMESTEAD AND 10 ACRES FROM A PARCEL CONTAINING APPROXIMATELY 61.2 ACRES

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Jim Penwell for a Homestead Lot Split with APO in order to separate an existing homestead and 10 acres from a parcel containing approximately 61.2 acres. The property is located approximately ¼ mile south of SE 80th St. on the east side of SE Teter Rd. On August 2, 2011, the Planning Commission approved this request by a 6-0 vote. Staff feels that the use of the APO provision on this property is appropriate. The applicant has submitted an easement for right-of-way agreement to dedicate 40 feet of right-of-way easement along SE Teter Rd. Mr. Compton noted this request is somewhat unique in that the creation of the homestead lot split would technically create a landlocked parcel for the remainder of the applicant's property. The entire parcel is accessed via a 30' wide strip of land that has to be attached to the homestead. The Planning Commission has required that the applicant dedicate an access easement across the homestead portion that would provide access to the remainder of the property should it ever be sold to another party. Mr. Compton stated if it was ever sold, responsibility of maintenance would need to be stipulated. Mr. Compton said this is not something we normally encourage; however, it is felt the circumstances created by the shape of the property prevent another remedy.

Commissioner Woydziak motioned to approve the Homestead Lot Split with APO; dedicate an access easement across the homestead portion that would provide access to the remainder of the property; and authorize the Chair to sign the Easement of Right of Way and the Agricultural Protection Overlay Agreement subject to the recording of the APO agreement, access easement, and survey of the residential site with the Register of Deeds. The Homestead Lot Split is described as: The North 30 feet of the West Half of the Southwest Quarter of the Northwest Quarter; and, Beginning at the Northwest corner of the East Half of the Southwest Quarter of the Northwest Quarter; thence East 661.03 feet; thence South 658.97 feet; thence West 661.03 feet; thence North 658.97 feet to the beginning; all in Section 17, Township 27 South, Range 6 East of the 6th P.M., Butler County, Kansas. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #7 – CONSIDER APPROVAL OF A REQUEST BY PATRICIA DALTON FOR A HOMESTEAD LOT SPLIT WITH APO IN ORDER TO SEPARATE AN EXISTING HOMESTEAD AND 5 ACRES FROM A PARCEL CONTAINING APPROXIMATELY 70.2 ACRES

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Patricia Dalton for a Homestead Lot Split with APO in order to separate an existing homestead and 5 acres from a parcel containing approximately 70.2 acres. The property is zoned AG-40 and presently contains no residence. It is located on the Northeast corner of the intersection of SW 10th St. and SW Meadowlark Rd. The County's subdivision regulations stipulate that the Homestead Lot Split provision is to allow the separation of an existing habitable residence and some acreage from the surrounding agricultural property. There was once a residence on the property, but it burned down many years ago. The residence was not replaced; however, there is an existing water meter for the property and electricity is present. The applicant has submitted

an easement for right of way agreement to dedicate 40 feet of right of way easement along SW 10th St. and SW Meadowlark Rd. The Planning Commission voted to approve this request at the meeting of August 2, 2011 because there was evidence that a residence once existed on the site and utilities are still in place. Staff feels the APO provision on this property is appropriate for the same reasons stated above by the Planning Commission.

Commissioner Masterson motioned to approve the Homestead Lot Split with APO described as follows, and authorize the Chair to sign the Easement for Right of Way and the Agricultural Protection Overlay Agreement subject to the recording of the Agricultural Protection Overlay agreement, easement for right of way agreements, and survey of the residential site with the Register of Deeds. The Homestead Lot Split is described as: The South 330 feet of the West 660 feet of the Southwest Quarter of Section 3, Township 26 South, Range 3 East of the 6th P.M., Butler County, Kansas. Commissioner Woydziak seconded the motion. Motion carried 5-0.

ITEM #9 – CONSIDER APPROVAL OF A REQUEST BY DALE AND PATRICIA ELLIS TO REZONE 5.6 ACRES FROM AN AG-40 ZONING CLASSIFICATION TO A C COMMERCIAL ZONING CLASSIFICATION

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Dale and Patricia Ellis to rezone 5.6 acres from AG-40 to C Commercial in order to sell it to another party for commercial development. The property is located approximately ½ mile East of Andover Rd. on the south side of U.S. Hwy 54 (the southeast corner of the intersection of Yorktown St. and U.S. Hwy 54); it is an unincorporated island that is completely surrounded by the City of Andover. The Planning Commission approved this request by a 6-0 vote on August 2, 2011 because it was felt the request was in conformance to the County's Comprehensive Plan.

The City of Andover has expressed concern over this rezoning and requested the Commissioners table this to allow the Andover City Council more time to consider its options. Mayor Ben Lawrence, 1930 Grace Ct., City Council Member Caroline Hale, 831 Bramerton, and City Council Member Troy Tabor, 105 Lioba Dr., came before the Board to discuss the issue. Ty Masterson came before the Board representing the Ellis's and stated the homeowners are asking the Board to uphold the ruling of the Butler County Planning Commission. Commissioner Masterson said the city could annex the property and take control of this matter at any time. Commissioner Woydziak stated there are times such as this example where the City is providing services all around this property and annexation should occur. The members of the city council stated this property wasn't annexed because it is zoned residential. Commissioner Woydziak asked if there was a pending sale. Ty Masterson stated there is no sale pending.

Commissioner Palmer motioned to approve the request by Dale and Patricia Ellis to rezone 5.6 acres described as: The South 930 feet of the North 990 feet of the West 264 feet of the Northwest Quarter of the Northeast Quarter of Section 29, Township 27 South, Range 3 East of the 6th P.M., Butler County, Kansas because the proposed rezoning is found to be in conformance with the County's comprehensive plan and authorize the Chair to sign Resolution 11-25 approving the rezoning. Commissioner Woydziak seconded the motion. Motion carried 4-0 with one abstention by Commissioner Masterson.

ITEM #8 – CONSIDER APPROVAL OF A REQUEST BY HAZEL SLYTER FOR A HOMESTEAD LOT SPLIT WITH APO IN ORDER TO SEPARATE AN EXISTING

HOMESTEAD AND 5 ACRES FROM A PARCEL CONTAINING APPROXIMATELY 80 ACRES

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Hazel Slyter for a Homestead Lot Split with APO in order to separate an existing homestead and 5 acres from a parcel containing approximately 80 acres so that it may be sold as a legal separate parcel. The property is zoned AG-80 and is located on the northeast corner of the intersection of SW 150th St. and SW Shumway Rd. She is proposing to dedicate 40 feet of road way easement for SW Shumway Rd. and SW 150th St. The Planning Commission approved this request by a 6-0 vote on August 2, 2011. Staff feels the request fully complies with the requirements of the subdivision regulations.

Mr. Compton noted concerns by Ms. Slyter about what would happen if the potential buyers are not able to close on the property. Denise Rockers, Sharp Realty, 9 Flanigan Ct., Augusta, came before the Board on behalf of Ms. Slyter and requested acknowledgement that this request could be revoked if the property does not close. Linda Baines, 253 Post Rd, El Dorado, came before the Board representing the buyer with concerns about completing the appraisal on the property. There was discussion about how to proceed. Commissioner Woydziak confirmed with Mr. Compton, that if the closing does not occur, and for some reason this land does not sell, the applicant can return to the Board of Commissioners for revocation.

Commissioner Woydziak motioned to approve the Homestead Lot Split with APO described as follows, and authorize the Chair to sign the Easement for Right of Way and the Agricultural Protection Overlay Agreement subject to the recording of the Agricultural Protection Overlay agreement, easement for right of way agreements, and survey of the residential site with the Register of Deeds and if for some reason this land does not sell, they may bring it back to this Board for revocation. The Homestead Lot Split is described as: Beginning at a point 425.31 feet West of the Southeast Corner of the Southwest Quarter of Section 13, Township 28 South, Range 4 East of the 6th P.M., Butler County, Kansas; thence West 742.29 feet; thence North 402.29 feet; thence East 340 feet; thence Southeasterly 568.92 feet to the beginning. Commissioner Harris seconded the motion. Motion carried 5-0.

ITEM #11 – WORK SESSION – REAPPRAISAL SCHEDULE

Marion Johnson, Butler County Appraiser, and Deb Studebaker, Deputy Appraiser, came before the Board to discuss the reappraisal schedule. Mr. Johnson stated they are required to revisit all real estate properties every six years. This year they are working in the Cities of Rose Hill and Andover. No action was taken.

ITEM #12 – CONSIDER APPROVAL OF THE EXPENDITURE OF \$13,000 FOR YEARLY ESRI SOFTWARE MAINTENANCE FOR THE GIS/MAPPING DEPARTMENT

Pam Dunham, GIS Director, came before the Board for approval of the expenditure of \$13,000 for yearly ESRI software maintenance. This is a budgeted expense.

Commissioner Wheeler motioned to approve allowing the GIS Director to renew the yearly software maintenance with ESRI in the amount of \$13,000 to come out of line item 01-19-6233-00. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #13 – CONSIDER AUTHORIZING THE DIRECTOR OF FACILITIES MANAGEMENT TO OBTAIN BID PROPOSALS FOR THE PURPOSE OF UPGRADING THE ELECTRICAL DISTRIBUTION SYSTEM FOR THE HISTORIC COURTHOUSE

Dan Ingalls, Director of Facilities Management, came before the Board for authorization to obtain bid proposals for the purpose of upgrading the electrical distribution system for the Historic Courthouse. This will require relocation of some of the existing electrical panels and installation of two new electrical panels. Financial considerations would come through a matching grant with the National Park Service and the National Trust for Historic Preservation. Butler County's portion would come from Fund 85. Commissioner Palmer asked Mr. Ingalls to put together a list of completed and proposed projects for the Historic Courthouse.

Commissioner Woydziak motioned to allow the Director of Facilities Management to obtain bid proposals for the upgrading of the Electrical Distribution System in the Historic Courthouse. Commissioner Wheeler seconded the motion. Motion carried 5-0.

APPROVAL OF VOUCHERS

Commissioner Palmer motioned to approve the vouchers for August 23, 2011, in the amount of \$375,190.04. Commissioner Wheeler seconded the motion. Motion carried 5-0.

COMMISSION ADDS & ABATES

Commissioner Masterson motioned to approve Adds & Abates #2497 dated August 23, 2011; Adds in the amount of \$486.90 and Abates in the amount of \$209,468.72. Commissioner Woydziak seconded the motion. Motion carried 5-0.

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

Commissioners Woydziak and Masterson met with the owner of Global Propane to discuss plans and concerns.

Commissioner Harris asked for designation about which entity is responsible for maintenance on Haverhill Rd., SW Trafficway, and Towanda Street; whether it is the County, City of El Dorado, or township.

Commissioner Wheeler asked about the work at 80th St. and Haverhill Rd. Darryl Lutz, Director of Public Works, stated it is one of our culvert construction sites.

Commissioner Palmer commented that she was asked to compliment the Public Works Department on a job well done on Ohio Street.

Administrator Johnson updated the Board on the Keystone Pipeline and the case pending with COTA and PVD.

Administrator Johnson stated we would have a request from the City of El Dorado to extend their NRP program on next week's agenda.

Administrator Johnson stated there is a provision in the personnel policy manual about approval of out of state travel at budget time and will provide that information to the Board.

Administrator Johnson mentioned the luncheon at the Douglass Senior Center on Tuesday, August 30, 2011.

Commissioner Palmer informed the Board that the railroad will be working south of Augusta and will be closing the road for four days. Administrator Johnson will report back on the dates the road will be closed.

ADJOURNMENT

*Commissioner Woydziak motioned to adjourn the meeting of the Board at 11:36 a.m.
Commissioner Wheeler seconded the motion. Motion carried 5-0.*