

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, March 8, 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, March 1, 2011 as written. Commissioner Masterson seconded the motion. Motion carried 5-0.

PUBLIC COMMENTS

There were no public comments.

ITEM #1 – OPEN A PUBLIC HEARING REGARDING THE PROPOSED VACATION OF DIKE RD. SOUTH OF US-400 ON THE WEST SIDE OF AUGUSTA

Darryl Lutz, P.E., Butler County Engineer, came before the Board to discuss the proposed vacation of Dike Rd. The City is planning to raise and widen the levee to protect the city from flooding of the Whitewater River and is requesting to vacate Dike Rd. south of US-400 to Thunder Rd. in order to accommodate construction on the levee. Notice was sent to adjacent property owners and legal notice was published in the newspaper.

Commissioner Harris opened a Public Hearing at 9:03 a.m.

Bill Keefer, Augusta City Manager, discussed the vacation of Dike Rd., the possibility of Wal-Mart building a new store and extending Lulu St., and the route farm machinery would take through town. Mr. Keefer stated that prior to the Corp of Engineers beginning the project, the City would need to show all the property is acquired and the road is vacated.

Elmer Simon, Augusta Township Treasurer, 10283 SW White Rd., commented that township machinery and farmers use Dike Rd. and noted combines, semis, and fuel trucks would be coming through town if Wal-Mart goes in.

ITEM #2 – CLOSE THE PUBLIC HEARING AND CONSIDER ALLOWING STAFF TO DEVELOP AN ORDER TO VACATE DIKE RD. OR TO DISALLOW THE VACATION

Commissioner Harris closed the Public Hearing at 9:15 a.m.

Discussion continued about the project. Mr. Lutz suggested the motion include directing staff to draft an order vacating Dike Rd. to be effective upon commencement of construction of the levee project and enter into an agreement with the City of Augusta for a provision to not restrict farm equipment or trucks from traveling through town.

Commissioner Palmer motioned to direct staff to develop an order to vacate Dike Rd. to be effective upon construction of the Dike Rd. levee project and enter into an agreement with the

City of Augusta to not restrict farm equipment and truck traffic on roads. Commissioner Wheeler seconded the motion. Motion carried 5-0.

ITEM #3 – CONSIDER APPROVAL OF A REQUEST BY ROSS LUMBERT FOR A CONDITIONAL USE PERMIT (CUP) TO ESTABLISH A BUSINESS THAT DESIGNS AND BUILDS CONTROL SYSTEMS FOR VARIOUS MANUFACTURING APPLICATIONS (CASE CU-11-01) (RESOLUTION 11-01)

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Ross Lumbert d/b/a American Control and Engineering Services, Inc., to utilize a 40-acre tract of land in the AG-40 Agricultural zoning district to establish the headquarters for his business. The Planning Commission approved this request by a 3-2 vote with the following conditions:

(1) The Conditional Use Permit shall be limited to the structures shown in the submitted site plan; (2) Further expansion beyond what is shown on the submitted site plan shall be subject to obtaining an amended Conditional Use Permit; (3) All operations (including assembly and fabrication) must occur within a fully enclosed structure; (4) No outdoor storage of materials or equipment shall be allowed; (5) Adequate off-street parking must be provided in accordance with County Zoning regulations; and (6) A permit for an on-site sewage treatment system must be obtained from KDHE, or a letter must be obtained from KDHE that empowers the County to issue the permit.

Those who voted against this request felt the use represented an encroachment of an urban use into a rural area, and that it was incompatible with surrounding uses. It is staff's opinion that the nature of the use proposed would not significantly impact any adjacent properties, at least at the level of intensity proposed.

Ross Lumbert, 15257 SW Queens Lace Rd., came before the Board to address concerns expressed at the Planning & Zoning meeting regarding the number of parking places, drainage issues, and traffic.

The following individuals came before the Board with concerns about zoning issues, flooding, drainage, ground water, the number of parking spaces, traffic, road deterioration, and property values and taxes:

Richard King, 1950 Jamaica, El Dorado, representing Marilyn Huston, 14929 SW Mulberry Rd., Rose Hill; Gaylon and Tina Stafford, 13747 SW 150th St., Rose Hill; Deborah Jones, 14527 SW Mulberry Rd., Rose Hill; Ken Kiser and Susan Hurdt, 13955 SW 150th St., Rose Hill; Jerry Stout, 13641 SW 150th St., Rose Hill; and Nancy Stowers, 14658 SW 150th St., Rose Hill.

Commissioner Masterson motioned to find 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 move to approve the request by Ross Lumbert for a Conditional Use Permit to establish an office/assembly facility for his business on his property subject to the conditions noted previously as well as require an engineer to design a drainage plan to be approved by the County, and authorize the Chair to sign Resolution No. 11-01. The site for which the CUP is to be located is described as: The Northwest Quarter of the Northeast Quarter of Section 21, Township 28 South, Range 3 East of

the 6th P.M., Butler County, Kansas. Commissioner Palmer seconded the motion. Motion carried 4-1. Commissioner Woydziak voted no.

RECESS

Commissioner Harris recessed the Board meeting at 10:25 a.m. for 5 minutes.

RECONVENE

Commissioner Harris reconvened the Board meeting at 10:30 a.m.

ITEM #4 – CONSIDER APPROVAL OF A REQUEST BY PAUL GOOD ON BEHALF OF FREDERICK AND MINNIE GOOD TO REZONE FROM AG-40 TO RURAL RESIDENTIAL (CASE RZ-11-01) (RESOLUTION 11-02)

Administrator Johnson stated Mr. Paul Good phoned and noted he would not be able to attend the meeting today because his father, Frederick, passed away yesterday.

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Paul Good to rezone 6.48 acres from AG-40 to RR Rural Residential in order to separate the residential site from the rest of the property so that it can be sold. The Planning Commission voted in favor of this request by a unanimous vote. The recommendation is that of approval because the site was in close proximity to the City of Benton on a paved, county maintained road, and therefore such a change was in conformance to the County's Comprehensive Plan.

Commissioner Masterson motioned to approve the request by Frederick and Minnie Good to rezone 6.48 acres described as: Beginning at the SW Corner of the East Half of the SW Quarter of Section 17, Township 26 South, Range 3 East of the 6th P.M., Butler County, Kansas, thence East 600.6 feet; thence North 500 feet; thence West 600.6 feet; thence South 500 feet to the beginning, from an AG-40 classification to an RR Rural Residential classification because the request is in conformance to the County's Comprehensive Plan and hereby authorize the Chair to sign Resolution 11-02 granting such change. Commissioner Harris seconded the motion. Motion carried 5-0.

ITEM #5 – CONSIDER APPROVAL OF A REQUEST FOR A HOMESTEAD LOT SPLIT AND AGRICULTURAL PRESERVATION OVERLAY (APO) (CASE PL-11-03)

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Craig Lynch for a Homestead Lot Split with APO in order to separate an existing homestead and 10 acres from a parcel containing approximately 157.6 acres. They are proposing to dedicate 40' of road way easement for SE Teter Rd. and 40' of road way easement for SE 190th St. The Planning Commission approved this request by a 5-0 vote. Staff feels that the use of the APO provision on this property is appropriate.

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 APO agreement and survey of the residential site with the Register of Deeds. The Homestead Lot Split is described as: Beginning at a point 851.31 feet North of the Southeast Corner of the Southeast Quarter of Section 6, Township 29 South, Range 6 East of the 6th P.M., Butler County, Kansas; thence West 776 feet; thence North 562 feet; thence East 776 feet; thence South 562 feet to the beginning. Commissioner Harris seconded the motion. Motion carried 5-0.

ITEM #6 – CONSIDER APPROVAL OF AN APPLICATION BY WILLIAM J. LYTTON FOR A REZONING FROM R-6D RESIDENTIAL TO R-6B AND R-6C RESIDENTIAL AS PART OF THE AUGUSTA EXTRATERRITORIAL ZONING AGREEMENT

Rod Compton, Planning & Zoning Director, came before the Board for approval of an application by William J. Lytton for rezoning from R-6D Residential to R-6B and R-6C Residential as part of the Augusta Extraterritorial Zoning Agreement. Staff feels the use as proposed would conform to the County's Comprehensive Plan because it is within the Urban Growth Area of the County and within the City of Augusta's zoning jurisdiction.

Commissioner Palmer motioned to find this rezoning application would be in conformance with the Butler County Comprehensive Plan and authorize staff to send a letter to the Augusta City Planning Commission signifying the same. Commissioner Wheeler seconded the motion. Motion carried 5-0.

ITEM #7 – CONSIDER A LETTER OF UNDERSTANDING FOR UTILIZATION OF THE COMMUNITY BUILDING BY FLINTHILLS SERVICES, INC. IN THE EVENT OF A DISASTER

Will Johnson, County Administrator, came before the Board for approval of a Letter of Understanding for utilization of the Community Building by Flinthills Services, Inc., in the event of a disaster.

Commissioner Harris motioned to approve the Letter of Understanding for Flinthills Services, Inc., to utilize the Community Building in the event of a disaster. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #8 – CONSIDER APPROVAL OF AN AID TO LOCAL GRANT APPLICATION TO THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FROM THE BUTLER COUNTY HEALTH DEPARTMENT

Carol Borger, Health Department Administrator, came before the Board for approval of an Aid to Local Grant application to the Kansas Department of Health and Environment. These grants support the salaries of staff working in the grants and include supplies, travel, educational materials, and mandatory in-services required by KDHE.

Commissioner Woydziak motioned to approve the Aid to Local Grant application to Kansas Department of Health and Environment by the Butler County Health Department in the amount of \$236,543.00 and allow the Chair to sign. Commissioner Masterson seconded the motion. Motion carried 5-0.

Administrator Johnson referred to a request from John Tomblin for an extension of 60 days on the funds currently being held by Wichita State for a facility to be located in the Andover Industrial Park. Currently, they are holding \$240,000 as an incentive to apply for grants on behalf of this project. Commissioner Palmer requested Mr. Tomblin call her for an update on the project.

Commissioner Woydziak motioned to approve the extension of 60 days and if no determination by the federal government has been made at the end of 60 days, the \$240,000 shall be returned to Butler County Economic Development with a letter of the intent to replace it if the need arises in the future. Commissioner Masterson seconded the motion. Motion carried 4-1. Commissioner Palmer voted no.

Administrator Johnson noted the extension referred to above would expire on Monday, May 2, 2011.

Jim Neese, Communications Plan, came before the Board to discuss maintenance requirements and allocation of costs for the radios and software upgrades from KDOT for approximately \$300,000. Commissioner Woydziak expressed concern about information that was given to constituents before the Commissioners were informed. Mr. Neese explained that he received cost figures for the system infrastructure from Motorola and shared those amounts at the Butler County Emergency Services Association (BCESA) meeting for budget considerations. Mr. Neese reported maintenance contract costs of \$231,628 for the radio system infrastructure, which amounts to \$197.13 per radio per year for 1,175 radios, or \$16.43 per month.

Mr. Neese stated Motorola may have another change order because the City of Andover 9-1-1 Director has not provided programming information for their consoles. This information was requested in January.

It was noted that this may be the last time Mr. Neese appears before the Board in a while since he will be going to part-time status. He thanked the Commission for the opportunity to work for Butler County. The Board thanked Mr. Neese. Commissioner Woydziak commented that the system is working well and doesn't want to diminish what Mr. Neese has accomplished, because he has done a great job for the County. Administrator Johnson noted that Jim has done a wonderful job and saved the County a lot of money.

Commissioner Harris brought up the importance of sharing explicit instructions with all three PSAPs regarding range burning. Administrator Johnson will attend the Fire Chief's meeting on Thursday, March 17th to discuss modifications to the burning regulations. Administrator Johnson noted the state implemented an April burn ban pertaining only to those burns that require permitting by KDHE; residential trash burning nor agricultural burns were limited in the April burn ban.

Rex Stevens, 14233 SW 40th St., Fire Chief of Fire District #7, came before the Board to discuss the allocation of costs for the radios.

ITEM #9 – WORK SESSION – EMS CHARGES

Grant Helferich, EMS Director, and Karla Whitfield, Administrative Assistant, came before the Board to discuss current EMS fees and charges for service. More information will be provided at a later date. No action was taken.

APPROVAL OF VOUCHERS

Commissioner Palmer motioned to approve the vouchers for March 8, 2011 in the amount of \$162,325.69. Commissioner Masterson seconded the motion. Motion carried 5-0.

COMMISSION ADDS & ABATES

Commissioner Wheeler motioned to approve Adds & Abates #2475 dated March 8, 2011; Adds in the amount of \$2,209.44 and Abates in the amount of \$31,065.30. Commissioner Harris seconded the motion. Motion carried 5-0.

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

Commissioner Harris noted the food was very good at the Rose Hill Senior Center yesterday.

Commissioner Palmer motioned to appoint Shane Tracy to the Fire District #9 Board. Commissioner Woydziak seconded the motion. Motion carried 5-0.

Commissioner Palmer mentioned that she is not receiving information from the Kansas County Commissioner's Association. Administrator Johnson will contact them.

Administrator Johnson asked for approval of a bid from Paving Maintenance Supply, Inc., for crack sealant in the amount of \$5,750.00 for the Public Works Department.

Commissioner Woydziak motioned to approve the bid for crack sealant from Paving Maintenance Supply Inc. in the amount of \$5,750.00. Commissioner Masterson seconded the motion. Motion carried 5-0.

Administrator Johnson shared the schedule for the Township Meeting on Monday, March 14, 2011. There will be no Commission meeting that day.

Administrator Johnson and Commissioner Masterson will meet with the City of Benton at 12:30 p.m. today to discuss the Neighborhood Revitalization Program.

ADJOURNMENT

Commissioner Woydziak motioned to adjourn the meeting of the Board at 12:09 p.m. Commissioner Wheeler seconded the motion. Motion carried 5-0.