

BUTLER COUNTY BOARD OF COMMISSIONERS
Tuesday, November 22, 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, Finance Director Brandon Kauffman, and Clerk Recorder Tammy Bridges. County Administrator Will Johnson, Jr., was absent.

APPROVAL OF MINUTES

Commissioner Woydziak motioned to approve the minutes of the Butler County Commission meeting of Monday, November 7, 2011, and Tuesday, November 8, 2011, as written. Commissioner Masterson seconded the motion. Motion carried 5-0.

PUBLIC COMMENTS

There were no public comments.

ITEM #1 – CONSIDER AND MAKE RECOMMENDATION TO THE CITY OF AUGUSTA REGARDING WHETHER THE PROPOSED CONDITIONAL USE WOULD BE IN CONFORMANCE TO THE BUTLER COUNTY COMPREHENSIVE PLAN

Rod Compton, Planning & Zoning Director, came before the Board to consider and make a recommendation to the City of Augusta regarding whether the proposed conditional use would be in conformance to the Butler County Comprehensive Plan. Marilyn McClure Harrison owns approximately 7.5 acres located at the southwest corner of the intersection of SW Hwy 54 and SW Tawakoni Rd. and is requesting a conditional use permit to allow the commercial storage of recreational vehicles. This matter is to be considered by the Augusta City Planning Commission on Monday, November 28, 2011. Staff feels the use as proposed would conform to the County's Comprehensive Plan because the plan encourages development in the Urban Growth Area along paved roads.

Commissioner Woydziak initiated discussion about reviewing the map and Inter-local Agreements with the Cities of Augusta and El Dorado. He noted the County has given up a tremendous amount of the County's authority to a governing body that is not elected by the constituents.

Commissioner Woydziak motioned to find that the aforesaid Conditional Use 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 Palmer seconded the motion. Motion carried 5-0.

ITEM #2 – CONSIDER APPROVAL OF A REQUEST BY STUART AND REBECCA DOUGHERTY FOR A MORTGAGE LOT SPLIT WITH APO IN ORDER TO SEPARATE A PARCEL OF 5 ACRES FROM A PARCEL CONTAINING APPROXIMATELY 39 ACRES TO OBTAIN A MORTGAGE TO CONSTRUCT A NEW RESIDENCE

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Stuart and Rebecca Dougherty for a mortgage lot split with APO in order to separate a parcel of 5

acres from a parcel containing approximately 39 acres to obtain a mortgage to construct a new residence. The Planning Commission approved this request by a 5-0 vote. Staff feels that the use of both the Mortgage Lot Split and APO provisions on this property are appropriate.

Commissioner Woydziak motioned to approve the Mortgage Lot Split with APO described as follows, and authorize the Chairman to sign the Easement for Right of Way and the Agricultural Protection Overlay Agreement subject to the recording of the Agricultural Protection Overlay agreement and survey of the residential site with the Register of Deeds. The Mortgage Lot Split is described as: Beginning at a point 380 feet South of the Northwest Corner of the Northwest Quarter of Section 18, Township 29 South, Range 3 East of the 6th P.M., Butler County, Kansas; thence East 450 feet; thence South 520 feet; thence West 450 feet; thence North 520 feet to the beginning. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #3 – CONSIDER APPROVAL OF A REQUEST BY SHANE ATWOOD FOR A REQUEST OF A HOMESTEAD LOT SPLIT WITH APO IN ORDER TO SEPARATE AN EXISTING HOMESTEAD AND 10 ACRES FROM A PARCEL CONTAINING APPROXIMATELY 51.5 ACRES

Rod Compton, Planning & Zoning Director, came before the Board for approval of a request by Shane Atwood for a request of a Homestead Lot Split with APO in order to separate an existing homestead and 10 acres from a parcel containing approximately 51.5 acres. They are proposing to dedicate, per County Subdivision requirements, 40' of road way easement for NW 20th St. The Butler County Planning Commission approved the request by a 5-0 vote at its meeting on November 1, 2011. Staff feels that the use of the APO provision on this property is appropriate.

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, access easement, and survey of the residential site with the Register of Deeds. The Homestead Lot Split is described as: Beginning at the Southeast Corner of the West Half of the Northwest Quarter of Section 28, Township 25 South, Range 3 East of the 6th P.M., Butler County, Kansas, thence West 519.9 feet; thence South 40 feet; thence West 490.10 feet; thence North 452.96 feet; thence East 1,010 feet to the beginning. Commissioner Harris seconded the motion. Motion carried 5-0.

ITEM #4 – CONSIDER APPROVAL OF ACCEPTANCE OF DEDICATIONS FOR ARTHUR AND NANCY PULLIAM LOT SPLIT

Rod Compton, Planning & Zoning Director, came before the Board for approval of acceptance of dedications for Arthur and Nancy Pulliam Lot Split. The Pulliam's own approximately 28.4 acres located approximately ½ mile south of SE Hwy 54 on the east side of SE Cole Creek Rd; the property contains two residences. In July 2011, the Commissioners approved a rezoning of the property from an AG-40 Agricultural zoning to RR Rural Residential. The applicants have now submitted an application to subdivide the property into two parcels, each of which will contain a residence. The Butler County Planning Commission approved the request by a 5-0 vote at its meeting on November 1, 2011, and is now being presented for acceptance of a dedication of Right of Way easement.

Commissioner Wheeler motioned to accept the dedications submitted for the Arthur and Nancy Pulliam lot split survey, and authorize the Chair to sign the dedication agreements. Commissioner Woydziak seconded the motion. Motion carried 5-0.

ITEM #8 – CONSIDER APPROVAL OF THE RELOCATION OF EMERGENCY MANAGEMENT OPERATION AREA TO THE FRONT OF THE EMERGENCY MANAGEMENT DEPARTMENT AT A TOTAL COST OF \$18,102.20

Dan Ingalls, Director of Facilities Management, came before the Board for approval of the relocation of Emergency Management Operation area to the front of the Emergency Management Department for a total cost of \$18,102.20. Funds for this project are provided through an Emergency Management Performance Grant (EMPG).

Commissioner Woydziak motioned to allow the Director of Facilities Management to proceed forward with the Relocation of EMA Operations Area. Commissioner Harris seconded the motion. Motion carried 4-1. Commissioner Palmer voted no.

Commissioner Wheeler, Commissioner Harris, and Administrator Will Johnson are on the Citizens Advisory Panel at the Refinery. Commissioner Wheeler noted discussions with the Emergency Director at the refinery who commented that the refinery was not able to be on the County's radio system. Jim Schmidt, Emergency Management Director, stated it is possible to patch the two systems together and suggested contacting Jeff Armantrout, Radio Systems Technician, and Chris Davis, 9-1-1 Director. Commissioner Wheeler asked for more information.

ITEM #9 – CONSIDER APPROVAL OF PROPOSALS TO KDOT FOR CONSTRUCTION ENGINEERING SERVICES RELATED TO THE INTERSECTION FLASHING BEACON PROJECTS AT THE INTERSECTION OF SANTA FE LAKE ROAD AND SW 70TH STREET AND AT THE INTERSECTION OF SW 210TH STREET AND SW BUTLER ROAD

Bronson Webb, Assistant Director of Public Works, came before the Board for approval of proposals to KDOT for construction engineering services related to the intersection flashing beacon projects at the intersection of Santa Fe Lake Road and SW 70th Street and at the intersection of SW 210th Street and SW Butler Road. The estimated cost for construction inspection at the intersection of SW Santa Fe Lake Rd. and SW 70th St. is \$4,851.93 and the estimated cost for construction inspection at the intersection of SW 210th St. and SW Butler Rd. is \$5,942.07. The County's share of these costs is 10% and the state will reimburse the remaining 90% to the County.

Commissioner Palmer motioned to approve the proposals, to authorize the Chair to sign said proposals and to authorize the Chair to sign the final agreements with KDOT for construction engineering services for Project No. 8C-4494-01, the flashing beacon project at the intersection of SW 210th St. and SW Butler Rd. and for Project No. 8C-4495-01, the flashing beacon project at the intersection of SW 70th St. and Santa Fe Lake Rd. Commissioner Woydziak seconded the motion. Motion carried 5-0.

ITEM #10 – CONSIDER APPROVAL TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS TO OBTAIN PROPOSALS FOR CRUSHING AND SCREENING OF ASPHALT MILLINGS FOR USE BY THE HIGHWAY DIVISION TO PRODUCE COLD MIX ASPHALT PAVING MATERIAL

Bronson Webb, Assistant Director of Public Works, came before the Board for approval to obtain proposals for crushing and screening of asphalt millings for use by the highway division to produce cold mix asphalt paving material. It is proposed to process 7,500 tons of material at Haverhill Stockpile, 1,500 tons of material at Keighley Stockpile, 3,500 tons of material at Vestring Stockpile, and 1,500 tons of material at Benton Stockpile. Staff will solicit sealed bids for this work.

Commissioner Masterson motioned to authorize the Department of Public Works to solicit sealed bids to crush and screen approximately 14,000 tons of asphalt millings at 4 materials stockpile areas to be used for 2012 County highway maintenance work. Commissioner Woydziak seconded the motion. Motion carried 5-0.

Commissioner Woydziak asked about requirements for utility companies when placing lines in the right-of-way, and who is responsible if those lines hinder the townships from working. Mr. Webb commented that the townships can consult with the utility company about relocating the lines.

RECESS

Commissioner Harris recessed the Board meeting at 9:54 a.m. for 6 minutes.

RECONVENE

Commissioner Harris reconvened the Board meeting at 10:00 a.m.

ITEM #6 – HOLD PUBLIC HEARING FOR THE CONSIDERATION OF A SIX-YEAR TAX ABATEMENT FOR PRO-KLEEN, INC. – 10:00 A.M.

Commissioner Harris opened a Public Hearing at 10:00 a.m. for consideration of a six-year tax abatement for Pro-Kleen, Inc. There was no public comment. Commissioner Harris closed the Public Hearing at 10:00 a.m. No action was taken.

ITEM #7 – CONSIDER APPROVAL OF REQUEST FOR A SIX-YEAR TAX ABATEMENT FOR PRO-KLEEN, INC., ACCEPT THE IN-LIEU-OF-PAYMENT IN THE AMOUNT OF \$10,000, DIRECT THE CHAIRMAN TO SIGN THE RESOLUTION, AND DIRECT STAFF TO SUBMIT AN APPLICATION TO THE KANSAS COURT OF TAX APPEALS FOR APPROVAL

David Alfaro, Economic Development Director, came before the Board for approval of a request for a six-year tax abatement for Pro-Kleen, Inc., accept the yearly in-lieu-of-payment in the amount of \$10,000, direct the Chair to sign the resolution, and direct staff to submit an application to the Kansas Court of Tax Appeals for approval. With the approval of the abatement, the business expansion will result in the creation of 70 new jobs. Mr. Alfaro introduced Kendall Cunningham, Gilliland & Hayes, representing Pro-Kleen.

Commissioner Palmer motioned to approve the request for a Six (6) Year Tax Abatement for Pro-Kleen, accept the yearly In-Lieu-of-Payment in the amount of \$10,000, direct the Chair to sign Resolution No. 11-34, and direct Staff to submit the application to the Kansas Court of Tax Appeals for their approval. Commissioner Masterson seconded the motion. Motion carried 5-0.

ITEM #11 – CONSIDER APPROVAL OF THE CONTRACT WITH UTILITY REBATE CONSULTANTS SERVICES

Brandon Kauffman, Finance Director, came before the Board for approval of the two-year contract with Utility Rebate Consultants services (URC), a commercial utility auditing company that specializes in auditing and reviewing utility statements. Staff from URC would audit electric, gas and water/sewer bills to find cost-cutting alternatives and also clerical errors on utility statements. Commissioner Palmer feels that this should be handled internally. After some discussion, Commissioner Palmer suggested asking the company to change the contract to a one-year agreement.

Commissioner Woydziak motioned to table this item until Tuesday, December 6, 2011 in order to obtain more information. Commissioner Palmer seconded the motion. Motion carried 5-0.

ITEM #12 – RECEIVE AND OPEN BIDS FOR REPLACEMENT OF A FLEET MINI-VAN

Brandon Kauffman, Finance Director, came before the Board to receive and open bids for the replacement of the County Fleet Mini-Van and consider approval of the lowest and best bid. One bid was received from John K. Fisher, El Dorado, KS for a 2010 Dodge Grand Caravan SXT with 24,000 miles in the amount of \$17,380. There was discussion about receiving only one bid.

Commissioner Woydziak motioned to approve the bid from John K. Fisher in the amount of \$17,380 and allow the purchase of replacement County Fleet Mini-Van. Commissioner Harris seconded the motion. Motion carried 4-1. Commissioner Palmer voted no because of finances.

ITEM #5 – WORK SESSION – PROCESS TO REMOVE APO (AGRICULTURAL PROTECTION OVERLAY)

Rod Compton, Planning & Zoning Director, came before the Board to discuss and obtain a consensus of approval as to the process that should be followed to have an APO restriction removed from a property. An APO that has been placed on property prevents it from being used as anything else but agricultural and prevents the construction of a residence. The regulations stipulate that portions of the APO may be vacated only when public sewer is made available to service the property. If an APO restriction is removed and the property does not conform to the minimum area requirements of the zoning classification, the only way it would be eligible for a building permit for a residence would be if it were rezoned to a conforming zoning classification. Mr. Compton noted if the property was rezoned, it would take the requirement for an APO out of the process. Discussion followed about the applicants applying for rezoning through the Planning & Zoning Commission. Commissioner Harris requested more information about the existing APO's in the County and the Board requested a map be presented within the next few weeks.

Commissioner Harris stated he would like to discuss this issue with the Planning & Zoning Commission prior to any action being taken. Mr. Compton will talk to the Planning Commission about setting up a meeting, and Mr. Compton will let the applicants know they can request a zoning change. No action was taken.

Commissioner Masterson stated he received a letter from the Department of Agriculture about the community assistance visit that was held in June 2010 and asked Mr. Compton for an update on the National Flood Insurance Program. Mr. Compton said there are a number of properties that are outstanding and he has turned two properties over to the County Counselor for legal action. Most of the property is in Wagon Wheel and some are located in the County. The National Flood

Plain Program is requesting citizens in Wagon Wheel raise their homes or they will take the whole County out of the National Flood Plain Program.

County Treasurer Ruth Fechter informed the Board that tax statements will be going out on Monday, November 28, 2011. She stated the Motor Vehicle software will not be live on December 1, 2011 as previously reported. The State will give 45 days notice when it is ready to go live. The Motor Vehicle Department will not be closing the first week of December, but the office will be remodeled at that time. The employees will be working out of the Treasurer Office.

Brandon Kauffman, Finance Director, stated we have finished making payments to Motorola for the Communication System radios and reviewed financial transfers.

APPROVAL OF VOUCHERS

Commissioner Wheeler motioned to approve the vouchers for November 22, 2011, in the amount of \$241,368.24. Commissioner Woydziak seconded the motion. Motion carried 5-0.

COMMISSION ADDS & ABATES

Commissioner Woydziak motioned to approve Adds & Abates #2506 dated November 22, 2011; Adds in the amount of \$0.00 and Abates in the amount of \$8,402.98. Commissioner Masterson seconded the motion. Motion carried 5-0.

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

Commissioner Woydziak updated the Board on last week's KAC Conference. He noted he was elected Vice-Chair of the KCCA Board.

The Commissioners wished everyone a Happy Thanksgiving.

Commissioner Masterson mentioned a meeting last week at Devlin Enterprises about property taxes.

Commissioner Harris attended the Butler County Extension meeting and the annual Leadership Butler meeting last week. He also attended the United Way employee luncheon at Pizza Hut, and noted the County exceeded our goal of \$13,500.

Commissioner Palmer presented a plaque from Tour Butler she received on behalf of the County. She recommended presenting each of them a plaque in recognition of their hard work and the Board concurred.

Brandon Kauffman, Finance Director, noted the 2012 Budget Book is posted on line. He stated the auditors will be here soon and mentioned cutting off vouchers by December 15th. Mr. Kauffman discussed cash and budget revenues.

ADJOURNMENT

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