

BOARD OF COMMISSIONERS MINUTES

December 27, 2016

The Cherry County Board of Commissioners met in regular session on December 27, 2016 at 10:00 AM, as per notice in the Valentine Midland News, with the agenda being on file in the office of the County Clerk. Roll call was taken. Present at this meeting were Cherry County Commissioners: Jim Van Winkle, Mark Adamson, Tanya Storer, and Cherry County Clerk, Tom Elliott. Also present were Commissioner-elect Martin DeNaeyer, Ann Warren, Jim Ducey, Carolyn Semin, Lynn Welker, Bryan Fevold, Michael Knapp, Merrial Rhoades, Twyla Witt, and Charlene Reiser-McCormick.

The meeting was called to order at 10:00 AM by Chairman Adamson. The Open Meetings Act Notice was announced. The minutes of the last regular meeting were read. Commissioner Van Winkle moved to approve minutes as read. Commissioner Storer seconded the motion. Roll call vote was taken. Commissioner Adamson-aye. Commissioner Storer-aye. Commissioner Van Winkle-aye. The motion carried.

The minutes from the December 13, 2016 Board of Corrections meeting were read. Commissioner Van Winkle moved to approve the minutes with the addition of a consensus of the Board to have Communications Director Gary Weaver take the necessary action to block Justice Center computers from being able to access social media and inappropriate websites. Commissioner Adamson seconded the motion. Roll call vote was taken. Commissioner Storer-aye. Commissioner Adamson-aye. Commissioner Van Winkle-aye. The motion carried.

The minutes of the Special Meeting from December 19, 2016 were read. Commissioner Adamson moved to approve with the addition of Commissioner Adamson's complete statement preceding his motion to deny the CUP as follows: "The Cherry County Commissioners have historically given due deference to the recommendations of the Planning and Zoning Board. The Planning and Zoning Board forwarded Conditional Use Permit application #01-16 with a recommendation to disapprove. The CUP application submitted to the Commissioners includes numerous material changes that have not been reviewed by the Planning and Zoning Board, which is critical, specifically in light of the fact that the burden of inspection for this permit is limited to only 2 of the 3 elected commissioners.

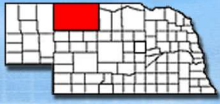
In addition, it has been determined that the requirements set forth in the Cherry County Zoning regulations have not been fully satisfied. Requirement #7 asks for, "Documentation of land ownership or legal control of the property." This CUP application lists the legal descriptions of the Project property as owned by Taylor G and Kerri Adamson, Broken Box Company, Mark & Janelle Johson, Krajieski & Johnson, Inc., The Board of Educational Lands & Funds of the State of Nebraska, Rocking J Taylor Company, and Rothleutner Family Limited Partnership and states that Bluestem Sandhills has the following easements on the project area:

- Construction Easement
- Access Easement
- Preoperating Phase & Meteorological Equipment Easement
- Operating Phase Easement
- Wind Turbines Easement
- Transmission Easement
- Substations Easement
- Easement for other Wind Energy Facilities
- Wind Nonobstruction Easement
- Noise and Flicker Easement
- Overhang Easement

Upon request of a copy of said easements, Cherry County was provided with a memorandum of agreement for the above stated Easements, by and between Cherry County Wind, LLC and landowners, with the exception of Rothleutner Family Limited Partnership, for which no MOA or other evidence of participation was provided. This is extremely troubling as the application included that eight of the proposed towers are to be located on Rothleutner real estate. Cherry County has no Easements or other proof of control of property, by the project applicant, BSH Kilgore, LLC, required by Cherry County Zoning Regulation #7.

For these reasons, I move that CUP 01-16 be denied."

Also noting that the Rothleutner agreement for road access was unsigned at the time of the meeting and the inclusion of Carolyn Semin's name in attendance at the special meeting. Commissioner Storer seconded the motion. Roll call vote was taken. Commissioner Storer-aye. Commissioner Adamson-aye. Commissioner Van Winkle-abstain. The motion carried.



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Commissioner Adamson stated that the County Board's policy has been to request that at least three names be submitted for each board vacancy that is to be filled by the County Board.

Commissioner Adamson moved to reappoint Karen Johnson to the Sawyer Memorial Library Board to a 5-year term to expire December 31, 2021. Commissioner Van Winkle seconded the motion. Roll call vote was taken. Commissioner Storer-aye. Commissioner Van Winkle-aye. Commissioner Adamson-aye. The motion carried.

Jim Ducey read a prepared statement to the Board requesting an immediate moratorium on Conditional Use Permit applications for wind turbine facilities in Cherry County.

Commissioner Storer moved to direct the Cherry County Planning Commission to not accept new Conditional Use Permit applications for windfarm developments until they have obtained an independent appraisal report to determine if there is any impact on land values as a result of access easements and wind developments to like-kind properties and that local fire chiefs work together with the Planning Commission to develop a fire plan for possible wind turbine fires and that the Planning Commission review Lancaster County's Health Department report regarding the impact of wind farms, in a timely fashion not to exceed 6 months. It was the consensus of the Board to table Commissioner Storer's motion until the Cherry County Attorney could be contacted for his opinion.

Michael Knapp expressed his concern that the appraisal would single out wind projects as opposed to other possible projects, such as hog confinements or feedlots, and suggested that less severe options existed other than an effective moratorium such as placing conditions on applications. Also, the proposal would directly impact the two current potential projects and landowners with MET towers who may be deprived of potential economic benefits on their private property.

Jim Ducey questioned whether the proposed Kilgore project was in compliance with State and Federal regulations of the United States Fish & Wildlife Service and the United States Corps of Engineers had not officially approved the project.

Larry Burbach, from Nebraska Machinery Company, addressed the Board regarding a skid loader agreement. Commissioner Adamson moved to renew the lease with Nebraska Machinery Company for one year for a 287 multi-terrain loader. Commissioner Van Winkle seconded the motion. Roll call vote was taken. Commissioner Storer-aye. Commissioner Van Winkle-aye. Commissioner Adamson-aye. The motion carried.

The Board discussed Commissioner Storer's motion with the County Attorney, Eric Scott, via telephone call. Mr. Scott stated that he had no objections to the motion.

Commissioner Adamson moved to return to Commissioner Storer's motion. Commissioner Storer seconded the motion. Roll call vote was taken. Commissioner Van Winkle-aye. Commissioner Storer-aye. Commissioner Adamson-aye. The motion carried.

Commissioner Adamson seconded the motion on the floor as made by Commissioner Storer. Roll call vote was taken. Commissioner Adamson-aye. Commissioner Van Winkle-nay. Commissioner Storer-aye. The motion carried.

It was the consensus of the Board to offer to work with the Planning Commission to solicit bids for an appraisal and obtain funding to meet the costs.

It was the consensus of the Board to recess for lunch from noon until 1:00 PM.

The Board reconvened at 1:00 PM.

The Board reviewed the fee report from the Clerk of the District Court for the month of November.

Commissioner Van Winkle moved to approve claims. Commissioner Storer seconded the motion. Roll call vote was taken. Commissioner Adamson-aye. Commissioner Van Winkle-aye. Commissioner Storer-aye. The motion carried.

December 27, 2016

CHERRY COUNTY CLAIMS LISTING

| | | | |
|--|----|-------------------|-------------------|
| Claims were presented in the amount of | \$ | 184,387.87 | . |
| and disallowed in the amount of | \$ | - | . |
| A warrant was ordered drawn on the General Fund in the amount of | | | \$ |
| | | | 184,387.87 |

GENERAL

| | | | |
|---|---|--------------|---------------------|
| Accelerated Receivables Solutions | Garnishment | \$589.49 | |
| AFLAC | Withholdings/Insurance | \$1,073.94 | |
| Ameritas Life Insurance/Retirement | Withholdings/Retirement | \$13,370.81 | |
| Ameritas Life Insurance/Dental | Withholdings/Insurance | \$2,123.24 | |
| Cherry County Health Account | Health Claims Funding | \$29,565.43 | |
| Colonial Life | Supplemental Insurance Premiums | \$3,280.41 | |
| DAS State Accounting | Services | \$240.70 | |
| EFTPS | Withholdings/Taxes | \$26,443.74 | |
| Legal Shield | Services | \$680.65 | |
| MassMutual | Withholdings/Retirement | \$2,300.00 | |
| Meritain Health | Health Insurance Premiums | \$13,152.84 | |
| NE Department of Revenue | Withholdings/Taxes | \$3,128.02 | |
| Krista Ostransky | Reimbursement | \$67.00 | |
| Petty Cash | Lodging | \$304.00 | |
| Eric Scott | Clerical Salary/Postage/Office Supplies | \$3,882.38 | |
| Vision Service Plan | Withholdings/Insurance | \$438.69 | |
| General Fund Payroll | Gross Wages | \$117,452.69 | |
| | | TOTAL | \$218,093.03 |
| Adjustment for employees' share of withholdings | | | (\$33,705.16) |
| WARRANT AMOUNT | | | \$184,387.87 |

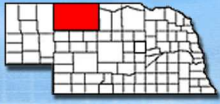
| | | | |
|---|----|------------------|------------------|
| Claims were presented in the amount of | \$ | 89,304.17 | . |
| and disallowed in the amount of | \$ | - | . |
| A warrant was ordered drawn on the Road Fund in the amount of | | | \$ |
| | | | 89,304.17 |

ROAD

| | | | |
|---|---------------------------------|-------------|--------------------|
| AFLAC | Withholdings/Insurance | \$783.76 | |
| Ameritas Life Insurance/Retirement | Withholdings/Retirement | \$6,352.68 | |
| Ameritas Life Insurance/Dental | Withholdings/Insurance | \$1,239.08 | |
| Assurity Life Insurance Company | Withholdings/Insurance | \$29.00 | |
| Cherry County Health Account | Health Claim Funding | \$16,699.00 | |
| Colonial Life | Supplemental Insurance Premiums | \$1,792.30 | |
| Credit Management Services | Garnishment | \$364.30 | |
| DAS State Accounting | Services | \$27.70 | |
| EFTPS | Taxes/Withholdings | \$12,191.80 | |
| Legal Shield | Services | \$327.95 | |
| Meritain Health | Health Insurance Premiums | \$6,762.78 | |
| NE Department of Revenue | Taxes/Withholdings | \$1,388.15 | |
| SD Child Support Payment Center | Garnishment | \$433.33 | |
| Vision Service Plan | Withholdings/Insurance | \$225.51 | |
| Road Fund Payroll | Gross Wages | \$56,468.08 | |
| | | TOTAL | \$105,085.42 |
| Adjustment for employees' share of withholdings | | | (\$15,781.25) |
| WARRANT AMOUNT | | | \$89,304.17 |

| | | | |
|--|----|------------------|------------------|
| Claims were presented in the amount of | \$ | 26,423.14 | . |
| and disallowed in the amount of | \$ | - | . |
| A warrant was ordered drawn on the Health Claims Fund in the amount of | | | \$ |
| | | | 26,423.14 |

HEALTH CLAIMS FUND



Cherry County Board Minutes



| | | | |
|---------------------|---------------|-------|--------------------|
| Cherry County Clerk | Health Claims | | \$26,423.14 |
| | | TOTAL | \$26,423.14 |

Claims were presented in the amount of \$ **2,720.00** .
 and disallowed in the amount of \$ - .

A warrant was ordered drawn on the Emergency Management Fund in the amount of

EMERGENCY MANAGEMENT

| | | | |
|------------------------------------|---|-------|-------------------|
| Ameritas Life Insurance/Retirement | Withholdings/Retirement | | \$267.49 |
| EFTPS | Taxes/Withholdings | | \$563.22 |
| NE Department of Revenue | Taxes/Withholdings | | \$60.80 |
| Emergency Management Payroll | Gross Wages | | \$2,377.63 |
| | | TOTAL | \$3,269.14 |
| | Adjustment for employees' share of withholdings | | (\$549.14) |
| | WARRANT AMOUNT | | \$2,720.00 |

END

The Board discussed developing a job description for the Zoning Administrator position. It was the consensus of the Board for Commissioner Van Winkle to draft a job description to be presented at the January 10, 2017 meeting.

Commissioner Van Winkle moved to update the Cherry County Road Department Policy to reflect the following:

- a. Max sick leave hours – 480 hours (none accrued above this cap)
- b. Max vacation hours – 184 hours (none accrued above this cap)
- c. Foremen have historically been salaried and thus do not accrue comp time.
- d. State law requires comp hours to be used in the pay period accrued.
- e. Vacation hours earned prior to December 27, 2016 above 184 hours may be banked or cashed out.
- f. New vacation hours earned from January 1, 2017 forward will only be earned up to 184 hours max.
- g. If a Road emergency occurs that threatens public safety & comp hours are necessary, and foremen are aware that earned comp hours will not be able to be used in the current pay period, prior approval will be requested from the County Board to authorize overtime.

Commissioner Storer seconded the motion. Commissioner Van Winkle-aye. Commissioner Storer-aye. Commissioner Adamson-aye. The motion carried.

It was the consensus of the Board to check with Cherry County Attorney, Eric Scott, concerning sick leave that has accrued over the 480-hour cap.

At 3:30 PM the Board recessed from regular session to meet as a Board of Corrections.

At 4:45 PM the Board returned to regular session.

The Board tabled discussing and acting on Bereavement leave to the meeting on January 10, 2017.

The Board further discussed the proposal from Prochaska & Associates for renovating the County-owned former Post Office building. No formal Board action was taken at this time.

Regarding an existing NEOC complaint, it was the consensus of the Board to have Commissioner Storer consult further with the County Attorney and report back to the Board.

At 5:10 PM Chairman Adamson adjourned the meeting.

BOARD OF CORRECTIONS MINUTES

December 27, 2016

The Cherry County Board of Commissioners met as a Board of Corrections at 3:30 PM, as per notice in the Valentine Midland News, on December 27, 2016. The Open Meetings Act was referenced by Chairman Adamson and the Open Meetings Act poster was acknowledged. Present for the meeting were Cherry County Commissioners: Mark Adamson, Jim Van Winkle, and Tanya Storer, Deputy Cherry County Clerk Sally Monroe, and Commissioner-elect Martin DeNaeyer. Also, present were Ann Warren, Jim Ducey, Carolyn Semin, Merrial Rhoades, Twyla Witt, and Charlene Reiser-McCormick.

Lieutenant Krista Ostransky presented a letter of complaint from an employee. Commissioner Storer will forward the letter to Cherry County Attorney Eric Scott for review.

The Board reviewed a letter of request for a raise from an employee. No formal action was taken.

Lieutenant Ostransky requested a salary increase for an employee who has completed the required training.

It was the consensus of the Board to have Lieutenant Ostransky draft a pay scale reference guide to be discussed and acted on at the January 10th meeting.

The Board and Lieutenant Ostransky reviewed medical leave as written in the Employee Handbook dated 4-28-15.

The Board discussed the removal of TV social media and/or downgrading the channel package for Dispatch/Master Control. It was the consensus of the Board to have Communications Director Gary Weaver research dispatch work stations that raise and lower, giving dispatchers an option of standing or sitting.

At 4:45 PM, Chairman Adamson moved to adjourn the meeting.