

January 22, 2019  
Reno County Courthouse  
Hutchinson, Kansas

The Board of Reno County Commissioners met in agenda session with, Chairman Ron Hirst, Commissioner Ron Sellers and Commissioner Bob Bush, County Administrator Gary Meagher, County Counselor Joe O'Sullivan, and Minutes Clerk Cindy Martin, present.

The meeting began with the Pledge of Allegiance and a short sectarian prayer led by Pastor Kim Biery, Trinity United Methodist Church.

Public comments:

Commissioner Bush stated that the County Counselor Joe O'Sullivan had advised him that the County Commission should no longer allow time on its Agenda for comments for or in opposition to the anticipated filing of an Application for a Conditional Use Permit by NextEra until the Planning Commission's report and recommendations are presented to the County Commission. He asked Mr. O'Sullivan to explain his advice.

Mr. O'Sullivan reviewed the statutory process for addressing an Application for a Conditional Use Permit filed with the County Planning and Zoning Department. He stated that once an application is filed interested parties are entitled to comment on the Application either in writing before the public hearing on the application takes place or orally in person at the time of the hearing. He indicated that these submissions only make up the record of evidence upon which the Planning Commission makes a recommendation for approval or denial of the Application and the County Commission approves or denies the recommendation.

Mr. O'Sullivan referred to the previous several months of County Commission meetings where mostly opponents and some proponents of wind energy generally or of NextEra specifically addressing the County Commission on the subject matter. He said some of those occasions involved the concept of a Moratorium on wind energy production being considered by the County Commission. He said that issue had been resolved. He advised the County Commission not to hear arguments for or against the proposed Project, designed to convince the Board on a future

decision it was likely to make regarding an application, until such time as the Planning Commission's recommendation had been forwarded to the Board for a decision. He said there was a time when public comment could be made as part of the process, but it was premature to continue to hear it at this time when the case wasn't even filed. He indicated that if the County Commission considered information submitted to it outside of the legal process, it was probable that a District Court, when reviewing the County Commission's decision on appeal, could sustain the appeal and reverse the Board's decision. He indicated the filing of the Application was imminent and advised the Board to allow the legal process to proceed.

Commissioner Hirst questioned the Planning Commission's procedures. He asked if everyone at the hearings would have equal time to speak. Mr. O'Sullivan replied that the applicant would present their case, Mr. Vonachen would review and make a recommendation to the Planning Commission. The Planning Commission by its bylaws will give 5 minutes to any party that would like to be heard.

Commissioner Bush simplified by stating, "If we still have meetings for or against the wind industry, we are tainting the process which then sets us up for a legal case." Mr. O'Sullivan stated that the County Commissions decision can be appealed to the District Court.

Commissioner Hirst asked for clarification. If he was presented pro or con information on wind energy, he should pass it on to Mr. Meagher or read it at the podium. He wanted to know about doing research on his own. Mr. O'Sullivan advised not to, stating to let the case come to you since this Board cannot be all.

Commissioner Bush said the Board should respect the Planning Commission's process and not receive information prematurely which could create legal issues with the Boards decision.

Mr. O'Sullivan reminded the Board to wait again for the application to be filed. He also reminded them that it was premature to hear or read information on wind energy and such information should not be considered. If submitted to the Board it would not be part of the Planning Commission's record. The Board needs to act legally by applying to the Land Use Regulations and follow the rules.

Commissioner Sellers commented that during the past agenda meetings, before he was sworn in, he listened in the audience to the input regarding wind energy. He stated, "This Board should wait for the application process and when it comes before us accept, deny or send it back with recommendations." He agreed with Mr. O'Sullivan to let the process work.

Linda Yutzy, 14405 S. Obee Road, was concerned about how the Board voted on the moratorium. Commissioner Bush stated this Board would have the opportunity to accept, deny, or send back the Planning Commissions recommendation. Commissioner Hirst stated further that there were factors to approve that the Planning Commission had to follow.

Mr. O'Sullivan referred to a Kansas Supreme Court decision which defined factors to be considered in a zoning decision. The Planning Commission and County Commission are to refer to those factors in any decision applying zoning regulations.

**Mr. Sellers moved, seconded by Mr. Bush,** to approve the change to hereafter until the wind energy recommendation came before the Board, they would not hear any related wind energy information under the public comment section of the agenda session as recommended by Mr. O'Sullivan. The motion was approved by a roll call vote of 3-0.

Commissioner comments:

Commissioner Sellers attended the session welcoming new commissioners last Thursday and Friday in Topeka, stating it was well attended and presented. He listed some of the classes and sessions that were available. He appreciated Administrator Mr. Meagher and County Attorney Mr. O'Sullivan's professional management, thank you.

Commissioner Bush gave his apology to the people in the audience who were here to speak about the NextEra project. He stated his hope was that everybody would make a difference. He had been gone for a couple of weeks for health issues and Mr. Meagher along with Mr. O'Sullivan had been keeping him up to date with issues.

Commissioner Hirst noted he would no longer be the REAP representative from Reno County because of schedule conflicts. He asked to assign another from the Board of Commissioners to attend the Thursday evening meetings, suggesting Commissioner Sellers. He still had a problem finding information on our

website for the Planning and Zoning agenda and asked if Mr. Meagher could investigate it.

There were no additions to the agenda.

**Mr. Bush moved, seconded by Mr. Sellers,** to approve the Consent Agenda consisting of the Accounts Payable Ledger for claims payable on January 25, 2019 of \$469,999.98 as submitted. The motion was approved by a roll call vote of 3-0.

Detective Captain Steve Lutz met with the Board to recommend approval to purchase one new 2019 Ford F150 truck for the Sheriff's Department from Midwest Ford for a total purchase price of \$27,800. He stated six bids were sent to local vendors and two qualified to specs bids were returned and noted that only one of those fit their needs. Midwest Ford gave a trade in allowance of \$7,000 for a 2015 SUV Sport Utility vehicle with 82,000 miles. He stated the trade in allowance was lower because the SUV in previous years had been a truck. **Mr. Sellers moved, seconded by Mr. Bush,** to approve the purchase of a 2019 Ford F150 truck as outlined by Captain Lutz. The motion was approved by a roll call vote of 3-0.

Captain Lutz was also present to give explanation to purchase two used vehicles by the Sheriff's Department at a total cost not to exceed \$39,000. He explained these would be unmarked vehicles used by detectives and process servers. He would be researching local car lots for vehicles around \$19,500 each but would not spend more than \$39,000 total. He said they would have two trade in vehicles, a 2013 Ford Escort with 105,000 miles and a 2012 Ford Edge with 100,000 miles that had been used to transport inmates. The Sheriff's Department rotates vehicles out at around 100,000 miles. He would be looking for vehicles that were all wheel drive or 4-wheel drive SUV's getting the best price for the county. **Mr. Sellers moved, seconded by Mr. Bush,** to approve the purchases of two vehicles not to exceed \$39,000 as described by Captain Lutz. The motion was approved by a roll call vote of 3-0.

Human Resources Director Renee Harris met with the Board to recommend approval to increase the Reno County eligible mileage reimbursement rate from 54.5 cents per mile to 58 cents per mile as per the 2019 IRS Standard Mileage. She stated the State of Kansas would be staying with the 54.5 cents per mile, but recommended following the IRS recommendation for 58 cents per mile. Commissioner Hirst expressed concerns with the increased 3.5 cents since we paid 54.5 with gas being \$4.00 a gallon and

an increase of employees using their own vehicles instead of pool cars. Mrs. Harris replied that the county pool policy states employees using their own vehicles when a pool vehicle is available only qualify for half of the mileage. **Mr. Sellers moved, seconded by Mr. Bush,** to approve the increase mileage rate to meet the IRS Standard Mileage of 58 cents per mile. The motion was approved by a roll call vote of 2-1 with Mr. Hirst opposed stating he would leave the amount at 54.5 cents per mile.

Solid Waste Office Manager Megan Davidson met with the Board to recommend approval of a proposal from SCS Engineers for 2019 Solid Waste Consulting Services for \$88,300. She said this was consulting services for required annual reports. She introduced Steve Monaham, PE Main Consultant for SCS who stated SCS had been working with the Landfill for 10 to 11 years providing gas collection which had a different set of requirements and other services through the years. He stated 2019 was a five-year event so there was an increase of data and he went over Task 4 for callouts and time plus material. Commissioner Sellers asked if Task 4 was based on history with the Landfill. Mr. Monaham replied that is was based on history.

Mr. Meagher stated that there was no standard policy for open bids. Looking at professional services becomes difficult to bid since it depends on what you want. He told a story of when he first arrived, SCS was priced less and has saved the county money over the years on projects, and in his opinion, SCS does a great job.

Commissioner Bush asked Ms. Davidson about the relationship with SCS. She stated the relationship established with SCS was a good working partnership and they were always available to assist. They save the county money, and we work well with no issues on the EPA inspections, and stated the company knows their business. **Mr. Bush moved, seconded by Mr. Sellers,** to approve the proposal from SCS Engineers for \$88,300 as outlined by Ms. Davidson. The motion was approved by a roll call vote of 3-0.

Mr. Monaham also gave explanation for a proposal from SCS Engineers for 2019 Air Quality and Gas Collection and Control System (GCCS) Annual Consultation Services at Solid Waste for \$94,300. He explained this was the other half of the annual services his company provides for gas collection on air and wells doing reports monthly and quarterly to the EPA. By regulations, they must walk the landfill sniffing. Mr. Monaham

stated in 2017 Task 3 could not be remediated because of drilling three more wells with laterals. **Mr. Sellers moved, seconded by Mr. Bush,** to approve the proposal for Solid Waste's 2019 Air Quality and GCCS for \$94,300 as outlined by Mr. Monaham. The motion was approved by a roll call vote of 3-0.

Mr. Meagher presented a resolution recommending approval for dividing Reno County into Commissioner Districts stating it was required by statute to every three years divide compact and equal districts, however Reno County does a resolution annually, based on the latest census (2010) plus district population. **Mr. Bush moved, seconded by Mr. Sellers,** to approve resolution #2019-01; A RESOLUTION AFFIRMING RENO COUNTY RESOLUTION 2017-01, DIVIDING RENO COUNTY INTO COMMISSIONER DISTRICTS PURSUANT TO K.S.A. 19-204. The motion was approved by a roll call vote of 3-0.

**Commissioner Hirst recommended and moved, seconded by Commissioner Sellers,** to approve appointing Commissioner Bush as Commission Chairman for the 2019 session. Then **Commissioner Sellers moved, seconded by Commissioner Bush,** to approve Commissioner Hirst be Vice-Chair for 2019. The motions were approved by a roll call vote of 3-0.

Commissioner Hirst mentioned a scheduled Crime Prevention meeting with the Sheriff on February 12, 2019 at 6:00 p.m. at the Dutch Kitchen and noted that Joe Siewert had a request from citizens for him to attend.

At 10:20 the meeting adjourned until 9:00 a.m. Tuesday, February 5, 2019.

Approved:

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Chair, Board of Reno County Commissioners

(ATTEST)

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Reno County Clerk  
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Date

