

THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF MIAMI COUNTY, KANSAS

The Board of Miami County Commissioners met in regular session, in the Commission Chambers, Miami County Administration Building, Paola, Kansas, on September 1, 2021. Those present were:

Tyler Vaughan, Pro-Tem	Shane Krull, County Administrator
Danny Gallagher, Commissioner	Shelley Woodard, County Counselor
George Pretz, Commissioner	Janet White, County Clerk
Phil Dixon, Commissioner	Wendy Newton, Office Specialist

Absent: Rob Roberts, Chairman

Visitors: Gene Cullinane, Harold Zenitsky, Mara Dowling, Brian Dowling, Jeff Jansen, Julie McWilliams, Brett Waggoner, Scott Shane, Beverly Shane, Charlie Koch, Douglas Shane, Tiffany Ellison, Wendy Dennis, Lesley Seufferling, Ashley Ronkin, Carol Williams, Jennifer Williams, Brad Grandon, Kim Grandon, Marla England, Vickie Vetter, Jennifer Goodman, Debbie Mize, Bill Mize, Lea from Louisburg

CALL TO ORDER

Pro-Tem Vaughan called the meeting to order at 1:00 p.m.

PUBLIC COMMENTS

Douglas Shane, 6014 W 299th St Louisburg, stated he is a resident of Louisburg and is on the USD 416 Board of Education Member District 3 where he has served since February of this year when he filled a vacancy. He stated he is not speaking on behalf of the School Board but as a concerned citizen of his community. He handed out a document to the Board of Commissioners – a letter that had been sent to parents of the district and excerpts of Ch 65 which has statutes that details laws around public health. He wanted to discuss Covid 19 and balancing the needs of public health and also respecting and honoring the constitutional rights of our citizens and protecting personal civil liberties. He says they have struggled to understand authority and duty as it relates to quarantines and schools. He stated that local health offices had been issuing “informal” quarantine orders or required but not enforced. He read from his handout Ch 65 125 C (pg. 5 of handout). He says Louisburg said they would transmit the quarantine orders on behalf of the Miami County Health Department (MCHD) to help manage their resources and would cooperate with them in case investigations, but they expected them to issue lawful quarantine orders and forcible quarantine orders. He read the letter given to the Parents/Guardians of students. He says the letter is saying that the government entity is telling the citizens that due to lack of resources we do not feel compelled to follow the law for quarantine orders and that the letter does not give how to appeal the orders or go about doing it.

Pro-Tem Vaughan stated the Commissioners do not have to and do not typically respond to public comments but wanted to say he respects the concerns of the community. He says the difference between a formal quarantine and a recommended quarantine as he sees it as a Commissioner is that with any type of treatment, they have to establish a standard and provide a recommendation. You as a school board, being an elected body, have the opportunity to choose your own path and define what you want to do as a school. We have not stepped in the middle nor will we step in the middle of what a school district wants to do; same as we did not step in the middle of what a city wants to do. What we do as a county and in charge of the health department is to set some kind of standard that we can give guidance to say here is the standard we are using KDHE (Kansas Department of Health and Environment) & CDC (Center for Disease Control and Prevention). I see this letter as us giving a recommendation based on the guidance that we are providing in the county. We support our health department and think they have done a good job. I appreciate your concerns and I’m trying to understand for your specific community how that may be different from the other communities and how we can help clarify but this is a recommendation. This is not a formal order of quarantine.

Mr. Shane responded the language in the letter causes problems as it states it is not an official one, but it is required. He says due process does not go away because it is public health and that is his position.

Jennifer Goodman, 1530 S 5th St East Louisburg, stated she is a parent that received one of the orders last week. She called the MCHD and asked how her kid was deemed in close contact. She stated her 5 yr. old cannot sit still for 10 minutes and there is no way unless that person was her table mate or she sat next to that person at lunch, there is no

way she sat next to that person for 10 solid minutes which is close contact per KDHE. She was told they could not prove that the children were not in close contacts, so they assumed everyone was. Lack of evidence does not prove that something happened. She wants her kids in school but says she can't appeal this but must follow it; so, either her kid has to go to school in a mask or doesn't go to school at all. She stated that both are not an option for her family. Pro-Tem Vaughan says he appreciates that, and he thinks that a communication and partnership between the school district, community and Health Department needs to either improve or needs to be defined. Pro-Tem Vaughan stated to look at it as a challenge for different elected bodies and different communities' different decisions and trying to find consistency.

Commissioner Pretz asked for clarification from someone that at the Louisburg School Board's meeting on Monday; our Health Department gave the school board two choices send the kids home or have them come with masks. Is that correct? Mr. Shane replied they recommended you send 80 children home and mask mandate the building. He stated they would not send 80 children home but would compromise on a 2-week mask mandate. He stated they had poor data to make a decision on, but we compromised on that. He says the other motion made that night was as a district they would stop transmitting these (the orders) on behalf of MCHD because it creates huge enforceability and legal issues for us, and that motion passed 5 to 1 and will be effective September 13th.

Carrie Fisher of Paola – no address provided, stated this could bring up another situation where you have "tit for tat". She pointed out that we have an original contract and with contract law you stick to the contract or its null and void. If we are not sticking to what we are supposed to be doing, we are going to end up with more situations that we have to deal with, more trespasses on our rights. She mentioned that with the Health Department what is being said is the kids will stay in school if they wear a mask. What they are basically saying is the mask is a shield to contract tracing; they will not tell you it is an immunity to the virus. So, we have gone tit for tat for our rights. Our rights are we have reasonable search and seizures. The 4th amendment describes those, there are 5 items to that, and I ask that we honor that as the original contract.

Carol Williams, 28924 Chinkapin Lane Paola, stated she is a member of the Marais Des Cygnes K-State Extension Master Gardeners and works at the Courthouse every Wednesday. She stated every week they see water pouring down the west side of the Courthouse. She stated there is a flower bed on the south side of the courthouse you can see where the grass has been torn up with a tractor because it is so wet and there is a bench that you can't sit on because of the water. She stated the county is wasting water and money. She doesn't know what the answer is or who's authority it is but brought it to the BOCC.

Pro-Tem Vaughan says she is doing a great job and we appreciate all the work that they do. He asked County Administrator if Jim Starling, Building and Grounds Director, could look at the sprinkler system and see what is going on over there. Mr. Krull answered yes, he believes there are several different issues going on over there.

Mrs. Williams also stated she noticed the porch on the West side of the Courthouse looks like it could use some repairs and spoke with someone who works inside the courthouse and would suggest the Commissioners walk through the Courthouse because there are some physical things that could be taken care of like a restroom that is not working. Pro-Tem Vaughan stated the Courthouse is something they are focused on and evaluating and looking at. Thanks for bringing it to our attention.

CONSENT AGENDA

Commissioner Dixon moved to approve the Consent Agenda, as follows:

- Approval of minutes of the County Commission meeting on August 25, 2021
- Approval of AP payment vouchers and Payroll
- Add-on: Public Hearing for CDBG Application for Bucyrus Wastewater

Commissioner Pretz seconded; the vote was unanimous

NEW BUSINESS

Shane Krull, County Administrator, requested the Commissioners to consider approving and authorizing the County Administrator to sign the revised Cellular Equipment Policy No. ADM 05-07-02. Commissioner Pretz moved to approve as presented, Commissioner Gallagher seconded; the vote was unanimous. (A21-09-044)

Shane Krull, County Administrator, requested the Commissioners to consider approving and authorizing the County Administrator to sign the revised Business Travel & Expense Policy No. ADM 05-07-01. Commissioner Pretz moved

to approve as presented, Commissioner Dixon seconded; the vote was unanimous. (A21-09-045)

Cathy Cooper, Director of Community Corrections, requested the Commissioners to consider approving the Kansas Department of Corrections FY2022 Behavioral Health Grant – Revised Budget. The program was allotted \$151,411.63 which is a reduction of \$5,674 which was submitted to the State of Kansas in May. Commissioner Gallagher moved to approve as presented, Commissioner Dixon seconded; the vote was unanimous.

Cathy Cooper, Director of Community Corrections, requested the Commissioners to consider approving the Kansas Department of Corrections - Adult Services FY2021 4th Quarter Line-Item Adjustment. Requesting an adjustment of \$5,777.07 be approved. We are able to move this money around from our grant due to an Adult Probation Officer who is out on deployment. Commissioner Gallagher asked where the money was moved to. Cathy Cooper responded saying that there was computer equipment that is needed, utility costs had gone up and costs of drug testing. Commissioner Gallagher moved to approve as presented, Commissioner Pretz seconded; the vote was unanimous.

Cathy Cooper, Director of Community Corrections, requested the Commissioners to consider approving the Kansas Department of Corrections Juvenile Services FY2021 4th Quarter Line-Item Adjustment – Revised Budget. \$41,987.48 adjustment due to an increase in costs for juvenile intake and assessment program and a high number of intakes. She stated there is a savings due to vacancy on an ISO position which allowed her to move that money over to cover the juvenile intake and assessment. Commissioner Dixon moved to approve as presented, Commissioner Gallagher seconded; the vote was unanimous.

Jim Starling, Building & Grounds Director, requested the Commissioners to accept a quote from G.K. Smith & Sons to purchase and install a new gas generator at the Health Department for the sum of \$70,685. Christena Beer and Rita McKoon from the Health Department told Jim there was a grant that we could use for this. There were two bids; \$71,420 from Smart Power for 100 kw gas to supply power to the whole building. The second was from G. K. Smith & Sons for \$70,685. Pro-Tem Vaughan wanted to know what is the lifetime of the generators and how often they get used. Mr. Starling answered 15 to 20 years and Mr. Krull stated that they were on a cycle but needed for the refrigerators for the Covid Vaccine which falls out of our insurance. Commissioner Pretz asked if the grant was 100% and Steve Lyman, Financial Director answered yes by shaking his head. Mr. Starling added that G.K. Smith & Sons would pay \$4000 for the 3 old generators. Jim stated they are old, 1 is scrap from the old Sheriff's Building, 1 could be used from EMS and the one from the Health Department which hasn't been working properly. Commissioner Pretz moved to approve as presented and added they accept G.K. Smith & Sons offer of \$4,000 for the 3 old generators, Commissioner Dixon seconded; the vote was unanimous. (A21-09-046)

Jim Starling, Building & Grounds Director, requested the Commissioners to consider authorizing and awarding the quote to Superior Masonry and Restoration, Inc. for the sum of \$67,950 to repair the exterior of the Administration Building. He stated the East and West side windows leak and now that we are spending money on painting and new carpets now would be the time. There were two bids: one from Concrete Masonry and Restoration for \$78,000 and the Superior Masonry for \$67,950. Gallagher moved to approve as presented, Commissioner Dixon seconded; the vote was unanimous. (A21-09-047)

Pro-Tem Vaughan opened the public hearing at 1:49 p.m. for the CDBG (Community Development Block Grant) Application for the Bucyrus Wastewater Facility. Brett Waggoner, Governmental Assistance Services of Lawrence, stated that the Public Hearing is a requirement for the CDBG grant and holding this public hearing does not obligate the county to apply for the grant. Commissioner Pretz asked Mr. Waggoner to clarify the exact location. Mr. Waggoner responded project activities will occur in an area generally bounded by 215th street on the North, Pflum on the West, 221st street on the South and Switzer on the East. He stated if we go ahead with this project then we would stick to this description but if the project area changes, we won't be able to apply this year because it is too late to do another publication, but Paul had a plan B for that. Commissioner Gallagher asked how much the grant is for. Mr. Waggoner stated the total project sits at \$1,960,678 with a grant request from CDBG of \$384,000 and that grant request is limited by the number of beneficiaries in the district. No Citizens spoke at the hearing. Pro-Tem Vaughan closed the public hearing at 1.52 p.m.

Pro-Tem Vaughan invited Paul Owings, Engineer from BG Consultants of Lawrence, to speak about the Bucyrus Wastewater Project. Mr. Owings gave the Commissioners a handout on the project. He stated the Miami County

Sewer District #2 was no longer in compliance with regulations. The County has received non-compliance letters from the state requiring that they replace or rehabilitate the facility, so they developed a report called a PER (Preliminary Engineering Report) to discuss alternatives. The county has submitted this to different agencies to try and get grant funding to complete this as economically as possible. They applied for the CDBG Grant for \$384,000 and are also eligible for 30% principal forgiveness through KDHE's SRF (State Revolving Fund) program and 45% grant through the USDA (United States Department of Agriculture). He explained the existing treatment system is a recirculating sand filter where basically the sewage is pumped over a rock media and the rock media cleans the sewage. The facility discharges the wastewater to an unnamed tributary of Ten Mile Creek. He said that the Facility has an operating permit under KDHE jurisdiction and it's no longer in compliance with that permit. Referring to page 3 of the handout he states you can see the rock media has become fouled and the wastewater no longer evenly distributes. Referring to page 4 of the handout he says the picture shows the organic build-up and mossy water which is leading to the compliance issues.

Option 1 - Rehabilitate the existing facility

- Wall of the facility has no footings
- There is no central wall to divide the zones
- Treat sewage while construction is ongoing which increase cost
- KDHE will be restricting ammonia levels next permit cycle
- That makes this a non-viable option

Option 2 – Construct Lagoon

- No discharge of Waste – No KDHE permit would be needed
- This is the project they are currently pursuing with the CDBG Grant

Option 3 – Mechanical Treatment

- More difficult to operate, more labor intensive, more intensive with replacing mechanical parts
- Smaller footprint but more costly with labor and parts

Option 4 – Pump to Spring Hill

- Still vetting this Option as County is in talks with Spring Hill
- Additional expense than lagoon but simpler as you do not:
 - Operate a facility
 - Acquire ground
 - Perform maintenance

Commissioner Gallagher asked how Mr. Owings how he was coming up with these figures. Mr. Owings replied they look at past projects and average out numbers and then add a 10% contingency. Mr. Owings stated right now it is difficult to bid a project as materials are fluctuating and there is a high degree of variability with Covid, low supplies and equipment shortages. He states they create these estimates which is actually a budget for the county and then closer to the project come in and competitively bid it. The price will depend on what the contractors provide later. The schedule would be - get the funding awards next January and spend the better part of next year designing and permitting this facility and then we would bid it in 2023. Pro-Tem Vaughan asked Paul if the numbers were total costs and did not include grants or any type of funding to reduce the cost to the county. Mr. Owings replied that is correct. Referring to page 9 of the handout he stated there are two numbers under each alternative. The Capital Cost number is the total cost, and he thinks the county is eligible for 384,000 through CDBG, they could also get for Option 2/4 get 30% principal forgiveness through SRF and USDA also indicated you are eligible for 45% grant. So how this would work would be if the project was 1 million dollars you would get the SRF loan which is like a construction loan; so, you wouldn't owe on the million dollars right away. The contractor would issue pay applications and you would have to start paying interest on those as they came in. Then at the end of that project and you get your last disbursement through SRF they would then give you the 30% principal forgiveness. So, they gave you 1 million in loans, you get \$300,000 off the principal so you owe \$700,000 in debt. Then USDA steps in and buys the loan and they would offer a grant loan package with up to 45% grant. So potentially on that million dollars you could get 450,000 off from USDA. Mr. Owings said they are still vesting out Alternative 4 with the Spring Hill Option and are pursuing the Lagoon Option. If we change the project and go with the Spring Hill option, it will take CDBG off of the table this

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year. They would complete the design next year and reapply for CDBG next fall. So, the bid letting would be pushed off till we get the award. Mr. Waggoner returned to the podium and stated if you didn't go for the application this year and wait for next year and go through the design process and have it already designed it would score you more points. He said these are competitively rated application. So, having a project that is ready, stamped by KDHE and USDA ready to go would actually make your application more attractive to the people who give the grants. Commissioner Dixon questioned if we were on a timeline for this project. Mr. Owings stated there is a timeline that KDHE has indicated and outlined the 2023 construction. Mr. Krull asked if the Spring Hill option would just push the water or would be able to push all the waste to the Spring Hill plant. Mr. Owings replied they would probably design a pump station that did not push the solids. He stated the pumps would not be capable of pushing it but had planned on a 4-inch pipe which could handle waste in the future. He stated that they may want to think about oversizing the pipe. Commissioner Gallagher questioned Mr. Owings how he knew there were no footings. Mr. Owings responded he pulled the plans, and the drawing didn't show it has a footing. So, they probably formed it up and backfilled on both sides. Commissioner Dixon asked if Option 4 would have less maintenance. Mr. Owings responded that he suspected there would be less maintenance since with a lagoon you would have to mow it, monitor it, distribute the wastewater to different areas to make sure it seeps in. Mr. Starling asked if additional personnel would be needed to run this facility, or would we use existing personal that we have now? Mr. Owings said he thought the Lagoon or pumping facilities would be simpler and less resources to operate.

STAFF COMMENTS

Shane Krull, County Administrator read an email he received from Chairman Roberts to ask for an allowance for Shelia Shultz to participate in the September 22nd and October 6th Study sessions as general legal counsel. Attorney Shultz would need the September 22nd study session to be held in the afternoon due to a prior court appointment. Pro-Tem Vaughan said that would be fine.

JR McMahon, Road & Bridge Director talked about how difficult it is to hire new people for his department. He states he had an employee who has been here 5 yrs. who put in his notice due to the fact he could get a sign-on bonus and higher wages with the intermodal in Johnson County. He states that Miami County is unable to match what is being offered by the intermodal. He stated it is a National problem to get CDL truck drivers and right now it isn't a crisis but is a huge issue for Miami County. Mr. McMahon let the Commissioners know over the next two years there is a minimum of 4 employees who will be retiring. He informed them in the future more and more items could be contracted out. Pro-Tem Vaughan thought that would be a good solution to the shortage of workers and mentioned the investment they made in the salary increases to the county to bring the salaries up to par but that still would not let them compete with the intermodal. What Mr. McMahon stated today is if he gets the employees that would be fine, but he thinks with the number of employees we need to hire and the competition in the marketplace that we really need to invest in other strategies for our county.

Mark Whelan, Emergency Management Coordinator, asked that the Commissioner sit as the Fire Board for a few minutes. He stated Paola Engine #5 is back in service as the sensor was received, installed and the computer is working fine. He was glad that the part and repair was received and done a month sooner than expected. Paola Fire did take delivery on August 31st of the new slide-in unit and it's being installed this morning. The old unit is being transported to Road & Bridge and will join 2 other units, the old Fontana Engine and old Osawatomie tanker on Purple wave hopefully sometime in September.

Mark Whelan, Emergency Management Coordinator, updated the Commissioners on COVID-19 stating that the KDHE website had not updated its numbers prior to him coming to the meeting. He did pull numbers from other sites. According to the Mid-America Regional Counsel the metro is averaging 618 new cases a day, 148 hospitalizations and that they are stating the hospitals are being stressed with the lengths of stay due to the Delta Variant and that ICU beds for Covid patients are at an all time high; even higher than it was when we thought we were at the peak of the pandemic and states that most of those patients have not been vaccinated. The limiting factors with the KC Metro hospitals are unfilled staff positions; they are losing staff to burn out and working 60-80 hours a week for the past year. They are advising there is longer waits for routine and Emergency care at the hospitals. They are suggesting if you need emergent care to go to an Urgent Care instead of the Hospital. He also stated that there is talk about contacting retired, furloughed and laid-off workers to try and get them to come back. He stated Christena with the Miami County Health Department provided the following: 153 active cases which is down two cases from last week,

4 new hospitalizations with one released, 2 new deaths of county residents, 5 active clusters – 1 private business, 1 school, 1 residential living facility and 2 long-term care/assisted living facilities however a 6th cluster is being actively investigated. 35% of the new cases are 0-18 where this time last year it was 4%. The Health Department received over 700 phone calls within the last 48 hrs. and Christena Beer receiving 200 emails on her county email. They are looking into an automated phone system as they are not able to answer all of those calls. Pro-Tem Vaughan asked how many formal quarantines have we had in the county? Mr. Whelan answered to his knowledge 6. Those were formal quarantines where the person with covid was seen multiple times by people who then called in and said the county needed to do something about this. He says that is when Dr. Banks would sign the quarantine order and then the Sheriff or City law enforcement officer would serve it.

Pro-Tem Vaughan brought up a question to the other Commissioners if it would help to have an intermediary between the Health Department and the School Boards to help decipher fact from opinions. County Counselor Woodard stated they did review the letter sent from the schools and made some changes to it. Pro-Tem Vaughan stated he was not a fan of our Health Department going to a school board meeting and would think Mr. Whelan would be a better choice. He stated the Commissioners function in facts and would like to have someone to help us with the facts as our Health Department is overwhelmed. To have an intermediary like Mr. Whelan would be beneficial and he was bringing it up as a discussion for the Commissioners to have sooner rather than later.

Mr. Whelan gave more information about Covid stating yesterday Dr. Biermann (Superintendent of Louisburg School District) came to the warehouse and was provided with 7,500 disposable kid's masks. That would allow every child within the school that has to wear a mask 2 masks a day. Also provided additional level 3 surgical masks for the adults and a bunch more nitro gloves for them. He stated in the month of July he handed out 397,000 pieces of PPE out of the warehouses and in August handed out just over 360,000 to about 80 different entities. He stated they received another 7 pallets of gloves from KDHE at no charge. He says we are still getting the cleaning supplies and such out if we have them in stock to those that need them. Commissioner Pretz wanted to know if the 2 deaths were since last Wednesday and how many total that was. Mark answered yes it was since last Wednesday and that it made a total of 49.

EXECUTIVE SESSION

Commissioner Pretz moved to have an Attorney-Client Privilege Exception: Legal negotiations session for 10 minutes beginning at 2:55 pm. Commissioner Gallagher seconded; the vote was unanimous. In attendance will be the County Commissioners, County Administrator, County Counselor, and Mark Whelan – Emergency Management Coordinator/Radio Systems Manager.

The regular meeting reconvened at 3:05 with no legal action taken.

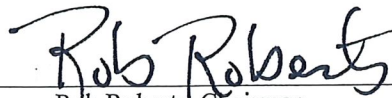
Commissioner Pretz moved to have an Attorney-Client Privilege Exception: Disposition of property session for 15 minutes beginning at 3:07 pm. Commissioner Gallagher seconded; the vote was unanimous. In attendance will be the County Commissioners, County Administrator, and County Counselor.

The regular meeting reconvened at 3:22 with no legal action taken.

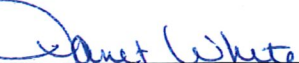
ADJOURNMENT

The meeting was adjourned at 3:23 p.m.




Rob Roberts, Chairman

ATTEST:


Janet White, County Clerk