

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 November 10, 2021. Those present were:

Rob Roberts, Chairman

Shane Krull, County Administrator

Tyler Vaughan, Pro-Tem

Shelley Woodard, County Counselor

George Pretz, Commissioner

Janet White, County Clerk

Phil Dixon, Commissioner

Casey d'Augereau, Operation Support Assistant

Absent: Danny Gallagher, Commissioner

News: Doug Carder, Republican News

Visitors: Rusty Gerken, Jacklyn Paletta, Katelin Shane, Douglas Shane, Shelly Miller, Gerald Rittinghouse, Jennifer Goodman, Josh Barnett, Tiffany Ellison, Andy Martin, Jasen Kandt, Nathan Law, Mike Scanlon

CALL TO ORDER

Chairman Roberts called the meeting to order at 1:00 p.m.

PUBLIC COMMENTS

Katelin Shane, 6014 W 295th, Louisburg, stated she is a parent that has received a quarantine order from the Miami County Health Department, MCHD for her son. Ms. Shane quoted K.S.A. 65-129C and stated she did not receive a legal quarantine order for her son, nor a legal or illegal quarantine notice for herself. Ms. Shane stated she was in the classroom on a exposure date for a classroom Halloween party. Ms. Shane received the information she requested from MCHD earlier today, two days after her son's quarantine was over. Ms. Shane stated the information she received was basically a statement saying the information is protected by HIPAA, Health Insurance Portability and Accountability Act of 1996. Regarding herself she was told it was the school's fault for not advising MCHD that the adults were in the classroom. It is not the school's responsibility to release information to MCHD that MCHD does not ask for. Ms. Shane addressed the Commissioners stating "you have denied my son, a five-year-old, his basic constitutional protection. You've stripped me, as a parent one of the abilities to look out for the best interest of my son."

Shelly Miller, 26608 W 337th Ter, Paola, stated she is following up with the Commissioners about the modified quarantine letters and the verbiage not being changed. Ms. Miller received an email from the school on September 10th stating her son had been exposed to COVID and she received the modified quarantine letter telling her that her son had the option of staying masked or stay home from school for 10 days. Ms. Miller stated she has been an emergency room nurse with KU for the past 7 years. We don't mask or test healthy people in our home, so we made the decision to keep him home. Ms. Miller stated she called the school nurse and questioned what the exposure looked like, not any personal information just what the exposure looked like. The school staff refused to give that information and advised her to call the Miami County Health Department, MCHD. Called MCHD on day 1, left a voice message; no return call. Ms. Miller called on day 2 and sent an email, again her message went unreturned. On day 3 Ms. Martin left a message with Ms. Beers that she would not comply with the modified quarantine notice, it is a recommendation it says it is not a legal quarantine. Requested a call back and to be served with an official quarantine if her son is a danger to society; never received a call back. Ms. Miller called one last time and advised "he" is working mask free in Miami County; school won't let him in without a mask. Ms. Miller stated her son went to work in Miami County mask free for the 10 days he was not allowed to be in school. This is where I'm frustrated, I had to submit a KORA request to get information, \$500 out of my pocket, because I was curious what the exposure looked like and if the proper requirements were followed. Per the KORA request Ms. Miller's son was pulled out of class because of a seating chart in the classroom. He is a special needs child and wasn't even in that class at the time of the exposure. Ms. Miller said she had to pay for that information, she believes the county needs to be more transparent and not make the parents go to these lengths.

Douglas Shane, 6014 W 295th St, Louisburg, stated he is here as a citizen not as a school board member from USD 416. Mr. Shane stated his wife spoke previously today, we received an illegal order, and he won't call them anything else because they are illegal. The reason they are illegal is because the county is using the school districts to enforce the orders. The school boards have been told these are not recommendations, they are requirements. The school districts have a clear understanding, as proven in the KORA requests, that what is told to them by health department and transmitted in these letters is indeed required. Mr. Shane stated we are constantly playing legal gymnastics: reach

out to the school district and the response is to reach out to the health department, reach out to the health department they say call the school district and they say it is protected by HIPAA. Take the notice to the courthouse across the street, they say it's not an order and it can't be appealed. Mr. Shane stated a possible petition could be filed but there is a filing fee of \$195, this legal quagmire is created by "you" sitting as our Commissioners and as the Health Board. Mr. Shane stated the responsibility of this legal quagmire rests with you "gentlemen". Mr. Shane stated he will not go away; he stands here as a citizen and parent of a 5-year-old whose constitutional liberties were denied and stripped.

Tiffany Ellison, 1206 N 1st St East, Louisburg, stated after several months of appealing over health issues with the Commissioners sitting in as the Health Board, people must be asking "why do they keep coming?". Ms. Ellison stated as a Health Board, she believes, they have been very clear with their intention to let the school boards set their own policies and have expressed their desire for the families to make their own best decisions regarding the medical and health choices. Ms. Ellison states she respects their decisions. As concerned citizens we have given you documented cases and statutes that show how the letters sent by the Health Department via the school districts are unenforceable as well as being misused. Last month "you" concluded the letter needed to be revised to reflect state statutes that protect citizens rights and we expected you to fulfill that action. "You" are elected officials for the county took an oath to uphold the constitution in your roll as County Commissioner, "you" also sit as the Miami County Health Board. Right now, the constitutional rights as citizens are being stripped by government entities working together. Children are being deemed a threat to society by a government entity. Would the Commission please present myself and the community with the data driven proof that children are a greater risk for severe injury to this virus, and that schools and school age children are proven spreaders of this virus? Would the Commission please present myself and the community the data collection that shows the rate of infection stemming from these quarantines and close contacts? Meaning what percentage of those deemed close contacts become active cases. Ms. Ellison requested the Commissioners to be transparent, give the citizens the data they are requesting, communicate to the Health Department that the notices are recommendations.

Josh Barnett, 33959 Cedar Niles Rd, Paola, stated he is a school board member but is here today as a citizen not a school board member. Mr. Barnett stated there was a school board meeting on Monday (November 8, 2021), questioned: What will happen if the school board changes their policy and goes against the Health Department's recommendation? Chairman Roberts requested Shelley Woodard, Counselor, to research this question and get back with the Commissioners.

Jacklyn Paletta, 31764 W 271st, Paola, stated she received two letters regarding her son, one when he wasn't even at school. Ms. Paletta submitted a KORA request to the school district as well as to the Health Department. The results from the KORA request to the Health Department showed the only thing used for the contact tracing was the seating chart. Ms. Paletta stated that the only restrictions mandated was related to the school. If a student truly is a threat to the community, then the restrictions should not be limited to the schools. Ms. Paletta pleaded the Commissioners for their help in fixing this before it becomes more of a dangerous slippery slope.

Rusty Gerken, 26518 W 322nd St, Paola, stated he is here for zoning issues. Mr. Gerken stated he and his family own property in Miami County, a couple of months ago he applied for a building permit to open a concrete plant. Mr. Gerken stated the response was with the current zoning laws he could not put a concrete plant in Miami County, there are huge hoops to go through. Currently Miami County requires a concrete plant to be under industrial zoning plus have a C.U.P., Conditional Use Permit. Can someone please give a reason a concrete plant requires a C.U.P. under industrial zoning? Mr. Gerken stated he asked a Commissioner what it would take to get the wording "concrete plant" pulled out of the zoning laws? The response was it will take about two years. If we can bring in the concrete plant, it will have 10-20 instant jobs, and Miami County residents and businesses would save \$15 – 20 per yard in transportation costs. Mr. Gerken stated he would consider changing his property to industrial but doesn't believe he should have to be under a C.U.P. for a concrete plant.

CONSENT AGENDA

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

- Approval of minutes of the County Commission meeting on November 3, 2021
- Approval of AP payment vouchers and payroll
- Temporary Construction Easement – King Wood Products, Inc (C21-11-044)
- Temporary Construction Easement – Sunday Property Management, LLC (C21-11-045)
- Temporary Construction Easement – Sunrise Investing, LLC (C21-11-046)
- Temporary Construction Easement – Justin L. Thompson (C21-11-047)
- Temporary Construction Easement and Permanent Drainage Easement from USD 416 Louisburg (C21-11-

048)

- Temporary Construction Easement and Permanent Access Easement from Shawn T. Lowry Revocable Trust (C21-11-049)
- Temporary Construction Easement – Post Rock Asset Management, LLC (C21-11-050)
- Add-on: Resolution establishing 2022 elected officials' salaries (R21-11-047)

Commissioner Dixon seconded; the vote was unanimous.

NEW BUSINESS

Janet McRae, Economic Development Director, requested the Commissioners to consider approving a resolution authorizing participation in rural opportunity zone student loan repayment program calendar year 2022. Ms. McRae stated this is a program with the State of Kansas that the county currently participates. Commissioner Pretz moved to approve the resolution as presented, Commissioner Vaughan seconded; the vote was unanimous. (R21-11-045)

Lucas Mellinger, Financial Director, requested the Commissioners to approve the Audit Engagement Letter with Agler & Gaedert for the year ending 2021. Commissioner Vaughan moved to approve as presented, Commissioner Dixon seconded; the vote was unanimous. (A21-11-066)

Sara Denny, Human Resources, requested the Commissioners to consider approving the insurance opt-out incentive for county employees. Any county employee meeting specific guidelines will receive a flat \$300 per month. Commissioner Vaughan moved to approve as presented, Commissioner Dixon seconded; the vote was unanimous.

Sara Denny, Human Resource, requested the Commissioners to consider approving the official county holidays for 2022. This will include December 31, 2021 in place of January 1, 2022 as the 1st falls on a Saturday. Commissioner Dixon moved to approve the holidays as presented, Commissioner Pretz seconded; the vote was unanimous. (R21-11-046)

Shane Krull, Administrator, requested the Commissioners to consider awarding and signing a contract with Wilson Group, Inc. for the renovation of the administration suite in the amount of \$41,514. Commissioner Pretz moved to award and sign a contract with Wilson Group, Inc., Commissioner Vaughan seconded. Chairman Roberts stated that the Treasurer is asking for a petition wall be installed in the office. Chairman would like a quote from the Wilson Group while they are onsite doing the renovations, Jim Starling, Building & Grounds Director, would like to have Wilson Group put in the petition wall while they are here. The vote was unanimous. (C21-11-051)

Chairman Roberts requested the Commissioners to consider establishing the 2022 salaries for elected officials per Human Resources recommendation to be effective on December 18, 2021. Commissioner Vaughan moved to approve as presented, Commissioner Pretz seconded; the vote was unanimous.

STAFF COMMENTS

JR McMahon, Road & Bridge Director, stated KDOT and MODOT have announced in the news that they do not have the manpower to keep up with the roads during the winter. Road & Bridge has 3-4 employees retiring and there is 1 person with snowplow experience. To get the entry level CDL training is around \$5,000. Commissioner Vaughan questioned if some of this work can be contract work? Mr. McMahon said it might be sub-division workers. Commissioner Vaughan asked that Mr. McMahon work with Human Resources and see what is out there. Chairman Roberts would like to have Road & Bridge entertain the idea of paying for the CDL training.

Mark Whelan, Emergency Management Coordinator, gave the following updates on COVID-19:

- 48 new cases since Wednesday November 3, 2021
- 43 active cases with 19 being under 18 years old and 24 cases being over 18 years old
- 153 COVID patients are hospitalized on the Kansas Metro
- 1 active cluster in Miami County, it is school related
- 68 Deaths, 6 of the deaths are related to breakthrough cases

COMMISSION COMMENTS

Commissioner Pretz stated he would like to brag and congratulate the Clerk and her staff. The Board of Canvass went well, and Commissioner Pretz is convinced that Miami County has a good system. Good County Clerk, staff, and volunteers; thank you to everyone involved in the last election.

Commissioner Vaughan stated last week had a road issue and JR McMahon wasn't available, yet the issue was resolved quickly. Mr. McMahon had a couple other issues in Commissioner Vaughan's area that he is working on.

Commissioner Vaughan thanked Mr. McMahon for staying on top of things.

Chairman Roberts called Janet McRae back to the podium. Chairman Roberts questioned the growth in the Economic Development report given earlier today stating 21 new businesses in Miami County in 2020 and 23 new businesses in 2021. Ms. McRae agreed. Chairman Roberts stated the Commissioners would like to see more growth. There are 36 businesses that have been looking at Miami County and haven't made up their mind. It might be because the location, a building, sewer, lack of money or any other reason but they are still working on it. Chairman Roberts inquired about business recruitment. Ms. McRae stated being able to find development ready sites in un-incorporated Miami County is a struggle. Chairman Roberts called Teresa Reeves to the podium. Chairman Roberts stated zoning is always a pivoting point for a business. Teresa Reeves, Planning Director, stated most of the surrounding area requires a Conditional Use Permit, CUP, in conjunction with a concrete plant. The purpose is the impacts are needing to be carefully monitored. Air quality issues, potential water issues, and adequate roads for the heavy equipment. Chairman Roberts stated Miami County needs a concrete plant, Ms. Reeves and Ms. McRae agreed.

Chairman Roberts stated under consultation with the County Administrator and County Counselor about a month ago there was a discussion about the possibility of changing wording in the COVID letter sent to parents. The Commissioners, acting as the Miami County Health Board, talked about doing a potential notification/letter in changing the word quarantine. There has been no communication back to the school boards yet. Miami County Counselor has been attempting to find out how does Miami County legally move forward with this and what will our Medical Director allow. As of Monday, November 8, 2021, Chairman Roberts requested the County Counselor to send the school boards a "memo" giving an update on where the county is with this situation.

Chairman Roberts questioned if any need for Executive Session. Shelley Woodard, County Counselor, stated 3 Executive Sessions are needed. Shane Krull, Administrator, requested the Commissioners to consider pausing the Board of County Commission meeting and hold the Fire District meeting before going into the executive sessions.

Chairman Roberts stated it is now 2:17 p.m. and we will take a short break and reconvene as the Fire Board at 2:25 p.m., when we return to the Board of County Commission meeting, we will only be holding the 3 executive sessions requested.

Miami County Commissioners acting as Fire Board District 1: Chairman Roberts called the meeting to order at 2:25 p.m. Mark Whelan, Emergency Management Coordinator, was called to the podium by Chairman Roberts. Mr. Whelan stated October 2021 there were 2 fires in Louisburg in the unincorporated part of the county. First was at 265th & New Lancaster, call came in as smoke in the basement. It was a utility room that was involved. Louisburg, Paola, Johnson County Fire District 3 and Miami County EMS were all on the scene. No one was hurt, the house and contents were valued at 1.5 million dollars, and the damage was estimated at just under \$350,000. The second was a house fire in the southern part of their district. Louisburg, Paola, and Linn Valley responded to the call. It was called in as smoke in the house, when they arrived on the scene, they found a fire in a second story bedroom. The estimated damage was \$25,000 damage to the bedroom and contents, house was valued at \$350,000.

Osawatomie had a call out to assist a Sheriff Officer with a K-9 that had been shot with a bow & arrow and thrown into a ravine. A Veterinary showed up on the scene, the K-9 was taken to the Veterinary Clinic the K-9 is expected to live. Sheriff's Office is currently investigating this. The Fire Department responded with their rescue rig and there was a total of 8 firefighters involved either at the scene or at the department standing by as backup.

Mr. Whelan stated Paola had a long-term volunteer, Don Hadlock, pass away on October 29, 2021. He was a member for 27 years and was a member of the underwater rescue team. Volunteer Firefighter Doug Winterscheid passed away on October 30, 2021, he retired from the department in the early 70's.

Mr. Whelan gave a hand-out earlier stating the spreadsheets attached shows the calls and training break-down for each of the Miami County Fire Departments.

Mr. Whelan stated updated on the following:

- Tires are in and Louisburg had their tires installed yesterday, November 9, 2021; waiting for everyone else to schedule their appointments.
- The departments are being sized for the gear recently approved. The gear bags are stuck on a shipping container somewhere, like everything else.

Mr. Whelan stated they are still working on the details of the on-line burn permits. The Fire Chiefs are asking to allow the burn permits to be valid for 1 year with a call to dispatch prior to burning. Commissioner Dixon moved to move forward with the on-line burn permit as presented, Commissioner Vaughan seconded; the vote was unanimous.

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Mr. Whelan stated there was a Chief's meeting held in early October. According to the Chiefs there has never been a spending policy in the past and each thought they could spend a different amount. After some discussion Chairman Roberts requested Shane Krull, Administrator, to work up a written spending policy.

Mr. Whelan gave the following updates:

- Control Burns being requested by both citizens and non-profit organizations: this could be a liability to the Fire Departments
- Long Range Planning: Future stations and staffing, Mill Levy increase
- Johnson County Fire District #2 will cease operations at the end of this month.

Mr. Whelan stated he has two applications for Emergency Vehicle Permits for Fire Fighter Grove and Fire Fighter Connor with the Louisburg Fire Department. Sheriff Kelly reviewed the applications earlier today, we both checked out the vehicles to assure the lights and sirens met state statute. They both passed the background check and vehicle check, is asking the Commissioners to consider approving Chairman Roberts signing the applications. The Commissioners had no objections.

Chairman Roberts adjourned the Fire Board Meeting at 3:29 p.m. and reconvened the Board of County Commission meeting.

EXECUTIVE SESSION

Commissioner Pretz moved to have a Land Acquisition Exception Executive Session, subject is Purchase of Land to begin at 3:31 p.m. for 5 minutes, to include the Commissioners, Administrator, and Counselor. Commissioner Dixon seconded; the vote was unanimous. Chairman Roberts reconvened the regular meeting at 3:36 p.m., no action was taken.

Commissioner Pretz moved to have an Attorney-Client Privilege Exception Executive Session, subject is Pending Litigation to begin at 3:36 for 10 minutes, to include the Commissioners, Administrator, and Counselor. Commissioner Dixon seconded; the vote was unanimous. Chairman Roberts reconvened the regular meeting at 3:46 p.m., no action was taken.

Commissioner Vaughan moved to have an Attorney-Client Privilege Exception Executive Session, subject is Privileged Legal Matter to begin at 3:48 p.m. for 15 minutes, to include the Commissioners, Administrator, and Counselor. Commissioner Dixon seconded; the vote was unanimous. Chairman Roberts reconvened at 4:03 p.m. Commissioner Vaughan moved to extend the Executive Session for 10 minutes beginning at 4:04, Commissioner Dixon seconded; the vote was unanimous. Chairman Roberts reconvened at 4:14 p.m., no action was taken.

ADJOURNMENT

The meeting was adjourned at 4:14 p.m.



Rob Roberts, Chairman

ATTEST:

Janet White, County Clerk