

February 24, 2021

The Keith County Board of Commissioners met for their regular meeting at the Courthouse in Ogallala. Chairman Crandall asked those attending to join in a moment of silence in support of the leaders and troops serving our country, followed by the pledge of allegiance to the flag. Roll call was answered by Chairman Corey Crandall and Commissioners Lane Anderson, Toney Krajewski, Joan Ervin and Dale Schroeder. Crandall acknowledged the Open Meeting Act was posted. Also attending the meeting were County Clerk Sandra Olson and County Attorney Randy Fair. Anderson moved to approve the agenda, Krajewski seconded the motion. Ervin, Schroeder, Krajewski, Anderson and Crandall voting aye; none voting nay; motion carried. Ervin moved to approve the minutes of the previous meeting, Schroeder seconded the motion. Anderson, Krajewski, Schroeder, Ervin and Crandall voting aye; none voting nay; motion carried. Schroeder moved to approve the payment of claims, Ervin seconded the motion. Krajewski, Anderson, Ervin, Schroeder and Crandall voting aye; none voting nay; motion carried.

Salaries - \$177,123.23

General Fund

Albertsons/Safeway, Prisoner Board, provisions, \$328.47; Banner Health, Inmate visits, \$1,526.25; Gregory J. Beal, Services, \$345.00; Cash-Wa, Board, Commissary, janitorial, provisions, \$1,169.35; CenturyLink, Circuits, \$120.82; Datashield, Shredding, \$48.55; Department of Motor Vehicles, Records, \$4.00; Galls, LLC, Uniforms, \$53.99; Home for Funerals, County burial, \$2,250.00; Dave Huggard, Parts reimbursement, \$29.98; Keith County District Court, Docket fees, \$144.00; Lindemeier Law Office, Services, \$83.34; Microfilm Imaging Systems, Agreement, \$70.00; NACO, Registrations, \$105.00; NE Health and Human Services, Lincoln Regional Center, \$93.00; Notary Public Underwriters, Notary, \$30.00; NPPD, Service, \$154.51; O'Reilly, Blades, \$56.79; Pinnacle Bank, Charges, \$1,680.22; Prairie Hills Funeral Home, Removal, \$200.00; Verizon, Service, \$1,031.96

Road & Bridge Fund

Black Hills Energy, Service, \$545.35; City of Ogallala, Service, \$95.25; Fraser Welding, Supplies, \$17.94; Humphreys Auto Supply, Parts, supplies, tools, \$538.03; Ideal Linen, Coveralls, \$201.30; John Deere Financial, Parts, supplies, \$470.52; K&K Service, Parts, supplies, \$238.64; Kwik Stop, Fuel, \$106.87; Light and Siren, Bulbs, \$131.85; Mead Lumber, Supplies, \$41.65; NPPD, Service, \$146.35; O'Reilly, Tools, misc. lube, \$75.96; Ogallala Community Hospital, DOT testing, \$80.00; Paxton Grocery & Meats, Supplies, \$10.00; Pinnacle Bank, Charges, \$56.98; Safelite Fulfillment, Parts, labor, \$837.93; Sapp Brothers, Fuel, \$7,778.07; Verizon, Service, \$41.12; Village of Paxton %Midwest Electric, Service, \$241.34; Waste Connections, Service, \$259.74; WEX Bank, Fuel, \$122.02

CBSA Health Insurance Claim Fund

KC Clerk/Flex Claims Account, Flex claims, \$1,493.23; KC CBSA/Health Insurance Fund, Health claims, \$2,313.56

Keno Fund

Western Resources Group, Recyclables, \$160.00

Emergency Phone 911 Fund

CenturyLink, Exchange, \$154.69; Consolidated Telecom, Service, \$119.04; Platte Valley Communications, Deductible, \$500.00

Wireless 911 Services Fund

CenturyLink, Exchange, \$812.08

The Board heard the report of Head Jailer Travis Poncik.

Poncik reported to the Board that there were fourteen prisoners in and ten prisoners farmed out.

Ervin had provided the Board with the LB 102 position letter she had written. Krajewski moved to approve the submission of this letter and to authorize the Chairman to sign, Schroeder seconded the motion. Anderson, Ervin, Schroeder, Krajewski and Crandall voting aye; none voting nay; motion carried.

Schroeder moved to have County Clerk Sandra Olson do a journal entry to move the utilities placed in the Sheriff's budget into the Building and Grounds budget, Ervin seconded the motion. Krajewski, Anderson, Ervin, Schroeder and Crandall voting aye; none voting nay; motion carried. Olson told the Board that she would do the journal entry once the month of February was closed so she could move the cost with just one journal entry.

The Board discussed the FSA Optional COVID Relief Options. There were three options that the Board could either approve or deny. Option one – Employees who ceased participation in a Health FSA during the 2020 or 2021 calendar year may continue to receive reimbursement from the unused benefits or contributions through the end of plan year in which participation ceased (including any grace period). Option two – For plan years ending in 2021, plans may allow employees to make a prospective election change to modify their FSA contributions without a change in status. Option three – Dependent care FSAs may extend the maximum age from 12 to 13 for eligible dependents who aged out of eligibility during the last plan year with a regular enrollment period ending on or before Jan. 31, 2020. Employees with unused balances may also apply this rule to claims for reimbursement of the unused balance in the following plan year. Ervin moved to approve these three options, Krajewski seconded the motion. Olson questioned with option one already being part of the County's plan and since these three options were only allowed for a specific time period would the County lose the grace period if option one was approved for the specific time period. Ervin withdrew her motion and Krajewski withdrew his second. This agenda item will be placed on next week's agenda under unfinished business in order to allow the Board more time to review these options.

Zoning Administration for Keith County, Amber Kuskie, appeared before the Board with several resolutions for zoning items. The first resolution was for a request by Royce and Beth Ann Penner for a Change of Zone from Agricultural District to Residential Rural District, located in TR in SE ¼ of 21-15-38, Keith County, Nebraska. Property owners Royce and Beth Ann Penner were present. Keith County citizens Caleb Johnson and Clint Halligan spoke in opposition of this change of zone. Halligan submitted a letter to the Board and asked that it be included in the minutes as an exhibit. A copy of the letter will be attached to the minutes as Exhibit A. Attorney Josh Wendell spoke to the Board on behalf of Royce and Beth Ann Penner. Anderson moved to adopt this resolution, Ervin seconded the motion. Schroeder, Krajewski, Ervin, Anderson and Crandall voting aye; none voting nay; motion carried. This resolution will be filed in the Resolution Book as number 2021-14. The second resolution was for a request by Royce and Beth Ann Penner for a Final Plat of Penner Replat of Lot 41 of McGinley Subdivision and a tract of land located in SE ¼ 21-15-38, Keith County, Nebraska. Property owners Royce and Beth Ann Penner were present. Krajewski moved to adopt this resolution, Anderson seconded the motion. Ervin, Schroeder, Anderson, Krajewski and Crandall voting aye; none voting nay; motion carried. Ervin stated that for both Penner's zoning items there was no reason to deny within the Planning and Zoning regulations. This resolution will be filed in the Resolution Book as number 2021-15. The third resolution was for a request by Jax Investments, LLC for a Conditional Use Permit (#21-1) for a Dwelling Unit: Vacation Rental at Lot 6 Block 3 Peterson's 2nd Subdivision, more commonly known as 36 Petersons 2, located in 5-15-40, Keith County, Nebraska. Property owner Jeff Armour answered questions from the Board. Anderson moved to adopt this resolution with no offsite parking, Krajewski seconded the motion. Schroeder, Ervin, Krajewski, Anderson and Crandall voting aye; none voting nay; motion carried. This resolution will be filed in the Resolution Book as number 2021-16. The fourth resolution was for a request by Joshua and Chelsea Lingenfelter DBA Lookout LH LLC for a Conditional Use Permit (#21-2) for a Dwelling Unit: Vacation Rental at Lots 4 and 5 Mac Kenzie's Sub, more commonly known as 5 Mac Kenzie's, located in 21-15-40, Keith County, Nebraska. Property owner Joshua Lingenfelter answered questions from the Board. Ervin moved to adopt this resolution, Schroeder seconded the motion. Anderson, Krajewski, Schroeder, Ervin and Crandall voting aye; none voting nay; motion carried. This resolution will be filed in the Resolution Book as number 2021-17. The fifth resolution was for a request by Richard and Tamatha Gage for a Conditional Use Permit (21-3) for an Intermodal Container at Lot 3 McGinley's Sub, more commonly known as 3 McGinley's, located in 21-15-38, Keith County, Nebraska. Anderson moved to adopt this resolution, Ervin seconded the motion. Schroeder,

Krajewski, Ervin, Anderson and Crandall voting aye; none voting nay; motion carried. This resolution will be filed in the Resolution Book as number 2021-18. The sixth resolution was for a request by Keith County Planning and Zoning for a Text Amendment Establishing Commercial Slaughtering, Lard and Tallow Rendering, Meat Packing, Poultry and Game Dressing and Packing as a Conditional Use Permitted by Special Review in the Keith County regulations. Krajewski moved to adopt this resolution, Ervin seconded the motion. Schroeder, Anderson, Ervin, Krajewski and Crandall voting aye; none voting nay; motion carried. This resolution will be filed in the Resolution Book as number 2021-19.

Kuskie told the Board West Central Nebraska Development District is a partner in the Nebraska Broadband Speed Test that will gather data needed to address broadband problems. Kuskie asked the Board to take the Broadband Speed Test to help. Schroeder moved to put the speed test on the County's website, Ervin seconded the motion. Krajewski, Anderson, Ervin, Schroeder and Crandall voting aye; none voting nay; motion carried.

Contractor for the Visitors Committee, Elise Lockhart and Visitors Committee Chairman Deb Schilz appeared before the Board to speak about the website proposal/contract. Lockhart told the Board they would probably have to revisit this at a later date as the tourism season was just around the corner and the website would not be ready by that time. Schilz stated they would just revamp their current website and in the meantime if Fair could continue working on his contract recommendations and bring the website proposal/contract back to the Board at a later date.

The Board received correspondence and gave reports. The Board received February's fee report from the Sheriff's Department.

With no further business to come before the Board the meeting was adjourned. The Board will meet again Wednesday, March 3, 2021 at 8:00 a.m. at the Courthouse in Ogallala.

_____ Chairman
Corey Crandall

_____ County Clerk
Sandra K. Olson

Agenda: Kept current in the office of the County Clerk. *Time of specific agenda items will run continuously thru the meeting and may occur earlier or later than estimated.

Unfinished Business

FSA Optional COVID Relief Options.

EXHIBIT A
RENN ENTERPRISES, L P

PO Box 480

(308) 284-2021

Ogallala, NE 69153

February 24, 2021

To Whom It May Concern:

In reviewing the proposal pertaining to the Change of Zoning Request, as well as the Final Plat of the Penner Replat of Lot 41 of McGinley Subdivision, our concerns are as follows:

The proposed change of zone and proposed replat would create a strong possibility of litigation.

The restrictive covenants relating to parcel ID 173014204 by Union Pacific Railroad (UPRR), as outlined on page 3 of the Quitclaim Deed between Royce & Beth Ann Penner & UPRR, and the protective covenants filed for McGinley Subdivision, also provided, are not similar. Thus, an allowed Change of Zone would essentially provide for either merging or a combined lot with different covenants for different parties to enforce. Either way, the merger of these two lots would create an issue of differing protective/restrictive covenants without the consent of the subdivision or UPRR, as outlined in the McGinley Subdivision protective covenants, towards McGinley Lot 41.

This action could create a double litigation possibility, as it would also be changing and/or adding to the restrictions and other covenants set forth by UPRR, as it relates to the McGinley Subdivision protective covenants being implemented towards parcel 173014204.

While we understand the Planning Commission, nor Keith County enforces protective covenants; it is our belief that if said governmental entities would allow for such a situation to exist, the County would be creating the environment by which litigation would become possible for the same lot with two different enforcing parties.

We are not aware of any subdivision rule that allows the merger of lots that are so different in covenants. Furthermore, it does create a situation similar to where two different adjacent lots are zoned differently. The Planning and Zoning surely wouldn't agree that the zoning for a single joined lot in two different zones would maintain their separate zones even after they are merged. So, which one would they agree to change, why and under what theory? And could that changed zoning basically accumulate by continuing to add lots to change the zoning boundary. In other words, a lot's zoning designation was changed because it merged with this other lot, and now another lot is merged to the prior merged lot to change the zoning on it also. This would provide a method for an owner to change the zoning boundary, simply by having approval of merging of lots.

To our knowledge, the applicant has not addressed to how this joining of lots would be done in respect to the differing restrictive covenants, and has not shown approval of the separate covenant enforcing parties. Additionally, we agree with a number of the concerns presented in the reasons for disapproval.

Therefore, we would request the proposed actions be denied in order to avoid such a circumstance.

Sincerely,



Clinton J. Halligan, President
RENN Enterprises, LP