

MINUTES FOR AUGUST 19, 2019
BOARD OF CHEROKEE COUNTY COMMISSIONERS
CHEROKEE COUNTY, KANSAS

Chairman Cory Moates called the regular session of the Cherokee County Board of Commissioners (The Board), to order at 9:00 a.m. on Monday, August 19, 2019 in the Commission Room, #109 of the Cherokee County Courthouse located at 110 West Maple, Columbus, Kansas. Commissioner Myra Carlisle Frazier opened the meeting with prayer followed by the Pledge of Allegiance. Commissioners Cory Moates, Neal Anderson, Myra Carlisle Frazier, County Counselor Barbara Wright, and County Clerk Rodney Edmondson were present.

Members of the press present: Larry Hiatt

A motion was made by Commissioner Anderson to approve the minutes from the August 12, 2019 BOCC meeting. The motion was seconded by Commissioner Frazier. The motion carried 3-0.

Brett Warstler, Warstler Excavation appeared before the Board and asked for a four-minute executive session for a topic that is protected by HIPAA.

A motion was made by Commissioner Frazier for an executive session on a topic that is covered by HIPAA with the Board, Counselor Wright, and Brett Warstler. The meeting will reconvene at 9:10 a.m. The motion was seconded by Commissioner Anderson. The motion carried 3-0 at 9:04 a.m.

The meeting reconvened at 9:10 a.m.

No action will be taken at this time.

Brett Warstler appeared before the Board regarding Warstler Excavation's commitment to working on the Cherokee County sewer system. He presented notes that were taken from his service calls in July and gave a detailed account of the work that was performed. He returned the check issued to him and the Board agreed to issue another check when a new invoice is received. Commissioner Moates stated that he would update the Board later in the meeting.

Leonard Vanatta, County Road Supervisor and Louis Schreiner, County Lot Supervisor appeared before the Board on county road business. Leonard presented hiring documents for four new employees for the Board to review.

A motion was made by Commissioner Moates to hire Rick Mosler as a grader operator in District 2 at \$15.00 per hour. The motion was seconded by Commissioner Anderson. The motion carried 3-0.

A motion was made by Commissioner Moates to hire John Kloer as a backhoe/utility person in District 2 at \$13.62 per hour. The motion was seconded by Commissioner Anderson. The motion carried 3-0.

A motion was made by Commissioner Moates to hire Dennis Boyes as a truck driver in District 1 at \$13.44 per hour. The motion was seconded by Commissioner Anderson. The motion carried 3-0.

A motion was made by Commissioner Moates to hire Eric Branstine as a backhoe/utility person in District 1 at \$13.62 per hour. The motion was seconded by Commissioner Frazier. The motion carried 3-0.

Louis stated that he talked with the mechanic in Butler County, MO regarding the ditching machine that is up for auction this week. He updated the Board on that conversation.

Counselor Wright updated the Board on the condemnation process for the railroad project in Neutral. She stated that a copy of the survey and the engineering drawing must be filed with the County Clerk before the condemnation can begin. She has three appraisers on board and a court date is set. She presented Resolution 11-2019 authorizing engineers to do the plan and the survey.

A motion was made by Commissioner Moates to approve Resolution 11-2019 granting authority to conduct a land survey and description of the land subject to condemnation. The motion was seconded by Commissioner Anderson. The motion carried 3-0.

Counselor wright presented Resolution 12-2019 authorizing the county counselor to do the eminent domain case on behalf of the County.

A motion was made by Commissioner Moates to adopt Resolution 12-2019 granting authority to County Counselor Barbara Wright to start the condemnation process on the Neutral railroad project. The motion was seconded by Commissioner Frazier. The motion carried 3-0.

Counselor Wright presented the petition to begin the lawsuit for review.

A motion was made by Commissioner Anderson to give the chairman authority to sign the eminent domain petition. The motion was seconded by Commissioner Frazier. The motion carried 3-0.

Chairman Moates signed the petition as presented.

Gene Mense and Matt Mense of the Mense CPA Firm, LLC appeared before the Board to work on the draft budget for 2020. The current draft reduces net expenditures by \$255,423 as compared to 2019. The mill levy would increase by 1.692 mills.

A motion was made by Commissioner Frazier to keep the mill levy the same as the 2019 amount.

The motion died for lack of a second.

A motion was made by Commissioner Moates to approve the draft budget after reducing the amount of funds that are being transferred from County General into the Equipment Reserve Fund by \$100,000.

The motion died for lack of a second.

A motion was made by Commissioner Anderson to approve the budget after reducing the amount of funds that are being transferred from County General into the Equipment Reserve Fund by \$100,000 and to take \$100,000 from the estimated unused jail sales tax in 2020 and transfer that amount into County General. The motion was seconded by Commissioner Moates. The motion carried 2-1 with Commissioner Frazier voting no.

Gene Menses stated that by making those adjustments to the draft budget, the mill levy increase is now .454 mills as compared to 2019.

A motion was made by Commissioner Anderson to publish the notice of public hearing for the 2020 Cherokee County Budget and the 2020 Sewer District No. 1 Budget, setting a public hearing on September 16, 2019 at 10:00 a.m. The motion was seconded by Commissioner Frazier. The motion carried 3-0.

Jason Allison presented an invoice for the matching funds portion of the storm siren grant. The Board signed the order, with funds to be taken from the Equipment Reserve Fund.

Jason stated that he is working on finishing the grant for the Riverton sewer drainage problem.

A motion was made by Commissioner Moates to recess until 12:15 p.m. The motion was seconded by Commissioner Anderson. The motion carried 3-0 at 11:26 a.m.

The meeting reconvened at 12:15 p.m.

A motion was made by Commissioner Anderson for an attorney client executive session for contract purposes with the Board, Counselor Wright, and Clerk Edmondson. The meeting will reconvene in the commission room at 12:25 p.m. The motion was seconded by Commissioner Moates. The motion carried 3-0 at 12:19 p.m.

The meeting reconvened at 12:25 p.m.

No action will be taken at this time.

A motion was made by Commissioner Moates for an attorney client executive session for contract purposes with the Board and Counselor Wright. The meeting will reconvene in the commission room at 1:00 p.m. The motion was seconded by Commissioner Anderson. The motion carried 3-0 at 12:35 p.m.

Commissioner Moates stated that he would like to attend a meeting with the rural water boards about a possible agreement to shut off the water service to customers that don't pay their sewer bills to the County.

A motion was made by Commissioner Moates to spend up to \$14,000 out of the equipment reserve fund to replace the variable drive unit at the Riverton sewer lift station. The motion was seconded by Commissioner Anderson. The motion carried 3-0.

Jason Allison presented a mitigation grant funding letter of intent for the drainage problem in Riverton for the Board to consider. The project total is estimated at \$400,000.

A motion was made by Commissioner Anderson to authorize the Chairman to sign the mitigation grant letter of intent. The motion was made by Commissioner Moates. The motion carried 3-0.

Chairman Moates signed the letter of intent.

Joni Hicks appeared from the County Lot regarding the record keeping for the road repairs and damage cleanup that will be covered by the disaster declaration. She stated that she has been given access to a portal to upload the data to the State of Kansas. She is just waiting on a Program Delivery Manager to be appointed to Cherokee County before anything can be entered. She stated that the declaration will cover damages back to the later part of April. She is going to work on compiling a list for the Board to review.

Commissioner Frazier made a motion to adjourn until the next regular meeting set for Monday, August 26, 2019 at 9:00 a.m. The motion was seconded by Commissioner Anderson. The motion carried 3-0 at 2:45 p.m.

ATTEST: Resolved and ordered this 26th day of August, 2019


Commissioner


Commissioner


Commissioner


County Clerk

Book: 550 Page: 335-336

Receipt #: 38701

Total Fees: No Charge

Pages Recorded: 2

Cashier Initials: VICKIE

Date Recorded: 8/19/2019 2:54:35 PM

0055000335

RESOLUTION NO. 11-2019

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY, KANSAS, DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY FOR THE PURPOSE OF CONSTRUCTION, MAINTENANCE AND PERMANENT PUBLIC AND PRIVATE USE OF PROJECT NO. 11 C-4907-01, DESIGNED BY THE KANSAS DEPARTMENT OF TRANSPORTATION AND BURLINGTON NORTHERN SANTA FE RAILROAD AT OR NEAR THE EAST-WEST INTERSECTION OF SE 20TH STREET AND SE BRUSH CREEK ROAD.

WHEREAS, the Governing Body of Cherokee County Kansas, has authorized professional surveys and engineering for Project No. 11 C-4907-01, designed by the Kansas Department of Transportation and the Burlington Northern Santa Fe Railroad, at or near the east-west intersection of SE 20th Street and SE Brush Creek Road, necessary to improve the County road and safety at the railroad crossing.

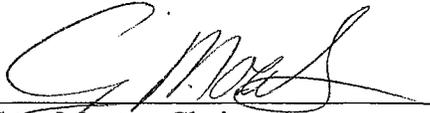
WHEREAS, the owners of the two affected real estate parcels, 0.81 Acres owned by Scott Family Trust, and 1.02 Acres owned by Pleasant Valley Ranch, L.L.C., have refused to convey title to the County in exchange for reasonable compensation offered by the County.

WHEREAS, permanent easements and right-of-ways are necessary for the purpose of construction, maintenance and use of the public roads and railroad crossing.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Cherokee County, Kansas in regular meeting duly assembled this 19th day of August, 2019, that a land survey and description of the land subject to condemnation, shall be prepared and filed with the County Clerk.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Cherokee County, Kansas, that condemnation proceedings shall begin as soon as practicable to exercise the County's power of eminent domain pursuant to K.S.A. 26-201, and K.S.A. 25-501, *et. seq.*, as amended.

PASSED AND ADOPTED this 19th day of August, 2019, by the Board of County Commissioners of Cherokee County, Kansas.

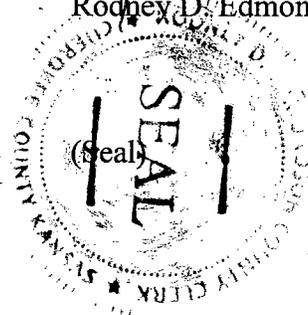

Cory Moates, Chairman
Cherokee County Commissioner


Myra Carlisle Frazier
Cherokee County Commissioner


Neal Anderson
Cherokee County Commissioner

ATTEST:


Rodney D. Edmondson, County Clerk



RESOLUTION NO. 12-2019

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY, KANSAS, DETERMINING THE NECESSITY, AUTHORIZATION AND ACQUISITION OF PERMANENT EASEMENTS AND RIGHT-OF-WAYS FOR KANSAS DEPARTMENT OF TRANSPORTATION AND BURLINGTON NORTHERN SANTA FE RAILROAD PROJECT NO. 11 C-4907-01, FOR REALIGNMENT AND IMPROVEMENTS OF SE BRUSH CREEK ROAD AND SE 20TH STREET, EAST AND WEST INTERSECTION, TO AUTHORIZE CONSTRUCTION, RECONSTRUCTION, AND MAINTENANCE OF SAID INTERSECTION FOR PUBLIC USE AND RAILROAD CROSSING SAFETY PURSUANT TO CHEROKEE COUNTY'S POWER OF EMINENT DOMAIN AND IN ACCORDANCE WITH THE EMINENT DOMAIN PROCEDURE ACT.

SECTION 1. GENERAL AUTHORITY. K.S.A. 19-101, *et. seq.*, and the Kansas Constitution, Article 12, §5, authorize statutory and home rule authority to the Board of County Commissioners of Cherokee County, Kansas, (the Board) to transact all County business and perform all powers of local legislation deemed appropriate, authorize public improvement projects, and perform all other acts in relation to the property and concerns of the County necessary to the exercise of its corporate or administrative powers.

SECTION 2. Surveys and descriptions of the land easements and right-of-ways necessary to construct and maintain the Kansas Department of Transportation and Burlington Northern Santa Fe Railroad Project No. 11 C-4907-0, have been developed by competent licensed surveyors and professional engineers. The project purpose is to realign the east-west intersection at SE Brush Creek Road and 20th Street and improve the County roads and railroad crossing. Negotiations to purchase the real estate for the proposed easements and right-of-ways have been unsuccessful.

SECTION 3. The Board has determined that in order to carry out such project, according to its lawful powers and duties, it is necessary to hereby acquire by the exercise of its power of eminent domain and pursuant to the procedures set forth in the Kansas Eminent Domain Procedure Act, K.S.A. 26-501, *et seq.*, permanent easements and right-of-ways upon the following described lands located in Cherokee County, Kansas, for the accommodation of construction equipment, materials, and excavated earth, and the ongoing maintenance and improvements over and across the described tracts of real

estate, resulting in a realigned, permanent public roadway, and safe railroad utility crossing, situated in Cherokee County, Kansas, to wit:

TRACT 1

Right-of-Way Legal Description:

A tract of land located in the Southeast One-Quarter (SE 1/4) of Section 8, Township 34 South, Range 24 East of the Sixth Principal Meridian, Cherokee County, Kansas, more particularly described as follows:

Beginning at the Northeast Corner of said SE 1/4 of said Section 8; Thence South 2°43'03" East (assumed bearing), 222.41 feet along the East line of said SE 1/4; Thence South 87°16'57" West, 20.44 feet; Thence North 82°23'50" West, 125.25 feet; Thence North 57°18'54" West 292.31 feet; Thence North 89°17'52" West, 168.05 feet; Thence North 1°19'25" West 25.00 feet to a point on the North line of said SE 1/4; Thence North 87°44'24" East 549.09 feet along the North line of said SE 1/4 to the POINT AND PLACE OF BEGINNING. Said tract contains 1.46 acres, more or less, including approximately 0.32 acres of existing county road right-of-way and 0.12 acres of railroad right-of-way. Subject to all public roads, easements, reservations, restrictions, covenants and conditions, if any, now of record.

Encompassing 1.02 acres.

TRACT 2

Right-of-Way Legal Description:

A tract of land located in the Northwest One-Quarter (NW 1/4) of Section 9, Township 34 South, Range 24 East of the Sixth Principal Meridian, Cherokee County, Kansas, more particularly described as follows:

Beginning at the Southwest Corner of said NW 1/4 of said Section 9; Thence North 2°43'03" West (assumed bearing), 184.15 feet along the West line of said NW 1/4; Thence South 82°38'54" East, 189.99 feet; Thence South 59°37'54" East, 194.27 feet; Thence South 84°55'08" East, 187.58 feet; Thence South 2°07'16" East, 25.00 feet to a point on the South line of said NW 1/4; Thence South 87°52'44" West, 535.45 feet along the South line of said NW 1/4 to the POINT AND PLACE OF BEGINNING. Said tract contains 1.26 acres, more or less, including approximately 0.29 acres of existing county road right-of-way and 0.16 acres of railroad right-of-way. Subject to all public roads, easements, reservations, restrictions, covenants and conditions, if any, now of record.

Encompassing 0.81 acres.

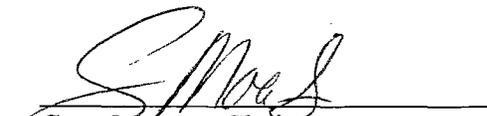
SECTION 4: That be it hereby resolved by the Board of County Commissioners of Cherokee County, Kansas, that proceedings in eminent domain shall commence as soon as practicable.

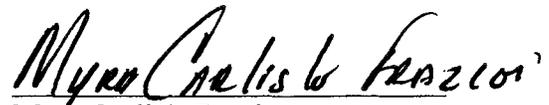
SECTION 5: All resolutions and parts thereof in conflict herewith are hereby expressly repealed in so far as they conflict herewith.

SECTION 6: This Resolution shall be in full force and effect from the date of passage and shall be published in the official County newspaper.

PASSED AND ADOPTED by the Governing Body of Cherokee County,

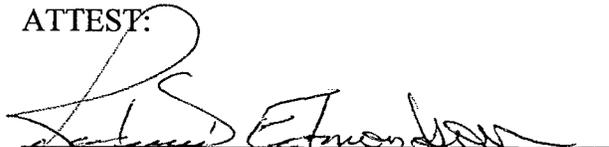
Kansas, on this 19th day of August, 2019.


Cory Moates, Chairman
Cherokee County Commissioner


Myra Carlisle Frazier
Cherokee County Commissioner


Neal Anderson
Cherokee County Commissioner

ATTEST:


Rodney D. Edmondson, County Clerk

