

April 6, 2023

Thursday, 9:00 a.m.

The Bourbon County Commission met in open session with all three Commissioners and the County Clerk present.

Clint Walker, Mark McCoy, Deb McCoy, and Lora Holdridge were present for some or all of the meeting.

Jim Harris opened the meeting the with flag salute.

Nelson Blythe made a motion to approve the minutes from last week's meeting. Clifton Beth seconded, and all approved.

Clifton made a motion to approve the payroll totaling \$211,174.87, the accounts payable totaling \$302,712.05, and miscellaneous disbursement checks for March totaling \$13,719.41. Nelson seconded and all approved.

Eric Bailey, Public Works Director, presented a list of new culvert permits for March. Eric also handed out a report for the fuel through the end of March. Jim asked if all the departments except for the Sheriff's department were still getting their fuel from public works and Eric responded yes. Eric gave an update on the fuel card system stating it has been a long process but the company sent software and will be here in the near future to install it. Jim commented that public works was getting good prices on gas and diesel and Clifton agreed. The 5-year Solid Waste Plan that is due to KDHE by May 17 was handed out to each Commissioner to review and will be presented at next week's meeting for approval. Jim questioned if any changes were made and Eric stated that the composting was added and that MSW and C&D are up as more out of county and state customers and using the landfill. Eric discussed the process to approve the plan which includes the Commission approving the 5-year plan, posting a notice of a required public meeting which can be held at a regularly scheduled Commission meeting, and passing a resolution adopting the plan. Clifton made a motion to accept the plan, but Nelson stated he would like to read the plan and suggested approving the plan at the next meeting. Clifton withdrew his motion.

Eric asked Shane Walker in to discuss the recent storm damage. The storm that passed through Bourbon County yesterday morning had multiple trees down, several residents lost their barns, power lines and poles were down as well. An entire barn was lifted from its block foundation and set down in the middle of Quail Road. Eric thanked the public works crew for their hard work putting up signs, removing downed trees, and clearing debris to allow the electric companies to get in and restore power to residents. The barn was torn down and hauled to the C&D section of the landfill, which Eric said was approved by KDHE. Eric thanked the city of Bronson stating John Stokes allowed the county to bring brush gathered from the storm damage to their burn pile which is an approved burn site by KDHE. Eric stated that the equipment and manhours were all tracked for the storm damage cleanup and multiple pictures were taken so that if a declaration is made by the state, they will have all their documentation in line. Shane said the state contacted him regarding the damage in the Bronson area and they did a verbal storm declaration, but said a written declaration will need to be signed to be on file. Shane said that the emergency management department has posted on the radio and Facebook for residents with property damage to contact the county so the damage can be documented and added to the countywide totals in order to try to meet state guidelines. Shane said that there was not enough road

damage to qualify for FEMA. Clifton asked what the total was that had to be met and Shane said it is 5.5 million dollars statewide. Chanute sustained significant damage with the storm yesterday morning, with Shane stating an entire block will have to be collapsed. Shane stated that 90 mph winds were recorded in Bronson and 78 mph winds were recorded in Uniontown. Shane said roof damage and walls blown out of barns were the majority of the damage they saw; however there was one house destroyed and that debris was carried over a mile away. Jim asked if we had another storm come through in two weeks if they could add damage from that to this storm and Shane said yes if it is within a certain window. Nelson asked how long the declaration can last and it was stated the resolution is for two weeks; however it can be extended by the commission. Nelson asked if we have to pass the storm declaration to get money and where does it come from? Shane said it depends on what we apply for but its mainly federal. Clifton made a motion to amend the agenda to move resolution 10-23 before the executive session. Nelson seconded the motion and all approved. Nelson made a motion to approve resolution 10-23 declaring a state of local disaster for Bourbon County. Clifton seconded the motion, and all approved. Eric said if the state's declaration is approved then public works will get reimbursed for their time, equipment, and material costs.

Jim said that they need to have a discussion with property owners on the west side of Lake Fort Scott. 190th St. is a county road, but there are several roads that go into homes that the residents feel are either county or city. Jim said that he spoke to the Register of Deeds, Lora Holdridge, and the roads are not county, but the city says they are not city roads either. Jim stated there needs to be a meeting with city and county representatives and the residents to solve this, but the commission needs to decide how they want to handle this. Clifton said they as Commissioners have zero power outside of the room, so in his opinion the meeting would need to be held during a Commission meeting. Eric was asked to visit with Lora and the city to determine whose roads they are before the meet with the citizens. Lora Holdridge came into the meeting stated the roads are listed as access drives but that the roads do not show ownership and are not named roads. The original plat shows the city of Fort Scott. Mark McCoy said the City Commissioner on the Lake Advisory Board should be the city's representative in this matter.

Jim said the Fort Scott Community College requested a Commissioner to attend a meeting on Monday 4-10-23 to discuss repairs to their pond. Jim asked Eric to attend the meeting on the county's behalf.

Eric told Nelson the road issues he reported during the last meeting were taken care of last week. The road issue Jim reported on 230th St. will be corrected this week.

A five-minute break was taken and normal session was resumed at 9:34.

Susan Bancroft requested a 10-minute executive session to discuss personnel matters of individual nonelected personnel to protect their privacy. Clifton made a motion to go into a 10-minute executive session under KSA 75-4319 (b)(1) to discuss personnel matters of individual nonelected personnel to protect their privacy to include Susan Bancroft, all three Commissioners, Justin Meeks, and Shane Walker and will return at 9:44. Nelson seconded, and all approved. Clifton made a motion to resume normal session at 9:44 with no action. Nelson seconded the motion, and all approved.

Justin Meeks requested a 7-minute executive session under KSA 75-4319 (b)(2) for two active litigation issues one is a potential litigation issue and the other is a personnel matter.

Clifton made a motion to amend the agenda to allow an executive session before public comments. Nelson seconded the motion, and all approved.

Clifton made a motion to go into a 7-minute executive session under KSA 75-4319 (b)(2) for consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship to include all three Commissioners and Justin Meeks and will return at 9:53. Nelson seconded the motion and all approved. Clifton made a motion to resume normal session at 9:53 with action. Nelson seconded the motion, and all approved.

Justin Meeks asked to be allowed to approve the documents for the opioid settlement from the state. Justin stated he received the documents yesterday and the amount is under \$5000. Clifton made a motion to allow Justin to approve the opioid settlement from the Attorney General's office. Nelson seconded the motion, and all approved. Justin stated the settlement checks will be sent to the Clerk's office and that a special fund has been created for those.

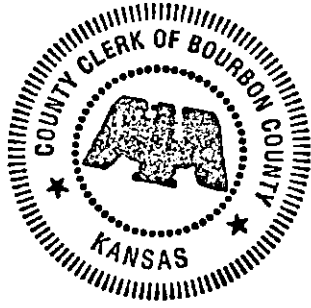
Deb McCoy read a prepared statement during public comments about prior comments made during Commission meetings about rule of law and codes of regulations. Deb stated, "the cultivation of the rhetoric towards the transgressions of the law is concerning." Deb said a remark was made that enforcement of laws are the ones that I agree with and the laws I don't agree with I don't enforce. Ms. McCoy further stated discretion and enforcement are knowing what is just law. As a public official it should mean acting in a manner that appears just and proper under all circumstances and respect the law. Deb talked about how Justin said federal laws trump state laws and state laws trump county laws and city resolutions and ordinances. Deb briefly discussed wiretapping and eavesdropping under the anti-wire tapping federal and state law stating it is illegal for any person to secretly record any oral, telephonic, or electronic communication that the other party reasonably expects to be private. Deb said in the beginning of March there was a meeting that had two executive sessions and when you returned to the open meeting you were instructed by county counselor to individually speak with IT privately and then speak to the county counselor about the decision on the action that should be take. Ms. McCoy stated she didn't recall any mention in any following meetings of action taken. Deb said it was pointed out by the District Attorney that some job descriptions coincide with the county administrator position and that should have been determined by the general bond law KSA 19-3A02. Deb stated it seems like a huge workload for one person with three job descriptions. Deb discussed the eligibility of the office of commissioner stating the Attorney General has issued a ruling about incompatibility involving the office of county commissioner and the position of a city law enforcement. Ms. McCoy said the rule of law is the most basic form, it is the principal that no one is above the law and that democracy depends on the rule of law because without law there is no order and without order there can be no democracy.

Nelson introduced himself to Deb McCoy and asked to see her statements so that he could discuss certain pieces with her. Nelson said that he was misinterpreted regarding the laws he enforces and discretion. Discretion is a word commonly used in law enforcement and he referred to speeding and stated they are not required to write a ticket every time someone speeds and that is where discretion comes in. Nelson stated there are laws he doesn't agree with, but that doesn't mean he is refusing to enforce them. Nelson said his job as a law enforcement officer is to protect the rights of individuals and protect freedom and safety. He protects the US Constitution and works to make sure that people who live in Bourbon County are safe from murder and theft and that is what he is working on when he leaves

this room. Nelson said please don't take any personal offence to the comments he said last week and that his job as a law enforcement officer is to protect freedoms. Nelson said he stands for the people, he protects the people, and he works for the people to protect their liberties. Deb stated we as citizens should have respect for the rule of law so that it wouldn't make your job so huge and that the bottom line is without the rule of law, we would be chaotic, we would run amuck. Nelson said the law protects the people, and he takes that very seriously. Nelson thanked Deb for the effort it took to write her statement and come and present it before the Commission. Clifton said there was no action and that we do not have a county administrator nor will we for as long as he is a Commissioner. Jim said he agrees with Clifton's remark and there will be no county administrator under his watch. As far as the job description they are close but until the Commission take that to the voters, there is no administrator. Clifton said there is nobody making arbitrary decisions on their own in this courthouse and if they do, he would be the first to ask that they be fired. Jim said county administrators are usually in charge of everyone and that this person has no employees. Nelson touched on compatibility of office and said that is the opinion on a statute and for a rule that would have to go to the supreme court; it is not law, only an opinion of one person. Nelson said that he will continue to serve his community to the best of his ability in both capacities as long as he can.

Clifton said that he had received a few phone calls and saw a few individuals in person and there are some really upset contractors in our community. Clifton said it is not our job to tell the city what to do but a meeting has been called for stakeholders to discuss what the City Commission passed on Tuesday night. Clifton said in his opinion we are very much a stakeholder and he will make a motion to write a response to that because what was passed is questionable regarding contractors. Clifton feels we should have an answer to what was passed considering all the county has done the past few years in regard to economic development and asked for the thoughts of the other Commissioners. Jim said he agrees that we should make a statement. Nelson asked what was done regarding contractors and Clifton responded that they have put licensing, bonding, engineering, and architectural regulations on residential and commercial contractors. Clifton said now a house in Fort Scott will cost 30-40% more to build and questioned when it comes to economic development why are we making it harder? Clifton recommended writing a letter to the City Commissioners of Fort Scott. Jim asked Clifton if he would stand up and read the letter during the meeting the city is going to hold next week and Clifton responded he would. Justin suggested holding a special meeting of the Bourbon County Commissions Tuesday afternoon to review the letter and approve it. Jim made a motion to hold a special meeting on 4-11-23 at 12:30 with some Commissioners attending by phone to possibly approve a letter written to the City Commissioners of Fort Scott regarding contractors. Nelson seconded the motion and all approved. Clifton said he doesn't want to make a big deal of this but the Commission have put hours into economic development and doesn't want to see that move backwards. Clifton said that next week during the regularly Thursday Commission meeting there will be a CORE Communities presentation dealing with poverty in our county at 9:30.

Jim made a motion to adjourn the meeting at 10:18. Nelson seconded the motion, and all approved.



THE BOARD OF COMMISSIONERS
OF BOURBON COUNTY, KANSAS

[Signature], Chairman

[Signature], Commissioner

[Signature], Commissioner

ATTEST:

Jennifer Hawkins, Bourbon County Clerk

4-13-2023, Approved Date