

PROCEEDINGS OF THE DODGE COUNTY BOARD OF SUPERVISORS

Regular meeting of the Dodge County Board of Supervisors was called to order by Chairman Missel at 9:00 A.M. on Wednesday, June 30, 2021 in the Board Room of the Courthouse, Fremont, Nebraska with the following members present: Beam, Weddle, Strand, Backens, Missel, Tawney and Bendig. Absent: None. Prior to roll call, Chairman Missel announced the meeting to be an open public meeting and that the current open meeting laws are posted on the wall and available for anyone's review.

The Board unanimously declared the meeting legally convened.

The Board unanimously approved the agenda as printed and received and placed on file Certificates of Insurance for NIRMA from Caterpillar Financial Services Corporation; Metropolitan Community College; Papio-Missouri River NRD; and Mainstreet of Fremont, Minutes of the June 15, 2021 Dodge County Planning Commission meeting, Correspondence from NDEE regarding Bluestem Systems, LLC Finishers Concentrated Animal Feeding Operation notice of application for Major Modification located SE ¼, NW 1/4 , Section 6, T20N, R7E, Certificate of Insurance for Eveland Supply Co. and Moving Permit for Doug Marquardt Inc. to move a Drill Rig on June 22, 2021 over county roads.

The Board unanimously approved the minutes of the June 16, 2021 meeting as printed.

At 9:05 A.M., the Board recessed as a Board of Supervisors and convened as a Board of Corrections. Chairman Missel dispensed with roll all members being present.

Under any items of discussion, Supervisor Beam gave an update on numbers of detainees that he didn't have at the last board meeting. In May 2021 there were 141 bookings. On June 16, 2021 there were 70 in custody with 1 of those being on house arrest and 69 being held in Saunders County. Dodge County Corrections has gone back to operating 24 hours a day; all inmates are being housed in Saunders County within 24 hours of their arrest. On June 30 there were 80 detainees with 3 being on house arrest and 77 being held in Saunders County. For the month of June, there have been 117 bookings. Supervisor Beam has been in discussions with Saunders County Correction officials in regards to reviewing the daily rates to house Dodge County inmates. Their proposal is \$73 per person per day. Saunders County charges other counties \$75 and information provided shows Hall County charging \$75 and Scottsbluff County using a sliding scale of \$70 to \$90. Supervisor Beam said the committee feels like Saunders County is within expected costs. He also said that Washington County Corrections stated during a meeting that he attended on June 3, 2021 that they would not have the ability to house all of Dodge County's inmates at any given time because of other commitments. Chairman Missel asked if there were any other material changes to the agreement with Saunders County Corrections. Supervisor Beam said the only issue up for discussion at this time is the rate change. County Attorney Paul Vaughan said he and the Saunders County Attorney would finalize this review and he would place a resolution on the agenda in two weeks asking the Board to approve the rate change, which could be made retroactive to July 1, 2021. County Attorney Vaughan also reported that they are now ready for the judges to sign off on the house arrest and pre-trial release options they would like to provide to some of the non-violent offenders.

At 9:10 A.M., Chairman Missel adjourned the Board as a Board of Corrections until Wednesday, July 14, 2021 at 9:05 A.M.

Immediately thereafter, the Board reconvened as a Board of Supervisors. Chairman Missel dispensed with roll all members being present.

The Board unanimously approved transferring \$150,000 from the Inheritance Tax Fund to the Road Fund. County Clerk Mytty told the Board that no departments have gone over budget in this fiscal year, but the Road Fund is short of cash. He said he had budgeted 1.3 million to come into the Road Fund from Federal Highway Administration funds and Natural Resource District funds, but the money has not come in. The Road Fund doesn't have a cash reserve because they typically don't finish all of their projects which leaves money to carry over each year.

The Board unanimously approved the wage & hour claims in the amount of \$233,253.22.

The Board unanimously approved the financial claims in the amount of \$2,205,149.25. The large claims represented principal and interest payments on the 2019 flood bonds and the first responder loan payments.

The Board, by a 6-0-1 vote, with Tawney abstaining, received the Dodge County Water Rescue Team 2021-2022 budget request in the amount of \$5,000.00 and referred it to the finance committee.

The Board unanimously received a letter from County Treasurer Bargstadt and accepted her recommendation to approve a 2018 tax roll correction for Farm Credit Leasing Services resulting in a tax refund of \$10,576.84.

The Board unanimously approved the reappointment of Stan Vyhldal to the Dodge County Veterans Service Board for a 5-year term expiring on June 30, 2026.

The Board unanimously received a tabulation of proposals for Drainage Improvement (DR4420-0019) Project in Elkhorn Township area/East Fremont reviewed by Joint Water Management Board (JWMB) members June 23, 2021, accepted the recommendation of the JWMB and awarded a bid contract to JEO Consulting Group. Chairman Missel was one of the JWMB members reviewing the bids and he said that by looking at the proposals it is obvious that Fyra Engineering is the low bidder, but they did not include final design phase costs. JEO Consulting Group met all of the qualifications for what is needed to complete the project and their bid was competitive.

The Board unanimously adopted a Resolution declaring Dodge County a "Second Amendment Sanctuary". Chairman Missel explained that this issue had been on the Board's agenda prior to this, but was tabled so that input from Sheriff Hespen could be gathered. Supervisor Tawney said he met with the Sheriff who said he has been in discussions with other sheriffs across Nebraska; he supports adopting the resolution. Paul Von Behren (2046 E. 30th St., Fremont, NE) thanked the Board for their support of this resolution and Supervisor Tawney for following up with Sheriff Hespen.

Committee Reports: Supervisor Beam said that he attended the Historical Society's annual meeting and reported that the May Museum is open and financially strong after over a year being closed due to COVID-19. The Pathfinder Chorus recently held an outdoor concert there, weddings are being held there and the Museum will host some activities during John C. Fremont Days this year. Supervisor Tawney is on the Region 6 Behavioral Healthcare Board of Governors and wanted to extend condolences on behalf of the Dodge County Board of Supervisors to the Duet (formerly ENCOR) location in Fremont. They suffered damages to their newly remodeled facility during a Father's Day fire in Fremont.

A Public Hearing was held to consider the request of Gary & Christopher Reimers of 350 21st Road, West Point, NE 68788 to obtain a Conditional Use Permit (CUP) for a 5,000 Animal Unit Livestock Feeding Operation as per Article 12. Section 2. Conditional Uses 2.19 located in SE ¼ NW ¼ Section 6, Township 20 North, Range 7 East in Cuming Township, Zoning District A-1, Intensive Ag District. **Chris Reimers** was present representing his grandfather, Gary Reimers. He said his grandfather is the landowner, but will have no ownership of this livestock feeding operation. **David Mitchell**, Attorney with Yost Law Firm, was retained by Gary Hasemann, an adjoining landowner. Mr. Mitchell started his testimony by acknowledging that Dodge County is a livestock friendly county. He then went on to outline the concerns that Mr. Hasemann and the surrounding neighbors have with this request. He said they feel the scope of this operation is too large and will have negative bio-security impacts such as the spread of disease and issues with the amount of waste that will be produced. The access issues are also a major issue that will need to be addressed as there is no public access to the property. There is an easement dating back to 1956 on a 20' segment that is for light ag use. Mr. Mitchell pointed out that this operation will require heavy truck traffic in and out of the location for vet appointments, deliveries and the like. The easement access is subject to use by permission; Mr. Hasemann has not granted any access to trucks. There is no electric supply to this property so an easement would also be necessary for the utilities. In the past, in-season crops have been grown on this easement; this operation would eliminate that crop production. Mr. Mitchell summed it up by saying his client is just seeking a common sense approach to granting this conditional use permit. **Gary Hasemann** (Marco Inc.) of 105 E. 2nd, Snyder, NE is the property owner directly north of the proposed operation. He said the easement really isn't an easement, but more of a friendly agreement between neighbors. An easement at this point would require building a ¼ mile road for access to this operation and that would also require rock. He said he would not be able to harvest this land if the road was constructed and snow removal would push the snow either onto his property or Dahl's property. In summation, Mr. Hasemann said the Reimers are wanting to take his property, put a road on it, push more water (including runoff) onto it and remove his ability to receive any income from the harvestable property taken. Supervisor Strand interjected that easements don't have anything to do with Dodge County, they are between landowners. He asked Zoning Administrator Jean Andrews if the CUP could be approved contingent on securing an easement. Ms. Andrews said the Board could approve the CUP with contingencies even though the Planning Commission did not. **Mr. Hasemann** said an easement with the power company would also be needed with the land owners and he was not sure the neighbors would grant it. Supervisor Tawney said he thinks the homework on this project should have been done before the Planning Commission made a decision on it. He said he would not want to go around the decision made by the Planning Commission, but he wonders if they had the full picture in this case. Chairman Missel reiterated that the CUP could be approved with

contingencies on the land access easement and the electrical easement. **Michael Terkildsen** lives next to the proposed operation and testified that he was “shocked that someone wanted to draw a line on their property” (setback) that would limit what a portion of their property can be used for. He went on to say he is concerned about the electrical issues because there have been times they have lost power for days at a time. He also voiced concerns about the increased noise and water, which is known to pool and cause roads to be closed due to standing water. Travis Caspersen with Settje Agri-Systems said they met the set-backs and scored high on the Matrix, acknowledging that they knew the road issues were not ideal. He said they also knew that there could be contingencies placed on the Board’s approval of this CUP. **Claudia Terkildsen**, lives next to the proposed operation and asked if there are any plans for a house to be built for a caretaker. Ms. Andrews said there are no plans for that as far as she know. Ms. Terkildsen also wondered about the urine and potential health issues from it and said wild animals are attracted to these types of operations. They already have turkey vultures making nests in their sheds. **Bill Luebbert**, property owner to the north of the proposed operation asked if there are any plans to expand the lagoon that is already twice the size needed. Ms. Andrews said if they did expand the lagoon size, they would have to come back to the Planning Commission for another permit. The Board, on a 6-1-0 vote, with Supervisor Beam voting no, accepted the recommendation of the Planning Commission and granted a Conditional Use Permit (CUP) for a 5,000 Animal Unit Livestock Feeding Operation as per Article 12. Section 2. Conditional Uses 2.19 located in SE ¼ NW ¼ Section 6, Township 20 North, Range 7 East in Cuming Township, Zoning District A-1, Intensive Ag District, contingent on the owners obtaining an easement for access and utilities and based on the conditional use conforms to the intent and purpose of the regulations and the use conforms to regulations of the district which it is located.

A Public Hearing was held to consider the request of Patricia Taylor of 2056 County Road 13, Ames, NE 68621-2133 to obtain a Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 13, Section 2. Conditional Uses 2.5 located in NW ¼ NE ¼ Section 5, Township 17 North, Range 7 East in West Platte Township, Zoning District A-2, General Ag District. Supervisor Weddle asked how big the borrow pit will be and if it will be considered wetlands. Tanner Almery was present representing Valley Corporation and said the pit will be approximately 25 acres and will be a lake after the materials are pulled from it. The borrow pits for the US-30 realignment project are still pending United States Army Corp of Engineers (USACE) approval. Justin Taylor was present to speak on behalf of his mother, Patricia Taylor, and said one of the benefits for Dodge County is less wear and tear on the roads. Hearing no testimony against the request, the Board unanimously passed a motion to accept the recommendation of the Planning Commission and approved the Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 13, Section 2. Conditional Uses 2.5 located in NW ¼ NE ¼ Section 5, Township 17 North, Range 7 East in West Platte Township, Zoning District A-2, General Ag District, based on the conditional use conforms to the intent and purpose of the regulations and the use conforms to regulations of the district which it is located.

Chairman Missel went back to agenda item 22d to acknowledge that the motion made on that item did not include the statement “based on the conditional use conforms to the intent and purpose of the regulations and the use conforms to regulations of the district which it is located”. He asked Supervisor Strand (who made the motion) and Supervisor Bendig (who seconded the motion) if they would amend their motion to

include the aforementioned statement. The Board unanimously approved amending the previous motion on agenda item 22d to include the statement.

A Public Hearing was held to consider the request of Stebet Properties, LLC of 5290 W. Arid Canyon Dr., Marana, AZ 85658-4067 to obtain a Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 13, Section 2. Conditional Uses 2.5 located in W ½ SW ¼ Section 25, Township 18 North, Range 7 East in Maple Township, Zoning District A-2, General Ag District. Mr. Almery (Valley Corp.) said this borrow pit will be approximately 25 acres and is located at County Road 18 & County Road R. Hearing no testimony for or against the request, the Board unanimously passed a motion to accept the recommendation of the Planning Commission and approved the Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 13, Section 2. Conditional Uses 2.5 located in W ½ SW ¼ Section 25, Township 18 North, Range 7 East in Maple Township, Zoning District A-2, General Ag District, based on the conditional use conforms to the intent and purpose of the regulations and the use conforms to regulations of the district which it is located.

A Public Hearing was held to consider the request of Breakwater LLC of 28001 Ida Cir, P.O. Box 589, Valley, NE 68064 to obtain a Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 14, Section 2. Conditional Uses 2.4 located in S ½ NE ¼ Section 2, Township 17 North, Range 7 East in West Platte Township, Zoning District A-3, Transitional Ag District. Mr. Almery (Valley Corp.) said this borrow pit will be approximately 25 acres and is located at County Road 18 & County Road S. Hearing no testimony for or against the request, the Board unanimously passed a motion to accept the recommendation of the Planning Commission and approved the Conditional Use Permit for a borrow pit for 20626A US-30, North Bend to Fremont as per Article 14, Section 2. Conditional Uses 2.4 located in S ½ NE ¼ Section 2, Township 17 North, Range 7 East in West Platte Township, Zoning District A-3, Transitional Ag District, based on the conditional use conforms to the intent and purpose of the regulations and the use conforms to regulations of the district which it is located.

The Board unanimously adopted a Governmental Entity Resolution to lease, purchase and/or finance a 2021 Cat M320F Wheeled Hydraulic Excavator for 3 years @ \$7,291.71 per month and authorized Chairman Missel to sign the resolution.

The Board unanimously received an agreement from the Nebraska Department of Transportation (NDOT) for a Temporary Road Closure and Detour to improve a portion of State Highway US-79 from north of the intersection of US-30 north (project known as STP-79-3(108) will replace approximately 300 feet of pavement and utilize County Road 4 as a state highway detour route) and authorized the appropriate signatures on the agreement. Highway Superintendent Huppert said the NDOT is tearing this portion of road out for drainage purposes.

The Board unanimously received a letter from Highway Superintendent Scott Huppert regarding the study on a request from Elkhorn Township to vacate a road located at County Road U Blvd. and Road 29 approximately 840 feet where the two intersect along the Elkhorn River, adopted a resolution setting a public hearing date on the matter and authorized the appropriate signatures on the resolution. Superintendent Huppert said he talked to the railroad and landowner to complete his study. The railroad

owns the land and he will request that they add truck turnarounds for the portions of vacated road.

The Board unanimously adopted a resolution authorizing the County Board Chairman to sign the contract for ER-3490(13) Hooper North – Logan Creek Project with Sawyer Construction Co. and authorized the appropriate signatures on the resolution.

The Board unanimously received the Proposal – Work Authorization to remove Bridge C002724735 (County Road 24) Project 629 with culvert pipes and authorized Chairman Missel to sign the document.

The Board unanimously adopted a resolution to set the speed limit of 35mph for a ½ mile segment of Yager Road and authorized the appropriate signatures on the resolution.

Highway Superintendent Scott Huppert updated the Board on current projects. A ten ton weight limit has been placed on west Military Ave. between County Roads 18 & 19. Superintendent Huppert recommends working with the State to overlay the road because water ponding has become an issue. County road workers are currently working on County Road I between County Roads 11 & 12. The next project will be the bridge tear out on County Road 24. NEMA will be in Dodge County on July 8 to finalize the Platte & Elkhorn Townships flood repair projects. NEMA will do site inspections in July on Pebble, Platte, Everett, Elkhorn and Nickerson Townships. Superintendent Huppert will be setting up a meeting with the contractor for the Yager Road project, right-of-ways are stilling being worked out. Superintendent Huppert will be meeting with the State on one of the borrow pit locations. The tractors being used to transport the material from the borrow pit are too heavy for the road and bridges. He will ask the contractor to use trucks to save on the wear and tear. A similar situation exists on the Highway 77 project, contractors are running on roads they shouldn't be, weight limits may need to be posted here. Superintendent Huppert wanted the Board to know that work done by county workers in the State right-of-ways is a continuing problem. For safety purposes, county workers cannot be on the State right-of-way because they can't legally control traffic in these places. The State has said they would provide the needed permits for the county to control traffic, but Superintendent Huppert doesn't want that authority. He would like for other counties and highway superintendents to write a letter to the State to address the issue.

At 11:11 A.M., the Board adjourned as a Board of Supervisors until Wednesday, July 14, 2021 at 9:00 A.M.

Immediately thereafter, the Board convened as a Board of Equalization. Chairman Missel dispensed with roll all members being present.

The Board unanimously approved tax roll corrections #5343 through #5347.

The Board unanimously received a list from County Assessor Churchill of her request for changes to valuations of parcels for 2021 and passed a motion approving and authorizing the County Clerk to mail notices to the owners of the properties.

The Board unanimously received a certification from County Assessor Churchill, per state statutes 77-126, 77-129 and 77-1311, that the portion of the Property Record file substantiating the calculation of the protested value is maintained in her office in electronic or paper form.

The Board unanimously received 2021 Valuation Protests #84 - #285.

The Board unanimously accepted the recommendation of Dodge County Treasurer Gail Bargstadt and approved the 2021 Application for Exemption (form 457) from First Congregational Church UCC, 1550 N. Broad St., Fremont, Nebraska on a 2011 Ford Plate 0526 Sport Van and authorized Chairman Missel's signature on the form.

County Assessor Churchill provided the Board with information on a portion of Lincoln Premium Poultry's (LPP) tax situation. Tax Incremental Financing (TIF) was a big incentive for LPP to locate in Fremont. She was hoping that taxation on their personal property would offset what they saved with the TIF. Assessor Churchill learned that LPP filed with the State to have personal property exempted; of the \$200 million in taxable personal property, approximately \$150 million of that is exempt. She went on to say that this is the last year for this particular program, but next year there will be a new program that LPP will most likely be eligible for.

At 11:18 A.M., Chairman Missel adjourned the Board as a Board of Equalization until Wednesday, July 14, 2021 at 10:00 A.M.

Fred Mytty
Dodge County Clerk