

BOARD OF COUNTY COMMISSIONERS

DOUGLAS COUNTY, NEBRASKA

TUESDAY, July 10, 2018

The Board was convened today at 9:07 a.m. and called to order by Chair Rodgers in the Legislative Chambers of the Omaha-Douglas Civic Center, 1819 Farnam, Omaha, NE. Advance notice of this publicly convened meeting was published in the Daily Record on June 29, 2018, and simultaneously transmitted to all members of the Board of Commissioners. Said notice contained the time and place of the meeting. Commissioners Mary Ann Borgeson, Michael Boyle, James Cavanaugh, Clare Duda, Marc Kraft, P. J. Morgan and Chris Rodgers were present.

Motion by Duda, seconded by Kraft to approve the minutes of the Board of Commissioners meeting held Tuesday, June 26, 2018, and to approve claims submitted for payment processed through Tuesday, July 17, 2018. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

Item II. Motion by Kraft, seconded by Boyle to approve the consent agenda:

- A.** Tom Doyle, County Engineer – requests approval of the following:
 - 1.** Right-of-Way Acquisition (\$1,130.00) Permanent Easement (\$1,170.00) and a Temporary Construction Easement (\$170.00); Tract 1 for Project #C-28(462) Dutch Hall Road east of 264th Street Bridge Replacement. (\$2,470.00 – Budgeted)
 - 2.** Take action on vacating a portion of Fox Farm Road near Reichmuth Road. (Study of the vacation request, and Public Hearing held June 26, 2018)
 - 3.** Supplemental Agreement #2 to the Final Design Agreement for Douglas County project #C-28(434), 18th St., West Dodge Road to West Maple Road. (\$28,326.75 – Budgeted)
 - 4.** Supplemental Agreement No. 1 to the Engineering Agreement on County Projects C-28(391)/(533) for additional bridge design services. (\$6,000 – Budgeted)
 - 5.** Supplement Agreement No. 1 for Engineering Services for NBIS inspection of County bridges for years 2018/2019. (\$152,986.00 - Budgeted)
 - 6.** Roadway and Cost Participation Agreement with Elkhorn Public Schools to construct certain public improvements associated with the development of the new Elkhorn High School. (Budgeted)
- B.** Resolution in the matter of witness fees paid by Douglas County, which have remained unclaimed for six months or more. (Daniel A. Esch, County Clerk/Comptroller)

- C. Approval of Interlocal Agreement between Douglas County and Washington County for maintenance of Washington County's land mobile radio system. (David Sleeter, Douglas County Emergency Communications Director)
- D. Eric J. Carlson, Purchasing Agent – Bid Acceptances:
 - 1. TouchPoint Customer Communications to provide Printing and Mailing Tax Statement in the estimated amount of \$20,068.50. (Budgeted)
 - 2. Express Messenger Systems, Inc. dba OnTrac to provide Courier Services in the amount of \$51,096.00 annually. (Budgeted)
- E. Resolution to approve "Demand for Refunds." (\$66,463.70 – Budgeted) (Property Tax Division – Treasurer)
- F. A Resolution to approve a Memorandum of Understanding between Douglas County, Washington County, Sarpy County, Pottawattamie County and the Omaha Public Power District for radio system integration. (Kathy Allen, Douglas County Emergency Communications)
- G. Approval of agreement with Empowerment Network for Step-Up Omaha jobs program. (\$187,200 in grant funds) (Catherine Hall, Administration)
- H. Set Public Hearing for **Tuesday, July 24, 2018, at 9:00 a.m. for:**
 - 1. **A farmstead lot split application for a preliminary plat for Frank A. and Carolyn M. Vencil:** A farmstead lot split preliminary plat of proposed Lot 1 of F & C Subdivision One, a one-lot subdivision in the NW1/4 NW1/4 of Section 5-Township 14 North-Range 10 East of the Sixth P.M. (address: 4201 S. 264th Street). (Doug Cook, Environmental Services)
 - 2. **A farmstead lot split application for a final plat for Frank A. and Carolyn M. Vencil:** A farmstead lot split final plat of proposed Lot 1 of F & C Subdivision One, a one-lot subdivision in the NW1/4 NW1/4 of Section 5-Township 14 North-Range 10 East of the Sixth P.M. (address: 4201 S. 264th Street). (Doug Cook, Environmental Services)
 - 3. **A rezoning request application for Frank A. and Carolyn M. Vencil:** A rezoning request, from AG Agricultural to RR-2 Rural Residential with Individual Services, of Lot 1 of F & C Subdivision, a one-lot subdivision, in the NW1/4 NW1/4 of Section 5-Township 14 North-Range 10 East of the Sixth P.M. (address: 4201 S 264th Street). (Doug Cook, Environmental Services)
- I. Set Public Hearing for **Tuesday, July 31, 2018, at 9:00 a.m. for:**
 - 1. Class #-122493 License (Beer, Wine & Distilled Spirits, On Sale Only) for Zlicious LLC dba Westend, 1529 S 203rd St, Omaha/Douglas County, 68022 and Manager Application for Raechel Van Buskirk, 17565 Ames Ave., Omaha, NE, 68116.
- J. Approval of Monthly Fee Report (May, 2018). (Daniel A. Esch, Douglas County Clerk/Comptroller)
- K. Daniel A. Esch, County Clerk, presenting claim of the following pursuant to the Nebraska Political Subdivisions Tort Claims Act (***refer to County's Risk Manager for review and determination***):
 - 1. Kris David DiMartino
 - 2. James A Cooper

Speaking regarding items in the agenda were Commissioners Cavanaugh and Rodgers.

Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion to approve the consent agenda passed.

III. Recognition/Proclamations:

A. (Recognition of the following County Employee retired: **Robert Christensen** has retired from Douglas County Communications after 17 years of service. (Karen Buche, Civil Service/HR))

B. (Recognition of the following County Employee retired: **Michael Havlik** has retired from Douglas County District Court after 39 years of service. (Karen Buche, Civil Service/HR))

C. (Recognition of the following County Employee retired: **Clyde Newsome** has retired from Douglas County Department of Corrections after 8 years of service. (Karen Buche, Civil Service/HR))

Motion to approve by Boyle, second by Duda. Speaking was Commissioner Rodgers. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

VI. Public Hearing: B. (Resolution directing Douglas County to Initiate Acquisition Proceedings Under Neb. Rev. Stat. §§ 25-2501, et seq.- Acquire/Exercise Eminent Domain on parcel number 1515520000. (Jimmie L. Pinkham III, County Attorney's office) **(Action can be taken today.)**) Speaking were Commissioners Kraft and Rodgers. Item will be taken later in the meeting.

V. Presentations:

A. (Status of Court Referral Program presented by ~~Lori Elkins, United Way of the Midlands, and~~ Ron Murtaugh, Douglas County Court Administrator. (Commissioner Mike Boyle)) Speaking were Commissioner Boyle, Ron Murtaugh, Judge Marcela Keim, Commissioners Kraft and Borgeson.

B. (Douglas County Fair, July 12 – 15, 2018, presented by Matt Gunderson. (Commissioner Marc Kraft)) Speaking were Commissioner Kraft, Matt Gunderson and Commissioner Boyle.

Motion by Duda, second by Boyle to reconsider item **II.K.1.** (Daniel A. Esch, County Clerk, presenting claim of the following pursuant to the Nebraska Political Subdivisions Tort Claims Act **(refer to County's Risk Manager for review and determination)**: Kris David DiMartino) Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed. Speaking were Chief Administrative Officer Patrick Bloomingdale, Commissioner Rodgers and Kris David DiMartino. Motion by Boyle, second by Morgan to refer item to the county risk management. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

VI. Public Hearing: B. (Resolution directing Douglas County to Initiate Acquisition Proceedings Under Neb. Rev. Stat. §§ 25-2501, et seq.- Acquire/Exercise Eminent Domain on parcel number 1515520000. (Jimmie L. Pinkham III, County Attorney's

office) (**Action can be taken today.**) The public hearing was opened at 9:34 a.m. Speaking were Commissioner Rodgers, property owner Bob Perrin, President of the City Council and part of the 501c3 Committee Ben Gray, Commissioner Cavanaugh, Brian Whetstone from Restoration Exchange Omaha, Tyler Wilson, Marty Hosking, John Leclerc and Brian Smith. The public hearing was closed at 11:19 a.m. Motion to approve by Borgeson, second by Morgan. Amendment to the motion by Cavanaugh to lay the item over for four weeks. Speaking was Commissioner Cavanaugh. There was no second to the motion. Speaking were Commissioners Kraft, Boyle, Morgan, Duda, Borgeson and Rodgers. Yeas: Borgeson, Boyle, Duda, Kraft, Morgan, Rodgers. Nays: Cavanaugh. Motion passed.

The Board recessed at 11:59 a.m. with no action.

Motion by Boyle, second by Duda to reconvene at 12:07 p.m. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

Motion by Boyle, second by Morgan to reconsider item I.B. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Rodgers. Abstain: Morgan. Motion passed.

Speaking to the abstention was Commissioner Morgan.

Motion by Boyle, seconded by Duda to approve the claims submitted for payment processed through Tuesday, July 17, 2018. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Rodgers. Abstain: Morgan. Motion passed.

VI. Public Hearing: A. (Budget hearing and adoption of proposed 2018/2019 Douglas County Budget. (\$395,635,464) (Joe Lorenz, Director of Budget and Finance) (**Action can be taken today.**) The public hearing was opened at 12:09 p.m. Speaking were Joe Lorenz, Commissioner Cavanaugh, Chief Administrative Officer Patrick Bloomingdale, Doug Kagan from Nebraska Taxpayers for Freedom, Commissioners Morgan and Boyle. The public hearing was closed at 12:26 p.m. Motion to approve by Duda, second by Boyle. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

Item **VII. A. 1.** (Budget report), accepted as presented. Speaking was Commissioner Boyle.

Taken next were the following items:

Item **VII. A. 2.** (Resolution approving Reimbursement Agreement with the Omaha-Douglas Public Building Commission for the Building Commission to advance funds for initial phase of justice center project. (Approximately \$1,450,000 – Budgeted) (Commissioner Mary Ann Borgeson)).

Item **VII. A. 3.** (Resolution approving “owner’s representative” agreement in regards to the Justice Center/Youth Center development project. (Commissioner Mary Ann Borgeson)).

Item **VII. A. 4.** (Resolution approving Juvenile Justice Center/Youth Center project non-binding MOU between Douglas County and Public Building Commission. (Commissioner Mary Ann Borgeson)).

Item **VII. A. 5.** (Resolution approving “Ancillary Services Agreement” in regards to the Justice Center/Youth Center development project.” (Commissioner Mary Ann Borgeson)).

Speaking to these items were Commissioners Rodgers, Borgeson, Doug Kagan from Nebraska Taxpayers for Freedom, Commissioners Morgan, Borgeson, Boyle and Cavanaugh, for JCDC was Joel Pedersen and Deputy County Attorney Theresia Urich. Amendment by Cavanaugh, second by Kraft to add language to the contracts regarding e-verify. Commissioner Kraft withdrew his second to the amendment. Speaking were Commissioners Cavanaugh,

Motion by Boyle, second by Kraft to recess to go to room 903 at 1:15 p.m. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Kraft, Morgan, Rodgers. Motion passed.

Motion by Duda, second by Morgan to reconvene at 1:35 p.m. Yeas: Borgeson, Cavanaugh, Duda, Morgan, Rodgers. Absent: Boyle, Kraft. Motion passed.

Speaking regarding items VII.A.2. through VII.A.5. were Commissioner Cavanaugh, Joel Pedersen, Commissioners Borgeson and Morgan, Budget and Finance Director Joe Lorenz.

Motion by Boyle, seconded by Borgeson to approve item **VII. A. 2.** (Resolution approving Reimbursement Agreement with the Omaha-Douglas Public Building Commission for the Building Commission to advance funds for initial phase of justice center project. (Approximately \$1,450,000 – Budgeted) (Commissioner Mary Ann Borgeson)). Speaking were Chief Deputy Douglas County Clerk Sheri Larsen, Deputy County Attorney Theresia Urich, Commissioners Rodgers, Duda and Cavanaugh. Motion by Cavanaugh to layover items VII.A.2. through VII.A.5. for four weeks. Motion died for lack of a second. Speaking was Commissioners Boyle. Yeas: Borgeson, Boyle, Duda, Morgan, Rodgers. Nays: Cavanaugh. Absent: Kraft. Motion Passed.

Motion by Boyle, seconded by Borgeson to approve item **VII. A. 3.** (Resolution approving “owner’s representative” agreement in regards to the Justice Center/Youth Center development project. (Commissioner Mary Ann Borgeson)). Motion by Borgeson, second by Boyle to approve the amendments submitted by Commissioner Borgeson. [section 2.12. JCDC's Project Manager shall ~~act as the Owner's representative in coordinating~~ coordinate and ~~assisting~~ assist the Architect in the preparation of bid documents.]. And section 2.13. [JCDC's Project Manager shall coordinate and assist the Project Team in the review of the Project construction contract, and related subcontractor, vendor and supplier bids, ~~and shall act as the Owner's representative for including providing~~ required approvals, if any consistent with the Control Budget.] Yeas: Borgeson, Boyle, Duda, Morgan, Rodgers. Nays: Cavanaugh. Absent: Kraft. Motion to approve the amendments passed. Vote to approve item VII.A.3. as amended. Yeas: Borgeson, Boyle, Duda, Morgan, Rodgers. Nays: Cavanaugh. Absent: Kraft. Motion passed.

Motion by Boyle, seconded by Duda to approve item **VII. A. 4.** (Resolution approving Juvenile Justice Center/Youth Center project non-binding MOU between

Douglas County and Public Building Commission. (Commissioner Mary Ann Borgeson)). Yeas: Borgeson, Boyle, Duda, Morgan, Rodgers. Nays: Cavanaugh. Absent: Kraft. Motion Passed.

Motion by Boyle, seconded by Duda to approve item **VII. A. 5.** (Resolution approving "Ancillary Services Agreement" in regards to the Justice Center/Youth Center development project." (Commissioner Mary Ann Borgeson)). Yeas: Borgeson, Boyle, Duda, Morgan, Rodgers. Nays: Cavanaugh. Absent: Kraft. Motion Passed.

Item **VII. G. 1.** (Weekly Personnel Report from Civil Service), accepted as presented with no discussion.

Item **VII. G. 2.** (Legislative issues) Speaking were Commissioners Rodgers and Morgan.

Motion to recess to Executive Session in order to protect the public interest with respect to discussion regarding litigation and negotiations at 2:27 p.m. by Boyle, second by Borgeson. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Morgan, Rodgers. Absent: Kraft. Motion Passed.

Motion to reconvene and adjourn by Boyle, second by Borgeson at 2:50 p.m. Yeas: Borgeson, Boyle, Cavanaugh, Duda, Morgan, Rodgers. Absent: Kraft. Motion Passed.