

March 5th, 2019
Antelope County Board of Commissioners
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session on Tuesday, March 5th, 2019 at 9:00 AM in the County Commissioner's Room, Antelope County Courthouse Annex, Neligh, Nebraska. Meeting was called to order by Chairman Borer, with the following board members responding to roll call: Jacob, Bentley, Smith and Borer. Henery absent. Chairman Borer stated that the open meeting laws are posted on the east wall of the Commissioner's room with more copies available at the County Clerk's Office.

Notice of the meeting was given in advance thereof by publication in the four county newspapers, legal newspapers printed and in general circulation in Antelope County, Nebraska as shown by proof of publication filed in the County Clerk's office. Agenda for said meeting was sent to all members of the County Board of Commissioners. Chairman stated public comments and discussion of agenda items will be before the board takes up the agenda item. Upon the conclusion of public comments, the board will then take up the agenda item. No additional questions or comments will be taken from the audience, including elected officials, unless they are requested by the board.

Pledge of Allegiance was recited.

Agenda: Motion by Commissioner Bentley, seconded by Commissioner Smith to approve agenda. Voting aye: Smith, Bentley, Jacob and Borer. Henery absent. Nays none. Motion carried.

Motion by Commissioner Bentley seconded by Commissioner Jacob to **approve the Minutes of February 5th, 2019 Board of Commissioner Meeting** as presented. Voting aye: Bentley, Jacob, Smith and Borer. Nays none. Henery absent. Motion carried.

Motion by Commissioner Smith seconded by Commissioner Bentley to **approve the Minutes of February 12th, 2019 Board of Commissioner Meeting** as presented. Voting aye: Smith, Bentley, Jacob and Borer. Henery absent. Nays none. Motion carried.

Motion by Commissioner Borer seconded by Commissioner Jacob to **approve the Minutes of February 12th, 2019 Board of Equalization Meeting** as presented. Voting aye: Borer, Jacob, Smith and Bentley. Henery absent. Nays none. Motion carried.

Correspondence was reviewed: Cost estimate of video equipment for Meeting Room, 2018 Annual Report from NIRMA; Letters from Invenergy regarding Ice Sling) – John Majewski (4); Federal Buy Back Program fund release; Past Due Bridge Inspection Reminder; TransCanada proposed Antelope County Road Use Agreement; February Current Expenditure Report; Commissioner Smith reported on the NE Nebraska Area on Aging meeting he attended last month. Statistic: 1999-2018 there has been a 62% reduction in people in nursing facilities in the Northeast District, and the home-based care has picked up by 126%.

Receipts: \$4,000.00 Village of Clearwater – purchase salt spreader; \$8,765.55 Upstream Wind Energy – JEO Consulting reimbursement. (both to Road & Bridge)

Road Superintendent Report:

Occupancy Permit – ERPPD; ERPPD presented a permit form in which it appears to have been a resolution in which they changed the wording. Brian McDonald, Joe Abler and Casey have looked at the form. Joe mentioned it appears to look like our underground permit. Wanting to protect the County from future liability, all were in agreement to make sure to be on the same page. Casey suggested he and County Attorney could get together over the next week. Motion by Commissioner Smith, seconded by Commissioner Bentley to table Occupancy Permit until next week. Voting aye: Smith, Bentley, Jacob and Borer. Henery absent. Nays none. Motion carried.

TransCanada Pipeline Roads Agreement: Casey believes Dan Forbes from TransCanada will be here next week. The current agreement was sent to him last week. This is a conversation starter, as we are in the beginning stages. Commissioner Smith suggested one change as Item #33, he would like to see an A Rating Company, instead of 'a sound company.' Casey was not sure what TransCanada is needing at this point. Attorney Abler stated #35 maybe needs to have the 'special assessment' clause (like what was added to the Invenergy Agreement). Casey would like to see this agreement reflect similarly to the wind towers.

Damage to the Clearwater Bridge on 516th Avenue going south on the edge of Clearwater. One piece of a 'W' shaped rail and 2 posts, the bridge is functioning. Brian McDonald has been contacted. We will be repairing when the ground is thawed.

State Bridge Match Funding: During the One-and Six- Public Hearing we discussed the 'State' would not be available to design our box culverts until after the Lincoln South Project is complete. JEO can design these box culverts for \$4,500.00 and they would be ready to let bids next month. The state would not charge for this, but if the project does not get done before the end of November the County loses out on the matching money (\$200,000.00). The Commissioners agreed verbally to proceed with JEO Consulting design.

GPS Info: Casey is gathering information, and requested the full board before the item is moved for vote. Commissioner Smith moved to table the GPS monitoring equipment until next week. Motion seconded by Commissioner Borer. Voting aye: Smith, Bentley, Jacob and Borer. Henery absent. Nays none. Motion carried.

Two (2) New Hires: Both are out of the Neligh Barn right now. Both are working out well, and they have been needed with the snow. Reflectometer is in and is working great. There is approximately 140-150 old signs. Alter will take them, figuring about \$10.00 a sign. Casey is looking at purchasing a computer to utilize with the sign program. He is needing internet access card or phone. Commissioner Smith suggested a data usage subscription on a tablet with the phone company. Casey will look into this.

Commissioner Jacob asked about the **grader that is down**. There is not an extra grader at this time. The cold and snow has been hard on the equipment. The repairs have been constant. Commissioner Jacob wondered about renting a machine. Discussion. Casey will call and see what is available for rent in case the need is there to rent. Casey will check on repairs on current equipment.

Liz Doerr, **Zoning Administrator** gave a short report of the office. Liz presented her February Permit Report, which was reviewed and put on file. First item is a complaint on ice sling. The second Pudenz Farms, they are making improvements and adding livestock so they had two (2) permits. The Lewis and Clark Watershed mapping project is underway. There are two (2) other projects in the making along the Elkhorn River area, at which time Antelope County will be mapped. There will digital maps, that can be downloaded/overlaid to GPS, etc. There will be more meetings in the future.

Merit Mechanical Claim: During the February 12th, 2019 meeting the Merit Mechanical bill was denied for documentation. Today, the documentation was presented did not substantiate the claim. It was requested to get more information. No further action.

Recycling: Commissioner Bentley looked into the recycling interlocal agreement origin. There is an interlocal agreement with three (3) Antelope County Communities. Elgin and Clearwater currently do not have a full-blown recycling program. He did not feel the County

should be responsible for subsidizing a program that is not in compliance with the statute that it was all written about. The interlocal agreement states a wrong statute. He stated he did not believe Clearwater and Elgin are stepping up to provide their part of the agreement. Both sites they provide a receptacle for recycling paper, cardboard, etc. Both Village Clerk stated they have lots of rural residence who utilize the paper receptacles weekly, and the receptacles are full weekly. The Village Clerks stated the garbage rates will raise significantly if they are not able to utilize the recycling. The recycling dumpsters (6-9 yard) are full weekly. It was verified by having the recycling, the trash rates are lower. After further discussion it was in agreement to proceed as normal. Commissioners acknowledging the new information was valuable. No further action taken.

The Olson Group: Employee Benefits Consulting Firm; Travis Marin and Adam Hall gave an approximate half hour presentation about benefits and health insurance, self-insurance, and other County benefits. They discussed various carriers, options and services. No action taken.

Follow-up Jail Report: Sheriff Robert Moore met with the Commissioners regarding **follow-up of some audit discussion** from last meeting. It was asked to figure how much it costs to hold an inmate from another county. Another way to look at this is to figure what it costs to keep the Antelope County Inmate in our jail if we didn't have the extra inmates and the funds they bring in. In 2018, \$7,485.16 for Antelope County inmates' meals. The medical expense for 2018 was \$7,743.50, and currently the 2019 expense is at \$2,868.00. Currently, Antelope County houses inmates from Holt, Knox, Boone, Washington, Stanton, and Wayne. The funding from this takes care of the above expenses. In addition, in November 2018, close to \$147,000.00 from the Jail fund was used to pay for the Lierman Attorney bill of close to \$94,000.00 and paid the balance to the general fund to defray the insurance premium increase from summer 2018. The \$94,000.00 did not have to be taken out of the general fund. Today, the fund has over \$333,721.95 that is money from outside sources - not tax dollars. The Commissary Fund balance stands at approximately \$59,297.25 that is money generated by the selling of Commissary Items to the inmates, whether they are Antelope County Inmates or not. The markup on these items generates a fund that is able to pay for the mattresses, uniforms, pillows – and other stuff related to the inmates. It is an inmate funded account. So, the cost of housing on outside inmate is water, hot water and a little electricity. The bond has to be paid whether the building is full or not. The most recent three (3) vehicles were paid out of the Jail Fund, not tax dollars. Antelope County does have a catastrophic insurance policy for the catastrophic incident that could happen. Sheriff Moore commended his staff again for helping to build the fund and the great work and effort put forth. Commissioner Borer asked if Sheriff knew his overhead cost per day before he started taken the additional inmates. Sheriff Moore stated the heating, cooling and staffing is the same. Sheriff Moore was asked if he could shed some light on the Merit Mechanical claim. Sheriff said they did service the unit both in August-September and October-November there was quite a bit of time trouble shooting and servicing the unit. He discussed with the Commissioners regarding the back-ground of Merit Mechanical and not Trane. It was an urgent issue and he got someone out to work on it. He asked the Commissioners if he could follow up on this and have a solid answer for next week. The Commissioners were in agreement.

NIBRIS Commissioner Bentley asked Sheriff Moore if he had found out anything more about the NIBRIS System. Sheriff Moore said he is submitting the claim this month. Sheriff said he has been training on this system for two (2) years. He has talked to other Sheriffs and he knows this is working for the those counties. Sheriff stated it is not about price, it is what he wants, because it is working for the other Sheriff's Departments and it is working and proven. It has been researched in the Sheriffs Office and it will complement the work they are currently doing. The program is 'Justice'. Commissioner Bentley asked if Sheriff was aware there was a 'free' program out there? That is just NIBRIS – it is not free – Sheriff said he would not debate this. He needs the program and to get it up and running. Commissioner Bentley said he has a fiduciary job to the tax payers, and the program does not need to be implemented until next year. Sheriff stated he needs to get this in now, so he knows it is up and running correctly at that time. Commissioner Bentley stated "I want to make it clear that I have been asked by elected officials over and over and over to contact them directly. I have personally emailed Bob I don't know how many times to discuss this. Tom, I think you have. I have been preached to for three (3) months, Allan come directly to us, come directly to us. I have tried. I have tried right here and I can't get answers so I investigated myself. I have got some answers. I don't have the solution Bob. I am not giving you a solution. I am just giving you other options. I am not saying these are good ones. But I would like to see you look at some other options then just walking off, because..." Sheriff Moore stated he has looked at his options. Commissioner Bentley, asked if he had enough money in his fund to pay for it. Sheriff stated yes.

Chad Svoboda, from **Svoboda Benefits Group** met to discuss self-insurance and other benefit package offered. He met for an approximate 25 minutes. Discussion of the uniform insurance application. No action taken.

Ice Sling: Alex Fore, representative from Invenergy spoke in response to the violation filed by Liz Doerr, Antelope County Planning and Zoning. He read a prepared comment. "Thank you to the Commissioners and the community for having me out today, to speak about recent issues concerning the Upstream Wind Farm. These are issues that we at Invenergy take seriously. We are thankful that the Commissioners and the Zoning Administrator have been willing and able partners in addressing icing. And more importantly, safety. We appreciate the running dialogue in January and February. Because it has helped us better define the problem, engage the right technical experts and then zero in on a better solution. It is important to say up front that compliance with our Conditional Use Permit is imperative and we firmly believe that we are acting in compliance with Upstream CUP and in good faith with statements made since 2016 about how Invenergy will approach shut downs when icing conditions are present. Compliance is accomplished by allowing winter ice operation mode (WIOM) to detect ice buildup and prompt a turbine shutdown. Which correspondingly, results in a reduction in ice sling as described in Invenergy's letter to Liz Doerr, on February 21st. This is our letter in response to follow-up questions from the Board after the February 5th meeting. As I said before, we greatly appreciate seeing those specific concerns while an advance many discussion, because it gives us time to investigate what is happening, and then give you the answers, you deserve. Using WIOM as our method of compliance has always been Invenergy's position. But as we also described in that letter, we strongly suspected the perimeters were not set appropriately by the OEM. This has been addressed through multiple meetings, phone calls and data reviews. The OEM made the necessary adjustments to their program, to which they have sole access, based on their intellectual property provisions in order to illicit earlier identification of ice buildup and faster turbine shutdown. And therefore, a corresponding improvement in the reduction in ice sling. Moving beyond just the adjustments that were made the week ending February 15th, and our correspondence with Liz on the February 21st. I would like to inform you today, about new events that occurred between, Saturday, February 23rd and Monday, February 25th, so two (2) weekends ago. The sequence of events that occurred between the 23rd and 25th, were a clear demonstration of Invenergy's commitment to responding to wind turbines in a safe expeditious and uniform matter across all of the wind projects we operate in Antelope County. Invenergy takes the concerns of the community seriously and is committed to safety. After GE adjusted WIOM parameters as described in our letter, weather at Upstream on the morning of the 23rd was conducive to icing, which was also confirmed in person at the site. These ambient conditions prompted behaviors from the turbines that you would expect to see if WIOM was identifying ice build up early and responding with shutdowns. These conditions began overnight and reached levels by early morning on the 23rd that caused the turbine to signal an alarm. The exact alarm that we were expecting to see after GE's adjustments. Confirming that the adjusted WIOM settings worked as designed. By approximately 9 AM, 16 of the 81 turbines had shut down in this sequence as a direct result of ice detection. By 11 AM 63 of the 81 had shutdown. Some of these turbines remained off line for well over 24 hours as the weather passed through. Still others, when a restart was attempted after weather had passed and visual verification confirmed that no ice had built up on the blades took until Monday morning because of subsequent faults in the main electrical and auxiliary systems unrelated to icing. The site was not fully restored until mid-morning on Monday. We are highlighting these events because they are real world validation, that the WIOM parameter adjustments

implemented on February 15th worked as intended. Turbine shutdown as a result of ice detection alarms is the chosen method of compliance. It was clearly demonstrated through this recent case study. Furthermore, we will continue to monitor site conditions at Upstream remotely in case ambient conditions prompt automatic shutdowns again this winter and spring. We will also be performing these same checks for Prairie Breeze I, Prairie Breeze II and Prairie Breeze III, on all turbines that are less than 1.5 x the rotor height plus half the rotor diameter from public road at all four (4) facilities. They have these WIOM settings in effect. Prairie Breeze may have different provision in the CUP, but we felt as prudent safe operators of wind turbines in Antelope County that it was important to have uniformity in how we address the issue. As always if there are concerns or complaints as they relate to ice buildup on blades at Upstream or Prairie Breeze, we would welcome the opportunity to address the situation in real time, which Liz and I have discussed safely and expeditiously so that when I situation is occurring, we can address it in the moment. Thank you very much for allowing me to make these public comments today and to your constituents. I would be happy to take your questions.”

When asked what was changed. Mr. Fore said an alarm that needed to be turned on had not been in the past, that alarm was enabled. When asked which towers that were shut down during the icing it was confirmed the towers close to the roadways. Commissioner Bentley stated he did witness the shutdown. Commissioner Smith asked if it was automatic or is the alarm then controlled by humans – it was confirmed the shutdown was automatic. Liz Doerr was identified as the contact person for notification of Invenergy to report ice sling/or blade concerns. She did not oppose, and if somebody else was added as a contact she suggested she needed to know if there is complaint made so she can properly log it, and follow up. Invenergy suggested two (2) people, because it is a controlled facility. Casey Dittrich said he would be available also. Invenergy does not feel this will happen all that frequently, because of the safeguards they have put in place, to keep the human in the loop is their goal.

Phone Numbers for Invenergy: Invenergy will make the local O & M building telephone numbers published. Invenergy is hoping to minimize the number of calls being made to the control/command center – so they are requesting names of individuals representing the county appointed to make these calls. They would then be given clearance to call the command center.

Signage – they are similar in size to a road sign - will be placed on the Upstream towers to identify address of each particular tower. The target date is May. Some of the Prairie Breeze projects do not have address identification signage by the roads. James Williams, Invenergy, said all turbines will have location information by the May date (weather permitting). The wind turbines have a number on them to identify and the address will help to identify location. The four (4) projects have numbers beginning at one (1) so there are multiple turbines with same turbine number – the address will help distinguish the different towers. Sheriff Moore has agreed to be the point of contact – as his office is ‘always’ available.

Notice of Violation: Liz Doerr asked if the above actions release the Notice of Violation. It was agreed to check how the turbines work this week with the weather prediction. Commissioner Smith asked if he could have a review of the shutdown of the turbines on the February 23-25th weather conditions. Mr. Alex Fore agreed it would be available next week.

Thunderhead Conditional Use Permit: Set backs for the project – It was asked if there is any way the turbines being proposed next to the roads in this project could be moved the 100 feet to prevent any future ice slinging on the road. Invenergy is in the process of finalizing the site plan at this point. They will take that into consideration, while they are finalizing the site plan. The site plan will be reviewed by the Planning Commission. – When the plan is presented, the Planning/Zoning Board can make comments and suggestions to be considered. If there is an issue, it will be taken into consideration by the site plan coordination. James Williams promised they will keep the 1.1 x the blade length + 90 feet into consideration in the final site plan layout.

Signing of 835th Road Closing Resolution: Motion by Commissioner Smith, seconded by Commission Bentley to authorize Chairman Borer to sign the resolution to close the roadway to traveling public and retain the right of way. Voting aye: Smith, Bentley, Jacob and Borer. Nays none. Henery absent. Motion carried.

ANTELOPE COUNTY, NEBRASKA
RESOLUTION 2019-03-0001
½ Mile of 835th Public Hearing

WHEREAS, a petition was filed with the County Clerk requesting that Antelope County considered the possible vacation or abandonment the ½ mile of 835th Road to the west of 518th Avenue in Antelope County Nebraska. Located between Section 29 and 32 Logan Township (23-7) Antelope County, Nebraska.

WHEREAS, Antelope County directed the Highway Superintendent to make a study of the use of the road and held a public hearing to discuss possible vacation or abandonment of the above described road.

WHEREAS, it was found to be in the public interest that the County close the roadway to the traveling public but retain the Right-of-Way.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, said road be vacated and the right-of-way easement revert to the adjacent property owners.

Adopted this 5th day of March 2019, at Neligh, Nebraska

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF ANTELOPE COUNTY, NEBRASKA

___/s/ Lisa Payne (seal) ___
Lisa Payne, Clerk

___/s/ Tom Borer _____
Tom Borer, Chairman

Commissioner Smith _____

Moved the adoption of said Resolution Roll Call: 4_Yea 0_Nay

Resolution adopted, signed and billed as adopted. 1 absent

During the February 12th, 2019 meeting a resolution was signed adopting and approving the execution with the Department of Transportation of the State of Nebraska. This was approved during the meeting; however, the resolution was a sample, and had ‘SAMPLE’ in the background of the written resolution. It was retyped and presented for signing today.

ADOPTING AND APPROVING THE EXECUTION
WITH THE DEPARTMENT OF TRANSPORTATION OF
THE STATE OF NEBRASKA

Antelope County

RESOLUTION NUMBER 19-02-00003

WHEREAS, the State of Nebraska Department of Transportation intends to construct a Federal Aid Bridge Replacement project on US 275, in rural Antelope County. The project is located at RP 35.96 approximately 4.68 miles east of the Clearwater corporate limits and approximately 0.07 miles easterly of the intersection of County Road 851st Road and US – 275. The project is under the designation of NH-275-5 (145), Control No. 32213, also known as Clearwater East Bridge in rural Antelope County; and

WHEREAS, as part of the State’s project, that Sate will remove and replace the existing bridge on US-275 with a new concrete box culvert, currently planned to be a quadruple 10-ft x 5-ft. structure. This bridge is designated as State Structure S275 03596 (“Bridge”), and

WHEREAS, the Bridge will be removed and reconstructed under traffic on US-275 with alternating one-way traffic controlled by a temporary signal, and

WHEREAS, during the removal and reconstruction of the Bridge it will be necessary to temporarily close 851st Road and the intersection of US-275 to accommodate the temporary signal zone, and

WHEREAS, State has previously indicated through their public outreach program that a local detour will be used on designated county roads, and

WHEREAS, County has agreed to use this detour route, and

WHEREAS, County agrees to sign the temporary road closure for 851st Road and the designated detour.

NOW, THEREFORE, be it resolved by the Board of Commissioners of Antelope County, as authorized by the Chairman of the Board of Antelope County, The County shall enter into an Agency Agreement with the Nebraska Department of Transportation for Project No. NH-275-5 (145) for the purpose of highway improvements on Highway 275 with the corporate limits of Antelope County.

The Chairman of the Board of Commissioners is hereby authorized and directed to execute said agreement on behalf of the County of Antelope, and the County Clerk is authorized to attest said execution.

This resolution will be marked Exhibit “C” and a copy attached to each Original Agreement.

PASSED AND APPROVED this 12th day of February, 2019.

___/s/ Thomas Borer _____
Thomas Borer, Chairman
Antelope County Board of Commissioners

ATTEST:

___/s/ Lisa Payne _____
Lisa Payne, County Clerk

Motion by: Commissioner Smith, seconded by: Commissioner Bentley to approve resolution and agreement.
Voting aye: Jacob, Henery, Smith, Bentley and Borer. Nays: none. Abstain: none.

Promotional Grant: Orchard Historical Society; Date: March 29th, 2019, April 12, 2019. \$300.00. Motion by Commissioner Smith, seconded by Commissioner Bentley to approve. Voting aye: Smith, Bentley, Jacob, and Borer. Nays none. Henery absent. Motion carried.

Emails- it is at the discretion of the office if they want to change their emails.

The audio equipment for the meeting room will be discussed next week.

Signing claims: The majority of the claims from February did not get signed. The board preapproval reports need to be signed also. Signed February claims.

Motion was made by Commissioner Smith seconded by Commissioner Jacob to **adjourn**. Voting aye: Smith, Jacob, Bentley and Borer. Henery absent. Nays none. Motion passed.

Meeting adjourned at 12:28 PM.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

By: _____
Chairman of the Board, Thomas Borer

Attest: _____
County Clerk, Lisa Payne