

May 2<sup>nd</sup>, 2023  
Antelope County Board of Commissioners  
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session on Tuesday, May 2<sup>nd</sup>, 2023, at 9:00 AM in the County Commissioner's Meeting Room, Antelope County Courthouse Annex, Neligh, Nebraska. Meeting was called to order by Chairman Henery with the following board members responding to roll call: Heithoff, Williby, Jacob, Krebs and Henery. Chairman Henery stated the open meeting laws are posted on the east wall of the Commissioner's Meeting Room with more copies available at the County Clerk's Office.

Notice of the meeting was given in advance thereof by publication in the three (3) 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. The agenda for said meeting was sent to all members of the County Board of Commissioners. Meeting was available by Zoom.

**Pledge of Allegiance was recited.**

**Agenda:** Motion by Commissioner Heithoff, seconded by Commissioner Jacob to approve agenda as presented. Voting aye: Heithoff, Williby, Krebs, Jacob and Henery. Nays none. Motion carried.

**Minutes of the April 11<sup>th</sup>, 2023, Board of Commissioners Meeting:** Motion by Commissioner Williby, seconded by Commissioner Heithoff to approve minutes as submitted. Voting aye: Heithoff, Williby, Krebs, Jacob and Henery. Nays none. Motion carried.

**Minutes of the April 11<sup>th</sup>, 2023, Board of Equalization Meeting:** Motion by Commissioner Krebs, seconded by Commissioner Williby to approve minutes as submitted. Voting aye: Heithoff, Williby, Krebs, Jacob and Henery. Nays none. Motion carried.

**Correspondence was reviewed:** Certified Testing Services Reports 10-15 on the 2021 Pavement Projects; gWorks Correspondence regarding current and proposed rate increases; Community Listening Sessions regarding broadband Access and Digital Opportunities; Sesquicentennial – Letter to 150<sup>th</sup> Committee for Neligh 150<sup>th</sup>; Change Order – 2021 Pavement Project \$472,729.48; A&R Construction – 2021 Pavement Project pay application \$515,351.30; copy of Planning Commission minutes from May 25, 2022; Copy of Brian McDonald's 858<sup>th</sup> Road Study; City of Tilden Annual Report on Community Redevelopment Projects; NENEDD (Northeast Nebraska Economic Development District) membership letter; Tri-County Hazard Mitigation Plan update; NACO proposed renewal rates; Planning Commissions findings and recommendations and other information regarding H&T Seed and Technology; Blade bids from NMC Cat, B's Enterprises Inc, and Midwest Service and Sales Co; Antelope County Nebraska Comprehensive Plan; Letter from Candice Henderson regarding roads to Summerland School; USDA foreign land letter; Inspection Certificates – Courthouse and Weed Department; Certificate of Liability – Rutjens Construction; Thank you from the Arbor Day board regarding tree planting last fall;

**Receipt:** Road and Bridge- selling/recycling metal, \$93.60

**9:15AM Northeast Nebraska Outreach Director** from Senator Ricketts was not able to attend today's meeting. She will hold her mobile office in the basement meeting room.

**Opioid Settlement:** during the initial acceptance of the opioid settlement the Commissioner's motioned to accept the payment but to pay it forward to a behavioral health type establishment. Since that time claims have been presented to initiate the funds to a selected behavioral health organization and had been tabled for further review. Today, Commissioner Krebs wondered if the funds would not be better utilized on more of a preventative side, i.e., the local D.A.R.E program expansion. For instance, stopping the problem before it is created, a more proactive approach. The Commissioners requested to have the County Attorney and County Sheriff in attendance next week to discuss if the funds could remain in the County and utilized in the D.A.R.E. type programs. No action today.

**Contractors Change Order: A & R Construction, 2021 Pavement Repair, Brunswick East, Clearwater North, \$472,729.48.** Motion by Commissioner Williby, seconded by Commissioner Heithoff to approve change order for payment. Voting aye: Heithoff, Jacob, Williby, Krebs and Henery. Nays none. Motion carried.

**Contractors Application for Payment: A & R Construction, 2021 Pavement Repair, Brunswick East, Clearwater North, \$515,351.30.** Motion by Commissioner Jacob, seconded by Commissioner Heithoff to approve and authorize the Chairman to sign Contractors Application for payment. Voting aye: Heithoff, Jacob, Williby, Krebs and Henery. Nays none. Motion carried.

**Resurfacing Parking Lot:** Commissioner Henery inquired into what options are available for resurfacing the Courthouse parking lot. Discussion of hot mix overlay verses cement. The parking lot cement has been eroding in spots. Brian McDonald stated he thought it was the cement mixed used at the time of construction causing the eroding. Discussion of various options. Mr. McDonald suggested projects like that are normally piggy backed off-road projects while contractors are in the area. Asphalt overlay of the parking lot should be bids as we believe it to be a >\$50,000.00. The Commissioners asked Brian McDonald to measure parking lot and get ready for bids to asphalt overlay.

**Set Public Hearing on 858<sup>th</sup> Road** between 521<sup>st</sup> and 522<sup>nd</sup> Avenue. Brian McDonald, Antelope County Road Superintendent presented the road study for closure of this road as petitioned by constituents. Mr. McDonald is available for discussion. Motion by Commissioner Heithoff, seconded by Commissioner Jacob to set public hearing for June 13<sup>th</sup> at 9:30 AM for the possible vacation of 858<sup>th</sup> Road. Voting aye: Heithoff, Jacob, Williby, Krebs and Henery. Nays none. Motion carried.

Road Closing RESOLUTION  
858<sup>th</sup> Road between 521<sup>st</sup> and 522<sup>nd</sup> Avenue  
ANTELOPE COUNTY, NEBRASKA  
2023-05-00002

WHEREAS, the Antelope County Board of Commissioners directed the County Highway Superintendent to study the use of the county road (858<sup>th</sup> Road) located between Sections 1, Township 26, Range 7 and Section 36, Townships 27 North, Range 7 West of the 6<sup>th</sup> Principal Meridian, Antelope County, Nebraska.

WHEREAS, a written report of the use of the road has been completed by the Highway Superintendent and is filed with the County Clerk.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, that a public hearing date be set for 9:30 A.M. the 13<sup>th</sup> day of June 2023 to consider whether or not to vacate or abandon the road. The County Clerk is hereby directed to send copies of this resolution by registered or certified mail to the abutting and adjacent landowners.

Adopted this 2<sup>nd</sup> day of May 2023, at Neligh, Nebraska.

Attest:

Board of County Commissioners

Antelope County, Nebraska

\_\_\_\_\_/s/ Lisa Payne

\_\_\_\_\_/s/ Charlie Henery

Lisa Payne

Charlie Henery

County Clerk

Chairman

Motion by Commissioner Heithoff, seconded by Commissioner Jacob to set public hearing and authorize Chairman to sign.

\_\_5\_\_ Yays

\_\_-\_\_ Nays

\_\_-\_\_ Absent

\_\_-\_\_ Abstain

**9:44 AM CUP Public Hearing – H & T Seed and Technology, LLC:** Chairman Henery opens the public hearing for the Conditional Use Permit submitted by H & T Seed and Technology, LLC. Aaron Hoke and Austin Twibell submitted the application. They proposed to expand their seed business to a new location and to grow and house their business. Because of the nature of their business, they are running seed and are not able to attend

today's public hearing. Zoning Administrator, Megan Wingate opens discussion with: Austin Twibell and Aaron Hoke applied for a Conditional Use Permit (CUP) to operate a seed warehouse and sales office located on a tract containing 6.059 acres +/- in the SE¼ of the SE¼ of Section 6, Township 27, Range 8, west of the 6<sup>th</sup> P.M., Antelope County, Nebraska (Garfield Township). The tract is located in the northwest pivot corner, at the intersection of Highway 20 and 511<sup>th</sup> Avenue. In the administrators report, prepared by Wingate, it states that the site is surrounded by agricultural uses, is zoned RCI (Rural Commercial-Industrial District), is not located on a flood plain and is over a mile from the Orchard Wellhead Protection Overlay District. The access permit was obtained on April 4<sup>th</sup>, 2023 from the Antelope County Board of Commissioners, with the recommendation of Aaron Boggs, Antelope County Road Superintendent, and will be located off 511<sup>th</sup> Avenue. The proposed use is supported in the Comprehensive Plan, under the Goals Section: to promote expansion of agricultural related business and industry; preserve 'prime' cropland; and encourage development of businesses along major roadways. The use shall comply with all other applicable regulations; the uses will not be detrimental to the public or general welfare of the County; will have adequate utilities and access roads, and adequate measures have been taken to provide ingress and egress to minimize traffic congestion. The Land Use Matrix shows 'Agriculture feed mixing and blending, seed sales and grain handling operations-commercial' as requiring a CUP in the RCI District and does require a public hearing.

Chairman Henery asks if there were any questions.

Chairman Henery asked three (3) times for people in opposition to testify. No response. (9:46 AM)

Chairman Henery asks for people in favor to testify. No response. Requests three (3) times. (9:47 AM)

Chairman Henery asks for any general comment. The clerk states she had spoken with a Mr. Lawrence Dohmen regarding the location. He was making sure of the location in proximity to his 'farm'. He had no issues with the CUP or location. No other miscellaneous comments.

(9:49 AM) Motion by Commissioner Williby, seconded by Commissioner Heithoff to close the public hearing. Voting aye: Heithoff, Jacob, Williby, Krebs and Henery. Nays none. Motion carried.

Short discussion. Motion by Commissioner Williby, seconded by Commissioner Heithoff to approve the Conditional Use Permit submitted by H & T Seed and Technology with two (2) conditions.

1. The applicant shall comply with applicable regulations from the Nebraska Department of Roads for signage.
2. In accordance with the Americans with Disabilities Act, one space shall be provided for accessible parking and designated as such with the appropriate signage.

Voting aye: Heithoff, Jacob, Williby, Krebs and Henery. Nays none. Motion carried.

RESOLUTION 23-05-\_\_\_\_\_  
CUP 2301 – H & T Seed and Technology, LLC  
ANTELOPE COUNTY, NEBRASKA

**WHEREAS**, the Antelope County Planning Commission held a public hearing for a Conditional Use Permit regarding a seed warehouse and sales office, operated as H & T Seed and Technology, LLC, located in the SE ¼ SE ¼ of Section 6, Township 27N, Range 8 West of the 6<sup>th</sup> Principal Meridian, Antelope County, Nebraska; and

**WHEREAS**, the intent of the public hearing was to receive public comments regarding the application for a Conditional Use Permit (CUP 2301) to own and operate the facility on a 6.059± acre tract in Section 6, Township 27N, Range 8 West of the 6<sup>th</sup> Principal Meridian, Antelope County, Nebraska; and

**WHEREAS**, the Antelope County Planning Commission found no issues with said application and has approved said Conditional Use Permit and is recommending review and approval of said permit by the Antelope County Board of Commissioners for approval with conditions.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of Antelope County, Nebraska, that a public hearing date was set for 9:40 A.M. the 2nd day of May 2023, to consider whether or not to facilitate the Conditional Use Permit.

**THEREFORE, BE IT RESOLVED BY THE ANTELOPE COUNTY BOARD OF COMMISSIONERS, THAT H & T Seed and Technology, LLC CONDITIONAL USE PERMIT CUP 2301 BE APPROVED WITH THE FOLLOWING CONDITIONS:**

The applicant shall comply with applicable regulations from the Nebraska Department of Roads for signage.

In accordance with the Americans with Disabilities Act, one space shall be provided for accessible parking and designated as such with the appropriate signage.

Adopted this 2nd day of May 2023 at Neligh, Antelope County, Nebraska.

BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

Attest:

\_\_\_\_\_/s/ Lisa Payne \_\_\_\_\_  
Lisa Payne, Clerk

\_\_\_\_\_/s/ Charlie Henery \_\_\_\_\_  
Charlie Henery, Chairman

Commissioner \_Williby\_ moved the adoption of said Resolution; seconded by Commissioner Heithoff.

Roll Call: \_\_\_5\_\_\_ Yea \_\_\_0\_\_\_ Nay \_\_\_0\_\_\_ Absent \_\_\_0\_\_\_ Abstain

Resolution adopted, signed, and billed as adopted.

**Zoning Administrator Report:** Mrs. Wingate attended the public hearing and had no further report today.

**Road Superintendent Report:**

- **Underground Permit:** permit was submitted by Ryan Bergman to place an underground electric line under 861<sup>st</sup> Road in SW¼ Section 18, Township 27, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. Mr. Boggs requests the boring under the hard surface road. Motion by Commissioner Williby, seconded by Commissioner Heithoff to approve and authorize signing. Voting aye: Heithoff, Williby, Jacob and Henery. Krebs out of room for vote. Nays none. Motion carried.
- **Underground Permit:** permit submitted by Jeff Schindler to place an underground electric line under 841<sup>st</sup> Road in SE¼ Section 25, Township 24, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is for electric lines to run irrigation well. Mr. Boggs requests the boring under the road surface. Motion by Commissioner Heithoff, seconded by Commissioner Jacob to approve and authorize signing. Voting aye: Heithoff, Williby, Jacob and Henery. Krebs out of room for vote. Nays none. Motion carried.
- **Underground Permit:** permit submitted by Jeff Schindler to place an underground electric line under 516<sup>th</sup> Avenue in NW¼ Section 31, Township 24, Range 7 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is for electric lines to run irrigation well. Mr. Boggs requests the boring under the road surface. Motion by Commissioner Heithoff, seconded by Commissioner Jacob to approve and authorize signing. Voting aye: Heithoff, Williby, Jacob and Henery. Krebs out of room for vote. Nays none. Motion carried.
- **Underground Permit:** permit submitted by Glen Schindler to place an underground electric line under 516<sup>th</sup> Avenue in SW¼ Section 31, Township 24, Range 7 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is for electric lines to run irrigation well. Mr. Boggs requests the boring under the road surface. Motion by Commissioner Williby, seconded by Commissioner Jacob to approve and authorize signing. Voting aye: Heithoff, Williby, Jacob and Henery. Krebs out of room for vote. Nays none. Motion carried.
- **Underground Permit:** permit submitted by Glen Schindler to place an underground electric line under 841<sup>st</sup> Road in SE¼ Section 26, Township 24, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is for electric lines to run irrigation well. Mr. Boggs requests the boring under the road surface. Motion by Commissioner Williby, seconded by Commissioner Jacob to approve and authorize signing. Voting aye: Heithoff, Williby, Jacob and Henery. Krebs out of room for vote. Nays none. Motion carried.
- **Underground Permit:** permit submitted by Jake Schindler to place an underground electric line under 841<sup>st</sup> Road in SW¼ Section 25, Township 24, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is for electric line to run irrigation well. Mr. Boggs requests the boring under the hard surface road. Motion by Commissioner Jacob, seconded by Commissioner Heithoff to approve and authorize signing. Voting aye: Krebs, Heithoff, Williby, Jacob and Henery. Nays none. Motion carried.
- **Grader Blades:** 3 bids submitted:
  - **B's Enterprises Inc.**
    - 300 Pcs 5/8" x 8' x 7' DBC 5/8" Hole \$94.15 each
    - 100 Pcs 5/8" x 8' x 8' DBC 3/4" Hole \$107.10 each Delivery 3-4 weeks to Neligh shop
  - **NMC CAT**
    - 300 Pcs 5/8" x 8' x 7' DBC 5/8" Hole high carbons #7T-1643 \$127.21 each

- 100 Pcs 5/8" x 8' x 8' DBC 3/4" Hole high carbons #7T-1628 \$142.80 each
- **Midwest Service and Sales Co.**
  - 300 Pcs 5/8" x 8' x 7' DBC 5/8" Hole high carbons #7T-1643 \$94.18 each = \$28,254.00
  - 100 Pcs 5/8" x 8' x 8' DBC 5/8" Hole high carbons #7T-1628 \$107.64each= \$10,764.00
    - Total Truck Load \$39,018.00

Motion by Commissioner Heithoff, seconded by Commissioner Jacob to accept the apparent low bid of B's Enterprises, Inc. Voting aye: Krebs, Heithoff, Williby, Jacob and Henery. Nays none. Motion passed.

NACO Benefits Services: Judd Allen representative from NACO discussed the premium increase and slight changes in the NACO coverage for the 2023-2024 fiscal year. The Commissioners stated this is on the agenda for next week. No action today.

No other issues to discuss.

**Adjourn:** Motion was made by Commissioner Heithoff seconded by Commissioner Jacob to **adjourn**. Voting aye: Krebs, Heithoff, Williby, Jacob and Henery. Nays none. Motion passed.

The meeting adjourned at 10:30 AM.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Chairperson of the Board, Charlie Henery  
Attest: \_\_\_\_\_  
County Clerk, Lisa Payne