

July 3, 2018
Antelope County Board of Commissioners
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session on Tuesday, July 3, 2018 at 9:02 AM in the County Commissioner's Room, Antelope County Courthouse Annex, Neligh, Nebraska. Meeting was called to order by Chairman Kerkman, with the following board members responding to roll call: Schindler, Jacob, Henery, Schwager, and Kerkman. Chairman Kerkman 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.

Pledge of Allegiance was recited.

Correspondence was reviewed: July NIRMA Safety Shorts; Courthouse Visit & Tour on 8-2-2018 Chief Justice Mike Heavican; Class Action Settlement against United Rentals; JEO Letter regarding the one (1) year warranty on Elgin Northeast project; NIRMA Certificates of Liability Insurance x 2; NDOR Past Due Bridge Inspection Reminder; NDOR Upcoming Bridge Inspection Reminder.

Receipts: \$600,000.00 Inheritance Deposit from General.

Liz Doerr, **Zoning Administrator** gave her regular meeting report. Notice of Violation was filed on June 26th, 2018 against the Conditional Use Permit Road Use Agreement held by Upstream. Zoning regulations state that each day is considered a different offence that is fineable up to \$100.00 a day by the court should it go that far.

Road Boss Report:

519th Avenue: Marlin Conry, Road Supervisor for Upstream, Royal Road, addressed the Commissioners regarding follow up of last weeks discussion regarding the damage to 519th Avenue (Royal Road): Marlin stated they acknowledge they did damage the road, and last week did not think it was worth replacing the whole two (2) mile stretch. After meeting with Upstream and discussing and considering the Commissioners opinions they have agreed to repave that whole section of road. They are hoping to amend the road use agreement, as is an agenda item today. They plan on hot mixing the stretch.

Amending the Road Use Agreement: We will put it in black and white the plan for 519th Avenue.

Marlin presented these areas to consider adding to the 'Road Use Agreement': (Shared Map-magenta areas)

- 527th Avenue from 850th Road south to Highway 275 (a little over 3 miles) this stretch was agreed informally for Upstream to maintain-they are making it formal now by including in RUA;
- 519th Avenue (Royal Road) two (2) mile stretch south of 855th Road (mentioned above);
- 522nd Avenue ½ mile north of 855th Road (dirt road) – for crane crossing;
- 528th road south of 855th Road approximately 100 feet south of turbine 40-41 for crane crossing
- Turbine 69 on the corner of 852nd Road and 531st Avenue it is not visible on map it is a short area for crane crossing
- 849th Road and 529th Avenue Intersection – the grade on the top of the intersection needs to be brought down 5-feet it will impact the east-west road for roughly 1/8 of mile in all directions. The start timeline has been changed.

RBR: Casey reported 10 days ago he gave Marlin Conry a list of unsafe Upstream road areas he has noticed. In follow-up these roads have not met his approval, and some of the areas have still not been addressed. Looking for direction from the Commissioners as to how to follow up and what the County can do to make Upstream maintain these roads. There have been two (2) cement truck rollovers on these roads in the last week. Marlin Conry (Invenergy) agreed the priority of IEA (contractor) is not up to normal standards. The public roads need to be a priority! They have equipment working on heavy haul areas. Mr. Conry has put them on notice regarding the maintenance of the public roadways. Some of the signage initiated by IEA is not consistent. Some of the subcontractors are very good with the signage, and work; others are not so diligent. In hindsight, the first rollover accident was not reported to authorities, the second was reported. It was requested by the Commissioners to have all incidents reported to the proper authorities. Marlin is working with IEA to ensure this will happen in the future. Gravel = Sinclair dirt to IEA. Road gravel is Pea Gravel. Antelope County Attorney recommended taking reasonable steps to protect the general public. Casey asked if the steps he has taken (doing some maintaining, listing problem areas, and bringing it to the attention of Upstream and the Commissioners) is sufficient to protect the public. Casey questioned the need to maintain these Upstream roads for safety and traveling purposes. He is agreeable on a paperwork standpoint and maintenance, but the county work flow is compromised. As other projects are in the county work load, and man hours for these 'additional projects' are hard to come by. The road use agreement does indemnify the county if something were to happen, and Invenergy would hold the bag. Upstream is liable to defend the county under all circumstances. This means Antelope County needs to take reasonable steps to bring this to their attention, make sure it is signed appropriately, and do reasonable amount of prevention for public safety. If a road is marked properly it helps ensure the safety of Antelope County Roads. Marlin Conry was in agreement the priority of road safety needs to be addressed. Mr. Conry addressed and agreed to continue to accept the list of issues or "problems" noticed by Antelope County Road Boss. This is helpful in accountability. Mr. Conry agreed that maybe IEA should be forced to hire more graders, to help ensure the work can get completed in a timelier manner. If the county has to go out and maintain roads in the road use agreement Mr. Conry is in agreement of reimbursing the county for time and machine hire. Understanding that the county does not have the employee numbers or time to maintain the additional workload initiated by the road 'improvements' utilized by Upstream.

At any time when a road is added Mr. Conry agreed with the County that the road condition be documented both by video and on paper. IEA is the contractor for many areas with the Upstream agreement. They are doing the radiuses, putting in foundations, and erecting towers. The road maintenance has not been a priority to them and it is *time to make the road maintenance a priority*.

Charlie Henery made a motion to amend the road use agreement ----- (he was asked by the county attorney to hold off until it is in writing and reviewed). It was discussed that adding additional miles to the road use agreement although they are not maintaining roads that are on the road use agreement. Mr. Conry stated that the additional roads are actually minimal work. Some of the additional roads is making a formal action of a verbal agreement. Royal Road will be a priority on this work. Casey agreed maintenance on these additional roads would take to two (2) men and two (2) maintainers approximately two (2) days. Casey believes this is not a 'hard' list. There are less than ten miles needing immediate attention for safety reasons. Commissioner Schwager made a motion to suspend any and all action by Upstream until all roads are declared safe and passable to all public safety. It is possible for Antelope County to shut any road down if it is not maintained and unsafe for public transportation.

The Notice of Violation issued by the Zoning Administrator gave a compliance date of July 17, 2018. The county attorney agreed if the current roads are unsafe and in passible they should be closed, until such time they are passable. Commissioner Schwager rescinded his motion. Road Boss Casey Dittrich stated by 5:00 PM today he will close all roads he feels are unsafe, and they will remain closed until the danger is lifted. Going forward, if he feels a road is unsafe the same will take place and this practice will continue. Casey can and will utilize the Upstream (IEA) maintenance crew.

Amending the road use agreement, Casey requested to work with Brian McDonald and Marlin Conry to document the road. He wants the liability on these amended roads to transfer to Invenergy and Upstream immediately. Board was in complete agreement. No motion was made until all roads are documented and listed. (4:45)

Underground Permit: Motion by Henery, seconded by Schwager to approve the application for permit submitted by Gene Selting to place a permanent electric line beneath 840.5th Road crossing from the NW1/4 of Section 32, Township 24, Range 6 West of the 6th P.M., Antelope County, Nebraska. Gene

Selting – owner and tenant. Electric line to be used supply electricity to grain bin. All work to be done according to County and State specs. Those voting aye: Henery, Schwager, Schindler, Jacob and Kerkman. Nays none. Motion carried.

Underground Permit: Motion by Schwager, seconded by Schindler to approve the application for permit submitted by Dean Smith to place a permanent electric line beneath 865th Road crossing from the SW¹/₄ of Section 29, Township 28, Range 6 to the NW¹/₄ Section 32m Township 28, Range 6, West of the 6th P.M., Antelope County, Nebraska. Dean Smith – owner and tenant. Electric line to be used supply electricity to grain bin. All work to be done according to County and State specs. Those voting aye: Schwager, Schindler, Jacob, Henery and Kerkman. Nays none. Motion carried.

Met as a **board of equalization** for approximately 2 minutes.

Bond Refinancing: Tobin Buchanan from First National Capital Markets met with the Commissioners to discuss potential savings to the county by refinancing of the Jail Bonds. The advanced opportunity could not be capitalized during the first half of 2018, due to the tax bill. Motion language to extend the call date can be done. The Federal Government is predicting interest rates to increase. Call date is November 2018. This is set-up to close on August 28th, funds are wired into escrow for the old bonds on the 20th of August, clock starts ticking on the new issue on the 20th of August, the bonds sitting in escrow when the call date arrives BOKF will send it and the old bonds will be paid off. Causing a negative arbitrage. November of 2028 is the final year of the current bonds. Normally it is a five (5) year rotation for refinancing bonds. To extend the exchange date, a motion will have to be made in the next couple of weeks. Commissioner Schwager made a motion to refinance the jail bonds with First National Capital Markets to recognize a savings to the county. Motion seconded by Commissioner Schindler. Tobin did not know if a motion needed to be made. As a motion was made to refinance the bonds if a certain dollar amount savings could be recognized. Schwager reiterated his motion stands. Mr. Buchanan will send agenda wording and motion language for starting the action to refinance the bonds. We are refinancing early, but the extension is needed to make sure the motion and dates are in order to proceed. Antelope County will proceed with regular payments as current. Voting aye: Schwager, Schindler, Jacob, Henery and Kerkman. Nays none. Motion carried.

Road Boss Report:

Access Permits: Marlin Conry Invenery-Upstream Project submitted seven (7) access permits for consideration. Discussion on accesses.

- SW¹/₄SW¹/₄ 28-26-6 David Schrader, owner; Invenery, tenant; 853rd Road east of Highway 14 1/6th of a mile in for 410 feet
- NE¹/₄ 24-26-6 Ken Kallhoff, owner, Invenery, tenant; going south of 855th Road west of 528th Avenue; 1/8th mile for 290 feet.
- N¹/₂NW¹/₄ 19-26-5 Jerry Peterson, owner; Invenery, tenant; going south of 855th Road 2180 feet east of 528th Avenue
- NW¹/₄ 9-25-5 JDHI, LLC, owner; Invenery, tenant going south of 851st Road 2565 feet east of 530th Avenue
- NE¹/₄ 1-25-6 Richard Shrader, owner; Invenery, tenant going west from 528th Avenue south of 852nd Road
- S¹/₂ 6-25-5 Tree Corner Farm, owner; Invenery, tenant going west from 528th Avenue 4,045 feet south of 852nd Road
- NE¹/₄ 25-26-5 David Schrader, owner; Invenery, tenant going wet from 528th Avenue 2600 feet south of 854th Road

All are to gain access to wind turbine towers locations. All work to be done according to state and county specs. Road Boss recommended approval provided a site distance of 500 feet be maintained. Motion by Commissioner Henery, seconded by Commissioner Schwager to approve the 7 access permits as provided. Voting aye: Henery, Schwager, Schindler, Jacob and Kerkman. Nays none. Motion carried. Marlin indicated 5-7 more permits will be submitted in the next couple of weeks. He is checking the site distance on the permits to be submitted. They will be on upgraded roads.

Road Upgrade Drawing: Discussion of changes on the roadway gradings being updated. Invenery is working with hydrology issues. Marlin presented a map with these drawings. This includes everything except for the 853rd Road on the west side of Highway 14, there are some issues from the incline engineering drawings to resolve. Brian McDonald has approved these via text to Casey Ditrach and Marlin Conry. He had minor comments, but said to go ahead and approve them. He sent some comments back to the engineer to send back to the engineer – to show ditches. There is still a hydrology issue, they are still open for sizing culverts. There is some issue with calculations. He requested approval on the areas circled in green. Casey agreed, but would like the motion to include Brian's notes. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the drawing with the addition of Brian McDonald notes, and his approval. A copy of the drawings was put on file. Voting aye: Henery, Schwager, Jacob, Schindler and Kerkman. Nays none. Motion carried.

Neligh Gravel Shed: No information at this time. Bump to next week.

Royal Road: Casey prepared an invoice for the repairs the county on the Royal Road. In the past, when we prepared bills for insurance companies and other projects. However, he did not have clear direction on hourly charges for employees. How or what should be the charge for any employee for their time in working projects belonging to other entities. Casey suggested \$45.00 an hour for the employee. He wants to make sure the billing is fair to Antelope County and other entities. Since this item was not on the agenda. It was discussed to add to next weeks agenda. Resolution to be created for next meeting.

Hiring Employee: There are four (4) part-time employees. One is being leaned on as a full-time employee. There is a truck in Orchard that sits a lot. When one guy is on vacation, the work must continue. There is plenty of work for a couple of guys. Part-time or full-time. There was no opposition to hiring employees at this time. It was agreed, they could be hired part-time to possibly work in to full-time. The side dumper is sitting now, it could use a full-time driver. Both of the new guys are trained on the grinder. The road-patcher could use an operator full-time. There is a general feeling of employees able to retire and could or may do this without a lengthy notice. Seasonal employees can work full-time but less than six (6) months a year. The commissioners agreed to advertise for help with variations up to Casey Ditrach.

Hot Mix Replacement: Casey wondered if the board is willing to spend the money on Hot Mix verses asphalt. He has been speaking with Holt County regarding Hot-Mix their protocol. However, Hot-Mix is a pricier alternative to the asphalt we have been using. Basically, it is more costs effective to Hot-Mix in at least five (5) mile increments. Hot-Mix is pricier to initiate, but the life of the road is longer. If we start utilizing Hot-Mix it would be a budget consumer, and the whole budget would need to be fashioned to it. Price wise a mile of Hot-Mix would be \$250,000.00 to \$300,000.00. We will have to make a real decision on grinding less traveled road, and deciding primary and secondary rural roads, for Hot-Mix and asphalt coverage. Casey does not want to increase the budget but reshape the budget to include the Hot-Mix. If the board will support the Hot-Mix, Casey would like to redirect the budget accordingly. A plan to grind roads will have to be in place to establish an overall plan for grinding. Casey will provide a full asphalt priority sheet for presentation next week.

MISC RBR: Millings from the Oakdale mix strip will be used to fix the mile east of the Million Dollar Corner. Hopefully starting next week. Two (2) miles south of Elgin going east 2 miles needs to be grinded. The first mile is bad, second is better, but both need to be grinded.

Dan Zwingman had placed **839th Road grinding** on the agenda. He is in favor. He did not appear during meeting. No action.

No action on **Loan Papers for Maintainer**. The plan is to make a payment from June's meeting, a payment in September and to finance the rest through Bank of Elgin. Two (2) yearly payments of equal amounts.

Motion was made by Commissioner Jacob seconded by Commissioner Henery to **adjourn**. Voting aye: Schindler, Jacob, Henery, Schwager, and Kerkman. Nays none. Motion passed.

Meeting adjourned at 11:30 AM.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

By: _____
Chairman of the Board, LeRoy Kerkman

Attest: _____
County Clerk, Lisa Payne