

July 23<sup>rd</sup>, 2019  
Antelope County Board of Commissioners  
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session for budget discussion on Tuesday, July 23<sup>rd</sup>, 2019 at 9:00 AM in the Commissioner Meeting Room, Antelope County Courthouse, Neligh, NE.

Notice of the meeting was given in advance thereof by publication in the two 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 Borer opened the meeting at 9:00 AM. Responding to Roll Call: Commissioners Henery, Smith, Jacob, Bentley and Borer. Open Meetings poster is posted on the east wall of the Commissioner Meeting Room. Additional copies available in the County Clerk's Office.

Pledge of Allegiance was recited.

**Agenda:** Commissioner Bentley asked to remove Quarterly Informational Newsletter from agenda. Commissioner Smith asked to have the Road Superintendent Report moved to end of meeting. Motion by Commissioner Smith, seconded by Commissioner Bentley to approve agenda as submitted. Voting aye: Smith, Jacob, Henery, Bentley and Borer. Nays none. Motion carried.

**9:02 AM** Motion by Commissioner Henery, seconded by Commissioner Jacob to open the **Board of Equalization**. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

Public Hearing for Permissive Exemption: St. Boniface Church

Protests: Chris VanEgmond  
Myron Mitties  
Dawn Smith  
Dr Reddy  
Battle Creek Farmers Coop  
Northern Nance Partnership

Tax Roll Correction: Matt Woods

Homestead Exemption Denial Appeal: Melinda Graham

Destroyed Real Property

Denied: Byron & Lorie Bergman  
Dick Haskin  
DJS Farms

Approved: K & P Farms (Kenny Pollock)  
Ron and Donna Hanson

County Assessor shared 3 Year Plan and Cemetery Report

**11:01 AM** Motion by Commissioner Smith, seconded by Commissioner Bentley to go out of Board of Equalization. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

**Road Conditions** - Greg Koinzan, met with the Commissioners about roads. He stated the people voted for change. As far as the roads go, they are terrible. He stated there are four issues (understanding these are law enforcement issues): 1) mowing ditches; 2) farming road ditches; 3) irrigation of the road; 4) trees in road ditches. These have been going on a long time. This is simple stuff. He instructed the Commissioners to 'do your job, and instruct the Sheriff and County Attorney to do their jobs.' Road Superintendent, Casey Dittrich stated the notice has been published as required by statute, and asked for direction from the Board, as to what they want them to do? No response.

**River Road:** Since Barton Koinzan was in attendance, Commissioner Borer asked Road Superintendent if he wanted to talk about the River Road, 519<sup>th</sup> Avenue – Highway 275 to 848<sup>th</sup> Road (Sargent Road). Casey met with Bygland Dirt Excavating yesterday, they want to start as early as tomorrow. Casey wanted to know if we wanted to clay the whole stretch, or if they want to lay Sinclair Dirt in the low lying (1.2 miles) areas. The Emergency Watershed Protection funds were denied, so this project expense is on the County working with FEMA. Casey is hoping to use Sinclair Gravel, because we are building a road that we know will be under water. Utilizing a clay base for most of the stretch is a healthy cost savings over the Sinclair Dirt. This stretch does not have a good base, and is mostly blow sand. It was discussed working on this a short distance at a time, so the Sinclair dirt/gravel can be worked (ground) in as the project goes. The plan is Sinclair dirt on the low areas, and claying the rest of the stretch. (\$150,000.00/mile - material cost for Sinclair Gravel whole project, compared with \$75,000.00/mile Clay.) Plan is to clay, except for low lying areas will be Sinclair Dirt. No opposition voiced.

**Poor Farm Bridge Bids:** Thiesen Construction was the single bid received. Road Superintendent, Casey Dittrich opened the single bid. Before discussion of the bid. Road Superintendent said he had looked at this project again, and now the other approach (one approach is missing, 30 foot wide and 15 feet deep-channel water runs through it) – where there was some movement in the west approach that was washed out about 3 feet deep, and there was some stress cracks in the dirt. Brian McDonald was contacted and Brian thinks we may have some dead man issues on the better side of the two approaches. When looking at the bids, he asked to just look at and not accept anything until he investigates further. If both sides have to be done, it may be a full structure replacement. Thiesen total bid price was \$ 167,346.29, start date is September 16<sup>th</sup>, 2019. At this time, this will not complete this project, because there is more work than what was asked to be bid (changing since original bid let). This is a harvest access road – so we were hoping to be ready to go for harvest. Discussion of the bid, and losing our start date if we don't accept bid today. If the total cost to fix the total project is >\$300,000.00 than a total bridge project would be more feasible. Mrs. Gubbels was in attendance. It was discussed that Pat (Mr. Gubbles) had recently, looked at the bridge, and is willing to work with change orders, because the pilings have shifted. The deck on the bridge is good, it is concrete and maintains nice sides. This bid contains nothing to fix the west approach, which was not an issue at the time. Wanting to reserve our time in his schedule as well, motion by Commissioner Smith, seconded by Commissioner Henery to accept the bid from Thiesen Construction pending review of numbers and available to total project completion with change order(s), to keep on schedule. Pat Gubbels will work with us and believes the bridge is usable. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

**Board discussion of releasing Internal Investigation of Woods and Aitken.** Commissioner Borer said it is on the agenda because there was a taxpayer come to the Board and 'accuse' the board of spending money on an investigation. Commissioner Borer has been corresponding with Pam Bourne about releasing it. Normally, the Board does not release the findings of their own investigation. But the research that she did, and Commissioner Borer believes she has talked to the attorney general's office. She found that since it involves an elected official, it can be voted as a Board to release it. Commissioner Borer stated he believes the public has a right to know. To do this a motion has to be made to release the client-attorney privilege, and a second motion would be needed to release the investigation. He

requested the Board discussion. The taxpayer stated he did not ‘accuse.’ Commissioner Smith said he was concerned since this was brought up with the confidentiality and he questions where the information, the statements that was made, he is ‘concerned about the origination of them. And the only way to clear it up is to release this information.’ Road Superintendent asked about other employee’s names and places will be included in a released report, and he asked that the names be redacted if it is released. It was clarified, the taxpayer was not concerned about what was in the investigation, but why it was done. Commissioner Bentley, stated he will take the explanation further, as there is accusation of some of the Commissioners of misappropriations of funds and mismanagement of funds. He also brought up the entire Board voted unanimously to hire this firm for the investigation, to answer some of these questions. The public now needs to see if there was mismanagement of funds by hiring an outside investigation. The State Patrol has not released their report, so it is not known if the reports coincide. Commissioner Henery stated the public probably is not so concerned about the report, but why the investigation was done. Commissioner Borer stated that the employee handbook says you can only have an employee on unpaid leave 60 days. Commissioner Bentley stated, ‘the NIRMA attorney recommended the State Patrol investigation could last a year, and she recommended that we hire this investigative firm and the reason was exactly, because, you can only suspend an employee for 60 days. After that they have to be reinstated with full benefits or let go.’ In essence, the findings of the investigation, ‘we saved the taxpayers the amount of money of that employees paycheck, and maybe further loses of taxpayer assets.’ Commissioner Smith motioned to ‘**revoke attorney/client privileges with Woods and Aitken, LLP** concerning an investigation requested on February 12<sup>th</sup>, 2019, when it was approved by the Antelope County Board of Commissioners.’ Motion is seconded by Commissioner Bentley. It was asked if we had guarantee of the redaction of names, and was confirmed this would be in the next motion. Voting aye: Bentley, Smith and Borer. Nays: Henery and Jacob. Motioned carried. Motion by Commissioner Bentley, seconded by Commissioner Borer to ‘**release the investigation** with all names and locations redacted leaving the name of the person of which the investigation was intended.’ Commissioner Bentley wondered if the Chairman should possibly do a statement as to the timeline explaining as to why they did what they did. Commissioner Henery asked about releasing this to the general public, if the State Patrol investigation goes to trial. Carla Jacob inquired as to if this is being done for the public, or is it being done because of the recall, and suggested maybe it should be tabled until after court. Voting aye: Bentley, Smith and Borer. Nays: Henery and Jacob. Motioned carried. No explanation will be presented with report.

**Minutes of the July 9<sup>th</sup>, 2019 Board of Commissioner Minutes:** Commissioner Smith asked to add road numbers/names to the Road Superintendent Report. Motion by Commissioner Henery, seconded by Commissioner Smith to approve minutes as presented with road name/numbers added. These were corrected in the minutes before finalizing. Voting aye: Smith, Jacob, Henery and Borer. Bentley abstained. Nays none. Motion carried.

**Correspondence was reviewed:** Uncollected Taxes Report 2016-2017-2018, Treasurer’s Semi-Annual Report for July, Union Bank and Trust AMH Bond refinancing monthly statement; Bid Tab sheets, email from Michael Courtney Invenergy regarding tower collapse.

**Promotional Grant:**

- 1) **Orchard Community Club;** Date: July 26-27-28 2019, Orchards annual celebration. \$300.00. Approved by Visitors Committee on July 8, 2019. Motion by Commissioner Smith, seconded by Commissioner Borer to approve. Voting aye: Henery, Smith, Bentley, Jacob, and Borer. Nays none. Motion carried.
- 2) **Neligh Chamber of Commerce;** Date: August 3<sup>rd</sup>, 2019, Annual Antelope County Fair BBQ. \$300.00. Approved by Visitors Committee on July 8, 2019. Motion by Commissioner Henery, seconded by Commissioner Jacob to approve. Voting aye: Henery, Smith, Bentley, Jacob, and Borer. Nays none. Motion carried.

**Zoning Administrator Report:** Liz met with the Commissioners and had a short report. She reviewed the email from Michael Courtney, Invenergy regarding the tower collapse. The root cause analysis was discussed. Commissioner Smith asked about the Zoning Board reviewing their recommendations for setbacks along road ways in light of the tower collapse. He stated it is a conversation for a later date. Liz stated she is organizing a Planning Commission Meeting in early August for expanding a feedlot in Antelope County.

- 1) **OT/Compensatory Time:** It was discussed in early July regarding paying of OT/Compensatory Time for the Road and Bridge Employees. On the 2<sup>nd</sup> of July the Board requested to extend this option through the month of November. Resolution was presented today. Motion by Commissioner Smith, seconded by Commissioner Jacob to approve resolution extending the timeline for month by month decision. Voting aye: Henery, Smith, Bentley, Jacob, and Borer. Nays none. Motion carried.

ANTELOPE COUNTY  
 COMP TIME – OT JUNE- NOVEMBER 2019 HOURS  
 RESOLUTION 2019-07-000\_\_

WHEREAS, Antelope County Board of Commissioners currently compensates the Road and Bridge Employees for overtime hours using a Compensatory Time banking system; and,

WHEREAS, Antelope County recently experienced a disaster regarding flooding throughout the County. This flooding caused considerable road and bridge damage. As a result, a Catastrophic Disaster was declared; and,

WHEREAS, the Antelope County Emergency Manager declared a ‘State of Emergency’ for Antelope County, causing a travel ban for the traveling public. And,

WHEREAS, the Antelope County Road and Bridge Department dedicated extended overtime hours of service over numerous weeks to improve traffic throughout Antelope County.

WHEREAS, the Antelope County Board of Commissioners wishes to show appreciation to the Road and Bridge Employees, and thank them for their service and dedication, it is the intention of providing the compensation for these extended/overtime hours in a manner elected as appropriate by the employee. THEREFORE, Due to the emergent nature of the Disaster, and the tremendous response of the Employees, by way of working long and tedious extended overtime hours, it is the Board of Commissioners intention to allow Antelope County Road and Bridge Employees to elect how Antelope County June-November 2019 extended/overtime hours will be paid, or banked pursuant to current policy..

BE IT THEREFORE RESOLVED, by the Antelope County Board of Commissioners that the June-November 2019 overtime/extended hours, no matter the amount can be paid as overtime in a deposit, with no hours being applied to Compensatory Time, if the employee so chooses. In order to be paid the hours as a lump sum the employee must sign a waiver agreeing to same.

Passed and adopted this 23<sup>rd</sup> day of July, 2019, pursuant to a motion made on July 2<sup>nd</sup>, 2019 authorizing same.

ATTEST: Antelope County Board of Commissioners  
 \_\_\_Lisa Payne\_\_\_\_\_ \_\_\_Tom Borer\_\_\_\_\_  
 Antelope County Clerk Chairman of County Board

Motion by Commissioner Smith, seconded by Commissioner Jacob.  
5 Yays 0 Nays - Abstain - Absent

**Transfer to Disaster Fund:** After paying claims on July 9<sup>th</sup>, the balance in the Disaster Fund (2575) is greater than \$150,000.00 over. A claim is presented to pay the Antelope County Treasurer \$160,000.00 to fund the Disaster Fund from the General Fund. Motion by Commissioner Bentley, seconded by Commissioner Henery to approve claim of \$160,000.00 from General Fund. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

**Budget discussion** was postponed.

**Road Superintendent Report:**

- **Charlie Henery** has worked as a part-time employee on an as needed basis for approximately 18 months. During the recent audit it was recommended by the Auditor to have a Board motion to hire Charlie as a part-time seasonal employee. Discussion today regarding pros and cons. He was asked about working as an employee during the flood. Commissioner Henery was working as a road employee and collected mileage on his personal pickup. Charlie helped after the storm as a plug and play employee. Charlie stated he normally does not have mileage, because he tries to utilize a county vehicle when he is checking roads etc. Commissioner Smith stated 'this is not appropriate, you are an elected official, the storm hit, you are entitled to your mileage that is all.' Running County equipment Charlie felt it was best to be a county employee from a liability standpoint, at which Road Superintendent agreed. When Charlie was first hired it was reviewed with the County Attorney, and Pam Bourne, NIRMA - Woods and Aitkens employment attorney. Commissioner Jacob motioned to hire Charlie Henery to work for the County part-time, regular part-time wage. Motion was not seconded. Motion dies.
- **Underground permit:** Motion by Commissioner Bentley, seconded by Commissioner Jacob to approve the application for underground electric line permit submitted by Neil Childers, to place a permanent electric line under 512<sup>th</sup> Avenue in the SW<sup>1</sup>/<sub>4</sub> of Section 16, Township 23, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. The purpose is to bring electrical Service. Neil Childers, – owner and tenant. Access is along a gravel road. Voting aye: Henery, Jacob, Bentley, Smith and Borer. Nays none. Motion carried. All work to be done according to County and State specs.
- **Public Hearing dates for Road Closing:** Brian has concluded the studies, and is requesting a public hearing date to be set. Motion by Commissioner Bentley, seconded by Commissioner Jacob to set the Public Hearing for the petitioned Road Closing at 10:00 AM on Tuesday, September 3<sup>rd</sup>, 2019, one to follow other. Road Closing 848<sup>th</sup> Road (1 mile) between 529<sup>th</sup> & 531<sup>st</sup> Avenue and Road Closing 847<sup>th</sup> Road (½ mile) between 531<sup>st</sup> & 532<sup>nd</sup> Avenue. Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

Commissioner Smith stated Galen Furstenuau called him regarding a piece of equipment called a **road groomer**. It is pulled behind a truck or a pickup, you can drag it about 15mph. It hangs over the right-hand edge. The blades cut the clumps that are left, even the grassy ones. There are a number of different sizes. It is essentially a road grade, with six (6) high angle cutting edges and a serrated vinyl blade at a 45-degree angle. It was tested on a perfect condition day (hot & dry). Commissioner Smith would suggest maybe one for roving the county. The Commissioners discussed this would be a specialty item. More research and need assessment has to be completed. It is a possible purchase for a later date.

Everett Meyer, Poor Man Bridge, and Weinrich still are our three (3) main harvest concerns regarding road access. Other areas are being worked on and should be good to go by harvest.

No other issues to discuss.

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

Meeting adjourned at 12:55 PM.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Chairman of the Board, Tom Borer

Attest: \_\_\_\_\_  
County Clerk, Lisa Payne