

October 1st, 2019
Antelope County Board of Commissioners
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session for discussion on Tuesday, October 1st 2019 at 9:02 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 9:02 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: Motion by Commissioner Smith, seconded by Commissioner Bentley to approve agenda as submitted. Voting aye: Jacob, Henery, Bentley, Smith and Borer. Nays none. Motion carried.

Minutes of the September 3rd, 2019 Board of Commissioner Minutes: Motion by Commissioner Henery, seconded by Commissioner Smith to approve minutes as presented Voting aye: Jacob, Henery, Bentley, Smith and Borer. Nays none. Motion carried.

Minutes of the September 10th, 2019 Board of Commissioner Minutes: Motion by Commissioner Smith, seconded by Commissioner Jacob to approve minutes as presented Voting aye: Jacob, Henery, Bentley, Smith and Borer. Nays none. Motion carried.

Minutes of the September 17th, 2019 Board of Commissioner Minutes: Motion by Commissioner Henery, seconded by Commissioner Jacob to approve minutes as presented Voting aye: Jacob, Henery, Smith and Borer. Bentley abstained. Nays none. Motion carried.

Correspondence: NDOR Upcoming Bridge Inspection Reminder; NDOR Past Due Bridge inspection reminder; Correspondence from Zelle regarding Rails to Trails class action lawsuit; Opioid Litigation class action lawsuit, all inclusive – if want to opt out need to contact; Fry Dairy Ltd. Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System general permit; Tom Allemang Livestock Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System general permit; TERC letter regarding Melinda K Graham; District Seven Probation Year End Review 2019-2020. TransCanada RUA Map, and the TransCanada Road Use/Haul Agreement, and estimate of proposed taxes.

Regina Krebs – General Comments and Taxpayer Concerns: Regina attempted to meet with the Commissioners regarding concerns about information that has circulated in regards to certain finance figures. She was hoping to explain the details and facts regarding the figures that were published and shared. The Board has toted transparency, honesty and openness in all aspects. Hoping the Board will allow a couple of minutes to help disseminate the truth to explain the details and facts of the financial issues that was brought forward. She prefaced the beginning with the fact that she is a resident in one of the Commissioner recall districts. She stated she audited Counties for nearly a decade, and was part of the auditing team for Antelope County for a number of years. She is interrupted at this point because Commissioner Bentley stated she could not discuss any recall issues – and discussing election persuading issues. Ms. Krebs clarified she could not even discuss any facts in regards to anything. It was brought to the attention that this item and Regina were both on the agenda. Joe Abler is called for legal advice. Commissioner Bentley toted this was a polling place, and so could not be discussed. Regina clarifies she does not intend to talk about the election, she wanted to clarify the figures that were presented, and the underlying numbers. The numbers presented and what they are, and inaccurately portrayed numbers presented for different departments. Regina stated three (3) times the numbers to be discussed were actually budget figures. Joe Abler suggests he does not see a problem with Regina explaining where these numbers will be going. He didn't see where the budget numbers represent in the recall. Joe Abler stated his only concern regarding Board discussion was related to a postcard that was not issued by the Board or Antelope County, but a political statement from two (2) members. Regina again states she wanted to clarify the numbers. Commissioner Bentley and Borer stated she could meet with them after the 15th of October. It was asked from the public that the information was disseminated to the public, she felt it should be clarified in public. The information was representing two of the Board members who are supposed to be sharing and spreading factual information. It was clarified these numbers were actually budgeted figures not expenditures. Regina agreed the numbers were actually taken from the budget. Motion by Commissioner Bentley, seconded by Commissioner Smith to table until after the recall. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

TransCanada Haul Route/Road Use Agreement: Rob Latimer, Alyssa Ledon, Dan Forbes, and Brittany Broadwell, TC Energy. Alyssa Ledon is the Lead security Officer for TC Energy; she is a certified law enforcement officer in Nebraska. She works with all of the law enforcement agencies along the pipeline route.

Rob Latimer and Dan Forbes met with the Commissioners and Casey regarding the Road Use Agreement/Haul Route. They know this is preliminary but they wanted to get a good feel of what the County was looking for and what they wanted to see in the agreement. The maps presented represented a large number of roads in and around the pipeline area. This is a preassessment and totally a work in progress.

Commissioner Smith opened with the statement of video documentation is normally completed by a third-party vendor normally agreed upon by the County and the applying entity. Casey Dittrich mentioned that today is a bit premature for a project that may or may not start for another 18 to 24 months. Rob Latimer stated he understands they are well ahead of the project; however, they were here to take information in order to get the document ready for a timeliness sake. TC Energy stated they were in conjunction with issues along roads and different projects

or ideas that they can help – including maybe some underlying issues that the County and TC Energy can work together to come to a good solution and benefitting both entities. TC Energy initially started with a three (3) page Road Use Agreement and with initial discussions, updated the RUA to reflect more closely to the RUA currently utilized by Invenenergy. Road Haul agreement is the terms and conditions to use a county road. Signing the agreement formalizes the conditions of how we are going to work together. The map shows the roads that are under consideration. TC Energy agreed the map (Exhibit A) will be finalized before construction, and agreed upon by the County. This is a working document and is subject to change up and until it is signed to take into consideration and unforeseen changes i.e. Flooding. Bond of the RUA is a hinge to passing this RUA. The current map shows up to and exceeding 50 miles of paved roads, of which a \$5 million bond is not near enough. TC Energy stated they could possibly have a more real map in a month.

Some of the points discussed include:

- Casey mentioned: Damage to a road undocumented – so there is no precondition assessment is completed/documented. Where does it go, what condition does it go
- 2B. Pipeline Company assumes ALL maintenance – everyday (not just normal maintenance) This is mentioned multiple times throughout the document.
- 2F. a triple Bore better.
- 6. Every day maintenance (see #2B above)
- 8. PreCon Surveys – it is understood anything collected this year would not be acceptable when it comes time to sign the Road Use Agreement document.
 - Amount of gravel
 - Culverts
 - Unknown Damages
 - Need for a preconstruction survey by an agreed upon 3 party vendor
- 14 (2nd Sentence) Keystone by its virtue of its use of the County Roads as a Haul Route, assumes responsibility for any additional maintenance on such county roads that are impacted by the Work during the Construction Period. (regular maintenance?)
- 18 Amount of Liability Insurance/Bond
 - \$5 million per occurrence – Keystone will present before construction begins – needs to be ironed out. (up to \$25 million)
- 26. Issue resolution: in the event there is an issue raised by the County Road Superintendent regarding the performance of road maintenance by the developer those issues should be directed in writing hard copy or electronic to the developer. Resolution of the complaint should be complete within three (3) days from receipt unless another time is agreed upon by the parties. If resolution of the issue cannot be reasonably completed within the thee (3) days, both parties shall agree upon a timeline for remedy and communicate that in writing. - - It was discovered TC Energy did not have a current copy of the Thunderhead agreement, and had utilized the Upstream Agreement. – Rob Latimer requested a copy of the Thunderhead agreement – it was agreed.
- 29. Force Majure: - midway through – weather conditions – ‘severe or extreme conditions’ this wording needs to be updated in the current agreement.

- 33. Bond – must be a grade triple B or better rated Bond Company. Rob Latimer stated he does not believe TC Energy has ever exercised the bonding redemption – he believes this would be bad business. Casey states the oil/asphalt roads are what needs to be protected. He does not believe \$1,000,000.00 per oil mile.
- 38. Road maintenance terminology.

TC Energy will be getting a tighter map (Exhibit A), details of proposed roads, there will be no turn radiuses needed.

Rob Latimer and Dan Forbes stated construction is probably June – November 2020.

TC Energy thanked the Commissioners and Casey for their time and specific feedback provided. It helps them get to a better product to ensure a working agreement and Road Haul Agreement. Casey asked about road crossing and access permits. The originals were submitted last year, if they will not be utilized, we will wait until they are more finalized. Mr. Latimer mentioned they had contracted with the City of Plainview for a contractor yard and RV parking and a valve location off of Highway 20.

Road Superintendent Report:

- **Underground permit:** Motion by Commissioner Bentley, seconded by Commissioner Jacob to approve the application for underground water line under 515th Avenue, permit submitted by 2 Rivers Irrigation, for Rittscher Farm and Ranch LLC. 515th Avenue between SE¹/₄ Section 2, Township 24, Range 8 and the SW¹/₄ Sections 1, Township 24, Range 8 West of the 6th P.M., Antelope County, Nebraska. For the purpose of getting water to cattle when calving. Minimum depth is good as presented. Voting aye: Henery, Jacob, Bentley, Smith and Borer. Nays none. Motion carried. All work to be done according to County and State specs.
- **Access Permit:** Motion by Commissioner Henery, seconded by Commissioner Jacob to accept the access permit along 513th Avenue for access into a residence. Permit was submitted by John Thiele. This is in the SE¹/₄ of Section 9, Township 25, Range 8 West of the 6th P.M. Casey states it is pending site review, which will be done today. Voting aye: Jacob, Henery, Bentley, Smith and Borer. Nays none. Motion passed.
- **Underground permit:** Motion by Commissioner Jacob, seconded by Commissioner Bentley to approve the application from Elkhorn Rural Public Power District to place underground wires to get electricity to a grain bin. Owner: Cedar Ridge Inc. Roger Bergman. This will go under 512th Avenue south of 861st Road. This is in the NE¹/₄ of Section 20, Township 27, Range 8. Depth below surface is 48". 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.

Zoning Administrator Report: Liz met with the Commissioners and reported to the Commissioners her budget did show a small increase. She had not been recognized at previous meetings during budget discussion. Liz reported she is starting work on the wind tower site inspections. Her September Permit report will be submitted next week. Administrative Plat: Menno Miller is requesting a subdivision approval for a 5.240 Acre tract in the SW¹/₄NW¹/₄ along the west line. Mr. Miller has been working on this for some time. He has constructed a house on the acreage. There was not opposition voiced and a motion was made by Commissioner Smith,

seconded by Commissioner Henery to approve the Administrative Plat for Menno Miller. Voting aye: Jacob, Henery, Bentley, Smith and Borer. Nays none. Motion passed.

Road Groomer. Commissioner Smith has been in contact with the sales person of the Road Groom machine. He believes this to be a good investment for Antelope County. Antelope County has been demoing this equipment for a couple of weeks. The Commissioners and Casey agreed the Road Groom works well and is easily usable and moveable. The desire would be to have this utilized through out the county. Commissioner Smith stated the company has agreed to a down payment this fall of \$2,500.00 with the balance next summer. Agreement was the 11.5-foot Road Groom. Motion by Commissioner Smith, seconded by Commissioner Bentley to purchase a 11.5-foot Road Groom with \$2,500.00 down payment this fall, and the remainder (\$12,900.00) to be paid by the end of July 2020. Replacement blades were discussed. Casey suggested it can be part of the bidding process in the spring. Casey had priced some for budget purpose at approximately \$12.00 foot. Voting aye: Henery, Jacob, Smith, Bentley and Borer. Nays none. Motion carried.

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

Meeting adjourned at 11:01 AM.
COUNTY BOARD OF COMMISSIONERS

ANTELOPE

By: _____

Chairman
of the Board, Tom Borer

Attest: _____
County Clerk, Lisa Payne