

Monday, May 23, 2022  
Newkirk, Oklahoma

The Board of County Commissioners (BOCC) of Kay County, Oklahoma, met in regular session at 9:00 o'clock a.m. on Monday, May 23, 2022, the meeting was posted for public information on May 19, 2022, at 4:00 p.m. at the Commissioners Room, on the west entrance of the Kay County Administration Building in Newkirk, Oklahoma, and on the Kay County Website.

Chairman John Wilson called the meeting to order. Commissioners: Jack Godberson, Member, present; Jason Shanks, Member, present. Other's present were as follows: Brian Hermanson, District Attorney (DA); Billie Chrz, First Assistant District Attorney (ADA); Steve Kelley, Kay County Sheriff; Staci Belair, Kay County First Deputy Assessor; Christy Kennedy, Kay County Treasurer; Brenda Medlock, and Shannon Mallory, OSU Extension; Dennis Bonewell, Emergency Management; Shane Jones, Dist#1 Commissioner Elect; Scott Kempenich, Newkirk Public Schools Superintendent/Newkirk Main Street; Alyssa McCleery, Newkirk Main Street (NMS); Eric Fladie, Garver/City of Enid; Brenton Carney, Ponca Tribe; Claude Williams, Taxpayers for Transparency; Tammy Reese, Secretary/Kay County Clerk.

Chairman John Wilson led the flag salute.

Motion was made by Godberson and seconded by Shanks approving the regular meeting minutes of May 16, 2022. Motion carried: Godberson, aye; Wilson, aye Shanks, aye.

Gift Agreement between Newkirk Main Street and Kay County, the Kay County Amphitheatre Usage Agreement, storage & restroom facilities and landscaping concerns: Treasurer Kennedy asked if she could speak first; stating if the Amphitheatre was located in Tonkawa, would the BOCC have the same feelings about it? She asked Commissioner Shanks if he would have vested \$1,800 of his own money? Kennedy said there should be no favoritism made and all of Kay County should be treated the same. DA Hermanson said he was contacted by two commissioners regarding changes to the agreement and therefore two (2) different agreement/documents are being presented. He said two commissioners have different opinions and rather than just having a Donor Agreement, there is also a Lease Agreement to consider. DA Hermanson said in both agreements the county would still take care of the maintenance, insurance, costs, etc. Commissioner Godberson stated he was not in favor of giving ARPA funding to build the restrooms/storage building. Kennedy asked if Commissioner Shanks should recuse himself from voting because of his connection; she told DA Hermanson she wanted his legal opinion. Clerk Reese asked for DA Hermanson's legal advice. DA Hermanson said his position is to explain the law, not make the decision. DA Hermanson spoke about the agreements stating the difference between the Donor Agreement and the Lease Agreement. He told Scott Kempenich that Newkirk Main Street could actually make money from the Amphitheatre events by using the Lease Agreement; DA Hermanson said the county owns the land and any improvements on the land already belong to the county. ADA Chrz said as soon as the Amphitheatre was built, it was automatically given to the county; she said the Lease Agreement would broaden their rights, and the county would still maintain the property. ADA Chrz said through the Lease Agreement Newkirk Main Street could recuperate money. Regarding Item No. 6 on the Donor Agreement where it states the donor has sole authority regarding the structure and facility was discussed. Commissioner Shanks said it is the same to the county whether you use the Lease or Donor Agreement; Kennedy spoke directly to Commissioner Shanks stating Commissioner Shanks had said this was not a good idea. DA Hermanson said the Lease Agreement would be a year-to-year contract. Chairman Wilson said he felt legally the Lease Agreement is the best decision for the county. DA Hermanson suggested letting Newkirk Main Street look at both agreements. Kennedy said it is a county decision. Mr. Kempenich said he would like to look at both documents and have the item put back on the agenda for June 6<sup>th</sup>.

No action was taken was taken on Gift Agreement between Newkirk Main Street and Kay County, the Kay County Amphitheatre Usage Agreement, storage & restroom facilities and landscaping concerns.

Commissioners' discussion regarding legal opinion of statutory right-of-way and section line jurisdiction of Fountain Road between Union and Waverly roads (Sections 16, Township 25N, Range 2E) and consider future permitting approval to allow City of Enid to install a 30-inch raw water pipeline with this right-of-way: ADA Chrz stated in an email the Oklahoma Constitution and Title 69 OS 1401 specifically authorize the BOCC to allow public utility lines in the county-owned right-of-way. The KLWS qualifies as a public utility as it provides water service to several towns and cities. The Organic Act of 1890 set the width of county road right-of-ways to 66 feet, or 4 rods-2 rods on each side of the section line. This act is in 43 U.S.C. § 1095. Ms. Chrz said the county has the authority to grant a right-of-way within the county road easement with the consent of the landowner, and the width of the easement is determined by the Organic Act which the easements remain at least 66 feet in width. Ms. Chrz told Commissioner

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Godberson to check to see if this road was on his county road inventory. Eric Fladie, Garver/City of Enid, said they will improve the access and access gate and be good stewards for the farmers and get water to the community. Brenton Carney, Ponca Tribe, does not want the county to give the City of Enid the authority to go on the county right-of-way; he said we have tribes that live in that area and have been buried there. Much discussion was made.

Motion was made by Shanks and seconded by Godberson tabling right-of-way and section line jurisdiction of Fountain Road between Union and Waverly roads (Sections 16, Township 25N, Range 2E) and consider future permitting approval to allow City of Enid to install a 30-inch raw water pipeline with this right-of-way. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Motion was made by Shanks and seconded by Godberson approving Agreements between the BOCC and the following to have remote terminal capabilities with the Assessor's office: RCB Bank. DA Hermanson approved as to form. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Motion was made by Godberson and seconded by Shanks approving Contract for Services between County Budgeting Services, LLC and BOCC for services to be provided during the 2022-2023 Fiscal Year. DA Hermanson approved as to form. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Motion was made by Shanks and seconded by Godberson approving Resolution#21, 22-220, Contract Agreement Renewal Emergency and Transportation Revolving, ETR Fund, Dist#2. DA Hermanson approved as to form. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Motion was made by Godberson and seconded by Wilson approving Resolution #21, 22-221, Interlocal Cooperative Agreement with Contiguous Counties. DA Hermanson told the BOCC he rewrote the agreement with the correct language. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Motion was made by Godberson and seconded by Wilson approving KellPro Software and Service Agreement by and between KellPro, Inc. and the Kay County Clerk for FY2023. DA Hermanson approved as to form. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Discussion distributing ARPA funds to the following offices: Each office expressed their needs. Court Clerk Thornton said she would like to refinish the original benches in the courtroom at a cost of \$655 per bench, 30 benches, at a total of \$19,650 (not to exceed \$22,000), and would like \$50,000 to scan records. The other officers stated their needs in last week's meeting.

DA Hermanson left the meeting to attend court.

Motion was made by Shanks and seconded by Godberson approved distributing ARPA funds (second half) to the following offices: Assessor-\$98,017.00 to add roll out drawer carriers with pull out drawer assemblies to replace the current Lektriever File Tray Carriers with dividers, plus installation; County Clerk-\$250,000 to scan, index and import land records into the KRS System; Court Clerk-\$72,000 to refinish 30 benches for courtroom and scan records; Election Board-no request; Sheriff-\$215,000 for three patrol vehicles, dispatch radio console system, and firing range upgrades to meet codes and regulations. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

Road and Bridge Projects/Circuit Engineering District (CED) No. 8 Road and Bridge Projects: Commissioner Godberson said crews have been boom mowing, spraying around signs, culverts and guardrails, hauling donated rip rap from airport to stock, mowing ditches, putting rip rap in ditch on Highland and drive sheeting and putting in rip rap on Pecan north of Adobe Rd.

Commissioner Shanks said his crews have been hauling rock, mowing, and pulling ditches on Union and working in the shop.

Commissioner Wilson told crews have been hauling shale and rocks to roads, grading roads, hauling used beams from I-35 to the yard, mowing ditches, and servicing trucks.

Motion was made by Shanks and seconded by Godberson tabling the following Public Service Pipeline/Crossing Line Installations: Kay County RWD#3, SW4/SW4 S2 T26N R2E ending SE4/SE4 S3 T26N R2E, Pleasant View Rd. Shanks said he has not spoken with anyone regarding this request. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

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Motion was made by Godbersson and seconded by Shanks approving the following Public Service Pipeline/Crossing Line Installations: Kay Electric Cooperative, NE4/NE4 S3 T26N R3E ending SE4/SE4 S11 T26N R3E, Enterprise Rd., D#1. Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

No action was taken on the following Public Service Pipeline/Crossing Line Installations: City of Enid, SE4/SE4 S9 T25N R2E ending SW4/SW4 S9 T25N R2E, E0250 (Fountain Rd. between Union & Waverly), D#1; City of Enid, SW4/SW4 S11 T25N R2E ending SE4/SE4 S10 T25N R2E, N0333 Road (S. Pleasant View Rd.), D#1; City of Enid, SE4/SE4 S10 T25N R2E ending NE4/NE4 S15 T25N R2E, E0250 Road (Fountain Road), D#1; City of Enid, NE4/NE4 S16 T25N R2E ending SE4/SE4 S9 T25N R2E, E0250 (Fountain Rd. & Union Rd. vicinity), D#1; City of Enid, SW4/SW4 S9 T25N R2E ending NW4/NW4 S16 T25N R2E, E0250 (Fountain Rd. & Waverly Rd. vicinity), D#1.

Motion was made by Shanks and seconded by Wilson approving Detention Transportation Claim for April 2022 in the amount of \$3,456.98. Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

Motion was made by Godbersson and seconded by Shanks approving the following Kay County Monthly Reports for April 2022: Health Department. Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

Motion was made by Godbersson and seconded by Shanks approving the following Resolutions to deposit funds: Res#21, 22-222, Hwy. Dist#1-\$10,250.00, City of Enid, (5)-Public Service/Pipeline Crossing Line Installations (re: Item#14, C-G). Reese said if the permits relating to this item are never approved then this amount would have to be refunded. Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

Motion was made by Shanks and seconded by Godbersson approving to rescind the low quote/bid from Highpoint Partners-\$1,900.00 (bidder declined) (bid accepted in BOCC meeting 5-16-22), and approve the next low quote/bidder Gary Faul Construction-\$2,900.00 to build shelving in the OSU Extension garage. Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

Motion was made by Shanks and seconded by Wilson tabling quotes spray foam for Dist#2 Shop Building (none were received/tabling until received). Motion carried: Godbersson, aye; Wilson, aye; Shanks, aye.

Motion was made by Shanks and seconded by Wilson approving to go out on bid for the following: Courthouse security cameras and installation. Sheriff Kelley said he wanted it noted that this does not include telephone or internet. Motion carried: Shanks, aye; Godbersson, aye; Wilson, aye.

New Business [As per 1991 O.S. 25§311. A.9- 'New Business', as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.] None.

Motion was made by Shanks and seconded by Godbersson approving Payroll with warrants to be released on May 27, 2022, Maintenance & Operation Claims, Blanket Purchase Orders. Motion carried: Shanks, aye; Godbersson, aye; Wilson, aye.

**FY 2021/2022 PURCHASE ORDER:**

Assr Rev Fee Lights 3568 Amazon Capital Services 113.31; Toner 4016 Redlands Office Solutions LLC 240.03; Family Drug Court Supplies 3891 HAC Inc 43.29; General Fuel 3239 Fuelman 2282.91; Mailing Supplies 2907 OMECORP, LLC 596.00; Maintenance 3711 Burkes Auto Body & Restoration 1250.00; Postage 3938 USPS-CMRS 15000.00; Reimbursement 3927 Holman, Lacie E. 69.58; Router 3284 Kellpro Computer 1065.00; Stamps 4010 Redlands Office Solutions LLC 82.80; Supplies 3963 Petsense 445.93; Training 3806 OSU-CTP 250.00; 3807 OSU-CTP 390.00; 3808 OSU-CTP 160.00; Travel 3904 Stieber, Leah M. 58.50; 3905 Hudson, Christie M. 60.26; Health Service 3051 AT&T 227.54; 3333 AT&T 70.20; 3344 OK Natural Gas 223.11; Utilities 3055 City of Blackwell 276.11; Highway Blades 2942 Warren Cat 6430.20; Parts 3912 P & K Equipment 265.70; 4009 The Hydraulic Center 240.56; ROCK 3840 Dolese Bros. Co 4210.88; Shale 3695 Mike Redding 528.50; supplies 2912 Atwoods Distributing 151.66; ML Fee Monitor 2985 Kellpro Computer 927.42; Resale Fees 3022 CSG Forte Payments, INC. 327.00; RM&P Index Sheets 2943 Merrifield Office Plus 6162.00; Monitors 2986 Kellpro Computer 2465.00; Software 3206 Kellpro Computer 4467.62; SH Svc Fee Brass 3606 COPS Products LLC 79.92; Business cards 3880 A+Printing 76.00; Installation 3300 Burkes Auto Body & Restoration 2665.00; Labor 3881 Keeler Equipment Sales 50.00; Maintenance 3735 Galaxie Business 129.00; Service 3598 OSU Veterinary Teaching Hospital 195.60; Supplies 3191 Sirchie 56.57; Transports 3699 O'Brien, John Trevor 66.00

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Details' concerning the above listed purchase orders/claims are available in the County Clerk's Office. All records are open to the public, and any person may examine same during regular office hours.

There being no other business, motion was made by Shanks and seconded by Godberson to adjourn at 11:03 a.m. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

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Approved this 31<sup>st</sup> day of May, 2022.

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JOHN A. WILSON, CHAIRMAN, D#3

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JACK GODBERSON, MEMBER, D#1

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JASON SHANKS, MEMBER, D#2

ATTEST:

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TAMMY REESE, COUNTY CLERK  
COUNTY OF KAY, STATE OF OKLAHOMA SECRETARY, BOARD OF COUNTY COMMISSIONERS  
(SEAL)

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