

# Wabaunsee County Commission

## Wabaunsee County Courthouse, Alma, KS

### Regular Meeting Minutes February 08, 2021

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The Board of County Commissioners meeting in session Monday, February 8, 2021. In compliance with the CDC guidelines to maintain social distancing Commissioners conduct and record the meeting over ZOOM. Members attending were Rodney L. Allen, Joel S. Fager and Nancy L. Hier. Chairman Fager called the meeting to order at 9:00 a.m. and opened with the Pledge of Allegiance. County Attorney Tim Liesmann and County Clerk Abby Amick were in attendance in person, others joined via zoom.

Commissioner Hier moved to approve the minutes of the February 1<sup>st</sup> Commission Meeting, Commissioner Allen seconded. Motion carried 3-0.

#### **Health Department and Covid Update**

Health Administrator Ray Finley reported on the Covid numbers for the County: 17 active cases, 13 deaths and zero in the hospital. The Health Department has been very busy with vaccinations, and the weather has been the biggest hurdle, causing rescheduling. The Health Department has received many compliments from those who have come through the vaccination clinics, there are no lines to wait in, no congregating, and it takes about 30 minutes to get vaccinated and wait for any severe reaction.

#### **Crosswinds Year End Review**

Crosswinds representatives Amanda Cunningham, Sheri Knight and Megan Adcock joined via zoom. They provided an update on the availability of Crosswinds services to the county, including a Covid Support Group that meets weekly by zoom (link is available on facebook). They thanked Wabaunsee County for being one of the first counties to provide financial support through the SPARKS funding, the organization is having a hard time financially, and that support was able to keep them operating. They have been operating with 12 – 17% less than previous years. December was the largest number of intakes for one month when looking back 5 years.

#### **Noxious Weed Annual State Reports**

Noxious Weed Director Tonya Hensley presented Annual State Report and the 2021 Management Plan. The Commissioners reviewed and signed the report and management plan. Hensley reported that the Noxious Weed Budget must remain at 1.5 mills in order to be eligible for cost sharing chemical with local property owners. Commissioner Allen shared that members of the public have suggested that the Weed Dept be able to accept credit card payments, Hensley responded that she is looking into options. Hensley also reported that she would like to hire a fulltime employee by March so that the new hire could attend Noxious Weed School. Commissioner Hier asked for an updated job description before advertising the position.

#### **EOC Update on Mask Order**

County Attorney Tim Liesmann provided an update from the EOC regarding the Mask Order 2021-01 that was due to be reviewed on February 8<sup>th</sup>. The EOC recommends that the mask order become a countywide recommendation, with masks required when gatherings are over 30 people, with mass gatherings limited to 45 people, and county employees would be required to wear a mask when working with the public. The order does not inhibit the right of a business, church, school or other entity from requiring patrons to wear masks and enforce trespassing orders for those who refuse to.

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Commissioner Allen asked if the EOC had discussed the new variants of the virus. Finley responded that the Covid reporting does not break out the cases by variance. Liesmann commented that the Commissioners need to be clear regarding if masks are required by all who enter the county buildings, or county employees only. Commissioner Fager stated that he feels that masks should be required for all who enter County facilities, Commissioner Allen agreed especially as the county is giving vaccines and scheduling the additional traffic through the courthouse.

Commissioner Fager moved to approve Order Number 2021-02 An Order Regarding State Executive Order No 20-68, Commissioner Allen seconded. Motion Carried 2-1, Commissioner Hier dissented.

**Conditional Use Permit Hearing**

At 10:00 am Commissioner Fager called to order the Conditional Use Permit Hearing.

Alex Gnadt joined in person regarding CUPs 597, 598 and 599 for a ledge quarry. Gnadt shared that Flint Hills Stone is a family-owned operation that would like to continue. This permit is for a new area that they would move to when they complete operations at their current location. Gnadt stated that in order to plan for the future, they have applied for all three permits at once, these are all consecutive properties, but because of the way the parcels are split they require 3 different CUP applications. Commissioners confirmed that Road and Bridge Supervisor Thayne Bush had approved the haul route, and confirmed that an agreement is in place with Kaw Township for Flint Hills Stone to provide improvements to a light-weight bridge prior to use.

Commissioner Hier moved to adopt Resolution 2021-06, a resolution for quarry operation requested by Alex Gnadt, through George Hund agent, property located on Correction Road; and adopt Resolution 2021-07, a resolution for quarry operation requested by Alex Gnadt, through George Hund agent, property located on Paxico Road; and adopt Resolution 2021-08, a resolution for quarry operation requested by Alex Gnadt, through Rick Hurla agent, property located on Paxico Road. Commissioner Allen seconded. Motion carried 3-0.

Commissioner Hier moved to adopt Resolution 2021-09, a resolution for renewal of Resolution 2018-32 Prairie Fire Ranch, LLC B&B Conference Center requested by Jennifer Foster Trust and Cody Foster Trust, Seth Wagoner agent, property at 12136A Bouchey Rd Maple Hill. Commissioner Allen seconded. Motion carried 3-0.

Paul and Jenny Schutter joined in person. County Attorney Liesmann updated the commissioners that a protest petition had been filed with the Clerk's Office. There were 63 signatures on the petition, however there were not enough signatures from property owners adjacent to the Schutter property to require a unanimous vote. Liesmann stated that the Schutter CUP was declined by the Planning Commission by a 6-4 vote.

Paul Schutter responded to concerns for parking, turnaround space, providing photos. The Schutters shared copies of the specific requirements that they would put in place for their rental, if approved.

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Jan Richter, homeowner at Lake Wabaunsee, joined in person. Richter referenced that she and her husband had sent a letter to all commissioners, she read K.S.A. 19-2950 regarding conditional use permits. Richter shared the concerns of many of her neighbors and suggested a pause on CUP approvals until more requirements can be determined.

Suzanne Simon and David Stuewe joined in person, they are homeowners at Lake Wabaunsee. They shared their concerns, and concerns of their neighbors, and asked for a hold be placed on all upcoming conditional use permit applications to give time for the planning commission or a committee to consider additional sources of revenue, like a bed tax. Clarification was given that the Real Estate Tax on a single-family home is limited by the Kansas Department of Revenue, they cannot be taxed at a commercial rate. Simon and Stuewe stated that they feel that what happens at one point on the Lake effects properties all the way around the lake. Stuewe stated that at one time, the Zoning Administrator notified everyone at the lake for each CUP application. Simon shared that the March Planning Commission hearing that has already been scheduled and published, is for a property that has been operating as a rental for at least 6 months. She stated that there needs to be repercussions for properties that do not follow the rules.

Commissioner Allen asked for clarification on law enforcement and evictions. Attorney Liesmann stated that historically, law enforcement does not take action in a landlord-tenant situation, that is a civil matter. Law Enforcement can enforce criminal trespassing, disturbances, etc, but when rent is exchanged, it becomes a landlord-tenant contract. Undersheriff Brett Wilson and Deputy Sam Hamilton joined in person. Wilson confirmed that the exchange of rent causes this to be a civil matter, however if there is a disturbance, they could remove all persons from the premises. County Attorney Liesmann stated that there is concern for local law enforcement being accused of unlawful evictions without an emergency order from a judge.

Commissioner Fager asked if the Commissioners would prefer to consider tabling these applications and sending them back to the Planning Commission for reconsideration. County Attorney Liesmann shared the original votes from the planning commission: Schutter CUP 6-4; Manz CUP 10-0; McVey CUP 9-1. Commissioner Allen indicated that he would support all three applications if the rules and regulations were added to the CUP. Commissioner Fager asked if the list of requirements provided by the Schutters could be added to the Conditional Use Permit application, County Attorney Liesmann confirmed, yes, they could be added now.

Commissioner Allen stated that he has had people contact him about serving on a committee, he feels that it is a wonderful idea, he would like to see law enforcement and others included on that committee and that they would develop the bed tax.

Brenda Smith joined via zoom, she is a property owner at Lake Wabaunsee, she shared her concerns regarding parking availability on the point, the limited space to turn around, and her past experience not being able to get out of her driveway. Smith shared concerns that there is no one onsite to watch

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over the renters, there is no law enforcement in Eskridge, and there is no law enforcement on the water. Smith shared that she feels the more rentals that are approved, the more traffic there will be.

Commissioner Allen moved to adopt Resolution 2021-10 a conditional use permit for a rental business requested by Paul and Jenny Schutter, property located at 264 Ponderosa Pt, Alma, with a limit of 4 parking spots and to include an attachment of the rules as provided. Commissioner Hier seconded. Motion carried 3-0.

Cindy Manz, applicant and property owner at Lake Wabaunsee joined via zoom. Manz stated that they have run their Lake View Barn as a rental with a CUP for several years, they have built an additional guest house and are receiving requests from neighbors to rent it. Manz shared that they have 5 parking spaces available and they live onsite fulltime to oversee the property and renters.

Commissioner Allen moved to adopt Resolution 2021-12 a conditional use permit for a rental business requested by Roger and Cindy Manz, property located at 113 Lakeview Cir, Alma. Commissioner Hier seconded. Motion carried 3-0.

Kendall McVay, applicant and property owner at Lake Wabaunsee, joined via zoom. McVay stated that this is an initial application by them, but it was a VRBO for years by the prior owner, Jim Woodward. McVay addressed the concerns raised regarding neighbors, parking, and lake access. Commissioner Fager asked if McVay would agree to a max of 4 vehicles, McVay agreed. McVay shared that neighbor Blaine Carter would be the onsite contact.

Commissioner Allen moved to adopt Resolution 2021-11, a conditional use permit for a rental business requested by Kendall and Sarah McVay, property located at 423 E Flint Hills Dr, Alma; with the stipulation of 4 parking spots, and Mr Carter as the onsite contact. Commissioner Hier seconded. Motion carried 3-0.

Commissioner Hier asked about forming a committee to study the concerns presented. County Attorney Liesmann stated that the Commission would need to identify a mission, number of persons, stipulations, etc. Commissioner Hier would like to see both sides of the issue represented on the committee and task them with solutions and enforcement. Commissioner Hier asked about penalties, Attorney Liesmann responded that any violation of a CUP is \$500 per day.

At 11:25 am Commissioner Fager closed the hearing for Conditional Use Permits.

#### **CPR Training**

Undersheriff Wilson asked if the County Commission would like to offer County Employees CPR and AED certification at the cost of \$23 per person. Commissioner Fager asked for the County Clerk to send out a poll to all employees and they would consider the cost and budget implications.

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**Executive Session**

At 11:28 am Commissioner Fager moved to enter Executive Session to perform Zoning Administrator Interviews until 4:00 pm, Commissioner Allen seconded. Motion carried 3-0.

At 3:39 pm the Commissioners left executive session; no action was taken.

Commissioner Hier moved to approve Resolution 2021-13, a resolution amending and superseding resolution 2021-02 authorizing fund transfer to the special highway improvement fund in the amount of \$149,000. Commissioner Allen seconded. Motion carried 3-0.

Treasurer Daily Statements for January 19, 20, 22, 26, 27, 28 and 29 were viewed and signed by Chairman Fager.

At 3:42 pm Commissioner Fager moved to adjourn until Monday, February 22<sup>nd</sup> at 9:00 a.m. Commissioner Hier seconded. Motion carried 3-0.

Minutes approved this 22nd day of February 2021.

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Joel S. Fager, Chairman

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Nancy L. Hier, Vice-Chairman

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Rodney L. Allen, Member

Attest:

Abby L. Amick  
Wabaunsee County Clerk