

Board of Crawford County Commissioners

Commissioners' Journal

2014, SIXTY-EIGHTH MEETING

CRAWFORD COUNTY COURTHOUSE, COMMISSIONERS' BOARD ROOM
Girard, KS Tuesday, September 23, 2014, 10:00 AM

The Crawford County Board of Commissioners met pursuant to Kansas Statutes Annotated Chapter 19, Article 2, Section 18 in due and regular session with open doors.

Commissioner Bob Kmiec served as the presiding officer.

Commissioners Tom Moody and Carl Wood were in attendance.

County Clerk Don Pyle and County Counselor Jim Emerson were seated with the Board.

Chairman Kmiec led the pledge of allegiance.

**UNDER THE HEADING BUSINESS FROM A PREVIOUS MEETING
CONSENT AGENDA**

On motion (14-235) of Commissioner Moody and the second of Commissioner Wood that the consent agenda be approved including:

- 1. Approval of the September 19, 2014 minutes of the Board of Commissioners

Yeas: Commissioners Moody, Kmiec and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed and the consent agenda was approved.

SIGNING OF MOTIONS

The County Clerk presented the following motions for Commissioners' signatures:

Motion 14	234	That the consent agenda be approved including: Approval of the September 16, 2014 minutes
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**UNDER THE HEADING NEW BUSINESS
NEW BUSINESS FOR CRAWFORD COUNTY BOARD OF HEALTH
PUBLIC HEARINGS AND OPENING OF ANNOUNCED BIDS**

Item One: Public Hearing on closing and vacating platted unnamed streets and alleys in Frank Benintende Addition to South Radley, Crawford County, Kansas.

Chairman Kmiec opened the public hearing. There was no comment from the public.

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On motion (14-236) of Commissioner Moody and the second of Commissioner Wood to Close the Public Hearing on closing and vacating platted unnamed streets and alleys in Frank Benintende Addition to South Radley, Crawford County, Kansas.

Yeas: Commissioners Kmiec, Moody and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

Mr. Jim Emerson presented Resolution #2014-027, A Resolution closing and vacating platted unnamed streets and alleys in Frank Benintende Addition to South Radley, Crawford County, Kansas. Mr. Emerson explained that the resolution will only vacate the streets that do not have any homes on them. It was discussed that one person owns all of the property on which the streets and alleys are being vacated.

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BOARD OF COUNTY COMMISSIONERS
CRAWFORD COUNTY, KANSAS
GIRARD, KANSAS

RESOLUTION NO. 2014-027

A RESOLUTION CLOSING AND VACATING PLATTED UNNAMED STREETS AND ALLEYS IN FRANK BENINTENDE ADDITION TO SOUTH RADLEY, CRAWFORD COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF.

WHEREAS, there is laid out and established in Crawford County, Kansas certain streets and alleys under the jurisdiction of the County, lying over and across the following described real estate:

A platted unnamed street located adjacent to and South of Lots 89 through 100, and North of Lots 101 through 112, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed alley located adjacent to and South of Lots 101 through 112, and North of Lots 113 through 124, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed street located adjacent to and South of Lots 113 through 124, and North of Lots 125 through 136, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed alley located adjacent to and South of Lots 125 through 136, and North of Lots 137 through 148, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed street located adjacent to and South of Lots 137 through 148 in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed alley located adjacent to and East of Lots 21, 24, 25, 28, 29, 32, 33, 36, and West of Lots 22, 23, 26, 27, 30, 31, 34, 35, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

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A platted unnamed Street located adjacent to and East of Lots 22, 23, 26, 27, 30, 31, 34, 35, and West of Lots 61, 64, 65, 68, 69, 72, 73, 76, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed alley located adjacent to and East of Lots 61, 64, 65, 68, 69, 72, 73, 76, and West of Lots 62, 63, 66, 67, 70, 71, 74, 75, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed street located adjacent to and South of Lots 21, 22, 61, 62 and North of Lots 19, 20, 59, 60, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

A platted unnamed street located adjacent to and East of Lots 50, 51, 54, 55, 58, 59, 62, 63, 66, 67, 70, 71, 74, 75, and West of Lots 101, 124, 125, 148, in Frank Benintende Addition to South Radley, Crawford County, Kansas, according to the recorded plat thereof.

WHEREAS, a public hearing concerning said street and alley closings was held on Tuesday, September 23, 2014 and all interested parties were given an opportunity to present arguments for and against said closings;

WHEREAS, notice of the public hearing was published one time in the official County newspaper.

NOW, THEREFORE, BE IT UNANIMOUSLY RESOLVED by the Board of County Commissioners of Crawford County, Kansas:

Section 1: The Board of County Commissioners finds that notice has been given as required by K.S.A. § 58-2613 and that the public will suffer no loss or inconvenience by such vacation and that no private rights will be injured or endangered thereby.

Section 2: Pursuant to K.S.A. § 58-2614, the above-described platted streets and alleys are hereby formally closed and vacated and the land comprising said streets and alleys shall and does hereby revert to the adjoining landowners in the same proportion as it was originally taken, subject and reserving unto the County and any public utilities, however, any right-of-way and easements for public service facilities and utilities which are in existence and in use across said roadway and right-of-way.

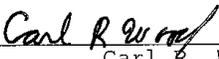
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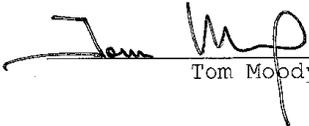
Section 3: The County Clerk is hereby directed to enter a record of these proceedings, as reflected in this Resolution, on the Journal of the Board of County Commissioners and to record a certified copy of this Resolution in the Register of Deeds office.

Section 4: The County Clerk is directed to send a copy of this Resolution to each owner of the adjoining real estate to whom the property is being transferred, at the address where the owner's tax statement is sent.

UNANIMOUSLY ADOPTED AND GIVEN under our hands at the Courthouse in Girard, Crawford County, Kansas, this 23rd day of September, 2014.


Bob Kmiec, Chairman


Carl R. Wood


Tom Moody

ATTEST:


Donald P. Pyle, County Clerk

On motion (14-237) of Commissioner Moody and the second of Commissioner Wood to adopt Resolution #2014-027, a Resolution closing and vacating platted unnamed streets and alleys in Frank Benintende Addition to South Radley, Crawford County, Kansas.

Yeas: Commissioners Kmiec, Moody and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

MESSAGES FROM THE PUBLIC

Item One: Mr. Danny Childers, Manager of Wildcat Acres Farms, wished to discuss a situation that arose when his crew was attempting to finish harvesting some crops and there was a dispute with an employee of the county about some mud left on the road by the farm equipment. Mr. Childers felt that the dispute was unnecessary and he hoped that the county would make sure that this employee understood that this was not appropriate. Mr. Moody stated that he knew the identity of the employee and he stated that he would address this with the employee and take care of the situation. Mr. Childers stated that he appreciated that this would be taken care of and he thanked the commissioners for listening to his complaint.

MESSAGES FROM APPOINTED OFFICIALS

MESSAGES FROM ELECTED OFFICIAL

MESSAGES FROM OTHER GOVERNMENTAL ENTITIES

Board of Crawford County Commissioners

PROCLAMATIONS AND ORDERS OF THE BOARD NEW BUSINESS:

Item One: Mr. Don Pyle, County Clerk, regarding scheduling of Student Government Day for 2015. Mr. Pyle stated that the committee had suggested March 31, 2015, and April 7, 2015, as possible dates when Memorial Auditorium in Pittsburg is available. The commissioners decided that March 31, 2015, would be a good date since there will be a regular commission meeting scheduled for that day.

Commissioner Kmiec asked if Mr. Pyle had received any information from the United Mine Workers asking the commissioners to adopt a resolution in support of the use of coal and in support of the coal industry. Mr. Pyle stated that he had not received anything but he would contact someone for the information.

Item Two: Mr. Jim Emerson, County Counselor, regarding a proposed agreement with BNSF Railway Company for a railroad crossing signal on 630th Road just north of Girard and one half mile east of Highway 7. Mr. Kmiec stated that this was a bad crossing and that this signal will make this area much safer.

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"COUNTY'S ORIGINAL"

Agmt. No. 006143044

A G R E E M E N T

BNSF Railway Company
Crossing Signals and Gates

Project No. 19 X-2879-01
HSIP-X287(901)
Crawford County, Kansas

Agreement between the BNSF Railway Company, the County of Crawford, Kansas and the Secretary of Transportation of the State of Kansas, relative to the construction and maintenance of Highway Crossing Signals under Section 130, United States Code 23.

* * * * *

This agreement, made and entered into this _____ day of _____, _____, by and between the BNSF Railway Company, a corporation, hereinafter referred to as the "Company", the County of Crawford, Kansas, hereinafter referred to as the "County", and the Secretary of Transportation of the State of Kansas, hereinafter referred to as the "Secretary".

WITNESSETH:

WHEREAS, the Secretary proposes to submit to the Federal Highway Administration of the United States Department of Transportation a project providing for the installation of railway-highway crossing signals, flashing light straight post type and gates at a grade crossing (DOT #669866M) on North Street, Crawford County, Kansas, said project to be known and designated as Project No. 19 X-2879-01; HSIP-X287(901) and more particularly described as follows:

at the intersection of North Street and the Company's tracks approximately 2600 feet south and 700 feet west of the Northeast Corner of Section 13, Township 29 South, Range 23 East, in Crawford County, Kansas,

and will recommend its approval for construction under Section 130, United States Code 23 and amendments thereto, and

WHEREAS, the locations for the warning devices were determined by a diagnostic team consisting of representatives of the Company, the County, and the Secretary, and

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and subject to the approval of the Federal Highway Administration, it is hereby agreed by the parties hereto:

1. The total cost of the project will be funded one-hundred percent (100%) using Federal Section 130 Funds, including preliminary engineering, construction, sales tax, users tax and such other items as are properly chargeable to the project under Section 130, United States Code 23 and amendments thereto.

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2. The County will install and maintain the advance warning signs.

3. The Company will provide the Secretary with a copy of the bill of materials and the detailed estimate of the cost of the project. The estimate to be attached to and become a part of this agreement.

4. After being notified by the Secretary that the project has been approved and that work may begin, the Company will notify the Secretary's Area Engineer at Pittsburg, Kansas, at least one week in advanced of the date that work on the project is to be started and should withdrawal from the project become necessary for any reason, the Company will each time notify the Secretary's Area Engineer of the date that work on the project is to be resumed.

5. The Company will remove the existing crossbucks and will install the new straight post signals and gates and make all connections necessary for their successful operation, and do all incidental and appurtenant work in accordance with the project and the "Manual on Uniform Traffic Devices". The Company will furnish all of the material and do all of the work with its own forces, or the work may be done by a contractor paid under a contract let by the Company in compliance with the provisions of 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I. Said Title 23 Code of Federal Regulations (23 C. F. R.) is by reference made a part of this agreement. If this work is to be done by a contractor paid under a contract let by the Company, prior written approval shall be obtained from the Secretary. The estimated schedule by the Company for the completion of the work for this project is one year from the date of this agreement.

6. This Agreement is subject to and the Company agrees to comply with 23 U.S.C. 313 ("Buy America") and 23 C.F.R 635.410 ("Buy America requirements") which require that all iron and steel permanently incorporated in the Company's facilities that are constructed under this Agreement shall have been manufactured, produced, and processed in the United States. Manufacturing processes include any process which modifies the chemical content, the physical size or shape, or the final finish of the iron or steel. These processes include initial melting, mixing, rolling, machining, extruding, bending, grinding, drilling, and coatings applied to iron or steel (including epoxy coatings, galvanizing, painting, and any other coating that protects or enhances the value of the iron or steel used). Companies providing iron or steel or performing any manufacturing processes on the iron or steel shall include a "Buy America" statement on test reports and material certifications submitted to the Company. The "Buy America" statement shall identify the source of the iron or steel and the location(s) of the manufacturing processes. The statement shall certify that the company issuing the test report or material certification complies with all provisions of the Buy America Act. Buy America requirements do not apply to temporary items (Example: temporary sheet piling, steel scaffolding, and falsework) on the contract, even if these items are left in place with the Engineer's approval. The Company will include the test results and material certifications with its billing to the Secretary.

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7. The Company will keep detailed and accurate records of all labor, materials, supplies, incidentals and all other necessary costs involved in carrying out the work performed by the Company under the terms of this agreement, and will give access to such records at any time during regular office hours to any authorized representative of the Secretary or of the Federal Highway Administration, for a period of three years from the date final payment has been received by the Company.

8. Preparation of preliminary estimates, procurements, performance of work, expenditures, billing and reimbursement shall all be done in accordance with 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I.

9. To reimburse the Company within thirty (30) calendar days after receipt of the undisputed portion of any invoice for cost incurred for work done by the Company in accordance with the provisions of this Agreement except amounts retained from each billing and payment of the final billing pursuant to paragraph 10.

10. The Company will submit to the Secretary's Area Engineer a final and complete billing of the incurred costs within one year after the completion of the work, and the Secretary will pay an amount equal to ninety-five percent (95%) of the total amount of each billing for this project pending final audit. Upon completion of final audit, the Secretary will reimburse the Company for the total amount of the final billing found eligible for payment under federal auditing standards, cost principles and regulations. The Company will reimburse the Secretary for one hundred percent (100%) of the amount of all items in the Company's bill which are found to be ineligible for payment under federal auditing standards, cost principles and regulations.

11. The Company shall have title to the signals and gates and at its own cost and expense will maintain the signals and gates and will make ample provision each year for such maintenance, provided, however, the Company shall be entitled to receive any contribution toward the cost of such maintenance as may be now, or hereafter made available by reason of any law, ordinance, regulation, order, grant or by other means or sources.

12. The parties hereto do hereby agree that the "Special Attachment No. 1" herewith, pertaining to the implementation of Title VI of the Civil Rights Act of 1964, is hereby made a part of this agreement.

13. The Company does agree that the "Special Attachment No. 2" herewith, pertaining to lobbying, is hereby made a part of this agreement.

14. It is further understood that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the Company, the County and the Secretary and their successors and assigns.

Board of Crawford County Commissioners

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in triplicate by their proper officers on the day and year first herein written.

MICHAEL S. KING
SECRETARY OF TRANSPORTATION

BY: _____
RODNEY D. LACY, P.E., CHIEF
BUREAU OF ROAD DESIGN

BNSF RAILWAY COMPANY

BY: _____
TITLE: _____
Dir Public Proj

ATTEST:

COUNTY CLERK

CRAWFORD COUNTY

PRESIDENT OF GOVERNING BODY

On motion (14-238) of Commissioner Moody and the second of Commissioner Kmiec to approve the Agreement between Crawford County and BNSF Railway Company for the installation of Railroad Crossing Signals at the intersection of 630th and 150th Streets just north of Girard, Kansas.

Yeas: Commissioners Kmiec, Moody and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

Item Three: Commissioner Wood regarding the appointment of board members for the Crawford County Technical School. Mr. Wood stated that the task force had met last week and that the school needs to have board members appointed soon and that they have applied to be organized as a 501(c) organization. Mr. Wood stated that each commissioner should appoint a business representative with an interest in technical education to serve on the board. It was discussed that all of the school districts including St. Mary's-Colgan will appoint a board member along with a board member from PSU and with a non-voting member from Fort Scott Community College. It was also discussed that this board will meet at least monthly with meetings more than once per month occasionally. Mr. Wood hoped that these board members will all be appointed by October 7th so that the board can start to get organized.

UNDER THE HEADING OLD BUSINESS

Item One: Mr. Don Pyle, County Clerk, regarding the scheduling of a Work Session for the signing of the end of the month vouchers and payroll on September 26.

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Item Two: Mr. Jim Emerson, County Counselor, regarding the burn permit for Mr. Scholes. There was a discussion of how this facility should be permitted and licensed and that KDHE will work with the county on however they want it to be permitted. The commissioners discussed that it sounds like there has not been any burning being done at this location for several years. Commissioner Wood felt like the road needs to be protected so that the work done on that road recently is not lost. Mr. Wood asked that a list of the property owners in this area be assembled and that they be contacted to get their views on how this should be permitted. The commissioners stated that they need to consider this very carefully to try to protect all of the landowners in this area and to help keep the roads in good shape.

EXECUTIVE SESSION

UNDER THE HEADING FUTURE BUSINESS AND ANNOUNCEMENTS FUTURE BUSINESS:

Item One: September 26, 2014 – Representatives from LEPC

Item Two: September 26, 2014 – Ms. Krista Bubna, USD 248 Instructor, and the Honors English Class regarding the “Little Free Library”.

Item Three: September 30, 2014 – Mac Young, Administrative Director, Community Corrections presenting Fiscal Year 2014 Year End Outcome.

ANNOUNCEMENTS:

Item One: September 26, 2014, 8:30 AM – Work Session for the signing of the end of the month bills and payroll vouchers.

UNDER THE HEADING MOTION TO ADJOURN MOTION TO ADJOURN

Item One: Adjournment

On the motion of Commissioner Moody and the second of Commissioner Wood to adjourn the [September 23, 2014](#) meeting of the Board of Crawford County Commissioners at 10:33 AM and to reconvene at the next regularly scheduled time with open doors.

Yeas: Commissioners Moody, Kmiec and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

In Testimony whereof, I have hereunto set my hand and caused to be affixed my official seal and submitted these minutes for the approval of the Board of Crawford County Commissioners:

Board of Crawford County Commissioners

Don Pyle
County Clerk



This submission completed at the Crawford County Courthouse in Girard.
Taken by DPP on 09/23/2014 at 10:33 AM, Amended by DPP on 9/23/2014 at 12:40 PM