CROWLEY COUNTY BOARD OF COUNTY COMMISSIONERS RECORD OF PROCEEDINGS

SEPTEMBER 26, 2022

CALL TO ORDER

Board of County Commissioners met in regular session on September 26, 2022. The meeting was called to order by Chairman Blaine Arbuthnot at 8:45 a.m. Roy Elliott was absent. The following were present:

Blaine Arbuthnot-----Chairman Terry McMillian-----Member

LaShelle Benbow-----Deputy Clerk to the Board

RESOLUTION NO. 2022-8425

APPROVE DHS DISBURSEMENTS, SEPTEMBER 26, 2022
Motion by McMillian, seconded by Arubthnot to approve the DHS disbursements for September 26, 2022, and authorize transfer of funds in the following amount:

DHS Fund

\$ 23,191.07

Upon motion duly made and seconded the foregoing resolution was adopted by the following

Arbuthnot----Aye Elliott-----Absent McMillian-----Aye

RESOLUTION NO. 2022-8426

APPROVE MEMORANDUM OF UNDERSTANDING FOR CONTROL OF CONFIDENTIAL DATA, APPOINTING MELINDA CARTER TO RECEIVE CONFIDENTIAL DATA CONCERNING LOCAL SALES TAXES

Motion by McMillian, seconded by Arubthnot to approve the Memorandum of Understanding for Control of Confidential Data, and appointing Melinda Carter to receive confidential information concerning local sales taxes.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Arbuthnot----Ave Elliott-----Absent McMillian-----Ave

RESOLUTION NO. 2022-8427

APPROVE ONLINE BANKING ACCESS TO SECRETAC CHECKING ACCOUNT FOR FISCAL AGENT DUTIES

Motion by McMillian, seconded by Arubthnot to approve Stephanie Meyer to have online
banking access to the SECRETAC checking account in order to perform fiscal agent duties.

Upon motion duly made and seconded the foregoing resolution was adopted by the following

Arbuthnot-----Ave Elliott-----Absent McMillian-----Aye

MONTHLY PRISON MEETING

The board conducted the monthly prison meeting with a representative of Crowley County Correctional Facility. No representatives appeared for Arkansas Valley Correctional Facility. Those in attendance were:

Commissioners: Arbuthnot and McMillian Deputy Clerk to the Board: LaShelle Benbow

CCCF: Assistant Warden Steve Brown

CCCF: There are 1,483 beds filled. They recently had a hiring event in Pueblo and 25 applicants are being evaluated. If they can hire 30-some more employees they will look at opening another cellhouse as additional beds are needed throughout the state. The Community Relations event will be at 11:00 a.m. on Wednesday, September 28, 2022.

RESOLUTION NO. 2022-8428

SPECIAL PLANNING & ZONING HEARING - USE BY REVIEW REQUEST, ESCH FAMILY, FILE NO. 2022-14 The board conducted a planning and zoning hearing related to the Use by Review request from the Esch Family, File No. 2022-14. Those present were:

Commissioners: Arbuthnot and McMillian, Elliott telephoned into the meeting

Deputy Clerk to the Board: LaShelle Benbow Planning & Zoning Administrator: Matt Carter

County Attorney: Nathan Shultz

Audience: Sue Ann Lowrey, Pete Aragon, Wayne Rusher, Linda Sullivan, Shad Sullivan, Luke Esch, Patrick Esch, Mary Beth Tucker, Shirley Ager, Adam Wingard, Graham Basecke, Krista Toiaonce, Kelli Jo Brubaker, Tom Haggins, and Bruce Fickenscher.

Arbuthnot began the hearing by asking AES if they had anything that they wanted to say. Adam Wingard stated that he is convinced that their project will have little to no impact on neighboring properties.

Arbuthnot mentioned that he and Elliott visited the Comanche Solar Project located in Pueblo, Colorado. They were very impressed how the property was maintained. The fences were clear of tumbleweeds, there was vegetation on the ground around the panels, and the property was very well kept. This facility did not appear to have any issues that would cause blowing dirt.

McMillian inquired if the bond that would be issued for the project would account for cost inflation. Adam Wingard stated that it does account for cost inflation, and it would be in the County's name.

Wayne Rusher asked if any of the commissioners have taken a drive to see the property where this project is being planned. Elliott responded that he has been to the area numerous times.

Tom Haggins had several questions for the commissioners regarding traffic control and roadways, and eminent domain potential. Tom explained that public service companies of Colorado have the power of eminent domain. Power lines will require 150 foot right of way, which equates to 18 acres per mile for an easement. If neighboring property owners do not agree to the proposed line or easements there is potential for private property being taken through eminent domain. Tom stated that Xcel Energy does not have a single use clause in their previous energy agreements, and he would recommend that a single use clause be made a stipulation for their energy contract. Arbuthnot explained that there would be a mitigation plan in effect for maintaining the roadways, and controlling the dust from them. Our County Attorney will assist in reviewing contracts.

Shad Sullivan said that private property rights are his passion, and he will defend a property owners right to generate income off of their land. This particular project is a balancing act between the revenue that it will provide to various parties, and the impacts that it will have on neighboring persons and property. He wants to ensure that the appropriate level of due diligence is conducted to ensure that families and lands will be protected from negative impacts. He also asked how the Esch family will directly contribute to the Crowley County Community. Luke Esch said Crowley County will benefit from the tax revenue that it will receive from the project.

McMillian commented that he was recently in the San Luis Valley, and saw a number of solar farms. Even though they were small in comparison to this proposed project, he did not see anything about the property that would have a negative impact on surrounding properties. Arbuthnot mentioned that he spoke to a Commissioner in this area about their solar farms. The commissioner stated that they did not experience any negative impacts from the solar farms.

Adam Wingard said it is paramount that AES is part of the community, and they do plan on getting involved in various aspects of our community.

Kelli Jo Rusher asked what the commissioners plan is to provide fire and ambulance coverage at the proposed site. Patrick Esch stated that the water from a pond on the land can be used for fire suppression. Provided the state issues them a permit, he can provide 250,000 gallons of water storage that can be used for dust mitigation and fire suppression. Adam Wingard stated that they will have written plans to address such concerns, and there will be hands-on training completed prior to the start of construction.

Pete Aragon asked what the actual property was for this project. What was originally posted in the newspaper has since changed, and he was not aware of a public notice being posted that addressed this change. Matt Carter explained that the land is less that what was originally proposed. The original legal description included two whole sections, when only half of each of those sections are part of the legal description for the project.

Mary Beth Tucker spoke up and said that people need to be good neighbors and stewards of the land.

Sue Ann Lowery is concerned that the Esch family hasn't been in touch with their neighbors to discuss the project, since they do not live on the land.

Pete Aragon stated that he does not feel the commissioners can make a decision today, because there are too many unknowns at this point.

McMillian read a list of seven stipulations that are required in order for this use by review request to be approved. They are:

- 1) Crowley County use tax of 2% on all construction materials;
- 2) Sales tax of 2% on energy sold to the transmission line;
- 3) Revegetation plan for the disturbed area;
- 4) Road mitigation plan;
- 5) Decommission bond;
- 6) Decommission plan; and
- 7) Weed and pest control.

Tom Haggins asked if AES can get a revegetation bond? Benchmarks need to be set as to what is considered successful revegetation.

Kelli Jo Brubaker wants the commissioners to take responsibility to ensure that the community and the neighboring property owners are protected from negative impacts.

Wayne Rusher asked why the bond cannot be in the name of the surrounding landowners, rather than in the County's name, since it is the property owners responsibility to maintain the property. Adam Wingard stated that it would be more beneficial to address such requirements in contracts rather than in a bond. Nathan Shultz agreed, and he said that bond insurance companies will tie up payouts in legal battles for a very long time.

Arbuthnot called for a vote. Motion by McMillian, subject to the seven stipulations. Elliott seconded the motion, and wants a review of the transmission line plan as he does not want eminent domain to occur on anyone's lands. Arbuthnot stated that when the project is at a point where the County will enter into contracts with AES, a public notice will be placed in the Ordway New Era letting the public know the date and time of such a meeting where the contracts will be approved.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Arbuthnot-----Aye Elliott-----Aye McMillian-----Aye

After the vote had taken place, Shirly Ager stated that she wants to see AES get involved with our local youth by providing education on solar projects and employment in such an industry. She has requested this three times.

No further business appearing the meeting was recessed. Minutes taken by LaShelle Benbow.

ATTEST: