



Boone County Board Minutes



MINUTES OF PUBLIC HEARING PROCEEDINGS

Hilary K. Maricle, Chairman of the Boone County Board of Commissioners called for a motion to open a public hearing on Monday, August 14, 2017 at 11:00 A.M. in the Boone County Courthouse Commissioners Meeting Room in Albion, Nebraska. Motion made by Commissioner Luettel, second by Commissioner Rasmussen to open said public hearing. Notice of the hearing was given in advance by publication and the convened hearing was open to the public. Commissioners present for said public hearing were Ken Luettel, Alan Rasmussen and Hilary K. Maricle. Chairman Maricle read the notice for the record.

The County Board of Commissioners has power to lease real estate owned by the county, specifically Lots 6, 7, and 8, Block 9, Mansfield's Second Addition to Albion, Boone County, Nebraska. The County Board shall hold an open and public hearing in accordance with Nebraska State Statute 23-107.01 prior to any such lease at which any interested party may appear and speak for or against the lease and raise any issue(s) concerning the County Board leasing said property.

In accordance with Nebraska State Statute 23-107.01, real estate owned by the county; sale or lease; terms and procedures: any county board has power to sell or lease real estate owned by the county and not required for county purposes at a fair market value regardless of the value of the property. The county board of such county shall hold an open and public hearing prior to any such sale or lease at which any interested party may appear and speak for or against the sale or lease and raise any issue(s) regarding the fair market value of the property as determined by the county board. Public notice of any such public hearing shall be run once each week for two consecutive weeks prior to the hearing date in any newspaper or legal publication distributed general thought the county.

The County Board of Commissioners ran a public notice the weeks of July 31 and August 7, 2017, prior to the hearing date of August 14, 2017 in the Albion News newspaper in accordance with state statute to lease county owned real estate.

The following were present to voice their concern and oppose the leasing of the Boone County Fitness Center, Inc. (BCFC): Jeff Jarecki, Attorney representing Jay Wolf and BCFC; Jay Wolf, Wolf Foundation and BCFC board member; Anji Kendrick, BCFC Manager; Heather Rankin, BCFC board member; Melinda Johnson, BCFC Assistant Manager; Denny Johnson, Sheriff; Bryce Spann, BCFC board member and insurance provider; and Ed Knott and Tim Kayton, former BCFC board members.

Their opposition concerns to the government statutorily lease requirements is that the sealed bids are open to the general public and how the Board would explain to the public if the Board of Commissioners did not accept the highest bid. It was explained that the Board may advertise to reserve the right to reject any and all proposals received and to waive any informalities or technicalities. The Board is not obligated to accept the highest or lowest bid. If counties receive no bids or if the bids received are substantially lower than the fair market value, the County Board may negotiate a contract for lease of the real estate if such negotiated contract is in the best interests of the county.

Wolf said that the real estate was gifted to the County by his parents and that he felt the operation of the BCFC has worked well the past thirty years and that the BCFC is an asset to the community. BCFC wants to continue the successful relationship with the County. Wolf said that the Boone County Fitness Center, Inc. has adequate resources left by his parents, which is underwritten through the Wolf Foundation, to keep the BCFC operational for future years.



Boone County Board Minutes



It was explained to those present that an entity reports business transactions under one federal identification number in regard to labor laws. The BCFC for several years has been reporting payroll under the County federal identification number and other operating expenses, etc. under a non-profit 501 (C)(3) federal identification number. The Board and BCFC held several discussions in 2016 regarding the payroll, audits and operation of the BCFC being reported under two separate federal identification numbers. The December 19, 2016 Board proceedings discussion references the ownership of the real estate, insurance coverage, lease agreement and operation/payroll changes effective January 1, 2017.

Kayton said that the BCFC is like the Boone County Health Center, the County owns the property. It was explained that the Health Center (medical facilities) are different as they are considered a separate political subdivision with separate governing state statutes. The BCFC is not a political subdivision.

Jarecki suggested an indemnification agreement between the County and BCFC instead of a lease agreement as discussed in December 2016. The Board informed Jarecki that they will not sign an agreement until it has been reviewed and agreed upon by Vince Valentino, Attorney at Law. The County signed an Agreement for Legal Services with Vince Valentino regarding the drafting of legal documents between the County of Boone, NE and BCFC. Jarecki has been asked by the Board to converse with Valentino and to have the County/BCFC documents ready to review for the September 27, 2017 Board meeting.

Motion made by Luettel, second by Rasmussen to close said hearing at 11:24 A.M. Roll call vote: Yeas: Luettel, Rasmussen and Maricle. Nays: None. Motion carried.

Motion made by Maricle, second by Rasmussen to continue discussion with Boone County Fitness Center, Inc. and not move forward with an advertisement for lease bids on said property at this time. Roll call vote: Yeas: Maricle, Rasmussen and Luettel. Nays: None. Motion carried.

Kathy Thorberg,
Boone County Clerk