



# Cherry County Board Minutes



## BOARD OF COMMISSIONERS MINUTES

April 13, 2021

The Cherry County Board of Commissioners met in regular session on April 13, 2021 at 10:00 AM in the Cherry County Commissioners Meeting Room, as per notice in the Valentine Midland News every week and with the agenda being on file in the office of the County Clerk. The meeting was called to order at 10:00 AM by Chairman Storer. Roll call was taken. Present for the meeting were Cherry County Commissioners Tanya Storer, Martin DeNaeyer, James Ward, and Cherry County Deputy Clerk Elise Hamling. The Open Meetings Act Poster was acknowledged by Chairman Storer and the Pledge of Allegiance was recited.

The Board of Commissioners regular meeting minutes from March 30, 2021 were read. Storer moved and DeNaeyer seconded to approve the minutes as read. Roll call vote: Aye – DeNaeyer, Ward, Storer. The motion carried.

The Board of Equalization meeting minutes from March 30, 2021 were read. DeNaeyer moved and Ward seconded to approve the minutes as read. Roll call vote: Aye – Ward, Storer, DeNaeyer. The motion carried.

The Board of Corrections meeting minutes from March 30, 2021 were read. Ward moved and DeNaeyer seconded to approve the minutes as read. Roll call vote: Aye – Storer, DeNaeyer, Ward. The motion carried.

Anne Quigley, Valentine Public Library Executive Director presented the Board with a 100 Year Anniversary Proclamation in celebration of the Valentine Public Library's 100<sup>th</sup> Birthday. Mrs. Quigley offered background and history of the library, the evolution of the Bookmobile program and shared many of the services that the Valentine Public Library offers to the residents of Cherry County now and over the last hundred years. Commissioner Storer read the proclamation aloud. Storer moved and Ward seconded to approve the Proclamation in recognition of the Valentine Public Library's 100<sup>th</sup> Anniversary and to declare 2021 the Year of the Library and to express the Board's appreciation for the Library and all the volunteers who have made this possible. Roll call vote: Aye – DeNaeyer, Ward, Storer. The motion carried.

The Board engaged in discussion via phone with Eric Kamler, Representative of Congressman Adrian Smith, and received an update regarding the recent work of Congressman Smith. Mr. Kamler indicated various Executive Orders that their office is monitoring such as the '30x30 land protection order', 'tax code overhaul' and the 'American Rescue Plan', for which they are awaiting more concrete articulations of those orders. Mr. Kamler acknowledged the vagueness of available information regarding the receipt/use and purpose of funds potentially being distributed to county entities across the United States in accordance with the Covid American Rescue Plan. Mr. Kamler also indicated that many of President Trump's trade policies which positively affect agricultural commodity trading are being continued with the Biden Administration. Commissioner Storer requested that attention be paid to H.R. 803 – Protecting America's Wilderness and Public Lands Act and the potential for the 'expanded heritage areas protection' as it relates closely to grassland preservation as that would clearly have relevance to the Nebraska Sandhills.

Members of the previously appointed exploratory committee responsible for drafting a resolution for protecting property rights and opposing the '30 by 30 Executive Order' met with the Board to discuss the adoption of a resolution opposing Executive Order #14008 on Tackling the Climate Crisis at Home and Abroad discussed at the March 30, 2021 meeting. Commissioner Ward had prepared a draft of such a resolution to which the Board as well as the Exploratory Committee members present considered and revised. The discussion included the importance of the existence and tedious navigation of the Federal Land Policy and Management Act, the acknowledgement of the existing Cherry County Natural Resource and Management Plan for Federal and State Managed Lands and the protections that it offers, clarification that this resolution is intended to be a statement and is not law, the potential for the adopted resolution to be amended/adapted as needed and the hope that this resolution may be used as a model for other taxing entities in order to show cumulative opposition to the executive order. The Board was awaiting detail clarifications from the County Assessor as well as the Niobrara River Council Executive Director prior to acting.

The Board recessed for lunch from 12:03PM to 1:06 PM.

The Board received comments from the public during the allotted time.

Upon receipt of information received from the Nebraska/National Association of Counties and insight from the Nebraska State Auditor's Office regarding how Counties are expected to prepare for the receipt of funds allocated by the Covid American Rescue Plan the Board discussed the need to create a fund in order to accept these funds. Storer moved and Ward seconded to create a new fund, 2580 for the Covid American Rescue Plan Fund. Roll call vote: Aye – Ward, Storer, DeNaeyer. The motion carried.

Michelle Garwood, 4-H Educator and Unit Leader for the Cherry County Extension Office met with the Board to discuss salary/wage budgeting regarding the current and upcoming fiscal year. The proposed changes did not increase the overall budget. No board action was required.

The Board reviewed an invoice for the remaining balance owed to Region 24 Emergency Management and confirmed that the amount to be paid is correct. No board action was required.

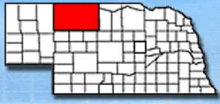
Commissioner Storer provided a review of her findings regarding CUP Application #003/20 submitted by Bow & Arrow Ranch, LLC and offered a written draft version of a proposed motion to the other Commissioners and the Deputy Clerk and stated that it would be open for discussion among the Board.

Under Nebraska State Statutory authority granted by § 76-2,112, "Approval of a proposed acquisition may be denied upon a finding by the appropriate governing body that the acquisition is not in the public interest when the easement is inconsistent with (a) a comprehensive plan for the area which had been officially adopted and was in force at the time of the conveyance, " Based on the finding of fact regarding the Bow and Arrow Conservation Easement, Commissioner Storer moved to deny the Conservation Easement, for CUP 003/20, for the following reasons:

1. The Bow and Arrow Ranch LLC Conservation Easement would be in conflict with both the Natural Resource Plan and Cherry County's Comprehensive Land Use Plan, as it changes the primary purpose/use of the defined acres to 'long term management of the Protected Property as it pertains to the American Burying Beetle', thereby prioritizing one primary resource value.
  - a. Page 2 of the Conservation Easement states that 'Whereas, the Protected Property is adjacent to the Valentine National Wildlife Refuge and will expand that block of protected habitat... the Protected Property provides key habitat for terrestrial wildlife, including the American Burying Beetle; and Whereas, as a stipulation of the Conservation Bank and a Conservation Banking Agreement was created for the long-term management of the protected property as it pertains to the American Burying Beetle, which has additional restrictions and/or requirements in addition to this easement. Whereas all of the above constitute the Conservation Values of the Protected Property; and Whereas the Grantor desires to protect and conserve the Conservation Values and present status of Protected Property by conveyance to the LAND TRUST of this Easement for the purpose of conserving the present status and Conservation Values of the Protected Property and to prevent the use or development of the Protected Property for any purpose or in any manner that which would conflict with the maintenance of the Protected Property in the present condition for both this and all future generations except as explicitly provided for herein.'
  - b. Further evidence of fact that the Bow and Arrow Conservation Easement establishes the American Burying Beetle habitat as the primary use/management purpose.
  - c. The Conservation Bank Agreement attached to the Conservation Easement states that, on page 3, the conservation values are defined as "ecological values which serve as habitat (including without limitation, food, water and proper vegetative mix and canopy cover) necessary to support occupancy, survival and reproduction of the Covered Species" i.e., American Burying Beetle.
  - d. Pg. 12 of the Conservation Bank Agreement indicates that the establishment of the Conservation "Bank" is dependent upon the execution of applicable "Subordination Agreements", defined on pg. 7 as "a written, recorded agreement in which the holder of an interest in, lien or encumbrance on the Bank Property makes a lien or encumbrance subject to and of lower priority than the Conservation Easement, even though the lien or encumbrance was recorded.

The Cherry County Natural Resource Plan recognizes that federal law mandates multiple uses of federally managed lands and pg. 12 states that "in order to comply with the multiple use concept mandated by the Statutes, no individual resource value will be given priority in vegetation management decisions."

The Bow and Arrow Conservation Easement creates a legally binding nexus with the Federal Government. As stated in the Conservation Bank Agreement attached to the Conservation Easement, it will become "federally managed; Pg.1, "US Fish and Wildlife Service, an agency within the US Dept. of Interior, has jurisdiction over the conservation, protection, restoration, and management of Federally listed species within the US pursuant to the Endangered Species Act... US Fish and Wildlife Service is the entity which oversees that establishment, use, operation and maintenance of the Bank." In addition to being in conflict with the



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Natural Resource Plan, this would negate Cherry County's right of coordination in the future, of land use/land management changes on Federally managed lands as defined in 43 USC §1712 and in accordance with Cherry County's Natural Resources Plan.

Furthermore, Cherry County's Comprehensive Land Use Plan states on pg. 40:

"Cherry County will use this plan as a basis and opportunity for proactive monitoring of, and involvement in, state and federal resource management planning and decision-making.

The County will work cooperatively with State and Federal agencies, but consistently assert the local values that are expressed in this plan and insist that they be respected in State and Federal land use planning and decision-making.

Those values include:

- Maintaining agriculture, including the land and water resources on which it depends, as the basis of the local economy and way of life.
2. The Bow and Arrow Conservation Easement would conflict with the Comprehensive Land Use Plan by reducing the value of the identified real property, (as required by IRS Code). Cherry County's Comprehensive Land Use Plan states on pg. 1;
- "Private and public land and water resources are used wisely, sustaining for generations the ecological, economic, social, cultural, recreational and aesthetic values that support the quality of life treasured by county residents."

It is therefore clear that the economic values of Cherry County are a priority to be taken into consideration, and Conservation Easements, by definition of IRS Code MUST reduce the real property value, directly impacting the economic values of the County's resources, which would be in conflict with the Comprehensive Land Use Plan.

IRS code Section 1; 170 A-14(h)(3)(ii); "If the donation of a conservation easement has no material effect on the value of real property, or enhances rather than reduced the value of real property, no deduction is allowable."

In Summary, Commissioner Storer moves to Deny the Bow and Arrow Ranch Conservation Easement because:

- It is inconsistent with the Cherry County Natural Resource Plan and the Cherry County Comprehensive Land Use Plan;
- It creates one specified prioritized use, defined as the "Conservation Values", which is for the American Burying Beetle listed as 'threatened' and subject to the Endangered Species Act over which the US Fish and Wildlife Service has jurisdiction.
- As a legally defined Conservation Easement, according to IRS requirements, it MUST, reduce the value of the real property which is part of the economic base of Cherry County.

Commissioners Ward and DeNaeyer discussed the consistencies with their individual findings in their own research to those of Commissioner Storer and engaged in discussion with Zoning Administrator Jessica Coyle regarding the Planning Commission's review of the Conservation Easement being considered. Administrator Coyle indicated that, as reflected in the minutes of the Planning Commission's meeting, there was minimal discussion prior to voting to recommend approval to the Board of Commissioners.

Ward seconded the motion by Commissioner Storer which was on the floor. Roll call vote: Aye – Storer, DeNaeyer, Ward. The motion carried.

The Board and County Attorney Eric Scott discussed the official request for changes to the March 9, 2021 Cherry County Board of Commissioners meeting minutes received from Jessica Piskorski with regard to the Danielski Harvesting CUP hearing held on February 11, 2021. Ward moved and DeNaeyer seconded to amend the minutes from the February 11, 2021 and the March 9, 2021 meetings to change 'Jessica Piskorski' to 'Ms. Piskorski' and decline any additional amendments to the minutes. Roll call vote: Aye – DeNaeyer, Ward, Storer. The motion carried.

Highway Superintendent Lloyd Smith provide the Board with an update regarding various road projects and material availability.

The Board reviewed the Sheriff's Quarterly Fee Report from January-March 2021, the Clerk of the District Court Fee Report for the month of March, and the Fund Balance Listing for 3/31/2021.

Confirmation of data was received, and revisions were made to the proposed draft resolution submitted by Commissioner Ward earlier in the meeting and the Resolution was read aloud. Ward moved and DeNaeyer seconded to adopt Resolution # 04-13-2021-01 Opposing the Federal Government's "30x30" Land Preservation Goal. Roll call vote: Aye – Ward, Storer, DeNaeyer. The motion carried.

The Board discussed the three current vacancies on the Cherry County Hospital Board of Trustees. Storer moved and DeNaeyer seconded to appoint Andrew Ward to the Cherry County Hospital Board of Trustees, for the remainder of the term vacated by June Stroup, for a term set to expire July 30, 2021. Roll call vote: Aye – Storer, DeNaeyer, Ward. The motion carried.

DeNaeyer moved and Ward seconded to appoint Deanna Scott to the Cherry County Hospital Board of Trustees to a term set to expire July 30, 2025. Roll call vote: Aye – DeNaeyer, Ward, Storer. The motion carried.

DeNaeyer moved and Storer seconded to approve claim #'s 21045898 and 21045971. Roll call vote: Aye – Storer, DeNaeyer. Abstain – Ward. The motion carried.

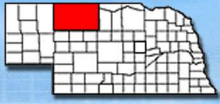
### April 13, 2021 CHERRY COUNTY CLAIMS LISTING

Claims were presented in the amount of	\$	5,723.81	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the General Fund in the amount of			\$	5,723.81
<b>General Fund</b>				
Heart City Plumbing & Heating		Services		\$5,723.81
		<b>TOTAL</b>		<b>\$5,723.81</b>
Claims were presented in the amount of	\$	7.00	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Road Fund in the amount of			\$	7.00
<b>ROAD</b>				
Heart City Lock & Key/Charles Ward		Services		\$7.00
		<b>TOTAL</b>		<b>\$7.00</b>

Ward moved and DeNaeyer seconded to approve claims. Roll call vote: Aye –Storer, DeNaeyer, Ward. The motion carried.

### April 13, 2021 CHERRY COUNTY CLAIMS LISTING

Claims were presented in the amount of	\$	85,201.63	.	
and disallowed in the amount of	\$	-	.	



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A warrant was ordered drawn on the General Fund in the amount of \$ **85,201.63**

**GENERAL**

Advanced Satellites	Supplies	\$499.96
Anderson Electric Inc	Services	\$2,710.10
Applied Connective Technologies	Services	\$1,272.15
Black Hills Chemical	Supplies	\$661.64
Bomgaars	Supplies	\$1,714.44
Buckles Fuel Service, Inc	Supplies	\$106.83
Centurylink	Telephone Service	\$186.96
Centurylink	Telephone Service	\$1,730.11
Cherry County Clinic	Services	\$330.00
Cherry County Court	Court Fees	\$136.00
Cherry County Sheriff	Services	\$269.06
Cherry County Treasurer	Bank Fees	\$5.00
Clearly Communications	Telephone Service	\$288.84
Consolidated Management Company	Services	\$331.45
DAS State Accounting 6506	Services	\$448.00
DAS State Accounting 6507	Services	\$202.70
DISH Network	Services	\$239.19
Encartele Inc	Services	\$300.00
Tanya Fay	Services	\$40.00
Federal Surplus Property	Supplies	\$176.00
Firstnet/AT&T Mobility	Telephone Service	\$609.95
Galls LLC	Services	\$568.13
Michelle Garwood	Reimbursement	\$129.36
Pat Greenough	Reimbursement	\$100.00
GRP & Associates	Supplies	\$57.00
Henderson's IGA	Supplies	\$103.20
Kami Hooey	Services	\$188.50
Johnson Law Office	Clerical Salary/Rent/Telephone/Equipment	\$4,141.73
KBR Rural Public Power	Services	\$81.34
Kearney Regional	Services	\$2,690.98
Ashley Kolessa	Services	\$20.00
Marco Technologies, LLC	Services	\$196.59
Microfilm Imaging Systems	Services	\$136.00
MIPS	Services	\$2,851.09
Nebraska ASSN of County Clerks	Dues/Fees/Training	\$75.00
Niobrara Valley Consultants	Services	\$2,065.22
NIRMA	Dues/Fees/Training	\$187.00
NK Waste Management, LLC	Services	\$184.00
NPZA	Dues/Fees/Training	\$60.00
Office Products	Supplies	\$1,884.79
Outback Screenprinting & Embroidery	Supplies	\$45.00
Paper Tiger Shredding	Services	\$50.00
Platte Valley Communications	Services	\$140.00
Prema	Services	\$213.56
Presto X	Services	\$81.00
Quadient Finance USA	Services	\$1,000.00
Quigley Dill & Quigley	Services	\$1,990.00
Alecia Rabago	Services	\$40.00
Reese Inc	Services	\$1,920.75
Region IV Inc	Services	\$2,626.00
Region 4 Behavioral Health System	Services	\$5,554.00

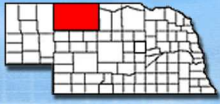
Repco Marketing Inc	Services	\$41.80
Sandhill Oil Company Inc	Services	\$4,677.10
Eric Scott	Clerical Salary/Rent/Telephone/Equipment	\$8,690.14
Scotty's Ranchland Foods, LLC	Supplies	\$71.25
Elior Inc, Summit Food Service	Services	\$7,410.02
Sundance Enterprises	Services	\$62.00
Tehrani Motor Company	Services	\$40.00
Jasmine Thunder Hawk	Services	\$40.00
Tony's Tire & Auto Repair	Services	\$15.00
True Value Hardware	Supplies	\$18.16
Uniform & Accessories Warehouse	Supplies	\$74.70
University of Nebraska-Lincoln	Services	\$1,200.00
UNL Panhandle Research & Extension	Services	\$4,588.77
US Cellular	Services	\$70.17
Valentine Midland News	Publishing Services	\$581.77
City of Valentine	Utilities	\$4,252.11
Ward Plumbing & Heating LLC	Services	\$323.00
Watchguard Video	Supplies	\$9,640.00
Gary Weaver	Reimbursement	\$158.14
Wex Bank	Fuel	\$1,473.88
Trevor Willcuts	Reimbursement	\$135.00
	<b>TOTAL</b>	<b>\$85,201.63</b>

Claims were presented in the amount of	\$	128,255.55	.
and disallowed in the amount of	\$	-	.

A warrant was ordered drawn on the Road Fund in the amount of			\$
			<b>128,255.55</b>

**ROAD**

Andersen & Sons NAPA Auto Parts	Supplies	\$24.06
Andy's Glass Shop	Services	\$325.00
Ashby Lumber Company	Supplies	\$29.90
B's Enterprises Inc	Services	\$4,900.00
Bacon Repair	Services	\$5,738.78
Bill's Garage	Services	\$1,181.08
Bomgaars	Supplies	\$683.33
Buckles Fuel Service Inc	Services	\$3,509.84
Central Valley Ag Cooperative	Services	\$1,232.92
Cherry County Implement	Services	\$630.88
Cherry County Sheriff	Services	\$20.00
Cody Livestock Supply	Supplies	\$44.95
Consolidated Telephone	Telephone Service	\$201.13
Cowboy Welding	Services	\$1,777.40
Croell Inc	Services	\$1,262.87
Custer Public Power District	Services	\$168.07
D/W Machine & Manufacturing Co	Supplies	\$7.00
Danielski Farms Inc	Services	\$13,355.28
DAS State Accounting 6507	Services	\$27.70
Garrett Egger	Reimbursement	\$37.36
Emerson Equipment	Services	\$59.48
Flat Creek Construction	Services	\$8,000.00
Galaway Field Repair LLC	Services	\$1,657.50
The General Store Inc	Supplies	\$223.12
Great Plains Communications	Telephone Service	\$213.90
Hometown Lumber & Construction LLC	Supplies	\$165.00
Huskerland Communications LLC	Supplies	\$2.99
Independent Salt Co	Supplies	\$1,008.00
Interstate Battery System	Services	\$1,085.60
KBR Rural Public Power District	Utilities	\$449.58
Kimball Midwest	Services	\$93.54



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Koinzan Trucking LLC	Services	\$3,405.95
L&L Gravel	Services	\$16,500.00
Lawson Products, Inc	Supplies	\$411.31
Lazy Ev Cattle Co	Services	\$1,500.00
Kent Lopez	Reimbursement	\$246.41
Martin Auto Parts II	Supplies	\$440.65
Martin Marietta Materials	Supplies	\$4,255.74
Mathis Equipment	Services	\$170.72
MCT Trucking	Services	\$9,500.00
Medical Enterprises Inc	Services	\$35.00
Menards	Supplies	\$72.23
Village of Merriman	Services	\$126.65
Mips Inc	Services	\$180.00
Mullen Auto & Diesel	Services	\$870.34
Murphy Tractor & Equipment Company	Services	\$13,772.13
Neal Lumber Company Inc	Services	\$59.50
Neal Oil & Auto Center	Services	\$854.50
Nebraska Dept of Correctional Service	Services	\$1,566.40
Nebraska Machinery Company/NMC Inc	Services	\$538.15
Nebraska Motor Fuels Division	Services	\$2,159.00
Nebraska Public Power District	Services	\$99.54
North Star Electric	Services	\$1,155.79
Office Products Center	Supplies	\$360.81
The Parts Company	Services	\$865.70
Perrett Construction LTD	Services	\$551.22
Pit Stall	Services	\$818.99
Prema	Services	\$172.63
Reese Inc	Services	\$3,749.02
Resource Management Co Inc	Services	\$363.50
Sandhill Oil Company Inc	Fuel	\$8,863.44
Sandhills Ranch Supply	Services	\$322.78
Security First Bank	Services	\$3,985.21
Sundance Enterprises	Services	\$6.00
Unitech Inc	Services	\$318.00
US Cellular	Services	\$69.23
City of Valentine	Services	\$1,556.22
Westover Electric	Services	\$151.53
Woody's Repair-Merlin Woodworth	Services	\$65.00
	<b>TOTAL</b>	<b>\$128,255.55</b>

Claims were presented in the amount of \$ 4,661.81 .  
and disallowed in the amount of .  
A warrant was ordered drawn on the Visitor Promotion Fund in the amount of \$ 4,661.81

## VISITOR PROMOTION

Centurylink	Services	\$129.37
Cherry County Visitors Promo Board	Reimbursement	\$823.04
Cork Thornton Ice Fishing Tournament	Grant	\$2,000.00
Tony Hanson	Services	\$75.00
Heart City Bull Bash	Grant	\$1,000.00
Howard Johnson Hotel	Services	\$246.85
Journal Entry	Voided Check #21035821	-\$633.29
Norfolk Daily News	Services	\$325.00
Outback Screenprinting & Embroidery	Services	\$297.45

City of Valentine		Services		\$398.39
		<b>TOTAL</b>		<b>\$4,661.81</b>
Claims were presented in the amount of	\$	5,000.00	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Visitor Improvement Fund in the amount of			\$	5,000.00
<b>VISITOR IMPROVEMENT</b>				
Heartland Bike Share		Grant		\$5,000.00
		<b>TOTAL</b>		<b>\$5,000.00</b>
Claims were presented in the amount of	\$	22,024.09	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Health Insurance Claims Fund in the amount of			\$	22,024.09
<b>EMPLOYEE HEALTH INSURANCE CLAIMS</b>				
Cherry County Clerk		Health Insurance Claims	\$	22,024.09
		<b>TOTAL</b>	\$	<b>22,024.09</b>
Claims were presented in the amount of	\$	8,767.73	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Bookmobile Fund in the amount of			\$	8,767.73
<b>BOOKMOBILE</b>				
Thomas County Library		Bookmobile		\$547.00
Valentine Public Library		Bookmobile		\$8,220.73
		<b>TOTAL</b>	\$	<b>8,767.73</b>
Claims were presented in the amount of	\$	244.04	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Emergency Management Fund in the amount of			\$	244.04
<b>EMERGENCY MANAGEMENT</b>				
Centurylink		Services		\$244.04
		<b>TOTAL</b>		<b>\$244.04</b>
Claims were presented in the amount of	\$	2,855.92	.	
and disallowed in the amount of	\$	-	.	
A warrant was ordered drawn on the Inheritance Tax Fund in the amount of			\$	2,855.92
<b>INHERITANCE TAX</b>				
Houghton Bradford Whitted PC		Services		\$2,855.92
		<b>TOTAL</b>		<b>\$2,855.92</b>

At 3:31 PM, with no further business to come before the Board, Chairman Storer declared the meeting adjourned.

***These minutes are not the official record and may be corrected. A copy of the approved, official minutes is available to the public in the Cherry County Clerk's Office.***