

Barton County Commission Agenda Meeting Minutes

Recorded audio is available on compact disk upon KORA request to the Barton County Clerk's Office, 1400 Main – Room 202, Great Bend, Kansas 67530.

Phone (620) 793-1835 \ Fax (620) 793-1990 \ Email clerk@bartoncounty.org

Meetings Live Streamed through **Microsoft Teams**® at the following link: <https://bit.ly/3v7XHn1>

September 17, 2024

The Board of Barton County Commissioners convened this 17th day of September, 2024, at the Barton County Courthouse.

Members present:

Duane Reif, Commissioner, 1st District
Barb Esfeld, Commissioner, 2nd District, Chairman
Shawn Hutchinson, Commissioner, 3rd District
Tricia Schlessiger, Commissioner, 4th District, *(Chairman Pro-Tem)*
Donna Zimmerman, Commissioner, 5th District
Bev Schmeidler, County Clerk
Matt Patzner, County Administrator
Patrick Hoffman, County Counselor

I. OPENING BUSINESS:

Commissioner Esfeld called the meeting to order at 9:00 A.M.

Commissioner Hutchinson moved to approve the agenda.
Commissioner Zimmerman seconded the motion.
All voted aye. Motion passed.

Commissioner Zimmerman moved to approve the minutes of the September 10, 2024, Regular Meeting.
Commissioner Reif seconded the motion.
All voted aye. Motion passed.

II. OLD BUSINESS:

-There was no Old Business.

III. NEW BUSINESS:

A. COMMISSION: Employee Engagement Committee:

-Judith Castro, Employee Engagement Committee, will provide details. The Employee Engagement Committee (EEC) is charged with creating short- and long-term goals and project development to improve employee retention and employee satisfaction. Available unexpired terms end December 31, 2024.

Judith Castro, Employee Engagement Committee, said they had someone to fill one position with one opening still remaining.

Commissioner Esfeld how long Alexandra Romero had been employed by the county. Castro said she was a new hire and thought she could offer a different perspective.

Commissioner Esfeld said she knew Barton County was the best county to work for and the Employee Engagement Committee helps bring things to the commissioners.

Commissioner Zimmerman asked Castro who Romero was replacing. Castro said Gina Werth's position with Chris Schartz's position being the open one.

Commissioner Hutchinson moved to appoint Alexandra Romero, Health Department Clerk, to an unexpired term on the Employee Engagement Committee, ending December 31, 2024.
Commissioner Schlessiger seconded the motion.
All voted aye. Motion passed.



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B. EMPLOYEE ENGAGEMENT COMMITTEE: Employee Recognition Award:

-Ms. Castro will provide details. The EEC accepts nominations from employees for the Employee Recognition Award. Lindsey Creamer, Shared Clerk, was nominated for being flexible in her position and her assistance to many departments while moving to and from the Penney's building.

Judith Castro, Employee Engagement Committee, said Creamer was phenomenal in the move to the Penney's building, not only for the Administration Office but other offices as well. She was willing to help wherever she could and gave it her all. Creamer was able to move to different departments filling in as needed. Creamer was hired on December 23, 2019.

Commissioner Esfeld said the Shared Clerk position was difficult because the person had to learn many different duties for the shared departments.

Commissioner Zimmerman said she had been fortunate to work with Creamer from day one and was pleased the award was going to her. Creamer was a fast learner, never complained, always willing to go above and beyond.

Bev Schmeidler, County Clerk, said Creamer was a very hard worker and helped their office immensely.

Matt Patzner, County Administrator, said he echoed the sentiments, Creamer had a great attitude and was a pleasure to be around. With the exposure to so many offices, she had a lot of knowledge and was very valuable to the county.

Commissioner Schlessiger moved to honor Lindsey Creamer, Shared Clerk, with the Employee Recognition Award, Second Quarter, 2024.

Commissioner Zimmerman seconded the motion.

All voted aye. Motion passed.

Commissioner Esfeld asked Castro what they had for Creamer. Castro said she would receive a certificate as well as 8 hours of PTO. Castro said there would be a plaque on which Creamer would be the first name.

C. GREAT BEND AIRFEST: Ticket Giveaway:

-Christina Hayes, City of Great Bend Community Coordinator, will provide details. The Great Bend Airfest will be held at the Great Bend Municipal Airport September 20 – 22, 2024. This sponsor-driven event generally includes rides and tours of historic warbirds, airshow, veteran recognition and displays. At this time, the Commission will give away four pair of tickets, three via a Facebook contest and one via a drawing for a County employee.

Christina Hayes, City of Great Bend Community Coordinator, thanked the commissioners for their sponsorship of the Great Bend Airfest. Hayes said the county went above and beyond. Hayes, along with Diana Watson, Barton County Administrative Assistant, posted the information on Barton County's Facebook page. When people commented, they were entered into a drawing for tickets. Hayes shared some of the comments. Hayes said over 1,000 kids would be attending on Friday due to Golden Belt Community Foundation support. Hayes said it cost over \$400,000 to make the event happen and they expected more than 10,000 to attend. There would be flyovers for the Great Bend High School and Central Plains High School football games on Friday evening. Those were the only schools in Barton County with home games this weekend. There would also be flyovers for Barton County communities with times yet to be determined. Hayes said Saturday evening they would be having a Veterans ceremony, and the commissioners were invited. She needed them to RSVP so they could be announced as well.

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Commissioner Esfeld thanked Hayes for providing flyovers. They drew names for the tickets. Winners were Barbie VanderGiesen, Rhonda Clark and Miranda Brown, They also drew a Barton County employee name and Wendy Prosser was the winner.

Commissioner Schlessiger asked Hayes how to get tickets. Hayes said they could be purchased online as well as at the gate.

Commissioner Hutchinson moved to give away four pair of tickets to the Great Bend Airfest.

Commissioner Zimmerman seconded the motion.

All voted aye. Motion passed.

D. PROCLAMATION 2024-16: National Recovery Month:

-Amy Ferguson, Director, Rise Up Central Kansas, will present Proclamation 2024-16, National Recovery Month, September, 2024. Detailing the impact of recovery through hope and healing, this Proclamation calls for community members to observe the month with compelling programs and events. Included is Recovery Out Loud, Every Voice Matters, beginning at 5:00 p.m., Friday, September 20, 2024, at Jack Kilby Square.

Amy Ferguson, Director, Rise Up Central Kansas, thanked the commissioners for proclaiming September as National Recovery Month because it was so important to support the recovery community, the individuals and their children. It helped to promote understanding and strengthened the community's efforts of hope and resilience to those affected by substance use. Ferguson thanked the commission for their continued leadership to support their recovery. Ferguson shared information about the programs in Rise Up Central Kansas. Ferguson said on Friday, September 20th at 5:00 P.M., Recovery Out Loud would be at the courthouse square. Ferguson said they would have Narcan training, guest speaker Kevin Ford and free food among other events. Oxford members were a large part of Rise Up and were important members in the community, Ferguson said they recently had United on the Diamond, and it was a great time. Tammy, Lisa, Caden, Ken and Josh read the proclamation.

Commissioner Esfeld said never giving up mattered. Losing one life was too much. She appreciated all of them. Oxford Houses held each other accountable.

Commissioner Zimmerman asked how many houses were for men and how many for women.

Commissioner Esfeld said there were two for men and two for women. The men's were Barton House and Hope Central, the women's were Serenity Way and Deliverance, which was for women and children.

Commissioner Reif thanked Ferguson and the others.

Jody Estrada said he had had a tumultuous life and heard some great things today. He said he recently lost a stepdaughter to alcohol and the statements had really touched him.

Commissioner Schlessiger moved to adopt Proclamation 2024-16, National Recovery Month, September, 2024.

Commissioner Zimmerman seconded the motion.

All voted aye. Motion passed.

E. SOLID WASTE: Purchase of a Fire Truck:

-Jennifer Hamby, Solid Waste Director, will provide details. For some time, the Solid Waste Department has taken measures to assure fire suppression. There are thermal camera monitoring disposal areas and staff assures proper coverage. Even with these activities, the disposal areas are still prone to fire. Staff

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has secured a 1996 Ford F350 Brush Fire Truck through Purple Wave as an added defense against spreading fires. The Commission will be asked to ratify the purchase.

Jennifer Hamby, Solid Waste Director, said the truck came from the city of Wilson. The maneuverability of the current truck was an issue; it had gotten stuck and then was in the way. The brush truck would be better suited for the landfill since it was four-wheel drive. Hamby asked for approval of the purchase.

Commissioner Hutchinson said when they obtained the other fire truck, there were several months in a row that a fire occurred. It was quite an ordeal when the fires got going. He said having a truck on site was beneficial for quick response. He thanked Commissioner Reif for locating the brush truck.

Commissioner Reif said a fire truck was necessary at the landfill. He talked to the mechanic at Wilson and was assured it was good. He recently replaced the computer board, radiator and alternator. The only reason they were selling the truck was to get something better suited for the canyons in their area.

Commissioner Reif moved to ratify the purchase of a 1996 ford F350 Brush Fire Truck through Purple Wave for a total cost of \$14,300.00. Cost to be paid from the Solid Waste Fund, Vehicular Equipment, 140-64-6205.

Commissioner Hutchinson said try that line again, Duane.

Commissioner Esfeld said it was 68 instead of 64.

Commissioner Reid said I am sorry, 140-68-6205.

Commissioner Hutchinson seconded the motion.

All voted aye. Motion passed.

Commissioner Zimmerman asked Hamby what she planned to do with the other truck. Hamby said it had been suggested to donate it to the Historical Society. She said that would make her heart happy.

Commissioner Zimmerman said if that did not work or the Historical Society did not want it, when was the surplus auction. Hamby said October 24th.

F. RESOLUTION 2024-18: A Resolution Setting Out the Policy of Barton County, Kansas, on Water Conservation, Use and Administration and Requiring Coordination with any Federal Agency that Negatively Impacts Barton County Residents:

-Patrick Hoffman, County Counselor, will provide details. Under the proposed Resolution, as provided by the Kansas Natural Resource Coalition, the Barton County Commission would establish a policy on water conservation, use and administration. The Resolution specifically establishes that no federal water rights should be exercised in any way that diminishes the availability or use of water for agriculture in Barton County. Further, that all Kansas Counties should work together as one coalition to defend the essential existing water system against all threats, including federal control.

Patrick Hoffman, County Counselor, said he loved local government. Where else could you talk about an air show, addiction recovery, fire trucks and federal agencies, all in twenty minutes. Hoffman said Barton County had been a member of the Kansas National Resource Coalition for several years. This was a group of counties that banded together to advocate for local government to have some input in things affecting us locally. The situation with Quivira Wildlife Refuge and the water rights did not impact Barton County directly but did affect the area. KNRC had access to an attorney who focused on this area and some consultants who drafted a policy that they recommend counties, like us, implement. If there were ever a situation in Barton County, it would require them to coordinate with us and discuss the issue.

Commissioner Schlessiger said she and Hoffman had put in a lot of time on this with the KNRC. She felt it was important to stay at the table when it came to the water issues. This one did not affect Barton County directly but it did affect our neighboring counties.

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Hoffman said this resolution talked about water conservation and noted that KNRC was working on others that would deal with different issues.

Commissioner Hutchinson said he agreed with Commissioner Schlessiger.

Commissioner Schlessiger said she felt water was an important issue and would be one of the most fought over natural resources, especially as it became more scarce.

Commissioner Schlessiger moved to adopt Resolution 2024-18, A Resolution Setting Out the Policy of Barton County, Kansas, on Water Conservation, Use and Administration and Requiring Coordination with any Federal Agency that Negatively Impacts Barton County Residents.

Commissioner Hutchinson seconded the motion.

All voted aye. Motion passed.

No Executive Session Held

G. EXECUTIVE SESSION:

-Chairman Barb Esfeld will present. Any Commissioner may make a motion for the board to recess to executive session at this time as allowed by K.S.A. 75-4319. Any motion must contain the justification for the executive session, the subject matter to be discussed, any individuals in addition to the board who will attend the executive session and the time at which the regular session shall resume.

IV. ENDING BUSINESS:

1. Announcements
2. Appointments

V. OTHER BUSINESS:

There was no other business.

VI. ADJOURN:

Commissioner Hutchinson moved to adjourn at 9:52 A.M.


Commissioner Reif seconded the motion.

All voted aye. Motion passed.

ATTEST:



Bev Schmeidler
Barton County Clerk



Barb Esfeld, Chairman



RESOLUTION 2024-18

A Resolution Setting Out the Policy of Barton County, Kansas,
on Water Conservation, Use and Administration and
Requiring Coordination with any Federal Agency
that Negatively Impacts Barton County Residents

WHEREAS, water conservation is an important and integral component of meeting future water demands, in Barton County, Kansas, and throughout Kansas, and is addressed under the State Water Resources Planning Act in a manner that is comprehensive, coordinated and continuous, including the 5-year updated Kansas Water Plan overseen by the Kansas Water Office and based on a long-term vision for conservation and future water supplies; and

WHEREAS, numerous communities, towns, counties, water districts, irrigators, water providers and others throughout Kansas have implemented water conservation measures in recent years that demonstrate a statewide commitment to conservation; and

WHEREAS, as defined by the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act) and interpreted by the U.S. Supreme Court (*Sackett v. EPA*), there are no "waters of the United States" (WOTUS) in Barton County, and therefore, EPA and U.S. Army Corps of Engineers jurisdiction over discharges in Barton County extends only to year-round continuous-flowing streams with a direct surface connection to the Missouri River; and

WHEREAS, an Executive Order issued by the President, January 27, 2021, established "the goal of conserving at least 30 percent of our lands and waters by 2030," but did not identify waters to be conserved, nor mechanisms for doing so, though several federal agencies appear to be pursuing that vague goal; and

WHEREAS, a proposed Kansas Nebraska National Heritage Area has led to widespread concerns among citizens of Barton County about its potential impacts on land and water use, as well as governance; and

WHEREAS, Section 6 of the Land and Water Conservation Fund requires all land acquired or developed with LWCF funding to be maintained perpetually in public outdoor recreation use. The program is used for fee title land acquisitions, conservation easements and often the associated water rights, which results in a permanent encumbrance on local land and water resources, often without local government approval; and

WHEREAS, the U.S. Forest Service operates the Cimarron National Grasslands in Southwest Kansas, but has no jurisdiction over fishing, hunting, water or land use outside the grassland's boundaries; and

WHEREAS, the National Park Service operates the Tallgrass Prairie National Preserve, five national historic trails and four national historic sites in Kansas, but has no jurisdiction over wildlife, water or land use outside the boundaries of those sites; and

WHEREAS, the Bureau of Reclamation and Corps of Engineers own 25 reservoirs in Kansas, built for purposes of water supply, flood control and recreation, and both agencies are required to manage those facilities in accordance with the purposes for which they were built; and

WHEREAS, the U.S. Fish and Wildlife Service operates the Flint Hills, Kirwin, Marais des Cygnes and Quivira National Wildlife Refuges in Kansas, but has no jurisdiction over fishing, hunting, water or land use outside the boundaries of those refuges; and

WHEREAS, the operation of national wildlife refuges, under the National Wildlife Refuge System Improvement Act of 1997, requires each refuge to operate under a conservation plan that is "to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located," a mandate the agency has not taken seriously enough; and

WHEREAS, recent federal demands for reduction in water use by Kansas farms and ranches are not necessary for the protection of wildlife, but are a threat to agriculture in this region; and

WHEREAS, the Kansas Attorney General and Division of Water Resources have sought to work with the U.S. Interior Department to find workable "compromise" that could result in scaling back water use by working farms, rather than defending local interests; and

WHEREAS, any effort to scale back the use of water for agriculture in Barton County threatens the public health, safety and welfare of our citizens; and

WHEREAS, most farms and ranches in Barton County pre-date federal wildlife refuges and other federal reservations, often by generations; many of the area's oldest farms have water rights that may seem junior under Kansas law, but this is often a result of failure to adjudicate earlier, and/or to object to later filings, and should not be viewed as prima-facie proof that farms are more recent water users; Barton County, as keeper of land records, is in the best position to resolve such questions and federal agencies should defer to the County in making such determinations; and

WHEREAS, numerous federal laws enacted during the past 50 years reaffirm federal policy that water and wildlife belong to the people of the states and are managed under state authority:

- The Mining Acts of 1866 and 1870 explicitly granted water rights, rights of possession, rights-of-way and rights to construct ditches, canals and reservoirs, for agricultural entry to lands that were determined to be without certain minerals, including most of Kansas.
- The McCarran Act of 1952 waives the sovereign immunity of the United States in cases concerning ownership or management of water rights, requires federal water rights to be adjudicated in state courts and recognizes the primacy of state water laws.
- The Endangered Species Act of 1973 Sec. 2 established congressional intent that "Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species." That requires active coordination with state and local governments, not merely seeking input. The Act further provides (Sec. 6) that "Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein."

- The Endangered Species Act of 1973 Sec. 4 further requires the federal government to take all state and local efforts into account before listing any species or designating critical habitat: "The Secretary shall make determinations required by subsection (a)(1) solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas."
- Federal Land Policy Management Act of 1976 (FLPMA) Sec. 302 disclaimed any federal authority to regulate hunting and fishing on public lands and adjacent waters, and acknowledged the "authority of the States for management of fish and resident wildlife." That law also, in Sec. 401, reaffirmed ranching as a primary objective, declaring the importance of range improvements that would "lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production."
- The National Wildlife Refuge System Improvement Act of 1997, while authorizing water rights purchases, explicitly disclaimed "a reserved water right, express or implied, in the United States for any purpose," protected all previously existing water rights, denied any effect on existing state and federal laws regarding water quality or water quantity, and reaffirmed principles of the McCarran Act.

WHEREAS, Federal courts have long recognized the primacy of state water law over federal attempts to control water:

- The Constitution's "equal footing" doctrine guaranteed to states the same control over their water that the original 13 colonies inherited from British common law after the revolution (*Martin v. Waddell*; *Pollard v. Hagan*; *Shively v. Bowlby*; *U.S. v. Rio Grande Dam and Irrigation Co.*, *Tarrant Regional Water District v. Herrmann*).

- In *Kansas v. Colorado*, the Supreme Court more clearly extended the equal footing doctrine to include state primacy over the allocation of water within the states' respective boundaries. The court ruled that the federal government has the right to continued flow of waters on its lands, only as far as necessary for the specified beneficial use of the federal property.
- In *California v. United States*, the court further affirmed "that, except where the reserved rights or navigation servitude of the United States are invoked, the State has total authority over its internal waters." That ruling explained, "The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to state water law by Congress."; and

WHEREAS, the history, economy, culture and quality-of-life in Barton County are inextricably linked to agriculture, the future prosperity of which is crucial to the public health, safety and welfare, and

WHEREAS, Barton County and its citizens will be harmed if this policy is violated and/or policies are implemented inconsistent with it.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Barton County, Kansas, that it is the policy of this County that:

- Regardless of water rights, no federal agency should undertake any new water use that might increase consumption, nor should any new federal water rights be acquired in Barton County without the express agreement of the County Commission and the Kansas Legislature, nor should any additional land or other property be acquired unless specifically accompanied by an absolute disclaimer of any reserved federal water rights.
- No monies from the Land and Water Conservation Fund, rents, royalties or any other federal funding sources should be used to acquire property or water in Barton County without the express agreement of the County Commission and the Kansas Legislature.


- Existing federal legal rights notwithstanding, no federal water rights should be exercised in any way that diminishes the availability or use of water for agriculture in Barton County.
- Stream bypasses or other water management practices should never be required as a condition of federal permits or licenses, nor should federal land management plans include criteria that suggest the need for such bypasses or flow requirements.
- No national heritage area should be created in Barton County without specific language absolutely and permanently disclaiming any related water rights or relationship to land or water use planning, regulation or administration.
- All matters involving water rights and water quality should remain in state jurisdiction as matters of primary state interest. Federal agencies should defer to state law and cooperate with state and local governments in all matters regarding water supply or water quality.
- Barton County should be directly involved in federal water and wildlife decisions, including matters related to endangered species, not merely with input equal to an individual, but as a full jurisdictional partner whose policies carry the weight of general public opinion.
- Under the requirement for wildlife refuges to be managed consistent with state conservation plans, as a subdivision of the State of Kansas, Barton County will assert its jurisdiction to hold public hearings regarding any proposed changes to the management of such areas that could affect this County and federal managers will be expected to attend, disclose details of any proposed changes and answer any questions that may arise.
- The Kansas Chief Engineer and Division of Water Resources should administer water rights in Barton County with the goal of maintaining agriculture and other existing uses, resisting any attempts to change water uses to the detriment of agriculture, especially any such changes sought by federal agencies.
- The Chief Engineer and Division of Water Resources should decline enforcement of improper federal water claims and federal agencies should not rely on the State to help subordinate its own citizens to federal interests.

- Barton County may elect to take legal action to defend its citizens' interests in water and the Kansas Attorney General is expected to defend the interests of this County and its citizens against any and all changes in federal water policy that could be harmful to local interests, especially agricultural and municipal/industrial interests and should make clear the State's intention to defend those interests in court if necessary.
- It is the sense of Barton County that all Kansas Counties should work together as one coalition to defend the essential existing water system against all threats, including federal control. This should be official state policy and official policy in all counties.

Adopted this 17th day of September, 2024.


BARTON COUNTY COMMISSION


 Barb Esfeld, Chairman

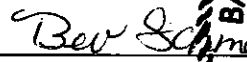

 Shawn Hutchinson, Commissioner


 Duane Reif, Commissioner


 Tricia Schlessiger, Commissioner

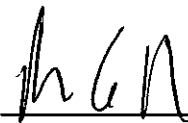

 Donna Zimmerman, Commissioner

ATTEST:


 Bev Schmeidler
 County Clerk



APPROVED AS TO FORM:


 Patrick Hoffman
 County Counselor