

The Barnes County Commission met in regular session Tuesday, October 17, 2006, with all members present except Commissioner Schwehr.

Kerry Johnson, Highway Superintendent, and Mark Anderson, KLJ, met with the Commission to present a supplementary engineering contract outlining historical mitigation costs for the 4th Street Bridge Project.

Commissioner Maasjo made a motion, seconded by Commissioner Berntson, to sign the supplementary contract, increasing the project cost by \$10,000 for historical mitigation. Upon a roll call vote with all members present voting "yes," motion carried.

Mr. Johnson discussed the future replacement of the North Valley Bridge, located below the Highline Bridge, and how much additional right of way would be needed. The County has the existing section line where the old railroad bed was, and it would be of benefit to the county to determine how much of this would be needed for future construction before any development takes place in the area. It was the consensus of the Board that KLJ proceed with contract development, with a maximum service cost of \$5,000, and present the contract at the next Commission meeting.

Mr. Johnson also discussed the sale of the 1975 caterpillar 12G motor grader located at the Dazey shop. It was the consensus of the Board to direct Mr. Johnson to advertise the grader for sale.

Commissioner Maasjo made a motion, seconded by Commissioner Triebold, to approve the minutes of the October 3, 2006 meeting as presented. Upon a roll call vote with all members present voting "yes," motion carried.

Linda Anderson discussed with the Commission the need for original personnel files (all employee information) to be housed centrally in the County Auditor's Office.

Commissioner Maasjo made a motion, seconded by Commissioner Triebold, to mandate the County departments to deliver all employee information to the County Auditor's office by October 30, 2006. Upon a roll call vote with all members present voting "yes," motion carried.

The Commission set the minimum sale prices on the 2006 Barnes County tax sale properties, with the auction set for November 21 at 11 a.m. in the Commission Room of the Courthouse.

Chairman Opdahl opened the Roger Triebold tax abatement hearing. Minutes of the hearing as provided by John A. Warcup, Special Assistant States Attorney, are as follows:

In Re: Hearing Before Barnes County Board of Commissioners - Application from Roger and Rochelle Triebold for Abatement of the 2005 Real Estate Taxes

The Barnes County Board of Commissioners convened on October 17, 2006 at 1:00 p.m. for the purposes of considering an Application for Abatement of the 2005 Real Estate Taxes by Roger and Rochelle Triebold. Members of the Board of Commissioners present included Harlan Opdahl, Donald Triebold, Rodger Berntson and Dale Maasjo. Also present were John A. Warcup, Special Assistant States Attorney, Edward McGough, Barnes County Auditor, and Betty Koslofsky, Barnes County Tax Director.

Roger Triebold, applicant, and John Shockley, his attorney, were also present.

Chairman Opdahl called the meeting to order. He called on Mr. Warcup to make introductory comments to the commission. Mr. Warcup reported that he had been appointed as a Special Assistant States Attorney to assist in this matter. He advised the County Commissioners that a similar application for abatement for 2004 taxes had been presented by Roger and Rochelle Triebold but that the 2005 tax abatement presently before the Commissioners was a separate matter and they were not bound by the 2004 decision. Mr. Warcup further that the applicants Roger and Rochelle Triebold have the burden of persuasion in the matter and the issue before the county commission was not necessarily the valuation of the property in

question but rather the definition of agricultural property as provided in *N.D.C.C.* §57-02-01. Mr. Warcup thereafter listed the factors set forth in *N.D.C.C.* §57-02-01 to be considered in making a determination of agricultural property.

The chair then called on Betty Koslofsky, Barnes County Tax Director to provide introductory comments. Ms. Koslofsky advised that 2005 true and full valuation for the property described in the application is \$69,600.00 allocated \$18,600.00 to land and \$51,000.00 to improvements. She reported that the applicants contend the property should be classified as agricultural property and taxed accordingly. She also reported that the applicant submitted application for abatement of 2005 taxes on July 24, 2006. The application was considered by the Ashtabula Township Board of Equalization Supervisors who recommended the approval of the requested abatement on August 29, 2006. Ms. Koslofsky also reported that the equalized average true and full value for property in Barnes County is \$360.81 for 2005. Ms. Koslofsky also reported that more than four of the conditions set forth in *N.D.C.C.* §57-02-01 exists including the land being platted by prior owner; public improvements including water and dedicated public access roads in place; topsoil being removed and topography disturbed to the extent that the property cannot be used to raise crops or graze farm animals; property is zoned other than agricultural and the property sold for more than four times the county average true and full value. Ms. Koslofsky presented a number of written documents to the commission for their consideration.

Mr. Shockley was thereafter permitted an opportunity to ask any questions of Ms. Koslofsky which he had.

The Chair then called upon Mr. Shockley to address the Board.

Mr. Shockley told the commission that Triebolds were asking the commission to find the buildings on the property exempt because they are part of a larger parcel of property. Mr. Shockley submitted a copy of the entire record that was submitted before the commission at its July 11, 2006, hearing. Mr. Shockley discussed the factors set forth in *N.D.C.C.* §57-02-01 and stated that the application for the 2005 abatement differed from the 2004 abatement since in 2005 the property has been adjacent and contiguous to a larger tract of agricultural property for the entire year.

Commissioner Berntson provided testimony regarding the hearing and findings by the Ashtabula Board of Township Supervisors. Mr. Berntson reported that Township Supervisor Haas made a presentation to the township and thereafter made a motion to deny the request for abatement. Mr. Berntson also reported that Mr. Shockley stated that Mr. Haas' motion was improper as he did not have a reason for the motion. Mr. Berntson reported that Mr. Haas' motion died for a lack of a second. Mr. Warcup then reported that the County Commissioners were not bound by the decision made by the Ashtabula Township Board of Supervisors.

Commissioner Maasjo thereafter pointed out that applicant Roger Triebold had applied for and received a \$75,000.00 residential tax exemption for the property which is the subject of the current application.

Mr. Warcup thereafter explained the seven factors listed in *N.D.C.C.* §57-02-01 and that the commission must find four of them in order for the property not to be considered agricultural. Mr. Warcup reported that the petitioner admits there are public improvements in place and admits that the property is zoned other than agricultural. Mr. Warcup also provided an explanation regarding the platting of the property and the different entities, aside from an owner, which have authority to plat property. Mr. Warcup also provided information regarding disturbance of the topography or top soil and also the value of the subject property as compared to the county average true and full agricultural value.

Mr. Robert Eggert of the Ashtabula Township Board of Supervisors thereafter addressed the commission. Mr. Eggert reported that he has had second thoughts regarding the township's

recommendation and expressed his concern regarding the precedence of granting an exemption.

Mr. Mike Schwehr, Ashtabula Township Board of Supervisors, also addressed the commission. Mr. Schwehr stated that the Ashtabula Township had a number of questions regarding the application for abatement which were unanswered but their recommendation at the time was to approve the exemption.

Ms. Betty Edwardson, retired Tax Director for Barnes County, addressed the commission and advised the commission that the application was limited to Lot 8 and the commission should therefore focus on the use of Lot 8.

Mr. Shockley again addressed the commission stating that Mr. Triebold is a farmer who was using the property for agricultural purposes and requested the commission to following the recommendation of the township to approve the application for abatement.

Mr. Roger Triebold thereafter reported that he completed his residence in 2004 and moved in on leap day of 2004. Mr. Triebold also reported that he applied for a residence exemption and thereafter for a \$75,000.00 residential exemption which was approved.

Mr. Warcup presented the Commissioners with a timeline of events for inclusion in the record and also provided proposed findings for the commission's review. Mr. Shockley proposed an amendment to the application for abatement of taxes to include within the application all property owned by the Triebolds. Thereafter, Commissioner Maasjo moved to deny the abatement application as originally presented. Said motion was seconded by Commissioner Berntson. The commission thereafter took a short recess after directing Mr. Warcup to prepare proposed Findings.

The Chair thereafter reconvened the hearing at which time Mr. Warcup indicated that he had drafted proposed Findings and Conclusions for the Commissioners' consideration. He distributed copies of the draft Findings and Conclusions and explained each of the paragraphs to the commission. A discussion was held regarding modification to the findings. Thereafter, Commissioner Dale Maasjo moved and Commissioner Rodger Berntson seconded to adopt the Findings, Conclusions and Order as amended. Chairman Opdahl asked if there were any questions or if anyone wanted to speak to the issue of the motions. There being no further discussion, both motions were passed by unanimous vote of commission members present.

Thereafter, a brief recess was taken and the hearing called back to order. Mr. Warcup distributed revised Findings, Conclusions and Order which were thereafter moved for acceptance by Mr. Donald Triebold and seconded by Commissioner Maasjo. All Commissioners voted in favor of the motion and the Findings, Conclusions and Order were thereafter signed by the Commissioners.

Copies of the adopted Findings, Conclusions and Order were distributed to Mr. Shockley. There being no further matters to be considered by the Board, Commissioner Berntson moved and Commissioner Maasjo seconded a motion to adjourn. All Commissioners voted in favor and the motion was carried. The meeting was adjourned at 2:55 o'clock.

There being no further business to come before the Commission, Commissioner Maasjo made a motion, seconded by Commissioner Triebold, to adjourn. Motion carried.

Edward R. McGough
Barnes County Auditor

Harlan Opdahl, Chairman
Barnes County Commission