

*****June 3, 2026 *****

The Board of County Commissioners met in regular session on Wednesday, June 3, 2026. Commissioner Smith, Commissioner Culbertson, Commissioner Reid, Commissioner Dove and Commissioner Stieben are present; Also present: Mark Loughry, County Administrator; Misty Brown, County Counselor; John Jacobson, Planning and Zoning Director; Bill Noll, Infrastructure and Construction Services

PUBLIC COMMENT:

Brian Morley, Stacy Schmitt, Ben Morgan, Judy Smith, Lisa Haack, Cary Holton, Ted Grinter, Jeannie Garies, Rick Frederich, Cindy Reeves, Nancy Carpenter, Ernest Rieke, Paula Jaskinia, Allen Jaskinia, Joel Sipp and Wes Baker commented.

ADMINISTRATIVE BUSINESS:

Commissioner Stieben read accomplishments made by the Commission.

Commissioner Dove addressed a Facebook post in which Commissioner Stieben signed as Chairperson, Leavenworth County Commission. He wanted to clarify the Board has not advocated for any topic in the post.

Commissioner Reid spoke about property taxes and stalled growth in the county.

Commissioner Smith responded to Commissioner Reid's comments.

Commissioner Stieben inquired about an advisory election limited to the proposed project site.

Misty Brown indicated a resolution would need to be prepared with a commitment from the County to pay for the advisory election.

A motion was made by Commissioner Culbertson and seconded by Commissioner Smith to accept the consent agenda for Wednesday, June 3, 2026, as presented.

Motion passed, 5-0.

John Jacobson presented Resolution 2026-9, a request for a special use permit for Tillman Infrastructure, LLC.

A motion was made by Commissioner Reid and seconded by Commissioner Smith to find that the request for a special use permit as outlined in Case DEV-26-015 complies with the Golden Factors and move to adopt Resolution 2026-9 and conditionally approve the special use permit as outlined in Case DEV-26-015 based on the recommendation and findings of the Planning Commission and the findings set forth in the staff report as amended by the Planning Commission and as substantiated by the facts, testimony and evidence presented at the public hearing.

Motion passed, 5-0.

Mr. Jacobson presented Resolution 2026-7, a request for a special use permit for Kaw Valley Companies, LLC.

Aaron March, on behalf of the applicant gave a brief presentation.

A motion was made by Commissioner Stieben and seconded by Commissioner Smith that the application generated extensive public comment and review by the County staff, the Planning Commission, the County Engineer, neighboring landowners, emergency responders and other interested parties; the findings of the Board of County Commissioners, the Planning Commission conducted public hearings regarding the application and received substantial testimony concerning traffic safety, road infrastructure, compatibility with surrounding land uses, environmental concerns, and impacts upon nearby property owners. The Planning Commission recommended denial of the application. Finding: Per Kansas statutory and case law requirements clear findings by the Board of County Commissioners are necessary to substantiate the decisions of the Board and ensure fairness and due process to the applicant. Finding: The Planning Commission found that the proposal failed to satisfy multiple Golden Factors, including neighborhood character, compatibility with surrounding uses, detrimental impacts to nearby property and the haul routes, and balance between public benefit and burdens imposed upon surrounding property owners. Finding: The Leavenworth County Comprehensive Plan encourages orderly growth, protection of rural character, compatibility of land uses, preservation of agricultural areas and protection of public infrastructure investments. Finding: The Board finds that preservation of rural character of southern Leavenworth County constitutes a substantial and legitimate planning objective. Finding: The Board finds that the proposed industrial sand mining operation is inconsistent with the established pattern of agricultural and rural residential development surrounding the subject property. Finding: The Board finds that introduction of a long-term industrial extraction operation would materially alter the character of the area and conflict with the Comprehensive Plan objectives promoting compatible land-use transitions. Finding: The Board finds that protection of the County transportation infrastructure is a stated and legitimate planning objective. Finding: The Board finds that approval of the proposed operation would impose substantial demands upon public road infrastructure and are inconsistent with long-term infrastructure preservation goals. Transportation and Infrastructure Finding: Transportation impacts represent one of the most significant adverse consequences associated with the proposed operation. Finding: The evidence demonstrates that extraction activities would require substantial movement of sand by heavy commercial vehicles utilizing county roads. Finding: The Board finds that portions of the anticipated haul route consist of rural roads originally designed to serve agricultural and residential traffic rather than sustained industrial hauling operations. Finding: The Board finds that roadway characteristics within the area include narrow pavement sections, limited shoulders, constrained sight distances, intersections with restricted visibility and roadway segments shared by school transportation, agricultural equipment, emergency vehicles and local residents. Finding: The Board finds that increased heavy truck traffic would increase roadway conflicts, accident exposure, maintenance demands and reconstruction costs. Finding: The Board finds that substantial evidence was presented regarding concerns for school transportation safety and the interaction of heavy truck traffic with school buses and other local traffic. Finding: The Board finds that substantial evidence was presented

regarding emergency responses concerns, including the effects of increased traffic congestion and roadway conflicts upon emergency vehicle operation. Finding: The Board finds that County Engineering reviews conducted during prior proceedings identified substantial concerns regarding long-term roadway performance under projected truck loading conditions. Finding: The Board finds that the applicant has not demonstrated that all transportation impacts have been fully mitigated. Rail Transportation alternative Finding: The Board finds that transportation impacts constitute a principal basis for opposition to the proposed operation. Finding: The Board finds that rail transportation is commonly utilized throughout the aggregate and mining industries to reduce impacts upon public roadway systems. Finding: The Board finds that rail transportation substantially reduces pavement deterioration, traffic conflicts, emissions, roadway maintenance costs and impacts upon neighboring residential properties. Finding: The Board finds that the applicant has not demonstrated that reliance upon truck transportation over County roads represents the least impactful transportation alternative reasonably available. Finding: The Board finds that transportation of extracted materials by rail would more effectively protect public infrastructure and reduce impacts upon the surrounding land owners. Golden Factor Analysis: Golden Factor 1, Character of the Neighborhood: The surrounding area consists primarily of agricultural uses, rural residences, estate residential development, open space and river corridor lands. Finding: The proposed industrial mining operation is incompatible with the existing rural character of the neighborhood. Finding: Nearby properties are predominantly agricultural and residential in nature. Finding: The proposed operation introduces industrial activities that are not compatible with surrounding uses. Detrimental Effects Upon Nearby Property Finding 36: The Board finds credible evidence regarding adverse impacts associated with truck traffic noise, dust, roadway deterioration, visual impacts and interference with enjoyment of nearby property. Finding: The Board finds that approval would create detrimental effects upon neighboring properties and users of affected haul routes. Relative Gain to the Public Compared to Hardship Imposed: The Board recognizes that the proposal may provide economic benefits to the application and limited economic activity associated with extraction operations. Finding: The Board further finds that the principal economic benefits are largely private rather than public. Finding: The Board finds that the burdens imposed upon the neighboring property owners, County infrastructure, public safety, and the rural character of the area substantially outweigh any demonstrated public benefit. Finding: The Board finds that roadway maintenance costs, reconstruction obligations, traffic safety concerns environmental concerns and land-use compatibility concerns represent substantial public burdens. Findings: The Board finds that the hardship imposed upon surrounding property owners and County taxpayers outweighs any demonstrated public good. For this reason, I move that we accept the recommendations of the Planning Commission and deny the application.

Motion failed 3-2, Commissioners Culbertson, Dove and Reid voting nay

A motion was made by Commissioner Reid and seconded by Commissioner Culbertson to find that the request for a special use permit outlined in Case DEV-25-021 complies with the Golden Factors, including Factors 1 and 6 and move to adopt Resolution 2026-7 and conditionally approve the special use permit as outlined in Case DEV-25-021 based on the findings as set forth in the staff report and information presented at the public hearing subject

to the following additional conditions: the first to be the amending of the route as Commissioner Dove has explained the second to be allowing them to do retail sales and the third which I'm open for discussion on I would like to allow this as I've expressed before on this Board to go to the 25- years which is a business forward mindset. Right now, it's 3 and so my motion is for it to be 25 years, but again I'm open to discussion on that point and that's my motion.

The Board discussed the permit length and the dredging hours.

Commissioner Reid withdrew her motion.

A motion was made by Commissioner Reid and seconded by Commissioner Culbertson to find that the special use permit outlined in Case DEV-25-021 complies with the Golden Factors, including Factors 1 and 6 and move to adopt Resolution 2026-7 and conditionally approve the special use permit as outlined in Case DEV-25-021 based on the findings as set forth in the staff report and information presented at the public hearing subject to the following additional conditions: 15 years instead of 3, the route change as Commissioner Dove established and allowing retail sales.

Commissioner Stieben offered an amendment to 25 years and stated the rail component be implemented.

Commissioner Reid withdrew her motion.

Ms. Brown stated the commitment to the rail component was included in the development agreement.

A motion was made by Commissioner Reid and seconded by Commissioner Dove to find that the special use permit outlined in Case DEV-25-021 complies with the Golden Factors, including Factors 1 and 6 and move to adopt Resolution 2026-7 and conditionally approve the special use permit as outlined in Case DEV-25-021 based on the findings as set forth in the staff report and information presented at the public hearing subject to the following additional conditions: 20 years instead of 3, amending the route as Commissioner Dove established, allowing retail sales and 24 hour dredging.

Motion passed, 3-2 Commissioners Smith and Stieben voting nay

Ms. Brown reported she will bring back the revisions to the resolution.

A motion was made by Commissioner Culbertson and seconded by Commissioner Smith to table the development agreement to June 17.

Motion passed, 5-0.

Mr. Jacobson presented Resolution 2026-10, a proposed amendment to the Leavenworth County Comprehensive Plan.

A motion was made by Commissioner Reid and seconded by Commissioner Smith to approve the recommendation of the Planning Commission as outlined in Case DEV-26-048 and move to adopt Resolution 2026-10, amendment to the Leavenworth Comprehensive Plan.

Motion passed, 5-0.

Bill Noll requested approval of the 1302 Project Programming request form.

A motion was made by Commissioner Culbertson and seconded by Commissioner Reid to approve the 1302 Project Programming request form for the CDS project on 235th Street with KDOT.

Motion passed, 5-0.

Mr. Noll requested approval of a relocation agreement for a waterline north of Dempsey Road on 235th St.

A motion was made by Commissioner Reid and seconded by Commissioner Dove to approve the agreement for the relocation of the waterline north of Dempsey Road on 235th Street with Rural Water District #9.

Motion passed, 5-0.

Mr. Noll presented the construction contract with Norfolk Contracting for the replacement of bridge HP-51 on Jamison Road and bridge T-31 on Fairmount Road in the amount of \$593,000.00 with a 10% contingency.

A motion was made by Commissioner Smith and seconded by Commissioner Dove to approve the construction contract with Norfolk Contracting for the replacement of bridge HP-51 on Jamison Road and bridge T-31 on Fairmount Road in the amount of \$593,000.00 with a 10% contingency.

Motion passed, 3-2 Commissioners Culbertson and Dove voting nay

Mr. Noll requested to accept the bid from Foley Equipment for the purchase of a trench roller in the amount of \$37,000.00.

A motion was made by Commissioner Dove and seconded by Commissioner Culbertson to accept the bid from Foley Equipment for the purchase of a trench roller in the amount of \$37,000.00.

Motion passed, 5-0.

Wes Baker commented.

A motion was made by Commissioner Reid and seconded by Commissioner Smith to adjourn.
Motion passed, 5-0.

The Board adjourned at 1:16 p.m.