

RESOLUTION Number 2020-05

**A Resolution of Clark County, Kansas  
Board of County Commissioners  
Adopting  
The Rails to Trails Program for Local Governments  
by the Kansas Natural Resource Coalition**

**HEREAS**, Clark County, a political subdivision of the State of Kansas having specific authority under State law to perform oversight of rail-trail activities;

**WHEREAS**, Clark County has an interest in ensuring that the public health, safety, tax and welfare of the public and landholders is maintained within its jurisdiction;

**WHEREAS**, On April 30, 2013 Sunflower Recreational Trails, Inc., doing business as Sunflower Rail-Trails Conservancy, Inc. (SRTC) and Short Grass Prairie Trail, Inc. (SGPT) filed a joint petition to the United States Department of Transportation's Surface Transportation Board to vacate SGPT's notice of interim trail use (NITU) for 30.3 miles of Central Kansas Railway right-of-way between Englewood and Protection, Kansas and substitute SRTC as the responsible trail sponsor;

**WHEREAS**, SRTC executed a statement of willingness to assume responsibility for management of, or any legal liability arising from, transfer, use of, or payment of any and all taxes that may be levied or assessed against, the right-of-way as required by 49 C.F.R. § 1152.29;

**WHEREAS**, On June 10, 2013 the Surface Transportation Board, in Docket No. AB 406 (Sub-No. 5X) issued SRTC a replacement NITU effective on July 1, 2013 stating:

The new trail user is required to assume, for the term of the agreement, full responsibility for (1) managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes assessed against the right-of-way;

**WHEREAS**, SRTC's interim trail use is subject to restoration of rail service, and SRTC has an ongoing responsibility to meet the financial obligations for the rail-trail right-of-way;

**WHEREAS**, KSA 58-3211 et seq. mandates performance standards of the responsible party for a recreational trail created pursuant to subsection (d) of 16 U.S.C. 1247;

**WHEREAS**, SRTC is the responsible party as defined at K.S.A. 58-3211(c): "*Responsible party*" means any person, for-profit entity, not-for-profit entity that is responsible for developing, operating or maintaining a recreational trail, and this board concludes SRTC is responsible for the portions of the above right-of-way within the jurisdictional boundaries of Clark County;

**WHEREAS**, the Clark Board of County Commissioners have reviewed the program entitled *Rails to Trails Program for Local Government - Background, Recommended Policies and Procedures* prepared by the Kansas Natural Resource Coalition, and finds that program satisfies local government oversight authorities and responsibilities for administering the mandates and provisions of 16 U.S.C. 1247(d), 49 C.F.R. 1152.29, and

K.S.A. 58-3211 et seq.,; and,

**WHEREAS**, State law authorizes Clark County to enact reasonable ordinances for signage, access, invasive weed control, fencing, litter control, liability insurance, bonding, and other health, safety, and maintenance controls to ensure protections for adjacent landowners, citizens, and the general public;

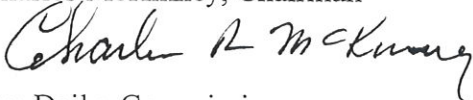
**NOW THEREFORE BE IT RESOLVED** that the Clark Board of County Commissioners adopts the *Rails to Trails Program for Local Government* as Clark County policy until further action by this board.

SIGNED AND DATED THIS 1<sup>st</sup> DAY OF April, 2020

BOARD OF COUNTY COMMISSIONERS:

CLARK COUNTY, KANSAS

Charles McKinney, Chairman



Jim Daily, Commissioner



Howard Wideman, Commissioner



ATTEST: Rebecca Mishler, County Clerk