

OFFICIAL MINUTES FOR NOVEMBER 14, 2012

The Regular Meeting of the Kiowa County Commissioners was called to order at 9:00 a.m. by Chairman Richard Scott on November 14, 2012. Donald Oswald opened the meeting with prayer and Pledge of Allegiance. Those attending were:

Richard Scott, Commissioner
William E. Koehler, Commissioner
Donald Oswald, Commissioner
Debra C. Lening, County Clerk
Peggy Dunlap, Administrator

DSS Director Dennis Pearson met with the Commissioners early due to a RASADA meeting @10:30 a.m. Pearson asked if the County had received a billing from RASADA. He stated if not, it would probably be arriving before the end of the year. He asked if the Commissioners had approved the Early Childhood Council Intergovernmental Agreement and the Commissioners stated that it had been approved last meeting. Commissioner Scott signed the Agreement. Pearson explained a report regarding Court Ordered Benchmark. He stated that DSS is in the middle of their Christmas drive in conjunction with Chamber and Salvation Army. Scott asked about TANF Funds for one of the County employees having problems. Pearson said the employee would not be eligible for TANF funds but might possibly be eligible for food stamps. The employee needs to call Pearson to discuss the matter if interested.

Jeanne Sorensen entered the meeting at 9:10 a.m. as a visitor.

The agenda was reviewed. Additions were made. Scott made the motion, seconded by Koehler, to approve the agenda with the additions. All Commissioners voted affirmative.

Minutes from the October 30, 2012 Regular Meeting was presented. Koehler made a motion, seconded by Oswald, to approve the Minutes as presented. All Commissioners voted affirmative.

Rod Johnson and Janet Frederick met with the Commissioners regarding SECORHT (Southeast Colorado Regional Heritage Taskforce), also known as Canyons and Plains of Southeast Colorado. They are asking that the Counties budget funds for SECORHT. This organization helps promote heritage tourism and wildlife watching in southeast Colorado in six and one half counties in the surrounding area, working closely with economic development in these counties. They are funded through individual contributions, entities, and grant funding. A large part of their funding is coming from lodging tax from Prowers County, La Junta, and Bent County. Since Kiowa, Crowley, Baca and the eastern half of Las Animas County do not have lodging taxes, SECORHT would like for these counties, towns and other organizations, businesses and individuals to become sponsors or members to help show their support for the organization. Major grant funding has been procured to 1) produce the DVD of the historic sits of southeast Colorado which as been shown on television and throughout the state and nation, 2) erect four wayfinding "gate-way" kiosks including the first one at the Eads road-side park, and 3) a second wayfinding project to erect kiosks in various communities representing such sites as the Towner Bus Tragedy and the Haswell Jail as well as Sand Creek kiosks at Chivington and Sheridan lake. The organization also produces area maps, rack cards and other materials that are made available to members, restaurants, motels and others without cost. The organization works closely with the Colorado Tourism office and other state agencies. Congressman Cory Gardner's office and Senator Michael Bennett's office are encouraging this organization to become a National Heritage Area which will give southeast Colorado more exposure. They would like to see more local support from the County governments and the cities and towns that benefit from this program. The Commissioners will discuss funding later in the meeting. Frederick also reported that the Annual Healing Run will be Wednesday, November 21st with a dinner to follow for anyone that would like to attend. On November 29th at the Sand Creek Event there will be a sunrise program so they would like to encourage everyone to come out for that.

The vouchers were reviewed. Four vouchers were questioned. Vouchers were approved and signed.

Area Extension Agent Bruce Fickenscher met with the Commissioners to present the Colorado State University Extension Quarterly Report for July thru September, 2012. He also introduced Heather Smith, the new Extension Administrative Assistant. He also reported that range grass is gone and hay prices are too high to feed out cattle so producers will probably start selling off their herds. He said conditions were very bleak at this time.

There was discussion regarding a Workman's Comp issue and modified duty status. The employee has been approved to work four hours per day on modified duty. There is not an area for the employee to work so will be left on Workman's Comp for now.

The Action 22 invoice for 2013 was discussed. It was decided to not join Action 22 in 2013.

Pay raise questions for select departments were discussed. This will be further discussed later in the meeting.

The Sheriff's trust ledger voucher system was discussed.

Jo Lynn Idler met with the Commissioners to introduce Justin Lee, the new director for Prowers County Public Health. Director Lee stated that the contract between Kiowa County and Prowers County Public Health would remain the same but that Environmental Health would go up approximately \$400 due to more use than normal for the County. He stated that if usage went down, so would the fees. They have been to the Kiowa

County Public Health Office and met Shelly Meyers. Idler reported that the new EPR Grant is being applied for. Idler stated that the monthly immunization clinics are going very well. She gave the Public Health report. She stated that as of August 1st, the cost for death certificates went up from \$17 to \$20 with the additional \$3 going toward the State computer system involved in processing the electronic death registration system. Idler stated that flu vaccinations were done at Prairie Pines for employees and residents. She wanted to know how she was to bill for employees. Dunlap stated that if they are part time employees, they do not receive the County health insurance. Idler stated that she used free vaccine for them so there wouldn't be any charge for anyone not on the health insurance plan. The employees on County health insurance will be covered through their insurance. Mr. Lee told the Commissioners that the contract with Prowers County Public Health would continue as it has in the past and that he looks forward to working together as a team. There was discussion regarding the need for a suicide prevention seminar. Idler stated she would look into it and will discuss with Connie with Southeast Mental Health Services. The Public Board of Health meeting will be December 13th.

CDOT Transportation representatives Paul Westhoff, Resident Engineer from Lamar, and Karen Rowe, Region 2 South Program Engineer from Pueblo, met with the Commissioners to present "Transportation Matters." People don't think about transportation as part of the reason people love Colorado, but it plays an important role in the economy throughout the State. People travel over 76,000,000 miles every day throughout Colorado. The bottom line was there are not enough funds to maintain the roads throughout the state the way they need to be maintained, including the maintenance that is needed on Highway 96 through the County. They are going to increase the shoulders for bicycles on the western part of the county for safety for the bicycles and the drivers. Faster Safety Funds will be used for this project. The (CDOT) want to know what the priorities for roads are in Kiowa County so plans can be made when the planning group comes out.

There was continued discussion regarding employee raises.

The Sheriff's Model Traffic Surcharge account was again discussed. This matter will be discussed further with the new auditor.

The Murdock Building Historical Grant was extended until April 1, 2013 to give the County more time to get a match. If the County can't come up with the match funds, the grant money will be given to a different project elsewhere.

The CCI convention is November 26th, 27th, and 28th in Colorado Springs.

The passage of Amendment 64 regarding legalizing marijuana was discussed. There will be discussion on this matter at conference. A county government can either license it or establish an ordinance against the sell of it in the County. The County voters were very much against it in the election numbers.

Rent for the KCEDF office in January 2013 was discussed. Commissioner Scott said this might be the County's contribution to KCEDF, but the number needs to be defined. The Commissioners also discussed the utilities. It was determined that \$800 per month would cover the rent and utilities and this would be the County's contribution. Scott made the motion, seconded by Oswald, to contribute \$800 per month for office rent plus electricity, heat, water, trash, and \$30.00 toward telephone/internet. All Commissioners voted affirmative. This will be re-visited each year.

There was discussion regarding the volunteer positions for various boards for 2013. Some letters of interest have been received for the various boards.

There was discussion regarding the Eads Home structure.

There was discussion regarding the Prairie Pines Assisted Living (PPAL) assumption. PPAL 501(C) (3) is the entity that should receive the building from the Building Corp. Oswald made the motion, seconded by Koehler, to approve the transfer of the PPAL facility, to wit:

TO BE INSERTED INTO MINUTES OF MEETING OF BOARD OF COUNTY COMMISSIONERS OF KIOWA COUNTY of November 15, 2012:

The Board then reviewed a proposal from the Kiowa County, Colorado Building Corporation (KCBC) wherein it presented to the Board a copy of a letter it received from the United States Department of Agriculture (U.S.D.A.) through Rural Development dated April 19, 2012. The letter stated that U.S.D.A. had agreed to accept a debt settlement offer made by KCBC to it along with a plan of action concerning KCBC's assisted living facility located in Eads, Colorado. A copy of said U.S.D.A. letter was marked as Exhibit "A", attached to KCBC's proposal. The plan of action called for the transfer of both KCBC's sole asset (namely, the assisted living facility) along with KCBC's assignment of an underlying debt [namely, a debt owed by the KCBC to Colorado East Bank & Trust (CEB&T)] to Prairie Pines, a Colorado non-profit corporation and Prairie Pines' assumption of said debt. Upon the successful transfer/assumption of said asset/debt, then U.S.D.A. has agreed to release its two direct loans as evidenced by two promissory notes and deeds of trust as "settled for less than debt".

Commissioner Oswald spoke up and advised the Board that he along with Vern Harris were the two remaining members of a three (3) person Board for KCBC and that he was instrumental in preparation of the letter sent to the Board from KCBC. Commissioner Oswald noted that the first debt consists of a May 24, 2006

promissory note for the principal sum of \$1,200,000.00 executed by the Corporation in favor of CEB&T, being guaranteed by the United State of America, acting through the United States Department of Agriculture, together with an underlying deed of trust of the same date, recorded on May 24, 2006 at Reception No. 26368. The second debt consists of a May 24, 2006 promissory note for the principal sum of \$1,500,000.00 executed by the Corporation in favor of the United State of America, acting through the United States Department of Agriculture, together with an underlying deed of trust of the same date, recorded on May 24, 2006 at Reception No. 263684.

Commissioner Oswald noted that in order to proceed under the terms of said plan of action, KCBC had recently amended Article Six of its Articles of Incorporation to address a concern that would arise. In particular, the original Article Six of its Articles of Incorporation specifically provided, "Upon the dissolution of the Corporation, the Board, acting as trustees in liquidation, shall, after paying or making provisions for the payment of all of the liabilities of the Corporation, distribute all of the assets of the Corporation to Kiowa County, Colorado (the "County")." After much discussion the Board acknowledged that for Kiowa County to accept this asset along with the underlying debt, would be a violation of governmental finance laws including the TABOR amendment which specifically prohibits Colorado governments to undertake debt without the express vote and approval of its electorate. As such, the Board agreed that as long as there is debt against the assisted living facility, the County cannot agree to accept this transfer.

Commissioner Oswald acknowledged that because of this concern of a possible TABOR violation, KCBC had amended its Articles of Incorporation, Article Six from its current form to instead read, "Upon the dissolution of this Corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code or shall be distributed to the federal government, or to a state or local government for a public purpose."

Commissioner Dick Scott then spoke up and advised the Board that he currently was the Chairman of the Board for Prairie Pines and that the Board consisted of a total of seven members; he advised that to date the Board had been an advisory board only in that Kiowa County had leased the facility from the KCBC and that Kiowa County employees actually operated the facility. As Chairman, he had read Prairie Pines' Articles of Incorporation which provided in Article III, Section 3.3(c), as follows:

Upon the dissolution of the corporation, the board of directors shall, after paying or making provisions for the payment of all of the corporation's liabilities, dispose of all of the corporation's assets exclusively for the purposes of the corporation in such manner as the board of directors shall determine, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law), as the board of directors shall determine.

As such, Commissioner Scott felt that Prairie Pines' Articles of Incorporation, as written, was appropriate and was in compliance with the IRS requirements as the same concerns the dissolution of a charitable entity and therefore he would recommend the transfer by the Kiowa County, Colorado Building Corporation of the Prairie Pines facility to the Prairie Pines Board for operation so long as Prairie Pines Board concurrently assumed the outstanding debt against the facility in compliance with the U.S.D.A. plan of action and that Kiowa County no longer operate said facility upon the successful transfer of said facility and the successful compliance with the U.S.D.A. plan of action.

Donald Oswald then moved and William Koehler seconded to resolve as follows, to-wit:

The Board of County Commissioners of Kiowa County resolved that upon the successful transfer by the Kiowa County, Colorado Building Corporation of the Prairie Pines facility to the Prairie Pines Board for operation concurrent with the Prairie Pines Board assumption of the facility's outstanding debt in compliance with the U.S.D.A. plan of action, that Kiowa County no longer operate said facility but, instead, relinquishes all rights to the operation of said facility immediately upon said compliance.

Upon a vote taken the matter passed unanimously. The County will write a letter to Prairie Pines outlining its action undertaken herein upon the conditions as outlined in its resolution above.

All Commissioners voted affirmative.

Koehler made the motion, seconded by Oswald, to hire Linda Watts as the Administrative Director of Prairie Pines Assisted Living per the recommendation of the PPAL Board. All Commissioners voted affirmative. PPAL employees will still be covered under the County for a time. A date will be set at a later time.

The Commissioners are looking for a progress report from Phil Vaughn regarding the Planning and Zoning updates.

The Treasurer's report was reviewed.

The Clerk's report was reviewed.

Commissioner reports were reviewed and discussed.

Time-off request forms were reviewed. Koehler made the motion, seconded by Scott, to approve the time-off requests for Krissy Ray and Carla Gifford. All Commissioners voted affirmative.

Oswald made the motion, seconded by Koehler, to approve Commissioner Scott signing the USDA Election Ballot on behalf of the County. All Commissioners voted affirmative.

Oswald made the motion, seconded by Koehler, to approve and sign the CSBG reimbursement program. All Commissioners voted affirmative.

Koehler made the motion, seconded by Scott, to have Commissioner Oswald complete the CDPHE pesticide survey. All Commissioners voted affirmative.

Koehler made the motion, seconded by Oswald, to approve and sign the liquor license renewal for the Windmill Saloon, All Commissioners voted affirmative.

The Commissioners office will advertise for an opening for the Road & Bridge position for District 1.

There was discussion regarding the DocuTek contract for the Clerk's office. Clerk Lening will get more information from DocuTek and report back to the Commissioners the next meeting.

Scott made the motion, seconded by Koehler, to contribute \$500 to Canyon and Plains for 2012. All Commissioners voted affirmative e.

Oswald made the motion, seconded by Koehler, to contribute \$3,500 in the budget for the 911 –Enhanced system for 2013. All Commissioners voted affirmative.

There was discussion regarding an Emergency Management position. This will be discussed further with Sheriff Frazee.

DSS rent will remain the same for 2013 and will be re-visited for 2014.

The next Regular Meeting will be November 29th, 2012.

With no further business, Oswald made the motion, seconded by Koehler, to adjourn the meeting at 3:00 p.m. All Commissioners voted affirmative.