

UNOFFICIAL MINUTES FOR MAY 29, 2014

The Regular Meeting of the Kiowa County Commissioners was called to order at 9:00 a.m. by Chairman Richard Scott on May 29, 2014. Scott 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

Cindy McCloud attended as a visitor. Also in attendance were Doug Uhland, John Philpy, L.D. Nelson and Phyllis Nelson.

Superintendent Glenn Smith and Principal Betsy Barnett met with the Commissioners regarding the day care. Smith reported that he had talked with the School Board and they are interested in taking a look at this endeavor and want to know what the Commissioners have decided on this issue. The school would like a lease to be written up. The Commissioners said there were some items that would need to be addressed prior to an agreement but feel this is a great idea. The school would take care of custodial issues. There was question regarding insurance and who is responsible for what. The Commissioners said the County's insurance would cover the structure; the school's insurance would cover liability and the business side of the operation. The school will bring in an inspector to see if the facility is up to code and will meet again with the Commissioners at their next Regular Meeting June 12th.

Minutes from the May 13, 2014 Regular Meeting was presented. Koehler made the motion, seconded by Oswald, to approve the Minutes as presented. All Commissioners voted affirmative.

The agenda was reviewed. One addition was made, to wit: Old Business - #15 – Library Board Opening. Koehler made the motion, seconded by Oswald, to approve the agenda with the addition. All Commissioners voted affirmative.

The Brandon dumpsters were discussed. Clerk Lening reported that C.H. (Pinky) and Mary Williams had cleaned up the site and hauled off the old mattresses and other items that were thrown by the dumpsters because they were afraid if someone didn't do it, the dumpsters would be removed from Brandon, as stated by the Commissioners in a previous meeting. Pinky Williams reported that, with the dumpsters being along the highway, people from Kansas are dropping off their trash. He also reported that Prowers County residents working for the hog farms and feed mill are bringing their trash to these dumpsters. Lening also reported that Pinky Williams picks up trash from around the dumpsters and in the ditches every time he uses the dumpsters because of the overflow of trash littering Brandon. Scott will talk with Gerald Deines from DW Waste to see why the dumpsters were moved to the highway to begin with and see if they can be moved to a better location for the local residents that won't be as accessible for people traveling through.

William Wilcox entered the meeting at 9:25 a.m. as a visitor.

Landfill issues were discussed. State Representative Tim Dore wants to have a meeting with all counties in this area regarding their landfills to discuss this matter. The Commissioners want to discuss some de-regulations. The rural areas should not have to be regulated the same as the metro areas. The Commissioners have still not heard back from the State on the inspection of the Eads landfill. They will need this information prior to meeting with Representative Dore.

The National Heritage Area Resolution was discussed. Koehler wants the Resolution to be re-worded. He said you need to be careful and allow landowners to have a say if they are in favor of it. Doug Uhland stated that all landowners have a right to give an easement to NHA if they so choose, but the County doesn't have to approve it. There was further discussion with the audience. They would like to make sure that government agencies can't come through the back door using NHA. The discussion was tabled due to a scheduled appointment.

Pat Roper and Kelly Courkamp met with the Commissioners regarding museum issues. Three doors need to be replaced at the museum. The back door is about to fall in and all three doors leak terribly, allowing dirt and elements to damage the contents of the museum. They reported that the flooring that was replaced looks wonderful and was a huge improvement. After further discussion, it was decided that the Commissioners will have to look at the budget to see what can be done at this time. They would like for the ladies to get bids to see what the cost will be and might have to replace one at a time.

The NHA discussion continued. The attending audience wants it to be on record that the Commissioners are opposed to NHA coming in to the County and leave it to local control. Scott said there were some things that Canyons and Plains were trying to promote that are good things but they should be able to do projects without NHA being involved. This does not seem to benefit the county residents. Scott said he is willing to adopt the resolution with modifications, as were the other two commissioners. The discussion was again tabled until the revised resolution was drawn up.

John Marrin, President of LCC, met with the Commissioners. He reported that three Eads students received Presidential scholarships that are almost full ride through LCC for two years. The graduates receiving these scholarships were Kailyn Lane, Chelsea Crosby, and Abigail McDowell. He also reported that Shealynn

McCracken was chosen to present LCC to the State Board as LCC's outstanding student of the year in Denver. He stated the Shealynn was also one of LCC's Presidential scholars. Marrin reported that they will be breaking ground in January, 2015 for the new dorm pods. He also reported that enrollment is up for the summer semester. Koehler ask Marrin if the solar program students could come up with something for the Veterans Memorial lighting. He stated they could put a plaque under the lighting advertising LCC. Marrin said that was a great idea and he would check into it.

The NHA opposition resolution was again discussed. Revised copies of the resolution were handed out to the audience. After further discussion, Scott made the motion, seconded by Oswald, to adopt and sign Resolution 2014-1 National Heritage Area Opposition, to wit:

RESOLUTION NO. 2014-1

National Heritage Area Opposition

Whereas, Canyons and Plains of Southeast Colorado, also known as SECORHT (southeast Colorado Regional heritage Tourism), National Park Service, The Nature Conservancy, Palmer Land Trust, Rocky Mountain Bird Observatory, and Guidestone are pursuing a National Heritage Area designation for Southeast Colorado, comprising the counties of Baca, Bent, Crowley, Kiowa, Las Animas, Otero, Prowers, and Pueblo, for the purpose of implementing a comprehensive conservation, preservation, and compatible economic development plan to be approved by the Secretary of the Interior.

Whereas, a national Heritage Area designation infringes upon private property rights, subverts local sovereignty, and compromises the authority of locally elected officials through the creation of a non-elected management entity whose purpose is to implement a management plan approved by the National Park Service and pursue political activism by using millions of federal tax dollars to encourage local governments to pass and enforce strict zoning laws;

Therefore, be it resolved, the Kiowa County Board of Commissioners OPPOSE the National Heritage Area designation proposed for southeast Colorado and non-governmental organizations, including, but not limited to, Canyons and Plains of Southeast Colorado, that infringe on private property rights, subvert local sovereignty, and compromise the authority of locally elected officials.

BOARD OF COUNTY COMMISSIONERS
KIOWA COUNTY, COLORADO

/s/

Richard Scott, Chairman

/s/

Donald Oswald, Commissioner

/s/

William Koehler, Commissioner

Attest:

/s/

Debra C. Lening, Kiowa County Clerk

All Commissioners voted affirmative.

Scott discussed the restructuring of the Colorado Legislature where every county in Colorado would have one representative at the state level. This representation would not be based on population. Scott urged the audience still in attendance to consider signing a petition or carrying the petition. The Commissioners can not carry a petition as commissioners but they can as private citizens. This stems from the 51st State proposal. Petitions can be picked up at the Commissioners office. It is considered the "Restoring Colorado" ballot initiative.

Area Extension Agent Amy Kelley and Southeast Area Agronomist Wilma Trujillo met with the Commissioners to present the CSU Extension Quarterly Report. Trujillo also discussed the draught situation in Southeast Colorado.

The vouchers were reviewed. One voucher was questioned and withheld. Oswald made the motion, seconded by Koehler, to approve and sign all but one of the vouchers. All Commissioners voted affirmative.

Jolynn Idler from Prowers County Public Health and Kristin Stokke met with the Commissioners regarding the EPR grant contract and other matters. Oswald made the motion, seconded by Koehler, to approve and sign the 2014/2015 EPR Independent Contractor Agreement. All Commissioners voted affirmative. Koehler made the motion, seconded by Oswald, to approve and sign the CDPHE 2014/2015 Contract. All Commissioners voted affirmative.

Two bids were received for concrete work for the Veterans Memorial. Roland Sorensen met with the Commissioners to discuss the matter. One bid was detailed and one was not. A timeline will need to be established with whichever contractor is chosen. The Commissioners said the project needs specs to be able to have a complete bid. Scott said the bids should be considered estimates. Oswald made the motion,

seconded by Koehler, to continue the discussion with the two contractors who gave bids or estimates for the job, and get more specifics on the bids to have presented for the next meeting. All Commissioners voted affirmative.

Janet Frederick and Executive Director of Canyons and Plains Rick Manzaneras met with the Commissioners to present their perspective on NHA. Manzaneras presented his testimony to the Commissioners, to wit:

Testimony to Kiowa County Commissioners on May 29, 2014

by Rick Manzaneras, Canyons & Plains of Southeast Colorado

I would like to ask the Kiowa County Commissioners to please postpone your vote on a broad sweeping resolution regarding National Heritage Areas being put before you.

Although the process of the NHA is in its idea stage, Canyons & Plains will conduct a Feasibility Study for A National Heritage Area for a proposed region of six Southeast Colorado Counties, including Baca, Bent, Crowley, Kiowa, Otero and Prowers. Canyons & Plains of SE Colorado is in a partnership with Palmer Land Trust, Rocky Mountain Bird Observatory and Guidestone to pursue economic sustainability in Southeast Colorado. This partnership was formed as a result of a grant awarded by the Gates Family Foundation. Palmer Land Trust is working in Pueblo County and other northern counties. But its office in Rocky Ford serves Crowley and Otero, and Pueblo Counties. Guidestone has no operations in Southeast Colorado at this time. The only organization that is "pursuing" a Feasibility Study for a National Heritage Area is Canyons & Plains of SE Colorado. In addition to Gates Family Foundation Partners funded as listed above, The Nature Conservancy and National Park Service serve as advisory partners.

Although there is a claim that NHAs infringe on private property rights, the exact opposite is true. The most recently designated NHAs expressly prohibit any acquisition of private property, property rights, water rights and influence on local zoning and planning regulations in the enacting legislation by the U.S. Congress. These include the three in Colorado – the Cache La Poudre National Heritage Area, the Sangre de Cristo National Heritage Area and Park County National Heritage Area. In fact, only one National Heritage Area of the 49 already in existence has any authority for land acquisition whatsoever and it was understood at the time of legislation. Furthermore a Government Accounting Office Study in 2004, concluded that the 24 NHAs approved up to that point, did NOT infringe on private property rights.

Infringing on private property rights has never been a goal or even a thought on the part of Canyons & Plains in its 10 year existence. Any claim that private property rights are infringed upon in National Heritage Areas is not supported by any facts. I know of no litigation that supports this claim. If there is litigation and evidence to this claim, we should all know about it before it is allowed to stand as fact.

Canyons & Plains of SE Colorado has been in existence since 2003 and received non-profit status in 2006. Its main purpose is to bring economic development to a six and a half county area through Heritage Tourism. This has included projects that have installed several wayfinding interpretive signs (a project which is still ongoing), assisting small heritage tourism organizations with technical support, being a fiscal agent for Youth Summit, supporting a statewide youth preservation organization, printing heritage tourism brochures, presenting speakers on topics relevant to the economic well-being of the region and other similar accomplishments. Making broad sweeping conclusions about the organization's intentions after such a long history of service, does a major disservice to the benefits of its projects to the region.

Canyons & Plains of SE CO will be having public informational meetings in the next few months in six counties in its service area to discuss the Feasibility Study of an NHA. A feasibility study is a report that documents the processes undertaken by the residents of a region to determine whether their landscape has the distinctive natural, cultural, historic and scenic resources to tell a nationally important story and the local capacity necessary for designation as a National Heritage Area. It examines whether authorization as a NHA is an appropriate strategy for achieving a region's resource conservation and economic development goals. In the planned public meetings, Canyons & Plains will invite the public and give everyone an opportunity to present an idea or ask a question. This is an absolute necessity in a Feasibility Study. This study has not yet begun. Until this process is complete, there can be no proposed legislation.

Canyons & Plains of Southeast Colorado would at this time ask that you put aside any resolutions until there is opportunity to have all the facts presented.

Please postpone your decision on any resolutions on National Heritage Areas at this time.

Manzaneras also had newspaper articles and other testimonies, as did Frederick, to present to the Commissioners supporting NHA. They emphasized that "designation" is naming something as in an honor; no property is attached to it. They stated that this is about economic development, not land acquisition. They

asked that no decisions be made regarding a resolution opposing NHA until more public meetings could be held. After further discussion, Scott stated that the resolution had been adopted earlier in the meeting.

Charles Tucker, a railroad surveyor and consultant from Farnsworth Group, Inc., met with the Commissioners to discuss the V&S Railroad abandonment process. The audience that was present for this discussion was: Van Brown, Justin McLoud, Mandy Adamson, Steve Baxter, Marilyn Baxter, Marci Miller, Frank Miller, Randy Carney, Cindy McLoud, and Bill Wilcox. Also present were Crowley County Commissioner Tobe Allumbaugh and Crowley County Assessor Doug England. Scott stated that the abandonment and removal of the rail would apparently start first in Towner to Eads. Aside from no longer having a railroad, the right-of-way becomes an issue. Tucker explained that in order to abandon a rail line, the first thing V&S (also known as A&K or KCT or various other aliases) would have to do is notify the Surface Transportation Board (STB) in Washington. STB is the old Interstate Commerce Commission. There is a set of rules that they have to go by and V&S are going to try to do the expedited process. They are going to claim that there has been no rail traffic on the line for two years, there is no prospect of future business, and they are going to publish what they call a System Diagram Map (SDM). They have to tell the STB what their plans are and how they plan to go about abandoning the line and what their intentions are. They can not abandon anything until that SDM is published. One of the problems is there is no record of an SDM having been filed. Tucker came out to start investigating this matter because Crowley County became involved and asked for assistance. There is a Discontinuance of Service on file [Docket AB603_2(X)] between NA Junction in Pueblo County to Haswell. There is one shipper in Haswell and that's the only thing that has been shipped on the line in recent history. The Abandonment Petition was filed May 14th, 2014 [Docket AB602_3X]. The community, shippers, citizens, land owners, business owners, etc. have 30 to 45 days to respond, which would be by the end of June. V&S has put up a filing fee to start the process of abandonment, so they are committed. Those willing to respond or who want to look up the filings and decisions and notices can do so through the Surface Transportation website: www.stb.dot.gov. V&S has tried to say there are no Federal Grant rights-of-way on this line and that is incorrect. Tucker provided the railroad land schedule and the maps to the Commissioners, which shows where the federal and state land grants are. V&S will swoop in and take what they want and leave the rest of the mess to the counties to clean up, including trying to figure out who owns what and where the monuments are for surveying. The STB will have an Environmental Impact Review to make sure that the right-of-way is cleaned up and that there is no environmental damage done before V&S leaves. Tucker stated that from a surveyor's point of view, the only thing they see is that monuments are left in tact. If there is something historic, it is to be preserved as well, whether it is a bridge, a trail, or whatever. The Professional Land Surveyors of Colorado Inc (PLSC) demand that the railroad records be turned over to the county of record so that the information and records are preserved. The STB would prefer the rail not be abandoned; that is the last resort. They are for preserving rail service and will put out what is called an Offer for Assistance (OFA) to see if someone wants to operate the line instead of abandoning the line to preserve the line. They can force the railroad to sell instead of dismantling at an appraised value. V&S (or A&K) makes money reselling all of the materials instead of running the railroad. Steel is at a premium so this rail is valuable to them. Again, what is important to remember is that V&S will take what they want and leave the title problems for the land to the County. The land adjoining the railroad would not necessarily go to the land owner adjoining the rail; it could go back to the Federal Government and businesses along the railroad would have serious issues! The STB needs to be contacted! Tucker also stated that the County needs to make sure they DEMAND that a survey of the whole corridor is done BEFORE the rails are pulled up!

The FAA regulations regarding the expansion of the military operations were discussed. The Commissioners have not been officially notified of any expansion other than what Burl Scherler presented at the last Regular Meeting.

The On Site Waste Water Treatment Regulations were discussed. The Commissioners are in agreement with what Keith Seimsen with Southeast Environmental Health proposed and relayed this to Attorney Shinn.

The Fire Protection District was discussed. Some petitions have been turned in showing an interest to get the Special District going. The Commissioners need to get a meeting set up to meet with all parties to work on the Service Plan.

Blowing dirt issues were discussed. An additional certified letter needs to be sent stating that nothing has been done to date.

The parade theme was discussed. No ideas were received from the public. The idea of something based on the fact that Kiowa County is celebrating 125 years was discussed. The theme will be "Kiowa County Celebrating 125 Years."

A list of Sheriff's vehicles to sell was given to the Commissioners. Road and Bridge is looking at using one of the vehicles for transporting employees to Sheridan Lake. Koehler made the motion, seconded by Oswald, to allow the east end Road and Bridge crew to use the 2005 Dodge Durango for a transport vehicle. All Commissioners voted affirmative.

The Commissioners are accepting letters of interest for the opening on the Library Board.

The Sheriff's report was signed and filed.

The Veterans report was reviewed.

SAGE, SCEDD, & SECED reports were given.

There was one time-off request form to review. Oswald made the motion, seconded by Koehler, to approve the time-off request. All Commissioners voted affirmative.

Oswald mentioned that a county lodging tax was discussed at the KCEDF meeting. With very little information to go on, the Commissioners decided they would have to have more information before making any type of decision.

Koehler made the motion, seconded by Oswald, to approve and sign the CSBG Grant 2014-2015 Budget. All Commissioners voted affirmative.

Oswald made a motion, seconded by Koehler, to approve the signature page from Kiowa County National Bank for the County Bank Account to remove the Commissioners' names off of the account and have the account as Kiowa County only. All Commissioners voted affirmative.

The next Regular meeting will be June 12th, 2014.

With no further business, Koehler made the motion, seconded by Oswald, to adjourn the meeting at 3:20 p.m. All Commissioners voted affirmative.