

**MINUTES FOR FEBRUARY 25th, 2013**  
**BOARD OF CHEROKEE COUNTY COMMISSIONERS**  
**CHEROKEE COUNTY, KANSAS**

**CONVENE**

Chairman Richard Hilderbrand called the regular session of the Cherokee County Board of Commissioners to order and led all in attendance in the Pledge of Allegiance at 9:00 AM on Monday, February 25th, 2013 in the Commission Room, #109 of the Cherokee County Courthouse. Commissioners Pat Collins, Charles Napier, Richard Hilderbrand, and County Clerk Rodney Edmondson were present.

Members of the press present: Larry Hiatt, Patrick Richardson, and Machel Smith

Visitors: Gerald Messer, Raymond Griffith

**Dr. Melinda Mayfield - All God's Creations**

Dr. Mayfield came before the Commission requesting their consideration for funding for her Animal Rescue Program. There is currently no animal shelter in Cherokee County. In 2011 she adopted out 392 dogs, in 2012 she adopted out 400 dogs. Currently she has 15 dogs at her clinic and 10 in foster care. The Commissioners took her request under advisement.

**Jason Allison - Emergency Preparedness Director**

Jason updated the Commissioners on the winter storm warning for the next two days.

**Leonard Vanatta - County Engineer**

**Gene Langerot - Lot Supervisor**

The County Lot is preparing for the snow storm. Spreaders are loaded and ready. They spread 37 loads of ice control on Thursday and Friday last week. Several trees were down from the ice last week.

Commissioner Hilderbrand made a motion for an Executive Session for a period of five minutes for the purpose of Non/Elected Personnel with Gene and Leonard present. The motion was second by Commissioner Napier. The motion carried 3-0 with all voting yes at 9:32 AM.

The meeting reconvened at 9:37 AM.

No action taken as a result of the Executive Session.

**Jack Cossairt, Marion Atkinson - Crawford Township**

Jack and Marion voiced their concerns over the new water line on Clem Road going through the Timber Hill Cemetery, where there is numerous unmarked graves right up next to the road ditch. The line is being put in for Rural Water District #19. The Township hasn't been contacted by anyone. Leonard Vanatta advised that he was promised a map of the project, but never received one. Commissioner Napier will contact John Epler; he is on the Water District Board about the concerns.

Commissioner Collins made a motion approve Employee Payroll for the month of February, and it was second Commissioner Napier. The motion carried 3-0 with all voting yes.

AK

### **Gene Mense, Matt Mense - Certified Public Accountants**

Gene appeared at the request of the Board to answer questions from the Commissioners concerning how to handle the settlement funds from the Penn Gaming Lawsuit.

Jail bond is at 2.5%-5% interest rate, funded by the ½ cent sales tax. The balance is approximately \$4.455 Million. They provided a list of indebtedness based on the 2011 Audit report. All capital leases total \$700-\$1M, depending on payments that were made in 2012. That would leave only the Jail debt.

A motion was made by Commissioner Hilderbrand to pay off the Capital Lease items at a cost of approximately \$1M, and it was second by Commissioner Napier. Motion passed 3-0 all voting yes.

Mense & Mense will return on April 8<sup>th</sup>, 2013 at 1:00 PM for further consultation.

### **Ed Fields, Crawford Co. Noxious Weed Director, Crawford Co. Commissioner Bob Kmiec - Contracting Noxious Weed**

Ed and Bob appeared before the Board and presented a written proposal for contracting right-of-way control for spraying of noxious weeds in Cherokee County. Billing would be done by detailed invoice. Administration would be done by Mr. Fields, and Cherokee County taxpayers would contact him directly. The Board took their proposal under advisement.

### **Kevin Cure - County Counselor**

A Public Hearing was held for vacating a portion of Mary Street in Carona, which began at 11:50 AM. Bill Peace appeared on his request to vacate. Robert Haskell appeared for clarification of the vacation. Mr. Haskell was satisfied that the vacation does not alter the existing Crow road and had no objection to the resolution to vacate.

A motion was made by Commissioner Napier to pass Resolution 04-2013, vacating a portion of Mary Street. It was second by Commissioner Collins. The motion carried 3-0 with all voting yes.

A Public Hearing was held for vacating a portion of Rock Hill Road to McNemar, which began at 12:05 PM. No one appeared to object.

A motion was made by Commissioner Collins to pass Resolution 05-2013, vacating a portion of Rock Hill Road. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes.

A motion was made by Commissioner Hilderbrand, and seconded by Commissioner Napier, to recess for lunch at 12:10 PM. The motion carried 3-0 with all voting yes.

The meeting reconvened at 1:00 PM.

### **Ron Costlow, Stan Pickering, Bill Costlow - Ambulance Board District #3.**

Ron, Stan, and Bill appeared before the Board seeking funding for replacing their oldest ambulance. They are currently running 2000 and 2007 model year ambulances. Their grant application in 2012 for a new ambulance was turned down. In 2012 they had 990 responses from District #3 alone. They had five breakdowns during runs or transports last year. The Board asked them to get quotes on a new unit as well as an estimate of any funding they could provide toward the purchase. They will get on the agenda at a later date with an update.

CA

A motion was made by Commissioner Collins to approve minutes of February 11<sup>th</sup>, 2013 Commission Meeting as written. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes.

### **Rob Robison, Brett Middlesworth - Oswego Airport Expansion**

Rob and Brett appeared before the Board asking the commissioners to write a letter to the Governor of Kansas, asking that Eminent Domain not be imposed for the airport expansion, for the lack of justification. There have been no negotiations with the landowners and the city for the acquisition of property.

The Commissioners will revisit this after the meeting scheduled for March 4<sup>th</sup>, 2013 at 1 PM, with Commissioner Napier, Counselor Cure, and Clerk Edmondson meeting with the Oswego City Officials in Oswego.

A motion was made by Commissioner Collins to approve Accounts/Payables for February. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes.

A motion was made by Commissioner Collins for an Executive Session with Mr. Cure and Leonard Vanatta, for the purpose of Real Estate Acquisition, for a period of ten minutes. It was second by Commissioner Napier. The motion passed at 2:18 PM.

The meeting reconvened at 2:28 PM.

No action taken as a result of the Executive Session.

A motion was made by Commissioner Napier, and seconded by Commissioner Collins, to appoint John Epler as Lola Township Trustee and Cindy Epler as Lola Township Treasurer. The motion carried 3-0 with all voting yes.

A motion was made by Commissioner Hilderbrand for an Executive Session with Mr. Cure for the purpose of Attorney/Client Privilege, for a period of five minutes. It was second by Commissioner Collins. The motion carried 3-0 with all voting yes at 2:52 PM.

The meeting reconvened at 2:58 PM.

No action taken as a result of the executive session.

Mr. Cure updated the Commissioners on the 2.4 acres next to the County Lot for acquisition. A contract could be entered if the Commissioners wish. \$65,000 is the total price for the property that is owned by O'Brien Rock Co. Inc. He will add a revision to include proper environmental provisions to get out of the contract without penalty if contamination is found.

A motion was made by Commissioner Napier to enter into contract to purchase the O'Brien Rock Co. Inc. property. It was second by Commissioner Collins, and the motion carried 3-0 with all voting yes.

A motion was made by Commissioner Collins for the purpose of Attorney/Client Privilege, for a period of 10 minutes. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes at 3:22 PM.

The meeting reconvened at 3:31 PM.

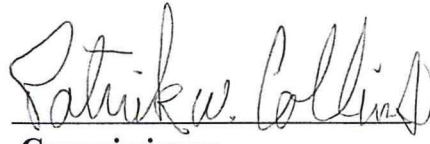
No action taken as a result of the Executive Session.

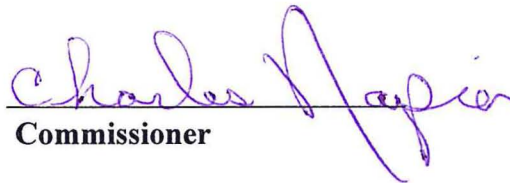
Commissioner Hilderbrand made a motion to adjourn until the next regularly scheduled meeting set for March 4th, 2013. It was second by Commissioner Napier, the motion carried 3-0, and the motion passed at 3:40 PM.

**ATTEST:**

**Resolved and ordered this day, March 4, 2013**

  
Cherokee County Clerk

  
Commissioner

  
Commissioner

  
Commissioner

(Published in the official county newspaper on the 27th day of  
February, 2013)

**RESOLUTION NO. 5 - 2013**

**A RESOLUTION VACATING A ROAD.**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF  
CHEROKEE COUNTY, KANSAS:**

WHEREAS, the Board of County Commissioners of Cherokee County, Kansas, upon due consideration of the matter finds that enacting this legislation would provide for the vacating of the following road in Cherokee County, Kansas: Rock Hill Road between Denny Drive and Park Hill Boulevard.

WHEREAS, such road and alley are no longer a public utility by reason of neglect, nonuse, or inconvenience or from some other cause such road has become practically impassable and the necessity for such road and alley as a public utility does not justify the expenditure of the necessary funds to repair such road or put the same in condition for public travel and use.

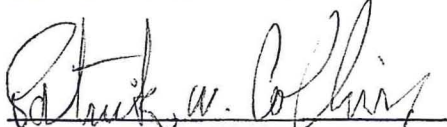
WHEREAS, the Board of County Commissioners of Cherokee County, Kansas, meeting in regular session, this 25th day of February, 2013, does hereby resolve as follows:

**Section 1. Vacating of Road.** The following road is hereby vacated: Rock Hill Road between Denny Drive and Park Hill Boulevard, Cherokee County, Kansas, except that all easements for utilities, if any, are preserved and not vacated herein.

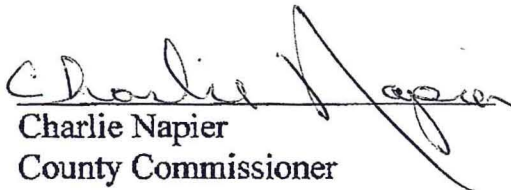
**Section 2. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this resolution, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution.


**Section 3. Effective Date.** This resolution shall take effect and be in full force from and after its passage and publication once in the official county newspaper.

Adopted this 25th day of February, 2013, by the BOARD OF COMMISSIONERS OF CHEROKEE COUNTY, KANSAS.

  
Patrick W. Collins  
County Commissioner

  
Richard J. Hilderbrand  
County Commissioner

  
Charlie Napier  
County Commissioner

ATTEST:  
  
Rodney Edmondson  
County Clerk of Cherokee County,  
Kansas  
Resolution No. 5 - 2013

Prepared by:  
Kevin Cure, Attorney

(Published in the official county newspaper on the 27th day of February, 2013)

RESOLUTION NO. 4 - 2013

**A RESOLUTION VACATING A ROAD.**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF  
CHEROKEE COUNTY, KANSAS:**

WHEREAS, the Board of County Commissioners of Cherokee County, Kansas, upon due consideration of the matter finds that enacting this legislation would provide for the vacating of the following in Cherokee County, Kansas: that portion of Mary Street that commences at the Northwest corner of Lot 17, in Block 6 in the Townsite of Folsom, (now Carona), Cherokee County, Kansas, according to the recorded plat thereof, thence north 25 feet, thence east 200 feet, thence south 25 feet to the Northeast corner of Lot 20, in Block 6 of the Original Plat of Carona, Cherokee County, Kansas, according to the recorded plat thereof.

WHEREAS, such road is no longer a public utility by reason of neglect, nonuse, or inconvenience or from some other cause such road has become practically impassable and the necessity for such road and alley as a public utility does not justify the expenditure of the necessary funds to repair such road and alley or put the same in condition for public travel and use.

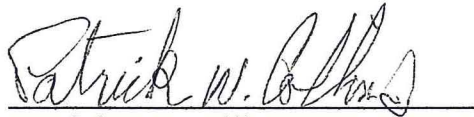
WHEREAS, the Board of County Commissioners of Cherokee County, Kansas, meeting in regular session, this 25th day of February, 2013, does hereby resolve as follows:

**Section 1. Vacating of Road.** The following road is hereby vacated: the portion of Mary Street that commences at the Northwest corner of Lot 17, in Block 6 in the Townsite of Folsom, (now Carona), Cherokee County, Kansas, according to the recorded plat thereof, thence north 25 feet, thence east 200 feet, thence south 25 feet to the Northeast corner of Lot 20, in Block 6 of the Original Plat of Carona, Cherokee County, Kansas, according to the recorded plat thereof.

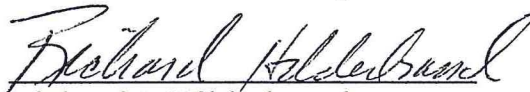
**Section 2. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this resolution, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution.

**Section 3. Effective Date.** This resolution shall take effect and be in full force from and after its passage and publication once in the official county newspaper.

Adopted this 25th day of February, 2013, by the BOARD OF COMMISSIONERS OF CHEROKEE COUNTY, KANSAS.



Patrick W. Collins  
County Commissioner



Richard J. Hilderbrand  
County Commissioner



Charlie Napier  
County Commissioner

ATTEST:



Rodney Edmondson  
County Clerk of Cherokee County,  
Kansas

Resolution No. 4 - 2013

Prepared by:  
Kevin Cure, Attorney



## **A Contract for Administrative Fees for Daily Activities of the Noxious Weed Dept**

**This contract** is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the Board of County Commissioners of Crawford County, Kansas and the Board of County Commissioners of Cherokee County, Kansas.

**WHEREAS**, Cherokee County, Kansas desires to contract with Crawford County, Kansas for the administration of its noxious weed program set forth as follows:

1. Answering all calls via phone, mail, or e-mail
2. Document the amount of land infested with noxious weeds
3. Notify landowners of noxious infestations
4. Advise landowners of the most practical and effective methods for weed control and/or enforce the Kansas Noxious Weed Law K.S.A. 2-1314
5. Post annually the official Kansas noxious weed General Notice on or about March 1<sup>st</sup>
6. Perform the survey of 10 sq miles as requested by the State of Kansas
7. File annual weed eradication reports and weed eradication plans with the secretary of agriculture
8. Establish cost-share prices for chemicals (cost of chemicals no inclusive in contract). All sales tracked through Crawford County Noxious Weed Dept.
9. Scheduled communication with Commissioners via work sessions or quarterly meetings
10. Schedule maintenance program for equipment owned by said County.

**For a period of 9 months @ 1920.00 per month**

Daily activity fees will be payable to Crawford County on a monthly basis

**TERM OF CONTRACT**

This contract shall be in effect beginning \_\_\_\_\_, 2013 and ending on \_\_\_\_\_ . Either party may terminate this contract by providing 30 days advance written notice to the other party.

**BOARD OF COUNTY COMMISSIONERS**

**CRAWFORD COUNTY, KANSAS**

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***BY: Chairperson***

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***BY: County Clerk***

**BOARD OF COUNTY COMMISSIONERS**

**CHEROKEE COUNTY, KANSAS**

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**BY: Chairperson**

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**BY: County Clerk**

# Contract for Treatment of Noxious Weeds

**This contract** is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the Board of County Commissioners of Crawford County, Kansas and the Board of County Commissioners of Cherokee County, Kansas

**WHEREAS**, the Kansas legislature has declared certain weeds to be “Noxious Weeds” pursuant to K.S.A. 2-1314 et seq.; and

**WHEREAS**, the Crawford County Noxious Weed Department has the means and capability to treat noxious weed infested areas, and

**WHEREAS**, Cherokee County, Kansas desires to have the Crawford County Noxious Weed Department treat those portions of its property known to occasionally have noxious weed infestations.

**NOW, THEREFORE**, in consideration of the mutual considerations indicated, Crawford County and Cherokee County agree as follows:

## **CHEROKEE COUNTY AGREES TO:**

1. Supply the Crawford County Noxious Weed Department, hereinafter referred to as “the Department” with maps, keys (if necessary) and access to all Cherokee County property wherein Crawford County is to treat noxious weeds.
2. Pay Crawford County upon receipt of itemized statements from the Crawford County Noxious Weed Department for its services.

**CRAWFORD COUNTY AGREES NOXIOUS WEED DEPARTMENT WILL:**

1. Treat noxious weeds on Cherokee County property by preventing the production of viable seed and/or destroying the ability of plants to reproduce by vegetative means.
2. Treat brush and other invasive weeds on Cherokee County property upon Cherokee County request.
3. The Department's spraying operation may include a dye in the chemical mixture To allow easy identification of the areas treated.
4. Mix and apply all chemicals as recommended by the manufacturer and in Accordance with approved methods contained in the "Official Regulations" issued by the Kansas Department of Agriculture.
5. Perform all services pursuant to this contract in a workmanlike manner.
6. Department's representative performing the services shall:
  - a. Record size, location and type of noxious weed areas treated.
  - b. Record amount and kind of chemical applied on each area.
  - c. Record date(s) chemicals were applied.
  - d. Record labor and equipment time spent on each area.
  - e. Maintain records no less than the three year period statutorily required.
  - f. Make all records of work performed pursuant to this contract available for Audit by Cherokee County upon its request.
7. Bill Cherokee County on a monthly basis pursuant to an itemized statement detailing chemicals used and dye furnished, plus the actual cost of inspecting for and treating noxious weeds based on equipment rental and labor costs.
8. Bill Cherokee County for the wholesale or "Governmental Entity" cost of herbicides and adjuvants used.

9. Bill Cherokee County for labor and equipment at the following rates:

- a. LABOR (equipment operator) \$25.00 per hour  
LABOR (second person) \$25.00 per hour
  
- b. EQUIPMENT (truck with spraying unit or equivalent) \$35.00 per hour  
EQUIPMENT (ATV with spraying unit or equivalent) \$35.00 per hour  
EQUIPMENT (Mini truck spraying unit or equivalent) \$40.00 per hour  
EQUIPMENT (tractor with spraying unit or equivalent) \$40.00 per hour

**TERM OF CONTRACT**

This contract shall be in effect beginning \_\_\_\_\_, 2013 and ending on \_\_\_\_\_ . Either party may terminate this contract by providing 30 days advance written notice to the other party.

**BOARD OF COUNTY COMMISSIONERS  
CRAWFORD COUNTY, KANSAS**

\_\_\_\_\_  
BY: Chairperson

\_\_\_\_\_  
BY: County Clerk

**BOARD OF COUNTY COMMISSIONERS  
CHEROKEE COUNTY, KANSAS**

\_\_\_\_\_  
BY: Chairperson

\_\_\_\_\_  
BY: County Clerk