

**MINUTES FOR FEBRUARY 11, 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 11th, 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

**Leonard Vanatta - County Engineer**

**Gene Langerot - Lot Supervisor**

Commissioner Hilderbrand inquired about the speed limit posting in county areas. Commissioner Napier inquired about the posting of speed in Roseland. Leonard stated that would be the state because it is a state highway.

Leonard requested a ten minute Executive Session with Gene and the Commissioners for the purpose of Non-Elected Personnel. A motion was made by Commissioner Collins and second by Commissioner Napier for Executive Session as requested. The motion carried 3-0 with all voting yes at 9:20 AM.

The open meeting reconvened at 9:33AM.

No action taken as a result of the Executive Session.

A motion was made by Commissioner Hilderbrand to approve the Minutes of the February 4<sup>th</sup>, 2013, Commissioner Meeting as written. It was second by Commissioner Collins. The motion passed 3-0 with all voting yes.

County Clerk Edmondson updated the Commissioners on Oswego City Officials concerning the Oswego Airport Annexation. They called the Clerk's Office last week and left a message for the Clerk and Commissioners, stating that they are willing to meet with the Clerk and the Commission Chair outside of the regular commission meeting. They are not willing to meet in an open meeting. Chairman Hilderbrand suggested that Commissioner Napier and the County Clerk arrange the meeting, since it's in Napier's District. Commissioner Napier requested that County Counselor Kevin Cure attend the meeting also. Commissioner Hilderbrand also presented a letter that was from the KDOT Director of Aviation C. Edward Young concerning a comprehensive aviation system plan conducted in 2008 and 2009. The Commissioners requested that Clerk Edmondson arrange a meeting with him to address the commission, as his letter states that he is willing to do.

The Commissioners signed the two Agreements for Service with Class LTD to provide services with county mill levy funds for individuals with mental retardation in Cherokee County. The originals will be returned to Class LTD for their signature.

A motion was made by Commissioner Hilderbrand to amend the Agenda's 10:30 AM Executive Session to 10:45 AM. It was second by Commissioner Collins. The motion carried 3-0 with all voting yes.

A motion was made by Commissioner Collins to approve the February 2013 Mid-Month Accounts Payable's. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes.

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

The Commission meeting was joined via telephone by Attorneys David Cooper and Teresa Watson from the Fisher Patterson Law Firm. A motion was made by Commissioner Hilderbrand for an Executive Sessions with Attorneys Cooper and Watson via telephone and County Counselor Kevin Cure for the purpose of Attorney/Client Privilege concerning the Penn Gaming litigation for a period of 15 minutes. County Clerk Edmondson was requested to be present for the purpose of Attesting. It was second by Commissioner Collins. The motion carried 3-0 with all voting yes at 10:48 AM

The open meeting reconvened at 11:03 AM.

A motion was made by Commissioner Hilderbrand to approve the Settlement Agreement and Release between the Board of County Commissioners (BOCC) of Cherokee County and Kansas Penn, LLC and Penn National Gaming Inc. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes.

The County Commissioners will sign three originals, then scan and e-mail a copy to David Cooper at Fisher, Patterson.

The settlement is for \$6.75 Million in cash.

### **Bill Peace - Easement in Carona**

A current survey doesn't show where Mary Street is located. Mr. Cure has a vacating prepared for 25' on each of four lots, 17-20. The Notice has to be published in the newspaper and a hearing set. Mr. Cure has to notify adjoining landowners.

Commissioner Napier made a motion to set a public hearing for Mr. Peace's request to vacate a portion of the platted Mary Street. It was second by Commissioner Collins. The motion carried 3-0 with all voting yes. The hearing date is to be set for February 25<sup>th</sup>, 2013, at a time to be determined.

Mr. Cure requests passage of Resolution No. 3-2013, that corrects the public hearing times of Resolution No. 2-2013 that was passed last week, and repeals the same.

A motion was made by Commissioner Hilderbrand to adopt Resolution No. 3-2013 as presented from Mr. Cure, and second by Commissioner Napier. The motion carried 3-0 with all voting yes.

*RT*

A motion made by Commissioner Hilderbrand for Executive Session for Attorney/Client Privilege to go over the settlement agreement again, with County Counselor Kevin Cure, for a period of 5 minutes. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes at 11:45 AM.

The open meeting reconvened at 11:50 AM.

No action taken as a result of the Executive Session.

**Lori Johnson - B-3 Construction**

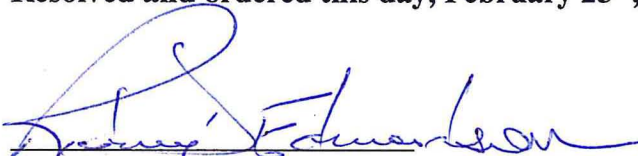
She presented to the commissioners an Application for Solid Waste Landfill Permit. B-3 currently has the only industrial waste permit in the county. The additional permit is needed so they can take plastic playground slides from Pittsburg at their site. Commissioner Hilderbrand verified with Carl Hayes (County Health Department) that they are currently in compliance with the county's permit. A motion was made by Commissioner Hilderbrand to sign the application. It was second by Commissioner Napier. The motion carried 3-0 with all voting yes. The Local Government Certification was signed by Chairman Hilderbrand.


Commissioner Collins made a motion to adjourn until the next regularly scheduled meeting set for February 25<sup>th</sup>, 2013. It was second by Commissioner Napier. The motion carried 3-0, and passed at 12:16 PM.

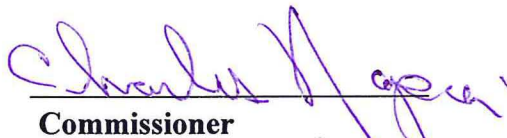
The Commissioner will not meet on Monday, February 18<sup>th</sup>, 2013 due to observance of the President's Day Holiday.

**ATTEST:**

**Resolved and ordered this day, February 25<sup>th</sup>, 2013**

  
 Audrey Edwards  
 Cherokee County Clerk

  
 Patrick W. Collins  
 Commissioner

  
 Charles Napier  
 Commissioner

  
 Richard Hilderbrand  
 Commissioner

(Published in the official county newspaper on the 13<sup>th</sup> day  
February, 2013)

RESOLUTION NO. 3 - 2013

A RESOLUTION SETTING A HEARING IN ORDER THAT A FINAL DETERMINATION MAY BE MADE ON THE CREATION OF A FIRE DISTRICT THAT SHALL BE COMPRISED OF ALL OF LOLA TOWNSHIP IN CHEROKEE COUNTY, KANSAS.

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

WHEREAS, the County in the form of its duly elected governing body has the authority under K.S.A. § 19-3601 to organize one or more fire districts, and;

WHEREAS, it is advisable in the public interest that a district be organized in the entire Lola Township located in Cherokee County for the protection of lives and property from the hazards of fire that should be designated as "Fire District No. 1, County of Cherokee, Kansas"; and,

WHEREAS, pursuant to K.S.A. §19-3602, a hearing to consider the adoption of a final resolution making a final determination of the proposal to organize such district shall be held before the Board of County Commissioners of Cherokee County, Kansas, on the 11th day of March, 2013, at 11:00 a.m.

WHEREAS, the Board of County Commissioners of Cherokee County, Kansas, meeting in regular session, this 11<sup>th</sup> day of February, 2013, does hereby resolve as follows:

**Section 1. Lola Township Fire District Advisability.** It is advisable in the public interest that a district be organized in the entire Lola Township located in Cherokee County for the protection of lives and property from the hazards of fire that should be designated as "Fire District No. 1, County of Cherokee, Kansas". The attached map depicting the proposed fire district is attached hereto and incorporated by reference as though fully set forth herein.


**Section 2. Hearing.** Pursuant to K.S.A. §19-3602 a hearing to consider the adoption of a final resolution making a final determination of the proposal to organize such district shall be held before the Board of County Commissioners of Cherokee County, Kansas, on the 11th day of March, 2013, at 11:00 a.m. Any taxpayer or elector residing in the county, and any city therein, shall be entitled to appear in person or in its corporate capacity, or by counsel, and be heard on the advisability of organizing such district.

**Section 3. 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 4. Publication.** This resolution shall be published once a week for three consecutive weeks in the official county newspaper.

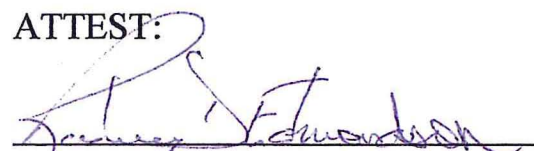
**Section 5. Resolution Repealed.** Resolution 2-2013 is repealed.

Adopted this 11th day of February, 2013, by the BOARD OF COMMISSIONERS OF CHEROKEE COUNTY, KANSAS.

  
Patrick W. Collins  
County Commissioner

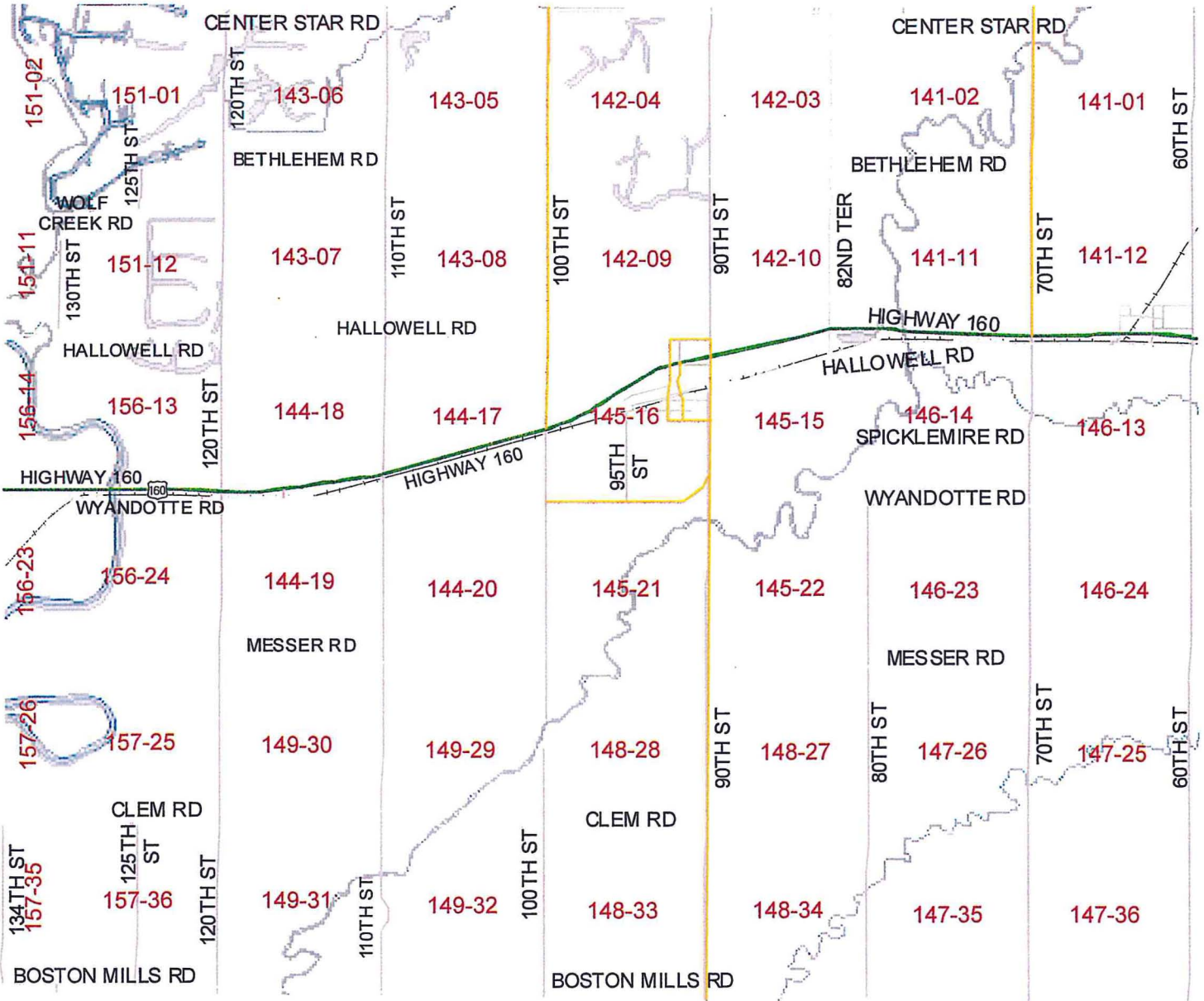
  
Richard J. Hilderbrand  
County Commissioner

  
Charlie Napier  
County Commissioner

ATTEST:  
  
Rodney Edmondson

County Clerk  
Resolution No. 3 - 2013

# LOLA TOWNSHIP



## LOCAL GOVERNMENT CERTIFICATIONS

Applicant's Name Robert D. & Mary P. Burger  
 Facility Name B-S Construction, Inc.  
 Facility Location 151 N.W. Steel Valley Rd. Columbus, GA 31925  
 Application Type (new permit, modification, or transfer) Modification for taking more streams of waste

As specified in K.S.A. 65-3407 "Permits to construct, alter or operate solid waste processing facilities and solid waste disposal areas", the secretary shall require the following information as part of this application:

### Solid Waste Management Plan Consistency

(m)(1) Certification by the board of county commissioners or the mayor of a designated city responsible for the development and adoption of the solid waste management plan for the location where the processing facility or disposal area is or will be located that the processing facility or disposal area is consistent with the plan. This certification shall not apply to a solid waste disposal area for disposal of only solid waste produced on site from manufacturing and industrial processes or from on-site construction or demolition activities.

**I certify that, to the best of my knowledge, the facility described in this application is consistent with the Solid Waste Management Plan.**

<u>Richard Hilderbrand</u> Name (Print or Type)	Commissioners	<u>Richard Hilderbrand</u> Signature
<u>Chairperson Board of Cherokee</u> Title		<u>2-11-2013</u> Date
<u>Cherokee County</u> County or City	_____ Street Address	_____ State, Zip Code

### Zoning or Land Use Consistency

(m)(2) If the location is zoned, certification by the local planning and zoning authority that the processing facility or disposal area is consistent with local land use restrictions or, if the location is not zoned, certification from the board of county commissioners that the processing facility or disposal area is compatible with surrounding land use.

**I certify that, to the best of my knowledge, the facility described in this application is consistent with (check one):**

local land use restrictions/zoning or  surrounding land use.

<u>Richard Hilderbrand</u> Name (Print or Type)	Commissioners	<u>Richard Hilderbrand</u> Signature
<u>Chairperson Board of Commissioners</u> Title		<u>2-11-2013</u> Date
<u>Cherokee County</u> County or City	_____ Street Address	_____ State, Zip Code

If a special/conditional use permit is required, please attach a copy to this application.