

MINUTES FOR OCTOBER 1, 2012
COLUMBUS, KANSAS, CHEROKEE COUNTY
OFFICE OF THE COUNTY CLERK
CRYSTAL L. GATEWOOD

The Cherokee County Commissioners met October 1, 2012. Those present were Commissioners Richard Hilderbrand, Pat Collins, and Jack Garner. The Pledge of Allegiance was said by all present. Commissioner Hilderbrand made a motion to approve the commission amended minutes for September 24, 2012; his motion was seconded by Commissioner Garner with Commissioners Garner, Hilderbrand and Collins voting in favor. Commissioners Garner, Hilderbrand and Collins, and County Clerk Gatewood signed off on the minutes.

MOTIONS MADE BY COMMISSION

Commissioner Garner made a motion to accept the Kansas Works Agreement and to have Commissioner Hilderbrand represent the commission on the committee; his motion was seconded by Commissioner Collins with Commissioners Garner, Hilderbrand and Collins voting in favor. The commission signed off on the Kansas Works Agreement with the State of Kansas.

EXECUTIVE SESSIONS

Register of Deeds Barbara Bilke requested Executive Session for seven minutes with herself, and Commissioners Garner, Hilderbrand and Collins for Personnel/Non-Elected. Commissioner Collins made a motion to go into **Executive Session for Personnel/Non-Elected** for seven minutes with himself, Commissioners Garner and Hilderbrand, and Register of Deeds Barbara Bilke; his motion was seconded by Commissioner Garner with Commissioners Collins, Garner and Hilderbrand voting in favor. They went in at 9:55 AM and returned at 9:58 AM.

The County Counselor requested Executive Session for Attorney/Client Privilege regarding the Penn Gaming Lawsuit for five minutes with himself, and Commissioners Garner, Hilderbrand and Collins. Commissioner Collins made a motion to go into **Executive Session for Attorney/Client Privilege regarding the Penn Gaming Lawsuit** for five minutes with himself, Commissioners Garner and Hilderbrand, and the County Counselor; his motion was seconded by Commissioner Garner with Commissioners Garner, Hilderbrand and Collins, and the County Counselor. They went in at 11:17 AM and returned at 11:24 AM.

OTHER BUSINESS

Road and Bridge Supervisor Leonard Vanatta and the commission discussed general road and equipment maintenance in the county.

Mac Young of the Judicial District #11 gave an update on the community corrections programs; he also submitted some papers for the commission to sign but the clerk never received copies.

RA

County Counselor Cure brought **Resolution #10-2012** for the commission to approve and accept. Commissioner Hilderbrand made a motion to approve and pass **Resolution #10-2012 - A RESOLUTION AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE LOAN AGREEMENT BETWEEN CHEROKEE COUNTY, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIROMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPOROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTORIZING CERTAIN ACTIONS IN CONNECTION WITH THE FIRST AMENDMENT TO THE LOAN AGREEMENT.** His motion was seconded by Commissioner Collins with Commissioners Garner, Hilderbrand, and Collins voting in favor. Commissioners Garner, Hilderbrand and Collins, and County Clerk Crystal Gatewood signed off on the resolution. A copy of the resolution was sent via e-mail by Clerk Gatewood as requested by the commission. (A copy of Resolution #10-2012 is attached to these minutes.) The commission and the County Counselor discussed a property owned by the county in Galena, Kansas, however no decision was made on the request by John Cook to purchase the property until further determinations are made between the parties involved.

COMMISSION APPOINTED DEPARTMENT HEADS AND ELECTED OFFICIALS

The Commission updated the group on the Highway 69 Project, the county auction held September 28, 2012, and the Penn Gaming Lawsuit.

Betha Elliott of the Cherokee County Health Department discussed the Drive Thru Flu Shot Clinic being held today, it started at 8:00 AM and it will end at 3:00 PM today. Several other clinics will be held in the county for the public in October, in Baxter Springs, Weir, Galena, and Scammon.

Wayne Elliott of 911 Mapping & Addressing reported his office has sold 116 maps and the township property ownership books are available at a price to the public.

County Appraiser Nancy Herrenbruck reported her office was busy; re-appraisals are 17% completed, and late checks will be done in November and December by herself and her staff. She also reported that only nine new constructions were added this year and in Cherokee County, and there were more mobile homes added then new construction.

Deana Randall of Human Resource reported that first cut off for Account Payables is October 4, 2012 and the final cutoff for the month of October is October 17, 2012.

Treasurer Juanita Hodgson reported that the county's auction had 146 bidders who registered and \$36,578.00 was made from the sale. She also discussed problems on the county router for her office and the Clerk's office involving the state's programs and the problem is with the connection with the phone company and the states side. The state is trying to rectify the problem.

Register of Deeds Barbara Bilke reported passport sales were slow and they were processing some deeds.

RH

Sheriff David Groves reported his office is working on the October 14, 2012 marathon and the same set-up will be used as prior years. His office held a Drug Take Back over the weekend and area citizens disposed of around 100 pounds of old medication. His office is also scheduling Drug Take Back's for Baxter Springs, Galena, and Columbus. For more information contact the Cherokee County Sheriff Department.

County Clerk Crystal Gatewood reported her office was very busy. She reported added security will be in place for the upcoming November 2012 election and the day of the County Canvass November 12, 2012. She also gave important dates to remember. They were the following:

October 16, 2012 - The last day to register to vote for the November 2012 Election.

October 17, 2012 - Advance Voting begins in the Cherokee County Courthouse and Advance Ballots go out.

November 2, 2012 - The last day to request an Advance Ballot, cutoff is Noon that day.

November 5, 2012 - In person advance voting at the Cherokee County Clerk's Office ends at 12:00 PM.

November 6, 2012 - Election Day Polling Places in the county open at 7:00 AM and close at 7:00 PM.

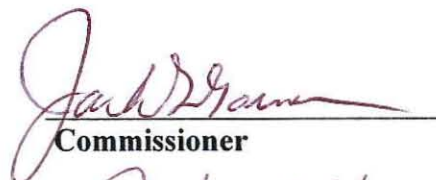
November 12, 2012 - The County Canvassing Board will meet in the Commission Room at 9:00 AM to canvass the November 6, 2012 General Election. The Cherokee County Courthouse will be closed in observance of Veteran's Day, but the back door to the courthouse will be open that day so the public can attend.

ADJOURNMENT

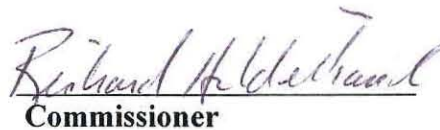
Commissioner Garner made a motion to adjourn at 12:03 PM; his motion was seconded by Commissioner Collins; with Commissioners Garner, Hilderbrand, and Collins voting in favor. The Cherokee County Courthouse will be closed in observance of Columbus Day Monday, October 8, 2012. The next Cherokee County Commission meeting will be held on Tuesday, October 9, 2012 at 9:00 AM in the Cherokee County Courthouse in Columbus, Kansas. The Cherokee County Commissioners will not be meeting on October 15, 2012 due to outside commitments by the commission.

Resolved and ordered this day, October 9, 2012


Cherokee County Clerk


Commissioner


Commissioner


Commissioner

(Published in [Official County Newspaper] on 10-3-12)

RESOLUTION NO. 10-2012

AN RESOLUTION AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE LOAN AGREEMENT BETWEEN CHEROKEE COUNTY, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE FIRST AMENDMENT TO THE LOAN AGREEMENT.

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Pledge Agreement (the "Pledge Agreement") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public wastewater treatment projects (the "Projects") and to pledge the Loan Repayments (as defined in the Pledge Agreement) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, Cherokee County, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection, pumping, and treatment system (the "System"); and

WHEREAS, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

WHEREAS, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain an amendment to the loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

Replacement of two existing sewage Lift Stations with new duplex submersible pump stations (the "Project"); and

WHEREAS, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for an amendment to the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed Three Hundred Fifty Thousand Dollars [\$350,000] (the "Loan") in order to finance the Project; and

WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the First Amendment to the Loan and to enter into a First Amendment to the loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the First Amendment to the Loan Agreement.

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF
CHEROKEE COUNTY, KANSAS:**

Section 1. Authorization of the First Amendment to the Loan Agreement.

The Municipality is hereby authorized to accept the Loan and to enter into a certain First Amendment to the Loan Agreement, with an effective date of September 5, 2012, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "First Amendment to the Loan Agreement") to finance the Project Costs (as defined in the First Amendment to the Loan Agreement). The Chair and Clerk are hereby authorized to execute the First Amendment to the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Chair and the County Attorney, the Chair's execution of the First Amendment to the Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

In accordance with the Loan Act, the obligations under the Loan and the First Amendment to the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

Section 3. Further Authority. The Chair, Clerk and other County officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Resolution, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. The Resolution and the First Amendment to the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.


Section 5. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the governing body of the County and publication in the official County newspaper.

PASSED by the governing body of the County on October 1, 2012 and [signed][and **APPROVED**] by the Chair.


(SEAL)


Chair

ATTEST:


Clerk

[APPROVED AS TO FORM ONLY.]


Kevin Cure