

MINUTES FOR OCTOBER 26, 2015
BOARD OF CHEROKEE COUNTY COMMISSIONERS
CHEROKEE COUNTY, KANSAS

CONVENE

Commissioner Napier called the regular session of the Cherokee County Board of Commissioners (The Board), to order and led all in attendance in the Pledge of Allegiance at 9:00 AM on Monday, October 26, 2015 in the Commission Room, #109 of the Cherokee County Courthouse located at 110 W Maple St., Columbus, Kansas. Commissioners Charles Napier, Pat Collins, Robert Myers, and County Clerk Rodney Edmondson were present.

Members of the press present: Larry Hiatt, Machel Smith, and Jordan Zabel

A motion was made by Commissioner Collins to approve the Minutes of the BOCC Meeting for October 19, 2015. The motion was seconded by Commissioner Myers. The motion carried 3-0.

A motion was made by Commissioner Collins to approve the Minutes of the BOCC Special Meeting for October 22, 2015. The motion was seconded by Commissioner Myers. The motion carried 3-0.

A motion was made by Commissioner Myers to appoint Commissioner Napier as Cherokee County's Representative to the Juvenile Corrections Advisory Board. The motion was seconded by Commissioner Collins. The motion carried 3-0.

Beulah Wheeler - Citizen

She appeared before the Board, concerned over problems in the Treasurer's Department. She stated that her son had given a check to pay fines, but it hasn't cleared his bank yet. The Board informed her that those checks do not go through the Treasurer, she will need to discuss that with the Clerk of the District Court. She also wondered why nothing is ever in the paper about job openings. The Board told her that each department accepts applications at any time.

A motion was made by Commissioner Myers to have Economic Development submit bills and expenses through the County to be paid through the monthly Accounts Payable. The motion was seconded by Commissioner Collins. The motion carried 3-0.

Commissioner Myers stated that he would update the Economic Development Board this week.

A motion was made by Commissioner Collins to amend the agenda for Dale Helwig from 9:30 AM to 9:12 AM. The motion was seconded by Commissioner Myers. The motion carried 3-0.

Dale Helwig - County Extension Agent

He appeared before the Board to introduce new staff members. Katrina Curry is the new 4-H Agent and Kristina Holmes is a Registered Dietician.

A motion was made by Commissioner Napier to take a 15 minute recess. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 9:17 AM.

The meeting reconvened at 9:32 AM.

Sandra Friend - Shawnee Township Clerk

She appeared before the Board regarding the future of the Crestline School. She also stated that during the storm of 2007, the township turned in receipts for expenses to FEMA, but never received any money back. Jason Allison stated that he would research the payments that were received by the County to see if Shawnee Township should have received payment.

A motion was made by Commissioner Myers to enter an Executive Session for the purpose of Non/Elected Personnel for a period of 20 minutes with Sheriff Groves, Clerk Edmondson, Register of Deeds Bilke, Human Resources Randall, and Treasurer Hodgson. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 10:15 AM.

The meeting reconvened at 10:35 AM.

No action was taken during the Executive Session.

A motion was made by Commissioner Myers to enter an Executive Session with the Board and Special Counsel via telephone for the purpose of Attorney/Client Privilege for a period of 30 minutes. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 11:13 AM.

The meeting reconvened at 11:43 AM.

A motion was made by Commissioner Myers to enter an Executive Session with the Board and Special Counsel via telephone for the purpose of Attorney/Client Privilege for another 15 minutes. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 11:45 AM.

The meeting reconvened at 12:00 noon.

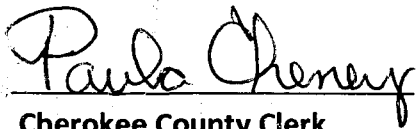
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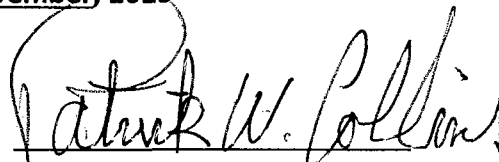
Commissioner Myers stated that they have had discussions regarding the lawsuit against the Gaming Commission and the substantial costs to the County and the tax payers of the County and at last count was close to \$150,000. He stated that we need to be good stewards of tax payer funds. He further stated that the Board has been presented an option from Penfield Business Centers, LLC to pay on behalf of the County, all costs incurred in that suit up to this point and moving forward. The Board has a document dated October 26, 2015 that is signed by the Managing Partner of Penfield Business Centers, LLC for the Board to consider for reimbursement of litigation expenses involving that suit. It is up to the Board to consider the agreement. Myers stated that if the suit is successful and a casino becomes operational Cherokee County will have 24 months to reimburse them for the expenses incurred. Myers stated at that time there will be a revenue stream from the casino, the obligation is not on the tax payers of Cherokee County. Myers stated that the Managing Partner of the LLC is Gary Hall and there is no limit on costs.

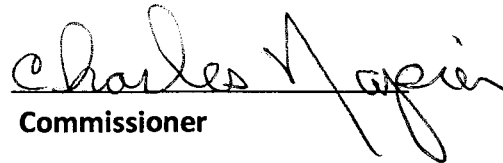
A motion was made by Commission Myers to approve the agreement between the Board of County Commissioners of Cherokee County, Kansas and Penfield Business Centers, LLC for reimbursement of litigation expenses in case No. 2015 CV 635. The motion was seconded by Commissioner Collins. The motion carried 3-0.

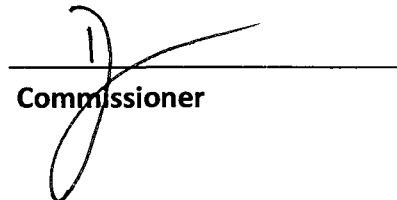
Commissioner Napier made a motion to adjourn until the next regular meeting set for Monday, November 2, 2015 at 9:00 AM. The motion was seconded by Commissioner Myers. The motion carried 3-0 at 12:29 PM.

ATTEST: Resolved and ordered this 2nd day of November, 2015


Cherokee County Clerk
Deputy Clerk


Commissioner


Commissioner


Commissioner

**LABETTE – CHEROKEE
JUVENILE SERVICES**

P.O. Box 701

Parsons, KS 67357

620-423-8073 (Phone) 620-423-8045 (Fax)

October 20, 2015

Cherokee County Board of Commissioners
Cherokee County Courthouse
110 W. Maple
Columbus, KS 66725

RE: Juvenile Corrections Advisory Board

Labette and Cherokee County Juvenile Corrections Advisory Board is required to have a County Commissioner from each county serve on the board. With the resignation of Richard Hildebrand effective September 2015 there is a vacancy from the Cherokee County Commission. Please be advised that a replacement will need to be appointed by November 2015. Please contact me with information regarding the new members name, number, and address so that I may inform him/her of the JCAB meeting schedule and member duties.

Thank you for your continued support of Cherokee County youth.

Sincerely,



Macey Foster
Executive Director

**AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY,
KANSAS AND PENFIELD'S BUSINESS CENTERS, LLC FOR
REIMBURSEMENT OF LITIGATION EXPENSES IN CASE NO. 2015 CV 635**

This Litigation Reimbursement Agreement ("Agreement") is hereby made effective as of October 26, 2015 ("Effective Date") by and between the Board of Commissioners of Cherokee County, Kansas ("Cherokee County") and Penfield's Business Centers, LLC ("Penfield's").

The purpose of this Agreement is to document the understanding between Cherokee County and Penfield's regarding Penfield's' reimbursement in full of all Cherokee County's litigation expenses, including without limitation attorney fees and costs ("Litigation Expenses"), incurred prior to and after the Effective Date of this Agreement, in litigating *Board of County Commissioners of the County of Cherokee, Kansas v. Kansas Racing and Gaming Commission, et al.*, Case No. 2015 CV 635, pending in the District Court of Shawnee County, Kansas) ("the Lawsuit").

WHEREAS, Penfield's wishes to provide financial assistance to the citizens of Cherokee County vis-à-vis Cherokee County in its efforts to seek judicial review of the decision of the Kansas Racing and Gaming Commission (KRG) by and through the Lawsuit;

WHEREAS, Cherokee County wishes Penfield's to reimburse Cherokee County for all Litigation Expenses it incurs prior to and after the Effective Date of this Agreement in litigating the Lawsuit; and

WHEREAS, Penfield's is willing to reimburse Cherokee County for all Litigation Expenses it incurs prior to and after the Effective Date of this Agreement in litigating the Lawsuit;

WHEREAS, if the KRG awards a contract to build a casino in Cherokee County and such casino begins gaming operations, Cherokee County shall reimburse Penfield's for all Litigation Expenses paid pursuant to this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS SET FORTH IN THIS AGREEMENT, CHEROKEE COUNTY AND PENFIELD'S AGREE TO THE FOLLOWING:

REIMBURSEMENT OF LITIGATION EXPENSES INCURRED UP UNTIL AND INCLUDING THE EFFECTIVE DATE. Penfield's shall reimburse Cherokee County for all Litigation Expenses incurred in litigating the Lawsuit up until and including the Effective Date of this Agreement.

PAYMENT ARRANGEMENTS FOR REIMBURSEMENT OF LITIGATION EXPENSES INCURRED UP UNTIL AND INCLUDING THE EFFECTIVE DATE.

Cherokee County shall submit an invoice to Penfield's by the 20th day of November for all Litigation Expenses incurred in litigating the Lawsuit up until and including the Effective Date of the Agreement. Penfield's shall pay Cherokee County in the form of a check made payable to Cherokee County within 30 days of receipt of the invoice.

REIMBURSEMENT FOR LITIGATION EXPENSES INCURRED AFTER THE EFFECTIVE DATE.

Penfield's shall reimburse Cherokee County for all Litigation Expenses it incurs in litigating the Lawsuit after the Effective Date of this Agreement, so long as Cherokee County remains a Plaintiff in the Lawsuit.

ESCROW ACCOUNT.

Penfield's shall provide a payment to Cherokee County in the amount of \$50,000, to be held in an account ("the Account") to be used solely for Litigation Expenses Cherokee County incurs after the Effective Date of this Agreement. Cherokee County shall be solely responsible for paying the Litigation Expenses it incurs in the Lawsuit. Any amount remaining in the Account at the conclusion of the Lawsuit will be returned to Penfield's within 30 days.

PAYMENT ARRANGEMENTS FOR REIMBURSEMENT OF EXPENSES INCURRED AFTER THE EFFECTIVE DATE.

On the 20th day of each month, Cherokee County shall submit an invoice to Penfield's for the Litigation Expenses it incurred in litigating the Lawsuit for the prior month. Penfield's shall pay Cherokee County in the form of a check made payable to Cherokee County within 10 days of receipt of each invoice.

TERM AND TERMINATION.

This Agreement shall be effective as of the Effective Date, and the parties' obligations under the Agreement shall continue until termination. Either party may terminate the Agreement at any time, with or without cause, by giving the other party 10 days' written notice. Termination does not relieve Penfield's from its obligation to reimburse Cherokee County for all Litigation Expenses it incurs up and until termination.

CHEROKEE COUNTY REIMBURSEMENT.

If the KRGC awards a contract to build a casino in Cherokee County and such casino begins gaming operations, Cherokee County shall reimburse Penfield's for all Litigation Expenses paid pursuant to this Agreement. SUBJECT TO THE PROVISIONS RELATED TO THE ESCROW ACCOUNT, Cherokee County shall have 24 months from the date the casino begins gaming operations to make the required reimbursement. In the event the KRGC does not award a contract to build a casino in Cherokee County and gaming operations do not begin at that casino, all Litigation Expenses paid by Penfield's pursuant to this Agreement shall be treated as non-refundable donations to Cherokee County. In this regard, however, Cherokee County expresses no opinion about whether the Litigation Expenses paid by Penfield's pursuant to this Agreement qualify as charitable donations for tax purposes.

NO INTEREST IN LOTTERY GAMING FACILITY REVENUES. Consistent with the Kansas Expanded Lottery Act, nothing in this Agreement shall be construed as providing Penfield's an interest in or a right or entitlement to any transfers or distributions from any lottery gaming facility revenues or electronic gaming machine income.

EXCLUSIVE CONTROL. Nothing in this Agreement shall alter the attorney-client relationship between Cherokee County and its attorney(s). Cherokee County retains exclusive control over the Lawsuit and the attorney-client relationship between itself and its attorney(s).

ENTIRETY OF AGREEMENT. This Agreement constitutes the entire agreement between the parties and may only be modified or extended by a written amendment signed by the parties.


SEVEERABILITY. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void.

GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

AUTHORIZATION. Each individual signing this Agreement warrants and represents that he or she has the full authority and is duly authorized and empowered to execute this Agreement on behalf of the party for which he or she signs. The parties do hereby declare that this Agreement has been duly authorized by each of the parties after opportunity for consultation with counsel, and that the undersigned do fully understand the terms of this Agreement and have the express authority to enter into this Agreement.

THE PARTIES HEREBY ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THIS AGREEMENT AND THAT THEY ARE OF SOUND MIND AND LAWFUL AGE AND ENTER THIS AGREEMENT ON THEIR OWN FREE WILL.

**BOARD OF COUNTY COMMISSIONERS
110 W. Maple, Columbus, KS 66725**


Charles Napier, Chair
Cherokee County Commissioner

Date 10-26-15

[Signature]
Robert E. Myers
Cherokee County Commissioner

Date 10/20/15

[Signature]
Pat W. Collins
Cherokee County Commissioner

Date 10/20/15

ATTEST:

[Signature]
Rodney Edmondson
Cherokee County Clerk

Date 10/20/15

Penfield's Business Centers, LLC
A Missouri Limited Liability Company

By: [Signature]

Title: MANAGER

