

CALL TO ORDER – PLEDGE OF ALLEGIANCE

Commission Board Chair Gail Klaassen called meeting to order at 2:00 pm, the Pledge of Allegiance was recited.

Commissioners Present:

- Commissioner Gail Klaassen
- Commissioner Nicholas Galemore
- Commissioner Paul Westhoff

Others Present:

- Heather Elsworth – County Clerk
- Bret Heim – Commission Counselor
- Mike Brown – R&B Director

INVOCATION

The invocation was given by Caleb Stover, Good Shepard Lutheran Church

AGENDA

County Clerk Heather Elsworth requested discussion on minutes from 2/28/23 and addition of leave request for Maintenance Director. Commissioner Klaassen requested the leave request be added to the agenda for the next meeting on 3/28/23.

PUBLIC COMMENT

No public comment.

CONSENT AGENDA

The Consent Agenda is used to approve non-controversial or routine matters by a single motion and vote. The Consent Agenda consisted of the following:

- Accounts Payable in the amount of \$135,683.84
- Payroll Clearing in the amount of \$194,036.74

Commissioner Klaassen moved to approve the Consent Agenda. Commissioner Westhoff 2nd. Motion passed. 3-0

SCHEDULED ATTENDEE(S)

Stan Basler, Windfarm Radar Lighting Committee – Pending litigation regarding turbine lights – Mr. Basler reported that litigation is not an option to achieve the removal of lighting based upon the Road Use Agreements. He believes a portion of the pilot fund should be spent on the actual

residence or land owners within the wind farm footprint, he is disappointed to hear rumors of the pilot funds spent primarily on City of Chanute.

Nancy Schoenhofer & Lori Carlson, Erie City Thrift Store – They are asking for county funds to replace the facility’s windows and doors. The store is open Monday 6 – 8pm and Wed, Thurs, Fri & Sat from 9 am – 12 pm. All workers at the store are volunteer. They give the money they earn through donated items to help those in need within the community.

Commissioner Klaassen wants to place a hold on the spending of ARPA funds and Thrift Stores request as the Commission agrees to table until budget season.

Mark Corbett – Road/Ditch clearing – Mr. Corbett shared that the Road & Bridge Department, while clearing ditches, cut his fence allowing his cows to get out. The branches from the clearing were piled and the wind storm blew limbs all over the property, road, and on their home front porch. He is upset with the abilities of the Road & Bridge Department and he does not believe they did an adequate job.

Kerry Irons, Adventure Cycling Association – US Bicycle Route presentation – Building bicycle tourism with the U.S. Bicycle Route System. Proposed route in Neosho County:

- Route enters from Allen County on 800th
- Douglas Rd. into Chanute
- Chanute:
 - N. Plummer Ave.
 - W. 21st St. into Neosho County

They are requesting a letter of recommendation in support of the designated bike route through Neosho County.

Commission requested a resolution drafted by their Counselor for the bike route details.

Commissioner Galemore moved to approve a letter of recommendation to support USBR 55 in Neosho County for a designated Bike Route. Commissioner Klaassen 2nd. Motion passed. 3-0

Commissioner Galemore clarified a motion he made during the Feb 28, 2023 meeting.

Commissioner Galemore moved to rescind the February 22, 2023 motion about the Health Department grants due to the raise that changed all the figures after the fact. Commissioner Klaassen 2nd. Motion passed. 3-0

DEPARTMENT HEADS REPORT

Mike Brown/ Road & Bridge Director – Mr. Brown presented a contract from Gerike Iron & Metal Inc to purchase the scrap metal at the Neosho County Landfill. Gerike Iron & Metal Inc will pay current market price (by the ton) for the scrap metal being removed from landfill, less than \$65.00 per delivery for a fuel service charge.

Commissioner Galemore moved to approve the contract with Gericke Iron & Metal to purchase the scrap metal from Neosho County Landfill located at 13750 Scott Rd, Erie, KS 66733.

Commissioner Westhoff 2nd. Motion passed. 3-0

Mr. Brown presented the 2023 Noxious Weed Management Plan and the 2023 Annual Noxious Weed Eradication Progress Report for the Commissioners signatures.

Commissioner Klaassen moved to approve the 2023 Noxious Weed Management Plan and the 2023 Annual Noxious Weed Eradication Progress Report for Neosho County. Commissioner Galemore 2nd. Motion passed. 3-0

Mr. Brown presented a proposal from Cleaver Farm & Home in Chanute to sell culverts to Neosho County Road & Bridge. County will have to pick up culverts from their facility with no delivery options.

Commissioner Westhoff moved for Neosho County to purchase culverts from Cleaver Farm & Home at 7% over current cost as presented by Mr. Brown. Commissioner Galemore 2nd. Motion passed. 3-0

Commissioner Galemore moved to approve a load of chips, up to 15 tons, be delivered to the Neosho Memorial Park Cemetery located on 21st Street. Commissioner Klaassen 2nd. Motion passed. 3-0

Mr. Brown presented his equipment needs within his department to commission for review.

Mr. Brown would like permission to hire a few more people as he has another employee retiring. Commissioner Galemore would like to wait until budget season and see where we are at with funding, in addition to target a specific need for a position.

Commissioner Klaassen moved to approve Road & Bridge to hire a mechanic. Commissioner Galemore 2nd. Motion passed. 3-0

Commissioner Klaassen moved to approve Road and Bridge to hire a driver/operator. Commissioner Westhoff 2nd. Motion passed. 2-1 Commissioner Galemore opposed.

Culverts for 210th road project will be delivered on Friday March 17, 2023.

Mr. Brown does not agree with anything Mr. Corbett spoke to earlier in the meeting. The driver doing the brush cutting is new and a brush cutter makes a mess anyways. Mr. Brown believes the residents dog dug the limbs all about Corbett's yard. Commissioner Klaassen stated that Mr. Brown's department did more than was necessary. Mr. Brown shared with the Commission a sample of rusted wires trying to further his point of how old the fence was, making it easy to cut by a brush cutter.

Commissioner Klaassen moved to approve the February 28, 2023 Commission Minutes. Commissioner Galemore 2nd. Motion passed. 3-0

Sydney Ball/ Treasurer – A resolution for investment pool wording should be ready by next meeting. Mrs. Ball presented statutes and County resolutions supporting a county sales tax, information on the current county sales tax, and when they mature. The County cannot exceed more than 1.75% in total on special county sales tax.

- The Ambulance sales tax is 0.75% and terminates on 04/01/2028 and would need to go on the ballot to continue, 2026/2027 would be the proper elections to do that
- The Shaw/Elk Road sales tax is 0.50%: 2021 “A” has a final maturity 08/01/2026 and 2021 “B” has a final maturity of 08/01/2025. Once the bonds are paid off, that sunsets that sales tax.
- The General sales tax is 0.50%. There is no end date on that tax and it must be repealed the same way it was enacted, by election.
- The Jail Construction sales tax was repealed by the Shaw/Elk Road sales tax and in the statutes, it does say that any extra revenue generated shall be credited to the General fund. This sales tax fund has \$49,426.31.

Commissioner Galemore would like to create procedures to look at idle funds to ensure highest interest rates are gained for county dollars.

Mrs. Ball shared with all 3 commissioners the Fund Status & Comp of Cash reports and explained to Commission how to read the report. Mrs. Ball provided an Ambulance, Shaw/Elk Rd, and Local Retail sales tax report for 2022 and Jan/Feb 2023. Mrs. Ball also provided a report on the Wind Farm representing the banking interest transfer for January’s earned interest and balance.

Mrs. Ball provided an update on the delinquent property taxes. There are 307 tax accounts for Residential tax sale, the petition is tentatively set to be ready to file with the District Court in April 2023 and those who have not already redeemed their delinquent taxes will be served legal notice.

Linus Thuston/ County Attorney

Commissioner Klaassen: Mr. Thuston, we appreciate you attending our meeting. There’s been much discussion the past few meetings about the Diversion fund.

County Attorney Linus Thuston: So, I guess my first question is, are you actually talking about the right fund. Because if you’re talking about the Diversion fund, you probably should be talking to Sydney. If you’re talking about the County Attorney trust account, then you can be talking to me. Because all Diversion funds are deposited with the County Treasurer and the only way they are expended is through the vouchering process and approved by the County Commission. There has been a lot of confusion about that.

Commissioner Klaassen: So I guess we are talking about the trust fund.

County Attorney Linus Thuston: So the Trust account was established in October 2012 with the approval of the then Treasurer Charlotte Sands and with the acquiescence of the County Commission. It's been in place since that time. It is designed so that if someone pays any money to the County Attorney's office, it is paid to us and then it is deposited into that account. And then we can make payments out of that account. So those payments would be limited to, so for instance if they pay court costs then we write a check to District Court. If they pay restitution, those checks are written to the people who would be receiving restitution. And so essentially that is the only type of thing that a vast majority of those funds are either sent to District Court or are sent to the County Treasurer. They are audited every single year. I would point out that this is essentially a cash clearance account that is no difference than the account that the Sheriff's office would have in which if you posted bond and it is for a court that is outside of Neosho County, they cut checks and they go to those District Courts. They don't go through the vouchering process because they have an account there. Or, if you pay funds to District Court, there are certain amounts of funds that are deposited with the County Treasurer. The vast majority of them are paid out through the District Courts accounts to the various different entities that receive them. Now, in the County audits up through, I believe 2016, they were shown all of those types of accounts, were shown in a schedule 5 in those audits so you would be able to see everything that comes in and comes out. At some point, the auditor made the determination that it no longer needed to be included in the audit. So whether it's the technology fund for the Register of Deeds, whether was a petty cash fund that the Clerk's office had, District Courts cash account, the Sheriff's office cash account, all of those things were taken off of the audit and have not, at least as recent as the audit, the last one that was filed with the State for Neosho County would have been for 2021. Those accounts are not included in those audits. We had in the past, when Commissioner Bideau was on the Commission, he had made requests that we provide quarterly accounts of what came in and what went out. We did that for about 2 years and the Commission said it was no longer necessary for us to bring those or provide them. We constantly have been in contact with Sydney. If she's ever had any questions or issues, she's always known what it was. It saves the Commission, it saves the Clerk, it saves the Treasurer an extremely immense amount of time because otherwise you could be approving monthly checks for \$2.15 for restitution. Or whatever those checks would be just depending on what goes on. It had been in place, we've never had any problems with that account. It started off with, I believe, the initial account set up with Mary Lee Moore was the office manager and we had 2 different people, myself and I can't believe if it was David Clark or someone else was on the account. As Mary Lee left, we were able to regularly, whenever we had changes in the office, we could update the signature card. Approximately in November of 2021, Jake Bennet had been in our office for about 13-14 years, left to take a job in Pittsburgh. And then in January of last year, Karen Mendoza who had been the office manager, left the office as well. We went to the bank to attempt to update the signature cards and they would not allow us to do that. We contacted Sydney, asked for her assistance in getting the signature cards updated. She was not able to get any.... Is that right Sydney?"

County Treasurer Sydney Ball: They will not change anything

County Attorney Linus Thuston: They will not change anything on the signature card. So that put us in a situation, we were able to get Karen, because she was still on the signature card, to come back once last year and sign checks so that we could send checks to the Treasurers and send checks to everyone who was supposed to get them which, there is always a paper trail. We are required and we double receipt every dime that comes through the office. And there is

always either a printout if someone pays for a bad check case before it's filed, or if it's a diversion, or anything, we used to take money for discovery on retained cases on people who were retained so they weren't indigent. We've not done that in years because the vast majority of our discovery is done electronically now. So we've been sitting for almost a year where we've been trying, almost a month we talked about, hey I can't get the money out. That's what created the issue, even you came and talked to me last year about the issues that we were having and trying to pay the people out that we were supposed to. That is the entirety of the Diversion account. There's no, that's the only account for, excuse me, not diversion it's the only Trust account we have that comes in. That's the only money that comes in other than things that are covered by diversion agreements. And so now we're in the situation where I can't even access the account. I can't get information I intended to because I read that there was a desire to see the last 3 years of things for the account. That request had never been made to me but I read it so I was going to attempt to do it because we have always just used the online accounting aspect to get it from that bank we utilize. When Rodney would come from the audits, whatever he would ask for, if we didn't see it online we would print it off. So we went through and I asked Kathy to do it today and we can no longer access the online banking version of it. And the only way that I could have gotten it would have been to go to the bank in person and to get them to print it off. That's where we are.

Commission Counselor Bret Heim: Linus, which bank is it that's giving you the trouble?

County Attorney Linus Thuston: The Community National. It's the only place we have utilized.

Commissioner Galemore: Are they using our EIN number?

County Attorney Linus Thuston: I assume so.

Commissioner Galemore: So that we are the owners of those accounts

County Attorney Linus Thuston: Well, and I would tell you that the entire County uses I think, the EIN number. I think even District Court uses the EIN number. Because of it being tax exempt.

Commissioner Galemore: But we would still be able to gain access because they're using our federal tax id.

County Attorney Linus Thuston: I would have, I've never had any issue with people having access. Now I would tell you the problem that I have with it right now that puts me in a situation, is that this is a trust account. And don't ask me, ask Bret, he's the County Counselor, he's an attorney. And the responsibilities that attorneys have when they have trust accounts is one of the highest responsibilities almost second only to privilege is maintaining and keeping clients accounts and funds. And one of the reasons you have a trust account is specifically set up to avoid any co-mingling of funds to avoid any of those things occurring and that way the only thing that's in there. Now the other thing I would point out is really unless we've had so for instance, when Jake Bennet his wife had a child, the vast majority of any checks that have been signed on that account have not had my name affixed to them unless we've had other people gone. But they're people that answer to me and if there's an issue that comes up on an attorney's trust account, the attorney has to be the one who is in charge of that account. It can't

be anybody else that's in charge of it otherwise that's a violation of (unintelligible) professional responsibility. Is that correct Bret?

Commissioner Galemore: I will just address this a little bit. Because I mean we have non employees signing checks out of that or only you should be signing checks if you are the only one on the signature card.

County Attorney Linus Thuston: It's a dual signature account. So the only way we could do anything, and at that time she had just come off of using the last part of her sick time. We got her to come in because the plan was originally she was going to come back if you remember Gail, she was originally going to come back and work for us because she had retired and you would have that length of time before you could come back to work after you retire. The plan was she was going to be returning as a part-time employee.

Commissioner Galemore: And I've kind of done, you talk about privilege and confidentiality. I've pulled up some AG opinions, AD79290 talking about how when you're dealing with public office that the disclosure of notice or information should still be with us as the County Commission as far as how we should be open to the privilege.

County Attorney Linus Thuston: And I've never said that you can't see anything. Any time the commission has ever asked, I've always presented it. I've never said you can't have it. All I've said is that if you're in a situation and the person who's accountable for the funds is me, if you have people that are outside of my control that can write off and sign on those checks, that puts me in a situation that is undoable for any attorney.

Commissioner Galemore: I don't think I've asked for anybody else to sign off. I just wanted information.

Commission Counselor Bret Heim: That's where the motion that was passed awhile back was confusing because

Commissioner Galemore: We wanted accounting of the accounts.

Commission Counselor Bret Heim: I understand that. But the way it was set up it was Heather, Sydney, and Linus that could sign checks and so what that did indirectly was brought Heather & Sydney into the administration of the account which isn't what you wanted. What you wanted was access to the information and the balance of the account. So that could be something...

Commissioner Galemore: And to the fact there had been 6 months without a deposit.

Commission Counselor Bret Heim: Right

Commissioner Galemore: Which put other flags with auditor as our new auditor. As he's talked to Sydney, he's talked to me, he's talked to Heather that it puts a red flag with the county.

County Attorney Linus Thuston: And I will tell you whether we had this, the deposit is not a difficult thing to just come in and say here is the amount of money that goes into the account. When we go through, because of the amount of money that comes through, we have to go

through and go through and do things with District Court, we have to go through and do things with our own accounting system, we have do things in about 4 different systems. It's the out payments that take so much. And when we were down to only having 2 staff members, no offence, something had to give. We were not doing them that rarely until I was down to only having no assistant and just 2 staff members.

Commissioner Galemore: And to that point, you tout it being paid to your office. It speeds up the process of restitution. If you're depositing money on a 6 month window, it can't be getting out from your office.

County Attorney Linus Thuston: And I would say, for the last year, it wouldn't have mattered if we were doing monthly deposits. The bank wouldn't let us write checks so there wouldn't have been anything we could have done about that.

County Treasurer Sydney Ball: How are you paying them out now?

County Attorney Linus Thuston: We haven't, that's what I'm saying. That's why I kept coming to you. I told Gail, we can't write checks. The last checks that were written were written last spring because we didn't have anybody else authorized to sign.

County Treasurer Sydney Ball: We had a solution for quite some time. And it was approaching the Commission to get the signature card changed. I know Gail, you know that for a fact to be because there's emails between you and I trying to fix the situation with Linus. And what Nic did with the motion to update the signature card would allow payments to go out of that account now and it. I think you should have came sooner so that they could understand what you needed and we could have authorized another person from your office to be the second signature because right now there's an open signature card waiting to be signed so that payments can go out of that bank. But if you need someone from your office to do it, we need to know that, and who that needs to be so that we can do the motion, I can make the request, you go sign it, they go sign it and it's done.

County Attorney Linus Thuston: When I talked to you I said I needed Kathy on there when Gail came and talked...

County Treasurer Sydney Ball: I don't have the authority to do that. They do, you need to talk to them.

County Attorney Linus Thuston: And I would tell you that the bank has said you don't have the authority to do that. The person who is statutory bound to take care of the accounts of the County is the County Treasurer. And that's why I've always said that the person that we respond to and answer to was you. And I actually told Gail that in my office but when Gail came and met with me, I also said I needed Kathy, if not Sharon, to be added to the account so I can get it changed. That was my frustration, is then the result that came in, no one was added from my office on that account, just people who were outside of my office.

County Treasurer Sydney Ball: You were on that signature card.

County Attorney Linus Thuston: I understand, I may be on the signature card but I also them promptly contacted Bret because of potential issue of money that could then be expended out of that account without my authority. I would not sign until something like that was fixed.

Commissioner Galemore: Well if you're one of those second signatures you'd give authority at that expenditure.

County Attorney Linus Thuston: But if these two decided to sign something there's nothing I can do to stop it.

County Treasurer Sydney Ball: Well it's not going to happen. I don't want to sign it. I don't want my name on the card.

Commissioner Klaassen: And again, I want to make it clear, I have not talked to you at all since the motion. This was all prior to the motion. I have not had any conversation.

County Attorney Linus Thuston: That's correct. If there was some implication Gail, that you thought I was saying we talked after that, that was not.

Commissioner Galemore: I just wanted it to be clear

County Attorney Linus Thuston: I was talking about you came and we sat in my office and I offered, I showed you some of the...

Commissioner Klaassen: So that's been awhile back.

County Treasurer Sydney Ball: I'm not going to change your signature card without these 3 authorizing me to do that, and I think you can understand why. It has nothing to do with you personally, or me having a problem with you. But this situation, I do not like it, I do not want to be a part of it. It makes me very uncomfortable and I'm not changing anything to do with your bank without other people knowing. And I would never sign a check for your office, ever.

County Attorney Linus Thuston: Which then says I'm back with the same issue that I had.

County Treasurer Sydney Ball: All you need to do is ask them, tell them what you want. Ask them to make the motion. I'll do it tomorrow. You go to the bank and sign it, it's in place.

County Attorney Linus Thuston: Then I would ask that you approve Sharon Aldridge and Kathy Ross to be placed on the signature card with me.

Commissioner Galemore: And I won't do that, make any second to that motion until we get full access to the accounts.

County Attorney Linus Thuston: I don't know how you don't have full access now. The Clerk and the Treasurer are both on the account.

County Treasurer Sydney Ball: We're not until you finish the signature card, you have to sign it.

Commission Counselor Bret Heim: Yeah, they won't let Heather and Sydney access the information until you sign off on the card.

County Attorney Linus Thuston: That's the first I've learned of that. Because I communicated with Bret as soon as that, very quickly after it was passed. Did I not Bret, say that I can't have a situation where it can be, funds can be expended without me having control of the account.

Commission Counselor Bret Heim: We discussed that that (unintelligible) that you would be here today so that everyone can understand exactly what you need and everyone can understand exactly what their respective roles in the process are. Because frankly, we don't want Heather or Sydney being in charge of the management of that account anyway. What we want is the information, the accounting, from that account if we need it. And that's something we haven't had access too. And that was the whole, primary focus behind the signature card. If it would alleviate the issue. Again, as long as we're able to get access to that account and get those monthly statements, I think that goes a long way toward resolving the issues. Or at least being able to answer the questions.

COUNTY ATTORNEY LINUS THUSTON: And I guess I would say I'm a little lost in relationship to the bank that they won't recognize Heather and Sydney's signature without my signature but they won't allow me to add people without someone else's.... I'm just lost as to the seemingly double standard rule that we've gotten from the bank. That's not on...

County Treasurer Sydney Ball: No...

Commissioner Galemore: But I will tell you, I've talked to the bank and there should be no reason monies should be held outside of the bank. Deposits can be made into that account. There are no withdrawals without (unintelligible).

County Attorney Linus Thuston: I understand that.

Commissioner Galemore: I just, that's ultimately when we're looking at one deposit every 6 months, is just not appropriate. It's just ...

County Attorney Linus Thuston: And I'm not going to tell you we don't need to have more frequent deposits. But whether we do monthly deposits or not, if we can't write checks...

Commissioner Galemore: Deposits should be on either daily if not every other day. That's just my... it's fraud, what the possibility is. And that's what the auditor told me. It's just things that can happen, and I'm not accusing anybody. I just think these are the proper accounting procedures we need to follow.

County Treasurer Sydney Ball: If it's in the bank, it's accounted for. And nobody can say anything other than there's that balance, there's the money. I deposit every day because of that. There's no way I would ever hold funds in my office. Just from the liability of that. You've got theft... I don't know.

Commissioner Klaassen: It's much easier to balance things when you have a daily total.

County Treasurer Sydney Ball: Yes. Now other offices do it weekly and they bring it to me and I put it in the bank. His situation is different and he's not in the same city.

Commissioner Galemore: I go back to this AG opinion of 89105. All funds should be paid through the County Treasurer.

County Treasurer Sydney Ball: They won't let you say...

Commissioner Galemore: I know, but I mean paid through as a deposit

County Treasurer Sydney Ball: They come through the District Court to us.

County Attorney Linus Thuston: Not all of them.

County Treasurer Sydney Ball: Not all of them but...

County Attorney Linus Thuston: And that's what I'm saying. Just like the Sheriff's office, who has their own account, not all of the stuff comes to you.

County Treasurer Sydney Ball: Yeah, she brings me checks and...

County Attorney Linus Thuston: They bring you checks but the checks that are paid through the other District Courts don't come through your office because they have an account very similar to what mine is.

County Treasurer Sydney Ball: But they provide the statements and accounting for it.

County Attorney Linus Thuston: Like I said. We used to bring that and we were told it wasn't necessary. If you guys want it, I have zero problem bringing exactly everything that comes through my office. The reason we stopped was because we were told it was not necessary. And since then, no one has made that request. In fact, I've offered repeatedly for the Commissioners to come to my office and you can see everything that goes on. Because it is all, with the exception of walking things to the bank, everything is electronic. So other than printouts, if you want to see the process, I can't show that to you. It's got to be in the office. I've offered even to have the paper come and look.

Commissioner Galemore: I don't understand why you can't be accounting. I mean, most of your things are case numbered anyway, they're all public record except for certain juvenile's or SANE cases correct?

County Attorney Linus Thuston: It's not because of any type of privilege that I said that. If that was the case, I wouldn't be asking for you to come look at it.

Commissioner Galemore: I'm just not understanding why we have to come. Because we can't act individually. We need to see the process actually written down how it happening. And if you're shorthanded, I don't know what to tell you there. I mean, that I can't operate. But I can operate, we're still funding your budget at full levels.

County Attorney Linus Thuston: Mm-hmm. We ran ads for almost 90 days and didn't pick up one application. Now we are at almost full staff now and we are finally getting caught up on everything. Because it was not just this. Gail knows if nothing else, the issues we had for a while with journal entries because I didn't have the staff. Is that right Gail?

Commissioner Klaassen: Oh yes.

County Attorney Linus Thuston: And if we...

Commissioner Galemore: I'm looking for the accountability. That's all I want. I'm not telling you how to spend the money. I want accountability of those accounts. And if I'm putting my name on these audits and there's flags on it every time. And this auditor is saying it's going to be a major flag, and we don't respond to him... I'm getting extremely nervous.

County Attorney Linus Thuston: And I get that. And I will point out that I am also familiar with this to understand that even though we said we should be doing more frequent deposits, they've also said they can account for every single dime that came through. So I understand the request for the speed. My thought on accountability that's more important is that we can account for every dime that's come through that office.

County Clerk Heather Elsworth: That is true. But it is the preference of the letter that the auditor provides. And if he sees after so many years that that same preference of suggestion is that your deposits come more frequently than twice a year. It is the auditors discretion that he can decide to flag that, forget the suggestion letter, and that's what we're trying to avoid Linus. I don't want a federal audit.

County Treasurer Sydney Ball: We don't want a... I mean... You're opening up the door.

County Clerk Heather Elsworth: Do you see what I'm saying. I understand what you're saying that the accountability is there.

County Attorney Linus Thuston: So what I'm saying is that I get that. The 2 deposits in a year was because of, like I said, a freak situation. The other side of it is, I understand what the auditor is saying about fear of a federal audit. I snicker at that because I've been dealing with publicly related entities almost my entire adult life time. There are no federal funds that come through my office. Not a dime of federal money comes through my office.

Commissioner Galemore: But the problem is you're using our federal tax ID number.

County Attorney Linus Thuston: But even then...

Commissioner Galemore: You're opening up the whole can

County Attorney Linus Thuston: I understand that. But I would like for anyone to indicate when, because of an auditors deal, the feds don't even look at those audits. They go to the State Department of Administration. That's why I'm saying there's not a federal requirement for an audit. That's a State requirement. So I understand what you're requesting. I am going to make that a priority in my office. What I'm saying is the fear of some imaginary federal audit, is all that

I'm saying, is this County has had issues with flags for our audits ongoing at least since 1997. There's always something that comes up because when they do an audit, the way government entities operate, I've never seen an audit whether it's been when I was on the JUCO board or when I've been County Attorney and seen the County's audits. And because I am the County Attorney, every governmental entity that gets audited, those audits get filed in my office. Because we are a governmental entity, there's always a problem because government does not use the normal accounting standard. That being the case, what I'm saying is, we have a **Federal Tax ID** if there's an issue that they're looking at. And the issue is that we don't have enough deposits, we can account for everything. That audit would take about 10 minutes to come in and say they can account for every dime. That's where the issue is. I will do better. But threats need to be something that's realistic. The only **audits** that I'm really aware of that this County has ever really gone through at least since I came on in 1996, was the payroll audit which is unrelated to anything like this. And it wasn't because of anything that would have been done with the audits that were done by whoever the County's Auditor is.

Commission Counselor Bret Heim: We have everybody here. What can we do to resolve the issue. Give us the information we need to at least begin to move forward.

Commissioner Galemore: Yup

Commission Counselor Bret Heim: And again, if there is a motion made by the Commission, based on what we've seen from the bank, they will likely follow that. But I think that's what it's going to take because the communication and relationships have gone so sideways that the bank's going to want something from the Commissioners saying okay, these are the individuals on the signature card, these are the individuals that have access to the account information. I believe that would be for the 3 of you to decide what combination of things that should be but it seems to me like that's the direction we need to go at least to get the information we need to try to move forward.

Commissioner Galemore: I would love to see the information before I will direct anybody else to have... and given to us. That's my big thing. I want the information before I make a decision on who has access.

Commissioner Klaassen: In what form?

Commissioner Galemore: Where we can actually open up the account. Nobody can look at them.

Commission Counselor Bret Heim: Like monthly statements.

County Attorney Linus Thuston: I can give you what we have. But I can tell you that I don't believe that when Kathy tried to pull it up, I don't think we can pull 22's because Rodney hadn't come through and asked for them yet. But I think we have through 21. But my deal is if I would have had time to get out of court, I couldn't leave court and be here at 4 o'clock and go to the bank and stand there for them to print them all out with me standing there. We tried calling in advance and they said they would not print them out unless I was standing in front of them to ask for it to be done.

Commission Counselor Bret Heim: Do you think you could have them to us by the 28th?

Commissioner Klaassen: In 2 weeks?

County Attorney Linus Thuston: I bet you I could have them to you depending on, because tomorrow is another long court date, I could have them to the commission tomorrow.

Commission Counselor Bret Heim: Okay.

County Attorney Linus Thuston: But I did not realize until, because we've always been able to access them electronically, until today that we could not get them. Because that was my directive, was I was going to bring all 3 years of those deposits. I don't have anything to hide.

Commissioner Galemore: No, I'm not saying you do. It's just, we have to be, we're the ultimate sign off of the bank. Every Attorney General opinion I pulled, the Commission is the power of the purse. And we are responsible for the purse. So that's where I'm to the point, I have to justify myself and I'm doing everything I can do guarantee these monies are where there at and we have a full audit of not in's and out's, just access to those accounts.

County Attorney Linus Thuston: I've never said that that was not a thing. Like I said we used to bring it and today is the first day that it's ever been requested of me since David Bideau was on the Commission.

Commissioner Galemore: Well I think I asked for financials 2 months ago.

County Attorney Linus Thuston: You didn't ask me.

Commissioner Galemore: We're here Linus. You haven't been here for 6 months, 7 months.

County Attorney Linus Thuston: Well you set the commission meeting at 2 o'clock on the single busiest court day in South East Kansas.

Commissioner Galemore: I understand.

Commissioner Klaassen: Can we also, in the next 2 weeks get a deposit?

County Attorney Linus Thuston: I would hope so.

Commissioner Klaassen: Hope so?

County Attorney Linus Thuston: I would say hope so. And when I say I would hope so, is it depends on, we get now specific orders on the speed that we have to get certain things done. And so, for instance, tomorrow I have a criminal docket. Now there are rules on how fast we have to get general (unintelligible). There's now requirement on how fast we have to get (unintelligible). So, the priorities are what the court says this is what you're going to have to get done first. That's what we have to do. So when I say yes, I'm not going to come in and guarantee you Gail, I can have a deposit done in 2 weeks. I'm not gonna blow smoke and make guarantee, because I can't make that guarantee. Because of, if we have in 2 weeks a requirement to do 75

journal entries, I'm just being straight with you. I'm not trying to be evasive or anything. I don't want to come in and make a promise that I can't guarantee I can deliver. Can I go to the bank and stand there for them to print the stuff off? Yes. Can I guarantee you by Tuesday in 2 weeks I'm going to be able to do that if I have a staff member who has a family member that gets ill? I don't want to come in and make a hard fast commitment to something that I don't know what's going to happen tomorrow. If we have a quadruple homicide tomorrow, that would change everything that we would be doing.

Commission Counselor Bret Heim: How long a range of statements is the Commission asking for?

Commissioner Galemore: I asked for 3 years.

County Attorney Linus Thuston: And the monthly statements, I will tell you, because of the limited deposits, you're not gonna see, just being real, you're not gonna see a lot of differences in them.

Commissioner Galemore: I understand that Linus, but if there are substantial (unintelligible) to those deposits that haven't been deposited for 6 or 7 months...

County Attorney Linus Thuston: I'm just saying that, I have no problem bringing the stuff from the bank. What I've been trying to say is, I can bring the stuff from the bank, but if we want to know other than the bare numbers of what was deposited and what the total expenditures were, you're probably not gonna get a lot of that from the bank statements. I don't want you to come in expecting to see a lot because other than if you look at the checks that are written, you might see what they were. But without somebody from my office, you're not gonna really know. If it's a check to the Treasurer's office, yes, Sydney would probably be able to explain that. If it's a check to District Court, that's kind of self-explanatory. If there are 27 other checks that go to different entities, whether it's restitution, or things of that nature. Or they are requirements for charitable donations that are in every diversion agreement, you're going to need somebody that can explain it if you want your information other than just what's in the bank account.

County Treasurer Sydney Ball: Can I ask you a question to understand something?

County Attorney Linus Thuston: Mm-Hmm.

County Treasurer Sydney Ball: Can you explain what you do with the money that comes into your office? Like, so throughout the day when we take in money, it's entered and there's a cash receipt for it for anything we do. It's already accounted for. So at the end of the day I do a checklist for all the checks we take in. I've got a cash balance, I've got a credit card balance, we put all of that together. It balances to the day and it's deposited to the bank. So does that happen for you daily? Are you entering stuff? Or is that the hold up on the deposit? You still need to enter.

County Attorney Linus Thuston: Everything is entered so when someone comes through, and we'll just say they bring \$1,000 check, so we have a paper receipt system that they get a paper receipt. And then we have an electronic receipt system that goes through that puts the totals. And then everything is kept together for the deposit. The thing that creates the issue is going

through to figure out this person in each case, may have made sometimes they come in weekly, sometimes they may come in, instead of getting everything together to get the check amounts that need to go out, is what takes the amount of time in doing. And since that account has been opened, when they do the deposits, they always cut checks at the same time so there's not been any questions or issues about it. Now I can tell you that I have never done a deposit. So I can kind of tell you what goes on but if you have a greater question on it, I can tell you I think we've only had 3 staff members in my office that have ever done deposits. Mary Lee Moore when she worked there did them, Karen Mendoza when she worked there did them, and now Kathy has done that. So that's part of my hands rarely if ever touch the money. About the only time any money would come through were I would have hands on it would be, say for instance, we're in court and Jeffrey Bots kind of fairly frequent for that, people will give him the diversion money while they're in the courtroom. He'll say on the record, I'm handing the application fee, it's never diversion fund money, it's always the application fee. I'm handing the application fee and the application to the County Attorney. It goes in the file, it goes downstairs (unintelligible). But we have, like I said, discovery that with your office, money is what you guys do. I get that. With my office, we have to do discovery, we do diversion agreements, we have journal entries, we have pleas, we have petitions that the monetary side is something that our office does, all the girls can take money in but we have one person that does all the deposits. And so if Kathy is doing the safe journal entries, and Kathy is doing the felony sentencing journal entries, that sometimes gets things pushed behind on the deposits. And especially when we were down, like I said, to just Sharon and Kathy, it would take Sharon almost all day just to pull the dockets. We'll have dockets last Tuesday, I had 5 types of files to get through the docket. And that's them to make sure that everything that's filed get's into all of those, that's to make sure if we have a motion to suppress or anything that's (unintelligible) they have to pull of those and get those to me so I can do the written responses. That's what one person does. And so now that we actually have three people, we're supposed to have a fourth that will be here soon, that will alleviate some of that. But that's what creates an issue is because arguably I have the busiest office, County Attorney's office, in the region.

County Treasurer Sydney Ball: Well, I'm not gonna (unintelligible). We also scan the checks in daily so I have a copy of them. So you can still deposit and have an image of the check to use later for what you're doing and also the bank has... the bank will provide an image.

County Attorney Linus Thuston: I don't do the deposits Sydney so I'm giving my best explanation. I would greatly, I would welcome you, please call Kathy. Because...

County Treasurer Sydney Ball: There are things that would help her. If she needs to enter them later she could still get them in the bank and then have that image of the check to use. The bank will provide it and you keep your own.

County Attorney Linus Thuston: I just know what has gone on with the people who manage the books in my office.

Commissioner Galemore: That is cash payments can be scanned in too.

COUNTY TREASURER SYDNEY BALL: Right, if you have a receipt for that then...

Commissioner Galemore: You have a serial number (unintelligible) most law enforcement do the same thing. They scan the dollar correct? For cash deposits? Or cash transactions?

County Treasurer Sydney Ball: you could do a deposit for each case if you needed to if it's a cash transaction, just deposit for case number whatever.

County Attorney Linus Thuston: My office would not scan money and I have highly recommended, because the U.S. Attorney's office has recommended against making copies of money because that could be construed as actually counterfeiting violation of law. So most places quite frequently don't make copies of legal tender.

County Treasurer Sydney Ball: Just deposit, like if you need it for a case number, just do your cash receipt and make a single deposit.

County Attorney Linus Thuston: We have an entire accounting system that's built into our case management system, that they use called Prosecutor. So when they through and put in, I don't know, I just know what has been explained to me. Because I have never sat down and done a deposit, I've relied on my staff to do that. That's what I'm saying, is if there is a question that you would have, call Kathy. But if you came in and saw Kathy's desk, I can't remember the last time Bret was in my office, but if you walked in you barely can see the girls, you've seen that Gail, because there are files stacked up on around most of their desks because of the stuff they work on. Is that not what you've seen?

Commissioner Klaassen: Yup

County Clerk Heather Elsworth: I have a question. On the constituents that pay for a diversion, for whatever case, you and I have talked, what you do legally I'm not very knowledgeable about. But do you not have constituents that complain when you hold their check for \$1000, that you just suggested before and so they have a check floating out there for months on deposit?

County Attorney Linus Thuston: We don't take checks.

County Clerk Heather Elsworth: Oh, you just said you have. OK

County Attorney Linus Thuston: We don't take checks. We'll take cash, money orders, if there's a check, we may take a cashiers check, or if they have an attorney, we'll take an attorney's check. We don't take personal checks. We've not done that for probably eight years because we've had too many people, it's bad when you get a diversion for a bad check and then you write a bad check to the prosecutor.

County Treasurer Sydney Ball: But those things can be cancelled. Because I just had a money order cancelled for my office the other day. They're not good forever.

County Attorney Linus Thuston: I can tell you we, I know that can happen. It is maybe the timeframe of when our deposits have occurred. Like I said, this one incident where we've been on two deposits in a year was very much so the exception (unintelligible). Before we were doing them until things just exploded with us being busy, we were doing them monthly. And then we got busier and busier. But if what the commission wants to do is every time, we have a check

come in, or when I say check, a payment come in we go on ahead and just give them a receipt and send a voucher over, if that's what you guys want to do, um, I don't think anybody would be happy with that but if it's that's what you guys want to have happen...

Commissioner Galemore: I think it's more appropriate. I mean, the money can go in the bank that day. I just like consistent daily deposits, just. It takes the pressure off you

County Attorney Linus Thuston: I don't know how we could get them in the bank that day. Because they would still have to come to Sydney. I'm saying if you guys don't want us to operate with the Trust account, what would happen would be every time somebody comes in and does it, we would immediately then cut a voucher with a receipt and probably every Friday, or whenever we come over, everything would be brought over or we would send a copy of the receipt with the voucher. That's kind of what our alternative is and that's never been what the Commissions wanted.

Commissioner Galemore: But with the voucher system, even if the money's transferred over to Sydney, the deposit's made that the money's transferred then we can do it through the voucher system and push the checks out to the people, or restitution, or District Court or whatever else. I'm really having a hard time why it's so difficult to do a deposit. Most businesses do it every day. They're busy too. Those are the one thing's that get done every day. It's just when you're dealing with large sums of money and if you want to speed up the payout to the people that get restitutions or expense of the court, it just makes it easier.

County Attorney Linus Thuston: I understand that. I would just make sure that the Commission understand though you wouldn't have any discretion with that. You wouldn't. If you decided you disagreed with where one of those things would be done and that's covered by diversion agreement, you would have absolutely no discretion because that's a court order. And that's got Commissions in trouble in the past where they didn't like where things have been determined by a diversion agreement that the money was to be paid and then the Commission didn't want to approve vouchers. And then that is something that creates a great difficulty because that's not something you have discretion to do.

Commissioner Galemore: This goes back to you haven't made a deposit for 6 months. Those people haven't been getting paid for 6 months.

County Attorney Linus Thuston: What I'm saying is because we can't sign a check whether the deposit is there doesn't make a difference.

Commissioner Galemore: (unintelligible) county, for more frequent audits, there's no other way.

Commission Counselor Bret Heim: Do we want to table the discussion until the 28th and get the 3 years' worth of records and have a chance to look at those?

Commissioner Galemore: Yup

County Attorney Linus Thuston: Send you by then.

Commission Counselor Bret Heim: What?

County Attorney Linus Thuston: I'll send you

Commission Counselor Bret Heim: That's fine. You can send me all this and I'll send it to everybody. That's fine. Alright.

5:13 pm Klaassen moved for a 10-minute break, back at 5:35 pm. Commissioner Westhoff 2nd. Motion passed. 3-0

5:22 pm Back in session

Heather Elsworth/ County Clerk – Mrs. Elsworth presented the Kansas County Commissioners Association dues. Are the 3 of you agreeable to pay this? I'll put it in the next AP. It's based upon population of the County and it comes to \$534.

Commission was agreeable to the KCCA dues to be paid out of the Commission contractual fund.

Mrs. Elsworth put a schedule together for the Commission and road officials meeting.

COMMISSION DISCUSSION UNFINISHED BUSINESS

Procurement Policy – tabled

5:31 pm Commissioner Klaassen moved to recess into executive session to discuss matters deemed privileged in the attorney-client relationship, regarding the Windfarm for 10 minutes to include the Commission, Commission Counselor Bret Heim, and Road & Bridge Director Mike Brown to resume in the Commission Room at 5:40 pm. Commissioner Westhoff 2nd. Motion passed. 3-0

5:41 pm Back in session. No action taken.

COMMISSION DISCUSSION NEW BUSINESS

Commissioner Klaassen asked if the Commission wanted to take any action or have any response to the hospital's request to have interest on their ambulance fund that we have? Discussion tabled.

Commissioner Klaassen asked about the Bret had looked into the vandalism reward that was discussed at the last meeting. Bret advised he has not had time to research this. Discussion tabled.

Commissioner Klaassen shared that she had a request from the Mayor of Galesburg to come visit and actually, they would like to have a meeting out at their place that they used ARPA funds to increase their building there. They would like to show the Commission what they've done and what they still have to do.

District Court budget – Commission Counselor Bret Heim advised we did receive a revised proposed budget.

Commissioner Galemore advised on their budget that they submit to the state shows a shortfall for what we left back in the County contingency fund and they're worried about how it looks.

Commissioner Klaassen moved to transfer \$42,000 out of the County Commission Contingency Court fund which is account 001-20-5251 and transfer it into the District Court Department 40. Commissioner Galemore 2nd. Motion passed. 3-0

The Commission will approve 2 applicants to the Hospital Board at their next meeting on March 28, 2023.

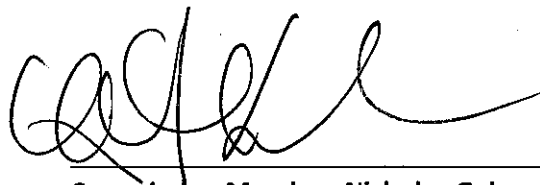
A reminder in April, the Commission meetings are back-to-back. They will meet April 11, 2023 and April 18, 2023.

ADJOURNMENT

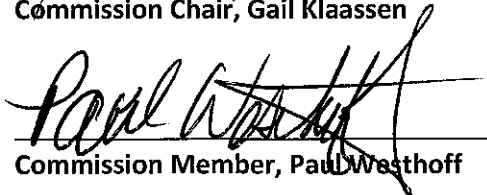
With no more business to discuss, Commissioner Westhoff moved to adjourn the meeting. Commissioner Klaassen 2nd. Motion passed. 3-0. Meeting adjourned at 6:54 pm.



Commission Chair, Gail Klaassen



Commission Member, Nicholas Galemore



Commission Member, Paul Westhoff



ATTEST: County Clerk, Heather Elsworth

