

Board of Crawford County Commissioners

Commissioners' Journal

2018, **SIXTY-SECOND** MEETING

CRAWFORD COUNTY COURTHOUSE, COMMISSIONERS' BOARD ROOM

Girard, KS **Friday August 31, 2018, 10:00 AM**

The Crawford County Board of Commissioners met pursuant to Kansas Statutes

Annotated Chapter 19, Article 2, Section 18 in due and regular session with open doors.

Commissioner Jeff Murphy served as the presiding officer.

Commissioners Tom Moody and Carl Wood were in attendance.

County Clerk Don Pyle and County Counselor Jim Emerson were seated with the Board.

Chairman Murphy led the pledge of allegiance.

UNDER THE HEADING BUSINESS FROM A PREVIOUS MEETING CONSENT AGENDA

On motion (18-310) of Commissioner Moody and the second of Commissioner Wood that the consent agenda be approved including:

1. Approval of the **August 28, 2018** minutes of the Board of County Commissioners, and
2. Authorizing the Chairman to sign the previous week's vouchers.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed and the consent agenda was approved.

SIGNING OF MOTIONS

The County Clerk presented the following motions for Commissioners' signatures:

Motion 18	305	That the consent agenda be approved including: Approval of the August 21, 2018 minutes
Motion 18	306	To recess this open session and go into a closed executive session for a period of not more than 15 minutes to discuss items that would be deemed privileged in the Attorney-Client Relationship and to include the Board of County Commissioners and County Counselor Jim Emerson and to reconvene by 11:45 AM
Motion 18	307	To table the Motion of Recommendation for the Conditional Use for Mulberry Limestone
Motion 18	308	To approve the appointments of Dr. Jim Triplett, Mr. Matt Sanders, Mr. Chet Hiatt, Mr. Bill Towery, Mr. Troy Graham, Mr. Jerry Babcock and Mr. Rick Elnicki to serve on the Crawford County Solid Waste Management Committee

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Motion 18	309	To approve the Economic Development Grant and Tax Refund for the county portion of 2017 real estate taxes in the amount of \$5,362.09 for Sullivan Properties LLC
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UNDER THE HEADING NEW BUSINESS

PUBLIC HEARINGS AND OPENING OF ANNOUNCED BIDS

MESSAGES FROM ELECTED OFFICIALS

MESSAGES FROM OTHER GOVERNMENTAL ENTITIES

Item One: Mr. Devin Gorman, CVB Executive Director discussing the Memorandum of Understanding on the Plaster Center. Mr. Gorman presented the new agreement with updated terms. The Commissioners stated the agreement was discussed in the work session and they are agreeable with it. The Commissioners and Mr. Gorman discussed the issue of moving the CVB to Block 22.

Board of Crawford County Commissioners

PSU/CRAWFORD COUNTY, KANSAS MEMORANDUM OF SHARED USE AGREEMENT

This Memorandum of Agreement is made this _____ day of _____ 2018, between Pittsburg State University (hereinafter "PSU"), and Crawford County, Kansas (hereinafter the "County"). The Parties to this Agreement, in consideration of the mutual covenants and stipulations set forth herein, agree as follows:

WHEREAS, PSU agreed to lease to the City of Pittsburg (hereinafter the "City") by long term lease (50 years), and the City agreed to lease from PSU, (hereinafter the "Lease") the Facility; and

WHEREAS, the Crawford County Kansas Commission has agreed to provide one-sixth of total transient guest tax funds collected by the County annually to Pittsburg State University for the operation and maintenance of the Facility.

NOW, THEREFORE, the Parties agree to cooperate with each other as follows:

1. **Purpose of the Facility.** PSU shall use the Facility for educational, athletic and recreational activities. The County shall use the Facility for activities that promote economic development. Both parties agree that activities shall not cause harm to or jeopardize the integrity of the Facility surfaces, equipment, or any other aspect of the Facility. Mutual agreement for use for all activities must exist between PSU and the County.
2. **Shared space, structures and equipment.** The Facility includes a 300-meter track that encloses a 100-yard football practice field with seating for up to 1,500 fans. CVB shall have access to equipment within the facility, owned by PSU, and required for the operation of events, such as implements, standards, hurdles, electronic starter pistols, etc. Any other parts of the Facility (weight room, dressing rooms, etc.) shall be at the discretion of PSU.
3. **Term and Effective Date.** This Agreement will be effective with all Parties' signatures. The term of this Agreement shall begin July 1, 2018 and shall end June 30, 2021.
4. **Payment.** The County shall pay PSU one-sixth of the transient guest tax funds received on a quarterly basis, beginning with a 3rd quarter payment for 2018 in October 2018, through the end of this agreement.
5. **Use and Scheduling.** PSU, the County, and the City shall respectively designate an employee with whom the other Party, or any authorized agent of the Party, may confer regarding scheduling. PSU will employ a Facility Manager, who will be responsible for all scheduling of the Facility. The Facility Manager will retain the final and binding "master calendar" and will facilitate the process for use requests and how and when those requests are approved or denied. The "master calendar" will be accessible online to all parties in order to facilitate planning. The Facility Manager will notify the County and the City in a timely manner of schedule cancellations that provide an additional opportunity for the County or the City to use the Facility.

PSU, the County, and the City shall establish a Joint Use Interagency Team ("Interagency Team"), composed of staff representatives from PSU, City, and County (primarily the Director of the Crawford County Convention and Visitors Bureau) to develop the schedule for use of the Facility, to recommend rules and regulations for the Parties to adopt to implement this Agreement, to monitor and evaluate the joint use and Agreement, and to confer to discuss interim problems during the term of the Agreement. Each Party shall designate their respective staff representatives to serve on the

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Interagency Team. Representatives from the public at-large may be invited to attend the meetings, given no objections from opposing Parties.

The Interagency Team will schedule meetings every other month unless alternate meeting times are mutually agreed upon. At these meetings Parties will review and evaluate the status and condition of the joint use Facility, address outstanding issues related to operational impacts on PSU. If the Interagency Team is unable to reach a solution on a particular matter, they will defer to the Provisions to Settle Disputes in Section 16 of this Agreement.

PSU shall have priority for use of the Facility for intercollegiate athletic practices and competitions, sports camps organized and run by PSU coaching staff, Department of Athletics fundraising events and awards ceremonies. At the discretion of PSU, intramural sports competitions and student organization events may be scheduled in the facility but will not have priority should a scheduling conflict occur. Events with the potential for a significant economic impact in the region shall be evaluated by the Interagency Team in order to determine priority of usage of the Facility (except in the case of an intercollegiate athletics event). Certain terms will dictate the potential movement of previously scheduled events: a. Event is more than 90 days out AND/OR b. A suitable alternative venue is available AND/OR c. The event cannot be moved due to contract restraints AND/OR d. The "out clause" of previously scheduled event's agreement must be paid by the Party wishing to use the facility.

At other times subject to the availability of the Facility, according to the schedule developed by PSU, the County, and the City; the County and the City, and third parties authorized by either Party, will be entitled to use the Facility. The County's obligations under this Agreement shall apply to third parties authorized by the County using the Facility. The County shall be responsible for ensuring that third parties comply with all obligations under this Agreement when using the Facility.

6. **Use of Other PSU Facilities.** The County may have access to and schedule the use of other facilities on the PSU campus, subject to the individual facility's use policy and PSU approval.
7. **Operational Responsibilities.** Public utilities including electricity, water, gas, heat, telephone and network connections shall be paid for by PSU. PSU shall provide the Facility with all maintenance and operational services. PSU reserves the exclusive right to contract for concession services for the Facility. In the event additional electrical power and/or generators, temporary phone lines and/or equipment, network connections and/or equipment, floor covering equipment, tables, chairs, etc. are necessary to stage an event; those additional items will be at the expense of the County.
8. **Operating Expenses.** PSU will provide an on-site facility manager/event liaison for all events and their wages shall be set in accordance with State and PSU hiring and wage guidelines. PSU shall estimate in advance of the event the total cost of personnel and other operating expenses. Operating expenses include, but are not limited to: expenses such as ticket stock and printing, ticket sellers, ticket takers, ushers, custodial, police/security, parking control and weather maintenance, liability insurance, marketing and advertising, and any other additional costs related to the County's use of the Facility. The County shall not be charged a rental fee for use of the facility, but all personnel and operating expenses related to the County's use shall be the responsibility of the County; provided that PSU will not request reimbursement for ordinary operating expenses that would be incurred without the County's scheduled use of the Facility. The County may charge rental fees to third party users of the Facility to cover any costs which the County may incur. PSU will invoice the County for reimbursement of expenses within fourteen (14) days of the completion of the event.
9. **Event Insurance.** Certain events may require the purchase of event specific insurance coverage. Prior to scheduling an event, the Interagency Team will determine whether the event requires the

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purchase of insurance. If an event requires insurance, the Party hosting the event shall be responsible for purchasing the insurance and shall present to PSU, upon request, a certificate of insurance prior to the event. PSU shall be named as an additional insured with respect to the insurance policies identified in this paragraph.

10. **Occupancy.** PSU and the County understand and agree that the Facility is subject to regulation by the Kansas State Fire Marshal's office and that capacity will be identified in the code footprint. Occupancy for an event therein may not exceed such capacity.
11. **Maintenance.** PSU shall be responsible for the long-term maintenance and upkeep of the Facility. The County agrees to exercise due care in the use of the Facility. The County shall during the time of its use keep the Facility in neat order.
12. **Safety and Compliance.** PSU and the County shall use and occupy the Facility in a safe and careful manner and shall comply with all applicable municipal, county, state, and federal ordinances and laws in using the Facility, and will not use, or suffer to be used, the Facility in any manner in contravention of any applicable municipal, state or federal ordinances, laws, rules or regulations. Further, both Parties shall comply with PSU and Kansas Board of Regents policies in use of the Facility.
13. **Duty to Inspect and Warn of Damage.** The County shall inspect the Facility after each use to ensure it is returned in the condition it was received. The County shall ensure PSU is notified within twenty-four (24) hours in the event that the Facility suffers damage during the County's use. Such notification shall consist of sending written notification by letter, facsimile, or email to the Director of Intercollegiate Athletics identifying the damaged property, date of detection, name of inspector, description of damage, and estimated or fixed costs of repair or property replacement.
14. **Loss Provisions.** Any property of either Party damaged or destroyed by the other Party, incident to that Party's use and occupation of the Facility, shall be promptly repaired or replaced to the satisfaction of the Party incurring said damages, and the cost of those repairs shall be fully apportioned to the Party causing said damages accordance with the terms of this Agreement.
15. **Improvements.** The County shall obtain prior written consent from PSU to make any alterations, additions, or improvements to the Facility. Any such alterations, additions, or improvements will be at the expense of the County, unless otherwise agreed upon.
16. **Use of Parties' Name.** The Parties shall refrain from using in any advertising or promotional efforts any pictures, logos, references to, or representations of the other Party without prior written authorization from the other Party.
17. **Provisions to Settle Disputes.** In the event of any dispute or disagreement between the Parties with respect to this Agreement, a Party may request in writing a special meeting for the resolution of the dispute (a "Special Meeting"). The Special Meeting shall be held at a mutually agreeable location within ten (10) days of the request, which shall specify the nature of the dispute to be resolved. The Special Meeting shall be attended by representatives of both parties hereto (who may or may not be accompanied by legal counsel, in their respective discretion), who shall attempt in good faith to resolve the dispute and shall have the authority to do so.

If a dispute has not been resolved within seven (7) days after the date of the Special Meeting, a Party may initiate mediation of the dispute by sending a written request for mediation to the other Parties. The Parties shall meet to jointly select an independent and neutral person qualified to act as a mediator. If the Parties cannot agree upon a mediator, each shall select one mediator. The two

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selected shall then choose a third person who will serve as mediator. The mediation proceeding shall commence not more than fourteen (14) days after the written request for mediation. The mediation shall be attended by representatives of the Parties (who may or may not be accompanied by legal counsel, in their respective discretion), who shall attempt in good faith to resolve the dispute and shall have reasonable authority to do so.

18. **Indemnification.** To the extent permitted by the Kansas Tort Claims Act (K.S.A. 75- 6101 et seq.) both Parties shall indemnify and hold harmless the other Party, its officers, directors, employees, agents, representatives, guests and invitees from and against all claims, damages, losses, liabilities, fines, penalties, costs and expenses arising out of, relating to or resulting from:
- Their own occupancy and/or use of the Facility;
 - Any breach of this Agreement by either Party;
 - And/or the acts, omissions, negligence or willful misconduct of any persons used or employed directly or indirectly by either Party or their independent contractors.

19. **Notices.** All notices, demands or requests shall be given as follows:

To the County: Crawford County Convention and Visitors Bureau 117 W. 4th Street
Pittsburg, KS 66762

To PSU: Pittsburg State University Office of the President 1701 S. Broadway
Pittsburg, KS 6672

20. **Severability.** If any term or provision of this Agreement or the application thereof to any circumstance shall, in any jurisdiction, be invalid or unenforceable, such term or provision shall be ineffective as to such jurisdiction to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable such term or provision in any other jurisdiction, the remaining terms and provisions of this Agreement or the application of such terms and provisions to circumstances other than those as to which it is held invalid or unenforceable.
21. **Entire Agreement.** This Agreement embodies the entire Agreement between the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement, and this document supersedes all previous communications, representations, or agreements, either verbal or written, between the parties.
22. **Amendments.** Any amendment or supplementation of this Agreement shall be effective only if in writing signed by each of the parties hereto.
23. **Governing Law and Forum.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Kansas, which shall also be the forum for any lawsuit between the parties arising from or incident to this Agreement.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this agreement on this 31st day of August, 2018.

PSU:
Pittsburg State University

By: 

County:
Crawford County, Kansas

By: 

On motion (18-311) of Commissioner Moody and the second of Commissioner Murphy to approve the Memorandum of Shared Use Agreement between Pittsburg State University and Crawford County, Kansas with a term beginning July 1, 2018 and ending June 30, 2021 and authorize the Chairman to sign.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

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Item Two: Mr. Gorman discussed the Crawford County Museum Fund. He stated that this is the 3rd year that the CVB has helped to support the operations of museums in Crawford County. He explained that these funds are split between Crawford County and the CVB. He said he received 2 applications for funding this year, Miners Hall Museum and Crawford County Historical Museum and both met or exceeded the requirements for the program. Mr. Gorman stated that the CVB Advisory Board has approved the applications. There was a discussion on the museums.

On motion (18-312) of Commissioner Murphy and the second of Commissioner Moody to approve the Crawford County Museum Funds for 2018 with funding to go to Miners Hall Museum and Crawford County Historical Society.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

MESSAGES FROM THE PUBLIC

Item One: Dr. Julie Stewart addressing concerns with the Conditional Use for Mulberry Limestone. Dr. Stewart explained that her family lives at 261 E 560th Ave, Pittsburg. She explained that she is concerned with health issues for her children resulting from the proposed blasting. She stated that her home is the first home that will be affected from the winds and dust. She explained the health conditions that could be caused from the blasting dust. She discussed Silica and the health problems it could cause and that these health issues are not curable. She stated that she came on behalf of her children and their health. She asked the Commissioner to not rush to judgement because her family will be dramatically affected by the blasting and other activities of the quarry. Dr. Stewart stated that her family believes in clean air and nothing good will come of this for her family if the Commissioners approve this expansion for Mulberry Limestone. Mr. Murphy asked about comparison of road dust to the blasting dust and Dr. Stewart explained the differences. The Commissioners thanked Dr. Stewart for her comments.

MESSAGES FROM APPOINTED OFFICIALS

Item One: Mr. Randy Chiartano, Asphalt Foreman, regarding an update on the High Risk Rural Roads Grant Project that is currently under construction. Mr. Chiartano stated that the Road & Bridge crews are currently working on the HRRR grant project on 200th and 260th Streets. Mr. Chiartano stated that the project work started on July 30, 2018 and currently have used 18 of the 35 working days with 4 or 5 rain out days. He feels it is running on schedule. He explained the work that still needs to be completed on each road.

PROCLAMATION AND ORDERS OF THE BOARD NEW BUSINESS

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Item One: Mr. Murphy stated that he received a letter from Coordinated Transit District # 10 asking for a letter of support. Mr. Pyle will draft a letter for the Commissioners to sign.

Item Two: Mr. Wood stated that Jason VanBecelaere called him and stated that the pickups are done and the foreman will pick them up on Tuesday. The Commissioners discussed getting rid of 3 older trucks, one in each district and selling the trucks on the Purple Wave website.

UNDER THE HEADING OLD BUSINESS

Item One: Mr. Pyle presented an email from the Girard Chamber in reference to the Girard Area Company Olympics and discussed County Employees participating.

Item Two: Mr. Emerson presented information on the safety conference in Wichita in October. Mr. Emerson will get an agenda for the conference.

Item Three: Mr. Emerson stated that the bucket truck has been picked up and paid for in full and the road widener has also been paid for in full.

Item Four: Mr. Murphy addressed training for anyone using the bucket truck. The Commissioners discussed different methods to use in training employees to operate this equipment. Mr. Wood suggested that 2 employees from each road district be trained on operation of the bucket truck. Mr. Wood will contact the insurance company about training. Mr. Pyle addressed work comp issues for using this equipment.

Item Five: Mr. Murphy wanted to discuss the Rural Housing Incentive District program being used by the City of Pittsburg. Mr. Pyle explained that the City of Pittsburg created this program a few years ago as a way to help promote the development of housing in the city. There was a discussion of how the program uses city, county and school district property taxes on the increase in property values in the district to pay for bonds issued to pay for infrastructure such as roads and water and sewer lines. Mr. Pyle stated that the City of Pittsburg is having a public hearing on Sept. 25, 2018, to consider a resolution to establish the new housing district. Commissioner Wood stated that he feels that the county needs more information regarding the impact of the additional housing units and streets on drainage in this area which is adjacent to a creek and flood plain area. Mr. Emerson will get prices on the cost to have a study done on the potential drainage issues.

EXECUTIVE SESSION

Item One: Commissioner Carl Wood requested an executive session for 15 minutes to discuss Non-Elected Personnel.

On motion (18-313) of Commissioner Wood and the second of Commissioner Moody to recess this open session and go into a closed executive session for a period of not more than 15 minutes to discuss Non-Elected Personnel and to include the Board of County Commissioners, County Counselor Jim Emerson and Zoning Administrator Troy Graham and to reconvene by 11:26 AM.

Yeas: Commissioners Moody, Murphy and Wood

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Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

The Commissioners went into Executive Session at 11:11 AM and reconvened the Open Session at 11:20 AM with no action taken except to go back into open session.

Item Two: IT Director Jim Vinze requested an executive session for 15 minutes to discuss Non-Elected Personnel.

On motion (18-314) of Commissioner Wood and the second of Commissioner Murphy to recess this open session and go into a closed executive session for a period of not more than 15 minutes to discuss Non-Elected Personnel and to include the Board of County Commissioners and IT Director Jim Vinze to reconvene by 11:36 AM.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

The Commissioners went into Executive Session at 11:21 AM and reconvened the Open Session at 11:31 AM with no action taken except to go back into open session.

Item Three: Commissioner Moody requested an executive session for 15 minutes to discuss Non-Elected Personnel.

On motion (18-315) of Commissioner Moody and the second of Commissioner Wood to recess this open session and go into a closed executive session for a period of not more than 15 minutes to discuss Non-Elected Personnel and to include the Board of County Commissioners and County Counselor Jim Emerson to reconvene by 11:47 AM.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

The Commissioners went into Executive Session at 11:32 AM and reconvened the Open Session at 11:41 AM with no action taken except to go back into open session.

Item Four: Commissioner Moody requested an executive session for 30 minutes to discuss Non-Elected Personnel.

On motion (18-316) of Commissioner Moody and the second of Commissioner Wood to recess this open session and go into a closed executive session for a period of not more than 30 minutes to discuss Non-Elected Personnel and to include the Board of County Commissioners, County Counselor Jim Emerson, County Clerk Don Pyle and Benefits Administrator Randi Ryan and to reconvene by 12:13 PM.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

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Present but not voting:

Absent or not voting:

The motion prevailed.

The Commissioners went into Executive Session at 11:43 AM and reconvened the Open Session at 12:10 PM with no action taken except to go back into open session.

UNDER THE HEADING FUTURE BUSINESS AND ANNOUNCEMENTS

FUTURE BUSINESS:

Item One: September 4, 2018 – 9:00 AM Work Session to discuss Conditional Use Permit for Mulberry Limestone.

Item Two: September 4, 2018 – 10:00 AM Public hearing on the 2019 Crawford County budget.

Item Three: September 4, 2018 -- 10:00 AM Public hearing on the 2019 Budgets for Crawford County Fire District #1, Fire District #2, Fire District #3 and Fire District #4.

Item Four: September 7, 2018 – 9:30 AM Work Session Conference Call with Mr. Josh Lawson from the Bukaty Company.

Item Five: September 7, 2018 – Ms. Marcia Mellinger, Benefits Advisor Professional.

ANNOUNCEMENTS:

Item One: September 3, 2018 – The Courthouse will be closed in observance of Labor Day.

UNDER THE HEADING MOTION TO ADJOURN

MOTION TO ADJOURN

Item One: Adjournment

On the motion of Commissioner Moody and the second of Commissioner Wood to adjourn the [August 31, 2018](#) meeting of the Board of Crawford County Commissioners at 12:11 PM and to reconvene at the next regularly scheduled time with open doors.

Yeas: Commissioners Moody, Murphy and Wood

Nays:

Present but not voting:

Absent or not voting:

The motion prevailed.

In Testimony whereof, I have hereunto set my hand and caused to be affixed my official seal and submitted these minutes for the approval of the Board of Crawford County Commissioners.

Board of Crawford County Commissioners

Don Pyle
County Clerk

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This submission completed at the Crawford County Courthouse in Girard.
[Taken BKW 8/31/18 12:15 PM/amended BKW 8/31/18 1:15 PM](#)