

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

## WEDNESDAY, MAY 29, 2013

6:35 p.m.

-Proclamation for "Relay for Life Week" (Betty Parks)

### CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders  
(b) Review and Approve the Juvenile Justice Authority Grant Conditions for State Fiscal Year 2014. (Pam Weigand);  
(c) Acknowledge fee reports for March and April 2013; and  
(d) Consider acquisition of permanent easement for Bridge. 4.00N-8.56 E (Michael Kelly)

### REGULAR AGENDA

- (2) Black Jack Battlefield Trust, Inc. is applying for a special events permit for the Commemoration of the 157<sup>th</sup> Anniversary of the Battle of Black Jack. This event is scheduled for 6/1/2013 from 11:00 am to 7:30 pm. Mr. Kerry Altenbernd will be making the presentation.(Linda Finger)
- (3) Green Games presentation (Akeeba Evans)-No backup
- (4) Follow up on Dunn-Barrett fence viewing (Craig Weinaug)
- (5) Authorize County Commission Chair to send a letter to the Attorney General requesting exemption to county buildings from the new legislation on conceal and carry until January 1, 2014 (Craig Weinaug)
- (6) Consider proposed loan to rural fire departments for the purchase of radio equipment required for the new radio system upgrades (Craig Weinaug)
- (7) (a) Consider approval of Accounts Payable (if necessary)  
(b) Appointments  
-**Food Policy Council appointments-Vacancy**  
-**Lawrence Douglas County Metropolitan Planning Commission 05/13**  
-**Property Crimes Compensation Board 04/13**  
(c) Public Comment  
(d) Miscellaneous
- (8) Adjourn

## WEDNESDAY, JUNE 5 2013

6:35 p.m.

Consent Agenda:-Amend zoning regulations to add NanoBrewery as a conditional use permit to the zoning regulations (Linda Finger)

Regular Agenda:-**CUP-13-00126**: Consider an amended Conditional Use Permit for a revised phasing schedule for Big Springs Quarry, located at 2 N 1700 Rd. Submitted by Mid-States Ventures, LLC, for Bonnie M. Nichols, Trustee, and Mid-States Materials, LLC, property owners of record. *Big Springs Quarry was approved with Conditional Use Permit CUP-7-2-90.* Mary Miller will present the item.

## WEDNESDAY, JUNE 12, 2013

6:35 p.m.

-**CPA-13-00067**: Consider Comprehensive Plan Amendment, CPA-13-00067, to Horizon 2020 Chapter 6 Commercial Land Use and Chapter 14 Specific Plans, Revised Southern Development Plan, to expand the S. Iowa Street commercial corridor east along W. 31<sup>st</sup> Street to include 1900 W 31<sup>st</sup> Street and identify the area as a Regional Commercial Center. Submitted by Menard, Inc. (Michelle Leininger)

**WEDNESDAY, JUNE 19, 2013**

6:35 p.m.

-Annual review of the Conditional Use Permit, CUP-11-5-76, for the Hamm/Buchheim Quarry located west of E 550 Road between N 1450 and N 1500 Roads. (Mary Miller)

**WEDNESDAY, JUNE 26, 2013**

**Note:** *The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*



Office of the County Commission

## PROCLAMATION

Relay for Life Week 2013  
For Douglas County, Kansas

**WHEREAS**, The American Cancer Society Relay For Life is a life-changing event that gives everyone in more than 5,000 communities across the globe a chance to celebrate the lives of people who have battled cancer, remember loved ones lost, and fight against the disease; and

**WHEREAS**, money raised during the Relay For Life of Douglas County, Kansas helps support research, education, advocacy, and patient services; and

**WHEREAS**, Relay For Life helps fund more than \$100 million in cancer research each year; and

**WHEREAS**, cancer survivors are honored with a victory lap as they lead the way around the track, followed by teams who keep a representative walking on the track from 7:00 p.m. until 7:00 a.m. because cancer never sleeps; and

**WHEREAS**, in 2012, Relay For Life of Douglas County welcomed 681 participants from 74 fundraising teams; 307 cancer survivors were honored; 3,434 luminaria lined the track with the hopeful glow to find a cure; \$182,000 was earned after expenses which all add up to our local event ranking the largest Relay For Life in the state of Kansas; and

**WHEREAS**, an additional community project was served by the contribution of 3,812 pounds of canned food which replaced sand to give weight to the candle-lit luminaria, which was later donated to Just For Food.

**NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS**, do hereby proclaim June 2nd through June 8th, 2013 as,

### “RELAY FOR LIFE WEEK”

in Douglas County and encourage citizens to participate in the American Cancer Society Relay For Life of Douglas County to be held at Free State High School Track, 4800 Overland Drive in Lawrence beginning at 7:00 p.m. on Friday, June 7th and ending at 7:00 a.m. on Saturday, June 8th.

**ADOPTED** this 29<sup>th</sup> day of May, 2019.

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS**

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Mike Gaughan, Chairman

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Nancy Thellman, Vice-Chair

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Jim Flory, Member

# ***AGREEMENT***

## ***CONDITIONS OF GRANT***

A grant is hereby awarded, commencing on the 1st day of July 2013, from the Kansas Juvenile Justice Authority, hereinafter referred to as "JJA," to the **Douglas County Board of County Commissioners**, hereinafter referred to as "GRANTEE." This grant and conditions, to which both parties agree and which are enumerated below, remain effective until June 30, 2014. Acceptance of block grant funds indicates GRANTEE'S acknowledgement of, and intent to comply with, all the conditions outlined below.

### **I. GRANTEE AGREES TO:**

- A. Utilize grants funds for the development, implementation, operation and improvement of juvenile community correctional services pursuant to K.S.A. 75-7038 through 75-7053 and amendments thereto, as submitted in the GRANTEE'S comprehensive plan and grant application.
- B. Perform intake and assessment functions as required pursuant to K.S.A. 75-7023 and amendments thereto, and in accordance with JJA's Juvenile Intake and Assessment Services Standards.
- C. Perform juvenile intensive supervised probation functions as required pursuant to K.S.A. 75-7034 et seq. and in accordance with JJA's Community Agency Supervision Standards.
- D. Perform case management services for juvenile offenders placed in JJA custody and in accordance with JJA's Community Agency Supervision Standards.
- E. Assume the authority and responsibility for funds received through JJA in accordance with the provisions of the JJA Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants.
- F. Convene a juvenile corrections advisory board pursuant to K.S.A. 75-7044 and amendments thereto, and determine and establish an administrative structure for the effective administration and delivery of the comprehensive juvenile justice system.
- G. Provide administrative oversight to enhance the operational and evaluation procedures by assessing program efficiency and effectiveness of juvenile justice programs funded by state block grant funds.
- H. Notify JJA in writing, within ten (10) days of appointment, of administrative changes of the Chairperson for the Board of County Commissioners and Juvenile Corrections Advisory Board, Administrative Contact, Director of Juvenile Intake and Assessment, Community Case Management and Juvenile Intensive Supervised Probation.
- I. Adhere to all applicable Federal and State laws and regulations, the Interstate Compact for Juveniles, K.S.A. 38-1008 *et seq.*, as well as JJA field standards, policies and procedures, and JJA's Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants. GRANTEE shall be responsible for any and all costs associated with non-compliance under this section.
- J. Expend JJA funds, including, but not limited to, prevention and/or graduated sanctions in accordance with GRANTEE's funding application approved by JJA. Obtain advance approval in writing by the Commissioner of JJA for all out of state travel and training. All requests for approval of out of state travel and training will be submitted at least two weeks prior to scheduling or obligation of grant funds.
- K. Acknowledge this grant may be terminated by either party upon a minimum of ninety (90) days written notice to the other party. Upon termination, the unexpended balance of funding distributed to GRANTEE shall be returned to JJA within thirty (30) days.
- L. Acknowledge that if, in the judgment of the Commissioner of JJA, sufficient funds are not appropriated to fully continue the terms of this agreement, JJA may reduce the amount of the grant award.
- M. Follow all applicable state and federal laws related to confidentiality of information in regard to juvenile offenders. This provision is not intended to hinder the sharing of information where necessary to effect delivery of services when undertaken in compliance with applicable laws.

- N. Neither assume nor accept any liability for the actions or failures to act, either professionally or otherwise, of JJA, its employees and/or its contractual agents.
- O. Not consider employees or agents of the GRANTEE as agents or employees of JJA. GRANTEE accepts full responsibility for payment of unemployment insurance, workers compensation and social security, as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this Grant.
- P. Not hold JJA and the State of Kansas, and their employees, officials or agents, liable for any damages or costs arising from the cancellation, voiding, denial or withholding of funds to GRANTEE.
- Q. Submit problems or issues regarding the terms of this grant in writing to the Commissioner of the Juvenile Justice Authority for final review and resolution.
- R. If any provision of this grant violates any statute or rule of law of the State of Kansas, it is considered modified to conform to that statute or rule of law.
- S. Provide each child under its responsibility for placement and care with the protections found in Section 471 of Title IV-E of the Social Security Act and Kansas' Title IV-E Plan and perform candidate for foster care determinations in accordance with Section 471(a)(15) of the Social Security Act. In connection with the performance of services under this Agreement, GRANTEE also agrees to comply with the provisions of the Civil Rights Act of 1964, as amended (78 Stat. 252), Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended, the Regulations of the U. S. Department of Health and Human Services issued pursuant to these Acts, the provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 and the Health Insurance Portability & Accountability Act of 1996; in that compliance shall include, but is not limited to, disclosing only that information that is authorized by law, authorized by the juvenile offender or his parent or legal guardian, setting a time limit on the authorization and disclosure, taking safeguards to prevent use or disclosure of the records, keeping an accounting of all requests for records and documenting its efforts to either protect or release relevant records; there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. GRANTEE agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the GRANTEE. GRANTEE further agrees to insert similar provisions in all sub-contracts for services allowed and authorized under this Agreement under any program or activity.
- T. Provide services to applicable juveniles residing or adjudicated in GRANTEE's Judicial District.
- U. Maintain books, records, documents, and other evidence in a manner that accurately reflects receipts and expenditures of all programs funded by this grant.
- V. Not use state funds allocated through this grant to supplant GRANTEE'S present Federal, State or local funding of services or programs.
- W. Maintain records and submit reports containing such information and at such times as required by JJA.
- X. Attend all applicable training sponsored by JJA.
- Y. Enter into agreements with member counties and/or private, public or not-for-profit entities for the delivery of graduated sanctions and prevention services in order to maximize the effective and efficient use of state resources. All agreements between GRANTEE and member counties or subcontractors shall be in writing and shall require compliance with these award conditions. GRANTEE shall be responsible for ensuring member county and/or subcontractor compliance with these grant conditions, JJA Juvenile Intake and Assessment Standards, JJA Community Agency Supervision Standards, the Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants, and state and federal law. If requested by JJA, the GRANTEE shall forward a copy of all such agreements to JJA indicating compliance with this condition.

**II. JJA AGREES TO:**

- A. Establish standards, policies and procedures for Juvenile Intake and Assessment, Community Case Management and Juvenile Intensive Supervised Probation, and provide consultation and technical assistance to GRANTEE for the implementation of the comprehensive juvenile justice system.
- B. Provide oversight necessary to support the Juvenile Justice Reform Act.
- C. Maintain case management purchase of service funds for services in the Case Management Payment System Handbook.
- D. Receive and process invoices for non-Medicaid provider services contained in the Handbook.
- E. Assume responsibility for payment of Medicaid services contained in the Case Management Payment System Handbook.
- F. Delegate authority to Grantee to sign consents necessary in the administration of programs for juvenile offenders in the custody of the Kansas Juvenile Justice Authority to GRANTEE or its designees.
- G. Acknowledge this grant may be terminated by either party upon a minimum of ninety (90) days written notice to the other party. Upon termination, the unexpended balance of funding distributed to GRANTEE shall be returned to JJA within thirty (30) days.
- H. Conduct audits and reviews of GRANTEE to determine their level of compliance with Juvenile Intake and Assessment, Community Case Management, and Juvenile Intensive Supervised Probation standards and the Case Management Payment System Handbook, JJA Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants, and all applicable laws, regulations, and policies. In the event of a finding of unsatisfactory compliance with its obligations under this Agreement, or a finding based upon other evidence of a serious violation and/or lack of compliance with Agreement, all applicable Federal and State laws and regulations, as well as JJA field standards, policies and procedures, JJA may withhold part or all of any grant due or to become due to GRANTEE as payment for services rendered hereunder.
- I. Neither assume nor accept any liability for the actions or failure to act, either professionally or otherwise, of GRANTEE, its employees and/or its contractual agents.

**APPROVED BY: Chairperson, Board of County Commissioners**

Name: \_\_\_\_\_  
(Please Print First Name, MI, and Last Name)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**APPROVED BY: Kansas Juvenile Justice Authority Commissioner**

Name: Terri Williams, Acting Commissioner

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street  
Lawrence, KS 66044-3350  
(785) 832-5293 Fax (785) 841-0943  
dgcopubw@douglas-county.com  
www.douglas-county.com

**Keith A. Browning, P.E.**  
Director of Public Works/County Engineer

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### MEMORANDUM

TO : Board of County Commissioners

FROM : Keith A. Browning, P.E., Director of Public Works  
Michael D. Kelly, L.S., County Surveyor

DATE : May 23, 2013

RE : Drainage Structure Replacement; Structure No. 4.00N – 8.56E  
Acquisition of Easement; Consent agenda

A project has been designed to replace a deficient drainage structure located approximately 1 mile northwest of Worden on N400 Road. Plans were developed in-house and negotiations with the pertinent landowners for permanent easement have been completed.

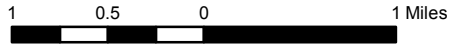
Construction is planned for summer 2013 and will be accomplished using county personnel.

To ensure the proper completion of a necessary construction project approval is recommended for the attached CONTRACT FOR HIGHWAY PURPOSES.

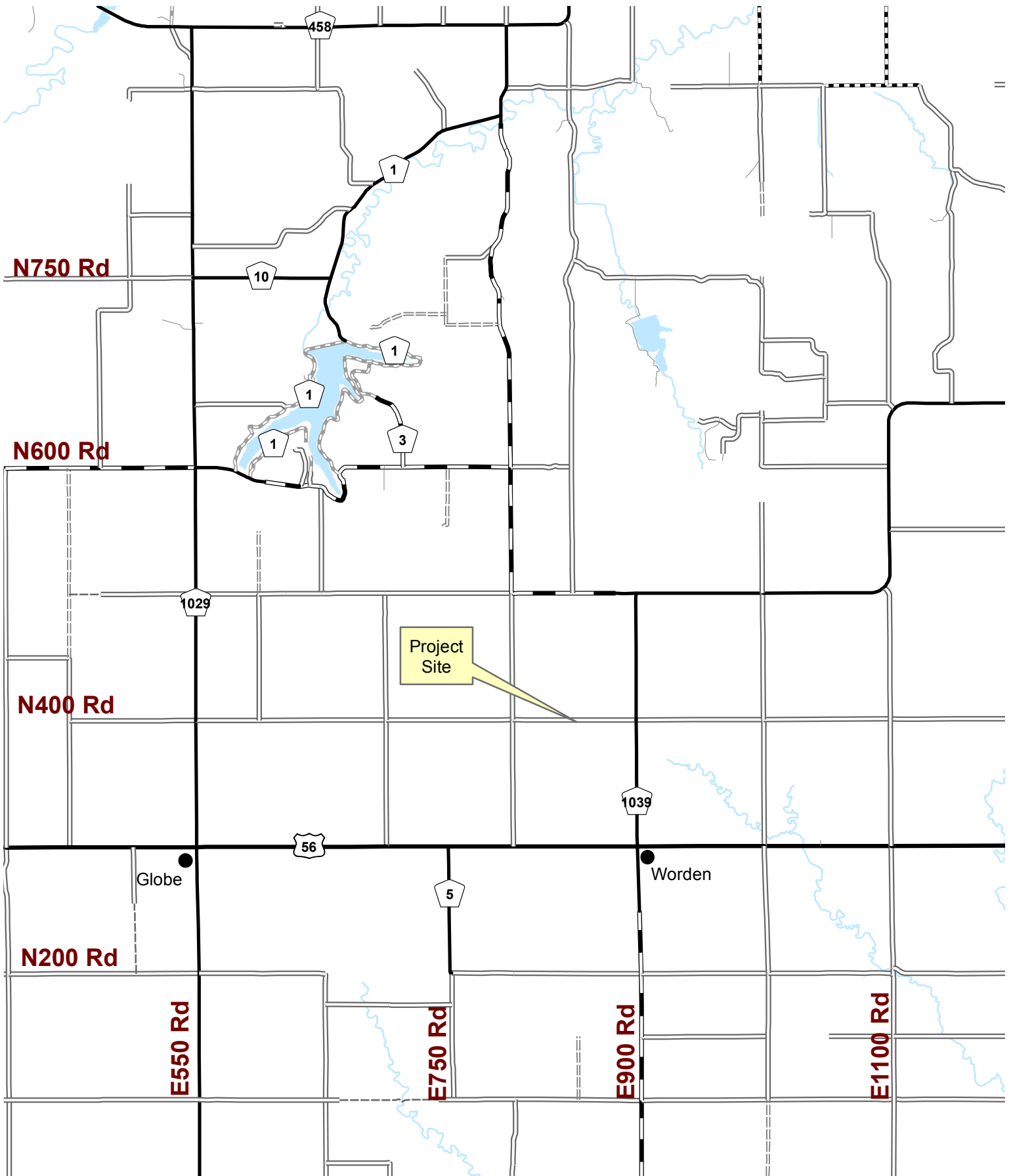
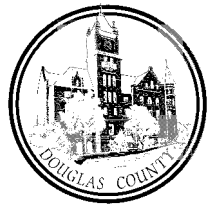
**ACTION REQUIRED:** Consent agenda approval of the CONTRACT FOR HIGHWAY PURPOSES for Drainage Structure No. 4.00N – 8.56E.

# Bridge No. 4.00N - 8.56E

## General Location Map



1 inch = 1 miles





BM # 1 =  
 STA. 40+95.42 - 23.81 LT.  
 TRIPLE 60d NAIL  
 ELEV. = 1071.01

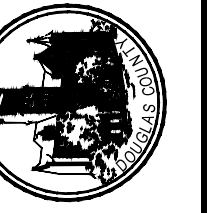
**GARY DICK  
 REBECCA DICK  
 419 E. 1500 RD.  
 BALDWIN CITY, KS.  
 66006**

**SECTION CORNER INFORMATION**

SL STATION		R/CODE	SECTION CORNER COORDINATE	ELEVATION	CORNER STATUS
61+80.26	SE CORNER SEC. 30,T14S, R19E	S05V	N: 180039.088 E: 2071780.571	1092.85	FOUND RECORD
35+32.93	SL 1/4 CORNER SEC. 30,T14S, R19E	S03V	N:179968.112 E: 2071780.571	1092.85	FOUND RECORD
10+00	SW CORNER SEC. 30,T14S, R19E	S01V	N: 179900.164 E: 2066602.174	1092.85	FOUND RECORD



**Douglas County Public Works**  
 1242 Massachusetts  
 Lawrence, Kansas 66044



Project: CULVERT REPLACEMENT FOR N 400 ROAD  
 Project No.: 00000006  
 Drawn By: L.H.  
 Designed By: A.S.  
 Checked By: T.G.  
 Date: 12/20/12

**PROPOSED R/W &  
 SECTION CORNER INFORMATION**  
 SHEET 3 OF 10

**CULVERT REPLACEMENT FOR N 400 ROAD**

STA. 39+94.21, PROP. CL N 400 ROAD =  
 STA. 39+94.21, 2.0' RT. SL  
 INSTALL 9' X 6' X 38 L.F. PRECAST  
 RCB W/ PRECAST WINGWALLS.  
 SEE SHT. 5 OF 10

STA. 38+50, PROP. CL N 400 RD. =  
 STA. 38+50, 2.65' RT. SL  
 BEGIN CONSTRUCTION  
 BEGIN EDGE OF ROAD TAPER FROM  
 EXIST. EDGE OF ROAD LT. AND RT.

TEMPORARY POWER POLE  
 AND GUY ANCHORS.

TEMPORARY CONST. ESM'T.

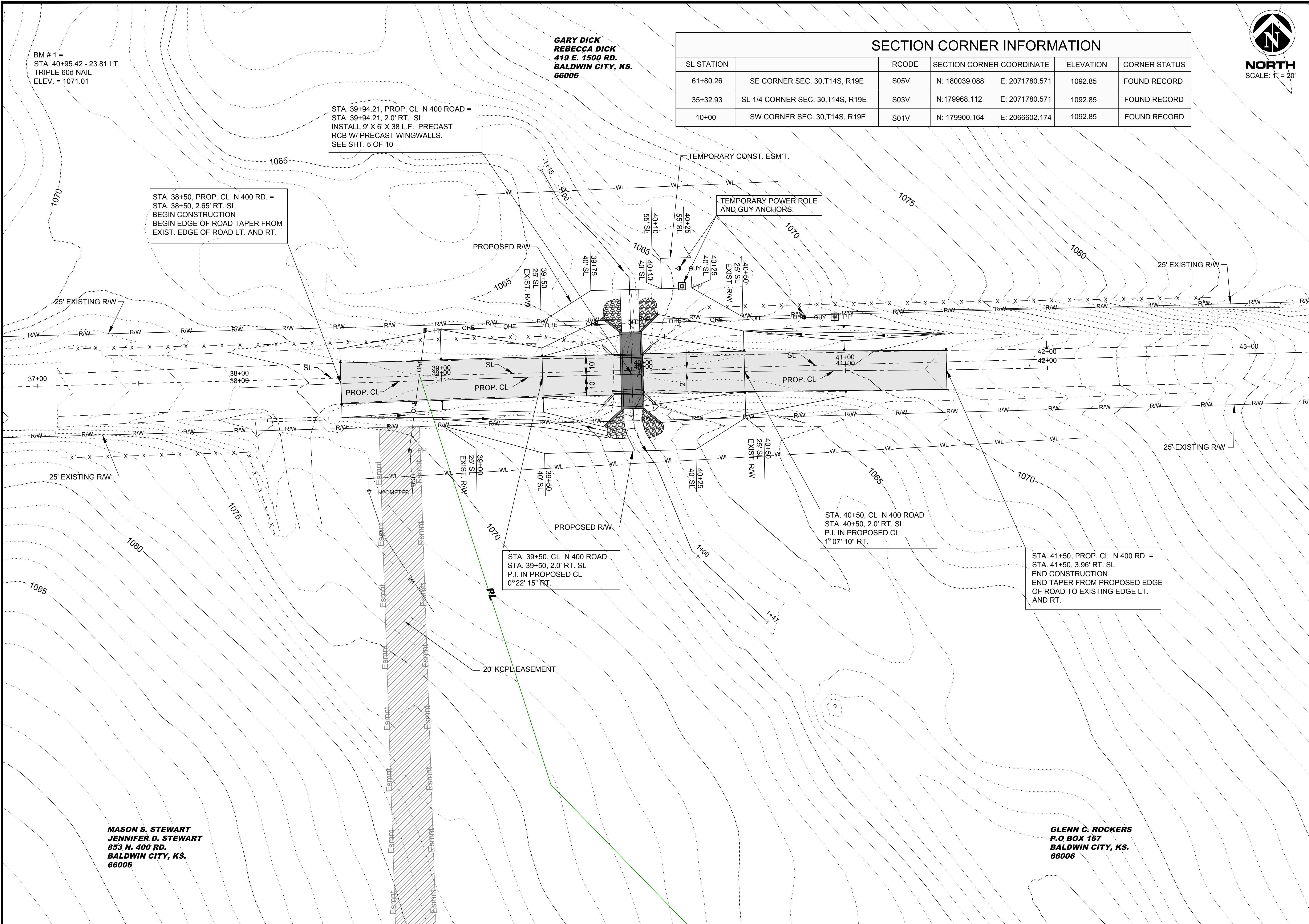
STA. 40+50, CL N 400 ROAD  
 STA. 40+50, 2.0' RT. SL  
 P.I. IN PROPOSED CL  
 1° 07' 10" RT.

STA. 39+50, CL N 400 ROAD  
 STA. 39+50, 2.0' RT. SL  
 P.I. IN PROPOSED CL  
 0° 22' 15" RT.

STA. 41+50, PROP. CL N 400 RD. =  
 STA. 41+50, 3.96' RT. SL  
 END CONSTRUCTION  
 END TAPER FROM PROPOSED EDGE  
 OF ROAD TO EXISTING EDGE LT.  
 AND RT.

**MASON S. STEWART  
 JENNIFER D. STEWART  
 853 N. 400 RD.  
 BALDWIN CITY, KS.  
 66006**

**GLENN C. ROCKERS  
 P.O BOX 167  
 BALDWIN CITY, KS.  
 66006**





**SPECIAL EVENT PERMIT**  
**“Celebration of 157<sup>th</sup> Anniversary of**  
**The Battle of Black Jack”**  
**May 1, 2013**

**SEP 2013-01:** A Special Event Permit request has been submitted for the commemoration of the 157<sup>th</sup> Anniversary of the Battle of Black Jack. This event will be held at 163 E 2000 Road and will include four interactive guided tours of the Battlefield and Nature Park, from 11 AM to 7:30 PM and two presentations on Civil War era issues, on June 1<sup>st</sup>, 2013. Submitted by Kerry Altenbernd for the property owner of record, Black Jack Battlefield Trust, Inc.

GENERAL INFORMATION

Current Zoning and Land Use	A (Agricultural) zoning, national historic site and agricultural land use
Surrounding Zoning and Land Uses	A (Agricultural) zoning in all directions. Land uses to the north, west and east are primarily agricultural with farm residences to the north and east. To the south are three developed, 8.2 acre, rural residential parcels.

SUMMARY OF PROPOSED EVENT

A written description of the event, required in Section D of the application, was submitted as an attachment to the application. The points of interest required to be covered in the event description are:

- Description of event activities –
  - Interactive guided tour of Black Jack Battlefield conducted by re-enactors in period clothing from 11 am to 12:30 pm
  - Guided tour of the Nature Park by naturalists from 12:45 pm to 1:45 pm
  - Presentation on “Civil War: Kansas People and Places” from 1:45 pm to 2:30 pm
  - Interactive guided tour of Black Jack Battlefield conducted by re-enactors in period clothing from 2:30 pm to 4 pm
  - Presentation on “Women of Bleeding Kansas” from 4:30 pm to 5:15 pm
  - Interactive guided tour of Black Jack Battlefield conducted by re-enactors in period clothing from 6 pm to 7:30 pm
- Description of proposed routes to site from nearest paved roads/County routes –
  - The principal site access is from the north, using Highway 56 to E 2000 Road and vice-versa.
- Description of changes, if any, to traffic flow on adjacent roadways –
  - No changes in traffic flow are proposed. “No Parking” signs will be posted along E 2200 Road from N 175 Rd, south to the entrance to the site (SE Corner of the site).
- Description of site security and parking arrangement –
  - Volunteers will be on site all day. No additional security is proposed.
  - Parking will be at the north end of the large pasture, to the south of the Robert H Pearson house.

- Description of site maintenance following the event –
  - Parking areas and walking trails will be mowed prior to the event.
  - Volunteers will continually monitor and clean up trash the day and evening of the event. If necessary, additional clean up will occur on 6/2, the day after the event.
  - Trash cans will be provided on-site.
- Description of how sanitation will be maintained during the event –
  - A special trash collection following the event will be scheduled with Ottawa Sanitation.
- Provide anticipated attendance with a not to exceed number –
  - Each of the interactive tours is anticipated to draw an attendance of approximately 50 people. The presentations are anticipated to be attended by individuals on-site for the interactive tours.
  - It is anticipated that no more than 150 people will attend the daylong event and it is unlikely more than 50 people will be on site for any one guided tour or presentation.
- Description of how pedestrians will be separated from vehicles during the event –
  - The parking area is at the far southeast corner of the site. Pedestrians will be able to move north from the parking lot towards the activities.
- Description of how Health Department concerns for potable water and portable toilets will be addressed –
  - Three portable toilets, including 1 ADA approved toilet, will be provided on the site and these will be maintained by Gotta-Go, LLC.
  - Bottled water will be available for sale on the site.
- Description of how ADA requirements will be met for parking and restroom facilities –
  - See description above for restrooms
  - ADA parking will be reserved and marked in the parking lot in the area nearest to the pedestrian activities
- Are fireworks or campfires proposed? There will be no fireworks as part of this event and there will be no campfires.
- Is Off-site parking proposed? No off-site parking is proposed.
- Written approval of proposed restroom and public water sources is required from the Douglas County Health Department –
  - A letter (dated 05-02-2013) from the Health Department was submitted with this application.

### SITE PLAN AND SUPPLEMENTAL DOCUMENTS

Section E of the application requires a scalable plan or aerial photograph be provided with the application. This information included on the plan or aerial photo includes:

- Location and dimensions of the event area. (The event may not be located in the regulatory floodway and may not interfere with access into the site for emergency vehicles.)
- Distance from road right-of-way.
- Location and dimensions of any structures (tents, stages, booths, etc) used for the event.
- Provide plan showing that adequate off-street parking areas-including ADA accessible parking are provided for the event.
- Location and dimension of activity areas associated with the event.

- Location and materials used to separate activity area from parking or other areas, if needed.
- If vendors are associated with the event show their location, with dimensions, along with the type of structure to be used.
- If portable toilets will be used, show number and location on the site plan.
- If any exterior lighting is proposed with the event the plans should show the location and note that the sources shall be shielded or aimed so the direct illumination is confined to the property on which the event is located.
- If signage is to be used, the plan should show the location and note the proposed size.
- Any other information which pertains to the event.

Supporting documents submitted with the application include a site plan that provides the information required in Section E of the application. The application and supporting documentation are posted on the Douglas County Website under the Zoning & Codes Department tab.

### NOTIFICATIONS AND CERTIFICATE OF MAILING

A requirement of the Special Event Permit is that the application provides written notice to owners within 1000' of the proposed event and that a certification of this mailing be submitted as part of the application package. According to the Certificate of Mailing submitted with this application, written notices were mailed to property owners within 1000' of 163 E 2000 Road on April 25<sup>th</sup>, 2013. A copy of the written notice provided is part of the application package that is submitted with this review.

### REVIEW DEPTS/AGENCIES AND COMMENTS/RESPONSES

Staff sent the application and supplemental materials to relevant county and township departments. Comments received were passed on to the applicant's representative, Kerry Altenbernd, who provided responses to the concerns/issues raised. Comments received and applicant responses are in the table below:

Dept/ Agency Comments Received	Applicant Response
<p><b>County Public Work</b> Had two comments:</p> <ol style="list-style-type: none"> <li>1. The NO PARKING signs—if these are to be mounted on posts stuck in the ground, then DIG-SAFE must be notified and all utilities marked. If they are on portable stands (not inserted into the ground), then they are OK, (but they'll need to monitor the signs to be sure they remain upright and visible). They also need to remove signs reasonably soon after the event.</li> <li>2. The road (E 2000 Rd) should probably be watered prior to the event to reduce dust. Has the applicant talked with Palmyra Twp about this? To my knowledge, they have not talked to anyone at our department.</li> </ol>	<p>Applicant is aware of comments. How signs will be posted is still being discussed, but if they will be stuck in the ground DIG-Safe will be contacted for utility marking along west side of E 2000 Road. Will contact Township Trustee one week prior to the event to request road be watered down for the event, if it has not rained within 24 hours of the event.</p>

Dept/ Agency Comments Received	Applicant Response
<p><b>Palmyra Township</b> In the past, E 2000 Rd was watered down several times to control dust during the day of the event. Based on the current weather conditions, this requirement may not be necessary this year.</p>	<p>Will contact Township Trustee one week prior to the event to request road be watered down for the event, if it has not rained within 24 hours of the event.</p>
<p><b>Palmyra Fire Dept &amp; EMS</b> Fire Chief responded that he spoke with Kerry Altenbernd some time ago and they discussed the event having camp fires in the evening, which he had some concerns about, but that he was alright with the event having small campfires (4' in diameter) if they are monitored by staff at all times and have water on hand.</p>	<p>Have contacted Township Fire Dept. and are awaiting letter Fire Chief said would be sent.</p>
<p><b>Sheriff's Dept</b> Notification was provided to the Sheriff. No comments/ requests were received.</p>	<p>Have not contacted Sheriff's office. Will respond to any comments/requests raised.</p>
<p><b>Lawrence-Douglas County Health Dept</b></p> <ol style="list-style-type: none"> <li>1. At least 1 portable chemical toilet on-site per 100 people, at least one which is handicap accessible.</li> <li>2. An adequate amount of waterless hand sanitizer on hand which has a minimum of 62% alcohol content (the label on the back of the bottle should have this information on it).</li> <li>3. At least one gallon of potable drinking water on hand per person.</li> <li>4. Adequate trash receptacles or dumpster on the property large enough to be adequate in size for how many people you are expecting.</li> </ol>	<p>Contacted Health Dept. and received letter of approval date 5-2-13 stating special event approved for attendance of up to 200 people with 3 portable toilets (one ADA compliant) with hand sanitizer and bottled water (for purchase) meets the minimum sanitation standards for a public gathering. Any changes to event from those discussed need to be submitted in writing to the Lawrence-Douglas County Health Dept.</p>

## SPECIAL EVENT PERMIT CRITERIA FOR APPROVAL

The Special Event Regulations are found in section 12-319 of the Zoning Regulations. Criteria for the types of events which require a special event permit are specifically described in section 12-319-8.04.

### **12-319-8.04**

#### **EVENTS WHICH REQUIRE SPECIAL EVENT PERMITS**

Events which do not meet the criteria for exemption listed in Section 12-309-8.03 require a Special Event Permit.

- a. These include events which are open to the general public, whether or not an admission or entrance fee is charged. These events include, but are not limited to auctions, markets, sporting events, rallies, concerts, performances, festivals, fairs, carnivals, fundraisers, or similar public gatherings.
- b. Events may occur either with or without the sale or provision of alcoholic liquor or cereal malt beverages. The property owner or sponsor of the event is responsible for obtaining necessary liquor licenses. [Res.13-03]

Performance standards that must be met as part of an application of a Special Event Permit are delineated in section 12-319-8.07. Compliance with the nine standards established in this section, and “...any additional conditions deemed necessary by the Director of Zoning and Codes, or the Board of County Commissioners....to minimize any negative impacts to surrounding properties and protect the public health, safety and welfare...” are necessary before an application can be approved.

The nine areas performance standards in section 12-319-8.07 are: noise, parking, event location, health & sanitation, lighting, signage, other permits and laws, structures, and site restoration. A summary of the applicant’s attention to these standards is provided in an Attachment to the application. A summary of this response is provided below:

- |   |   |
|---|---|
| <b>Traffic Flow &amp; Proposed Routes –</b> | Attendees will be directed by signs to access the site from US Hwy 56(N 200 Rd) to/from E 2000 Road.  |
| <b>Parking –</b>                            | One point of vehicle ingress/egress will be provided at the north end of the large parking area, which is south of the Robert Hall Pearson House. Volunteers will be available to direct individuals into and out of the parking area |
| <b>Pedestrian circulation –</b>             | Pedestrians will travel north from the lot to the event area. Pedestrian and vehicle lanes will not cross   |
| <b>Security –</b>                           | Volunteers will be available during the entire event. In the past, volunteers have included individuals with EMS training. If this is not the case this year, Palmyra Township will be called when emergency assistance is needed.    |
| <b>Site Maintenance –</b>                   | Trash cans will be on site during the event. A special trash collection following the event will be scheduled with Ottawa Sanitation. Depending on  |

weather and road conditions, arrangements will be in place for the Township to have a water truck available the day of the event to water down E 2000 Road the day of the event.

- Anticipated Attendance –** Attendance is not anticipated to exceed 150 people and each interactive tour throughout the day is expected to draw around 50 people.
- Pedestrian Protection/Safety –** Circulation between vehicles and pedestrians will be kept separate at all times.
- Portable Toilets & ADA Compliance –** Provider and number of toilets has been provided to the County Health Department and they have provided an approval letter for the event.
- ADA Parking Compliance –** A minimum of 3 ADA parking spaces is required. The location of ADA parking has been shown on the site plan. Signage is required to be posted for the ADA parking spaces.
- Fireworks or other special permits –** No fireworks are part of this event.
- Campfires –** No camp fires are part of this event.
- Large trucks –** All equipment will be unloaded on property owned by the applicant. There is sufficient area on site to accommodate the turning radius of all service vehicles.
- Portable electric generators –** No portable generators will be used.
- Temporary Structures or Tents –** Two, 10' x 10' tents are proposed to be used for the presentations. These tents will be located to the north of the parking area and the ADA spaces.

### Staff Review and Recommendation

The Special Event Permit application and supporting documentation has been posted on the Department's website's since May 22<sup>nd</sup>. No communications have been received regarding this proposed event from other than the reviewers.

This is the second Special Event Permit (SEP) to be processed by staff, since adoption of the new regulations earlier this year. The event, commemoration of the Battle of Black Jack, has been an annual event for the last several years. Neighbor expressed concerns prior to the event last year primarily regarding dust from traffic using E 2000 Road. There are no records of concerns expressed after the event.

Special Event Permits can be administratively approved. Staff has chosen to bring the first SEP for this annual event to the County Commission with the anticipation that future, annual commemorative events will be administratively approved

Conditions staff recommends be included, if the Special Event Permit application is approved, are:

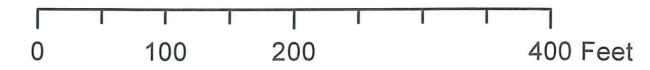
1. Approval of the single day event, which will include four interactive guided tours of the Battlefield and Nature Park, from 11 AM to 7:30 PM and two presentations on Civil War era issues, on Saturday, June 1<sup>st</sup>, 2013, from 11 AM to 7:30 PM.
2. Copies of all agreements & contracts entered into by the applicant for waste disposal services and portable toilet provisions be provided prior to the event to the Zoning & Codes Department.
3. ADA spaces shall be clearly delineated in the parking areas and signed in accordance with the ADA Guidelines and Zoning Regulations.
4. All direction and no parking signs posted the day of the event are to be removed by 10 PM the day of the event. Signs are permitted to be set one day prior to the event.
5. Site cleanup and restoration, including the removal of all temporary structures and tents, that is not completed on the day of the event, be completed by noon, on June 2<sup>nd</sup>.
6. If a water truck is required, the cost of this shall be the applicant's and not the Township's.
7. A letter from the Township Fire Department or from the event organizers, affirming EMS services will be available on site, is provided one day prior to the event.

Staff is also asking for direction on the ability to administratively approve future annual Special Event Permits commemorating the Battle of Black Jack.



# Black Jack Battlefield & Nature Park

## 163 E 2000 RD, Wellsville, KS



1 inch = 150 feet



- Battlefield Tour Area - █ - 350' x 425' approx.
- Nature Park Tour Area - █ - 600' x 900' approx.
- Parking - █ Parking Access Lane |||||
- Handicapped Parking - █

- Portable Toilets (3) - X - (1 ADA)
- Vendor Booths - █ (4-2'x8' tables)
- Tents - # (10'x10')
- No Parking Sign - X - 1'x2'
- Entrance/Exit Sign - X 2'x3'

Property/Event Boundary - —  
 20' from roadway 1320' x 1320'  
 Distance from Battlefield Tour Area to roadway - 60' to 120'  
 Distance from Parking Area to roadway - 100' to 140'





# DOUGLAS COUNTY SPECIAL EVENT APPLICATION FORM

Zoning & Codes Department  
2108 W 27<sup>th</sup> Street, Suite I, Lawrence, KS 66047  
785.331.1343 | Fax: 785.331.1347

Submittal Date: 5/1/13

Office Use:  
Registration No. SEP 2013 - 02

A completed application and fee must be submitted a minimum of 28 days prior to the event date.

## APPLICANT INFORMATION [SECTION A]

<b>Application Name*:</b> Kerry Altenbernd		<b>Organization Name:</b> Black Jack Battlefield Trust, Inc.	
<b>Mailing Address:</b> P.O. Box 44		<b>City and State:</b> Baldwin City, KS	<b>Zip Code:</b> 66006-0044
<b>Phone Number:</b> 842-6478	<b>Cell Number:</b> 840-8029	<b>Fax Number:</b> N/A	<b>Email Address:</b> kaltenbernd@blackjackbattlefield.org

**\*Property owner's written permission must be provided by mail, fax, or e-mail to the Zoning and Code Office (fax number: 785-331-1347) before a permit will be processed.**

## EVENT INFORMATION [SECTION B]

<b>Event Date:</b> 6/1/2013	<b>Address   Location:</b> 163 E 2000 Rd., Wellsville, KS
<b>Description of Event:</b> Commemoration of 157 <sup>th</sup> Anniversary of the Battle of Black Jack - Battlefield and Nature Park tours, 11:00 a.m. - 7:30 p.m.	
<b>Property Owner:</b> Black Jack Battlefield Trust, Inc.	<b>Website:</b> <a href="http://www.blackjackbattlefield.org">http://www.blackjackbattlefield.org</a>

- Several permits may be applied for consecutively if the event is to run more than 14 consecutive days. Each permit will be valid for no more than 14 consecutive days.

If this application is requested for the same event on **non-consecutive** dates, please provide additional date and time information below for each event. (Each special event will require issuance of a permit.)

Date:	Times:	Date:	Times:
Date:	Times:	Date:	Times:

**4 permits may be administratively approved for a property per calendar year. Any additional permits require County Commission approval.**

Number of permits that have been administratively approved for this location this calendar year. 0

Will a tent be used for this event? Yes 2 No \_\_\_\_\_

If yes:

- Note the dimensions of the tent: 10 ft X 10 ft
- Note the type of tent: Open/Canopy 1 Enclosed 1

**SALES AND TAX LICENSING INFORMATION [SECTION C]:**

Does the event involve sales? X

- **If yes**, provide your Kansas Sales Tax ID Number 004-300233092F-01
- If you are not required to collect Kansas Sales Tax, please provide your exemption information:

**Contact the Kansas Department of Revenue, Kansas Tax Assistance, (785) 368-8222, for information regarding the Kansas Sales Tax ID Number and Sales Tax Requirements.**

- If your business is **not** based in Kansas, a transient merchant license must be obtained from the Douglas County Clerk's office at (785) 832-5182; (1100 Massachusetts Streets, Lawrence, KS 66044)

Will you be selling alcohol? Yes \_\_\_\_\_ No X

- **If yes**, a liquor license must be obtained from the County Clerk's Office at 785-832-5182; (1100 Massachusetts Street, Lawrence, KS 66044) (Additional time may be needed to process this request.)

**Section 12-319-8.06 of the County Code contains criteria for an administrative permit.**

**If the event does not meet these criteria, the applicant will be referred to the Board of County Commissioners for action. Staff will advise applicant in a pre-application meeting if your event will require County Commissioner's action.**

**EVENT DESCRIPTION [SECTION D]. - See Attached**

**A description must be provided which includes the following information:**

**WRITTEN DESCRIPTION**

Provide a separate page with the following information:



- Describe the activities that will occur with this event.
- Describe proposed routes to site from nearest paved roads/County routes.
- Note any changes that may be required to traffic flow on the site or adjacent roadways.
- Explain any provisions that will be made for security or parking.
- Describe proposed site maintenance; including how the site will be cleaned following the event as well as how sanitation will be maintained during the event.
- Provide anticipated attendance with a not to exceed number.
- Describe how protection for pedestrians will be provided during the event. Vehicle and pedestrian circulation must be separated.
- Note provisions, if any, that are being made for portable toilets for event (include provider and disposal contractor) and potable water, if required by the Lawrence-Douglas County Health Department.
- Describe how ADA requirements will be met for parking and restroom facilities.

- If fireworks are proposed as part of the special event, note a separate permit and fee are required.
- If campfires or other open burning areas are proposed, provide a letter from the township fire department that this has been discussed with them.
- If parking is to be located on adjoining property, written consent of the affected landowner must be provided to the Director of Zoning and Codes prior to approval of the permit.
- If large trucks are required to provide staging, tents or other equipment for the event, note that the event area must be large enough to accommodate the turning radius of the truck(s). Public road cannot be used for loading and unloading of equipment or materials.
- Provide written approval of proposed restroom and public water sources from the Douglas County Health Department (785.843.3060)
- Are portable electric generators proposed?

**GRAPHIC DESCRIPTION [SECTION E]. - See Attached**

Provide the following information graphically on a scalable aerial photograph or site plan of the area: (Aerials are available from at the Zoning and Codes Office at 2108 W 27<sup>th</sup> Street, Suite I, Lawrence, KS or the County's GIS map viewer at [www.douglas-county.com/depts/it/gis/gis\\_mapviewer.aspx](http://www.douglas-county.com/depts/it/gis/gis_mapviewer.aspx) .)

- Location and dimensions of the event area. (The event may not be located in the regulatory floodway and may not interfere with access into the site for emergency vehicles.)
- Distance from road right-of-way.
- Location and dimensions of any structures (tents, stages, booths, etc) used for the event.
- Provide plan showing that adequate off-street parking areas-including ADA accessible parking are provided for the event.
- Location and dimension of activity areas associated with the event.
- Location and materials used to separate activity area from parking or other areas, if needed.
- If vendors are associated with the event show their location, with dimensions, along with the type of structure to be used.
- If portable toilets will be used, show number and location on the site plan.
- If any exterior lighting is proposed with the event the plans should show the location and note that the sources shall be shielded or aimed so the direct illumination is confined to the property on which the event is located.
- If signage is to be used, the plan should show the location and note the proposed size.
- Any other information which pertains to the event.

 <b>Applicant Signature</b>	 <b>Date</b>
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**TO BE COMPLETED BY DOUGLAS COUNTY ZONING ADMINISTRATION OFFICE**

**REGISTRATION CHECKLIST AND APPROVAL**

- SECTION A COMPLETED
- SECTION B COMPLETED
- SECTION C COMPLETED
- SECTION D COMPLETED
- SECTION E COMPLETED
- COPY OF NOTICE TO PROPERTY OWNERS LETTER
- "CERTIFICATE OF MAILING" SUBMITTAL
- REVIEWED BY ZONING & CODES DIRECTOR DATE: \_\_\_\_\_
- DATE OF BOARD OF COUNTY COMMISSIONER'S MEETING FOR APPROVAL: \_\_\_\_\_

**REVIEW COMMENTS:** (Comments that extend to a separate page are incorporated into approval)

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**Approval Date:** \_\_\_\_\_

\_\_\_\_\_  
Director, Zoning & Codes Department

\_\_\_\_\_  
Chair, Board of County Commissioners

Conditions of Approval:

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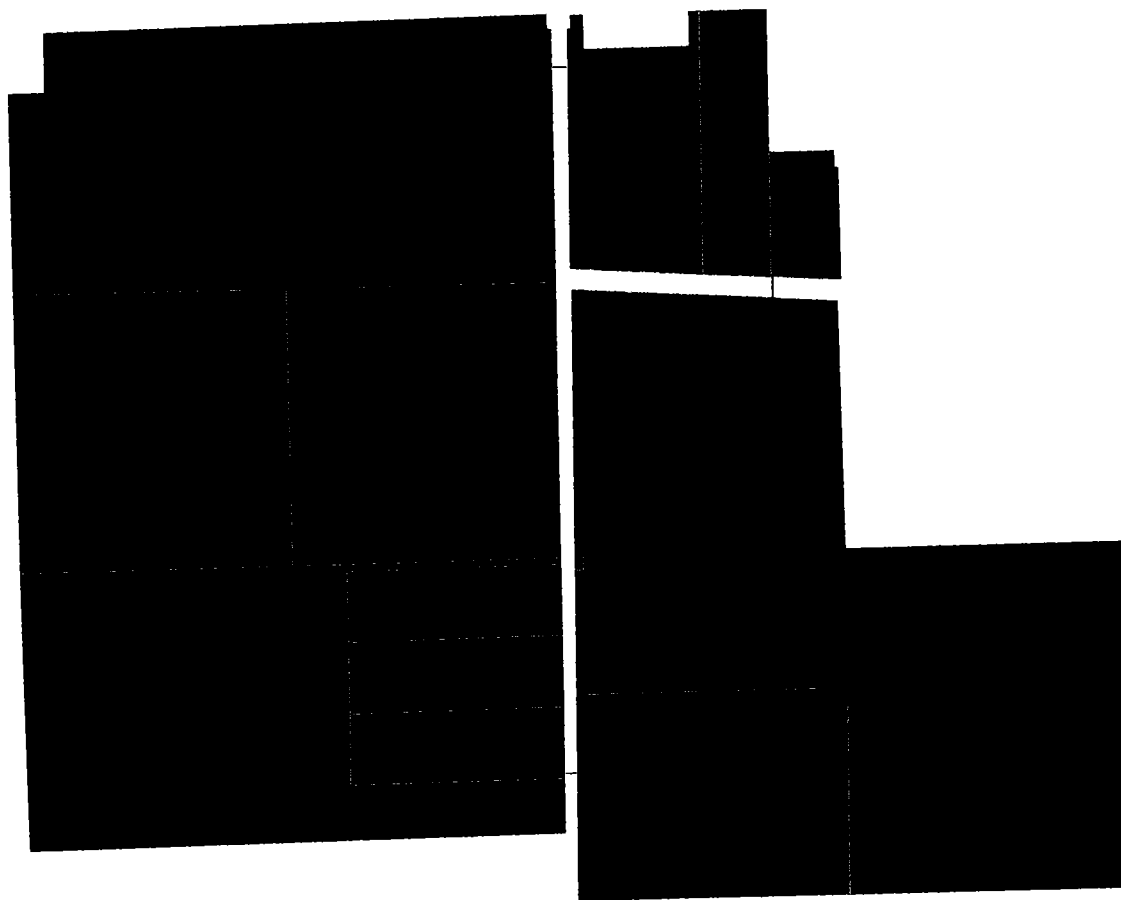
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JOINPIN	SYSCALACRE	owner1	owner2	owner3	address	city	sta zip	plate	stus
193-07-00-00-012.01-0	9.25729553	HOHN RODNEY C	HOHN DIANE C		2015 N 200 RD	WELLSVILLE	KS 66092	700781-048	2015 N 200 RD
193-07-00-00-013.00-0	15.90636666	DOUGLAS COUNTY			1100 MASSACHUSETTS ST	LAWRENCE	KS 66044	700781-02	184 E 2000 RD
193-07-00-00-014.00-0	4.58432654	HOHN RODNEY C	HOHN DIANE C		2015 N 200 RD	WELLSVILLE	KS 66092	700781-04D	
193-07-00-00-014.00-0	105.11215591	DEAY RAYMOND E	DEAY LAVERNE M		2051 N 175 RD	WELLSVILLE	KS 66092	700782-C	
193-07-00-00-015.00-0	0.06440574	STATE OF KANSAS			6425 SW 6TH AVE	TOPEKA	KS 66615	700782A	
201-12-00-00-001.00-0	73.704660584	KALB KENMITT G TRUSTEE	KALB MARGARET R TRUSTEE		2051 N 175 RD	WELLSVILLE	KS 66092	700783	
201-12-00-00-015.00-0	39.40219323	CAVENDER WILLIAM E TRUSTEE	CAVENDER ALETA TRUSTEE		1973 N 200 RD	WELLSVILLE	KS 66092	700534A	1973 N 200 RD
201-12-00-00-014.00-0	53.54871280	STEWART DANIEL L	STEWART CYNTHIA L		1929B N 200 RD	WELLSVILLE	KS 66092	700533	
201-12-00-00-014.04-0	7.94067406	WATKINS JON P	WATKINS KAREN A		7627 FOREST PARK DR	SHAWNEE	KS 66217	700544	
201-12-00-00-014.00-0	7.94371541	HUTNIK DON TRUSTEE	KEMPENAR DENISE A		149 E 2000 RD	WELLSVILLE	KS 66092	700543B	149 E 2000 RD
201-12-00-00-014.03-0	7.94599138	KEMPENAR STEPHEN P			139 E 2000 RD	WELLSVILLE	KS 66092	700543C	139 E 2000 RD
201-12-00-00-015.01-0	38.57860775	BLACK JACK BATTLEFIELD TRUST INC			PO BOX 401	BALDWIN CITY	KS 66006	700533B	163 E 2000 RD

C/O KANSAS HISTORICAL SOCIETY

address	city	sta zip	plate	stus
2015 N 200 RD	WELLSVILLE	KS 66092	700781-048	2015 N 200 RD
1100 MASSACHUSETTS ST	LAWRENCE	KS 66044	700781-02	184 E 2000 RD
2015 N 200 RD	WELLSVILLE	KS 66092	700781-04D	
2051 N 175 RD	WELLSVILLE	KS 66092	700782-C	
6425 SW 6TH AVE	TOPEKA	KS 66615	700782A	
2051 N 175 RD	WELLSVILLE	KS 66092	700783	
1973 N 200 RD	WELLSVILLE	KS 66092	700534A	1973 N 200 RD
1929B N 200 RD	WELLSVILLE	KS 66092	700533	
7627 FOREST PARK DR	SHAWNEE	KS 66217	700544	
149 E 2000 RD	WELLSVILLE	KS 66092	700543B	149 E 2000 RD
139 E 2000 RD	WELLSVILLE	KS 66092	700543C	139 E 2000 RD
PO BOX 401	BALDWIN CITY	KS 66006	700533B	163 E 2000 RD



## **"Notice to Property Owners"**

<date>

<property owner name>

<address>

### **NOTICE OF PROPOSED SPECIAL EVENT PERMIT**

To Whom It May Concern:

An application for a special event permit is being submitted to the Douglas County Zoning and Codes Department for an event proposed to occur on June 1, 2013, for the Commemoration of the 157<sup>th</sup> Anniversary of the Battle of Black Jack, located at The Black Jack Battlefield and Nature Park, 163 E 2000 Road, Wellsville, KS 66092.

The proposed event is for activities on June 1<sup>st</sup>, which feature four interactive guided tours of the Battlefield and Nature Park that will occur between 11:00 a.m. and 7:30 p.m.

This letter is being sent to all owners of property within 1000 feet of the property containing the proposed special event described further in this letter. It is being sent for the purpose of informing the notified person and other interested parties about the proposed event. This letter is being provided solely to advise nearby landowners of the pending proposed development. For further information, contact Kerry Altenbernd at 785-842-6478 or the Douglas County Zoning and Codes Department at 785-331-1343.

Sincerely,

Kerry Altenbernd  
Black Jack Battlefield and Nature Park



# CERTIFICATE OF MAILING

**THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.** Type of

event: Commemoration of the 157<sup>th</sup> Anniversary of the Battle of Black Jack \_\_\_\_\_

Address or location of event:

163 E 2000 Road, Wellsville, KS 66092

I hereby certify that a true and correct copy of the foregoing "Notice to Property Owners" was mailed to the attached list by depositing said copy in the United States Mail, proper postage prepaid, on the following date: 4/25/2013

Signature



Date

5/1/13

Kerry Altenbernd  
Printed Name

## Event Description [Section D]

- 6/1/2013 - There will be an interactive guided tour of the Black Jack Battlefield, conducted by reenactors in period clothing, from 11:00 a.m. to 12:30 p.m.

There will be a guided tour of the Nature Park, conducted by naturalists, from 12:45 p.m. to 1:45 p.m.

There will be a presentation by Debra Goodrich Bisel titled "The Civil War: Kansas People and Places," from 1:45 p.m. to 2:30 p.m.

A second interactive guided tour of the Black Jack Battlefield, conducted by reenactors in period clothing, will be from 2:30 p.m. to 4:00 p.m.

There will be a presentation by Michelle M. Martin titled "Women of Bleeding of Kansas," from 4:30 p.m. to 5:15 p.m.

A third interactive guided tour of the Black Jack Battlefield, conducted by reenactors in period clothing, will be from 6:00 p.m. to 7:30 p.m.

There will be informational and merchandise booths on site the entire day.

- The route from the site to US Highway 56 is E 2000 Road.
- No changes to traffic flow will be required. "No Parking" signs will be posted along E 2000 Road from N175 Road to vehicle entrance at southeast corner of site.
- Parking will be at the north end of the large pasture to the south of the Robert Hall Pearson House.
- The parking area and walking trails will be mowed prior to the event. Volunteers will continually clean up trash during the day and evening of 6/1, and, if necessary, will finish up on 6/2. Portable toilets and trash cans will be provided. A special trash collection following the event will be scheduled with Ottawa Sanitation.
- Each of the three interactive guided tours will have no more than 50 visitors attending, for a total of 150 visitors. It is anticipated that the nature park tour and presentation by Ms., Bisel and Ms. Martin will be attended by visitors who will also attend one of the guided tours. There should be no more than 50 visitors on site at any one time during the day's activities.
- Vehicles will enter and exit the site through the entrance at the far southeastern corner of the site. Upon exiting their vehicles, pedestrians will travel north out of the parking area toward the activities. Pedestrian and vehicle lanes will not cross.
- There will be 3 portable toilets, including 1 ADA approved, and a hand wash stand provided and maintained by Gotta-Go, LLC. Bottled water will be available for sale.
- The parking area nearest to the pedestrian entrance will be reserved and marked for handicapped parking. 1 toilet will be ADA approved.


- No fireworks will be used.
- No fires are planned.
- Parking will only be on property owned by the applicant.
- All equipment will be unloaded on property owned by the applicant. There is sufficient turning radius on applicant's property for all service vehicles.
- Written approval of proposed restroom and water source from the Douglas County Health Department is attached.
- No portable electric generators will be used.

Hi Mr. Altenbernd:

It is my understanding that there will be approximately 50-100 people at this event. In terms of the Health Department's sanitation requirements we will need some type of documentation from you regarding these requirements:

1. At least 1 portable chemical toilet on-site per 100 people, at least one which is handicap accessible.
2. An adequate amount of waterless hand sanitizer on hand which has a minimum of 62% alcohol content (the label on the back of the bottle should have this information on it).
3. At least one gallon of potable drinking water on hand per person.
4. Adequate trash receptacles or a dumpster on the property large enough to be adequate in size for how many people you are expecting.

Thank you,

Richard Ziesenis   
Director of Environmental Health  
Lawrence-Douglas County Health Department  
(785) 843-3060

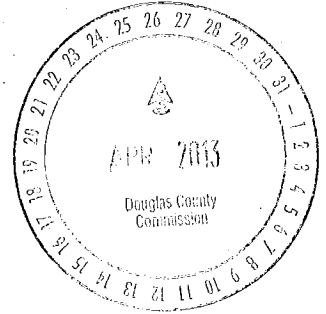
200 Maine, Suite B  
Lawrence, KS 66044-1396

OFFICE: 785/843-3060 FAX: 785/843-3161  
CLINIC: 785/843-0721 FAX: 785/843-2930

**Notice to Property Owners**

April 25, 2013

Douglas County Administrator  
1100 Massachusetts St.  
Lawrence, KS 66044



**NOTICE OF PROPOSED SPECIAL EVENT PERMIT**

To Whom It May Concern:

An application for a special event permit is being submitted to the Douglas County Zoning and Codes Department for an event proposed to occur on June 1, 2013, for the Commemoration of the 157<sup>th</sup> Anniversary of the Battle of Black Jack, located at The Black Jack Battlefield and Nature Park, 163 E 2000 Road, Wellsville, KS 66092.

The proposed event is for activities on June 1<sup>st</sup>, which feature four interactive guided tours of the Battlefield and Nature Park that will occur between 11:00 a.m. and 7:30 p.m.

This letter is being sent to all owners of property within 1000 feet of the property containing the proposed special event described above. It is being sent for the purpose of informing the notified person and other interested parties about the proposed event. This letter is being provided solely to advise nearby landowners of the pending proposed development. For further information, contact Kerry Altenbernd at 785-842-6478, or the Douglas County Zoning and Codes Department at 785-331-1343.

Sincerely,

A handwritten signature in cursive script that reads "Kerry Altenbernd".

Kerry Altenbernd  
Black Jack Battlefield and Nature Park



## DOUGLAS COUNTY ADMINISTRATOR

1100 Massachusetts Street  
Lawrence, KS 66044-3064  
(785) 832-5328 Fax (785) 832-5148  
cweinaug@douglas-county.com

**G. Craig Weinaug**  
County Administrator

DATE: May 24, 2013

TO: Commissioners

FROM: Craig Weinaug

RE: **Fence Viewing**

---

Attached please find three documents: 1) a letter from Richard W. Hird, who has been hired to represent Margaret Counts; 2) a copy of a summary of Kansas Fence Laws prepared by Kansas State, and 3) a copy of the purposed mediated settlement of the dispute which was not accepted by both parties.

The parties to the dispute have been notified, either directly or indirectly, that they will be given the opportunity to address the County Commission at your meeting on Wednesday.

Once you have heard from the parties, I suggest that you then discuss how you want to rule to resolve this dispute. The proposed mediated settlement could be used as a basis for your decisions if you choose.

As directed by the County Commission at your last meeting the County Counselor did research the question of whether a dispute over the location of the boundary between two properties was within the responsibility of the County Commission to determine as a part of their statutory fence viewing responsibilities. After research, the County Counselor determined that boundary disputes were not part of this responsibility. If the Commission chooses to use the proposed mediated resolution as a basis for your decision, this document will have to be revised to include statements that any boundary dispute between the property owners is not within the responsibility of the County Commissioners to determine

# AG LAW



S E R I E S

## Kansas Fence Law

Kansas State University  
Agricultural Experiment Station  
and Cooperative Extension Service

*Author's Note:* Each case and controversy involving the subject matter of this publication requires consideration of unique facts and law. This brochure is intended to provide general information only. It must not be used as a substitute for legal counsel. Information contained in this brochure is limited by considerations of space and the laws and statutes that exist at the time of its publication. Our laws are subject to change yearly through legislative procedures, as well as new judicial determinations. Accordingly, no attempt has been made to set forth a complete analysis of all of the statutes or case decisions and their effects and exceptions. This brochure should not be used to answer specific questions about fence law or liability of owners of livestock. If you have specific questions, you should contact an attorney. Otherwise, you may jeopardize your legal rights.



## **Border Wars: The Building and Maintaining of Partition Fences**

For rural landowners, perhaps one of the most common and contentious issues involves disputes concerning partition fences. Partition fences are those that separate adjoining lands. Kansas has numerous laws concerning partition fences, but recent court opinions have pointed out the inadequacies of some of those provisions.

### **General Rules**

In general, the owners of adjoining lands are required to build and maintain in good repair all partition fences in equal shares, unless the parties agree otherwise.<sup>1</sup> In practice, however, many adjoining landowners adopt the "right-hand" or "left-hand" rule — they face each other at the mid-point of their fence and agree to build and/or maintain the portion of the fence to either their respective right or left. But in Kansas, the law states that building and maintenance is to be in equal shares rather than in halves.<sup>2</sup>

Kansas is a fence-in jurisdiction.<sup>3</sup> That means that livestock owners are required to fence their animals in.<sup>4</sup> But, as stated above, state law requires that the owners of adjoining lands build and maintain in good repair all partition fences in equal shares.<sup>5</sup> That sometimes creates problems when a livestock owner shares a partition fence with a crop farmer or other landowner who does not graze livestock and, hence, has no need for a fence. In addition, if the adjacent nonlivestock owners do not participate in the maintenance of their share of the partition fence, and injury results to them because of the defec-

tive fence that they were required to maintain, they cannot recover for damages caused by the adjacent landowner's stock.<sup>6</sup> Also, a nonlivestock owner will be held liable to others who are damaged by the neighbor's livestock escaping through the defective partition fence.<sup>7</sup>

Kansas law does indeed provide that if nonlivestock owners do not want their land enclosed, they cannot be forced to build or pay for an equal share of any partition fence.<sup>8</sup>

The statute states:

"No person not wishing his land enclosed, and not occupying or using it otherwise than in common, shall be compelled to contribute to erect or maintain any fence dividing between his land and that of an adjacent owner; but when he encloses or uses his land otherwise than in common, he shall contribute to the partition fence ..."<sup>9</sup>

By its language, two conditions must be satisfied before the statute applies — one party must not want their land enclosed, and the adjoining tracts must be used in common. Unfenced tracts are not used in common when they are used for different purposes (i.e., crop raising and cattle grazing). Thus, when a crop farmer (or other nonlivestock owner) adjoins a livestock owner, both adjoining landowners must contribute an equal share to the building or maintaining of a partition fence because the tracts are not used in common. While K.S.A. 29-309 has never been interpreted by an appellate court in Kansas, the Kansas attorney general has twice opined that the statute applies only to relieve a landowner from responsibility for sharing equally the cost of building and maintaining partition fences when the land is used in common and the complaining party does not want the fence.<sup>10</sup>

### **Procedure for Handling Fence Disputes**

In some instances, adjoining landowners may come to an agreement as to how to allocate the responsibility between themselves for the building and/or maintenance of a partition fence. If an agreement is reached, it may be wise to put the agreement in writing and record it in the register of deeds office in the county where the fence is located. If the adjoining landowners cannot reach an agreement concerning fence building and/or maintenance, the "fence viewers" should be called.

Under Kansas law, the county commissioners in the county where the fence in question is located are the fence viewers.<sup>11</sup> They either may act together collectively as a board, or any two of them<sup>12</sup> may be appointed to serve as the fence viewers. Either of the adjoining landowners may apply to the fence viewers to resolve the conflict. The fence viewers will view the fence in controversy and then assign to each party, in writing, an equal share or part of the fence to build, maintain, or repair. The decision of the fence viewers is recorded at the register of deeds office in the county where the fence is located<sup>13</sup> and, while they are acting as fence viewers, their decision is final, conclusive, nonappealable, and binding upon the parties and all succeeding occupants of the land.<sup>14</sup>

However, if the commissioners do not appoint "any two of them" to serve as the fence viewers, any decision concerning fence building and/or maintenance is deemed to be an opinion of the county commissioners as a board and is appealable under K.S.A. 19-223.<sup>15</sup> If either party decides to disregard the ruling of the fence viewers, the other party may erect, repair, or maintain the entire fence

and charge the nonperforming party for its share of the cost of the fence plus interest and attorney fees, if legal action is necessary for collection.<sup>16</sup>

However, a recent Kansas Court of Appeals opinion requires the fence viewers be called not only to make an initial view of the fence, but also to view the fence whenever there is any subsequent argument between adjacent landowners concerning the partition fence.<sup>17</sup> Thus, if one party disregards the initial ruling of the viewers, the other party cannot build the nonperforming party's portion of the fence or make necessary repairs until the viewers have made a second view and determined that the fence in question needs to be built or repaired. After the repairs have been made, a bill cannot be sent to the nonperforming party until the viewers have made a third view to certify the work and the amount claimed due.<sup>18</sup>

### **What Type of Fence Can Be Required?**

Generally, the fence viewers can require the parties to build only what is a legal fence in the county. They cannot require a higher-quality fence. A legal fence, by law, is a three-wire barbed wire fence,<sup>19</sup> but other types of fences in addition to barbed wire can be legal fences under Kansas law.<sup>20</sup> However, since the county commissioners can enact more stringent legal fencing requirements on a county-wide basis, they could require these higher standards to be followed by adjoining landowners in partition fence controversies.<sup>21</sup>

### **Are Fence Maintenance Statutes Constitutional?**

While there is no recorded appellate court opinion in Kansas construing the constitutionality of the portion of the Kansas fence statutes requiring nonlivestock owners to build and maintain an equal share of a partition fence, challenges have been made in other states with similar statutes.<sup>22</sup>

For example, in a 1989 Vermont case,<sup>23</sup> a nonlivestock owner refused to contribute toward the maintenance of a partition fence with his livestock-owning neighbor. The livestock owner built the fence and then brought an action against the nonlivestock owner to recover for payment of the nonlivestock owner's share of the cost of building the fence. The nonlivestock owner asserted that the fence law was unconstitutional, and the Supreme Court of Vermont agreed. The Iowa Supreme Court was also recently faced with a similar factual setting and held that the existing fence statute requiring nonlivestock owners to build and maintain partition fences in equal shares to be constitutional.<sup>24</sup>

In a 1997 Pennsylvania case,<sup>25</sup> the plaintiff owned property in a town bordered on three sides by the defendant's property. During the time of the parties' ownership of the properties, no fence had ever existed on or near the boundary between the parties' properties. The plaintiff, in accordance with Pennsylvania law, requested that the court order the defendant to pay an equal share of the cost of erecting a division fence between the properties. The defendant refused. The court, in construing the fence law, did not strike the fence law down on constitutional grounds, but noted that while the statute required adjoining landowners to erect division fences, the statute

also focused on whether the fence was a "sufficient" fence as required by law. To be a "sufficient" fence, the court reasoned, a fence must keep livestock fenced in to protect other persons and property from trespassing livestock. As such, the court held that the fence law did not apply to persons not owning livestock and that such persons are not required to share the cost of a partition fence with a livestock-owning neighbor. The court thus reasoned that this meant a fence must be construed as having been built for a particular purpose for the statute to apply (i.e., to protect property from trespassing livestock). As such, the court held that the fence law did not require an adjoining landowner who does not keep livestock to share the cost of a fence with a livestock-owning neighbor.

### **Responsibility for Highway Fences**

In some states, it is conventional to expect landowners to build highway fences. Other states, such as Kansas, have resolved the issue by delegating to the state highway commission or department of transportation the responsibility to build and maintain highway fences.

In a recent Kansas case, the scope of the duty of the Kansas Department of Transportation (KDOT) with respect to the maintenance of highway fences was at issue. The Kansas Supreme Court, in reversing the judgment of the Kansas Court of Appeals and reinstating a jury verdict against KDOT of \$1.2 million, held that KDOT has a duty to maintain a highway in a reasonably safe condition.<sup>26</sup> The duty, the court reasoned, included a duty to maintain highway fences, and that KDOT's breach of that duty contributed to the injuries and damages that the plaintiff sustained. The court reasoned that the evidence supported

a finding that livestock entered the highway by crossing a downed highway fence, rather than through a nearby double-box culvert that KDOT was not responsible for fencing. The court rejected KDOT's argument that it had a duty to maintain only highway fences behind which livestock grazed.<sup>27</sup>

### **Concluding Thought**

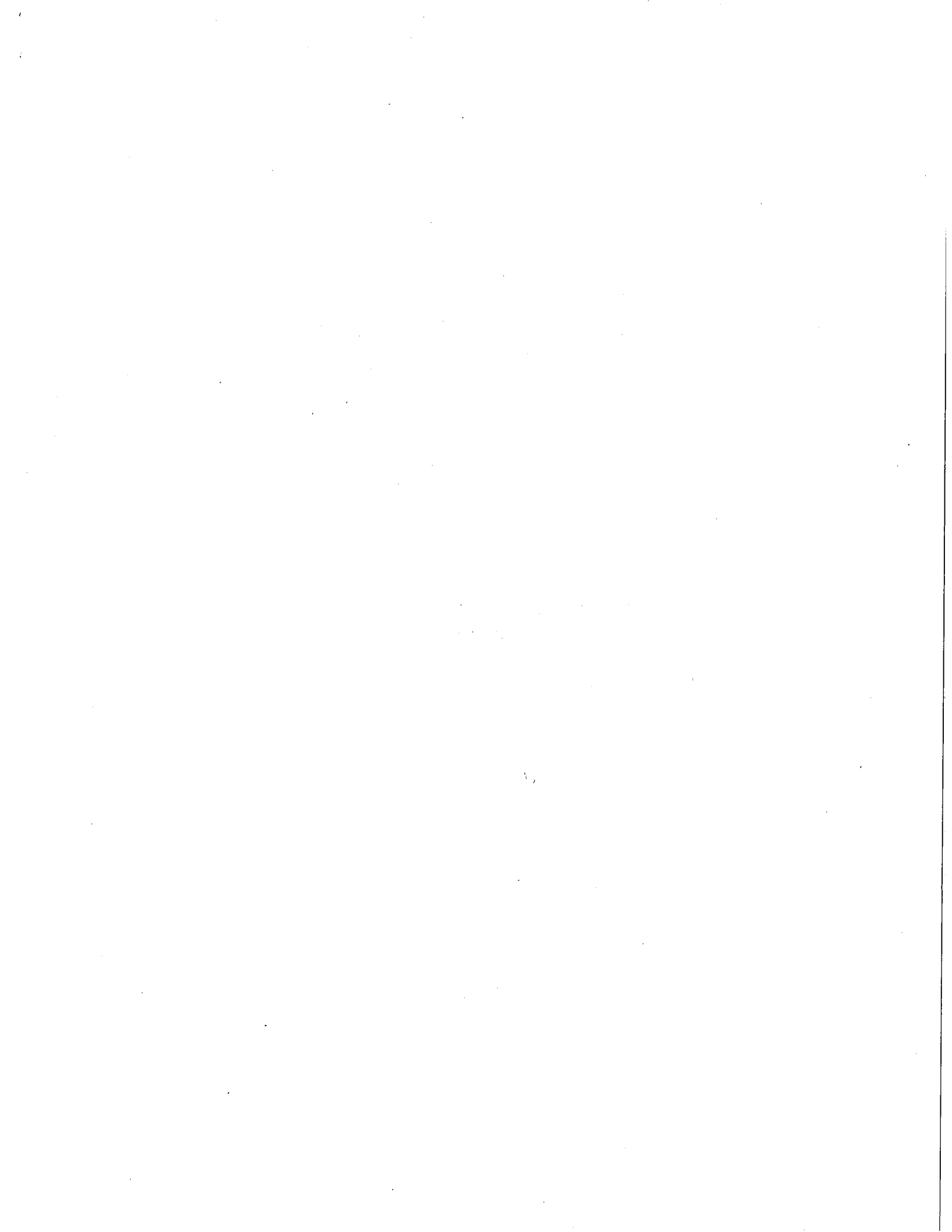
The best way to avoid fence disputes with adjoining landowners is to maintain communication and have at least a general understanding of the Kansas rules involving partition fence building and maintenance. Many conflicts may be able to be resolved by mutual agreement of the parties. If an irreconcilable dispute does arise, it may be best to involve the fence viewers as soon as possible. In any event, it remains clear that good fences make good neighbors.

### **Endnotes**

- 1 K.S.A. 29-301.
- 2 *Id.*
- 3 K.S.A. 29-101.
- 4 *Id.* See also K.S.A. 47-122.
- 5 See *supra* note 1 and accompanying text. See also *Griffith v. Carrothers*, 86 Kan. 93 (1911) (intent of partition fence law is that adjoining landowners are under obligation to maintain partition fences in equal shares).
- 6 K.S.A. 29-401.
- 7 *Id.* See, e.g., *Smith v. Ott*, 100 Kan. 136, 163 Pac. 918 (1917).
- 8 K.S.A. 29-309.
- 9 *Id.*
- 10 See Kan. Att'y. Gen. Op. No. 83-43 (Mar. 25, 1983) and 87-28 (Feb. 16, 1987).
- 11 K.S.A. 29-201.
- 12 *Id.*
- 13 K.S.A. 29-304.

- 14 K.S.A. 29-304.
- 15 See *Kaplan v. Johnson County Commissioners*, 269 Kan. 122, 3 P.3d 1270 (2000).
- 16 K.S.A. 29-305.
- 17 *Schwartz v. Kunze*, 22 P.3d 618 (Kan. Ct. App. 2001).
- 18 *Id.* The court seemed persuaded by the supposed need of having the fence viewers see the situation before action is taken and direct what is to be done.
- 19 K.S.A. 29-105.
- 20 See K.S.A. 29-102.
- 21 K.S.A. 29-105(b); K.S.A. 29-109(b).
- 22 The argument is that fence statutes requiring a nonlivestock owner to contribute toward the building and/or maintenance of a partition fence that the nonlivestock owner does not need or want constitutes a taking of the nonlivestock owner's private property without just compensation, in violation of the Fifth Amendment.
- 23 *Choquette v. Perrault*, 153 Vt. 45, 569 A.2d 455 (1989).
- 24 *Gravert v. Nebergall*, 539 N.W.2d 184 (Iowa 1995).
- 25 *Fogle v. Malvern Courts*, 701 A.2d 265 (Pa. Supr. Ct. 1997).
- 26 *Reynolds v. Kansas Dept. of Transportation*, 43 P.3d 799 (Kan. 2002), rev'g, 30 P.3d 1041 (Kan. Ct. App. 2001).
- 27 Before reversal by the Kansas Supreme Court, the Kansas Court of Appeals had held that KDOT need not build and maintain livestock-tight fences, reasoning that the purpose of a highway fence is to restrict vehicular access to a roadway, rather than keep livestock fenced in. *Reynolds v. Kansas Dept. of Transportation*, 30 P.3d 1041 (Kan. Ct. App. 2001), rev'd, 43 P.3d 799 (Kan. 2002).





**Roger A. McEowen**  
Associate Professor of Agricultural Economics  
Extension Specialist, Agricultural Law and Policy  
Member of Kansas and Nebraska Bars

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case, credit Roger A. McEowen, *Kansas Fence Law*,  
Kansas State University, April 2004.

**Kansas State University**  
**Agricultural Experiment Station**  
**and Cooperative Extension Service**

C-663

April 2004

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of Agriculture Cooperating, George E. Ham, Interim Director.

## PARTITION FENCE AGREEMENT

THIS PARTITION FENCE AGREEMENT (hereinafter, this "**Agreement**") is made and entered into \_\_\_\_\_, 2013 by and between Raymond C. Dunn, Sally S. Dunn and Corey A. Dunn, Trustees, or their successors in trust, under the RAYMOND C. DUNN REVOCABLE TRUST, under the agreement dated April 15, 2008; and Sally S. Dunn, Raymond C. Dunn and Corey A. Dunn, Trustees, or their successors in trust under the SALLY S DUNN REVOCABLE TRUST, under the agreement dated April 15, 2008 (hereinafter, collectively "**Dunn**") and Margaret Counts, Trustee under the MARGARET COUNTS TRUST, under the trust dated March 21, 1995 (hereinafter "**Counts**").

### RECITALS

WHEREAS, Dunn owns the following described real estate:

Tax ID: 700353B

17.5A 34-14-20 E 27A OF N 53.5A OF SW 1/4 & 1A OFF S SIDE OF SE 1/4 NW 1/4, LESS 5A D 201/410, LESS 5.5A D 309/1730 WW35 (700353A DIV 2011)

AND

Tax ID: 700353A

55A 34-14-20 S 25A OF W 1/2 NE 1/4 & N 30A OF NW 1/4 SE 1/4 (700353A DIV 2011)

(hereinafter collectively, the "**Dunn Property**").

WHEREAS, Counts owns the following described real estate:

Tax ID: 700350B

166.96A 34-14-20 N 60A OF E 1/2 NE 1/4, LESS 6A LAKE TRS #11 & 11A, LESS 10.57A D 712/1067; ALSO N 55A OF W 1/2 NE 1/4; ALSO THAT PART OF E 30A N 1/2 NW 1/4 N & S OF PUB RD; ALSO E 76 FT OF SW 1/4 NW 1/4; ALSO SE 1/4 NW 1/4, LESS 1A OFF S SIDE & LESS 5.07A D 321/1530-31 WW35 (DIV 2001 700350B)

(hereinafter, the "**Counts Property**").

WHEREAS, the Dunn Property and Counts Property are adjacent to each other and a partition fence (hereinafter, the "**Partition Fence**") separates the two properties.

WHEREAS, the Partition Fence is in need of repair and reconstruction and, in the future, will require ongoing maintenance and reconstruction.

WHEREAS, the parties enter into this Agreement pursuant to K.S.A. 29-306, to define and specify their respective rights and obligations with respect to the repair, maintenance, construction, and reconstruct the Partition Fence.

## TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. *Purposes.* The purpose of this Agreement is to define and specify each party's respective rights and obligations with respect to the repair, maintenance, construction, and reconstruct the Partition Fence.

2. *Segments.* For purposes of allocating responsibilities, the Partition Fence is divided into the following four segments:

Segment 1 – The east-west segment of approximately 1,383 feet in length.

Segment 2 – The north-south segment of approximately 786 feet in length.

Segment 3 – The east-west segment of approximately 1,326 feet in length.

Segment 4 – The north-south segment of approximately 174 feet in length.

Each of the segments are identified graphically in Exhibit A, which is attached hereto.

3. *Obligations of the Dunn.* Dunn shall repair, maintain, construct, and reconstruct the following portions of the segments of the Partition Fence:

a. Segment 1 – Dunn is responsible for the western half of the Partition Fence along Segment 1, which is the left hand portion when standing on Dunn Property and looking north.

b. Segment 2 - Dunn is responsible for the southern half of the Partition Fence along Segment 2, which is the left hand portion when standing on Dunn Property and looking west.

c. Segment 3 – Dunn is responsible for the western portion of the Partition Fence along Segment 3 from the west end of Segment 3 to the middle of the creek crossing (to include one-half of the creek crossing), which is the left hand portion when standing on Dunn Property and looking north.

d. Segment 4 - Dunn is responsible for the northern half of the Partition Fence along Segment 4, which is the left hand portion when standing on Dunn Property and looking east.

4. *Obligations of the Counts.* Counts shall repair, maintain, construct, and reconstruct the following portions of the segments of the Partition Fence:

a. Segment 1 – Counts is responsible for the eastern half of the Partition Fence along Segment 1, which is the left hand portion when standing on Counts Property and looking south.

- b. Segment 2 - Counts is responsible for the northern half of the Partition Fence along Segment 2, which is the left hand portion when standing on Counts Property and looking east.
  - c. Segment 3 – Counts is responsible for the eastern portion of the Partition Fence along Segment 3 from the middle of the creek crossing to the east end of Segment 3 (to include one-half of the creek crossing), which is the left hand portion when standing on Counts Property and looking south.
  - d. Segment 4 - Counts is responsible for the southern half of the Partition Fence along Segment 4, which is the left hand portion when standing on Counts Property and looking west.
5. *Standards for Partition Fence.* The Partition Fence shall be repaired, maintained, constructed, and reconstructed as a legal fence in accordance with Kansas Fence Laws, K.S.A. 29-101 *et seq.*, as amended, with the following modifications:
- a. Any barb wire fence shall have a minimum of four strands, with the bottom wire not less than 18 inches above the ground and the top wire not less than 48 inches above the ground, with each of the four wires generally being within 15 inches of another wire.
  - b. If maintaining or repairing an existing woven fence, the woven fencing need not be removed but the woven wire shall be maintained and repaired to eliminate breaks and gaps in the fence and barb wire strands shall be added to satisfy the following requirements:
    - i. If the woven wire is 24 inches high, there shall be three additional strands of barb wire.
    - ii. If the woven wire is 36 inches high, there shall be two additional strands of barb wire.
    - iii. If the woven wire is 48 inches high, there shall be one strand of barb wire along the top.
6. *Gate in Segment 1.* The parties agree to jointly install and maintain a gate in the middle of Segment 1. Each side of the gate will require a corner post and brace, with Dunn installing and maintaining the corner post and brace on the side of Segment 1 for which Dunn is responsible and Counts installing and maintaining the corner post and brace on the side of Segment 1 for which Counts is responsible.
7. *Covenant Running With the Land; Binding Effect.* This Agreement shall constitute a covenant running with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors and assigns. The terms "Dunn" and "Counts," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named parties or their successors in and to real estate adjacent to the Partition Fence. A party's rights and obligations under this Agreement, however, terminate upon transfer of the party's

interest in such parties real estate adjacent to the Partition Fence, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

8. *No Waiver.* The failure of a party to enforce the other party's default under this Agreement shall not constitute a waiver of such default or of any subsequent or like default, nor have the effect of waiving any damages to which the non-defaulting party might otherwise be entitled.
9. *Self Help.* If either party shall, at any time, fail to repair, maintain, construct, and reconstruct the portion of the Partition Fence assigned to such party under this Agreement and such default shall not be cured within 60 days after written notice thereof is given by the non-defaulting party, the non-defaulting party may repair, maintain, construct, or reconstruct the portions of the Partition Fence as may have fallen into disrepair and charge the defaulting party the reasonable costs and expenses therefore, including time at a reasonable rate that the non-defaulting party spent in such repair, maintenance, construction, or reconstruction. If the defaulting party fails to pay such costs and expenses within 30 days after receipt of an itemized invoice and demand, the non-defaulting party may commence a court action against the defaulting party to recover such costs and expenses.
10. *Applicable Law.* This Agreement shall be governed and interpreted in accordance with the laws of the State of Kansas.
11. *Venue.* It is agreed by and between the parties that, should any dispute arise concerning the validity and effect of this Agreement, or of any breach of the Agreement herein, venue of action concerning such dispute shall be exclusively in the Kansas State District Court located in Douglas County, Kansas. The prevailing party in any action or proceeding arising under, out of, in connection with, or in relation to this Agreement shall be entitled to recover its reasonable attorneys' fees and costs.
12. *Severability.* If any section, subsection, paragraph, sentence, clause or phrase of this Agreement should be determined by a court of competent jurisdiction to be invalid for any reason whatsoever, such decision shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect; and to this end the provisions of this Agreement are hereby declared to be severable and shall be presumed to have been agreed upon knowing that the various provisions of this Agreement are severable.
13. *Effective Date.* This Agreement shall take effect upon the date fully executed by both parties.
14. *Prior Agreements.* This Agreement constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter contained herein and supersedes all prior agreements, negotiations, and discussions concerning any matter contained herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and made effective as of the day and year first set out.

**DUNN:**

RAYMOND C. DUNN REVOCABLE TRUST,  
under agreement dated April 15, 2008

By: \_\_\_\_\_  
Raymond C. Dunn, Trustee

By: \_\_\_\_\_  
Sally S. Dunn, Trustee

By: \_\_\_\_\_  
Corey A. Dunn, Trustee

SALLY S. DUNN REVOCABLE TRUST,  
under agreement dated April 15, 2008

By: \_\_\_\_\_  
Raymond C. Dunn, Trustee

By: \_\_\_\_\_  
Sally S. Dunn, Trustee

By: \_\_\_\_\_  
Corey A. Dunn, Trustee

**COUNTS:**

MARGARET COUNTS TRUST,  
under trust dated March 21, 1995

By: \_\_\_\_\_  
Margaret Counts, Trustee

STATE OF KANSAS        )  
                                  )  
COUNTY OF DOUGLAS    )        ss:

SUBSCRIBED AND ACKNOWLEDGED before me \_\_\_\_\_, 2013, by Raymond C. Dunn, Sally S. Dunn, and Corey A. Dunn, Trustees, or their successors in trust, under the RAYMOND C. DUNN REVOCABLE TRUST, under agreement dated April 15, 2008.

\_\_\_\_\_  
Notary Public  
My appointment expires:

STATE OF KANSAS        )  
                                  )  
COUNTY OF DOUGLAS    )        ss:

SUBSCRIBED AND ACKNOWLEDGED before me \_\_\_\_\_, 2013, by Raymond C. Dunn, Sally S. Dunn, and Corey A. Dunn, Trustees, or their successors in trust, under the SALLY S. DUNN REVOCABLE TRUST, under agreement dated April 15, 2008.

\_\_\_\_\_  
Notary Public  
My appointment expires:

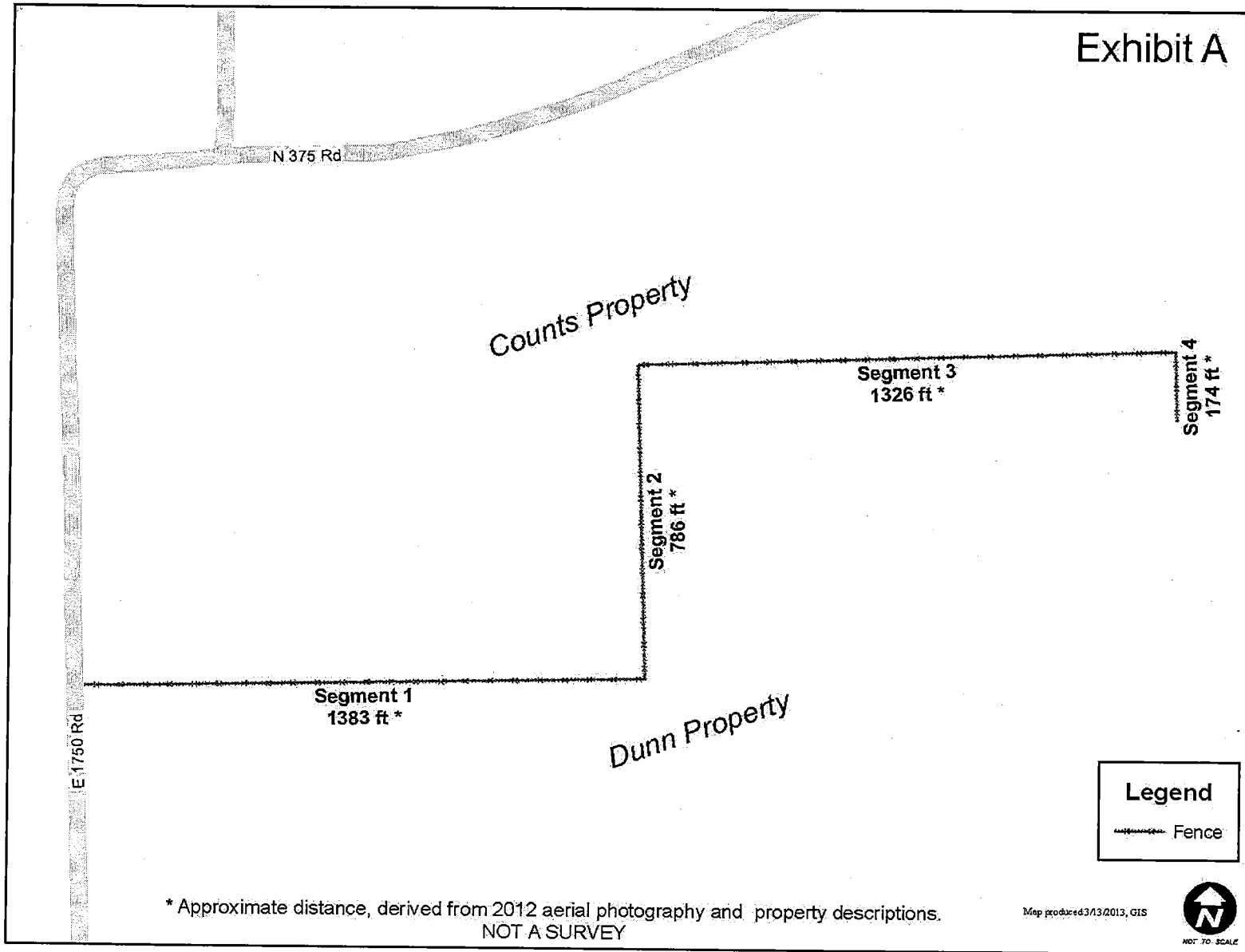
STATE OF KANSAS        )  
                                  )  
COUNTY OF DOUGLAS    )        ss:

SUBSCRIBED AND ACKNOWLEDGED before me \_\_\_\_\_, 2013, by Margaret Counts, Trustee of MARGARET COUNTS TRUST, under trust dated March 21, 1995.

\_\_\_\_\_  
Notary Public  
My appointment expires:



# Exhibit A



\* Approximate distance, derived from 2012 aerial photography and property descriptions.  
NOT A SURVEY

Map produced 3/13/2013, GIS



**From:** AD - Weinaug, Craig  
**Sent:** Friday, May 17, 2013 3:18 PM  
**To:** AD - Crabtree, Robin  
**Subject:** FW: concealed carry  
**Attachments:** Concealed Carry - Notice of Exemption.doc

For the meeting back up

---

**From:** Evan H. Ice [<mailto:Elce@stevensbrand.com>]  
**Sent:** Friday, May 17, 2013 2:51 PM  
**To:** AD - Weinaug, Craig  
**Subject:** FW: concealed carry

I think the below is fine for the public.

**Evan H. Ice**  
[eice@stevensbrand.com](mailto:eice@stevensbrand.com)

**STEVENS & BRAND, L.L.P.**

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Fax: (785) 843-0341  
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**From:** Evan H. Ice  
**Sent:** Friday, May 17, 2013 2:32 PM  
**To:** 'weinaug@douglas-county.com'; [jflory@douglas-county.com](mailto:jflory@douglas-county.com); [mgaughan@douglas-county.com](mailto:mgaughan@douglas-county.com); [nthellman@gmail.com](mailto:nthellman@gmail.com)  
**Cc:** [splinsky@douglas-county.com](mailto:splinsky@douglas-county.com); [kmcgovern@douglas-county.com](mailto:kmcgovern@douglas-county.com)  
**Subject:** RE: concealed carry

To all:

Attached is a draft of a letter for the BOCC to approve and mail, exempting county buildings from the new legislation until January 1, 2014 (not June 1, 2014). In addition, here is an executive summary of the legislation as I think it related to Douglas County.

1. The legislation goes into effect July 1, 2013. After that date, a county's ability to prohibit concealed carry licensees from carrying firearms in county buildings is limited.
2. The BOCC can prohibit concealed carry firearms in a county building only if (i) the county has "adequate security measurers" (this term is defined below) for the building, and (ii) the county conspicuously posts signage that complies with requirements.
3. The BOCC can **temporarily exempt** county buildings from the new legislation (meaning that the old law would continue to apply that the county can continue to prohibit firearms in public buildings if there is conspicuously posted signage) **until January 1, 2014**. To do this, the BOCC should authorize the Chair to send a letter on behalf of the County to the Kansas Attorney General, the Lawrence Police Department, and the Sheriff. The attached draft of letter that will

work.

4. The BOCC can **exempt** county buildings from the new legislation for **an additional 4 years** (i.e. until January 1, 2018) by adopting a resolution or drafting a letter and sending it to the Kansas Attorney General, the Lawrence Police Department, and the Sheriff. Part of this additional 4-year extension requires the BOCC to adopt a resolution or letter that provides a legal description of the building, list the reasons for the exemption (unclear to me right now what the reasons are, but presumably because the BOCC is in the process of implementing “adequate security measures” but needs more time), and containing specific required statutory language. The other part of this additional 4-year exemption requires that the county develop “a security plan that supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun.” The Attorney General may provide some guidance on this between now and the end of the year.
5. The new legislation does not apply to the jail – the BOCC/Sheriff can continue to limit handguns in the “secure” area of the jail.
6. The new legislation does not apply to the Sheriff’s Offices – the BOCC/Sheriff can continue to limit handguns in the “secure” area of the Sheriff’s Offices (but this may not matter that much if the entire JLE remains “gun free”).
7. The legislation does not restrict the chief judge of the district court from prohibiting handguns in courtrooms or ancillary courtrooms as long as “other means of security are employed such as armed law enforcement or armed security officers.” A combination of courtroom security and the courthouse metal detectors should satisfy this test (but this may not matter than much if the entire JLE remains “gun free”).
8. “Adequate security measures” is defined to basically means metal detectors and guards at “public entrances.”
9. A building can still qualify the test of having “adequate security measurers” without metal detectors at “restricted access entrances.” A “restricted access entrance” is defined as an entrance restricted to the public and that requires a key, keycode, etc. to allow entry to authorized personnel.
10. The easiest county building to satisfy the “adequate security measures” test is the JLE. To be able to continue prohibiting firearms in the JLE, the county will need to analyze all entrances other than the west entrance to make sure that they are “restricted access entrances.” This should include an analysis of who has access to these entrances and may require the county to reduce access.

**Evan H. Ice**

[eice@stevensbrand.com](mailto:eice@stevensbrand.com)

**STEVENS & BRAND, L.L.P.**

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**From:** [weinaug@douglas-county.com](mailto:weinaug@douglas-county.com) [<mailto:weinaug@douglas-county.com>]

**Sent:** Thursday, May 16, 2013 9:36 AM

**To:** Evan H. Ice; [jflory@douglas-county.com](mailto:jflory@douglas-county.com); [mgaughan@douglas-county.com](mailto:mgaughan@douglas-county.com); [nthellman@gmail.com](mailto:nthellman@gmail.com)

**Cc:** [splinsky@douglas-county.com](mailto:splinsky@douglas-county.com); [kmcgovern@douglas-county.com](mailto:kmcgovern@douglas-county.com)

**Subject:** FW: concealed carry

Commissioners and Evan:

Provided below is the link to Tuesday's County Commission meeting agenda. In that document is a link to a memo from the City Attorney that summarizes the provisions of the new conceal carry laws in Kansas.

Based on this memo I am asking Evan to prepare the necessary letters of notice on county buildings so that we can be exempted from the requirements of this law until June 1, 2014, for your consideration at our meeting in two weeks. The initial request will get us an exemption until June 1, 2014, but to get an exemption for three more years will require the development of a plan to implement controlled access to those buildings where prohibition of guns is appropriate. This means that over the next few months we will need to make plans for which county facilities we intend to provide controlled access within the next four years.

Craig

---

**From:** Toni Wheeler [<mailto:twheeler@lawrenceks.org>]

**Sent:** Thursday, May 16, 2013 8:37 AM

**To:** AD - Weinaug, Craig

**Subject:** concealed carry

Craig, Here is a link to Tuesday's CC meeting: It was regular agenda item #3:

[http://lawrenceks.org/assets/agendas/cc/2013/05-14-13/05-14-13\\_agenda\\_click\\_here.html](http://lawrenceks.org/assets/agendas/cc/2013/05-14-13/05-14-13_agenda_click_here.html)

Let me know if you need anything else. Thanks.



**Toni R. Wheeler**, *City Attorney* – [twheeler@lawrenceks.org](mailto:twheeler@lawrenceks.org)

City Attorney's Office | [City of Lawrence, KS](#)

P.O. Box 708, Lawrence, KS 66044

office (785) 832-3404 | fax (785) 832-3405

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May 29, 2013

Kansas Attorney General Derek Schmidt  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612

Lawrence Police Department  
Attention Tarik Khatib  
111 East 11<sup>th</sup>  
Lawrence, KS 66044

Douglas County Sheriff  
Attention Kenny McGovern  
111 East 11<sup>th</sup>  
Lawrence, KS 66044

Re: Notice of Exemption from Section 2 of  
Senate Substitute for House Bill No. 2052

Dear Sirs:

Pursuant to Section 2(j) of Senate Substitute for House Bill No. 2052, the Board of County Commissioners of Douglas County, Kansas notifies you that it has exempted all Douglas County, Kansas municipal buildings from Section 2 of the Bill until January 1, 2014.

Thank you for your attention to this matter.

Mike Gaughan  
Chair of Board of County Commissioners

cc: Craig Weinaug

**From:** AD - Crabtree, Robin  
**Sent:** Friday, May 24, 2013 11:11 AM  
**To:** AD - Weinaug, Craig  
**Subject:** RE: Proposed Loan to rural fire departments to purchase r

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**From:** AD - Weinaug, Craig  
**Sent:** Friday, May 24, 2013 8:47 AM  
**To:** County Commissioner - Flory, James; County Commissioner - Gaughan, Mike; Nancy Thellman ([nthellman@gmail.com](mailto:nthellman@gmail.com))  
**Cc:** AD - Crabtree, Robin  
**Subject:** Proposed Loan to rural fire departments to purchase r

Commissioners:

As a part of the radio project, we have always planned that the various agencies that would be responsible for the purchase of their own radios that would be compatible with the new system. The townships, fire district, and the three cities (Lecompton does not have a police department and fire service is provided by a fire district) have known for several years that purchase of this equipment would be their responsibility. For the townships and smaller cities, the budgetary cost of this required purchase is a significant portion of their total budget. While we have suggested that each of these agencies should set aside reserves for this purchase for the last few years, the capacity to do this varies significantly between the entities.

Several months ago we asked the townships and smaller cities if they would need a "loan" from the county to assist them with this purchase. We also suggested that that they review the number of radios that they were using to assure that all radios purchased, was justified. As a result of the offer we received requests from the following entities for loans from the County for the necessary purchases.

City of Eudora: \$50,000

Wakarusa Township \$84,950 (this number may come down as Wakarusa is considering a reduction in the number of radios that they use).

Lecompton: \$63,975

I recommend that Douglas County offer three year loans to each of these entities at 0% interest, with 1/3<sup>rd</sup> of the loan to be paid back in 2014, 2015, and 2016. If the County Commission authorizes this offer, I will ask Evan to prepare appropriate agreements with each of these entities to complete the loans.

Clarion Springs also needs \$21,391 worth of radio equipment. They are the only first responder organization in the county that receives no tax support or public funding. In order to finance their required radio equipment, the Sheriff has agreed to purchase their radios utilizing county funds, and the radios will be owned by the county, but utilized by the Clarion Springs volunteers. Our intent is to handle this purchase administratively, unless there is an objection from the County Commission.

*G. Craig Weinaug*  
Craig Weinaug  
County Administrator  
[cweinaug@douglas-county.com](mailto:cweinaug@douglas-county.com)

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