

**MEETING OF THE BOARD OF COUNTY COMMISSIONERS
SITTING AS THE GOVERNING BODY OF FIRE DISTRICT #1**

REGULAR MEETING

April 15, 2009

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 11:14 a.m., on Wednesday, April 15, 2009 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Kelly Parks; with the following present: Chair Pro Tem Gwen Welshimer; Commissioner David M. Unruh; Commissioner Tim R. Norton; Commissioner Karl Peterjohn; Mr. Ron Holt, Assistant County Manager; Mr. Rich Euson, County Counselor; Mr. Robert Lamkey, Public Safety Director; Mr. Tim Millspaugh, Fire Marshal; and Ms. Katie Asbury, Deputy County Clerk.

ROLL CALL

The Clerk reported, after calling roll, that all Commissioners were present

NEW BUSINESS

A. GRANT AWARD IN THE AMOUNT OF \$7,000 FROM FIREMAN’S FUND INSURANCE COMPANY.

Mr. Tim Millspaugh, Fire Marshal, greeted the Commissioners and said, “Asking your blessing on receiving this grant award. I do need to thank our local sponsor who helped us through Fireman’s Fund, that’s the IMA Insurance Group here in Sedgwick County. We had to have a local sponsor to get this grant to Fireman’s Fund. They helped us tremendously.

“The money, the \$7,000 dollars, will be going towards a digital fire extinguisher training module. We used to train business industries, schools, school bus drivers on fire extinguisher use with diesel and gasoline in a pan. Certain agencies don’t like us to do that anymore. So we have done away with that. We did go to a propane type trainer about six years ago which, after about the first six months, it came problematic with leaks and plugs and miniature explosions. I thought maybe we would be better doing away with that type of training as well. At this point, we really don’t have an option for fire extinguisher training. This grant money will be used to purchase a digital fire extinguisher training which we can do about anywhere without any environmental impact. I would be happy if you would approve this Grant.”

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Chairman Parks said, “These dates and times of monitoring and EPA (Environmental Protection Agency) regulations, I think this is a good idea, having been on the backside of those pans with the diesel fuel in it. I can’t help but think that that added to the pollution and ozone problems.”

Mr. Millspaugh said, “I’m sure it did, but it was the only option back then. Now it’s not.”

Chairman Parks said, “You know, that was good training, though.”

Mr. Millspaugh said, “Yeah.”

Chairman Parks said, “I went through that myself, and actually, a lot of our City employees did. But this will be state of the art and we certainly thank IMA and the Fireman’s Fund Insurance for that. Any other discussion from any of the other Commissioners? Seeing none, what’s the will?”

MOTION

Commissioner Peterjohn moved to accept the Grant Award.

Chairman Parks seconded the motion.

There was no discussion on the motion, the vote was called.

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “I would ask you, Fire Marshal Millspaugh, to stay around for a little bit if you would. There might be something in the ‘other,’ back on the other agenda that we want to ask a question of you.”

Mr. Millspaugh said, “Okay. I’ll be around. Thank you, Commissioners.”

Chairman Parks said, “Thank you. Commissioner Norton.”

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Commissioner Norton said, “While we’re on the Fire Agenda, you know we’ve had some conversations with the City, Kay Johnson and even the City Manager about the ozone certifications for the City, and we were out of compliance one day. They requested that we look at what we’re doing with burn permits and I’m thinking this may be the optimum time to discuss that real quick and have a little discussion about where we go from here. Just so the citizens know, you get four days in a 365 day period that you can be out of compliance. I think the community has already been out one, there’s a threat of hitting two; and that would only leave us two more before we would be out of compliance on our air quality standards. We don’t want to be out of compliance. There’s a lot of restrictions and new regulations that we would have to follow if that happens, so I guess I’ll open it up to discussion and thoughts while Chief Millspaugh is here.”

Chairman Parks said, “That was one of the things that I was going to bring up under the ‘other’ in the other meeting, but since we’re here and discussing fire department, I don’t think any staff that would make any report on that would mind being outside the scope of the regular County Commission meeting and address it in the Fire because quite frankly, one of the things that we are going to ask is about burn bans and I know that if staff has been contacted by them about burn bans, I don’t know whether they contacted Director Lamkey or Fire Marshal Millspaugh or whoever to request a burn ban and how much we get to chime in on this and have interactive discussion from this bench at this time on that. Please give us a little report of what you know, both of you at the appropriate time.”

Mr. Millspaugh said, “Well, we’ve actually had a preliminary meeting with Kay Johnson of the Wichita Health Department yesterday, our Air Quality Manager. As far as burn bans go, we have stopped burning as of now until we figure out where we’re going to go. It’s not an all out burn ban. People are still allowed to burn trash and have their campfires, those types of fires that don’t require permits. The only thing really affected by a full out burn ban. We do have control each and every day whether people can burn or not. We have got, I’m estimating, 200 to 400 active burn permits out in the fire district at this time. However, each and every one of those, before they can burn, have to get permission via 911 and if it’s a no burn day, nobody burns. If we say yeah, you can burn today, they can burn. So we can control it in that way without an all out burn ban. We’re going to try to work with Kay on how do we figure out what the ozone levels or going to be, to work with that into the criteria as to whether it’s going to be a burn day or a no burn day. That hasn’t all been decided upon yet.”

Chairman Parks said, “So maybe we change the impetus of that law and that procedure from a safety standpoint and a wind velocity standpoint now to an ozone standpoint and I don’t know in the legal wranglings of this, Rich, I would ask you, is there anything that you’re aware of that brings this to any kind of a legal problem with doing it for another reason, having a ban for another reason?”

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Mr. Rich Euson, County Counselor, greeted the Commissioners and said, "There's nothing that I am aware of, no."

Chairman Parks said, "Okay."

Mr. Robert Lamkey, Public Safety Director, greeted the Commissioners and said, "Some additional information. Mr. Buchanan was at the meeting that we had with Ms. Johnson yesterday afternoon. I know that he has been in some brief conversations with Mr. Layton across the street. Susan Erlenwein, Irene have been involved in helping us make contact with conservation and farm bureau stake holders, so we're going to get together. What Chief Millspaugh is really speaking to is that we need a protocol that includes threats to air quality as part of the decision making process as to whether we grant a permit or not, because we will continue to grant permits, but whether we permit burning or not on a specific day at a specific time and so we are trying to get ahead of this process."

"Unfortunately, a lot of what influences us here in Sedgwick County comes from other places, but the last thing that we want to be in terms of the things that we control, is the straw that breaks the camel's back that puts us over that and puts us into a nonattainment status, because the implications to the community in terms of cost and regulations can be pretty odious. So we want to be careful at balancing that impact in the community plus meet the needs of our citizens, both private citizens and those that are in the conservation or agricultural business. Other places have found the right balance and I have every confidence that we will too, and great confidence in Chief Millspaugh and our environmental folks to work with the City and their folks to get this down."

"Including, we need to include the other communities that have independent authority over what happens in their community at the table, so we have really a comprehensive way in which to deal with this issue that's now upon us. As you may know, and Kay Johnson shared with us, the statistics they have. Our ozone levels haven't really changed. What's happened is that the federal government has lowered the standards of tolerance and so that's where we bump up against it. We are not any different than we were substantially in the past. Events like fires south of us contribute on a specific day, but the standard is now lower. So that is what's driving a lot of this process. We have had a lowering of the standard."

Chairman Parks said, "I did have two questions of Fire Marshal Millspaugh, don't want to put you on the spot here, but the recent history that caused some of the smoke and the haze last week, one of the TV stations, I know, reported that a lot of this was coming from 30 to 100 miles away from the Flint Hills coming into this area with an unusual easterly wind. Was that your perception of where a lot of this came from?"

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Mr. Millspaugh said, "Yes, specifically on Wednesday afternoon and evening, I think that was the evening we had the haze all over Sedgwick County. The Flint Hills probably were burning thousands and thousands of acres that day. It was the first good day they've had without a burn ban. In Butler, Cowley, Greenwood and Chautauqua Counties, and they were all burning and we did have an east, southeast wind that day. Which brought it right over to us. Sedgwick County, I'm sure, is a contributor to that smoke problem, ozone problem in Sedgwick County. How you delineate the big ones from the little ones here in Sedgwick County, I don't know."

Chairman Parks said, "Of course, we get those due to jet stream occasionally from these pressures that come through and various things from as far away as Mexico."

Mr. Millspaugh said, "Yes. Kay Johnson relayed that to us yesterday. The jet stream can actually pump this stuff up from the Gulf of Mexico and from the east coast even."

Chairman Parks said, "Shouldn't be held responsible for that, but I guess..."

Mr. Millspaugh said, "Wouldn't think so."

Chairman Parks said, "...we're not contaminating Omaha or something either. The second question I had for you there was the type of burn that we have. For instance, a petroleum type base that we were talking about earlier is different than the agricultural burns. And I know in my area, I have a lot of people at this time of year, they really need those agricultural burns to be able to do that."

Mr. Millspaugh said, "Right."

Chairman Parks said, "We've had some wet weather and so we have to, I guess, do a balancing act here. If you can kind of touch on the differences between that and maybe I'm asking the wrong person, maybe Susan Erlenwein or somebody more with a chemistry-type part of it."

Mr. Millspaugh said, "Well, when you're talking about the petroleum type burns, of course, anything that's a petroleum-based product should not be burned in Sedgwick County. Tires, plastic, anything that's a heavy smoke producer. We don't allow that to be burned anyways, although sometimes people will get away with doing that. The grassland, that's the issue we've got is satisfying the farmers who have their CRP (Conservation Reserve Program) land that needs to be burned. Crop removal as far as wheat stump, that will become an issue in the latter part of June and the first part of July."

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“It is going to be a balancing act. We are going to have to find days that are good to allow them to burn. I guess the only issue is when we restrict them for a number of days and then we open it up for a day. Then there’s even more of them that are trying to fit it in that day. It’s a double edged sword, restricting or not restricting these control burns.”

Chairman Parks said, “I guess for some neighborhoods in the north end of the County that allow burning, just remind them not to put their diapers and their milk jugs back in their containers if they do burn, if they’re burning their household trash. Have another couple of questions, I believe Commissioner Welshimer was first.”

Commissioner Welshimer said, “Well, I am concerned that I understand there’s some repercussions for County residents if we go four days with being in noncompliance, can you describe how that will affect our residents of Sedgwick County?”

Mr. Lamkey said, “Well, unfortunately, I don’t have the expertise to speak to the specific implications that get imposed upon communities that are nonattainment. Certainly, my experience in growing up in California is it can be pretty stringent in terms of cost to comply. Restrictions of lawn mowers, paper seals on gas operations, I mean there is a whole series of things that add. In order to make sure the environment is good for all of us that add cost to the course of doing business. We may have a greater restrictions on when we can burn and cannot burn. Again, I don’t have the great expertise; I think Kay Johnson can do that. If this body would like this information, certainly I think we can invite her to come to a Tuesday meeting and really talk about the implications or to come to this forum and talk about the implications of nonattainment and the potential.

“What is interesting is that environmental health has responsibility, the area that we are really looking at, is not just Sedgwick County but the contiguous counties, our MSA (Metropolitan Statistical Area), that these air quality standards are levied against, so it’s more than just Sedgwick County. We have four monitors. The one down in Peck tends to indicate that a lot of what affects us comes from the south, because it will consistently be higher than the other ones, but that’s the nature of the problem. We may not create it, but if it is here in our sky, we own it, and so the obligation is going to be to minimize it, but Commissioner Welshimer, if you would like more information, I will make sure that that comes to the Commission and I will check with the Chair to determine whether he wants it here or at the staff meeting.”

Commissioner Welshimer said, “Well, I think it’s important that the public knows.”

Mr. Lamkey said, “Absolutely.”

Commissioner Welshimer said, “The inconvenience of not being able to burn might be a much smaller inconvenience compared to the results.”

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Mr. Lamkey said, "I think my sense, just from in conversations with her, is that globally that's true."

Commissioner Welshimer said, "Thank you."

Chairman Parks said, "Approximately a year ago I went out with the environmental group with Kay Johnson's employees and visited three of those locations at Peck, the Health Department and Park City. Actually, physically went to those stations and that's quite an impressive and complicated equipment that they have out there. I do know that one of the things that in that discussion that I gleaned from that was possibly formulated gasoline. Something that's a metro gasoline that's different than the regular gasoline we may be getting now."

Mr. Lamkey said, "That's correct."

Chairman Parks said, "That might be more of an expense for a refinery locally to change over to the formulated gasoline."

Mr. Lamkey said, "Correct; and more expense for us to put it in our tanks."

Chairman Parks said, "Yes. Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes. Bob or Tim, help me out and make sure, because I have heard four days, I also heard three days. Is it basically three strikes and you're out. Or if it's a fourth day of non compliance..."

Mr. Lamkey said, "The fourth day of noncompliance, you're in the nonattainment window is what I understood from Kay yesterday. So it's really that fourth time, you're in a nonattainment status; so three times you're not in nonattainment, you hit the fourth one in a calendar year, is it a calendar year or 365 days, do you remember, I don't know, but it's four times."

Commissioner Peterjohn said, "Then the other question was, if ozone, we were nonattainment for one day on ozone last Wednesday and we were close on Monday this week, is there any other pollution measurement that's being monitored where we're close to being in nonattainment that maybe isn't quite as bad as ozone that we should know about too?"

Mr. Lamkey said, "I don't know the answer to that question. Again, I think I would be more than happy to invite Kay or Susan from our staff to come to you, either in this forum if you want a wider dissemination or on Tuesday so that we can get everybody up to speed on what the implications are, and that might be helpful."

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Commissioner Peterjohn said, “Mr. Chairman, I’ll reserve questions for another time, and we obviously need to get some more information.”

Mr. Lamkey said, “Right.”

Chairman Parks said, “And I do think that this forum on Wednesday would be a better one so it could get out to more people.”

Mr. Lamkey said, “Okay, then I will make that arrangement on your behalf.”

Chairman Parks said, “Commissioner Norton.”

Commissioner Norton said, “Well, we’ve started conversation and I know we’ve connected with the City, I just think it’s prudent that we continue a linkage with all of the experts in this so that we know what the public policies are going to have to be, that we may have to be involved in. I also ask Kay if there were systems out there, computer systems, where you could regulate what you’re burning and you could maybe regulate 25 small burns and then two big ones and alternate, and there are some computer programs that maybe can guide us through a year’s worth of burning and other kinds of things. So we probably need to be thinking about all that as we move forward, as to how we participate in solving this issue. Because even though the solution rests in the City and the environmental services of the City, it’s going to affect our whole region and we need to be sure that we’re connected to it.”

Mr. Lamkey said, “I think...”

Commissioner Norton said, “Good discussion today, but I think there’s a lot more for us to learn.”

Mr. Lamkey said, “I think, actually, that Ms. Johnson was going to contact one of the major industrial chemical companies here that has modeling software to see if there’s a way of connecting with that, to give us some more information. That’s the real challenge she has right now and one that we had a discussion of is developing a predictive model that can guide us, as opposed to a reactive model that says ‘well this is where we were,’ now where does the Chief get notified to say we need to stop burning at this particular point. We want to be as precise as we can because we don’t want to overreact or underreact so we’re working toward that effort, but we’re just beginning.”

Chairman Parks said, “Right.”

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Commissioner Norton said, “Well, we certainly don’t want it to be anecdotal information. There’s got to be data collection, there’s got to be computerization systems that places like OxyChem have used for years, where they really know what they’re putting into the air and how it affects the parts per million in a certain area and we need to attach to that and understand it. Thank you, Mr. Chair. Good conversation today.”

Chairman Parks said, “Yes. Any other business to be brought before the Fire Board?”

B. ADJOURNMENT

There being no other business to come before the Board, the Meeting was adjourned at 11:34 a.m.

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**BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS**

KELLY PARKS, Chairman,
Fourth District

TIM R. NORTON, Commissioner,
Second District

DAVID M. UNRUH, Commissioner,
First District

KARL PETERJOHN, Commissioner,
Third District

GWEN WELSHIMER, Commissioner,
Fifth District

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED:

_____, 2009