

Kansas 911 Coordinating Council
Minutes from
March 23, 2012 Meeting

The meeting was held at the Docking State Office Building, Room 783, in Topeka, Kansas.

Attendance:

Members Present: Chair Walt Way, Michele Abbott, Sen. Pat Apple, Jay Coverdale, Keith Faddis, Sen. Marci Francisco, Jessica Frye, Rep. Kyle Hoffman, Chris Kelly, Mike Napolitano, Kim Pennington, Jimmy Reed, Rob Roberts, Rebecca Rosenthal, Phillip Ryan, Richard Vogt, Ivan Weichert, and Kim Winn.

Members Absent: Rep. Annie Kuether, Dennis George, Larry Meyers and Jimmy Todd.

Other in Attendance: Melissa Wangemann, Dennis Kriesel, Kansas Association of Counties.

Proceedings

Chair Walt Way called the meeting to order at 11:04 a.m. Chairman Way noted changes to the minutes since they were sent by email. Mike Napolitano moved to approve the minutes, which was seconded by Jimmy Reed. The motion passed.

Chairman Way called on Steve Brunkan from the Department of Revenue to provide an update on the prepaid phone fee collections. Steve Brunkan explained that the first remittances were due at the end of February, and \$82,600 was received by end of yesterday. Of that amount, \$70,000 will be kept by KDOR to recover their costs. He noted that KDOR had some minor issues in the beginning relating to technology problem with out-of-state companies. KDOR heard from some big companies that they did not know about the new law. Steve Brunkan reported that there were 115 filers in January, which seems low. The department is doing comparisons to determine if everyone is paying and spot-checking to determine compliance. A new note reminding companies of the new law is going out in April. The department already has an electronic payment system and they are modifying it in order to accept the 911 fees. Steve Brunkan said he appreciated the amendment addressing the \$2m cap in SB 384.

Chairman Way provided an update on SB 384, which was the 2012 legislation that cleaned up some of the 911 issues: multi-lines, prepaid phones, staggering Council term limits. Chairman Way suggested that the Administrative Committee recommend terms for the voting members of the Council, and will submit those recommendations to the Governor's Office.

Chairman Way moved onto discussion of the new administrative regulations, K.A.R. 132-2-1 and 132-4-1. The regulations were approved by the Council and sent to the Secretary of State for publication, and became effective March 2.

Michele Abbott gave the Operations Committee Report. She reported that 80 PSAP reports were received and 40 were non-complaint. Some reports listed zero data, and some reports said they had no revenues or expenditures. The Operations Committee was missing historic data relating to PSAPs that might explain the reported information. She said the report was not accumulated as they had expected it to be so it was difficult to review. The "trickle in" of the reports made review difficult too. She suggested changes for the future: the reports should include a PSAP code on each page of the report; add a category explaining what fund they used for the expenditure; define the prohibitions on the form; and more education to help PSAPs complete the reports correctly. She noted that sometimes PSAPs put expenditures in a category that seemed wrong or that entries were too vague to understand. Some surprises encountered by the committee were the low number of responses and those responses listing no revenue or expenditures. As a whole, the Operations Committee was pleased with what they saw: there were very few expenditures that raised concerns. Michele Abbott and the committee believe the PSAPs are handling their money well.

Michele Abbott continued with the report, noting that the committee reviewed 100% of "other" expenditures that were reported. The LCPA sent out a second letter requesting that delinquent reports be sent. Michele Abbott said the Operations Committee will ask the LCPA to send letters to PSAPs asking follow up questions. The standard of review used by the Committee was what was necessary and reasonable to process a 911 call.

The Operations Committee asked that the Council give priority on grants to those PSAPs that filed their reports. There is no "teeth" in the law to enforce compliance on their report, so this might be a method of enforcement. Michele Abbott moved, Kim Pennington seconded, a motion to consider compliance in submitting the report or providing supplemental information on the report upon request, when deciding to provide grants to PSAPs in 2013. The motion passed. The Council wants to ensure that notice will be provided to PSAPs that they may lose eligibility for grant monies if the report is not filed. The Council determined by consensus that notices to the PSAPs would need to explain the possibility of losing grant monies for failure to comply. Walt asked the Operations Committee to reduce in writing the changes they want to the form for the LCPA to develop.

Pat Collins on the Operations Committee provided the report on the communications plan. Pat explained his disclaimer that the Council members can talk to others. Michele Abbot moved and Richard Vogt seconded a motion to adopt the communications plan. The motion passed.

In closing, Michele Abbott mentioned the round table discussion on 911 at APCO on April 3, 10:00 a.m., at the Ramada Inn in Hutchinson.

Melissa Wangemann gave the LCPA report. She discussed the transfer of Wireless Enhanced 911 Grant Fund monies to the new State Grant Fund, noting that \$11,170,933.89 was transferred February 10, 2012 and interest earned as of February 29 was \$275. She said expenses for the first month included: \$903 for reimbursements for council members; \$126 for publication of the regulations in the *Kansas Register*, \$488 for interpreter costs and \$43 for a check order. She noted that the LCPA had not received any prepaid phone monies from KDOR because KDOR is entitled by law to keep the first \$70,000 to cover their expenses. She outlined the process to approve expenditures from the 911 Grant Fund – she will review the bill and submit it to Walt Way for approval. Melissa Wangemann will then have the KAC accountant pay the bill electronically, or Melissa Wangemann will write a check. She reminded the Council that monies for general operating expenses come from the Grant Fund. She gave a report on collection and remittance of 911 fees for January. The LCPA received \$1.56m for January 2012 in payments from providers, and all but \$370,000 was dispersed to PSAPs. The remaining \$370,000 was not dispersed because proper data was not submitted with the payments. She noted, at this rate, annual receipts would be around \$18,647,777. According to the chart developed by Legislative Research last year, Kansas PSAPs anticipated \$19,909,127. She noted that the chart said “Numbers are estimates based on self-reported revenue data from PSAPs and LCPA distributions, and should be viewed as approximations.” She outlined steps taken to ensure all remittances are being paid. She has compared those making payments with the list of telecom providers by the KCC and 5 providers were identified as not remitting monies; they were sent demand letters. Melissa Wangemann noted that these outstanding companies are all small companies so a huge spike in receipts once these providers come into compliance is not expected. Melissa Wangemann also said she was contacting random PSAPs in the state – a few that contacted KAC saying their numbers were low – and comparing the list of companies that submitted hardwire monies to them directly in 2011 against the list of companies from whom monies were received in January. Any company that sent hardwire monies to the county in 2011 but is not listed on the list of January payments was sent a demand letter. Lastly, she said that one large carrier who did not send the data with the money has been contacted. Dennis Kriesel has been talking to the company for the last month, and Melissa Wangemann sent an electronic demand letter earlier in the week, and the company responded the same day. They explained that they are building a new billing system and cannot currently provide the data. They then followed up the next day saying they would provide the data for Jan – Mar of 2012 this April.

Chairman Way called on Cindy Lash from Legislative Research, who explained how she determined the telephonic unit count and factored the estimated 911 fee revenue for 2012.

Cindy Lash also noted that their estimate was static at the time; it did not include changes that might occur in the industry, such as a drop in hardwire phones. Michele Abbott said the amounts received by her county were lower than what she was expecting. Chairman Way suggested waiting for a few months to see how the 911 revenues adjust as education increases. Coleen Jennison said she could share Cox Communications data if that would help with analysis.

Chairman Way asked to discuss methods for the minimum payment distribution, as required in the law. Dennis Kriesel, KAC Senior Policy Analyst, explained his proposal to distribute payments in a quarterly fashion on an accrual basis, meaning the quarters are defined as when the customer was billed. As the March 2012 customer billing would end the first quarter, the first quarterly distribution would be sent to the PSAPs in mid-May 2012. He noted that, with the distribution of the \$370,000 from the one large outstanding telecommunications provider, and the \$193k from the old LCPA account, the LCPA should be able to make the minimum distribution in May. The LCPA would also have three months of payments to make the minimum payments. Gary Smith moved and Michele Abbott seconded, a motion to direct Dennis to handle the quarterly distribution in the manner outlined to the Council by Dennis Kriesel.

Chairman Way called on Richard Vogt to give the Technical Committee Report. Richard Vogt said Jay Coverdale, Jessica Frye and he would divide up the different parts of the report. Jay Coverdale discussed the pilot project and the RFP. He noted that they had ordered all the network equipment and work stations for the PSAPs.

With regard to the GIS project, Jessica Frye explained that NENA standards have not been finalized. The delay in the standards creates delay in GIS project.

Richard Vogt discussed the Technical Committee's opinion on how to spend the grant monies. The committee feels that the GIS data should be cleaned up first, and grant monies should be used for that purpose. Other items to consider for grant monies include: bridging voice traffic i.e., converting to digital capacity; ESI net connectivity; regionalization; and integrating digital data. The committee's focus is to move everyone to Next Generation 911.

Chairman Way asked the Council members if they would be open to the Technical Committee preparing an RFP for GIS services. The consensus of the Council was to recommend that the Technical Committee proceed with an RFP.

Chairman Way presented his policy proposal on distributing 911 grant funds and provided the Council members with a document prepared by the Revisor's Office at the request of Senator Apple concerning an interpretation of the 911 Act that would authorize the Council to distribute 911 state grant funds for the development and implementation of Next Generation 911 services to entities other than PSAPs.

After discussion, Gary Smith moved and Richard Vogt seconded a motion to support the award of 911 state grant funds by the Council to an organization or provider for the purposes set out in KSA 12-5368, allowing the Council to contract for services to PSAPs pursuant to the policy. The motion passed.

Chairman Way gave the Administrative Committee's report. He noted the committee would be working on the legislative report to the two utilities committees before the end of the session. Chairman Way also said a regulation is needed to disperse the federal grant funds, and the Administrative Committee will begin writing that regulation.

Under new business, Richard Vogt asked if the old grant application would be used, and whether it needed to be reviewed and updated. The consensus of the Council seemed to be that the old grant application could be used as a starting point but should be modified to fit the new law.

The meeting was adjourned at 1:06 p.m.

Pat Apple

Subject: Policy Question for Administration Committee

From: Matt Sterling
Sent: Friday, March 23, 2012 9:50 AM
To: Pat Apple
Subject: RE: Policy Question for Administration Committee

Chairman Apple,

I interpret the law as permitting the Council to award 911 State Grant Fund moneys to an entity, regardless of whether it is a municipality, so long as it is for the stated purposes of K.S.A. 12-5368. I think the first stated purpose, "Projects involving the development and implementation of next generation 911 services" is applicable to this situation. That statute gives the Council the authority to "develop criteria for eligible purchases and for grant applicants and [to] make the final determination as to the distribution of grant funds."

However, I can see some concern about the Council's authority if K.S.A. 12-5375 is read narrowly. That section lists the approved uses for 911 fee moneys and states that such moneys "shall be used only for necessary and reasonable costs incurred or to be incurred by PSAPs." Since 911 fee moneys do go to the State Grant Fund, this section could be viewed as contradictory. However, it is my opinion that this section speaks only to the approved uses of 911 fees by PSAPs, not the Council, the State Grant Fund or the awarding of grants. Therefore, while I can see why the issue could be raised, I think the broader authority granted by K.S.A. 12-5368 gives the Council the authority to distribute the 911 state grant fund moneys for the development and implementation of next generation 911 services.

I have copied the relevant statutes below and highlighted the pertinent subsections.

12-5368. 911 state fund and 911 state grant fund. (a) Upon the advice and consent of the 911 coordinating council, the LCPA shall establish the 911 state fund and the 911 state grant fund which shall not be part of the state treasury. On or after the effective date of this section, the secretary of administration shall certify all unobligated funds remaining in the wireless enhanced 911 grant fund as having originated as either federal grant moneys or 911 fee moneys. All such moneys originating from 911 fees, and any interest accrued on such fees, shall be paid to the LCPA for deposit in the 911 state grant fund. All unobligated federal moneys, and any interest accrued on such moneys, shall be transferred to the 911 federal grant fund.

(b) The council shall be responsible for ensuring that the 911 state grant fund and any interest earned on money credited to the fund is only expended for the following purposes: (1) Projects involving the development and implementation of next generation 911 services; (2) costs associated with PSAP consolidation or cost-sharing projects; (3) expenses related to the 911 coordinating council; (4) costs of audits conducted pursuant to K.S.A. 2011 Supp. 12-5377, and amendments thereto; and (5) other costs pursuant to K.S.A. 2011 Supp. 12-5375, and amendments thereto.

(c) The council shall develop criteria for eligible purchases and for grant applicants and make the final determination as to the distribution of grant funds. Such criteria shall promote the procurement of equipment that meets open architecture and national technical standards. Distribution of grant funds shall not include expenditures to procure, maintain or upgrade subscriber radio equipment.

Since available moneys does not necessarily mean all money, that language can be interpreted as not prohibiting the Council from distributing State Grant Fund moneys to other entities. Therefore, I think the specific language of K.S.A. 12-5368 should be given more weight than the general language in K.S.A. 12-5364. While this language can be read as contradictory, I think the Council has the authority under K.S.A. 12-5368 to award State Grant Fund moneys to entities other than PSAPs, so long as it is consistent with the purposes stated in that section.

Please feel free to share my interpretation of the statute with the Council.

Thanks,
Matt