

MINUTES OF REGULAR SCHEDULED MEETING OF THE BOARD OF COUNTY COMMISSIONERS, ROGERS COUNTY COURTHOUSE, 219 SOUTH MISSOURI, COMMISSIONER'S MEETING ROOM 1-109, CLAREMORE, OKLAHOMA, MONDAY, JANUARY 12, 2009, AT 9:00 O'CLOCK A.M.

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Notice of said meeting was filed in the Office of the County Clerk on Thursday, January 8, 2009, at 3:38 P.M. and posted on the Courthouse Bulletin Board; Outside the Commissioner's Meeting Room; on the Exterior Window at the Southeast Entrance and the Front Door Entrance to the Courthouse and on the Wheelchair Ramp Door.

- ITEM 1: CALL TO ORDER:  
Chairman Mike Helm called the meeting to order at 9:00 A.M.
- ITEM 2: ROLL CALL:  
Chairman Mike Helm, Commissioner Dan DeLozier and Commissioner Kirt Thacker were all present.
- ITEM 3: FLAG SALUTE:  
Commissioner DeLozier led the salute and Pledge of Allegiance to the American Flag.
- ITEM 4: PRAYER:  
Commissioner Thacker said a prayer.
- ITEM 5: APPROVAL OF MINUTES: January 5, 2009  
Commissioner DeLozier made a motion to approve the minutes from January 5, 2009, as presented with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.
- ITEM 6: UNFINISHED BUSINESS: None presented.
- ITEM 7: ZONING: None presented.
- ITEM 8: PLATS: None presented.
- ITEM 9: ROADS AND BRIDGES: None presented.
- ITEM 10: CASH FUND ESTIMATE OF NEEDS AND REQUEST FOR APPROPRIATIONS: None presented.
- ITEM 11: TRANSFER OF FUNDS:  
1. District #3 One Cent Sales Tax M&O to capital outlay - \$7500.00  
Commissioner Thacker stated that District #3 plans on purchasing a trailer-mounted air compressor and is transferring the money to do so. Commissioner Thacker made a motion to approve with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.
- ITEM 12: UTILITY PERMITS: None presented.
- ITEM 13: CLAIMS:  
1. Salaries – None presented.  
2. Attendant Care – Nick Epperson, \$1680.00 -  
Commissioner DeLozier made a motion to approve the attendant care of Nick Epperson as presented with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.
- ITEM 14: BLANKET PURCHASE ORDERS:  
1. Materials, Supplies, Parts, Groceries & Prescriptions –  
Sheriff's general fund vehicle maintenance: Speedy Lube, \$250.00 and Froman Oil Company, \$3500.00 and Sheriff's jail account vehicle maintenance: Froman Oil Company, \$500.00 – Commissioner Thacker made a motion to approve the blanket purchase orders as presented with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.  
2. Orders Exceeding Amount of Issuance – None presented.

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ITEM 15: AGENDA ITEMS:

1. Discussion with possible action on Appointment of a Rogers County representative to INCOG Board of Directors for 2009 – (\*\*NOTE\*\*this item was tabled from December 29, 2008, meeting\*\*\*) -

Chairman Helm stated that this is an appointment to the Board of Directors for INCOG which meet at 11:00 o'clock on Thursdays. This is a Board where all the city managers from the surrounding 7 counties that make up the Tulsa metro INCOG Board get together and meet monthly. The item was tabled from December 29<sup>th</sup>, because Magan Green, Planning Commission Director, stated she had a conflict with here schedule in being able to attend the meetings. Chairman Helm continued that he discussed this item with Commissioner Thacker, since he is in the Inola area and Inola is working an industrial park, Commissioner Thacker would be beneficial in serving on the INCOG board. Chairman Helm made a motion to appoint Commissioner Kirt Thacker to be representative to INCOG Board of Directors for 2009. Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Approve/disapprove designation of Chief Deputy (or 1<sup>st</sup> Deputy or Foreman) for District #1; District #2 and District #3 – (\*\*NOTE\*\*this item was tabled from January 5, 2009, meeting\*\*\*) –

Commissioner DeLozier designated Carl Hefner, Chairman Helm designated Allen Carter and Commissioner Thacker designated Terry Hughes. Commissioner DeLozier made a motion to accept the designations. Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

3. Discussion with possible action on Approval of Jail Work Detail (inmates) for use by the Board of County Commissioners for trash pickup detail on county right-of-ways –

Commissioner Thacker stated that the county used the jail trustees back during the ice storm for brush and debris removal and it worked out very well. And it won't be long before we get into the mowing season and we'll be needing general clean-up of all the county right-of-ways and I asked this item to be placed on the agenda.

Commissioner DeLozier stated that it wouldn't be for just trash detail, because District #1 still used them for brush and debris removal, it has worked real good before

Sheriff Walton commented that he has no objections, but the pool to draw from might be limited because some are already to being utilized in the Sheriff's office doing painting and the Election Board is utilizing 3 of them at times. The will need to be supervised and we can do that by deputizing someone from each county warehouse to oversee those. I would like Tom Howse, Jail Administrator, to oversee this and have the county employees that would be overseeing the work detail get with him on instructions and guidelines to be followed.

Chairman Helm inquired as to whom to contact? Sheriff Walton answered, would like it to be coordinated through Tom Howse, Jail Administrator.

Barry Farbro, Assistant District Attorney, stated that the county did not need to sign a contract or resolution because it is permitted by state statute.

This item was discussion only, no action taken.

4. Open & Award Bid #499 – Pre-Cast Bridge on Dog Creek for District #1 – 13 bid packets were mailed with 0 being returned undeliverable and 2 responses being received as follows: Contech Construction Products, Inc., for \$123,100.00 and Scurlock Industries for \$75,835.00. Commissioner DeLozier made a motion to table this item for one week (January 20, 2009) to have time to review the bids. Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

5. Open & Award Bid #500 – Lighting & Equipment for Sheriff – 8 bid packets were mailed with 0 being returned undeliverable and 3 responses being received as follows: Oklahoma Police Supply for \$17,350.00; Visual Force, Inc., Bid #1 for \$17,495.00 and Visual Force, Inc., Bid #2 for \$16,325.00. Sheriff Walton stated he would like to have a week to review the bids. Commissioner DeLozier made a motion to table awarding of this bid for one week (January 20, 2009) to allow Sheriff Walton time to review the bids. Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

6. Discussion with possible action on Approval/Disapproval of Resolution #2009-1 setting filing period and election date for Fair Board Members for 2009 –

Peggy Armstrong, Rogers County Clerk, informed the Board that a Notice has to be published ten (10) days before the filing period can begin and the filing period is five (5) consecutive business days. Commissioner Thacker made a motion to set the filing period from January 26 through January 30, 2009, and end at the close of business on January 30, 2009 and hold the election on Saturday, February 7, 2009, at 10:00 A.M. with elections being held for District #1 at Foyil Schools; District #2 County Warehouse in Oologah and District #3 at the Commissioner's Meeting Room 1-109 on the first floor of the Courthouse. Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

7. Discussion with possible action on installing a snack shop/shack in the basement of the Rogers County Courthouse –

Chairman Helm stated that Steve Becker with Steve's Snack Shack approached the Commissioner's office about installing a snack shack in the basement of the Courthouse and I asked the County Clerk to place this item on the agenda for discussion and invite all the elected officials for their input on the matter. Mr. Becker presented the Board with a handout and brought a variety of items to the office for everyone to try.

Mr. Becker stated that he purchased the Daylight Donut Shop in Catoosa in June 2007, and renamed it Catoosa Donuts and More. After purchasing the shop he expanded the menu and began serving lunch using his recipes. The shop is customer focused by providing an array of high quality products while taking into consideration the customers time restraints. Coffee drinks have recently been added to the menu. He currently has 7 employees to assist in the day-to-day operations. Prior to purchasing the shop in Catoosa, he was involved in the banking industry for 20 years.

Mr. Becker continued that his goal is to serve the needs of the employees and general public who frequent the Rogers County Courthouse by establishing Steve's Snack Shack. The same high quality pre-made and individually made products would be provided to the customers as in the Catoosa location. Steve's Snack Shack could be located in the basement of the courthouse where the vending machines are currently located or any other available space this is mutually agreeable. Any site must have the capability to have a hand washing sink installed and electrical outlets for the cooler, coffee machine, small refrigerator, etc. All equipment for the day-to-day operation shall be provided by Steve's Snack Shack and Catoosa Donuts & More.

Bob Anderson, Emergency Management Director, asked who would be responsible for the liability? Mr. Becker answered, he would propose renting space from the courthouse and he would have liability insurance, worker's comp insurance and loss insurance. He would be responsible for all the insurance.

After discussion about the menu and prices, Melissa Anderson, Rogers County Assessor, asked would there be any place for tables to be set up for people to sit? Chairman Helm replied that soon the smoke room will be closed and that area could be used for setting up tables. Anderson then asked who would be responsible for the cleaning of the area? Chairman Helm replied whomever the successful bidder would do the cleaning.

Chairman Helm made a motion to go out for bids and send bids to anyone who is interested in bidding and there would be no cost to the county and all improvements would be property of the county and all fees and inspections would be the responsibility of the vendor. Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

8. Discussion with possible action on Approval of Debra Mitchell being able to carryover 10 hours of vacation from 2008 to 2009 –

Commissioner DeLozier made a motion to approve the Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

9. Discussion with possible action on Update of Circuit Engineering District #1 (CED) and Oklahoma Cooperative Circuit Engineer Districts Board (OCCEDB) activities by John Blickensderfer from Guy Engineering Services, Inc. –

John Blickensderfer with Guy Engineering Services, Inc., presented the Commissioner's with a drafted updated 5-year plan for 2009 through 2013 and stated to ignore years 2012 and 2013 on the report, because all he was trying to do was make the funds balance out to be able to get the report to ODOT. All the Commissioner's needed to do today was look at years 2009, 2010 and 2011 and see if they wanted to do any shifting of the bridge or job numbers. This report can be updated twice a year. Commissioner DeLozier stated that he wanted to switch places with Bridge #2 and Bridge #63. Chairman Helm and Commissioner Thacker stated they were okay with their order. Commissioner Thacker made a motion to approve with the changes Commissioner DeLozier requested on Bridge #2 and Bridge #63. Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

10. Discussion with possible action on Appointment or Re-Appointment of county representatives to the Grand Gateway Board of Directors for 2009 –

Chairman Helm stated that he and Commissioner DeLozier have served on the Board of Directors in the past and would like to keep it the same, but ask Commissioner DeLozier to serve as GGEDA Trust Authority Representative. Commissioner Helm made a motion to appoint Commissioner Dan DeLozier and Commissioner Mike Helm as representatives to the Board of Directors for Grand Gateway Economic Development Association for 2009, and appoint Commissioner Dan DeLozier as the Grand Gateway Economic Development Trust Authority representative during the 2009 through 2011 terms. Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

11. Approve/disapprove Resolutions for Disposing of Equipment for District #2 as follows: 2006 Mack Dump Truck, sn#1M2AJ06Y26N003048; 2006 Mack Dump Truck, sn #1M2AJ06Y26N003049; 2005 Mack Dump Truck, sn#1M2AJ06Y05N002397 to be traded in –

Commissioner Helm made a motion to approve with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

12. Approve/disapprove Resolution #2009-2 and Reimbursement form directing County Treasurer to deposit funds from State of Oklahoma FEMA on PA-1735 warrant #104191281 for a total of \$209,615.51 of which \$52,530.11 will be deposited into the one-cent sales tax account for District #3 for distribution –

Commissioner Thacker made a motion to approve with Chairman Helm seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

13. Approve/disapprove Resolution #2009-3 and Reimbursement form directing County Treasurer to deposit funds from State of Oklahoma FEMA on PA-1735 warrant #104191281 for a total of \$209,615.51 of which \$17,497.14 will be deposited into the one-cent sales tax account for District #1 for distribution –

Commissioner DeLozier made a motion to approve with Chairman Helm seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

14. Approve/disapprove Resolution #2009-4 and Reimbursement form directing County Treasurer to deposit funds from State of Oklahoma FEMA on PA-1735 warrant #104191281 for a total of \$209,615.51 of which \$30,000.00 will be deposited into the one-cent sales tax account for District #2 for distribution –

Chairman Helm made a motion to approve with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

15. Acknowledgment for public record only receipt of FEMA warrant #104191281 from Oklahoma Emergency Management for DR-1735 on PW#'s 403, 500, 506, 791, 796, 839, 844, 847 and 850 to be distributed into the following accounts:

a. District #1: T-highway salaries \$60,634.85; One-Cent \$17,497.14; T-highway M&O \$439.44 and -

b. District #2: T-highway salaries \$48,513.96; One-Cent capital outlay \$30,000.00 and –

c. District #3: One-cent capital outlay \$52,530.11 –

Acknowledged for public record only, no action taken.

16. Discussion and possible action to enter Executive Session for the purpose of confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest, as authorized by Title 25 O.S. § 307(4), to wit:

- a. Tax Partners, LLC vs. City of Owasso, CJ-07-3111, Tulsa County District Court (Intervenor Board of County Commissioners);
- b. Material Services Corp. vs. Board of County Commissioners, CJ-04-234, Rogers County District Court (venue changed to Mayes County);
- c. Jo Dawn Mathews vs. Board of County Commissioners, CJ-2007-812, Rogers County District Court;
- d. Michael Seely vs. Board of County Commissioners, CJ-2008-32, Rogers County District Court (removed to federal court, (No. 08-CV-070 TCK PJC, U.S. District Court for Northern District of Oklahoma); and
- e. Proposed Quo Warranto litigation regarding Oologah-Talala Emergency Medical Service District –

Commissioner DeLozier made a motion to leave regular session and enter Executive Session, upon the recommendation of Assistant District Attorney, Barry Farbro. Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the Board entered Executive Session with Assistant District Attorney, Barry Farbro at 9:53 A.M.

17. Motion and vote to adjourn Executive Session and enter Regular Session –

Commissioner Thacker made a motion to adjourn Executive Session and enter Regular Session with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried. The Board entered Regular Session at 10:41 A.M.

18. Discussion and possible action with respect to the pending legal matters considered and discussed with the Board's attorney during Executive Session:

- a. Tax Partners, LLC vs. City of Owasso, CJ-07-3111, Tulsa County District Court (Intervenor Board of County Commissioners);

Barry Farbro, Assistant District Attorney, recommended to the Board that they accept as full settlement payment of our claim against Tax Partners, LLC, the amount that will be ultimately received by Tax Partners, LLC, in the litigation against the City of Owasso. The

recommendation is to settle Rogers County's part and the amount including the judgment and interest is \$59,441, which is the award of The District Court in Tulsa County against City of Owasso in favor of Tax Partners, LLC and the \$59,441 is the amount that I recommend to the Board to accept as full and final payment in its claim against Tax Partners, LLC. Farbros reminded the Board that the county has received \$18,031.00 previously from the City of Owasso through Tax Partners, LLC. Commissioner Thacker made a motion to accept \$59,441 as full settlement in the case and Commissioner DeLozier seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

- b. Material Services Corp. vs. Board of County Commissioners, CJ-04-234, Rogers County District Court (venue changed to Mayes County); - No Action Taken.
- c. Jo Dawn Mathews vs. Board of County Commissioners, CJ-2007-812, Rogers County District Court; No Action Taken.
- d. Michael Seely vs. Board of County Commissioners, CJ-2008-32, Rogers County District Court (removed to federal court, No. 08-CV-070 TCK PJC, U.S. District Court for Northern District of Oklahoma; No Action Taken.
- e. Proposed Quo Warranto litigation regarding Oologah-Talala Emergency Medical District – No Action Taken.

19. Report by attorney regarding any legal matters not discussed in Executive Session with Discussion and possible action with respect to legal matters: Proposed adoption of Employee Personnel Policy Handbook –

Assistant District Attorney, Barry Farbros, reported to the Board that there is a 2008 version of the ACCO personnel policy handbook, which if it has not been circulated to all the elected county officers, Farbros asked to be able to e-mail to each elected county officer for their review and provide for a comment period where they can review it and maybe in a couple of weeks provide the District Attorney's office with comments and if changes are recommended in a particular area and perhaps at the Board's discretion, have a special meeting with the Board of County Commissioner's and invite the other elected county officers to attend and see if we can agree on the form of this policy handbook. We would like to have this approved by the Board of County Commissioner's, along with a majority of elected county officers by early February.

Chairman Helm made a motion for the Board to take the legal advice of their attorney and allow Assistant District Attorney, Barry Farbros, to circulate the personnel policy handbook to all elected officers and their comments to go back to Mr. Farbros and bring back before the Board on February 9, 2009. Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 16: PUBLIC COMMENTS AND RESPONSES FROM BOARD MEMBERS: Limited to specific items on the Agenda that are listed and discussed at this meeting and limited in duration at the discretion of the Chairman -

ITEM 17: PAYMENT OF PURCHASE ORDERS FROM ALL DEPARTMENTS:  
(Materials, Supplies, Parts, Groceries & Prescriptions)\*\*\*NOTE\*\*\*see attached list of all claims that were approved for payment on Monday, January 12, 2009\*\*\*Commissioner Thacker made a motion to approve payment of all purchase orders from all departments as presented. Chairman Helm seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 18: NEW BUSINESS:

1. Consideration and possible action with respect to any other matters not known about or which could not have been reasonably foreseen prior to posting the agenda –

Bob Anderson, Emergency Management Director, reported to the Board that the deadline is approaching for Notice of Intent and Applications for the 5% Discretionary Hazard Mitigation money for generators and advance warning systems. Generators for Emergency Operation Centers and alternative Emergency Operation Centers, Police and Fire Departments is the #1 priority with food banks as shelters being the #2 priority. There is a limit on the generators of \$30,000.00 for the 75% federal share. Anderson will proceed forward with the application. Just an update, no action taken.

Chairman Helm stated that the back parking lot needs to be repaired and he will be contacting the judges to see when it would be the best time to close the lot for 1 month for repairs and all three Commissioner's districts share in the repairs and the costs to repair. Informational only, no action taken.

ITEM 19: RECESS OR ADJOURNMENT:

Commissioner Thacker made a motion to adjourn the meeting with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye.

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Motion carried. Meeting was adjourned at 11:47 A.M.

BOARD OF COUNTY COMMISSIONERS  
ROGERS COUNTY, OKLAHOMA

By: \_\_\_\_\_  
Peggy Armstrong, Rogers County Clerk

(SEAL)