

NOTICE OF REGULAR MEETING

BOARD OF COUNTY COMMISSIONER'S FOR ROGERS COUNTY, OKLAHOMA

PLACE: Rogers County Courthouse, 219 South Missouri, Room 1-109, Claremore, Oklahoma

DATE & TIME: Monday, September 28, 2009, at 9:00 O'clock A.M.

MINUTES

ITEM 1: CALL TO ORDER:

Chairman Helm called the meeting to order at 9:01 A.M.

ITEM 2: ROLL CALL TO ESTABLISH QUORUM:

Determine that Notice of Meeting and Agenda were properly posted in accordance with the Oklahoma Open Meeting Act.

Chairman Mike Helm, Commissioner Kirt Thacker and Commissioner Dan DeLozier were present and quorum established.

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: Amended September 21, 2009

Commissioner Thacker made a motion to approve the Amended Minutes of September 21, 2009, as presented with Chairman Helm seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 6: UNFINISHED BUSINESS:

1. Award Bid #517 – Guardrails for District #1 –

NOTEthis item was tabled from September 21, 2009, meeting***

Commissioner DeLozier made a motion to award the bid to the lowest bidder of Collins & Hermann, Inc., at \$8.45 per running foot and terminal anchor section \$1475.00 each with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 7: ZONING: None presented.

ITEM 8: PLATS: None presented.

ITEM 9: ROADS AND BRIDGES:

1. Discussion with possible action on Approval of Independent Contractor Agreement by and between the Board of County Commissioners for Rogers County, Oklahoma, and Kellogg Engineering, Inc., for proposal in response to FEMA 1756, Project No. JWP-006, dated July 15, 2009, outlining work to be completed to prepare an Environmental Assessment using the footprint for the new alignment of Keetonville Road in District #2 –

Chairman Helm made a motion to approve with Commissioner Thacker seconding the motion. Commissioner DeLozier questioned if this was to be funded through FEMA? Chairman Helm replied, yes, what we are doing on the environmental study costs around \$354,000.00 and Kellogg Engineering will do the study and we will pay for and FEMA will reimburse. We are just asking for the funding up front. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Discussion with possible action on Approval of ODOT Claim Form 324a and Title Sheets on Winganon Crossing (Oologah Lake Project) in District #1 –

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

3. Discussion with possible action on Approval of ODOT Claim Form 324a in the amount of \$2500.00 and ODOT Certification and Affidavit for right-of-way staking for Bridge No. 98 replacement project completion by Guy Engineering Services, Inc., in District #2 –

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

4. Discussion with possible action on Supplement #1 Engagement Letter and Invoice on Elm Creek Bridge STP-166C(210)CO J/P25427(04) for appraisal and appraisal review in the amount of \$3045.00 from Cinnabor Service Company for District #2 –

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

5. Discussion with possible action on Circuit Engineering District information and updates and discuss 5-year plan by John Blickensderfer with Guy Engineering Services, Inc. –
John Blickensderfer with Guy Engineering Services, Inc., at 10759 East

Admiral Place, Tulsa, Ok 74116 gave an update to the Board. Blickensderfer reminded the Board that Resolution #2009-62 had two (2) priorities listed and only one (1) can be. Board will need to decide on which project has priority within the next two (2) weeks. Discussion only, no action taken.

ITEM 10: CASH FUND ESTIMATE OF NEEDS AND REQUEST FOR APPROPRIATIONS:

1. 005 – Use Tax - \$57,554.17
2. 007 – Health Supplemental Fund - \$8764.15
3. 101 – Unrestricted Highway - -\$20,562.50 and \$282,827.21
4. 141 – Cellular Phone Usage - \$22,429.57
5. 142 – E-911 - \$11,721.35
6. 145 – Attendant Care – None presented.

Commissioner DeLozier made a motion to approve the cash fund estimate of needs as presented with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 11: TRANSFER OF FUNDS:

1. District #2 Unrestricted Highway Capital outlay to District #1 Unrestricted Highway Capital Outlay - \$3000.00 - ***see under #2 for Board action ***
2. District #3 Unrestricted Highway Capital Outlay to District #1 Unrestricted Highway Capital Outlay - \$3000.00 –

Chairman Helm made a motion to approve Items 1 & 2 under Transfer of funds as presented with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

3. 141 Wireless/cell phone usage M&O to part-time salaries - \$5000.00

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

ITEM 12: UTILITY PERMITS:

1. Rural Water District #3, Rogers County – boring county road EW/420 beginning at a part of the N/2 of NE/4 of NE/4 of Section 9, Township 22 North, Range 16 East and a part of the S/2 of SE/4 of SE/4 of Section 4, Township 22 North, Range 16 East of the I.B.&M., Rogers County, lying between county roads NS/415 and NS/416 in District #1 –

Commissioner DeLozier stated that he reviewed the utility permit and made a motion to approve since it was a bore only with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 13: CLAIMS:

1. Salaries – September 2009
2. Attendant Care – None presented.
3. Alternatives to Detention/Transportation Claim to State of Oklahoma, Office of Juvenile Affairs for August 2009 in the amount of \$2798.80 –

Chairman Helm made a motion to approve Items 1 & 3 under claims 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 –

Emergency Management: Froman Oil Company, \$400.00; Sheriff's jail: Warehouse Market, \$300.00; Sysco Foods, \$7100.00; Sysco Foods, \$3200.00; Farmers Bros. Coffee, \$300.00; Bimbo Bakeries, \$1350.00; District #1 Warehouse, \$3000.00; District #2 Warehouse, \$3000.00; District #3 Warehouse, \$5000.00; Froman Oil Company, \$200.00; Correctional Dental Services, \$2000.00; Diamond Medical Supply, \$500.00; Diamond Drugs, Inc., \$6000.00; St. Francis Lab, \$1200.00; PHS Mobile X-Ray, \$600.00; and Medical Compliance Specialty, Inc., \$400.00 – Chairman Helm made a motion to approve the blanket purchase orders as presented with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Orders Exceeding Amount of Issuance – None presented.

ITEM 15: AGENDA ITEMS:

1. Discussion with possible action on Lease Purchase Agreement For Equipment with Welch State Bank on a 2009 Etnyre Hydraulic Tail Trailer, sn#Q30372 with a Lease Purchase Price of \$69,875.04 purchased from G. W. Van Keppel Company on Bid #514 - ***NOTE***this item was tabled from September 21, 2009, meeting***

Chairman Helm made a motion to approve with the approval of the District Attorney's office with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Discussion with possible action on request from Susan Wolfenbarger with Safenet for placing of Red silhouette signs representing victims of Domestic Violence on October 15, 2009, to be put up between the hours of 7:00 A.M. and 8:00 A.M. and removed by 4:00 P.M. –

Donna Grabow with Executive Director of Safenet Services located at 2235 North Highway 88, Claremore, Ok, was present at the meeting and requested permission from the Board to place Red silhouette signs representing victims of Domestic Violence which is a state initiative and the 15th is scheduled for Claremore and Pryor. October is Domestic Violence Awareness month. Commissioner DeLozier made a motion to approve with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.\

3. Discussion with possible action on Trustees from the Rogers County Public Facilities Board recommending to the Board of County Commissioner's how future trustees are to be appointed - ***NOTE***this item was last discussed on July 20, 2009***

Dave Wilbur, 3304 Calloway Drive, Claremore, Ok, presented the Board with a handout stating that according to the trust documents for the Rogers County Public Facilities Authority, the Trustees of that authority shall be appointed by either of the Rogers County Commissioners. The trust document does not require or request that regular Trustees be from a specific district or county. That latitude allows the County Commissioner to appoint a volunteer that has expertise in areas needed by the board i.e.: legal, marketing, budgeting, banking, maintenance, etc., because the Trustees best know the particular board needs. The current Trustees propose the following: a three-member committee made up of current board members to review the needs of the current board. A process for applications put in place through the trust authority office and a list of potential candidates compiled. The committee will then review the potential candidates and submit the name or names to the Rogers County Public Facilities Authority Chairman. The Chairman will then submit the name or names to the Rogers County Commissioners for the specific county commissioner to approve or disapprove.

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

4. Open & Award Bid #521 – Commercial Generators

12 bid packets were mailed with 0 being returned undeliverable and 4 responses received as follows: 2 J's Electric, Inc.; Warren Power & Machinery, Inc.; Commercial Power Solutions, LLC., and a "No Bid" from United Engines. Commissioner Thacker made a motion to table awarding of this bid for one week (October 5th) to allow the Board time to review the bids with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

5. Discussion with possible action on Presentation by Stefanie Robertson with Liberty National Supplemental Cancer Insurance –

Stefanie Robertson and Kevin Christian, Manger of Liberty National of 4815 South Harvard, Tulsa, Ok 74135, did a presentation for the Board on the services they offer. Chairman Helm inquired of the differences between what they offer and Aflac offers and Christian replied approximately 1/3 less in cost and richer benefits. (see handouts for complete information) Commissioner Thacker stated he would be contacting them to set up an appointment. Discussion only, no action taken.

6. Acknowledgement for public record receipt of check #1307 from Grand Gateway Economic Development Assoc. E-911 for July 2009 E-911 services fees in the amount of \$22,429.57 – Acknowledged for public record only, no action taken.

7. Discussion with possible action on setting Holidays for 2010 –

Commissioner DeLozier made a motion to set the following list of holidays for 2010 with Chairman Helm seconding the motion: New Year's Day, January 1, 2010 – Martin Luther King Day, January 18, 2010 – President's Day, February 15, 2010 – Good Friday, April 2, 2010 – Memorial Day, May 31, 2010 – Independence Day, July 5, 2010 – Labor Day, September 6, 2010 – Veteran's Day, November 11, 2010 – Thanksgiving Days, November 25 & 26, 2010 – Christmas, December 23 & 24, 2010 – and New Year's, December 31, 2010 – Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

8. Discussion with possible action to enter Executive Session for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee, as authorized by Title 25 O.S. § 307(1), to wit: position of Secretary/Administrative Assistant to the County Commissioners –

Chairman Helm made a motion to adjourn Regular Session and Enter Executive Session upon advice of the District Attorney's office and Commissioner Thacker seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the Board enter Executive Session with Assistant District Attorney, Barry Farbrow and County Clerk, Peggy Armstrong at 10:43 A.M.

9. 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 and the Board entered Regular Session at 11:37 A.M.

10. Discussion and possible action with respect to the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaries public officer or employee, to wit: the position of Secretary/Administrative Assistant to the County Commissioners, as discussed during Executive Session –

Farbro recommended the motion to be as follows:

The Board to move to interview the eighteen (18) persons who were discussed during Executive Session and have those interviews conducted six (6) at a time beginning Thursday, October 1, 2009, at 1:00 P.M.; Friday, October 2, 2009, at 1:00 P.M. and the final six (6) Monday, October 5, 2009, at 1:00 P.M. to be conducted in Executive Session. Commissioner DeLozier made a motion to approve as presented by Assistant District Attorney, Barry Farbro, with Chairman Helm seconding 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 -

NOTECommissioner Thacker left the Commissioner's Meeting at 12:00 Noon for a previous appointment***

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, September 28, 2009***Commissioner DeLozier made a motion to approve payment of all purchase orders from all departments as presented with Chairman Helm seconding the motion. Roll Call: Helm-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 -

NOTENew Business was heard after the Board took action on agenda item #13 Claims***

Commissioner Thacker reported that he had an issue that he wanted to discuss before the Board and continued that payroll claims for 2008-2009 for former Election Board Secretary, Terri Thomas, shows she was drawing an additional \$300.00 in travel. Thacker continued, to his knowledge, he has never signed off on these claims, other than when we approve the budget. Last year's budget was \$7491.00. I was told that Assistant District Attorney, Barry Farbro, came down and told the County Clerk's Office that we are not doing that anymore. The Assistant District Attorney, does not have the authority to come down and say what gets paid and what doesn't get paid. Chairman Helm stated, only if the County Clerk's Office asked for a legal opinion. Peggy Armstrong, Rogers County Clerk, explained that the County Clerk's Office did not ask for a legal opinion. The question asked was to Terri Thomas, former Election Board Secretary, as to why she was not turning in a travel claim for the month of August 2009, and she stated to us that Farbro had rescinded the previous ruling that she could collect the \$300. There was not written legal opinion given.

Chairman Helm asked for a clarification from Assistant District Attorney, Barry Farbro. Farbro stated that he talked to Terri Thomas about it and she declined to take it and the reason being was at one time an opinion was requested about whether or not the Election Board Secretary could receive a monthly car allowance in lieu of travel and based upon my review of the statutes, it would be okay. Later, it was discovered an Attorney General's opinion that was very specific defining who was and who was not a county officer for the purpose of claims like this. I then told Terri (Thomas) that I was going to reverse my opinion and part of this came from other counties asking me about it. I then looked at it a little more closely and found the Attorney General's opinion and told them I did not believe the County Election Board Secretary was a county officer, who in the statutes is authorized to receive a monthly allowance in lieu of reimbursement. So based upon that, the other counties could not do it, so based on my discussion with Terri (Thomas), she declined to take the allowance. The Election Board Secretary is still allowed to submit a claim for travel reimbursement, but in the statutes it talks about which officers are entitled to take an allowance and the Election Board Secretary is not included in that statute.

Commissioner Thacker inquired this stopped in August of this year? Farbro replied, we believed the Board of County Commissioner's had a written memorandum from me that said he felt the Election Board Secretary could take a travel allowance. This sometime happens, the D.A. 's office will give an opinion and find later there is an Attorney's General opinion. I told Terri (Thomas) over the phone that I would not recommend she continue taking the allowance, because there was no statutory authority for it.

Chairman Helm inquired, since she should have never received the allowance are we going back and asking for it back? Farbro replied, no, because the Board of County Commissioner's at some point approved it in a meeting and took action on it based upon the advise of the District Attorney's office. At current, I have not issued a subsequent written opinion on it. Chairman Helm stated that the Board was not made aware of this until just now and to be fair and consistent, the Board should have known before now. Farbro stated it was an oversight on his part.

Gene Haynes, District Attorney, reminded the Board that some point in the future we could render some legal opinion and then have an A.G.'s opinion come out the next month that disagrees with us. Haynes apologized for the confusion. Discussion only, no action taken.

ITEM 19: RECESS OR ADJOURNMENT:

Commissioner DeLozier made a motion to adjourn the meeting with Chairman Helm seconding the motion. Roll Call: Helm-aye, DeLozier-aye. Motion carried and meeting was adjourned at 12:26 P.M.

BOARD OF COUNTY COMMISSIONERS
ROGERS COUNTY, OKLAHOMA

By: _____
Peggy Armstrong, Rogers County Clerk

(SEAL)

Notice of said meeting was filed in the Office of the County Clerk on Thursday, September 24, 2009, at 3:02 P.M. and posted on the Courthouse Bulletin Board; Outside the Commissioner's Meeting Room; on the Exterior Window at the Southeast Entrance and Front Door Entrances to the Courthouse; on the wheelchair ramp door; and on the county web site.