

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, November 9, 2009, at 9:00 O'clock A.M.

MINUTES

ITEM 1: CALL TO ORDER:

Chairman Mike Helm called the meeting to order at 9:02 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: November 2, 2009

Commissioner Thacker made a motion to approve the minutes from November 2, 2009, as presented with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

NOTE Agenda Items: 1, 2 & 3 were heard by the Board of County Commissioner's next on the agenda***

ITEM 6: UNFINISHED BUSINESS:

1. Award Bid #524 – Pad-foot Roller – District #1 - ***NOTE***this item was tabled from November 2, 2009, meeting***

Commissioner DeLozier made a motion to table awarding of this bid for another week (November 16th) to allow him more time to review the bids since he was gone most of last week to an ACCO conference, with Chairman Helm seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Award Bid #525 – Crawler Dozer – District #1 - ***NOTE***this item was tabled from November 2, 2009, meeting***

Commissioner DeLozier made a motion to award the bid to the lowest bidder of Kirby-Smith Machinery, Inc., on 2010 Komatsu Model D39EX-22 for \$101,996.00 and at this time is unsure if he wants to take the lease-purchase option or buy outright. Chairman Helm seconded the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

3. Discussion on reduced C.O.B.R.A. premiums of qualified participants and payments required by Rogers County (employer) as mandated by the American Recovery and Reinvestment Action of 2009 – (D#2) - ***NOTE***this item was tabled from November 2, 2009, meeting***

Gene Haynes, District Attorney, stated he thought this item was tabled from last week's agenda until he was ready to place the item back on the agenda, because he had not had a chance to research yet. Peggy Armstrong, Rogers County Clerk, reminded that the motion was made last week to table for one week.

Marilynn Gibson, 1st Deputy County Clerk, inquired as to what she was suppose to do about paying the premiums, one possible solution was to make purchase orders out of general fund if the Board advised her to do so. Gibson continued that there is some money in the account, but if the money is used now to pay these premiums, there will not be any money left in the account to pay this month's premiums. Haynes explained that he thought the opinion the Board was asking for was to see if Rogers County had to pay all of it or not. Chairman Helm made a motion to table this item until further notice to allow the D.A.'s office time to review with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 7: ZONING: None presented.

ITEM 8: PLATS:

1. Discussion with possible action on Approval/Disapproval of Final Plat of Kennedy's Park, being located in part of the W/2 of the NW/4 of the SE/4 of Section 33, Township 21 North, Range 15 East of the I.B.&M., Rogers County – Developer: Franklin Development, LLC (D#3) –

Magan Green, Planning Commission Director, reported the final plat was approved by the Planning Commission on August 4, 2009, with a five to zero vote. Green continued

that she was out there for inspections this morning and the drainage detention pond was in; the utilities are in; fire hydrant was in, everything is in order. Commissioner Thacker reported that the asphalt has not been laid at this point, because the developer has had trouble in getting an asphalt contractor and he assures me that will be taken care of shortly. Commissioner Thacker made a motion to approve the final plat as presented with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 9: ROADS AND BRIDGES:

1. Discussion with possible action on Approval/Disapproval of Utility and Encroachment Affidavit on Project #ERStP166C214ER; J/P#25524(05) in District #1, Rogers County, Oklahoma – (D#1) –

Commissioner DeLozier stated this affidavit for the Winganon causeway on the damages caused by the flooding in 2007 and this is just one of the steps in getting it ready for bid. Commissioner DeLozier made a motion to approve with Chairman Helm seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

2. Discussion with possible action on Approval/Disapproval of ODOT Claim Form 324a and Guy Engineering Services, Inc., request for payments #3 & #4 in the amount of \$21,981.75 upon submittal of Preliminary and Right-of-Way Plans on Bridge #79 over Dog Creek' Project #BRF-166C(219)CO; State Job #25744(05) in District #1 – (D#1)

Commissioner DeLozier stated Bridge #79 is on Akin Road and this is the final bridge plans and right-of-way documents and the county will be acquiring the right-of-way for. Commissioner DeLozier made a motion to approve with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

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

None presented.

ITEM 11: TRANSFER OF FUNDS: None presented.

ITEM 12: UTILITY PERMITS:

1. A T & T – boring & trenching 700 feet West of SE/corner of Section 7, Township 21 North, Range 17 East, thence trench North along West side of county road NS/4200 3200 feet; then place fiber cable aerial 7900 feet; then bury North to county road EW/470; thence East across county road NS/4200 to cell site East along county road EW/470 on South side 690 feet in District #1 and District #3 - ***NOTE***this item was tabled from November 2, 2009, meeting***

Peggy Armstrong, Rogers County Clerk, reminded the Board that the permit that has been submitted by A T & T has not been signed by them and last week a phone call was placed to John Bland, Design Consultant, to inform him of this and he stated they would re-submit all new permits. Armstrong stated as of this time the permits have not been received by the County Clerk's Office. Commissioner DeLozier made a motion to table this item until further notice with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

ITEM 13: CLAIMS:

1. Salaries – None presented.
2. Attendant Care – None presented.

ITEM 14: BLANKET PURCHASE ORDERS:

1. Materials, Supplies, Parts, Groceries & Prescriptions –
District #1: R & S Auto Parts, Chelsea - \$600.00 – Commissioner DeLozier made a motion to approve the blanket purchase order 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:

NOTEAgenda Items 1, 2 & 3 was heard by the Board after Approval of Minutes***

1. Discussion and possible action to enter Executive Session for the purpose of confidential communications between a public body and its attorney concerning a pending 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 pending litigation or proceedings in the public interest, to wit: (a) Material Service Corporation vs. Rogers County Commissioners, CJ-2004-234, Mayes County CJ-2009-42, District Court of Rogers County, Oklahoma; and (b) James Darrin Hester vs. Board of County Commissioners, et al., Case No. 09-CV-394-TCK-FHM, United States District Court for the Northern District of Oklahoma, as authorized by Title 25 O.S. § 307(4) – (D.A.) –

Commissioner DeLozier made a motion to enter Executive Session and adjourn Regular Session with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the Board adjourned Regular

Session and entered Executive Session at 9:05 A.M. with Thomas A. LeBlanc, attorney and Assistant District Attorney, Barry Farbro. Sheriff Scott Walton arrived at 9:24 A.M. and Gene Haynes, District Attorney, arrived at 9:26 A.M.

2. Motion and vote to adjourn Executive Session and enter Regular Session.

Chairman Helm made a motion to adjourn Executive Session and enter Regular Session with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the Board adjourned Executive Session and entered Regular Session at 10:32 A.M.

3. Discussion and possible action with respect to pending litigation in Material Service Corporation vs. Rogers County Commissioners, CJ-2004-234, Mayes County CJ-2009-42, District Court of Rogers County, Oklahoma; and (b) James Darrin Hester vs. Board of County Commissioners, et al., Case No. 09-CV-394-TCK-FHM, United States District Court for the Northern District of Oklahoma –

No action taken

Commissioner Thacker made a motion to recess the meeting for five (5) minutes with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the meeting was recessed at 10:33 A.M.

Chairman Helm called the recessed meeting back to order at 10:39 A.M. with Commissioner Thacker and Commissioner DeLozier present and quorum established.

NOTEThe next item of business conducted by the Board was Unfinished Business***

NOTEAgenda Items 4, 5 & 7 were heard after Agenda Item 11***

4. Discussion and possible action to enter Executive Session for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaries public officer or employee, to wit: employment practices and procedures of Bob Anderson, Director of Emergency Management, as authorized by Title 25 O.S. § 307(1) – (D.A.) – Chairman Helm made a motion to adjourn Regular Session and enter Executive Session with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the Board adjourned Regular Session and entered Executive Session with District Attorney, Gene Haynes and County Clerk, Peggy Armstrong, at 11:02 A.M.

5. Motion and vote to adjourn Executive Session and enter Regular Session -

Chairman Helm made a motion to adjourn Executive Session and enter Regular Session with Commissioner Thacker seconding the motion at 11:51 A.M. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

6. Discussion and possible action with respect to employment practices and procedures of Bob Anderson, Director of Rogers County Emergency Management –
No action taken.

7. Discussion with possible action on Approval/Disapproval of signing of letter to Cassie Waters, Community Care, 218 West 6th Street, Tulsa, Ok 74119, effective January 1, 2010, we are requesting to change our termination date language to the following: for Rogers County employees that terminate their CommunityCare coverage, effective January 1, 2010, the termination date will change to “**any day of the month termination dates, not end of the month termination dates**” - (D#3)

Commissioner Thacker stated the letter is self explanatory, when someone leaves the employment of Rogers County for any reason, their benefits are to end the date of termination. Chairman Helm expressed that he feels it is a very good idea, because this is what you get into when somebody is terminated, they have until the end of the month before their benefits go away and they run down to the doctor, the dentist, and so on and get all fixed up at our expense. Then they can go to COBRA if they want to. Marilynn Gibson, 1st Deputy County Clerk, asked for clarification, that we are not talking about retirees, and Commissioner Thacker replied, no, we are talking about persons fired or quit.

Melanie Bardin, CommunityCare Marketing Service Manager, added that also includes anybody that may choose to end their coverage during open enrollment if they decide to come off the CommunityCare plan, not necessarily terminated employment, any kind of termination of CommunityCare coverage whether it is voluntary or involuntary, the coverage would terminate immediately upon that date instead at the end of the month. Bardin continued that it also affects the premiums that we charge at CommunityCare, if their coverage terminates from the 1st to the 15th, then obviously the premium would be charged and if they terminate on the 16th and after, then we will not be charged a premium for that month.

Commissioner Thacker made a motion to approve with Chairman Helm seconding the motion. Marilynn Gibson, 1st Deputy County Clerk, inquired does this also include dental, vision and life insurance? Chairman Helm replied any kind of benefit we pay for. Gene Haynes, District Attorney, inquired if that was through different companies and it so, suggested making it another agenda item for next week, because the agenda item for today only mentions CommunityCare. Chairman Helm asked these items be placed on the agenda for next week.

Melanie Bardin, stated she would contact Rebecca Vonfeldt with Employee Benefit Professionals, LLC, to have letters drafted for the dental, vision and life insurance companies. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

8. Discussion with possible action on Approval/Disapproval of County Clerk's Cash Book and Summary Report to the Board of County Commissioner's for October, 2009 – (County Clerk) – Commissioner DeLozier made a motion to approve with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

9. Acknowledgement of letter from Catoosa Public Schools has granted Rogers County permission to be on school property, west of McNabb Field Football Stadium, between the visitor bleachers and Cherokee Street to prepare the area for Parking Lot as well as, Softball/Baseball parking area – (D#2) –

Acknowledged for public record only, no action taken.

10. Discussion with possible action on Approval/Disapproval of Transaction Confirmation by and between TIGER, Inc., and Rogers County, Oklahoma, for natural gas services, based upon original contracted dated August 14, 2006 - ***NOTE***this item was tabled from November 2, 2009, meeting***

Peggy Armstrong, Rogers County Clerk, reported that Assistant District Attorney, Barry Farbro, had reviewed the Transaction Confirmation and noted the delivery period ending date read October 31, 2009, not 2010. Chairman Helm made a motion to approve with the noted ending date to read October 31, 2010, with Commissioner DeLozier seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried.

11. Discussion with possible action on Approval/Disapproval of U.S. Cellular Service Agreement on behalf of Rogers County Health Department for upgrading and renewing line #918-698-7904 with data service – (Health Dept.)

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

NOTEAgenda Items 4, 5 & 6 were heard by the Board after Agenda Item 11***

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 -

Commissioner Thacker made a motion to recess the meeting until 1:00 P.M. with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye. Motion carried and the meeting was recessed at 11:52 A.M. until 1:00 P.M. ***NOTE***Chairman Helm had excused himself from the meeting before it being recessed***

Chairman Helm called the recessed meeting back to order at 1:16 P.M. with Commissioner Thacker and Commissioner DeLozier present and quorum established.

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, November 9, 2009***Commissioner Thacker made a motion to approve payment of all purchase orders from all departments as submitted with Commissioner DeLozier seconding 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 – None presented that required Board action.

ITEM 19: RECESS OR ADJOURNMENT:

Commissioner DeLozier made a motion to adjourn the meeting with Commissioner Thacker seconding the motion. Roll Call: Helm-aye, Thacker-aye, DeLozier-aye. Motion carried and the meeting was adjourned at 2:24 P.M.

BOARD OF COUNTY COMMISSIONERS
ROGERS COUNTY, OKLAHOMA

By: _____
Peggy Armstrong, Rogers County Clerk

(SEAL)