

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, February 1, 2010, at 9:00 O'clock A.M.

MINUTES

ITEM 1: CALL TO ORDER:

Chairman Kirt Thacker called the meeting to order at 9:00 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 Kirt Thacker, Commissioner Dan DeLozier and Commissioner Mike Helm 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 Helm said a prayer.

ITEM 5: APPROVAL OF MINUTES: January 25, 2010

Commissioner DeLozier made a motion to approve the minutes from January 25, 2010, as presented with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

ITEM 6: UNFINISHED BUSINESS: None presented.

ITEM 7: ZONING: None presented.

ITEM 8: PLATS: None presented.

ITEM 9: ROADS AND BRIDGES:

1. Discussion with possible action regarding Approval/Disapproval of Bi-Annual Inspections of County Road System Bridges in Rogers County, for District #1, Contract #EC1232E;; Project #BR-NBIS(070)CO; State Job #12996(12); Bridge Inspection Invoice #66-BI-1-09 in the total amount of \$13,517.82; travel invoice; INV2 inspection form; invoice bridge listing report and ODOT Claim Form 324a – (D#1)

Commissioner DeLozier stated bridge inspections are done every year and made a motion to approve with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

2. Discussion with possible action regarding Approval/Disapproval of Easement for public highway by and between Thomas Bradley Day and Dana Jenise Day, husband and wife, grantors and County of Rogers, grantee, on a tract of land situated in the S/2 of Lot 3 of Morgans Acres Second, a subdivision in Section 23, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, according to the recorded plat thereof; on Project #STP-166C(210)CO; Job piece: 25427(04) Parcel #7 – (D#2) and

a. Easement for public highway by and between The Sanders Family Trust, dated February 27, 2006, as grantors and County of Rogers, grantee, on a tract of land being a part of Lot 4 Morgans Acres Second, a subdivision located in Section 23, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, according to the recorded plat thereof, on Project #STP-166C(210)CO; Job piece #25427(04) Parcel #3 – (D#2) and

b. Easement for public highway by and between The Sanders Family Trust, dated February 27, 2006, as grantors, and County of Rogers, grantee, on a tract land being a part of Lot 4, Morgans Acres Second, a subdivision located in Section 23, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, according to the recorded plat thereof, on Project #STP-166C(210)CO; Job piece 25427(04) Parcel #3.1 – (D#2) and

c. Utility Easement by and between The Sanders Family Trust, dated February 27, 2006, as grantors, and County of Rogers, grantee, on a tract of land being a part of Lot 4, Morgans Acres Second, a subdivision located in Section 23, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, according to the recorded plat thereof, on Project #STP-166C(210)CO; Job #25427(04) – (D#2) and

d. Easement for public highway by and between Preston Lakes Development Group, LLC, as grantors, and County of Rogers, grantee, on a tract of land situated in the NE/4 of Section 22, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, on Project #STP-166C(210)CO; Job piece #25427(04) Parcel #1 – (D#2) and

e. Easement for public highway by and between Preston Lakes Development Group, LLC, as grantors, and County of Rogers, grantee, on a tract of land situated in the Reserve Area of Preston Lakes III, an addition to the City of Owasso and a part of East Half of Section 22, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, according to the recorded plat thereof, on Project #STP-166C(210)CO; Job piece 25427(04) Parcel #5 – (D#2) and

f. Easement for public highway by and between The City of Owasso, grantors and County of Rogers, grantee, on a tract of land situated in the NE/4 of Section 22, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma, on Project STP-166C(210)CO; Job piece #25427(04) Parcel #4 – (D#2)

Commissioner Helm explained the items listed were for right-of-way easements and made a motion to approve #2, a, b, c, d, e & f under Roads and Bridges as presented with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

3. Discussion with possible action regarding termination of County Bridge and Road Improvement Fund Engineering Contract, State Project Number ER-STP-166CEr, State Job/Piece Number 25524, dated May 4, 2009, for Winganon Causeway, EW/300 Road, with Wingfield Engineering, LLC, P.O. Box 493, Antlers, Ok 74523 – (D#1)

Commissioner DeLozier explained this item was on the Winganon Causeway and the engineer on this project has not been able to stay with the work and Commissioner DeLozier made a motion to terminate the contract with Chairman Thacker seconding the motion.

Assistant District Attorney, Barry Farbro, pointed out the Independent Contractor's Agreement allows for termination with 15 days written notice to the contractor and the letter would be drafted later upon Board action taken.

Commissioner DeLozier amended his previous motion to terminate the contract and have Assistant District Attorney, Barry Farbro, to draft a letter to send to the contractor showing the contract be terminated as per the independent contractor's agreement allowing 15 days written notice with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

ITEM 10: CASH FUND ESTIMATE OF NEEDS AND REQUEST FOR APPROPRIATIONS:  
None presented.

ITEM 11: TRANSFER OF FUNDS:  
1. County Clerk part-time salaries to general government - \$2031.16  
Commissioner DeLozier made a motion to approve with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

ITEM 12: UTILITY PERMITS: None presented.

ITEM 13: CLAIMS:  
1. Salaries – None presented.  
2. Attendant Care – None presented.

ITEM 14: BLANKET PURCHASE ORDERS:  
1. Materials, Supplies, Parts, Groceries & Prescriptions –  
District #3: R & S Auto Parts, Claremore, \$500.00 – Chairman Thacker made a motion to approve the blanket purchase order as presented with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.  
2. Orders Exceeding Amount of Issuance – None presented.

ITEM 15: AGENDA ITEMS:  
1. Discussion with possible action regarding presentation by Adam L. Bland with Colonial Life of 2248 East 81<sup>st</sup> Street South, Suite 4020, Tulsa, Ok 74136 – (D#3)  
Adam Bland with Colonial Life did a ten-minute presentation to the Board and presented the Board with handout. Chairman Thacker made a motion for Colonial Life to present their package to the employees with time & date to be set up later and Commissioner DeLozier seconded the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

\*\*\*NOTE\*\*\*Items 13, 14 & 15 under Agenda Items were heard next by the Board\*\*\*

2. Discussion and possible action to encumber funds within a designated appropriation account for payment of costs to be incurred pursuant to a request to update the abstracts of title of the landowners of Lots 7 & 8, and portions of Lots 5 & 6 in Block 129 in the City of Claremore, Original Town, through Rogers County Abstract for delivery to the District Attorney's Office for a preliminary opinion of title in connection with the acquisition of property for new county courthouse purposes – (DA)

Assistant District Attorney, Barry Farbro, stated he and Commissioner DeLozier met individually with the landowners on the above listed property of John D. Willhoite and Bill Scarth. We want to make sure the county acquires good marketable title and the landowners requested their abstracts be sent to Rogers County Abstract for updating and in terms of anticipated

costs as far as encumbering funds, would estimate around \$1000 to have the abstracts brought up to date. District Attorney, Gene Haynes, recommended using the sales tax funds already collected for the Rogers County Courthouse & E911 Facility (Fund 006), because it does involve acquisition of land for the new courthouse. Chairman Thacker made a motion to approve and have the funds encumbered from Fund 006 with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

3. Discussion and possible action to encumber funds within a designated appropriation account for payment of costs to be incurred pursuant to the approval and execution of an independent contractor agreement for professional services to be provided by Don Wilson for appraisals of the commercial properties and businesses located on Lots 7 & 8 and portions of Lots 5 & 6 in Block 129 in the City of Claremore, Original Town, in connection with the acquisition of property for new county courthouse purposes (DA)

Assistant District Attorney, Barry Farbro, explained this item was as a result of discussions that were conducted with Bill Scarth and John D. Willhoite about the properties listed above on the agenda and located east across the street. Both landowners suggested Don Wilson with Don Wilson Appraisal Group perform the appraisals of the properties. Farbro commented while in private practice used Mr. Wilson, he's an excellent appraiser and meets all the qualifications to do this job and recommended the Commissioner's appoint him, subject to encumbering the funds and execution of the county independent contractor's agreement, based upon the request of the landowners. Commissioner DeLozier made a motion to approve with Commissioner Helm seconding the motion. \*\*\*NOTE\*\*\*the County Clerk's Office was instructed to encumber the funds out of Fund 006 Rogers County Courthouse & E911 Facility\*\*\* See also letters from Don Wilson Appraisal Group for proposals regarding a complete appraisal report for property owned by Clermont Properties, Inc., located at 421 West Patti Page Blvd, Claremore, Ok, in the estimated amount of \$3600 and property owned by Bill Scarth located at 214 South Missouri, Claremore, Ok, in the estimated amount of \$2800.\*\*\* Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

4. Discussion and possible action regarding the declaration of a local emergency and temporary waiver of competitive bidding procedures to purchases that may expedite a response to the emergency situation, together with the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster, pursuant to Title 63 O.S. Section 683.11 and Title 19 O.S. Section 1501(3)(g) –

Gene Haynes, District Attorney, explained Bob Anderson, Emergency Management Director, placed this item on the agenda. Haynes did issued a letter to all the county officers in Craig, Mayes and Rogers counties on January 28, 2010, regarding Emergency Declaration-Competitive Bidding Procedures; when the Governor declares an emergency in a county, the District Attorney of that count shall have the authority to temporarily waive competitive bidding procedures for purchases that may expedite a response to the emergency situation. Haynes reminded the Board this only applies to those purchases that directly respond to the anticipated winter storm and any damage it may cause.

Assistant District Attorney, Barry Farbro, informed the Board Bob Anderson, Emergency Management Director, requested this item be placed on the agenda, even though the Governor had declared an emergency in all 77 counties in Oklahoma, it was his impression the Commissioner's also should declare a local emergency in order that it would be clear that the county wanted to be considered a county that would seek available state and federal emergency relief funds. Chairman Thacker made a motion to approve signing of the Disaster Emergency Proclamation with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

5. Discussion and possible action to determine whether sales tax revenue bonds for funding a new county courthouse and E911 facility will be issued through an existing public trust authority with amendments, or through a newly created public trust authority – (DA)

Gene Haynes, District Attorney, explained this is a matter that needs to be decided by the Board of County Commissioner's as to what public trust should be the issuer of the bonds for the building of a new courthouse and E911 facility. This is a decision that needs to be made before Greg Nieto is able to go out and pursue his job further in trying to sell the bonds.

Chairman Thacker explained that we need to move forward now so we can get the best possible interest rates, because they could move in the wrong direction we are going to lose a lot of buying power. Rogers County Industrial Development Authority (RCIDA) is equipped to handle this particular situation, if the Board approves it today, which will move the process along.

Commissioner Helm suggested the three members of the Board of County Commissioner's along with Senator Sean Burrage and Representative Tad Jones serve as a new public trust authority

Commissioner DeLozier commented that RCIDA had not discussed any matters with him about the situation and I don't know exactly what they can do and can't do. They have not talked to me personally, I've only heard of some of the discussion. DeLozier suggested tabling this item for one week so discussions could take place before a decision to be made.

Don Cochran, RCIDA Director, explained that RCIDA had talked to the courthouse committee and informed them we could handle this and we were actually waiting for their recommendation to the Board, and to my knowledge they have not given the Board a recommendation.

Larry Steidley, RCIDA attorney, stated to Commissioner DeLozier that RCIDA would be happy to get together to discuss the matter and answer any questions you might have. We found out about this item being on the agenda for the Commissioner's meeting yesterday, and what every questions you might have now or would like to formulate a list of questions, we would be happy to answer those either now or later.

Assistant District Attorney, Barry Farbro, pointed out to the Board that courthouse committee members, Bill Higgins and Judge Sheila Condren were present in the audience. Farbro informed Mr. Steidley that the agenda was e-mailed to Don Cochran Thursday afternoon, January 28<sup>th</sup>, as soon as the County Clerk published it. Cochran stated he did not receive the e-mail. Farbro continued it was e-mailed to the e-mail address he had for RCIDA on Thursday, as a courtesy.

Bill Higgins, courthouse committee chair person, informed the Board that on a number of occasions at the meetings that the committee had there were discussions about working with RCIDA in this matter and probably what happened was the discussions held were not reflected in the minutes of the courthouse committee meetings, but there have been discussions.

Judge Sheila Condren, added this particular item is on the courthouse committee's agenda for Wednesday, February 3<sup>rd</sup>, so that we can have a formal recommendation and all these issues can be discussed and asked this item be tabled for another week so a full and open discussion and hearing about this matter.

Commissioner DeLozier made a motion to table this item for one week (February 8, 2010) with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

6. Discussion and possible to renew or terminate the annual Agreement for Economic Development Services dated September 28, 1998, between the Board of County Commissioners (BOCC) and Rogers County Industrial Development Authority (RCIDA), effective as of June 30, 2010 – (DA)

Barry Farbro, Assistant District Attorney, informed the Board that Items 5, 6 & 7 under Agenda Items were placed on the agenda by the D.A.'s office after discussions with bond counsel and financial adviser and they indicated these are issues that Rogers County needs to resolve fairly quickly.

Farbro continued that the basis for Item #6 is the financial adviser has recommended that all proceeds of the county use tax be pledged because of additional security for the bond issue and if those funds are subject to a contractual arrangement or agreement, then they are restricted to that contract and the District Attorney's office agrees with that. In order to have those funds potentially available to pledge, not necessarily used, but to pledge, which would result in better terms and a better rate, according to our financial adviser to not renew the contract. It was suggested that funds from the use tax could be made available to RCIDA by virtue of a resolution, which would be similar to the contract, would be renewed annually. The Commissioner's would have the option to renew the resolution, repeal the resolution at any time or amend the resolution.

Chairman Thacker stated RCIDA has to have a certain amount of money to operate on and use tax has been going up these past few months, but they already have plans in place for the future, so how could we continue to fund RCIDA through the use tax, what other option do we do? Right now they get 100% of the use tax, so do we appropriate like we do the other county officers? Farbro answered, that is one option, the Board could appropriate a specific amount at budget time.

Farbro continued to explain, the contract runs through June 30, 2010, so any action today would not affect the duration of the contract. It is merely giving RCIDA advance notice whether or not the Commissioner's are deciding to renew that contract or look at some other option for funding.

Commissioner DeLozier stated it has been discussed that part of the money is going to have to go towards a new courthouse, so the contract we have now is not going to be any good anyway. Farbro commented it is good unless the Board elects not to renew it.

Gene Haynes, District Attorney, explained that the next item on the agenda is to discuss where additional funding will come from for retirement of the bonds and I would have to correct you in that I'm not aware of it ever being decided yet. Commissioner DeLozier agreed, but it has been discussed. Even if the Board decides not to change their funding at all and not take any of the use tax from RCIDA, it is still recommended that you terminate the contractual agreement, because you have a contract dedicating all the money to them, then you will be unable to pledge that for retirement of the bonds as Mr. Greg Nieto has recommended. The contract in place is binding and the contract automatically renews, unless you terminate it. Unless some action is taken before the end of May 2010 to terminate the contract it is going to automatically renew for all of next year and this is to give the Board flexibility of whether you decide to use any use tax money for the courthouse or not, it is recommended that you terminate this agreement. And then whatever money that you decide to give RCIDA whether it be all of the use tax or a portion of the use tax, that can be done by resolution. And then if the county got into hard economic times or the amount of sales tax was not sufficient to pay the bonds or whatever might happen, you could come back and amend that resolution, for instance if there was a budget shortfall in general government. By doing it that way it would give the Board flexibility, whereas, right now, the Board is under a contract.

Chairman Thacker asked, if we determine that we want to not renew the contract, in any way does this dissolve or have the potential to dissolve RCIDA, because I'm a believer in what they do for the county and I don't want to start a change of events here that kills that.

Haynes replied, that does not mean that you could not continue to fund RCIDA, you could continue to fund them, it just would not be through a contract, it could be through an appropriation or a resolution. Technically, if you completely cut off the use tax to RCIDA, that is not going to dissolve them, they could still operate, just not as well. They could still operate. This gives the Board flexibility to pledge the monies now going to them for retirement of the bonds, so we can get better rates on the bonds. Taking this action does not decide how much you are going to fund them in the future, that is the next item on the agenda. This is just to get the county out of the binding agreement that takes away the flexibility.

Commissioner DeLozier stated that he has no intentions of doing away with RCIDA, because they are good at what they do and Rogers County is lucky to have them. And I don't feel any body here has that feeling of doing away with them.

Farbro made a focal point that RCIDA was created in 1980 and the use tax was not available until 1999, they existed before the use tax and I presume they will exist after the use tax, they do not exist by virtue of this use tax, so if you amend the agreement that provides the net proceeds of the use tax, that does not have any existence on RCIDA from a legal standpoint.

Don Cochran, RCIDA Director, stated the way RCIDA was funded before was found to be unconstitutional and the county did not collect use tax until Jim Summerlin, former director of RCIDA, got a law passed where counties could draw a use tax and before use tax, RCIDA did nothing because of lack of funding.

Commissioner Helm asked of Gene Haynes, District Attorney, are we going on the assumption, tell me why we have to dissolve it. Haynes explained, this has nothing to do with dissolving RCIDA and it has nothing to do with their funding. This item has to do with, right now there is a contract in place that was signed in 1998 that says that Rogers County will give to RCIDA all use tax that comes in to Rogers County and that contract is for each fiscal year and if that contract is not cancelled 30 days before the end of the fiscal year, it will automatically renew and as it stands today none of that use tax can be used for the retirement of the bonds, because it is obligated to RCIDA through a contract at 100 % and that contract will automatically renew, unless you cancel it. Which means for years into the future, it will continue on 100 % of the use tax going to RCIDA. Even if you continue to give RCIDA 100 % of the use tax in the future, you would not be able to pledge that for retirement of the bonds, unless you terminate the contract, even if it becomes necessary. This is so the county will no longer be contractually obligated from now on to give them 100 % of the use tax.

Judge Sheila Condren inquired, why couldn't the contract be modified? Condren wanted to make it clear that the committee never ever talked about dissolving RCIDA. Some discussion was that RCIDA would be a good vehicle for doing the bonding, be used as a pass-through.

Farbro answered, the problem with the contract is, it contractually binds the county to pay monthly the net proceeds of the use tax, therefore, the funds are restricted for that use only and if they are restricted they may not be pledged as additional security for the bond and if we don't have that option, then we don't get as good a rate or terms. Just like a bank loan, the more collateral you have to pledge the better terms and rate you are likely to get.

Larry Steidley, attorney for RCIDA, commented there is definitely other ways of doing it, and on behalf of RCIDA, I would ask you table this item for today, so RCIDA could come up with some ideas and options in working with the Commissioner's and the D.A.'s office, quite frankly I have not had more than a days notice and haven't had time to think about it. My initial observation of the resolution idea, I understand what the District Attorney is talking about in wanting to have the Board in a position where basically you could get out of an obligation to fund an entity at any time you want, which is what you are saying, but yet how then would that entity budget itself in all fairness. Any contract with RCIDA is year-to-year, the automatic extension would not be enforceable because of debt limitations. There is a variety of options available and if the Board would table this item for now so we could discuss these alternatives further.

Farbro informed the Board this item was placed on the agenda, because non-renewal of the contract was a recommendation of bond counsel and financial adviser and we are giving RCIDA significant advance notice that the contract may not be renewed and at the same time they will be receiving the funds through June 30, 2010, and gives RCIDA adequate time to present an estimate of needs and requirements to continue operations.

Commissioner Helm made a motion to table this item for one week (February 8, 2010) with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

7. Discussion and possible action to establish other sources of funding the payment of the sales tax revenue bonds to be issued in connection with the construction of the new county courthouse and E911 facility, in addition to the net proceeds from the 1/6 of one percent county sales tax approved by voters on December 8, 2009 – (DA)

District Attorney, Gene Haynes, the committee made a recommendation to the Board to go forward with the construction of a new courthouse as drawn in the preliminary plans. There has also been discussion with the architects and financial advisers in meetings in the past that it is estimated that the 1/6 of a cent sales tax will generate about \$1.1 million dollars a year for retirement of the bonds, however for the courthouse that has been drawn up and proposed it will take \$1.5 million dollars to retire the bonds that will be necessary to build that particular courthouse. So there is a difference of \$400,000.00 between what the sales tax will bring in and what this particular

courthouse will cost. And even though there has been discussion and believe it was recommended by the committee that a combination of funds from general government and use tax funds to make up the \$400,000.00 difference. What has never been officially decided by the Board of County Commissioner's is where the \$400,000.00 would come from and this will have to be decided before we can move forward. And we, the District Attorney's office, put all three of these items on the agenda, because these are things have to be done before our financial adviser can move forward with selling of the bonds.

Commissioner DeLozier made a motion to table this item for one week (February 8, 2010) with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

8. Discussion with possible action regarding acceptance of letter of resignation from Jack D. Mooney from the City of Tulsa-Rogers County Port Authority Board of Directors – (D#1)

Chairman Thacker read the letter that was sent to Commissioner DeLozier about the resignation of Jack D. Mooney and his recommendation to appoint Steve Dowty as his successor on the Port Authority Board. Commissioner DeLozier made a motion to accept the resignation of Jack D. Mooney from the City of Tulsa-Rogers County Port Authority Board of Directors with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

9. Discussion with possible action regarding recommendation of Steve Dowty, President of Steel Service Company, to fulfill the remaining term of Jack D. Mooney, to the City of Tulsa-Rogers County Port Authority Board of Directors – (D#1)

Commissioner DeLozier explained he had visited with Steve Dowty and felt he would be a very good member and made a motion to approve with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

10. Discussion with possible action on presentation to the Board person(s) who filed for Fair Board Members – (Clerk)

Peggy Armstrong, County Clerk, informed the Board that there was a filing from each district as follows: District #1: Tony Carlson; District #2: Lyle Blakley and District #3: Terry W. Hughes, Sr. Chairman Thacker inquired what if someone tried to file Friday, January 29<sup>th</sup>, since it was published in the newspapers that Fairboard filing period would be from Monday, January 25<sup>th</sup> through Friday, January 29<sup>th</sup> from 8:00 A.M. to 4:30 P.M. in the County Clerk's Office.

Assistant District Attorney, Barry Farbro, recommended to the Board extend the filing period through 4:30 P.M. today, February 1<sup>st</sup>, due to the fact the courthouse was closed. Generally the law requires you to extend that period for an additional day. No action taken.

11. Discussion with possible action on Approval/Disapproval of setting limit for number of employees benefits being paid out of general fund for County Commissioners and other elected officials and department heads – (D#3)

Chairman Thacker stated he placed this item on the agenda, because we tend to be taking too many employee benefits out of general fund, since the county pays the employee's benefits, and feel this needs to be discussed because of economic times and general government funds are being drained. Every office should have a limit on number of employee's benefits that can come out of general fund. We need to plan for the future with economic situations and rather than wait until it gets bad, we need to plan for the future while we are better equipped to do so.

Marilynn Gibson, County Clerk 1<sup>st</sup> Deputy, stated she took figures from January's payroll and for District #1 they have 24 full time employees with benefits; District #2 has 24 full time employees on benefits and District #3 has 27 full time employees with benefits.

Melissa Anderson, Rogers County Assessor, reminded the Board that the count officers already have a set amount of employees they can have in their offices respectively with benefits. Anderson suggested before any officer or department adds a new employee or a part-time employee with benefits, that would exceed the limit that was established some years ago, that should have to come before the Board of County Commissioner's and be requested that they go on benefits, because approximately \$1000 comes out of general government and general government has limits.

Chairman Thacker continued that he is trying to avoid the limit and discussions need to be held about this. Commissioner DeLozier stated most departments/offices already have limits and Anderson replied, yes, but a limit needs to be set by the Board per office on how employees can draw benefits and then each office will have to work within their budget or before the add someone else to be put on benefits, they would have to get the Board's approval and the Excise Board's approval.

Gene Haynes, District Attorney, pointed out anytime as to the number of employees that you have, that takes Excise Board approval whether full time or part time. Your budget is approved for a certain amount and a certain number of employees. Haynes continued that maybe this needs to be looked at and see whether even hiring part-time employees needs to have Excise Board approval. Commissioner DeLozier stated that all employees get Excise Board approval. Anderson replied, but the problem is when the Excise Board member's are approving part-time help for employees, they are not realizing the benefit funds will be coming out of general fund.

Haynes continued whatever the Board decides it still needs to be a recommendation to the Excise Board, so the Excise Board can all be on board with what is happening. Chairman Thacker stated he was putting it on notice that the Board needs to seriously look at all budgeting options for the future.

Commissioner DeLozier stated he felt it needed to be discussed and setting a limit with all departments/offices and have it in writing so the Board knows where general fund monies is be spent exactly. Chairman Thacker pointed out the Assessor's Office has had two positions open for the past seven years, since Anderson became County Assessor, and she has not hired anyone for those positions, which originally the Assessor's Office was budget for 16 employees plus the officer, so the other offices are aware already of the number of employees that are limited too, this would mostly affect the Commissioner's and the Sheriff's office. We need to get the limits set now before budget time so everyone is on Board and knows what is expected. Haynes stated the Excise Board needs to be educated about this process also, because it is up to the Excise Board whether they approve additional employees or not.

Chairman Thacker made a motion to table this item until further notice with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-nay. Motion carried.

Commissioner Helm stated how much money does the Commissioner's get for the county warehouse out of general fund now, we use our one-cent money and we are going to be going through re-districting in less than nine months and we could pick up a ton of road miles that we will have to take care of, which would limit you on how employees you could have and we have no way of knowing how many more employees we might need at the county warehouses. Commissioner DeLozier stated we could still pass it through a meeting and inform the Excise Board so we would know better where general fund stood.

12. Discussion with possible action regarding Approval/Disapproval of County Clerk's Cash Book and Summary Report to the County Commissioner's for January 2010 – (Clerk)

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

13. 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, to wit: James Darrin Hester vs. Board of County Commissioners, et al., Case No. 09-CV-394-TCK-FHM, in the United States District court for the Northern District of Oklahoma, as authorized by Title 25 O.S. § 307(4) – (DA)

Chairman Thacker made a motion to adjourn Regular Session and enter Executive Session with the advise of legal counsel, Assistant District Attorney, Barry Farbros, and Commissioner DeLozier seconded the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried and the Board adjourned Regular Session and entered Executive Session at 9:20 A.M. with Thomas LeBlanc with Best & Sharp law firm, Assistant District Attorney, Barry Farbros, Sheriff Scott Walton and County Clerk, Peggy Armstrong.

14. Discussion and possible action for motion and vote to adjourn Executive Session and enter Regular Session –

Chairman Thacker made a motion to adjourn Executive Session and enter Regular Session with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried and the Board adjourned Executive Session and entered Regular Session at 9:44 A.M.

15.. Discussion and possible action with respect to the pending litigation or proceedings in James Darrin Hester vs. Board of County Commissioners, et al., Case No. 09-CV-394-TCK-FHM, in the United States District Court for the Northern District of Oklahoma – (DA)

No action taken.

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 -

Joy Hampton with the Claremore Daily Progress commented on Item 15 Agenda Items #6 and #11.

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, February 1, 2010\*\*\*Chairman Thacker made a motion to approve payment of all purchase orders from all departments as presented with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-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.

ITEM 19: RECESS OR ADJOURNMENT:

Commissioner DeLozier made a motion to adjourn the meeting with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried and the meeting adjourned at 11:34 A.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, January 28, 2010, at 3:03 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.*