

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 8, 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: February 1, 2010

Commissioner DeLozier made a motion to approve the minutes from February 1, 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 Rogers County District No. 3 soliciting for engineering and design services for Bridges #107 & #108 Chouteau Creek & Tributary to Chouteau Creek CIRB-166C(212)RB, J/P25480 – (D#3)

Chairman Thacker he wanted to send letters to engineers soliciting for their services and made a motion to approve with Commissioner DeLozier 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 Freddie E. Burson, grantor and County of Rogers, grantee, on a tract of land located in the N/2 of the Northeast Quarter of Section 18, Township 19 North, Range 17 East of the I.B.&M., Rogers County, Oklahoma, containing 0.48 acres on Project #BRO-166D(140)CO, Job #21491(04) Parcel #1 – (D#3) and

a. Easement for Public Highway by and between Freddie E. Burson, grantor and County of Rogers, grantee, on a tract of land located in the Northwest Quarter of Section 17, Township 19 North, Range 17 East of the I.B.&M., Rogers County, Oklahoma, containing 0.50 acres on Project #BRO-166D(140)CO, Job #21491(04) Parcel #2 – (D#3) and

b. Temporary Easement by and between Freddie E. Burson, grantor and County of Rogers, grantee, on a tract of land in the Northwest Quarter of Section 17, Township 19 North, Range 17 East of the I.B.&M., Rogers County, Oklahoma, containing 0.12 acres on Project #BRO-166D(140)CO, Job #21491(04) Parcel #2.1 - (D#3) and

c. Easement for Public Highway by and between Freddie E. Burson, grantor and County of Rogers, grantee, on a tract of land located in the S/2 of the Southeast Quarter of Section 7, Township 19 North, Range 17 East of the I.B.&M., Rogers County, containing 0.28 acres on Project #BRO-166D(140)CO, Job #21491(04) Parcel #3 – (D#3)

Chairman Thacker stated these items were for a bridge located in Inola that District #3 is currently working on. Chairman Thacker made a motion to approve with Commissioner DeLozier 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. Health Department salaries to M&O - \$38,678.53
2. Sheriff Courthouse Security M&O to Salaries - \$408.60
3. Sheriff Courthouse Security M&O to Salaries - \$15,000.00
4. Treasurer Certification Fees Salaried to Part-Time Salaries - \$407.16

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

ITEM 12: UTILITY PERMITS:

1. Rural Water District #3, Rogers County – boring county road East 76<sup>th</sup> Street North lying between Sections 27 & 34 of Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma – (D#2)

Commissioner Helm commented this permit was for boring only and made a motion to approve with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

2. Cox Communications – boring & trenching Rose Glen Drive approximately 769 feet East of South Haven Road being located in Section 19, Township 21 North, Range 16 East of the I.B.&M., Rogers County – (D#3)

Chairman Thacker explained this was a continuation of the boring & trenching on Rose Glen Drive, which was approved by the Board a few weeks ago, but we didn't approve from Southaven to the addition. Chairman Thacker made a motion to approve with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

ITEM 13: CLAIMS:

1. Salaries – Robin LePage - \$65.79

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

2. Attendant Care – None presented.

ITEM 14: BLANKET PURCHASE ORDERS:

1. Materials, Supplies, Parts, Groceries & Prescriptions –

District #1: Everett Terry, \$200.00; and R & S Auto Parts, Chelsea, \$600.00  
Commissioner DeLozier made a motion to approve the blanket purchase orders as presented with Chairman Thacker 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. Report of Rogers County Courthouse, Count-Wide 911 and Jail Committee on recommendations of the committee to the Board of County Commissioners for issuance of bonds and construction of the new courthouse and E911 facility – (DA)

Bill Higgins, committee chairperson, reported to the Board the committee met last Wednesday, (February 3<sup>rd</sup>) and the recommendation the committee would like to make to the Board of County Commissioner's is subject to an amendment to the contract the Board has with Rogers County Industrial Development Authority (RCIDA), that they be used as the trust authority for the issuance of the bonds for the courthouse and E911 center.

Chairman Thacker inquired about the vote of the committee and Higgins replied it was unanimous. Not all committee members were present, but it was a consensus.

Chairman Thacker commented that for the record, he abstained from the vote taken by the committee.

Higgins reported the two other items discussed, one of them dealt with using the Criminal Justice Authority to provide administrative oversight for the E911 center and it was a unanimous agreement they would act in that capacity. The last item discussed was whether or not to consider using a construction manager or a general contractor on both of the projects. The architects were present at our committee meeting and discussed the pros and cons and after listening to both the pros and cons, the committee believes based upon what a construction manager should do, that would be the best way to go and we are recommending to the Board today, consider hiring a construction manager at-risk to provide oversight of the construction of both projects because of the cost savings and a better product at the end of the day because of the fiduciary relationship they would have with the Board of County Commissioners. These last two items were also a unanimous by the committee to recommend to the Board. Higgins continued the committee asked the architects to provide the Board with some names of people they have worked with in the past that could act as a construction manager, if that is the way the Board decides to go today.

Assistant District Attorney, Barry Farbrow, commented the Board needs to have it clarified as to what the committee meant subject to amendments, because there was a couple of different amendments discussed. One had to do with amending the current agreement. Higgins stated in order for this project to get off the ground as soon as possible, there has to either be a termination of that contract because of the ability to have access to that money or an amendment of that contract. What we were talking about was the possibility of the Board of County Commissioners and RCIDA amending that contract as it relates to the amount of money that would go to different aspects. Our recommendation was there me an amendment to the contract. Discussion only, no action taken.

2. Discussion and possible action to create a new public trust authority to issue sales tax revenue bonds for funding a new county courthouse and E911 Facility, or issue such bonds

through the Rogers County Industrial Development Authority or other existing public trust authority -  
\*\*\*NOTE\*\*\*this item was tabled from February 1, 2010, meeting\*\*\* (DA)

Commissioner Helm asked, why can't we use the Criminal Justice Authority that is already in place and amend that trust agreement, because it represents all the mayors in Rogers County since the tax is collected county-wide and is there any reason we can't use the mayors?

Barry Farbro, Assistant District Attorney, stated the trust document would have to be amended, because the trust agreement is very specific and that trust authority was established for jail and other detention facilities only. From a legal standpoint it could be amended, but from a practical standpoint, maybe. I talked about this with Tom Hilborne, Friday, and his firm was bond counsel for the jail financing and in order to amend that trust agreement you would need a unanimous consent of the existing trustees and also the beneficiaries. While Rogers County is the primary beneficiary, the municipalities are also beneficiaries, so therefore, their governing bodies would also need to approve the amendment of that trust agreement in open meeting in front of their respective city councils, so there would be potentially significant delay until those municipalities could meet and also, there is always the possibility that one of the municipalities might not agree to amending the trust. And if that happens there would be no amendment. It is legally possible to amend the trust document, but there is no guarantee that all of the trustees and all the beneficiaries would agree to amend it. There are eight trustees of which three of them are the Commissioner's with six beneficiaries, Rogers County and the five municipalities.

Chairman Thacker expressed that hundreds of thousands of dollars when the interest rates move and forming a new trust could possibly delay things from a minimum of four to six weeks.

Commissioner DeLozier asked, if we amend the trust agreement with RCIDA to place, either, one, two or three Commissioner's on the board, what is the time frame involved? Farbro stated it requires the same legal procedure as amending our jail trust authority, it requires unanimous consent of the trustees and also unanimous consent of the beneficiary, which in this case there is just one beneficiary, Rogers County. Farbro expressed it would be easier to amend RCIDA's trust agreement.

Commissioner DeLozier expressed concerns over the legal fees for the bonds, because these are tax dollars we are talking about, no matter who spends it. Don Cochran, RCIDA Director, stated legal counsel would be involved and they would be expected to be paid. DeLozier stated some of the discussion at the committee meeting was the RCIDA would be willing to pick up the legal fees and I would like to have an idea of what the legal fees would cost.

Janice Steidley, colleague of Larry Steidley, attorney for RCIDA, was present at the meeting and stated it would be a definite figure so everyone would know.

Farbro clarified, there are two lawyers involved in this transaction, one is Tom Hilborne and his law firm with which the county is contracted, and his fee under the contract is ½ of 1% of the bond issue and the financial adviser has a similar fee. My understanding is, historically, the trust authority also has legal counsel that must provide an opinion letter that basically says everything in connection with this bond issue was done legally and proper and for that legal counsel gets a fee. The issue sometime becomes does local counsel get the same fee as the county's bond counsel, sometimes they claim that amount and sometimes they claim less and sometimes they might bill based upon an hourly rate. There is different ways to calculate the fee of local counsel. There have been situations in the past for bond issues, whether it be municipal, schools, etc. that the local trust authority counsel took the same fee. But, most attorney fees are negotiable.

Janice Steidley commented that Mr. Steidley would agree with Farbro's comments and would be more than willing to speak to whomever he would need to about that and be open for negotiations. Gene Haynes, District Attorney, pointed out the D.A.'s office could not serve as local counsel for RCIDA, but if it was a different trust authority we have served as local counsel in the past on the Mayes County courthouse. Chairman Thacker asked Commissioner Helm if he was for the new courthouse or was he against it and Commissioner Helm replied it was not a topic listed on the agenda to discuss with Chairman Thacker replying that's what I thought, thank you, you just answered by question. Higgins pointed out that one of the discussions the committee had was use of local counsel and apparently, these bonding companies when they look at the rates they are going to give these bonds, they are going to look at the experience that people have had in these projects before and one of the things Tom (Hilborne) & Greg (Nieto) both talked about was the fact that RCIDA has done these projects and Mr. Steidley has done in the past acted as local counsel. He knows something about it and it is a very, very specialized area.

Farbro continued this was discussed at the committee meeting Wednesday, and typically the financial adviser and bond counsel fees come out of the bond issue and Mr. Cochran has asked me whether or not local counsel fees would also come out of the bond issue and typically they do. However, Wednesday night, it was discussed that RCIDA would consider and maybe discuss the possibility of RCIDA paying their attorney fees for the bond issue out of their budget, but that would be something they would have to discuss and approve at their next available meeting.

Chairman Thacker we need to move on this now and the quickest way is through RCIDA even though I have a couple of issues with them, they to have the experience and their attorney has done this before and is also experienced. Chairman Thacker made a motion issue the bonds based on the recommendation from our committee to go with RCIDA. Commissioner DeLozier expressed he would like to know the issues of Chairman Thacker before he voted.

Chairman Thacker stated in the meeting there were some statements made by

a committee member that there was no lack of oversight over RCIDA and perception is some folks reality. Even in their contract between the Board of County Commissioner's and RCIDA, one of the issues is, further RCIDA shall permit and assist county's auditor in auditing RCIDA's books pertaining to this economic development agreement. They do a monthly report and a yearly report and at anytime we can go down there and audit their books. So the issue was the lack of oversight, I believe that was a perceived issue. I do have an issue with a couple of expenditures they have made, and I have visited with Don about that, but not to the point of not using RCIDA's expertise and as a conduit for the bond issue.

Commissioner DeLozier seconded the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

3. Discussion and possible action to terminate effective June 30, 2010, the annual Agreement for Economic Development Services dated September 28, 1998, between the Board of County Commissioners and Rogers County Industrial Development Authority in order to make county use tax proceeds available as an additional source of funds for payment of the sales tax revenue bonds to be issued for purposes of a new county courthouse and E911 facility -  
\*\*\*NOTE\*\*\*this item was tabled from February 1, 2010, meeting\*\*\*(DA)

Assistant District Attorney, Barry Farbro, stated this item was discussed in detail last week and the Board should be aware of all the issues and considerations. Chairman Thacker commented about a mention of a contract amendment in the last meeting and that is not what is on the agenda, what is on the agenda is to terminate the contract. Farbro continued the contract is renewable annually, so it is either renewed or terminated and once terminated it is subject to re-negotiations.

Chairman Thacker continued, in mentioning the comment of perceived lack of oversight, if the contract is terminated and then the Board of County Commissioner's appropriate money to them just like we do to every elected official or department head, wouldn't that give more oversight over that?

Farbro clarified if the Commissioner's vote to terminate the agreement, then legal counsel would present another agreement. It would be my recommendation that the Board enter into another agreement for economic development services. Two different things can be done, you can have an agreement to provide services and a resolution to provide funding. My recommendation would be to terminate the existing contract or non re-new it effective the expiration date, but the Board would need to enter into another agreement for economic development services. But it would not contractually bind the county to pay 100% of the net proceeds of the use tax. This is the only real issue that we are talking about, because those use tax funds are legally bound to the contract. A very similar agreement could be presented to RCIDA, but it would not contain that provision of binding the use tax to that contract.

Chairman Thacker made a motion to terminate the existing contract effective June 30, 2010, with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-nay. Motion carried.

4. Discussion and possible action to establish other sources of funds for 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 - \*\*\*NOTE\*\*\*this item was tabled from February 1, 2010, meeting\*\*\* (DA)

Judge Sheila Condren, courthouse committee member, brought everyone up to date and what was needed to fulfill the project was a funding stream of about \$1.5 million dollars per year and the tax will generate about \$1.5 million dollars per year, there is an additional \$400,000.00 that needs to be identified to make up that difference for bonding. That needs to be identified now so they can go forward with the bonding. What has been discussed in the committee meetings is maybe half coming from RCIDA and half from general fund.

Don Cochran, RCIDA Director, stated this had been discussed with RCIDA board members, but not approved, because we never heard of an exact amount being presented.

Commissioner DeLozier stated in not knowing what our budget will be this year how could general government funds be used and if general fund would have \$200,000.00 to give right now. It needs to be looked into.

Commissioner Helm commented the citizens were asked to vote for the courthouse and to operate on the 1/6 of a cent and now we are talking about more monies. How many years are we looking at for these monies wherever the money comes from? Judge Condren replied 30 years, but you have to understand those figures is conservative and using no growth in the county for the next 30 years, none at all, which is a very conservative way to figure that. Just like when the jail paid off six years early because of the increase in sales tax revenues. If you assume there is just small growth, it won't be for 30 years.

Commissioner DeLozier inquired of Judge Condren, your initial recommendation to the Board included the monies coming from some other funding sources, this has never been a hidden issue with the voters, it has been presented the whole time. Judge Condren answered, yes, that is in the report that we gave to the Board of County Commissioner's that was accepted and approved by the Board before the vote. Chairman Thacker suggested taking no action on since we did not know what the budget figures were going to be.

Farbro spoke about the figures that Greg Nieto provided to committee and the Board were based upon conservative estimates the 1/6 of a cent sales tax would generate approximately \$1.1 million dollars in revenue per year, based upon current economic conditions.

The anticipation is the economy will improve and more sales tax will be generated. And along those same lines, because he also said it would take approximately \$1.5 million dollars per year to pay the interest and interest on the bonds. Tom Hilborne recommended that the county dedicate 100% of the use tax toward payment of the bond obligation and whether or not 100% of the use tax would be used for that purpose or not, but to pledge that additional income stream would result in better terms and rates. Based upon what has happened today, 100% of the use tax as of July 1<sup>st</sup> isn't dedicated for anything. It may be used for county general fund or other lawful purpose. It is available to be pledged and that is another timely issue for the Board to consider, the same as deciding which public trust would issue the bonds. That same transaction needs similar action by the Board to say use tax funds are available to pledge. But that doesn't necessarily mean that all 100% will be used, so there would be funding available for other government purposes including RCIDA.

Gene Haynes, District Attorney, clarified that the District Attorney's office as far as legal counsel, we're not taking a position on where that money should come from. Because if you take it from county government, that could have some effects on county budgets and if you take it from RCIDA that will have a big effect on their budget. It is a very tough decision for the Board that will have to be made, we are not recommending one way or the other where the monies come from. Mr. Farbro is saying, in order to get a better rate of interest as long as we have pledged all we can and before Mr. Nieto can move forward in marketing the bonds, he needs to know if the \$400,000.00 is going to be there or not.

Chairman Thacker made a motion to pledge use tax monies for bonding capacity as another source of funds with Commissioner DeLozier seconding the motion. Commissioner DeLozier stated he wanted to make it real clear because it has been blown out of proportion so bad, we are not here to get rid of RCIDA, don't get that feeling by any means. But we've got to figure out a way of doing this and I think we can do this in the long run, it will take some time but if we all work together it will work. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

5. Discussion and possible action to request that Rogers County Industrial Development Authority amend or terminate effective February 28, 2010, the current Agreement for Economic Development Services with the Board of County Commissioners in order to make county use tax proceeds available on March 1, 2010, as an additional source of funds for payment of the sales tax revenue bonds to be issued for purposes of a new county courthouse and E911 facility – (DA)

Assistant District Attorney, Barry Farbro, stated this item was a common theme beginning with Agenda Items 3 & 4. The D.A.'s office was approached by bond counsel and financial adviser for the Board of County Commissioner's should request RCIDA to release the contractual obligation to pay 100% of the net proceeds of the use tax received monthly in order to make those funds available now to dedicate in the re-payment of the bonds. You would be simply requesting RCIDA to amend the contract and that doesn't necessarily mean that they won't continue to receive 100% of the net proceeds through the remainder of the contract by a monthly appropriation, it is only to release the contractual obligation.

Chairman Thacker made a motion to request RCIDA terminate their contract effective February 28, 2010. Commissioner Helm asked about RCIDA's outstanding accounts, are they still going to receive all the money up until July 1<sup>st</sup> 100%? Farbro answered, that would be subject to negotiations and the amendment being proposed is to release the contractual obligation to pay 100% of the net proceeds of the use tax to RCIDA monthly. That doesn't mean that the Board of County Commissioner's cannot do a monthly appropriation as you are doing now to approve payment of that money, it releases the contractual obligation that restricts and binds those monies. Commissioner Helm continued the deals that they currently are working on, what will they do for money, take it out of their surplus? Farbro answered, that would be up to their Board and their Board can refuse our request. But action would need to be taken first today to make that request and present to RCIDA. That request could be presented at their next meeting and negotiate something. The Board can make that decision today, the agenda item is to amend or terminate and the amendment could be we would like you to release the contractual obligation to pay those funds, but the Board of County Commissioner's may agree to continue to make a monthly appropriation through June 30<sup>th</sup> of the net proceeds of the use tax that you anticipated through this contract, both of those things can be done today if you so chose to do so. Commissioner Helm stated he had not been to any of the committee meetings or RCIDA meetings and I don't know what they've got outstanding as far as what negotiations they are involved in or what companies they are seeking to bring to this county as far as businesses. Farbro replied and neither do I. Chairman Thacker stated to Commissioner Helm that he had a bookcase full of monthly reports from RCIDA, so you know exactly what they have. Commissioner Helm replied, no, I don't know what they are doing. Chairman Thacker continued that he has never saw one of those monthly reports until the December report. Commissioner Helm continued that he does not know what they are doing now, what companies are they entertaining to come to Rogers County with the intent of the use tax for them to use, so I'm just asking legal counsel, if they are committed on something else can we actually take the money.

Gene Haynes, District Attorney, stated he understood where Commissioner Helm was coming from in that you just don't want to leave RCIDA hanging out there with no agreement. What this would do would allow us to ask them to terminate the existing agreement and that is obviously going to have to be negotiated some so they are not just left hanging without monies to pay staff salaries, etc. There does need to be a meeting of those involved and sit down and come to some agreements so that their needs are taken care of for the rest of this fiscal year. But, at the same

time, releasing the commitment at 100% of the use tax would be used so that we can pledge that for the bonds. Chairman Thacker stated we are talking 2 to 3 months, they have a significant amount of money in the bank and if they didn't receive the use tax for 2 to 3 months, it would not kill them.

Janice Steidley stressed on behalf of RCIDA that anything that can be done can be done through an amendment and it doesn't need to be terminated, we just stated that we don't want to get rid of RCIDA, we're just terminated one contract and we're looking at terminating February, that has to be done quickly through an amendment and do stress that upon you.

Commissioner DeLozier seconded the motion. Farbros inquired as to what was the original motion and Chairman Thacker stated to request RCIDA to terminate not amend. Farbros asked, would you consider giving legal counsel greater leeway to amend, because the only real issue is to release the contractual commitment to pay the use tax. Chairman Thacker inquired, so you are saying if we amend the agreement RCIDA could agree to release the contractual obligation for the county to pay them 100% of the net proceeds of the use tax monthly. And the county however could also agree today to continue to fund or not RCIDA by a monthly appropriation to their account of the use tax. Commissioner DeLozier rescinded his seconding of the motion.

Haynes continued if negotiations would come up to amend the contract, that amended contract would have to have both RCIDA and the Board of County Commissioner's approval, so all you are doing today is asking them to negotiate terminating or amending of the contract and whatever agreement is arrived at would be brought back before the Board of County Commissioner's for approval.

Chairman Thacker amended his original motion to amend the current contract that runs through June 30, 2010, for RCIDA with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

6. Discussion with possible action regarding presentation by Dr. Ron Kite, Executive Director of Pre-Paid Legal Services, Inc., and offering of services to employee of Rogers County – (D#3) –

Dr. Ron Kite made a presentation to the Board and explained the services Pre-Paid Legal Services could provide to the county and their employees. He continued to explain the last time he was here was in June 2006 and that Pre-Paid Legal Services has been a benefit offered to the employees of Rogers County for many years and is requesting the Board to allow him to present again to the employees at a special group rate of \$15.95 per month with 24 hours protection seven days a week.

Chairman Thacker made a motion to approve allowing Mr. Kite to present the benefits of Pre-Paid Legal Services to the employees of Rogers County with Commissioner DeLozier seconding the motion. Commissioner Helm asked Mr. Kite if they were related and Mr. Kite responded I don't think so, if we are I'm not aware of it. Commissioner Helm continued that he had been accused of being related to Mr. Kite in the fraudulent OSBI investigation conducted several months ago and just wanted it to be made a matter of public record that they were not related. Roll Call: Thacker-aye, DeLozier-aye, Helm-abstain. Motion carried.

7. Open & Award Bid #530 – Pipe & Drape for Rogers County Fair Board

Ron Burrows with the Rogers County Fair Board and Vernon Scogin, OSU Director, were present at the meeting during the opening of the bids. 11 bid packets were mailed with 0 being returned undeliverable and 7 responses received as follows: (1.) The Tamis Corporation in Pittsburgh, PA \$14,976.33; Event 1 Productions in Sand Springs, \$12,456.21; Georgia Expo Manufacturing in Norcross, GA \$12,022.98; Midwest Decorating Company in Tulsa, Ok \$15,700.00; Quik Stage, Inc., in Blaine, MN \$17,932.38; Impact Displays in San Jose, CA \$17,228.40 and Trade Show Display Store in El Dorado Hills, CA \$15,000.00 –

Mr. Burrows requested the Board table awarding of this bid for one week to allow the Fair Board time to review the bids completely. Commissioner DeLozier made a motion to table awarding of this bid for one week (February 16<sup>th</sup>) to allow time for the Fair Board to review the bids with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

8. Discussion with possible action regarding presentation of person(s) who filed for Fair Board members in District #1; District #2 and District #3 in Rogers County –

Peggy Armstrong, Rogers County Clerk, explained to the Board that at the February 1<sup>st</sup> meeting Assistant District Attorney, Barry Farbros, recommended to the Board extending the filing period through 4:30 P.M. on Monday, February 1<sup>st</sup>, due to the fact the courthouse was closed on Friday, January 29<sup>th</sup>, and if any other persons wanted to file they would have the opportunity to do so. No one else came in to file and the following listed are the new Fair Board members for District #1: Tony Carlson; District #2: Lyle Blakley and District #3: Terry W. Hughes, Sr. – Chairman Thacker made a motion to approve the election results as presented of the three persons filing for Fair Board with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

9. Discussion with possible action regarding where tobacco tax (non-cigarette) monies are to be deposited and lawful expenditures of - \*\*\*NOTE\*\*\*cigarette tax monies were discussed at January 25, 2010, meeting\*\*\*

Peggy Armstrong, Rogers County Clerk, explained to the Board this item was placed on the agenda by the County Clerk's Office, because at the January 25<sup>th</sup> meeting where cigarette tax monies were discussed, the agenda only read cigarette tax monies, not tobacco tax monies, so clarification is needed on tobacco tax monies also. Commissioner DeLozier made a

motion that all future tobacco tax (non-cigarette) monies are to be deposited into the courthouse expansion project within the general fund with a different source code (9175), same as the cigarette tax monies with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

10. Discussion with possible action regarding Approval/Disapproval of Resolution #2010-07 and reimbursement form directing County Treasurer, Cathy Pinkerton Baker, to deposit funds from Cherokee Nation on the Winganon Crossing E320, in the amount of \$60,000.00 into the one-cent sales tax fund for distribution for District #1 – (D#1)

Commissioner DeLozier commented this was a grant through the Cherokee Nation to construct cable guard rail on the Winganon Causeway and made a motion to approve with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

11. Discussion with possible action regarding Approval/Disapproval of Resolution #2010-08 and reimbursement form directing County Treasurer, Cathy Pinkerton Baker, to deposit funds from Aaron Shaw, for restitution payment on CM-09-922 in the amount of \$186.84 into the one-cent sales tax fund for distribution for District #1 – (D#1)

Commissioner DeLozier stated this was for reimbursement of restitution payment on sign damage and made a motion to approve with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

12. Discussion with possible action regarding Notice of Intent to Cancel Provision of FY2010 Interagency Agreement regarding the Alternatives to Detention/Transportation contract due to lack of funding – (Clerk)

Peggy Armstrong, Rogers County Clerk, informed the Board this item was placed on the agenda because a letter was sent to the Commissioner's by Robert E "Gene" Christian, Executive Director of the Office of Juvenile Affairs, stating due to continued budget shortfalls declared by the State of Oklahoma, that it would be necessary to cancel a provision in the current interagency agreement regarding the Alternatives to Detention/Transportation contract, but the County Clerk's Office received in the mail this morning the original FY2010 modifications to the Renewal Contracts for Alternatives to Detention/Transportation for the Board's signature. The District Attorney's office has not reviewed these contracts.

Commissioner DeLozier made a motion to table this item for one week (February 16<sup>th</sup>) to allow the District Attorney's office time to review with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

13. Discussion with possible action regarding Approval/Disapproval of Resolutions for Disposing of Equipment for District #1 as follows: GMC paint truck, sn#J8DE5B16067900143; 2001 International 4900 Dump Truck, sn#1HTSHADR91H384379; 1999 Chevrolet ¾ ton 4-door pickup, sn#1GCCG23ROYF44667; 1998 Ford ¾ ton pickup, sn#1FTRF2762WKC01133; 1997 Ford ½ ton 4x2 pickup, sn#1FTOF1762VNA10152 – (D#1)

Commissioner DeLozier stated he was declaring the items listed as surplus to be sold at the Elk City auction in March and made a motion to approve with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

14. Discussion with possible action regarding publication of county employees annual salaries paid in calendar year 2009, pursuant to Title 19 O.S. § 444 – (Clerk)

County Clerk, Peggy Armstrong, informed the Board pursuant to Title 19 Section 444, Publication of Proceedings Mandatory-Appropriations to Cover Cost Mandatory, it shall be the mandatory duty of the Board of County Commissioner's to cause to be published a full and complete report of all the county employees and their salaries paid annually and an asterisk shall be placed in front of the names of employees paid for less than the full twelve (12) months of the preceding calendar year.

The County Clerk's Office is asking for direction from the Board as to where to publish these proceedings, because historically the publication of annual salaries has been published in the local newspaper that was also publishing the commissioner's proceedings of minutes monthly, except the last two years the annual salaries have also been published in the Claremore Daily Progress.

Joy Hampton with the Claremore Daily Progress pointed out those were illegal publications according to state statutes. Assistant District Attorney, Barry Farbro, stated the issue has been raised by the Claremore Daily Progress about the procedures that they were the low bid for this fiscal year and the offer has been made available to the other newspapers if they will meet the low bid. Hampton stated there is two legal issues involved and we have been trying to talk to the District Attorney's office rather than creating any animosity with the county. According to attorneys at the corporate level that have asked us to talk to the Board about it and we've been talking to the D.A.'s office about it because we support the county and do not want to create problems. One issue is if we are the lowest bidder, then we are the lowest bidder and second, according to state statutes is there a provision to bid it. This is something the District Attorney would be the expert on this, there is a state statute that specifically says you put it in the primary newspaper and you pay a certain rate, that is the way the statutes sound. And our subscription basis is 6000 people versus a few hundred of these smaller newspapers have.

Chairman Thacker stated the county wants to follow the law. Haynes stated Ms. Hampton brought this up to be just exactly as she explained it and Farbor and I have discussed it, but we have not had time to issue an opinion. If it has been being done wrong in the past, the District

Attorney's office has not been asked for an opinion on this. Haynes stated the D.A.'s office needed to research it and render an opinion about how the proper way is to do this. Chairman Thacker requested that the District Attorney's office issue an opinion on the matter and bring it back before the Board. Commissioner DeLozier made a motion to table this item for one week (February 16<sup>th</sup>) to allow the District Attorney's office to render an opinion on the proper procedures as to how to do this with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-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 – None presented.

ITEM 17: NEW BUSINESS:

1. Consideration and possible action with respect to any other matters not know about or which could not have been reasonably foreseen prior to posting the agenda - None presented.

ITEM 18: PAYMENT OF PURCHASE ORDERS FROM ALL DEPARTMENTS:  
(Materials, Supplies, Parts, Groceries & Prescriptions)\*\*\*see attached list of all claims that were approved for payment by the Board on Monday, February 8, 2010\*\*\*Chairman Thacker made a motion to approve payment of all purchase orders from all departments as submitted with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, Helm-aye. Motion carried.

\*\*\*NOTE\*\*\*Commissioner DeLozier excused himself from the meeting at 11:40 A.M.\*\*\*

ITEM 19: RECESS OR ADJOURNMENT:

Commissioner Helm made a motion to adjourn the meeting with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, Helm-aye. Motion carried and the meeting adjourned at 11:44 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, February 4, 2010, at 3:35 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.*