

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, August 23, 2010, at 9:00 O'clock A.M.

MINUTES

ITEM 1: CALL TO ORDER:

Chairman 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: August 16, 2010

Commissioner DeLozier made a motion to approve the minutes from August 16, 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:

1. Hearing with possible action regarding Notice of Appeal filed by Mack Greever, Attorney for Gary and Donna Burger, Jr., for a change of zoning from RS-60 residential to CH (C4) R.V. sales on a tract of land located within the South 660 feet of the W/2 of the E/2 of the SE/4 of the SW/4 of Section 2, Township 21 North, Range 14 East of the I.B.&M., Rogers County, Oklahoma –

Mack Greever, Attorney for Gary and Donna Burger, Jr., was present at the meeting and requested the hearing be continued until September 7th, to allow his client time to gather up some facts that would be helpful for the Board in making their decision.

Commissioner Helm asked Magan Green, Planning Commission Director, if that in anyway, went against any rules or regulations the Planning Commission had in allowing a continuance or does it need to be sent back to the Planning Commission and have them re- address the issue? Green replied, the County Commissioners could allow for a continuance or the County Commissioners could send the item back to the Planning Commission Board.

Commissioner Helm then asked Greever, if we go back in for a continuance, is there some things your client is trying to do different than what has been presented already? Greever replied, yes, the client would like to have the opportunity to get together some more information of a factual nature that would help the Commissioner's board or any board in its decision; there has been some questions raised about access and we have answers for those; questions raised about the type of use and what would happen on the property, what would it look like; how would it be prepared; how would it be implemented, all of the questions are being worked on by the client and is working with engineers to help him figure out what the best use of that property is and it would give us an opportunity to get that together and perhaps, take an opportunity to sit down with the homeowners in the neighborhood and explain to them what we have in mind and get their input and if would accomplish those things, it might shorten a subsequent Commissioner's meeting.

Commissioner Helm inquired from Green if it was out of character for the Board to ask, with the facts Greever's client is trying to come up with, that we stipulate they meet with the homeowners that are associated with the particular land, since we are looking at a change as to what was presented to the Planning Commission Board the first time around? Green replied, that would be helpful, as well as the Board would also add the stipulation that no commercial activity occur on the property during this time until the continuance.

Eldon Cook of 17424 East 118th Street North, was asked by Commissioner Helm if he had ever sat down with the applicant, Gary Burger, Jr., at all in regards to this piece of property? Cook replied, no. Commissioner Helm continued, have any of the homeowners in that area sat down with Mr. Burger to see what his plans were? Cook replied, he did not think so to his knowledge. Commissioner Helm continued, is it beneficial to you as homeowners to sit down with Mr. Burger and see what he is proposing to do and the homeowners have input and ask for concessions in different areas? Cook answered, whether it is beneficial, I cannot say, I would let each individual or homeowner express their opinion to this, because I do not want to speak for them.

Commissioner Helm replied, since this is America and we still freedom, Chairman, my motion is to give it one month, instead of September 7th, send it back to the Planning Commission on Tuesday, September 21st and within that time Mack Greever and his client Gary Burger, Jr., would sit down with the homeowners from Tall Grass Trails and Henri-Edda Addition, and at those meetings I would be there to hear what the new plans are and to see what the engineering piece is and to see what the engineering piece is before doing anything on Highway 20 and see what it will look like. Greever asked, are you sending it back to the Planning Commission for re-consideration and another vote, is that what your intention is? Commissioner Helm answered, because there are instruments changing it, because you are talking about ingress and egress and also the plans changed on what was asked before the Planning Commission Board, to allow the homeowners input and also the information gathered by your client to be processed out to the homeowners on what his plans and to see exactly what the engineering shows, yes, sir, that is what I'm doing. Chairman Thacker seconded the motion.

Earl Tillery of 16450 East 120th Street North, Collinsville, in Tall Grass Trails, it is a good idea to meet with the applicant, but would request that this coming meeting; whatever your request is, is to no longer be a moving target, we've been dealing with a moving target. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried. Commissioner Helm replied, that is exactly what we are doing, we have sent it back to the Planning Commission, where all zoning and plans start and since there was a change in the planning by the applicant for this zoning, then it was informational for the residents in that area to know exactly what is going on, not only did we give Mr. Greever and his client an ultimatum that you have to meet with the homeowners of Tall Grass Trails and Henri-Edda Addition, but also at the same time the County Commissioner for that area will also be there and attend the meetings too, we can all talk about what we need for this area and it stops that moving target; my feelings today would have been to deny the whole thing, which in turn would allow the whole thing to go to court and when we get to District Court, I have no more say, Ms. Green has no more say and it comes to a place where a judge decides what can happen; we have some things that are in that area that this Board did not do, but a Board did do and allow some things go on and for the homeowners to have any impact on what is developed around them, we must keep it in an environment where we can still communicate and talk without being told by law, by a District Judge, no you can't and so we stop that moving target. I appreciate everyone being here and will leave up to Mr. Greever to set a date and we will know where we are meeting with each homeowners association and have the plans presented and I will even bring my county engineer, Mr. Kellogg, to also give us an impact on what the plans can do.

ITEM 8: PLATS: None presented.

ITEM 9: ROADS AND BRIDGES: None presented.

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

ITEM 11: TRANSFER OF FUNDS: None presented.

ITEM 12: UTILITY PERMITS:

1. Oklahoma Natural Gas Company – boring county road EW/530 approximately 850 west of the NE/corner of the NE/4 of Section 1, Township 20 North, Range 15 East of the I.B.&M., Rogers County – (D#3)

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

ITEM 13: CLAIMS:

1. Salaries – August 2010

Rod Pracht with the Rogers County Assessor's office has resigned his position as an appraiser effective August 31, 2010, and will be owed \$3068.00 monthly salary plus 43 hours of vacation time = \$762.39. Scott Marsh, Rogers County Assessor informed the Board that Pracht had no other claims owed to him by Rogers County. The Board requested a signed letter from Pracht stating he was owed no further monies by Rogers County before direct deposit be done on Friday. Commissioner Helm made a motion to approve with Chairman Thacker 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 –

Sheriff: Speedy Lube, \$500.00; Assessor: Imperial, Inc., \$200.00; Assessor Reval: District #3 County Warehouse, \$400.00; District #3: Tri Star Roll-Off, \$2400.00; and R & S Auto Parts, \$500.00 – Chairman Thacker made a motion to approve the blanket purchase orders 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 Approval/Disapproval of Resolution for Disposing of Equipment for District #3 on Dell computer and keyboard 8250, sn#0932RY, to be junked – (D#3)

Chairman Thacker 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 Resolutions for Disposing of Equipment for District #3 to be sold at Mike Graham Auction on October 16, 2010, or donated to another county as follows: Bush-Whacker Flex-Wing mower, sn#2017; 14 foot Bushmaster mower T-168, sn#0811-11010; 14 foot Bushmaster mower T-168, sn#0811-11011; Miller Dialare Welder, sn#HK293800 – (D#3)

Chairman Thacker stated he would not donate this equipment to any other county, because it would cost too much to repair and that would be unfair to do to a fellow county. Peggy Armstrong, Rogers County Clerk, asked if this auction was being conducted by the CED District, because if it was they would publish the equipment listed in their sales flyer and furnish the county a copy of; otherwise, equipment being sold at auction, per state statute, has to be published in a newspaper of general circulation for two successive weekly issues first.

Chairman Thacker made a motion to declare this equipment surplus property and sell at the Mike Graham Auction on October 16, 2010, and advertise the legal notice in the Claremore Daily Progress for two successive weekly issues with Commissioner DeLozier seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

3. Discussion with possible action regarding Approval/Disapproval of Judge Sheila Condren as requisitioning officer for fund 146 Adult Drug Court – (Clerk)

County Clerk, Peggy Armstrong, explained that Gene Haynes, District Attorney and Associate District Judge Sheila Condren had been conversing about a court fund part-time employee working for Judge Condren in Adult Drug Court. Discussion was about payment of salary to be paid by Fund #146 Adult Drug Court, which Haynes deposited \$12,000.00 into that account on August 18, 2010, to be able to pay this person and a requisitioning officer needs to be approved for signing of salary claims and other necessary documents.

Commissioner Helm asked, who does the money originate with? Marilynn Gibson, 1st Deputy County Clerk, explained the way she understood it was, people that participate in drug court have to pay to participate and this \$12,000.00 is some of those fees. Commissioner Helm requested Judge Condren to come down and explain this procedure to the Board.

Judge Condren explained Drug Court across the State of Oklahoma is done different in all seventy-seven counties; what happens is the Department of Mental Health contracts with what they call the Rogers County Drug Court Team, which is a non-entity, so I sign on behalf of the Rogers County Drug Court Team, since I am the Drug Court Judge. What used to happen in Rogers County was there was a fund established through the County Clerk's Office to pay the coordinator any related expenses; which was a very cumbersome system and it had a lot of other issues like, if the coordinator was out in the field doing home visits and carries a gun, which they do, if she should hurt somebody or somebody hurts her, who is responsible; my concern was it would either be the county or the judiciary system; so what I did was to contract with the District Attorney's Office and all the drug court money is given to the D.A.'s office that comes to me through the Department of Mental Health in exchange what the District Attorney's Office does they take on the Drug Court Office; we have grown so large and now we have two coordinators and any expenses associated with the Drug Court Office, for instance the telephone, computer service, the D.A. provides, so we have signed a Memorandum of Understanding, that if I give him all of that money he provides anything that is needed, plus all of the insurance, in other words if they were hurt on the job, the D.A.'s office would be responsible, not the county or judiciary, because there was too many potential liabilities to leave it the way it was.

Judge Condren continued, due to the current budget shortages, and the fact that the Administrative Office of the Courts have reduced the number of deputy Court Clerk's by eight; the docket that produces the largest amount of paperwork and is most labor intensive is Drug Court; in consideration of the fact that we have lost so much in manpower, my request to Gene (Haynes) was and this first happened last year, can we have some of that Drug Court money back just to have a part-time person to help with Drug Court related items such as minutes, applications, etc. and Gene agreed; we took the money and put it in the Court Fund and because the Supreme Court did pay for originally 999 hours and then they cut it back to 350 hours; I took the money and put it in the Court Fund to pay up to the 999 hours; this year, now, the Administrative Office of the Courts say, they will not allow me to put that money in the Court Fund anymore; and they can't really give me a reason other than for auditing purposes, they will not allow me to do it; they say there is a memo from the Chief Justice saying we cannot use the Court Fund to pay for anything associated with Drug Court; my argument is, what I have the employee doing is Drug Court related, but it is deputy Court Clerk functions, so I don't understand why the Supreme Court says I cannot put the money in the Court Fund to pay for somebody who is doing deputy Court Clerk responsibilities.

Judge Condren continued, Gene (Haynes) suggested for this particular position, we go back to having a fund through the County Clerk's Office, like we used to do for the coordinator for this deputy Court Clerk position. Commissioner Helm asked, so will there be a new Memorandum of Understanding signed with the new D.A. or will this go through December 31st?

Judge Condren replied, we are paid on a fiscal year from July 1st thru June 30th, there is no contract with this lady in my office and if it does not work out with the new D.A., the employee would just be gone; and the Supreme Court does not have to pay minimum wage, they are exempt from paying minimum wage. Chairman Thacker asked, who is liable for this person, who is she under and is this money considered county money or state money? Judge Condren answered, when it originates it is state money, but when it comes through me I would assume it would become county money.

Marilynn Gibson, 1st Deputy County Clerk, explained under normal circumstances if we have a person that is being paid from a cash account, which Drug Court is set up as a cash account, their unemployment and worker's comp is also paid from that account, it does not become the responsibility of the county to pay those premiums; anything that would be considered an expense would be paid from that account. Commissioner DeLozier asked if the employee would have to be approved by the Excise Board? Gibson replied, we would send them through to the Excise Board and once that money is deposited with the County Treasurer's Office, we would receive a cash fund estimate of needs, which is to be approved by the Excise Board, we would also send over the employee paperwork for the Excise Board to approve also and would become a county employee, because we also have that situation when it comes to all the Court Fund employees whose money comes from the Supreme Court, because their actual payroll warrant or direct deposit is made by Rogers County, they are considered a county employee, even though that fund that comes from the state pays for all of their worker's comp and unemployment, health benefits, they are still considered a county employee even though the county has not put in any money for that employee.

Assistant District Attorney, Barry Farb, expressed concerns over county employee being paid less than federal minimum wage. Judge Condren stated she would probably make more, because that bothers her also.

Commissioner Helm made a motion for Associate District Judge, Sheila Condren and District Attorney, Gene Haynes and the current Chief District Judge for the county to write one letter and be signed by all or each draft their own letter and sign, whichever they choose to do, saying everyone is all on board with you being the requisitioning officer for this fund and put the letter in the official minutes for public record and present before the Board in one month with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

4. Discussion with possible action regarding Approval/Disapproval of Resolution #2010-71 to allow Rogers County to buy or sell machinery and/or equipment at the Mike Graham Equipment Auction at the Simmons Center, 800 Chisholm Trail Parkway, Duncan, Oklahoma, on Saturday, October 16, 2010 – (Clerk)

Chairman Thacker made a motion to approve with Commissioner DeLozier 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: ANNOUNCEMENTS: None presented.

ITEM 18: 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 19: 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, August 23, 2010***Chairman Thacker made a motion to approve payment of the purchase orders from all departments as submitted with Commissioner Helm seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried.

ITEM 20: RECESS OR ADJOURNMENT:

Commissioner Helm made a motion to adjourn the meeting with Chairman Thacker seconding the motion. Roll Call: Thacker-aye, DeLozier-aye, Helm-aye. Motion carried and meeting adjourned at 10:07 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, August 19, 2010, at 3:20 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.