

Circuit Engineering District 5

Minutes

Regular Board Meeting

Date: March 28, 2023

Time: 11:00 a.m.

Place: FSB

5801 Broadway Ext, Suite 500

Oklahoma City, OK 73118

**1. CALL TO ORDER BY THE CHAIRMAN**

The Circuit Engineering District 5 held a regular board meeting on this day March 28, 2023, in compliance with the Oklahoma Open Meetings Act. Wilson Lyles called the meeting to order at 11:00 a.m.

**2. Prayer, then Flag Salute**

The pledge of Allegiance and prayer was led by Zach Cavett.

**3. ROLL CALL**

FSB staff member, Denise Crisp, called roll. Attendance was as follows:

**Board Members Present:** Wilson Lyles – McClain County, Gary Ayers – Garvin County, Zach Cavett - Payne County and Tom Manske – Canadian County.

**Board Members Absent:** Carrie Blumert – Oklahoma County

**Board Members Late:** Darry Stacy – Cleveland County

**4. Recognition of Attendees:** See Attached Sign in sheet.

**5. Approval or Modification to the Minutes of the February 14, 2023, Meeting (Attachment 1)**

The motion to approve was called by Gary Ayers and was seconded by Tom Manske.

The motion passed as follows:

**Aye:** Wilson Lyles – McClain County, Gary Ayers – Garvin County, Zach Cavett - Payne County and Tom Manske – Canadian County.

**Nay:** none

**Abstain:** none

**6. Discussion and Acceptance of Treasurer's Report**

**a) Claims from Jayna Johnson, P.C., State Auditor's office and FSB**

**i. CPA Jayna Johnson, P.C. – Invoice for CPA services – January (Attachment 2)**

This is our regular invoice. \$140.00

**ii. State Auditor's Office - \$8000.00 (Attachment 3) – Per Sean McGraw, there was an engagement call between Darry, Carrie and myself with the state auditors office. They have everything they requested and as of last week, they were looking to finalize their report. We put together a highlight package of what the CED5 has done over the past 12 months. The audit report should be distributed at this meeting next month. No questions from the board.**

dollars. For those under 5000 population, we are paying 90% construction and 100% of design through federal funds.

The other item has been spoken about previously – the modernization inside the agency. The next phase rolling out is our division being somewhat combined with stateside. You'll still be talking and dealing with the same people you've dealt with before. Our physical location will change. We will be next to the other stateside offices.

Per Kendall – We are in the CIRB rebalance, working toward the April 30<sup>th</sup> deadline to have the CIRB Plan update complete. Another deadline is the Federal Funding deadline for Bridges & Roadways. We need right of way clearance by the end of May. We've submitted Sandy Creek on the June letting using this year's federal bridge dollars. Also, 2 projects in Cleveland County using the 20203 roadway dollars and another that is using the county's portion of the federal bridge dollars.

Per Amber – Division 3 is not quite there yet.

**d) OCCEDB – Randy Robinson**

The CED auction grossed just under \$8.9 million. Highest ever. Next highest was back in 2015 where the total was about \$8.2 million. A percentage will come back to the CED. In the next couple of months, that money will come back. The Statewide board meeting is next Thursday at 11:30 am at the conference. The ACCO board meeting will be at 8:30 the same morning.

**8. Discussion and possible action regarding Logan County's requests to join CED5 (Attachment 8)**

The board of commissioners of Logan County have requested to rejoin our CED District 5. They made a request of this board to do so. I would entertain a motion or discussion on how we would like to proceed with this. Whether someone would like to move and if so, then we would vote.

Per Tom Manske – I am new, and before we take a vote, I would like to be caught up on this. When I was here at the last meeting, they said their board of commissioners had approved to approach us. How long have they been gone? Why did they leave? Why are they coming back? Can someone explain this part to me?

Per Darry – I can't tell you exactly why they left and I'm going to say they requested to leave our CED about 2 years ago. Per Tom – Did they go to another CED?

Per Darry - No, they were stand alone – independent. I know there has been at least one change in commissioners there and they have now requested to come back. I need to open this up to other questions or thoughts to this board or to the floor.

Per Wilson – Commissioner Sharpton is here today. Welcome. My question would be because it was a unanimous vote to leave CED5, what transpired so quickly after you returned to the office to get a unanimous vote to come back to the CED5?

Per Commissioner Sharpton – after the new officer training, I called Monte. Monte said the reason he voted to get out of the CED was to stop the embarrassment. That Logan County was being embarrassed by certain commissioner(s) at one of the meetings. Even had the police called at a CED meeting to get him to be removed and that was why Monte voted. Cody, I don't know. He was indicted and arrested yesterday and is no longer a commissioner. He was probably doing what he was told.

I see these CEDs as part of the transportation system. If you are not part of them, you are not fully engaging for your people. We know there is a little bit of money that goes through here. Logan County, any county, can do projects without belonging, but I think this makes the network so much better that you are working with others with the same issues and same problems. People are better served by participating.

Floor – So you have two scenarios. So you guys as the board representing the county, you all agree to let him in but for some strange reason, there was ten county commissioners, two in each one, that didn't vote to approve the interlocal of being part of it. So, who overrides who? Or the other way around, say that you, the board, says, no, we're not going to let Logan county in, but Logan county voluntarily sends an interlocal agreement to enter into a CED with the other counties and the majority of the board of each one of those counties approved it. Are they in or are they out?

Per Darry – Randy who would the state CED use for legal representation in order to give us an opinion?

Per Randy – we do not have anyone. We do not have legal counsel.

Per Darry – The question is not exclusive to us. So, my thought is, could this board make a request to the state CED for a legal opinion on this? Then, the state CED give that to us and we make our decision based on that.

Per Tom Manske – I'm going to play devil's advocate here from the outside, newbie looking in. The only apprehension we are seeing, is that they are getting a new commissioner and they are not unanimous. Everything we do as a commissioner too carries. The majority carries. We know two of them are committed to district 5. He explained what went on the last time. He knows the candidates coming in. Those are rare cases when a person like that gets into a place like this. So is the only apprehension, is that third commissioner? We don't know who it is and it's not unanimous? And that is just me playing devils advocate.

Per Zach - I would be fine with making a motion to accept Logan County back, and they would not be able to receive distribution funds for one year, so they would be eligible this time next year, pending a legal opinion on the ability of this board to accept them back.

Floor – if you go by the statute, it says a board of county commissioners of any county in the state may create a circuit engineering district with any other county or counties. The other thing would be, what are our bylaws or do we have bylaws? What do they state? That is what we have to go back to. I haven't read the bylaws in a while. Once we created a circuit engineering district, what is the bylaws criteria as to how someone leaves or comes back? As long as it follows the statute. I think if you are going to punish them for coming back by not allowing them to do what everybody else's membership is, that they have to wait a year before they can participate, I think you might be treading on some legal action possibly taken.

Per Darry – So I don't disagree with your premise. I guess my thought is before that, we have to determine whether or not our action is legal for them to do that. So personally, my preference would be that we seek a legal opinion on this from the state CED board before we take action. I guess my thought is before that, we have to determine whether or not our action is legal for them to return. So personally, my preference would be that we seek a legal opinion on this from the state CED.

Floor – so when you say if its legal for them to do this as a board of commissioners, is what you are saying?

Per Darry – For either this board or individual DOCCs have to do this, in order to accept them back. I think we have to determine, do we have the ability to make that decision as this board or as individuals. And, whatever that decision is, can play a part for years to come with other CEDs.

Floor – Part of the duties, as he was mentioning, as you go down the law of CED, is to promulgate rules. If there are rules promulgated concerning this already, it would be hard pressed to put one in place.

**11. Public Comment** – a question came up regarding B2R funding. ETR funds to reimburse? ODOT is not willing to reimburse. ACCO meeting postponed to April 6, 2023. Also, there was an error on the calendar for the last meeting.

**12. Adjourn**

Motion to adjourn meeting was called by Gary Ayers. The motion was seconded by Zach Cavett.

**Aye:** Darry Stacy – Cleveland County, Wilson Lyles – McClain County, Gary Ayers – Garvin County, Zachary Cavett - Payne County, Tom Manske – Canadian County

**Nay:** none

**Abstain:** none

