



**OFFICE OF JUVENILE AFFAIRS**

*October*

**BOARD OF DIRECTORS RETREAT  
MEETING MINUTES**

*October 16, 2009*

**BOARD MEMBERS**

Present: George W. Lindley  
Donnie Nero  
T. Hastings Siegfried  
Linda Ware Toure  
Edward L. Smith

Absent: Deanna Hartley-Kelso  
Gary A. Taylor

**PRESENT FROM THE OFFICE OF JUVENILE AFFAIRS**

Gary Bolin, Dorothy Brown, Gene Christian, Paula Christiansen, Kevin Clagg, Jeff Gifford, Donna Glandon, Dennis Gober, Jlynn Hartman, Linda McLennan, Len Morris, Kim Sardis, Elizabeth Stewart, and Shantha Varahan

**OTHERS PRESENT**

Scott Barger, Shawn Black, Shane Boothe, Karen Caldwell, Brian Costello, Ginnie Graham, Eric Gray, J.C. Kinder, Representative Lucky Lamons, Representative Ron Peters, Don Smith, Kathy Talkington, Maressa Treat representing Dan Newberry's office, and John Woods representing Speaker Chris Bengé's office.

**CALL TO ORDER**

Vice-Chairman Edward L. Smith called the October 2009 Board Meeting of the OJA Board of Directors to order at 10:13 a.m. at the Office of Juvenile Affairs Employee Development Center, 3815 N. Santa Fe, Suite 170, Oklahoma city, OK 73118.

**STATEMENT OF COMPLIANCE WITH THE OPEN MEETING ACT**

Ms. Linda McLennan, Board Secretary, confirmed the Board of Juvenile Affairs is in compliance with the Open Meeting Act.

**OKLAHOMA'S OPEN MEETINGS AND OPEN RECORDS LAWS PRESENTATION**

Ms. Gay Tudor, Assistant Attorney General, Chief, General Counsel Section, presented. Ms. Tudor gave an overview of Open Meetings and Open Records Laws.

**Open Meeting Act  
25 O.S. 2001 & Suppp.2008, §§ 301 – 314**

**Public Policy**

It is the public policy of the State of Oklahoma to *encourage* and *facilitate* an informed citizenry's understanding of the governmental processes and governmental problems. § 302.

**Meetings of Public Bodies**

Section 303

- Convenient times and places
- Open to the public

**Public Body**

Section 304 (1)

- Governing bodies of all municipalities
- Boards of county commissioners
- Board of public and higher education
- Various entities:
  - Supported in whole or in part by public funds
  - Entrusted with expending public funds
  - Administering public property
- Committees and sub-committees of public body; exceptions

**Meeting**

Section 304 (2)

- Conduct of business of public body
- Majority of members
- Personally together

**Caution**

Section 306

- NO informal gatherings
- NO electric or telephonic communications

**Teleconference**

Section 304 (7)

*Interactive – both visual and auditory*

**Teleconference/Video Conference**

Section 307.1

Types of Meetings

- Regularly scheduled meetings § 304(3)
- Special meetings § 304(4)
- Emergency meetings § 304(5)
- Continued or Reconvened Meetings § 304(6)

**Notice**

Regularly Scheduled Meetings - Section 311(A)(1-8)

- By December 15 for the next year
- Date, time and place
- Website – 74 O.S. § 3106.2
- Change – 10 days in advance

Special Meetings – Section 311(A)(11)

- 48 hours prior to meeting
- Date, time and place

Continued or Reconvened Meetings – Section 311(A)(10)

- Announce at original meeting

Emergency Meeting – Section 311 (A)(12)

- As much as reasonable and possible

### **Agendas**

Section 311(A)(9), (11)  
Section 311(b)

- Date, time, place and items of business
- 24 hours prior to meeting (exclude Saturday, Sunday and holidays)
- Posted at place of business – prominent public view

### **Executive Session**

Section 307

- Limited purposes
- Strict procedures - § 307(E), 311(B)(2)
- Votes taken in public - § 307(E)(3)

### **Minutes**

Section 312

- Required
  - Official summary – open to the public
  - Member present and absent
  - All matters considered
  - All actions taken
  - Manner and time notice was given
- Public may record meeting

### **Votes**

Section 305

Vote of each member

- Publicly cast
- Recorded

### **Penalties**

Willful Violation

- Section 313 – Action taken invalid
- Section 314 – Up to \$500 fine and/or up to one year in jail
- Section 307 – Executive Session – records made public

### **Public Body**

Section 24A.3(2)

- Various Types and Forms
  - Supported in whole or in part by public funds
  - Entrusted with the expenditure of public funds
  - Administering or operating public property

### **Record**

Section 24A.3(1)

- Regardless of physical form or characteristic
- Created by, received by, under the authority of, coming into control, custody or possession of . . .
- Public officials, public bodies or their representatives
- In connection with:
  - Transaction of public business
  - Expenditure of public funds
  - Administering public property

### **Disclosure**

Section 24A.5

- Open to any person
- Inspection, copying and/or mechanical reproduction
- During regular business hours

### **Exceptions to Disclosure**

- Not a record – definitions - § 24A.3
- Required or allowed by law to be confidential - § 24A.5
  - Mandatory
  - Permissive
- Records with both exempt and non-exempt material - § 24A.5

### **Personnel Records**

#### Section 24A.7

- Some may be kept confidential - § 24A.7(A)
- Some must be available - § 24A.7(B)
- Employees shall have access to their own - § 24A.7(C)
- Employee or former employee – home address, phone number and social security number must be confidential - § 24A.7(D)

### **Law Enforcement Records**

#### Section 24A.8

- ◀ Certain records must be available - § 24A.8(A), (B)
- ◀ Other law enforcement records may be confidential - § 24A.8(C)

### **Procedures**

- Not required by the Act - § 24A.2
- Public official or body has burden of establishing confidentiality
- Prompt, reasonable access - § 24A.5(%)
- Reasonable procedures to protect records and prevent excessive disruptions.
- One person available at all times during regular business hours to release records - § 24A.5(6)
- Additional record keeping not required - § 24A.18

### **VARIOUS CONFIDENTIALITY PROVISIONS**

#### Sections 24 A.9 – 24A.16

- Personal notes
- Bids, computer programs and appraisals
- Litigation and investigation files
- Federal records
- Educational Records

#### Sections 24A.19 – 24A.29

- Research records
- Public utilities
- Department of Wildlife
- Vulnerability assessments
- Information related to terrorism

### **Fees**

#### Section 24A.5(3)

#### Reproduction

- Prescribed by State law
- Reasonable, direct cost
- Copying – max \$ .25 per page; \$1.00 for certified

### **Search**

- Solely commercial purpose
- Excessive disruption of essential functions
- Reasonable direct costs
- Written schedule at principal office and with county clerk
- Not charged when release is in public interest

- Not used for discouraging requests or as obstacles to disclosure

#### **Penalties**

- Willful violation – up to \$500 fine and up to one year in county jail or both - § 24A.17(A)
- Civil suit – attorney fees if successful - § 24A.17(B)
- Public body or public official NOT civilly liable for damages resulting from disclosure pursuant to the Act - § 24A.17(D)

Mr. Christian requested that the Board move to Item VII on the Agenda. There are members of the public present who would like to make comments. One of the Board Members will have to leave at 12:30 p.m. and it is necessary to have all members present if a vote is taken. The Board should decide if this item will be tabled or continued for today.

Mr. Christian read a statement from Chairman Gary Taylor regarding Item VII. (2). Mr. Taylor's statement: "I am ill and regrettably cannot attend today's Board of Directors Meeting. I am concerned about the agenda item regarding OC spray and tasers. I wish to be a part of the discussion, but do not wish to obstruct process by my absence. However, I hope the Board will consider putting off any vote until the next meeting. I can understand if the Board wishes to move this item along, but it's an issue that is important to me and significant for the agency. Thank the Board for its consideration of my request and I regret I cannot be there."

Vice-Chairman Smith asked for the pleasure of the Board. Judge Lindley stated the items of OC spray and tasers have been discussed at quite some detail by the Board Members at past meetings and he did not feel additional discussion was necessary on the matter.

Mr. Hastings Siegfried stated that due to the fact that no meeting is scheduled for the month of November, it would be two months before a vote could be made. My concern is if the measure were tabled there would not be ample time to propose new rules and security policies prior to the legislative deadline.

Linda Ware Toure said she certainly would like to respect the Chairman's wishes on such an important matter.

Dr. Nero stated that he has visited at length with the Executive Director regarding the chemical and tasers. He said he was not for the use of tasers in our institutions, however, he is aware that at times situations are rough and the staff does need alternatives.

**MOTION WAS MADE BY DR. LINDA WARE TOURE TO TABLE ITEM VII. (2) THE DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED LEGISLATION CONCERNING THE USE OF CHEMICAL AGENTS AND/OR TASERS UNTIL THE DECEMBER 2009 MEETING.**

**MOTION DIED DUE TO LACK OF SECOND.**

#### **PUBLIC COMMENTS**

Jon Trzcinski, former OJA employee who is now a consultant, urged the agency to look at what is causing the violence, which could involve the classification system, staffing levels or staff training. Mr. Trzcinski said OJA is addressing symptoms rather than root causes. He said the agency could open itself to lawsuits with costly settlements due to some cases, persons have been known to go into cardiac arrest after being the target of a Taser gun. Mr. Trzcinski said, "In my opinion, Tasers have no place in a juvenile facility."

The Vice-Chair announced a ten minutes recess.

**DISCUSSION AND/OR POSSIBLE ACTION REGARDING PROPOSED LEGISLATION CONCERNING THE USE OF CHEMICAL AGENTS AND/OR TASERS – MR. CHRISTIAN**

Mr. Christian explained the reason this item is back on the agenda at this time is that OJA has been contacted by Representative Wade Rousselot from Wagoner. Representative Rousselot wants to sponsor a piece of legislation written by the Office of Juvenile Affairs that would allow OJA staff to use chemical spray and/or Tasers to protect themselves and obtain control of juveniles in a facility. Rep. Rousselot stated to the Director that he saw a video of an altercation in a juvenile facility in which an employee was face down on the ground while a juvenile was kicking the employee in the head. Rep. Rousselot said he is trying to provide the employees some type of protection and a way of restraining, maybe even temporarily stunning with a Taser, until the situation is under control.

Mr. Christian said the Board of Directors will have to pass rules governing when Tasers and chemical sprays can be used. The devices could be used only in very specific situations, adding that it would be June or July of 2010 at the earliest before the policy could take effect if the legislation were passed and signed during the next Legislative Session. The Director also added that it would benefit OJA if the agency had input and helped write the Legislation to be presented. Mr. Christian said pepper spray is not particularly unusual in juvenile facilities, but Tasers are.

The Director reminded the Board that while violence in general is down at the secure facilities, the violence of individual attacks has increased. A number of employees have been seriously injured in recent months. While completing surveys, it has been noted that the juveniles feel safe in their environment while employees do not feel safe in the workplace.

The Director stated he is concerned about how to draft a piece of legislation to assist the Representative and still carry out the wishes of the Board on these particular items. This is the proposed language which has been brought forth to him. A through D is current law and on the books now. E is the new language to be added to this law. If this is presented to the legislature saying this is the language that OJA has proposed on Tasers and/chemical agents and it is passed and our Board of Director says we are not going to use either one of these items, we need to inform the Representative now up front.


What is good about this is that the Board continues to have control and all access to the application of the rules and who has access and can use either the Tasers or chemical agents in the sense that they would be used. In the event the Representative carries the legislation and it passes the House, the Senate and then signed by the Governor, then the Board would implement emergency rules at whatever the Board feels is appropriate. Only the Board can draft and implement these rules. Once the emergency rules are in effect then the legislature would have a chance to see them. The permanent rules (drafted by the OJA Board of Directors) would be presented to the legislature in the 2011 session for approval. These are the checks and balances, which are in place. Today is not the final decision of the Board saying we are prepared to use pepper spray or Tasers. Only the Board can implement the rules.

There is currently a rule in place that prohibits the use of chemical agents. If this new legislation does pass, the rule will have to be modified. The writing of the rules of use will be done by the rules committee at a later date.

Mr. Christian presented the following language of the Oklahoma Statutes

 **Title 10A. Children and Juvenile Code**

 **Article 2 - Oklahoma Juvenile Code**

 **Article Chapter 7 - Juvenile Justice**

 **Section 2-7-604 - Authorized Physical Force - Written Guidelines - Use of Mechanical**

**Restraints- Use of Chemical Agents and Tasers**

Cite as: O.S. §, \_\_\_ \_\_\_

---

A. Use of physical force in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs wherein children are housed shall be permitted only under the following circumstances:

1. For self-protection;
2. To separate juveniles who are fighting; or
3. To restrain juveniles in danger of inflicting harm to themselves or others; or
4. To restrain juveniles who have escaped or who are in the process of escaping.

B. When use of physical force is authorized, the least force necessary under the circumstances shall be employed.

C. Staff members of residential and nonresidential programs who are assigned to work with juveniles shall receive written guidelines on the use of physical force, and that, in accordance with staff disciplinary procedures; loss of employment may result if unauthorized use of physical force is proven.

D. Use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs or the Department of Mental Health and Substance Abuse Services wherein children are housed shall be minimal and shall be prohibited except as specifically provided for in the rules of the Office of Juvenile Affairs and Department of Mental Health and Substance Abuse Services.

**E. Use of chemical agents and/or tasers in secure facilities operated by or through contract with the Office of Juvenile Affairs shall be minimal and shall be prohibited except as specifically provided for in the rules of the Office of Juvenile Affairs.\***

\* new language shown in Red.

**Repeal the following:**

**Oklahoma Statutes Citationized**

 **Title 10A. Children and Juvenile Code**  
 **Article 2 - Oklahoma Juvenile Code**  
 **Article Chapter 5 – Treatment of Serious Acts**  
 **Section 2-5-207 – Legislative Intent and Findings**

Cite as: O.S. §, \_\_ \_\_

---

~~It is the intent of the Legislature to fully utilize the Youthful Offender Act as a means to protect the public while rehabilitating and holding youth accountable for serious crimes. The Legislature finds that eligible seventeen-year olds should have the opportunity to be processed as youthful offenders as provided by law and held accountable through the various provisions of the Youthful Offender Act for custody, institutional placement, supervision, extended jurisdiction within the Office of Juvenile Affairs, and the ability to transfer youthful offenders to the Department of Corrections when incarceration or additional supervision is required beyond the maximum age allowed in the Office of Juvenile Affairs. No older youth should be deemed ineligible or denied consideration as a youthful offender who is otherwise lawfully eligible based upon the age of the youth being seventeen (17) years. To deny access to an otherwise eligible older youth without cause is to circumvent the original intent of the Legislature in creating the Youthful Offender Act.~~

**MOTION WAS MADE BY GEORGE LINDLEY WITH SECOND BY HASTINGS SIEGFRIED TO INSTRUCT THE DIRECTOR TO DRAFT THE RULES AS STATED IN THE LEGISLATION AND TO PRESENT TO THE RULES COMMITTEE.**

Dr. Toure asked for clarification as to why Representative Rousselot has asked to carry this legislation for the Office of Juvenile Affairs. The Director said the Representative saw a film or a situation in which staff were hurt and wants to help support the staff.

Dr. Linda Toure expressed grave concerns about who would be using the chemicals and Tasers. She requested that her concerns be noted in the minutes. Dr. Toure said that Tasers and pepper spray might be useful tools for well-trained police; she could not see average people employing them in a safe manner.

**MOTION PASSED**

Voting Aye: George Lindley  
Hastings Siegfried  
Edward L. Smith

Voting Nay: Donnie Nero  
Linda Ware Toure

**BUDGET UPDATE INCLUDING BUDGET CUTS**

Executive Director Christian presented.

**Office of Juvenile Affairs- Budget Cut Proposal - October 2009**  
**5% Appropriations Budget Cut for FY-2010**

**Reduce the following contracts by 5% starting August 2009:**

a. Multi-Systemic-Treatment Program in Oklahoma, Canadian and Tulsa counties.	Savings -- \$ 14,278.00
b. Specialized community group homes.	Savings-- \$ 15,488.00
c. Level E and D beds.	Savings-- \$304,465.00
d. Regional Secure Detention.	Savings-- \$579,722.00
e. Local graduated sanctions programs funded by state dollars.	Savings-- \$ 6,000.00
f. Gang intervention services.	Savings-- \$ 54,813.00

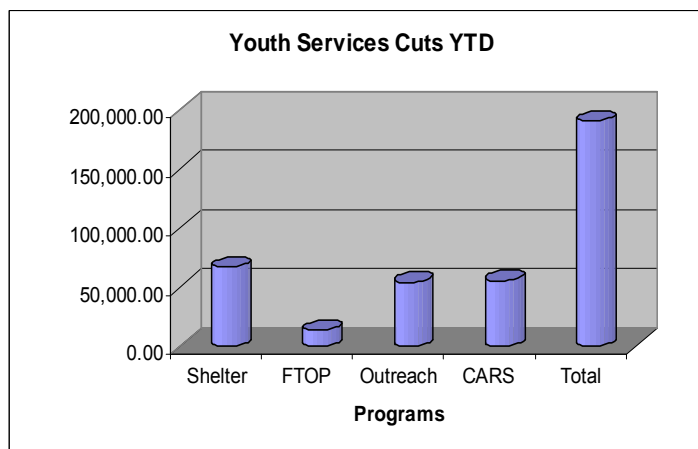
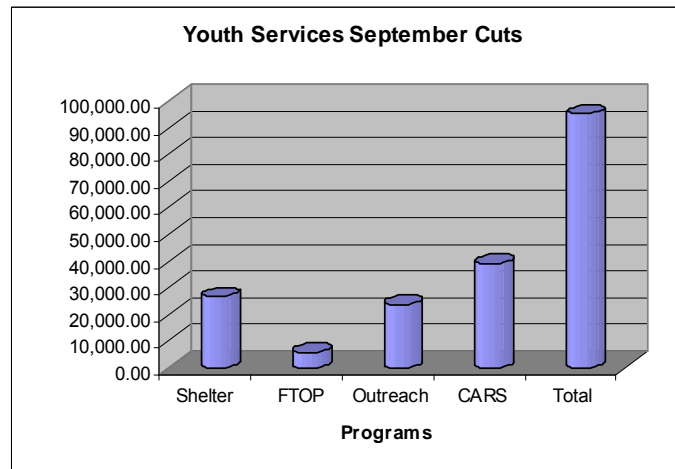
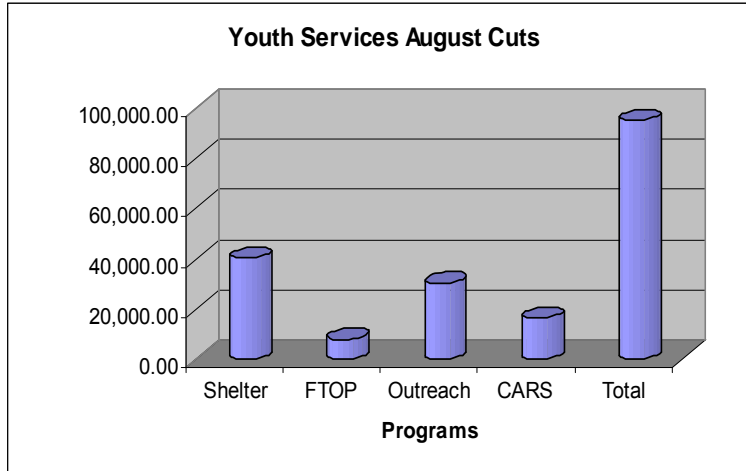
1. Provide an across the board reduction of 5% to community youth services agencies for prevention services across the state. Savings-- \$1,154,120.00  
(This amount is limited to the amount that the OJA total budget is reduced as required by our appropriation bill)
2. To make the agency cuts for OJA it would require furloughs of 1 day per last eleven (11) months of this fiscal year for all employees excluding direct care staff and four hours/month for those making less than \$2,000 per month. Savings-- \$1,100,000.00
3. Close Thunderbird Academy funded by OJA effective January 2010. Savings \$685,719.00
4. OJA is also considering Voluntary Buy Out Plans effective January 2010.  
Savings if every person offered takes the Buy-Out-- \$260,501.00

**Total amounts for 5% Budget Cuts**

\$ 14,278.00	\$5,027,451.00	5% per month cuts
15,488.00	<u>703,014.00</u>	Stimulus carryover
304,465.00	\$5,730,465.00	
579,722.00	- <u>3,334,883.00</u>	
6,000.00	\$2,395,582.00	
54,813.00		
1,154,120.00		
1,100,000.00		
<u>685,719.00</u>		
<b>\$3,334,883.00</b>		

Mr. Christian asked Mr. Dennis Gober to present budget cut information regarding the Oklahoma Association of Youth Services

### Community-Based Youth Services Budget Cuts



**FINANCE COMMITTEE**

The Finance Committee met this morning prior to the regular Board Meeting. Judge Lindley turned the financial report over to Ms. Shantha Varahan.

**FINANCIAL REPORT**

Ms. Shantha Varahan presented the Finance Report for the month ending September 2009.

FY-10 Budget Projections - As of September 30, 2009

Description	Totals
FY-2010 Budget Work Program as Submitted	\$127,299,190
Less: 5% Reduction for August/September	(914,082)
FY-10 Budget Work Program as of 9/0/09	\$126,385,108
Year-to-Date Expenditures	(23,208,298)
Encumbrances	(60,258,425)
Balance as of September 30, 2009	42,918,385
Less: Remaining Payroll Costs (Estimated)	(39,618,069)
Less: Remaining Travel Budget	(350,369)
Less: Restricted Funds	(1,264,326)
Less: Pending Encumbrances/Transfers	(1,508,000)
<b>Balance Available</b>	<b>177,621</b>

FY-10 Budget to Actual for Payroll as of October 8, 2009

	State Office	Residential Services	JSU	Totals
YTD BWP	2,000,208	6,687,346	4,259,603	12,947,157
YTD Exp	1,887,555	6,797,920	4,287,493	12,972,968
YTD Vary	112,653	-110,574	-27,890	-25,811
% Var	5.63%	-1.65%	-0.65%	-0.20%

State Office includes OJJDP, JABG, IT, Field Office, Carl Albert Interns and High Risk Transportation.

Travel Costs Comparison to Budget as of September 30, 2009

- Agency Year-to-Date Budget \$ 77,756
- Year-to-Date Expenditures \$ 52,093
- Year-to-Date Variance **\$ 25,663**

Agency Special Funds as of September 30, 2009

- 701 Trust Fund \$ 453,621
- 702 Canteen Fund 17,258
- 703 Donation Fund 833

General Revolving Fund Status – September 30, 2009

General Revolving Fund	Budget to Date	Receipts	In Transit	Variance
SSI and SSA	58,500	130,091	0	71,591
Income from Rent	1,800	4,886	468	3,554
School Lunch Program	126,000	138,219	38,161	50,380
Inter-Agency Reimbursements	1,950	832	1,329	211
Reimbursements – Non-Federal	9,000	38,752	0	29,752
Sales of Documents & Merchandise	3,750	4,131	986	1,367
Other Receipts	13,500	23,257	11,515	21,272
Parental Responsibility-Child Support	80,000	78,159	16,768	14,927
<b>Total Revolving Funds</b>	<b>\$294,500</b>	<b>\$418,327</b>	<b>\$69,227</b>	<b>\$193,054</b>

Title XIX and Title IV-E Revenue as of September 30, 2009

Type	Projections for FY-10		Actual FY-10		
	Annual Revenue	YTD Revenue	Revenue	In Transit	Variance
TCM	3,000,000	840,000	152,423	566,262	(121,315)
RBMS	5,341,000	1,495,480	566,506	924,258	(4,716)
Admin	200,000	56,000	58,186	---	2,186
Total IV-E	245,000	65,962	21,013	78,842	33,893
<b>Total</b>	<b>\$8,786,000</b>	<b>\$2,457,442</b>	<b>\$798,128</b>	<b>\$1,569,362</b>	<b>(89,952)</b>

NOTE: The negative variance in TCM and RBMS is due to the fact that we have been unable to bill because there is no provider agreement with OHCA. These agreements are in the process of final execution.

Sole Source

Vendor	Date	Cost	Requestor	Division/Purpose
No Sole Source Contracts since last Board Meeting				

Emergency Purchases

Date	Location	Description	Repair Cost
No Emergency Purchases since last Board Meeting			

**DISCUSSION AND/OR POSSIBLE ACTION TO APPROVE THE SEPTEMBER 17, 2009 BOARD OF DIRECTORS MEETING MINUTES**

MOTION WAS MADE BY GEORGE LINDLEY WITH SECOND BY DONNIE NERO TO APPROVE THE SEPTEMBER 17, 2009 BOARD OF DIRECTORS MEETING MINUTES AS PRESENTED.

MOTION PASSED

Voting Aye: George Lindley  
Donnie Nero  
Hastings Siegfried  
Linda Ware Toure  
Edward Smith

Dorothy Brown, Assistant Attorney General, gave advice to the Board Members before voting to convene into Executive Session.

Item IX. (B) will be discussed in Executive Session due to confidential nature of communications between the Board and its attorneys concerning pending investigation and litigation. To discuss such in open session would seriously impair the ability of the Board to handle the pending litigation in the public's best interest.

**VOTE TO CONVENE INTO EXECUTIVE SESSION**

MOTION BY DONNIE NERO WITH SECOND BY HASTINGS SIEGFRIED TO CONVENE INTO EXECUTIVE SESSION.

MOTION PASSED

Voting Aye: George Lindley  
Donnie Nero  
Hastings Siegfried  
Linda Ware Toure  
Edward Smith

Hastings Siegfried left the meeting at 12:30 p.m.

**VOTE TO RETURN TO OPEN SESSION**

MOTION BY LINDA WARE TOURE WITH SECOND BY GEORGE LINDLEY TO RETURN TO OPEN SESSION.

MOTION PASSED

Voting Aye: George Lindley  
Donnie Nero  
Linda Ware Toure  
Edward Smith

**POSSIBLE VOTE ON ITEMS FROM EXECUTIVE SESSION.**

There were no items requiring a vote.

**NEW BUSINESS**

There was no new business to be heard.

**ADJOURN**

MOTION BY GEORGE LINDLEY WITH SECOND BY LINDA WARE TOURE TO ADJOURN THE BOARD OF DIRECTORS MEETING.

MOTION PASSED

Voting Aye:     George Lindley  
                  Donnie Nero  
                  Linda Ware Toure  
                  Edward Smith

The meeting was adjourned at 1:05 P.M.

Minutes approved in regular session on the 4th day of December, 2009.

Gary A. Taylor

Gary A. Taylor, Chairman

PREPARED BY:

Linda M. McLennan

Linda McLennan, Board Secretary