

**MINUTES OF THE REGULAR MEETING OF
OF THE MOORE CITY COUNCIL
THE MOORE PUBLIC WORKS AUTHORITY
THE MOORE RISK MANAGEMENT BOARD
AND THE MOORE ECONOMIC DEVELOPMENT AUTHORITY
OCTOBER 18, 2010 – 6:30 P.M.**

The City Council of the City of Moore met in the City Council Chambers, 301 North Broadway, Moore, Oklahoma on October 18, 2010 at 6:30 p.m. with Mayor Glenn Lewis presiding.

*David Roberts
Councilman, Ward I*

*Robert Krows
Councilman, Ward I*

*Kathy McMillan
Councilwoman, Ward II*

*Janie Milum
Councilwoman, Ward II*

*Jason Blair
Councilman, Ward III*

*Terry Cavnar
Councilman, Ward III*

PRESENT: Krows, Blair, McMillan, Roberts, Milum, Lewis
ABSENT: Cavnar

STAFF MEMBERS PRESENT: City Manager, Steve Eddy; Assistant City Manager, Stan Drake; City Clerk/Finance Director, Jim Corbett; Assistant City Attorney, K.O. Williams; City Attorney, Randy Brink; Community Development Director, Elizabeth Jones; Economic Development Director, Deidre Ebrey; Emergency Management and Communications Director, Gayland Kitch; Fire Chief, Charles Stephens; Human Resources/Risk Management Director, Gary Benefield; Manager of Information Technology, David Thompson; Police Chief, Ted Williams; Parks and Recreation Director, Todd Jenson; Public Works Director, Richard Sandefur; Veolia Water Project Manager, Robert Pistole; and Purchasing Agent, Carol Folsom.

Agenda Item Number 2 being:

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD OCTOBER 4, 2010.
- B) ACCEPT THE HVAC/CHILLER IMPROVEMENTS AT THE MOORE PUBLIC LIBRARY WITH STANDARD FACTORY WARRANTIES FOR MAINTENANCE.
- C) APPROVE FY 10-11 COMMUNITY INTERVENTION CENTER PARTNERSHIP AND SERVICE PROVIDER AGREEMENT WITH CROSSROADS YOUTH AND FAMILY SERVICES IN THE AMOUNT OF \$40,000 AND AUTHORIZE PAYMENT OF SAME.
- D) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2010-2011 IN THE AMOUNT OF \$1,346,054.20.

Councilman Krows moved to approve the consent docket in its entirety, second by Councilman Blair. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 3 being:

CONSIDER APPROVAL OF AUDIT REPORT FOR FISCAL YEAR ENDING JUNE 30, 2010.

Steve Eddy, City Manager, advised that consideration of the audit report should be delayed until Mr. Dillon could present the audit report findings. Mayor Lewis asked for a tabling motion in the absence of auditor Bob Dillon.

Councilman Roberts moved to table the item, second by Councilman Krows. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 4 being:

CONSIDER APPROVAL OF A CONTRACT WITH MIKE BORELLI, DBA MBC, IN AN AMOUNT NOT TO EXCEED \$18,000 FOR RIGHT-OF-WAY ACQUISITION FOR THE EASTERN AVENUE ROADWAY WIDENING PROJECT FROM NE 27TH STREET TO THE NORTH CITY LIMITS.

Elizabeth Jones, Community Development Director, stated that Mike Borelli assists the City with acquiring right-of-way on federally funded projects. On this particular project there are nine parcels to be acquired including a parcel owned by the Burlington-Northern Santa Fe Railroad. He acts as intermediary between the City and property owners, meeting the property owners on site to discuss the proposed project, explaining different options available to them under federal guidelines, coordinating appraisals and offers to the property owners, and completing the necessary paperwork.

Councilman Krows asked how the amount of the contract was determined. Ms. Jones stated that Mr. Borelli estimates the amount of time necessary to acquire the separate pieces of property. The price is higher due to the difficulty involved with the railroad right-of-way acquisition.

Steve Eddy, City Manager, stated that generally the City would not hire someone to acquire right-of-way; however, the requirements for right-of-way acquisition on federally funded ODOT projects are difficult.

Councilman Krows moved to approve of a contract with Mike Borelli, dba MBC, in an amount not to exceed \$18,000 for right-of-way acquisition for the Eastern Avenue roadway widening project from NE 27th Street to the north City limits, second by Councilwoman McMillan. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 5 being:

CONSIDER AWARDING BID NO. 101-007 "REGENCY PARK SANITARY SEWER REPLACEMENT PROJECT, PHASE III" TO THE LOWEST AND MOST RESPONSIBLE BIDDER.

Elizabeth Jones, Community Development Director, stated this project will use the last of the Small Cities Set Aside CDBG grant funds previously awarded by the State of Oklahoma in the amount of \$74,583. With the required one to one match the total project amount was \$149,166. Ms. Jones stated that this was the third and final phase of the Regency Park Sanitary Sewer Replacement Project. The project consisted of the replacement of 1,700 linear feet of sanitary sewer line. Staff recommended awarding the bid to the low bidder, Urban Contractors, in the amount of \$174,433.

Steve Eddy, City Manager, advised that a copy of the bid tabulation sheet and engineer's recommendation was made available for Council's review.

Councilwoman McMillan moved to 101-007 "Regency Park Sanitary Sewer Replacement Project, Phase III" to Urban Contractors in the amount of \$174,433, second by Councilwoman Milum. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 5.1 being:

CONSIDER RESOLUTION NO. 711(10) SETTING A PUBLIC HEARING DATE OF NOVEMBER 15, 2010 FOR THE PURPOSE OF RECEIVING WRITTEN AND ORAL COMMENTS FROM THE PUBLIC CONCERNING THE PROPOSED ESTATES OF WYNDEMERE STREET IMPROVEMENT DISTRICT, AND DIRECTING THE MUNICIPAL CLERK TO GIVE NOTICE AS REQUIRED BY LAW.

K.O. Williams, Assistant City Attorney, stated that setting a public hearing date is the next step in the creation of an assessment district for street improvements in the Estates of Wyndemere subdivision. Mr. Williams indicated that November 15, 2010 was proposed as a public hearing date to allow adequate posting time and opportunity for protests. He advised that the City Council previously determined the sufficiency of the petition, which was signed by 60 of the 76 homeowners. Mr. Williams stated that they have not received any complaints to date.

Councilman Krows asked where the public hearing would be held. Mr. Williams stated that it would be an item on the November 15th agenda. There would also be an item for approval of a resolution authorizing the creation of the assessment district.

Councilman Krows moved to approve Resolution No. 711(10), second by Councilwoman Milum. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Councilman Krows moved to remove Agenda Item No. 3 from the table, second by Councilman Blair. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 3 being:

CONSIDER APPROVAL OF AUDIT REPORT FOR FISCAL YEAR ENDING JUNE 30, 2010.

Jim Corbett stated that the audit, single audit, and management letter were included in the agenda packet. The audit opinion was an unqualified audit opinion. Auditor Bob Dillon arrived to present his findings to the City Council.

Mr. Dillon stated that they did not have any internal control findings or management letter findings. A single audit report was also issued. Approximately \$1,800,000 was received in federal award primarily due to debt forgiveness on the sewer plant debt.

Councilman Krows moved to approve the audit report for fiscal year ending June 30, 2010, second by Councilwoman McMillan. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Steve Eddy, City Manager, recognized Jim Corbett as Finance Director. He stated that the financial operations of the City are in good hands, which is demonstrated by the fact that the City has received a clean audit since 2002. He also acknowledged the department heads for the part they play in the process. Mayor Lewis expressed his appreciation for the City Manager and staff for the work they do.

THE CITY COUNCIL MEETING WAS RECESSED AND THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS CONVENED AT 6:45 P.M.

Agenda Item Number 6 being:

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR MOORE PUBLIC WORKS AUTHORITY MEETING HELD OCTOBER 4, 2010.
- B) RATIFY ACTION OF CITY COUNCIL ON APPROVAL OF AUDIT REPORT FOR FISCAL YEAR ENDING JUNE 30, 2010.
- C) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2010-2011 IN THE AMOUNT OF \$68,087.34.

Trustee Krows moved to approve the consent docket in its entirety, second by Trustee Roberts. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 7 being:

CONSIDER APPROVAL OF THE RECOMMENDATION FOR THE HEALTH BENEFITS PLAN TO MAINTAIN "GRANDFATHERED STATUS", AND TO APPROVE CERTAIN MATERIAL MODIFICATIONS PURSUANT TO THE REQUIREMENTS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THE HEALTH CARE AND EDUCATION AND RECONCILIATION ACT.

Gary Benefield, Risk Manager, stated that this item was discussed at the City Council retreat. Staff recommended approval of the "Grandfathered Status" and the material modifications to the City's Health Benefits Plan that are required by the Patient Protection and Affordable Care Act as part of the recent Health Care Reform legislation.

Mayor Lewis asked for a legal opinion from City Attorney Randy Brink. Mr. Brink indicated that he had reviewed the item and it was legal for the City Council to take action on the item.

Trustee Krows moved approval of the recommendation for the Health Benefits Plan to maintain "Grandfathered Status", and to approve certain material modifications pursuant to the requirements of the Patient Protection and Affordable Care Act and the Health Care and Education and Reconciliation Act, second by Trustee McMillan. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS RECESSED AND THE MOORE RISK MANAGEMENT MEETING WAS CONVENED AT 6:47 P.M.

Agenda Item Number 8 being:

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR MOORE RISK MANAGEMENT MEETING HELD OCTOBER 4, 2010.
- B) RATIFY ACTION OF THE TRUSTEES ON THE APPROVAL OF THE RECOMMENDATION FOR THE HEALTH BENEFITS PLAN TO MAINTAIN "GRANDFATHERED STATUS", AND TO APPROVE CERTAIN MATERIAL MODIFICATIONS PURSUANT TO THE REQUIREMENTS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THE HEALTH CARE AND EDUCATION AND RECONCILIATION ACT.
- C) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2010-2011 IN THE AMOUNT OF \$264,111.82.

Trustee Krows moved to approve the consent docket in its entirety, second by Trustee Roberts. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

THE MOORE RISK MANAGEMENT MEETING WAS RECESSED AND THE MOORE ECONOMIC DEVELOPMENT AUTHORITY MEETING WAS CONVENED WITH CHAIRMAN DAVID ROBERTS PRESIDING AT 6:49 P.M.

Agenda Item Number 9 being:

ROLL CALL

PRESENT: Krows, Blair, McMillan, Lewis, Milum, Roberts
ABSENT: Cavnar

Agenda Item Number 10 being:

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR MOORE ECONOMIC DEVELOPMENT AUTHORITY MEETING HELD SEPTEMBER 20, 2010.

Trustee McMillan moved to approve the consent docket in its entirety, second by Trustee Lewis. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Lewis, Milum, Roberts
Nays: None
Absent: Cavnar

Agenda Item Number 11 being:

DIRECTOR'S REPORT

Chairman David Roberts commented that there was an excellent article on the front page of the Daily Oklahoman dated October 18, 2010 regarding Moore's economic development.

Deidre Ebrey, Economic Development Director, reported the following items:

- Sales tax up 7.24% September 2010 over last year.
- Boeing will move from California to Oklahoma City with 550 high paying technical positions which will be filled by transfers and new hires.
- Community wide meetings regarding sales tax extension proposal scheduled for October 19, 2010 at 6:30 p.m. and October 20, 2010 at 3:00 p.m. at the Brand Senior Center. Additional information available on www.cityofmoore.com.
- October 30, 2010 events will include Pancake Breakfast at Brand Senior Center, Red Ribbon Parade will start at 10:00 a.m., Prescription Drug Drop Off, Library will hold Fourth Annual Red Ribbon Culture Jam, from 4-7 pm is Haunt Old Town with major streets closed in Old Town, 6:00 p.m. Halloween Festival at the Community Center. Information available on www.cityofmoore.com.
- Fact Sheet on the Sales Tax Extension, Report to Citizens/City Map.

Councilman Krows asked about the Red Ribbon route. Ms. Ebrey stated that they will stage on 5th Street from Broadway to the I-35 underpass. They will proceed from Broadway to Main, and Main to Moore High School.

THE MOORE ECONOMIC DEVELOPMENT AUTHORITY MEETING WAS RECESSED AND THE CITY COUNCIL MEETING RECONVENED WITH MAYOR GLENN LEWIS PRESIDING AT 6:56 P.M.

Agenda Item Number 12 being:

NEW BUSINESS:

A) CITIZENS' FORUM FOR ITEMS NOT ON THE AGENDA.

Tom Usher, 1200 S. Morgan Drive, stated that he had a sewer backup at his property on October 7, 2010. He had a second sewer backup on October 10, 2010 covering the entire floor of the home with raw sewage. Mr. Usher phoned the City and was told that the Customer Assistance Program would clean his property, but he would be responsible for the cost of repairs from the resulting damage because the City was not liable unless he could prove negligence. He later received a letter from the City stating that he was required to install a backup prevention device. After discussing the situation with his neighbors he found that this is an ongoing situation that has occurred numerous times over the years. Mr. Usher felt this meant the City was negligent by not fixing a substandard sewer. He felt the City should be notifying the residents that they should install a backup prevention device before they come home to find their floor covered in raw sewage. Mr. Usher also felt that the City of Moore should pay for the cost of replacing the laminate wood flooring and the moldings that had to be replaced. He stated that the situation could have been avoided if someone had mentioned that a sewer problem existed in the neighborhood.

Steve Eddy, City Manager, stated the City was aware of a problem in the area. Cameras were run into the line to identify any problems. They did find some roots which have been removed. Mr. Eddy informed Mr. Usher that there is a process to make claim against the City for any alleged damages. Robert Pistole, Veolia Water, had indicated to him that approximately five years ago there were problems downstream when a section of line collapsed causing backups. The line was replaced and it corrected the problem. Mr. Eddy stated that the camera did not show any problems with the integrity of the line. Mr. Eddy apologized to Mr. Usher for his problem however; it would be impossible to notify every citizen of a potential backup. Mr. Eddy added that the situation was exacerbated by the fact that the house was unoccupied and the backup wasn't found immediately. Mr. Usher had nothing but praise for the customer assistance program.

Councilman Krows asked if the City could require the installation of backup prevention devices. Mr. Eddy advised that it is required on new home construction. He added that the device must also be maintained. Councilman Roberts added that a homeowner can add sewer backup protection to their policy at a small cost. Gary Benefield, Risk Manager, stated that a couple of times a year information regarding insurance coverage and backflow prevention devices is placed in the City newsletter and run on Channel 20. Councilman Krows asked how someone goes about installing the device. Mr. Benefield recommended contacting two to three plumbers for estimates. The cost of the device is inexpensive; however, the real cost involved is for labor.

Richard McIntosh, 1116 S. Morgan Drive, stated that he lives just north of Mr. Usher. They purchased their home in 1994. His son lived in it and had trouble with backups. Three years ago a backup occurred when they had renters. It flowed into the yard and onto the next door property. Mr. McIntosh asked why the problem could not be solved. It appears that five residences on the street appear to have repeated problems. He stated that if it turned out that the problem was roots in the line, couldn't the City perform routine maintenance to prevent the backups from occurring. Mr. Eddy advised that there are areas in the City that receive routine maintenance for root problems. Mr. Pistole indicated that when the City is aware of a problem it is put on a two year maintenance cycle once it is foamed.

B) ITEMS FROM THE CITY COUNCIL/MPWA TRUSTEES.

Councilman Krows stated that he and Councilman Blair were able to take a tour of the new Fire Station. He commented that it was really impressive. When the construction begins on the new police department the City should set strict deadlines for contractors to meet on the construction or incur penalties. Councilman Krows expressed his appreciation to Chief Stephens for the great job he was doing overseeing the project.

C) ITEMS FROM THE CITY/TRUST MANAGER.

Steve Eddy, City Manager, advised the City Council of the following items:

- Reminded the City Council and citizens of the meetings scheduled on the proposed sales tax extension.
- September financial statement reflects an increase in the MPWA and a slight decrease on the City side; however, overall the City looks strong.
- Received good comments from citizens regarding the article in the Daily Oklahoman.

Agenda Item Number 13 being:

EXECUTIVE SESSION

A) CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING CLAIM BY CINDY KENNEDY AGAINST THE CITY OF MOORE AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE CITY OF MOORE AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

B) CONVENE INTO EXECUTIVE SESSION

Councilwoman McMillan moved to convene to executive session, second by Councilman Krows. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

The City Council convened into executive session at 7:14 p.m.

C) RECONVENE FROM EXECUTIVE SESSION

PRESENT: Krows, Blair, McMillan, Roberts, Milum, Lewis
ABSENT: Cavnar

The City Council reconvened from executive session at 7:39 p.m.

D) ACTION.

A) CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING CLAIM BY CINDY KENNEDY AGAINST THE CITY OF MOORE AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE CITY OF MOORE AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

Councilman Krows moved to direct staff to proceed as directed in executive session, second by Councilwoman McMillan. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

Agenda Item Number 14 being:

ADJOURNMENT

Councilman Krows moved to adjourn the City Council meeting, second by Councilman Roberts. Motion carried unanimously.

Ayes: Krows, Blair, McMillan, Roberts, Milum, Lewis
Nays: None
Absent: Cavnar

The City Council, Moore Public Works Authority, and the Moore Risk Management meetings were adjourned at 7:41 p.m.

TRANSCRIBED BY:

RHONDA BAXTER, Executive Assistant

RECORDED BY:

CAROL FOLSOM, Purchasing Agent

FOR:

JANIE MILUM, MPWA Secretary

FOR:

KATHY MCMILLAN, MEDA Secretary

These minutes passed and approved as noted this ____ day of _____, 2010.

ATTEST:

JIM CORBETT, City Clerk