

**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  
FEBRUARY 1, 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 February 1, 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, Cavnar, Roberts, Milum, Lewis

ABSENT: None

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

**Agenda Item Number 2 being:**

CONSENT DOCKET:

- A) APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JANUARY 19, 2010.
- B) RECEIVE THE MINUTES OF THE PLANNING COMMISSION MEETING HELD NOVEMBER 10, 2009.
- C) RECEIVE THE MINUTES OF THE PARKS BOARD MEETING HELD DECEMBER 1, 2009.
- D) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2009-2010 IN THE AMOUNT OF \$1,694,446.61.

**Councilwoman McMillan moved to approve the consent docket in its entirety, second by Councilman Cavnar. Motion carried unanimously.**

Ayes: Krows, Blair, McMillan, Cavnar, Roberts, Milum, Lewis

Nays: None

**Agenda Item Number 3 being:**

CONSIDER APPROVAL OF 2009 G.O. BOND PROJECT NO. 2 FOR NE 12<sup>TH</sup> STREET FROM EASTERN TO BRYANT AND AUTHORIZE STAFF TO SOLICIT BIDS FOR CONSTRUCTION OF SAID PROJECT. MANAGEMENT

Stan Drake, Assistant City Manager, stated that the second G.O. Bond project would involve the reconstruction of one mile of roadway on NE 12<sup>th</sup> Street between Eastern and Bryant. The east half of the intersection and 12<sup>th</sup> and Eastern will be reconstructed and the entire intersection at 12<sup>th</sup> and Bryant will be reconfigured and reconstructed with turn lanes. Mr. Drake indicated that the City was awarded grant funds through ACOG to signalize the roadway between Winding Creek Elementary and the west side of Buck Thomas Park. The engineer's estimate is \$3.8 million, which includes a 5% contingency. Mr. Drake indicated that utility relocations must occur prior to the start of construction. He advised that the bridge box at Old Mill Road can be salvaged; however, two new structures along the east portion of the project would need to be constructed.

Mayor Lewis asked how long the project would take to complete. Mr. Drake estimated approximately four months.

**Councilman Krows moved to approve 2009 G.O. Bond Project No. 2 for NE 12<sup>th</sup> Street from Eastern to Bryant and authorize staff to solicit bids for construction of said project, second by Councilwoman McMillan. Motion carried unanimously.**

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

**Agenda Item Number 4 being:**

CONSIDER APPROVAL OF AN AGREEMENT FOR SERVICES BETWEEN PINNACLE MAPPING TECHNOLOGIES, INC. AND THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS (ACOG) FOR ORTHOPHOTOGRAPHY AND ASSOCIATED PLANIMETRIC DATA FOR THE CITY OF MOORE IN THE AMOUNT OF \$26,216.40.

Elizabeth Jones, Community Development Director, advised that staff requested authorization at the January 19, 2010 City Council meeting to enter into contract negotiations in conjunction with the Association of Central Oklahoma Governments (ACOG) with Pinnacle Mapping Technologies for orthophotography and planimetric data. Ms. Jones stated that the City of Moore's portion of the project would be \$26,216.40. As a comparison she stated that the last aerial photography project was performed in 2004 with Oklahoma City at a cost of \$30,000.

**Councilman Cavnar moved to approve an agreement for services between Pinnacle Mapping Technologies, Inc. and the Association of Central Oklahoma Governments (ACOG) for orthophotography and associated planimetric data for the City of Moore in the amount of \$26,216.40, second by Councilman Krows. Motion carried unanimously.**

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

**Agenda Item Number 5 being:**

CONSIDER RESOLUTION NO. 687(10) TO ESTABLISH A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ADVISORY COMMITTEE.

Elizabeth Jones, Community Development Director, advised that the 2010 CDBG program emphasizes public input. The City expects to receive approximately \$273,000 annually for entitlement communities. Most communities have established a steering or advisory committee to help take care of the details of the program and to make recommendations to the City Council regarding plans and expenditure of funds. Resolution No. 687(10) would establish a seven member committee. Staff would recommend that at least 50% of the committee be Moore residents, and that a few members represent social service agencies. A series of public meetings would be held on various aspects of the CDBG program. Ms. Jones stressed that the committee would be a recommendation body only. The City Council would appoint the members of the committee and have final say on how the funds would be spent.

Mayor Lewis asked if the monies would still be restricted to low income areas. Ms. Jones indicated that HUD has predetermined areas around the City where the monies could be used on infrastructure improvements. She added that funds for social services would not be restricted to a specific area; however, the recipients must be at a low to moderate income level.

**Councilman Roberts moved to adopt Resolution No. 687(10), second by Councilman Krows. Motion carried unanimously.**

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

**Agenda Item Number 6 being:**

CONSIDER APPROVAL OF A CONTRACT WITH CRAFTON, TULL, SPARKS AND ASSOCIATES IN THE AMOUNT OF \$19,500 TO PROVIDE ENGINEERING SERVICES FOR THE CONSTRUCTION OF A 6' SIDEWALK ON THE SOUTH SIDE OF NW 12<sup>TH</sup> STREET BETWEEN JANEWAY AND SANTA FE.

Elizabeth Jones, Community Development Director, advised that Agenda Item Nos. 6 and 7 were companion items. Ms. Jones stated that several months ago citizens expressed concerns regarding the handicap ramps installed on 12<sup>th</sup> Street between Santa Fe and Janeway. Stimulus funds were used to resurface the roadway with the handicap ramps installed at the same time. Council recommended putting in a sidewalk to tie the area together and make it less awkward. Ms. Jones applied for and received federal funding through ACOG in the amount of \$200,000 to construct a sidewalk from Santa Fe to Janeway Avenue on the south side of NW 12<sup>th</sup> Street. The funding requires engineering plans and ODOT review. A proposed contract was negotiated with Crafton, Tull, Sparks and Associates in the amount of \$19,500. Ms. Jones noted that although staff strives for a 6' sidewalk, in some circumstances it might be 5' or less due to existing utilities or right-of-way limitations. Mayor Lewis inquired if this was part of ACOG's trail system. Ms. Jones confirmed that it was.

**Councilman Krows moved to approve a contact with Crafton, Tull, Sparks and Associates in the amount of \$19,500 to provide engineering services for the construction of a 6' sidewalk on the south side of NW 12<sup>th</sup> Street between Janeway and Santa Fe, second by Councilwoman McMillan. Motion carried unanimously.**

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

**Agenda Item Number 7 being:**

CONSIDER RESOLUTION NO. 688(10) SUBMITTING THE NW 12<sup>TH</sup> STREET SIDEWALK CONSTRUCTION PROJECT FROM JANEWAY AVENUE TO SANTA FE AVENUE TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR CONSIDERATION AND CONCURRENCE.

**Councilman Krows moved to adopt Resolution No. 688(10), second by Councilman Cavnar. Motion carried unanimously.**

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

**Agenda Item Number 8 being:**

CONSIDER THE FINAL PLAT OF 7-ELEVEN AT TELEPHONE ROAD ADDITION, LOCATED IN THE NE/4 OF SECTION 22, T10N, R3W, BEING SOUTH OF SW 4<sup>TH</sup> STREET AND WEST OF TELEPHONE ROAD. APPLICATION BY 7-ELEVEN, LLC/JIM BROWN.

Elizabeth Jones, Community Development Director, advised that the proposed final plat consisted of one commercial lot on 1.5 acres. The property is currently being utilized as a gas station. The applicant proposed to remove all buildings from the site and construct a new 7-Eleven gas and convenience store. Public water is available to the site from the north and east, and existing public sewer extends through the site at the northwest corner. Access is available from both SW 4<sup>th</sup> and Telephone Road. The City's consulting engineer, TEC, reviewed the plat against the traffic impact analysis study that was conducted in 2008 for the area. Because the intersection of Telephone Road and SW 4<sup>th</sup> street was identified as a main intersection and the traffic volume was anticipated to increase, it was determined that at some point the intersection should be widened. The recommendations from the traffic engineer included the following items:

1. Increased right-of-way from 50' to 60' from the street center line.
2. In return for the increased right-of-way the City would consider waiving the transportation impact fees.
3. Curb cuts approved with building permit should have as limited impact on traffic flow as possible.

Staff recommended approval of the final plat subject to a 60' right-of-way with staff approval of all curb cuts at the building permit stage. Ms. Jones noted that staff received the building plans and the applicant was requesting two curb cuts, one on Telephone and one on SW 4<sup>th</sup>. The curb cut on SW 4<sup>th</sup> was submitted to ODOT for their approval.

Steve Eddy, City Manager, stated that the intersection was very busy and traffic was continuing to increase. The ultimate recommendation for the intersection would be dual left turns. However, a project of this size would have to be considered as a future bond issue project. The right-of-way would allow the City to do the project sometime in the future. Mr. Eddy indicated that there were funds left in a MEDA loan account which would allow staff to look into an additional eastbound lane on 4<sup>th</sup> Street that would be a dedicated right turn lane for southbound traffic onto Telephone Road.

**Councilman Roberts moved to approve the Final Plat of 7-Eleven at Telephone Road Addition, located in the NE/4 of Section 22, T10N, R3W, being south of SW 4<sup>th</sup> Street and west of Telephone Road with the required 60' right-of-way from the street center line, second by Councilman Krows. Motion carried unanimously.**

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

**Agenda Item Number 9 being:**

CONSIDER REZONING APPLICATION NO. RZ-850 LOCATED IN THE SW/4 OF SECTION 11, T10N, R3W, BEING NORTH OF NE 18<sup>TH</sup> STREET AND EAST OF BROADWAY AVENUE, FROM R-3 GENERAL RESIDENTIAL DISTRICT TO C-1 OFFICE DISTRICT; AND APPROVE ORDINANCE NO. 663(10). APPLICATION BY BERNARD BERK.

Elizabeth Jones, Community Development Director, stated that the subject property was located on the northeast corner of NE 18<sup>th</sup> Street and Broadway. The applicant proposed splitting the existing dental office from the larger apartment complex property. Ms. Jones advised that the dental office was zoned R-3 with the development of the apartment complex to the north, and is currently being operated as a legal non-conforming use. Ms. Jones advised that in order to bring the new parcel into compliance the C-1 zoning was requested. She stated that the subject site has access from NE 18<sup>th</sup> Street. Public water is available to serve the site, and the building is being served through a private sewer service line from the existing apartment complex. Ms. Jones noted that a public sewer line must be extended to serve the site. If City Council chooses to approve the lot split proposed under Agenda Item No. 10, the sanitary sewer extension must be complete prior to the City releasing the lot split.

Ms. Jones stated that because the rezoning application was being sought in order to bring an existing business into compliance with current City codes staff views this as a housekeeping item. Because C-1 uses are light in nature and include businesses with limited hours and light traffic, staff recommended approval of the item and the companion lot split contingent upon the extension of the public sewer line. Ms. Jones advised that there were no protestors at the Planning Commission meeting; however, one letter of protest was received following the meeting. A copy of the letter was included in the agenda packet. She stated that the letter focused primarily on traffic concerns in the area.

**Councilwoman McMillan moved to approve Rezoning Application No. RZ-850 and Ordinance No. 663(10), second by Councilwoman Milum. Motion carried unanimously.**

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

**Agenda Item Number 10 being:**

CONSIDER APPROVAL OF A LOT SPLIT LOCATED IN THE NW/4 OF SECTION 11, T10N, R3W, BEING NORTH OF NE 18<sup>TH</sup> STREET AND WEST OF BROADWAY (ALSO KNOWN AS 101 NE 18<sup>TH</sup> STREET). APPLICATION BY BERNARD BURKE.

**Councilman Krows moved to approve a lot split located in the NW/4 of Section 11, T10N, R3W, being north of NE 18<sup>th</sup> Street and west of Broadway (also known as 101 NE 18<sup>th</sup> Street), second by Councilwoman Milum. Motion carried unanimously.**

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

**Agenda Item Number 11 being:**

CONSIDER REZONING APPLICATION NO. RZ-851 LOCATED IN THE SW/4 OF SECTION 14, T10N, R3W, BEING NORTH OF SW 4<sup>TH</sup> STREET AND EAST OF I-35, FROM C-5 AUTOMOTIVE AND COMMERCIAL RECREATION DISTRICT TO C-5/SUP AUTOMOTIVE AND COMMERCIAL RECREATION DISTRICT WITH A SPECIAL USE PERMIT FOR LIMITED AUTO SALES; AND APPROVE ORDINANCE NO. 664(10). APPLICATION BY MALIBU'S AUTO CENTER/GREG RUSHING.

Elizabeth Jones, Community Development Director, stated that the subject property was located on the north side of SW 4<sup>th</sup> Street between Broadway and I-35. The applicant currently has an automotive detailing and accessories business known as Malibu's Auto Center, and would like to expand his business into limited car sales with only six cars being displayed at one time. Ms. Jones pointed out that the staff report mistakenly indicated five cars. The applicant submitted a drawing indicating which parking spaces would be dedicated to the six cars for sale. The applicant is therefore requesting a Special Use Permit for specialty automotive, which is compatible with other retail uses and allows limited outside display of cars that are ready for sale. The Special Use Permit does not allow outside storage of wrecked or dismantled vehicles or parts. Staff recommended approval of the item contingent upon the outside display not encroaching on the right-of-way or causing sight limitations on SW 4<sup>th</sup> Street. She added that the Special Use Permit only allows for six cars being displayed for sale at any given time. Ms. Jones also noted that the applicant was not requesting a change in zoning they were only requesting the permit to allow the car sales.

**Councilman Krows moved to approve Rezoning Application No. RZ-851 located in the SW/4 of Section 14, T10N, R3W, being north of SW 4<sup>th</sup> Street and east of I-35, from C-5 Automotive and Commercial Recreation District to C-5/SUP Automotive and Commercial Recreation District with a Special Use Permit for Limited Auto Sales; and approve Ordinance No. 664(10), second by Councilman Roberts. Motion carried unanimously.**

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

**Agenda Item Number 12 being:**

CONSIDER APPROVAL OF A LEASE AGREEMENT WITH FOUR PAR PROPERTIES, LLC FOR POLICE OPERATIONS.

Chief Ted Williams stated that if Council approves the proposed lease agreement for two warehouses they would become the temporary offices for the Property, Patrol, and Detective divisions during the construction phase of the new police facility. Chief Williams advised that administration would move into the second floor of Intrust Bank and the Records division would be temporarily housed at City Hall in Customer Service.

**Councilman Roberts moved to approve a lease agreement with Four Par Properties, LLC for police operations, second by Councilman Krows. Motion carried unanimously.**

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

**Agenda Item Number 13 being:**

CONSIDER A CHANGE ORDER TO WIRING SOLUTIONS IN THE AMOUNT OF \$10,902.71 FOR VARIOUS UPGRADES TO THE DIGITAL IP VIDEO SURVEILLANCE RECORDING SYSTEMS AT CITY HALL AND FIRE STATIONS 1, 3 AND 4.

David Thompson, Manager of Information Technology, stated that the proposed change order was for several items at Fire Stations 1, 3 and 4. The more expensive items include the addition of four monitoring stations at Fire Station 1, and a dedicated video recording and sound system for the Fire Marshall's office and interview room to be used for juvenile recordings.

**Councilman Krows moved to approve a Change Order to Wiring Solutions in the amount of \$10,902.71 for various upgrades to the Digital IP Video Surveillance Recording Systems at City Hall and Fire Stations 1, 3 and 4, second by Councilman Cavnar. Motion carried unanimously.**

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

**THE CITY COUNCIL MEETING WAS RECESSED AND THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS CONVENED AT 7:00 P.M.**

**Agenda Item Number 14 being:**

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR MOORE PUBLIC WORKS AUTHORITY MEETING HELD JANUARY 19, 2010.
- B) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2009-2010 IN THE AMOUNT OF \$645,606.81.

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

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

**THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS RECESSED AND THE MOORE RISK MANAGEMENT MEETING WAS CONVENED AT 7:01 P.M.**

**Agenda Item Number 15 being:**

CONSENT DOCKET:

- A) ACCEPT THE MINUTES OF THE REGULAR MOORE RISK MANAGEMENT MEETING HELD JANUARY 19, 2010.
- B) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2009-2010 IN THE AMOUNT OF \$123,370.81.

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

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

**THE MOORE RISK MANAGEMENT MEETING WAS RECESSED AND THE MOORE ECONOMIC DEVELOPMENT AUTHORITY MEETING WAS CONVENED WITH CHAIRMAN DAVID ROBERTS PRESIDING AT 7:02 P.M.**

**Agenda Item Number 16 being:**

ROLL CALL

PRESENT: Krows, Blair, McMillan, Lewis, Cavnar, Milum, Roberts  
ABSENT: None

**Agenda Item Number 17 being:**

DISCUSS, CONSIDER, AND IF DEEMED APPROPRIATE APPROVE SALES TAX REBATE AGREEMENT BETWEEN THE MOORE ECONOMIC DEVELOPMENT AUTHORITY AND TERRY FRITTS DBA TEDDY BEAR PARTNERS, LLC, AS INCENTIVE TO CAUSE THE DEVELOPMENT OF A *TARGET* STORE ON SW 19<sup>TH</sup> STREET WEST OF FRITTS BOULEVARD.

Steve Eddy, City Manager, stated that staff had been working on a Sales Tax Rebate Agreement between the City and Target, and Bill Comstock reviewed the agreement as outside counsel. Mr. Eddy explained that a representative from Target was in attendance at the meeting in anticipation of the item being presented to the City Council; however, staff was just short of having the final agreement ready for consideration. He suggested calling a special meeting of the Moore Economic Development Authority to consider final approval of the agreement. Mr. Eddy added that the Fritts indicated that delaying consideration of the item would not affect the timing of the sale. He advised that the proposed Sales Tax Rebate Agreement was similar to an agreement the City entered into previously with the Shops at Moore. The proposed agreement was being considered as incentive for the development of a Target store at SW 19<sup>th</sup> and Fritts Boulevard.

Deidre Ebrey, Economic Development Director, presented the City Council with a timeline on when the project came about and the transition into an agreement with the Fritts family d/b/a Teddy Bear Partners. In August 2007 conversations occurred with Target regarding the same piece of property; however, at that time it was through the developer Direct Development, with the City's obligation being \$7.8 million over a six year period. The agreement was very similar to the Shops at Moore agreement. The new agreement with Teddy Bear Partners is asking for a financial obligation of a maximum amount of \$2.1 million, if the agreement is fully realized over its 60 month duration. Ms. Ebrey indicated that the next two pages of her handout covered the differences between the first agreement and the one being proposed. In order to keep up with the fast track nature of the Target development, the process would be expedited with an agreement with Target and the property owner and the City's agreement with the property owner to fill the gap of what Target is able to pay for the land. The value of the Fritts land was determined by comparable sales.

Ms. Ebrey indicated that Target will not build a store in Moore without the Sales Tax Rebate Agreement with Teddy Bear Partners. Target is only willing to pay a certain amount for the property, which is less than the value deemed by the Fritts family. The Sales Tax Rebate Agreement will fill in the gap in order to see a Target store in Moore.

Ms. Ebrey indicated that although the process had been long it had also been pleasant since all parties were great to work with. She stated that the City has been after a Target for some time and she couldn't be happier that they were willing to enter into the process.

Ms. Ebrey introduced Chris Lundy who is the Manager of Public Partnerships with Target Corporation in Minneapolis, Minnesota. She submitted a letter written by Mr. Lundy to the City Council. Mr. Lundy thanked the City Council for their time and cooperation with Target over the years. He expressed Target's support of the Sales Tax Rebate between the City of Moore and Teddy Bear Partners. Mr. Lundy indicated that Target and Teddy Bear Partners have been working on a proposed land purchase that would enable Target to potentially bring a new prototype Target store to Moore. He advised that each potential new store site was carefully studied and evaluated in terms of land and building costs, future tax and operational costs, and expectations for future sales revenues. Each potential store must meet certain projected financial hurdles during review before Target will undertake the commitment to invest capital costs to construct and operate the store. In this case, the potential site is owned by Teddy Bear Partners. Target and seller have negotiated a purchase price that would allow the project to clear the financial hurdles. Mr. Lundy indicated that the project had been approved by Target's capital expenditure committee contingent upon the other hurdles being overcome. He added that at a higher land price Target would be unable to consider the site for a new store at this time. Target understands that Teddy Bear Partners has valued the site at a higher purchase price than Target can afford. The Sales Tax Rebate being considered will assist Target and Teddy Bear in proceeding with the land acquisition and the potential construction of a new store in Moore. Mr. Lundy stated that Target truly appreciates everything the City of Moore has done thus far in conjunction with the project and hopes to serve the community in the near future.

Councilman Cavnar asked if Mr. Lundy could explain a little more about the prototype store being proposed. Mr. Lundy indicated that it would be a "P Fresh" Target store. It would likely be around 135,000 square feet with several square feet of fresh produce, a typical grocery store assortment, pharmacy, Starbucks, Pizza Hut, and with the newest elevations available.

Mr. Eddy stated that the term of the agreement would be five years from the opening of the store. The projected opening would be March or April of 2011. The proposed rebate would be done quarterly to Teddy Bear Partners and based on actual Target sales with a 50/50 split. The agreement is based on the gap amount of \$1,535,000. The City will be making rebate payments to Teddy Bear Partners based on the base amount of \$1,535,000 plus the carrying costs or the rate of return which has been established at 10%.

Mayor Lewis asked if State law allows the City to do this. Attorney Bill Comstock stated that all parties are attempting to have an agreement that is transparent and easily understood. As far as a private individual gaining a benefit from the municipality, the Supreme Court has held the fact that a private actor is receiving taxpayer dollars in an economic development situation is insignificant taking into consideration the benefits the municipality is going to receive by having a retailer such as Target here. Mayor Lewis recalled that the previous Sales Tax Rebate Agreement was accomplished under state statute because the area was deemed a blighted area. Mr. Comstock advised that in order to pass muster on the legality and constitutionality of the agreement in the Phillips v. City of Enid case where the City of Enid purchased Phillips University and leased it back to the University for \$1 a year. The funds used to purchase the university went to a vote of the taxpayers but the Supreme Court in the case set out guidelines that must be looked at when establishing an economic development plan. A more recent case in which he was involved in and went to the Supreme Court, is the Warr Acres case involving Wal-Mart. A private individual would not sell the land or lease the land to Wal-Mart and the City of Warr Acres provided incentive to the landowner to get the landowner to lease the land to Wal-Mart. It was structured in such a way that the landowner received interest on a treasury bill over time that was purchased by the City of Warr Acres with money from the General Fund. Mr. Comstock added that there

is not a State Statute that clearly allows for this sort of thing. However, there is court's interpretation of public purpose in the context of economic development plans. The courts are applying broader and broader interpretations on what constitutes a public purpose. In this instance it certainly meets the public purpose test because of the benefits the City will receive by the store. When the plan fully plays out and there are no more rebates the City will gain it all. It will create jobs for the community and the overall effects of having a store of this nature within the City limits of Moore.

Mayor Lewis asked if the case in Warr Acres involved a vote of the people like the case in Enid. Mr. Comstock indicated that it did not. Mayor Lewis asked if there was an independent appraisal of the property. Mr. Eddy indicated that the value of the land was based on land sales in the area and an appraisal of the land valuation that was donated to the City for the future fire station site. There was not an appraisal on the subject ten acres. Mayor Lewis stated that he purchased an acre of land off of I-35 for \$800,000 approximately eight months ago. Mr. Eddy advised that the land being discussed was a ten acre parcel. Councilman Roberts asked what that would equal out to per square foot. Mayor Lewis replied \$8. Councilman Roberts asked how that compared to Target and Mayor Lewis responded that theirs was \$6. Mayor Lewis stated that he wanted the Target but wanted everything to be transparent, above board and legal. Mr. Comstock stated that there is no guarantee that some disgruntled taxpayer wouldn't initiate a lawsuit to try and have this struck down. The City of Oklahoma City faces this all of the time due to all of the economic plans they have come up with to attract new business. There is no guarantee; however, based on his review of all of the facts in this particular case it passes muster with Oklahoma court decisions and certainly the public purpose test that is required by the Oklahoma Constitution.

Councilman Krows asked if there was a better way to do this. Mr. Comstock stated that he does not know of a better way simply because of the benefit that the City will end up with without having to actually write a check, with money they wouldn't have had if Target hadn't come. An easier way to structure this would be to come up with a fixed amount. But if you come up with a fixed amount it will incorporate the carrying costs or interest on receiving money over time as opposed to present value. Mr. Comstock stated that this was one of the dilemmas in structuring it in such a way to where it is plain, simple, easily understood and not subject to interpretation. Everyone understands how it will play out, how and when money will be paid out, and what it is going to get paid on. But he does not know of better way to structure the deal that stands a better chance of judicial scrutiny. The Oklahoma Supreme Court has said its job is not to ascertain if the agreement made by the municipality is the best agreement that the municipality could have made or the only agreement the municipality could have made, but is it sufficient enough to generate benefits for the City in order to pass the public purpose test. The Supreme Court is not going to exam it to make sure it is the best possible agreement the City could have made. That is the City Council's job as legislators. What they will look at is if the City Council would benefit personally from it or anybody else involved with the City of Moore. Mr. Comstock stated that the answer to this is no. He added that Target will benefit by paying less for the land. The landowner will benefit because they are getting the amount they wanted for the land assuming all of the numbers are correct. He stated it is a win win situation. The landowner gets full value albeit over time, but with interest. The City gets tax dollars it wouldn't otherwise have. Mr. Comstock added that the sooner it pays out the less it costs the City in terms of rebated tax dollars. The bigger the sales the sooner the incentive plan is finalized and paid out.

Councilman Roberts stated that if sales equal what their average store generates each year the plan will pay out in slightly over three years. Mayor Lewis again stated that he is not opposed to the project. He only wants to make sure everything is done legally. Councilman Cavnar commented that he trusts the City Manager and Bill Comstock to make certain everything is done properly, and is excited at the prospect of having a Target store in Moore.

Mr. Eddy indicated that many other cities in Oklahoma are doing Sales Tax Rebates and he has not had any attorney tell him that the agreement is not an appropriate public purpose of the funds.

Mayor Lewis commented that if the City doesn't enter into the agreement it doesn't gain anything; however, if the City does it will receive 50% of the Target sales tax revenues for a while and then 100% later. He added that another benefit would likely be several other new businesses would open following the Target store. Mr. Eddy advised that the best estimate the City was given of sales generated from the new Target would be around \$30 million. However, since Target's average store does more than that and the other large retail store in Moore does significantly more than that, staff actually feels the estimate would be closer to \$40 million.

Councilman Roberts asked what action needed to be taken. Mr. Eddy recommended taking no action. He stated that a special meeting would be called. February 8, 2010 was discussed as a possible date. Mayor Lewis asked that the meeting be set for 7:00 p.m. The final draft agreement would be prepared and presented to the City Council prior to the special meeting. In the meantime, he encouraged the Council to contact himself, City Attorney Randy Brink, or Bill Comstock with any questions.

Mr. Eddy and the City Council thanked Chris Lundy with Target for making the trip to Moore to address the City Council. He added that it had been a pleasure dealing with Target on the project and everyone had been delightful to deal with. Mr. Eddy stated that Target was only building a limited number of stores for the next few years. He felt that Moore getting a Target would be big news locally. Mayor Lewis asked when they would start construction. Mr. Eddy stated that Target would break ground by April 1, 2010.

**No action was taken on the item.**

**THE MOORE ECONOMIC DEVELOPMENT AUTHORITY MEETING WAS RECESSED AND THE CITY COUNCIL MEETING RECONVENED WITH MAYOR GLENN LEWIS PRESIDING AT 7:32 P.M.**

**Agenda Item Number 18 being:**

NEW BUSINESS:

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

There were no citizens to speak.

B) ITEMS FROM THE CITY COUNCIL/MPWA TRUSTEES.

Councilman Krows advised that he had received numerous compliments about the snow removal following the recent snow storms.

C) ITEMS FROM THE CITY/TRUST MANAGER.

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

- Thanked crews for clearing the roadways. Friday's sanitation route will be picked up Wednesday. Today's route will not be completed. Mr. Eddy asked the residents to be patient and as soon as weather permits their trash will be collected.
- The next two bond projects will be the street widening project on NW 12<sup>th</sup> Street between I-35 and Janeway and the reconstruction of NW 5<sup>th</sup> Street between I-35 and Markwell.
- Two contracts with engineer's firms preapproved by the committee will be negotiated on the bond projects.
- Bids are due on the first bond issue project at 19<sup>th</sup> and Telephone Friday, February 5, 2010 with a March 1, 2010 construction start date.

Councilman Roberts asked about a start date on the Santa Fe project. Stan Drake, Assistant City Manager, indicated that the utilities have been moved and he understood the contractor was ready to go. He will contact to ODOT to attempt to find out a start date, but expects the delay to be partly due to weather.

**Agenda Item Number 19 being:**

ADJOURNMENT

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

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

**The City Council, Moore Public Works Authority, and the Moore Risk Management meetings were adjourned at 7:37 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