

**MINUTES OF THE REGULAR MEETING OF
OF THE MOORE CITY COUNCIL
THE MOORE PUBLIC WORKS AUTHORITY
AND THE MOORE RISK MANAGEMENT BOARD
MARCH 2, 2015 – 6:30 P.M.**

The City Council of the City of Moore met in the City Council Chambers, 301 North Broadway, Moore, Oklahoma on March 2, 2015 at 6:30 p.m. with Mayor Glenn Lewis presiding.

David Roberts
Councilman, Ward I

Robert Krows
Councilman, Ward I

Melissa Hunt
Councilwoman, Ward II

Mark Hamm
Councilman, Ward II

Jason Blair
Councilman, Ward III

Terry Cavnar
Councilman, Ward III

PRESENT: Krows, Hunt, Cavnar, Roberts, Hamm, Lewis
ABSENT: Blair

STAFF MEMBERS PRESENT: City Manager, Steve Eddy; Assistant City Manager, Stan Drake; Assistant City Manager, Todd Jenson; Finance Director, Jim Corbett; City Attorney, Randy Brink; Community Development Director, Elizabeth Jones; Emergency Management Director, Gayland Kitch; Fire Chief, Gary Bird; Human Resources/Risk Management Director, Gary Benefield; Manager of Information Technology, David Thompson; Police Chief, Jerry Stillings; Sergeant, Troy Fullbright; Veolia Water Project Manager, Robert Pistole; and Purchasing Agent, Carol Folsom.

The recording equipment malfunctioned and did not begin recording until Agenda Item No. 4.

Agenda Item Number 2 being:

CONSENT DOCKET:

- A) APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD FEBRUARY 17, 2015.
- B) RECEIVE THE MINUTES OF THE REGULAR PLANNING COMMISSION MEETINGS HELD DECEMBER 9, 2014 AND JANUARY 8, 2015.
- C) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2014-2015 IN THE AMOUNT OF \$2,529,919.84.

Councilman Hamm moved to approve the consent docket in its entirety, second by Councilwoman Hunt. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm, Lewis
Nays: None
Absent: Blair

Agenda Item Number 3 being:

CONSIDER AN APPOINTMENT TO THE PLANNING COMMISSION TO FILL AN UNEXPIRED TERM.

Councilwoman Hunt moved to appoint Chris Rickman to the Planning Commission to fill an unexpired term, second by Councilman Hamm. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Agenda Item Number 4 being:

APPROVE THE FINAL PLAT OF DOLLAR GENERAL MOORE, LOCATED IN THE SW/4 OF SECTION 25, T10N, R3W, BEING NORTH OF SW 34TH STREET AND EAST OF BROADWAY AVENUE. APPLICATION BY MOORE 15880, LLC/MARK HELMER. (PLANNING COMMISSION RECOMMENDED APPROVAL 7-0).

Elizabeth Jones, Community Development Director, stated that the subject property located south of SE 27th Street and east of S. Broadway is zoned C-3 Medium Commercial. Ms. Jones advised that the final plat for a Dollar General store consists of one lot on 1.56 acres. Access will be provided from S. Broadway with one curb cut proposed. No access will be provided through existing streets in surrounding neighborhoods. Ms. Jones advised that there is no floodplain located on the property. Water and sewer are available to serve the site. She noted that a utility easement of 15-feet is required along the north, east and south property lines. Staff recommended approval of the item.

Councilman Roberts moved to approve the final plat of Dollar General Moore, located in the SW/4 of Section 25, T10N, R3W, being north of SW 34th Street and east of Broadway Avenue, second by Councilman Krows. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm, Lewis
Nays: None
Absent: Blair

Agenda Item Number 5 being:

CONSIDER APPROVAL OF A PERMIT FOR DAWSON GEOPHYSICAL AUTHORIZING THE PERFORMANCE OF GEOPHYSICAL SEISMIC TESTING ON CITY RIGHT-OF-WAY/PROPERTY.

Stan Drake, Assistant City Manager, stated that Dawson Geophysical requested a permit to perform geophysical seismic testing for oil and gas exploration. The boundaries of the test area include NE 23rd on the north, Eastern on the east, then proceeding south and west to the City limit line. Mr. Drake introduced Kevin Worth with Dawson Geophysical who was in attendance at the meeting to discuss the process in more depth.

Mr. Worth distributed a packet of information to the City Council. He explained that Dawson is a geophysical exploration company that tests the subsurface for oil and gas companies. They were retained by Trey Resources which has the short junction units that are partially located in the City of Moore. Mr. Worth advised that Dawson Geophysical has performed 1,500 square miles of urban seismic testing in the Fort Worth metro area, various airports, and most recently within the cities of Kingfisher, Okarche, and Alva.

Mr. Worth indicated that not every street within the test area will be tested. The intent is to locate places where sources and receivers would go within the City's right-of-way. Specialized wireless equipment is used for geophone locations. He stressed that safety is of paramount importance to Dawson, not just for their equipment, but the City's buildings, property, and the public as a whole. Wireless technology negates the need for cables to connect boxes containing geophones in the right-of-way. The geophones will continuously record sound waves that are sent into the ground and reflected back off of the rocks. The equipment that generates the sound waves are specialized urban vibroseis buggies about the size of an F-150 truck that move up and down City streets. The buggies have a protective pad on them to protect the City streets. Mr. Worth stated that the equipment is only in a particular location for a few minutes and once they are finished they do not come back. Mr. Worth advised that there are federal guidelines in place to prevent damage to pipelines, buildings, and other structures from sound waves. He stated that Dawson actually uses stricter guidelines than are required and takes extra precautions by providing constant monitoring of the test process. He added that a few reports of tests performed involving underground infrastructure can be made available to the City. They are avoiding schools and school zones and are cognizant of the work that goes on within the City. He indicated that Dawson would notify in-person residents who will have a geophone installed in the right-of-way in front of their homes. If they are not at home a door placard will be left with information regarding the process and what to expect. Mr. Worth reiterated that it would be a temporary, short-term process and then they will collect their equipment and leave.

Mayor Lewis asked if Dawson would be doing any blasting. Mr. Worth indicated that no blasting would take place. The urban vibroseis buggies have a protective pad through which sound waves emanate. There will be a group of three that moves through an area from three to five minutes and they leave. There is nothing left behind and they don't return to the same area. Mayor Lewis asked how many decibels are used. Mr. Worth indicated that they operate on a low frequency from around 4 to 120 Hz. He indicated that the noise would be similar to the sound made by a sanitation truck as it moves through a neighborhood. They do all of the testing during the day and work around the school schedule. Mr. Worth indicated that they have professional flagman with them at all times for City street work. They would also like to hire off-duty police officers to escort them through the City. Traffic is able to move past them while they work. Mayor Lewis asked if the testing is safe to the infrastructure then why do they not work around schools. Mr. Worth said it was a courtesy to the school zones and kids going to school. In certain circumstances they might ask permission to place a geophone on school property.

Councilman Hamm asked how long the entire process would take. Mr. Worth stated that the geophones are in place a period of time before the buggies are brought in. He estimated that it could take approximately 30 days from the time the first geophone is installed to when the equipment is recovered. They will begin on the west side of the City and move east. They pick up equipment as they complete an area and move eastward.

Mayor Lewis indicated that he wanted an opportunity to study the information that was provided. Councilman Cavnar agreed stating that he was unfamiliar with the technology and needed to review the information before he would know what questions to ask.

Mr. Worth indicated that Dawson wanted to work closely with the City to make sure the project is successful. There are letters of reference in the information that he distributed and he asked that the City call them to ask questions. Steve Eddy, City Manager, believed that once the City Council had an opportunity to review the material they would be more comfortable with the idea. Councilman Krows asked if the general idea behind the testing was to prepare for an oil or natural gas company to drill in the City limits of Moore. Mr. Worth stated that Trey Resources has the federal units, which were produced in the 1950s and 1960s. At that time no exploration work was done and they have no idea what is under the unit. He indicated that 3D seismic testing will enable them to guide a drill bit in the subsurface. Mr.

Worth stated that Dawson Geophysical's corporate office is in Midland, Texas but they have a local office in Oklahoma City. He advised that it is 63 year old company and he anticipates it being here for many more years. Mr. Worth stated that he would be happy to answer any questions Council may have regarding the proposed testing.

Councilman Krows moved to table Agenda Item No. 5 to allow for review of the information submitted, second by Councilman Cavnar. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Agenda Item Number 6 being:

CONSIDER APPROVAL OF AN AGREEMENT WITH COLLINS, ZORN & WAGNER, P.C. FOR LEGAL REPRESENTATION IN THE CASE STYLED RODRIGUEZ V. WARREN THEATRES, LLC, ET AL., CASE NO. CJ-2015-357.

Steve Eddy, City Manager, stated that staff is recommending retaining the law firm of Collins, Zorn & Wagner to represent the City of Moore in the Rodriguez lawsuit filed against the City of Moore, Warren Theatres, police officers, and other entities.

Councilman Roberts asked if the proposed law firm was experienced in this area of the law. Mr. Eddy indicated that David Lee is an attorney with this law firm. The City has used Mr. Lee for some internal issues within the police department. Mr. Lee and another lawyer in this firm, Phil Anderson, are considered experts in defending municipalities in lawsuits involving the police department. Mr. Anderson routinely speaks at the Oklahoma Municipal League and at seminars on the subject.

Councilman Krows moved to approve an Agreement with Collins, Zorn & Wagner, P.C. for legal representation in the case styled Rodriguez v. Warren Theatres, LLC, et al., Case No. CJ-2015-357, second by Councilman Cavnar. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Agenda Item Number 7 being:

CONSIDER APPROVAL OF AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH EST, INC. FOR PHASE I OF THE I-35/34TH STREET BRIDGE PROJECT, TO INCLUDE SURVEY WORK AND ENVIRONMENTAL SITE ASSESSMENT, IN THE AMOUNT OF \$100,000.

Steve Eddy, City Manager, indicated that the proposed agreement is the first of a multi-phase agreement with EST for the 34th Street Bridge project. Mr. Eddy advised that a project of this size would typically involve four or five versions of the contract relating to the various phases. Mr. Eddy stated that EST has been working with the City for a number of years on the various options for this type of project. Phase I will involve the survey and environmental review of the involved parcels of land.

Mr. Eddy advised that the bonds have not yet been issued; therefore, in the short-term the City will front the fees until the bond money becomes available. A reimbursement resolution will be on the March 16,

2015 City Council agenda for consideration. The resolution will state that the City will be reimbursing itself from the bond proceeds once they are received.

Councilman Cavnar asked if there was an estimate of when the bridge might be completed. Mr. Eddy felt construction would not begin until mid or late 2016. Construction would likely take approximately a year. An estimate of completion would be around January 2018. Mr. Eddy indicated that this was a complicated project that involved obtaining approvals from ODOT and the Federal Highway Administration. The engineering alone could take as long as a year. Mr. Eddy stated that he does not anticipate any problems with the federal government; in fact, ODOT committed \$4 million toward the project.

Councilman Krows moved to approve an agreement for Professional Engineering Services with EST, Inc. for Phase I of the I-35/34th Street Bridge project, to include survey work and environmental site assessment, in the amount of \$100,000, second by Councilwoman Hunt. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Agenda Item Number 8 being:

CONSIDER APPROVAL OF AN ENGINEERING SERVICES CONTRACT WITH CARDINAL ENGINEERING IN THE AMOUNT OF \$53,000 FOR THE SW 11TH STREET/EAGLE DRIVE STREETScape PROJECT TO BE FUNDED WITH CDBG-DR FUNDS.

Elizabeth Jones, Community Development Director, stated that the contract with Cardinal Engineering is for a streetscape and street improvement project by Plaza Towers Elementary at SW 11th and Eagle Drive. The project would include a boundary and topographical survey and streetscape plans. The actual project will be from Eagle Drive at 19th up to SW 11th and over to a new bridge box which will connect 11th across the creek.

Steve Eddy, City Manager, advised that the contract will also include the design work for the gateways or entryways. Ms. Jones indicated that gateway improvements have been proposed to brand the neighborhood in an effort to create pride in the neighborhood and attract interest in the vacant lots. A visual preference survey was solicited for a month. Results have been tabulated and designs created to match those preferences.

Councilman Hamm asked if the decorative lighting mentioned in the contract would be different than the typical wooden pole with a light fixture attached to it. Ms. Jones stated that decorative lights could be included; however, OG&E would provide those at an additional cost to the City. Councilman Hamm asked if the sidewalks would be big enough to accommodate walkers, bike riders, and skateboarders who are traveling to school. Ms. Jones stated they would and advised that a walkability audit was performed around Plaza Towers to determine the route the kids travel to school in order to know where to focus their efforts.

Councilman Cavnar moved to approve an Engineering Services Contract with Cardinal Engineering in the amount of \$53,000 for the SW 11th Street/Eagle Drive Streetscape Project to be funded with CDBG-DR funds, second by Councilman Hamm. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis

Nays: None
Absent: Blair

Agenda Item Number 9 being:

CONSIDER APPROVAL OF AN OPTION SITE GROUND LEASE AGREEMENT WITH BRANCH TOWERS, LLC TO ERECT AND MAINTAIN A COMMUNICATIONS TOWER AT 400 N. TELEPHONE ROAD.

Steve Eddy, City Manager, stated that the possibility of entering into a ground lease agreement with Branch Towers to erect a communications tower at 400 N. Telephone Road was discussed at the February 2, 2015 City Council meeting. He advised that this is the site where a water tower currently sits. AT&T has cell towers located on top of the tower. Mr. Eddy noted that the City Council previously voted to remove the existing tower. The proposed agreement would allow Branch Towers to erect a monopole tower to house the AT&T cell towers at the same location. He stated that Branch Towers could potentially allow other cell phone companies to house their equipment on the tower as well.

Mr. Eddy advised that the agreement included a monthly lease amount of \$1,000 plus \$250 for each additional cell phone carrier that is added. The agreement includes a term of ten years with a 2% increase after the first year. Mr. Eddy indicated that the water tower would not be removed until the monopole is erected and service is transferred.

Councilman Roberts moved to approve an Option Site Ground Lease Agreement with Branch Towers, LLC to erect and maintain a communications tower at 400 N. Telephone Road, second by Councilman Cavnar. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Addendum Item Number 9.1 being:

DISCUSS, CONSIDER, AND IF DEEMED APPROPRIATE, AUTHORIZE THE APPOINTMENT OF LEGAL COUNSEL FOR CITY OF MOORE POLICE OFFICERS JOSEPH BRADLEY AND RYAN MINARD PURSUANT TO 11 O.S. § 23-101, AND ANY OTHER RELEVANT STATE LAW, FOR REPRESENTATION IN CJ-2015-357, NAIR RODRIGUEZ, AS NEXT OF KIN TO, THE ESTATE OF LUIS RODRIGUEZ V. WARREN THEATRES, LLC, OKLAHOMA, WARREN THEATRES, LLC, BRIAN CLARKSTON, TYLER HOWSER, CHAD STRANG, THE CITY OF MOORE EX REL. THE MOORE POLICE DEPARTMENT, JOSEPH BRADLEY, RYAN MINARD, ET AL.

Steve Eddy, City Manager, indicated that three police officers were involved in an incident at Warren Theatres and were later named in a lawsuit. Two were on-duty at the time and one was off-duty. Mr. Eddy stated that in addition to an agreement with the Fraternal Order of Police, the City also has a responsibility to provide legal representation to an employee who was sued individually while acting within the scope of their employment. He advised that Officers Joseph Bradley and Ryan Minard submitted a request for legal counsel. Mr. Eddy indicated that the third police officer who was off-duty at the time and was working for Warren Theatres would be provided legal counsel through Warren Theatre's insurance company. He commented that if it is determined that the off-duty officer is not receiving adequate legal representation the issue would be revisited at a future Council meeting.

Councilman Krows asked how long the case might go on. Mr. Eddy stated that he would be surprised if the lawsuit was resolved within a year. The City just received service on the lawsuit last week and the discovery process has not yet started.

Councilman Krows moved to authorize the appointment of legal counsel for City of Moore police officers Joseph Bradley and Ryan Minard pursuant to 11 O.S. § 23-101, and any other relevant state law, for representation in CJ-2015-357, Nair Rodriguez, as next of kin to, the Estate of Luis Rodriguez v. Warren Theatres, LLC, Oklahoma, Warren Theatres, LLC, Brian Clarkston, Tyler Howser, Chad Strang, the City of Moore ex rel. The Moore Police Department, Joseph Bradley, Ryan Minard, et al., second by Councilman Cavnar. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

THE CITY COUNCIL MEETING WAS RECESSED AND THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS CONVENED AT 7:15 P.M.

Agenda Item Number 10 being:

CONSENT DOCKET:

- A) RECEIVE AND APPROVE THE MINUTES OF THE REGULAR MOORE PUBLIC WORKS AUTHORITY MEETING HELD FEBRUARY 17, 2015.
- B) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2014-2015 IN THE AMOUNT OF \$1,080,905.73.

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

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

Agenda Item Number 11 being:

CONSIDER AUTHORIZING THE EXTENSION OF A 12-INCH WATER MAIN ON SE 4TH STREET AND ON SUNNYLANE ROAD FOR AN APPROXIMATE COMBINED DISTANCE OF 1,650 FEET, WITH THE CITY/MPWA AND BNK INVESTMENTS, LLC/HOBIE HORN EQUALLY SHARING THE COST, IN ORDER TO COMPLETE A LOOPED WATER SYSTEM IN THIS AREA.

Stan Drake, Assistant City Manager, advised that the proposed agenda item was for authorization to extend a 12-inch water main on SE 4th and Sunnyslane Road a total distance of 1,650. The City would partner with Hobie Horn who owns several industrial businesses in the area and needs access to water. Currently the water main ends along the west boundary of Highland Baptist Church. The City previously partnered with R&R Homes for an extension on Sunnyslane to serve a mini-storage south of 4th Street. Mr. Horn proposed sharing the cost to extend the water main on SE 4th Street west to Highland Baptist Church completing the loop. In addition, Mr. Horn will extend the water main from SE 4th and Sunnyslane north between ¼ and ½ mile to serve an industrial user that will be located there. The City's portion of the water line extension would be approximately \$60,000 to \$65,000.

Councilman Hamm asked if the section on Sunnyslane north of 4th Street was located in Oklahoma City. Mr. Drake advised that the west side of Sunnyslane is in Moore and the east side is in Oklahoma City. He

stated that Oklahoma City cannot provide water to the industrial user that is located in Oklahoma City. It is not uncommon for cities to provide water or sewer service to areas adjacent to the City. Steve Eddy, City Manager, stated that the City previously granted the industrial user permission to tie onto the City's sewer system.

Councilman Krows asked how participating in the water line extension would benefit the City. Mr. Drake stated that it allows for better water pressure and reduces the number of customers affected during an outage. Mr. Eddy added that the water line on the west side of Sunnyslane going north from 4th Street would be a City of Moore water line. Any line extended east would be a fire line and not owned or maintained by the City.

Trustee Krows moved to authorize the extension of a 12-inch water main on SE 4th Street and on Sunnyslane Road for an approximate combined distance of 1,650 feet, with the City/MPWA and BNK Investments, LLC/Hobie Horn equally sharing the cost, in order to complete a looped water system in this area, second by Trustee Cavnar. Motion carried unanimously.

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

MOORE PUBLIC WORKS AUTHORITY MEETING WAS RECESSED AND THE MOORE RISK MANAGEMENT MEETING WAS CONVENED AT 7:21 P.M.

Agenda Item Number 12 being:

CONSENT DOCKET:

- A) ACCEPT THE MINUTES OF THE REGULAR MOORE RISK MANAGEMENT MEETING HELD FEBRUARY 17, 2015.
- B) APPROVE PAYMENTS OF A WORKERS' COMPENSATION SETTLEMENT IN THE AMOUNT OF \$35,530 TO BRYAN BISHOP FOR CLAIM NO. 2014-01037-X, \$21,318 TO BRYAN BISHOP FOR CLAIM NO. 2014-09207-X AND \$152.00 TO BRYAN BISHOP FOR CLAIM NO. 2014-09206-Q, AUTHORIZE PLACEMENT ON THE AD VALOREM TAX ROLL, AND SUPPLEMENT THE BUDGET ACCORDINGLY.
- C) APPROVE PAYMENT OF A COURT ORDERED WORKERS' COMPENSATION SETTLEMENT IN THE AMOUNT OF \$9,851.50 TO TONY TOWERY FOR CLAIM NO. 2013-13682A.
- D) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2014-2015 IN THE AMOUNT OF \$177,123.37.

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

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

THE MOORE RISK MANAGEMENT MEETING WAS RECESSED AND THE CITY COUNCIL MEETING RECONVENED WITH MAYOR GLENN LEWIS PRESIDING AT 7:22 P.M.

Agenda Item Number 13 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 stated that he was contacted by a citizen wanting to know if the Central Park construction was still on schedule. Todd Jenson, Assistant City Manager, stated that construction was behind two to three weeks due to weather. He advised that the steel structure going up is the recreation center. The underground piping is being laid on the aquatic park. Within two to four weeks they should begin vertical construction. The contractor is confident that he can make the time up that was lost and estimates the project should be complete by September or October 2015; however, the contract has a deadline of October 9, 2015. Mr. Jenson noted that the facility will remain closed to the public while staff moves in equipment and furniture. The target date to open the recreation center is December 1, 2015.

Councilman Hamm commented that he received some positive comments regarding the City's response to the icy roadways.

C) ITEMS FROM THE CITY/TRUST MANAGER.

Mr. Eddy expressed his appreciation to the Public Works employees and Silver Star Construction crews that worked hard during the recent inclement weather treating the streets to ensure the safety of the drivers.

Agenda Item Number 14 being:

ADJOURNMENT

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

Ayes: Krows, Hunt, Cavnar, Roberts, Hamm Lewis
Nays: None
Absent: Blair

The City Council, Moore Public Works Authority, and the Moore Risk Management meetings were adjourned at 7:25 p.m.

TRANSCRIBED BY:

RHONDA BAXTER, Executive Assistant

RECORDED BY:

CAROL FOLSOM, Purchasing Agent

FOR:

DAVID ROBERTS, MPWA Secretary

FOR:

JASON BLAIR, MEDA Secretary

These minutes passed and approved as noted this ____ day of _____, 2015.

ATTEST:

JIM CORBETT, City Clerk