

**MINUTES OF THE REGULAR MEETING OF
OF THE MOORE CITY COUNCIL
THE MOORE PUBLIC WORKS AUTHORITY
AND THE MOORE RISK MANAGEMENT BOARD
NOVEMBER 2, 2020 – 6:30 P.M.**

The City Council of the City of Moore met in the City Council Chambers, 301 North Broadway, Moore, Oklahoma on November 2, 2020 at 6:30 p.m. with Mayor Glenn Lewis presiding.

Adam Webb
Councilman, Ward I

Danielle McKenzie
Councilwoman, Ward I

Melissa Hunt
Councilwoman, Ward II

Mark Hamm
Councilman, Ward II

Jason Blair
Councilman, Ward III

Louie Williams
Councilman, Ward III

PRESENT: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
ABSENT: None

STAFF MEMBERS PRESENT: City Manager, Brooks Mitchell; Assistant City Manager, Jerry Ihler; City Attorney, Randy Brink; Assistant City Attorney, Brian Miller; City Clerk, Vanessa Kemp; Community Development Director, Elizabeth Weitman; Director of Public Affairs, Deidre Ebrey; Emergency Management Director, Gayland Kitch; Finance Director, Betty Koehn; Fire Chief Greg Herbster; Human Resources Director, Christine Jolly; Manager of Information Technology, David Thompson; Parks & Recreation Director, Sue Wood; Police Chief, Todd Gibson; Police Sergeant, David Dickinson; Project-Grants Manager (Capital Planning & Resiliency), Kahley Gilbert; Public Works Director, Richard Sandefur; and Veolia Water Project Manager, Robert Pistole.

Agenda Item Number 2 being:

CONSENT DOCKET:

- A) APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD OCTOBER 19, 2020.
- B) ACCEPT A 5' TEMPORARY CONSTRUCTION EASEMENT FROM BOB GATES LOCATED AT 717 N. GALE.
- C) ACCEPT A 10' TEMPORARY CONSTRUCTION EASEMENT AND A 17' PERMANENT UTILITY EASEMENT FROM HEATHER D. GRACE AND MARCUS VOLZ FOR THE CONSTRUCTION OF A SANITARY SEWER FORCE MAIN.
- D) ACCEPT A 15' UTILITY EASEMENT FROM WILLIAM AND NANCY GOODRICH FOR THE CONSTRUCTION OF A PUBLIC WATERLINE TO SERVE THE SANTA FE EXECUTIVE PARK.
- E) ACKNOWLEDGE RECEIPT OF CONSTRUCTION PERMIT NO. SL000014200158 FROM THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR CONSTRUCTION OF THE KELLY CREEK SANITARY SEWER IMPROVEMENTS.
- F) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2020-2021 IN THE AMOUNT OF \$2,257,443.74.

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

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 3 being:

CONSIDER APPROVAL OF A REVOCABLE PERMIT FOR A DECK AND SWIMMING POOL AT 517 HEATHER LANE. APPLICATION BY TONI HAUGHT.

Elizabeth Weitman, Community Development Director, stated that the applicant, Toni Haught, requested a revocable permit for the construction of a swimming pool and deck in her backyard at 217 Heather Lane for physical therapy. Ms. Weitman stated that the majority of the backyard included a 15' utility easement which contained OG&E and ONG lines. Staff received Letters of No Objection from the utility companies regarding the encroachment. She added that City did not have lines within the utility easement. Ms. Weitman advised that staff worked with the applicant over the past several months to meet setback requirements while reducing the deck encroachment. Because there was not another option for placement of the improvements within the backyard staff recommended approval of the item. She noted that the revocable permit would allow the City access to the utility easement with the applicant being responsible for the cost of removing the improvements if it became necessary.

Councilman Webb moved to approve a Revocable Permit for a deck and swimming pool at 217 Heather Lane, second by Councilman Blair. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 4 being:

CONSIDER APPROVAL OF A GAS FACILITIES RELOCATION AGREEMENT WITH OKLAHOMA NATURAL GAS FOR THE LOWERING OF AN 8" GAS LINE ON THE WILLOW BEND AND S. TELEPHONE ROAD STORMWATER PROJECT IN THE ESTIMATED AMOUNT OF \$62,618.20 AS THE CITY'S SHARE OF THE RELOCATION.

Jerry Ihler, Assistant City Manager, stated that an 8" gas line was discovered during construction of a storm water project for the area at Willow Bend and S. Telephone Road that was impeding construction and must be lowered. Mr. Ihler indicated that typically the gas company would be required to pay the cost of the relocation; however, it was discovered that in the late 1950s or early 1960s they obtained a private easement for construction of their gas line. For this reason the City would be responsible for the cost of relocating the line located in their easement in the estimated amount of \$62,618.20. ONG would then pay for the portion contained in the City's right-of-way. Mayor Lewis asked how long the relocation would take. Mr. Ihler indicated that ONG estimated the relocation project to be finished by February 2021. Councilwoman McKenzie requested that the project not occur during the Christmas season if it became necessary to close a portion of Telephone Road.

Councilman Blair moved to approve a Gas Facilities Relocation Agreement with Oklahoma Natural Gas for the lowering of an 8" gas line on the Willow Bend and S. Telephone Road stormwater project in the estimated amount of \$62,618.20 as the City's share of the relocation, second by Councilman Williams. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 5 being:

DISCUSS, CONSIDER, AND IF DEEMED APPROPRIATE, AUTHORIZE THE CITY MANAGER, ON BEHALF OF THE CITY OF MOORE TO VOTE IN FAVOR OF THE ALLOCATION PROPOSAL FOR ASSESSMENT III IN THE AMOUNT OF \$1,000 TO BE PAID TO THE DIAZ REFINERY PRP COMMITTEE SITE TRUST.

Brooks Mitchell, City Manager, advised that this case had been ongoing for years. The City ultimately paid into a remedial assessment fund for the cleanup of a toxic waste disposal site for the Diaz Refinery located in Arkansas. Mr. Mitchell indicated that the Trustee handling the case recently contacted the City and said that the cleanup was not complete and assessed the City an additional \$1,000.

Councilman Blair moved to authorize the City Manager, on behalf of the City of Moore to vote in favor of the Allocation Proposal for Assessment III in the amount of \$1,000 to be paid to the Diaz Refinery PRP Committee Site Trust, second by Councilman Webb. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 5.1 being:

CONSIDER REZONING APPLICATION NO. RZ-998, LOCATED IN THE SE/4 OF SECTION 14, T10N, R3W, BEING SOUTH OF NE 3RD STREET AND WEST OF TURNER AVENUE, TO AMEND THE EXISTING R-3 6-PLEX PLANNED UNIT DEVELOPMENT FOR SENIORS TO ALLOW FOR THE CONSTRUCTION OF A DETACHED SINGLE FAMILY HOME; AND APPROVE ORDINANCE NO. 951(20). APPLICATION BY TBL PROPERTIES, LLC/TOMMY LAWRENCE. (PLANNING COMMISSION RECOMMENDED APPROVAL 8-0). WARD 2.

Elizabeth Weitman, Community Development Director, stated that the subject site at 236 NE 3rd Street was located south of NE 3rd Street and west of Turner Avenue in Old Town. Ms. Weitman advised that in March 2009 the site was rezoned from R-2 to R-3 as a PUD for a 6-plex senior housing project. She advised that the applicant was now seeking to amend the PUD to add another unit to the project by constructing a single-family home with a front load attached garage. Ms. Weitman stated that public water and sewer were available to serve the site and access would be from Turner Avenue. No floodplain or floodway was located on the property. Because the application was a PUD the amendment must provide sufficient amenities to offset any variances. The variances requested would include increased densities of the project and the proposed setback of the home. The amenity being proposed by the applicant was a prominent front porch that would mimic the front porches of the existing buildings on site. The change would also include moving the house back from the front property line by approximately 5' which was an allowable PUD amenity.

Ms. Weitman stated that the Envision Moore 2040 Plan designated the area as Old Town Residential which includes single-family homes and smaller scale multi-family projects. The plan states that new development should be context sensitive through scale and architectural elements that fit the character of the block. The application was reviewed and found to be in conformance with the intent of the Plan. Staff recommended approval of the application.

Councilman Williams moved to Rezoning Application No. RZ-998, located in the SE/4 of Section 14, T10N, R3W, being south of NE 3rd Street and west of Turner Avenue, to amend the existing R-3 6-Plex Planned Unit Development for seniors to allow for the construction of a detached Single Family home; and approve Ordinance No. 951(20), second by Councilwoman McKenzie. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 5.2 being:

CONSIDER REZONING APPLICATION NO. RZ-999, LOCATED IN THE NW/4 OF SECTION 33, T10N, R2W, BEING SOUTH OF SE 34TH STREET AND EAST OF SOONER ROAD, FROM A-1 RURAL AGRICULTURAL DISTRICT TO R-1/C-3 SINGLE FAMILY DWELLING DISTRICT/GENERAL COMMERCIAL DISTRICT; AND APPROVE ORDINANCE NO. 952(20). APPLICATION BY MONGOLD PROPERTIES, LLC/KIRBY MONGOLD. (PLANNING COMMISSION RECOMMENDED APPROVAL 8-0). WARD 1.

Elizabeth Weitman, Community Development Director, advised that the subject site was located south of SE 34th Street and east of Sooner Road. Ms. Weitman indicated that the property was zoned A-1 Rural Agricultural and contained one existing home. The applicant proposed developing the property as a single-family neighborhood with a 2-acre commercial tract on the corner of SE 34th Street and Sooner Road requiring a rezoning to R-1 and C-3. She advised that public water would serve the site from a 12" public water main along Sooner Road. A dual-sourced looped waterline would be required for development of the site requiring a 12' waterline extension along SE 34th Street. Ms. Weitman stated that private septic systems were proposed because the site was situated east of a ridgeline and the residential tract could not tie into the City's gravity line. Ms. Weitman advised that access would be provided from both SE 34th and Sooner Road. She noted that a future Moore Public Schools site would be located adjacent to the property to the south. Access to the school would be provided through the neighborhood. Ms. Weitman stated that no floodplain or floodway was located on the property, and stormwater detention was required.

She stated that the Envision Moore 2040 Plan designated the majority of the location as Open Space with the northwest corner of the site designated as Neighborhood Commercial. She advised that the application was reviewed as to its conformance with the intent of the Plan. Because the R-1 and C-3 zoning classifications initially met the land use designation staff believes the application was supported by the plan. Ms. Weitman stated that this determination was contingent upon the future preliminary plat meeting the density, open space, and transportation goals and recommendations of the Plan. Ms. Weitman noted that City Code typically does not allow R-1 developments to be served with septic systems. However, because the addition was located on the extreme eastern boundary line adjacent to the City of Oklahoma City, and due to the City's policy of not accepting lift stations beyond the service area of the new SE Lift Station currently under construction, staff believed a variance to this policy was warranted. Staff recommended approval of the item.

Councilman Williams asked what the average lot size was for the development. Ms. Weitman stated the lot size would be 1/2 an acre which is the minimum lot size that DEQ allows for a private septic system.

Councilwoman McKenzie asked if the developer had previously utilized private septic systems. Brad Reid with Crafton Tull engineering stated that applicant Kirby Mongold developed in the Timber Creek Estates addition located just south of the subject site which utilized private septic systems. Mayor Lewis mentioned issues that occurred at a development one mile south of the site and asked if they anticipated any problems. Mr. Reid stated that they have not had any issues with the septic system at Timber Creek.

Mayor Lewis asked if sidewalks would be constructed with the development. Mr. Reid indicated that sidewalks was required in an R-1 zoning district.

Councilwoman McKenzie noted that the agenda item stated that it was in Ward 1; however, it was in Ward 2.

Councilwoman McKenzie moved to approve Application No. RZ-999, located in the NW/4 of Section 33, T10N, R2W, being south of SE 34th Street and east of Sooner Road, from A-1 Rural Agricultural District to R-1/C-3 Single Family Dwelling District/General Commercial District; and approve Ordinance No. 952(20), second by Councilman Hamm. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 5.3 being:

CONSIDER AN AMENDMENT TO THE PUBLIC WORKS MAINTENANCE CONTRACT WITH SILVER STAR CONSTRUCTION.

Kahley Gilbert, Project-Grants Manager Capital Planning & Resiliency, stated that staff reviewed the contract with Silver Star Construction to ensure all FEMA contract requirements were met in anticipation of a possible Disaster Declaration being issued for the ice storm that began on October 26, 2020. It was determined that the contract was missing federal provisions required for the FEMA Public Assistance Program. Ms. Gilbert noted that Silver Star requested a change after the information was submitted to Council. The change pertained to the Emergency Services clause contained in the last paragraph of the contract. She stated that the proposed change would read: "As per federal requirements it is agreed Emergency Services, such as debris removal that will be federally funded, the contractor will bill the City based on the pre-event unit cost provided for in the contract." Ms. Gilbert advised that the proposed change was reviewed by the City Attorney and was also found to meet federal contract requirements; therefore staff recommended approval of the item.

Councilwoman McKenzie moved to approve an amendment to the Public Works Maintenance Contract with Silver Star Construction, second by Councilman Hamm. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

THE CITY COUNCIL MEETING WAS RECESSED AND THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS CONVENED AT 6:52 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 19, 2020.
- B) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2020-2021 IN THE AMOUNT OF \$1,032,221.24.

Trustee Williams to approve the consent docket in its entirety, second by Trustee McKenzie. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 7 being:

CONSIDER APPROVAL OF A CYBERWARE INSURANCE POLICY BY UNDERWRITERS OF LLOYDS THROUGH DILLINGHAM INSURANCE WITH RUSSELL HOLLINGSWORTH AS AGENT TO PROVIDE \$5,000,000 OF COVERAGE AGAINST CERTAIN CYBER INCIDENTS, SYSTEM DAMAGE, BUSINESS INTERRUPTION, NETWORK SECURITY, AND PRIVACY LIABILITY FOR A PREMIUM OF \$35,007.56 FOR POLICY PERIOD ENDING JANUARY 1, 2022.

Brian Miller, Assistant City Attorney, advised that the proposed item was for a Cyberware Insurance Policy through Dillingham Insurance. Mr. Miller stated that the policy would cover certain cyber incidents such as system damage, hardware and software replacement, business interruption, network security, and privacy liability. He stated that the premium for the policy was \$35,007.56. The policy period ends January 1, 2022 and would be part of the renewal for the property insurance next year.

He advised that David Thompson, Manager of Information Technology, was in attendance to answer any technical questions. Mr. Miller asked Mr. Thompson to explain the theory behind obtaining a \$5 million policy. Mr. Thompson stated that a cyber assessment was obtained for the water department as part of an EPA requirement. It was determined that the City would have approximately \$4 million in liability. The most coverage offered by the insurance company was \$5 million.

Councilman Williams asked if the network was expanded or additional computers added would the policy cover those items. Mr. Thompson stated that it would.

Trustee Williams moved to approve a Cyberware insurance policy by Underwriters of Lloyds through Dillingham Insurance with Russell Hollingsworth as agent to provide \$5,000,000 of coverage against certain cyber incidents, system damage, business interruption, network security, and privacy liability for a premium of \$35,007.56 for policy period ending January 1, 2022, second by Trustee Hamm. Motion carried by majority vote.

Ayes: McKenzie, Hunt, Williams, Webb, Hamm, Lewis
Nays: None
Abstention: Blair

THE MOORE PUBLIC WORKS AUTHORITY MEETING WAS RECESSED AND THE MOORE RISK MANAGEMENT MEETING WAS CONVENED AT 6:57 P.M.

Agenda Item Number 8 being:

CONSENT DOCKET:

- A) ACCEPT THE MINUTES OF THE REGULAR MOORE RISK MANAGEMENT MEETING HELD OCTOBER 19, 2020.
- B) APPROVE AND RATIFY CLAIMS AND EXPENDITURES FOR FY 2020-2021 IN THE AMOUNT OF \$364,206.07.

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

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

THE MOORE RISK MANAGEMENT MEETING WAS RECESSED AND THE CITY COUNCIL MEETING RECONVENED WITH MAYOR GLENN LEWIS PRESIDING AT 6:58 P.M.

Agenda Item Number 9 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.

Councilwoman McKenzie stated that the Park Department was out earlier in the day removing fallen trees close to the roadway following the recent ice storm.

Mayor Lewis encouraged the citizens to practice social distancing, wear masks, and wash your hands due to the increase in COVID-19 cases. He also asked that the citizens vote in the election on November 3, 2020.

C) ITEMS FROM THE CITY/TRUST MANAGER.

Brooks Mitchell, City Manager, advised that a drive-thru Halloween event at The Station was very successful with over 250 cars and numerous vendors. Mr. Mitchell thanked the Parks staff for organizing the event and to the Police Department and other staff that also participated. Mr. Mitchell stated that storm debris removal had begun from the recent ice storm. It was anticipated to take some time due to the large volume of debris and tree limbs and asked for the public's patience during the process. Mr. Mitchell noted that the City had two propositions on the ballot and asked that everyone take the opportunity to vote.

Agenda Item Number 10 being:

EXECUTIVE SESSION:

A) DISCUSS, AND IF DEEMED APPROPRIATE, CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING LITIGATION STYLED: MARLENE REQUA V. CITY OF MOORE, CASE NO. CJ-2017-1261, AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION(S) AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE DEFENDANT AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

B) DISCUSS, AND IF DEEMED APPROPRIATE, CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING LITIGATION STYLED: IESHA CARTER V. CITY OF MOORE, CASE NO. CJ-2020-660, AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION(S) AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE DEFENDANT AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

C) DISCUSS CERTAIN PROPERTY ACQUISITIONS RELATED TO THE SE 4TH STREET RAILROAD UNDERPASS PROJECT AND AUTHORIZE STAFF TO PROCEED AS DIRECTED IN EXECUTIVE SESSION AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(3)

Councilman Blair moved to convene to executive session, second by Councilman Williams. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

The City Council convened into executive session at 7:02 p.m.

D) RECONVENE FROM EXECUTIVE SESSION

PRESENT: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
ABSENT: None

The City Council reconvened from executive session at 7:32 p.m.

F) ACTION.

A) DISCUSS, AND IF DEEMED APPROPRIATE, CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING LITIGATION STYLED: MARLENE REQUA V. CITY OF MOORE, CASE NO. CJ-2017-1261, AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION(S) AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE DEFENDANT AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

Councilwoman McKenzie moved to direct staff to take action as directed in executive session regarding pending litigation styled; Marlene Requa v. City of Moore, Case No. CJ-2017-1261, second by Councilman Williams. Motion. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

B) DISCUSS, AND IF DEEMED APPROPRIATE, CONSIDER TAKING POSSIBLE ACTION REGARDING PENDING LITIGATION STYLED: IESHA CARTER V. CITY OF MOORE, CASE NO. CJ-2020-660, AND AUTHORIZATION FOR LEGAL COUNSEL AND STAFF TO TAKE ACTION(S) AS NECESSARY AND APPROPRIATE IN THE INTEREST OF THE DEFENDANT AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(4).

Councilwoman McKenzie moved to direct staff to take action as directed in executive session regarding pending litigation styled; Iesha Carter v. City of Moore, Case No. CJ-2020-660, second by Councilman Williams. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

C) DISCUSS CERTAIN PROPERTY ACQUISITIONS RELATED TO THE SE 4TH STREET RAILROAD UNDERPASS PROJECT AND AUTHORIZE STAFF TO PROCEED AS DIRECTED IN EXECUTIVE SESSION AS AUTHORIZED BY 25 OKLA. STAT. § 307(B)(3)

Councilwoman McKenzie moved to authorize staff to proceed as directed in executive regarding property acquisitions related to the SE 4th Street Railroad Underpass project, second by Councilman Williams. Motion. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

Agenda Item Number 11 being:

ADJOURNMENT

Councilman Hamm moved to adjourn the City Council meeting, second by Councilman Blair. Motion carried unanimously.

Ayes: McKenzie, Blair, Hunt, Williams, Webb, Hamm, Lewis
Nays: None

The City Council, Moore Public Works Authority, and Moore Risk Management meetings were adjourned at 7:35 p.m.

TRANSCRIBED BY:

RHONDA BAXTER, Executive Assistant

FOR:

MELISSA HUNT, MPWA Secretary

These minutes passed and approved as noted this ____ day of _____, 2020.

ATTEST:

VANESSA KEMP, City Clerk