

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS
PONCA CITY, OKLAHOMA
APRIL 13, 2009

Pursuant to notice as required by law, the Ponca City Board of Commissioners met in regular session at 5:30 p.m. in the Commission Chamber at City Hall, 516 E. Grand, with Mayor Homer Nicholson presiding:

Present: Homer Nicholson, Mayor
Diane Anderson, Commissioner
Bill Flegler, Commissioner
Paul Krueger, Commissioner
Lanita Chapman, Commissioner
Craig Stephenson, City Manager
Kevin Murphy, City Attorney
Marc LaBossiere, Finance Director/City Clerk

Others Present: Chris Henderson, Don Nuzum, Jim Sindelar, Rhonda Skrapke, Paula Cain, Clayton Johnson, Dwaine Vincent, Terry Brown, Steve Sullivan, Don Bohon, Butch Herring, Mike Chapman, City staff; citizens; Beverly Bryant, Ponca City News.

1. Mayor Homer Nicholson called the meeting to order at 5:31 p.m.
2. Invocation – Sam Steele, First Presbyterian
3. Pledge of Allegiance

****CEREMONIES AND PROCLAMATIONS****

4. Ponca City Police Department Police Officer of the Year
Master Patrolman Dana Wilson
5. Ponca City Police Department Civilian of the Year
Emergency Management Director Paula Cain
6. Proclamation: Earth Day
7. Character Trait for April: Virtue
Presenter: Tom Sipe

****CONSENT AGENDA****

The Board of Commissioners found items #8, #9, #10, and #11 non-controversial and routine in nature. Commissioner Krueger made the motion to approve the consent agenda. Chapman seconded.

Roll: Yeas; Krueger, Chapman, Nicholson, Flegler, and Anderson. Nays; None. Motion carried.

8. Consider and vote upon minutes of the Ponca City Board of Commissioners work session held March 16, 2009 and regular session held March 23, 2009.
9. Consider and vote on the agreement for the Emergency Management Performance Grant Program between the State of Oklahoma and the City of Ponca City.

10. Consider and vote on the Five (5) Year Lease Agreement with Smith International, Inc. for the Aircorp Space #2 on the Ponca City Regional Airport.

11. **RESOLUTION NO. 5751**

A RESOLUTION APPROPRIATING MONEY FOR THE PAYMENT OF CLAIMS AGAINST THE CITY OF PONCA CITY, OKLAHOMA.

****ITEMS REMOVED FROM THE CONSENT AGENDA****

12. None.

****COMMUNICATIONS FROM MAYOR AND COMMISSIONERS****

13. None.

****REPORTS****

14. CITY MANAGER'S REPORT

City Manager Craig Stephenson informed the Commission that Ponca City Leadership Day was held last Wednesday. Stephenson also advised that all-day budget work sessions will be held on Wednesday & Thursday. Stephenson also advised that there would be a special Board of Commissioners and Ponca City Utility Authority meeting at 8:00 a.m. on Thursday, which will address the debt issue in regards to the Ponca City Aquatic and Family Center. Stephenson also informed the Commission that last Friday staff met with the architect and construction manager at risk Lambert, and one item of business came from that meeting that needs to be added to this agenda. Stephenson stated that the item will be added as 19B, and since Friday was a holiday, and the agenda had been posted on Thursday, it was not possible to post an amended agenda.

15. RECEIVE POLICE DEPARTMENT 2008 ANNUAL REPORT

Deputy Police Chief Dwaine Vincent advised that there were errors in the report previously given to the Commission; therefore, Captain Bohon handed out an amended version. Vincent presented the 2008 annual police report to the Commission.

****PUBLIC HEARINGS****

- 16A. Conduct a Public Hearing on Subparagraph (B) Hereof.

Rhonda Skrapke, Grants Writer for the City, explained that the Neighborhood Stabilization Program is a HUD Program, which is a part of the Housing and Economic Recovery and Reinvestment Act. Skrapke explained that the State of Oklahoma through the Department of Commerce has received an allocation from HUD with regard to this program, and the City will be able to apply for money through this program, as we are not a CDBG Entitlement Community. Skrapke informed the Commission that the Neighborhood Stabilization Program has specific eligible activities which are: (1) establish financing mechanisms, (2) purchase and rehabilitate houses, (3) establish land banks, (4) demolish

blighted structures and (5) redevelopment. Skrapke further explained that the first three elements have to be for abandoned or foreclosed properties, and through research, those properties have already been identified. Skrapke added that the fourth component to demolish would be any property that meets the blighted or abandoned criteria. Skrapke stated that the fifth component would be to acquire and rehabilitate houses that would be turned over to the Ponca City Housing Authority for rental to families whose income does not exceed 120% of the median income. Skrapke concluded by saying that whatever amount is applied for is the amount that has to go to benefit families that do not exceed 50% of the median income.

Skrapke advised that HUD has given the City a list of census tract block groups that are eligible for funding, which are based on areas that have foreclosure risk rates of six or better. Skrapke advised that these areas have to have significant assets that will allow them to rebound with modest investment.

Mayor Nicholson opened the Public Hearing for anyone who wished to address this item.

There being no comments Mayor Nicholson closed the Public Hearing.

- B. Consider and vote on submission of the Neighborhood Stabilization Application to the Oklahoma Department of Commerce.

Commissioner Chapman made the motion to approve the submission of the Neighborhood Stabilization Application to the Oklahoma Department of Commerce. Anderson seconded.

Roll: Yeas; Chapman, Anderson, Nicholson, Flegler, and Krueger. Nays; None. Motion carried.

- 17A. Conduct a Public Hearing on extending the Corporate Limits of the City of Ponca City by annexing 11.06 acres more or less owned by Kenneth Redford and with a common address of 521 S. 14th Street, Ponca City, Oklahoma, which is located in the southwest quarter of Section 26, Township 26 North, Range 2 East, Indian Meridian, Kay County, State of Oklahoma; (Please contact the Development Services Department or refer to the Legal Notice published in the Ponca City News on March 13, 2009, for full legal description of the property proposed to be annexed.)

Chris Henderson, Community Development Director, explained that the property to be annexed is part of a 57 acre tract that was farmed until 2005, when a 12-acre portion at the corner was annexed into the City and a new convenience store was constructed. Henderson stated that the remaining portion of the tract that fronts onto 14th Street, the 11.06 acres, contains a residence and a number of accessory structures, which is still a part of the County.

Henderson went on to state that the City's ability to annex has been greatly diminished by our legislators in the last twenty years, especially in this case where the annexation is without the owner's consent. Henderson advised that state statutes provide for only a narrow set of circumstances to exist before a City may annex without the owner's consent, and that is the City must surround the property on three (3) sides, and each side must be 300' in length, and the tract in question meets this criteria. Henderson noted that to further burden cities, when annexing without the owner's consent, cities must provide a Service Plan outlining how they will provide public services to the tract in question. Henderson stated that in the case of the

property in question City services from the utility standpoint already exist on this property, and have for quite some time.

Henderson further explained to the Commission that not only do you annex a property, but you must assign a zoning classification at the same time that reflects its current or intended use. Henderson stated that all of 14th Street is zoned C-1 Local Commercial and that is what staff is proposing for this property.

Mayor Nicholson opened the Public Hearing.

Mike Truitt, local attorney, representing Mr. Redford, property owner, stated that he understands the concerns of the City in regards to the unsightliness of the property, but the property owner has been working at cleaning the property. Truitt further informed the Commission that Redford has had plans to construct a storage building to house all of the items that are now outside, clear out the front area, and build mini storage buildings in that location. In addressing the zoning, Truitt stated that his client would be less opposed to being annexed if the zoning were C-2, but Community Director Henderson stated that staff recommended C-1 Local Commercial as it requires a special use permit before the applicant could build his mini storages. Henderson further explained that what this does is give the Commission the oversight to determine whether a mini storage facility is attractive enough to be located at this location, and gives the Commission the authority to require more landscaping or screening materials to lessen the visual view.

Mayor Nicholson spoke in opposition to mini storage buildings on main thoroughfares or on a state highway, saying that it detracts from the ambiance of the street. Nicholson further added that this is not how he perceives what the gateway to our community should be. Mayor Nicholson also addressed the issue of a fireworks stand that has a long-term lease to use this property.

Mike Truitt advised the Commission that the owners would like the Commission, if they annex the property, to grant a waiver on the fireworks stand, since it is so late in the season, that it would be appropriate for this year.

No further comments, Mayor Nicholson closed the Public Hearing at 6:48 p.m.

B. **ORDINANCE NO. 6096**

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF PONCA CITY, AND DESIGNATING THE AREAS OR TRACTS INCLUDED IN SUCH EXTENSION; ESTABLISHING THE APPROPRIATE ZONING DISTRICT CLASSIFICATION FOR SAID AREAS OR TRACTS; ESTABLISHING A COMPLETION DATE FOR THE CITY'S SUMMARY SERVICE PLAN ; REPEALING ALL ORDINANCES IN CONFLICT OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE, AND WAIVING FIREWORKS STAND PROHIBITION THROUGH 2009.

Commissioner Krueger made the motion approving the Ordinance extending the Corporate Limits of the City of Ponca City, and designating the areas or tracts included in such extension; establishing the appropriate zoning district classification of C-1 for the west half for said areas or tracts and east half establishing the appropriate zoning district classification as R-1; establishing a completion date for the City's Summary Service Plan; repealing all Ordinances in conflict or parts of Ordinances in conflict herewith; and establishing an

effective date, and waiving fireworks stand prohibition through 2009. Flegler seconded

Roll: Yeas; Krueger, Flegler, Nicholson, Anderson, and Chapman. Nays; None. Motion carried.

****UNFINISHED BUSINESS****

None.

****NEW BUSINESS****

18. Consider and vote on a contract award and execution to reconstruct a portion of the Parallel Taxiway and Associated Connecting Taxiways in the amount of \$4,137,810.02 for AIP Project 3-40-0078-014-2009 and PNC-09-F contingent upon receipt of the FAA and OAC grant funding.

Commissioner Chapman made the motion to approve the contract award and execution to reconstruct a portion of the Parallel Taxiway and Associated Connecting Taxiways in the amount of \$4,137,810.02 for AIP Project 3-40-0078-014-2009 and PNC-09-F contingent upon receipt of the FAA and OAC grant funding. Anderson seconded.

Roll: Yeas; Chapman, Anderson, Nicholson, Flegler, and Krueger. Nays; None. Motion carried.

- 19A. Consider and vote on Construction Payment No. 2 to Lambert Construction Company in the amount of \$230,490.00 for construction of the Ponca City Aquatic & Family Center-YMCA.

Commissioner Anderson made the motion to approve Construction Payment No. 2 to Lambert Construction Company for \$230,490.00 for construction of the Ponca City Aquatic & Family Center-YMCA. Chapman seconded.

Roll: Yeas; Anderson, Chapman, Nicholson, Krueger, and Flegler. Nays; None. Motion carried.

- 19B. Consider and vote to endorse Lambert Construction company's rejection of bids for Bid Packages 48 and 49 on the Ponca City Aquatic and Family Center—YMCA; and endorse Lambert Construction Company's request to award contract for plumbing and mechanical work to Omni-2 Mechanical Services, LLC in the amount of \$2,951,854.00 as the lowest and best bid.

Mayor Nicholson explained that Item 19B is a late added agenda item that has a concern with Bid items No. 48 & 49, or a combination of 48 & 49 known as Item #50 for a lump sum bid.

City Attorney Kevin Murphy elaborated on this item by saying that everyone is familiar with the Open Meeting Act, which requires you to publish what your agenda is twenty-four hours prior to the meeting, and this item was too late for the agenda. Murphy further instructed that there are always items that come up after the agenda is published, but it is seldom that one is brought to the Commission for consideration. Murphy further explained that if the matter is unknown and arose after the time the agenda was published then you can put it on the agenda for a meeting. Murphy went on to explain that the City also imposes a further

requirement and that there is some urgency to the matter,. Murphy advised that this item meets both criteria, it did not arise until Friday, and the urgency is that our construction manager needs to begin dealing with these contractors immediately.

Commissioner Chapman made the motion to reject bid packages 48 & 49 and accept bid package 50 to OMNI-2 Mechanical Services, LLC. Anderson seconded.

Roll: Yeas; Chapman, Anderson, Nicholson, Krueger, and Flegler. Nays; None. Motion carried.

20. Consider and vote on the Ponca City Emergency Operation Plan Updates.

Commissioner Anderson made the motion to approve the Ponca City Emergency Operation Plan Updates. Flegler seconded.

Roll: Yeas; Anderson, Flegler, Nicholson, Krueger, and Chapman. Nays; None. Motion carried.

- 21A. Receive Public Comments on the application by the Police Department for grant funds from the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

Captain Don Bohon explained that \$125,866.00 has been allocated through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the Ponca City Police Department, Blackwell Police Department, and Kay County Sheriff's Department. Bohon stated that an agreement has been reached between the three (3) agencies on the allocation of the money.

Bohon went on to say that, a Memorandum of Understanding between the three (3) agencies is being presented separately, and the share for Ponca City Police Department will be \$81,574.02. Bohon added that the Ponca City Police Department will be applying on behalf of all three (3) agencies, and will handle all required periodic reporting.

Mayor Nicholson opened the floor for public comment. There being no comments Mayor Nicholson went on to Item #21B.

- 21B. Consider and vote on the Application by the Police Department for the Grant Funds from the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG)

Commissioner Krueger made the motion to approve the Application by the Police Department for the Grant Funds from the Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG). Anderson seconded.

Roll: Yeas; Krueger, Anderson, Nicholson, Chapman, and Flegler. Nays; None. Motion carried.

22. Consider and vote on Memorandum of Understanding referencing the Recovery Act: Edward Byrne Memorial Justice Assistance Grant, between the City of Ponca City, City of Blackwell, and Kay County and authorize the Mayor to sign.

Commissioner Anderson made the motion to approve the Memorandum of Understanding referencing the Recovery Act: Edward Byrne Memorial Justice Assistance Grant, between the City of Ponca City, City of Blackwell, and Kay County and authorize the Mayor to sign. .

Chapman seconded.

Roll: Yeas; Anderson, Chapman, Nicholson, Flegler, and Krueger. Nays; None. Motion carried.

23. Consider and vote on recommendation from Park and Recreation Advisory Board not to amend Ordinance No 5971, 4-22-2002.

Commissioner Krueger made the motion to receive the report from the Park and Recreation Advisory Board not to amend ordinance No. 5971, 4-22-2002. Flegler seconded.

Roll: Yeas; Krueger, Flegler, Nicholson, Anderson, and Chapman. Nays; None. Motion carried.

****CITIZENS COMMENTS****

24. None.

RECESS TO PONCA CITY UTILITY AUTHORITY MEETING

Mayor Nicholson recessed to the Ponca City Utility Authority meeting at 7:28 p.m.

The Board of Commissioners reconvened their meeting at 7:32 p.m., with Commissioner Anderson making the motion to enter into Executive Session pursuant to Title 25, Section 307 O.S. for purpose of conferring on matters pertaining to Economic Development upon finding, that the matter to be discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business. Flegler seconded.

Roll: Yeas; Anderson, Flegler, Nicholson, Chapman, and Krueger. Nays; None. Motion carried.

26. The Ponca City Board of Commissioners returned to regular session at 8:25 p.m.

Commissioner Anderson made the motion to adjourn the Ponca City Board of Commissioners meeting. Flegler seconded.

Roll: Yeas; Anderson, Flegler, Nicholson, Krueger, and Chapman. Nays; None. Motion carried.

Mayor Nicholson adjourned the Ponca City Board of Commissioners meeting at 8:25 p.m.

PASSED IN SESSION AND APPROVED THIS 27TH DAY OF APRIL 2009.

MAYOR

ATTEST:

CITY CLERK