

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS
PONCA CITY, OKLAHOMA
JUNE 25, 2007

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 Room at City Hall, 516 E. Grand, with Mayor Homer Nicholson presiding:

Present: Homer Nicholson, Mayor
Paul Krueger, Commissioner
Stan Paynter, Commissioner
Wayne Foxworthy, Commissioner
Diane Anderson, Commissioner
Gary Martin, City Manager
Kevin Murphy, City Attorney
Paulette Cross, Deputy City Clerk

Absent: Marc LaBossiere, Finance Director/City Clerk

Others Present: Terry Brown, Walt Klinger, Craige Baird, Chris Henderson, Judi Newland, Mike Lane, John Warner, Clayton Johnson, Terri Sherbon, Doug Evans, Sherri Tapp, Craig Stephenson, Mike Chapman, Don Bohon, Jim Fairbanks, Butch Herring, City Employees; Bob Ennis, Lowell LeFebvre, Larry Murphy, Phil Bandy, Ann Bandy, Larry Buck, Verona Mair, Citizens; Beverly Bryant, Ponca City News.

1. Mayor Homer Nicholson called the meeting to order at 5:30 p.m.
2. Invocation – Bob Innis, Word of Life, gave the invocation followed by the pledge of allegiance.

****CEREMONIES AND PROCLAMATIONS****

4. View and receive Centennial Float on Centennial Plaza.

Larry Buck, Chairman of Centennial Committee, gave credit to Jim Sindelar and his department for being instrumental in carrying the ball in getting this float ready. Buck stated that the float will be in about 15 parades around the state.

5. Character Trait for June: Humility presented by Lowell LeFebvre.

Diane Anderson arrived at 5:35 p.m.

- . The Board of Commissioners found items #6, #7, #8, #9, #10, #11, #13, and #14 non-controversial and routine in nature.

Commissioner Krueger made the motion to approve the consent agenda. Paynter seconded. Motion carried.

Roll: Yeas; Krueger, Paynter, Nicholson, Anderson, and Foxworthy. Nays; None. Motion carried.

6. Consider and vote upon minutes of the Ponca City Board of Commissioners regular session held June 11, 2007.

7.

RESOLUTION NO. 5616

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF PONCA CITY, OKLAHOMA, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AND ESTABLISHING THE TERMS OF THE OFFICE THEREOF.

<u>BOARD OR COMMISSION</u>	<u>NAME</u>	<u>TERM</u>	<u>TERM EXPIRATION</u>
Marland Estate Commission	Debbie Covey	Re-Appointed	2010
Marland Estate Commission	Marlene Foxworthy	Re-Appointed	2010
Marland Estate Commission	Troy Lewis	Re-Appointed	2010
Marland Estate Commission	Tom Myatt	Appointed	2010
Traffic Commission	James Kanelakos	Appointed	2008
Traffic Commission	Ann Kinsinger	Re-Appointed	2010
Senior Advisory Board	Eric Lybarger	Appointed	2010
Senior Advisory Board	Jann Schieber	Re-Appointed	2010

8. Consider and vote on a contract with the Larry Murphy Insurance Agency to provide coverage, through C.N.A., for the City of Ponca City's buildings & contents insurance, and electronic data processing insurance, for the policy period of July 1, 2007 through June 30, 2008.
9. Consider and vote on proposal with the Oklahoma Municipal Assurance Group (OMAG) to provide coverage for the City of Ponca City's Inland Marine Insurance for the policy period of July 1, 2007 through June 30, 2008.
10. Consider and vote to contract with Perico for individual and aggregate re-insurance on the City's Health Benefit plan for the fiscal year beginning July 1, 2007, and authorize the Mayor to execute all related documents.
11. Consider and vote on the annual contract between United Safety & Claims, Inc. for fiscal year 2007-2008.

13.

RESOLUTION NO. 5617

A RESOLUTION DESIGNATING CERTAIN CITY EMPLOYEES AS PURCHASING OFFICERS WITH THE AUTHORITY TO MAKE PURCHASES AGAINST CITY AND MUNICIPAL TRUST APPROPRIATIONS.

14.

RESOLUTION NO. 5618

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

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

15. None.

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

16. Commissioner Foxworthy reminded everyone that this week, Monday-Friday, the Arts and

Humanities Council is providing the Chautauqua at the Marland Mansion. Foxworthy encouraged everyone to attend, as it will be a very educational week for all.

Mayor Nicholson stated that it has been brought to his attention that there seems to be a habit of people trying to run yellow lights that become red lights. Nicholson advised that this can cause some bad accidents, and encouraged everyone to heed the light signals, and respond accordingly. Mayor Nicholson also encouraged citizens to keep mowing, even though the grass and weeds seem to be on steroids.

****REPORTS****

17. CITY MANAGER'S REPORT

Gary Martin reminded the Commissioners that Thursday morning at Osage Quik Stop there will be a ceremony to celebrate the reconstruction of the road from Kygar Road to the Corps of Engineers road. Martin announced that July 2 will be full moon over Wentz family swim from 7:00 to 11:00 p.m. and to remember that July 4th is the Freedom Festival.

Martin also announced that there will be no work session on July 2, 2007, the next work session will be on the 16th of July.

18. RECEIVED 2006 POLICE DEPARTMENT ANNUAL REPORT.

Don Bohon, Patrol Captain for Ponca City Police Department, gave the 2006 Police Department annual report.

****PUBLIC HEARINGS****

- 19A. Conduct a Public Hearing.

Chris Henderson, Community Development Director, advised that the Happy Days Café is requesting a special use permit to establish a sidewalk café. Henderson explained that the city zoning ordinance does provide for the establishment of sidewalk café's in the CBD, provided a Special Use permit is issued by the City and the owner complies with specific provisions. Henderson advised that the Commissioners had considered this petition at their regular scheduled meeting on May 29, 2007 and approved the sidewalk café on Grand Avenue only, but had sent the matter of the 5th Street side back to the Planning Commission for re-consideration and study of the new furniture. Henderson stated that the Planning Commission at their special meeting held on June 12, 2007 approved the special use permit with two specific conditions; those being (A) the furniture shall not be configured to permit more than a 2-piece setting and (B) the furniture shall be set back from the (southeast corner) of the building a minimum of 6 to 7-feet. Henderson further advised that this special use

permit is not permanent and can be revoked if the owner does not comply with the conditions outlined in the special use permit.

Mayor Nicholson opened the Public Hearing and asked if there was anyone who would like to speak for or against this Special Use Permit. Nicholson stated that there being no one to

speak for or against the special use permit, closed the Public Hearing.

- 19B. Commissioner Anderson made the motion, stating that her motion should include that the furniture shall not be configured to permit more than a 2-piece setting and that it should be set back from the southeast corner of the building a minimum of six feet. Paynter seconded.

Commissioner Krueger then asked the question as to how this would impact the flow of pedestrian traffic on the Fifth Street sidewalk, when there were downtown events such as parades. Krueger further added that perhaps a third restriction should be added to the motion that when there are downtown events the tables should be removed from the sidewalk on Fifth Street.

Commissioner Anderson then amended her motion to include a third restriction that when there are special events downtown the tables should be removed from the sidewalk on Fifth Street. Krueger seconded.

Roll: Yeas; Krueger, Anderson, Paynter, Nicholson, and Foxworthy. Nays; None. Motion carried.

- 19B. Consider and vote on a petition for a special use permit in the "CBD" Central Business District for a Sidewalk Café, located at 423 East Grand Avenue.

- 20A. Conduct a Public Hearing.

Chris Henderson, Community Development Director, explained to the Commission that this item is a request for a Special Use Permit to construct a 50-unit senior apartment at the southeast corner of Highland and Waverly. Henderson went on to say that this property is zoned C-1 Local Commercial, which permits a number of residential and commercial uses, but requires a Special Use Permit for apartments. Henderson stated that the Planning Commission met on June 12, 2007 in a special meeting to hear this petition. Henderson informed the Commission that input was provided by residents in the Hampton Heights neighborhood, and it was the consensus of those in attendance that this project should be considered for approval.

Mayor Nicholson opened the floor for public comment. Kyle Bach, a representative of the developer, addressed the Commission, saying that this 50 unit complex is approximately a \$5.1 million dollar investment in the community. Bach stated that what the developer needs from the Commission are (1) a Special Use Permit and (2) a Resolution from the City supporting the project, and also showing support in the form of a financial contribution of cash or in-kind services. There being no more comments, Mayor Nicholson closed the Public Hearing.

- 20B. Consider and vote on petition for a special use permit in the C-1 local commercial district for a senior apartment complex, located at 601 North Waverly Avenue.

Commissioner Foxworthy made the motion to approve the special use permit as submitted. Krueger seconded.

Roll: Yeas; Foxworthy, Krueger, Anderson, Nicholson, and Paynter. Nays; None. Motion carried.

****UNFINISHED BUSINESS****

None.

****NEW BUSINESS****

12A. **ORDINANCE NO.6061**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES RELATING TO THE SENIOR ADVISORY BOARD SO AS TO REDUCE THE SIZE OF THE BOARD, THE SIZE OF THE QUORUM NEEDED TO CONDUCT BUSINESS REDUCING THE NUMBER OF EX OFFICIO MEMBERS, REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.

Commissioner Foxworthy made the motion to approve the Ordinance relating to the reduction of size of the Senior Advisory Board, and also reducing the size of the ex officio members. Krueger seconded.

12B. Consider and vote on the Emergency Clause of the Ordinance.

Commissioner Foxworthy made the motion to approve the emergency clause. Krueger seconded.

Roll: Yeas; Nicholson, Foxworthy, Krueger, Paynter, and Anderson. Nays; None. Motion carried.

21.. **RESOLUTION NO. 5619**

A RESOLUTION BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF PONCA CITY, OKLAHOMA TO SUPPORT A PROPOSED 50-UNIT SENIOR APARTMENT DEVELOPMENT FOR THE ELEDERLY TO BE LOCATED AT 601 NORTH WAVERLY AVENUE.

Chris Henderson explained this Resolution is the companion item to the Special Use Permit request to construct a 50-unit senior apartment complex at the southeast corner of Highland and Waverly. Henderson explained that the developer is seeking tax credits for this project, and the Commission must pass a Resolution supporting this project or the project will not be funded by OHFA. Henderson further added that the City will also need to show support of the project in the form of a financial contribution of cash or in-kind services. Henderson informed the Commission that the financial contribution on the part of the City will be made by Ponca City Energy, who will provide underground electrical service to the apartment

complex, and all necessary equipment.

Commissioner Krueger made the motion to approve and accept the Resolution supporting a proposed 50-Unit Senior Apartment Development for the elderly to be located at 601 North.

Waverly Avenue. Paynter seconded.

Roll: Yeas; Krueger, Paynter, Nicholson, Foxworthy and Anderson. Nays; None. Motion carried.

22.

RESOLUTION NO. 5620

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH HONEYWELL INTERNATIONAL, INC. FOR PURCHASING AND REPLACEMENT OF WATER AND ELECTRIC METERS, CERTAIN LIGHTING FIXTURES, STREET LIGHTS AND HVAC UNITS THROUGHOUT THE CITY; AND APPROVING AND AUTHORIZING MAYOR TO EXECUTE MASTER STATE AND MUNICIPAL LEASE/PURCHASE AGREEMENT WITH HONEYWELL GLOBAL FINANCE LLC.

Mayor Nicholson stated that this is a huge exciting project for Ponca City, as they will be the first City in Oklahoma to have electronic meter reading. Gary Martin complimented staff for the hundreds of hours working on this project, and for making this a successful project. Martin stated that there are many fringe benefits to this project that will surface later on.

Mayor Nicholson also added that this project will not cause a need for a rate increase, but will pay for itself.

Commissioner Paynter made the motion to approve the Resolution authorizing the Mayor to execute an agreement with Honeywell International, Inc for purchasing and replacement of water and electric meters, certain lighting fixtures, street lights, and HVAC units throughout the City; and approving and authorizing Mayor to execute master state and municipal lease/purchase agreement with Honeywell Global Finance, LLC. Anderson seconded.

Roll: Yeas; Paynter, Anderson, Nicholson, Krueger, and Foxworthy. Nays; None. Motion carried.

23.

RESOLUTION NO. 5621

A RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO MAKE PROGRESS PAYMENT #1 TO HONEYWELL IN THE AMOUNT OF \$4,725,000.00 FROM THE PROCEED ESCROW ACCOUNT ON THE PERFORMANCE BASED PUBLIC IMPROVEMENT PROJECT APPROVED JUNE 25, 2007.

Commissioner Anderson made the motion to approve the Resolution authorizing the Finance Director to make progress payment #1 to Honeywell in the amount of \$4,725,000.00 from the proceed escrow account on the performance based public improvement project approved June 25, 2007. Foxworthy seconded.

Roll: Yeas; Anderson, Foxworthy, Krueger Nicholson, and Paynter. Nays; None. Motion carried.

Nicholson informed the citizens that it is projected that this will be approximately a 13-month project; starting in about 30 days. Nicholson further advised that there will be many contract persons in the City replacing water and electric meters, and these will all have identification, so citizens will know when they come to their homes.

24. Consider and vote on an agreement for Professional Grant Administration Services between the City of Ponca City and Ms. Rhonda R. Skrapke (Consultant). Removed until next meeting
25. Consider and vote on Tort Claim of Samantha Ryan.

City Attorney Kevin Murphy advised the Commission that Samantha Ryan was in an accident with a city vehicle and filed a claim for reimbursement of damages and injuries. Murphy went on to explain that the City's insurance company asked Ms. Ryan's attorney for additional information, and that information was not forthcoming at the time this agenda item was prepared. Murphy further explained that under the Oklahoma Tort Claim law, an individual has a year from the date that the claim is rejected in which to file a lawsuit for the recovery of those damages. Murphy further added that, however; since OMAG contacted her attorney for additional information this claim needs to be formally denied by the Commission to restart the statute of limitations. Murphy stated that upon approval by the Commission, Ms. Ryan's attorney will be sent a notice of denial, and in turn he will take whatever action he feels necessary.

Commissioner Paynter made the motion to approve the denial of the tort claim of Samantha Ryan. Foxworthy seconded.

Roll: Yeas; Paynter, Foxworthy, Nicholson, Krueger, and Anderson. Nays; None. Motion carried.

26. Consider and vote upon awarding the contract and authorizing the execution of the contract documents for, "Street Improvement Project – Concrete Pavement Reconstruction", Project No. GEN 07-4 to Sober Brothers, Inc. in the amount of \$982,063.89.

Commissioner Krueger made the motion to award the contract for "Street Improvement Project – Concrete Pavement Reconstruction", Project No. GEN 07-4 to Sober Brothers, Inc. in the amount of \$982,063.89 and authorize the execution of the contract documents. Foxworthy seconded.

Roll: Yeas; Krueger, Foxworthy, Nicholson, Anderson, and Paynter. Nays; None. Motion carried.

27. Consider and vote on staff recommendation for change in scope for Downtown Sidewalk Rehabilitation Project.

Mike Lane gave a brief recap of the Downtown Sidewalk Improvement Project. Lane stated that after a meeting with Oklahoma Department of Transportation, and the importance they

placed upon complying with the Americans with Disabilities Act, it would be necessary to change the scope of the project due to the additional cost.

Lane advised that staff will present a report of the plan review meeting, and a recommendation for a scope reduction to stay within the original budget amount. Lane also explained that this project would not include any of the components of the streetscape project. Lane concluded that this is simply a project to replace the bad sections of the downtown sidewalks. Commissioner Krueger stated that he would approve the change in the scope of the project, but wanted Main Street to be involved in some of the decision making.

Commissioner Krueger made the motion to approve staff's recommendation to change the Downtown Sidewalk Rehabilitation Project. Foxworthy seconded.

Mayor Nicholson stated that he had questions, before calling for the vote. Nicholson asked why ODOT was concerned about sidewalks, when their concerns should be about roads. Lane explained that ODOT sets aside a certain percentage of federal highway money for enhancement projects, and this is that type of project. Nicholson also asked if this project would affect the Honeywell Project in any way. Lane stated that there were water meters that would need to be moved, but Darwin Haney, Water/Waste Water Superintendent, has plans to move these meters while the sidewalks are torn up. Nicholson also addressed the issue of this project to start in October, which could be critical for the downtown merchants when it comes to Christmas shopping. Nicholson further added that perhaps the project should be postponed until January. Nicholson also inquired as to whether the merchants that would be involved in this project had been consulted about the scope change. City Manager Gary Martin addressed this question by stating that normally it is the contractor's job to make arrangements with the merchants involved. Martin further advised that this project started out to correct trip hazards in the downtown area, and what is frustrating is that ODOT sent two representatives, each one with different requirements, which has kept the City jumping through hoops to satisfy these requirements.

Roll: Yeas; Krueger, Foxworthy, Nicholson, Paynter, and Anderson. Nays; None. Motion carried.

28.

RESOLUTION NO. 5622

A RESOLUTION OF THE CITY COMMISSION OF PONCA CITY, OKLAHOMA DESIGNATING PROPOSED LOCATION OF A FUTURE FIRE STATION.

Butch Herring, Fire Chief, explained to the Commission that he was coming before the Commission to approve a Resolution designating the land located at the southwest corner of Ash Street and Hartford Avenue, as a future site for a Fire Station. Herring also advised that this location would be suitable for a future fire station due to the following reasons: (1) the property's ease of access to the north, south, east and west sections of town, (2) the property's close proximity to the Airport and Industrial Park, and (3) the property's location between the current fire stations No. 2 and No. 3 fire stations, which could be combined for efficiency.

City Manager Gary Martin informed the Commission that this is just to put the land into reserve for a future fire station. Martin further added that this takes the land off the front

page so people will stop looking at this piece of property for development.

Commissioner Anderson made the motion to approve the Resolution of the City Commission designating proposed location of a future fire station. Foxworthy seconded.

Roll: Yeas; Anderson, Foxworthy, Krueger, Nicholson, and Paynter. Nays; None. Motion carried.

****CITIZENS COMMENTS****

29. Cecil McIntire, 732 N. Oak, thanked the City for the grant money, which helped with improvements to his home.

30. Commissioner Krueger made the motion to adjourn. Foxworthy seconded.

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

Mayor Nicholson adjourned the Ponca City Board of Commissioners meeting at 7:30 p.m. p.m.

PASSED IN SESSION AND APPROVED THIS 9TH DAY OF JULY 2007.

MAYOR

ATTEST

CITY CLERK