

BOARD OF CITY COMMISSIONERS PROCEEDINGS

JULY 18, 2016 AT 6:30 P.M.

The Board of City Commissioners of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in Regular Session in the Commission Chambers at City Hall, 9th and Broadway, Shawnee, Oklahoma, Monday, July 18, 2016 at 6:30 p.m., pursuant to notice duly posted as prescribed by law. Mayor Mainord presided and called the meeting to order. Upon roll call, the following members were in attendance.

Wes Mainord

Mayor

Vacant

Commissioner Ward 1

Vacant/ Ron Gillham

Commissioner Ward 2

James Harrod

Commissioner Ward 3-Vice Mayor

Keith Hall

Commissioner Ward 4

Lesa Shaw

Commissioner Ward 5

Micheal Dykstra

Commissioner Ward 6

ABSENT: None

INVOCATION

The Lord's Prayer led by Mayor Mainord

FLAG SALUTE

Led by Mayor Mainord

AGENDA ITEM NO. 1:

Consider approval of Consent Agenda:

- a. Minutes from the June 20, 2016 regular meeting.
- b. Acknowledge the following reports and minutes:
 - License Payment Report for June 2016
 - Project Payment Report for June 2016
 - Shawnee Urban Renewal Authority Minutes from the April 5, 2016 and May 10, 2016 meetings
 - Planning Commission Minutes from the June 1, 2016 meeting

- c. Approve Collective Bargaining Agreement with International Association of Fire Fighters (IAFF) Local No. 206.
- d. Authorize staff to purchase four (4) 2016 Ford Police Interceptor SUV's at the state bid price of \$44,751.93 each.
- e. Authorize staff to purchase a Chevrolet Tahoe for Emergency Management from State Contract.
- f. Authorize staff to solicit bids for debris management and debris monitoring services in case of disaster or emergency.
- g. Authorize staff to purchase a Silverado Crew Cab half ton pickup for Human Resources Safety Officer from State Contract.
- h. Authorize staff to solicit bids for a remote control slope mower.
- i. Acknowledge Official Certificate of Votes from the June 28, 2016 election for Ward 1 Commissioner (unexpired term), Ward II Commissioner and Ward III Commissioner.
- j. Approve Memorandum of Understanding with District Attorney's Office, 23rd Judicial District, for services to victims of domestic violence and sexual assault.
- k. Budget Amendment – Fund 302
To amend budget for street projects that were not completed in FY15-16
- l. Budget Amendment – 2016 CDBG Entitlement Grant Fund
Allocate remaining 2015-2016 grant funds for CDBG for new fiscal year

A motion was made by Vice Mayor Harrod, seconded by Commissioner Hall, to approve the Consent Agenda Item No. 1(a-1). Motion carried 5-0.

AYE: Harrod, Hall, Shaw, Dykstra, Mainord

NAY: None

AGENDA ITEM NO. 2:

Citizens Participation
(A three minute limit per person)
(A twelve minute limit per topic)

Mr. Tom Claybrook questioned the Commission regarding how much the City has spent in legal fees for litigation between the City of Shawnee and Citizen Potawatomi Nation. Mr. Claybrook was advised by City Attorney Joe Vorndran that the Commission cannot respond to the question at this time. Mr. Claybrook also questioned what had been gained with the lawsuits.

AGENDA ITEM NO. 3:

Presentation by City Manager to Employee of the Month, Mary Palacios, Municipal Court.

Mary Palacios was present to accept the Employee of the Month Certificate presented by City Manager Justin Erickson.

AGENDA ITEM NO. 4:

Discussion, consideration and possible action to accept resignation of Ward 2 Commissioner Linda Agee.

A motion was made by Commissioner Shaw to deny the resignation of Commissioner Linda Agee. Motion failed due to the lack of a second.

City Attorney Joe Vorndran stated that Commissioner Agee's resignation was a matter of law and could not be rescinded unless she requested it. It was further determined that the agenda wording should have stated that the Commission was acknowledging the resignation instead of approving it.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Hall, to approve the resignation of Ward 2 Commissioner Linda Agee. Motion carried 4-1.

AYE: Harrod, Hall, Dykstra, Mainord
NAY: Shaw

AGENDA ITEM NO. 5:

Discussion, consideration and possible action to appoint Ronald Gillham to the Ward 2 City Commission seat vacated by Linda Agee.

A motion was made by Commissioner Dykstra, seconded by Commissioner Hall, to approve the appointment of Ronald Gillham to the Ward 2 City Commission seat vacated by Linda Agee. Motion carried 4-1.

AYE: Dykstra, Hall, Harrod, Mainord

NAY: Shaw

AGENDA ITEM NO. 6: Swearing in of Ronald Gillham as Ward 2 Commissioner.

Municipal Judge Randall Wiley swore in Ronald Gillham as Ward 2 Commissioner.

AGENDA ITEM NO. 7: Presentation by Michelle Briggs, President/CEO of Avedis Foundation.

Ms. Michelle Briggs, President/CEO of the Avedis Foundation announced the partnership between the Avedis Foundation and the City of Shawnee. This partnership will consist of a dollar for dollar matching grant that will provide a Master Trails and Sidewalk Plan. This five year plan will eventually consist of the addition of fourteen miles of sidewalks in the City. These sidewalks will connect schools, parks and neighborhoods. City Manager Justin Erickson thanked Ms. Briggs and the Avedis Foundation, stating that it has been a pleasure to work with Avedis to help provide a better quality of life for our citizens.

AGENDA ITEM NO. 8: Consider an ordinance authorizing the calling and holding of an election for the purpose of submitting to the voters the question of amending the present hotel/motel surcharge to seven and one-half percent (7.5%) or one dollar (\$1.00), whichever is higher.

Ordinance No. 2583NS was introduced.

AN ORDINANCE AMENDING THE PRESENT HOTEL OCCUPANCY SURCHARGE; AMENDING SECTIONS 25-226, 25-228 AND 25-229, DIVISION 1, ARTICLE IV OF CHAPTER 25 OF THE CODE OF THE CITY OF SHAWNEE; CHANGING ARTICLE TITLE; SETTING EFFECTIVE DATE OF THE ORDINANCE AS JULY 18, 2016; REQUIRING APPROVAL OF ORDINANCE BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSE AS PROVIDED BY LAW; AMENDING SECTION 25-266, DIVISION 2, ARTICLE IV OF CHAPTER

25 OF THE CODE OF THE CITY OF SHAWNEE; AMENDING THE OCCUPANCY SURCHARGE UPON THE SERVICE OF FURNISHING ROOMS BY HOTELS OR MOTELS WITHIN THE CITY TO 7.5% UPON THE GROSS RECEIPTS OF EACH OCCUPANCY OR ONE DOLLAR (\$1.00) PER OCCUPIED ROOM PER NIGHT, WHICHEVER IS GREATER; AND PROVIDING FOR SEVERABILITY.

City Manager Justin Erickson addressed the seven and one-half percent proposed rate increase. He discussed regional sales tax and lodging tax comparisons with cities and/or hotels near the City of Shawnee. The Commission discussed potential tourism related projects that could be accomplished with the additional revenue. Mr. Erickson stated that each one percent increase in lodging tax will generate approximately \$100,000.00 in additional revenue. Mr. Erickson said he had met with two hotel owners in Shawnee who were apprehensive regarding any increase because of competition with Oklahoma City/Midwest City hotels.

A motion was made by Commissioner Hall, seconded by Vice Mayor Harrod, to approve an ordinance authorizing the calling and holding of an election for the purpose of submitting to the voters the question of amending the present hotel/motel surcharge with an increase of two and one-half percent. Motion carried 4-2.

AYE: Hall, Harrod, Mainord, Gillham

NAY: Shaw, Dykstra

AGENDA ITEM NO. 9:

Consider a resolution calling for the holding of a special election November 8, 2016 for the purpose of adopting Ordinance No. 2583NS amending the present hotel/motel surcharge to seven and one-half percent (7.5%) of gross receipts or one dollar (\$1.00) per rental day, whichever is greater, as defined by ordinance; providing for said election to be conducted by the Pottawatomie County Election Board; providing for voting by absentee ballot and fixing the effective date of the ordinance as the first day of April, 2017.

Resolution No. 6519 was introduced.

A RESOLUTION CALLING AND PROVIDING FOR THE HOLDING OF A SPECIAL ELECTION IN THE CITY OF SHAWNEE, OKLAHOMA, FOR THE PURPOSE OF ADOPTING AN ORDINANCE AMENDING THE PRESENT HOTEL-MOTEL OCCUPANCY SURCHARGE LEVIED AND ASSESSED FROM FIVE PERCENT (5%) OF GROSS RECEIPTS FROM ALL OCCUPANCY OF HOTEL-MOTEL ROOMS OR ONE DOLLAR (\$1.00) PER RENTAL DAY ON HOTELS AND MOTELS AS DEFINED BY ORDINANCE OR WHICHEVER IS GREATER, TO SEVEN AND ONE-HALF PERCENT (7.5%) OF GROSS RECEIPTS FROM ALL OCCUPANCY OF HOTEL-MOTELS ROOMS OR ONE DOLLAR (\$1.00) PER RENTAL DAY ON HOTELS AND MOTELS AS DEFINED BY ORDINANCE OR WHICHEVER IS GREATER; PROVIDING FOR SAID ELECTION TO BE CONDUCTED BY THE POTTAWATOMIE COUNTY ELECTION BOARD; AND PROVIDING FOR VOTING BY ABSENTEE BALLOT.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Gillham, to approve a resolution calling for the holding of a special election November 8, 2016 for the purpose of adopting Ordinance No. 2583NS amending the present hotel/motel surcharge to seven and one-half percent (7.5%) of gross receipts or one dollar (\$1.00) per rental day, whichever is greater, as defined by ordinance; providing for said election to be conducted by the Pottawatomie County Election Board; providing for voting by absentee ballot and fixing the effective date of the ordinance as the first day of April, 2017. Motion carried 5-1.

AYE: Harrod, Gillham, Mainord, Hall, Dykstra
NAY: Shaw

AGENDA ITEM NO. 10: Consider approval of ballot to be submitted to Election Board.

A motion was made by Commissioner Dykstra, seconded by Commissioner Hall, to approve a ballot to be submitted to the Election Board. Motion carried 5-1.

AYE: Dykstra, Hall, Gillham, Harrod, Mainord
NAY: Shaw

AGENDA ITEM NO. 11: Discussion, consideration and possible action on a resolution asking the Pottawatomie County Commissioners to place before the voters a ballot title permitting the Sunday sale of alcoholic beverages in restaurants.

Resolution No. 6520 was introduced.

A RESOLUTION ENCOURAGING AND REQUESTING THE POTTAWATOMIE COUNTY COMMISSIONERS TO PLACE BEFORE THE VOTERS OF THE COUNTY A BALLOT QUESTION ALLOWING THE SUNDAY SALE OF ALCOHOLIC BEVERAGES AT RESTAURANTS IN THE COUNTY

City Manager Justin Erickson provided background information on this item, and explained the city is missing out on future economic development from the lack of alcoholic sales on Sundays.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Dykstra, to approve a resolution asking the Pottawatomie County Commissioners to place before the voters a ballot title permitting the Sunday sale of alcoholic beverages in restaurants. Motion carried 5-1.

AYE: Harrod, Dykstra, Gillham, Mainord, Hall

NAY: Shaw

AGENDA ITEM NO. 12:

Consideration of a Final Plat for Shawnee Park Addition located on the south side of Transportation Drive, east of North Harrison Street. Case No. S14-16. Applicant: Zimmerman Properties Development, LLC (*Deferred by Planning Commission to August 3, 2016 meeting*)

Staff advised that this item was deferred by the Planning Commission to the August 3, 2016 meeting.

A motion was made by Commissioner Shaw, seconded by Vice Mayor Harrod, to defer this item until the August 15, 2016 City Commission meeting. Motion carried 5-1.

AYE: Harrod, Mainord, Hall, Dykstra, Gillham

NAY: Shaw

AGENDA ITEM NO. 13:

Public hearing and consideration of an ordinance to rezone property located on the east side of Harrison Street, north of Transportation Parkway from PUD; Planned Unit Development to C-3; Highway Commercial. Case No. P05-16. Applicant: Wallace Engineering

Community Development Director Justin DeBruin provided a brief history of this property and the current PUD zoning classification. He further explained the purpose of the C3; Highway Commercial zoning in this instance.

Mayor Mainord declared a public hearing in session to consider an ordinance to rezone property located on the east side of Harrison Street, north of Transportation Parkway from PUD; Planned Unit Development to C-3; Highway Commercial. Jim Beach with Wallace Engineering appeared in favor of said rezoning. No one appeared against said rezoning. The public hearing was closed.

A motion was made by Commissioner Hall, seconded by Commissioner Shaw, to approve the ordinance to rezone property located on the east side of Harrison Street, north of Transportation Parkway from PUD; Planned Unit Development to C-3; Highway Commercial.

Ordinance No. 2584NS was introduced.

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO-WIT: LOTS EIGHT (8) AND NINE (9), YAHGNEE ADDITION, PHASE 1, TO THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF REZONING SAID PROPERTY FROM PUD; PLANNED UNIT DEVELOPMENT TO C-3; HIGHWAY COMMERCIAL AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

Motion carried 6-0.

AYE: Hall, Shaw, Dykstra, Gillham, Harrod, Mainord

NAY: None

Ordinance No. 2584NS was adopted by the City Commission.

AGENDA ITEM NO. 14:

Discussion, consideration and possible action regarding a press release that provides information and status of the current and recent court proceedings between the City of Shawnee and the Citizen Potawatomi Nation and the Oklahoma Tax Commission and the Citizen Potawatomi Nation.

Commissioner Hall discussed the need for transparency and the public's right to know the status of the CPN lawsuits. Mr. Hall stated that all information

provided in the press release would be general in nature. It was noted that the City of Shawnee does not currently have any lawsuits against the Citizen Potawatomi Nation.

After discussion among the Commission, a motion was made by Commissioner Hall to approve the City providing a press release that provides information and status of the current and recent court proceedings between the City of Shawnee and the Citizen Potawatomi Nation and the Oklahoma Tax Commission and the Citizen Potawatomi Nation. Motion failed due to the lack of a second.

AGENDA ITEM NO. 15: Acknowledge Sales Tax Report received July 2016.

Finance Director Cynthia Arnold reported that July sales tax collected this month was \$1,475,520.00, which is up 2.31% or \$33,302.00 from July of 2015.

AGENDA ITEM NO. 16: City Manager Report

The report was provided in the agenda packets and no oral report was given.

AGENDA ITEM NO. 17: New Business (Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)

There was no New Business.

AGENDA ITEM NO. 18: Commissioners Comments

Commissioner Dykstra said he was looking forward to working with the new Commissioners.

Commissioner Shaw also welcomed the new Commissioners.

Commissioner Hall thanked the Avedis Foundation for their partnership with the City.

Vice Mayor Harrod commented on the recent election and shared his appreciation for all the support he received. He stated that everything he sees within the City is positive and he is happy to be a part of it.

Commissioner Gillham stated that he intends to be a Commissioner for the full four-year term.

RECESS CITY COMMISSION MEETING BY THE POWER OF THE CHAIR
TO CONVENE SHAWNEE AIRPORT AUTHORITY AND SHAWNEE
MUNICIPAL AUTHORITY (7:28 P.M.)

RECONVENE CITY COMMISSION MEETING BY THE POWER OF THE
CHAIR (7:40 P.M.)

AGENDA ITEM NO. 19:

Discussion, consideration and possible action to go into Executive Session to discuss potential claims, litigation or other options regarding emergency (911) wireless telephone fees that were collected and not remitted to the City; as authorized by 25 O.S. §307(B)(4).

A motion was made by Commissioner Dykstra, seconded by Commissioner Gillham, to enter into Executive Session to discuss potential claims, litigation or other options regarding emergency (911) wireless telephone fees that were collected and not remitted to the City; as authorized by 25 O.S. §307(B)(4). Motion carried 6-0.

AYE: Dykstra, Gillham, Mainord, Hall, Shaw, Harrod
NAY: None

AGENDA ITEM NO. 20:

Discussion, consideration and possible action to go into Executive Session Consider an Executive Session to discuss potential claims, litigation and transition of legal representation or other options regarding Pottawatomie County District Court Case No. CJ-2014-128, The Citizen Potawatomi Nation by Linda Capps, its Vice Chairman, and Deanna Jesse vs. City of Shawnee, as authorized by 25 O.S. §307(B)(4).

A motion was made by Commissioner Dykstra, seconded by Vice Mayor Harrod, to enter into Executive Session to discuss potential claims, litigation and transition of legal representation or other options regarding Pottawatomie County District Court Case No. CJ-2014-128, The Citizen Potawatomi Nation by Linda Capps, its Vice Chairman, and Deanna Jesse vs. City of Shawnee, as authorized by 25 O.S. §307(B)(4). Motion carried 6-0.

AYE: Dykstra, Harrod, Mainord, Hall, Shaw, Gillham

NAY: None

AGENDA ITEM NO. 21:

Consider an Executive Session to discuss annual evaluations of the City Manager, City Treasurer, and City Judge pursuant to 25 O.S. §307(B)(1) "Discussing the employment, hiring, appointment, demotion, disciplining or resignation of any individual salaried public officer or employee."

A motion was made by Commissioner Gillham, seconded by Commissioner Hall, to enter into Executive Session to discuss annual evaluations of the City Manager, City Treasurer, and City Judge pursuant to 25 O.S. §307(B)(1) "Discussing the employment, hiring, appointment, demotion, disciplining or resignation of any individual salaried public officer or employee." Motion carried 5-1.

AYE: Gillham, Hall, Dykstra, Harrod, Mainord

NAY: Shaw

COMMISSION ENTERED INTO EXECUTIVE SESSION AT 7:42 P.M. WITH ALL MEMBERS PRESENT

COMMISSION RECONVENED FROM EXECUTIVE SESSION AT 8:32 P.M. WITH ALL MEMBERS PRESENT

VICE MAYOR HARROD LEFT THE MEETING AT 8:32 P.M.

AGENDA ITEM NO. 22:

Consider matters discussed in Executive Session regarding potential claims, litigation or other options regarding emergency (911) wireless telephone fees that were collected

and not remitted to the City; as authorized by 25 O.S. §307(B)(4).

A motion was made by Commissioner Dykstra, seconded by Commissioner Gillham, to authorize counsel to file suit against Pottawatomie County 911 Trust if the final demand letter is not accepted. Motion carried 4-1.

AYE: Dykstra, Gillham, Mainord, Hall
NAY: Shaw

AGENDA ITEM NO. 23:

Consider matters discussed in Executive Session regarding potential claims, litigation and transition of legal representation or other options regarding Pottawatomie County District Court Case No. CJ-2014-128, The Citizen Potawatomi Nation by Linda Capps, its Vice Chairman, and Deanna Jesse vs. City of Shawnee, as authorized by 25 O.S. §307(B)(4).

No action was taken.

AGENDA ITEM NO. 24:

Consider matters discussed in Executive Session regarding discussion of annual evaluations of City Manager, City Treasurer, and City Judge pursuant to 25 O.S. §307(B)(1) "Discussing the employment, hiring, appointment, demotion, disciplining or resignation of any individual salaried public officer or employee."

A motion was made by Commissioner Hall, seconded by Commissioner Dykstra, to enter into a contract with Municipal Judge Randall Wiley for one year in the amount of \$50,000.00. Motion carried 5-0.

AYE: Hall, Dykstra, Gillham, Mainord, Shaw
NAY: None

AGENDA ITEM NO. 25:

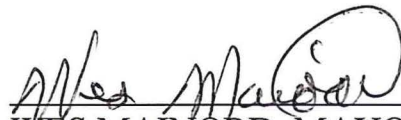
Consideration of contract with Municipal Judge.

See Agenda Item No. 24 above.

AGENDA ITEM NO. 26:

Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (8:36 p.m.)


WES MAINORD, MAYOR




PHYLLIS LOFTIS, CMC, CITY CLERK