MUSTANG CITY COUNCIL
MAY 21, 2013

The Mustang City Council met in regular session on Tuesday, May 21, 2013, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, May 17, 2013, at 1:05 p.m. An Amended Agenda was posted on Monday, May 20, 2013, at 10:45 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Mayor Adams called the meeting to order at 7:00 p.m.

B. PLEDGE OF ALLEGIANCE/INVOCATION *(Josh Shelton, Student Minister, Canadian Valley Baptist Church)*

Josh Shelton, Student Minister, led the assembly in the Pledge and Invocation. He stated the church was doing good and growing. He said student ministry was focusing right now on outreach with all the new housing districts being built. He also stated the church plans to bring VBS to the different communities this summer instead of them having to come to the church and said they would also be meeting with other churches May 22 for ultimate Frisbee.

C. ROLL CALL

Councilmembers Present:	**Taylor**
	Staples
	Jones
	Hagan
	Mount
	Adams
Councilmembers Absent:	**Bowers**

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

Mayor Adams recognized Chief Foley for all the hard work by his department the last couple of days due to the storms and tornado. Some of the traffic had been diverted onto Highway 152 through Mustang during rush hour causing additional traffic hassles along with some of our signal lights not working due to loss of electricity.

Police Chief Foley advised a verdict had been handed down in the Rebecca Bryan case. The verdict was guilty, with life without parole.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

None.

F. <u>CONSENT AGENDA</u>

1. Approval of **05/07/13** City Council Minutes.
*2. Claims List for **FY '13**
3. Approval to Renew Radio System License Agreement with the City of Oklahoma City.
4. Approval to Turn Past Due Library Accounts Over to Collection Agency.
5. Approval of **Resolution No. 13-048,** Making Changes in the General Fund Budget by Making a Supplemental Appropriation to Increase the 2012-2013 Fiscal Year Budget by $1,517.33.
6. Approval of **Resolution No. 13-049**, Making Changes in the General Fund Budget by making a Supplemental Appropriation to Increase the 2012-2013 Budget by $300.
7. Approval of **Resolution No. 13-050,** Making Changes in the General Fund Budget by Making a Supplemental Appropriation to Increase the 2012-2013 Budget by $1,907.
8. Approval to Suspend Resolution No. 05-027 for One year until Fiscal Year 2014-2015.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Staples** to approve Items F-1 through F-8 of the Consent Agenda.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

G. <u>INFORMATION/REPORTS</u>

1. <u>City Manager</u>

Mayor Adams advised there would not be a presentation tonight by Alan Plummer & Associates as planned on the use of gray water for Wild Horse Park due to the tornado. The lead engineer for their company is out of Texas and told them travel through the State is difficult at this time. The presentation will be rescheduled.

Interim City Manager Battles stated our thoughts and prayers go out to those impacted by the storms. He advised the City of Mustang did send resources to Moore for assistance and thanked the Fire Chief and his department. He also thanked Police Chief Foley and his department for their hard work as well as the City of Mustang citizens for their patience with the traffic. He said our thoughts also go out to Silver Star Construction who has 100 plus employees with about forty of those employees living in Moore. All of those employees and Mr. Shawn's family are accounted for and we consider that a blessing.

Battles advised due to the recent storms, we had lost power to several of our well fields; therefore, we currently have limited power to the well fields with three (3) wells in operation right now. **Battles** stated we sent out a Blackboard Connect today urging citizens to reduce their water usage. This is mainly to help our water supply and pressure. He advised he didn't recommend buying water from Oklahoma City as they were having water pressure issues too. He predicted the reduced water usage request would end tomorrow, May 22.

Battles welcomed ***Lisa Martin*** to the City of Mustang as the new City Clerk.

Battles reported:

- Slabs were poured at the Town Center, but the rain has caused some delays;
- Grading at the baseball fields began May 15, 2013, and depending on the weather, this is about a 60 day process;
- Armory Road bids were opened last week and the bids and award recommendation will be brought to City Council at the June 4, 2013, meeting.

2. <u>City Council</u>

Mayor Adams asked the Councilmembers if they had anything to report in their respective Wards:

Councilman Taylor advised there would be a breakfast at the Masonic Lodge on Saturday, May 25, 2013, from 7:00 – 10:00 am., $5.00 per plate.

Taylor stated he was glad justice was served with the verdict in regards to the Rebecca Bryan case.

Taylor asked ***Mayor Adams*** what happened to the sidewalks that were approved two (2) years ago in the budget?

Mayor Adams stated he had checked on them several times when they were approved and was told by Mr. Rutledge that the sidewalks were in the works. He stated ***Interim City Manager Battles*** was not given any direction from the previous City Manager regarding where the sidewalks should be placed. The sidewalks are not currently in progress due to other issues needing greater attention.

Taylor asked if that was the failure at the former City Manager level.

Adams advised that former City Manager Rutledge did not approach the project as he should have.

Interim City Manager Battles stated he tried to find direction on the sidewalks or information regarding the money that was allocated for them, but there was no paper trail or information he could find. He knows of areas in the City where the sidewalks are needed; however, he does not know if the sidewalks were approved for certain areas only or for any area.

City Attorney Miller advised Council not to discuss this subject further as it was not on the agenda at this time.

Taylor thanked the City Staff for the resources provided to the City of Moore to help with the tornado rescue and recovery and to ***Interim City Manager Battles*** for responding to his call quickly.

Councilwoman Staples also thanked the City staff for the resources provided to the City of Moore to help with the tornado rescue and recovery.

Councilman Jones stated our hearts and prayers go out to the City of Moore. He was driving in from Colorado Springs after it had happened and passed a convoy of utility trucks from Amarillo, TX, headed towards Moore. He said he was thankful for the safety of our city and to remember to hug your children a little more tonight.

Councilwoman Hagan did not have anything to report at this time.

Councilman Mount stated it had mostly been quiet in his Ward. He had only heard one complaint which was in regards to how tonight's agenda appeared on channel 20 – it was difficult to read. He echoed the thoughts and prayers to the City of Moore. He stated surely something good will come from this later on and is proud how the citizens of the State of Oklahoma come together. People do care.

Adams provided the same sentiments to the City of Moore. He praised the hospitals and thanked them for their hard work, dedication, and long hours, as well as the ODOT crews who are there numbering at least 300 people on the ground. He stated it makes us realize we need to love our families and neighbors a little more and realize some of the small things are just that, a little bit small.

a. Reappointment of Two (2) Members to the Mustang Library Board.

Mayor Adams advised Jan Malone and Betsy Brogan's current terms on the Library Board expire June 30, 2013, and they have agreed to serve another three year term on the Library Board. ***Desiree Webber, Library Director***, advised the Council they would be very happy to have them for another three years and recommended approving the reappointment.

MOTION was made by **Councilwoman Staples**, seconded by **Councilman Jones** to approve the reappointment of Jan Malone and Betsy Brogran to the Mustang Library Board for another three year term beginning July 1, 2013.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

H. DISCUSSION ITEMS

1. **Public Hearing, Discussion, Consideration and Possible Action** Regarding Special Use Permit Application SUP-4-9-13-1-28, Diamond Partners, LLC, 200 Block N. Mustang Road, Ice Vending Machine.

Robert Coleman, Community Development Director, advised the City had received a request from James Diamond, Diamond Partners, LLC, to install an ice vending machine in the parking lot of Silver City Shopping Center. The ice vending machine would measure approximately 8.5' wide x 24' long. He advised Mr. Diamond operates thirteen machines in other communities and there were illustrations of the machines in the Councilmembers' packets. He stated the subject site lies in a Commercial zoning district, but an ice machine is not specifically identified in the Municipal Code as a use allowed in this district, so the request is being presented as a Special Use Permit. Mr. Diamond plans to connect the utilities via private easements as allowed by the Silver City property owners. **Coleman** advised at the May 14, 2013, Planning Commission meeting, Mr. Diamond confirmed the easements were ready to go and he agreed to adhere to our veneer requirements. He stated the Planning Commission subsequently approved the application unanimously. **Coleman** advised the Notice of Hearing was published in the local newspaper and have received no comments for or against the application and our recommendation to Council is to approve the application.

Councilman Jones asked if it would cause any parking issues for the shopping center.

Coleman said the ice vending machine would take up approximately three spaces and our opinion is that the parking is currently underutilized.

Jones asked if this was a long term installation.

Coleman stated he didn't know what the lease agreement was, but thought it was permanent.

Jones asked if there was further development at the shopping center, would the parking still be OK.

Coleman stated they didn't see it as too much imposition to the businesses right now and should not be directly affected by it.

Councilman Taylor asked if Community Development had talked to any of the local businesses about this.

Coleman advised no, but he believed most of the shopping center businesses had cross access agreements for parking. He stated you didn't see too many cars parked in the area this facility would be placed.

Taylor asked what type of tax would be collected.

Coleman advised credit card transactions would be subject to sales tax, but was not sure about cash sales. He stated vending machines in some cities require licensing annually in lieu of a sales tax collection, but the City of Mustang does not require this and can tell you from previous experience that it would be difficult to enforce.

Interim City Manager Battles advised he thought cash sales should also be subject to sales tax.

At this time, **Mayor Adams** opened the matter for Public Hearing.

Being no public discussion, **MOTION** was made by **Mayor Adams**, seconded by **Councilwoman Hagan** to close the Public Hearing.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

Mr. James Diamond, of Diamond Partners, LLC, was called to the podium for questioning.

Taylor asked what type of veneer finish are you planning to apply to the exterior of this building.

Mr. Diamond stated it would probably be brick, but some of their other buildings were built in brick and rock, some with rock and siding. He advised he would meet with the shopping center owner and discuss. It would be a masonry type of veneer.

Taylor asked, if this is approved, how long would it take to build and be open for business.

Mr. Diamond advised approximately three to four weeks.

Taylor asked about the lighting.

Mr. Diamond advised there would be exterior lighting, canopy lighting and perimeter type of lighting.

Taylor asked if there would be any security cameras.

Mr. Diamond stated they do have some units with security cameras, but not all. He advised they usually wait to see if a security camera is needed. Typically we place one camera at the actual vending machine at the payment site and if a customer has an issue, it can be addressed live through a reset on the phone, such as processing a credit.

Councilwoman Hagan asked if the ice was made on-site.

Mr. Diamond advised yes. There is an ice maker inside the building that cycles continuously and bags it on demand.

Taylor asked about the pricing.

Mr. Diamond stated the price is $2.00 for a 16 pound bag or for 20 pound bulk.

Taylor asked Mr. Diamond if he knew if there would be tax on all sales.

Mr. Diamond advised we would probably know better than he does. He stated most cities require a vending permit and they also pay property taxes on the unit itself, but not sure about the tax, but would ask his accountant.

Janet Watts, Finance Director, advised the City would receive sales tax on cash sales and credit card sales.

Taylor stated he was excited about having the ice vending machine and that it was unique.

MOTION was made by **Councilman Taylor**, seconded by **Councilman Jones** to approve the Special Use Permit Application SUP-4-9-13-1-28, Diamond Partners, LLC, 200 Block N. Mustang Road, Ice Vending Machine.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

2. **Discussion, Consideration and Possible Action** Regarding Approval of Accounting and Consulting Services Engagement Letter for Fiscal Year 2013-2014 as Submitted by Crawford & Associates, P.C.

Interim City Manager Battles advised this was our annual accounting and consulting services agreement with Crawford & Associates, P.C. He stated we had used this firm over the past couple of years and they have done an excellent job for the City. He advised in the upcoming year, he anticipates only about one half of the services will be required due to the current ***Finance Director Janet Watts'*** ability to perform those services. He advised an outside auditor is needed, however, since the financial statements are required to be GASB compliant prior to being audited and we are under requirements with our bond holders to be GASB compliant and must have an outside auditor as required by the State.

Mayor Adams asked if it was his anticipation the City would spend a lot less money in the upcoming year.

Battles advised yes, about half.

Ms. Brenda Wright, of Crawford and Associates, P.C., was called to the Podium.

Councilman Taylor asked Ms. Wright if she was aware of the budget issues and errors over the past year.

Ms. Wright advised it had been brought to her attention. She stated she was not aware of some of the little bitty items stated in the newspaper and other places though since she was not in the budget meetings. She stated in June, 2012, when the City's Finance Director resigned, she was asked to prepare the publications and notified management at that time of some of the issues and things not balancing. Ms. Wright stated she corrected what stood out to her such as the debt payments not budgeted correctly and other items such as that. As for any detail, she stated she hadn't been at any of the budget meetings, so did not have any idea what was supposed to be in the detail of that budget. She stated no one asked her specifically if this item or that one was in there.

Taylor asked after she corrected some of these items and prepared the publications, did she still have concerns over the budget when it was released to Mike Rutledge.

Ms. Wright stated yes, she had concerns over the beginning estimating numbers because she had nothing to back them up on our computer system.

Taylor asked if she would have more duty to bring those concerns up.

Ms. Wright stated at that time, she was only asked to prepare the budget, not to go into the detail of it and their services are based upon what the City asked her firm to do. She stated she did alert management to the things that stood out to her and said these were concerns of hers and they should check into them, but she was not asked to go any farther than that.

MOTION was made by **Councilman Jones**, seconded by **Councilwoman Staples** to approve the Accounting and Consulting Services Engagement Letter for Fiscal Year 2013-2014 as Submitted by Crawford & Associates, P.C.

AYE: Staples, Jones, Hagan, Adams
NAY: Taylor, Mount

3. **Public Hearing, Discussion, Consideration and Possible Action** Regarding Direction of Council for Staff to Take Regarding Changes of Cut-off Dates for Utility Bills and Authorization for City Staff to Take Necessary Action.

Interim City Manager Battles stated this item was tabled from the last City Council meeting. It is in regards to Ordinance 1048 Section 118-2 stating "utility bills that are 30 days past due will be considered delinquent, and service will be interrupted and the meter locked". The billing cycle was set forth in Resolution 98-028, and amended in Resolution 01-027. **Battles** stated ***City Attorney Miller*** has attached information regarding this subject in their packet.

Mayor Adams opened the matter for Public Hearing.

Being no public discussion, **MOTION** was made by **Mayor Adams**, seconded by **Councilwoman Hagan** to close the Public Hearing.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

Mayor Adams stated he still had problems understanding the due date and the 30 days past due. For instance, you receive the bill May 2nd, it's due May 20th, but May 20th is not the start of the 30 days past due. The 30 days actually starts on May 2nd. When reading the bill however, the column shows due date, then a past due date which conflicts with the 30 days.

Battles advised this is the way the City's Ordinance reads, but the cycle is addressed in the Resolution. He stated the time stance from the time the meter is read to the time it is processed to the time the customer is billed is approximately 21 days then it is eight more days until the water is cut off.

Battles advised he had concerns about extending the dates. One concern is the bad debt. It is usually the same individuals who do not pay on time and by extending the date, it just pushes it back – they most likely will still not pay and will still have their water cut off, it'll just be at a later date. **Battles** also stated the City had other factors in place for individuals who do not habitually have their water cut off such as requesting a hearing with the City Manager and availability of deferment up to two times per year.

Mayor Adams asked if not habitual abusers, we work with them; the habitual ones we are a little more stringent.

Battles stated yes, that most customers will contact you if they have a problem prior to it being cut off. He stated this doesn't mean their water couldn't get shut off, for instance, if they were out of town and we received no notification. **Battles** stated extending the debt looks worse and that ***City Attorney Miller's*** report and memorandum advised the City has certain obligations regarding loans we don't want to affect and this would have to be checked if we decide to change the cycle dates.

Councilman Taylor asked if the City Bond Council had been consulted.

Battles replied no. He stated the Council can make a decision tonight, but we will still need to come back to Council with a Resolution with direction from the Council.

Councilman Taylor asked if more than two deferments are ever granted in a year.

Battles replied yes, but is normally a rare circumstance.

Councilwoman Staples advised she was for clarifying the language, but not for extending time.

Councilman Jones asked how much time is given once the cut off notice is issued.

Battles advised eight plus days are given.

Jones asked once the red sticker is stuck on the door, we then cut off the water.

Battles replied yes, it is cut off at that time.

Councilman Mount stated he had initiated this conversation in the last meeting due to more than one call from citizens. He said he put forth his best effort to clarify language in the Resolution and discussed it with the City Attorney. He stated the item is at the pleasure of the Council and this was his best effort.

Councilwoman Hagan advised the Council needed to be very careful here, that we cannot mess with the Authority and Council. She was in favor of clarifying the language though.

City Attorney Miller advised he had provided a memorandum to Council and the current process seemed to flow well from the City's perspective. He stated he does concur with the verbiage change for clarity because there is a discrepancy between what the Ordinance provides and what the Resolution provides and it would just be to change the wording in the Ordinance regarding if the bill is not paid when due and remove the reference to the 30 days totally. He stated this would not change any of the current billing practices or procedures of the City nor would it affect timing on payment received by the City. If the Council decides to allow longer periods of time, this would require extensive changes to the Resolution and would recommend we approach Bond Council and make sure we do not impinge on any contractual obligations of the City.

Adams stated this would be a way to get rid of the 30 days past due language

MOTION was made by **Councilman Taylor**, seconded by **Councilwoman Staples** to retain the same cut off schedule and dates, and to clarify the language in both the Resolution and Ordinance with the recommendations of the City Attorney.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

3. **Discussion, Consideration and Possible Action** Regarding Approval of **Resolution No. 13-051**, Amending Resolution No. 06-003, Establishing a Minimum Fine Schedule for Violations of the City of Mustang Ordinances; Providing for Effective Dates; and providing for Repealer.

Interim City Manager Battles advised the current Municipal Fine and Bond Schedule dates back to 2007 and that ***Police Chief Foley*** and his staff and the Traffic Commission developed an updated Schedule, which was approved by the Traffic Commission and now being brought to City Council for approval.

Police Chief Foley advised the process was initiated by ***Councilman Taylor*** in the January 10, 2013, Traffic Commission meeting. A survey of metro cities similar to Mustang was completed surveying certain fines for a core set of offenses (DUI, DUI drugs, excessive speeding, speeding in a school zone, etc.) and found that Mustang's Fine Schedule needed to be revised – we were much lower than the others. He provided fine examples, such as: the City of Yukon and the City of Norman both have $800 fines for DUI, where the City of Mustang's DUI fine is $424. He stated the Traffic Commission wanted to set the fine somewhere in the middle though, and not set it at $800. **Chief Foley** advised the average increase range is approximately 20%; however, some were higher at 48%, 82% to 100%. He stated the proposed Fine Schedule is in the Councilmember's packets and the effort was to try and put us in position with other metro cities to be more in line with what their fines and fees are and not to excessively ramp up Mustang's fines and fees.

Battles asked what percentage of citations given are to non-residents.

Chief Foley replied that in talking with staff, more non-residents are ticketed than residents.

Councilman Taylor thanked everyone in the Traffic Commission as well ***Chief Foley***, who spearheaded the project, for their hard work. **Taylor** advised this was initiated at the beginning of the year and was not a knee jerk reaction; there had been a lot of discussion, review and work over the matter. He stated this is what's right for the City.

Taylor stated Chief Foley has allowed him to ride along with the officers and as most know, DUI is a matter very close to him. He stated the April, 2013, statistic sheet showed that DUI offenses accounted for eight arrests and tied for first place for most arrests along with proof of insurance violations. A lot of work has been put in this new Schedule by Chief Foley, his staff, and the Traffic Commission. The fine and bond schedule hadn't been updated since 2007 and needed updating. This will put more teeth into the fines and provide greater consequences.

Mayor Adams asked if anyone had been appointed to the Traffic Commission.

Councilwoman Staples replied she was appointed.

Councilman Jones expressed his appreciation to everyone involved in developing the new Schedule.

Councilwoman Hagan expressed concern regarding the Council wanting a no plea bargain on DUI. She stated to her, what if someone who has never had a problem, no prior record, but has one or two drinks, drives home and is pulled over. She stated this is too tough.

Jones stated if it's a first time DUI offense and someone is killed, it doesn't really matter.

Hagan stated she agreed, but the Council is always thinking worst case scenario. That doesn't happen all the time.

Taylor encouraged Council to go home tonight and research the effects of drunk and buzzed driving.

Taylor asked when it would go into effect if approved tonight since there wasn't an Emergency Clause attached.

City Attorney Miller advised an Emergency Clause couldn't be added. He stated the Emergency Clause is only required for an Ordinance to go into effect. This is a Resolution and it would go into effect at the meeting tonight.

Battles advised from an accounting standpoint, City Staff would need a couple of days to process the changes.

Hagan asked if our fines are based on a Resolution or an Ordinance. She stated it seemed strange the fines wouldn't be set through an Ordinance.

Battles replied through a Resolution. He stated looking through our history, it has always been set through a Resolution, but not sure why. He also stated, any time we look at a Resolution, we have to reference the past Resolution on it.

Miller advised the Schedule may also require approval by the Municipal Judge to get it included in the fine schedule so could be a bit of a delay.

Taylor asked why the Municipal Judge would have to approve it.

Miller replied he wouldn't have to approve it, but the Municipal Judge will enact the fine schedule that then puts that in as the bond schedule for the offenses. The Municipal Judge does not control the setting of the fines, but will need the new Fine Schedule for purposes of bonding out.

Taylor stated the Municipal Judge does hold final authority where the offender could plead out.

Adams stated the Council's past recommendation was for the Municipal Attorney to not plead out, and for the Municipal Judge to make the final decision on it.

MOTION was made by **Councilman Taylor**, seconded by **Councilman Mount** to approve **Resolution No. 13-051**, Amending 06-003 Establishing a Minimum Fine Schedule for Violations of the City of Mustang Ordinances.

AYE: Taylor, Staples, Jones, Mount, Adams
NAY: Hagan

(THERE IS NOT AN "ITEM I")

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** Regarding the Status of Cottonwood Development, LLC v. City of Mustang, et al, Case No. CV-2013-76, District Court, Canadian County, State of Oklahoma and **Executive Session as Authorized by 25 O.S., Section 307(B)(4).**

City Attorney Miller stated Item J-1 is a lawsuit filed by Cottonwood Development and because it is ongoing litigation he recommended that it be heard in executive session.

MOTION was made by **Councilman Taylor,** seconded by **Councilman Mount** to adjourn to executive session.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

In reference to Item J-1 –

No action was taken – informational purposes only.

K. ADJOURNMENT

MOTION was made by **Councilman Jones**, seconded **Councilman Mount** to adjourn.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

The meeting was adjourned at **8:15 p.m.**

____
Mayor

Attest:

____
City Clerk

MUSTANG IMPROVEMENT AUTHORITY
MAY 21, 2013

The Mustang Improvement Authority met in regular session on Tuesday, May 21, 2013, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, May 17, 2013, at 1:05 p.m. An Amended Agenda was posted on Monday, May 20, 2013, at 10:45 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Chairman Adams called the meeting to order at 8:15 p.m.

B. ROLL CALL

Trustees Present: **Taylor**
Staples
Jones
Hagan
Mount
Adams

Trustees Absent: **Bowers**

C. NEW BUSINESS

There was no new business.

D. <u>CONSENT AGENDA</u>

1. Approval of **05/07/13** MIA Meeting.
*2. Claims List for **FY '13**

MOTION was made by **Chairman Adams**, seconded by **Trustee Taylor** to approve the Consent Agenda.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

E. <u>INFORMATION/REPORTS</u>

1. Trustee Manager
2. Trustees

There were no reports.

F. DISCUSSION ITEMS

1. Discussion, Consideration and Possible Action Regarding Approval of Agreement with **Hawkins Delafield & Wood, LLP** for Legal Advice Regarding Arbitrage Rebate and Yield Restriction Compliance with Respect to the 1998A and 1998B Utility System Revenue Bonds.

Interim City Manager Battles advised the MIA had entered into an Arbitrage Rebate Agreement on September 1, 1998. He stated this agenda item is to contract with Hawkins Delafield & Wood, LLP (Hawkins), for legal advice regarding arbitrage rebate and yield restriction compliance with respect to the bond issue. **Battles** asked the Council to draw their attention to Exhibit B which reveals the fees for arbitrage services with respect to the Bond Issue for: (1) a five year arbitrage report ending September 1, 2003; (2) a tenth year arbitrage report ending September 1, 2008; and (3) a final arbitrage report ending June 1, 2013. He stated one of the items that may stick out to everyone is the arbitrage services for the prior dates of 2003 and 2008. Essentially, the reason that is done is because our prior company, DBO, did not apply the applicable tax rules of the IRS in those fiscal years. Upon our initial conversation with Hawkins, when looking at performing the necessary bond actions we just refinanced, they notated the IRS tax rules had not been performed. That is why it is in this agreement. If you look at the 2nd paragraph, it states Hawkins will render advice prior to each date on which calculations are to be performed with respect to arbitrage rebate and yield restriction compliance. MIA utility system revenue bonds are subject to the rebate which is 60 days after closing due to refinancing. **Battles** stated he wanted to make sure the Council knew why the prior years were listed and that we were meeting the IRS tax rules.

MOTION was made by **Chairman Adams**, seconded by **Trustee Taylor** to approve the Agreement with Hawkins Delafield & Wood, LLP for Legal Advice Regarding Arbitrage Rebate and Yield Restriction Compliance with Respect to the 1998A and 1998B Utility System Revenue Bonds.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

2. Public Hearing, Discussion, Consideration and Possible Action Regarding Direction of Council for Staff to Take Regarding Changes of Cut-off Dates for Utility Bills and Authorization for City Staff to Take Necessary Action.

MOTION was made by **Councilman Taylor**, seconded by **Councilwoman Staples** to retain the same cut off schedule and dates, and to clarify the language in both the Resolution and Ordinance with the recommendations of the City Attorney.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

G. ADJOURNMENT

MOTION was made by **Trustee Taylor** and seconded by **Trustee Jones** to adjourn.

AYE: Taylor, Staples, Jones, Hagan, Mount, Adams
NAY: None

Meeting was adjourned at **8:20 p.m.**

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Chairman

Attest:

____
Secretary