

**MUSTANG CITY COUNCIL
NOVEMBER 7, 2023**

The Mustang City Council met in regular session on Tuesday, November 7, 2023, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted as required on Friday, November 3, 2023, at 9:25 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

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

B. PLEDGE OF ALLEGIANCE/INVOCATION Steve Rose, Chaplain, Police and Fire Departments.

Chaplain Rose led the assembly in the Pledge and Invocation.

C. ROLL CALL

Councilmembers Present:	Ray
	Wald
	Waugh
	Sholund
	Grider

Councilmembers Absent:	Leete
	McKenzie

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

None.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

City Manager Rooney stated Item F.9 is removed from the Consent Agenda.

F. CONSENT AGENDA

- F.1 Approval of 10/10/2023 City Council Minutes.
- F.2 *Claims List for FY2024.
- F.3 Approval to Turn Past Due Library Accounts over to Collection Agency.
- F.4 Approval of Resolution No. 24-017, a Resolution of the City Council of the City of Mustang calling for a Municipal Election for the City of Mustang, Oklahoma, pursuant to Article 6 of the Charter of the City of Mustang, Oklahoma and providing for Dates for Elections and Filing Periods; Providing for Qualifications; and Providing for the Election to be Conducted by the Canadian County Election Board.

- F.5 Approval of Resolution No. 24-018 making Changes in the Flex Spending fund Budget by Making a Supplemental Appropriation to Increase the 2023-2024 Fiscal Year Budget by \$50,000.
- F.6 Approval of Resolution No. 24-019 making Changes in the General Fund Budget by Making a Supplemental Appropriation to Increase the 2023-2024 Fiscal Year Budget by \$19,378.
- F.7 Approval of Retirement from OMRF for Kelly Gitchel, Police Records Clerk, retiring December 28, 2023 after thirty and a half years of service to the City of Mustang.
- F.8 *Acceptance of Maintenance Bonds for Water, Sanitary Sewer and Paving/Drainage Infrastructure in Hunter's Hill 5 Addition.
- F.9 *Acceptance of Sanitary Sewer Bonds for Project at Clear Springs Rd. and State Highway 152 to Serve Yall's Paw Place.
- F.10 *Approval of Schedule of Meetings for City Council, Boards and Commissions, and Holidays for the City of Mustang / MIA for the Year 2024.

MOTION was made by **Councilman Sholund**, seconded by **Councilman Waugh**, to Approve the Consent Agenda Items F.1 thru F.8 and Item F.10.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

G. INFORMATION/REPORTS

G.1 City Manager Report

City Manager Rooney did not have anything to report in addition to the City Manager's Report available online.

G.2 Recognition of Officer Jeremy Collinson for Promotion to Rank of Sergeant.

Police Chief Groseclose promoted Officer Jeremy Collinson to Sergeant with Sergeant Collinson's wife, Kodi Collinson, pinning his new bars on him.

G.3 Recognition of City Employee Veterans.

City Manager Rooney recognized City employees and Councilmembers who are Veterans and thanked them for their service to our country and presented them with a flag that was flown over the US Capitol on September 11, 2023.

Mustang American Legion Post 353's Commander Carrington presented Certificates of Appreciation to the City of Mustang for the refurbishing of the F-86 display at Wildhorse Park Veterans Plaza.

G.2 City Council

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

Vice Mayor Ray stated he was blessed to be able to serve on Council stating he loves Mustang and this group of people.

Councilman Wald stated he had a couple of phone calls stating the City Manager had taken care of them.

Councilman Waugh thanked *Assistant City Manager Battles* and *Project and Stormwater Manager Russell* as well as *County Commissioner Anderson* for meeting with a widow in his ward regarding a flooding problem on her property.

Councilman Sholund thanked *City Manager Rooney* for the flag stating it was the best gift he has received as a Veteran stating 9/11 was when he made the decision to serve. He also thanked *Rooney* and *City Attorney Miller* for assisting a citizen with a problem.

Mayor Grider did not have anything to report at this time.

H. DISCUSSION ITEMS

- H.1 Public Hearing and Consideration of Specific Use Permit Application SUP-7-27-23-1-28, 435 W State Highway 152, Decisive Investments, LLC, in the C-3 Commercial General District, Requesting a Specific Use Permit for an Auto Repair Shop.

Senior City Planner Conner stated this item was tabled from the October 10, 2023 City Council meeting and provided background information regarding the property and the applicant's plans for the property. He provided a list of conditions from the October meeting that City Council can place on the Special Use Permit if desired stating other conditions could also be added.

Mayor Grider opened the Public Hearing.

Michael Darnen, applicant, addressed questions from the Council regarding the removal of the current kiosk and parking stating there would be 12-20 spots for parking with the rest of the lot used for the car wash.

Mayor Grider closed the Public Hearing.

MOTION was made by **Councilman Waugh**, seconded by **Vice Mayor Ray**, to Approve the Specific Use Permit Application with the Conditions as stated on the SUP License and Site Plan (attached to these minutes).

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.2 Public Hearing and Consideration of Specific Use Permit Application SUP-9-01-23-1.25, 1707 E State Highway 152, Phoenix Doan, in the C-3 Commercial General District, Requesting a Specific Use Permit for a Medical Marijuana Retailer.

Senior City Planner Conner provided descriptive information of the property and surrounding properties stating this property had been occupied by a different medical marijuana retailer in the past; however, this was prior to the change in City Code which now requires all medical marijuana retailer applications to acquire a Specific Use Permit in order to operate. He stated a child care center is located directly across State Highway 152 from the property as well as a church being located west across N Morgan Rd from the property. He stated the City's Code is in line with the State's Code in which daycares and churches are not considered one of the uses in which the 1,000 ft setback separation can be applied and stated a daycare or child care center is not considered a preschool per OMMA rules and regulations.

Conner stated Planning Commission voted 4:1 to approve the SUP with the conditions of odor filtration, hours of operation, and signage. He stated the City received two letters of opposition from the property owners within the 300 foot list including the owner of the child care center and the owner of the vacant commercial land to the east.

Discussion was held regarding the restriction of hours on this retailer when other retailers do not have the same restrictions.

Mayor Grider opened the Public Hearing.

Mr. Phoenix Doan, applicant, addressed questions from the Council regarding the restriction of hours with Mr. Doan stating he was agreeable to them, as well as discussion regarding a stay on new permits by the State of Oklahoma with Mr. Doan stating if a retailer had a license before, they were allowed to still operate.

Mayor Grider closed the Public Hearing.

Councilman Sholund stated he was good with the restriction of hours since the applicant was good with them.

Councilman Wald stated he spoke with *City Attorney Miller* regarding a Senate Bill regarding schools and churches stating it only pertains to growers and not dispensaries.

MOTION was made by **Councilman Sholund**, seconded by **Councilman Wald**, to Approve the Specific Use Permit Application with the conditions stipulated by the Planning Commission (attached to these minutes).

AYE: Ray, Wald, Sholund
NAY: Grider
ABSTAIN: Waugh

- H.3 Consideration of Resolution No.24-020, a Resolution of the City Council of the City of Mustang, Oklahoma, authorizing the City of Mustang to contract with the Oklahoma Tax Commission to utilize the Warrant Intercept Program to aid in the collection of unpaid penalties, costs, fines and fees in cases in Municipal Court, including the collection fee authorized by State law and City Ordinance; Providing an Effective Date; and Providing for Repealer.

City Attorney Miller stated the Oklahoma Tax Commission adopted rules to implement the "Warrant Intercept Program" that has been codified in State statutes. He stated the program aids cities in collection of unpaid fines and penalties through deductions from any state income tax refund due to the individual. He stated the use of a debt collection service must be approved by the City Council. **Miller** also thanked *Court Clerk Wood* stating she was instrumental in putting this together.

MOTION was made by **Vice Mayor Ray**, seconded by **Councilman Wald**, to Approve Resolution No. 24-020.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.4 Consideration of Ordinance No. 1294, an Ordinance of the City of Mustang, Oklahoma, Changing the Date for the January 2024 City Council Meeting; and Providing for Severability.

City Manager Rooney stated this ordinance will move the January meeting from January 2, 2024 to January 9, 2024, stating Planning Commission will be moved back a week to January 16, 2024.

MOTION was made by **Vice Mayor Ray**, seconded by **Councilman Sholund**, to Approve Ordinance No. 1294.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.5 Consideration of Ordinance No. 1295, an Ordinance Adopting an Employee Retirement System, Defined Contribution Plan for the City Manager for the City of Mustang, Oklahoma; Providing Retirement Benefits for Eligible Employees of the City of Mustang, Oklahoma; Providing for Purpose and Organization; Providing for Definitions; Providing for Eligibility and Participation; Providing for Employer and Employee Contributions; Providing for Accounting, Allocation, and Valuation; Providing Benefits; Providing for Required Notice; Providing for Amendments and Termination; Providing for Transfer to and From Other Plans; Creating a Committee and Providing for Powers, Duties, and Rights of Committee; Providing for Payment of Certain Obligations; Providing for Duration and Payment of Expenses; Providing for Effective Date; Providing for Vesting Schedules; Providing for a Fund to Finance the System to be Pooled with Other Incorporated Cities, Towns and Their Agencies and Instrumentalities for Purposes of Administration, Management, and Investment as Part of the Oklahoma Municipal Retirement Fund; Providing for Payment of All Contributions Under the System to the Oklahoma Municipal Retirement Fund for Management and Investment; Providing for Non-Alienation of Benefits; Adopting those Amendments Mandated by the Internal Revenue Code; Providing for Repealer and Severability; and Declaring an Emergency.

Human Resources Director Anderson stated the City Manager contract approved by City Council in October sets aside money for health insurance costs post retirement stating this ordinance allows for this option.

MOTION was made by **Councilman Sholund**, seconded by **Councilman Waugh**, to Approve Ordinance No. 1295.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

The Emergency Clause was not acted upon due to lack of Councilmembers present.

- H.6 Consideration of Master Defined Contribution Plan Joinder Agreement between the City of Mustang and Oklahoma Municipal Retirement Fund.

Human Resources Director Anderson stated this item goes with Item H.5 above.

MOTION was made by **Councilman Wald**, seconded by **Councilman Sholund**, to Approve the Master Defined Contribution Plan Joinder Agreement.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.7 Approval to move the Mustang 457(b) Retirement Plan investment and Service Provider from MissionSquare to VOYA.

Human Resources Director Anderson stated MissionSquare is the current manager of the employee portion of the 457(b) retirement plan stating VOYA is the current investment and service provider for the Oklahoma Municipal Retirement Fund Defined Contribution Plan. She stated the City would like to move the 457(b) plan from MissionSquare to VOYA. She stated it would make it simpler to have one platform stating the fees through VOYA were also slightly lower and will have better customer service through VOYA.

MOTION was made by **Councilman Waugh**, seconded by **Councilman Wald**, to Approve the request to move investment and service of the Mustang 457(b) Retirement Plan from MissionSquare to VOYA, and Authorize the Mayor to execute the documents necessary to accomplish the same.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.8 Consideration of Resolution No. 24-015, a Resolution of the City Council of the City of Mustang, Oklahoma Declaring that Certain Property Described herein is not Needed or Necessary for Park or other Public Purposes and Abandoning Such Property for any Park or Other Public Purposes.

City Manager Rooney stated in August, 2021, City Council approved resolutions and an ordinance to abandon a tract of land for public park or other public purposes and to enter into a ground lease with the Chamber of Commerce for a .10 acre tract of land for the construction of their new office building just southeast of City Hall. He stated during construction, adjustments were made due to utility locations creating the need to shift the location northwest of the original site. **Rooney** stated this shift avoided the cost of a water line relocation as well as the Chamber of Commerce building now being more in line with the existing City Hall structure should there ever be a need to connect the two structures. He stated *City Attorney Miller* was a tremendous help on this and saved the Chamber of Commerce quite a bit of money.

MOTION was made by **Councilman Sholund**, seconded by **Vice Mayor Ray**, to Approve Resolution No. 24-015.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.9 Consideration of Ordinance No. 1293, an Ordinance of the City of Mustang, Oklahoma, Authorizing the Lease of Certain Real Property to the Mustang Chamber of Commerce, Authorizing and Directing the Mayor to Execute Amendment No. 1 to Ground Lease Agreement and Other Documents to Complete the Transaction, and Providing for Severability.

City Manager Rooney stated this item goes with Item H.8.

MOTION was made by **Councilman Wald**, seconded by **Councilman Waugh**, to Approve Ordinance No. 1293.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

- H.10 Consideration of Resolution No. 24-016, a Resolution of the City Council of the City of Mustang, Oklahoma, Authorizing the City to Enter into and the Mayor to Execute an Amendment to Ground Lease between the City of Mustang and the Mustang Chamber of Commerce.

City Manager Rooney stated this item goes with Item H.8.

MOTION was made by **Councilman Waugh**, seconded by **Councilman Sholund**, to Approve Resolution No. 24-016.

AYE: Ray, Wald, Waugh, Sholund, Grider
NAY: None

I. MATTERS FOR EXECUTIVE SESSION:

- I.1 *Consideration of Potential Purchase and Acceptance of Permanent Easements and Authorization for Mayor and City Staff to Execute Necessary Documents to Accomplish the Same; and proposed Executive Session as Authorized by 25 Okla. Stat. 307(B)(3).

- I.2 Consideration of City of Mustang v. Pathfinder HDD LLC, Case No. CJ-2022-673, District Court, Canadian County, Oklahoma, and In re Pathfinder HDD, LLC, Case No.: 23-12342, United States Bankruptcy Court, Western District of Oklahoma; and, proposed executive session as authorized by 25 Okla. Stat. §307(B)(4).
- I.3 Consideration of Potential Claim by Mustang Lions Club; and, proposed executive session as authorized by 25 Okla. Stat. §307(B)(4).

MOTION was made by **Councilman Sholund**, seconded by **Councilman Wald**, to Adjourn to Executive Session.

AYE: Ray, Wald, Waugh, Sholund, Grider

NAY: None

TIME ADJOURNED to Executive Session: **7:53 p.m.**

Mayor Grider called the meeting back into Session.

TIME RETURNED to Executive Session: **8:27 p.m.**

In reference to Item I.1 –

MOTION was made by **Councilman Waugh**, seconded by **Councilman Wald**, to Approve the Acceptance of Permanent Easements from Odom Northwest, LLC, and Authorization for the Mayor and Staff to Execute necessary documents to complete acceptance of the easements.

AYE: Ray, Wald, Waugh, Sholund, Grider

NAY: None

In reference to Item I.2 –

MOTION was made by **Councilman Sholund**, seconded by **Councilman Waugh**, to Proceed as Discussed in Executive Session.

AYE: Ray, Wald, Waugh, Sholund, Grider

NAY: None

In reference to Item I.3 –

Discussion purposes only.

J. ADJOURNMENT

MOTION was made by **Vice Mayor Ray**, seconded by **Councilman Wald**, to adjourn.

AYE: Ray, Wald, Waugh, Sholund, Grider

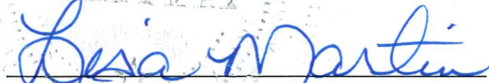
NAY: None

The meeting was adjourned at **8:28 p.m.**



Michael Ray, Vice Mayor

Attest:



Lisa Martin, City Clerk

Conditions

Attachment to Item H.1

THE CITY OF MUSTANG

SPECIFIC USE PERMIT 7-27-23-1-28

LICENSE HOLDER: DECISIVE INVESTMENTS LLC

ZONING: C-3, COMMERCIAL GENERAL DISTRICT

THIS SPECIFIC USE PERMIT SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF CHAPTER 122-57 THROUGH 122-61, ARTICLE II, DIVISION II (SPECIFIC USE PERMITS).

LOCATION: 435 W ST. HWY 152

SPECIFIC USE - AUTO REPAIR

ADDITIONAL TERMS AND CONDITIONS PLACED UPON THIS SPECIFIC USE PERMIT ARE SET FORTH BELOW:

1. Off-street parking shall accommodate no more than 20 and no less than 12 parking spaces to be utilized by customers for the Auto Repair and for overnight storage of occasional vehicles dropped off after hours and/or waiting to be picked up by customers. Location of parking spaces shall be designated by the approved site plan. Storage of non-operating vehicles shall be prohibited.
2. Auto Repair use shall be limited to services for vehicles of class sizes 1 - 3 of the US DOT Federal Highway Administration's definitions of vehicle classifications and shall exclude vehicles of class sizes 4-15 of the US DOT Federal Highway Administration's definitions of vehicle classifications. Repairs shall include, but not limited to, light maintenance activities where vehicle parts are sold and installed such as engine tune-ups, oil change or lubrication, carburetor cleaning, muffler replacement, and brake repair. Services shall NOT include major automotive repairs such as engine removal, engine overhauls, engine replacements, transmission removal, transmission overhaul, transmission replacements, major engine work that requires disassembly of engines beyond the long block state - i.e. no head gaskets, or other major repair or replacement of or to engines or transmissions.
3. The Hours of Operation for said Auto Repair shall be limited to Monday-Saturday 7am - 7pm and Sundays 9am - 5pm
4. The Signage for said Auto Repair shall be limited to additional space on existing free-standing pole sign and building signage consistent with Chapter 94 of the City of Mustang Municipal Code of Ordinances pertaining to Signs.
5. Said property shall comply with all aspects of Chapter 50 of the City of Mustang Municipal Code of Ordinances pertaining to Stormwater and Drainage controls.

KNOW ALL MEN BY THESE PRESENTS THAT:
THE CITY COUNCIL OF THE CITY OF MUSTANG
APPROVED SAID SPECIFIC USE PERMIT ON 11/7/2023 WITH
THE CONDITIONS AS STATED ON THIS PERMIT:

APPLICANT NAME: DECISIVE INVESTMENTS LLC
ATTENTION: MICHAEL DUNN

DATE ISSUED: 11/7/2023

CITY CLERK

MAYOR

1969

Conditions

Attachment to Item H.2

THE CITY OF MUSTANG

SPECIFIC USE PERMIT – SUP-9-01-23-1-25

LICENSE HOLDER: VAN MARIA NGUYEN & ADELPHIA NGUYEN

LOCATION: 1707 E SH 152

ZONING: C-3, COMMERCIAL GENERAL DISTRICT

SPECIFIC USE – MEDICAL MARIJUANA RETAILER

THIS SPECIFIC USE PERMIT SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF CHAPTER 122-57 THROUGH 122-61, ARTICLE II, DIVISION II (SPECIFIC USE PERMITS) AND CHAPTER 22-201 THROUGH 22-221, ARTICLE V, DIVISIONS I-II (MEDICAL MARIJUANA GENERALLY AND MEDICAL MARIJUANA RETAILER PERMITS).

ADDITIONAL TERMS AND CONDITIONS PLACED UPON THIS SPECIFIC USE PERMIT ARE SET FORTH BELOW:

1. Said Medical Marijuana Retailer shall have installed an industry standard and staff approved odor control filtration device specific to controlling associated odors from Medical Marijuana and related products contained within the location.
2. The Hours of Operation for said Medical Marijuana Retailer shall be limited to 9am to 9pm.
3. The Signage for said Medical Marijuana Retailer shall be consistent with Chapter 94 of the City of Mustang Municipal Code of Ordinances pertaining to Signs but shall further be excluded the use of strobing or flashing signs or devices on said location.

KNOW ALL MEN BY THESE PRESENTS THAT:
THE CITY COUNCIL OF THE CITY OF MUSTANG
APPROVED SAID SPECIFIC USE PERMIT ON 11/7/2023 WITH
THE CONDITIONS AS STATED ON THIS PERMIT:

APPLICANT NAME: PHOENIX DOAN

DATE ISSUED: 11/7/2023

CITY CLERK

MAYOR