MUSTANG CITY COUNCIL
OCTOBER 10, 2023

The Mustang City Council met in regular session on Tuesday, October 10, 2023, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted as required on Wednesday, October 4, 2023, at 3:36 p.m. and an Amended Notice of the meeting was posted as required on Monday, October 9, 2023, at 3:40 p.m all 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 Nate Burns, Pastor, Mustang Church of the Nazarene.

Pastor Burns led the assembly in the Pledge and Invocation. He stated the Church was on a mission for good encompassing all – families, neighbors, community and world. He stated they are always looking for projects stating they have hosted the football team and the marching band for breakfast as well as helped a sister church by providing a place for children to go to school while their school building was being repaired. He also stated they provide their building and grounds free to the community whenever possible.

C. ROLL CALL

Councilmembers Present: **Ray**
Leete
Wald
Waugh
McKenzie
Sholund
Grider

Councilmembers Absent: **None**

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

Greg Woods, 1729 E. Cottonwood, Mustang, OK, addressed the Council regarding a neighbor's dead tree that poses a danger to him and his family as well as his property. He stated he had spoken to Code Enforcement, but nothing has been done regarding the tree. He stated he does not believe his neighbor lives there anymore and has just let the property deteriorate stating the property owner had parrots and when calling the police, they went to check stating no one was there, but two birds were dead.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

None.

F. CONSENT AGENDA

F.1 Approval of 09/12/2023 City Council Minutes.
F.2 Approval of 09/22/2023 City Council Special Meeting Minutes.
F.3 *Claims List for FY2023.
F.4 *Claims List for FY2024.
F.5 Approval of Resolution No. 24-011 making Changes in the Library Fund Budget by making a Supplemental Appropriation to Increase the 2023-2024 Fiscal Year Budget by $8,840.

MOTION was made by **Vice Mayor Ray,** seconded by **Councilman McKenzie,** to Approve the Consent Agenda Items F.1 thru F.5.

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

G. INFORMATION/REPORTS

G.1 City Manager Report

City Manager Rooney introduced *Fire Chief Carruth*.

Fire Chief Carruth swore in and directed the Oath of Office for new Firefighters:

- Dashawn McDowell
- Ashton Houser
- Jaxson Walker
- Brandon Bowen

G.2 City Council

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

Councilman Sholund stated he received a few emails stating City Staff was already addressing them.

Councilman McKenzie did not have anything to report at this time.

Councilman Waugh did not have anything to report at this time.

Councilman Wald did not have anything to report at this time.

Councilman Leete stated he had received a phone call stating it would be addressed.

Vice Mayor Ray did not have anything to report at this time.

Mayor Grider stated he had attended an ACOG retreat today stating the City's *Project and Stormwater Manager, David Russell*, has been working on several grants with ACOG stating they complemented his hard work.

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 the property is currently a car wash, Mustang Star Car Wash, located on the north side of State Highway 152, just east of Fire Station No. 1. He stated the applicant is wishing to add an auto shop component to the location utilizing the existing tunnel as the shop. He stated the car wash is a permitted use at this location stating the auto shop is not and a Specific Use Permit (SUP) would be required stating it could be reviewed annually.

Conner stated one letter of opposition was received and provided to Council stating the letter was from the owner of the office building to the north of the car wash stating he was concerned about the noise, trash, and visibility of the office building from the highway.

Conner stated Planning Commission voted 6:1 for approval of the SUP stating Staff also recommends approval.

Discussion was held regarding the concerns of the office building owner and ways those concerns could be addressed. Other concerns included drainage from the tunnel stating currently, the water from the car wash runs into the City's sewer system and concerns that the oil and other auto fluids would also run into the sewer. **Conner** stated that would be addressed at the plans stage stating it would not be approved as it currently is designed.

Discussion was also held regarding the type of auto shop as well as parking due to the possible overflow of vehicles being repaired with **Conner** stating these are stipulations that may be added to the SUP.

Several Councilmembers stated they currently did not like the idea of adding an auto shop due to not knowing the type of repairs to be performed, the parking, how it would look right off of State Highway 152, etc. **City Attorney Miller** stated conditions such as these could be added to the SUP.

Other discussion included the nearby housing with it being stated the houses were there before the car wash. **City Manager Rooney** stated the property is zoned commercial, so the residents knew when purchasing the homes in that location that there would be commercial development. Another concern was an auto shop SUP being denied in another location and if approving this one could set some sort of precedent with **Rooney** stating for SUPs, each one is looked at individually stating there would be no precedent setting.

Mayor Grider opened the Public Hearing.

Michael Darnen, applicant, addressed the Council stating the reason to convert the tunnel to an auto shop was economic stating the tunnel car wash did not make money and difficult to compete with other surrounding car washes. He stated he did not want to leave the tunnel vacant and was trying to think of all perspectives. He stated he felt if would reduce traffic, noise level and public nuisance.

Questions were asked of the applicant:

- How would noise level reduce – Applicant stated the blowers in the car wash are very noisy and those would be removed stating a periodic impact gun would be less noise than the large blowers;

- What kind of auto repair shop, would there be a specialty – Applicant stated he was still researching the type of shop stating his goal was on the lighter level where same day repairs could be made such as battery, alternator, etc.

- What would be done to stop fluids from flowing into the sewer system – Applicant stated when converting the tunnel into an auto shop, all equipment would be removed and the trench would be filled and capped where no fluids would be going into a drain.

- Have you considered using two of the back bays first to see how business goes before converting the tunnel – Applicant stated that would require two lifts and much more money going into getting it started stating this business is very competitive.

- If SUP is approved for minor repair and restrictions on number of vehicles, would applicant be open to this – Applicant stated yes.

Mayor Grider closed the Public Hearing.

Discussion was held regarding if the item should be tabled to the next meeting and discussed the conditions that could be placed on the SUP if approved.

Rooney stated Staff would review the following items to bring to Council in November regarding conditions to be placed on the SUP if approved:

- Details regarding signage;
- Repair type – major or minor and if minor, the type of repairs;
- Number of parking spaces;
- Location of parking;
- Drainage;
- Hours;
- Site Map

MOTION was made by **Councilman Leete,** seconded by **Councilman McKenzie,** to Table the Specific Use Permit Application and Authorize Staff to Proceed as Discussed.

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

H.2 Consideration of Final Plat Application, FP-9-08-23-1-26, Mustang Highlands, Owned by Mustang Marketplace, LLC, Part of the SW/4 of Section 26 Township 11 North Range 5 West, 22 two-family lots, 9.13 acres.

Senior City Planner Conner provided descriptive information of the property stating the duplex development was located within the Borneman PUD. He stated the Planning Commission voted unanimously to approve the application with the contingency that the applicant must provide a separate easement dedication document acceptable by City Staff for the 10 ft Utility Easement outside the plat boundary along the East property line.

Discussion was held regarding easements already in place and location of the easements.

MOTION was made by **Councilman Waugh,** seconded by **Councilman Wald,** to Approve the Final Plat Application.

City Attorney Miller interjected that the approval should be placed on two conditions:

- The easement discussed above has been submitted to the City; and
- A requirement for the submission of an easement dedicated to the City for the entry to the Highlands

MOTION was Amended by **Councilman Waugh**, seconded by **Councilman Wald**, to Approve the Final Plat Application with the Conditions stated by *City Attorney Miller*.

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

H.3 *Consideration of Joint Resolution No. 24-012, a Joint Resolution of the City Council of the City of Mustang, Oklahoma and the Mustang Improvement Authority establishing Sanitation Rates; Providing an Effective Date; and Providing for Repealer.

City Attorney Miller stated at the September 22nd Special Meeting, a resolution was approved for sanitation rates stating some of the rates needed altered stating this resolution has the correct rates and replaces that resolution (Resolution No. 24-010).

MOTION was made by **Councilman McKenzie**, seconded by **Councilman Sholund**, to Approve Resolution No. 24-012.

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

H.4 Consideration of Resolution No. 24-013, a Resolution of the City Council of the City of Mustang, Oklahoma, establishing the SH-152 Congestion Relief Project.

Project and Stormwater Manager Russell stated Staff would like to apply for federal and safety grant funding for completion of a traffic study on State Highway 152 and signal timing plans to synchronize the seven traffic lights along State Highway 152 to achieve more continuous traffic flow. He stated the estimated funding for this project would be $700,000 stating it would be 100% funded through the federal program as a safety project.

MOTION was made by **Councilman McKenzie**, seconded by **Councilman Sholund**, to Approve Resolution No. 24-013.

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

H.5 Consideration of Resolution No. 24-014, a Resolution of the City Council of the City of Mustang, Oklahoma, establishing the Mustang Rd. & Plantation Terr. Intersection Modification & Signalization Project.

Project and Stormwater Manager Russell stated the City is once again requesting permission from ODOT to install a traffic light at Mustang Rd. and Plantation Terr. stating a similar resolution has been approved by Council before, but due to requirements laid out in potential funding opportunities, a more recent resolution is required. He stated ACOG will be joining the City to help with this request. **Russell** stated the estimated project cost is $1.2M with 80% of that being reimbursed through grants. He stated if the project is approved, a resolution would be brought to Council with the funding information and project details.

MOTION was made by **Councilman Leete,** seconded by **Councilman Waugh,** to Approve Resolution No. 24-014.

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

H.6 *Consideration of Change Orders #1 & 2, SH-152 Sanitary Sewer Relocation Project, MUS-SS20-001, J/P27901.

Project and Stormwater Manager Russell stated during the preliminary construction staking, the contractor discovered an existing ONG line that conflicted with the proposed sanitary sewer location as well as identified a sanitary pressure line that was determined to be in conflict with the future SH-152 construction. He stated neither of the utilities were identified during the initial survey and were not anticipated during the planning stages. He stated as part of the solution, ODOT has authorized changes as specified in Change Orders #1 and #2 stating these change orders equate to a net change of $40,547.50, or 4.45% of the original contract amount.

MOTION was made by **Councilman Sholund,** seconded by **Councilman McKenzie,** to Approve Change Orders 1 and 2 for the Project Labeled Sanitary Sewer Relocation.

AYE: Ray, Leete, Wald, Waugh, McKenzie, 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 regarding City Manager's Employment Contract; and, proposed Executive Session as Authorized by 25 Okla. Stat. 307(B)(1).

I.3 Consideration of pending class action litigation against 3M Company and E.I. Dupont de Nemours and Company involving pre- and Polyfluoroalkyl Substances (PFAS) contamination in In Re: Aqueous Film-Forming Foams Products Liability Litigation, MDL No. 2:18-mn-2873, United States District Court, District of South Carolina, and possible retention of McAfee & Taft to represent the interests of the City of Mustang in such litigation; and, Executive Session as Authorized by 25 Okla. Stat. 307(B)(4).

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

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

TIME ADJOURNED to Executive Session: **8:02 p.m.**

Mayor Grider called the meeting back into Session.

TIME RETURNED to Executive Session: **9:26 p.m.**

In reference to Item I.1 –

MOTION was made by **Councilman Waugh**, seconded by **Councilman Sholund**, to Approve the Acceptance of Permanent Easements from Gilbert Krivanek and Alan Krivanek, and Authorization for the Mayor and Staff to Execute necessary documents to complete acceptance of the easements.

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

In reference to Item I.2 –

MOTION was made by **Mayor Grider,** seconded by **Councilman McKenzie,** to Approve City Manager's Employment Contract as discussed in Executive Session.

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

In reference to Item I.3 –

MOTION was made by **Councilman Leete,** seconded by **Councilman McKenzie,** to Authorize City Staff to Retain McAfee & Taft and Authorize Mayor to Execute Agreement with McAfee & Taft subject to Approval by the City Manager and City Attorney.

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

J. ADJOURNMENT

MOTION was made by **Councilman Sholund**, seconded by **Councilman Wald**, to adjourn.

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

The meeting was adjourned at **9:27 p.m.**

Brian Grider, Mayor

Attest:

Lisa Martin, City Clerk