MUSTANG CITY COUNCIL
JULY 3, 2012

The Mustang City Council met in regular session on Tuesday, July 3, 2012 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 Thursday, June 29, 2012 at 2:17 p. m. and Amended on Monday, July 2, 2012 at 4:35 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

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

B. PLEDGE OF ALLEGIANCE/INVOCATION (Pastor Michael Staton, First Baptist Church)

Pastor Michael Station led the assembly in the Pledge of Allegiance and prayer. He also talked about the many mission trips the church has planned for this year.

C. ROLL CALL

Councilmembers Present: **Taylor**
Grubbs
Bowers
Jones
Hagan
Mount
Adams

Councilmembers Absent: **None**

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

There was none.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

There was no new business, deletions or continuances to the agenda.

F. <u>CONSENT AGENDA</u>

1. Approval of **05/14/12** City Council Budget Session Minutes.
2. Approval of **06/19/12** City Council Minutes.
*3. Approval of Claims List for **FY '12**
*4. Approval of Claims List for **FY '13**
*5. Approval to Turn Past Due Utility Accounts Over to the Collection Agency.
6. Approval to Renew Agreement with **Simplex Grinnell** for Annual Fire Suppression System Inspection.
7. Approval to Renew Agreement with **Clifford Power Systems** for Annual Generator Backup System Inspection.
8. Approval to Renew Maintenance Agreement with **Circa, Inc**. for Battery Backup System.
9. Approval to Renew Software Support Agreement with **ETS Development Group, DBA Sleuth Software** for Police Department's Law Enforcement Management Software.
10. Approval to Renew Excess Workers' Compensation Insurance with **Mid-West Employers**.
11. Acceptance of State Aid Funds from the Oklahoma Department of Libraries to the Mustang Public Library**.**
12. Approval to Renew Agreement between the City of Mustang Police Department and the **Town of Union City** for Dispatch Services.

Councilman Taylor asked that Items 2, 3, 6, 7, 10 and 12 be pulled for discussion.

MOTION was made by **Councilman Taylor**, seconded by **Councilman Mount** to approve Items 1, 4, 5, 8, 9 and 11 of the Consent Agenda.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Councilman Taylor stated that he noticed that the Arledge & Associates Agreement that was approved at the June 19th meeting had an update system report from Arledge that had expired in May 2010. He would like to see that updated report at the next meeting.

City Manager Rutledge stated that he would take care of it**.**

Councilman Mount pointed out that the minutes stated that there were not enough Councilmembers present to approve the emergency clause so he didn't understand what that meant. Is that unfinished business?

City Attorney Miller explained that it is not unfinished business, the ordinance passed without the emergency clause so it won't go into effect for 30 days because there were not enough Councilmembers present at the meeting to vote on the emergency clause.

Mount stated that he guessed that he just didn't understand that 30 day thing.

MOTION was made by **Councilman Mount,** seconded by **Councilwoman Hagan** to approve Item F-2 of the Consent Agenda.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Councilman Taylor asked if there was a policy in use regarding using Mustang businesses when available.

City Manager Rutledge stated that the City tries to do as much business as possible with Mustang businesses but also tries to go with the cheapest and some are specialized so have to go somewhere else but the City always looks at businesses inside Mustang when needed.

MOTION was made by **Councilman Jones,** seconded by **Councilwoman Hagan** to approve Item F-3 of the Consent Agenda.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Taylor asked in reference to **Item F-6** if the $1,200 is in the Police budget.

Chief Foley stated yes, it is and it has been the standard practice for year after year to use Simplex.

MOTION was made by **Councilman Taylor**, seconded by **Mayor Adams** to approve Item F-6.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Councilman Taylor asked, in reference to **Item F-7** if this is budgeted and **Chief Foley** said, yes. This is something that is done annually so it is necessary to budget this amount for an annual maintenance agreement.

MOTION was made by **Mayor Adams**, seconded by **Councilman Jones** to approve Item F-7.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Councilman Taylor asked, in reference to **Item F10**, about the quote on the current carrier.

Laura Anderson, Human Resources Director, explained that this is the excess workers' comp policy and the agent of record pointed out to her that there are very limited groups that deal in this type of insurance. She stated that there are only two options for cities and of those two the agent preferred this company.

MOTION was made by **Mayor Adams**, seconded by **Councilman Jones** to approve Item F-10.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Taylor asked, in reference to **Item F-12**, if the calls have gone up over the years and if this is a proper amount.

City Manager Rutledge stated that this was increased to this number and the City does not provide any other services. In fact, the Chief took a dispatcher off of his request list in the budget.

Rutledge explained that this does not require additional dispatchers.

MOTION was made by **Mayor Adams**, seconded by **Councilman Mount** to approve Item F-12.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

G. INFORMATION/REPORTS

1. City Manager

Rutledge explained that the fireworks display put on by the Fire Department was very good. He also stated that it was a very nice event and he is looking forward to tonight and tomorrow night's fireworks in the City.

He stated that S. Czech Hall Road is well underway and he stated that they found that the road base is in good shape and will not require as much attention as initially thought.

He reported that Rollin' Acres Contractor is ready to move in and begin that project but was told to wait until after the 4^{th}.

He stated that he is looking at drainage improvements to South Czech Hall Road and he explained further.

He reminded Council of the Special Meeting on Thursday night to select a City Engineer for the City of Mustang. Grubbs not sure he will be there.

He pointed out that Council had new Budget Books on their desk and he talked about the volunteer groups in town who are painting in different areas of the City.

2. City Council

Councilman Taylor thanked the Fire Chief, Carl Hickman for the great Firemen Supper at the Park. He stated that the people were having fun and kids loved it.

He stated that he received several calls regarding fireworks and they were all in favor of having them.

Taylor asked about the status of the toddler's swing and light at Old City Park.

Rutledge stated that they are still waiting on the swing which has been ordered and he will check on the light.

Taylor asked if the basketball court in Meadows Park will be one of the projects to be done by the volunteers.

Rutledge stated that the basketball court in the Meadows is on the list of projects to be resurfaced by the volunteers.

Rutledge stated that they will also put in chained baskets, etc. They will be doing those kinds of things all over the City.

Taylor stated that he is so blessed and thankful to live in this country and asked that we keep in mind the troops that are fighting for our freedom.

Councilman Grubbs thanked the First Baptist Church for the community improvement program and all who are involved with the program.

Grubbs asked for an update on the hospital and Whataburger.

Rutledge stated that the hospital is still moving forward but he can't release a lot of information on it because of the confidentiality. He stated that we should see something in the next 30 days.

Rutledge stated that Whataburger plans are done and the application to bore under the street for water has been submitted.

Robert Coleman, Community Development Director explained that it might be a year before everything is taken care of. He received the request today for the road crossing request and it has been sent to Austin so he does not know what the time table is yet.

Rutledge stated that the trees in the area are being moved and taken care of.

Grubbs stated that the City has this huge park and a little bitty playground for the children. He challenged Mustang to do something. He talked to Justin Battles and he is putting something in place to allow the City to take donations and make things happen in the Park.

Grubbs stated that he would be happy to work on any of it himself.

Mayor Adams stated that he has received calls regarding a water park/splash pad.

Grubbs stated that he had a call about including a splash pad at the ball park.

Councilwoman Bowers stated that she still has snakes and is still missing a swing in the Park and there has been more vandalism at the Park in her Ward.

Rutledge asked if it was graffiti and Bowers said, yes.

Bowers also reminded the community to be careful on the 4th. She also stated that she was thankful to be an American where she can choose to be a Christian and thankful for our country and for those who have provided our freedom.

Councilman Jones stated that he received a call from his daughter in Colorado Springs who said her home was spared from the wild fires. He talked about firemen and policemen who fight these fires and protect us from these disasters. He thanked the Police Chief and Fire Chief for their service to this City. He stated that the 4th of July means a lot and this is a very special time.

Councilman Jones stated that Joe Sutton manicures his yard with scissors around the edge of the driveway and when there was a water leak Severn Trent came out and used a backhoe and took care of it and he was very pleased.

Councilwoman Hagan stated that she hopes everyone is safe this holiday. She stated that Fireworks are very important to her and her family. She talked about her father coming over for dinner on the 4th.

She stated that the only calls she received were regarding Channel 20. You can see the picture but you can't hear it.

Rutledge stated that a technician would be out hopefully on Friday or next week to look at it.

Councilman Mount stated that it is pretty quiet in his Ward. He had one complaint but the Code Enforcement Officer already handled it. He did check on it himself but believes it has been handled.

Mayor Adams asked the City Manager to look into the Cox Cable issue and expanding Channel 20 into some other areas.

Mayor Adams also stated be safe and enjoy the 4th with your family.

H. <u>DISCUSSION ITEMS</u>

*1. **Discussion, Consideration and Possible Action** Regarding Approval of Change Order No. 1 for the South Czech Hall Road Street Resurfacing Project.

Rutledge stated that Tammi Robertson with EST met with Schwarz Paving and walked the road and determined that a Change Order was needed. There are two Options and one is to go back with a 5 inch asphalt overlay which would be a savings of $44,695 and it would cut 10 days off the project. This is Option A.

Option B is to dig it all up and add another inch of asphalt and that would be a wash out.

Rutledge stated that staff recommends Option A so we can use the savings for other things such as water line extension, sidewalk, work on drainage, etc.

Mayor Adams stated that he would much rather take the savings and address those issues such as the waterline extension, sidewalk and drainage issues.

Hagan stated that she agreed with Adams.

MOTION was made by **Councilman Mount** to go with **Mayor Adams** recommendation.

Taylor asked if we are appropriating money with this Motion and Adams explained that they are not, they are giving the City Manager direction to go forward with Option A and look at the drainage, sidewalk and waterline and use that savings for that.

Rutledge suggested bringing back Change Order No. 2 if can get those numbers and he asked EST if they could have the numbers by Thursday, the night of the Special Meeting.

EST stated that they would try to have them but not sure.

Taylor stated his concern is Council should have facts and figures before they do any of this.

Taylor would like the $44,000 to go towards the lift station on the west side of the City.

There was no second to **Councilman Mounts** Motion so **Councilman Taylor** offered a friendly amendment to change Mounts **MOTION** to include further discussion at a later date on the savings and accept Change Order #1 Option A and **Councilman Jones** seconded the motion.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

*2. **Discussion, Consideration and Possible Action** to Reject RFP Received for Operation, Maintenance and Management Services for Water and Wastewater Treatment Plant Collection and Distribution Systems and Meter Reading.

City Manager Rutledge reported that only one company submitted an RFP. Veolia Water chose not to submit an RFP after attending the mandatory pre-bid conference. They sent an email stating that they would not be submitting an RFP.

Rutledge stated that he is asking that the one bid we did receive be rejected.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Hagan** to reject the one bid.

AYE: Grubbs, Bowers, Jones, Hagan, Adams
NAY: Taylor, Mount

*3. **Discussion, Consideration and Possible Action** Regarding Approval of Agreement between the Mustang Improvement Authority and Severn Trent Environmental Services, Inc. for Operation, Maintenance and Management Services for Water and Wastewater Treatment Plants, Collection and Distribution Systems and Meter Reading.

Rutledge stated that since we had only one bidder we have rejected that bid and come back to look at it as a professional services contract and negotiated fees involved. He pointed out that the original RFP was for $1.9 million and by going to a professional services agreement it allowed us to negotiate the contract down to $1.6 million. By dropping some of the services the agreement came down.

Grubbs asked what services and Rutledge stated it had to do with camera trucks, vehicles, etc.

Grubbs asked if we had a study to show that it is in the City's best interest to privatize the sewer plant.

Rutledge explained how it has worked in the last ten (10) years and he explained that only two companies in Oklahoma do this.

He stated that we published the notice twice in the Mustang News and in the Daily Oklahoman to meet publication requirements. It was also sent to the Plan Rooms around the State.

Taylor stated that he would like to make this decision on facts.

Rutledge explained how expensive it is for a City to run their wastewater plant.

Grubbs stated that Edmond operates their wastewater plant and Yukon uses Veolia and he talked about El Reno and who they use.

Mount commented on the commentary that was written and said it needed to be changed because he did not recall the bids being accepted in June. He stated that should be changed.

Mount stated that he asked the City Attorney to give him a legal opinion on the bidding process, the legality of it and how the contract came about.

Councilman Mount passed out his motion for this item and read it to the assembly and it is as follows:

I Don Mount make the **MOTION** that the City Council of the City of Mustang make a request from the City Attorney for his LEGAL OPINION as to the LEGALITY of the entire bidding process and all subsequent AGREEMENTS as they pertain to the SEVERN TRENT ENVIRONMENTAL SERVICES, INC. and THE MUSTANG IMPROVEMENT AUTHORITY with respect to the COMPETITIVE BIDDING ACT, PUBLIC TRUSTS BIDDING and all other applicable STATUTES, including but not limited to O.S. Title 60, Section 176(h), O.S. Title 61, Section 101 and following O.S. Title 11, Section 10-116(B) and such other Oklahoma Statutes that the City Attorney may believe are applicable. FURTHER, that the City Attorney WILL in the preparation of his LEGAL OPINION cite the appropriate Oklahoma Statutes and additionally express his opinion as to the strict compliance with the applicable laws which pertain to the City of Mustang/Mustang Improvement Authority complete and entire BIDDING PROCESS and all subsequent documents.

A friendly amendment to **Councilman Mount's** motion was made by **Councilman Taylor** to table this item until we receive this legal opinion.

Mount pointed out that the present contract expires at the end of July.

Mayor Adams stated that we have a **Motion** and an amendment to the motion and a second by **Councilman Taylor.**

Grubbs asked Mount to explain why he is requesting this and Mount stated that as an abundance of caution; he read the laws applicable to the various bidding acts and he is not sure what we have done or about to do is in accordance with the law. He thinks that is good reason for an Attorney's Opinion.

Grubbs asked the City Attorney if he advises the City anyway before we enter into a contract that was not legal.

Mount stated that he was questioning advertisements and the way it was handled with so many requirements. He questioned the entire bidding process.

Grubbs said it seems like there is a reason other than extreme caution on your part.

Mount stated everything he knows he is not willing to share with this Council in open meeting. He has had many calls on this and he is not questioning the City Attorney and the documents he has prepared but he wants his signature saying it has been done properly.

Grubbs stated the requirements are to publish the notice properly and other requirements are that we accept or reject all bids and award it to the lowest and best contractor and from his perspective sitting here that has been done. He is trying to understand why this motion is being made.

Mount stated because he felt obligated to do this and he did discuss this with the City Attorney and he explained that it is a Council decision.

Jones asked what Grubbs question was to the City Attorney.

Grubbs stated he asked the City Attorney if we were not abiding by the bidding process it would be his position to advise us of that.

City Attorney Miller said, yes he would advise Council not to do so.

Mayor Adams explained that the Attorney has helped in every process of this bid process and we actually rejected the one bid so that closes the process. In his opinion to move forward on this motion to get the City Attorney to give an opinion on his work is somewhat redundant. He stated that he did not see that this is necessary since he has walked us through this entire process.

Grubbs stated that we have been pushing, pushing and pushing to get this done.

Taylor stated that shame on us for waiting until the last hour to get this done and we have waited until the last hour to get this done.

Mount stated that we could debate on this all night and he could offer a rebuttal but he did not think that is necessary but he stands by his motion and the amendment.

Taylor asked about Appendix D. He talked about AF not being defined and feels we are at a risk of interpretation.

Taylor asked in the event that something happened to Severn Trent does the City have a back-up plan.

Mayor Adams stated that we talked about that in April.

Rutledge stated that we would have to put out for bid again and in the interim find an in-house person to help operate the plant.

Taylor stated that he would like to see options and see facts and figures.

Mount stated if and when we have a vote he asked for a roll call vote.

Bowers asked about the Odor Control Plan and Rutledge explained that they do have a plan.

Jones asked if we rejected all bids and Mayor Adams said, yes.

Jones asked then why are we considering this motion.

Adams explained pertaining to bidding process.

Councilwoman Hagan stated that she did not think we had to go out for bid on this.

Taylor asked about RFPs and City Attorney Miller stated that we originally went out for an RFP.

City Attorney Miller stated that there are a number of issues involved in the bidding process to explain and he would either do it now or in a written opinion.

Taylor stated that it is all confusing and he needed more information on the bidding process.

Mount called the question.

Mayor Adams was asked to read the Motion by Taylor again that was seconded by Taylor.

Roll Call Vote was taken and was as follows:

AYE: Taylor, Mount
NAY: Grubbs, Bowers, Jones, Hagan, Adams

Motion to table did not pass.

Councilwoman Bowers asked about Article 8, Page 18 in the contract. She did not think the City should be held liable for anything.

Adams stated that it is saying we are not liable for all that. It is holding us harmless from any liability.

The **City Attorney** explained it to her further.

Bowers asked about annual inspection and who pays for that. That comes out of contractor funds right?

Rutledge explained that the City has someone come out yearly to look at our water towers and the report comes to the City. The City pays for that and it is about $750 per tower.

Taylor is concerned with Appendix D. He stated AF is undefined and should be before we agree to this contract.

Mayor Adams stated you want definition on formulas.

Taylor thinks means annual fee.

Dave Gentry stated that the number is the same as in our current contract.

Taylor thinks needs to be defined.

City Attorney Miller stated Council should take a short break to see what this is.

MOTION was made by **Councilman Taylor**, seconded by **Mayor Adams** to take a short break so the City Attorney can verify this number.

City Attorney Miller went over some small changes that he made to the contract. These are some changes that Councilman Mount had asked about.

The vote was taken to go to recess.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Council returned to the meeting.

The **City Attorney** stated that the blank in the contract should be filled in with $1,655,018.00 annual cost.

Mayor Adams stated that the City had one bid for $1.9 million so he thanked the City Manager for his work in saving the City $250,000 a year which is $1.25 million and he did not think that was a small thing.

MOTION was made by **Mayor Adams**, seconded by **Councilman Grubbs** to approve Item H-3.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Adams
NAY: Mount

J. CITY ATTORNEY'S REPORT

There was no report.

K. ADJOURNMENT

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

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

The meeting was adjourned at **8:35 p.m.**

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MAYOR

ATTEST:

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CITY CLERK

MUSTANG IMPROVEMENT AUTHORITY
JULY 3, 2012

The Mustang Improvement Authority met in regular session on Tuesday, July 3, 2012 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 Thursday, June 29, 2012 at 2:17 p. m. and Amended on Monday, July 2, 2012 at 4:35 p.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 8:35 p.m.

B. ROLL CALL

Trustees Present: **Taylor**
Grubbs
Bowers
Jones
Hagan
Mount
Adams

Trustees Absent: **None**

C. NEW BUSINESS

There was no new business.

D. <u>CONSENT AGENDA</u>

1. Approval of 05/14/12 MIA Budget Session Minutes.
2. Approval of 06/19/12 MIA Minutes.
***3. Claims List for FY '12**
***4. Claims List for FY '13**
***5. Approval to Turn Past Due Utility Accounts Over to the Collection Agency.**

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

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

E. INFORMATION/REPORTS

1. **Trustee Manager**
2. **Trustees**

There were no reports.

F. DISCUSSION ITEMS

*1. **Discussion, Consideration and Possible Action** Regarding Approval of Change Order No. 1 for the South Czech Hall Road Street Resurfacing Project.

MOTION was made by **Chairman Adams**, seconded by **Trustee Grubbs** to approve Option A of the Change Order and direct the City Manager to discuss allocation of savings at a future date.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

*2. **Discussion, Consideration and Possible Action** to Reject RFP Received for Operation, Maintenance and Management Services for Water and Wastewater Treatment Plant Collection and Distribution Systems and Meter Reading.

MOTION was made by **Chairman Adams**, seconded by **Trustee Grubbs** to approve Item F-2.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

*3. **Discussion, Consideration and Possible Action** Regarding Approval of Agreement between the Mustang Improvement Authority and Severn Trent Environmental Services, Inc. for Operation, Maintenance and Management Services for Water and Wastewater Treatment Plants, Collection and Distribution Systems and Meter Reading.

MOTION was made by **Chairman Adams**, seconded by **Trustee Grubbs** to approve Item F-3.

A roll call vote was taken at the request of Councilman Mount.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Adams
NAY: Mount

G. ADJOURNMENT

MOTION was made by **Chairman Adams**, seconded by **Trustee Jones** to adjourn.

AYE: Taylor, Grubbs, Bowers, Jones, Hagan, Mount, Adams
NAY: None

Councilman Taylor noted that a former Councilmember from Chickasha was present at the meeting.

The meeting was adjourned at **8:40 p.m.**

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CHAIRMAN

ATTEST:

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SECRETARY