

CITY OF OGDEN

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Council Meeting

January 20, 2010

The Regular Meeting of the Governing Body for the City of Ogden was scheduled on Wednesday, January 20, 2010 at 7:00 p.m. in City Hall.

The meeting was called to order at 7:06 p.m.

The following Councilmembers were present; Robert Pence, Kenneth Carroll, Rae Harris and Mayor Bond. Attorney Irvine was present. Kevin Valvo was not present.

Pence requested that the Agenda be amended to include a request for an Occupational License by Jeffery Keller for Liberty Tax Service. Carroll requested that the Agenda be amended to remove consideration of the annual COLA for City Employees.

Pence moved to approve the Agenda as amended to include a request for an Occupational License by Jeffery Keller for Liberty Tax Service and removal of consideration of the annual COLA for City Employees. Seconded by Carroll. Motion carried.

Harris moved to approve the minutes of the January 6, 2010 Council Meeting. Seconded by Carroll. Motion carried.

Sharon Brown-Mayor, Clay Center and President of the Flint Hills Regional Council, present, invited the Council to consider becoming a member of the Flint Hills Regional Council.

Mayor Brown stated that the Flint Hills Regional Council (FHRC) was recently launched as a regional planning organization created with participation and money from four counties and eight cities. Fort Riley is providing an office for the council, and 90% of the organization's \$366,000 first-year budget, which is being funded by the U.S. Department of Economic Adjustment. Mayor Brown commented that funding for the organization would incrementally decrease over 3-4 years after which the organization should be able to be self-sufficient. The organization's share is based on the per-capita dues of local governments that choose to join. Ogden's estimated 2010 share would be \$710 and 2011 share would be \$1,076. Mayor Brown commented that the organization's staffing would initially consist of an Executive Director, Regional Planner and Operations Manager.

David Shover-Councilmember, City of Riley, present, is the FHRC representative for incorporated cities outside of Manhattan but within Riley County.

Mayor Brown stated that the objectives of the organization would be coordinating informed, integrated responses to common challenges shared by the stakeholders by providing skilled professional assistance; taking advantage of federal/state funding opportunities to pursue common economic development activities; providing members with assistance in preparing grant applications and local plans; and building state/national relationships.

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Mayor Bond inquired whether the services of the FHRC would be available to individual communities in addressing issues unique to that individual community. Mayor Brown replied that the FHRC Director and staff would be available to help find a solution to the issue.

Mayor Brown commented that transportation issues would be a focal point with regard to the goals of the FHRC.

Patrick Cox-BG Consultants, present, commented that he was requested to evaluate two proposals for the purchase of Mission Communications telemetry equipment from JCI. Cox stated that the new South Walnut Street Lift Station is presently equipped with Mission Communication telemetry. The telemetry is a cellular based system that provides alarm condition monitoring and notification for lift stations, water pumping stations and water towers. The City presently has three lift stations, three water pumping stations and one water tower. Only one lift station and the water tower have a land-line alarm system, and both are not in working order.

Cox presented two proposals from JCI: 1.) installation of monitoring telemetry on the Clydesdale Drive Lift Station, River Trail Lift Station and the Water Tower for \$6,792.20, and 2.) installation of monitoring telemetry on the Clydesdale Drive Lift Station, River Trail Lift Station, three water pumping stations and the water tower for \$18,588.40. Cox commented that the first proposal is a remote read only system whereas the second proposal is a remote adjustable system. The second proposal allows for the flexible, remote operation of the water pumping stations.

Cox commented that savings are realized in the removal of the AT&T land-line cost of \$3,000 annually. Cox commented that electrical cost savings are not appreciable. Cox commented that installation of the telemetry will relieve the City of liability issues that would certainly arise without a functioning alarm system.

Cox commented that both proposals come with service contract options: two year - \$1,800 and three year - \$2,656.80. Cox commented that the initial purchase price of the telemetry system includes a one-year service contract.

Cox recommended the purchase of the Mission Communications Alarm Dialer telemetry system in the amount of \$6,792.20.

Harris moved to authorize the purchase of a Mission Communications Alarm Dialer telemetry system from JCI in the amount of \$6,792.20 and a two-year service contract in the amount of \$1,800.00. Seconded by Pence. Motion carried.

Patrick Cox-BG Consultants, present, stated that on January 12, 2010 six bids were received for the 2009 Wastewater Treatment Facility (Lagoons) Improvements. Cox submitted a tabulation of the bids. Cox stated that the low base bid of \$970,265.44 was received from J&K Contracting, LC. Cox stated that J&K Contracting, LC also was the low bidder for Alternates #1, #2 and #3. The base project consists of installing a HDPE Geomembrane in Cell 1, manholes and piping. Alternate #1 consists of sludge removal in Cell 2 & 3. Alternate #2 consists of sludge removal in Cell 3. Alternate #3 consists of HDPE piping and steel casing as a replacement for PVC piping and steel casing in the Base Bid which relates to the K-18 Highway crossing. Cox explained that if Alternate #3 is selected, the low base bid would be reduced by \$5,130.

Cox recommended awarding the project to J&K Contracting, LC for the Base Bid, Alternate #1 and Alternate #3 in the amount of \$1,167,915.44.

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Cox commented that the contract must be awarded by January 31, 2010 to be in compliance with the CDBG requirements.

Carroll moved to accept the low Base Bid, Alternate #1 and Alternate #3 from J&K Contracting, LC in the total amount of \$1,167,915.44 contingent upon approval by KDHE and the Kansas Department of Commerce (CDBG). Seconded by Harris. Motion carried.

Anne Puett-Bell Taxi Transportation, Inc, present, on behalf of Ben Puett, requested an Occupational License for Bell Taxi Transportation, Inc.

Pence moved to grant Ben Puett an Occupational License for Bell Taxi Transportation, Inc. Seconded by Carroll. Motion carried.

Donald Harris, present, requested an Electrical Contractor License and Plumbing Contractor License. Harris stated that he would be working on his own properties and would not be for hire.

Carroll moved to grant Donald Harris an Electrical Contractor License and Plumbing Contractor License. Seconded by Harris. Motion carried.

Da'landa Keller, present, on behalf of Jeffery Keller, requested an Occupational License for Liberty Tax Service at 522 Riley Avenue.

Keller commented that after April 2010 she would return and request an Occupational License for insurance sales.

Pence moved to grant Jeffery Keller an Occupational License for Liberty Tax Service at 522 Riley Avenue. Seconded by Carroll. Motion carried.

Greg Penfield, present, commented that at a previous Council Meeting he requested that the Council extend the time frame in which water bill payments are due. Penfield stated that the Council did not act on his request.

Penfield commented that everyone has heard of silly laws that may have been pertinent at the time but are no longer relevant. Penfield recited some examples.

Harris commented that the ordinance outlining the conditions regarding payment of the water bill is not an old law but has recently been adopted as a response to a persistent problem that existed.

Mayor Bond commented that Penfield's request to be placed on the Agenda was presented as involving new information for the Council to consider. Mayor Bond commented that Penfield's comments were not relevant to the Agenda topic.

The consensus of the Council was that no action would be taken.

Attorney Irvine inquired of Attorney Michael Gillespie and Wayne Henson whether either had any new information to present to the Council. Both Attorney Gillespie and Henson replied 'no'. Attorney Irvine inquired of Attorney Gillespie whether HWS Consulting Group has done any testing at 227 Riley Avenue. Attorney Gillespie replied that they have no involvement with HWS Consulting Group. Attorney Gillespie confirmed that they do not have any plans to do any environmental testing at the site.

Attorney Irvine stated that it seems that the City has gone as far as possible in this forum. Attorney Irvine stated that Resolution 04-16-08-A was passed and it appears that there has been little or no progress in complying with Resolution 04-16-08-A. Attorney Irvine commented that any further involvement in the forum would be futile.

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Attorney Irvine outlined the options available to the Council. Attorney Irvine stated that the first option would be to do nothing and choose not to enforce the law. Attorney Irvine recommended that if the first option was chosen that a motion be made undertaking discretionary choice not to enforce the laws as it relates to the structure located at 227 Riley Avenue. Attorney Irvine stated that the second option would be to pursue demolition of the structure. Attorney Irvine commented that this is not a viable alternative because of the environmental concerns and cautioned the Council in getting directly involved in the structure without an analysis and conclusion to the environmental issues of asbestos and dry cleaning chemicals. Attorney Irvine stated that the third option, should the Council decide to enforce the laws given the inability to conduct the environmental testing itself, would involve the Court in that process by preceding with litigation to enforce the laws by first seeking some injunctive relief which would require the property owner to perform the environmental testing, and in the event the property owner doesn't, ask the Court to grant the City the authority to do the testing. Attorney Irvine commented that, depending on the results of the testing, enforcing the laws which requires the property owner to either repair or raise the structure and in the event the property owner doesn't do either, the City would request from the Court permission to demolish the structure.

Attorney Irvine recommended that the Council rescind the guarantee agreement regarding payment by the City to HWS Consulting Group for the environmental testing services in the amount of \$2,650.

Harris moved to rescind the guarantee agreement regarding payment by the City to HWS Consulting Group for the environmental testing services in the amount of \$2,650. Seconded by Carroll. Motion carried.

Carroll moved to proceed with the third option as presented by Attorney Irvine and authorize Attorney Irvine to proceed with litigation to enforce the law in resolution of the condition of the structure located at 227 Riley Avenue. Seconded by Harris. Motion carried.

Attorney Gillespie commented that Attorney Irvine had asked whether he and Henson had any new information and he replied that they did not, and that notwithstanding, he expected that before the Council took action that the Council would have the courtesy to ask whether he had anything to say regarding the different options. Attorney Gillespie stated that if litigation is what the City prefers, litigation is what the City will likely get.

Attorney Irvine stated that he did not want to speak on behalf of the Council, but it is not litigation that the Council wants, rather it is action that the Council wants. Attorney Irvine stated that there needs to be some concrete steps in advancement of either the repairs or demolition of the structure, and neither has happened in the five years this process has been undertaken.

Mayor Bond commented that BRR Architecture has requested authorization to air two radio spots for a total cost of \$26.00 advertising future Comprehensive Plan Public Hearings. Mayor Bond commented that the cost will be in addition to the contract price.

Harris moved to authorize the expenditure of \$26.00 for two radio spots advertising future Comprehensive Plan Public Hearings. There was no second to the motion. Motion failed.

Attorney Irvine stated that he prepared a memorandum and a Resolution by the Ogden City Council Rejecting the Nomination of Roger Graham to Fill a Vacancy on the Ogden City Council. Attorney Irvine commented that he was under the impression, following the action taken at the January 6, 2010 Council Meeting, that the issue was resolved at the meeting and

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there was nothing for further discussion at tonight's meeting. Attorney Irvine understood that Councilmember Harris' action to be a resolution and it was his opinion that the action has already occurred. Attorney Irvine stated that the Resolution that he has prepared memorializes what happened at that meeting.

Mayor Bond signed Resolution 01-06-10-A - A Resolution by the Ogden City Council Rejecting the Nomination of Roger Graham to Fill a Vacancy on the Ogden City Council.

Carroll stated that Roger Graham was a Mayor and twice a Councilmember and to say that he was unfit to sit on the present Council is nonsense. Carroll commented that Mayor Bond must consult with the Council and appoint someone or allow the Council to tell him whom the Council would like to be nominated to fill the vacancy. Carroll stated that he supports Roger Graham.

Terry Morrand, Jr.-Foreman, present, informed the Council that he conducted interviews of candidates for the position of Maintenance I and requested the Council consider Brian Cockrell for the position.

Mayor Bond commented that there were a considerable number of applicants and he asked the Foreman to first look at those applicants that lived in Ogden. Mayor Bond commented that Cockrell was a member of the Riley County Rural Fire Department-Ogden Station.

Harris moved to offer Brian Cockrell the position of Maintenance I with employment beginning February 1, 2010. Seconded by Pence. Motion carried.

Pence requested that a discussion of filling the vacancy on the Council be placed on the February 3, 2010 Agenda.

Mayor Bond stated that he planned on presenting two recommendations to fill the vacancies on the Council at the February 3, 2010 Council Meeting.

Mayor Bond commented that he has asked Attorney Irvine to review the Personnel Rules and Regulations document by the February 17, 2010 Council Meeting.

Mayor Bond commented that the Council has received cost estimates for repairs to the meeting room in City Hall. Mayor Bond pointed out that the floor would need attention.

Mayor Bond commented that Sunflower Bank provides insurance and a representative has contacted the City offering to submit a proposal. Mayor Bond commented that the current insurance policy has not been reviewed for several years and as a consequence of the Eddie Lowery Lawsuit, a review should be undertaken to determine whether the City has adequate coverage. Mayor Bond has requested Attorney Irvine to take a summary review of the current policy in order to offer an opinion whether a more detail review by an insurance professional should be considered.

Mayor Bond commented that some of the appointments to the Planning Advisory Committee, through action or inaction, have chosen not to participate. Mayor Bond commented that one appointment was by ex-Councilmember Sharon Conger and suggested that the Council could address a replacement for her appointment. Mayor Bond commented that he spoke with Charlene McKinney about filling the PAC vacancy and she has expressed

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an interest to serve on the PAC. Mayor Bond commented that if the Council is agreeable, McKinney would replace Larry Plumlee.

Mayor Bond commented that the objective of participation in the PAC was to appoint businessmen in conjunction with local residents to serve on the PAC. Mayor Bond stated that the Comprehensive Plan will be approved by the residents of the City. Mayor Bond commented that the idea that the businessmen would dominate the proceedings of the PAC meeting and the outcome of the Comprehensive Plan does not taint the course of the planning process. Mayor Bond commented that their presence is solely to obtain their opinions.

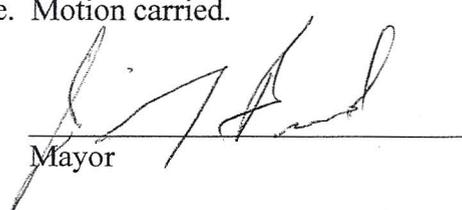
Mayor Bond commented that James Wood has chosen not to participate on the PAC. Mayor Bond stated that the appointed member does not have the option of appointing their replacement. Mayor Bond stated that the Council would need to address the replacement for James Wood. Mayor Bond commented that the Council may also need to consider a replacement for Barry Arp, who did not attend the January 13, 2010 PAC meeting.

Mayor Bond announced that the City has received a letter from Kevin Valvo resigning from his position on the Council.

Harris moved to adjourn the meeting. Seconded by Pence. Motion carried.

Time: 9:19 p.m.

Vincent L. Kramer II
City Clerk



Mayor