

**Minutes of Claremore City Council Special Meeting  
Council Chambers, City Hall, 104 S. Muskogee Ave.  
Claremore, Oklahoma October 26, 2010**

**CALL TO ORDER**

Meeting called to order by Mayor Flo Guthrie at 5:00 P.M.

Mayor Flo Guthrie asked Sarah Sharp to note that members are present/absent as indicated below:

**Present:** Don Myers, Buddy Robertson, Tony Mullenger, Flo Guthrie, Karen Hinkle, Tom Lehman, Paula Watson

**Absent:** Kimber Cobb, Mick Webber

**Staff Present:** Tim Rundel, Matt Ballard, Sarah Sharp, Cassie Woods, Daryl Golbek, Mickey Perry, Sean Douglas, Ron Kolker, Jeff Kolker, Stan Brown, Jason Crandall, Tim James, Ruby Maline, Mitch Louderback, Joe Kays, Ron Burrows, Danny Wilson, Tammy Wilson, Cliff Braughton, Anne Smith, Larry Hughes, Matt Wilson, Daryl Wilson, Joyce Medlock, Joe Perez, Mary Tabor, Susan Payne, Maria Taylor, Kesslie Wilson Casey Morrison, Dusty Singer, Steve Cox, Jason Farley, Sarah Smith, Gary Conger, Ty Burnett, Jimmy Hamilton, Steve Hammer

Councilor Tony Mullenger asked Mayor Flo Guthrie if he could address the Council.

**Mullenger:** On October 18<sup>th</sup> during Executive Session, I informed the Council that I was resigning, effective immediately. As we are not allowed to disclose to the public what was discussed in Executive Session, and the fact that I wanted to prepare a formal resignation statement to my fellow Council members and the citizens of Claremore. I am publicly resigning my seat with the Claremore City Council, effective at the end of this meeting. This was not an easy decision, it was made after much thought, many discussions with my family and no shortage of prayer. It has not been made any easier by the events that are currently taking place. My decision was based on personal reasons and the increasing demands of my insurance business and a new company I founded several months ago. I simply do not have the time and energy to do all of these at once. I am very proud of what his group has accomplished. We haven't built flashy monuments or buildings, but we have worked through some very difficult times and addressed some critical issues that Claremore was facing, and I believe that we made many good decisions. We have laid the foundation for a partial, but major solution to the problems resulting from the mixed blessings of having two major rail lines intersect the City. We have re-started the process of adding some much needed retail development our City has desired for many years to name a few. I hope that everyone realizes and appreciates and does everything possible to maximize the enormous potential that Claremore possesses. I

wish the Council, the City, and most importantly our citizens the very best. It has been my honor to serve this City, thank you all and God bless you.

**Councilor Tom Lehman responded:** Mr. Mullenger, it saddens me that know that you are leaving, but I understand your reasons, and I certainly respect those reasons, as we have discussed. Tony Mullenger has been a great contribution to this Council, he is very bright, he is very outgoing, and has provided a lot of leadership for this Council in a lot of areas. We are sad to see him go, but we do respect his opinion. On a personal note, I know that Tony and I will remain friends, and compatriots, and enjoy each others company.

Councilman Mullenger: I hope that can be said of everybody, thank you.

### **ACCEPTANCE OF THE AGENDA**

Motion by Mullenger, second by Lehman to approve the agenda for the special City Council meeting of October 26, 2010 as written. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

### **CURRENT BUSINESS**

- (1) Discussion only:** Discussion regarding request for Ethics Committee investigation filed with the City Clerk.

Mayor Guthrie read the agenda item and turned the discussion over to Councilor Myers.

**Myers:** Thank you Mayor. Tony, I appreciate your service also. I'm glad I knew you at this level.

**Mullenger:** Thank you Don.

**Myers:** This really saddens me to do what I am going to have to do here. After much thought and prayer the three of us who filed this complaint; the Mayor, Paula Watson and myself, spent a week going through situations, looking at forms, talking to various people, including the City Manager, and we filed the following with the City Clerk on the 22nd of October:

We believe that the Claremore City Councilors Tom Lehman, Mick Webber and Karen Hinkle have violated Section 31.03 and Section 31.04 of the City of Claremore Ethics Ordinance 2010-19 and Section 2.05 of the City of Claremore Charter, and request that the city of Claremore Ethics Committee initiate a formal investigation into these matters.

And Monday, yesterday, the request was formally turned over to the Committee made up of the Ethics Committee. I think... who is going to be chairing that Sarah? Do you know?

**Sharp:** I don't believe that they have elected a Chairman yet, but the documents were turned over to John Cary.

**Myers:** Okay, John Cary, he has those in his possession at this time.

Section 31.03- and without getting specific, because we just gathered the information, the specific stuff that we have information on will be turned over to the Committee at a later date. But Section 31.03 specifically says City officials shall not use or permit the use City resources for personal or private purposes, except as provided by rules adopted by the appropriate appointing authority to address minor or incidental uses common to an ordinary workplace.

Section 31.04 Participation in items of personal, financial or organizational interest prohibited- Except as otherwise permitted under applicable federal, state, and City laws and policies, no City official shall participate in any City business in which they have a related personal, financial, or organizational interest. Such City official shall not discuss the matter with a City official who is participating in the action other than to state his or her disqualification. The possibility, not the actuality, of a conflict shall govern.

What we have chosen to do, the three of us is that we are going to allow the Ethics Committee to complete their investigation, and at the end of their investigation, then we will go into the Charter, the Claremore City Charter if necessary, depending on what the outcome of that investigation. So there is a possible investigation that will follow the Ethics investigation.

If you go to Section 2.09 of the City Charter: "The City Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by a fine or imprisonment or both."

If you go to Section 2.07 in the Charter: Judge of Qualifications

"The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office to the extent not superseded by the laws of the State of Oklahoma. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one

week in advance of the hearing. Decisions made by the Council under this section shall be subject to judicial review.”

The other things that worried us, and that are possible for the City is, this investigation, there is a high possibility and likely that the City will also be facing a couple lawsuits. There is also a possibility of the information we have gathered, that there could be a possible criminal investigation pending for the information that we have reviewed at this time. That is what really concerns me. The other thing, as part of the investigation, we will have to involve employees of the City, and also citizens of the community that were involved in some of these actions. So it is not only going to effect Council members of what has be done, and the charges that we are making in this inquiry, but it is also going to involve the community at large. That is what is really upsetting to me.

We have tried to resolve these issues and intentionally tried to avoid this by having an opportunity for those involved to do the right thing for the City. I am really sorry for the employees, the citizens, Tim and his family for what we are going to go through and what we have gone through the last week. This should have never happened. The bully atmosphere by this Council will no longer be in effect, I promise you that. There will be no such thing as a “Fab Four” anymore, and you all know what I am talking about. I have never been a part of anything in my life that is so arrogant in all my life and you employees probably have known more than me. This is the second time I have been on Council. The last time I was on I went through a recall situation that was not pretty.

I would only request that the named people in this situation reconsider their positions on this Council, and possibly do what is right for this Council, and for the City of Claremore. Thank you.

Councilor Lehman asked the Mayor if he could respond to those remarks:

**Lehman:** I jotted down a few notes this afternoon. And with respect to Mr. Myers’ opinion, we of course disagree with his opinion, and are somewhat taken aback that any of these three people saw fit not to approach us personally one on one, and call into question what their thoughts were and their problems were. And with that said, there are three of us on this Council whose personal and family reputations have been damaged and integrity called into question. I think that is only fair that those who signed off on this immediately forwarded all your thoughts to the Ethics Commission or Committee so they are able to act on this a quickly as possible, and I only believe that it is right that those three persons provide a copy of those items to us at the same time, so that we might review and understand your problems with us so that we might provide answers from our perspective since at this point we have no idea what you are talking about.

Since this is a discussion item only, there will be no vote so, at this point I guess its up to you all, but in fairness, you have not provided us with any information that you

have forwarded to the Ethics Commission or Committee, whatever you want to call it and until you do so, it is pretty impossible for us to answer the allegations. Instead, you have chosen apparently to basically discuss this and look at it by the newspaper, and I certainly object to that. And it is too bad that it has come to this point, but again, as I started, I think it is very questionable that you guys proceeded with this without getting us one on one and sitting down for a decent discussion. You know, it is very hard for us to form an opinion to answer any allegations when you have not provided us with that. And I would hope that that would be forthcoming very soon, as you send these things to the Ethics Commission. I'm through.

Councilor Hinkle asked if she may say something as well.

**Hinkle:** I would like to echo what Tom said, some of the same points he made are some of the same things that I had jotted down as well. I think that the whole situation kind of boggled my mind, and I was quite taken aback that I was never approached or even given the respect or courtesy of conversation about any concern you might have concerning anything that I might have done in your opinion.

I have worked in the business world for 25 years and any conflict I have ever had have always been easily resolved with conversation or, you know, it was a mature conversation, and a mature approach to things. This is all a little shocking to me. So, I am not quite used to this, but you have chosen a path and, I would question the motives for that path versus other alternatives but, and I think that is just very unfortunate.

I would like for the Council to be able to address the Ordinance as it is written currently, because as I have looked at things over the last couple of days, given in light of the new information, I don't believe that's the way it was originally authored, although I understand that it was the way it was approved. But the way it is written now, it seems a clear and free path to slander, so I think that needs to be put back on the agenda at some point and time to be re-reviewed.

**Mayor Guthrie:** The Ordinance that we passed? Did not everyone read that at the time that it was presented?

**Hinkle:** It was before I even got here. That was authored and approved before I got here. After reading it, I think there is some questionable language in that Ordinance that needs to be reviewed; I don't think it is a healthy path for the City, I think. I fully support having an Ethics Committee; I think there is a time and place for that. I think there are other things that can be done before things get escalated to that level, but I don't think that I know were not taken prior to the request being made. But I fully support the process, as it is, of having an Ethics Committee and having things received. I think the path you have chosen is going to be an extraordinary waste of time, effort, and money on the part of a lot of people, but it is what it is, and we will follow that path, whatever that may be.

I, like Tom, would like to know specifics- and names and specifics that go along with each one of those items that are listed in the request, as I don't know.

And if I might Mayor, I would like to address Tom Fink. The article, as it is written in the paper tonight, and we have talked about this, states that you attempted to contact all the parties involved. I was never attempted to be contacted, you have my cell phone, you have my email, they both work. I clearly would have had a response, had that been used. I do hope that The Progress spend as much time effort, money, and color in publishing whatever the results are from the Ethics Committee. That's probably all I have to say. It is just very disappointing and unfortunate path.

**Mullenger:** I'd like to just real quickly... I touched on it in my statement. I would really like to see, again, I am going to continue to be a resident here, even though I will no longer be on the Council. Claremore, as I stated, has an enormous amount of potential, and I would hate to see –forgive me Tulsa, But I would hate for us to get mired down with a bunch of crap like is going on in Tulsa, Oklahoma, when we've got issues that are before us: Infrastructure, and everything else, and opportunities. I would hate to see too much time and energy spent on other things. Anyway, that's all I have.

### EXECUTIVE SESSION

Approve/Reject going into executive session to discuss the following item(s).

- (a) Employment, hiring, appointment, or resignation of any salaried public officer or employee, specifically, Tim Rundel, City Manager, pursuant to 25 O.S. Section 307 (B) (1) & (7).
- (b) Employment, hiring, or appointment of any salaried public officer or employee, specifically, an Interim City Manager, pursuant to 25 O.S. Section 307 (B) (1).
- (c) Motion by Mullenger second by Guthrie to approve going into Executive Session to discuss items (a) and (b). Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

Council entered executive session at 5:22 P.M.

Council came out of executive session at 6:02 P.M.

- (d) Motion by Mullenger, second by Robertson to approve returning of regular session. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

- (e) Statement of executive session minutes was read by Mayor Flo Guthrie: While in executive session only the items listed on the agenda were discussed, no votes were cast, and no decisions were made.
- (f) Discussion and vote to Approve/Reject Tim Rundel Separation Agreement and resignation of Tim Rundel.

**Myers:** I don't want to do this, but because of the circumstances, I am going to make the following motion:

Motion by Myers, second by Mullenger to approve the release and Separation Agreement as discussed, and the employee agrees to forthwith sign a tendered written resignation in the form of "Attachment A" and the employee will be paid the remainder of the employee's salary for a period of 90 days fro the date of effective date, which is today. And he will also be paid 90 day insurance benefits. Part of the confidentiality agreement, the employee agrees to make no comment regarding the agreement to anyone, other than as he is approached by the Ethics Committee and/or the investigation that will be oncoming by the City Council. Roll call vote: Myers, yes; Robertson, no; Mullenger, yes; Guthrie, no\*; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

**\*As roll was called, Guthrie wished to make the following statement before she cast her vote:**

I do not want him to leave, we need this man here, and I am going to cast my vote as no for that reason. My vote is no.

**(g)Discussion and vote** to appoint an Interim City Manager and approve contract with the same.

Motion by Mullenger, second by Lehman to reconvene in executive session to discuss item **(g)**. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

Council went into executive session at 6:08 P.M.

Council came out of executive session at 6:14 P.M

Motion by Mullenger, second by Robertson to return to regular session. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

Statement of executive session minutes was read by Mayor Flo Guthrie: While in executive session only the items listed on the agenda were discussed, no votes were cast, and no decisions were made.

Motion by Mullenger, second by Myers to appoint Daryl Golbek as Interim City Manager. He will be given a \$1500.00 every two week stipend and will be guaranteed a minimum of 30 days. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

Motion by Mullenger, second by Lehman to adjourn. Roll call vote: Myers, yes; Robertson, yes; Mullenger, yes; Guthrie, yes; Hinkle, yes; Lehman, yes; Watson, yes. Motion carried.

Meeting adjourned at 6:15 P.M.