

**MINUTES OF THE CLINTON CITY COUNCIL  
OCTOBER 20, 2009**

Minutes of the regular meeting of the Mayor and City Council of the City of Clinton, Oklahoma, Custer County, held in the City Council Room, City Hall on Tuesday, October 20, 2009 at 5:30 p.m. A notice of this meeting with agenda was posted on the bulletin board in the lobby of Clinton City Hall on October 16, 2009.

Mayor Allen Bryson called the meeting to order with the following present;

**MAYOR:** Allen Bryson

**COUNCIL:** Bob Marcy, John Jordan, Terry Wheeler, Mark Hendrickson

**CITY MANAGER:** Grayson Bottom

**CITY CLERK:** Lisa Anders

**CITY TREASURER:** Absent

**DEPUTY CITY CLERK:** Absent

**CITY ATTORNEY:** Ryan Meacham

**NEWS MEDIA:** Gerald Green and Mike Smith

**OTHERS:** David Crabtree, Charles Fry, Mary Helen Jones, Steve Jones, Arnold Adams, Alan Burgtorf, Randy Jones, D'Lese Travis, Julie Menge, Judy Jordan, and others.

Tony Cook of the Freewill Baptist Church opened the meeting with prayer and Councilman Bob Marcy led the Pledge of Allegiance.

**AGENDA ITEM NO. 3: CONSENT AGENDA**

**A. Minutes of Regular Meeting of October 6, 2009**

Moved by Councilman Wheeler and seconded Councilman Hendrickson, that Consent Agenda Item No. 3 (a) be approved.

Mayor put the motion to a roll call vote:

Aye: Wheeler, Hendrickson, Marcy, Jordan, Bryson

Nay: None

Mayor declared the motion carried.

**AGENDA ITEM NO. 4 ACTION ITEMS**

**4A. CONSIDER OKLAHOMA MUNICIPAL ASSURANCE GROUP WORKER'S COMPENSATION PLAN REFUND VOUCHER AGREEMENT**

City Manager Grayson Bottom explained that unearned premiums from the 2006-2007 year have accumulated with the Oklahoma Municipal Assurance Group for the City's worker's compensation plan. He requested that the refund be applied to the current workers compensation insurance premiums. He said the premium for a year is approximately \$155,000 and the \$62,000 refund would be applied to the premium.

City Manager Grayson Bottom said the refund is due to the City having an active safety committee that encourages continuous safety training for employees and employees who do their job in a safe manner.

Motion was made by Councilman Jordan and seconded by Councilman Marcy to approve the Oklahoma Municipal Assurance Group Worker's Compensation Plan Refund Voucher Agreement to apply the refund of \$62,102.01 to the 2009-2010 insurance premiums.

Mayor put the motion to a roll call vote:

Aye: Jordan, Marcy, Hendrickson, Wheeler, Bryson

Nay: None

Mayor declared the motion carried.

**4B. CONSIDER REQUEST OF BRAD ANESHANSLEY FOR LUMP SUM PAYMENT FOR RETIREMENT BENEFITS FROM OKLAHOMA MUNICIPAL RETIREMENT FUND**

City Manager Grayson Bottom explained that Brad Aneshansley had resigned from the City and is requesting that his retirement benefits be paid to him in lump sum payments. The request has to be approved by the Governing Board of the City who serves as the Retirement Committee.

Motion was made by Councilman Hendrickson and seconded by Councilman Wheeler to approve the request of Brad Aneshansley for lump sum payment for retirement benefits from the Oklahoma Municipal Retirement Fund.

Mayor put the motion to a roll call vote:

Aye: Hendrickson, Wheeler, Marcy, Jordan, Bryson

Nay: None

Mayor declared the motion carried.

**4C. CONSIDER ORDINANCE NO. 919 REGARDING THE REQUIREMENTS FOR A CONTRACTOR'S CERTIFICATE FOR ANY PERSON ENGAGING IN THE ERECTION, REPAIR, OR CONSTRUCTION OF ANY BUILDING; PROVIDING FOR METHOD OF APPLICATION FOR SUCH CONTRACTOR'S CERTIFICATE; PROVIDING FOR GENERAL LIABILITY AND WORKER'S COMPENSATION INSURANCE REQUIREMENTS; PROVIDING FOR FEES AND RENEWAL CERTIFICATES; PROVIDING FOR PENALTIES FOR VIOLATION, AND DECLARING AN EMERGENCY.**

City Manager Grayson Bottom said during last years legislative session, a stand alone commission known as the Oklahoma Uniform Building Codes Commission was created. The purpose is to establish Oklahoma Building Codes. He said currently the City enforces the International Building Codes. He said the City was notified on September 24, 2009 that Senate Bill 1182 and Senate Bill 306 passed and is to go into effect November 1, 2009. He said the City of Yukon's ordinance was used as an example for the ordinance that has been prepared for the City of Clinton by Assistant City Attorney Ryan Meacham.

City Manager Grayson Bottom said currently the City issues licenses to plumbers, electricians, mechanical licenses after a state license has been obtained. He said general contractors have not been required to have state or local licenses and the purpose of this legislation is to change this. He said effective November 1, 2009 the state is requiring the City to collect \$5.00 for each building permit that is issued on residential and commercial structures. This fee is to be submitted by the City to the state on a monthly basis.

Building Inspector Charles Fry estimated that fifty permits are issued by the City per month.

City Manager Grayson Bottom said the City needs to be in compliance with state law but it is unclear as to the definition of a General Contractor.

Assistant City Attorney Ryan Meacham said he had searched state statutes and only found a general definition for general contractor. He said the City is required to collect the state fee under the terms of the ordinance. He said the Board will determine who needs to supply verification of insurance.

Councilman Hendrickson asked why the ordinance can't reflect the exclusions.

Meacham said the language in the ordinance is reflected from the building permit section. He said that the ordinance could be reviewed to look at the section regarding resident owners. He said with the removal of "resident" that would allow owners to work on their business property as well.

City Manager Grayson Bottom said the City is at risk in the collection and submittal section requirements. He suggested passing the ordinance and striking "resident" and then the Mayor/Council issue a moratorium until the state gives guidance.

Meacham said the requirements are effective November 1, 2009.

City Manager Bottom asked if it were possible for the Council to approve the ordinance with "resident" omitted and then on a later agenda consider a moratorium on the General Contractor certificate until further guidance is provided by the state.

Meacham said then the emergency clause should be eliminated from the ordinance.

Randy Jones said currently a building permit is requirement for any project costing \$500.00 or more. He said there is rarely a project that does not meet that dollar limit. He suggested raising the limit on project costs that require a building permit.

City Manager Bottom agreed that the limit was set many years ago and that it should be considered.

Mayor Bryson instructed the City Manager to bring the Council more information on the building permit requirements and he suggested approving the ordinance with "resident" struck from Section a-3 and calling a special meeting on October 29, 2009 at noon to discuss a moratorium on the ordinance.

Motion was made by Councilman Jordan and seconded by Councilman Marcy to approve Ordinance 919 with Section A-3 amendment to strike "resident" and to call a special meeting on October 29, 2009 at noon to discuss a moratorium on the ordinance.

Mayor put the motion to a roll call vote:

Aye: Jordan, Marcy, Hendrickson, Wheeler, Bryson

Nay: None

Mayor declared the motion carried.

Motion was made by Councilman Jordan and seconded by Councilman Marcy to approve the emergency clause to Ordinance 919.

Mayor put the motion to a roll call vote:

Aye: Jordan, Marcy, Wheeler, Hendrickson, Bryson

Nay: None

Mayor declared the motion carried.

#### **4D. MAYOR'S STATE OF CITY PRESENTATION**

Mayor Bryson presented an overview of the projects that have been undertaken by the City and the status of future projects.

#### **5. CITY MANAGER'S REPORT**

City Manager Grayson Bottom reported that the City has received a grant for the Police Department. The grant provides a new CMI Intoxilyzer 8000 that is to be installed in January 2010.

City Manager Grayson Bottom reported there have been developments on the Roush Army Reserve Building. He will be attending a meeting regarding the facility in November.

City Manager Grayson Bottom explained an operational change to the City of Clinton was implemented October 13, 2009. A hiring freeze, Capital Improvement Fund expenditure freeze and the limiting of operational spending was put into place. He explained that the exception to the Capital Improvement Fund expenditure freeze is the Northeast Quadrant Water Line Replacement Project.

#### **6. AUDIENCE PARTICIPATION**

None

#### **AGENDA ITEM NO. 7: ADJOURNMENT**

Moved by Councilman Wheeler and seconded Councilman Hendrickson to adjourn the meeting.

Mayor put the motion to a roll call vote:

Aye: Wheeler, Hendrickson, Marcy, Jordan, Bryson

Nay: None

Mayor declared the meeting adjourned at 7:00 P.M.

**ORDINANCE NO. 919**

**AN ORDINANCE ADOPTING THE REQUIREMENTS OF SB 1182 AND SB 306; ESTABLISHING REQUIREMENTS FOR A CONTRACTOR'S CERTIFICATE FOR ANY PERSON ENGAGING IN THE ERECTION, REPAIR OR CONSTRUCTION OF ANY BUILDING; PROVIDING FOR METHOD OF APPLICATION FOR SUCH CONTRACTOR'S CERTIFICATE; PROVIDING FOR GENERAL LIABILITY AND WORKER'S COMPENSATION INSURANCE REQUIREMENTS; PROVIDING FOR FEES AND RENEWAL CERTIFICATES; PROVIDING FOR PENALTIES FOR VIOLATIONS, AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE COUNCIL FOR THE CITY OF CLINTON, OKLAHOMA:**

**SECTION 1:**

**General provisions.**

**(a) Certificate required.**

(1) It shall be unlawful for any person to erect, install, improve, enlarge, repair, move, demolish, or alter any premises, building or other structure within the city limits of Clinton without first obtaining a contractor's certificate from the city. Prior to issuance of any building permits, pursuant to 11-2-1 of this code, the applicant for the permit shall have a valid contractor's certificate.

(2) A contractor's certificate is not required of persons who have a valid certificate for other specialized trades required by this code and provided the work performed is within the authority granted therein.

(3) Owners of the property are not required to obtain a contractor certificate when performing work on their own property provided work is performed by the owner; nothing herein shall relieve any person from obtaining other licenses, permits or certificates required by this code.

**(b) Method of application.**

(1) Any person who is required by this article to possess a contractor's certificate shall make an application to the city on application forms provided for that purpose by the city.

(2) The lending of any contractor's certificate and/or the person to whom the certificate is issued obtaining other permits thereunder for any other person shall be deemed cause for revocation. A contractor's certificate issued by the city is not transferable, and violation of this provision is cause for revocation in addition to other penalties in this code.

(3) The City Council may revoke the contractor's certificate for just cause. The City Manager may suspend such certificate if, in his opinion, the certificate holder violates any provision of the code. In such case, the City Manager shall give notice of the suspension to the contractor. The contractor whose certificate has been suspended shall have the right to appear before the council and be heard before the certificate is permanently revoked and shall be given adequate notice of the time and place of such hearing and of the charges against the certificate holder. Such cause must be disposed of by the City Council within thirty (30) days of the time of the suspension.

(c) Certification fee, annual renewal fee.

(1) Before such certificate is issued a fee of \$100.00 for the first year and \$50.00 per year thereafter shall be paid to the City Clerk for contractor's registration certificate.

(2) Each certificate issued shall expire on June 30<sup>th</sup> of each year.

(3) The annual renewal application, appropriate documentation and fees must be received by the city on or before July 1<sup>st</sup> and shall be considered surrendered if the certificate is not renewed within fifteen (15) days. After July 15<sup>th</sup>, the applicant must proceed in the manner required for a new or initial applicant.

(d) Workers Compensation Insurance Requirements.

(1) Each building contractor who is defined in the Workers' Compensation Act, Title 85, Oklahoma Statutes, Section 1 et seq. (the "Act") as an employer of employees as defined in the Act and not exempt, which contractor is registered under this article shall be required to document to the City of Clinton and to keep in force during the life of its registration, a workers' compensation insurance policy to protect the contractor's employees against occupational hazards and diseases as regulated and defined in the Act.

(2) A Certificate of Insurance for workers' compensation with the city named as a certificate holder from an insurance company duly licensed to do business in the State of Oklahoma or proof of exemption or own risk status shall be submitted with the application for registration to the city. Persons who are self-employed and do not fall under the jurisdiction of the Workers' Compensation Act are not required to submit a certificate of insurance. However, in lieu of the certificate of insurance requirement, the

applicant must execute an affidavit certifying he is wholly self-employed and does not fall under the jurisdiction of the Workers' Compensation Act with proof of exemption.

(3) The contractor shall be required to notify the city within ten (10) working days upon termination of an insurance policy. This will cause the city to invalidate the certificate.

(e) Insurance. Each contractor shall procure and maintain a general liability policy of insurance within limits per occurrence of not less than \$500,000.00. A Certificate of Insurance shall be provided at the time application is made for a contractor's certificate. Contractor shall notify the city within ten (10) days of termination of the policy. City shall be named a certificate holder. Failure to maintain general liability insurance in the specified limits shall cause the contractor's certificate to be deemed revoked.

(f) Violation and penalties. Any person violating any provision of this article is guilty of an offense, and upon conviction thereof shall be punished as provided in section 1-4-1 of this code.


**SECTION 2: Emergency.**

An emergency is declared to exist and it is necessary for the public welfare, health and safety that this ordinance take effect immediately upon passage, approval and publication according to law.

PASSED AND APPROVED this 20 day of October, 2009, with the Emergency Clause passed separately.

  
MAYOR

ATTEST:

  
CITY CLERK

(SEAL)