

**MINUTES OF THE CLINTON CITY COUNCIL  
NOVEMBER 16, 2010**

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, November 16, 2010 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 November 12, 2010.

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

**MAYOR:** Allen Bryson

**COUNCIL:** John Jordan, Steve Jones, Bob Marcy

**ABSENT:** Terry Wheeler,

**CITY MANAGER:** Grayson Bottom

**CITY CLERK:** Lisa Anders

**CITY TREASURER:** Debra Blanchard

**DEPUTY CITY CLERK:** Rhonda Williams

**CITY ATTORNEY:** Ryan Meacham

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

**OTHERS:** Arnold Adams, Mary Helen Jones, Phyllis Smith, Eugene Ross, Toby Anders, John Kindred, Rusty, Whisenhunt and others.

Mayor Allen Bryson opened the meeting with prayer and Councilman Bob Marcy led the Pledge of Allegiance.

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

- A. Minutes of Regular Meeting of November 2, 2010 and Special Meeting of November 9, 2010

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

Mayor put the motion to a roll call vote:

Aye: Jordan, Marcy, Bryson

Nay: None

Mayor declared the motion carried.

**AGENDA ITEM NO. 4 ACTION ITEMS**

**4A. CONSIDER ACCEPTANCE OF RESIGNATION FROM WARD FOUR COUNCILMAN**

No Action taken

**4B. CONSIDER APPOINTMENT OF INDIVIDUAL TO FILL VACATED SEAT OF WARD FOUR**

No Action Taken

**4C. CONSIDER CONDEMNATION OF PROPERTY AT 1007 AVANT; OWNER: JOHN C. KINDRED**

Code Enforcement Officer Toby Anders presented documentation and pictures of the property at 1007 Avant. He said he had been working with the property owner for four years regarding general nuisance issues. He said their original agreement had been for the clean-up to be completed within 30 days. He said the property is still in need of clean-up. Anders suggested allowing the property owner 30 days and if after 30 days no improvements are made, allow the City to enter the property and do the necessary steps to remedy the violations.

Mr. John Kindred said he had not understood from his father, the property owner, the importance of the 30 days. He said he is in the process of cleaning the property but it is a matter of time.

Councilman Marcy asked if 30 days is a reasonable amount of time.

Kindred said he wanted as much time as he could get.

Mayor Bryson said he felt four years had been enough. He suggested allowing an additional 30 days and have the property owner work with Toby Anders and Grayson Bottom and if there is no improvement, have the City step in.

City Manager Grayson Bottom suggested taking no action on the condemnation issue. He suggested after 30 days, the City should inspect the property and if no progress is shown, bring the issue back to the Council for consideration.

No action was taken.

**4D. CONSIDER ORDINANCE NO. 928 REGARDING AMENDMENTS TO EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN WITH OKLAHOMA MUNICIPAL RETIREMENT FUND**

City Manager Grayson Bottom said each year the Internal Revenue Service does an annual review to the Defined Benefit Master Plan and Joinder Agreement and requires the City to adopt the new language in the documents.

Motion was made by Councilman Jordan and seconded by Councilman Marcy to approve Ordinance No. 928 regarding amendments to the Employee Retirement System, Defined Benefit Plan with Oklahoma Municipal Retirement Fund.

Mayor put the motion to a roll call vote:

Aye: Jordan, Marcy, Bryson

Nay: None

Mayor declared the motion carried.

**5. CITY MANAGER'S REPORT**

City Manager Grayson Bottom explained the reason for no action being taken on items A and B of the agenda. Given the absence of Steve Jones and Terry Wheeler, if the resignation of John Jordan had been approved there would not have been a quorum for the remainder of the meeting.

Bottom reported that newly appointed Park & Recreation Director Kris Wermey has been notified he is being deployed for service in Afghanistan November 28, 2010 and will be gone for one year. He said duties at the Park will be split between the Maintenance Department and the Programming Department.

Mayor Bryson reported that the TIF District had been approved on Friday. He said a public hearing will be held on December 7<sup>th</sup>. He said the review committee had approved the district unanimously and he anticipates at vote by Council on the December 21<sup>st</sup> agenda.

Mayor Bryson presented a service award to John Jordan for his service as Councilman for the past two years.

Steve Jones joined the meeting. It was decided to go back to Action Item A and B.

**4A. CONSIDER ACCEPTANCE OF RESIGNATION FROM WARD FOUR COUNCILMAN**

Motion was made by Councilman Marcy and seconded by Councilman Jones to accept the resignation of Ward Four Councilman John Jordan effective immediately.

Mayor put the motion to a roll call vote:

Aye: Marcy, Jones, Jordan, Bryson

Nay: None

Mayor declared the motion carried.

**4B. CONSIDER APPOINTMENT OF INDIVIDUAL TO FILL VACATED SEAT OF WARD FOUR**

Mayor Bryson said since no one had filed for the office of Ward Four, the Council is given the duty of appointing someone to fill the open seat. He said Phyllis Smith had approached the City Manager and Councilmembers regarding her interest in serving in the position.

City Manager Grayson Bottom explained that Ms. Smith will be appointed to fill the unexpired term of John Jordan which will be completed January 4, 2011. At that time, another appointment will need to be made for the open seat of Ward Four. At the filing period in June, candidates for Ward Four will be filing again.

Assistant City Attorney Ryan Meacham said this is required so as to keep the same schedule after appointment are made.

Motion was made by Councilman Jones and seconded by Councilman Marcy to appoint Phyllis Smith to fill the unexpired term of John Jordan as Councilmember for Ward Four.

Mayor put the motion to a roll call vote:

Aye: Jones, Marcy, Bryson

Nay: None

Mayor declared the motion carried.

The swearing in of Phyllis Smith will be held prior to the Council meeting of December 7, 2010.

**6. AUDIENCE PARTICIPATION**

None

**AGENDA ITEM NO. 7: ADJOURNMENT**

Moved by Councilman Marcy and seconded by Councilman Jones to adjourn the meeting.

Mayor put the motion to a roll call vote:

Aye: Marcy, Jones, Bryson

Nay: None

Mayor declared the meeting adjourned at 6:05 P.M.

**ORDINANCE NO. 928**

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN FOR THE CITY OF CLINTON, OKLAHOMA BY ADOPTING A REVISED AND RESTATED RETIREMENT PLAN; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF THE CITY OF CLINTON, OKLAHOMA; PROVIDING FOR PURPOSE AND ORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY AND PARTICIPATION; PROVIDING FOR NON-ALIENATION OF BENEFITS; LOSS OF BENEFITS FOR CAUSE AND LIMITATIONS OF BENEFITS; PROVIDING FOR EMPLOYER AND EMPLOYEE CONTRIBUTIONS; PROVIDING FOR ACCOUNTING, ALLOCATION, AND VALUATION; PROVIDING BENEFITS; PROVIDING FOR REQUIRED NOTICE; PROVIDING FOR AMENDMENTS AND TERMINATION; PROVIDING FOR TRANSFER TO AND FROM OTHER PLANS; CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; PROVIDING FOR PAYMENT OF CERTAIN OBLIGATIONS; PROVIDING FOR DURATION AND PAYMENT OF EXPENSES; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR VESTING SCHEDULES; PROVIDING FOR A FUND TO FINANCE THE SYSTEM TO BE POOLED WITH OTHER INCORPORATED CITIES, TOWNS AND THEIR AGENCIES AND INSTRUMENTALITIES FOR PURPOSES OF ADMINISTRATION, MANAGEMENT, AND INVESTMENT AS PART OF THE OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING FOR PAYMENT OF ALL CONTRIBUTIONS UNDER THE SYSTEM TO THE OKLAHOMA MUNICIPAL RETIREMENT FUND FOR MANAGEMENT AND INVESTMENT; PROVIDING FOR REPEALER AND SEVERABILITY; ADOPTING THOSE AMENDMENTS MANDATED BY THE INTERNAL REVENUE CODE; AND DECLARING AN EMERGENCY.

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

**Section 1.** That pursuant to the authority conferred by the laws of the State of Oklahoma, and for the purpose of encouraging continuity and meritorious service on the part of City employees and thereby promote public efficiency, there is hereby authorized created, established, and approved and adopted, effective as of **January 1, 2011**, the amended and restated Plan designated "Employee Retirement System of the City of Clinton, Oklahoma, Defined Benefit Plan," (hereinafter called System), an executed counterpart of which is marked Exhibit "A" (Joinder Agreement) and Exhibit "B" (amended and restated plan) and attached hereto as part hereof.

**Section 2. FUND.** A fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

**Section 3. APPROPRIATIONS.** The City of Clinton, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Clinton, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Benefit Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

**Section 4. EXECUTION.** The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Clinton, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

**Section 5. REPEALER.** Any Ordinance inconsistent with the terms and provisions of this Ordinance is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.

**Section 6. SEVERABILITY.** If, regardless of cause, any section, subsection, paragraph, sentence or clause of this Ordinance, including the System as set forth in Exhibit "A" and Exhibit "B", is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Ordinance.

**Section 7. EMERGENCY.** Whereas, in the judgment of the City Council of the City of Clinton, Oklahoma, the public peace, health, safety, and welfare of the City of Clinton, Oklahoma, and the inhabitants thereof demand the immediate passage of this Ordinance, an emergency is hereby declared, the rules are suspended, and this Ordinance shall be in full force and effective on its passage, approvals and publication.

\*\*\*END\*\*\*

The undersigned hereby certifies that the foregoing Ordinance was introduced before the City Council of the City of Clinton on the 16 day of November, 2010, and was duly adopted and approved by the Mayor and City Council, on the 16 day of November, 2010, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et. seq.).

City of Clinton

By Allen Boy

Mayor

ATTEST:

Lisa Anders

Clerk

Approved as to form and legality on

November 16, 2010.

[Signature]  
CITY ATTORNEY