

CITY OF SULPHUR  
SPECIAL COUNCIL MEETING  
PROCEEDINGS OF GOVERNING BOARD  
TUESDAY, APRIL 2, 2024

HELD AT THE  
CITY COMPLEX  
600 WEST BROADWAY  
SULPHUR, OKLAHOMA

Notices were posted at the Sulphur City Complex, the Mary E. Parker Memorial Library and the Murray County Courthouse.

The Special Council Meeting was called to order at 10:00 A.M. by Darrell Cole, Mayor.

BOARD MEMBERS PRESENT:

Alan McKay, Ward 1  
Derrick Stone, Ward 2  
Darrell Cole, Ward 3  
Ryan Peters, Ward 4  
Dan Gordon, Ward 5

ALSO PRESENT:

Andy Freeman, City Manager  
Shannon Couch, City Clerk  
Ginger Cornell, City Treasurer, Absent  
Les Wesberry, Jr., City Attorney, Absent

OTHERS PRESENT:

Gary Mensch and Jay Mensch.

The Invocation was given by Darrell Cole.

The Pledge of Allegiance was led by Ryan Peters.

DISCUSSION AND POSSIBLE ACTION ON AN ORDINANCE OF THE CITY OF  
SULPHUR, OKLAHOMA, ADOPTING AND ENACTING THE (2024) "SULPHUR CODE  
OF ORDINANCES"; COMPILED, REVISED, AND PUBLISHED BY THE AUTHORITY OF  
THE COUNCIL FOR THE CITY OF SULPHUR, OKLAHOMA, CONTAINING THE  
PERMANENT AND GENERAL ORDINANCES OF THE CITY OF SULPHUR; ALSO  
REPEALING ALL ORDINANCES OF A PERMANENT AND GENERAL NATURE NOT  
INCLUDED IN THE CODE; PROVIDING FOR ADDITIONAL AND AMENDMENTS TO  
THE CODE AND DECLARING AN EMERGENCY:

Andy Freeman stated there was some confusion about the State Law, but we have that ironed out and we have added the titles to it with the summary and it has an emergency clause. Andy Freeman stated if Council approves it, we will get it signed and to the newspaper by tomorrow and we should be good to go. Andy Freeman stated the Ordinances is supposed to be the same per Les, except we added the titles on it. Alan McKay stated he noticed on the old ones there was always an emergency clause. Alan McKay asked what makes this an emergency clause. Andy Freeman stated because we needed to get this done and it has not been done. Andy Freeman stated the other Ordinance had an emergency clause. Alan McKay stated even the old ones have an emergency clause but according to State Statutes it is not required. Andy Freeman stated he did not know; he is not an attorney. Andy Freeman stated the initial Ordinance and Resolution was written up by the people who did our codification, Municipal Code Management. Andy Freeman stated the City Attorney did not draft it and the only thing Les added was the titles. Alan McKay stated the problem we are going to have and he does not know or care what everyone else says, but the Ordinances that were approved like Lodging Tax, annexation, marijuana tax, liquor tax are still being examined by the auditors. Alan McKay stated what we do on this, we should have an okay from them that we can go ahead and do this over what they are investigating right now. Andy Freeman stated apparently Alan McKay knows more about it than he does, because he has not heard anything from the auditors. Andy Freeman asked if he was referring to the City's auditors or the State Auditor. Alan McKay stated he thinks we should have something from Brenda Holt or one of the investigators saying we can move forward on these Ordinances because nothing has been codified that was approved before. Alan McKay stated the last five years that he has been here, anything approved is not a codified ordinance. Andy Freeman but the same thing was approved at the last meeting. Alan McKay stated that is what research is for. Andy Freeman read the Ordinance aloud. Alan McKay stated you think that approving this Ordinance covers up everything that has been done before. Andy Freeman stated he did not know because he is not an attorney. Andy Freeman stated if you have been in touch with the Brenda Holt at the State Auditor's Office because he has not. Alan McKay stated yes, he has. Alan McKay stated with our stuff is not up to date including the stuff before. Alan McKay stated none of the Ordinances was good when they were done. Alan McKay stated that is where we are going to owe a lot of money if something happens. Alan McKay stated this needs to be cleared up. Andy Freeman stated he has been working on it for six months but everybody has a different opinion on it. Alan McKay stated that is his opinion on the matter. Andy Freeman stated he is not an attorney, but he is basing this on what our attorney is telling us and his communications with OMAG. Alan McKay asked if it was OMAG or OML. Andy Freeman stated OMAG, our insurance carrier, who has legal counseling to assist our attorney. Alan McKay asked if we had a letter from OMAG saying that if the Council approves this then they are not liable for anything. Andy Freeman stated he does not think any attorney will give you that, but he does not know. Andy Freeman stated Les has all the paperwork where he has communicated with OMAG. Alan McKay asked if he had a copy of that. Andy Freeman stated no, I assume our attorney does. Alan McKay stated he did not think everybody realizes the liability of it, but they can do what they want to. Andy Freeman stated the titles and summaries included are what you asked for. Alan McKay stated when I called and talked to you, that is a lie. Andy Freeman stated you said it needed to be published with titles and summaries. Alan

McKay stated he said it could be published as title and did not have to be complete. Andy Freeman stated first of all he did not lie, when you said it needed to be published with titles and summaries that is when he called Les and that is what he put in the ordinance. Alan McKay stated he told him that every Councilmember should have a letter from Les saying that they are not liable. Andy Freeman stated he passed that on to Les, but he cannot make him write a letter saying you are good. Alan McKay stated he is the City Attorney. Andy Freeman stated he is hired by the Council and he does not have control of him. Alan McKay stated he never heard from him at all. Andy Freeman stated he has talked to him several times. Alan McKay stated that does not mean the Council has. Andy Freeman stated you can call him anytime, he works for the City. Alan McKay stated he was told the City Attorney would call him. Andy Freeman stated he told him and he said he thinks he knows what you wanted. Alan McKay stated he is not going to be liable for what has happened in the past until it is cleared through our taxes and our problems up there. Andy Freeman stated he will have to contact Cindy Bird because y'all have talked to them, but he does not know what was discussed. Derrick Stone stated you are saying y'all like I am included in that and he has not talked to anyone. Andy Freeman stated when he says y'all he is referring to the Council as Mr. McKay has talked to the State Auditor. Andy Freeman stated no one has called us or asked for anything, so he will need to call the State Auditor to see what was discussed so we can get it cleared up. Andy Freeman stated it is his understanding the Attorney General has been contacted so he will call them both and set up a meeting. Andy Freeman stated through this whole thing there has been a problem of everyone has an opinion about the matter but no one wants to tell exactly what it is, attorney wise or anything. Andy Freeman stated it seems everything the City Attorney does is wrong based on what everybody says. Alan McKay stated well that is close. Andy Freeman stated he will try to schedule a meeting with the State Auditor and the Attorney General to see what it is that we are supposedly doing wrong and what we can do to fix it. Alan McKay stated if you will talk to the auditor we have he will give you what you need. Andy Freeman stated he only audits financials and processes and does not give management advice. Darrell Cole asked what they are supposed to do. Andy Freeman stated this is the same Ordinance that was drafted by Municipal Code Management, that put our codes together and the only thing Les did was add the titles and the summary into the drafted Ordinance. Andy Freeman stated other than that, it is the same Ordinance that was approved at the March meeting. Darrell Cole stated and we approved it in March. Andy Freeman replied yes, the only thing different is the titles were no in it. Kathy John stated she is confused. Kathy John stated she called Andy after the last meeting to get clarification of what this said. Kathy John said she was told it was to approve the Code book from the Code Management. Andy Freeman stated when I say code book I mean the Code of Ordinances. Kathy John stated the issue is according to Brenda Holt, who she has recorded, the ordinances that have been passed are not valid because they were not published. Kathy John stated State Law says they must be published. Darrell Cole stated what we are trying to do is publish them. Kathy John stated they were not published when they were passed so they are not enforceable, like the Lodging Tax, marijuana tax, etc. Kathy John stated Mrs. Holt had a meeting in Wynnewood where this issue came up. Kathy John stated in Wynnewood they went back to 2017, and 11 of the 12 Ordinances were not valid and enforceable because they were not published. Kathy John stated she thinks the issue is the Ordinance the Council is passing trying

to say that it will make all these ordinances valid even though they were never published. Kathy John stated she did not think they will according to Mrs. Holt. Kathy John stated that is why you need to clear it up with the State Auditor and the Attorney General to make sure that will fix those. Kathy John stated there are a whole bunch of ordinances that were not published because she went back to 2003 and compared it to the ones Andy sent her. Alan McKay stated his point is that people could come back tomorrow and ruin the City. Gary Mensch stated they could sue you. Kathy John stated the issue is whether they are valid if you are saying this ordinance will take care of the ordinances that were not published before. Kathy John stated that is the question that needs to be answered to make sure we do not have to pay back all that money. Kathy John stated if they are not valid in Wynnewood, they are not going to be valid here. Andy Freeman stated he wants it to be fixed more than anybody. Alan McKay stated he wants it so the ordinances can be enforced. Andy Freeman stated he wants it to be fixed. Alan McKay stated the City Auditor can not give you legal advice but he can tell you the areas we were insufficient in will come back to bite us if it comes back and that needs to be cleared up before we move on. Andy Freeman stated we have discussed this with him and he refers us to our City Attorney. Andy Freeman stated he can only attest that they were not codified. Alan McKay stated some from 1986 and some 2003. Andy Freeman stated he is not going to give us legal advice or how to fix it. Andy Freeman stated he will not give us management advice because we have asked on different things and he refers us to our attorney. Andy Freeman stated he can call our auditor and ask, but I do not think he will give us an opinion. Darrell Cole asked who will. Andy Freeman stated what he has brought before Council was what was drafted by Municipal Code Management. Derrick Stone asked if they knew about the codes from before. Andy Freeman stated they just recodified it and stated that everything that was prior that is not in this new code book is repealed and whatever is included in this book is adopted. Andy Freeman stated then we turn around and publish the Ordinance. Kathy John stated they do not know that the ones in the past were not published and so they are not enforceable. Derrick Stone stated if we pass this and get in a lawsuit, according to the OML Handbook, all the Council can be liable to repay the money plus court costs and attorney fees. Derrick Stone stated until we know 100% that we are good in approving this then we should table this. Andy Freeman asked what attorney opinion do you want it from. Alan McKay stated he personally does not want it from our attorney, but would prefer it from Brenda Holt. Alan McKay stated she is the one that did the one in Wynnewood and she is the one who told them that they are liable for their Ordinances and they are liable for a bunch of stuff and there are charges coming down over there over the way the handled things. Kathy John stated 11 of 12 were not valid because they were not published. Alan McKay agreed. Kathy John stated State Law says ordinances say they must be published within 15 days of passage. Alan McKay stated he is not saying it is Andy's fault because this goes way back. Kathy John stated this goes way back that they have not been published. Andy Freeman stated it all comes on his shoulders no matter what. Alan McKay stated everyone knows where it should have started. Kathy John discussed the most recent ordinances that were not published, including annexations which sales tax would include collections from Tractor Supply. Alan McKay asked if there has been any fall out over the penal codes. Alan McKay stated it is done and ready to go. Andy Freeman stated we have had three people contest. Andy Freeman stated one still owed money and the other two were reimbursed. Alan McKay stated his

concern is the fallout which is why we need to know for sure. Darrell Cole stated it sounds like we still have a lot of questions to answer. Kathy John suggested if it is tabled, you should get an opinion from the State Auditor's Office that it will take care of the ones that were never published after they were passed. Alan McKay stated the only name he knows at the State Auditor is Brenda Holt, but he does not know who you talk to. Kathy John stated Brenda or Cindy Bird could tell you. Kathy John stated just so it does not come back. Darrell Cole asked how many issues are we talking about. Alan McKay stated a lot. Ryan Peters stated he is assuming Kathy is referring to the recent ones that have been passed. Kathy John stated she compared what was published from the 2003 book to now. Kathy John stated she compared them to what has been published in the newspaper. Kathy John stated if the ordinances relating to sales tax and licensing fees are not valid and the City must pay all of those back that could be a huge blow to the City. Kathy John stated she went through them because that is what the law says. Kathy John stated she could not find any that had been published since 2003. Kathy John stated the penal codes were published so she thinks they are valid. Andy Freeman asked if that would not be covered under this ordinance. Kathy John stated no that would not cover that. Andy Freeman stated if they are in the book and you adopt the book and enact it. Kathy John stated you cannot adopt the book because the company did not know they were not valid ordinances because they were not published. Kathy John asked if he had told them that. Andy Freeman stated he has been talking to them for months. Kathy John stated they would not have put them in there if they had known they were not published. Kathy John stated she does not want us to be in the same boat as Wynnewood. Andy Freeman stated me either. Ryan Peters stated he knows staff has killed their self-trying to get this all worked so he would like to get it done so we do not have to worry about it anymore. Alan McKay stated he would like them done right so we can enforce them. Ryan Peters stated he understands the opinions, because everyone has an opinion of whether it has been or has not been. Ryan Peters stated we will just have to contact someone that can tell us. Kathy John stated the opinion should be from the State Auditor because they will be the ones to write it up if it is not right. Kathy John stated they will have to say this will take care of it since the ordinances were not published when they were passed. Kathy John stated if the State comes in here to look, they will be looking for the proof of publication and there are none. Andy Freeman asked Kathy John if she had a list. Kathy John stated yes, but she will have to write it down. Kathy John stated she has them back to 2003. Alan McKay stated he has looked through the new one and there is nothing wrong with the way it was done. Ryan Peters stated at some point in time we will have to get an account of them. Kathy John stated she just wants them to be valid so we do not end up like Wynnewood. Andy Freeman stated no one wants it done more than staff. Kathy John stated Brenda Holt told Wynnewood they were not valid because they were not published. Kathy John stated she was the investigating auditor for the Wynnewood audit. Ryan Peters stated he did not think we had any choice but to table it. Ryan Peters stated he know we need and want it done, but maybe we need to research further. Darrell Cole agreed. Ryan Peters stated he know staff is trying to do that. Kathy John stated all you have to do is ask them. Alan McKay stated if you will let the auditors know once he gets the list from Kathy. Ryan Peters suggested calling them to say we have these that were not published and see what their recommendation is. Kathy John stated she

has them all marked and she only went back to 2003 because she did not think they could go back farther than that. Kathy John stated this will need to come from the State Auditor not the City's Auditor because the State will be the one to write you up for it because State Statutes were not followed. Kathy John stated she knows they did publish some ordinances way back because she found where they had been published. Andy Freeman suggested tabling the item and he will see what he can get done.

Motion was made by Alan McKay to table this item.

Seconded by Derrick Stone.

Alan McKay, Derrick Stone, Darrell Cole, Ryan Peters and Dan Gordon each voted aye.

Motion carried by vote.

DISCUSSION AND POSSIBLE ACTION ON A RESOLUTION OF THE CITY OF  
SULPHUR, OKLAHOMA, NOTIFYING THE RESIDENTS OF SAID CITY OF THE  
ADOPTION OF A NEWLY COMPILED "CODE OF ORDINANCES" FOR SAID CITY OF  
SULPHUR, OKLAHOMA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF  
OKLAHOMA:

Andy Freeman stated you will have to table this one too.

Motion was made by Alan McKay to table this item.

Seconded by Derrick Stone.

Alan McKay, Derrick Stone, Darrell Cole, Ryan Peters and Dan Gordon each voted aye.

Motion carried by vote.

ADJOURNMENT:

Motion was made by Ryan Peters to adjourn at 10:26 P.M.

Seconded by Dan Gordon.

Alan McKay, Derrick Stone, Darrell Cole, Ryan Peters and Dan Gordon each voted aye.

Motion carried by vote.

ATTEST:

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SHANNON COUCH, CITY CLERK

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DARRELL COLE, MAYOR

CITY OF SULPHUR  
SPECIAL TRUST MEETING  
PROCEEDINGS OF GOVERNING BOARD  
TUESDAY, APRIL 2, 2024

HELD AT THE  
CITY COMPLEX  
600 WEST BROADWAY  
SULPHUR, OKLAHOMA

Notices were posted at the Sulphur City Complex, the Mary E. Parker Memorial Library and the Murray County Courthouse.

TRUST MEMBERS PRESENT:

Alan McKay, Ward 1  
Derrick Stone, Ward 2  
Darrell Cole, Ward 3  
Ryan Peters, Ward 4  
Dan Gordon, Ward 5

ALSO PRESENT:

Andy Freeman, City Manager  
Shannon Couch, Secretary  
Ginger Cornell, City Treasurer, Absent  
Les Wesberry, Jr., City Attorney, Absent

DISCUSSION AND POSSIBLE ACTION ON QUOTES FOR THE MOTOR REPLACEMENT  
IN THE 2004 INTERNATIONAL ROLL OFF TRUCK:

Andy Freeman stated we looked at the options of the City buying and installing the motor, Holt Truck Center and Foster Repair doing the work. Andy Freeman stated Foster Repair Service did not have the core return on their quote, but when added into their quote made it cheaper than Holt Truck Center. Andy Freeman stated they will also have a two-year warranty just as Holt's quotes. Derrick Stone asked if he was wanting us to switch to Fosters. Andy Freeman stated that is Council's decision. Andy Freeman stated when the core charge is deducted that makes Fosters quote cheaper than Holt's. Ryan Peters stated the quotes appear to be for the same services.

Quotes are as follows:

- |                                   |             |
|-----------------------------------|-------------|
| 1) Holt Truck Centers of Oklahoma | \$35,250.23 |
| 2) Fosters Repair Service LLC     | \$31,235.48 |

Motion was made by Ryan Peters to switch from the using Holt Truck Center to using Fosters Repair Service.  
Seconded by Alan McKay.

Alan McKay, Derrick Stone, Darrell Cole, Ryan Peters and Dan Gordon each voted aye.  
Motion carried by vote.

ADJOURNMENT:

Motion was made by Ryan Peters to adjourn at 10:28 P.M.  
Seconded by Dan Gordon.

Alan McKay, Derrick Stone, Darrell Cole, Ryan Peters and Dan Gordon each voted aye.  
Motion carried by vote.

ATTEST:

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SHANNON COUCH, SECRETARY

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DARRELL COLE, CHAIRMAN