**GROVE CITY COUNCIL**

**REGULAR MEETING**

**TUESDAY, JUNE 15, 2010**

**6:00 PM**

The Grove City Council met in regular session on Tuesday, June 15, 2010 at 6:00 PM with Mayor Gary Trippensee presiding. Members present were Ed Trumbull, Marty Follis, Larry Parham (came into the meeting at 6:05 PM), and Mike Davenport. Also present was City Manager, Bruce Johnson; Attorney, Dave Jones; Assistant City Manager, Debbie Bottoroff; City Treasurer, Lisa Allred; Public Works Director, Jack Bower and City Clerk, Bonnie Buzzard.

Davenport made the motion to approve the minutes of the previous meeting. Seconded by Follis. AYE: Trumbull, Follis, Davenport and Trippensee. NAY: None. Motion carried.

Follis made the motion to approve the purchase order register as amended. Seconded by Trumbull. AYE: Trumbull, Follis, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion with respect to a Memorandum of Understanding by and between the City of Grove, Oklahoma and Grand River Dam Authority. Johnson reported that at the last City Council meeting he gave the Council a report on a new project that the Grand River Dam Authority is proposing for the construction of a ‘Bass Fishing Pavilion’ through the sale of bonds in an estimated amount of $1,000,000 at the following two site locations:

* Martins Landing – Monkey Island
* 16th Street Boat Dock – Grove

Johnson reported that he had visited with Representatives of GRDA, which indicated to him that GRDA is prepared to advance on this project. Therefore, Johnson prepared a Memorandum of Understanding between the City of Grove and the Grand River Dam Authority that authorizes the City to enter into negotiations and discussions regarding a joint venture to construct a tournament fishing facility at the Grove City ramp located at 1007 North 16th Street West on Grand Lake O’ the Cherokees. The M.O.U. further indicates that the City of Grove is proposing to hold a city-wide election for purposes of implementing a hotel/motel tax on or about August 24, 2010, and subject to successful passage of said tax measure, is willing to commit some of the new tax revenue generated by the tax for use in the construction of this facility. Johnson introduced Darrel Townsend of GRDA who addressed the Council, Staff and audience with his projection of this project. Townsend presented to the Council an estimated annual revenues chart for the tournaments held at Grand Lake over a period of approximately nine (9) years. Townsend indicated that GRDA is only able to enter into discussions concerning the project, and that GRDA is unable to make any commitment at this time. Townsend noted that the planned project has not been presented to the GRDA Board for its approval, and once it has been before the Board it would require additional Board approval on the Federal level prior to finalization of this project. The Council discussed this item in detail with the Staff and Townsend, and entertained questions, comments and concerns from the following individuals:

* Judith Read
* Bill Miller

The Council expressed concern with the City of Grove holding a city-wide election on or about August 24, 2010, as indicated in the M.O.U. due to the reasoning that the Delaware County Commissioners are proposing to hold an election on or about the same date for their jail tax revenue proposition. Johnson reported that the Delaware County Commissioners will be meeting on Wednesday of this week to possible set that date of election for either August or November 2010. Johnson indicated that the City Council has a Special City Council meeting scheduled for Monday, June 21st if they wish to table this item for that meeting in order to allow time for the City of see what decision the Delaware County Commissioners make in their meeting on Wednesday. Davenport reported that he would like to see this item table for the Special City Council meeting for Monday. Follis remarked that this M.O.U. is not a binding document between the City of Grove and GRDA, it is just an understanding of what the City of Grove is willing to undertake towards this project. Trumbull made the motion to approve the Memorandum of Understanding between the City of Grove and the Grand River Dam Authority upon deleting of the following:

* 3RD WHEREAS, the City plans to hold a city-wide election for purposes of implementing a hotel/motel tax ~~on or about August 24, 2010~~, and…

Seconded by Follis. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion regarding an Ordinance levying and assessing a Sales Tax of five percent (5%) in addition to present Sales Taxes upon the gross proceeds or gross receipts derived from rents received from occupancy of hotel rooms, providing for use of tax funds; providing for tax rate; providing exemptions; providing tax to be separately designated on bills; providing for operator’s duties; providing for bond requirements; providing for assessment and determination of tax; providing for refunds; providing for notices; providing for remedies exclusive; providing general powers of the City Manager; requiring certificates of registration; making records confidential; providing for criminal penalties; providing for civil remedies; requiring approval of Ordinance by majority of registered voters voting at an election held for such purpose as provided by law; fixing effective dates; providing for severability; and containing other provisions related thereto. Johnson reported that considering the action taken from the Council in regards to the last agenda item pertaining to the city-wide election for August 24th, Johnson indicated that he foresees no real urgency in the Council approving this Ordinance at this time. Johnson added that the Council may elect to table this item at this time, and have it placed upon their agenda for the Monday Special City Council agenda for discussion and / or consideration. Johnson noted that the hotel / motel owners have not had the opportunity to read this draft edition of the hotel/motel Ordinance. The Council and Staff entertained questions, comments and concerns from the following individuals:

* Lou Ann Ford
* Jim Barrett
* Larry Hestand
* Andy Stewart
* Lisa Friden

After much discussion was heard from the Council, Staff and Audience in regards to this item, Trippensee made the motion to table this item for the June 21st Special City Council meeting in order to allow additional time for the hotel/motel owners to research this draft Ordinance for a better understanding. Seconded by Follis. AYE: Trumbull, Follis, Parham, and Trippensee. NAY: Davenport. Motion carried.

Trippensee opened the floor for discussion regarding a Resolution authorizing the calling and holding of an election in the City Of Grove, State Of Oklahoma, for the purpose of submitting to the registered qualified electors of said city the question of approval or rejection of an Ordinance of the city relating to a five percent (5.0%) Excise Tax (Sales Tax), in addition to all present City, County and State Excise Taxes, upon the gross receipts derived from rents received from occupancy of hotel or motel rooms to provide revenues for: tourism and economic development, as more specifically set out in said Ordinance of said City; and containing other provisions relating thereto. No discussion was made from the Council in regards to this item. Therefore, Trumbull made the motion to table this item for the Monday, June 21st Special City Council meeting. Seconded by Follis. AYE: Trumbull, Follis, Parham, and Trippensee. NAY: Davenport. Motion carried.

Trippensee opened the floor for discussion regarding the request from Grove Area Chamber of Commerce for street closing(s) of Grand and Broadway from 4th to 3rd by 6:00 pm on Thursday, June 17th and remain closed to traffic until Saturday, June 19th at approximately 7:00 PM. Lisa Friden – President of the Grove Area Chamber of Commerce addressed the Council to respectfully request the street closings as described for the annual Grovefest event. Friden reported that she has contacted the City Police and Fire Department to inform them of this request, and all other emergency entities. Davenport made the motion to approve the street closing request as presented by the Grove Area Chamber of Commerce for the annual Grovefest event. Seconded by Follis. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion an Ordinance amending Chapter 3 Uses Permitted in Districts and repealing and replacing the Permitted Use Table of the Zoning Regulations upon recommendation from the Planning and Zoning Commission. Bottoroff reported that the Planning and Zoning Board met and denied this Ordinance as presented to them. However, upon review and approval from the P&Z Commission, it was upon recommendation from the City Attorney that the following statement be attached to the end of Section One:

Any use or structure existing prior to the enactment of this Ordinance and made nonconforming solely by reason of the enactment of this Ordinance, shall be exempt from the provisions of Chapter 6, Section 6-1, Paragraph 2.A.(b).

Bottoroff added that this was not a part of the Ordinance that the Planning and Zoning Commission approved. Trippensee made the motion to deny the Ordinance at this time, and send it back before the Planning and Zoning Commission to review for approval upon recommendation to the Mayor and City Council. Seconded by Davenport. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Item # B-8: Discussion regarding the Emergency Clause to the above mentioned ordinance. No action taken.

Trippensee opened the floor for discussion regarding a contract by and between Grand Lake Family YMCA and the City of Grove, Oklahoma. Johnson reported that the YMCA has expressed an interest in utilizing the Grove Municipal Pool for the purpose of swim lessons. Johnson noted that he has respectfully requested Attorney Jones to prepare a City Pool Agreement between the Grand Lake YMCA and the City of Grove. The Council and Staff entertained questions, comments and concerns from the following individuals:

* Judith Read
* Larry Hestand

Trumbull remarked that the letter from Butch Christy – Branch Director of the Grand Lake Family YMCA states that:

“*The YMCA will charge $20.00 per YMCA member and $25.00 per community participant per two week session of swim lessons, and that the Grand Lake Family YMCA will charge $35.00 per month per community participant, and YMCA members will participate free in the water aerobics class*”, and the contract agreement states:

Section 1: YMCA Responsibilities – Paragraph C

“…The YMCA shall charge YMCA members and non-members the same rate for swim lessons and water aerobic classes…”

The Council discussed this contract in detail with the Attorney and Staff. Trumbull made the motion to approve the contract with the amendment that the YMCA will charge $20.00 per YMCA member and $25.00 per community participant per two week session of swim lessons, and that the Grand Lake Family YMCA will charge $35.00 per month per community participant, and YMCA members will participate free in the water aerobics class. Seconded by Follis. AYE: Trumbull and Follis. NAY: Parham, Davenport and Trippensee. Motion failed. Additional discussion was made between the Council, Staff and audience. Parham made the motion to approve the contract between the Grand Lake Family YMCA and the City of Grove as presented. Seconded by Davenport. AYE: Parham, Davenport and Trippensee. NAY: Trumbull and Follis. Motion carried.

Trippensee opened the floor for discussion regarding a Lease Agreement between the City of Grove and Baptist Healthcare of Oklahoma, Inc. d/b/a Integris Grove Hospital. Johnson reported that this lease agreement is for a tract of property located behind the new EMS Facility. Upon the completion of some minor dirt work, the City of Grove will be utilizing it for a practice field for all sports (soccer, football, etc.). Johnson introduced some minor changes in the language terms of the contract. Davenport made the motion to approve the Lease Agreement between the City of Grove and the Baptist Healthcare of Oklahoma d/b/a Integris Grove Hospital. Seconded by Parham. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion regarding acknowledgement of In-Kind Contribution by and between The Grove Healthcare Trust Authority and Integris Grove General Hospital Foundation. Johnson reported that the Integris Grove General Hospital has respectfully requested the following as per Addendum #2 for the new hospital water, sewer and gas service cost:

* **3-2” water services**
	+ Maintenance building $ 4,983.00
	+ 2 – sprinkler meters = $4,983.00 each (1 paid by contractor) $ 4,983.00
* 2-6” water meters 1-6” water service
	+ 6” water service $11,400.00
	+ 6” water meter & accessories= $6,717 + 20%=$8,060.40 ea. $16,120.80

Total Water Service: $37,486.80

* **2 – sewer services**
	+ 1 – 6” sewer connection – main hospital $11,525.00
	+ 1 – 2” sewer connection – maintenance building $ 3,525.00

Total Sewer Services: $15,050.00

* **2 – gas services**
	+ 1 – 2” S service – main hospital $ 3,400.00
		- extra cost of larger meter & materials $9,471.72 + 20% $11,366.06
* 1 – 1” service maintenance building $ 1,373.00
	+ - * extra cost of larger meter & materials $278.31 + 20% $ 344.77

Total Gas Services: $16,483.83

 Grand Total of all three (3) services: **$69,020.63**

Johnson anticipated having this addendum amount be tapped from the proposed $140,000 balance as indicated above from the December 2009 contribution leaving a requested balance amount of $70,979.37. Parham made the motion to approve the acknowledgement of In-Kind Contribution by and between The Grove Healthcare Trust Authority and Integris Grove General Hospital Foundation. Seconded by Trumbull. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion regarding the request from One Stop Real Estate, Inc. for correction of legal description of the property located at 33 West 4th Street, Grove, Oklahoma, Delaware County. Mr. Ben Whitney – One Stop Real Estate, Inc. addressed the Council to report that he is closing on the purchasing of the property located at 33 West 4th Street. Upon the process of bringing the abstract up to date, Attorney Richard James determined that there are several requirements and corrections needed in order to perfect the legal description of this property. The title correction requires that the City of Grove correct the property line between Lot 18 and Lot 19 of Block 26, the South 2.8 feet of the West 64.73 feet of Lot 18 Block 26 of the Original Town of Grove, Oklahoma (which is owned by the City of Grove). The aforementioned property line is erroneous and needs to be corrected. Therefore, we respectfully request that this property line be corrected to show that South 2.8 feet be deeded to correct the 2.5 feet that was incorrectly deeded, so that the sale of this property can be completed. Attorney Dave Jones reported that he has researched the request from Whitney to simply execute a quitclaim deed to such 2.8 feet only .3 feet more than previously conveyed. Although only .3 feet (less than 4”) is at issue, there are strict constitutional prohibitions against the City of Grove giving away public property to private individuals. Specifically, Article X § 14 of the Oklahoma Constitution prohibits a municipality from merely gifting public property to private individuals or corporations absent consideration in return. Such consideration may be in the form of such individuals providing a proper public function or purpose. In the instant matter, Jones expressed concern that the conveyance of public property (whether 4” or 4 miles) would run afoul of Constitutional and statutory protections which prohibit the gift of public money or property to private individuals. The Council discussed this matter in detail with the Attorney and Staff, and after much consideration Parham made the motion to approve the request from Ben Whitney dba One Stop Real Estate Inc. to convey the described property at the current value rate as follows:

Land size is 23.05 feet by 64.73 feet for a total of 1,492.03 sq ft

Delaware county appraisers’ value of this land is $9,750.

Therefore the value of this land is $6.54 per sq ft

Originally land deeded by city was - 2.5 ft

Correction required by survey - 2.8 ft

Land adjustment required for correct legal -+ 0.3 ft

.3 ft time’s length of 64.73 ft is 19.42 sq ft.

At $6.54 per sq ft the payment by the current owners to the City of Grove for this land is $127.01.

Seconded by Follis. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Parham made the motion to approve a Resolution amending the 2009-2010 Fiscal Year budget. Seconded by Trippensee. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trumbull made the motion to approve the denial of Claim #29107-KM by Richard C. Culling upon recommendation from the Oklahoma Municipal Assurance Group. Seconded by Parham. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trumbull made the motion to approve the submittal of N.I.P.I.A.S. update to the Oklahoma Aeronautics Commission pertaining to the Grove Municipal Airport. Seconded by Parham. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Davenport made the motion to approve the acceptance of a Community Development Block Grant and approving Contract No. 14127-CDBG10 with the Oklahoma Department of Commerce in the amount of $25,000.00 for Storm Water Improvements within the City of Grove. Seconded by Follis. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

Trippensee opened the floor for discussion regarding an agreement for City Attorney services with Logan and Lowry, LLC. Attorney Jones reported that the City of Grove current contract with Logan & Lowry, LLP will expire on June 30, 2010. Logan & Lowry has been asked to present a renewal contract for the following three services:

1. Grove City Attorney
2. Grove City Prosecutor, and
3. Attorney for Public Trusts naming the City of Grove as beneficiary

Jones noted that Logan & Lowry, LLP will commit up to thirty (30) hours of attorney time per week in fulfilling the roles described above. Any time commitments in excess of thirty (30) hours per week will be billed at our normal hourly rate. However, if we are assigned a project which we believe will take more than the budgeted thirty (30) hours per week; we will call and get preauthorization before incurring time over the thirty (30) hour budgeted maximum. We will agree to perform that service for the $9,000 flat fee and not bill separately for pursuing such damage claims, unless litigation proves necessary. The Nine Thousand dollars ($9.000) flat fee will not include litigation work or services as bond counsel. Those projects will be separately negotiated as they arise. Parham strongly expressed his concerns against this agreement, due to the fact of having to pay $9,000 per month for these services. Parham felt like the City of Grove could possible find other sources for a lesser amount of monthly rate. The Council discussed this in detail with the Attorney and Staff. Parham made the motion to deny the contract agreement as presented by Logan & Lowry, and to continue this service under their current contract rate. Seconded by Davenport. AYE: Parham, Davenport and Trippensee. NAY: Trumbull and Follis. Motion carried.

**CITY MANAGERS REPORT**:

Discussion with respect to US Highway 59 Overlay Project – Johnson reported that the Oklahoma Department of Transportation has completed this project from Leisure to Broadway. They will continue onto 3rd and Main, turn South onto Main all the way down to approximately 13th Street.

Discussion with respect to Fiscal Year End Report – Johnson reported to the Council on the following projects that were completed during this fiscal year:

* $1.4 million – Grove Municipal Pool
* $1.9 million – Waste Water Treatment Plant
* $600 thousand – Airport Renovation
* $250 thousand – Street Overlay / Patching program
* $150 thousand – 911 Mapping System
* $200 thousand – Integris Grove General Hospital Pledge (3 of 5)
* $100 thousand – Water Tower Renovation
* $200 thousand – 4th Street Drainage Problem

 **WARD REPORTS**:

Parham reported that the Grove Municipal Pool had a total of 690 visitors on Saturday, and Sunday is unknown. The weekend concession and admission totaled approximately $1,600.

Trippensee opened the floor for a motion to recess into Executive Session for the purpose of discussing negotiations concerning employees and representatives of employees groups as authorized by Title 25 O.S. § 307.B(2) – Fraternal Order Of Police, Grand Lake Lodge #171. Johnson reported that there will be no need for the Council to recess into Executive Session as announced. Johnson noted that the negotiation concerns from the previous Executive Session regarding the following described conditions have all been met and agreed upon between the City and Fraternal Order of Police, Grand lake Lodge #171:

* Seniority
* Promotion Testing
* Tuition Reimbursement
* Overtime Compensation Calculation

Davenport made the motion to approve the contract with the Fraternal Order of Police, Grand Lake Lodge #171 as amended. Seconded by Follis. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.

At 8:45 PM Follis made the motion to adjourn. Seconded by Parham. AYE: Trumbull, Follis, Parham, Davenport and Trippensee. NAY: None. Motion carried.