

**MINUTES OF THE CLINTON CITY COUNCIL
SEPTEMBER 3, 2013**

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, September 3, 2013 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 Thursday, August 29, 2013.

Chairman Seth Adams called the meeting to order with the following present.

MAYOR: Seth Adams

COUNCIL: Don Rodolph, Lucas Martinez, Wheeler Lowry, Jason Hulin

CITY CLERK: Lisa Anders

CITY TREASURER: Debra Blanchard

DEPUTY CLERK: Absent

CITY ATTORNEY: Ryan Meacham

NEWS MEDIA: Mike Smith and Gerald Green

OTHERS: David Crabtree, Jeromy Brush, Kris Wermey, Gene McCullough, Julie Menge, Amber Cox, Stephen Jones, Heather Waltrip, J.J. Thompson, Mary Helen Jones, Curtis Maloy and others.

Dan Day of the Ministerial Alliance opened the meeting with prayer and Trustee Lucas Martinez led the Pledge of Allegiance.

AGENDA ITEM NO. 3: CONSENT AGENDA

- A. Minutes of Regular Meeting of August 20, 2013
- B. Consider Claims

Moved by Councilman Lowry and second by Councilman Martinez that Consent Agenda Item No. 3 (a-b) be approved.

Mayor put the motion to a roll call vote:

Aye: Lowry, Martinez, Hulin, Rodolph, Adams

Nay: None

Mayor declared the motion carried.

AGENDA ITEM NO. 4 ACTION ITEMS

4A. CONSIDER REQUEST OF STREET CLOSING, PARADES AND PERMIT WAIVERS FOR 2013-2014

City Manager Steve Hewitt explained that the list of street closings, parades and permit waivers are compiled and presented to the Council for consideration annually.

Motion was made by Councilman Hulin and seconded by Councilman Lowry to approve the list of street closings, parades and permit waivers as presented.

Mayor put the motion to a roll call vote:

Aye:, Hulin, Lowry, Martinez, Rodolph, Adams
Nay: None

Mayor declared the motion carried.

B. CONSIDER ORDINANCE NO. 949 AMENDING THE DEFINITION OF OWNER IN 6-3-1 OF THE CLINTON CITY CODE AND AMENDING AND CLARIFYING THE PROHIBITED ACTS ASSOCIATED WITH NUISANCE CATS

City Manager Steve Hewitt said he had worked with the City Attorney regarding an ordinance for a feral cat program. He said the ordinance would allow the City to do its job and allow Ms. Cox to operation her program. He said the calls would be managed and contacts could be made regarding the cats being picked up or processed through the regular procedure.

Motion was made by Councilman Martinez and seconded by Councilman Hulin to approve Ordinance No. 949 regarding amending the definition of owner in 6-3-1 of the Clinton City Code and amending and clarifying the prohibited acts associated with nuisance cats.

Mayor put the motion to a roll call vote:

Aye: Martinez, Hulin, Rodolph, Lowry, Adams
Nay: None

Mayor declared the motion carried.

C.CONSIDER ORDINANCE NO. 950 AMENDING AND MODIFYING ORDINANCE NO. 821 REGARDING THE OKLAHOMA NATURAL GAS FRANCHISE

City Manager Steve Hewitt explained that the current agreement with Oklahoma Natural Gas is not written so that ONG can be in compliance. He said the changes to the agreement would require a municipal election so the adjustment could be made to the franchise agreement. He recommended moving forward with the election.

Motion was made by Councilman Lowry and seconded by Councilman Hulin to adopt Ordinance No. 950 amending and modifying Ordinance No. 821 regarding the Oklahoma Natural Gas Franchise.

Mayor put the motion to a roll call vote:

Aye: Lowry, Hulin, Rodolph, Martinez, Adams
Nay: None

Mayor declared the motion carried.

D.CONSIDER RESOLUTION NO. 820 REGARDING THE OKLAHOMA NATURAL GAS FRANCHISE

Motion was made by Councilman Rodolph and seconded by Councilman Hulin to approve Resolution No. 820 authorizing the Mayor to issue an election proclamation calling for a ballot item on the November 2013 General Election.

Mayor put the motion to a roll call vote:

Aye: Rodolph, Hulin, Lowry, Martinez, Adams

Nay: None

Mayor declared the motion carried.

4E. CONSIDER ELECTION PROCLAMATION REGARDING OKLAHOMA NATURAL GAS FRANCHISE

Motion was made by Councilman Hulin and seconded by Councilman Lowry to approve the Election Proclamation regarding a municipal election in November 2013 regarding the Oklahoma Natural Gas Franchise agreement.

Mayor put the motion to a roll call vote:

Aye: Hulin, Lowry, Martinez, Rodolph, Adams

Nay: None

Mayor declared the motion carried.

AGENDA ITEM NO 5.COUNCIL REPORT

Councilman Hulin reported that the railroad crossing at 13th / Dunn is very rough. He asked that Farmrail be notified before next year's street overlay project is organized.

AGENDA ITEM NO. 6: MANAGER'S REPORT

City Manager Steve Hewitt presented a preliminary plat prepared by Joe Ridley for the industrial park property. He said that Ridley would be at the next meeting and asked that Council members review the plat and can ask questions of Ridley at that time.

Councilman Rodolph asked how many tracts have already been sold.

City Manager Hewitt said that two tracts have already been sold and will remain unplatted. He said that he would enlarge the plat copy and e-mail them to Council members.

A. Municipal Swimming Pool Report

Kris Wermey reported that \$22,000 had been collected at the municipal swimming pool for admission this summer. He said the general admissions average per day was 200. He reported that \$9,000 was collected from swimming lessons, aerobics classes and other events. He said the cost of operations was \$118,000.00 for the 2013 season and of that approximately \$20,000 was due to the age of the pool.

Wermey said the pool had three pumps and each year one of the pumps is sent off for servicing. He said parts are no longer available for repairs to the pumps.

Kris Wermey reported that there are 777 active memberships at Acme Brick Park and there are an average of 775 vehicles that travel into the Acme facility per day.

City Manager Steve Hewitt introduced the news employee at Acme Brick Park, Becky Murphy. She reported on a new program she is working on. She said that next week she would have confirmation on a basketball camp scheduled for October 19th and 20th with the Thunder Basketball team. She said that 80

campers could attend.

AGENDA ITEM NO. 7 : AUDIENCE PARTICIPATION

Amber Cox expressed her appreciation to the Council regarding the feral cat ordinance and said she looks forward to working with the City.

AGENDA ITEM NO. 8: ADJOURNMENT

Moved by Councilman Rodolph and seconded by Councilman Hulin to adjourn the meeting.

Mayor put the motion to a roll call vote:

Aye: Rodolph, Hulin, Lowry, Martinez, Adams

Nay: None

Mayor declared the meeting adjourned at 6:00 p.m.

ORDINANCE NO. 949

**AN ORDINANCE AMENDING THE
DEFINITION OF OWNER IN 6-3-1 OF
THE CLINTON CITY CODE AND
AMENDING AND CLARIFYING THE
PROHIBITED ACTS ASSOCIATED
WITH NUISANCE CATS**

WHEREAS, The City of Clinton has in place, Ordinances which regulate Animal Control.

WHEREAS, The City of Clinton has in place, Ordinances which regulate nuisance cats.

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

- I. The definition of "OWNER" in 6-3-1 shall be amended to read as follows:

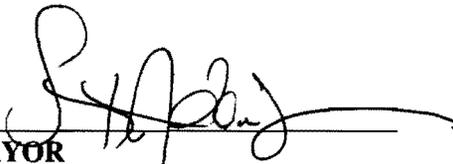
OWNER: Any person:

- A. Possessing legal title to any animal, or
- B. Possessing no legal title, who keeps or harbors the animal for more than 10 days.

- II. 6-3B-4(A) shall be amended to read as follows:

- A. Prohibited: It shall be unlawful for any person to knowingly harbor for more than 10 days, any cat which is a nuisance under this article.

PASSED AND DULY ADOPTED by the Council of the City of Clinton, Oklahoma this 3 day of September, 2013.


MAYOR

ATTEST:


CITY CLERK

(SEAL)

RESOLUTION NO. 820

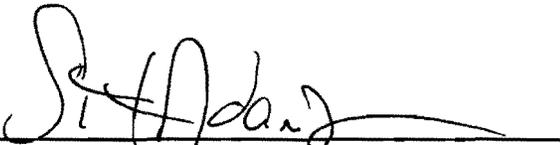
A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF CLINTON, OKLAHOMA, A MUNICIPAL CORPORATION, TO ISSUE AN ELECTION PROCLAMATION CALLING FOR A BALLOT ITEM ON THE NOVEMBER 2013 GENERAL ELECTION IN THE CITY OF CLINTON

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLINTON, OKLAHOMA:

That the City Council of the City of Clinton, Oklahoma, a municipal corporation, in open session at its regularly scheduled Council Meeting on the 3 day of September, 2013, hereby authorizes the Mayor of the City of Clinton, Oklahoma, to issue and sign a Proclamation calling for an Election on November 12, 2013, for the consideration of the following question:

SHALL ORDINANCE NO. 950, AMENDING AND MODIFYING THE PREVIOUS GRANT BY ORDINANCE NO. 821 OF A FRANCHISE TO OKLAHOMA NATURAL GAS COMPANY, BE APPROVED?

PASSED, APPROVED AND ADOPTED this 3 day of September, 2013.



Mayor

(SEAL)

ATTEST:



City Clerk

APPROVED AS TO FORM AND LEGALITY
THIS 3 DAY OF September, 2013



City Attorney

ORDINANCE NO. 950

AN ORDINANCE AMENDING AND MODIFYING ORDINANCE NO. 821, PROVIDING FOR AN AMENDMENT OF THE FRANCHISE GRANTED BY THE CITY OF CLINTON, OKLAHOMA TO OKLAHOMA NATURAL GAS COMPANY, A DIVISION OF ONEOK, INC., TO ALLOW THE CITY OF CLINTON DISCRETION IN THE COLLECTION OF VOLUMETRIC RATE FEES FOR TRANSPORT GAS CUSTOMERS, AND PROVIDING ADDITIONAL AMENDMENTS TO IMPLEMENT SUCH AMENDMENT; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR THE RETROACTIVE APPLICATION OF THIS AMENDMENT; PROVIDING FOR THE SEVERABILITY OF PROVISIONS; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED ELECTORS OF THE CITY; AND PROVIDING FOR AN ACCEPTANCE OF SUCH AMENDMENT BY OKLAHOMA NATURAL GAS COMPANY, AND AN OPERATIVE DATE THEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CLINTON, OKLAHOMA:

SECTION 1. DEFINITIONS

As used in this ordinance, the capitalized words and phrases shall have the same meanings as set forth in Ordinance No. 821, passed and approved on June 14, 1999 and subsequently approved by the electors of the City of Clinton, Oklahoma, except as expressly amended hereby.

SECTION 2. AMENDMENT OF FRANCHISE GRANT

The grant to the Grantee by the Grantor of the Franchise represented by Ordinance No. 821 is hereby amended and modified in the following particulars:

A. Section 1 of Ordinance No. 821 is hereby amended, to replace the specified definitions set forth in the subsections identified below with the following definitions:

- L. "Settlement Prices" shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX), or any successor

exchange or index, on the 15th day of each month as published daily in *The Wall Street Journal* (or a similar national publication in which such prices are regularly published) on the following business day or the next day in which a Settlement Price is published for each month of the twelve-month period immediately following.

- N. "Volumetric Rate" shall mean Three Percent (3%) of the Calculated Value of Transport Gas as determined by Grantee in accordance with the provisions of this definition. The Volumetric Rate Calculation Form incorporated herein as Exhibit "A" shall be used for the calculation of the Volumetric Rate; provided, that if the Grantor enacts an ordinance as described in Section 3.B.2., the three percent (3%) multiplier labeled "3% Bundled Franchise Fee Rate" set forth on "Exhibit A" shall be completed by Grantee and filed with the City Clerk of the City annually by each July following Grantee's acceptance of this franchise. The calculation filed by Grantee on July 31 in each year following the year of acceptance of this franchise shall be effective on January 1 of the next succeeding calendar year through and including December 31 of such calendar year. The calculation shall be subject to review by the City for mathematical correctness, and the City shall notify Grantee in writing within forty-five (45) calendar days after submission if the City deems such calculation to be incorrect. The volumetric rate calculation shall be based on the average of the average Settlement Prices for the twelve-month period beginning in July of the immediately preceding year and ending in June immediately preceding the July 31 calculation. The average Settlement Prices for each month during said twelve-month period shall be calculated by adding the Settlement Prices for such month and the previous eleven (11) months as published and dividing by twelve. The average Settlement Prices for each of the twelve months shall then be summed and divided by twelve to determine the average of the average Settlement Prices, and the quotient shall then be multiplied by three percent (3%) to obtain the Volumetric Rate; provided, in the event the then-current average of the average Settlement Prices, as calculated above and entered on the Volumetric Rate Calculation Form attached as Exhibit A (see line designated on Exhibit "A" as "settlement price average"), exceeds the Index price for ONEOK Gas Transportation,

L.L.C., that is listed in the issue of Platt's "Inside FERC's Gas Market Report" published on the first business day of the respective month ("Platt's Index price"), then the Platt's Index price shall be used to calculate the Volumetric Rate for that delivery month in lieu of the average of the average Settlement Prices entered on the Volumetric Rate Calculation Form (Exhibit "A") (i.e., for that respective delivery month, the Volumetric Rate shall be determined by taking the Platt's Index price and multiplying that price by 3% or the then applicable increased percentage determined in the same manner set out in Subsection 11.A(2) of this franchise).

Attached to this ordinance as "Exhibit 'A'" is the Volumetric Rate Calculation Form referred to herein, which shall be deemed to be appended to Ordinance No. 821 as amended by this ordinance.

B. Section 1 of Ordinance No. 821 is hereby further amended to add the following definitions:

- O. "Calculated Value" shall mean the total Transport Gas measured in Dekatherms (Dth), delivered to a Transport Gas Consumer for a billing period, multiplied by the Settlement Price to arrive at the value of the Transport Gas transported by Grantee for that Transport Gas Consumer.
- P. "Dekatherm" or "Dth" shall mean a measurement of natural gas equal to 1,000,000 British Thermal Units ("BTU"), or 1 MMBTU, on a dry basis. BTU shall be computed on a temperature base of 60 degrees Fahrenheit and a pressure base of 14.73 PSIA.
- Q. "Transport Gas Consumer" shall mean a Consumer which uses Transport Gas.
- R. "Volumetric Rate Fee" or "Volumetric Rate Fees" shall mean the fee or fees based on the Volumetric Rate to be collected and remitted to the City by Grantee as required by Section 11.A(2) of this franchise upon the enactment of an ordinance as described in Section 3.B.2.

C. Section 3.B.1. of Ordinance No. 821 is repealed retroactively.

D. Section 3.B.2. of Ordinance No. 821 is replaced by the following:

After the operative date of this ordinance, Grantor shall have the elective right, by enacting a separate ordinance, to require compensation to be paid to Grantor by Transport Gas Consumers and other parties using Grantee's Distribution System for the Distribution of Transport Gas. If such separate ordinance is enacted, then Grantee agrees to act as agent for Grantor to collect such sums for Grantor and to submit such payments in the manner provided in Section 11.

E. Section 11.A(2) of Ordinance No. 821 is replaced by the following:

(2) In the event that Grantor, pursuant to Section 3.B.2. of this ordinance, requires Transport Gas Consumers or other parties using Grantee's Distribution System for the Distribution of Transport Gas to pay compensation to Grantor for use of the public ways in connection the sale, transportation or distribution of Transport Gas, said compensation shall be calculated as a Volumetric Rate Fee for such Transport Gas, which shall be the amount equal to the then current Volumetric Rate multiplied by the number of Dth of Transport Gas reported or distributed through Grantee's facilities within the corporate city limits of the City by grantee or by any third-party to transport customers for consumption within the city. Grantee will in that event collect such Volumetric Rate Fees from Transport Gas Consumers and remit the same to Grantor.

F. Section 11 of Ordinance No. 821 is further amended to add the following Subsection 11.F.:

F. The Mayor or his designee may waive the Volumetric Rate Fee or any part thereof due from a Transport Gas Consumer, but such waiver shall only be granted if:

(1) The Transport Gas Consumer could otherwise obtain its energy needs from another source that would not be subject to the fees imposed in Subsection 11.A(2) above and sufficient evidence is produced by the Consumer so as to substantiate such alternative source; and

- (2) Such alternative source, including all other fees, would be less than the cost of utilizing Grantee to furnish and transport the gas or transport alone, as the case may be.

SECTION 3. RETROACTIVE APPLICATION OF AMENDMENT

This ordinance and the amendments of Ordinance No. 821 described in Section 2 herein shall be retroactive and shall apply to all Transport Gas Consumers that fell under the auspices of Ordinance No. 821, in order to ensure the fair and uniform application thereof.

SECTION 4. SEVERABILITY

If any clause, sentence, or section of this ordinance shall be held to be invalid, it shall be severed herefrom and shall not affect the remaining portions of this ordinance.

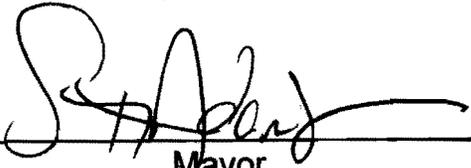
SECTION 5. ELECTION REQUIRED

This ordinance shall not become effective until it shall be approved by a majority of the qualified electors voting thereon residing within the corporate limits of the City of Clinton at an election called for that purpose, and a special election is hereby called for the purpose of submitting to the qualified electors residing in said City of Clinton, the question of approval or disapproval of this ordinance, which election shall be held on November 12, 2013, between the hours prescribed by law. The Mayor of the City of Clinton is hereby authorized and directed to issue a proper and lawful call and proclamation of such special election to be held on such date as aforesaid for said purposes, and the executive officers of the City of Clinton are hereby directed to give due and lawful notice of such election and submission of said question to the electors of the City of Clinton, prescribing in said proclamation and notice of the proposition to be voted upon, the time of opening and closing the polls, the number and location of the polling places and the names of the precinct election officers who shall conduct said election, and all other things prescribed by law, or the ordinances of the City of Clinton, Oklahoma.

SECTION 6. ACCEPTANCE AND EFFECTIVE DATE

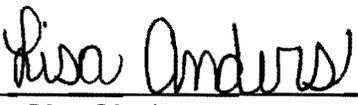
In the event this ordinance is approved by a majority vote of said electors voting thereon at said election, the Grantee shall file with the City Clerk of the City of Clinton, within ten (10) days after the official canvass of the votes and declaration by the City Commission of the results thereof, a written acceptance hereof. This ordinance shall become operative on the date of filing of such acceptance.

PASSED and approved this 3 day of September, 2013.



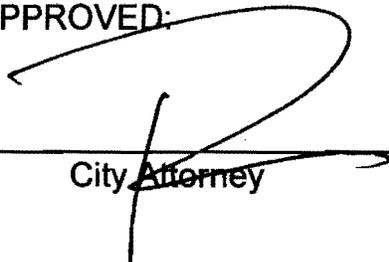
Mayor

ATTEST:



City Clerk

APPROVED:



City Attorney