

The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

DURANT DEVELOPMENT AUTHORITY

6:00 PM

**Roscoe J. Hatfield
Council Chambers,
300 West Evergreen,
Durant, Oklahoma**

April 12, 2022

AGENDA

CALL TO ORDER

ROLL CALL

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of January 11, 2022

2. Consider Items Removed from Consent

3. Information Items

4. Administration

- a. Discussion, Consideration, and Possible Action on the Administration of the 5/8 Sales Tax for the Independent School District No. 72 (Durant Public Schools) High School Project.

5. New Business

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 9th day of November, 2021 and that an agenda of said meeting was posted at the place of such meeting at 3:45 p.m. on the 7th day of April, 2022.

A handwritten signature in cursive script that reads "Cynthia J. Price".

Cynthia J. Price, City of Durant



The City of Durant

Memorandum

Date: 4/12/2022
To: Mayor and City Council
From: Cynthia Price, City Clerk
Re: Consider Approval of Regular Meeting Minutes of January 11, 2022

Consider Approval of Regular Meeting Minutes of January 11, 2022

Council Information / Action Requested

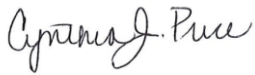
Approval of Regular Meeting Minutes of January 11, 2022

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

1. Durant Development Authority Minutes 01112022 cjp

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 9th day of November, 2021 and that an agenda of said meeting was posted at the place of such meeting at 2:00 p.m. on the 7th day of January, 2022.



Cynthia J. Price, City of Durant

MINUTES OF THE MEETING OF DURANT DEVELOPMENT AUTHORITY

January 11, 2022 AT 6:00 PM

**Roscoe J. Hatfield
Council Chambers
300 West Evergreen
Durant, Oklahoma**

CALL TO ORDER

Chairman Grube called the meeting to order at 8:10 p.m.

ROLL CALL

Present:

Trustee Steve Brittingham
Trustee Humphrey Miller
Trustee Curtis Morris
Vice Chairman Danny Sherrer
Chairman Oden Grube
City Manager John Dean
City Clerk Cynthia J. Price

Absent:

City Attorney Tom Marcum

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of October 12, 2021

Motion To: Approve Consent Item as Presented.

Motion By: Steve Brittingham

Seconded By: Humphrey Miller

Ayes: Brittingham, Miller, Morris, Sherrer, Grube

Nays: None

Abstain: None

2. Consider Items Removed from Consent

3. Information Items

4. Administration

- a. Discussion, Consideration and Possible Action on the Administration of the 5/8 cent Sales Tax for Independent School District No. 72.

Motion To: Authorize City Manager John Dean to Research Further and Make Recommendation to Durant Development Authority Board

Motion By: Curtis Morris

Seconded By: Danny Sherrer

Ayes: Brittingham, Miller, Morris, Sherrer, Grube

Nays: None

Abstain: None

5. New Business

There was no new business.

ADJOURNMENT

Motion To: Adjourn Meeting

Motion By: Humphrey Miller

Seconded By: Steve Brittingham

Ayes: Brittingham, Miller, Morris, Sherrer, Grube

Nays: None

Abstain: None



The City of Durant

Memorandum

Date: 4/12/2022
To: Mayor and City Council
From: John Dean, City Manager
Re: Discussion, Consideration, and Possible Action on the Administration of the 5/8 Sales Tax for the Independent School District No. 72 (Durant Public Schools) High School Project.

Summarized account of events and information regarding the 5/8 cent Sales Tax for the Durant Independent School District.

- On January 22, 2008, the City Council adopted Ordinance 1589.
 - o Ordinance 1589 called for a 5/8 cent sales tax for the purpose of the "revenues to construct and equip a new Durant high school including but not limited to classrooms, parking lots, and other necessary items related thereto and to make additional improvements as needed throughout the District associated with the new Durant high school construction, either by providing for payment directly or by pledging said additional tax and paying debt service on obligations issued by a public trust with the City as the beneficiary to finance the costs of such facilities." (Ordinance 1589, Section 3)
 - o "Proceeds of the City excise (sales and use) tax shall be administered by a public trust with the City as the beneficiary". (Ordinance 1589, Section 3)
 - o "The people of the City of Durant, Oklahoma, by their approval of this Ordinance at the election herein above provided for, hereby authorize the City by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for the efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code...". (Ordinance 1589, Section 8)
- On April 1, 2008 the 5/8 cent sales tax proposition passed.
- On May 21, 2008 the Durant Development Authority was established.
 - o One of the purposes of the DDA is "To promote, finance, and develop education projects or facilities including, but not limited to, the support of any public school system located in whole or in part within the corporate limits of the Beneficiary, which support could include the expenditure of municipal revenues for construction or improvement of public school facilities" (DDA Trust Indenture Article IV(1)(h)).
- On November 11, 2008, the "City of Durant" entered into a "Sales Tax Agreement" with the "Independent School District No. 72".
 - o The "Sales Tax Agreement" states "the District has or will issue bonds, notes, lease purchase agreement or other evidences of indebtedness in one or more series (herein the "Lease Purchase Agreement") and shall utilize the proceeds of the Lease Purchase Agreement for paying for the acquisition, financing, designing, constructing, furnishing and equipping of said Facilities" basically transfers all administration of the 5/8 cent sales tax to the "Independent School District No. 72"
 - o "The Sales Tax Revenues, once transferred, are owned by the District..." (Section 2).
 - o "The District will make monthly reports to the City on construction progress, all expenditures made and any other information and developments with regard to the use of the Sales Tax Revenues". (Section 3).
- On September 8, 2009, the City Council adopted Resolutions No. 2009-36 and 2009-37 which designated the Durant Development Authority "as the public trust to administer the sales tax approved by the citizens of Durant, Oklahoma for the benefit of the Durant Public Schools as per Ordinance No. 1589".
- October 1, 2009 Lease Purchase Agreement was entered into between Public Finance Leasing, LLC and the Board of Education of Independent School District No. 72.

- The State Auditor reported:
 - o “The fees paid by the District for the bond trio (counsel/advisor/underwriter) were considerably higher than on a typical GO bond issuance. The repayment by the District for the LR bonds is at an interest rate that is 2.5% to 3% higher than a GO bond issuance”.
 - o “Fees paid to the bond counsel, bond advisor, bond underwriter, and other expenses totaled \$935,312. We found nothing to suggest the District sought to competitively bid the bond trio costs in order to ensure the lowest possible cost to the District. While competitive bidding was not required in this matter, prudent expenditure of public funds is always encouraged”.
 - o “It is my understanding that the same fees for a typical GO bond issue would more likely have ranged from \$150,000 to \$200,000”.
- January 3, 2017, Bryan County School Finance Authority was established by Bryan County Commissioners.
 - o Article IV. The purposes of this Trust are:
 - (l) To function as an industrial, cultural, housing, health care, economic development and educational development trust to assist the Beneficiary; the State of Oklahoma, its governmental agencies, and private entities, agencies and citizens in its charitable, scientific, literary, economic development, housing, or educational purposes and in making the most efficient use of all of their economic resources and powers in accord with the needs and benefit of the Beneficiary in order to lessen the burdens on government and to stimulate charitable, scientific, literary, health care, and economic development; to inventory the services, facilities and resources of the entire Beneficiary; to promote, stimulate, encourage and finance the growth and development of commerce, recreation, education, health care, and industry of the Beneficiary as a whole, all in order to achieve maximum utilization of the Beneficiary's human, charitable, scientific, literary, educational, economic, recreational, natural resources at*l tourist attractions; to foster and promote an industrial climate and Hit payroll of (he Beneficiary and to otherwise promote its general economic welfare and prosperity and to finance any and all programs, facilities or resources promoting or intending to promote any of the foregoing and, without restriction, in furtherance of the foregoing general objectives, the following specific powers or purposes, to-wit:
 - (a) To promote, develop, own, construct, lease and finance charitable, scientific, literary, housing, health care, or educational facilities, of any sort or description, constituting real and/or personal property;
- January 1, 2020 Bryan County School Finance Authority issuance of Bonds:
 - o January 1, 2020 "THIS GROUND LEASE AGREEMENT (this "Ground Lease") is made and entered into as of January 1, 2020, by and between the INDEPENDENT SCHOOL DISTRICT NO. 72 OF BRYAN COUNTY, OKLAHOMA (DURANT PUBLIC SCHOOLS), a school district organized and existing under the laws of the State of Oklahoma ("Lessor") and BRYAN COUNTY SCHOOL FINANCE AUTHORITY, a public trust organized and existing under the laws of the State of Oklahoma ("Lessee")".
 - o WHEREAS, Lessee will enter into a Bond Indenture dated as of January 1, 2020, with First United Bank & Trust Company, Durant, Oklahoma, a state banking corporation, regarding, the issuance of Bonds (defined herein) to provide finds required for the refunding of the Certificates of Participation evidencing undivided proportionate interests of the owners thereof in Rental Payments to be made by Independent School District No. 72 of Bryan County, Oklahoma (Durant Public Schools) pursuant to a Lease Purchase Agreement \$39,015,000 Series 2009A (Build America Bonds - Direct Payment - Federally Taxable) (the "Prior Obligations"), the payment of capitalized interest on the Bonds, if any, and the payment of the cost of the issuance of the Bonds (the "Project");
 - o "Bond Documents" means, collectively, the Indenture, the Bonds, the Bond Resolution, the Sublease, the Assignment, the Continuing Disclosure Agreement, and this Ground Lease and any other documents executed to secure payment of the Bonds or performance of obligations under the Indenture and all other instruments or agreements executed by Lessee or Lessor in connection with the issuance and delivery of the Bonds.
 - o "Bonds" means the Issuer's \$30,230,000 Educational Facilities Lease Revenue Refunding Bonds (Durant Public Schools Project) Series 2020.
- On January 11, 2022, the Authority directed staff to continue to research and identify solutions to the administration of the sales tax.
 - o The research identifies that the financing of the debt for the DISD new high school project does not comply with what was approved by the voters.
 - o After conferring with bond counsel, he does believe that the bonds can be refinanced through the Durant Development Authority. However, refinancing would come at an additional cost. Because the bonds issued through the Bryan County School Finance Authority cannot be paid off until 2030, the interest would be due on both the current bonds and the refinancing bonds. He does not believe that this would be in the best interest of the taxpayers.
 - o Staff will develop a Durant Development Authority budget for the next Fiscal Year and future Fiscal Years to administer the sales tax received for the DISD project. This does not affect the current process outlined in the Sales Tax Agreement.

Council Information / Action Requested

Discuss and direct staff as the Authority deems appropriate.

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS: