

THE MAYOR AND THE CITY COUNCIL MET IN SPECIAL SESSION JUNE 10, 2022, IN THE COLEMAN THEATRE AT 7:00 PM WITH THE FOLLOWING MEMBERS PRESENT:

Bless Parker, Mayor  
Brian Estep, Councilmember Ward 1  
Kevin Dunkel, Councilmember Ward 2  
Dwain Sundberg, Councilmember Ward 3 (Absent)  
David Davis, Councilmember Ward 4

Bo Reese, City Manager  
Ben Loring, City Attorney  
Melissa Moore, City Clerk

Notice of a special meeting of the Miami City Council, Miami, Oklahoma, called by Mayor Bless Parker, was displayed in the main lobby of the Miami Civic Center and by posting on [www.miamiokla.net](http://www.miamiokla.net) starting at 9:30AM on June 08, 2022, pursuant to 25 O.S. §311(9) (a) and (b) and the agenda was displayed and posted in the same manner on June 09, 2022, at 4:45PM.

**THE COUNCIL MAY TAKE ANY OF THE FOLLOWING ACTIONS: DISCUSS, CONSIDER AND VOTE FOR APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ANY ITEM LISTED IN THIS AGENDA:**

**1. Call to Order**

Mayor Parker called the meeting to order at 7:00PM.

**2. Explain Procedures of the Meeting**

Mayor Parker thanked everyone for attending the town hall meeting and explained that City Manager Bo Reese would explain the procedures during his welcome and introductions.

**3. Invocation**

Invocation by Retired Pastor of First Christian Church, Leon Weece.

**4. Pledge of Allegiance**

Mayor Parker led the Pledge of Allegiance.

**5. Welcome and Introductions**

City Manager Bo Reese introduced the panel members and thanked everyone for attending. This included Larry Bork with Goodell, Stratton, Edmonds & Palmer, LLP; Walker Stanovsky with Davis, Wright, Tremaine, LLP; Former Mayor Brent Brassfield; Former Mayor Rudy Schultz; Mayor Parker; and City Attorney Ben Loring. Reese recognized dignitaries in the audience: Dr. Kyle Stafford President of NEO A & M College, Leon Crow Mayor of Wyandotte, Commissioner Mike Furnas, Commissioner Russell Earls, Councilmember David Davis, Councilmember Brian Estep, Councilmember Kevin Dunkel, Chief Ethel Cook of the Ottawa Tribe, Chief Glenna Wallace of the Eastern Shawnee Tribe, and Chief Doug Lankford of the Miami Nation. Reese provided a brief overview of the agenda and the procedures for the public input.

**6. Presentation on Civil Litigation**

Larry Bork presented on the state civil litigation City of Miami et al. v. GRDA. The first lawsuit with GRDA was in nineteen ninety-four (1994). Bork explained that the flooding caused by the dam is not only a city issue, but also a county issue as well. Bork explained that courts determined that the Pensacola Dam is significantly flooding the City of Miami, this is also known as the backwater effect. Bork explained that in nineteen ninety-nine (1999) Dalrymple et al v GRDA, the Ottawa County District Court found GRDA liable for the increased elevation and duration of flooding. Bork explained that in two thousand and four (2004) McCool et al. v. GRDA Oklahoma Court of Appeals determined that the government did not authorize GRDA to flood people's property and that GRDA would be liable for damages caused by its construction and maintenance of the dam. Bork referred to several other cases which confirmed GRDA is liable for flooding caused by Pensacola Dam. Bork presented historical flood studies and findings from nineteen forty-two (1942) through two thousand and seven (2007) . Bork

explained that he is primarily involved in the two thousand and eight (2008) state litigation and is a consultant on the re-licensing and DC appeal. Bork clarified that the City claim is three point two (\$3.2) million dollars, and the City is one (1) of four hundred fifty-six (456) plaintiffs in the state civil litigation. If the City dropped their portion of the lawsuit, the lawsuit with the other plaintiffs would still proceed.

No action taken.

#### **7. Presentation Former Mayor Brent Brassfield**

Former Mayor Brassfield explained that the flood of two thousand and seven (2007) was the second worst flood in the City's history. Brassfield described the event including how rapidly the flood waters rose during their regularly scheduled Council meeting. The water had raised a foot and a half during the meeting. Ten percent (10%) of homes in Miami flooded and more than thirty (30) businesses. Fifty-five (55) families were in city shelters. Two hundred thirty-five (235) people were fed each meal by the red cross.

No action taken.

#### **8. Presentation Former Mayor Rudy Schultz**

Former Mayor Rudy Schultz explained that in two thousand sixteen (2016) the Council made the decision to hire Davis, Wright, Tremaine to assist with the relicensing efforts. Schultz explained that in two thousand and seven (2007) the Council directed the City Manager to contact Goodell, Stratton, & Palmer, LLC to assist with the appeal. Schultz explained that the city could not stop the lawsuit because it is just one (1) of the four hundred fifty-six (456) plaintiffs. Schultz reiterated that it is important for the City to keep being involved in the relicensing process because the citizens will have to live with the results for the next thirty (30) to fifty (50) years. Schultz expressed concern about the home values for homes who are now in the flood plain.

No action taken.

#### **9. Presentation Mayor Parker**

Mayor Parker shared the story of when he was fifteen (15) years old and his home was flooded, and then the home was flooded two more times until eventually they could no longer return to the home. Parker explained that the flooding issues are a problem for him, and he will continue to work for the citizens. Parker told about how he tried to work with Grand River Dam Authority (GRDA) when he first became Mayor and how he continues to want to be partners with GRDA.

No action taken.

#### **10. Presentation Walker Stanovsky**

Walker Stanovsky explained that the dam operations are meant to be determined in a collaborate process and balances power output with other factors, including flood control. Stanovsky stated that Davis, Wright, Tremaine is trying to assist the City with restoring a place in the balance for upstream communities. Stanovsky explained that the Federal Power Act of nineteen twenty (1920) determined that hydroelectric dams must have a federal license to operate. The licenses are issued by the Federal Energy Regulatory Commission (FERC) and the term is between thirty (30) and fifty (50) years. The licensee must accept conditions imposed by FERC. Relicensing begins five (5) years before the current license expires. Stanovsky explained that under the Federal Power Act, the project must be "best adapted to a comprehensive plan for improving or developing a waterway." Stanovsky explained that comprehensive includes power, flood control, fish & wildlife, irrigation, commerce & navigation, water supply, recreation, and environmental protection. Grand River Dam Authority (GRDA)'s current license was issued in nineteen ninety-two (1992). The relicensing began in twenty-seventeen (2017) and normally takes five (5) years. Stanovsky explained why the relicensing is taking so much effort, such as the delays, changing the rules and lack of agency attention. Stanovsky stated that in less than a year GRDA will file its full license application for the Pensacola project. The Pensacola Dam is causing sedimentation to build up in the lake which

increases flooding. Stanovsky explained the amendment that was added to a bill at the federal level re-wrote sections of the Federal Power Act specifically for the Pensacola Project.

No action taken.

### **11. Public Input**

Bo Reese explained the procedures for the public input section. Even with the presentations running later than anticipated, citizens were given the full hour to ask questions or provide comments. Dennis Covey asked Larry Bork to explain the elevation numbers he provided in the presentation. Bork explained the elevation to keep in mind is seven forty-five (745) and seven fifty (750). Once the water reaches or it is anticipated that it will reach seven forty-five (745) then the Army Corps of Engineers can begin regulating the release of water by opening the flood gates. John Payton stated that this meeting was helpful for the families dealing with flooding and asked them to continue to the fight. Payton stated that he begs GRDA not to make him move his mom out of her home. Myra Martin expressed her appreciation for the Council, but as a family who experienced the flood, the damage was not minor. Martin explained that she was scared for three (3) years each time it flooded. Bo Reese addressed questions submitted through social media: One question was, "why was the lake a lower level in the past." Larry Bork answered that the rule curve was much lower previously with the previous contract. The other answer is that the higher the lake level, the faster the turbines spin when the water is pushed through which creates more power. Another question asked if GRDA or the state has ever done a study to correlate area poverty with past flooding. Stanovsky explained that there is a study included in the relicensing but it is not rigorous enough. Nina P. Larkin asked if it is likely that the flood zones will be revised again. Bork explained that there could be an increase to the flood zone.

Second Chief of the Seneca-Cayuga Nation Curt Lawrence mentioned his appreciation for the information given and asked if there could be any protection given through the endangered species act. Stanovsky explained that under the power act, the Bureau of Indian Affairs has some authority to require responsibilities if tribal trusts lands are involved. It is unknown how the amendment that Senator Inhofe initiated will affect this authority. Mayor Parker stated that the City of Miami has received a letter of support from the Inter-Tribal Council. Reese asked a question from social media: if there was not a dam would the City of Miami flood. The answer is yes, since the City is located on the riverbed, there will always be some occurrence of natural flooding. Dennis Covey asked if the City could recover the money spent if the City prevails. Stanovsky stated that in the relicensing and appeal the answer is no. Kenneth Ferris asked if there was a legal document between the landowner and GRDA that existed from when GRDA built the dam, where they said they would not flood the property and then came back and paid the landowner each time the property was flooded, would that help the City's case. Bork explained that the agreement was an easement, and they did what they were supposed to do which was pay damages each time they flooded the land above the easement. A question provided through social media was when were the houses that flooded built and why were they allowed to be built there. Former Mayor Brassfield explained that until the federal flood insurance program was implemented the City did not have the authority to tell people where they could or could not build.

A question from social media is, when the lawsuits are settled, will GRDA raise rates to recover the costs. Former Mayor Schultz explained that each of the twenty-seven (27) communities will pay higher rates to GRDA. Bork explained the extensive process in settling the cases they can with GRDA and taking more to trial. Stanovsky explained that once the old license expires GRDA will be issued annual licenses under the current terms until a new license is issued. Scott Chambers asked if the low water dam was still there, the answer was yes but it has not been visible for years. Chambers asked if there are any plans to raise HWY 125 by Riverview Park. Reese explained that there have been discussions with Oklahoma Department of Transportation (ODOT), but nothing confirmed. Lee Uto confirmed that with sedimentation, the lake capacity is diminishing and as the sedimentation continues to fill in, the backwater effect will be increased. Former Mayor Brassfield mentioned the question about dredging the lake to remove the sedimentation and bring back the capacity. Stanovsky explained that

during the relicensing process, one of the studies the City requested was a study on the sedimentation. Councilmember Estep thanked the citizens for showing up and asking questions.

No action taken.

**12. Recap and Final Remarks**

Bo Reese explained that it was important for everyone to come together to study the data and the history. Mayor Parker thanked Former Mayor Brassfield, Former Mayor Schultz, Jack Dalrymple, and Councilmembers for their support. Mayor Parker thanked the citizens for coming and asked them to reach out to their Councilmembers if they have any questions.

**13. Adjournment**

Councilmember Estep moved to adjourn. Councilmember Davis made the second. The Council was polled with the following results:

Estep, Aye                      Davis, Aye                      Dunkel, Aye                      Parker, Aye                      Sundberg, Absent

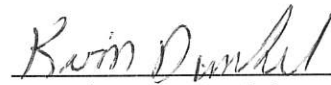
Mayor Parker declared the meeting adjourned at 9:47PM.



Councilmember Davis



Councilmember Sundberg



Councilmember Dunkel

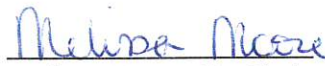


Councilmember Estep



Mayor Bless Parker

ATTEST:



Melissa Moore, City Clerk

