


NOTICE OF SPECIAL MEETING  
OF THE MAYOR'S CITIZEN'S CO-OPERATIVE ADVISORY BOARD

TUESDAY JANUARY 26, 2021  
5:30 PM

MIAMI CIVIC CENTER – BANQUET ROOM  
129 5<sup>th</sup> Avenue Northwest, Miami, Oklahoma

Chairman Bless Parker has called a Special Meeting of the Mayor's Citizen's Co-Operative Advisory Board for Tuesday, January 26, 2021 at 5:30PM in the Miami Civic Center located at 129 5<sup>th</sup> Ave NW, Miami, Oklahoma.

Filed in the Office of the City Clerk and displayed in the main lobby of the Miami Civic Center and by posting on [www.miamiokla.net](http://www.miamiokla.net) starting at 10:45 AM/PM on January 22, 2021, pursuant to 25 O.S. § 311(9) (a) and (b).

  
\_\_\_\_\_  
Melissa Moore, City Clerk



**NOTICE OF SPECIAL MEETING AND AGENDA  
OF THE MAYOR'S CITIZEN'S CO-OPERATIVE ADVISORY BOARD  
TUESDAY, JANUARY 26, 2021  
5:30 PM**

**MIAMI CIVIC CENTER – BANQUET ROOM  
129 5<sup>th</sup> Avenue Northwest, Miami, Oklahoma**

Filed in the Office of the City Clerk and displayed in the main lobby of the Miami Civic Center and by posting on [www.miamiokla.net](http://www.miamiokla.net) starting at 3:45 AM/PM on January 25, 2021, pursuant to 25 O.S. § 311(9) (a) and (b).

Melissa Moore  
Melissa Moore, City Clerk

**THE BOARD MAY DISCUSS, CONSIDER, VOTE ON, AND/OR MAKE RECOMMENDATION TO THE CITY COUNCIL ON ANY ITEM LISTED IN THIS AGENDA:**

- |  |                      |
|--|----------------------|
| 1. Call to Order   | Chairman Parker      |
| 2. Pledge of Allegiance                                      | Chairman Parker      |
| 3. Introduction of Members                                   | Board                |
| 4. Discussion of Community Events                            | Chairman Parker      |
| 5. Discussion of Business Opportunities                      | Chairman Parker      |
| 6. Presentation of Questions on Utility Billing and Metering | Board Member Fleming |
| 7. Discussion of Ordinance Related to \$5 No Statement Fee   | Ben Loring           |
| 8. Adjournment   | Board                |

*The Mayor's Citizen's Co-Operative Advisory Board is committed to making this meeting accessible to all citizens and if special assistance or accommodations are required, please submit your request to the city manager's office. We also ask that those in attendance turn off or place on silent all cell phones or pagers.*

ORDINANCE NO. CC 2021-\_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA AMENDING SECTION 38 (NO STATEMENT FEE AND METER RE-READ) OF DIVISION 1 (GENERALLY) OF ARTICLE II (RATES AND CHARGES) OF CHAPTER 24 (UTILITIES) OF THE CODE OF ORDINANCES; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Article 2, Section 6, subparagraph 2 of the City Charter provides that the Council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

**WHEREAS**, Oklahoma municipalities have the right to engage in any business or enterprise which may be engaged in by virtue of a franchise pursuant to Oklahoma Constitution Article 18, Section 6; and

**WHEREAS**, Oklahoma municipalities have the Constitutional authority to own and operate public utilities pursuant to Oklahoma Constitution Article 10, Section 27, 27A and 27B; and

**WHEREAS**, Oklahoma municipal utility operations are not regulated by the Oklahoma Corporation Commission pursuant to Oklahoma Constitution Article 9, Section 18; and

**WHEREAS**, Oklahoma municipalities may not delegate or surrender their power to regulate rates pursuant to the Oklahoma Supreme Court ruling in the case of *Meder v. City of Oklahoma City*, 1960 OK 87, 350 P.2d 916 (Okla. 1960) and Oklahoma Constitution Article 18, Section 7, which provides in pertinent part:

"Nor shall the power to regulate the charges for public services be surrendered; ..." and

**WHEREAS**, the fixing of rates of municipally owned utilities is a legislative function and in the absence of a clear showing that the rates are unjust, unreasonable, or discriminatory, the courts may not interfere, see *Oklahoma City Hotel & Motor Hotel Association Inc., v. Oklahoma City*, 1974 OK 94, 531 P.2d 316 (Okla. 1974); and

**WHEREAS**, the Article II, Section 6 of the City Charter authorizes the City Council to "raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the City, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law"; and

**WHEREAS**, it is proper for the City to amend those provisions of municipal Ordinance(s) which pertain to efficient billing practices for its utility services; and

**WHEREAS**, Section 24-38 was last modified on April 18, 2017 by Ordinance 17-06; and

**WHEREAS**, City staff and administration recommend an amendment of Section 24-38 (NO STATEMENT FEE-METER RE-READ) of Division 1 (GENERALLY) of Article 2 (RATES AND CHARGES) of Chapter 24 (UTILITIES).

**WHEREAS**, Title 11, Oklahoma Statutes, Section 10-106 authorizes a municipality to raise revenue, make appropriations, and regulate all other fiscal affairs of the city, ; and

**WHEREAS**, Title 11, Oklahoma Statutes, Sections 35-101 *et seq.* and Sections 37-101 *et seq.* authorizes a municipality to operate public utility systems; and

**WHEREAS**, in 2010, the City Council created, through Ordinance 1561, Section 24-38 ; and

**WHEREAS**, in 2013, the City Council, deemed it advisable to amend a fund for an operating reserve for the purpose of providing a fund or reserve out of which to meet unbudgeted budget emergencies, emergency repairs, and qualified emergency expenditures. Through Ordinance 1608, the Council amended Section 27-3 (Stabilization Fund) within Chapter 27 (Budget and Finance) of the Code of Ordinances; and established a Rainy Day Fund; and

**WHEREAS**, in 2016, with the enactment of Ordinance 1660, the City Council again amended Section 27-3 (Stabilization Fund) within Chapter 27 (Budget and Finance) of the Code of Ordinances to further define the use and purpose of the Rainy Day Fund.

**WHEREAS**, having dealt with customer issues relating to the wording of the Ordinance, staff recommends further clarification as set out herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA:**

Section 1 - Amendment

Section 24-38 of the Code of Ordinances is amended to read as follows:

**Sec. 24-38. - No statement fee and meter re-read.**

(a) A utility customer shall submit the billing statement, electronically or printed, or their account number with tender of payment. If the utility customer fails to comply with this requirement when paying on two (2) or more accounts, except as otherwise provided herein, a \$5.00 administrative fee shall be assessed per account. The \$5.00 administrative fee will not be applied in the following situations: if the payment is received through the drop box; the mail; from a utility assistance provider; or from an exempt State entity. If payment is received without statements or account numbers, or with inaccurate or incomplete information, then the MSUA will apply the payment at its discretion using its best judgment; the MSUA will not be held responsible if the payment is applied in a manner other than which the customer may have intended and the customer will be responsible for all applicable fees and penalties.

(b) A utility customer may request a meter re-read. If the meter re-read shows less usage than printed on the billing statement, then the account will be adjusted accordingly and no dispatch fee shall be assessed for the re-read. If the meter re-read is consistent with indicates equivalent or greater usage than indicated on the billing statement, then the dispatch fee shall be assessed.

Section 2 - Severability

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 3 - Conflicting Provisions

If any provision, paragraph, word, section or article of this Ordinance conflicts with the provisions of any other Ordinance, then the provisions of this Ordinance shall be deemed to have superseded all conflicting provisions previously entered into effect.

Section 4 - Effective Date

[Choose One (1)]

\_\_\_\_\_ Pursuant to 11 O.S. §14-103, this Ordinance shall take effect thirty (30) days from its final passage unless the City Council specifies a later date:

---

[OR]

\_\_\_\_\_ EMERGENCY CLAUSE. For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist whereby this Ordinance shall take effect immediately upon passage and publication as required by law. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least  $\frac{3}{4}$  of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, an emergency measure must state in a separate section why it is necessary that the measure become effective immediately; the reason for the emergency measure is as follows:

---

---

It is in the public economic interest to enact this Ordinance immediately.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Bless Parker, Mayor

ATTEST:

APPROVED:

\_\_\_\_\_  
Melissa Moore, City Clerk

\_\_\_\_\_  
Ben Loring, City Attorney