

**KAY CO. GRAND JURY
SUBMISSION OF QUESTION**

I, Jessica Pepper, formally request the Kay Co. Grand Jury to consider the following question for review.

Did the City of Blackwell violate 11 O.S. § 14.111 E. and F., by continuing to charge and collect fines greater than \$50, while not having a valid penal code with the State since 1982?

In a February 6th, 2007 Municipal Court Administrative Order, the Court stated City fines were to no longer exceed \$50 and court fees were not to exceed \$15. The fees and costs were not to exceed the limit by law until the City of Blackwell compiled and published its penal ordinances as required by Section 14-109 and 14-111 of Title 11 of the Oklahoma Statutes.

The Municipal Court judge went on to say that the penal ordinances of the City of Blackwell had not been codified for more than ten years and no biennial supplement has been published for more than ten years.

Oklahoma Statutes Section 14-111 of Title 11 states "no municipality may levy a fine or deferral fee in lieu of a fine over Fifty Dollars (\$50.00) until it has compiled and published its penal ordinances as required in Section 14-109 and 14-110 of this title."

The Blackwell Municipal Court Bond Schedule prior to February 6th, 2007, noted fees in excess of \$50.00. An example of the City of Blackwell charging more than what is permitted under the law in the case of Justin Robertson. He was cited for a DUI violation and was fined \$200.00 for the City and \$19.00 for State Fees in January 29, 2007. He was also cited in December 4, 2006 for disturbing the peace with he was charged \$100.00 for the City and \$19.00 for the State Fees. This evidence is parallel to the Blackwell Municipal Court Bond Schedule prior to February 6th, 2007.

Submitted this day November 28, 2008.

J. Pepper
Requesting Party



Title 11. Cities and Towns

Oklahoma Statutes Citationized

Title 11. Cities and Towns

Chapter 1 - Oklahoma Municipal Code

Article Article XIV - Municipal Ordinances

Section 14-111 - Enforcement and Penalties for Violation of Municipal Ordinances

Cite as: O.S. §, ___

A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by subsections B through D of this section, for any offense in violation of its ordinances, which shall be recoverable together with costs of suit. The governing body may provide that any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas, and public grounds of the municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Twenty-five Dollars (\$25.00) per day for useful labor, until the fine or costs are satisfied.

B. 1. Except for municipal ordinances related to prostitution and as otherwise provided in this section, cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Dollars (\$1,200.00) and costs or imprisonment not exceeding six (6) months or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars (\$1,250.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for alcohol-related or drug-related traffic offenses. The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

2. For violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, a municipal criminal court of record may enact ordinances prescribing an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars (\$5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars (\$7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment as well as a term of community service of not less than forty (40) nor more than eighty (80) hours.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines pursuant to the provisions of this subsection. A municipal ordinance may not impose a penalty, including

Cite Name	Level	
<u>1991 OK 115, 820 P.2d 797,</u> <u>62 OBJ 3429,</u>	<u>Board of County Com'rs of Muskogee County v. City of Muskogee</u>	Cited
<u>1993 OK 71, 853 P.2d 176,</u> <u>64 OBJ 1721,</u>	<u>Simpson v. Dixon</u>	Cited

Oklahoma Session Laws - 2002

Cite	Name	Level
<u>2002 O.S.L. 120, 2002</u> <u>O.S.L. 120,</u>	<u>Crimes, criminal procedure, and cities; increases penalties for prostitution; increasing bail. Emergency.</u>	Discussed

Title 11. Cities and Towns

Cite	Name	Level
<u>11 O.S. 27-12,</u>	<u>Costs</u>	Cited

Citationizer: Table of Authority

Cite Name	Level	
Title 11. Cities and Towns		
Cite	Name	Level
<u>11 O.S. 14-11,</u>	<u>Enforcement and Penalties For Violation of Municipal Ordinances</u>	Cited
<u>11 O.S. 14-11,</u>	<u>Enforcement and Penalties For Violation of Municipal Ordinances</u>	Cited

CITY OF BLACKWELL
STATE OF OKLAHOMA

ADMINISTRATIVE ORDER

LEVY OF FINES IN ABSENCE OF CODIFICATION OF
MUNICIPAL ORDINANCES

WHEREAS, Section 14-109 of Title 11 of the Oklahoma Statutes requires that the penal ordinances of every municipality shall be compiled and published in a permanent form not less often than once every ten (10) years; additionally, each municipality shall also publish biennial supplements to the permanent volume of compiled penal ordinances; and

WHEREAS, Section 14-111 of Title 11 of the Oklahoma Statutes provides that no municipality may levy a fine of over Fifty Dollars (\$50.00) until it has compiled and published its penal ordinances as required in Section 14-109 of said Title 11; and

WHEREAS, the penal ordinances of the City of Blackwell have not been codified for more than ten (10) years and no biennial supplement has been published for more than ten (10) years; and

WHEREAS, the penal ordinances of the City of Blackwell in establishing fines for various offences provide that said fines shall include costs.

IT IS HEREBY ORDERED:

Effective this date, the City of Blackwell shall levy no fine over Fifty Dollars (\$50.00) until the City of Blackwell has compiled and published its penal ordinances as required by Section 14-109 of Title 11 of the Oklahoma Statutes. The levy of said fine shall include court costs of Fifteen Dollars (\$15.00).

Dated this 6th day of February, 2007.



JUDGE OF THE MUNICIPAL COURT

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS
BLACKWELL, OKLAHOMA
MARCH 18, 2003

Pursuant to the legal notice as is required by the Oklahoma Open Meeting Act, including the posting of notice and agenda on March 14, 2003, as is required by the terms thereof, the Blackwell Board of Commissioners of the City of Blackwell met in regular session at 7:00 p.m. in the Commissioners' Room of City Hall located at 221 West Blackwell, Oklahoma with Mayor Braly presiding:

Present: Eugene M. Braly, Mayor
Ruth Buesing, Commissioner Ward 1
Max Wirtz, Commissioner Ward 2
Steve LeValley, Commissioner Ward 3
Dennis Carruth, Commissioner Ward 4
Sara Norris, City Manager
John Ihrig, Attorney
Teresa Moses, City Clerk

Absent: Brian Wiseman, City Attorney

Others Present: City Staff: Joe Ball; Life EMS: Debbie Smith, Betty Meadows, U.S. Filter: Dennis Merrill, Jim Rundle, Fred Belair; Charles Abbott, Blackwell Journal and 4 citizens in the audience

1. MEETING CALLED TO ORDER:

Mayor Braly called the meeting to order at 7:00 p.m.

2. OPENING CEREMONIES:

The invocation was given by Mayor Braly followed by the Pledge of Allegiance led by Commissioner LeValley.

3. SPECIAL PRESENTATIONS AND/OR RECOGNITIONS:

None.

4. CONSENT AGENDA:

Item A, as contained on the Consent Agenda was found to be non-controversial and routine in nature by the Board of Commissioners and on motion by Buesing, seconded by LeValley, was approved. Roll, yeas: Braly, Buesing, Carruth, LeValley and Wirtz. Nays: none. Motion carried.

A. Minutes of the regular meeting held March 4, 2003.

Exhibit "B"

presented by Captain Ball. Roll, yeas: Braly, Buesing, Carruth, LeValley and Wirtz. Nays: none. Motion carried.

B. *Appointment of Blackwell Council for Youth:*

LeValley seconded the motion by Buesing to approve the appointment of the following persons to the Blackwell Council for Youth. Roll, yeas: Braly, Buesing, Carruth, LeValley and Wirtz. Nays: none. Motion carried.

2-Year Terms

Penny Anthony
Steve Conner
Missy Corn
Rick Coursey
Judy Deffner

3-Year Terms

Shea Erickson
Janet Loftis
Nancy Siler
Deidra Sixkiller
Karen Ware

C. *Agreement with Attorney Mary Ann Karns to complete Municipal Code Codification as required by State Law:*

Buesing seconded the motion by LeValley approving Agreement with Attorney Mary Ann Karns to complete Municipal Code Codification as required by State Law. Roll, yeas: Braly, Buesing, Carruth, LeValley and Wirtz. Nays: none. Motion carried.

D. *Presentation by Life EMS personnel on City of Blackwell Ambulance Billing:*

The Board of Commissioners received a presentation by Life EMS personnel Debbie Smith and Betty Meadows regarding the status of the ambulance billing for the City of Blackwell. The presentation included information on Medicare, mandatory consignments as of April 1, 2002, fee schedules and percentage of payments in the future, DHS crossover payments, HIPPA (Privacy Rights), basic and advanced life support, suggestion to increase the charge to emergency non-residence calls, run tickets and denials, private pays, collections and membership programs.

Norris advised the Commission that actual money collected from September through February for FY 1999-2000 was \$61,000, FY 2000-2001 was \$61,000, FY 2001-2002 \$56,000 and for FY 2002-2003 is \$55,000.

E. *Potential Purchase of Property at 1506 SW Boulevard including Executive Session pursuant to Oklahoma Statutes Title 25, Section 308 (B)(3):*

a. *Motion to enter into Executive Session:*

LeValley seconded the motion by Buesing to enter into Executive Session at 8:10 p.m. to discuss potential purchase of property at 1506 SW Boulevard. Roll, yeas: Braly, Buesing, Carruth, LeValley and Wirtz. Nays: none. Motion carried.

SHEET NO. 5815

ACCOUNT NO. _____

RATING _____ NAME *Robertson, Justin*
 CREDIT LIMIT _____ ADDRESS *309 2nd St. Lawrence*
 TERMS *30 Monthly*

© WILSON JONES
 N. J. WHITE GILN-GREEN

DATE	ITEMS	FOLIO	DEBITS	CREDITS	BALANCE
6/4/06	06-1290 Dist Recd	1	1150.00		99.10
7/5/06	Δ in at Payment	48	119.00	30.00	437.00
7/29/07	07-132 Tag	49	219.00		417.00
	07-131 DUI			30.00	417.00
	payment			40.00	357.00
7/4/07	payment		-0-		357.00
7/9/07	07-438 TNS		69.00		426.00
	07-436 Stp		69.00		426.00
7/30/07	payment			30.00	415.00
8/15/07	payment			20.00	455.00
8/30/07	Δ in at payment			30.00	435.00
9/20/07	payment			50.00	385.00
9/24/07	Δ in at				385.00
	Ext 1-14-08				

THE FOLLOWING RECORDS WERE PULLED AT RANDOM BY HAND FROM THE BLACKWELL POLICE DEPARTMENT DUE TO THE FACT THEY DO NOT HAVE A FUNCTIONING COMPUTER AT THIS TIME.

2004	DALE FLEMING	DUI	\$200.00
11-05-06	DANNY MEADOWS	DUS	93.00
11-19-06	MICHAEL PENNINGTON	DUI	219.00
11-03-06	PAUL VANCE	NO DL	93.00
11-10-06	GARRET MCBRAIN	SPEEDING	119.00
12-01-06	BARNEY CLOUD	TOC	219.00
11-16-06	RICHARD MORGAN	ACC	93.00
11-06-06	AMANDA BATCHELOR	SPEEDING	93.00
11-10-06	OMAR ALVAREZ	CONTRIB TO DEL	119.00
11-05-06	DANNY MEADOWS	DUS	93.00
11-06-06	MICHAEL OXFORD	SPEEDING	93.00
11-06-06	MALY ALMOND	SPEEDING	93.00
02-05-07	MISTI BASS	SHOPLIFTING	200.00
11-18-06	LEONARD TYLER	DUS	93.00
01-07	VERONIKA JENKINS	SPEEDING (COURT RECORDS SHOW \$74.00 WAS PAID) WE HAVE A RECEIPT THAT SHOWS \$93.00)	

~~11-06-06 Almond Maly - for 93.00 speeding~~
 11-10-06 Garrett McBrain Speeding 119.00
 10-28-06 James Clonto ? 119.00