

MULVANE CITY COUNCIL  
REGULAR MEETING MINUTES

October 16, 2017

7:30 p.m.

The Mulvane City Council convened at the City Building at 211 N. Second at 7:30 p.m. Presiding was Mayor Shelly Steadman, who called the meeting to order.

**Council Members Present:** Terry Richardson, Joe Johnson, Jenean Keck, Nancy Mottola and Kevin Cardwell.

**Others Present:** Debbie Parker, Kent Hixson, J.T Klaus, Joel Pile, Mike Robinson, Barry Fleming, Forrest Butts, Carol Jones, Victor Hogstrom, Jewel Lewis, Sandra Randolph, and Gordon Fell.

**Pledge of Allegiance:** All stood for the Pledge of Allegiance led by Mayor Steadman.

**Approval of Regular Meeting Minutes Dated 10-2-17:**

MOTION by Johnson, second by Keck to approve the Regular meeting minutes dated 10-02-17. MOTION approved 4-0 with Mottola abstaining.

**Correspondence:** None

**Review and Closing of the Agenda:**None

**Appointments, Awards and Citations:**

1. Mulvane Education Foundation Dinner – drawing winner – Kyle McClellan.

**OLD BUSINESS**

**1. Public Hearing – De-annexation:**

On September 7, 2017, the City received a petition from Forrest G. Butts and Bryson G. Butts, as Co-Trustees of the Forrest G. Butts Revocable Trust and the Delva J. Butts Revocable Trust to remove certain property from the corporate boundaries of the City. The subject property was originally annexed into the City in 2008 in anticipation of a possible golf course to complement a proposed casino development.

On September 18, 2017, the Council approved Resolution No. 2017-17 setting the date, time, and place to conduct a public hearing regarding the petition for October 16, 2017.

Property may be removed from the corporate limits of a city by petition of the landowner pursuant to K.S.A. 12-504 *et seq.* Upon filing of a petition, the City must publish notice of and hold a public hearing to allow any interested parties to attend and be heard on the petition. At the conclusion of the public hearing, if the governing body of the City makes the appropriate

findings it may, but is not required to, order the exclusion of the property from the corporate limits of the City.

Mayor Steadman: It is 7:34 p.m. and I now call Old Business Agenda item # 1 which is a public hearing on the exclusion of certain un-platted farming land from the city limits. This is a request to exclude the following property, legally described as:

The SouthwestQuarter of Section 5, Township 30 South, Range 1 East of the 6<sup>th</sup> Principal Meridian, Sumner County, Kansas.

Mayor Steadman welcomed everyone interested in the hearing and set a few ground rules:

1. It is important that you present any and all facts or views you have at this hearing so a summary can be made as a basis for the decision by the Governing Body.
2. I will call upon the petitioner (if present) and then we will hear from other interested parties. After all have been heard, each party will have an opportunity for final comments. The hearing will then be closed to public comments; questions from the City Council may be directed to the applicant, the public, the staff or our attorney.
3. Please make sure to write your name and address on the form in the entryway so we will have a record of who is present and for any future communications if necessary. Anyone wishing to speak must be recognized and shall give their name and address prior to addressing the Governing Body. Please use the podium and speak clearly so your comments may be picked up by the recorder and summarized for the minutes by the City Clerk.

**DISQUALIFICATION DECLARED AND QUORUM DETERMINED:**

Mayor Steadman asked the City Council if any of them intend to disqualify themselves from hearing, discussing and voting on this petition request. No

According to the City Clerk, a notice for this hearing was published in The Mulvane News on September 21, 2017 which was at least 20 days prior to this hearing. Mayor Steadman declared that proper notification has been given.

**EX PARTE COMMUNICATIONS:**

Mayor Steadman asked the City Council if any of them have received any ex parte verbal or written communications prior to this hearing which they would like to share with all the members at this time.

Mayor Steadman and council member Mottola were contacted several months ago by Mr. Butts about the fact that the casino owners were no longer paying his property taxes and process for de-annexation of property.

**PETITIONER'S REQUEST:**

Mayor Steadman called upon the petitioner (Forrest Butts) to come to the podium and make his request. The land to be de-annexed was originally brought into the City to be used as a golf course by the casino. There are no plans to develop a golf course or anything else on that land.

Mayor Steadman thanked Mr. Butts for his presentation. Mayor Steadman asked if there were any questions now for the petitioner from the City Council, or the staff.

**PUBLIC COMMENTS:**

Mayor Steadman asked if there was any members of the public who wish to speak on this case. None.

**WRITTEN COMMUNICATIONS:**

Mayor Steadman asked if there was any written communications or petitions from the public. Have any written objections to the petition been filed with the City Clerk? No.

Applicant's response to public comment was not necessary.

**FINAL PUBLIC COMMENTS:**

Mayor Steadman asked if anyone from the public wish to respond to the petitioner or make any final comments. None

**CLOSE THE HEARING:**

Hearing no public comments, Mayor Steadman closed the public portion of the hearing. There will be no further public comments unless the Governing Body wishes to ask questions to clarify information.

**CITY COUNCIL DELIBERATIONS:**

The City Council deliberated the petition request.

First, the council determined if the request meets the following statutory requirements that:

Due and legal notice has been given; No private rights will be injured or endangered; The public will suffer no loss or inconvenience; In justice to the petitioner(s) the exclusion should be granted.

Did the City Clerk receive any written objections to the vacation from any landowners who would be a proper party to the petition, but have not joined therein? No

Having considered the evidence at the hearing and determined the statutory requirements as set out in K.S.A. 12-504 *et seq.* have been met;

MOTION by Richardson, second by Cardwell to approve an order excluding the following property, legally described as:

The Southwest Quarter of Section 5, Township 30 South, Range 1 East of the 6<sup>th</sup> Principal Meridian, Sumner County, Kansas.

from the corporate boundaries of the City of Mulvane, Kansas and authorize the Mayor to sign the Exclusion Order, and that the City Attorney be authorized to prepare said Exclusion Order for the Mayor's execution.

MOTION approved unanimously.

## **2. Demolition of 106 W. Walnut – Review Bids:**

On August 19, 2016 several homes and businesses were damaged by flood. Many of the properties were located in Flood Zone AE. When a property in a special flood hazard area is damaged, the City is required to perform damage estimation in accordance with floodplain regulations contained in Ordinance No. 1336.

Properties are classified as substantially damaged when damage to the building has been determined to be greater than 50% of the properties fair market value (three residential properties were initially classified as substantially damaged following the 8-19-16 flood). Substantially damaged properties are required to be brought into full compliance with floodplain regulations found in Ordinance No. 1336. Full compliance requires residential structures to be elevated 2 feet above the base flood elevation or removed (demolished) from the floodplain.

During the November 21, 2016 Council Meeting, the City Council was presented a damage report and after review, voted to extended time to the three effected property owners in order for them to secure construction estimates for repair, remodel or demolition.

On April 17, 2017, the city held a public hearing after which the property at 106 W. Walnut was found (per Resolution No. 2017-7) to be an unsafe or dangerous structure and ordered repaired or removed within 105 days (on or before July 31, 2017). Resolution 2017-7 was published in the Mulvane News on April 20, 2017 and a copy was mailed by certified mail to the property owner (signed for by Val Hackerott on April 26, 2017). After July 31, 2017 the city noted the owner of the property had failed to repair or remove the structure as per resolution, so the city prepared to take steps to remove the structure by soliciting bids from demolition contractors to remove the structure.

Val Hackerott, property owner of 106 Walnut appeared at the August 7, 2017 Council Meeting and requested additional time to remove items from the property before demolition.

Two bids have been submitted by demolition/excavating contractors to remove the structure(s) at 106 W. Walnut:

- H. Excavating, LLC. for \$6,500
- Patton Truck & Equipment for \$14,000

If demolition or repairs are not done by the owner and are undertaken by the city, all city incurred costs of such demolition shall be charged against the real estate upon which the structure is located and all costs shall be assessed as a special assessment against the property.

MOTION by Mottola, second by Johnson to approve the demolition bid from H. Excavating, LLC in the amount of \$6,500 for the demolition and removal of the structure(s) at 106 W. Walnut.

MOTION approved unanimously.

**3. Land Bank Downtown Buildings – Update:**

Joel Pile updated the council on the status of the Land Bank owned buildings in the downtown area. A model form of real estate purchase contract has been drafted by city legal counsel. The template has the Right of First Refusal and code compliance option built-in to the contract. Draft contracts have been delivered to the prospective buyers of 110 ½, 112 & 203 W. Main, upon their approval, the contracts will be presented to the Land Bank for consideration.

Once the contract is signed by both the Land Bank and the Buyer, public notice must be given that the Land Bank is selling the property. The notice must be published and the sale cannot occur until after 30 days have elapsed from the date of publication.

**NEW BUSINESS**

**1. Victor Hogstram – President and CEO of Ks. Public Telecommunications Service:**

Made a presentation to the council asking for financial support of KPTS.  
No action was taken by the council.

**2. Water Leak Adjustment – 613 N. 1<sup>st</sup> – Sandra Randolph:**

A water adjustment giving Sandra Randolph a credit of \$81.52 was completed at customers request in 2016 due to a water leak (service line) on 10/11/16. This was her one adjustment in a 12 month period. Randolph is requesting an additional water adjustment in a 12 month period. Customer was originally billed for 57,000 gallons totaling \$286.83 the adjustment would give a credit of \$159.78, which leaves a balance of \$127.05. Any further adjustments will need council approval.

MOTION by Richardson, second by Keck to approve the water bill adjustment for Sandra Randolph at 613 N. 1<sup>st</sup> as the customer had the leak taken care of in a timely manner.

MOTION approved unanimously.

**ORDINANCES & RESOLUTIONS**

**1. Temporary Note Sale:**

At its meeting on May 15, 2017, the City Council approved a Resolution (as amended on August 7, 2017) determining the advisability of, and an Ordinance (as amended on August 7, 2017) authorizing the construction of, the Nottingham Estates improvements for water, sewer, paving and drainage to serve the Nottingham Estates at Hunters Pointe (collectively, the “Nottingham Estates Improvements”).

At its meeting on August 7, 2017, the City Council approved a Resolution determining the advisability of, and an Ordinance authorizing the construction of, the Emerald Valley Estates improvements for water, sewer, street, storm sewer, mass grading and detention pond to serve the Emerald Valley Estates (collectively, the “Emerald Valley Estates Improvements”).

At its meeting on September 18, 2017, the City Council approved a Resolution determining the advisability of, and an Ordinance authorizing the construction of, the Gilberts Addition improvements for sewer and storm sewer to serve the Gilberts Addition (collectively, the “Gilberts Addition Improvements”).

At its meeting on September 18, 2017, the City Council also authorized the City’s Financial Advisor to accept bids on October 16, 2017 for temporary notes to finance the Nottingham Estates Improvements, Emerald Valley Estates Improvements and the Gilberts Addition Improvements (collectively, the “Improvements”). Triplett Woolf Garretson, LLC has prepared the Resolution authorizing the issuance of the Series C, 2017 Notes to finance the costs of the Improvements.

MOTION by Mottola, second by Cardwell to accept the bid of Country Club Bank and adopt Resolution No. 2017-18, authorizing the issuance of, and establishing the terms and provisions governing, the City’s General Obligation Temporary Notes, Series C, 2017.

MOTION approved unanimously.

#### RESOLUTION NO. 2017-18

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION TEMPORARY NOTES OF THE CITY OF MULVANE, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$2,005,000, AS HERETOFORE AUTHORIZED BY ORDINANCE NOS. 1492 (AS AMENDED BY ORDINANCE NO. 1495), 1496 AND 1501 OF THE CITY, IN ORDER TO PROVIDE FUNDS FOR THE TEMPORARY FINANCING OF THE COSTS OF CONSTRUCTION OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY AUTHORIZED BY SAID ORDINANCE; AND PROVIDING THE TERMS, DETAILS, FORM AND CONDITIONS OF SAID GENERAL OBLIGATION TEMPORARY NOTES.

#### ENGINEER

#### **Update of Projects:**

Chris Young could not attend the meeting. The city administrator reviewed several projects - Styx Creek Drainage Study, Nottingham Estates, Emerald Valley Estates, Gilberts Addition and the decommissioning of the old power plant on Boxelder.

**City Clerk:** None

#### **City Administrator:**

##### **1. Public Safety Director Search Update:**

After the phone interviews, the applicants for Public Safety Director have been shortlisted to four. Background and reference checks are being conducted on those four. The City Administrator would like to meet with the selection committee to review the background and reference information and to decide who to conduct in-person interviews with of those four applicants. The meeting to be October 25<sup>th</sup> at 10:00 a.m. at city hall.

**2. The Storm Drainage Workshop originally scheduled for Oct. 23<sup>rd</sup> is cancelled.**

**City Attorney:**

**Executive Session #1:**

The City Attorney requested an executive session not to exceed fifteen (15) minutes to discuss matters involving land acquisition for the purpose to review an offer to sell property to the City. Said executive session to include the Mayor, City Council, City Administrator and the City Attorney.

MOTION by Mottola, second by Cardwell to recess for a period not to exceed fifteen (15) minutes to discuss matters involving potential land acquisition (in accordance with K.S.A. 75-4519 (b)(6) to return at 8:45 p.m.

MOTION approved unanimously at 8:30 p.m.

MOTION by Mottola, second by Cardwell to return from executive session at 8:49p.m.

MOTION approved unanimously.

Mayor Steadman announced that no binding decisions were made during the Executive Session.

**Executive Session #2:**

The City Attorney requested an executive session not to exceed fifteen (15) minutes to discuss matters privileged in the attorney/client relationship for the purpose of discussing pending litigation. Said executive session to include the Mayor, City Council, City Administrator and the City Attorney.

MOTION by Keck, second by Richardson to recess for a period not to exceed fifteen (15) minutes to discuss matters privileged in the attorney/client relationship for the purpose of discussing pending litigation to return at 9:05p.m.

MOTION approved unanimously at 8:50 p.m.

MOTION by Mottola, second by Keck to return from executive session at 9:10 p.m.

MOTION approved unanimously.

Mayor Steadman announced that no binding decisions were made during the Executive Session.

MOTION by Cardwell, second by Richardson to authorize City Staff to officially settle the dispute over 1979 Ford F-700 fire truck with the City of Sharon, Kansas.

MOTION approved unanimously.

**Consent Agenda: Items 1 & 2**

MOTION by Richardson, second by Keck to approve Consent Agenda items 1 & 2.

1. **Payroll:** Dated 10-06-17 (\$193,433.30)
2. **Warrant Register** – September (\$3,059,384.81)

MOTION approved unanimously.

**ANNOUNCEMENTS, MEETINGS AND NEXT AGENDA ITEMS**

- Tuesday, Oct. 17<sup>th</sup> – Candidate Forum – 6:00 – 7:30 p.m. – Mulvane Public Library

- Monday, Nov. 6<sup>th</sup> - Next council meeting @ 7:30 p.m.

**Recess Meeting:**

Mayor: In lieu of adjournment, I will entertain a motion for the city council to reconvene at City Hall at the following date and time:

Wednesday, October 25, 2017 - From: 10:00 a.m. To: 12:00 (noon).

The purpose of reconvening the meeting will be solely to convene an executive session under the justification of discussing “Non-elected Personnel” for the sole purpose of reviewing background information on prospective candidates for the office of Director of Public Safety. Such executive session shall begin and end at the appointed time and shall include the City Administrator and such of the councilmembers who would like to attend. No other discussion will be had during such portion of the meeting and no binding decisions will be made. Upon the conclusion of such discussion, this meeting shall be deemed adjourned.

MOTION by Mottola, second by Richardson to recess and thereafter adjourn the council meeting at 9:12 p.m.

MOTION approved unanimously.

**Oct. 25<sup>th</sup>, 2017**

Present: Jenean Keck, Joe Johnson, Terry Richardson, Nancy Mottola

**Council President Mottola:** I would entertain a motion to recess this 10-25-17 meeting to an executive session for purpose of:

Discussion of matters involving non-elected personnel for the purpose of determining the interview process for the Public Safety Director Position:

For a period beginning at 10:00 a.m. and ending at approximately 12:00 noon, said regular meeting to reconvene in open session at approximately 12:00 noon.

Said executive session to include the City Council and City Administrator.

MOTION by Richardson, second by Keck. Approved 4-0

AFTER:

**Council President Mottola:** I would now entertain a motion to reconvene the regular meeting of the City Council.

MOTION by Richardson, second by Keck. Approved 4-0.

**Council President Mottola:** Let the record reflect that no decisions were made during the Executive Session.



I will now entertain a motion to adjourn the regular meeting of 10-16-17.  
MOTION by Richardson, second by Keck. Approved 4-0

The 10-16-17 council meeting is now adjourned.

Debra M. Parker  
City Clerk