MULVANE CITY COUNCIL

REGULAR MEETING MINUTES

April 18, 2022 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 at 7:30 p.m.

**Council Members Present**: Kevin Cardwell, Tim Huntley, Amanda Ford, Brent Allen, and Nancy Farber Mottola.

**Others Present:** Mike Robinson, Debra Parker, Joel Pile, Kent Hixson, J.T. Klaus, Chris Young, Greg Vahrenberg, Jeff Grieve and other interested citizens.

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

**Approval of Regular Meeting Minutes Dated 4-04-2022:**

MOTION by Mottola, second by Huntley to approve the Regular meeting minutes dated 4-04-22.

MOTION approved unanimously.

**Correspondence:**  None

**Review and Closing of the Agenda**: Correct Consent Agenda Item #2. Warrant Register total should be $1,089,743.57.

**Appointments, Awards and Citations:**

Mayor Steadman presented Jeff Grieve of the Public Works Dept. with a ten-year service certificate and read comments from Kevin Baker and Gordon Fell.

**OLD BUSINESS**

**1. Special Assessment Public Hearing (Series B, 2022 Bonds):**

The City Council, by previous action, adopted Resolution No. 2022-2 calling a public hearing to receive complaints or objections to the proposed special assessments, for the USD 263 Drainage Improvements, Emerald Valley Estates Improvements, Hidden Valley Addition Improvements, and North Rockwood Heights Sanitary Sewer Improvements. A Notice of Public Hearing has been published and individual notices were mailed to the benefiting property owners of the time, date, and place of the public hearing.

Mayor Steadman asked if there was anyone present who wished to address the council regarding their special assessments. There was no one present.

MOTION by Cardwell, second by Allen to recess the 4-18-22 City Council meeting for a period of four (4) minutes to hold a public hearing for property owner comments related to special assessments for their property.

MOTION approved unanimously.

During the public hearing, City Attorney, J.T. Klaus, advised there was a typographical error in the total final costs of $10.00. This has been corrected and will require council action.

MOTION by Mottola, second by Cardwell to close the public hearing and reconvene the 4-18-22 City Council meeting.

MOTION approved unanimously.

**2. Amended Certification of Total Final Costs and Assessment Rolls**:

It has been determined there was a typographical error in the total amounts originally calculated. The Certification of Final Costs has been corrected and requires formal reconsideration.

MOTION by Huntley, second by Ford to accept and approve the amended total final costs and proposed assessments for the USD 263 Drainage Improvements, Emerald Valley Estates Improvements, Hidden Valley Addition Improvements, and North Rockwood Heights Sanitary Sewer Improvements.

MOTION approved unanimously.

**3. Ordinance Levying Special Assessments:**

Following the holding of a public hearing, the next step in the process of providing permanent financing for these projects, is to adopt the ordinance levying special assessments against the benefiting properties, providing for the giving notice to the property owners of their option of paying the total amount of their assessments in full by May 23, 2022 or having their respective amounts included in a bond issue and having the amount of their special assessment levied over a 20 year period with interest each year on the unpaid balance.

MOTION by Huntley, second by Allen to adopt Ordinance No. 1555, an ordinance levying special assessment taxes on USD 263 Drainage Improvements, Emerald Valley Estates Improvements, Hidden Valley Addition Improvements, and Sanitary Sewer Improvements within the City.

MOTION approved unanimously.

ORDINANCE NO. 1555

AN ORDINANCE OF THE CITY OF MULVANE, KANSAS, LEVYING SPECIAL ASSESSMENT TAXES ON CERTAIN REAL PROPERTIES IN THE CITY, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF CERTAIN INTERNAL IMPROVEMENTS BENEFITING SUCH REAL PROPERTIES; PROVIDING FOR THE GIVING OF NOTICE OF SAID SPECIAL ASSESSMENT TAXES BY PUBLICATION AND MAILING; AND PROVIDING FOR THE COLLECTION OF SAID SPECIAL ASSESSMENT TAXES (USD 263 DRAINAGE IMPROVEMENTS, EMERALD VALLEY ESTATES IMPROVEMENTS, HIDDEN VALLEY ADDITION IMPROVEMENTS, AND SANITARY SEWER IMPROVEMENTS).

**4. Executive Session – Matters Privileged in Attorney-Client Relationship:**

Mayor Steadman entertained a motion to recess to an Executive Session for discussion of matters deemed privileged in the attorney-client relationship pursuant to K.S.A. 75-4319(b)(2) for the purpose of discussing legal matters for a period not to exceed thirty (30) minutes and to reconvene in open session at approximately 8:15 p.m. to include the Mayor, City Council, City Administrator, the City Financial Advisor and the City Attorney.

MOTION by Mottola, second by Cardwell to recess the City Council meeting to an Executive Session for discussion of matters deemed privileged in the attorney-client relationship pursuant to K.S.A. 75-4319(b)(2) for the purpose of discussing legal matters for a period not to exceed thirty (30) minutes and to reconvene in open session at approximately 8:15 p.m. to include the Mayor, City Council, City Administrator, the City Financial Advisor and the City Attorney.

MOTION approved unanimously at 7:45 p.m.

MOTION by Mottola, second by Allen to reconvene the City Council meeting.

MOTION approved unanimously at 8:15 p.m.

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

MOTION by Ford, second by Mottola, to recess to an Executive Session for discussion of matters deemed privileged in the attorney-client relationship pursuant to K.S.A. 75-4319(b)(2) for the purpose of discussing legal matters for a period not to exceed thirty (30) minutes and to reconvene in open session at approximately 8:45 p.m. to include the Mayor, City Council, City Administrator, the City Financial Advisor and the City Attorney.

MOTION approved unanimously at 8:15 p.m.

MOTION by Mottola, second by Allen to reconvene the City Council meeting.

MOTION approved unanimously at 8:47 p.m.

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

**NEW BUSINESS**

None

**ORDINANCES & RESOLUTIONS**

**1. Ordinance Authorizing Main Trafficway Improvements (Rock Road):**

The city attorney has prepared an Ordinance determining it necessary and advisable to mill and overlay Rock Road (the “Project”) for the City’s consideration. The Ordinance further authorizes the issuance of the City’s general obligation bonds in a total amount of $995,000 to pay the costs of the Project.

The costs of the Project will be financed through general obligation bonds of the city. General obligation bonds are secured by the City’s full faith and credit and taxing power. The city is planning to use revenues from the 1% sales tax to pay the principal and interest on the bonds.

MOTION by Mottola, second by Cardwell to adopt Ordinance No. 1556, determining it necessary and advisable to mill and overlay Rock Road and potentially finance the costs thereof through general obligation bonds.

MOTION approved unanimously.

ORDINANCE NO. 1556

AN ORDINANCE OF THE CITY OF MULVANE, KANSAS AUTHORIZING THE CITY TO MAKE MAIN TRAFFICWAY IMPROVEMENTS; AUTHORIZING THE CITY TO ISSUE GENERAL OBLIGATION BONDS IN AN APPROXIMATE PRINCIPAL AMOUNT OF $995,000 TO PAY THE COSTS OF THE MAIN TRAFFICWAY IMPROVEMENTS.

**2. Ordinance Authorizing Storm Water Sewer and Drainage Improvements:**

The city attorney has prepared an Ordinance determining it necessary and advisable to make improvements to the Styx Creek Drainage Basis (the “Project”) for the City’s consideration. The Ordinance further authorizes the issuance of the City’s general obligation bonds in a total amount of $790,000 to pay the costs of the Project.

The costs of the Project will be financed through general obligation bonds of the city. General obligation bonds are secured by the City’s full faith and credit and taxing power. The city is planning to use revenues from the 1% sales tax to pay the principal and interest on the bonds.

MOTION by Mottola, second by Allen to adopt Ordinance No. 1557, determining it necessary and advisable to make improvements to the Styx Creek Drainage Basin and potentially finance the costs thereof through general obligation bonds.

MOTION approved unanimously.

ORDINANCE NO. 1557

AN ORDINANCE OF THE CITY OF MULVANE, AUTHORIZING THE CITY TO MAKE STORM WATER SEWER AND DRAINAGE IMPROVEMENTS; AUTHORIZING THE CITY TO ISSUE GENERAL OBLIGATION BONDS IN AN APPROXIMATE PRINCIPAL AMOUNT OF $790,000 TO PAY THE COSTS OF THE STORM WATER SEWER AND DRAINAGE IMPROVEMENTS.

**3. Resolution Authorizing Public Sale of Bonds:**

The City Financial Advisor, Greg Vahrenberg of Raymond James, reviewed the calendar of events and bond analysis with the council for the General Obligation Bonds, Series A, 2022 and General Obligation Bonds, Series B, 2022.

The City Council has authorized, and/or intends to authorize upon the effectiveness of certain charter ordinances adopted at the February 21, 2022 City Council meeting, the acquiring, constructing, furnishing, and equipping of (1) a new downtown fountain park with water feature, (2) footbridges and other City park improvements, (3) Rock Road resurfacing, and (4) City stormwater drainage improvements. The City desires to issue general obligation bonds to finance the costs of these improvements (“Series A, 2022 Bonds”).

The City Council, by previous action, held a public hearing on the final costs and proposed assessments for the USD 263 Drainage Improvements, Emerald Valley Estates Improvements, Hidden Valley Addition Improvements, and North Rockwood Heights Sanitary Sewer Improvements. The pay in period allowing the property owners to pay their assessments in full will expire on May 23, 2022. The balance of the assessments not paid will be included in a bond issue (“Series B, 2022 Bonds”), as well as the current refunding of the City’s General Obligation Temporary Notes, Series A, 2021.

The proposed resolution authorizes the public sale of the Series A, 2022 Bonds and Series B, 2022 Bonds on June 20, 2022, at the City’s meeting and authorizes the publication and sending of the Notice of Bond Sale to prospective bidders of the bonds with an expected closing date for the permanent bonds of July 25, 2022.

The electors of the city recently approved a 1% sales tax for the purpose of paying the costs of the Series A, 2022 Bond projects. While the City intends to pay the Series A, 2022 Bonds from the revenues of said sales tax, the Series A, 2022 Bonds will also be payable from the City’s general ad valorem taxes.

The Series B, 2022 Bonds will be paid in part from the collection of special assessments against the benefited properties for the USD 263 Drainage Improvements, Emerald Valley Estates Improvements, Hidden Valley Addition Improvements, and North Rockwood Heights Sanitary Sewer Improvements. Any portions of the Series B, 2022 Bonds not payable or paid by special assessments will be payable from the City’s general ad valorem taxes.

MOTION by Cardwell, second by Mottola to adopt Resolution No. 2022-4 authorizing the public sale of approximately $2,525,000 in the City’s General Obligation Bonds, Series A, 2022 and approximately $2,180,000 in the City’s General Obligation Bonds, Series B, 2022, setting the date, time, and place of the sale of the bonds and providing for the publication of the notice of bond sale in the required newspapers.

MOTION approved unanimously.

RESOLUTION NO. 2022-4

A RESOLUTION OF THE CITY OF MULVANE, KANSAS, AUTHORIZING AND PROVIDING FOR THE PUBLIC SALE OF THE CITY’S (I) GENERAL OBLIGATION BONDS, SERIES A, 2022, IN A TOTAL PRINCIPAL AMOUNT OF APPROXIMATELY $2,525,000; AND (II) GENERAL OBLIGATION BONDS, SERIES B, 2022, IN A TOTAL PRINCIPAL AMOUNT OF APPROXIMATELY $2,180,000, SETTING FORTH THE DETAILS OF SAID PUBLIC SALE; AND PROVIDING FOR THE GIVING OF NOTICE THEREOF.

**4. Pooled Investment Money Loan Resolution:**

Each year since 2012, the Kansas Star Casino has appealed the valuation of its property to the State Board of Tax Appeals (“BOTA”) and subsequently thereafter the Kansas Star has appealed each of the BOTA final orders to the District Court or Court of Appeals of the State of Kansas. Only appeals for years 2012, 2013, and 2015 have settled. The appeals have caused the valuation of the Kansas Star to fluctuate, resulting in retroactive valuation reductions. When this happens, taxing entities must pay back the amount of property tax collected that exceeds the adjusted valuation (“Tax Refund”).

The 2015 appeal settlement resulted in a $989,990 Tax Refund owed by the City to Kansas Star. The Sumner County Treasurer notified the City that it will not make any property tax distributions to the City until the county collects the 2015 Tax Refund amount to remit to Kansas Star. The City’s property tax revenue for fiscal year 2022 will be reduced by an estimated 23% over that which was expected because of the county’s withholding. The 2014, 2016, 2017, 2018, 2019 and 2020 years have yet to be settled by the Court. Future property tax withholding by the Sumner County Treasurer could seriously impact revenue for the tax levying funds of the City if two or more years settle at once and the property value of the Kansas Star continues to be reduced.

The city appears to meet the requirements under K.S.A. 79-2005(n) to apply for a loan from the pooled money investment board managed by the State of Kansas. When a taxpayer appeals the valuation of property that exceeds 5% of the total assessed valuation of all property in the county and the appeal results in a Tax Refund, the county treasurer or governing body of a taxing entity within the county may request a loan from the pooled money investment board. The loan has a very low interest rate, has no “costs of issuance,” but must be paid back within four years.

MOTION by Allen, second by Mottola to pass Resolution 2022-5 authorizing the mayor to apply for a loan from the pooled money investment board through the Sumner County Treasurer, pursuant to K.S.A. 79-2005(n).

MOTION approved unanimously.

RESOLUTION NO. 2022-5

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF MULVANE, KANSAS TO REQUEST A LOAN FROM THE POOLED MONEY INVESTMENT BOARD PURSUANT TO K.S.A. 79-2005.

**5. Transient Guest Tax Ordinance (Rate):**

The City previously established the Transient Guest Tax at a rate of 5% of gross receipts derived from or paid directly or through an accommodations broker by transient guests for lodging or accommodations. The governing body has determined that it is in the best interest of the city to raise the rate of Transient Guest Tax to 8%. The amending ordinance will make the change to Item RR. of Section 100.240 of the City Code to accommodate the rate increase.

The City Charter Code No. 26 allows for the adjustment of Transient Guest Tax rate levied by ordinary ordinance.

MOTION by Huntley, second by Allen to adopt and approve Ordinance No. 1558 amending Item RR. of Section 100.240 of Title I to the City Code, relating to the rate of Transient Guest Tax levied.

MOTION approved unanimously.­­

ORDINANCE NO. 1558

AN ORDINANCE AMENDING AND RESTATING CERTAIN SECTIONS OF TITLE I, CHAPTER 100, ARTICLE VII, SECTION 100.240 OF THE MUNICIPAL CODE OF THE CITY OF MULVANE, KANSAS RELATING TO THE TRANSIENT GUEST TAX.

**6. Transient Guest Tax Resolution (Preference):**

Corresponding with the development of the Kansas Star Casino the City established the Transient Guest Tax at a rate of 5% of gross receipts derived from or paid directly or through an accommodations broker by transient guests for lodging or accommodations. The City previously adopted Resolution 2011-9, granting the Casino priority to request Transient Guest Tax revenue funds for convention and tourism.

City Staff have proposed an ordinance to raise the rate of Transient Guest Tax to 8%. As such, staff recommends amending Resolution 2011-9 to maintain the preference granted to the Kansas Star, but only for the first 5% of gross receipts. The proposed resolution will preserve the original preference granted to the Casino while allowing the city to benefit from the additional 3% Transient Guest Tax generated from the rate increase.

MOTION by Allen, second by Huntley to adopt and approve Resolution No. 2022-6 amending Resolution 2011-9, establishing the policy for collection and use of the City’s Transient Guest Tax.

MOTION approved unanimously.­­

RESOLUTION NO. 2022-6

A RESOLUTION AMENDING RESOLUTION NO. 2011-9 ESTABLISHING THE POLICY FOR COLLECTION AND USE OF THE CITY’S TRANSIENT GUEST TAX, AS LEVIED PURSUANT TO CHARTER ORDINANCE NO. 26 OF THE CITY.

**ENGINEER**

**1. Project Review and Update:**

City Engineer, Chris Young, reviewed the status of the current projects which included: Main “A” Sanitary Sewer Improvements, Pool Re-Painting, Rock Road Sewer Lift Station Abandonment, Styx Creek Flood Mitigation-BRIC grant, Second St. Pedestrian Crossing at Martha Ave., Rock Road Mill & Overlay.

**City Clerk:** None

**City Administrator:** None

**City Attorney:** None

**Consent Agenda Items #1 & 2:**

MOTION by Mottola­­­­­­­­­­­, second by Cardwell to approve Consent Agenda items #1 and 2.

1. Payroll dated 4-15-22 ($213,255.55)
2. Warrant Register ($1,089,743.57)

MOTION approved unanimously.­­

**ANNOUNCEMENTS, MEETINGS, AND NEXT AGENDA ITEMS:**

Monday, May 2nd - next council meeting @ 7:30 p.m.

**ADJOURNMENT:**

MOTION by Allen, second by Ford to adjourn the City Council meeting at 9:05 p.m.

MOTION approved unanimously.

Minutes by:

Debra M. Parker, City Clerk