

MULVANE CITY COUNCIL
REGULAR MEETING MINUTES

August 16, 2021

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: Terry Richardson, Nancy Farber Mottola, Jenean Keck, Brent Allen and Kevin Cardwell.

Others Present: Mike Robinson, Debra Parker, Joel Pile, Kent Hixson, J. T. Klaus, Gordon Fell, Amanda Ford, Tim Huntley, Brad Modlin, Rachael Blackwell, Kimberly DeWald.

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

Approval of Regular Meeting Minutes Dated 8-02-2021:

MOTION by Mottola, second by Allen to approve the Regular meeting minutes dated 8-02-2021. MOTION approved unanimously.

Correspondence: Councilmember Mottola was contacted by a citizen with concerns about a drainage ditch in Country Walk that is too wet to mow. This will be taken care of in the fall with a more permanent solution in the future.

Review and Closing of the Agenda: City Attorney, J. T. Klaus, would like to add the Purchase of Land Bank Property to Old Business since the City is the one that needs to authorize the purchase. This will be removed from the Land Bank agenda.

Appointments, Awards and Citations: Mayor Steadman congratulated MPD Branden Bohannon for receiving the 2021 DARE Officer of the Year Award and Chief Gordon Fell for receiving the Law Enforcement Administrator of the Year Award. There will also be a Retirement Reception for Brad Modlin on August 27th from 1:30 – 3:30 at the Utility Building. Mayor Steadman thanked him for 26 years of service.

OLD BUSINESS

1. Hidden Valley Estates – Street Improvements:

City Administrator, Kent Hixson, reviewed this item with the Council. Due to increased costs since the original petition and documents were prepared, an amended petition and related documents must be approved. Triplett Woolf Garretson, LLC (“Bond Counsel”) has prepared a resolution amending Resolution No. 2021-3 which determined the advisability of the improvements and an amending ordinance amending Ordinance No. 1534 which authorized the construction of the improvements to reflect the increased amount. The original street petition was \$380,000. The new street petition is \$458,000.

The City Council must formally accept the amended petition requesting the changes in estimated costs for the street improvements in the Subdivision and adopt the amending resolution and amending ordinance in order to special assess the costs of the improvements to the Addition.

MOTION by Mottola, second by Cardwell to accept the amended petition for the street improvements for the Hidden Valley Addition Street Improvements.

MOTION approved unanimously.

MOTION by Cardwell, second by Allen to accept the amended Developer's Agreement to reflect the increase in costs for the street improvements.

MOTION approved unanimously.

MOTION by Mottola, second by Allen to adopt Resolution No. 2021-17, amending Resolution No. 2021-3 regarding the advisability of the Hidden Valley Addition Street Improvements.

MOTION approved unanimously.

MOTION by Richardson, second by Mottola to adopt Ordinance No. 1545, amending Ordinance No. 1534 regarding the construction of the Hidden Valley Addition Street Improvements.

MOTION approved unanimously.

MOTION by Allen, second by Keck to accept the Hidden Valley Estates Addition Street construction bids.

MOTION approved unanimously.

MOTION by Mottola, second by Cardwell to issue a Notice of Award for street construction improvements to APAC-Kansas, Inc.

MOTION approved unanimously.

MOTION by Cardwell, second by Allen to approve the agreement with APAC-Kansas, Inc. for street paving improvements to serve the Hidden Valley Addition in the amount not to exceed \$335,981.00 and authorize the mayor to sign.

MOTION approved unanimously.

MOTION by Keck, second by Allen to approve pay application #2 in the amount of \$319,592.19 to McCullough Excavating for water and sanitary sewer improvements.

MOTION approved unanimously.

2. Approve Purchase of Land Bank Property:

At the July 7th Land Bank meeting, the Board approved publication of a Notice of Sale indicating its intent to convey three parcels from the Land Bank to the City. Since the 30 days has passed since publication of the Notice of Sale, the properties may be conveyed by the Land Bank to the City.

MOTION by Mottola, second by Richardson the city approve the purchase of 108 N. 2nd, 115 E. Mulvane St., and the adjacent lot from the Land Bank and authorize the clerk to file Quitclaim

Deeds and execute any other documentation necessary to accomplish the same, including execution of Real Estate Valuation Questionnaires.
MOTION approved unanimously.

NEW BUSINESS

None

ORDINANCES & RESOLUTIONS

1. Ordinance Relating to Parallel Generation of Electricity:

The City of Mulvane, Kansas operates an electric utility for its citizens and is a member of The Kansas Power Pool (KPP). Kansas law requires fair and equitable compensation to utility customers' monthly bills for energy supplied to the utility by said customers if the customer is a residential customer of the utility and owns a renewable generator (typically solar or wind) with a capacity of 25 kilowatts or less or is a commercial customer of the utility and owns a renewable generator with a capacity of 200 kilowatts or less. The compensation cannot be less than 100% of the utility's monthly system average cost per kilowatt hour, except that in the case of renewable generators with a capacity of 200 kilowatts or less, the compensation cannot be less than 150% of the utility's monthly system average cost of energy per kilowatt hour.

In coordination with the KPP, the Ordinance is proposed to conform with Kansas law as recently interpreted by the Kansas Supreme Court. This Ordinance repeals Subsections 700.290.D4., 700.300.A.3., 700.310.D.7., and 700.340.B.4., of Title VII, Chapter 700, Article IV of the Code, and creates a new Section 700.361. By repealing the above referenced subsections, customers that install electric generation systems will no longer be charged the monthly parallel generation charge calculated as Average Monthly Renewable Energy Times Unrecovered Energy Revenue Less Avoided Demand times the Capacity Demand Rate (i.e., (Average Monthly Renewable Energy x Unrecovered Energy Revenue) - (Avoided Demand x Capacity Demand Rate)).

The Kansas Supreme Court has opined that a 150% subsidy was intended. City Council should consider adopting the proposed parallel generation Ordinance to comply with Kansas law. There was clarification on the wording in the ordinance referring to the charges added to the electric rate.

MOTION by Mottola, second by Richardson to adopt Ordinance 1546 amending the City's Code relating to parallel generation for the City's utility customers that generate electricity.
MOTION approved unanimously.

ORDINANCE NO. 1546

AN ORDINANCE REPEALING SUBSECTIONS 700.290.D.4., 700.300.A.3., 700.310.D.7., AND 700.340.B.4. AND CREATING SECTION 700.361 OF TITLE VII, CHAPTER 700, ARTICLE IV OF THE CODE OF THE CITY OF MULVANE, KANSAS RELATING TO ELECTRIC RATES FOR CUSTOMERS GENERATING ELECTRICITY.

2. Special Event Resolution – Fall Festival:

Councilmember Mottola removed herself from her council seat to present this item. Kimberly DeWald was also present to review this item with the City Council. Brent Allen is President of the Mulvane Community Foundation and abstained from discussing or voting on this item.

The Mulvane Community Foundation, Inc. has approached the city for the designation of a special event to allow the sale and service of liquor in Cobb Family Historical Park and on the adjacent Main Street in connection with a Main Street Fall Festival event to be held on Saturday, September 25, 2021, from 2:00 p.m. to 9:30 p.m. Consumption of alcohol on most City property is illegal in the City unless the City Council designates an exemption by Special Event. A Special Event allowing alcohol to be sold and consumed on City property must be approved by Resolution.

MOTION by Keck, second by Richardson to approve Resolution No. 2021-18 authorizing the issuance of a special event on City property in connection with the Main Street Fall Festival allowing the sale and consumption of alcoholic liquor within the City limits to the Mulvane Community Foundation, Inc. on the afternoon/evening of September 25, 2021.

MOTION approved unanimously with 3 councilmembers voting.

RESOLUTION NO. 2021-18

A RESOLUTION OF THE CITY OF MULVANE, KANSAS, AUTHORIZING A SPECIAL EVENT ON CITY PROPERTY IN CONNECTION WITH THE SALE AND SERVICE OF ALCOHOLIC LIQUOR WITHIN THE CITY LIMITS AND STREET CLOSING.

Councilmember Mottola resumed her seat on the City Council.

LAND BANK

MOTION by Allen, second by Keck to recess the 8-16-21 City Council meeting and convene as the Mulvane Land Bank.

MOTION approved unanimously.

MOTION by Mottola, second by Allen to approve the 7-19-21 Land Bank Trustee meeting minutes.

MOTION approved unanimously.

MOTION by Mottola, second by Keck to recess the Mulvane Land Bank meeting for a period not to exceed 1 (one) minute for the purpose of conducting a public hearing regarding the 2022 proposed annual Land Bank budget.

MOTION approved unanimously.

There was no one present to speak during the public hearing.

MOTION by Mottola, second by Allen to reconvene the 8-16-21 regular Land Bank meeting.

MOTION approved unanimously.

MOTION by Mottola, second by Cardwell to approve the 2022 annual Land Bank budget as provided.

MOTION approved unanimously.

MOTION by Mottola, second by Richardson to approve the invoice from *The Mulvane News* in the amount of \$52.00 for the publication of the “Notice of Land Sale” for the Uncle Roy’s property to the City.

MOTION approved unanimously.

MOTION by Mottola, second by Allen to approve the invoice from *The Mulvane News* in the amount of \$65.00 for the publication of the 2022 Land Bank Budget hearing notice.

MOTION approved unanimously.

MOTION by Allen, second by Mottola to approve the invoice from Triplett Woolf Garretson in the amount of \$288.00 for Land Bank legal matters.

MOTION approved unanimously.

MOTION by Richardson, second by Mottola to adjourn the meeting of the Mulvane Land Bank Board of Trustees and reconvene as the Mulvane City Council.

MOTION approved unanimously.

ENGINEER

1. Emerald Valley Phase 2 – Accept Drainage Easement:

Final infrastructure design plans have been developed for the second phase of the Emerald Valley residential development. A 15-ft. Drainage Easement crossing the northwest portion of Lot 10, Block 2 is needed to address final grading and storm sewer design. The proposed easement will provide City access for future maintenance of the storm sewer.

MOTION by Keck, second by Mottola to accept the drainage easement in Emerald Valley Estates and authorize the mayor to sign.

MOTION approved unanimously.

2. Project Review and Update:

City Administrator, Kent Hixson, reviewed project updates with the council which included: E. Mulvane Street Drainage, Hidden Valley Addition, Emerald Valley Estates Phase 2, Main “A” Sanitary Sewer Improvements, and N. Rockwood Heights Sanitary Sewer Extension.

City Clerk: None

City Administrator: Received an e-mail from the Post Office advising they will be able to stay at their current facility until their new building is complete, so they will not need a location for the cluster mailboxes. PEC is working on the City’s Electric Generation Study. Hixson advised the council to be thinking of projects for use of the ARPA funds.

City Attorney: Noted that as of July 1st, the sales tax retailers should be charging is 7.5%. Be aware that some businesses may not have updated their software to accommodate this change. As a courtesy, the Mulvane Chamber of Commerce may remind the businesses in town of this change.

Consent Agenda Items 1 - 3:

MOTION by Mottola , second by Allen to approve Consent Agenda items 1 – 3.

1. Payroll dated 8-06-21 (\$225,327.75)
2. July Warrant Register (\$1,389,181.99)
3. E. Mulvane St. Drainage – Pay App. #4 to H. Excavating in the amount of \$32,884.31.

MOTION approved unanimously.

ANNOUNCEMENTS, MEETINGS, AND NEXT AGENDA ITEMS:

Wednesday, September 8th - next council meeting @ 7:30 p.m.

ADJOURNMENT:

MOTION by Richardson, second by Cardwell to adjourn the City Council meeting at 8:17 p.m.

MOTION approved unanimously.

Minutes by:
Debra M. Parker, City Clerk