

MULVANE CITY COUNCIL
REGULAR MEETING MINUTES

May 21, 2018

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: Brent Allen, Jenean Keck, Nancy Mottola, Kevin Cardwell and Barry Fleming.

Others Present: Debbie Parker, Kent Hixson, J.T Klaus, Joel Pile, Mike Robinson, Gordon Fell, Chris Young, Kathleen Cowin, Leah Fairchild, Linda Glaser, Eric Schlecht, Devoe Treadwell, Rocky Largent, Rita Largent and Daniel Clement.

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

Approval of Regular Meeting Minutes Dated 5-07-18:

MOTION by Fleming, second by Mottola to approve the Regular meeting minutes dated 5-07-18.

MOTION approved unanimously.

Correspondence: Mottola advised she had spoken with Shawn Ebersole regarding the City trash service and she would address the details at the appropriate time.

Review and Closing of the Agenda: The Land Bank has a copy of a second purchase agreement to be considered. This scheduled item was received after the packets were completed.

Appointments, Awards and Citations:

Board & Commission Appointments:

Library Board:

MOTION by Cardwell, second by Keck to re-appoint Nancy Reece to a four-year term on the Mulvane Library Board.

MOTION approved unanimously.

Planning Commission:

MOTION by Mottola, second by Allen to re-appoint John Melick - Sumner County/Rural and Mike Fell - Sumner County/City to a three-year term on the Planning Commission.

MOTION approved unanimously.

Building and Trades Commission:

MOTION by Fleming, second by Keck to re-appoint Mike Wenger - Building and Bill Reeves - Electrical to a three-year term on the Mulvane Building and Trades Commission.

MOTION approved unanimously.

Tree Board:

MOTION by Allen, second by Fleming to re-appoint Sue Shoemaker and Pat Arroyo to a three-year term on the Mulvane Tree Board.

MOTION approved unanimously.

OLD BUSINESS**1. Cox Cable – Pole Attachment Agreement:**

City Attorney reviewed the Cox Cable Pole Attachment Agreement with the City Council. In 2006, the Kansas legislature changed the law in Kansas such that cities could no longer require companies that provide cable or video service in Kansas to obtain a separate franchise agreement prior to using a city's right-of-way. In September 2009, Cox Communications notified the City that its franchise agreement with the City had expired and under Kansas law would not be renewing the agreement. Cox still collects and remits a 5% franchise fee payment on its gross revenues within the City under the law but is no longer required to have any other agreement for using the right-of-way.

In Mulvane, Cox uses the right-of-way and attaches its equipment to approximately 780 of the City's electric poles. In November 2016, the City Council passed an ordinance to increase the pole attachment fee to \$15.00 per pole per year. Cox refused to pay that amount. After a year of negotiation between staff and legal counsel a Pole Attachment Agreement was developed and has been executed by Cox. Cox has now paid-up the last two years of past due fees at the new rate of \$7.50 per pole per year.

MOTION by Allen, second by Fleming to authorize the Cox Pole Attachment Agreement as presented and authorize the Mayor to sign.

MOTION approved unanimously.

2. Solid Waste Hauling for City Service Only - Agreement:

Mottola stated that she had spoken with Shawn Ebersole from Waste Link (Waste Link is partially owned by a local person). He felt the City Council appeared to be cavalier when considering the Solid Waste Agreement. Mottola advised she felt there was a misunderstanding and did appreciate all the help that Waste Link provided during the flood in 2016 by providing solid waste hauling at a low cost to the City. However, the council has legal obligations when it comes to its expenses.

City Attorney, J.T. Klaus, explained to the council the obligation to accept the low bid as it pertains to the law based on the public purpose doctrine. The City is a city of the second class under Kansas law, so it is not legally required to "bid" its services. However, when the City bids commodity-priced services, the City Attorney strongly recommends accepting the low bid. The City can have liability for accepting a higher bid under several theories of law.

The City uses both commercial dumpsters and carts at buildings and grounds in the City. The City recently bid this service. Request for Proposals, originally drafted by the City Attorney, were sent out to eight solid waste haulers in the Wichita area on February 24, 2018. *There are*

no solid waste haulers based in the City of Mulvane. On April 16, 2018, the City Council selected the low bidder, Waste Management, to provide solid waste hauling for the City.

Three of the bids provided unit prices for carts and dumpsters. During the term of this agreement, the City may add or subtract carts and dumpsters. The City will pay for any change in service on a per unit basis. Waste Management also has an audit system and will notify the City if they see the dumpster sizes or pick-ups need to be adjusted.

MOTION by Mottola, second by Cardwell that the City approve the Municipal Solid Waste Collection Agreement and authorize the Mayor to sign the Agreement.

MOTION approved unanimously.

NEW BUSINESS

1. Proposed Barn Quilt Display on the exterior wall of the Pix Community Building:

Leah Fairchild and Kathleen Cowin asked the council to consider a Barn Quilt Display on the north wall of the Pix Community Building. They would like to be put on the Barn Quilt Trail website in the state of Kansas which would bring more people to town. They reviewed the details of the quilt design with the council, and possible ways of creating the display by installing a “false wall”. The Barn Quilt would be painted with house paint and should be very durable.

The council expressed their support for the display and would like to see it in the City, but felt an alternate location for the display would be best. No action was taken.

2. Rocky Largent of 1063 E. 149th N. in Paradise Valley Addition - Request to amend the Floodplain Management Regulations:

The Mulvane Floodplain Regulations Section B-1.a require all new construction or substantial improvement of a residential structure located within a designated floodplain to have the lowest floor, including basement, elevated a minimum of two (2) feet above the base flood elevation. The two (2) foot requirement is above the minimum one (1) foot requirement of the national flood insurance act of 1968 which sets forth certain required minimums. Mr. Largent addressed the City Council with a request to amend the current two (2) foot requirement to the one (1) foot standard requirement. His home sustained fire damage and he would like to rebuild, however with the current two (2) foot requirement, this has created an additional burden.

The two (2) foot requirement further restricts and deters development within the floodplain. Development in the floodplain increases chances for property damage during flood events and has the potential to impact flood insurance rates for all in the area. It was explained there is a reason the City has the regulations in place, and the difference in insurance premiums could be substantially different with the two (2) foot requirement.

Article 5 of the Floodplain Regulations sets forth a provision for requesting a variance. The Board of Zoning Appeals hears and decides appeals and requests for variances from the Floodplain Regulations. The council did not wish to amend the current Floodplain Regulations but felt Mr. Largent should request a variance.

MOTION by Allen, second by Fleming to waive the \$150.00 variance application fee for Mr. Largent.
MOTION approved unanimously.

ORDINANCES & RESOLUTIONS

None

LAND BANK

MOTION by Mottola, second by Keck to recess the City Council meeting and convene as the Mulvane Land Bank.
MOTION approved unanimously.

MOTION by Keck, second by Fleming to approve the Land Bank Board of Trustees meeting minutes dated 5-07-18.
MOTION approved unanimously.

MOTION by Allen, second by Fleming to approve the invoice from Dudley Williams & Assoc. in the amount of \$4,000.00 for structural engineering work at 100 and 102 W. Main.
MOTION approved unanimously.

MOTION by Allen, second by Mottola to approve the real estate purchase agreement with Small Town Metropolitan, LLC for the purchase of 209 W. Main subject to a content compare to the agreement as prepared by the City Attorney.
MOTION approved unanimously.

Joel Pile advised the Board that the property at 100 ½ W. Main and 112 W. Main was appraised at \$33,420.00. The offer from F. L. Carson Agency, LLC was for \$30,000. The Board was also advised that the purchase agreement prepared was the standard agreement but did include a conflict waiver. The Board discussed the amount of properties owned by one individual.

MOTION by Caldwell, second by Keck to approve the real estate purchase agreement with F. L. Carson Agency, LLC for the purchase of 100 ½ W. Main and 112 W. Main.
MOTION approved unanimously.

Joel Pile gave an update to the Board on the demo of the back structures at 100 & 102 W. Main and other future agreements.

MOTION by Keck, second by Allen to adjourn the meeting of the Mulvane Land Bank Board of Trustees and reconvene as the Mulvane City Council.
MOTION approved unanimously.

ENGINEER

1. Drainage Project Update:

Chris Young, City Engineer, reviewed several drainage projects that have been completed or are in process. Young also gave updates on grant funding, the drainage policy, FEMA maps and reviewed communication with BNSF. It was also noted that some of Styx Creek had private ownership.

For information only.

2. Project Review and Update: Chris Young, City Engineer, reviewed several projects: Emerald Valley Estates, Gilberts Addition, English Park and Styx Creek Drainage Improvements, Decommissioning of the Boxelder Power Plant, the Rock Road Water Line, Villa Maria Water Line and Water Distribution GIS mapping.

City Clerk: Asked the Council to turn in their Code Books for updates.

City Administrator: None

City Attorney:

Executive Session:

The City Attorney requested an Executive Session not to exceed 45 minutes to discuss matters involving Land Acquisition under K.S.A. 75-4319(b)(6) for the purpose of discussing potential land acquisition to include the Mayor, City Council, City Administrator, City Attorney, and representatives from Burns & McDonnell and Equisset.

MOTION by Mottola, second by Keck to recess the City Council meeting to an Executive Session not to exceed 45 minutes to discuss matters involving Land Acquisition under K.S.A. 75-4319(b)(6) for the purpose of discussing potential land acquisition to include the Mayor, City Council, City Administrator, City Attorney, and representatives from Burns & McDonnell and Equisset to return at approximately 9:32 p.m.

MOTION approved unanimously at 8:47 p.m.

MOTION by Mottola, second by Fleming to reconvene the regular meeting of the Mulvane City Council.

MOTION approved unanimously at 9:37 p.m.

The Mayor stated that no decisions were made during the Executive Session.

The City Attorney advised the council that the City did have ownership of the Sports Complex, but would revert back to the school if not used as a park. A majority of the council would like to proceed with finding out information about allowing the sale of beer at the Patriots baseball games. The City Attorney would need to be provided with the dates, times and defined area to designate as a special event. Councilmember Cardwell will get some additional information.

Consent Agenda - Items 1 -2:

MOTION by Keck, second by Allen to approve Consent Agenda items 1 – 2.

1. **Payroll:** Dated 5-18-18 (\$201,057.10)
2. **Public Safety Dept.** – Huber & Assoc. Computer Service (\$6,500.00)

MOTION approved unanimously.

ANNOUNCEMENTS, MEETINGS AND NEXT AGENDA ITEMS:

- Monday, June 4th - Next council meeting @ 7:30 p.m.

ADJOURNMENT:

MOTION by Allen, second by Fleming to adjourn the City Council meeting at 9:53 p.m.

MOTION approved unanimously.

Minutes by:
Debra M. Parker, City Clerk