

MULVANE CITY COUNCIL  
REGULAR MEETING MINUTES

January 20, 2020

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 Farber Mottola, Barry Fleming and Kevin Cardwell.

**Others Present:** Kent Hixson, J.T. Klaus, Mike Robinson, Debra Parker, Gordon Fell, Chris Young, Joel Pile, Spencer Walker, Eric Meyer, Matt Canfield, Brad Modlin, Chad Tharp, Anica Baerg, Dustin Baerg, Jason Velotta, Jesse Velotta, Cameron Tucker, Joe McDaniel, Judi Patterson, Tammy Napier, Gary Sorber, Joan Martinez, Jerry Martinez, Steve Rogers, Cindy Rogers, Sonya Schifferdecker, Roger Schifferdecker, Kami McGrew, Sam Prest, David Lewis, Jill Lewis, Dominick Baerg, Mary Baerg, Brooke Davidson, Keith Belcher, Juan Rodriguez, Janice Aldrich, Taegan Belcher, Ethan Tharp and other interested citizens.

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

**Approval of Regular Meeting Minutes Dated 1-06-20:**

MOTION by Mottola, second by Cardwell to approve the Regular meeting minutes dated 1-06-20. Mayor Steadman stated there was a correction to the minutes regarding the zoning issue at the last meeting. The amended motion should read - to return Case No. Z-2019-02 to the Planning Commission for review of modified request to include R-2 with R-1 to the North and/or South side of the parcel separately and B-3 to the South with a buffer between it and the northern adjacent property.

Mottola amended her motion to approve the Regular meeting minutes dated 1-06-20 to include the modifications recommended by the Mayor, second by Cardwell.

MOTION approved unanimously.

**Correspondence:** Mottola had correspondence related to Old Business #1 on the agenda. Mayor Steadman will call for ex parte communications at that time.

**Review and Closing of the Agenda:** New Business #1 (First Baptist Church Fireworks Stand Temporary Zoning Permit and Fee) will be moved up on the agenda to follow Appointments, Awards and Citations.

**Appointments, Awards and Citations:**

**1. Employee Service Award:**

Mayor Steadman presented Spencer Walker of the Utility Department with a certificate of appreciation for 20 years of service to the City and thanked him for his service.

## NEW BUSINESS

### **1. First Baptist Church – Temporary Rezoning Request and Waiver of Fireworks Stand Fee:**

A letter was received from the First Baptist Church requesting to waive the \$6,000 fireworks stand fee and grant a temporary zoning permit. Matt Canfield addressed the council and answered questions about the request.

MOTION by Keck, second by Fleming to grant the temporary zoning permit to the First Baptist Church to allow for the sale of fireworks at 1020 N. 2<sup>nd</sup> Street in accordance with city code.

MOTION approved unanimously.

MOTION by Mottola, second by Cardwell to reduce the fee to \$3,000.00 for the First Baptist Church 2020 firework stand permit.

MOTION approved unanimously.

## OLD BUSINESS

### **1. Rezoning Request for 1560 N. Rock Road (Gilbert Addition):**

At the January 6, 2020 City Council meeting, the Governing Body referred case #Z-2019-02 back the Planning Commission for additional consideration of a modified request to the original application. During the January 9<sup>th</sup> PC meeting, the Commission voted against a motion to approve the modified zoning request. According to the zoning regulations if the PC fails to deliver its recommendation to the Governing Body following the Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Commission as a resubmission of the original recommendation and proceed accordingly. Therefore, the initial recommendation of the PC is resubmitted which recommends denial of the zoning change.

Mayor Steadman asked the City Council if any of them intend to disqualify themselves from discussing and voting on this issue due to any conflicts of interests or bias on this matter.

There were none.

Mayor Steadman asked the City Council if any of them have received any ex parte communications prior to the meeting. Councilmember Cardwell indicated he did not fully understand the question at the last meeting, and he did talk to a few people regarding the issue before the January 6<sup>th</sup> meeting. He believed the question was if he planned to disqualify himself from voting. He apologized for the misunderstanding and did not wish to mis-lead anyone.

Mayor Steadman and Councilmember Mottola indicated they have spoken to citizens and have also received written communication regarding the concerns of property owners. It was indicated that signed petitions were received at City Hall today opposing the rezoning. It was advised that this is not a public hearing and there would be no public comment.

The council received an excerpt of minutes from the Planning Commission meeting on January 9, 2020 for their review.

MOTION by Mottola, second by Cardwell to receive and file the excerpt of minutes from the Planning Commission meeting on January 9, 2020 as presented.  
MOTION approved unanimously.

City Attorney, J.T. Klaus, reviewed the steps that have been taken so far in the process with the Planning Commission and the City Council for this rezoning issue and the validity of the petitions received earlier in the day. He also reviewed the options available to the council. The Governing Body may: (1) Accept the Planning Commission recommendation for Disapproval, (2) Override and revise the factors, and amend and adopt a different recommendation, or (3) Take no action.

The City Council gave their final views on this agenda item. Mayor Steadman thanked the Planning Commission members for their service and consideration. She acknowledged this has been a long process and the City must follow state statute. This process could start again should this applicant or another applicant request re-zoning.

There was no motion and no action taken. This will effectively end the application and not change the zoning, but also not confirm the findings and factors of the Planning Commission.

## **NEW BUSINESS**

### **2. Kansas Star Casino – Request Transient Guest Tax Funds:**

In 2008, the governing body of the City of Mulvane, Kansas passed Charter Ordinance No. 26 which established a 5% Transient Guest Tax.

In 2011, the City passed Resolution No. 2011-9 which defined how the Transient Guest Tax funds can be used and disbursed. With the construction of the 300-room Hampton Inn, the Kansas Star Casino was granted a priority on the first \$3,800,000 of Transient Guest Tax.

According to City policy, the Casino must apply to the City for any event or Project which meet the statutory requirements.

The 2020 budget balance in the Transient Guest Tax fund is \$358,317. The Director of Finance of the Casino, Scott Schroeder, has agreed to set aside up to \$25,000 of the TGT funds in 2020 that the City can disburse to support local events and festivals. If approved, for 2020 the City will disburse \$333,000 to the Casino.

MOTION by Mottola, second by Keck to authorize the City Administrator to approve the 2020 request from the Kansas Star Casino for Transient Guest Tax funds in the amount of \$333,000.  
MOTION approved unanimously.

### **3. 2018 Annual City Audit – Review by City Auditor:**

Eric Meyer of George, Bowerman & Noel, P.A. reviewed the 2018 annual city audit with the council. The City participates in the Comprehensive Annual Financial Report (CAFR) each year which is the highest level of financial reporting. The three sections of the CAFR reviewed were

Introductory, Financial and Statistical. Meyer also reviewed the current asset status of the City and the audit findings.

## **ORDINANCES & RESOLUTIONS**

**None**

## **ENGINEER**

### **1. Project Review and Update:**

Chris Young reviewed the project updates with the council which included the Sanitary Sewer Study Update, Rock Road Water Line, Flood Mitigation Grant – English Park and Styx Creek Drainage Improvement, Decommissioning the Boxelder Power Plant, Homestead Phase 2 and E. Mulvane Street Drainage.

Young advised the council BNSF had installed an additional culvert in the First Street drainage basin. The culvert installed by BNSF will provide additional capacity to move water from between the RR tracks and the west RR ditch. An agreement specifying the responsibilities or conditions for entering into an agreement with BNSF has still not been received.

## **MULVANE LAND BANK**

MOTION by Mottola, second by Allen to recess the City Council meeting and convene as the Mulvane Land Bank Board of Trustees.

MOTION approved unanimously.

MOTION by Fleming, second by Allen to approve the Land Bank Board of Trustees meeting minutes dated 1-06-20.

MOTION approved unanimously.

MOTION by Allen, second by Mottola to approve and publish the 2019 Annual Land Bank Report.

MOTION approved unanimously.

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

MOTION approved unanimously.

**City Clerk:** None

**City Administrator:** The 2020 Annual Budget has been e-mailed to the Council.

**City Attorney:** Reminded everyone this is a National and Federal Holiday. It is Martin Luther King Jr. Day and to recognize the legality of that and the contribution he made to the Civil Rights Movement.

**Consent Agenda Item 1 - 5:**

MOTION by Keck, second by Mottola to approve Consent Agenda items 1-5.

1. Payroll dated 1-10-20 (\$209,213.75)
2. December 2019 - Warrant Register (\$850,169.70)
3. Cereal Malt Beverage (CMB) License for DG LLC (Dollar General Store)
4. Sanitary Sewer Lift Station – approve the purchase of a Myers 7.5 horse-power pump from Enviro-Line Co. in the amount of \$5,875.00 with additional charges for freight.
5. Utility Dept. – Pay the invoice from Core & Main in the amount of \$18,676.87 for 2020 Annual Software as a Service Fee for Advanced Meter Infrastructure.

MOTION approved unanimously.

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

- Monday, February 3<sup>rd</sup> - next council meeting @ 7:30 p.m.

**ADJOURNMENT:**

MOTION by Allen second by Fleming to adjourn the City Council meeting at 9:14 p.m.

MOTION approved unanimously.

Minutes by:  
Debra M. Parker, City Clerk