

MULVANE CITY COUNCIL
REGULAR MEETING MINUTES

February 21, 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, Brent Allen, Nancy Farber Mottola.

Others Present: Mike Robinson, Debra Parker, Joel Pile, Kent Hixson, J.T. Klaus, Gordon Fell, Chris Young, Ticia Herd, Kevin Baker, Kaylie Mistretta.

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

Approval of Regular Meeting Minutes Dated 2-07-2022:

MOTION by Mottola, second by Huntley to approve the Regular meeting minutes dated 2-07-22. MOTION approved unanimously.

Correspondence: Councilmember Mottola was contacted by some downtown business owners that were very appreciative of the snow removal. Mottola was also contacted by a citizen regarding RV's parked in a driveway or concrete slabs in front of their homes. Mottola reached out to city staff and was able to pass on the ordinance that allows this as long as it is not on a public street for more than a certain period of time.

Councilmember Cardwell was contacted by a citizen concerning issues with a sewer backup in Settlers Addition. Hixson spoke to the customer.

Review and Closing of the Agenda: None

Appointments, Awards and Citations:

Mayor Steadman read a statement from a citizen in appreciation of Chris Thoman for his help with cleaning the mud out of a driveway after a water issue. Thoman was named Employee of the Month. He was not present to accept his certificate.

OLD BUSINESS

1. Mulvane Recreation Commission – Proposal for a Fitness Court:

MRC Director, Ticia Herd, presented an update to the council regarding the fitness court. She has made an application for the grant. Because it is a first come first serve grant, the National Fitness Campaign (NFC) would need the project completed by early fall 2022.

If the city completes the concrete work, \$20,000 would be deducted from the city's cost. This would be the only 'in kind' donation available. The total cost of the fitness court is \$185,000. With the BCBS Grant of \$50,000 and the \$20,000 city concrete work, it would make the total

purchase price \$115,000. The MRC has indicated it would pay for \$67,500 leaving the balance of \$47,500 for the City.

There was discussion about the artwork for the fitness court. Options for artwork designated for BCBS of Kansas grant winners was presented. The artwork also allows for local logos to be placed on the fitness court wall as well.

City Attorney, J.T. Klaus, advised since the BCBS logo is an advertising component, we would need to make sure that it would be located where no public funds, as it relates to borrowing, are used. We can use tax dollars, but we would not want to locate it in a park where a significant piece of tax-exempt bonds are issued, because it will result in a private use since BCBS is not a not-for-profit or a government entity. This may dictate some considerations with respect to the location.

Council liked the idea of the Fitness Court, but suggested this project be put in the CIP. Council would like to see how the funding looked and check on the affordability before committing to the project. Council also suggested individual workout stations and possible locations.

2. Pix Center – Review Allowing Alcohol Policy:

Public Safety Director, Gordon Fell, presented information to the council regarding the alcohol policy at the PIX Center and requiring a Mulvane Police Officer to be present at all times alcohol is present. Currently, there is a \$50.00 application fee required if any alcohol is to be present.

Fell reviewed the current staffing of the department. With the requirement of a Police Officer at the PIX, this leaves a shortage of officers for patrol or availability for other needs in the community or events.

After council discussion, it was suggested to increase the alcohol application fee to \$100.00, require a point of contact (non-consumer), and notify the applicant that the PIX is subject to a spot inspection by local law enforcement.

MOTION by Mottola, second by Cardwell, to revise the policies related to the PIX usage to remove the need for an officer to be present at alcohol related events and to increase the non-refundable alcohol fee to \$100.00.

MOTION approved unanimously.

NEW BUSINESS

1. Resolution of Dissolution of Wholesale Water Supply District #22:

Public Wholesale Water Supply District No. 22 was created by Agreement dated as of August 1, 2000 by its three Members: The City of Derby, Kansas, the City of Mulvane, Kansas, and Rural Water District No. 3, Sedgwick County, Kansas. The district was created to locate, obtain and implement a water source for its members. Derby and RWD #3 are now both currently under contract with the City of Wichita for water.

RWD#3 and Derby wish to end the arrangement. It is their preference to terminate and dissolve operations as there is no longer a need for them to locate, obtain and implement additional water sources. Two out of the three Members can terminate the Agreement.

As of January 14, 2022, the District has an estimated \$2,474.84 in funds held in Carson Bank. The funds would be divided equally between its members, with Mulvane receiving approximately \$824.94. Upon distribution of the funds held in Carson Bank, the District would be dissolved.

MOTION by Allen, second by Huntley that the city authorize the mayor to execute the Resolution of Dissolution of Public Wholesale Water Supply District No. 22.

MOTION approved unanimously.

2. Transient Guest Tax – Local Events Request:

The manager of the Kansas Star Casino supports promoting of local events and has agreed to set aside up to \$25,000 of the TGT funds in 2022 that the City can disburse to support local events and festivals. The funds are available to award these grants from the Transient Guest Tax Fund. An application has been received from the Mulvane Patriots Baseball Team.

MOTION by Mottola, second by Huntley to approve the Transient Guest Tax fund “local event” request for The Mulvane Patriots Baseball Team, in the amount of \$2,000.00.

MOTION approved. Cardwell abstained.

3. Senior Center Agreement Sedgwick County:

Mayor Steadman advised that she is an employee of the County, although she will receive no financial benefit in connection with the operation of the Senior Center.

Mulvane Senior Center Director, Kaylie Mistretta, reviewed the services offered at the Senior Center. The Center status is a Level II. The programming requirements fall into three categories: Baseline Activity, Special Event/Projects, and Education. The agreement will provide \$35,000 for salaries from Sedgwick County to the Mulvane Sr. Center for 2022. Mistretta also reviewed the meal distribution program. Mistretta is hoping to increase participation at the Center.

Mistretta reviewed the current Board of Directors. Board members include: Judy Scott, Marietta Factor, Fred Cook, Ticia Herd, and Greg Proctor. Council would like to be involved in the appointment of the Board.

MOTION by Huntley, second by Mottola to approve the agreement for the Mulvane Senior Center - Senior Center Level II - between the City of Mulvane and Sedgwick County for 2022.

MOTION approved unanimously.

ORDINANCES & RESOLUTIONS

1. Ordinance Repealing Annexation:

City Attorney, J.T. Klaus, explained the reason for repealing Annexation Ordinance 1549. There was a new law that went into effect in 2021 that stated whenever a city proposes to annex land that

is located within the certified territory of a retail electric supplier, the city shall provide notice to the retail electric supplier and consider who will be the electric supplier to the property. We will repeal the first annexation ordinance and adopt one that correctly handles the annexation that includes providing notice to Evergy to give them 180 days to seek a franchise with the City.

MOTION by Mottola, second by Allen that the council adopt Ordinance 1551 repealing Ordinance 1549 annexing the property to the City of Mulvane, Kansas.

MOTION approved unanimously.

ORDINANCE 1551

AN ORDINANCE REPEALING ORDINANCE NO. 1549 ANNEXING LAND TO THE CITY OF MULVANE, KANSAS.

2. Ordinance Authorizing Annexation of 1299 E. 119th St. South:

The owners of real property commonly known as 1299 E. 119th, Mulvane, Kansas, submitted a petition to the City of Mulvane to annex the real property to the City. The property already adjoins the existing boundaries of the City. Under K.S.A. 66-1,176, when a city annexes land in a certified territory of a retail electric supplier, it must (a) select a Supplier; (b) notify the Supplier regarding same; and (c) negotiate a franchise agreement with the selected Supplier. K.S.A. 66-1,176 requires the City to conclude certain findings to make its Supplier selection. The Resolution enumerates such findings, makes a Supplier selection, provides a notification letter, and proposed amendment to the existing Evergy, Inc. franchise agreement.

Evergy is the current Supplier to the property and the landowners desire to continue receiving Evergy services. The City Council may approve adopting the proposed Ordinance to annex the property. In such event, the City Council should consider adopting the accompanying proposed Resolution to comply with its obligations under Kansas law with respect to the Supplier.

MOTION by Mottola, second by Huntley that the council adopt Ordinance 1552 annexing the property to the City.

MOTION approved unanimously.

ORDINANCE NO. 1552

AN ORDINANCE ANNEXING LAND TO THE CITY OF MULVANE, KANSAS.

3. Resolution regarding the Retail Electric Provider for Annexed Property:

MOTION by Mottola, second by Cardwell that the council adopt Resolution 2022-1 to elect Evergy, Inc. as the retail electric supplier to the property at 1299 E. 119th St. South.

MOTION approved unanimously.

RESOLUTION NO. 2022-1

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF MULVANE, KANSAS PROVIDING NOTICE OF LAND ANNEX TO ELECTRICITY SERVICE PROVIDER, AS REQUIRED BY K.S.A. 66-1,176.

CHARTER ORDINANCES

The electors of the City recently approved a 1% sales tax for the purpose of acquiring, constructing, furnishing, and equipping (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 (together with certain special assessment projects also in process.)

The City is authorized by certain State statutes to issue bonds to finance public improvements including, public buildings and land; park land and improvements; gas, water, and electric works; electric plants; and other public improvements in the City's approved capital improvement plan if the question of issuing such bonds is approved by an election. In order to issue bonds for some of the projects approved in the sales tax election and provide a method to finance other public improvements in the future, the City can charter out from the provisions of those statutes to permit such bonds without an election. Adopting the Charter Ordinances will allow the City to issue bonds for the improvements without holding an election.

4. Charter Ordinances regarding Electric Utility Improvements:

MOTION by Mottola, second by Allen to adopt Charter Ordinance No. 31 exempting the City from the provisions of K.S.A. 12-834 and 12-843 relating to the issuance of bonds to finance natural gas, water, electric light, or heating, or street-railway or telephone service improvements and providing substitute and additional provisions relating thereto.

MOTION approved unanimously. Mayor Steadman voted yes.

5. Charter Ordinance regarding Public Buildings and Parks:

MOTION by Allen, second by Cardwell to adopt Charter Ordinance No. 32 exempting the City from the provisions of K.S.A. 13-1024a relating to the issuance of bonds to finance public buildings and land, park land and improvement, and other public improvements and providing substitute and additional provisions relating thereto.

MOTION approved unanimously. Mayor Steadman voted yes.

6. Charter Ordinance regarding Master Plan Public Improvements:

MOTION by Huntley, second by Allen to adopt Charter Ordinance No. 33 exempting the City from the provisions of K.S.A. 14-570 and 14-571 relating to the issuance of bonds to finance public improvements contained within the City's capital improvement plan and providing substitute and additional provisions relating thereto.

MOTION approved unanimously. Mayor Steadman voted yes.

City Attorney, J.T. Klaus, explained the reason for the Charter Ordinances is to allow the City to issue bonds for the sales tax improvements simultaneously with issuance of other bonds for special assessment improvements.

LAND BANK

MOTION by Mottola, second by Allen to recess the 2-21-22 City Council meeting and convene as the Mulvane Land Bank.

MOTION approved unanimously.

MOTION by Mottola, second by Huntley to approve the 1-17-22 Land Bank Board of Trustees meeting minutes.

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 Land Bank Annual Report for 2021.

MOTION approved unanimously.

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

MOTION approved unanimously.

ENGINEER

1. Emerald Valley Addition – Supplemental Engineering Agreement:

On January 18, 2021, the City entered into an agreement with Young and Associates, P.A. for Emerald Valley Estates Phase 2 – Infrastructure Design and Construction Oversight services.

The City contracted with Conspec, Inc. (DBA) Kansas Paving to construct street and storm sewer improvements. The Notice to Proceed established the date of Substantial Completion as August 15, 2021, and the Final Completion date as September 15, 2021. The Contractor completed their work, and was issued substantial completion on October 19, 2021, approx. 65-days over their contract time.

Construction Oversight fees for street and storm sewer improvements were based on an estimated 45-day construction timeline and totaled \$26,400. In view of the additional 65-day construction time, Y&A is requesting consideration for approving supplemental engineering fees for construction oversight services in the amount of \$5,500.

MOTION by Mottola, second by Cardwell that the city approve supplemental fees in the amount of \$5,500 with Young & Associates, P.A. for Emerald Valley Estates Phase 2 – Street and Storm Sewer Improvements Construction Oversight services and authorize the mayor to sign.

MOTION approved unanimously.

The council asked if there was a penalty to the contractor for not completing the project in a timely manner. Staff was not interested in pursuing liquidated damages at that time.

2. Project Review and Update:

City Engineer, Chris Young, reviewed project updates with the council which included: Main “A” Sanitary Sewer Improvements, Pool Re-Painting, Rock Road Sewer Lift Station Abandonment,

BRIC Grant – Flood Mitigation Funding, Second Street Pedestrian Crossing at Martha Ave., Rock Road Mill & Overlay from 103rd St. to K-15.

City Clerk: None

City Administrator: None

City Attorney:

City Attorney, J.T. Klaus, requested an Executive Session to discuss matters privileged in the attorney-client relationship for a period not to exceed 20 minutes.

MOTION by Cardwell, second by Mottola to recess this meeting to an executive session for matters deemed privileged in the attorney-client relationship for discussion related to legal matters to include the Mayor, City Council, City Attorney, and City Administrator for a period not to exceed 20 minutes and to reconvene in open session at approximately 9:30 p.m.

MOTION approved unanimously at 9:10 p.m.

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

MOTION approved unanimously at 9:33 p.m.

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

Consent Agenda Items 1-3 :

MOTION by Mottola, second by Cardwell to approve Consent Agenda items 1-3.

1. Payroll dated 2-18-22 (\$223,695.78)
2. Wastewater Treatment Plant – Chemical Bldg. Invoice from JCI (\$18,533.00)
3. Wastewater Casino Force Mains Cleaning – Mayer Specialty Services (\$18,330.00)

MOTION approved unanimously.

ANNOUNCEMENTS, MEETINGS, AND NEXT AGENDA ITEMS:

Monday, March 7th - next council meeting @ 7:30 p.m.

ADJOURNMENT:

MOTION by Allen, second by Huntley to adjourn the City Council meeting at 9:35 p.m.

MOTION approved unanimously.

Minutes by:
Debra M. Parker, City Clerk