

MULVANE CITY COUNCIL
REGULAR MEETING MINUTES

March 7, 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, Nancy Farber Mottola, Amanda Ford.

Others Present: Mike Robinson, Debra Parker, Joel Pile, Kent Hixson, J.T. Klaus, Gordon Fell, Chris Young, Kevin Baker, Tom Burkhardt, Gary McGuire.

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

Approval of Regular Meeting Minutes Dated 2-21-2022:

MOTION by Mottola, second by Huntley to approve the Regular meeting minutes dated 2-21-22. MOTION approved unanimously.

Correspondence: None

Review and Closing of the Agenda: None

Appointments, Awards and Citations: None

OLD BUSINESS

1. City Property, Casualty and Workers Compensation Insurance Policy Renewal:

Tom Burkhardt of the Carson Insurance Group reviewed the 2022-23 Insurance renewal with the council. Burkhardt previously met with all City Departments Heads to review existing coverage for the renewal.

Property: With the continued increased cost of construction and materials, the replacement value of all buildings has been reviewed. Based on the results from the replacement evaluations, the blanket limit on property will be \$61,024,223. This is an increase of \$10,125,752.

General Liability: The general liability deductible increased from \$500 per occurrence to \$2,500. This is due to the recent activity of water backup/sewer claims.

Cyber Liability: No Change.

Crime: No Change.

Law Enforcement: The City receives a premium credit for the Lexipol program. No change.

Linebacker/Public Officials/ Employer Practices Liability: No Change.

Auto: The usual deletions and additions of vehicles.

Equipment: The usual deletions and additions of equipment.

Workers Compensation: The experience modification for the City of Mulvane increased from .86 to .91. Workers Compensation is subject to a policy year end audit.

Ambulance Malpractice: At this time Carson Insurance Group has not received the 2022 renewal for Ambulance Malpractice. This line of coverage is separate from the EMC policy.

Dividend History: The City of Mulvane received a dividend check in 2021 in the amount of \$52,334.84. This dividend is not a guarantee. The City of Mulvane has continued to receive a dividend because of excellent loss history and participating in the EMC Municipality Program. The 2022 dividend will be calculated on the 2021 performance.

The 2022-23 renewal premium with EMC Insurance Company is \$381,140.00. This does not include the Ambulance Malpractice which is separate.

Council had questions regarding the history of premiums. Council also asked about checking with other Insurance Companies for coverage. EMC and Travelers are the two companies that offer coverage for municipalities. Travelers premiums are higher and because we have an electric utility, they do not want to issue coverage. Staff will check with Southern Star to see if they still need to be listed as an additional insured on our General Liability policy. City Attorney, J.T. Klaus, asked about the differences in coverage limits for cyber extortion and ransomware. Burkhart will check on this.

MOTION by Mottola, second by Huntley to approve the City Property & Casualty Insurance Policy Renewal for 2022-23 as presented.

MOTION approved unanimously.

2. Kansas Power Pool – ElectricComm Contract for Transformer Purchase:

In May of 2021, the Utilities Director recommended (and the City Council approved) selection of ElectricComm, Inc. to engineer, construct and install the upgrade and reconstruction of the substation on a proposed cost of \$1,090,800 and approved the acquisition of a new transformer at an estimated cost of \$800,000.

Thereafter, on July 15, 2021, the City Council decided it best to seek financing for the Project through the Kansas Power Pool (“KPP”). The estimated cost of the improvements and financing (which are to be initially owned by the KPP) is being paid through Mulvane’s Cost of Power. After the financing is retired, the improvements will be transferred to the city. The KPP financing has already been secured and the costs are included in the City’s wholesale Cost of Power.

Following up on the City’s request and acceptance of the proposal, the KPP has secured a contract with the selected provider (ElectricComm) to construct the new substation, transformer, and switch gear. KPP is requesting the City approve that contract (since it is being undertaken at the request and on behalf of the City).

Council reviewed the transformer quotes. Howard Power Solutions is the lowest price quote; however, it includes a material escalation clause with a 1-year warranty. Niagara Power Transformer is the next highest with no escalation clause and a 5-year warranty. Staff recommends Niagara Power Transformer to limit the exposure of price escalation plus the additional 4 years of warranty.

The breakdown of transformer proposals received are as follows:

<u>Manufacturer</u>	<u>Bid Date</u>	<u>Price</u>	<u>Delivery Time</u>	<u>Warranty</u>
Niagara Power Transformer	2/1/2022	\$742,665.00	65 Weeks	5 Years
Hitachi Energy	2/1/2022	\$1,255,740.00	55-60 Weeks	1 Year
Virginia-Georgia Transformer	1/31/2022	\$815,967.00	35-36 Weeks	5 Years
Howard Power Solutions	1/28/2022	\$717,550.00	24 Weeks	1 Year -

****Materials with Escalation Prices**

The City is being asked to “approve” and sign the contract as it is the beneficiary of the Project, and it is being undertaken at the City’s request.

MOTION by Cardwell, second by Ford to approve the contract between KPP and ElectriComm to engineer, construct and install the 111th St. electric substation upgrades.
MOTION approved unanimously.

NEW BUSINESS

1. 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 Kansas Assoc. of School Business Officials.

MOTION by Mottola, second by Ford to approve the Transient Guest Tax fund “local event” request for the Kansas Assoc. of School Business Officials in the amount of \$2,000.00.
MOTION approved unanimously.

ORDINANCES & RESOLUTIONS

1. Ordinance – Evergy Electric Franchise Agreement:

The City of Mulvane, Kansas (the “City”) has an existing electric franchise with Evergy, Inc. (“Evergy”) pursuant to Ordinance No. 1374 (“Original Franchise”). On February 21, 2022, the City annexed real property commonly known as 1299 E. 119th, Mulvane, Kansas 67110 (the “Property”) which is not covered by the Original Franchise. Accordingly, the City found it necessary to amend to the Original Franchise to include the subject Property and Evergy accepted. Evergy has subsequently agreed.

Evergy is the current Supplier to the Property, and the landowners desire to continue receiving Evergy services. The annexed property area is not included under the Franchise. The City and Evergy desire to amend the Franchise to include the annexed real property.

MOTION by Mottola, second by Cardwell to adopt Ordinance No. 1553 which amends Ordinance No. 1374 (Evergy's Original Franchise Ordinance).
MOTION approved unanimously.

ORDINANCE NO. 1553

AN ORDINANCE AMENDING THE ELECTRIC FRANCHISE ORDINANCE NO. 1374 BETWEEN THE CITY OF MULVANE, KANSAS AND EVERGY, INC., AS SUCCESSOR IN INTEREST TO KANSAS GAS AND ELECTRIC COMPANY, A KANSAS CORPORATION, DOING BUSINESS AS WESTAR ENERGY.

ENGINEER

1. 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 – Styx Creek 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:

Hixson informed the council that city staff has met with, and will continue to meet with, the City Attorney, City Financial Advisor and City Auditor to discuss possible solutions to deal with the property tax revenue shortfall as a result of the rulings from the State Board of Tax Appeals (BOTA) for the casino's property tax appeals.

Some ideas are a combination of spending reductions, revenue enhancements, deferring large purchases, mill levy increases, use of cash, taking a loan from the State and issuing debt. These ideas will be discussed during the 2023 budget presentations to the council this spring.

City staff has visited with the Sumner Co. Appraiser and the School District Superintendent about this issue. The city wants to maintain good communications with the taxing districts this impacts.

City Attorney:

City Attorney, J.T. Klaus, advised the Council of an issue that affects the UPOC. On November 19, 2021, the US District Court in Kansas granted a preliminary injunction to the plaintiffs in *VoteAmerica v. Schwab*, a case brought to challenge the validity of some voting laws passed in 2021 by the Kansas Legislature. The Court enjoined the section 3(k)(2) of HB 2332, which prohibited the mailing of any advance mail ballot application that had been personalized with the voter's information. The injunction was granted on the First Amendment speech claim.

The portion of the bill that was enjoined was incorporated into the 37th Edition of the Uniform Public Offense Code. Section 7.5(a)(2) of the UPOC mirrors the provisions from the challenged

state law. As such, cities should refrain from enforcing this UPOC section until the injunction has been stayed or the case otherwise reaches final disposition.

Since the City as adopted the UPOC we should not enforce Sec. 7.5(a)(2) and issue a formal statement from a representative of the city that the city has no intention of enforcing 7.5(a)(2). Klaus presented a letter for approval.

MOTION by Mottola, second by Ford that the mayor issue an order not to enforce Sec. 7.5(a)(2) of the UPOC.

MOTION approved unanimously.

A copy of this letter will be sent to the Campaign Legal Center, League of Kansas Municipalities, and TWG.

Consent Agenda Items 1-6:

MOTION by Mottola, second by Cardwell to approve Consent Agenda items 1-6.

1. Payroll dated 3-04-22 (\$210,572.48)
2. February Warrant Register (\$1,201,479.27)
3. City Utility Bills (\$26,612.34)
4. Wastewater Treatment Plant - Approve the purchase of 30,000 lbs. of ferric chloride for \$9,529.50 and 50,000 lbs. of sodium hydroxide for \$15,504.50 at a total cost of \$25,034.00.
5. Utility Dept. – Core & Main Invoice (\$21,765.57)
6. Wastewater Dept. Approve the repair of a Flygt 460 volt, fifteen hp, 3 phase pump for \$11,736.00 from JCI.

MOTION approved unanimously.

ANNOUNCEMENTS, MEETINGS, AND NEXT AGENDA ITEMS:

Monday, March 21st - next council meeting @ 7:30 p.m.

ADJOURNMENT:

MOTION by Cardwell, second by Mottola to adjourn the City Council meeting at 8:25 p.m.

MOTION approved unanimously.

Minutes by:
Debra M. Parker, City Clerk