

MUSTANG CITY COUNCIL
JULY 11, 2023

The Mustang City Council met in regular session on Tuesday, July 11, 2023, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted as required on Friday, July 7, 2023, at 10:38 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Vice Mayor Ray called the meeting to order at **7:00 p.m.**

B. PLEDGE OF ALLEGIANCE/INVOCATION Michael Staton, Pastor, First Baptist Church.

Pastor Staton led the assembly in the Pledge and Invocation. He stated everything was going well at the Church stating new parking spots had been built to help accommodate the growing attendance. He stated he has been the Pastor at the Church for 23 years now stating when he came to Mustang, his youngest son was not born and is now married.

C. ROLL CALL

Councilmembers Present: Ray
Leete
Waugh
McKenzie
Sholund

Councilmembers Absent: Wald
Grider

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

None

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

City Manager Rooney requested Item H.5 be pulled from the agenda.

H. CONSENT AGENDA

- F.1 Approval of 06/06/2023 City Council Minutes.
- F.2 *Claims List for FY23.
- F.3 *Claims List for FY24.
- F.4 Approval to Turn Past Due Library Accounts over to Collection Agency.
- F.5 Approval of Radio System License Agreement Renewal for FY2024 between the City of Mustang and the City of Oklahoma City.

- F.6 Approval to Renew Excess Workers' Compensation Insurance with Midwest Employers Group.

MOTION was made by **Councilman Sholund**, seconded by **Councilman McKenzie**, to Approve the Consent Agenda Items F.1 thru F.6.

AYE: Ray, Leete, Waugh, McKenzie, Sholund

NAY: None

G. INFORMATION/REPORTS

G.1 City Manager Report

City Manager Rooney stated the July Sales Tax report was received after distribution of the City Manager's report stating an updated copy has been provided to each Councilmember.

G.2 City Council

Vice Mayor Ray asked the Councilmembers if they had anything to report in their respective Wards:

Councilman Leete stated he received his very first firework call as well as a call regarding hazardous waste agreements with other cities stating both are being reviewed and will be addressed. He also commended the City Manager regarding his City Manager's Report provided monthly stating it is a tremendous resource.

Councilman Waugh stated he received calls regarding a rezoning item to be addressed later on the agenda.

Councilman McKenzie stated he also received a few calls regarding fireworks stating the subject may be placed on the August agenda.

Councilman Sholund stated he received one phone call regarding fireworks stating the City Manager handled it. He also stated how wonderful it is to live in a city allowing fireworks and thanked the groups cleaning up the park the morning after on July 5th.

Councilman Ray stated he received a few calls regarding the Sara Road construction thanking *Assistant City Manager Battles* for following up with them. He also stated he received thank you calls from firework organizations thanking the City for the opportunity to sell fireworks. He stated the Fire Department's 54th Annual Freedom Celebration was a wonderful event and thanked the Fire Department for their hard work. He also stated he attended the Grand Opening of Fire Station No. 2 stating it was a beautiful facility and proud of the Chief and everyone's hard work.

H. DISCUSSION ITEMS

- H.1 Consideration of Acceptance of Bids for Project Labeled Emergency Traffic Signal for Fire Station No. 2.

Assistant City Manager Battles stated bids were received June 5th for an emergency traffic signal for Fire Station 2, the same as the one currently at Fire Station 1, stating it would activate when an emergency vehicle leaves the Fire Station. He stated three bids were received and Staff recommends accepting all bids.

MOTION was made by **Councilman Waugh**, seconded by **Councilman Sholund** to Accept All Bids for the Project Labeled Emergency Traffic Signal for Fire Station No. 2.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

- H.2 Consideration of Award of Bid for Project Labeled Emergency Traffic Signal for Fire Station No. 2.

Assistant City Manager Battles stated the low bidder for this project was Traffic Signals, Inc. in the amount of \$180,000. He stated they are an excellent contractor and the City has done a lot of work with them. **Battles** stated Staff recommends awarding to Traffic Signals, Inc. in the amount of \$180,000.

MOTION was made by **Councilman Sholund**, seconded by **Councilman McKenzie** to Award the Project Labeled Emergency Traffic Signal for Fire Station No. 2 to Traffic Signals, Inc. in the amount of \$180,000.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

- H.3 *Consideration of Memorandum of Understanding between the City of Mustang and the Mustang Improvement Authority regarding the Use of Reclaimed Water.

Assistant City Manager Battles stated the Oklahoma Department of Environmental Quality (ODEQ) is requiring the City to complete a Memorandum of Understanding between the City of Mustang and the Mustang Improvement Authority to utilize reuse water at the public athletic fields in order to complete the OPDES permit process that is required every five years. He stated this is the first time the ODEQ has required this agreement.

MOTION was made by **Councilman Waugh**, seconded by **Councilman Sholund** to Approve the Memorandum of Understanding.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

- H.4 Consideration of Contract and Bonds for Project Labeled Meadows Park Walking Trail.

Community Development Director Helsel stated the bids for the Meadows Park Walking Trail were accepted and awarded in the June City Council meeting stating this item is for the contract and bonds for the walking trail. She stated the contractor resubmitted the contract and bonds with corrections stating if approved, should be approved subject to the City Attorney's approval.

City Manager Rooney stated he received requests from citizens to see a map of the park and trail stating it has been added to the City's website.

MOTION was made by **Councilman McKenzie**, seconded by **Councilman Waugh** to Approve the Contract and Bonds for Project labeled Meadows Park Walking Trail subject to the City Attorney's Approval.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

- H.5 Consideration of Resolution No. 24-001, a Resolution of the City Council of the City of Mustang, Oklahoma, Amending Resolution Nos. 13-051 and 16-022; Establishing a Minimum Fine Schedule for Violations of the City of Mustang Ordinances; Providing for Effective Dates; and Providing for Repealer.

This item was pulled from the Agenda under Item E. – New Business, Deletions or Continuances to the Agenda.

- H.6 Consideration of Preliminary Plat Application, PP-6-1-23-1-26, Mustang Highlands, Cedar Creek Consulting, INC, North of Locke Supply off N Sara Rd, 9.13 Acres.

Senior City Planner Conner stated this preliminary plat application is for a development called "Mustang Highlands" for property within the Borneman PUD north of the Walmart area. He stated this property was to be developed R-2 or C-2, but not both, with the property owner choosing to develop the property for two family (duplex) homes – R-2.

Conner provided information for surrounding areas and stated Planning Commission voted unanimously to recommend approval. He stated Staff recommends approval as well.

MOTION was made by **Councilman Waugh**, seconded by **Councilman McKenzie** to Approve the Preliminary Plat.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

- H.7 Public Hearing and Consideration of Ordinance No. 1287, an Ordinance of The City of Mustang, Oklahoma, Amending the Zoning Ordinance of The City of Mustang, Oklahoma, as Amended, to Change Certain Property Located in Canadian County, Oklahoma, from A-1, Agricultural District to R-1, Single Family District, Declaring Repealer, and Providing for Severability.

Senior City Planner Conner stated the applicant has submitted an application to rezone property located at 520 S. Lewis Lane from the A-1 – Agricultural District to R-1 - Single Family District and contains approximately 3.8 acres of land. He stated the applicant originally requested the property be rezoned to R-2 PUD stating Planning Commission denied this request. He provided background information and stated it was consistent with the Long Range Plan.

Vice Mayor Ray opened the matter for Public Hearing.

There being none, **Vice Mayor Ray** closed the Public Hearing.

MOTION was made by **Councilman Waugh**, seconded by **Councilman Sholund** to Approve Ordinance No. 1287.

AYE: Ray, Leete, Waugh, McKenzie, Sholund

NAY: None

- H.8 Public Hearing and Consideration of Ordinance No. 1288, an Ordinance of The City of Mustang, Oklahoma, Amending the Zoning Ordinance of The City of Mustang, Oklahoma, as Amended, to Change Certain Property Located in Canadian County, Oklahoma, from C-3, Commercial General District to C-5, Commercial Intensive District, Declaring Repealer, and Providing for Severability.

Senior City Planner Conner stated the applicant has submitted an application to rezone property located along the west side of N. Clear Springs Road between W. Rendezvous Way and W. Lodge Way from C-3 – Commercial General District to C-5 – Commercial Intensive District. He stated the property consists of two separate adjacent parcels, both totaling approximately 10.5 acres in size altogether.

Conner stated Planning Commission voted unanimously in their May 9, 2023 meeting to recommend denial of the rezoning request. He stated the Commission asked the applicant if they would be interested in rezoning the property to C-4 – Planned Shopping Center District instead of C-5 – Commercial Intensive District stating the applicant insisted the request for C-5 zoning remain.

Conner stated Planning Commission denied a rezoning request to R-4 – Multi-Family Planned Unit Development (PUD) in November of 2021 stating the zoning should remain Commercial. He stated the Long Range Plan calls for Retail Neighborhood which includes uses that can harmonize in areas close to residential development like small shopping centers, restaurants and other retail stating C-5 Zoning would allow for those uses, but also allows for more intense commercial developments that Staff does not recommend.

Vice Mayor Ray opened the matter for Public Hearing.

Cooper Hahn, 522 Colcord Dr., Oklahoma City, OK, on behalf of the applicant, addressed the Council stating his client, who is the property owner, brought a rezoning application to Planning Commission and City Council for residential development, PUD, and was denied and stated the citizens wanted it to remain commercial. He stated his client found a commercial developer stating the new buyer needs the flexibility that is provided with C-5 zoning. He stated the main big use is storage which requires C-5 zoning and although it might could be accomplished through a Conditional Use Permit (CUP), this is subject to an annual review and could be an issue. Hahn stated he saw at least 5 storage businesses located to residential property in Mustang.

Discussion was held regarding the intent of the developer and if a site plan had been developed. Hahn stated the developer would like to build storage units; however, it would be up to the buyer which could be a C-2 use or a C-5 use stating it creates flexibility. He stated at this stage, a site plan would be impossible to do. Some Councilmembers were not in favor of rezoning to C-5 without knowing exactly what would be built since C-5 zoning allows for many intensive commercial developments that they felt would not be appropriate for that area.

Doug Eckert, 1935 W. Badger Way, addressed the Council stating he would like to acknowledge the applicant for hearing their concerns; however, he was not in favor of C-5 zoning stating this would open the property up now, and in the future, to uses not compatible with this location such as a trucking company or chemical plant. He stated there are other ways a storage unit could be developed, such as through a CUP, but asked Council not to approve a blanket C-5 zoning.

Karen Carlile, 604 N. White Tail Way, addressed the Council stating when they purchased their house, they checked the zoning of that property and felt they could live with C-3 zoning, but not with C-5 zoning and stated children are all over this area. She stated she knows this is difficult for the developer, but the property is not cohesive to all C-5 uses.

Guyla Carnes, 713 N. White Tail Way, addressed the Council stating the developer is asking them to trust him that storage was the only reason for the C-5 rezoning request. She stated she was OK with commercial with nice little businesses, but C-5 opens up the property to many uses, other than storage, the residents do not want. She stated to ask the buyer for retail and to get more creative.

John Carlile, 604 N. White Tail Way, addressed the Council stating he was OK with the C-3 zoning and that some C-5 uses would be OK, but not all of them stating something harmful could be built there. He also was concerned it could lower their property values.

Frank O'Hara, 522 N Songbird Way, addressed the Council stating he and his wife have lived here for 22 years and he agrees with what everyone has said. He stated he didn't want to open up this box to C-5 with the understanding of a storage facility be placed on the property, only for them to build something different. He stated there is a lot of opportunity for change and gave an example of when he lived in Oklahoma City and a retail business was located next to his property stating they left and a motorcycle shop opened there. He also stated traffic is not too great either as it is.

Steve Carrell, 624 N. White Tail Way, addressed the Council stating the property being considered this evening was directly behind his property. He stated he has lived there for 18 years and knew the property would be developed at some point, but at C-3, not C-5. He stated C-5 opens up the property to uses that could be a health hazard and maybe even cause 24-hour traffic. He stated he was also reluctant to rezone to C-5 when C-4 or special use permits could work just as well especially with there being no site plans or anything to review. He stated the old gas station at Highways 152 and 92 was just recently torn down stating that is prime real estate in that location and maybe more conducive for some of these other types of business.

Hahn, for the applicant, addressed the Council again stating the zoning for this property must remain flexible stating he understands everyone's concerns, but would be the only way to meet the developer's expectations. He stated Mustang has more requirements than most municipalities, especially with PUDs and CUPs along with the annual CUP review, stating it can be concerning for someone wanting to invest. He stated they are looking for a solution for this property and that it should be developed stating the City does not receive any tax dollars if not developed. He stated if storage units were allowed in C-3, they would be happy staying with C-3.

Community Development Director Helsel read some of the uses allowed in C-5 zoning not allowed in other zoning districts.

Discussion was held regarding C-4 uses versus C-5 uses and was that a possibility this evening. **City Attorney Miller** stated the only way to change to C-4 would be if Council was willing to rezone the property to C-4 and applicant agrees to C-4 stating at the Planning Commission meeting, applicant was not willing to rezone the property to C-4. Some residents expressed their displeasure with C-4 zoning as well as C-5.

Vice Mayor Ray closed the Public Hearing.

Miller stated he would like to make a statement of clarification stating Mr. Hahn indicated there was no way to get storage units with a PUD unless you had a specific design in place. He stated Mr. Hahn was advised before this application was filed, that the City would be willing to recommend a PUD without requiring a specific master development plan map and would instead include a requirement for a subsequent submission of a site plan stating that was not followed so wanted to clarify to Council there are other ways.

Councilman Sholund stated there was inherent risk either way stating he would rather have C-5 with a buffer making it a little quieter than rezone it to C-4 that has uses such as hotels, motor repairs, motorcycle shops, etc. He stated he felt it was a good plan and would recommend approval of C-5, but not C-4, saying if C-5 does not pass, he would rather it stay C-3.

Councilman Leete stated he was opposed to C-5 rezoning stating Council needs to do its due diligence and was not comfortable leaving the property open to all uses in C-5 zoning.

Vice Mayor Ray stated he agreed with Staff that C-5 zoning was not appropriate for that area. He stated Planning Commission heard this request and denied it and agreed with their decision.

Councilman Waugh stated he was not in favor of C-4 or C-5 zoning for this property stating it would be a hindrance unless the development was very specific and was a PUD. He stated C-4 and C-5 zoning allows too many uses that are not appropriate for that area stating it could be developed into storage now, but who is to say 10 years down the road, it's torn down and anything could go in there. He stated C-3 is exactly what is needed and those type of services would be appropriate there.

Councilman McKenzie stated he would love to see retail in that area, but was not in favor of rezoning to C-5, especially without knowing what would be developed there.

C-4 zoning was discussed further; however, applicant was not interested in rezoning to C-4.

MOTION was made by **Councilman Waugh**, seconded by **Councilman McKenzie**, to Disapprove Ordinance No. 1288.

AYE: Ray, Leete, Waugh, McKenzie
NAY: Sholund

I. MATTERS FOR EXECUTIVE SESSION:

- I.1 *Consideration of Potential Purchase and Acceptance of Permanent Easement and Authorization for Mayor and City Staff to Execute Necessary Documents to Accomplish the Same; and proposed Executive Session as Authorized by 25 Okla. Stat. 307(B)(3).
- I.2 Discussion of Kevin Ducey v. City of Mustang, Case No. CJ-2023-403, District Court, Canadian County, Oklahoma; and, proposed executive session as authorized by 25 Okla. Stat. 307(B)(4).
- I.3 Discussion of potential claim involving Mustang Lion's Club; and, proposed executive session as authorized by 25 Okla. Stat. 307(B)(4).

MOTION was made by **Vice Mayor Ray**, seconded by **Councilman Sholund** to adjourn to Executive Session.

AYE: Ray, Leete, Waugh, McKenzie, Sholund
NAY: None

TIME ADJOURNED to Executive Session: **8:15 p.m.**

Vice Mayor Ray called the meeting back into Session.

TIME RETURNED from Executive Session: **8:31 p.m.**

In reference to Item I.1 –

Informational purposes only.

In reference to Item I.2 –

Informational purposes only.

In reference to Item I.3 –

Informational purposes only.

J. ADJOURNMENT

MOTION was made by **Councilman Sholund**, seconded by **Councilman McKenzie**, to adjourn.

AYE: Ray, Leete, Waugh, McKenzie, Sholund

NAY: None

The meeting was adjourned at **8:31 p.m.**



Brian Grider, Mayor

Attest:



Lisa Martin, City Clerk