



MINUTES

City Council Regular Meeting
August 03, 2020 - 7:00 PM

1. CALL TO ORDER

Mayor Rudy called the meeting to order at 7:06 p.m.

2. PLEDGE

3. ROLL CALL

Mayor: Brian Rudy
Mayor Pro-Tem: Mark Clark
Council: Laura Speer
Alicia Johnson
Fred Neal
Amanda Castle
Tammy Mortenson

4. AUDIENCE PARTICIPATION

There was no audience participation.

5. APPROVAL OF AGENDA

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the agenda. The motion passed with all voting in favor thereof.

6. CONSENT AGENDA

The consent agenda is reserved for matters which are routine and uncontroversial. Any item may be removed from the consent agenda and placed on the regular agenda at the request of the Mayor or a City Council member.

- A. Approval of the July 21, 2020 City Council Meeting Minutes
- B. Consideration of Ordinance Number 728-20 Implementing the Colorado Sales and Use Tax Software System (SUTS) (2nd Reading)

Mayor Rudy recused himself from this motion because he was absent at the last meeting.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the agenda. The motion passed with all voting in favor thereof.

7. NEW BUSINESS

- A. Consideration of Resolution Number 20-2020 Making Findings of Facts by the City Council of the City of Evans, Colorado, and its Conclusions Relative to the Eligibility for Annexation to the City of Evans, Colorado, of Certain Municipally Owned Property

Mr. Becklenberg, City Manager provided the Council with an overview of the annexation process for this property. This is a three-step process. The first is the consideration of eligibility for annexation per state law. Second, is the consideration of the actual annexation and assigning a zone of the property in the City of Evans. Then third, we will be seeking a special use permit for the open space and park purpose.

Drew Lyman, Assistant City Attorney, informed the City Council on the eligibility resolution to determine that the municipally owned property which is the Arrowhead open space is legally eligible to be annexed by the City of Evans and it's a finding of fact made by resolution and this is step one in the process to annex this property.

Council Member Johnson made the motion, seconded by Council Member Neal to approve Resolution No. 20-2020 as proposed. The motion passed with all voting in favor thereof.

- B. Public Hearing: Consideration of Ordinance Number 723-20 Arrowhead Annexation and Zoning (1st Reading)

Mayor Rudy opened the Public Hearing at 7:10 p.m.

Mr. Becklenberg reminded City Council that step two is the consideration of the annexation itself and assigning a zoning classification to this property.

Anne Best-Johnson, Community Development Director, provided an overview of the entire Arrowhead project.

Mayor Rudy asked if there was anyone in the audience who wished to speak for this item; no one came forward.

Mayor Rudy asked if there was anyone in the audience who wished to speak opposing this item; no one came forward.

Council Member Speer asked staff to clarify that we do not have a park zone in the City of Evans.

Anne Best-Johnson, Community Development Director advised Council Member Speer that this is correct some of the parks could be zoned R-1 or whatever the surrounding zone district is or PUDs.

Mayor Rudy closed the Public Hearing at 7:18 p.m.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to approve the Arrowhead Annexation and Zoning, and to adopt Ordinance No. 723-20 on first reading. The motion passed with all others voting in favor thereof.

- C. Consideration of Resolution Number 22-2020 Approval of Use by Special Review for the Arrowhead Open Space/Park located at 37th Street and 47th Avenue

Mr. Becklenberg, City Manager informed the City Council that we now have an additional ten acres and it is zoned agricultural. Now, we need go through the process to have the lands used as the City Council envisions it is to be used.

Lauren Richardson, City Planner, provided the Council with an overview of the process.

Council Member Speer thanked staff for including the Planning Commission minutes in the presentation.

Council Member Neal stated that he is glad he will still be able to see the same view he has enjoyed for over fifty years instead of storage sheds. He believes the public is going to enjoy the park.

Council Member Castle made the motion, seconded by Council Member Johnson to move to adopt Resolution No. 22-2020 as proposed with conditions of approval. The motion passed with all others voting in favor thereof.

- D. Public Hearing: Consideration of Ordinance Number 727-20 an Ordinance Repealing and Replacing Chapter 18.07.120 of the Evans Municipal Code to Provide Transparent Application Processing Standards for Plat Modifications, Replats, Vacations and Lot Line Adjustments in the City of Evans

Mayor Rudy opened the Public Hearing at 7:28 p.m.

Mr. Becklenberg, City Manager, informed City Council that Planning staff and Planning Commission have been talking about clarifying a chapter of our City Code regarding the processing application requirements for things like plat modifications, replats, vacations of property and lot line adjustments. These are small, but important things when it affects your project as a property owner or developer. The goals are to make this process clearer, and more consistent with today's best practices, and what the application requirements are. The Planning Commission and staff are still working on this item; therefore, we are requesting this item to be continued to the September 15, 2020 City Council meeting.

Mayor Rudy asked if there was anyone in the audience who wished to speak in favor of his item; no one came forward.

Mayor Rudy asked if there was anyone in the audience who wished to speak opposing this item; no one came forward.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to continue the Public Hearing for the Consideration of Ordinance 727-20 Repealing and Replacing Chapter 18.07.120 of the Evans Municipal Code to Provide Transparent Application Processing Standards for Plat Modifications, Replats, Vacations and Lot Line Adjustments in the City of Evans to September 15, 2020. The motion passed with all others voting in favor thereof.

- E. Public Hearing: Consideration of Ordinance Number 729-20 an Ordinance Adding Chapter 9.29 to Title 9 of the Evans Municipal Code to Regulate Unmanned Aircraft Systems in the City of Evans (1st Reading)
Mayor Rudy opened the Public Hearing at 7:31 p.m.

Mr. Becklenberg reminded Council that they have held two work sessions on the potential of adding this chapter to the municipal code to regulate unmanned aircraft system otherwise known as drones.

Mayor Rudy asked if there was anyone in the audience who wished to speak in favor of this item; no one came forward.

Mayor Rudy asked if there was anyone in the audience who wished to speak opposing this item; no one came forward.

Mayor Pro-Tem Clark asked if the FAA regulates the use of drones and we adopt an ordinance, will not the FAA take precedence over the City's ordinance.

Drew Lyman, Assistant City Attorney, stated it would to the extent there was a conflict between the ordinance and the FAA regulations, but this ordinance covering below 400 feet in altitude I believe this ordinance as drafted to be enforceable.

Mayor Pro-Tem Clark asked what the penalties would be under our City Code.

Drew Lyman, Assistant City Attorney stated that the penalties would be the penalty under 1.16 of Evans Municipal Code.

Mayor Rudy closed the Public Hearing at 7:33 p.m.

Mayor Pro-Tem Clark stated that he is still on the fence because the FAA still regulates and there could be a potential conflict even if it is from the ground up.

Council Member Speers stated that there is no conflict with the FAA and asked what part Mayor Pro-Tem is referring to. She stated that they have three outlined policies, and this is in addition to it not conflicting with the FAA.

Mayor Pro-Tem Clark stated he still does not know and that we should not be policing drones and there are other things people find offensive that we do not regulate.

Council Member Speers stated that her purpose was for a reference for people to have education.

Council Member Johnson agreed that this addresses some of the ambiguity and makes it clearer if the situation were to arise, we would have something place.

Council Member Speer stated that she appreciates everybody's consideration of this and that there have been several other cities that have taken up this issue with more drones coming that we are being proactive.

Council Member Neal agreed with Mayor Pro-Tem Clark that it seems more like an FAA issue and that we are going to get into some conflicting law language if we try to enforce it. He stated that he is not entirely in favor of this issue.

Council Member Mortenson asked if there was a certain size of drone they are referring to. If they are recording, then I would have an issue.

Drew Lyman, Assistant City Attorney, the ordinance does not specify. The FAA regulations concern drones of 55 pounds or less. The ordinance does provide that it's for hobby or recreational purposes and then as to the subsection F about hovering entering or landing on another person's property it requires that it's knowingly done without that person's consent and so there's that element of intent there.

Council Member Speer stated that she brought this forward after witnessing a lot of problems at Riverside park which was not limited to people out there over the lake intentionally harassing the wildlife. This has occurred on more than one occasion, and I know that they have landed on my property a lot too which has caused some issues too.

Mayor Rudy stated his concern is slightly different and likes the education piece, but does not like fines being handed out, or having it a high priority call for our police officers. Harassing wildlife is never ok, but this would be a different law they are breaking.

Council Member Mortenson stated that she wanted to back up Mayor Rudy, and that this was one of her concerns too. She does not want to waste police officer's

time on this, especially if it is a toy. She agreed that she does not want people messing with animals or other people's homes.

Council Member Speer stated that she has seen neighborhood arguments where the police have been called to dissipate a situation. Furthermore, I discussed Riverside park and we are adding a new park with a lake with a lot of wildlife. She stated she has concerns for the future.

Mayor Pro-Tem Clark agree with Mayor Rudy about the education piece, but do we really want to use police resources for this purpose.

Mayor Rudy stated that if we are educating it will be the police out there doing it. The education piece is where we need go.

Jim Becklenberg offered that if the City Council has questions about enforcement. Police Chief Brandt is here to weigh in on our current strategy.

Mayor Pro-Tem asked if a person were warned and continues flying a drone over another's property what would the penalties be.

Police Chief Brandt stated that if intent could be shown they could face a municipal or county charge for harassment. There are probably a couple different ways we can handle.

Mayor Rudy asked would this similarly go with if they are scaring animals on purpose could that be an animal cruelty charge

Police Chief Brandt stated that if it is domestic animal there is one set of circumstances or charges if it is a wild animal there's other things we can do.

Council Member Castle stated that what we are seeing here is that regardless if we have an ordinance the police will be called out to mitigate the situation.

Police Chief Brandt stated that if they were called out, police officers would focus on the education piece.

Mayor Rudy asked if a person could go onto someone's property to retrieve it, is this considered trespassing.

Police Chief Brandt said this in not necessarily trespassing because it is not a fenced area, but if they were asked not to come on the porch then it could be trespassing.

Council Member Castle asked how many calls you think you get.

Police Chief Brandt said it is not a common call they receive.

Speer asked if we could information on the City's website.

Jim Becklenberg said that we could have this put on the website and perhaps have some flyers the police could distribute to educate the public. The ordinance would give us some specific local regulations that could go little further toward the issues that were raised in the City Council work sessions.

Council Member Castle states it comes down to how many resources we want to put toward the issue that is not pervasive.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Castle to deny Ordinance No. 729-20 adding Chapter 9.29 to Title 9 of the Evans Municipal Code to Regulate Unmanned Aircraft Systems in the City of Evans. The motion to deny passed with a vote 5 to 2 with Council Member Speer and Johnson voting no.

- F. Consideration of Resolution Number 26-2020 to Authorize and Approve Evan's Participation in the Metro Mortgage Assistance Plus Program and Authorizing the Execution of the Delegation and Participation Agreement and Other Documents in Connection Therewith

Mr. Becklenberg informed the Council that the City of Denver has a revolving loan fund to support the Metro Mortgage Assistance Plus Program which started out being available to Denver residents. It assists first-time home buyers with low interest mortgages and other first-time homebuyer benefits. Recently, one of the lenders and the City of Denver reached out to Evans as part of a broader initiative to allow more citizens along the front range and in other communities the opportunity to use this program for low-interest mortgages and the other benefits within the program. Participation in this program carries no discernable risk and can be cancelled with 30 days' notice.

Mayor-Pro Tem Clark shared his support of this program.

Council Member Castle shared her support of this program.

Council Member Johnson shared her support of this program.

Mayor Rudy shared his support of this program and liked that we could opt out at any time.

Council Member Neal shared his support of this program.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to move to adopt Resolution No. 26-2020. The motion passed with all others voting in favor thereof.

- G. Consideration of Award of Bid: 2020 Asphalt Treatment Project

Mr. Becklenberg informed the Council that it was decided we move \$500,000.00 from other portions of our pavement management and future sales tax measure

1A to this year specifically for chip sealing to meet Council's goals. Mr. Becklenberg discussed the process and bids.

Mark Oberschmidt, City Engineer, gave an overview of the two bids received. We received good numbers from the contractors.

Council Member Johnson asked if chip sealing would take care of a plant growing up through the road.

Mark Oberschmidt, City Engineer replied that chip sealing will not keep this from happening. This is caused by significant cracking and we need to apply weed killer. He continued by giving an overview of the pavement process.

Council Member Johnson asked that we visit several areas to make sure they are being take care of.

Council Member Speer asked if we will be giving the contractors the list of streets that are priority. She noted that Denver St. was on the list and has already been completed. She asked if a street is on the list and has been completed will the contractor move onto the next and keep the money or be expected to fix another street.

Mayor Rudy shared understanding of Council Member Speer's concern. Council Member Johnson asked if we could do a once-over on our list of priority streets to ensure that the list is current.

Council Member Neal shared that is great that the estimates came in less than expected.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to award the 2020 Asphalt Treatment Project to Vance Brothers, Inc. and to authorize the Mayor's signature on the agreement. The motion passed with all others voting in favor thereof.

H. Consideration of Award of Contract for Multi-Modal Master Plan

Mr. Becklenberg informed Council that this is the project where the cost is \$168,000.00, where \$15,000.00 will come from the City Evans, \$3,000.00 from Weld County and a grant from CDOT in the amount of \$150,000.00.

Mayor Rudy expressed that this great for the City of Evans.

Council Member Mortenson made the motion, seconded by Council Member Castle to award the contract for the Multi-Modal Master plan to Fehr & Peers and authorize the Mayor's signature on the contract agreement. The motion passed with all others voting in favor thereof.

I. Consideration of Award of Bid: Tuscany Non-Potable Pump Skid

Mr. Becklenberg gave an overview of the project.

Mark Oberschmidt, City Engineer, gave an overview of the project.

Council Member Speer stated that she feels it is very advantageous that we use the same system between the different locations and that staff already has knowledge of the system.

Council Member Johnson expressed her gratitude.

Council Member Castle made the motion, seconded by Council Member Johnson to award the contract for the Tuscany Non-Potable Pump Skid to Watertronics and to authorize the Mayors signature on a contract. The motion passed with all others voting in favor thereof.

J. Consideration of the 47th Avenue Widening/23rd Avenue Inspection and Testing Services Contract

Mr. Becklenberg informed the Council that these are two of our larger projects. They have approved by Council recently or will be in the next couple of weeks. It is vital that we have high quality inspections and materials, so that we have high quality projects.

Mark Oberschmidt, City Engineer, gave an overview of the project.

Council Member Speer would like to see how it goes with Geocal, because the \$40,000.00 is a big difference.

Mark Oberschmidt, City Engineer, explained the management we will receive from Geocal.

Council Member Johnson expressed her gratitude for staff looking into billable hours.

Mayor-Pro Tem Clark made the motion, seconded by Council Member Johnson to award the contract to Geocal and to authorize the Mayor's signature on the contract. The motion passed with all others voting in favor thereof.

8. REPORTS

A. City Manager

Mr. Becklenberg informed the City Council of the street priorities on 37th St. overlay bid opening on Thursday. To speed up the process we may be asking for a special City Council meeting to get this project moving forward quickly between now and the next City Council meeting.

B. City Attorney

Mr. Krob reported that the City and staff continues to be busy with development items. Mr. Krob announced to City Council that the CML Virtual Conference is scheduled for August 25th – 27th. Assistant City Attorney continues to remain busy with court and drafting ordinances such as the drone ordinance considered this evening.

9. AUDIENCE PARTICIPATION (general comments)

There was no audience participation.

10. ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

A handwritten signature in cursive script, reading "Julie Roeder", written over a horizontal line.

Julie Roeder, Interim City Clerk