

Atwood City Council
July 19, 2018
Regular Meeting
City Hall, 7:00 PM

Atwood City Council met in **regular session** July 19, 2018 at City Hall. The meeting was called to order by Council President Mark Vrbas in the absence of Mayor Tim Colgan at 7:00 PM. Others present were Councilmembers Gary Fisher, Dietrich Kastens, Mark Mosley, Sandy Mulligan; City Clerk Keri Riener; City Attorney Charles Peckham; Chief of Police Brian Withington; City Superintendent Rick Kramer; Rosalie Ross of the Rawlins County Square Deal; Code Enforcement/Zoning Officer Jan Ackerman.

Council President Mark Vrbas amended the **Agenda**, adding an executive session following Council Reports. Councilman Mark Mosley moved to approve the amended agenda, seconded by Councilwoman Sandy Mulligan, approved by all.

The **Minutes** of the regular meeting on June 21, 2018 were approved as circulated on motion of Councilman Dietrich Kastens, seconded by Councilman Gary Fisher, approved by all.

The **Bills** were approved as read on motion of Councilman Kastens, seconded by Councilman Fisher, approved by all.

Public Comments:

Diana Treon appeared before Council to express concern regarding the truck reefer running outside their house. The unit is parked across the street, but outside her husband's window, which makes the noise evident in the home. Other neighbors have talked to the owner, but courtesy has not been extended to move the unit.

Appearances:

Grant and Marilyn Glad discussed issues with the recent tree ordinance amendment. Grant stated that 15 feet is the required tree height for interstate and that cattle trucks don't need to be parking on his residential street. A pickup or regular vehicle can park under his trees and the street sweeper doesn't go down his street anyway. The amendment requires property owners to butcher their trees and there's not good reason to do that; it's never been previously necessary. Councilman Mosley commented that one reason the tree height was changed was to allow delivery trucks to access the school and residential trees were impeding that route. Councilman Kastens added the intention of the ordinance was not to eliminate trees in town; nor was it just for the passage of the street sweeper. Among other reasons, tree trimming requirements are necessary to protect infrastructure, eliminate blind intersections and safeguard the public. Grant stated that he is perfectly happy to trim the tree so regular vehicles may park under it, but anything extra is disagreeable. The notices giving a deadline date were upsetting, as he didn't feel they were necessary, nor did they give enough time to discuss discrepancies at a Council meeting.

Janet Vrbas read a letter addressing Council, stating items of disagreement with the tree height amendment. They clean their own curbs and gutters and requested that the "trees planted before some of the planting rules were in place" be grandfathered in with regard to new stipulations. Residents on fixed incomes will suffer most with the cost of professional tree trimmers, likely having to remove the trees permanently. She inquired about the double standard of city ordinance enforcement; tree trimming being so regulated while cars and equipment is allowed to be parked on streets, which also inhibit street cleaning. Some trees would be severely damaged or killed if trimmed this time of year. Janet also had the notices she had received throughout this process and the first one listed fifteen feet as the trimmed height requirement, subsequent letters stated the original ordinance height of ten feet; while the final letter noted the error and stated the amended height of fifteen feet as required. The final letter was delivered via certified mail, which she sees as a waste of city funds. Janet noted that after speaking to the city code enforcement officer personally, an extension was granted to allow additional time. She also noted opinion that ordinances and topics for council meetings should be published before they are discussed instead of following council decisions to allow the public to attend to comment and express concerns. **Councilman Mosley** replied that the public has the right to submit a written request for email delivery of the agendas sent out prior to the meetings as well as unapproved minutes sent out the week following the meeting. The cost of publishing ordinance content prior to passage is prohibitive as most of the time no one appears at the meetings unless the topic is

extremely debatable in which case the newspaper has been contacted to offer some notice or coverage. This was evident in the ATV/golf cart discussion as well as the truck ordinance amendment.

Jan Ackerman reviewed that extensions were given to allow trimming to occur at proper seasonal time if requested. Communication is encouraged, as the notices are being delivered as she continues to address trees throughout the community. Trees are measured with a laser measuring device from the curb line or gutter to the lowest tree branch. Since the start of the tree amendment height enforcement, with a total of 24 cases thus far: 15 have complied already, four have called to state their plan for compliance, three have not yet made contact and are scheduled to be rechecked, while two have not yet complied and scheduled to address council this evening. **Councilman Kastens** restated that the intention of the amendment was to update the ordinance for new needs with regard to tree height in the community. He added that dates and certified mail are necessary when dealing with notices in general; otherwise they would likely be ignored or thrown away. In order to adhere to the ordinance stipulations, if municipal court becomes necessary, the specific criteria of dates and proof of delivery of documents is imperative and the timeline of service of notice and correction were issued as stated in the ordinance, which was passed in 2003. **Councilman Fisher** added that trees may be trimmed to the specified height without “butchering” them. It takes time and care, but can be done. Jan expressed leniency, allowing reasonable extensions for proper care of the trees. Council realizes this amendment was a change from previous requirements, but most of the trees in violation did not comply with the previous height of ten feet. It became apparent that something needed to be done to enforce the height requirement in order for city infrastructure and public safety to be maintained.

Grant Glad asked about other specific trees in the community and if they had been cited, as he noticed they hang lower than the allowable height. Jan Ackerman stated that she has not had time to address all of the trees in town and more trees will be inspected when she reaches those streets. **Councilman Kastens** requested that both cases discussed at the meeting be put on hold until council has time to discuss the detail of where the measurement should be taken with regard to the tree height and if any other changes are warranted with regard to the recent amendment. Councilmembers thanked Grant and Marilyn Glad and Janet Vrbas for their appearances and comments. The three individuals left the meeting at this time.

Jan Ackerman and City Attorney Charles Peckham agreed that with regard to other cities and state regulations, the city’s tree height amendment is adequate and stands as written, although additional guidance for measuring point is welcomed if council decides to make any changes. Councilman Vrbas added that this isn’t just a street sweeper issue and the public is not aware of all the reasons tree height regulations are necessary, but as a governing entity, responsibility for public safety, intersections and infrastructure concerns must be addressed and it is difficult to do this on an individual basis, as everyone would have reasons for not complying. He added that street sweeping, like many other functions of the city street department, usually occurs at low use times to avoid vehicles and traffic, so when people don’t see the street sweeper, that doesn’t mean it hasn’t gone down their street at some point. **City Superintendent Rick Kramer** stated the streets are swept based on necessity, not a specific route. Discussion was tabled until the August City Council meeting.

John Mapes with Mapes & Miller presented the 2019 Budget in the state format for approval to publish. Following discussion, Councilman Mosley moved to **approve the 2019 budget for publication, set at 49.825 mils**. The motion was seconded by Councilman Fisher, approved by all. The auditor will publish the budget in the local newspaper. Following the budget hearing in August, the 2019 budget can be approved. The **public budget hearing is set for 7:00 PM, August 16th** at the regular council meeting. **The 2017 city audit** was discussed next, giving an overview of each area of the audit by fund. Copies of the audit were provided to council members. All utility funds increased, while everything else held pretty steady in 2017. The auditor’s suggestion for the future was to be sure approval of purchases of equipment is noted in council minutes, even if it has been previously approved when originally budgeted. The budget appropriates funds for the purchases, but detailed approval at the time of the transaction is also good business practice. The only statutory violation noted in 2017 was the Recycling Fund, which ended the year \$411 over budget. Councilman Kastens moved to **accept the audit reports and authorize filing them with the required state and federal entities**, seconded by Councilman Mosley, approved by all

Old Business:

City Attorney Charles Peckham requested councilmember suggestions for the **ordinance amending section 40-36 (c) of the Atwood Municipal Code**. Councilman Kastens asked that section 40-36 of the original ordinance change “owner” to “operator” and section 40-38 add “or hazardous” to the prohibited materials. Councilwoman Mulligan requested that the timeframe of prohibited idling, previously set at 10 pm to 6 am in the proposed amendment, start earlier in the evening, maybe 8 pm to 6 am, as people sitting outside in the evenings are disturbed by the noise as much as those inside trying to sleep later at night. Councilman Mosley asked that the amendment time be changed to state that idling is prohibited but starting a truck to leave for work or cooling it down when returning home, with a maximum allowable timeframe of maybe 30 minutes, be allowed, as some drivers arrive home after the prohibited time or leave in the morning prior to the allowable time. It will be difficult to define, but if possible, that would make it more user friendly for those not abusing the privilege. Councilman Mosley also noted that the plank size in the original ordinance of 40-35 (b) could be updated. He offered to measure a plank usually used to support a trailer and contact the city attorney with that information. The City Attorney will research the suggestions and bring an amendment for review at the next Council meeting.

New Business:

The STO and UPOC Ordinances need to be adopted by the city annually when the new books are published by the League. **Ordinance #880 Standard Traffic Offense Code for Kansas Cities** was adopted and **Ordinance #881 Uniform Public Offense Code for Kansas Cities** was adopted on motion of Councilman Kastens, seconded by Councilman Mosley, approved by all. These ordinances shall take effect after publication in the city newspaper.

Department Reports:

City Clerk Keri Riener reviewed **airport grant expenditures** for 2017 and 2018, noting that after speaking to Olsson Associates Project Engineer Chris Corr, it appears the project will be completed soon, close to the projected budget cost. The timeline of the project will likely result in invoices totaling more than the city budgeted for 2018. Since airport grant money is budgeted from the General Fund, a budget amendment will not be necessary, as money may be used from a different General Fund line item to cover the estimated \$4,875.00. Councilman Mosley commented that discussion has been held on the possibility of creating a Special Budget Fund for the Airport Grant, similar to the annual Special Street Improvement Fund; allowing unused budgeted Airport Grant funds to be designated for future use in that area at the end of each year instead of leaving it as a General Fund line item that is not rolled over from one year to the next. Keri also updated council on the **utility billing timeline as outlined in Ordinance #693**, adopted in 1996. In order to collect unpaid bills due to property renters, the timeline must be followed. Water usage is read the first week of the month, with bills issued on the 11th of the month. Orange door notices are also issued on the 11th to inform account holders of their past due amount, penalty incurred and the due date ten days after bills are issued. Letters will be issued to rental property owners if the account isn't paid to current status by seven days after bills are issued. Ordinance #693 requires notice to property owners within ten days of delinquency and further requires the past due balance and penalty to be paid in the same time span to avoid disconnection of service. If the utilities are not paid by the disconnect date, services will be stopped and either the renter or property owner will be required to pay the total due and a \$50 reconnect charge to restore utility services. This is a shorter timeframe than previously followed and adds the task of sending letters out to property owners to inform them of their rental utility status but follows what has been outlined in the city ordinance.

City Attorney Charles Peckham shared his activities for the month. He worked with the nuisance officer regarding blighted structures and nuisances, prepared journal entries and talked to defendants. He reviewed an issue on a special assessment and lack of due process, likely causing the matter to be removed from the owner's assessment charges. The city attorney set two trials for July's court date.

Police Chief Brian Withington presented his report. His department worked 7 reports from June 21, 2018 to July 19, 2018. There were 2 non-custodial arrests made, 15 warnings given and 5 tickets issued. Other patrol activity included 127 public relations, 7 miscellaneous complaints. The citizen with concerns regarding his wife's tickets previously appearing at the June council meeting viewed the traffic stop video with his wife and the police chief and later issued an apology letter but due to schedule conflicts couldn't attend tonight's meeting in person.

City Superintendent Rick Kramer presented his report showing the areas where the city crew has spent their time since the last meeting. The water report shows the amount of water pumped and sold for the month. The month of June showed a -10% water loss, which will average out later in the year, as meter reading periods vary in some months. Depth

to the water in city wells has remained consistent. The Logan Street paving project is almost complete. The city crew will start working on street areas that are heaving it is finished. Street sweeping has been happening on Fridays and will continue as needed.

Council Reports:

Councilman Gary Fisher reported that the trees with signs of strain are not blighted, but are drought stressed. Three trees will be removed from the downtown area in September. They may be replaced if possible.

Councilman Dietrich Kastens had nothing to report.

Councilman Mark Mosley had nothing to report.

Councilwoman Sandy Mulligan reported that Economic Development has put a 'For Sale' sign on the last available Greason Industrial Park lot. She also asked if the Economic Development Board is required to pay the property tax bills that were received. City Attorney Charles Peckham stated that those property taxes do not fall under the city's tax exempt status and are in fact due to be paid by the RCED Board, as the city only became the name owner instead of Rawlins County Economic Development Inc. to assist with grant funding opportunities for Economic Development.

Councilman Mark Vrbas had nothing to report.

Mayors Notes: Mayor Colgan was absent.

Councilman Kastens moved that **Council go into executive session at 9:00 PM, not to exceed 15 minutes to discuss matters pertaining to consultation with the City Attorney concerning contractual issues**, seconded by Councilman Mosley. City Police Chief Brian Withington, City Clerk Keri Riener and City Attorney Peckham were requested to stay. Council came out of executive session at 9:15 PM and returned to the open meeting. The Council took no action after the executive session.

With no further business to come before Council, Councilwoman Mulligan moved to adjourn, seconded by Councilman Mosley. The **meeting adjourned at 9:15 PM.**

Keri Riener, City Clerk

Mark Vrbas, Council President