CITY OF MULBERRY, ARKANSAS

CITY COUNCIL MEETING MINUTES – February 23, 2026

The special called meeting of the Mulberry City Council convened on Monday, February 23, 2026, at precisely 7:00 p.m. The meeting was held at the City Council Center, located at 606 Church Avenue, Mulberry.

Gary D. Baxter, Mayor

Carla Dickerson, Recorder-Treasurer

MEMBERS PRESENT:

Ronnie Adams, Ward 1 Position 2
Jake Copeland, Ward 2 Position 1
Seth Fisher, Ward 1 Position 1
Kimberly Bruce, Ward 2 Position 2
Jeff Marvin, Ward 3 Position 2
Damien Sadat Rice, Ward 3 Position 1

MEMBERS ABSENT:

None

OTHERS PRESENT:

Steve Hurley, Assistant to the Mayor
Sean Brister, City Attorney
Melissa Sampson, City Finance

Call to Order

Mayor Baxter called the meeting to order at 7:00 p.m., leading the gathering in prayer followed by the Pledge of Allegiance.

Roll Call

Steve Hurley, Executive Assistant to the Mayor, called the roll:

MEMBERS PRESENT:

Ronnie Adams, Ward 1 Position 2
Jake Copeland, Ward 2 Position 1
Seth Fisher, Ward 1 Position 1
Kimberly Bruce, Ward 2 Position 2
Jeff Marvin, Ward 3 Position 2
Damien Sadat Rice, Ward 3 Position 1

With six out of six Council Members present, a quorum was established.

Agenda Item: East Water Tower – Litigation Status, Inspection, Cleaning, and Water Bill Credit

Mayor Baxter stated that the purpose of the special meeting was to receive an update from City Attorney Sean Brister on the ongoing litigation with the East water tower contractor (Utility Tank Services, formerly Viola, now a subsidiary of a larger company) and to consider next steps regarding the tank inspection, cleaning, and a proposed water bill credit for residents.

City Attorney's Report – Sean Brister

City Attorney Sean Brister provided the following status update:

The city filed a lawsuit against Utility Tank Services (the contracted tank maintenance company) after the company failed to respond to requests to take the East tank offline for cleaning and possible recoating. The company's local Fort Smith counsel and Attorney Brister have been in communication and both sides have agreed in principle to schedule a mediation.

Attorney Brister reported that upon further investigation, the root cause of the dispute appears to be a significant miscommunication: the company's CEO believed access had been denied to the tank, when in fact the company may have confused the storage tank at 10th and Church Streets with the water treatment plant's clarifier, clear well, and production site at the lake. Given this discovery, Attorney Brister expressed optimism that mediation could resolve the matter.

Additional background provided by Attorney Brister:

- The original contract was signed in the early 2000s and has automatically renewed for like terms. The city has been paying approximately $3,000 per month (estimated $36,000–$40,000 per year; lifetime payments estimated around $300,000 or more). The tank has never been cleaned under the life of this contract.

- USG/Utility Tank Services conducted a condition assessment report in April 2025; an independent visual inspection by Viking was conducted in 2024. The Viking inspection documented sediment inside the tank.

- The tank currently has the contractor's locks on it. Attorney Brister recommended that the city engage an independent third-party inspector to inspect the tank — having the inspector direct the cutting of the locks rather than city personnel, to preserve evidentiary integrity for litigation. A person physically present to testify is preferred over video-only evidence for potential court proceedings.

- The estimated cost for an independent inspection is approximately $4,500–$5,000, with a turnaround of one to two weeks.

- Attorney Brister stated that under the legal duty to mitigate damages, the city is within its rights to have the tank inspected and, if warranted, cleaned. The cost of doing so can be pursued in the lawsuit. He advised he would notify the opposing counsel of the city's intent to proceed with inspection and cleaning, giving Utility Tank Services the opportunity to perform the work per the contract before the city acts independently.

- A full recoating and repainting of the tank (inside and out) was noted as a separate, larger scope of work. A rough quote obtained by city staff estimated $370,000–$425,000 for the complete job. Attorney Brister noted this is consistent with current market rates, citing similar work recently completed in Van Buren.

- Discussion addressed whether a settlement could include termination of the contract: Attorney Brister confirmed this is within the realm of possibility and that some engineers advise municipalities to forego ongoing maintenance contracts in favor of setting aside funds and performing cleaning on an as-needed schedule.

Council discussion included: confirmation that the West Tank is capable of supplying the full system while the East Tank is taken offline; questions regarding the contract's address specificity and renewal terms; and clarification that individual residents with property damage claims would need to pursue those independently.

Motion & Vote – East Tank Inspection and Cleaning

Motion: Kimberly Bruce moved to authorize the inspection of the East water tower tank and, if warranted, cleaning of the tank during the inspection, with costs not to exceed $20,000, to be funded from the sales tax capital improvements fund.

Second: Ronnie Adams seconded the motion.

A roll-call vote was conducted:

- Ronnie Adams – Yes

- Kimberly Bruce – Yes
- Jake Copeland – Yes
- Jeff Marvin – Yes
- Sadat Rice – Yes
- Seth Fisher – Yes

Motion carried unanimously (6-0). Council further directed the City Attorney to notify Utility Tank Services of the city's intent to proceed and to pursue reimbursement of all inspection and cleaning costs through the ongoing litigation.

Motion & Vote – Resident Water Bill Credit

Mayor Baxter proposed that the city issue a 25% credit on the water portion only (excluding sewer and sanitation) of utility bills for all residential customers for the months of January and February 2026, in recognition of the water discoloration issues experienced during that period. Finance staff estimated the total cost of the two-month credit at approximately $30,000–$32,000.

Motion: Jeff Marvin moved to approve a 25% credit on the water portion of utility bills for all residential customers for January and February 2026.

Second: Seth Fisher seconded the motion.

A roll-call vote was conducted:

- Ronnie Adams – Yes
- Kimberly Bruce – Yes
- Jake Copeland – Yes
- Jeff Marvin – Yes
- Sadat Rice – Yes
- Seth Fisher – Yes

Motion carried unanimously (6-0).

ADJOURNMENT

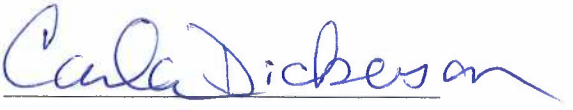
With no further business to discuss, Kimberly Bruce made a motion to adjourn the meeting. Ronnie Adams seconded the motion. All present members voted aye.

This meeting was adjourned at 7:26 p.m. The next regularly scheduled City Council meeting will be on March 17, 2026.

Minutes written by: Steve Hurley

APPROVED:

Gary D. Baxter, Mayor

ATTEST: 

Carla Dickerson, Recorder-Treasurer