



***MINUTES  
CITY COMMISSION MEETING  
TUESDAY, JULY 15, 2008  
7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Mark Hatesohl and Commissioners Bob Strawn, Bruce Snead, James E. Sherow, and Tom Phillips were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 7 staff, and approximately 28 interested citizens.

**PLEDGE OF ALLEGIANCE**

Riley County 4-H members led the Commission in the Pledge of Allegiance.

**PROCLAMATION**

Mayor Hatesohl proclaimed August 1 – 3, 2008, *100 Years of Catholic Education in Manhattan*. Linda Roggenkamp, Principal; Cindy Donohoue, Development Director, Manhattan Catholic Schools, and representatives from the School were present to receive the proclamation.

**COMMISSIONER COMMENTS**

**Commissioner Strawn's request for input from other Commissioners regarding the ethics of political service.**

Mayor Hatesohl introduced the item.

Commissioner Strawn stated that during the July 1, 2008, legislative meeting, a constituent came forward and voiced concerns regarding his involvement in a partisan campaign and stated that his participation as Treasurer for a political campaign was ethically inappropriate as a City Commissioner. Commissioner Strawn outlined the five principles of the proposed City Code of Ethics policy: integrity, transparency, quality, stewardship, and fairness, and stated in his view, he has not violated any of those principles by serving as Treasurer of Dick Miller's campaign. He stated that as part of the Code of Ethics, it was appropriate for him, as a Commissioner or a Board Member, to turn

## COMMISSIONER COMMENTS (*CONTINUED*)

### Commissioner Strawn's request for input from other Commissioners regarding the ethics of political service. (*CONTINUED*)

to his peers and ask them for their comments whether a code of ethics is broken by agreeing to serve as Treasurer for a political campaign. He then stated that while seeking input from his fellow Commissioners, the ultimate decision and responsibility would be up to him to make the judgment.

Commissioner Snead stated that he found nothing illegal or unethical about serving in a partisan political process, but did question if it is wise for a City Commissioner, who is elected to office in a non-partisan process. He stated that Commissioners often work with legislators on the State and Congressional level to achieve the goals and address the needs of the City. He stated that when playing a prominent role in the partisan political process and then to have to work with people represented from the opposite party, does not enhance your chances for success in achieving the goals of the City. He said this is not a question of illegality or ethics, but a question of wisdom and the primary responsibility as a City Commissioner.

Commissioner Sherow stated that it was a question of freedom of speech and assembly. He said that as a Commissioner, he takes it seriously to represent everyone in the community. He stated that he ran at-large, non-partisan and there is a distinction that needs to be kept in mind, and as long as Commissioner Strawn does not bring prohibitionist planks to the Commission and champion them up here, then he was comfortable that Commissioner Strawn was working in the community's best interests.

Commissioner Phillips stated that he didn't have any concerns over Commissioner Strawn's actions and that he needs to make his own choice on party political issues. He said we are elected on a non-partisan basis and that he has also been approached about sponsorships for party political issues. He stated that for him, it was a matter of going back to the Code of Ethics mentioned earlier and regardless of involvement in party politics, when you come before this Board as a City Commissioner, you are serving the community. Then he stated that from his perspective, Commissioner Strawn or any of the Commissioners should be allowed to be involved in the political arena if you choose.

Mayor Hatesohl stated that he agreed with comments provided by Commissioner Snead. He said that on his way to Washington, D.C. to work on behalf of the City of Manhattan, he turned down a request to endorse a Congressional candidate because of his position on the City Commission. He stated that as Commissioners, we need to do what is best for Manhattan, but as individuals we have the right to free speech. He informed Commissioner Strawn that you have our advice and are aware of potential pitfalls of being involved on the campaign and need to weigh the comments presented with what you want to do.

## COMMISSIONER COMMENTS (*CONTINUED*)

### Commissioner Strawn's request for input from other Commissioners regarding the ethics of political service. (*CONTINUED*)

Commissioner Strawn thanked the Commission for its feedback and stated that he will make a judgment on stepping down from Dick Miller's campaign or to step down from the City Commission. He stated that he will give it a week to think about it.

During the Consent Agenda, Commissioner Strawn provided clarification to the Commission that he has three options to consider regarding the ethics question raised earlier: 1) to step down from Dick Miller's campaign as Treasurer; 2) to step down from the City Commission, or 3) to determine that his involvement is not violating the ethical code and will stay on the Miller campaign and on the City Commission.

Mayor Hatesohl informed the public that there would be an Executive Session following the end of the General Agenda for the purpose of discussion with the City Attorney concerning pending litigations, which is deemed privileged in the Attorney-Client Relationship.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, July 1, 2008.

### CLAIMS REGISTER NO. 2586

The Commission approved Claims Register No. 2586 authorizing and approving the payment of claims from June 25, 2008, to July 8, 2008, in the amount of \$1,863,683.82.

### LICENSES – CEREAL MALT BEVERAGE AND TREE MAINTENANCE

The Commission approved a Cereal Malt Beverage License for calendar year 2008 for Grizzly's Grill, 3003 Anderson Avenue, Suite 945, Manhattan, Kansas; Leo's Hillside Café, 2307 Stagg Hill Road, Manhattan, Kansas; and Wildcat Cenex, 1701 Anderson Avenue, Manhattan, Kansas; and a Tree Maintenance Service License for calendar year 2008 for Hosfelt Tree Service, 409 South 7<sup>th</sup> Street, Marysville, Kansas; and Double 'S' Tree Service, 1715 Carolyn Drive, Clay Center, Kansas.

## CONSENT AGENDA (CONTINUED)

### FINAL PLAT – KSU FOUNDATION ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of KSU Foundation Addition, generally located northwest of the intersection of Kimball Avenue and Denison Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – BARTON PLACE ADDITION

Item was removed from the agenda.

### RESTRICTIVE COVENANT – BARTON LAKE

Item was removed from the agenda.

### ORDINANCE NO. 6709 – INDUSTRIAL REVENUE BONDS – GTM SPORTSWEAR

The Commission approved Ordinance No. 6709 issuing Industrial Revenue Bonds for a total principal amount not to exceed \$3,771,000.00 to GTM Sportswear, for the purpose of acquiring, constructing, expanding, and equipping the company's existing manufacturing facility located at 520 McCall Road.

### ORDINANCE NO. 6710 – LEVY – SPECIAL ASSESSMENTS (GOB 2008C)

The Commission approved Ordinance No. 6710 levying special assessments against the benefiting property in the following two (2) public street improvement districts: *Eureka Addition (ST0613) and Limey Pointe/McCall Road (ST0627) Improvements.*

### ORDINANCE NO. 6711 – EXTENSION – AT&T FRANCHISE

The Commission approved Ordinance No. 6711 amending the Code of Ordinances to extend the term of the franchise agreement with AT&T Kansas for a period of one year.

### PUBLIC HEARING – REVISED SPECIAL ASSESSMENT – HERITAGE SQUARE STREET IMPROVEMENTS (ST0702)

Mayor Hatesohl opened the public hearing.

Hearing no comments, Mayor Hatesohl closed the public hearing.

### FIRST READING – REVISED SPECIAL ASSESSMENT – HERITAGE SQUARE STREET IMPROVEMENTS (ST0702)

The Commission approved first reading of an ordinance revising special assessments for the benefiting property of the street intersection improvements to serve Heritage Square Commercial Development along US Highway 24.

## CONSENT AGENDA (CONTINUED)

### RESOLUTION NO. 071508-G – TRANSFER OF PROPERTY – BROOKFIELD RESIDENCES

The Commission approved Resolution No. 071508-G authorizing the sale and conveyance of the Brookfield Residences Project to Manhattan Housing Investors, L. C. and authorized the Mayor and City Clerk to execute the bill of sale.

### RESOLUTION NO. 071508-A – NORTHWING ADDITION, UNIT ONE – STORMWATER IMPROVEMENTS (SM0808)

The Commission found the petition sufficient and approved Resolution No. 071508-A, finding the project advisable and authorizing construction for Northwing Addition, Unit One, Stormwater Improvements (SM0808).

### RESOLUTION NO. 071508-B – NORTHWING ADDITION, UNIT ONE – STREET IMPROVEMENTS (ST0818)

The Commission found the petition sufficient and approved Resolution No. 071508-B, finding the project advisable and authorizing construction for Northwing Addition, Unit One, Street Improvements (ST0818).

### RESOLUTION NO. 071508-C – NORTHWING ADDITION, UNIT ONE – SANITARY SEWER IMPROVEMENTS (SS0811)

The Commission found the petition sufficient and approved Resolution No. 071508-C, finding the project advisable and authorizing construction for Northwing Addition, Unit One, Sanitary Sewer Improvements (SS0811).

### RESOLUTION NO. 071508-D – NORTHWING ADDITION, UNIT ONE – WATER IMPROVEMENTS (WA0807)

The Commission found the petition sufficient and approved Resolution No. 071508-D, finding the project advisable and authorizing construction for Northwing Addition, Unit One, Water Improvements (WA0807).

### AGREEMENT – ENGINEERING SERVICES – NORTHWING ADDITION, UNIT ONE, IMPROVEMENTS (SM0808, ST0818, SS0811, WA0807)

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton, P.A., of Manhattan, Kansas, to perform engineering services for the stormwater (SM0808), street (ST0818), sanitary sewer (SS0811), and water (WA0807) improvements.

## CONSENT AGENDA (CONTINUED)

\* **RESOLUTION NO. 071508-E – GARY AVENUE AND TREESMILL CIRCLE – STORMWATER IMPROVEMENTS (SM0807)**

Adam Machell, 2019 Parkway Lane, informed the Commission that their improvement project was bumped down on the list of projects with the City and that their street needs immediate attention. He stated that there is a deep ditch left on the gravel road as a result of a grader and needs to be repaired.

After further discussion, the Commission requested that this concern be investigated and asked Mr. Machell to write a short memorandum regarding the issue to the City Commission and to the City Manager.

The Commission found the petition sufficient and approved Resolution No. 071508-E finding the project advisable and authorizing construction for Gary Avenue and Treesmill Circle Stormwater Improvements (SM0807).

**AGREEMENT – ARCHITECTURE SERVICES – FIRE STATION NOS. 3 AND 5**

The Commission authorized the Mayor and City Clerk to enter into an agreement with Anderson Knight Architects, of Manhattan, Kansas, for the design of Fire Station Nos. 3 and 5 (FR775P, FRX75P) and approved Resolution No. 071508-F authorizing financing in an amount not to exceed \$515,000.00 in general obligation bonds.

**AGREEMENT – ENGINEERING SERVICES – EAST MILLER RANCH SANITARY SEWER INTERCEPTOR (SS0810)**

The Commission authorized the Mayor and City Clerk to execute an agreement in the amount of \$79,097.00 with Schwab-Eaton P.A., of Manhattan, Kansas, for the design of public utilities of the East Miller Ranch Sanitary Sewer Interceptor (SS0810).

\* **AWARD CONTRACT – SILO TOWNHOMES GRADING PROJECT (SM0805)**

Commissioner Strawn stated that the topic of single bids would be discussed during an upcoming City Commission Retreat.

The Commission accepted the Engineer's Estimate in the amount of \$148,970.00 and awarded a construction contract in the amount of \$145,145.50 to Larson Construction, Inc., of Manhattan, Kansas, for the Silo Townhomes Grading Project (SM0805).

## CONSENT AGENDA (CONTINUED)

\* **PURCHASE – CITY PARK PAVILION ICE RINK COOLING PIPES AND FLOOR DESIGN (CP801E)**

Commissioner Strawn stated that fundraising efforts are going on to raise \$1 million for the City Park Pavilion project.

Ron Fehr, City Manager, provided additional information on the ice rink equipment and responded to questions from the Commission.

The Commission accepted the proposal and authorized City Administration to purchase permanent, ice rink equipment for the City Park Pavilion in the amount of \$34,400.00 from Custom Ice Inc., of Burlington, Ontario.

**AGREEMENT – TEMPORARY EASEMENT – LINEAR PARK TRAIL REPAIR (PECAN CIRCLE)**

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute the agreement for the acquisition of the temporary easement required to undertake the repair of the Linear Park Trail in the Pecan Circle area of Wildcat Creek in the amount set as “Just Compensation.”

**REQUEST FOR QUALIFICATIONS – AIRPORT CONSULTANT**

The Commission authorized City Administration to issue a Request for Qualifications for architectural, engineering, and planning services for the Manhattan Regional Airport improvement projects programmed between 2008 and 2013 and appointed Commissioner Phillips to the Selection Committee.

**ESTABLISH – BICYCLE ADVISORY COMMITTEE**

The Commission discussed the need for additional representation on the Bicycle Advisory Committee from Kansas State University and from Pottawatomie County, and agreed to have the Committee consider this and make a recommendation to the Commission.

The Commission authorized the establishment of a Bicycle Advisory Committee.

**CITY PARK POOL REPLACEMENT PROCESS**

This item was removed from the Consent Agenda and placed under the Work Session.

**2008 NEIGHBORHOOD GRANT FUNDING**

The Commission approved the Neighborhood Grant Review Committee’s funding recommendations as follows:

## **CONSENT AGENDA (CONTINUED)**

### **2008 NEIGHBORHOOD GRANT FUNDING (CONTINUED)**

1. North Pointe Homeowners' Association- funding request for 2008 in the amount of \$1,390.00 for continuation of the landscaping project on the traffic circle at the intersection of North Pointe and Kelly Drives;
2. Eugene Field Neighborhood Association- funding request in the amount of \$1,708.85 for plantings, topsoil, and grass seed. Additional signs on the two traffic islands in the 1800 block of Fairchild Avenue are to be provided and installed by the City, where warranted.
3. Miller Ranch Homeowners' Association –funding request in the amount of \$2,000.00 to install new 5' sidewalk in the public right-of-way along the south side of Overhill Road between the intersection of Miller Parkway and Overhill Road and the intersection of Overhill Road and Crossgate Terrace.
4. Rolling Hills Homeowners' Association –funding request in the amount of \$620.50 to repair stone wall in the public right-of-way at the intersection of Bethany Drive and Bethany Circle; replace missing street signs.
5. Open up another round of applications for the remainder of the \$10,000.00 specifically soliciting applications under the same general program guidelines, but with the additional requirement that any funds be used to improve public property damaged by the tornado, to include replanting trees and other landscaping, and repairing miscellaneous damage.

### **BOARD APPOINTMENT**

The Commission approved the re-appointment by Mayor Hatesohl of Lyle Butler, 3700 Stone Pine Circle, to a three-year Chamber of Commerce term on the Corporate Technology Park Architectural Review Committee. Mr. Butler's term will begin August 16, 2008, and will expire August 15, 2011.

### **REIMBURSEABLE AGREEMENT – RUNWAY 3/21 SHIFT**

The Commission authorized the Mayor and City Clerk to execute the Reimbursable Agreement in the amount of \$171,736.40 with the Federal Aviation Administration to develop Engineering Plans for moving equipment associated with the Runway 3/21 shift (AIP No. 3-20-0052-35).

After additional discussion, Commissioner Snead moved to approve the consent agenda, as presented. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item F-GTM Sportswear Industrial Revenue Bonds, which carried 4-0, with Commissioner Strawn abstaining from the item.

## GENERAL AGENDA

### FIRST READING - ISSUE INDUSTRIAL REVENUE BONDS FRATERNAL INVESTORS, LLC, SUBLEASED TO WESTERN EXTRALITE COMPANY

Lauren Palmer, Assistant City Manager, presented the item and answered questions from the Commission.

Bernie Hayen, Director of Finance, answered questions from the Commission regarding the Industrial Revenue Bonds (IRBs).

Leith Winsor, Western Extralite Company, provided additional information on the Company's expansion plans, location of the facility, shelving, and equipment.

After discussion, Commissioner Strawn moved to approve first reading of an ordinance issuing IRB financing to Fraternal Investors, LLC in a total principal amount not to exceed \$1,500,000.00 for the purpose of constructing a commercial office/warehouse facility at 1120 Kretschmer Drive to be subleased by Western Extralite Company. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

### CITIZEN REVIEW COMMITTEE - SOUTH END REDEVELOPMENT

Jim Sherow, City Commissioner, presented the request for a Citizen Review Committee for the South End Redevelopment Project. He stated the nine-member Citizen Review Committee, appointed from each Ward of the City, would have a specific charge with a clear beginning and end point, provide improved transparency to the project, assist in engaging the public, and provide public scrutiny and broad-based input during the process.

Commissioner Strawn questioned whether the creation of the Committee would address trust or public process. He stated that he could support the formation of a committee if the goal is to build trust as opposed to process. He stated otherwise it is just adding another layer to the process.

Commissioner Sherow said public trust is engendered when there is good process and that good public process brings about an increased measure of public trust.

Commissioner Strawn said that he was biased about flat organizations getting things done and stated that this committee would add another layer to the process. He stated that if trust is the issue, that he could support the item. He asked for more transparency in the process with all Commissioners, and stated that if the Commissioners are cut out of the process, the Commission can't give oversight and that is where trust falls apart.

## GENERAL AGENDA (*CONTINUED*)

### CITIZEN REVIEW COMMITTEE - SOUTH END REDEVELOPMENT (*CONTINUED*)

Commissioner Phillips raised questions about who the Committee would report to; the Committee's relationship with the Commission and Manhattan Urban Area Planning Board; limitations and oversight of the building size, specifically Warren Theatres; and education of the history and financial implications of the project.

Commissioner Sherow responded to questions raised by the Commission.

Ron Fehr, City Manager, provided additional information on the item and process of the different components of the Redevelopment area.

Mayor Hatesohl raised additional questions on the role of the Review Committee and questioned the Committee's relationship with the City Commission and Manhattan Urban Area Planning Board. He stated that the community has good representation with five City Commissioners and members of the Manhattan Urban Area Planning Board.

Commissioner Snead stated that he appreciated the motivation and intent to engage the public and to seek public input for the South End Redevelopment project. He then provided an overview of the history of the South End Redevelopment area, discussed the importance of having individuals with expertise to assist in the process, and said that it is up to the City Commission and City Administration to deal with trust. He stated that he was not convinced of the benefit or significance that a committee could achieve and that the oversight lies with the Commission.

Commissioner Phillips stated that he recognized the value of the process in exchanging information and that Work Sessions or charettes would provide the public with opportunities to be engaged with the design team and finance team, to better understand the South End Redevelopment project, without an oversight committee.

Commissioner Snead provided additional information on the item and stated that decisions have been made to this point in time and that he didn't see the potential of a review committee achieving the goals set out affectively.

Commissioner Strawn voiced his respect for the request and asked that if one or two City Commissioners are in meetings, then all City Commissioners need to be informed of the meeting and told what happened in those meetings. He stated that we must be transparent so that there is not an issue of trust.

## GENERAL AGENDA (CONTINUED)

### CITIZEN REVIEW COMMITTEE - SOUTH END REDEVELOPMENT (CONTINUED)

Commissioner Sherow informed the Commission that a review committee would achieve the transparency that we all want and would continue to seek transparency as the Redevelopment efforts continues. He requested that the Commission be informed about all meetings with individual Commissioners and private individuals in regards to the Redevelopment project and to be informed of what transpired in those meetings. He informed the Commission that a consensus has been reached and that he would not make a motion on the item.

Commissioner Phillips requested that an outline be prepared with opportunities for public participation on the South End Redevelopment project.

Ron Fehr, City Manager, responded to questions from the Commission and provided additional information on the item.

After additional discussion, there was no motion or action taken on the item.

### FIRST READING – AMEND - QUORUM FOR GOVERNING BODY

Bill Frost, City Attorney, presented the item and responded to questions from the Commission regarding the process, statutory requirements, and the difference between the current and proposed ordinance changes.

Ron Fehr, City Manager, and Bill Frost, City Attorney, provided additional information on the item and answered questions from the Commission.

Glenda Phillips, representing the League of Women Voters, 2201 Hillview Drive, informed the Commission that the League believes in informed and active citizen participation and urged the Commission to continue with the current quorum of four.

Vincent Tracey, 304 Knoxberry Drive, requested that the Commission leave the quorum requirements as it currently is.

After additional discussion, the Commission decided to leave the quorum at four City Commissioners and did not take any action on the item.

### CITY PARK POOL REPLACEMENT PROCESS

Mayor Hatesohl asked for public comment on the City Park Pool item.

## GENERAL AGENDA (CONTINUED)

### CITY PARK POOL REPLACEMENT PROCESS (CONTINUED)

Austin Bullock, 4441 Little Kitten Road, informed the Commission that he is a member of the Marlins Swim Club and that the Club currently does not have City Park Pool for training. He stated that swimming is his sport and that CiCo Pool is too short for training for long course meets. He asked the Commission to build a new City Park Pool.

## EXECUTIVE SESSION

At 8:45 p.m., Commissioner Snead moved to recess into Executive Session until 9:05 p.m. for the purpose of discussion with the City Attorney concerning pending litigations, which is deemed privileged in the Attorney-Client Relationship. Commissioner Sherow seconded the motion. On roll call vote, motion carried 5-0.

At 9:06 p.m., the Commission reconvened with Mayor Hatesohl and Commissioners Strawn, Snead, Sherow, and Phillips in attendance. Commissioner Snead moved to come out of Executive Session. Commissioner Sherow seconded the motion. On vote, the motion carried 5-0.

## WORK SESSION

### CITY PARK POOL REPLACEMENT PROCESS

Curt Loupe, Director of Parks and Recreation, presented an update to the Commission on City Park Pool Replacement process, design/build process, and options to be considered. He then presented a potential splash feature that could be installed in City Park.

Ron Fehr, City Manager, provided additional information on the design/build process and outlined the associated requirements.

Bill Frost, City Attorney, referred to statute requirements that cities of the first class must follow when soliciting bids and awarding projects. He then referred to a process that was used by the City of Overland Park.

Curt Loupe, Director of Parks and Recreation, provided additional information on the item and stated the efforts now need to focus on opening the City Park Pool in 2010.

## WORK SESSION (CONTINUED)

### CITY PARK POOL REPLACEMENT PROCESS (CONTINUED)

Ron Fehr, City Manager, and Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission regarding the design/build process, availability of funds, and possible water amenities, including a large splash feature in City Park.

Curt Loupe, Director of Parks and Recreation, informed the Commission that the City could pass a charter ordinance to opt out of the first class city requirements, but it would take 90 to 120 days to accomplish that, which delays the start of construction to the point that the pool would not be ready for Summer 2009.

Ron Fehr, City Manager, and Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission regarding partnering opportunities for alternate pool space, splash feature and location possibilities, integration of potential playground features, and timeframe of the project.

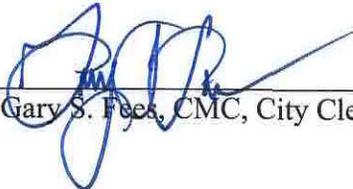
After additional discussion, the Commission set a target date of June 1, 2010, to reopen City Park Pool and instructed City Administration to begin drafting a charter ordinance that would address the issues of replacing the pool and to evaluate what projects could go on a potential sales tax bond issue for Spring 2009.

Ron Fehr, City Manager, provided additional information on the item and responded to questions from the Commission.

Vincent Tracey, 304 Knoxberry Drive, informed the Commission that the community needs City Park Pool and asked that the appropriate time is given to build City Park Pool right and to consider the splash feature to become part of the pool facilities. He asked if the pool facilities at Fort Riley would be available for the young man who is training with the Manhattan Marlins for the Olympics in the future.

### ADJOURNMENT

At 9:40 p.m. the Commission adjourned.

  
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Gary S. Fees, CMC, City Clerk