

MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, AUGUST 12, 2008
5:00 P.M.

The Special City Commission Meeting of the City Commission was held at 5:00 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 Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 9 staff, and approximately 14 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Hatesohl led the Commission in the Pledge of Allegiance.

WORK SESSION

SPRAY PARK OPTIONS - CITY PARK PLAYGROUND

Curt Loupe, Director of Parks and Recreation, presented the item and provided examples of water spray features. He then responded to questions from the Commission regarding age limitations for these types of facilities and financial considerations.

Commissioner Phillips asked about the location at City Park and questioned if we have evaluated other pools and sites in the community.

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commissioner regarding the evaluation and analysis of other pools and sites for a splash park in the community.

Commissioner Sherow asked if an analysis of needs for other parks in the community have been completed and if Staff has prioritized those needs properly. He stated that he wanted to see something at the City Park Pool area to fill the void; however, he wanted to ensure that the funds are available and will be utilized to the fullest. He asked that we see where the public weighs in on this item and possibly look at a future bond issue.

Curt Loupe, Director of Parks and Recreation, responded to additional questions from the Commission regarding proposed costs of the splash feature and asked for further direction from the Commission.

WORK SESSION (CONTINUED)

SPRAY PARK OPTIONS - CITY PARK PLAYGROUND (CONTINUED)

Mayor Hatesohl stated that he was comfortable waiting for a comprehensive plan for the pools and proposed splash park and allowing the voters to voice their wishes.

Commissioner Snead stated that it makes sense to have this feature in City Park and was inclined to press ahead. He then provided additional background information about Douglass Park and City Park Pool.

Commissioner Strawn stated this is not a necessity and that the City is dealing with serious budget challenges. He asked that the item be given additional consideration and provide an opportunity for community feedback.

Ron Fehr, City Manager, provided additional information on the item and informed the Commission that additional time can be provided to allow for more feedback from the community and can discuss the topic again in early September.

CHARTER ORDINANCE - PROCESS FOR PUBLIC IMPROVEMENT CONTRACTS

Dave Fritchen, Professor, College of Engineering, Department of Architectural Engineering and Construction Science, Kansas State University, presented an overview of alternative project delivery methods, design review stages, project delivery timelines, design-bid-build methods, construction manager at risk methods, design-build methods, construction management agency methods, and program management methods. He then answered questions from the Commission regarding the process using alternate delivery methods and potential savings of money.

Bill Frost, City Attorney, provided additional background information on amending the Charter Ordinance and discussed a draft ordinance regarding the process for public improvement contracts. He then answered questions and provided clarification regarding the proposed charter ordinance.

Dee Robert Ross, 2304 Brockman Street, asked about the process involved and petitions being circulated. He voiced concern about the item being proposed to finance multiple projects and asked to put a halt to state and federal funds to do a north and south redevelopment project that half the people don't want to do.

Mayor Hatesohl, Ron Fehr, City Manager, and Bill Frost, City Attorney, responded to questions raised regarding the charter ordinance being proposed and provided clarification on the method proposed to solicit construction services.

WORK SESSION (*CONTINUED*)

CHARTER ORDINANCE - PROCESS FOR PUBLIC IMPROVEMENT CONTRACTS (*CONTINUED*)

After further discussion, the Commission directed City staff to continue to develop a charter ordinance for the process of public improvements and to bring the item back to the Commission.

At 6:40 p.m., the Work Session concluded and the Commission took a brief recess until 7:00 p.m.

SPECIAL MEETING

PUBLIC HEARING - 2009 BUDGET; 2009-2014 CAPITAL IMPROVEMENTS PROGRAM; AMEND WATER RATES; AMEND SEWER RATES, SURCHARGES, PRETREATMENT FEES, AND SEPTAGE HAULER FEES

Ron Fehr, City Manager, presented an overview of the 2009 Budget highlights and initiatives.

Melanie Landis, Finance Operations Accountant, presented an overview of the 2009 Budget, the 2009 short-term debt to be retired by 2012, a review of prior work sessions, the proposed mill and tax levy rate, and the proposed General Fund increase.

Bernie Hayen, Director of Finance, presented the City Budget as it related to growth and the proposed water rate increase, including: consumption and revenue, variable and fixed expenses, consumption and revenue by category, and water financial projections. He then presented the proposed wastewater rate increase and wastewater financial projections. He then responded to questions from the Commission.

Dale Houdeshell, Director of Public Works, and Bernie Hayen, Director of Finance, responded to questions from the Commission regarding consumption of water and users.

Ron Fehr, City Manager, and Bernie Hayen, Director of Finance, responded to questions from the Commission regarding the 2009 proposed Budget, two new fire stations being proposed and budget impact, building growth, water revenues projected, and discussed the amount of property taxes being collected from new construction. They informed the Commission that a future Work Session would be held to discuss the water rate structure.

Mayor Hatesohl opened the public hearing.

Hearing no comments, Mayor Hatesohl closed the public hearing.

SPECIAL MEETING (CONTINUED)

FIRST READING - 2009 BUDGET and 2009-2014 CAPITAL IMPROVEMENTS PROGRAM; AMEND WATER RATES; AND AMEND SEWER RATES, SURCHARGES, PRETREATMENT FEES, AND SEPTAGE HAULER FEES

After additional discussion, Commissioner Snead moved to approve first reading of an ordinance adopting the 2009 City Budget and approve the budget recommendations as presented by City Administration and, adopt ordinances increasing the rate structure of the water utility and the wastewater utility. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Strawn voting against the motion.

RESOLUTION NO. 081208-A – AMEND - MEMORANDUM OF AGREEMENT WITH LOCAL 2275 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS

Lauren Palmer, Assistant City Manager, presented the item.

Dee Robert Ross, 2304 Brockman Street, informed the Commission that firefighters are laying their lives on the line and the Commission is complaining about their pay raises and stated that they deserve more.

Tim Davenport, President, Local 2275 International Association of Fire Fighters, stated that he represented 60 people and provided additional information to the Commission on other comparable municipalities percentage of pay increases. He stated he was willing to be part of the process to build the budget next year.

Ron Fehr, City Manager, expressed appreciation to Mr. Davenport, to the Union team members, and to City personnel involved in this process.

After additional discussion, Commissioner Sherow moved to approve Resolution No. 081208-A adopting changes within the Memorandum of Agreement with Local 2275 of the International Association of Firefighters. Commissioner Snead seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Strawn voting against the motion.

At 8:40 p.m., the Commission took a brief recess.

AMEND NORTH AND SOUTH FINAL DEVELOPMENT AGREEMENTS

Rick Kiolbasa, Dial Realty, provided an update on the North Redevelopment and stated that due to the delays in the redevelopment and construction as a result of the lawsuit, Dial requests to amend the Agreements. He then updated the Commission on the status of tenants in the North Redevelopment, stating that Hy-Vee broke ground last week, that Office Max has been lost as a retailer, that Mountain Mudd had recently closed, and said

SPECIAL MEETING (CONTINUED)

AMEND NORTH AND SOUTH FINAL DEVELOPMENT AGREEMENTS (CONTINUED)

that the timetable for the residential will need to be slid back by six months as a result of the lawsuit. He stated that the proposed amendment would allow construction to proceed on the buildings for Petco and Bed Bath & Beyond. He then answered questions from the Commission.

Jason Hilgers, Assistant City Manager, presented the proposed amendment to the Final Development Agreements, explained the moral obligation, outlined impacts to the City and project costs, and provided an overview of financing scenarios. He then answered questions from the Commission regarding the City responsibilities in providing a moral obligation, Westar Energy relocation, North End tenant relocation costs, and provided additional information on the TIF "A" and STAR bonds.

Ron Fehr, City Manager, provided additional information on the STAR bonds and the TIF District that was established.

Jason Hilgers, Assistant City Manager, responded to questions from the Commission regarding the moral obligation and associated risks that have been examined by the City's financial advisors and bond counsel.

Ron Fehr, City Manager, and Jason Hilgers, Assistant City Manager, provided additional information on the importance of STAR bonds to be issued for the South Redevelopment area and presented a Downtown Redevelopment TIF District flow of funds chart. They then responded to additional questions from the Commission

Bernie Hayen, Director of Finance, and Ron Fehr, City Manager, responded to questions from the Commission.

Rick Kiolbasa, Dial Realty, provided additional clarification on the proposed amendment.

Jason Hilgers, Assistant City Manager, responded to questions from the Commission regarding the funding scenarios and moral obligation.

Rick Kiolbasa, Dial Realty, informed the Commission that Hy-Vee is moving forward, that Petco and Bed Bath & Beyond are comfortable in proceeding ahead with the status of the appeal pending, and that Best Buy is doing very well. He then answered questions from the Commission regarding percentage leased in the North and said that Dial is in negotiations with three or four smaller restaurants.

Jason Hilgers, Assistant City Manager, responded to questions from the Commission regarding the importance to the City and to Dial to do the amendment at this time.

SPECIAL MEETING (*CONTINUED*)

AMEND NORTH AND SOUTH FINAL DEVELOPMENT AGREEMENTS (*CONTINUED*)

Bill Frost, City Attorney, provided additional clarification on the proposed amendment and the importance of STAR bonds to ensure the South Redevelopment is preserved. He then answered questions from the Commission regarding obligations of the City and Dial, as well as issuance of the TIF "A" bonds and interest rates of the bonds.

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, responded to questions from the Commission regarding risks associated with the bondholder and the importance of a moral obligation in the marketplace.

Rick Kiolbasa, Dial Realty, and Jason Hilgers, Assistant City Manager, informed the Commission of the importance in having quality tenants and leases; discussed the moral obligation, feasibility study, and incentive to perform; and explained the importance of timing associated with the proposed amendment.

Rick Kiolbasa, Dial Realty, responded to additional questions from the Commission and stated that Dial was still planning on being part of the South Redevelopment District.

Bill Frost, City Attorney, provided additional clarification on the item and answered questions from the Commission regarding the South Redevelopment Agreement, the proposed amendment, and the extended deadline for contingencies to be satisfied.

Dee Robert Ross, 2304 Brockman Street, asked if the City found a \$10 million discrepancy that favored Dial in the contract and if there would be a moral obligation from Dial.

Ron Fehr, City Manager, responded to the questions raised.

Commissioner Strawn stated that if Dial had performed the way they said they were going to perform, he did not believe that there would have been a lawsuit. He stated that the City is transferring the risks onto the citizens of Manhattan and would not support the amendment.

Commissioner Snead stated that he was interested in the bigger picture, that Dial must perform, and that the City would be in a better financial position with the amendment based on what the City knows with the moral obligation.

Bill Frost, City Attorney, and Jason Hilgers, Assistant City Manager, responded to questions regarding the potential need to amend the proposed amendment and provided clarification on the South Final Development Agreement.

SPECIAL MEETING (CONTINUED)

AMEND NORTH AND SOUTH FINAL DEVELOPMENT AGREEMENTS (CONTINUED)

Rick Kiolbasa, Dial Realty, informed the Commission that the lawsuit has resulted in the project construction being delayed for six months.

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, provided additional information and clarification to the Commission regarding the residential commitment from Dial and the assessments.

After discussion, Commissioner Strawn moved to table approval of the proposed amendment to the North and South Final Development Agreements and associated agreements with Dial Realty until the next legislative session of the City Commission, to be held on Tuesday, August 19, 2008. Commissioner Sherow seconded the motion.

Rick Kiolbasa, Dial Realty, informed the Commission that it is imperative to get a vote up or down on this item tonight or he cannot move forward on the construction. He then responded to questions from the Commission.

Jason Hilgers, Assistant City Manager, provided additional information on the item.

After additional discussion, on roll call vote, motion failed 3-2, with Mayor Hatesohl and Commissioners Snead and Phillips voting against the motion.

After discussion, Commissioner Snead moved to approve the proposed amendment to the North and South Final Development Agreements and associated agreements with Dial Realty. Mayor Hatesohl seconded the motion.

Mayor Hatesohl stated that now is the time and if the City is going forward with this, the Commission needs to move forward tonight.

Commissioner Sherow stated that if the City is only going to get Hy-Vee and Best Buy if the Commission does not act on this amendment tonight, that this is not the kind of partner he wanted. He requested that the Commission have another week to further analyze this and receive public reaction before the Commissioners are forced to make a decision.

Commissioner Phillips stated that they have been talking about this redevelopment for the past two years with the current Commission and was willing to approve the request and allow the project to proceed forward, as envisioned.

SPECIAL MEETING (CONTINUED)

**AMEND NORTH AND SOUTH FINAL DEVELOPMENT AGREEMENTS
(CONTINUED)**

Bill Frost, City Attorney, provided clarification on the moral obligation and responded to questions from the Commission.

Commissioner Snead stated that time is pressing us on both the front end and on the out years of this project. He reiterated that STAR bonds are critical to the success of the South End and enables the City to preserve and to proceed immediately with the North End, if criteria are met.

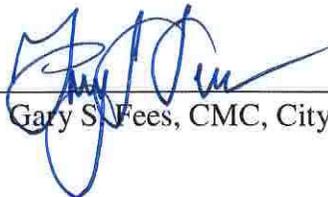
Commissioner Strawn stated this item is not in the best interest of taxpayers of Manhattan and could not support the amendment.

Commissioner Sherow stated that he is also looking at the big picture and vision of the community. He stated that if Dial had performed better in developing the North End, there would not be a lawsuit. He then voiced concern for design standards for the South End project and stated that wants to see better performance from Dial.

After additional discussion, on a roll call vote, motion carried 3-2, with Commissioners Strawn and Sherow voting against the motion.

ADJOURNMENT

At 10:56 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk