



MINUTES
CITY COMMISSION MEETING
TUESDAY, FEBRUARY 2, 2010
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bob Strawn and Commissioners Bruce Snead, James E. Sherow, Loren J. Pepperd, and Jayme Morris-Hardeman 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, 6 staff, and approximately 25 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Strawn led the Commission in the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Strawn opened the public comments.

John Pence, 2361 Grandview Terrace, asked the Commission if he could comment on consent agenda items.

Mayor Strawn informed Mr. Pence that public comment for consent items would occur after the consent agenda was read and discussed by the Commission.

Hearing no other comments, Mayor Strawn closed the public comments.

COMMISSIONER COMMENTS

Commissioner Snead informed the community of a dental health screening for children during Dental Health Month at the Riley County-Manhattan Health Department. He stated that dental screening would be provided for \$3 per family on February 20, 2010, from 9:00 a.m. to 11:00 a.m., and encouraged those interested to register with the Riley County-Manhattan Health Department before February 15, 2010.

COMMISSIONER COMMENTS (*CONTINUED*)

Mayor Strawn encouraged those in the community to contact the Riley County-Manhattan Health Department to receive their H1N1 vaccination, regardless of age, as supplies are currently available. He stated that during the briefing/discussion session, the Commission discussed the current statutes regarding the Riley County Police Department and make-up of the Riley County Law Board, with plans to discuss this item further during the next Joint City/County meeting to be held on Thursday, February 18, 2010.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, January 19, 2010.

CLAIMS REGISTER NOS. 2630 and 2631

The Commission approved Claims Register Nos. 2630 and 2631 authorizing and approving the payment of claims from January 13, 2010, to January 26, 2010, in the amounts of \$2,353,073.37 and \$2,048,531.69, respectively.

* LICENSES

Brandon Walters, 831 Pierre Street, asked what is a CMB license.

Ron Fehr, City Manager, stated that CMB stands for Cereal Malt Beverage.

The Commission approved a *Tree Maintenance License* for calendar year 2010 for Flint Hills Treescaping, 2004 Poppy Court, and Wildcat Tree Service, 1600 Poyntz Avenue; and an annual *CMB Off-Premises License* for Wal-Mart Stores, Inc., D/B/A Wal-Mart Supercenter #35, 101 East Bluemont Avenue; Walgreens #07060, 325 Bluemont Avenue; and Walgreens #12814, 2719 Anderson Avenue.

* FIRST READING – AMEND – UNLAWFUL ASSEMBLY

The Commission approved first reading of an ordinance incorporating changes to the Unlawful Assembly Ordinance.

* FIRST READING – AMEND –DISORDERLY HOUSE NUISANCE

Lauren Palmer, Assistant City Manager, answered questions from the Commission and provided information on the changes being recommended.

John Pence, 2661 Grandview Terrace, asked about the proposed changes to the Disorderly House Ordinance and voiced concern that the City has not allowed the public to be involved in the process and that it will negatively affect landowners.

CONSENT AGENDA (*CONTINUED*)

* **FIRST READING – AMEND –DISORDERLY HOUSE NUISANCE
(*CONTINUED*)**

Lauren Palmer, Assistant City Manager, responded to questions and provided background information discussed during past work sessions and discussions with City staff and with the Riley County Police Department.

John Pence, 2661 Grandview Terrace, informed the Commission of problems encountered with some student tenants and their parents and the need to better educate students. He requested that the item be tabled and informed the Commission that they were jumping the gun on approving the amendment.

Richard Hill, 3513 Stagecoach Circle, asked what a disorderly house is and what the landlord's responsibility is regarding the proposed Disorderly House Nuisance Ordinance. He voiced concern that he did not receive appropriate notice and that he did not have sufficient time to research the proposed amendments. He asked that the proposed ordinance be read and informed the Commission that he feels that he is not being heard.

Lauren Palmer, Assistant City Manager, answered Mr. Hill's questions and provided information as to what changes were being made to make it easier for the Riley County Police Department to enforce the ordinance and explained what events may trigger a house being designated a disorderly house.

Bill Frost, City Attorney, explained the purpose of the changes and the desire to bring responsibility to the forefront quicker than what currently happens. He then responded to additional questions and provided clarification on the proposed ordinance.

Brad Schoen, Director, Riley County Police Department, informed the public and the Commission that the changes are at the request of the Riley County Police Department and that he has not met with a landlord for a disorderly house nuisance in more than ten years. He stated that the goal is to make the community better, not to punish people. He asked the Commission to find a workable solution and to seek engagement with the landlords, so that the Riley County Police Department is not constantly responding to these types of calls.

The Commission approved first reading of an ordinance incorporating changes to the Disorderly House Nuisance Ordinance.

CONSENT AGENDA (CONTINUED)

FIRST READING – AMEND – SUNDAY SALES FOR CEREAL MALT BEVERAGES AND ALCOHOLIC LIQUOR

The Commission approved first reading of an ordinance amending Sections 4-11 and 4-37 of the Code of Ordinances to prohibit the sale at retail of cereal malt beverages and alcoholic liquor, in the original package, on Thanksgiving Day and Christmas Day.

* FIRST READING – AMEND ZONING ORDINANCE – POLITICAL OR CAMPAIGN SIGNS

John Pence, 2661 Grandview Terrace, inquired as to what rights he has if a tenant places a sign on his property.

Bill Frost, City Attorney, stated that Mr. Pence would need to seek his own legal advice if there is a contractual dispute between the landlord and the tenant. He then provided additional clarification on the proposed zoning ordinance.

The Commission approved first reading of an ordinance amending the Manhattan Zoning Regulations Article VI, Signs, to delete Section 6-104 (A) (7), regarding Political or campaign signs, and replacing it with a new Section 6-104 (B) (5), as proposed, based on the findings in the Staff Memorandum, as recommended by the Manhattan Urban Area Planning Board.

* SET PUBLIC HEARING DATE – LEVY – SPECIAL ASSESSMENTS

Ron Fehr, City Manager; Jason Hilgers, Assistant City Manager/Redevelopment Coordinator; and Dale Houdeshell, Director of Public Works, answered questions from the Commission regarding the specials for the Stone Point Pedestrian Bridge.

John Pence, 2661 Grandview Terrace, asked why the City's share of the costs was 80 percent for the Stone Pointe Pedestrian Bridge when the benefit was only to the nearby lots and provided no benefit to him.

Ron Fehr, City Manager, and the Commission provided additional background information on the item and benefit petition process. Mr. Fehr then responded to questions regarding the project budget, petition process, and current and future pedestrian linkages.

CONSENT AGENDA (CONTINUED)

* **SET PUBLIC HEARING DATE – LEVY – SPECIAL ASSESSMENTS (CONTINUED)**

The Commission set February 16, 2010, as the date to hold the public hearing levying special assessments against the benefiting properties in the following fourteen (14) projects, which have been completed: *Lee Mill Heights Addition, Unit Four, Phase One* – Storm Drainage (SM0703); Sanitary Sewer (SS0705); Street (ST0710); and Water (WA0706); *Northwing Addition, Unit One* – Storm Drainage (SM0808); Sanitary Sewer (SS0811); Street (ST0818); and Water (WA0807); *Silo Townhomes* – Storm Drainage (SM0805); Sanitary Sewer (SS0803); Street (ST0808); and Water (WA0802); *Stone Pointe Pedestrian Bridge – Pedestrian Bridge* (SP0701); and *Gary Avenue and Treemill Drive (Effingham) Drainage, Phase Two* – Storm Drainage (SM0807).

* **REQUEST FOR PROPOSALS – CICO PARK STORMWATER DRAINAGE STUDY (SM1001; CIP SW011P)**

The Commission authorized City Administration to solicit proposals for the design of CiCo Park Stormwater Drainage Study.

* **RESOLUTION NO. 020210-A – K-18 HIGHWAY AGREEMENT**

The Commission approved Resolution No. 020210-A authorizing the Mayor and City Clerk to execute the agreement with KDOT for highway improvements to K-18 from Manhattan to Ogden.

CHANGE ORDER NO. 1-FINAL – WILDCAT CREEK LIFT STATION IMPROVEMENTS, PHASE 1 (SP0604, SP0905)

The Commission approved Change Order No. 1-Final for the Wildcat Creek Lift Station Improvements, Phase I, resulting in a net increase in the amount of \$15,383.76 (+1.9%) to the contract with Midland Contractors, Inc., of Topeka, Kansas.

PURCHASE – STORM WARNING SIREN – AVERY AVENUE AND KIMBALL AVENUE

The Commission authorized City Administration to enter into a purchase agreement in the amount of \$20,307.20 with Blue Valley Public Safety, of Grain Valley, Missouri, for the purchase and installation of a Federal Signal Corporation warning siren located at the corner of Avery Avenue and Kimball Avenue.

After discussion, Commissioner Sherow moved to approve the consent agenda, as presented. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item D, First Reading – Amend – Unlawful Assembly and Disorderly House Nuisance, which carried 4-1, with Commissioner Pepperd voting against the motion.

GENERAL AGENDA

FIRST READING - INCORPORATE BY REFERENCE - 2009 STANDARD TRAFFIC ORDINANCE

Katharine Jackson, Assistant City Attorney, presented the item. She then responded to questions from the Commission regarding state and local laws and provided information on cell phone driving laws adopted by states and a few major cities.

Bill Frost, City Attorney, provided additional information on the item.

Brad Schoen, Director, Riley County Police Department (RCPD), informed the Commission that this ordinance was adopted, that RCPD would enforce it where applicable, certainly if it's an issue in terms of driver error or being a part of some other violation or accident.

Commissioner Snead stated that no one can predict what will happen with State legislation on cell phone usage, but this is an opportunity to make a statement about the importance of this without making a full commitment to all the steps necessary to implement this immediately. He stated that delaying the effective date until July 1, 2010, would allow the City the opportunity to see what the State does without committing resources unnecessarily.

After discussion, Commissioner Snead moved to approve first reading of Ordinance Option One, incorporating by reference and modifying the Standard Traffic Ordinance for Kansas Cities, Edition of 2009, with the Sections regulating the use of cell phones by drivers to be enacted effective July 1, 2010, or the ordinance adjusted to achieve that result at second reading. Commissioner Morris-Hardeman seconded the motion.

Bill Frost, City Attorney, asked for clarification on the motion that Sections 11 and 12 of the proposed ordinance would not be effective until July 1, 2010.

Katharine Jackson, Assistant City Attorney, stated that a provision in the ordinance could state that these Sections would not be in effect until a certain date. She then responded to questions from the Commission.

Bill Frost, City Attorney, provided additional information on the item and responded to questions from the Commission.

Commissioner Sherow stated that even if this ordinance ends up being poorly enforced because of the difficulties in doing so, if it saves a trip to the emergency room, it's well worth the time. He stated that educating the public that texting and talking on a cell phone while driving is dangerous.

GENERAL AGENDA (CONTINUED)

FIRST READING - INCORPORATE BY REFERENCE - 2009 STANDARD TRAFFIC ORDINANCE (CONTINUED)

Commissioner Pepperd voiced concern in passing an ordinance that is not consistent with the State of Kansas traffic rules and regulations.

Brad Schoen, Director, Riley County Police Department, responded to questions from the Commission and stated that if the motion is approved, RCPD would prefer to wait until July 1, 2010, for adoption of the cell phone sections of the ordinance.

The Commission discussed potential enforcement challenges and the variety of new technology being introduced with cell phones.

Commissioner Strawn stated that he had zero confidence that the State of Kansas would adopt a law addressing this safety concern and appreciated the discussion and compromise of his fellow Commissioners.

On a roll call vote, motion carried 5-0.

INTERLOCAL AGREEMENT - US-24 CORRIDOR MANAGEMENT PLAN

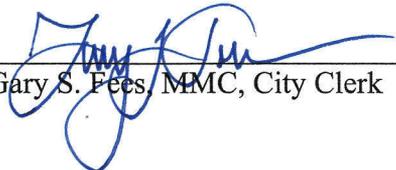
Dale Houdeshell, Director of Public Works, introduced the item.

Buck Driggs, HWS Consulting Group, Inc., presented an update on the item and responded to questions from the Commission.

After discussion, Commissioner Sherow moved to authorize the Mayor and City Clerk to execute the US-24 Corridor Management Plan Interlocal Agreement. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 8:55 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk



INTER-OFFICE MEMORANDUM

DATE: January 13, 2010

TO: Manhattan Urban Area Planning Board

MEETING DATE: January 21, 2010

FROM: Steve Zilkie, AICP, Senior Planner

RE: Amend the Manhattan Zoning Regarding Political or Campaign Signs

BACKGROUND

Political and campaign signs are a type of sign set out in the Manhattan Zoning Regulations in Article VI, Signs, Section 6-104, Exemptions, (A) (7). The signs are exempt from the requirements of Article VI, except for time and location limitations and the requirements of Section 6-106, Maintenance, Removal and Disposition (*attachment*). Political or campaign signs are not defined in the Zoning Regulations, but can generally be described as signage supporting candidates or issues in connection with national, state or local elections.

Section 6-104 (A) (7) currently reads: "Political or campaign signs, provided they are not located within or over a public right-of-way. Any such signs on behalf of candidates for public office or measures on election ballots shall not be erected earlier than sixty (60) days prior to said election and shall be removed within fifteen (15) days following said election."

The proposed text amendment of the Zoning Regulations deletes Section 6-104 (A) (7) and replaces it with proposed Section 6-104 (B) (5), to read:

Section 6-104 (B) (5) Political or campaign signs. Such signs shall also be exempt from the District Regulations in PART 2.

Attachment No. 1

By moving “political or campaign signs” from paragraph “A” to paragraph “B”, such signs will continue to be exempt from needing a sign permit, however will otherwise be subject to provisions addressing issues such as traffic safety, illumination, applicable building and electrical codes, and prohibitions on flashing signs. The proposed amendment will allow City Administration to enforce those types of provisions which apply to all signs city wide, if it becomes necessary. Those concerns have generally not been an issue in the past with these types of signs. Most frequently the issue with campaign signs is placement in the public right-of-way and blocking vision of drivers at intersections.

In addition, the proposed amendment will continue to exempt political and campaign signs from the provisions of specific zoning districts, such as structural type, number, surface area, maximum height, and setback requirements. These district standards are generally associated with permanent signs rather than the temporary signs. In addition, political and campaign signs are more temporary in nature, do not require a permit, and have generally not generated community concern to the extent that size, number and other district limitations should be applied.

Federal courts, including the federal courts in Kansas, have held that it is not permissible for a city to regulate political signs differently than other signs. In other words, the City’s regulations stating that the political signs can only be posted during particular time periods must be changed. Therefore, the City has not enforced these time provisions during the last election cycle, and has notified political candidates and organizations that the time limitations no longer applied. The proposed amendment removes the time provisions, while insuring that the signs still meet the general provisions that apply to other signs.

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

When proposed amendments result in a change to the text of the Zoning Regulations, the report from the Planning Staff shall contain a statement as to the nature and effect of the proposed amendments, and determinations as to the following:

WHETHER SUCH CHANGES ARE CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS

The intent of the Zoning Regulations is to protect the public health, safety and general welfare, and to protect property values, through the creation of zoning districts in which land uses are controlled in order to be compatible with other nearby uses. The proposed amendment implements the intent and purpose of the regulations by removing time limitations for political or campaign signs and otherwise ensuring the signs comply with the regulations that apply to other signs. The proposed amendment is consistent with the intent and purposes of the Zoning Regulations.

Attachment No. 1

As proposed, political or campaign signs must meet the requirements related to broader provisions addressing traffic safety, illumination, applicable building and electrical codes, and other issues; however, as is currently the case, no sign permit will be required and specific district requirements will not apply due to the temporary nature of the sign.

AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGES AND IN WHAT WAY THEY WILL BE AFFECTED

All zoning districts are equally affected. Political or campaign signs are allowed as an exempt type of sign in all zoning districts city wide.

WHETHER THE PROPOSED AMENDMENTS ARE MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN THE AREAS AND ZONING DISTRICTS AFFECTED, OR IN THE CITY PLANNING AREA, GENERALLY, AND IF SO, THE NATURE OF SUCH CHANGED OR CHANGING CONDITIONS

The proposed amendment is made necessary because of case law prohibiting a city from regulating political signs differently from other signs similar in nature.

WHETHER SUCH CHANGES ARE CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICIES AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY

The Zoning Regulations implement the Comprehensive Plan, its goals, objectives, and policies. The Plan is general in nature and does not specify administrative detail such as the proposed amendment. However, the proposed amendment ensures that the general statements in the Comprehensive Plan are implemented consistent with legal requirements.

ALTERNATIVES

It appears the MUAPB has the following alternatives concerning the issue at hand. The Board may:

1. Recommend approval of the proposed amendment to the Zoning Regulations to the City Commission.
2. Recommend denial of the proposed amendment to the Zoning Regulations to the City Commission.
3. Modify the proposed amendment to the Zoning Regulations and forward the modifications, along with an explanation, to the City Commission.
4. Table the public hearing to a specific date, and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends approval of the amendment to the Manhattan Zoning Regulations to Article VI, Signs, Section 6-104, Exemptions, to delete Section 6-104 (A) (7), regarding Political or campaign signs, and add Section 6-104 (B) (5), based on the findings in the Staff Memorandum.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of the amendments to the Manhattan Zoning Regulations to Article VI, Signs, Section 6-104, Exemptions, to delete Section 6-104 (A) (7), regarding Political or campaign signs, and add Section 6-104 (B) (5), as described in the Staff Memorandum, based on the findings in the Staff Memorandum.

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