

MINUTES
CITY COMMISSION MEETING
TUESDAY, JULY 6, 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 Bruce Snead and Commissioners James E. Sherow, Loren J. Pepperd, Jayme Morris-Hardeman, and Bob Strawn 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, 8 staff, and approximately 35 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Snead opened the public comments. Hearing no comments, Mayor Snead closed the public comments.

COMMISSIONER COMMENTS

Commissioner Sherow thanked the citizens of Manhattan for supporting the pool initiative and appreciated watching many children and parents enjoying the new City Park Pool. He congratulated those involved in the project that made it something to be proud of.

Mayor Snead provided an update on the recent flooding that occurred in the community and stated that a representative with the United States Small Business Administration would be in Manhattan at the American Red Cross building weekdays through July 22, 2010, with disaster loan programs available. He also encouraged citizens to attend the groundbreaking ceremony July 7, 2010, at 9:30 a.m., for the Flint Hills Discovery Center, at Third Street and Colorado Street. He then provided an overview on items discussed during the Discussion/Briefing Session, which were: received an update on the recent flood event; discussed possible City/County agenda items; announced dates for the upcoming League of Kansas Municipalities Conference and AUSA Conference; received an update from Commissioner Morris-Hardeman on public transportation; discussed the

COMMISSIONER COMMENTS (*CONTINUED*)

new logo for the Flint Hills Discovery Center; received Census estimates for 2009; discussed revisiting the days and times for fireworks and scheduling it as a future agenda item; and, Commissioner Sherow provided an update on the Flint Hills Regional Council and housing issues and needs discussed by Colonel Brown with Fort Riley.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, June 15, 2010, and the Special City Commission Meeting held on Tuesday, June 22, 2010.

CLAIMS REGISTER NO. 2645

The Commission approved Claims Register No. 2645 authorizing and approving the payment of claims from June 9, 2010, to June 29, 2010, in the amount of \$4,787,022.18.

LICENSE – CEREAL MALT BEVERAGE

The Commission approved an annual Cereal Malt Beverage License for Mr. K's Café, Inc., 3901 Vanesta Drive.

* FINAL PLAT – MANHATTAN MARKETPLACE ADDITION, UNIT 3

Commissioner Morris-Hardeman stated that she was concerned in the application of the design guidelines and the decision made by the Manhattan Urban Area Planning Board to allow the proposed Longhorns Restaurant to face Tuttle Creek Boulevard, rather than toward the development. She also voiced concern that the decision was made by only four members of the Planning Board and asked that the issue of quorum be revisited.

Commissioner Sherow voiced his disappointment with the alignment of the proposed Longhorns Restaurant and the orientation of the building. He also voiced concern with the landscape maintenance in areas of the Manhattan Marketplace PUD.

Commissioner Strawn reiterated similar concerns and asked if the City Commission has any authority on the Final Plat of Manhattan Marketplace Addition, Unit 3.

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

CONSENT AGENDA (CONTINUED)

* **FINAL PLAT – MANHATTAN MARKETPLACE ADDITION, UNIT 3 (CONTINUED)**

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manhattan Marketplace Addition, Unit 3, Commercial Planned Unit Development, generally located northwest of the intersection of Retail Place and Tuttle Creek Boulevard, based on conformance with the Manhattan Urban Area Subdivision Regulations.

* **RESTRICTIVE COVENANTS – MANHATTAN MARKETPLACE ADDITION, UNIT 3**

The Commission authorized the Mayor and City Clerk to execute the Agreement regarding construction and maintenance of the travel easements for Manhattan Marketplace Addition, Unit 3, Commercial Planned Unit Development.

ORDINANCE NO. 6831 – AMEND – REFUSE CONTAINERS AND REFUSE HAULERS

The Commission approved Ordinance No. 6831 amending Chapter 16 of the Code of Ordinances implementing various changes related to refuse containers and refuse haulers.

ORDINANCE NO. 6832 – AMEND – TRASH NUISANCES

The Commission approved Ordinance No. 6832 amending Chapter 21 of the Code of Ordinances implementing various changes for trash nuisances.

RESOLUTION NO. 070610-A – SET PUBLIC HEARING DATE – NORTH TRANSPORTATION DEVELOPMENT DISTRICT EXPANSION

The Commission found the petition sufficient and approved Resolution No. 070610-A setting the date for a public hearing relative to the North Project Area Transportation Development District Expansion.

FIRST READING – NORTH TRANSPORTATION DEVELOPMENT DISTRICT EXPANSION

The Commission approved first reading of an ordinance expanding the North Project Area Transportation Development District.

* **RESOLUTION NO. 070610-B – DESIGNATION – RECOVERY ZONE**

Commissioner Strawn stated that he would be abstaining from the item.

The Commission approved Resolution No. 070610-B designating the City as a Recovery Zone.

CONSENT AGENDA (CONTINUED)

* **APPLICATION – RECOVERY ZONE FACILITY BONDS – GTM SPORTSWEAR, INC.**

Commissioner Strawn stated that he would be abstaining from the item.

Mayor Snead and Lauren Palmer, Assistant City Manager, provided additional information on the item and responded to questions from the Commission regarding the application and compliance wage structure with GTM Sportswear, Inc.

The Commission approved the application from GTM Sportswear, Inc., to the Kansas Department of Commerce for Recovery Zone Facility Bonds.

* **REQUEST FOR PROPOSALS – MCCALL ROAD CONNECTION (ST1014)**

Commissioner Sherow and Commissioner Strawn provided additional information on the importance of the McCall Road connection design item.

The Commission authorized City Administration to solicit proposals for the design of McCall Road Extension (ST1014) and appointed Commissioner Strawn to serve on the Selection Committee.

* **AGREEMENT – CONSTRUCTION MANAGER AT-RISK – FLINT HILLS DISCOVERY CENTER EXHIBITS (DC0902)**

The Commission authorized the Mayor and City Clerk to execute an agreement with McCownGordon Construction, of Kansas City, Missouri, for Construction Manager At-Risk services for exhibits (DC0902) for the Flint Hills Discovery Center.

CHANGE ORDER NO. 6 – 4TH STREET, PIERRE STREET TO FORT RILEY BOULEVARD (ST0813)

The Commission approved Change Order No. 6 for 4th Street, Pierre Street to Fort Riley Boulevard, Project (ST0813) resulting in a net increase in the amount of \$27,261.16 (+1.19%) to the contract with Pavers, Inc., of Salina, Kansas.

CHANGE ORDER NO. 1 – PROJECT #15 (SM0806)

The Commission approved Change Order No. 1 for Project #15 (SM0806), resulting in a net increase in the amount of \$46,725.00 (+3.30%) to the contract with Dondlinger and Sons Construction, of Wichita, Kansas.

CONSENT AGENDA (CONTINUED)

CHANGE ORDER NO. 2 – SCENIC MEADOWS ADDITION, UNIT TWO, PHASE II – STREET IMPROVEMENTS (ST0820)

The Commission approved Change Order No. 2 for Scenic Meadows Addition, Unit Two, Phase II, Streets Improvements (ST0820), resulting in a net increase in the amount of \$18,392.50 (+4.28%) to the contract with Manhattan Trenching Inc., of Manhattan, Kansas.

AGREEMENT – ACQUISITION OF REAL ESTATE – WATER TREATMENT PLANT AND WELLFIELD IMPROVEMENT PROJECT (WA0611)

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute an agreement with Parker-Hannifin for acquisition of real estate for a 36-inch raw water supply pipeline for the Water Treatment Plant and Wellfield Improvement Project (WA0611).

* **AGREEMENT – DOWNTOWN MANHATTAN WAY-FINDING GRAPHICS CONCEPT STUDY**

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, presented an overview on the item and responded to questions from the Commission.

The Commission authorized City Administration to execute an agreement with Bowman, Bowman, Novick, of Manhattan, Kansas, for the Downtown Manhattan Way-Finding Graphics Concept Study.

* **AGREEMENT – FIXED BASE OPERATOR**

The Commission authorized the Mayor and City Clerk to execute the Fixed Base Operator Agreement with Kansas Air Center, Inc., for services provided at the Manhattan Regional Airport.

GRANT AGREEMENT/CONTRACTS – 2010 EMERGENCY SHELTER GRANT

The Commission authorized the Mayor and City Clerk to execute the grant agreement with the Kansas Housing Resources Corporation for the award of 2010 Emergency Shelter Grant Funds and execute contracts with local social service agencies to allocate the 2010 Emergency Shelter Grant (*See Attachment No. 1*).

* **RECOMMENDATIONS – NEIGHBORHOOD GRANT REVIEW COMMITTEE**

Lauren Palmer, Assistant City Manager, responded to questions from the Commission and provided information on the August deadline for applications.

CONSENT AGENDA (CONTINUED)

* **RECOMMENDATIONS – NEIGHBORHOOD GRANT REVIEW COMMITTEE (CONTINUED)**

The Commission approved the Neighborhood Grant Review Committee's funding recommendations (*See Attachment No. 2*).

BOARD APPOINTMENTS

The Commission approved appointments by Mayor Snead to various boards and committees of the City.

Code Appeals Board

Re-appointment of Ron Hageman, 3401 Churchill Street, to a three-year Builder term. Mr. Hageman's term begins immediately and will expire May 31, 2013.

Re-appointment of George Lauppe, 2837 Nevada Street, to a three-year Builder term. Mr. Lauppe's term begins immediately and will expire May 31, 2013.

Re-appointment of Brad Swanson, 2922 Tatarax Drive, to a three-year Master Mechanic term. Mr. Swanson's term begins immediately and will expire May 31, 2013.

Corporate Technology Park Architectural Review Committee

Re-appointment of Karen Davis, 1101 Poyntz Avenue, to a three-year City term. Ms. Davis' term will begin August 16, 2010, and will expire August 15, 2013.

Joint Corrections Advisory Board

Re-appointment of Ben Trujillo, 1000 Michael Road, to a two-year Adult term. Mr. Trujillo's term begins immediately and will expire June 30, 2012.

After discussion, Commissioner Sherow moved to approve the consent agenda, as presented. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item G, RESOLUTION NO. 070610-B – DESIGNATION – RECOVERY ZONE and APPLICATION – RECOVERY ZONE FACILITY BONDS – GTM SPORTSWEAR, INC., which carried 4-0, with Commissioner Strawn abstaining from the item; and, with the exception of Item I, AGREEMENT – CONSTRUCTION MANAGER AT-RISK – FLINT HILLS DISCOVERY CENTER EXHIBITS (DC0902), which carried 3-2, with Commissioners Pepperd and Strawn voting against the item.

GENERAL AGENDA

PRESENTATION - 2009 CITY AUDIT

Bernie Hayen, Director of Finance, presented an overview on the item.

Mike Rogers, CPA, Varney & Associates CPAs, LLC, provided additional information on the City's audit and highlighted the management letter provided by Varney & Associates. He then responded to questions from the Commission regarding the City's legal debt limit; STAR bonds; the formation, composition, process, duties, and responsibilities of an audit committee; conducting an independent audit of the Manhattan Area Chamber of Commerce with city funds; and compliance regarding Convention and Visitors Bureau funds.

Bret Haminaw, 1436 Legore Lane, informed the Commission that he has been a Manhattan resident for three years and a Junction City resident for eight years. He voiced concern with the loss in property values in the area.

After discussion by the Commission to consider establishing an audit committee, Commissioner Sherow moved to receive and accept the preliminary 2009 Independent Auditor's Report. Commissioner Pepperd seconded the motion.

After additional discussion, on a roll call vote, motion carried 5-0.

SEXUAL ORIENTATION

Jason Hilgers, Assistant City Manager, presented the item and responded to questions from the Commission

Larry Hackney, Staff Liaison, Human Rights and Services Board, informed the Commission that the Human Rights and Services Board meets quarterly, but can meet on a more frequent basis, if needed.

Jonathon Mertz, Chair, Flint Hills Human Rights Project, voiced appreciation for the item being on the agenda and was concerned that the item did not include gender identity and asked that it be considered. He stated that he felt the item was ready for the City Commission to take action on, instead of having a full debate on the issue and being dragged out with the Human Rights and Services Board. He then responded to questions from the Commission regarding discrimination related to housing and services. He stated that some cases need to be investigated to see if discrimination occurred or not, in order to treat everyone equally.

Bill Frost, City Attorney, provided additional information on the item and responded to questions from the Commission regarding potential ordinance considerations and possible enforcement mechanisms that could be applied.

GENERAL AGENDA (CONTINUED)

SEXUAL ORIENTATION (CONTINUED)

Jonathon Mertz, Chair, Flint Hills Human Rights Project, responded to questions from the Commission about exceptions to a potential ordinance and stated that he did not know of a model ordinance in the state of Kansas, other than the Lawrence ordinance as a starting point. He then provided information on Kansas State University's non-discrimination policy.

Dorinda Lambert, 531 Wickham Road, , Director of Counseling Services, and Chair, Campaign for Non-Violence, Kansas State University, informed the Commission that an ordinance adding sexual orientation and gender identity would show that Manhattan is a welcoming and accepting community. She then responded to questions from the Commission about discrimination and stressed the importance of adopting an ordinance.

Stan Hoerman, 2021 Bluehills Road, informed the Commission that as a landlord, he has not heard of this as a problem in housing and asked about public housing requirements at Flint Hills Place. He also asked about homosexuality laws in the state of Kansas and if the State has a mechanism for enforcement.

Bill Frost, City Attorney, provided clarification on the questions raised.

Jeff Levin, 3704 Everett Drive, business owner and landlord, informed the Commission that his employee handbook offered this protection and that this is a difficult issue to express. He asked the Commission to provide the leadership necessary to support a movement for sexual orientation and gender identity protection in Manhattan, as it did for a smoking ban and cell phone ordinance.

Dusty Garner, 2413 Hobbs Drive, Executive Director, Regional Aids Project, K-State student, stated that national employers look for open and accepting communities. He asked that the item go directly to the City Commission to develop an ordinance, rather than going to the Human Rights and Services Board.

Torry Dickinson, 2391 Grandview Terrace, informed the Commission that good communities support and respect everyone. She stated that good communities are places with full civil rights and urged the Commission to send a civil rights ordinance directly to the Commission and act on it immediately.

Joshua McGinn, 1824 Todd Road, thanked the Commission for issuing the recent LGBT month proclamation and stated that all people need to be able to provide for their families without undue obstacles. He said that although he has had a positive experience, a reputation of discrimination already exists in the community. He encouraged the Commission to apply a higher standard to ensure that discrimination does not happen.

GENERAL AGENDA (CONTINUED)

SEXUAL ORIENTATION (CONTINUED)

Bret Haminaw, 1436 Legore Lane, informed the Commission that as member of a Catholic, German family who has served consecutively in the armed forces, he has never experienced a large amount of hazing. He informed the Commission that his home was recently vandalized and he was verbally assaulted in Aggieville. He supported the proposed ordinance changes to prevent all discrimination.

Stephanie Mott, 119 Southeast 14th Street, Topeka, Kansas, Founder, Kansas Statewide Transgender Education Project, informed the Commission that she understands the fear of violence and discrimination as a transgender person. She asked that transgender identity be included in the proposed ordinance.

Mayor Snead summarized a letter that he received from Carol Barta, Manhattan Friends Meeting, in support of an ordinance. He then offered an alternative option for the Commission to consider by asking City Administration to develop an ordinance adding sexual orientation and gender identity as a protected class in Manhattan, and then ask the Human Rights and Services Board to review the proposal and have their input.

After further discussion by the Commission, Mayor Snead moved to authorize City Administration to develop an ordinance adding sexual orientation and gender identity as a protected class in Manhattan, including enforcement provisions and exceptions; and, have the Human Rights and Services Board review and provide feedback on the proposed ordinance, so that the Commission can take action before the end of 2010. Commissioner Morris-Hardeman, seconded the motion.

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, asked for clarification on the proposed ordinance and informed the Commission that City Staff would research ordinance examples and come back to the Commission with a draft ordinance and with a matrix of issues to consider.

Larry Hackney, Staff Liaison, Human Rights and Services Board, provided additional information on example ordinances and enforcement issues that will need to be managed and addressed.

After additional discussion by the Commission, on a roll call vote, motion carried 4-1, with Commissioner Pepperd voting against the motion.

DISCUSSION - SOUTH PARK, DEPOT CONNECTION AND PIERRE STREET LANDSCAPING

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, introduced the item.

GENERAL AGENDA (CONTINUED)

DISCUSSION - SOUTH PARK, DEPOT CONNECTION AND PIERRE STREET LANDSCAPING (CONTINUED)

Lorie Doolittle-Bowman, Bowman Bowman Novick (BBN), and Scott Bingham, BBN, presented an overview of the South District Development, including the South District park; access and linkage to the park; uses and activities of the open space; fireplace feature; plaza; shade opportunities; restroom; park seating areas; design process; construction costs; park delivery and construction schedule; and proposed planting materials.

Curt Loupe, Director of Parks and Recreation, and Eddie Eastes, Parks Superintendent, provided additional information on the Pierre Street right-of-way plantings proposed.

Ron Fehr, City Manager, and Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, provided additional information on the decorative lights planned for the bridge over the Kansas River and for the Redevelopment area.

Lorie Doolittle-Bowman, BBN, presented an overview on the Depot trail work and proposed cost estimates.

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, provided an update on the proposed tunnel to the Depot and responded to questions from the Commission.

Chuck Bartlett, HWS Consulting Group, provided additional information on the proposed tunnel project and feedback received from the Kansas Department of Transportation.

EXECUTIVE SESSION

At 10:30 p.m., Mayor Snead moved to recess into Executive Session until 11:20 p.m. for the purpose of preliminary discussions related to the acquisition of real estate. Commissioner Sherow seconded the motion. On vote, motion carried 5-0.

At 11:20 p.m., the Commission reconvened with Mayor Snead and Commissioners Sherow, Pepperd, Morris-Hardeman, and Strawn in attendance.

Mayor Snead moved to recess into Executive Session until 11:35 p.m. for the purpose of discussing matters related to employer-employee negotiations with Local 2275, International Association of Fire Fighters, the union representing certain members of the Manhattan Fire Department. Commissioner Sherow seconded the motion. On vote, motion carried 5-0.

EXECUTIVE SESSION (CONTINUED)

At 11:35 p.m., the Commission reconvened with Mayor Snead and Commissioners Sherow, Pepperd, Morris-Hardeman, and Strawn in attendance.

ADJOURNMENT

Mayor Snead moved to adjourn the meeting. Commissioner Sherow seconded the motion. On vote, motion carried 5-0.

At 11:35 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

Attachment No. 1

2010 Emergency Shelter Grant Funding Breakdown

	Crisis Center	MESI	Salvation Army	City	Total
Rehabilitation					
Operations	\$17,000.00	\$10,000.00			\$27,000.00
Essential Services	\$ 3,000.00	\$15,000.00			\$18,000.00
Homeless Prevention					
Admin				\$1,184.20	\$ 1,184.20
Total	\$20,000.00	\$25,000.00	\$ -	\$1,184.20	\$46,184.20

North Pointe Homeowners Association: *Drainage Improvements*

This project is a continuation of a project that was funded last year to improve drainage and reduce standing water near the intersection of Browning Avenue and Kelly Drive. Over the years, silt has built up in this ditch and traps water in the cement drain under Kelly Drive and creates a breeding ground for mosquitoes. The grant would allow for the silt to be removed and a graded cement ditch liner would be installed along the water flow path.

The Committee recommended **approval** of this application and the requested funding in the amount of **\$1,370**.

Townhomes at Miller Ranch Homeowners' Association: *Install a streetlight and flagpole light at Brianna Court*

The grant would provide funds to install a streetlight and flagpole light on Brianna Court at Miller Parkway. The improvement would allow the United States and State of Kansas flags to be flown at all times. The light would improve safety and visibility for the intersection and also provide electrical conduit to facilitate lighting a neighborhood sign that is planned for the future.

The Committee recommended **approval** of this application and the requested funding in the amount of **\$1,333**.

Second Round of Applications: Because only two applications were received for the program this year, the Committee requested that a second round of applications be opened up over the summer. Committee members felt that allowing additional time may encourage more participation. Associations that have already been funded in 2010 would not be eligible to re-apply in the second round.