

MINUTES
CITY COMMISSION MEETING
TUESDAY, DECEMBER 7, 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, 11 staff, and approximately 260 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

PROCLAMATION

Mayor Snead proclaimed December 31, 2010, *Little Apple New Year's Eve Celebration Day*. Evan Tuttle, Event Coordinator, Manhattan Festivals Committee, was present to receive the proclamation.

PUBLIC COMMENTS

Mayor Snead opened the public comments. He stated that there was standing room only in the City Commission Room and informed those in attendance that audio and video of the meeting was also available in the Memorial Auditorium.

Hearing no comments, Mayor Snead closed the public comments.

COMMISSIONER COMMENTS

Mayor Snead provided an overview of items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission discussed the process for the evening on the Discrimination Ordinance item; received updates associated with items on the consent agenda; discussed the annual Legislative

COMMISSIONER COMMENTS (*CONTINUED*)

Breakfast event scheduled for January 6, 2011, at 7:30 a.m. in the City Commission Room; discussed agenda items for the upcoming Joint City/County meeting on Thursday, December 16, 2010; discussed Commissioner meeting schedules; discussed a future work session to discuss possible term limits and the potential establishment of districts; and discussed various meeting and calendar related items.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 16, 2010, and the Special City Commission Meeting held Tuesday, November 30, 2010.

CLAIMS REGISTER NO. 2655

The Commission approved Claims Register No. 2655 authorizing and approving the payment of claims from November 10, 2010, to November 30, 2010, in the amount of \$5,126,087.31.

LICENSES

The Commission approved a *Tree Maintenance* license for calendar year 2011 for Carnahan Creek Tree Service, Inc., 12415 Carnahan Road, Olsburg; Gudenkauf Tree Service, 102 North Street, Seneca; and Tree Man-MHK, 2104 Fox Meadows; a *Fireworks Display* License for December 31, 2010, for Manhattan Festivals, LLC; a *Cereal Malt Beverages Off-Premises* annual license for Dillons #15, 130 Sarber Lane; Dillons #46, 1000 Westloop Place; Walgreens #12814, 2719 Anderson Avenue; and Walgreens #07060, 325 Bluemont Avenue; and a *Cereal Malt Beverage On-Premise* license for Aggieville Pizza Hut, 1121 Moro Street; Tuttle Creek Pizza Hut, 1005 Hostetler Drive; Westloop Pizza Hut, 2931 Claflin Road; and K-State Student Union, K-State Student Union Recreation.

FINAL PLAT – PRAIRIE LAKES ADDITION, UNIT 5

The Commission accepted the easements and rights-of-way as shown on the Final Plat of Prairie Lakes Addition, Unit 5, located northeast of the intersection of Grainfield Street and Northfield Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6867 – REZONE – INDEPENDENCE PLACE

The Commission overrode the Planning Board and approved Ordinance No. 6867 rezoning the proposed Independence Place PUD, generally located 600 feet east of the intersection of Scenic Drive and Powercat Place, from R-3, Multiple-Family Residential District with AO, Airport Overlay District, to PUD, Residential Planned Unit Development District with AO, Airport Overlay District, based on the findings in the Staff Report (*See Attachment No. 1*) with the nine conditions of approval, as recommended by the Manhattan Urban Area Planning Board, and adding Condition 10 as follows:

10. If removal of an apartment building becomes necessary, that square footage may be distributed to one or more of the other apartment buildings.

* **ORDINANCE NO. 6868 – AMEND WATER RATE STRUCTURE AND RATE; ADD KANSAS ONE CALL FEE**

Ron Fehr, City Manager, responded to questions from the Commission on the Kansas One Call fee and utility services provided.

Lauren Palmer, Assistant City Manager, and Dale Houdeshell, Director of Public Works, provided additional information on the Kansas One Call program, number of water utility customers, and provided clarification on the item.

Wynn Butler, 3600 Windsong Court, voiced concerns on the water rate fee associated with the Kansas One Call program and requested that the Commission consider passing the fee on to the actual user or builder, and to not add the fee to the homeowners water bill.

Luther Pennell, 730 Allen Road, representing the Flint Hills Home Builders Association, asked for additional information on the costs associated with water tap fees for materials and labor. He also raised concerns on the fund allocations for the Water Fund.

Ron Fehr, City Manager, responded to questions about material costs, savings realized in purchasing water meters in bulk, and provided additional information on the Water Fund.

Dale Houdeshell, Director of Public Works, provided additional information on the proposed rates and services provided by Kansas One Call.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 6868 – AMEND WATER RATE STRUCTURE AND RATE; ADD KANSAS ONE CALL FEE (CONTINUED)**

The Commission approved Ordinance No. 6868 approving the water rate structure modifications and rate increase as recommended by Springsted Incorporated over a five-year period; adding a \$0.75 fee to monthly customer utility bills to cover the additional City operating costs as a result of Kansas One Call state mandated membership; and amending tap fees from \$540.00 to \$732.00, all effective January 1, 2011.

ORDINANCE NO. 6869 – ISSUE GENERAL OBLIGATION BONDS – SMITH AND MANFAX RELIEF SANITARYSEWER (SS0901)

The Commission approved Ordinance No. 6869 authorizing the issuance of General Obligation Bonds to finance the Smith and Manfax Relief Sanitary Sewer (SS0901) project.

FIRST READING – NO PARKING – HIGHLAND RIDGE DRIVE

The Commission approved first reading of an ordinance removing parking along the south side of Highland Ridge Drive for a distance of 1,922 feet west of its northern intersection with Scenic Drive.

FIRST READING – NO PARKING – TECUMSEH ROAD

The Commission approved first reading of an ordinance removing parking along the north side of Tecumseh Road from Charles Little Road west to Wharton Manor Road.

* **FIRST READING – 2011 SALARY ORDINANCE**

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

The Commission approved first reading of the 2011 Salary Ordinance to establish a range of salaries for City employees.

* **CHANGE ORDER NO. 1 – WATER TREATMENT PLANT AND WELLFIELD IMPROVEMENT (WA0611)**

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

The Commission approved Change Order No. 1 for the Water Treatment Plant and Wellfield Improvement Project (WA0611) resulting in a net increase in the amount of \$289,266.00 (+1.8%) to the contract with Grimm Construction, Inc., of Gardner, Kansas.

CONSENT AGENDA (CONTINUED)

CHANGE ORDER NO. 7 – 4TH STREET, PIERRE STREET TO FORT RILEY BOULEVARD (ST0813)

The Commission approved Change Order No. 7 to the 4th Street, Pierre Street to Fort Riley Boulevard Downtown Redevelopment Project (ST0813), resulting in a net increase in the amount of \$31,884.95 to the contract with Pavers, Inc., of Salina, Kansas.

AUTHORIZE PAYMENT – ADDITIONAL SOUTH END DEMOLITION

The Commission authorized payment in the amount of \$31,774.88 to Killian Construction for the additional site preparation and demolition services associated with the South End Redevelopment.

* **CHANGE ORDER NO. 1 – CICO (CP0902) AND NORTHVIEW (CP0903) POOLS IMPROVEMENT**

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission and provided an update on the item.

The Commission approved Change Order No. 1 for the CiCo (CP0902) and Northview (CP0903) Pools Improvement Project resulting in a net increase in the amount of \$230,742.00 (+4.98%) to the contract with Vanum Construction Co., Inc., of Kansas City, Kansas.

* **AMENDMENT – ENGINEERING SERVICES - CICO (CP0902) AND NORTHVIEW (CP0903) POOLS IMPROVEMENT**

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission and provided an update on the item.

The Commission approved and authorized the Mayor to execute an amendment in the amount of \$1,110.00 with Water's Edge Aquatic Design, of Lenexa, Kansas, for additional engineering costs for the shut-off controls for the pumps for CiCo and Northview Pools Improvement Project.

* **AUTHORIZATION FOR FURNITURE, FIXTURES, AND EQUIPMENT - CICO (CP0902) AND NORTHVIEW (CP0903) POOLS IMPROVEMENT**

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission and provided an update on the item.

The Commission authorized \$138,400.00 for owner furnished items for the CiCo (CP0902) and Northview (CP0903) Pools.

CONSENT AGENDA (CONTINUED)

CONTRACT AMENDMENT NO. 1 – ENGINEERING SERVICES – MCCALL ROAD IMPROVEMENTS (ST0821)

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 5 in the amount of \$13,356.00 with Alfred Bensech and Company, of Manhattan, Kansas, for the design of the Bike/Hike Trail along US-24 to the Linear Park Trail from McCall Road.

DEVELOPMENT AGREEMENT – STONE TRACT NO. 1 ADDITION – WATER MAIN IMPROVEMENTS (WA1023)

The Commission authorized City Administration to finalize and the City Manager to execute the Development Agreement with G. Rex Stone Trust and Shirley Stone Trust for water main improvements (WA1023) in the Stone Tract No. 1 Addition.

AGREEMENT – ENGINEERING SERVICES – WILDCAT CREEK ROAD WATER MAIN (WA1012)

The Commission authorized the Mayor and City Clerk to execute an agreement in the amount of \$13,485.00 with SMH Consultants, of Manhattan, Kansas, for the final plans for a 12-inch water main along Wildcat Creek Road from the Manhattan Corporate Technology Park to just south of the Kansas Veteran's Cemetery to be bid and constructed with Riley County's Wildcat Road Project.

AWARD CONTRACT – DICKENS AVENUE – STORM WATER IMPROVEMENTS (SM1008)

The Commission accepted the Engineer's Estimate in the amount of \$131,315.00 and awarded a construction contract to Dondlinger and Sons Construction Co., Inc., in the amount of \$138,514.00 for Dickens Avenue Storm Water Improvements (SM1008).

PURCHASE – SPRAY INJECTION PATCH MACHINE – STREET DEPARTMENT

The Commission authorized the purchase of a spray injection patch machine (Unit #196) for the repair of damaged pavement (potholes) from Paving Maintenance Supply, Inc., of Wichita, Kansas, all in accordance with the 2011 Capital Improvements Program (ST024P) for a total cost of \$55,923.00 and authorized the Mayor and City Clerk to execute the lease purchase agreement for a Spray Injection Patch Machine.

* PURCHASE – MID-SIZED FOUR-DOOR SEDANS – RENTAL INSPECTION PROGRAM

Ron Fehr, City Manager, responded to questions from the Commission.

CONSENT AGENDA (CONTINUED)

* **PURCHASE – MID-SIZED FOUR-DOOR SEDANS – RENTAL INSPECTION PROGRAM (CONTINUED)**

The Commission authorized the purchase of two (2) 2011 mid-sized four-door sedans (Unit # 199 & #200) in the amount of \$28,332.00 for the Rental Inspection Program utilizing State vehicle bids, all in accordance with the 2010 Capital Improvements Program (FR026P).

PURCHASE – ONE-TON TRUCK – WATER TREATMENT PLANT

The Commission authorized the purchase of a one-ton truck (Unit #198) with bed from Shawnee Mission Ford, of Shawnee, Kansas, all in accordance with the 2011 Capital Improvements Program (WW046E) for a total cost of \$29,741.00.

AGREEMENT – PROFESSIONAL SERVICES – UPDATE ENERGY EMERGENCY RESPONSE PLAN

The Commission authorized the Mayor and City Clerk to execute an agreement with Witt Associates, of Washington, DC, to update the City's *Energy Emergency Response Plan*.

AGREEMENT – ARCHITECTURAL SERVICES – MANHATTAN DAY CARE AND LEARNING CENTER

The Commission authorized the Mayor and City Clerk to execute an agreement with Anderson Knight Architects, P.A., of Manhattan, Kansas, and Manhattan Day Care and Learning Centers, Inc., for professional design services up to a maximum amount of \$245,000.00 as provided for with federal grant funds.

AMENDMENT NO. 1 – MANHATTAN DAY CARE AND LEARNING CENTER

The Commission authorized the Mayor and City Clerk to execute an Amendment No. 1 to the April 20, 2010, agreement with Manhattan Day Care and Learning Centers, Inc., for the Manhattan Day Care and Learning Centers Project.

2011 CONTRACT – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT

The Commission authorized the Mayor and City Clerk to execute the 2011 Aggieville Business Improvement District contract.

2011 CONTRACT – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT

The Commission authorized the Mayor and City Clerk to execute the 2011 Downtown Business Improvement District contract.

CONSENT AGENDA (CONTINUED)

2011 CONTRACT – FLINT HILLS AREA TRANSPORTATION AGENCY

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contract with Flint Hills Area Transportation Agency.

2011 CONTRACT – CRIME STOPPERS

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contract with Crime Stoppers.

2011 CONTRACT – MANHATTAN CENTER FOR THE ARTS

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contract with Manhattan Center for the Arts.

2011 CONTRACT – WOLF HOUSE MUSEUM

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contract with Wolf House Museum.

2011 CONTRACT – DOWNTOWN MANHATTAN, INC.

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contract with Downtown Manhattan, Inc.

* 2011 CONTRACTS – SOCIAL SERVICES ADVISORY BOARD AGENCIES

Commissioner Morris-Hardeman stated that she would be abstaining on the contract with Sunflower CASA, due to her employment with that agency.

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contracts with Social Services Advisory Board agencies (*See Attachment No. 2*).

* 2011 CONTRACTS – SPECIAL ALCOHOL FUNDS AGENCIES

Commissioner Morris-Hardeman stated that she would be abstaining on the contract with Sunflower CASA, due to her employment with that agency.

The Commission approved contracts as budgeted in the 2011 City Budget and authorized the Mayor and City Clerk to execute said contracts with Special Alcohol Funds Advisory Committee agencies (*See Attachment No. 3*).

CONSENT AGENDA (CONTINUED)

AGREEMENT – WORKERS COMPENSATION EXCESS INSURANCE

The Commission approved and authorized the Mayor to execute an agreement in the amount of \$31,259.00 per year with Thomas McGee, of Kansas City, Missouri, for Excess Insurance coverage with Safety National Casualty Corporation, Inc., of St. Louis, Missouri, from January 1, 2011, through December 31, 2012.

LEASE AGREEMENT – FEDERAL AVIATION ADMINISTRATION

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute a lease agreement (Lease No: DTFACN-11 - L - 00082) with the Federal Aviation Administration for equipment space at Manhattan Regional Airport.

GRANT AGREEMENT - SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

The Commission authorized the Mayor and City Clerk to execute a grant agreement in the amount of \$300,000.00 with the U.S. Department of Transportation under the Small Community Air Service Development Program.

BOARD APPOINTMENTS

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

Board of Zoning Appeals

Re-appointment of Joseph Aistrup, 3916 Snowy Reach, to a three-year term. Mr. Aistrup's term will begin January 01, 2011, and will expire December 31, 2013.

Re-appointment of Harry Hardy, 3461 Treemill Drive, to a three-year term. Mr. Hardy's term will begin January 01, 2011, and will expire December 31, 2013.

Cemetery Board

Re-appointment of Eric Londeen, 1616 Poyntz Avenue, to a three-year term. Mr. Londeen's term will begin January 1, 2011, and will expire December 31, 2013.

Re-appointment of Deborah Saroff, 1906 Leavenworth, to a three-year term. Ms. Saroff's term will begin January 1, 2011, and will expire December 31, 2013.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Douglass Center Advisory Board

Re-appointment of Taj Keeler, 1732 Vaughn Drive, to a two-year At-Large term. Mr. Keeler's term begins immediately and will expire October 2, 2012.

Downtown Business Improvement District Advisory Board

Re-appointment of Carolyn Arand, 221 N. 4th St., Suite B, to a two-year term. Ms. Arand's term will begin January 1, 2011, and will expire December 31, 2012.

Re-appointment of Charlie Busch, 5480 West 63rd Avenue P.O. Box 1088, to a two-year term. Mr. Busch's term will begin January 1, 2011, and will expire December 31, 2012.

Re-appointment of Brad Streeter, 100 Manhattan Town Center, to a two-year term. Mr. Streeter's term will begin January 1, 2011, and will expire December 31, 2012.

Re-appointment of Mike Thomason, 1415 Beechwood Terrace, to a two-year term. Mr. Thomason's term will begin January 1, 2011, and will expire December 31, 2012.

Re-appointment of Kurstin Harris, 601 Fremont Street, to a two-year term. Ms. Harris' term will begin January 1, 2011, and will expire December 31, 2012.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item F, ORDINANCE NO. 6868 – AMEND WATER RATE STRUCTURE AND RATE; ADD KANSAS ONE CALL FEE, which carried 4-1, with Commissioner Pepperd voting against the item; with the exception of Item J, FIRST READING – 2011 SALARY ORDINANCE, which carried 3-2, with Commissioners Pepperd and Strawn voting against the item; and with Commissioner Morris-Hardeman abstaining from funding action on Item Y for Social Services Advisory Board Funds and Special Alcohol Funds for Sunflower CASA, due to her employment with that agency

GENERAL AGENDA

2010 CHAMBER OF COMMERCE YEAR-END REPORT; 2011 CONTRACTS

Lauren Palmer, Assistant City Manager, introduced the item and responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

2010 CHAMBER OF COMMERCE YEAR-END REPORT; 2011 CONTRACTS (CONTINUED)

Lyle Butler, President, Manhattan Area Chamber of Commerce, presented information on marketing plans for 2011; hotel occupancy rate data for 2010; economic development initiatives, including K-State Business and employment growth in Manhattan and Riley County; new building permit values through October 2010; Manhattan retail sales; vehicle registrations in Riley County; recent Manhattan accolades; and provided an update on the Manhattan 24/7 campaign plans.

Karen Hibbard, Director, Manhattan Convention and Visitors Bureau, provided an update on the ongoing evaluation process for potential sites being evaluated and a timeline for the proposed welcome center. She then responded to questions from the Commission.

Lyle Butler, President, Manhattan Area Chamber of Commerce, responded to questions from the Commission regarding their bid and request for proposal process.

Ron Fehr, City Manager, and Lauren Palmer, Assistant City Manager, provided additional information on the City's threshold and bidding policy for items that go out to bid and for different services for the City.

Lyle Butler, President, Manhattan Area Chamber of Commerce, informed the Commission that the Chamber has hired a consultant to help identify economic conditions in the community. He responded to questions from the Commission on the 24/7 campaign investment and return, and discussed issues and factors related to economic development activities and initiatives.

After discussion, Commissioner Strawn moved to authorize the Mayor and City Clerk to execute the 24-7 Marketing, Industrial Promotion, Tourism and Convention, Fort Riley Promotion, and Visitors Center contracts for 2011 with the Manhattan Area Chamber of Commerce. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST

Mayor Snead provided an overview on the process for the item and ground rules to accommodate public comment.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Jason Hilgers, Assistant City Manager, introduced the item and provided background information and history on the proposed discrimination ordinance. He also provided background information on the direction provided by the City Commission and meetings held and recommendation provided by the Human Rights and Services Board that the City Commission include sexual orientation and gender identity in the draft discrimination ordinance.

Katie Jackson, Assistant City Attorney, presented an overview on modifying the discrimination ordinance to include sexual orientation and gender identity to the protected class list. She then presented information on discrimination for employment, housing, and public accommodations; information regarding under what circumstances an employer can be held liable for employment discrimination, except for employers that are religious organizations; information when a religious organization can be liable for housing discrimination; a proposed process flowchart; and substantive changes in the draft ordinance requiring input from the City Commission.

Bill Frost, City Attorney, responded to questions from the Commission regarding quasi-judicial boards and the uniqueness of each board. He then provided additional information on the proposed appeal process.

Katie Jackson, Assistant City Attorney, responded to questions from the Commission regarding exemption for a religious organization. She informed the Commission that language in the draft ordinance was used from the Employment Non-Discrimination Act, Kansas Act Against Discrimination, and from the City of Lawrence model. She then responded to questions from the Commission and provided additional information on the definitions of gender identity and employer.

Bill Frost, City Attorney, provided clarification on the definition of employer and independent contractor or employee.

Katie Jackson, Assistant City Attorney, responded to additional questions and concerns voiced from the Commission regarding the definition of gender identity, how to accommodate, provide guidance to the operator, and protect the person that has protection under the ordinance. She also responded to questions from the Commission for members of the military and informed the Commission that state law makes it unlawful to discriminate on the basis of military status, but the Kansas Human Rights Commission does not investigate these violations. She stated that if military status is included in this ordinance, it creates a process that does not currently exist for such persons. She provided

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

additional information on the definition of religious organizations and public accommodations and responded to questions from the Commission.

Larry Hackney, Human Resource Specialist, City of Manhattan, provided additional information on the definition of sexual orientation and clarification on gender neutral.

Katie Jackson, Assistant City Manager, and Ron Fehr, City Manager, responded to questions on the composition of the Human Rights and Services Board, membership, and consideration of a three-member hearing panel, which would be addressed in the bylaws.

After discussion of the Commission on the powers and duties and religious exemption proposed, Katie Jackson, Assistant City Attorney, responded to questions from the Commission and provided clarification that this ordinance will only apply to employment, public accommodations, and housing. She then responded to additional questions from the Commission.

Bill Frost, City Attorney, and Katie Jackson, Assistant City Attorney, responded to questions from the Commission on public accommodation and asked for clarification from the Commission on what you want addressed in the ordinance.

Katie Jackson, Assistant City Attorney; Bill Frost, City Attorney; and Jason Hilgers, Assistant City Manager, responded to questions from the Commission and provided clarification related to public accommodation, biological sex, and sex. They also discussed and responded to questions from the Commission on public accommodation and potential areas creating challenges, such as restrooms, public pools, and locker rooms.

At 9:55 p.m., the Commission took a brief recess.

Mayor Snead discussed the process and ground rules for public comment. He asked how many organizations and individuals wanted to speak and requested that presenters be as brief as possible and speak to the ordinance.

Stanley Hoerman, 2021 Bluehills Road, representing Landlords in Manhattan, voiced concerns with the number of unrelated people able to live legally in one dwelling if a sex partner wants to move in, what are the potential repercussions on the landlord. He also voiced concerns and problems with restroom accommodations for those protected by the proposed ordinance and the amount of legal fees that may be needed to defend this ordinance if it goes to the U.S. Supreme Court.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Jonathan Mertz, 34107 Highway K-18, Chair, Flint Hills Human Rights Project, thanked City staff, members of the Human Rights and Services Board, citizens, and the City Commission for the discussion and vision to support the proposed ordinance for sexual orientation and gender identity. He voiced concerns with the proposed ordinance with the exemption based on “biological” sex and with the exemption for businesses with less than 15 employees. He informed the Commission that he has received over 1,000 signatures in support of the proposed ordinance and asked the Commission to join them in the vision of equality and to support the recommended changes and proposed ordinance.

Jeff Hart, representing the Lawrence Family Coalition, Lawrence, Kansas, informed the Commission that the reality is that no city in Kansas has gender discrimination protection, including Lawrence. He stated that the Lawrence Human Relations Office closed due to no cases of discrimination with gender identity or sexual orientation. He stated that no corporation or business with 15 or more employees will want to be exposed to increased concerns over liability.

Maria Snyder, 1413 Pierre Street, representing the Unitarian Universalist Fellowship of Manhattan, voiced support for the proposed ordinance and read portions of a prepared letter from Rev. Michael Nelson, Unitarian Universalist Fellowship of Manhattan, stating that Kansas will not be a free state until all of its people have equal rights.

Kevin Ingram, 9061 Tonya Terrace, President, Manhattan Christian College, asked that additional clarification be provided in the proposed ordinance and that the ordinance be defined specifically. He stated that people with love and respect can live this lifestyle, but it is a different thing if you are going to tell an organization like Manhattan Christian College, that it has to buy into that lifestyle. He then voiced opposition to the ordinance due to its vagueness and stated concerns and discrepancies in employment, housing, public accommodations, religious organizations, and exemptions that would affect his institution. He thanked the Commission for the work that has been done and extended an invitation to the Commission to discuss the item with him further.

Linda Morse, 2118 Spain Drive, representing the League of Women Voters of Manhattan/Riley County, stated that the League has worked for equal rights and social reforms. She stated that the League supports the proposed amendment to the City’s non-discrimination ordinance and supports the inclusion of sexual orientation and gender identity as protected classes, and supports the creation of a Human Rights Commission that will provide the mechanism to investigate and adjudicate complaints. She said that an inclusive ordinance will allow Manhattan to capitalize on K-State research and new biosciences companies to the community.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Terry Criss, Hampton & Royce, L.C., Salina, Kansas, representing the Roman Catholic Diocese of Salina, read excerpts of a letter provided to the Commission on December 6, 2010. He suggested that the exemption for religious organizations be expanded to include people that adhere to the beliefs of those religious organizations. He stated that gender identity is difficult, if not impossible to define and that the proposed ordinance is vague and ambiguous. He also voiced concern on the definition of public accommodation, sexual orientation, exemption of religious organizations, and requested that the Commission make the adjustments necessary to ensure that the religious liberties of individuals and organizations like the Catholic Church are protected.

Barbara Withee, 1507 Leavenworth Street, representing the living members of the first Human Relations Board in Manhattan, provided a historical point of view from former members of the Human Relations Board that have worked to protect basic rights for everyone in the community. She highlighted comments from the Human Relations Board, stated that basic rights must be protected, and supported the proposed amendments to the discrimination ordinance. She stated that this is about basic rights and fairness. She informed the Commission that history will show that adding sexual orientation and gender identity to the City's discrimination ordinance was the right thing to do.

Paul Barkey, 2514 Nutmeg, representing the Awaken Manhattan group, provided a written response and notebook to the Commission. He voiced opposition to the proposed ordinance and stressed the importance of the family structure. He stated that the proposal provided by the Human Rights and Services Board is a small part of what has become known as the gay agenda and not only calls for acceptance of homosexuality, but celebration of homosexuality as normal. He asked what guidelines will be provided to employees and will the guidelines meet legal challenges. He voiced additional concerns of the proposed ordinance and asked the Commission to review the information provided.

Sarah and Leah Cunnick, Sisters of Sound Music, 1214-C Moro Street, provided letters of support to the Commission for inclusion of sexual orientation and gender identity into Manhattan's Human Rights discrimination ordinance. They stated their belief that guaranteeing the human rights for all of Manhattan's citizens will create a more positive image of Manhattan and enhance the business community. Both asked the Commission to vote in favor of the proposed ordinance.

Rex Miller, 3463 Scottie Lane, previous owner of Christian Books and Gifts, voiced concern for small business owners in regards to the hiring process and employment with the proposed ordinance. He also voiced concerns with the proposed fines and stated this would put us them of business.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Mary and Bill Sier, 1824 Vaughn Drive, informed the Commission they were blessed as parents to have an adult transgender child who does not live or feel safe here. She asked the Commission to stand in the shoes of a parent whose child is discriminated against for housing, employment, or public accommodation. She urged the Commission to support the proposed ordinance.

Holly Friesen, 3159 Ella Lane, voiced opposition to the proposed ordinance. She was concerned for employers, schools, churches, and businesses that would be impacted. She was also concerned with the powers of a quasi-judicial board and the intrusion of government having more control and providing less liberties and freedoms. She stated there are better ways to meet the needs of the Lesbian/Gay/Bisexual/Transgender (LGBT) community and encouraged discussions for other avenues.

Tom Witt, Chair, Kansas Equality Coalition, provided the Commission with background information on the Coalition and applauded the City of Manhattan for taking up this matter, and for giving consideration to these protections at the municipal level. He expressed two areas of concern in the draft ordinance. The first is the reference to “biological sex” language and the second area of concern was with the 15 employee exemption threshold in the proposed ordinance. He also voiced concern with the actual or perceived considerations of discrimination. He stated the Kansas Acts Against Discrimination currently provides an exemption threshold of four (4) employees and would potentially be in conflict with the state statute.

Richard Hill, 3513 Stagecoach Circle, informed the Commission that he was not against the ordinance, but was concerned as a landlord in dealing with this ordinance and having a quasi-judicial board with no legal training to be able to judge him and fine him, based on what they perceive is discrimination. He stated that he did not understand the legal aspects and voiced concern with the potential fines of discrimination for an honest mistake or fines imposed for something a person did not do. He asked for protections of everyone’s rights, including his.

Stephanie Mott, 119 Southeast 14th Street, Topeka, Kansas, Executive Director, Kansas Statewide Transgender Education Project, provided information and education on being transgender. She asked the Commission to support the proposal.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Matthew Pennell, 216 Harvey Drive, informed the Commission that he was opposed to the proposed ordinance, but recognized that if it did pass that changes needed to be made. He stated that gender identity is too vague and the exemption for public accommodations for bathrooms and locker rooms needs to be better defined. He voiced concern that a sexual predator could use this ordinance to attack our children and asked that additional consideration be given to children and adults sharing the same facilities.

Kent Cormack, 212 Carlisle Terrace, Pastor, First Congregational United Church of Christ, informed the Commission that religious beliefs should not determine civil rights. He provided additional information on the item and urged the Commission to support the proposed ordinance.

Neil Horton, 3629 Vanesta Drive, speaking as an independent businessman, stated that there are still many questions left unanswered in the proposed ordinance and with the City Commission and City Staff as to the definition of gender identity. He said there remains more work to be done and that the proposed ordinance should be tabled and reviewed further.

Susan Gerth, 2213 Alta Drive, President, Flint Hills Parents, Families, and Friends of Lesbians and Gays (PFLAG), voiced support for the proposed ordinance and stated her concerns with the transgender language in the proposed ordinance with public accommodation in the use of restrooms and locker room facilities. She informed the Commission about her transgender daughter and the rejection from her other children.

Roger Seymour, 1181 Rock Springs Lane, informed the Commission that he has a nephew that is gay and that he loves him. He voiced concerns that if there is a need for the proposed ordinance to be passed, then make sure to get the definitions correct. He stated that as a landlord and independent business person, he wanted to have clear direction on the requirements of the ordinance; if the ordinance is not ready, then table the item and seek outside legal consultants to get it right.

Julie Cox, Attorney, Kutak Rock, LLP, speaking on behalf of the Flint Hills Human Rights Project, highlighted portions of a memorandum sent to the City Commission from Professor Shannon Gilreath, Wake Forest University School of Law. She provided additional information and responded to some of the legal arguments and comments made by the Alliance Defense Fund regarding the proposed Manhattan nondiscrimination ordinance.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Beniah Wilson, 2488 Woodside Lane, asked the Commission about human rights and which ones should the government protect when there is conflict. He voiced opposition to the proposal and provided examples in housing.

Samuel Brinton, 331 North 17th Street, stated that the K-State Student Senate was in support of the resolution. He said that he wanted students and citizens to feel empowered and protected. He expressed appreciation to those that have worked on this item and informed the Commission that the work being done is respected by students.

Amos Wilson, 2488 Woodside Lane, informed the Commission that he is studying about the free market and stated the best thing to do is to let the free market fix itself. He stated that it is not necessary to pass the proposed ordinance.

Ariana Cravens, 3009 Conrow Drive, 6th grade student at Lee Elementary, stated that LGBT people struggle for equal rights in town and provided background information about her family. She asked to treat all people equally and to support the rights of others, as we would want to be treated equally.

Josh Wilson, 2488 Woodside Lane, voiced opposition to the proposed ordinance and requested that the Commission not protect behavioral patterns. He also raised concerns with the desires and actions of the Commission.

Ellen Willse, 200 North 11th Street, informed the Commission that college-age people are underrepresented in the City government process and have valuable insights into gender identity and sexual orientation. She encouraged people to talk with LGBT people and asked the Commission to support the proposed ordinance.

Regina McCoy, 34012 Silver Bell Road, Alma, Kansas, informed the Commission that she owns a company with 50 employees and voiced opposition to the proposed ordinance. She stated that her business hires people of all backgrounds and supports the community of Manhattan, Manhattan Christian College, and the Flint Hills Christian School. She said she did not believe that it was necessary to place a law as proposed and wanted to promote people with different lifestyles.

Sylvia Beeman, 1744 Leavenworth Street, asked the Commission to take the leap and have faith it will work out in the community. She stated that we have heard no litigation so far and we can be ahead of Lawrence in the state. She encouraged the Commission to support the item.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Larry Limbocker, 2108 Snowbird Drive, voiced concern with the need for the proposed ordinance and stated that there should be documented cases showing the need. He stated that he was concerned with having the correct definitions and was concerned with the Human Rights and Services Board interpretations, public process, and fairness.

Donald Green, 740 Pebble Brook Circle, senior at Manhattan High School, informed the Commission that how the community handles discrimination will help guide students in their decision on what college to attend. He said that all citizens want to go where they will be safe.

Gary Olds, 3308 Frontier Circle, asked questions regarding requirements in providing housing for tenants. He voiced concerns regarding housing and tenants, and stated that he can love the sinner, but do not make him love the sin.

Jesse Marden, 1306 Yuma Street, informed the Commission that Zeke Sorenson, former graduate student at Kansas State University, moved here to attend college and his boyfriend moved in with him, but was forced out by his landlord. He voiced support for the proposed ordinance.

Eileen Meyer, 2429 Buena Vista Drive, independent contractor, informed the Commission that she tries to lead by example every day and loves this community. She spoke in favor of the ordinance and thanked the Commission for their service.

Dorinda Lambert, 531 Wickham Road, licensed psychologist at Kansas State University as the Director of the Counseling Services, thanked the Commission for giving the community a chance to voice their concerns and reactions to the amendments to the civil rights ordinance. She encouraged the Commission to review the information available at the American Psychological Association website and asked that the focus be on the protection of the civil rights of the LGBT citizens and that the Commission votes to accept the proposed additions to the ordinance.

Josh McGinn, 724 Poyntz Avenue, informed the Commission that he believed that the language for gender identity could be cleared up. He voiced support on the proposed ordinance and values the assistance from government.

At 12:00 a.m., the Commission took a brief recess.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Katie Jackson, Assistant City Attorney, and Jason Hilgers, Assistant City Manager, provided additional information on the item and responded to questions regarding occupancy levels, record keeping requirements, filing and process of complaints, public hearing process, order and remedies, and civil enforcement of order.

Ron Fehr, City Manager, provided additional information on the definition of churches and consideration given to what activities constitutes commercial endeavors.

Katie Jackson, Assistant City Attorney, and Larry Hackney, Human Resources Specialist, responded to questions from the Commission on questions on housing and provided clarification on public accommodation, biological sex, sex, gender identity, and the process used to determine commercial activities of the religious organization. .

Larry Hackney, Human Resources Specialist, and Katie Jackson, Assistant City Attorney, provided clarification on the role of and data received from the Kansas Human Rights Commission, proposed fines and penalties, and appeal process.

Bill Frost, City Attorney, asked the Commission for clarification on public accommodation, gender identity, and what, if any, exemptions the Commission wanted included in the ordinance.

After discussion, the Commission discussed the inclusion of both sexual orientation and gender identity in the proposed ordinance, discussed public accommodation, and discussed biological sex, sex and gender identity in the draft ordinance.

Bill Frost, City Attorney; Jason Hilgers, Assistant City Manager; Ron Fehr, City Manager; and Katie Jackson, Assistant City Attorney, provided additional information and considerations on the ordinance. They responded to feedback received from the Commission on the draft ordinance and discussed the removal of biological sex to sex, discussed gender identity, discussed the definition of public accommodation, discussed exemption for religious organizations, clarified the process for adoption of the ordinance, and discussed the powers and bylaws to be developed later.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

After additional discussion, Mayor Snead and the Commission requested additional information to be reviewed for the next consideration of the ordinance and asked City staff to address a new process for military status discrimination, to provide power and bylaws later, to exclude religious organizations from the definition of public accommodation consistent with state law, to address commercial activities and definition of commercial activities not related to religious organization purpose, and to address exemption issue.

Katie Jackson, Assistant City Attorney, responded to additional questions from the Commission on feedback received.

After discussion, Commissioner Morris-Hardeman moved to approve first reading of an ordinance modifying the Discrimination Ordinance to include sexual orientation and gender identity to the protected class list in Manhattan, Kansas. Commissioner Sherow seconded the motion and made a friendly amendment to the motion to include addressing the five issues addressed by the Mayor. Commissioner Morris-Hardeman accepted the friendly amendment, which was seconded by Commissioner Sherow.

Commissioner Morris-Hardeman stated that this ordinance addresses basic civil rights and is in the best long-term interests of the community. She said that the Commission is doing the best that it can to provide rights that should have been provided and stated that this is the right thing to do. She also stated that other communities throughout the country have implemented similar ordinances. She thanked those that spoke and those that provided input on the item.

Commissioner Pepperd stated that he believes in civil rights and personal freedoms, and that he was opposed to discrimination of all kinds. He voiced concern that there were too many questions to be answered yet and that the impact of this ordinance related to business and economics was unknown. He stated the ordinance had not been properly vetted and there was too much concern expressed from the Manhattan Area Chamber of Commerce, USD 383, Riley County, Manhattan Christian College, Riley County Police Department, landlords, churches, and businesses. He stated that the ordinance is ambiguous and that he was uncomfortable creating a local process that would give quasi-judicial power to a non-elected board. He said that this item should be a vote of the public and stated that he could not support the proposed ordinance.

GENERAL AGENDA (CONTINUED)

FIRST READING – MODIFY DISCRIMINATION ORDINANCE TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROTECTED CLASS LIST (CONTINUED)

Commissioner Strawn informed the community that the Commission has to do what it believes is the right thing for the community. He stated that he believes the level of discrimination is very low in Manhattan and that this item is about three Commissioner's compassion for the people in this community. He said the proposed ordinance is not warranted and voiced concern in amending an ordinance to include protected classes, then exempting religious organizations, making it a hypocritical ordinance. He said that religion is more than just an organization or church, but a community of faith with shared values. He stated that if exemptions were given for religious organizations, they should also be given to religious individuals. He reiterated those organizations that were opposed to this ordinance. He stated Kansas is not there on gender identity and would not support the draft ordinance.

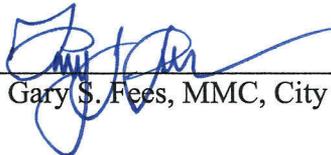
Commissioner Sherow stated that he appreciated the differences expressed and said this is not a liberal or conservative position. He provided additional information on the item, presented a historical perspective on civil rights, and recited a quote from James Madison. He stated that approval of this ordinance is about protection from discrimination. He said that approval of this ordinance is the right thing to do and will send a clear message to our community that discrimination will not be tolerated. He stated this is about providing basic civil rights to residents of our community.

Mayor Snead thanked the Commission, staff, and the public for their work and input on this item. He informed the community that this is about civil rights and has heard many first-hand accounts of sexual orientation and gender identity discrimination from Manhattan residents. He stated that if the Commission does not pass this ordinance to create a process to deal with discrimination, it will continue to occur and we will not hear about it. He asked about the cost of justice and equal rights. He informed the community that this has been a difficult process and is new territory for the Commission, but that it is the right thing to do for the community and is necessary. He expressed the values that are important and stated that this ordinance is an affirmation of equal rights for all.

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

ADJOURNMENT

At 1:30 a.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

**APPLICATION TO REZONE PROPERTY TO PLANNED UNIT
DEVELOPMENT DISTRICT**

BACKGROUND

FROM: R-3, Multiple-Family Residential District and AO, Airport Overlay District.

TO: PUD, Residential Planned Unit Development District and AO, Airport Overlay District.

APPLICANT: Place Properties Military Development Services LLC – Mario Spinella.
Development Manager.

ADDRESS: 3445 Peachtree Road NE, Suite 1400, Atlanta, GA 30326.

OWNER: Stone Crest Land Co., LLC – Tim Schultz.

ADDRESS: 1213 Hylton Heights Road, Manhattan, KS 66502.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, September 27, 2010.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, October 18, 2010.

CITY COMMISSION: Tuesday, November 16,
2010.

LOCATION: Generally 600 feet northeast of the Scenic Drive and Powercat Place intersection or approximately 515 feet directly east of Scenic Drive to the southwest corner of the site.

AREA: 37.8 acres.

PROPOSED USE: The proposed use is multiple-family residential. The applicant indicates the market is focused on upper ranking military with professionals, students and others also part of the expected tenants.

Attachment No. 1

The applicant had Phase II Intensive Archaeological Survey conducted on the site (attachment). The survey concludes no historic properties were found, but advises that the survey results do not guarantee that cultural resources are not buried and any resources that may be uncovered during construction means that all ground disturbance must cease and the State Archeologist must be promptly notified to determine the significance of the resources before development proceeds.

PROPOSED BUILDINGS AND STRUCTURES: An apartment complex consisting of 13, 24-unit apartment buildings with a mixture of one-bedroom, two-bedroom and three-bedroom units for a total of 312 dwelling units (96-one bedroom units; 192-two bedroom units; and 24-three bedroom units). Additional structures and improvements include a townhall (clubhouse) with meeting and exercise space, one story surface parking garages and open surface parking, swimming pool and central mail box.

Apartment Buildings

Buildings are three stories, approximately 48-feet in height, with Hardi plank siding, brick veneer, and architectural roof shingles. Exterior colors are sand, gray and white.

Townhall (Clubhouse)

The building is one-story, approximately 33-feet, in height. Interior space consists of meeting, exercise, lease, gathering space, and bathrooms. Adjoining the townhall is an outdoor swimming pool. The townhall is located near the entrance to the apartment complex.

Parking Garage

Buildings are one story, approximately 19-feet in height with exterior material and colors matching the apartment buildings and townhall. Parking spaces are enclosed with garage doors and wall separation between parking spaces. Storage units are proposed on each end of the garage building.

PROPOSED LOT COVERAGE

<u>Use</u>	<u>Acres/Square Feet</u>	<u>Percentage</u>
Buildings	3.25/141,650	8.6%
Right-of-way	0.86/37,650	2.3%
Driveways/ Sidewalks	5.87/255,550	15.5%
Open Space	21.25/926,100	56.2%
Landscape/Seeded	6.57/286,190	17.4%
TOTAL	37.80/1,647,140	100%

PROPOSED SIGNS

<u>Type</u>	<u>Dimensions</u>	<u>Lighting</u>
Ground (2)	7 feet by 2 feet	Ground lit

Two approximate 14 square foot in area ground entrance signs are located on a masonry base at each driveway entrance off Miller Parkway. Exempt signs for addressing and similar exempt signs will be permitted.

PROPOSED LIGHTING: Proposed lighting consists of pedestrian scale accent lighting on the residential and townhall buildings. 35-foot tall full cut off light poles are in the parking lots.

REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS

1. LANDSCAPING: Landscaping is functional for the site and consist of a broad range of foundation planting, lawn, perimeter and parking lot islands planting (evergreens shrubs, deciduous and broadleaf shrubs, ornamental grasses, and upright evergreens), trees (evergreen, deciduous, and ornamental) and perennial and ground cover, and lawn, all of which will be irrigated by underground sprinkling. Natural ground covers on steep hillsides will remain natural. The applicant will be responsible for maintenance of landscaped areas.

2. SCREENING: Large shrubs will be planted along the site's perimeter to buffer the parking and garage spaces. The trash compactor will be screened with a 7 foot 10 inch masonry wall and gate.

Attachment No. 1

3. DRAINAGE: The drainage system is designed in conformance with the adopted Stormwater Management Master Plan. Adequate provision for storm water drainage is provided, both on site and off-site. Storm water pipes and inlets on site will direct runoff to off-site detention basins, which ultimately drain to Wildcat Creek.

A Drainage Study was prepared by Schwab-Eaton, P.A. dated September 3, 2010 (*attached*). The City Engineer has reviewed the Study (*attachment*), and accepts the proposal with the condition that an updated drawing of the modified west detention/retention basin showing the existing and proposed grading limits for the existing basin, or the location of another detention basin/pond with size and grading limits. The proposal consists of detention, channelizing storm water and other improvements and will result in no adverse impact on downstream properties and reduce the rate of runoff downstream.

The PUD is conditioned upon the submittal of a restrictive covenant, which will need to be reviewed and approved by the City and filed with the Final Plat after it is executed by the City. The covenant sets out responsibilities of the owners of PUD and owners of adjacent property regarding maintenance of improvements, drainage easements the detention areas. The covenant gives the City the ability to assess the owners for maintenance costs, if necessary.

4. CIRCULATION: The internal circulation plan provides for safe, convenient and efficient movement of motorists and pedestrians. Conflicts between motorists and pedestrians are minimized. Internal access is by parking drives, which are maintained by the applicant.

The Independence Place Traffic Impact Study for the proposed PUD was prepared by Schwab-Eaton, PA., dated September, 2010 (*attachment*). The Study concludes minimal impact on future Miller parkway. Two entrances to the site are proposed, which provide adequate access for turning movements to and from the site.

The City Engineer has reviewed the Study (*attachment*), and accepts the Study as written.

Pedestrian traffic is accommodated for within the development and connects to the proposed public sidewalk on the north side of Miller Parkway at both curb cut intersections. The proposed sidewalk connections provide for a pedestrian friendly and accessible development. A bicycle route is also proposed along Miller parkway.

A 75-foot wide pedestrian easement and a proposed future pedestrian easement on the tract to the east will be dedicated to connect Miller Parkway and an existing pedestrian easement in Stone Pointe Addition, Unit Two. The pedestrian improvement within the easement is a future improvement with an unspecified date of construction.

Bike racks should be provided and shown on the Final Development Plan.

The Manhattan Zoning Regulations for multiple-family dwelling base the required number of spaces on bedrooms per dwelling unit (one bedroom units – 2 spaces per unit; two bedroom units – 3 spaces per unit; three bedroom units - 3.5 spaces per unit; and four bedroom units - 4 spaces per unit). Based on the requirements of the Manhattan Zoning Regulations, the proposed apartment complex would need to provide a minimum of 852 off-street parking spaces (96-one bedroom units (192 spaces); 192-two bedroom units (576 spaces); 24-three bedroom units (84 spaces)). The applicant has proposed 709 total off-street parking spaces, equivalent to 2.3 parking spaces per unit (709/312), which should be adequate to serve the mix of bedroom types and tenant mix in the proposed PUD.

5. OPEN SPACE AND COMMON AREA: The applicant has made provisions for the continuity, preservation, care, conservation and maintenance of all open space within the development plan. Upon installation of landscaping, it will be maintained by the owner and watered by an underground sprinkling system. An erosion plan has been provided to protect slopes along the edge of the development.

6. CHARACTER OF THE NEIGHBORHOOD: The area is characterized as a developing growth corridor of the City with single-family, two-family and multiple-family residential development to the immediate north. Highland Meadows Additions are to the northwest. Development is occurring in the Lee Mill Heights and Miller Ranch areas, which are growing towards the site. The extension of Miller Parkway along the southern boundary of the proposed PUD and the Miller Parkway's connection at Scenic Drive will occur in the near future. The street connections will serve the immediate neighborhood and accommodate future access to other parts of the City.

MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS

1. EXISTING USE: Steeply sloped range land which is annexed, and was rezoned to R-3/AO Districts. The Preliminary Plat (*attachment*) of Lot 169, generally the tract to be rezoned to PUD/AO was approved November 6, 2006. A conceptual drawing of future building footprints on Lot 169 was included with the 2006 application (*attachment*).

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is typical Flinthills landform consisting of open range land, wooded draws on the east and west sides of the proposed site. The site is reasonably steep with slopes approximately 20% and drains generally to the north-northeast to Wildcat Creek.

Attachment No. 1

The site is within the Conical Zone of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to site. Future uses (structures and trees), which are within the limits of the Conical Zone may be required to obtain, and be granted, an Airport Compatible Use Permit prior to construction, planting or change to the structure or tree (*see below under CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE for further information concerning the AO District*).

The site will be graded to flatten and widen the existing contours for the proposed building site. The highest point on the site is at the south end at elevation 1268 feet, with finished floors at approximately 1237 feet. At the north end of the building site the highest contour is approximately 1245 feet with finished floor elevations at 1228 feet to 1237 feet. The proposed cuts at the southern end are necessary to match the street grade of Miller parkway.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Single-family residential; R, Single-Family Residential District with AO District.

(b.) SOUTH: Agricultural and range land; G-1 District.

(c.) EAST: Agricultural and range land, single-family dwellings; G-1 District and R-1, Single-Family Residential District/AO.

(d.) WEST: Future undeveloped neighborhood commercial in previously approved Stone Pointe Unit Two preliminary plat, Scenic Drive, agricultural and open range land, and single-family dwellings; C-2, Neighborhood Shopping District/AO District, G-1 District and A-5, Single Family Residential District.

4. CHARACTER OF THE NEIGHBORHOOD: See above under PUD Criteria Number 6, CHARACTER OF THE NEIGHBORHOOD.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned for multiple-family uses and is suitable for the proposed use; however, the site has a steeply sloped topography, which limits its density for multiple-family residential development.

5. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:

The site is in a growth corridor of the City. Increases in light, noise and traffic are expected, which should be similar to the same affects generated by Highland Meadows and Stone Pointe subdivisions. To the east is an R-3 District. To the west is undeveloped C-2 District. Low density residential neighborhoods are to the north and separated from the site by distance and elevation. The closest single-family lot to the north is approximately 280-feet from the developed part of the site. To the south is future Miller Parkway and undeveloped G-1 District. The site was found to generally be compatible with the neighborhood at the time of rezoning to R-3/AO District in September 2006.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed site is shown on the Future Land Use map in the Southwest Planning Area as a combination of Residential Medium High Density (RMH), Preserved Open Space, and Special Planning Area policies. The site is in the Conical Zone of the Manhattan Regional Airport. The AO District will be added as an overlay district to the proposed PUD.

Applicable Policy Statements include:

CHAPTER 4, LAND USE AND GROWTH MANAGEMENT

RESIDENTIAL MEDIUM/HIGH DENSITY (RMH)

RMH 1: Characteristics

The Residential Medium/High Density designation shall incorporate a mix of housing types in a neighborhood setting in combination with compatible non-residential land uses, such as retail, service commercial, and office uses, developed at a neighborhood scale that is in harmony with the area's residential characteristics and in conformance with the policies for Neighborhood Commercial Centers. Appropriate housing types may include a combination of small lot single-family, duplexes, townhomes, or fourplexes on individual lots. However, under a planned unit development concept, or when subject to design and site plan standards (design review process), larger apartment or condominium buildings may be permissible as well, provided the density range is complied with.

RMH 2: Appropriate Density Range

Densities within a Residential Medium/High neighborhood range from 11 to 19 dwelling units per net acre.

RMH 3: Location

Residential Medium/High Density neighborhoods should be located close to arterial streets and be bounded by collector streets where possible, with a direct connection to work, shopping, and leisure activities.

CHAPTER 5: NATURAL RESOURCES AND ENVIRONMENT

NRE 1: Corridors, Buffers, and Linkages and Preserved Open Space

The City and County should use a variety of methods (both public and private) to facilitate the creation of a continuous, permanent, system of open space corridors using natural features such as preserved open space areas, drainages, streams, and rivers to the extent possible. Corridors should be identified during the subdivision or master planning process and should be used to provide linkages within and between non-contiguous parks, environmentally sensitive and preserved open space areas, as well as neighborhoods and other development areas. Buffers can also be used to provide a transition between different intensities of uses. The current width and shape and other features of a naturally occurring corridor (such as a drainage way) should be preserved, in order to maintain its environmental integrity and avoid creating an “engineered” appearance.

NRE 4: Environmentally Sensitive Areas: Wildlife Habitat and Corridors, Wetlands, Riparian Areas and Prairie Ecosystems

The Urban Area is home to a variety of environmentally sensitive areas, including: Wildcat Creek, the Big Blue and Kansas Rivers, numerous secondary stream corridors, drainage areas, and wetlands, as well as prairie ecosystems. In addition to their scenic quality, these areas provide other benefits, such as water quality enhancement and flood control, potential ecotourism, and also serve as important wildlife habitat. The City and County shall work to ensure that development impacts upon these areas are minimized.

NRE 5: Environmentally Sensitive Site Design

The City and County shall ensure that environmentally sensitive site design practices are used in new development. Sensitive site design practices can minimize unnecessary physical and visual impacts upon the surrounding landscape, caused by excessive removal of existing vegetation or severe roadway cuts, and excessive grading of natural topography.

CHAPTER 13: SPECIAL PLANNING AREA POLICIES

MILLER RANCH

MR 4: Establish a Neighborhood Commercial Center

The development of a neighborhood center should be encouraged at the planned intersection of Miller Parkway and Scenic Drive to provide a range of services for residents of Miller Ranch and surrounding neighborhoods, and to minimize the need for cross-town trips to meet day-to-day needs.

MR 5: Views from Scenic Drive

Development, including signage, should be set back from Scenic Drive to protect views and existing vegetation. The master plan for Miller Ranch should incorporate a buffer zone or overlay area along Scenic Drive designed to protect views, existing vegetation, and other important attributes of the area's scenic quality. Development of a neighborhood center, as described in MR 4, should occur east of the Scenic Drive buffer or overlay and be sited in a manner that minimizes visual impact on the Scenic Drive Corridor.

MR 7: Airport Airspace Regulations

Development shall be consistent with established airspace regulations for the Manhattan Regional Airport and the Airport Master Plan.

The proposed net density is 8.3 dwelling units per acre and the Plan suggest up to 19 dwelling units per net acre. The applicant has submitted a grading and erosion plan which does not result in excessive erosion and grading of the site. The majority of the site is preserved as open space. An archaeological survey if the site was conducted and “no historic properties” were found, but the negative result does not mean that cultural resources are not buried. If cultural resources are found during construction, all ground disturbance activity should cease and the State Archaeologist should be immediately notified.

The proposed Preliminary Development Plan conforms to the Comprehensive Plan.

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site has remained vacant to date as open range land. The zoning history for Lot 169 is:

July 17, 2006 Manhattan Urban Area Planning Board recommends approval of annexation and rezoning of the Stone Pointe Addition, Unit Two, from G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

August 15, 2006 City Commission approves first reading of annexation and rezoning to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

Attachment No. 1

September 5, 2006 City Commission approves Ordinance Nos. 6564 and 6564 annexing and rezoning Stone Pointe Unit Two, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

November 6, 2006 Manhattan Urban Area Planning Board approves Preliminary Plat of Stone Pointe Addition, Unit Two.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The existing R-3 District is designed to provide a dwelling zone at a density no less than one (1) dwelling unit per 1,000 square feet. A filed restrictive covenant limits the total number of units to no more than 19-dwelling units per net acre. The owner has indicated they will request the City Commission to remove the covenant as the PUD will now control density on the lot. The proposed PUD's net density is 8.3 dwelling units per acre compared to a possible 19 dwelling units per acre.

The AO District "is intended to promote the use and development of land in a manner that is compatible with the continued operation and utility of the Manhattan Municipal Airport so as to protect the public investment in, and benefit provided by the facility to the region. The district also protects the public health, safety, convenience, and general welfare of citizens who utilize the facility or live and work in the vicinity by preventing the creation or establishment of obstructions or incompatible land uses that are hazardous to the airport's operation or the public welfare."

The site is within the Conical Zone, which is, in general terms, established as an airspace that extends outward and upward in relationship to the Airport and is an approach zone height limitation on the underlying land. Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit, unless circumstances indicate that the structure or tree has less than 75 vertical feet of height above the ground and does not extend above the height limits prescribed for the Conical Zone.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER: There appears to be no gain to the public that denial would accomplish as no adverse impacts are expected as a result of the rezoning. Public streets and utilities are, or will be available to serve the site, and must be available prior to issuance of a building permit. A drainage plan will reduce the impact of storm water on downstream properties. It may be a hardship on the owner if the rezoning is denied.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: For adequate vehicle and pedestrian access to the site, Miller Parkway will have to be extended from Scenic Drive and the proposed intersection of Scenic Drive and Powercat Place to the eastern edge of the PUD. This will have to happen prior to issuance of a building permit

Public sidewalk and bicycle lanes will be provided with the construction of Miller Parkway. A public water line will have to be extended to the site. Sanitary sewer is available and will connect to the north to Stone Pointe subdivision.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS AND RECOMMENDATION: City Administration recommends approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, with the following conditions of approval:

1. The Permitted Use shall be Multiple-Family Residential.
2. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
3. All landscaping and irrigation shall be maintained in good condition.
4. Prior to issuance of a building permit, a financing mechanism for the improvement of the intersection of Miller Parkway and Scenic Drive intersection and the improvement of Miller Parkway shall be approved by the City and Miller Parkway shall be constructed to the eastern edge of the PUD.
5. A covenant between the City and owner(s) concerning maintenance of drainage easements, improvements and detention facilities shall be reviewed and approved by the City and filed with the Final Plat.

Attachment No. 1

6. An updated drawing of the modified west detention/retention basin showing the existing and proposed grading limits for the existing basin, or the location of another detention basin/pond with size and grading limits shall be submitted with the Final Development Plan and shall be reviewed and accepted by the City Engineer.
7. Signage shall be limited to signs proposed in the application consisting of ground and building addressing signs only.
8. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(5), of the Manhattan Zoning Regulations, as may be amended related political or campaign signs.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, based on the findings in the staff report, with the eight conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: October 14, 2010; Revised October 18, 2010/Lot Coverage Table.

SSAB Funding

	2011 Request (Min)	2011 Request (Max)	2011 Recommendation
BBBS	32,000	37,000	37,000
Boys & Girls	28,782	34,500	28,800
Crisis Center	48,825	48,825	48,800
Homecare & Hospice	46,000	50,000	45,000
Kansas Legal Services	18,500	25,000	25,000
KSU Child Dev	20,400	40,800	20,400
MDCLC	65,000	65,000	65,000
MESI	72,000	85,362	72,000
Shepherd's Crossing	44,000	44,000	44,000
Sunflower CASA	28,804	30,948	27,200
UFM	4,000	4,000	4,000
aTa Bus	56,488	203,988	47,500
Three Rivers	5,500	18,750	0
TOTALS	470,299	688,173	464,700

Special Alcohol Funds Funding

AGENCY	2011 REQUESTED	2011 SUGGESTED	2011 APPROVED
Big Brothers/Big Sisters	\$19,000	\$9,000	\$19,000
Boys and Girls Club	\$29,480	\$29,295	\$29,480
KSU - Alcohol & Other Drug Education Service	\$37,000	\$36,875	\$37,000
Little Apple Task Force	\$4,200	\$250	-
Manhattan Emergency Shelter	\$13,362	\$13,362	\$13,362
Pawnee Mental Health/Reg. Prevention Ctr. of NE KS	\$86,505	\$47,513	\$41,989
Riley Cty Attorney's Ofc.-21st Judicial Dist. Teen Court	\$5,200	\$5,200	\$5,200
Riley County Community Corrections-Juvenile	\$5,000	\$5,000	\$5,000
Riley County Community Corrections-Adult	\$10,000	\$9,375	\$10,000
Riley County Police Department - D.A.R.E.	-	-	-
Sunflower CASA	\$30,653	\$30,277	\$30,653
The Restoration Center	\$45,000	\$31,873	\$35,000
UFM Learning Center	\$20,000	\$20,000	\$ 20,000
Unified School District #383	\$179,788	\$172,644	\$179,788
Unified School District #383 - Additional Request	-		
TOTALS	\$485,188	\$420,664	\$426,472