



MINUTES
CITY COMMISSION MEETING
TUESDAY, AUGUST 2, 2005
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Ed Klimek and Commissioners Bruce Snead, Tom Phillips, Mark Hatesohl, and Jayme Morris-Hardeman were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 9 staff, and approximately 48 interested citizens.

PLEDGE OF ALLEGIANCE

Manhattan Suns T-Ball Team led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Klimek recognized the Manhattan Suns T-Ball Team.

PUBLIC COMMENTS

Mayor Klimek opened the public comments.

Jennifer Watson, 827 Colorado Street, informed the Commission that she was concerned about dumpster diving and asked about enforcement of trash near dumpsters. She then answered questions from the Commission.

Ron Fehr, City Manager, provided clarification on the item.

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

COMMISSIONER COMMENTS

There were no Commissioner comments.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, July 19, 2005.

CLAIMS REGISTER NO. 2534

The Commission approved Claims Register No. 2534 authorizing and approving the payment of claims from July 13 – July 26, 2005, in the amount of \$1,636,388.13.

LICENSE – CEREAL MALT BEVERAGES

The Commission approved the 2005 Cereal Malt Beverage Licenses for K & F Distributors Inc., 1701 Anderson Avenue, and Hillside Café, 2307 Stagg Hill Road.

FINAL PLAT – BROOKFIELD ADDITION, UNIT 7

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Brookfield Addition, Unit 7, generally located east of an extension of Walters Drive and south of the Eisenhower Baseball Fields, based on conformance with the Manhattan Urban Area Subdivision Regulations.

GRANT AGREEMENT – 2005 EMERGENCY SHELTER GRANT FUNDS

The Commission authorized the Mayor and City Clerk to execute the grant agreement with the Kansas Housing Resources Corporation for the award of 2005 Emergency Shelter Grant Funds and execute contracts with local social service agencies to allocate the 2005 Emergency Shelter Grant.

CHANGE ORDER NO. 1-FINAL – 2005 STREET MAINTENANCE, PHASE IV (ST0512)

The Commission approved Change Order No.1-Final for 2005 Street Maintenance, Phase IV, resulting in a net increase in the amount of \$1,043.29 (+3.57%) to the contract with Proseal, Inc., of El Dorado, Kansas.

CONSENT AGENDA (CONTINUED)

OFFER TO PURCHASE – ABANDONED CELLULAR EQUIPMENT

The Commission accepted WestLink Communications' offer to purchase the abandoned cellular communication equipment at the Miller Ranch Water Tower for the amount of \$28,598.62.

BOARD APPOINTMENTS

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

City / University Projects Fund Committee

Re-appointment of Eileen Meyer, 2429 Buena Vista Dr., to a two-year Citizen term. Ms. Meyer's term will begin immediately and will expire on June 30, 2007.

Corporate Technology Park Architectural Review Committee

Re-appointment of Lyle Butler, 501 Poyntz Ave., to a three-year term. Mr. Butler's term will begin immediately and will expire on August 15, 2008.

Commissioner Snead moved to approve the consent agenda. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

PUBLIC HEARING/FIRST READING – ADOPT - 2006 BUDGET

Ron Fehr, City Manager, introduced and highlighted the 2006 Budget and initiatives.

Bernie Hayen, Director of Finance, presented an overview and provided additional detail of the 2006 Budget. He then answered questions from the Commission.

Ron Fehr, City Manager, provided additional clarification on the item and answered questions from the Commission.

Mayor Klimek opened the public hearing.

Fred Newton, 1725 Poyntz Avenue, and Bill Arck, 5205 Terra Heights Drive, provided additional information on the Kansas State University's Alcohol and Other Drugs Educational Services (AODES) program and funding history from the City's Special Alcohol Fund.

GENERAL AGENDA (CONTINUED)

PUBLIC HEARING/FIRST READING – ADOPT - 2006 BUDGET (CONTINUED)

Commissioner Morris-Hardeman excused herself during the discussion of Sunflower Court Appointed Special Advocates (CASA).

Kim Corum, 2325 Spain Drive, speaking on behalf of Sunflower CASA, provided additional information to the Commission. She then answered questions from the Commission.

Robert Corum, 2325 Spain Drive, CASA volunteer, and Jack Hoagland, 1609 Denholm Drive, Board of Director and volunteer for eight years with Sunflower CASA, stated that cases that they were involved with were directly related to drug and alcohol abuse and is fairly representative of the kinds of cases CASA has.

Joan Smith, Chair, Special Alcohol Funds Advisory Committee, provided background information to the Commission regarding the allocation process and the difficulty in not being able to fund all the requests because of a finite amount of funds available. She then answered questions from the Commission regarding the funding level calculation for Sunflower CASA and explained the discussions during the interview process.

Commissioner Morris-Hardeman returned to her position with fellow Commissioners.

Mayor Klimek closed the Public Hearing on the Budget.

FIRST READING – ADOPT - 2006 BUDGET

Ron Fehr, City Manager, provided additional information on the new employee positions being requested for 2006 and answered questions from the Commission.

Jerry Snyder, Acting Director of Fire Services, answered questions from the Commission.

Bernie Hayen, Director of Finance, answered questions from the Commission.

Allie Lousch, Staff Liaison, Special Alcohol Funds Advisory Committee, and Joan Smith, Chair, Special Alcohol Funds Advisory Committee, informed the Commission about the full time DARE coordinator position and answered questions from the Commission.

Bernie Hayen, Director of Finance, and Ron Fehr, City Manager, provided additional information on the funds available and status of reserves of the Special Alcohol account. They then answered questions from the Commission.

Bill Frost, City Attorney, provided clarification regarding conflict of interest positions.

GENERAL AGENDA (CONTINUED)

FIRST READING – ADOPT - 2006 BUDGET (CONTINUED)

After discussion, Mayor Klimek announced that there was a consensus from the Commission to leave the recommendations provided from the Special Alcohol Funds Advisory Committee as recommended.

Fred Atchison, Director, Manhattan Public Library, informed the Commission that the Library would follow the City's budget regarding personnel costs. He then answered additional questions from the Commission.

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, answered questions from the Commission regarding the proposed Fort Riley liaison position.

Lyle Butler, President, Manhattan Area Chamber of Commerce, provided additional information on the proposed liaison position for Fort Riley and possible funding sources. Ron Fehr, City Manager, provided additional information on the item.

Lyle Butler, President, Manhattan Area Chamber of Commerce, answered questions from the Commission regarding the Manhattan Convention and Visitors Bureau budget and funding request.

Ron Fehr, City Manager, clarified the budget process and agreements with the Manhattan Area Chamber of Commerce.

After discussion, Commissioner Snead moved to approve first reading of an ordinance adopting the 2006 City Budget and approve the budget recommendations as presented by City Administration. Commissioner Phillips seconded the motion. After additional discussion, on a roll call vote, motion carried 5-0, with the exception of Commissioner Hatesohl who abstained from any portion of the motion dealing with the funding of the Boys and Girls Club, and voted no on the Special Alcohol program; and with the exception of Commissioner Morris-Hardeman abstaining from any portion of the Special Alcohol program or the Social Services Advisory Board that dealt with funding of Sunflower CASA.

At 9:10 p.m., the Commission took a brief recess.

FIRST READING – ISSUE INDUSTRIAL REVENUE BONDS - MANKO WINDOW SYSTEMS, INC. EXPANSION

Diane Stoddard, Deputy City Manager, presented the item.

GENERAL AGENDA (CONTINUED)

FIRST READING – ISSUE INDUSTRIAL REVENUE BONDS - MANKO WINDOW SYSTEMS, INC. EXPANSION (CONTINUED)

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance issuing up to \$3.2 million in Industrial Revenue Bonds for Manko Window Systems, Inc. for the purpose of expanding and equipping an existing manufacturing facility located in Manhattan. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - APARTMENT TOWERS - RILEY COUNTY SENIOR'S SERVICE CENTER PLANNED UNIT DEVELOPMENT, AND ORDINANCE NO. 4631 FOR TELECOM FACILITIES

Steve Zilkie, Senior Planner, presented the item and answered questions from the Commission.

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

David Saab, representing Selective Site Consultants, Inc., of Overland Park, Kansas, asked if the Commission had any questions.

After discussion, Commissioner Morris-Hardeman moved to approve first reading of an ordinance amending the Apartment Towers - Riley County Senior's Service Center Planned Unit Development and Ordinance No. 4631, as proposed, based on the findings in the Staff Report, with the three conditions of approval recommended by the Planning Board. *(See Attachment No. 1)* Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

RESOLUTION NO. 080205-A – AMEND – CREATION OF THE MANHATTAN HOUSING AUTHORITY

Bill Frost, City Attorney, presented the item and answered questions from the Commission.

Karen Davis, Director of Community Development, and Bill Frost, City Attorney, provided additional information on the item and answered questions from the Commission.

Ron Fehr, City Manager, provided additional information on the item.

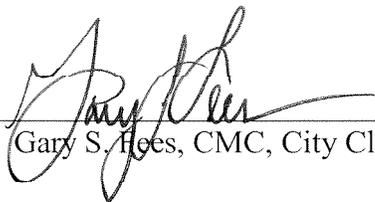
GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 080205-A – AMEND – CREATION OF THE MANHATTAN HOUSING AUTHORITY (CONTINUED)

After discussion, Commissioner Phillips moved to approve Resolution No. 080205-A amending the resolution creating the Housing Authority, ratifying contracts that the Housing Authority has entered into with HUD, and authorizing the Mayor and City Clerk to execute all documents necessary to transfer title of the public housing sites to the Housing Authority. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 9:55 p.m. the Commission adjourned.



Gary S. Hees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED APARTMENT TOWER-RILEY COUNTY SENIORS SERVICE CENTER PLANNED UNIT DEVELOPMENT (PUD)

BACKGROUND

APPLICANT: Voicestream Kansas City, Inc., T-Mobile.

ADDRESS: 12980 Foster Suite 200, Overland Park, KS 66213.

OWNER: City of Manhattan.

ADDRESS: 1101 Poyntz Avenue.

LOCATION: 300 N. 5th Street.

AREA: Total area PUD: 1.72 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, June 16, 2005.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, July 7, 2005.

CITY COMMISSION: Tuesday, August 2, 2005.

DESCRIPTION OF PROPOSED AMENDMENT: amend the Apartment Tower-Riley County Senior's Service Center Planned Unit Development (PUD) to add Telecommunications Facilities (defined below) to the PUD as a permitted use.

The applicant proposes to locate Telecommunications Facilities on the roof of the 106-foot tall Apartment Tower building. The Telecommunications Facilities are proposed to be of a stealth (defined below) design.

Telecommunications Facilities are proposed at two locations: a steel platform for electrical cabinets, antenna and other support equipment are proposed on the southwest corner of the building within an enclosure painted, and with a fabricated fiberglass exterior, to match as closely as possible the exterior of the building. An interior flood light will provide lighting inside the enclosure, which is not roofed over. Panel antennae are proposed on the north side of the building's penthouse (elevator shaft) to be painted as closely as possible to match the color of the building. A cable housing ladder between the two antenna locations,

Attachment No. 1

painted to match the building, is a part of the Telecommunications Facilities (see attached plans and elevations for more detail). The facilities will provide coverage and capacity for T-Mobile customers.

The existing building's roof height is 106-feet and the existing penthouse is 17-feet in height, or a total overall height of 123-feet. The enclosure height is 13-feet in height or at a maximum height of 119-feet. There are several older existing antennas on the roof of the building.

Terms, as defined, in Article XII, Telecom Structures, of the Manhattan Zoning Regulations, which are associated with the proposed amendment include:

TELECOMMUNICATIONS FACILITIES: Any cables, wires, lines, wave guides, antennas and any other equipment or facilities, including buildings, shelters or cabinets that house telecommunications providers' equipment, associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a commercial tower or antenna support structure.

STEALTH: A method of designing, constructing, and/or locating any telecom structure to blend in with the character and environment of the area in which it is located, and to enhance compatibility with nearby land uses and the area by minimizing visual impacts, incorporating the design principles of Section 12-114. (Attached)

ANTENNA SUPPORT STRUCTURE: Any building or structure other than a tower or stealth monopole that can be used for the location of telecommunications facilities. (The Apartment Tower is an Antenna Support Structure.)

TELECOM STRUCTURE: Any tower, stealth monopole or telecommunications facilities. (Term is used below, by reference, under the standard "CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE".)

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The character of the use will be maintained by requiring the Telecommunications Facilities to be of a stealth design. The presence of the proposed facilities is minimized by the stealth design.

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WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: Cellular phone service is a rapidly expanding activity , which the City must accommodate. The Manhattan Zoning Regulations were revised in 2004 to address the issues surrounding telecommunication providers. Tall buildings, like the Apartment Tower, are encouraged to be used as alternatives to cellular towers.

WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The Telecommunications Facilities must conform to local and federal codes to protect the public health and safety. Providing a stealth design for facilities, to the greatest extent feasible, which will blend the facilities in with existing architecture of the structure, maintains the character of the area in which the use is proposed. The amendment will also accommodate future providers on the building with an opportunity to provide the public with cellular service, when facilities are of a stealth design, and avoid new towers where possible.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. **LANDSCAPING:** Not applicable.
2. **SCREENING:** Equipment and antenna will be screened by walls to match the exterior colors and material appearance of the concrete Apartment Tower walls. Proposed panel antenna on the north wall of the Apartment Tower penthouse will be painted to match as closely as possible the color of the existing walls.
3. **DRAINAGE:** Not applicable.
4. **CIRCULATION:** Not applicable.
5. **OPEN SPACE AND COMMON AREA:** Not applicable.
6. **CHARACTER OF THE NEIGHBORHOOD:** The PUD is in a transitional area between older residential neighborhoods to the north; highway service activities to the east that are associated with North 3rd Street and Tuttle Creek Boulevard; and Manhattan Town Center, downtown residential dwellings, retail and government areas to the south and west.

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EXISTING USE: Apartment Tower and Riley County Senior's Service Center and an off-street parking lot north of the Seniors Service Center.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is flat and consists of the two structures (Apartment Tower and Riley County Senior's Service Center), off-street parking lots and landscaped open spaces.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Manhattan Mercury, off-street parking lots, Osage Street, single-family and multiple-family residential dwellings; C-4, Central Business District, and RM, Four-Family Residential District with TNO, Traditional Neighborhood Overlay District.
- (2) **SOUTH:** Leavenworth Street, residential dwellings, office; C-4 District.
- (3) **EAST:** North 4th Street, commercial sales, automobile car lot; C-5, Highway Service Commercial District.
- (4) **WEST:** Post office, North 5th Street, residential dwellings; C-4 District, C-1, Restricted Business District, and R-3, Multiple-Family residential District.

GENERAL NEIGHBORHOOD CHARACTER: See above.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for the permitted uses allowed in the PUD.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The PUD boundaries are not altered by the amendment. The proposed Telecommunication Facilities will be located on the roof of the Apartment Tower, approximately 106-feet above grade. The Telecommunication Facilities will be screened by exterior walls intended to match as closely as possible the exterior colors and appearance of the Apartment Tower walls. Antenna proposed on exterior walls of the Apartment Tower's existing penthouse will be on the north elevation of the penthouse only and painted to match as closely as possible the exterior color of the penthouse walls. The antenna will be at approximately 115-feet to 119-feet above grade. Minimal impact is expected on adjacent property. The height and visual camouflaging of the Telecommunications Facilities should not adversely impact nearby properties.

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The PUD is within the environs of a historic property, the Damon Runyon House, 400 Osage Street. The Historic Resources Board conducted an Environs Review on June 27, 2005, and found that the proposed project meets the Standards and Guidelines for Evaluating the Effect of Projects on Environs and will not encroach upon, damage or destroy any historic property or their environs (attached draft minutes of the Historic Review Board). The proposal has been forwarded to the State Historic Preservation Office.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map of the Comprehensive Plan for the Apartment Tower portion of the PUD, indicates the site should be for residential high density uses. The Plan does not envision individual Telecommunications Facilities sites; however, the use is intended to be a Conditional Use in all residential district and, if not permitted in a PUD, to be approved by amendment of the PUD. The proposed use is in conformance with the Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

1926-1950: B, Second Dwelling District.
1950-1969: D, Central Business District
1969-1972: R-3 to PUD
1969-1983: R-3 to PUD
1969-1990: RM, Four-Family Residential District
1990-Present: Planned Unit Development

The Apartment Tower was originally constructed around 1972 and expanded in 1994. The Seniors' Service Center was originally constructed in 1982 and expanded in 1990. The parking lots were expanded in 1983 and 1990. The off-street parking lot north of the Senior's Center was added to the PUD in 1997.

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 and to protect property values. The PUD regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient use of land than generally achieved through conventional development; a development pattern in harmony with land use density, transportation facilities and community facilities; a development plan which suits the specific site to unique conditions which may require changes in both regulations or layout, or results in a greater benefit than normally achieved under conventional zoning; and, a mixture of compatible uses which might or might not otherwise be permitted in a single district or which may restrict the range of land uses more than a single district. The proposed Telecommunications Facilities are consistent with the intent of the Apartment Tower-Riley County Senior's Service Center PUD, and the Zoning Regulations.

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One of the purposes of Article XII, Telecom Structures is “To promote and encourage shared use/co-location of telecom structures and antenna support structures as the primary option for personal wireless telecommunications services instead of the construction of additional single-provider towers. “ In addition, Telecommunications Facilities should be of a stealth design to blend in with the character of the structure and environment (Section 12-114 attached).

The proposed Telecommunications Facilities are consistent with the Zoning Regulations.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no adverse impact on the public health, safety and welfare that denial of the request would accomplish. Denial of the request may result in the need for a Tower in order for the applicant to provide adequate cellular service to its customers.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate facilities are available.

OTHER APPLICABLE FACTORS: None

STAFF COMMENTS:

City Administration recommends approval of the proposed Amendment of the Apartment Tower-Riley County Senior’s Service Center Planned Unit Development, and Ordinance No. 5053, to add Telecommunications Facilities as a permitted use, with the following conditions of approval:

1. Permitted uses shall include Telecom Facilities, as defined in Article XII of the Manhattan Zoning Regulations, provided such facilities conform to the "Stealth Design Principles" in Section 12-114 of the Manhattan Zoning Regulations that are applicable to facilities installed on, or inside of buildings.
2. Permitted uses shall not include towers, monopoles or stealth monopoles, as defined in Article XII of the Manhattan Zoning Regulations.
3. All Telecom Facilities shall conform to all other applicable provisions of Article XII of the Manhattan Zoning Regulations, including obtaining an Administrative Permit and any other applicable City or other required permits.

ALTERNATIVES:

1. Recommend approval of the proposed Amendment(s) of the Apartment Tower-Riley County Seniors Service Center Planned Unit Development, and Ordinance No. 5053, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendment(s), and Ordinance No. 5053, stating the specific reasons for denial.
3. Table the proposed Amendment(s) to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendment(s) of the Apartment Tower-Riley County Senior's Service Center Planned Unit Development, and Ordinance No. 5053, based on the findings in the Staff Report, with the conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: July 1, 2005

05013}MUAPB}SR}AmendAptTowerPUDTelecommFac.