

***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, SEPTEMBER 7, 2004***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Brad Everett and Commissioners Ed Klimek, Bruce Snead, Mark Hatesohl, and Mark Taussig were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Diane Stoddard, Assistant to the City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 17 staff, and approximately 22 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Everett led the Commission in the Pledge of Allegiance.

**MAYOR'S EMPLOYEE EFFICIENCY AWARD**

Mayor Everett, City Manager Ron Fehr, and Director of Parks and Recreation Terry DeWeese recognized Lynn Schumacher and the staff of the T. Russell Reitz Animal Shelter as recipient of the Mayor's Employee Efficiency Award.

**PROCLAMATION**

Mayor Everett proclaimed September 2004, *United Way Month*. Maxine Coffey, Executive Director, United Way, was present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Everett opened the public comments.

Carol Gould, 4812 Rockridge Court, informed the Commission of the VISTA volunteer's efforts and introduced Tori Collins and Erin Waddle, VISTA volunteers at Kansas State University.

Phyllis Pease, 1905 Leavenworth, encouraged the community to attend The Good Apple Symposium, Thursday, September 9 and Friday, September 10, 2004, at the Wareham Theatre and the Manhattan Public Library.

Hearing no/other comments, Mayor Everett closed the public comments.

## COMMISSIONER COMMENTS

Commissioner Snead informed the community of ongoing efforts to raise money for the restoration of the Union Pacific Depot, in the efforts to meet the State of Kansas matching funds requirement.

Commissioner Taussig reflected on the upcoming anniversary of 9/11 and recognized the significant sacrifices that so many soldiers and their families have made to protect our freedoms.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 17, 2004.

### CLAIMS REGISTER NO. 2512

The Commission approved Claims Register No. 2512 authorizing and approving the payment of claims from August 11, 2004, to August 31, 2004, in the amount of \$2,379,295.09.

### BOARD APPOINTMENTS

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

#### *Airport Advisory Board*

Appointment of Richard B. Jankovich, 2021 Somerset Square, to fill the unexpired term of Brenda Simons. Mr. Jankovich's term begins immediately and will expire June 26, 2006.

#### *Band Board*

Re-appointment of Shirley Lemmons, 3013 Jeanie Lane, to a four-year term. Ms. Lemmons's term begins immediately and will expire August 31, 2008.

Re-appointment of Carol O'Neill, 1907 Plymouth Landing, to a four-year term. Ms. O'Neill's term begins immediately and will expire August 31, 2008.

Re-appointment of Patty Lewis, 3217 Claflin Road, to a four-year term. Ms. Lewis's term begins immediately and will expire August 31, 2008.

## CONSENT AGENDA (CONTINUED)

### BOARD APPOINTMENTS (CONTINUED)

#### *Douglass Center Advisory Board*

Re-appointment of Keener Tippin, 2419 Charolais Lane, to a three-year Geographical term. Mr. Tippin's term begins immediately and will expire on October 2, 2007.

#### *Parks And Recreation Advisory Board*

Re-appointment of Jean Darbyshire, 733 Frey Drive, to a four-year term. Ms. Darbyshire's term begins immediately and will expire June 30, 2008.

#### *Sister City Advisory Committee*

Appointment of Dr. Barry Michie, 3224 Ella Lane, to a three-year term. Mr. Michie's term begins immediately and will expire August 31, 2007.

Appointment of Jeff Chapman, 3430 Woodduck Way, to a three-year term. Mr. Chapman's term begins immediately and will expire August 31, 2007.

Appointment of Liz Bickman, 1021 East 26<sup>th</sup> Avenue, to a two-year term. Ms. Bickman's term begins immediately and will expire August 31, 2006.

Appointment of Cindy Zapletal, 3909 Barbara Lane, to a two-year term. Ms. Zapletal's term begins immediately and will expire August 31, 2006.

Appointment of Maxine Coffey, 1728 Kings Road, to a one-year term. Ms. Coffey's term begins immediately and will expire August 31, 2005.

#### *Social Services Advisory Board*

Re-appointment of Dawn Anderson, 1718 Fairchild Avenue, to a three-year term. Ms. Anderson's term begins immediately and will expire June 30, 2007.

### LICENSE – CEREAL MALT BEVERAGE

The Commission approved the Cereal Malt Beverage application for Valentinos of Manhattan, 3003 Anderson Avenue, Suite 901 and 905.

### FINAL PLAT – LLG AND RSW ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of LLG and RSW Addition, generally located south of the Sarber Lane and East Poyntz Avenue Frontage Road intersection, based on conformance with the Manhattan Urban Area Subdivision Regulations.

## CONSENT AGENDA (CONTINUED)

### ORDINANCE NO. 6428 – AMEND ZONING ORDINANCE – ADULT BUSINESSES

The Commission approved Ordinance No. 6428 amending Articles IV and VIII of the Manhattan Zoning Regulations as proposed, to address Adult Businesses, based on the recommendation of the Manhattan Urban Area Planning Board and the findings in the Staff Memorandum. (*See Attachment No. 1*)

### ORDINANCE NO. 6429 – LICENSE FOR ADULT BUSINESSES

The Commission approved Ordinance Nos. 6429 establishing Licensing Provisions for Adult Businesses.

### ORDINANCE NO. 6430 – FEES – ADULT BUSINESSES

The Commission approved Ordinance No. 6430 establishing Fees for Adult Businesses, Managers, Employees and Entertainers as proposed in the Code of Ordinances.

\* **RESOLUTION NO. 090704-B – KDOT AGREEMENT – DESIGN – FOURTH STREET, FORT RILEY BOULEVARD AND MCCALL ROAD (ST0410)**

Item was moved to the end of the General Agenda at the request of Commissioner Taussig.

### CHANGE ORDER NO. 1-FINAL – LARRY NORVELL BAND SHELL

The Commission approved Change Order No. 1-Final with Cheney Construction, Inc., of Manhattan, Kansas, for the renovation of the Larry Norvell Band Shell resulting in no increase (0%), adding 71 calendar days, and authorizing the Mayor to sign the Change Order and Certificate of Substantial Completion.

### CHANGE ORDER NO. 1-FINAL – WASTEWATER TREATMENT PLANT/BIOSOLIDS FARM IMPROVEMENTS (SP0202)

The Commission approved Change Order No. 1- Final for the Wastewater Treatment Plant/Biosolids Farm Improvements project () resulting in a net increase in the amount of \$87,886.16 (+2.1%) to the contract with Walters-Morgan Construction, Inc., of Manhattan, Kansas.

### CHANGE ORDER NO. 1-FINAL – 2004 STREET MAINTENANCE PROJECT, PHASE 1 (ST0407)

The Commission approved Change Order No. 1-Final for the 2004 Street Maintenance Project, Phase I, (ST0407) resulting in a net increase in the amount of \$1,505.30 (-0.76%) to the contract with Ballou Construction Co., Inc., of Salina, Kansas.

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT – WOODLAND HILLS, UNIT 5 – SANITARY SEWER (SS0402) AND WATER (WA0403) IMPROVEMENTS

The Commission accepted the Engineer's Estimate in the amount of \$159,000.00 and awarded a construction contract to the low bidder, Larson Construction, of Manhattan, Kansas, in the amount of \$133,876.70 for the Woodland Hills, Unit 5, Sanitary Sewer (SS0402) and Water (WA0403) Improvements.

### AWARD CONTRACT – MECHANICAL STREET SWEEPER

The Commission awarded the purchase of a mechanical street sweeper to Sellers Tractor Company, of Salina, Kansas, with a net bid of \$102,654.00.

### AWARD CONTRACT – RECIPROCATING AIR COOLED LIQUID CHILLER AND ICE RINK COILS

The Commission approved the base bid of \$37,302.00 and the bid option in the amount of \$11,780.00 to upgrade from a 30-ton chiller to a 70-ton chiller; and authorized the Mayor and City Clerk to execute a contract with Ice Rink Events, of Brenham, Texas, in the amount of \$49,082.00 for ice rink equipment located in the City Park Pavilion.

### AMEND – SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM

The Commission authorized the Mayor and City Clerk to accept and sign the Grant Amendment extending the time limits to March 1, 2006, for the Small Community Air Service Development Pilot Program Docket OST-2002-11590 dated September 17, 2002.

After discussion, Commissioner Snead moved to approve the consent agenda and move Item G: KDOT Agreement for Preliminary Engineering Associated with Fourth Street between Fort Riley Boulevard and McCall Road, to the end of the general agenda. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA

### ECONOMIC DEVELOPMENT APPLICATION - NATIONAL INSTITUTE FOR STRATEGIC TECHNOLOGY ACQUISITION AND COMMERCIALIZATION (NISTAC)

Diane Stoddard, Assistant City Manager, presented the item and informed the Commission of the revised NISTAC project budget.

*Ron Sampson, President, NISTAC, provided additional information on the proposal. He then answered questions from the Commission.*

Bill Muir, representing Kansas State University, informed the Commission that it is proposed that the City/University Fund would dedicate \$50,000.00 for a five-year period, amounting to \$250,000.

Ron Sampson, President, NISTAC, and Ron Fehr, City Manager, answered questions from the Commission.

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

Bernie Hayen, Director of Finance, informed the Commission of the funding options that were considered to finance the proposal and answered questions from the Commission.

Ron Fehr, City Manager, provided additional information to the Commission.

Bernie Hayen, Director of Finance; Ron Fehr, City Manager; and Ron Sampson, President, NISTAC, answered questions from the Commission.

Joe Norton, Gilmore and Bell, P.C., provided information to the Commission. He then answered questions from the Commission.

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

David Darling, 131 E.J. Frick, informed the Commission of the economic development plan and goals for Manhattan, and trends of incubators without walls.

Terry Olson, 958 South Manhattan Avenue, Chair, Manhattan Area Chamber of Commerce, supported the proposal and informed the Commission that taxpayers voted for economic development and jobs. She said NISTAC is a homegrown entity and the Kansas Economic Growth Act provides a viable opportunity for bioscience technologies at Kansas State University.

## GENERAL AGENDA (CONTINUED)

### ECONOMIC DEVELOPMENT APPLICATION - NATIONAL INSTITUTE FOR STRATEGIC TECHNOLOGY ACQUISITION AND COMMERCIALIZATION (NISTAC) (CONTINUED)

Ron Fehr, City Manager; Diane Stoddard, Assistant City Manager; and Ron Sampson, President, NISTAC, answered questions from the Commission.

Joe Norton, Gilmore and Bell, P.C., and Bill Frost, City Attorney, provided clarification on the item and funding options and requirements for public buildings. Joe Norton, Gilmore and Bell, P.C., then answered questions from the Commission.

After discussion, Commissioner Snead moved to approve the NISTAC project in concept, authorize negotiation of lease documents with NISTAC and Kansas State University, authorize issuance of a Request for Proposals (RFP) for architectural services, approve Resolution No. 090704-C indicating intent to issue general obligation bonds for the project in an amount not to exceed \$5.65 million, and appoint Commissioner Snead to serve on the Selection Committee for architectural services. Commissioner Hatesohl seconded the motion.

Commissioner Klimek made a friendly amendment to the motion to delete the current City subsidy for operations to NISTAC beginning in 2007; to reduce the amount of the bond obligation to \$5.35 million; and fund \$300,000.00 for furnishings and equipment through a loan process to be negotiated between the City of Manhattan and NISTAC. After additional discussion, the friendly amendment was not accepted.

Ron Fehr, City Manager, answered additional questions from the Commission.

Mayor Everett made a friendly amendment to remove the sale of the property at 1500 Hayes Drive from the ledger and voiced concern for the length of the general obligation bond term at 15 years. The friendly amendment was not accepted.

After discussion, on a roll call vote, the motion carried 3-2, with Mayor Everett and Commissioner Taussig voting against the item.

The Commission took a brief recess.

### RILEY COUNTY RURAL WATER DISTRICT #1 AGREEMENT

Chuck Williams, Director of Public Works, presented the item.

## GENERAL AGENDA (CONTINUED)

### RILEY COUNTY RURAL WATER DISTRICT #1 AGREEMENT (CONTINUED)

Neil Horton, 3804 Rocky Ford Avenue, informed the Commission that it would take a year or two before they would be ready to receive water from the City. He then answered questions from the Commission.

Chuck Williams, Director of Public Works, and Ron Fehr, City Manager, answered questions from the Commission.

After discussion, Commissioner Snead moved to authorize the Mayor and City Clerk to sign the agreement for the wholesale purchase of water by Riley County RWD #1. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

### PUBLIC HEARING - 2005 COMMUNITY DEVELOPMENT BLOCK APPLICATION - COMMUNITY IMPROVEMENT CATEGORY

Karen Davis, Director of Community Development, presented the item and answered questions from the Commission.

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

Mayor Everett opened the public hearing.

Susanne Kufahl, Assistant Administrator, Riley County – Manhattan Health Department, provided additional information on the item and asked the Commission to support the application.

Hearing no other comments, Mayor Everett closed the public hearing.

### 2005 COMMUNITY DEVELOPMENT BLOCK APPLICATION - COMMUNITY IMPROVEMENT CATEGORY

After discussion, Commissioner Hatesohl moved to approve Resolution No. 090704-A, authorizing submission of an application for 2005 Community Development Block Grant Funds for the Family and Child Resource Center Project, and authorize the Mayor and City Clerk to sign an intergovernmental agreement between the City and Riley County. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

### FIRST READING - ISSUE UP TO \$6.25 MILLION IN INDUSTRIAL REVENUE BONDS - COUNTRY MEADOWS RESIDENCES, L.C.

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

GENERAL AGENDA (CONTINUED)

**FIRST READING - ISSUE UP TO \$6.25 MILLION IN INDUSTRIAL REVENUE BONDS - COUNTRY MEADOWS RESIDENCES, L.C. (CONTINUED)**

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance issuing up to \$6.25 million in Industrial Revenue Bonds for Country Meadows Residences, L.C. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

ITEM REMOVED FROM CONSENT AGENDA

**RESOLUTION NO. 090704-B – KDOT AGREEMENT – DESIGN – FOURTH STREET, FORT RILEY BOULEVARD AND MCCALL ROAD (ST0410)**

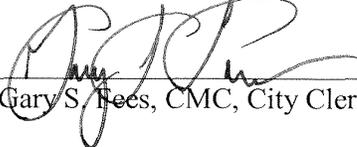
Jeff Hancock, City Engineer, presented the item and answered questions from the Commission.

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

After discussion, Commissioner Taussig moved to approve Resolution No. 090704-B authorizing the Mayor and City Clerk to execute the agreement with KDOT making available \$115,978.00 for designing the improvements of Fourth Street between Fort Riley Boulevard and McCall Road (ST0410). Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

**ADJOURNMENT**

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

  
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Gary S. Fees, CMC, City Clerk



*Attachment No. 1*



## INTER-OFFICE MEMORANDUM

**DATE:** July 19, 2004

**TO:** Manhattan Urban Area Planning Board

**FROM:** Eric Cattell, AICP, Assistant Director for Planning

**RE:** Amendment of the Manhattan Zoning Regulations To Address Adult Businesses

### BACKGROUND

At the request of the City Commission, City Administration drafted ordinances to license and regulate Adult Businesses within the City of Manhattan, based on input from the Riley County Police Department and other City Departments. Those draft provisions were originally presented at a joint work session of the City Commission and Manhattan Urban Area Planning Board on February 24, 2004, for discussion and input. Based on that input, the draft regulations have been finalized for consideration and adoption.

As a reminder, the City is taking a comprehensive threefold approach towards regulating these types of businesses. First, in October 2003, the City Commission adopted an ordinance banning public nudity. In addition, amendments to the Code of Ordinances and the Manhattan Zoning Regulations are currently under consideration, which address the following:

1. Adult Businesses will fall under strict licensing provisions, addressing licensing procedures for the business-owner(s), employees, entertainers and managers, as well as establishing standards of conduct, facility requirements and related provisions; and,
2. Adult Businesses will be subject to location restrictions, including buffer distances from protected uses, signage restrictions, and provisions regarding nonconforming adult businesses.

*Attachment No. 1*

Local governments constitutionally cannot prevent Adult Businesses from locating anywhere within their jurisdiction. Therefore, the City of Manhattan's proposed comprehensive approach strikes a balance between the City's ability to "rigorously" regulate Adult Businesses and the constitutional limitations that the City must observe in regulating Adult Businesses. The purpose and intent of the combined licensing and zoning provisions are to prevent the harmful secondary effects of Adult Businesses, while permitting Adult Businesses a reasonable opportunity to locate and operate within the City of Manhattan, as required by law. It should be noted that property owners and the private market would ultimately determine if an Adult Business actually locates in a given permitted area.

**Licensing Provisions:**

The Legal Department has recommended that the majority of the proposed regulatory language be a part of the Licensing Provisions within the Code of Ordinances, so that most of the regulations are in one document (*see attached draft Licensing Ordinance*). Therefore all of the definitions and many of the restrictions that might normally be considered as "zoning restrictions" are actually contained in the Licensing Provisions. This includes the Signage Restrictions, which are listed under Section 5-73, and the Location Requirements including the list of protected uses and buffer distances, which are in Section 5-74. The City Commission approved first reading of the proposed Licensing Ordinance on July 20, 2004, which is attached for reference.

**Buffer Distances:** The Licensing provisions require that no license shall be granted for an Adult Business, which is located within five hundred (500) feet of the following protected uses:

- A church or place of worship.
- A K-12 educational institution.
- Property that is zoned as a residential district, as defined in the Manhattan Zoning Regulations.
- Property that is zoned C-4, Central Business District, as defined in the Manhattan Zoning Regulations, or zoned as a Planned Unit Development that contains residential uses.
- A state-licensed group childcare facility.
- A public park.
- A public building that is frequented by the public.
- An arterial street as designated by the City or the Kansas Department of Transportation.

*Attachment No. 1*

In addition, Adult Businesses must be 500 feet apart and may not be located in the same building. For the additional provisions on how these distances are to be measured, see Section 5-74 of the Licensing Provisions.

Exterior building signage is limited as follows:

- (1) An Adult Business shall have no signs on the premises or the property on which the premises is located, except as provided in subsections (2) and (3). Any permitted sign must meet the requirements of this section and the Manhattan Zoning Regulations. In the event of a conflict between this section and the Manhattan Zoning Regulations, the Adult Business shall comply with the more restrictive provision.
- (2) An Adult Business may have one wall sign on the exterior of the premises, consisting of internally lit, individually wall-mounted letters, indicating only the name of the Adult Business. The gross surface area of the wall sign shall not exceed twenty (20) square feet.
- (3) An Adult Business may have one sign located on the entrance to the premises, either on or beside the door, indicating only the name of the Adult Business and the hours of operation. This sign shall be non-illuminated. The gross surface area of the sign shall not exceed two (2) square feet.
- (4) No sign or exterior surface of the Adult Business premises, including windows and doors, shall include descriptive art, graphics, lighting or designs depicting or referring to a Nude person or Specified Sexual Activities.
- (5) No Adult Business shall permit temporary sales aids, portable signs, exterior or interior window displays, prohibited signs or banners signs, as defined in the Manhattan Zoning Regulations,
- (6) No Adult Business shall permit any architectural building element that draws attention to the Adult Business, including but not limited to, neon lighting outlining the building, spot lighting, strobe lighting or garish paint.
- (7) An Adult Business shall obtain a sign permit prior to installation or any modification of any sign, in accordance with the Manhattan Zoning Regulations.

**Proposed Amendments To The Manhattan Zoning Regulations:**

The proposed amendments to the Manhattan Zoning Regulations are minor by comparison and include the following:

*Attachment No. 1*

- Add “**Adult Businesses, as defined by the Code of Ordinances**”, as a permitted use in Article IV, Part 2, Section 4-205 C-5 Highway Service Commercial District and in Article IV, Part 3, Section 4-302 I-2, Industrial Park District.
- Add the following new paragraph to Article VIII Nonconformities, Part 1, Section 8-101:

**“Notwithstanding sections (A) and (B) above, this Article shall not apply to Adult Businesses, as defined by the Code of Ordinances. Nonconforming Adult Businesses shall comply with Section 5-74(e) of the Code of Ordinances.”**

*Note: The complete text of the proposed amendments to the Zoning Regulations is attached, showing the new language in bold type.*

The amendment to Article VIII essentially overrides the provisions that normally apply to *legally nonconforming properties, which could remain indefinitely*, and says that nonconforming Adult Businesses must generally be amortized over a six-month period, as established by the Licensing Provisions (*see Section 5-74*).

## **DISCUSSION**

The proposed amendments to the Manhattan Zoning Regulations are essentially cross-references back to the Licensing Provisions in the Code of Ordinances. The proposed licensing provisions and zoning amendments work hand-in-hand and therefore must be adopted together.

At the February 2004 work session, City Administration was directed by the City Commission to proceed with finalizing the draft provisions that had been presented, based on what was called Option 6, utilizing 500-foot buffers from protected uses and between any two adult businesses. The City Commission identified two modifications it wanted included with Option 6: adding McCall Road as a protected street; and prohibiting adult businesses within 500 feet of the C-4 Central Business District.

Since the work session, the C-4 District was added as one of the protected zones in the Licensing Provisions, and the Kansas Department of Transportation has identified McCall Road as an arterial street on its revised Street Classification Map.

*Attachment No. 1*

The effect of this “modified Option 6” is to permit potential Adult Businesses within the C-5 Highway Service Commercial District and the I-2, Industrial Park District, subject to the 500 foot buffers, and not concentrate Adult Businesses in any one building or location (*see attached maps showing remaining areas where adult businesses could potentially locate*).

It should be noted that the maps are based on existing zoning in the City and show the remaining areas where adult businesses could potentially locate (red areas for C-5 and gray for I-2), after applying the buffers and other restrictions. Future rezonings of land to the C-5 or I-2 Districts could add additional potential areas, if they are located beyond the 500 foot buffers.

**Adoption Schedule:** The following schedule has been established to coordinate the concurrent adoption of the proposed Licensing Provisions in the Code of Ordinances and the amendments to the Manhattan Zoning Regulations:

- On July 20, 2004, the City Commission conducted a public hearing and approved first reading of an ordinance adopting the proposed Licensing Provisions in the Code of Ordinances, on a vote of 5-0.
- August 2, 2004: Public Hearing to be conducted by the Planning Board on the proposed amendments to the Manhattan Zoning Regulations.
- August 17, 2004: City Commission considers first reading of the proposed amendments to the Manhattan Zoning Regulations.
- Sept. 7, 2004: City Commission considers second reading of the both the Licensing Provisions in the Code of Ordinances and the amendments to the Manhattan Zoning Regulations.

**AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS**

When a proposed amendment results in a change to the text of the Zoning Regulations, the report from the Planning Staff shall contain a statement as to the nature and effect of the proposed amendment, and determinations as to the following factors.

*Attachment No. 1*

**WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS**

The intent and purpose of the Manhattan Zoning Regulations is to protect and promote the public health, safety, morals and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The proposed amendments to Article IV to add “Adult Businesses, as defined by the Code of Ordinances” in the C-5 and I-2 Districts, and to add the cross-reference paragraph regarding nonconforming Adult Businesses to Article VIII, are intended to work in concert with the proposed Licensing Provisions in the Code of Ordinances, to regulate Adult Businesses and prevent their harmful secondary effects, while permitting a reasonable opportunity to locate and operate within the City of Manhattan. The proposed zoning amendments, combined with the proposed Licensing Provisions, are consistent with the intent and purpose of the Manhattan Zoning Regulations.

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

Currently there are no restrictions on Adult Businesses within the Manhattan Zoning Regulations. The proposed amendments, combined with the 500-foot buffers will limit Adult Businesses to small portions of the C-5, Highway Service Commercial District and the I-2, Industrial Park District, comprising approximately 1.7% of the current land area in the City. Given current zoning within the City, most of these areas are located in the industrial park and commercial area east of Tuttle Creek Boulevard (*see attached maps*). In addition, land areas which are zoned to the C-5 District or I-2 District in the future, that are located beyond the 500 foot buffers and meet all other applicable requirements, would also potentially permit such uses.

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

The general public and City Commission have expressed concern about the increasing number of Adult Businesses being established in the region, and the potential for such businesses within the City of Manhattan. Other than the ordinance banning public nudity, which was adopted by the City Commission last year, there are no other specific

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restrictions on such businesses, provided they locate in the applicable zoning district. In response to these concerns and the lack of adequate regulations, the City is proposing to adopt regulations, which strike a balance between the City's ability to "rigorously" regulate Adult Businesses and the constitutional limitations that the City must observe in regulating Adult Businesses.

**WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICY AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY**

There are several policy statements in the Comprehensive Plan regarding the preservation of neighborhoods and the quality of life of the community.

Specifically, under "Land Use and Growth Management" Goal 1 states, "Promote land use and development practices that consider current and future economic, social and environmental impacts . . ."

Under "Regional Coordination" one of the Guiding Principles states, "Coordinate land use goals, objectives and policies of the City of Manhattan and other governmental agencies within the region."

Under "Housing and Neighborhoods" one of the Guiding Principles states, "Identify and foster initiatives to maintain or enhance the quality of life in existing neighborhoods throughout the community."

under "Community Design" Goal 1 states, "Guide the appearance, scale and location of urban development to enhance community character . . ."

While most policy statements in the Comprehensive Plan are intended to apply more broadly than being directed at a specific type of land use, the proposed amendments to the Manhattan Zoning Regulations, combined with the proposed Licensing Provisions, conform with Manhattan's stated policies to maintain and enhance the quality of life in the community.

### **ALTERNATIVES**

It appears the Manhattan Urban Area Planning Board has the following alternatives concerning the issue at hand. The Board may:

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

### **RECOMMENDATION**

City Administration recommends approval of the proposed amendments of the Manhattan Zoning Regulations; Article IV, Part 2, Section 4-205 C-5 Highway Service Commercial District, Article IV, Part 3, Section 4-302 I-2, Industrial Park District and Article VIII Nonconformities, to regulate Adult Businesses, based on the findings in the Staff Memorandum.

As indicated above, the City Commission has already approved first reading of the ordinance to adopt the proposed Licensing Provisions in the Code of Ordinances. The proposed zoning and licensing amendments are designed to work together, along with the previously adopted ban on public nudity, and therefore need to be adopted concurrently to address the concerns expressed by the City Commission and community to establish regulations for these types of businesses.

### **POSSIBLE MOTION**

The Manhattan Urban Area Planning Board recommends approval of the proposed amendments of the Manhattan Zoning Regulations Article IV, to add Adult Businesses as defined by the Code of Ordinances, as a permitted use in the C-5 and I-2 Districts, and Article VIII regarding nonconforming Adult Businesses, based on the findings in the Staff Memorandum.

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#### Attachments

1. Draft Licensing Ordinance
2. Proposed Amendments to Article IV and Article VIII of the Zoning Regulations
3. Maps showing C-5 and I-2 areas where Adult Businesses could potentially locate
4. Land Area Matrix