

***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, APRIL 17, 2007***  
***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 Tom Phillips, Mark Hatesohl, Jayme Morris-Hardeman, and Ed Klimek were present. Also present were Commissioners elect Bob Strawn and James E. Sherow, 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, Youth in Government Representative Hillary Green, 9 staff, and approximately 65 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Snead led the Commission in the Pledge of Allegiance.

**PROCLAMATIONS**

Mayor Snead proclaimed April 20-22, 2007, *National and Global Youth Service Day*. Lynda Bachelor, AmeriCorps Director, and Patrick Simpson, AmeriCorps VISTA, were present to receive the proclamation.

Mayor Snead proclaimed April 22-28, 2007, *The Week of the Young Child*. Cassie Brown, representing Heartland Association for the Education of Young Children (HAEYC), and Kristin Duell, representing Smart Start Child Care Assistance Program, were present to receive the proclamation.

April 26, 2007, *Arbor Day*. J. David Mattox, Forestry Supervisor, was present to receive the proclamation.

## COMMISSIONER COMMENTS

Mayor Snead welcomed Hillary Green, Youth in Government representative. He announced that on Saturday, May 26, 2007, the Friends of Sunset Zoo would be sponsoring a Wine in the Wild fundraiser for the Sunset Zoo education building and encouraged those interested to contact Sunset Zoo for additional information.

## MINUTES

Commissioner Hatesohl moved to approve the minutes of the Regular City Commission Meeting held Tuesday, April 3, 2007. Commission Phillips seconded the motion. On a roll call vote, motion carried 5-0.

## REORGANIZATION

Commissioners Jayme Morris-Hardeman, Ed Klimek, and Mayor Bruce Snead provided comments from their respective terms in office.

City Clerk Gary Fees administered the Oath of Office to Commissioners-elect Bob Strawn, Bruce Snead, and James E. Sherow.

City Clerk Gary Fees called for the election of the new Mayor. Commissioner Mark Hatesohl moved that Commissioner Tom Phillips be appointed to serve as Mayor until the second legislative meeting in April 2008. Commissioner Bob Strawn seconded the motion. On vote, motion carried 5-0.

Newly elected Mayor Phillips called for the election of the new Mayor Pro-Tem. Commissioner Bob Strawn moved that Commissioner Mark Hatesohl be appointed to serve as Mayor Pro-Tem until the second legislative meeting in April 2008. Commissioner Bruce Snead seconded the motion. On vote, motion carried 5-0.

Newly elected Mayor Tom Phillips and City Manager Ron Fehr presented outgoing Mayor Bruce Snead and Commissioners Ed Klimek and Jayme Morris-Hardeman with plaques, photography, and engraved candy dishes commemorating their terms in office.

Mayor Tom Phillips presented the Commission and the citizens of Manhattan with his vision and priorities for the coming year.

At 8:00 p.m., the Commission took a ten minute recess.

## CONSENT AGENDA

(\* denotes those items discussed)

### CLAIMS REGISTER NOS. 2588 AND 2589

The Commission approved Claims Register No. 2588 and 2589 authorizing and approving the payment of claims from March 28, 2007, to April 10, 2007, in the amounts of \$16,404.22 and \$821,617.95, respectively.

### ORDINANCE NO. 6616 – HEALTH CARE FACILITY REVENUE BONDS – MEADOWLARK HILLS RETIREMENT COMMUNITY

The Commission approved Ordinance No. 6616 issuing up to \$29 million in Health Care Facility Revenue Bonds for Meadowlark Hills Retirement Community.

### ORDINANCE NO. 6617 – AMEND – LIMEY POINTE COMMERCIAL PLANNED UNIT DEVELOPMENT

The Commission approved Ordinance No. 6617 amending the Final Development Plan for Lot 3 of the Limey Pointe Commercial Planned Unit Development, which is located along the north side of McCall Road, approximately 250 feet west of Hostetler Drive, and Ordinance No. 6566, based on the findings in the Staff Report (*See Attachment No. 1*) with the one (1) condition of approval, recommended by the Manhattan Urban Area Planning Board.

### RESOLUTION NO. 041707-A – SET SELL DATE – GENERAL OBLIGATION BONDS (SERIES 2007A AND 2007B)

The Commission Approve Resolution No. 041707-A setting May 15, 2007, as the date to sell \$12,435,000 in general obligation bonds (Series 2007A and Series 2007B) and approve first reading of an ordinance issuing \$12,435,000 in general obligation bonds for the following projects: *Abbott Acres Addition – Water (WA0604); Block 1 of Four Winds Village Addition – Sanitary Sewer (SS0510), Street (ST0516), and Water (WA0510); Grand Mere Vanesta, Unit 1 – Sanitary Sewer, Street, and Water (SP0505); Hackberry Addition, Unit 2 – Street (ST0518); Highland Meadows Addition, Unit 2 – Sanitary Sewer (SS0507), Street (ST0513), and Water (WA0507); Oak Hollow Addition, Unit 11 – Sanitary Sewer (SS0502), Street (ST0506), and Water (WA0502); Platt Addition – Sanitary Sewer (SS0511), Street (ST0517), and Water (WA0511); Prairie Lakes Addition, Unit 2 – Sanitary Sewer (SS0509), Street (ST0515), and Water (WA0509); Stone Pointe Addition, Unit 1 – Water (WA0608); Western Hills Addition, Unit 13 – Sanitary Sewer (SS0603), Water (WA0603), and Storm Drainage (SM0601); and Woodland Hills, Unit 5, Phase 2/Unit 6, Phase 1 – Sanitary Sewer (SS0516), Street (ST0523), and Water (WA0517).*

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT – GRAND VISTA ADDITION, UNIT 1 – STREET (ST0527), WATER (WA0520) AND SANITARY SEWER (SS0519) IMPROVEMENTS

The Commission accepted the Engineer's Estimate in the amount of \$381,250.00; and awarded a construction contract in the amount of \$355,881.00, including Alternate No. 1, to the low bidder, Walters-Morgan Construction Company, Inc., of Manhattan, Kansas, for Grand Vista Addition, Unit 1, Street (ST0527), Water (WA0520), and Sanitary Sewer (SS0519) Improvements.

### AWARD CONTRACT – CEDAR GLEN ADDITION – STREET IMPROVEMENTS (ST0618)

The Commission accepted the Engineer's Estimate in the amount of \$539,162.80 and awarded a construction contract in the amount of \$406,662.80 to the low bidder, Pavers, Inc., of Salina, Kansas, for Cedar Glen Addition, Street Improvements (ST0618).

### \* AUTHORIZE PURCHASE – AIRPORT SNOW PLOW TRUCK

Peter Van Kuren, Airport Director, provided additional information and answered questions from the Commission.

The Commission authorized the Mayor and City Clerk to sign a purchase contract in the amount of \$328,150.00 with Luby Equipment Services, of Fenton, Missouri; and accepted a Federal Aviation Association Airport Improvement Program grant offer in the amount of \$311,879.00.

### EASEMENT AGREEMENT – SOUTHWESTERN BELL TELEPHONE d/b/a AT&T – SUNSET ZOO WATER TOWER

The Commission approved the Easement Agreement between the City of Manhattan and Southwestern Bell Telephone d/b/a AT&T Kansas for an easement located at the base of the Sunset Zoo Water Tower.

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

## GENERAL AGENDA

### FIRST READING - FRANCHISE AGREEMENT - WESTAR ENERGY, INC.

Jason Hilgers, Assistant City Manager, presented the item and answered questions from the Commission regarding the City's utility expenses and projected rates.

## GENERAL AGENDA (*CONTINUED*)

### FIRST READING - FRANCHISE AGREEMENT - WESTAR ENERGY, INC. (*CONTINUED*)

Chad Luce, Westar Energy, responded to questions from the Commission regarding tree trimming procedures and policies, underground and aboveground utilities, environmental concerns, and projected utility rate increases.

Ron Fehr, City Manager, provided additional information on the tree replacement program and right-of-way issues with the utility companies. He asked Westar to consider alternatives when trimming and cutting stately trees.

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance authorizing the City to enter into a franchise agreement with Westar Energy, Inc., and repealing Ordinance No. 4365. Commissioner Sherow seconded the motion. After additional discussion, on a roll call vote, motion carried 4-1, with Commissioner Strawn voting against the motion.

### REQUEST FOR PROPOSALS - ENGINEERING SERVICES - WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION PROJECT

Jerry McIntyre, Deputy Director of Public Works-Utilities, presented the item. He then answered questions from the Commission.

Abdu Durar, Assistant Director of Utilities – Wastewater, provided additional information on the item and responded to questions from the Commission.

Ron Fehr, City Manager, provided additional information on the agreement with Pottawatomie County.

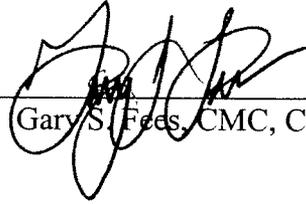
Bernie Hayen, Director of Finance, responded to questions from the Commission regarding revenue projections that would be generated.

Jerry McIntyre, Deputy Director of Public Works – Utilities; and Abdu Durar, Assistant Director of Utilities – Wastewater, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Snead moved to authorize City Administration to solicit proposals for engineering services for the Wastewater Treatment Plant Upgrade and Expansion Project, appoint Commissioner Strawn to serve on the selection committee, and approve an application to the Kansas Department of Health and Environment to amend the City's existing Kansas Water Pollution Control Revolving Fund loan. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

**ADJOURNMENT**

At 9:25 p.m. the Commission adjourned.



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Gary S. Fees, CMC, City Clerk

## **STAFF REPORT**

### **ON AN APPLICATION TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD)**

## **BACKGROUND**

**APPLICANT/OWNER:** J. Larry Fugate

**ADDRESS:** 208 S. Maize Road, Wichita KS 67209

**LOCATION:** Lot 3, Limey Pointe Addition, which is generally located along the north side of McCall Road approximately 250 feet west of the McCall Road and Hostetler Drive intersection.

**AREA:** 54,897 square feet (1.3 acres).

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, February 26, 2007

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, March 19, 2007

**CITY COMMISSION:** Tuesday, April 3, 2007

**DESCRIPTION OF PROPOSED AMENDMENT:** Amend Lot 3 of the Limey Pointe Commercial Planned Unit Development District, Ordinance No. 6566, for a proposed drive-in Taco Bell restaurant.

The Limey Pointe PUD was approved with the following conditions of approval:

1. Permitted uses shall include all of the Permitted Uses and Conditional Uses allowed in the C- 5, Highway Service Commercial District; except for Adult Businesses which shall be prohibited.
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. Light poles shall be provided as described in the application documents and shall be full cutoff design. Building lighting shall be provided as proposed and shall not cast direct light onto public or private streets or adjacent property.

*Attachment No. 1*

5. An architecturally unifying pole and/or ground signage plan shall be submitted with the Final Development Plan for the first phase. The signage plan shall apply to the entire PUD, and shall include, but not be limited to, clear architectural elements, materials and lighting, and ground treatments, such as stone planters and landscaping at the sign base. Height, maximum gross surface area, structural type, setback and illumination shall be clearly set out in the signage plan. The signage plan shall indicate that there shall be no more than one (1) pole or ground sign per lot. In addition, pole signs shall have a maximum height of 30 feet above the ground; the total gross surface area of pole and ground signs including reader-boards shall be limited to no more than 1 square foot of sign area per 1 foot of linear street frontage and shall not exceed a maximum 200 square feet in area; skirting for pole signs and the base of pole and ground signs shall include materials and architectural quality similar to those of the associated principal building such as brick, stone and/or stucco; and signs shall include a landscaped area around the base.
6. Wall signs shall be permitted as proposed.
7. Temporary banner signs shall be limited to no more than one (1) banner sign per lot. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
8. Traffic improvements cited in the July 31, 2006, Inter-Office Memorandum from the City Engineer shall be constructed with the first phase of the development to include:
  - (a.) The second through lane for westbound traffic on McCall Road between Hays Drive and Hostetler Drive shall be added.
  - (b.) The westbound and eastbound left turn lanes shall be aligned at the intersection of Hostetler Drive & McCall Road.
  - (c.) Hostetler Drive shall match the south leg of the intersection in terms of number of lanes and configuration.
  - (d.) An urban section shall be shown on the plans along the north side of McCall Road and shall include curb and gutter.
9. Drainage improvements cited in the July 31, 2006, Inter-Office memorandum from the City Engineer for storm inlets and storm sewer pipes shall be provided with the first phase of the development.
10. Prior to the development of Lots 3, 5 and 6, an amendment of the PUD shall be submitted and approved prior to issuance of any necessary permits.

**PROPOSED BUILDINGS AND STRUCTURES:** One story Taco Bell drive-in restaurant approximately 24 feet to the peak of the entrance tower with the roof line at approximately 18 feet. Exterior walls are EFIS with the stone wainscot. The restaurant fronts to the south and has walk in doors on the south and east sides of the building. The

*Attachment No. 1*

drive-in window is along the west side of the building and can be accessed from the north or south curb cuts and exits to the south to parking lot. The drive-in lane on the north side of the restaurant is one lane in width for ordering and expands to 24 feet in width for passing vehicles in line. The stacking lane provides space for at least eight cars. Forty seven off-street parking spaces are proposed. Based on occupancy and staffing, the restaurant would be required to provide 30 stalls. Access is from Limey Place and Goodfood Place. The driveway alignments of the northern curb cut to the site will align with a proposed IHOP curb cut to the north (a concern expressed by the Planning Board with the approval of the Limey Place PUD).

### **PROPOSED LOT COVERAGE**

Proposed lot coverage: building (4%), drives, parking, and travel easement (65%), and open/landscaped space( 31%).

### **PROPOSED SIGNS**

The pole sign is along the McCall Road frontage and is 30 feet in height with the sign portion of the sign 93 square feet in area. The base is a stone veneer to match the building stone. The base is in a landscape space along the street frontage and parking lot. Wall signs are externally and internally lit and well scaled to the building facades.

**PROPOSED LIGHTING:** Light poles are a cut-off design. Exterior wall mounted lights illuminate both wall signs and exterior areas.

## **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 proposed use and site is consistent with the commercial highway business nature of the PUD and is intended for relocation of businesses from the north Manhattan Marketplace PUD Wendy's and Pizza Hut, as well as new and similar businesses such as IHOP and the proposed Taco Bell.

*Attachment No. 1*

**WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS:** The amendment is necessary because the specific occupant of the site was unknown at the time the PUD was approved. It was generally expected that a drive-in restaurant would develop on Lot 3.

**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 proposed amendment was anticipated with the original approval and no adverse impact on the public is expected. The proposed use is a permitted use in the PUD and does not grant a special benefit to any person.

### **ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT**

- 1. LANDSCAPING:** Landscaping exceeds that proposed with the approved PUD and consist of canopy, ornamental and evergreen trees, shrubs and lawn areas and foundation plantings to be owned and maintained by the owner. Landscaped areas will irrigated with underground systems.
- 2. SCREENING:** The 8 foot block wall dumpster is located in the northeast part of the site with materials consistent with the building materials.
- 3. DRAINAGE:** The site will drain to storm sewers.
- 4. CIRCULATION:** Access is from McCall Road, Limey Place and Goodfood Place, which are Travel Easements that are privately owned and maintained by the owners of Lots 1-4.
- 5. OPEN SPACE AND COMMON AREA:** Each lot is individually owned and consists of building, off-street parking and landscaped areas.
- 6. CHARACTER OF THE NEIGHBORHOOD:** Generally characterized as a mix of retail and industrial service businesses.

**EXISTING USE:** Vacant commercial lot.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally a flat site located in the build-able portion of the 100 Year Flood Plain. The 100 Year Flood elevation is 1008 feet. Finished floor elevation of the proposed building is 1011.50 feet, or 3 feet above the flood elevation. The site drains to the west to the drainage ditch along Tuttle Creek Boulevard and partly to the north along Hostetler Drive to undersized storm water inlets.

**SURROUNDING LAND USE AND ZONING:**

(a.) **NORTH:** Lot 1, future IHOP site in Limey Pointe and industrial services; I-2 District.

(b.) **SOUTH:** McCall Road, American Legion, Super-Walmart; C-5 and PUD.

(c.) **EAST:** Limey Place travel easement, Lot 4, Hostetler R.

(d.) **WEST:** Lot 2, Limey Pointe, Wendy's restaurant under construction, Tuttle Creek Boulevard, N. 3<sup>rd</sup> Street, highway and neighborhood commercial businesses on N. 3<sup>rd</sup> Street; Limey Pointe PUD, C-5 and C-2, Neighborhood Shopping District.

**GENERAL NEIGHBORHOOD CHARACTER:** Generally characterized as a mix of retail and industrial service businesses.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** Limey Pointe PUD uses: Permitted Uses include all of the Permitted and Conditional Uses of the C-5, Highway Service Commercial District, except for Adult Businesses, which will not be allowed. Drive-in restaurants are a permitted use in the PUD and the site is suitable for the use.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The site is commercial growth corridor and its development as a commercial PUD should be compatible with the surrounding neighborhood.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The Future Land Use Map for the Northeast Planning Area designates the site as Community Commercial (CC). The PUD amendment is in general conformance to the Comprehensive Plan.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The site has been zoned various commercial and industrial districts over time. Annexation was in 1968 and 1969. Commercial and industrial buildings have occupied the site. Limey Pointe PUD was approved on September 5, 2006 (Ordinance No. 6566).

*Attachment No. 1*

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:** The amendment is consistent with the approved PUD and 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 gain to the public if the amendment is denied and it may be a hardship to the owner if the amendment is denied. The proposed land use and PUD were approved in 2006.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate street, sanitary sewer, storm sewer, and water are available.

**OTHER APPLICABLE FACTORS:** None.

**STAFF COMMENTS:**

City Administration recommends approval of the proposed Amendment of Lot 3, Limey Pointe Commercial Planned Unit Development District and Ordinance No. 6566, and the Final Development Plan, with the following conditions of approval:

1. The Final Development Plan shall be subject to the conditions of approval of Ordinance No. 6566.

**ALTERNATIVES:**

1. Recommend approval of the proposed Amendment of the Limey Pointe Commercial Planned Unit Development, and Ordinance No. 6566, and the Final Development Plan, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendment of the Limey Pointe Commercial Planned Unit Development, and Ordinance No. 6566, stating the basis for such recommendation.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

*Attachment No. 1*

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendment of the Limey Pointe Commercial Planned Unit Development, and Ordinance No. 6566, and approval of the Final Development Plan, based on the findings in the Staff Report, with the one condition recommended by City Administration.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** Monday, March 14, 2007

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