

CERTIFICATION OF CLERK

I, Gary S. Fees, the duly appointed, qualified, and City Clerk of Manhattan, Kansas, do hereby certify that the foregoing Minutes were duly adopted at a meeting of the City of Manhattan, Kansas, held on the 2nd day of December, 2008, and that said Minutes have been compared by me with the original thereof on file and of record in my office, is a true copy of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Manhattan, Kansas, this 3rd day of December, 2008.





Gary S. Fees, MMC, City Clerk

MINUTES
CITY COMMISSION MEETING
TUESDAY, NOVEMBER 18, 2008
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Mark J. Hatesohl and Commissioners Bob Strawn, Bruce Snead, James E. Sherow, and Tom Phillips were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 8 staff, and approximately 38 interested citizens.

PLEDGE OF ALLEGIANCE

Troop #75 led the Commission in the Pledge of Allegiance.

COMMISSIONER COMMENTS

Commissioner Strawn complimented the K-State Women's Basketball Team for its outstanding athletic and academic performance last season and encouraged the community to support the team and fill Bramlage Coliseum for the K-State Women's Basketball game on Sunday, November 23, 2008.

Mayor Hatesohl announced that the Mayor's Spirit of the Holiday Lighted Parade would be on Friday, December 5, 2008, at 6:00 p.m., followed with the lighting of the Mayor's Holiday Tree in Triangle Park in support of the Flint Hills Breadbasket. He encouraged those interested in participating in the parade to contact Downtown Manhattan Inc. or complete the application form on the City's web site.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 4, 2008.

CONSENT AGENDA (CONTINUED)

CLAIMS REGISTER NO. 2594

The Commission approved Claims Register No. 2594 authorizing and approving the payment of claims from October 29, 2008, to November 10, 2008, in the amount of \$967,448.25.

LICENSE - RENEWALS

The Commission approved a Merchant Guard Agency License for calendar year 2009 for The Wackenhut Corporation, D/B/A G4S Wackenhut, 10540 Marty, Suite 160, Overland Park, Kansas; and a Tree Maintenance License for calendar year 2008 for Horticultural Services, Inc., 11524 Landscape Lane, Saint George, Kansas.

FINAL PLAT – PENNY’S ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Penny’s Addition, generally located south of the intersection of Eureka Drive and Eureka Terrace.

* **ORDINANCE NO. 6738 – ISSUE – GENERAL OBLIGATION BONDS SERIES 2008-C**

Ron Fehr, City Manager, provided an update on the results of the bond sale and stated that the ratings of the City of Manhattan have remained stable.

The Commission approved Ordinance No. 6738 issuing \$1,865,000.00 in general obligation bonds (Series 2008-C) to finance two (2) special assessment projects (*Eureka Addition – Street (ST0613) and Limey Pointe/McCall Road Improvements – Street (ST0627)*) and approved Resolution No. 111808-C authorizing delivery of the bonds to the low bidder.

ORDINANCE NO. 6739 – VACATE UTILITY EASEMENT – LOT 1A, COLBERT HILLS ADDITION, UNIT THREE (COLBERT HILLS CLUBHOUSE)

The Commission approved Ordinance No. 6739 vacating a portion of a 16' (sixteen foot) wide utility easement located in Colbert Hills Addition, Unit Three, Lot 1A, an addition to the City of Manhattan, Riley County, Kansas.

FIRST READING – PARKING PERMIT ZONE – 300-400 BLOCK OF DENISON AVENUE

The Commission approved first reading of an ordinance establishing a parking permit zone in the 300 block and 400 block of Denison Avenue.

CONSENT AGENDA (CONTINUED)

* **RESOLUTION NO. 111808-A – ISSUE – TEMPORARY NOTE SERIES NO. 2008-03**

Ron Fehr, City Manager, provided an update on the results of the bond sale and stated that the ratings of the City of Manhattan have remained stable.

The Commission approved accepting the best bid for selling the notes and approved Resolution No. 111808-A issuing Temporary Note Series No. 2008-03 in the amount of \$1,795,000.00 to finance the following eight (8) special assessment and capital projects to be debt financed *Northwing Addition, Unit 1, Storm Water (SM0808), Sanitary Sewer (SS0811), Street (ST0818), and Water (WA0807) Improvements; Downtown Redevelopment (North End) – Moro Street Improvements (ST0805); K-18 and Miller Parkway/Davis Drive Intersection Improvements (ST0713); Sunrise Cemetery Road Expansion (CPX96P); and West Anderson Avenue – Design (ST0810).*

KDOT – FIVE-YEAR PLAN

The Commission approved the submittal of the City of Manhattan's Five-Year Plan to the Kansas Department of Transportation as drafted by City Administration and authorized the Mayor and City Clerk to execute the Request for Construction Project Form on behalf of the City of Manhattan.

AMENDMENT NO. 2 – LINEAR PARK TRAIL REPAIR

The Commission approved and authorized the Mayor to execute Amendment No. 2 between the City of Manhattan and the NRCS for repair of the Pecan Circle area of Wildcat Creek.

REQUEST FOR PROPOSALS – PROFESSIONAL SERVICES – REGIONAL GROWTH PLAN MODEL

The Commission authorized City Administration to solicit professional services for the Regional Growth Plan Model Project.

AWARD CONTRACT – HOUSING REHABILITATION PROJECT

The Commission accepted the bids for 2124 Elm Lane; awarded the bid to the lowest responsible bidder; authorized the Mayor and City Clerk to enter into an agreement with the contractor and property owner for expenditure of Housing Rehabilitation Funds; and authorized City Administration to approve any necessary change orders.

CONSENT AGENDA (CONTINUED)

AGREEMENT – WORKERS’ COMPENSATION THIRD PARTY ADMINISTRATOR AND EXCESS INSURANCE

The Commission approved and authorized the Mayor to execute an agreement with Thomas McGee L.C., of Kansas City, Missouri, effective January 1, 2009 through December 31, 2013, for Workers’ Compensation Third Party Administrator services and Excess Insurance coverage from January 1, 2009, through December 31, 2010.

AMEND PROMISSORY NOTE – COLLEGIATE MARKETING SERVICES

The Commission authorized the Mayor and City Clerk to execute an amendment to the Conventional Loan Promissory Note with Collegiate Marketing Services to extend current and future loan payment dates from July 1 to December 1.

BOARD APPOINTMENTS

The Commission approved the appointment of Neil Dunn, 1925 Vermont Street, to a four-year term on the Band Board. Mr. Dunn’s term begins immediately, and will expire August 31, 2012.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

RESOLUTION NO. 111808-D – PETITION - McCALL ROAD IMPROVEMENTS (ST0821)

Rob Ott, City Engineer, presented the item. He then responded to questions from the Commission and provided additional information regarding bicycle lane possibilities.

Charlie Busch, McCullough Development, Inc., presented additional information on the item and status with the Menards development.

Rich Seidler, Director of Development, McCullough Development, Inc., stated that the Menards project is contingent upon rezoning and road improvements to be completed. He asked that the Commission accept the petition submitted to allow the project to move forward. He then responded to questions from the Commission.

GENERAL AGENDA (*CONTINUED*)

RESOLUTION NO. 111808-D – PETITION - McCALL ROAD IMPROVEMENTS (ST0821) (*CONTINUED*)

Charlie Busch, McCullough Development, Inc., provided additional information on the item and informed the Commission that a contract with Menards is in place, but would not close on the contract until contingencies are completed.

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

Diane Novak, 1130 Military Trail Road, Bicycle Advisory Committee Member, reminded the Commission that the Bicycle Master Plan that talks about collector streets such as McCall Road includes bicycle lanes. She encouraged the Commission to consider incorporating a bike lane along McCall Road and answered questions regarding the use of a bicycle lane for commuters from Wamego, St. George, and those residents east of the city.

Ben Champion, 1519 Poyntz Avenue, Director of Sustainability at K-State, stated that it is imperative to consider multi-model needs and if expanding McCall Road would impact transportation viability for bikes, it should be considered. He then responded to questions from the Commission regarding a multi-use sidewalk for both pedestrians and bicyclists.

Ron Fehr, City Manager, provided clarification on the item and restriction of bicycles on sidewalks in several commercial districts.

Dave Colburn, 1906 Bluestem Terrace, Bicycle Advisory Committee Member, informed the Commission on the emphasis of walking and biking in the community and asked that the Commission consider an eight to ten foot wide sidewalk for multi-use.

Tim Lindemueth, 500 Denison Avenue, stated that he wanted to see accommodation for bicyclists on McCall Road and said that the current conditions on McCall Road are dangerous for bicyclists. He asked that the Commission consider doing this now as part of the project and to consider the value of a life.

Rob Ott, City Engineer, informed the Commission that the City could look at an alternate bid for a wider sidewalk to address the concerns expressed.

Bill Frost, City Attorney, provided clarification on the submitted petition and responded to questions related to sidewalks and bike lanes.

Dee Ross, 2304 Brockman Street, asked about the width and depth of the sidewalk being considered along McCall Road.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 111808-D – PETITION - McCALL ROAD IMPROVEMENTS (ST0821) (CONTINUED)

Bill Frost, City Attorney, responded to additional questions from the Commission regarding the petition submitted and the flexibility in defining the sidewalk.

Ron Fehr, City Manager, provided additional financial information about the proposed project and responded to question from the Commission regarding future action to be considered to construct the project.

Rich Seidler, Director of Development, McCullough Development, Inc., provided additional information on the Pottawatomie County sales tax and projected receipts.

Bernie Hayen, Director of Finance, provided additional information on the Pottawatomie County sales tax and distribution.

Dale Houdeshell, Director of Public Works, informed the Commission of the engineering challenges associated at entrances and driveways with the potential of sidewalks being widened along McCall Road.

After discussion, Commissioner Phillips moved to find the petition sufficient, approve Resolution No. 111808-D finding the project advisable on McCall Road from Hayes Drive to US-24 (East Poyntz Avenue) (ST0821), and concur with City Administration in pursuing a TRL application with KDOT. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

REQUEST FOR PROPOSALS – DESIGN – MCCALL ROAD EXPANSION (ST0821)

Rob Ott, City Engineer, presented the item.

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

After discussion, Commissioner Sherow moved to authorize City Administration to solicit proposals for the design of McCall Road Expansion from Hayes Drive to East Poyntz Avenue (US-24) and appoint Mayor Hatesohl to serve on the Selection Committee. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

PUBLIC HEARING - INTENT TO ISSUE INDUSTRIAL REVENUE BONDS - KSU FOUNDATION

Lauren Palmer, Assistant City Manager, presented the item.

GENERAL AGENDA (CONTINUED)

PUBLIC HEARING - INTENT TO ISSUE INDUSTRIAL REVENUE BONDS - KSU FOUNDATION (CONTINUED)

Joe Norton, Bond Counsel, Gilmore and Bell, P.C., provided additional information on Industrial Revenue Bonds related to the KSU Foundation and legal implications.

David Weaver, Vice President, Real Estate and Investment, KSU Foundation, provided the Commission with additional information on the funding mechanism selected. He then responded to questions regarding the future use of their existing building on Anderson Avenue.

Mayor Hatesohl opened the public hearing.

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

RESOLUTION NO. 111808-B - INTENT TO ISSUE INDUSTRIAL REVENUE BONDS - KSU FOUNDATION

After discussion, Commissioner Strawn moved to approve Resolution No. 111808-B indicating the Commission's intent to issue up to \$20 million in Industrial Revenue Bonds for the purpose of constructing an office headquarters facility for KSU Foundation. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

AWARD CONSTRUCTION CONTRACT - CITY PARK PAVILION (CPX04P)

Commissioner Strawn announced that he would abstain from voting on this item.

Curt Loupe, Director of Parks and Recreation, presented the item.

Bruce McMillan, Bruce McMillan AIA Architects, P.A., presented the outcome of the bids received, alternate items, and identified potential costs saving items.

Ron Fehr, City Manager, responded to questions from the Commission and financing considerations for the project.

Curt Loupe, Director of Parks and Recreation, provided the Commission with information on rental facilities and projected rents that could be received from the new facility.

Bruce McMillan, Bruce McMillan AIA Architects, P.A., responded to additional questions from the Commission regarding the low bidder and alternates.

Vincent Tracy, 304 Knoxberry Drive, informed the Commission that this is a crown jewel for our community and stated that it would be smarter to increase the amount of money necessary to build this facility right the first time.

GENERAL AGENDA (CONTINUED)

AWARD CONSTRUCTION CONTRACT - CITY PARK PAVILION (CPX04P) (CONTINUED)

Curt Loupe, Director of Parks and Recreation, responded to additional questions from the Commission and stated that he would look into what items City staff could complete and would further review other items that were identified by the Commission.

After discussion, Commissioner Sherow moved to accept the Architects Estimate of \$1,665,130.00; award a contract to the low bidder, R.M. Baril Construction, of Manhattan, Kansas, for the base project to construct a new City Park Pavilion (CPX04P) to replace the existing pavilion, subject to the Project Architect, staff, and the contractor including alternate three (heating/ventilation/air conditioning ductwork and concrete masonry unit duct chase) and alternate four (Rooftop unit), while developing a deduct change order to align the project to meet the revised budget; and approve Resolution No. 111808-E authorizing the issuance of general obligation bonds to finance the project. Mayor Hatesohl seconded the motion.

The Commission expressed its appreciation to Commissioner Strawn for his fundraising efforts and for the support received from the community for this project.

On a roll call vote, motion carried 4-0, with Commissioner Strawn abstaining.

FIRST READING - 2009 SALARY ORDINANCE

Cathy Harnes, Director of Human Resources, presented the item. She then responded to questions from the Commission.

Ron Fehr, City Manager, provided additional information on the Cost of Living Adjustment recommended for 2009 and then answered questions from the Commission.

After discussion, Commissioner Snead moved to approve first reading of the 2009 Salary Ordinance establishing a new range of salaries for City employees. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION

Commissioner Snead moved to recess into Executive Session until 9:15 p.m. for the purpose of discussions with the City Attorney regarding pending legal matters that need to be confidential and that are deemed privileged in the attorney-client relationship. Commissioner Strawn seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION (CONTINUED)

At 9:16 p.m., the Commission reconvened with Mayor Hatesohl and Commissioners Strawn, Snead, Sherow, and Phillips in attendance. Commissioner Snead moved to come out from Executive Session and adjourn the meeting. Commissioner Sherow seconded the motion. On vote, motion carried 5-0.

ADJOURNMENT

At 9:17 p.m., the Commission adjourned.

A handwritten signature in blue ink, appearing to read "Gary S. Fees", is written over a horizontal line.

Gary S. Fees, MMC, City Clerk