



***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, APRIL 7, 2009***  
***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 #74 posted the colors and led the Commission in the Pledge of Allegiance.

**PROCLAMATION**

Mayor Hatesohl proclaimed April 2009 *Month of the Military Child*. Colonel Rich Piscal, Fort Riley Garrison Commander; Nikki Crisman, Fort Riley Youth and School Services Coordinator; and Families of Sergeant First Class Santana and Sergeant Bartiee were present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Hatesohl opened the public comments.

Dee R. Ross, 2304 Brockman Street, asked questions concerning the funding paid to the National Institute for Strategic Technology Acquisition and Commercialization (NISTAC) and how the money has been spent.

Commissioners stated that this item would be discussed during the general agenda for the proposed improvements to the Manhattan/K-State Innovation Center.

## PUBLIC COMMENTS (CONTINUED)

Ron Cochran, 1618 Delaney Drive, provided an update to the Commission regarding drainage ditch concerns with his property and nearby properties. He reported that City crews cleaned the drainage ditch; however, he was informed by the Public Works Department that the ditch would only be cleaned in the spring and fall and that was not acceptable to him. He stated that this would result in a continued muddy mess, issues with weeds over 12 inches, and mosquito problems. He requested that the Commission provide additional assistance and direct staff to address this ongoing issue.

Mayor Hatesohl responded to questions raised and asked Mr. Cochran to keep us informed or to contact the City's stormwater officer when there is an issue or concern.

Rob Ott, City Engineer, and Dale Houdeshell, Director of Public Works, provided additional information about the issue and responded to questions from the Commission.

Ron Cochran, 1618 Delaney Drive, asked that his request for additional service to clear the drainage ditch be considered, so that he didn't have to continually come back and ask for help.

Hearing no other comments, Mayor Hatesohl 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 Special City Commission Meeting held Tuesday, March 24, 2009.

### CLAIMS REGISTER NOS. 2608 and 2609

The Commission approved Claims Register Nos. 2608 and 2609 authorizing and approving the payment of claims from March 18, 2009, to March 31, 2009, in the amounts of \$74,443.07 and \$3,009,721.60, respectively.

## CONSENT AGENDA (CONTINUED)

### LICENSES

The Commission approved a Tree Maintenance License for calendar year 2009 for Wildcat Tree Service, 3120 Heritage Lane, Manhattan, and an annual Cereal Malt Beverage On-Premises License for Lemmy's Pizzeria, 600 South 4<sup>th</sup> Street, Manhattan.

### FINAL PLAT – STONE POINTE TOWNHOMES ADDITION, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stone Pointe Townhomes Addition, Unit Two, generally located north of Stone Crest Drive and east of North Scenic Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – PURPLE HEART ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Purple Heart Addition, generally located at 114 McCall Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### ORDINANCE NO. 6756 – GENERAL OBLIGATION BONDS – MARLATT WATERWAY STORM DRAINAGE IMPROVEMENTS PROJECT (SM0701)

The Commission approved Ordinance No. 6756 authorizing the issuance of no more than \$575,000.00 in general obligation bonds to finance the Marlatt Waterway Storm Drainage Improvements Project (SM0701).

### FIRST READING – AMEND FEES – CEREAL MALT BEVERAGE LICENSE

The Commission approved first reading of an ordinance amending Sections 4-58, 4-59, and 19-30 of the Code of Ordinances concerning the issuance of Cereal Malt Beverage licenses.

### FIRST READING – MILLER PARKWAY DESIGNATION – THROUGH STREET and NO PARKING ANYTIME

The Commission approved first reading of an ordinance designating Miller Parkway as a "Through Street" and designating the entire length "No Parking Anytime."

### RESOLUTION NO. 040709-A – REVISED PETITION - LEE MILL VILLAGE – STORM SEWER IMPROVEMENTS (SM0702)

The Commission found the revised petition sufficient and approved Resolution No. 040709-A rescinding Resolution No. 091807-A and finding the Lee Mill Village Storm Sewer Improvements (SM0702) project advisable and authorizing construction.

## CONSENT AGENDA (CONTINUED)

### CHANGE ORDER NO. 3-FINAL – LEE MILL VILLAGE – STORMWATER IMPROVEMENTS (SM0702)

The Commission approved Change Order No. 3-Final (“As-Built”) for Lee Mill Village Stormwater Improvements (SM0702), resulting in a net increase in the amount of \$243,000.00 (+47.86%) to the contract with Luttrell Construction Company, Inc., of Olathe, Kansas.

### RESOLUTION NO. 040709-C – KDOT CONSTRUCTION AGREEMENT – JULIETTE AVENUE AND BLUEMONT AVENUE INTERSECTION (ST0804)

The Commission approved Resolution No. 040709-C authorizing the Mayor and City Clerk to execute the Construction Engineering Agreement with KDOT and authorized the Mayor and City Clerk to approve the award of a contract for improvements and financing for the Juliette Avenue and Bluemont Avenue Intersection project.

\* **AWARD CONTRACT – 2008 NEW AND PARALLEL WATER LINES  
(WA0806)**

Ron Fehr, City Manager, responded to questions from the Commission regarding the Engineer’s Estimate in comparison to the low bid and stated that concerns expressed for the process for City Park Pool would be addressed during the April 14, 2009, Work Session.

The Commission accepted the Engineer’s Estimate in the amount of \$423,892.00 and awarded a construction contract in the amount of \$233,208.40 to the lowest responsible bidder, Meadows Construction, Inc., of Tonganoxie, Kansas, for the 2008 New and Parallel Water Lines (WA0806).

### RESOLUTION NO. 040709-B – TEMPORARY NOTES – 2008 NEW AND PARALLEL WATER LINES (WA0806)

The Commission approved Resolution No. 040709-B authorizing the issuance of temporary notes to finance the 2008 New and Parallel Water Lines (WA0806).

\* **AWARD CONTRACT – 2009 STREET MAINTENANCE, PHASE 2, MILL  
AND OVERLAY (ST0902)**

Dale Houdeshell, Director of Public Works, responded to questions from the Commission regarding receiving only one bid and the price of the bid amount.

The Commission accepted the bid in the amount of \$397,533.55 and awarded a contract to Shilling Construction Company, Inc., of Manhattan, Kansas, for the 2009 Street Maintenance Project Phase II, Mill and Overlay ~ Asphalt (ST0902).

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT – 2009 STREET MAINTENANCE, PHASE 3, NOVA CHIP OVERLAY (ST0903)

The Commission accepted the bid in the amount of \$119,475.80 and awarded a contract to Shilling Construction Company, Inc., of Manhattan, Kansas, for the Street Maintenance Project, Phase III, Nova Chip Overlay (ST0903).

### RESOLUTION NO. 040709-D – KDOT SUPPLEMENT NO. 1 – US 24 CORRIDOR MANAGEMENT STUDY (ST0811)

The Commission approved Resolution No. 040709-D authorizing the Mayor and City Clerk to execute joint funding agreement Supplemental No. 1 with KDOT, Pottawatomie County, and the other local sponsors for the US-24 Corridor Management Study (ST0811) being performed by HWS Consulting Group, Inc., of Manhattan, Kansas.

### CHANGE ORDER NO. 1 – LEE MILL HEIGHTS ADDITION, UNIT FOUR – STREET IMPROVEMENTS (ST0710)

The Commission approved Change Order No. 1 for Lee Mill Heights Addition, Unit Four, Street Improvements (ST0710), resulting in a net increase in the amount of \$216,166.38 (+24.84%) to the contract with Manhattan Trenching, Inc., of Manhattan, Kansas.

\* **CHANGE ORDER NO. 3-FINAL – 4<sup>TH</sup> STREET, LEAVENWORTH STREET TO MORO STREET (ST0712)/3<sup>RD</sup> STREET, LEAVENWORTH STREET TO OSAGE STREET (ST0631)**

Dale Houdeshell, Director of Public Works, responded to questions from the Commission regarding a concern that the proposed changes did not come back to Commission for review and discussion prior to tonight's change order. He then answered additional questions from the Commission.

The Commission approved Change Order No. 3-Final ("As Built") for the combined 4<sup>th</sup> Street, Leavenworth Street to Moro Street, and 3<sup>rd</sup> Street, Leavenworth Street to Osage Street, Street Improvements project, resulting in a net increase in the amount of \$193,847.20 (+6.6%) to the contract with Nowak Construction Co., Inc., of Goddard, Kansas.

### AMENDMENT – ENGINEERING SERVICES – 4<sup>TH</sup> STREET, LEAVENWORTH TO MORO STREET (ST0712)

The Commission approved the recommended amendment to the Engineering Services Agreement and authorized the Mayor and City Clerk to execute the amendment, resulting in a net increase in the amount of \$53,901.60 to the contract with HWS Consulting Group, Inc., of Manhattan, Kansas, for 4<sup>th</sup> Street from Leavenworth Street to Moro Street (ST0712).

## CONSENT AGENDA (CONTINUED)

### AGREEMENT – DOWNTOWN FARMERS’ MARKET

The Commission authorized the Mayor and City Clerk to execute an agreement with the Downtown Farmer’s Market of Manhattan, Inc., for the use of the City’s public parking lot at the corner of 5<sup>th</sup> Street and Humboldt Street for the 2009 season.

### \* BOARD APPOINTMENTS

Ron Fehr, City Manager, provided additional information to the Commission about Manhattan Holdings, LLC. He then responded to questions regarding City appointments to Manhattan Holdings, his involvement with Manhattan Holdings, and informed the Commission that he would provide additional information to the Commission on Manhattan Holdings, LLC.

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

#### Band Board

Appointment of Thomas Holder, 3018 Tumbleweed Terrace, to fill the unexpired term of James Shanteau. Mr. Holder’s term begins immediately, and will expire August 31, 2010.

#### \* Board of Members of Manhattan Holdings, LLC

Re-appointment of Michael Daniels, 1721 Sunny Slope Lane, to a two-year City of Manhattan Representative term. Mr. Daniels’ term begins immediately, and will expire December 31, 2010.

Appointment of Randall Anderes, 3821 Kates Court, to a two-year City of Manhattan Representative term. Mr. Anderes’ term begins immediately, and will expire December 31, 2010.

#### Board of Zoning Appeals

Appointment of Ricci Dillon, 3068 Tamarak Drive, to fill the unexpired term of Calvin Emig. Ms. Dillon’s term begins immediately, and will expire December 31, 2009.

#### Douglass Center Advisory Board

Appointment of Kasey Kile, 732 Elling Drive, to a three-year At-Large term. Ms. Kile’s term begins immediately, and will expire October 2, 2011.

## CONSENT AGENDA (CONTINUED)

### BOARD APPOINTMENTS (CONTINUED)

#### *Douglass Center Advisory Board (CONTINUED)*

Appointment of Taj Keeler, 1732 Vaughn Drive, to fill the unexpired At-Large term of Paulicia Bender-Gamble. Mr. Keeler's term begins immediately, and will expire October 2, 2010.

#### *Downtown Business Improvement District Advisory Board*

Appointment of Michael Motley, 6121 Tumbleweed Terrace, to fill the unexpired term of John Struve. Mr. Motley's term begins immediately, and will expire December 31, 2009.

#### *Riley County Solid Waste Management Committee*

Recommendation of Jill Dalton, 1816 Erickson Street, to fill the unexpired City of Manhattan term of Karen McCulloh.

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

## GENERAL AGENDA

### AMENDMENT NO. 2/GRANT APPLICATION – NISTAC IMPROVEMENTS

Lauren Palmer, Assistant City Manager, presented an overview of the item. She then responded to questions from the Commission.

Kent Glasscock, President, National Institute for Strategic Technology Acquisition and Commercialization (NISTAC), responded to questions from the Commission regarding Kansas State University's investment.

Ron Fehr, City Manager, provided background information on the history of the Kansas Entrepreneurial Center (KEC), the history of the K-State Research Park, the land lease agreement, and then updated the Commission on NanoScale, a spin-off company from NISTAC.

Lauren Palmer, Assistant City Manager, provided clarification on abatements and usage of the property being a factor in the application of abatements.

## GENERAL AGENDA (CONTINUED)

### AMENDMENT NO. 2/GRANT APPLICATION – NISTAC IMPROVEMENTS (CONTINUED)

Commissioner Strawn provided financial information on NISTAC's form 990, Internal Revenue Service tax reporting form, and stated that the City of Manhattan has invested enough public money in the Manhattan/K-State Innovation Center. He then asked the City Manager to re-evaluate whether it is appropriate for him to be on the NISTAC's Board of Directors, given the City's new Code of Ethics policy.

Dee Robert Ross, 2304 Brockman Street, voiced concern that taxpayer's dollars were used to fund NISTAC and Manhattan Holdings. He was also concerned that the City Manager is on the NISTAC board as well as other members that work at Kansas State University.

After discussion, Commissioner Snead moved to authorize City Administration to submit a grant application to the Kansas Bioscience Authority in an amount not to exceed \$1,025,000.00 to build out the unfinished pilot space at the Manhattan/K-State Innovation Center and, authorize the Mayor and City Clerk to execute the Second Amendment to the Economic Development Agreement with NISTAC. Commissioner Sherow seconded the motion.

Commissioner Snead stated that citizens had voted to use sales tax dollars for economic development purposes and that the request is consistent with our goals. He said that the City has made a reasonable and prudent investment and appointment to this board, which protects the City's investment and provides feedback.

Kent Glasscock, President, NISTAC, responded to questions from the Commission regarding payments received in 2006, the creation of jobs, and the operation of NISTAC.

Commissioner Strawn moved that the item be tabled to allow additional time for NISTAC to provide the Commission with a detailed financial briefing based on tax records and to better understand the financial position of the company.

Ron Fehr, City Manager, provided additional information about the Kansas Entrepreneurial Center (KEC), leasehold improvements made, and the need for wet lab space in our community.

Commissioner Phillips stated the importance in creating partnerships with K-State, the City, and with the Manhattan Area Chamber of Commerce to create higher paying jobs in our community. He said not finishing this last piece for lab space in the facility may send the wrong message that we are not fully welcoming biotech companies and other NBAF related businesses and, that this is an opportunity to recruit more prestigious research businesses to K-State and to Manhattan.



## GENERAL AGENDA (CONTINUED)

### AMENDMENT NO. 2/GRANT APPLICATION – NISTAC IMPROVEMENTS (CONTINUED)

Commissioner Sherow stated that this is an opportunity for us to add to our capital investment of a City-owned facility and is a sensible investment in terms of economic development. He stated that he wanted to see the facility built-out to peak capacity.

Commissioner Strawn withdrew his motion to table the item.

Mayor Hatesohl stated that the value of the City's contribution would be better used to help grow businesses and to finish out the building.

Commissioner Snead stated that he was comfortable with the item, as proposed, especially with the ability to leverage funds from the Kansas Bioscience Authority.

After additional discussion, on a roll call vote, motion carried 4-1, with Commissioner Strawn voting against the motion.

### PUBLIC HEARING - FINAL PRELIMINARY DESIGN REPORT/KDHE LOAN APPLICATION - WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION PROJECT (SP0705)

Dale Houdeshell, Director of Public Works, introduced the item.

Mayor Hatesohl opened the public hearing on the item.

Hearing no comments, he closed the public hearing.

### FINAL PRELIMINARY DESIGN REPORT/KDHE LOAN APPLICATION - WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION PROJECT (SP0705)

Patrick McCole, Carollo Engineers, presented information on the existing plant, the existing design criteria, population projection comparisons, flow projections, wastewater contributors and characteristics, regulatory considerations, impact of nutrients, regulatory guidelines, treatment limit scenarios, project schedule, economic impact analysis, affordability analysis, technology selection process, process construction cost comparisons and distributions, and project funding scenarios. He then responded to questions from the Commission regarding the current process compared to the process being recommended, chemical and energy costs, and questions regarding energy usage and conservation measures that would be implemented.

Ron Fehr, City Manager, responded to questions from the Commission regarding project financing and stated that the proposal would require a proposed rate increase that would be part of the 2010 budget deliberations.

GENERAL AGENDA (CONTINUED)

FINAL PRELIMINARY DESIGN REPORT/KDHE LOAN APPLICATION -  
WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION  
PROJECT (SP0705) (CONTINUED)

After discussion, Commissioner Snead moved to approve the Final Preliminary Design Report for the Wastewater Treatment Plant Upgrade and Expansion Project (SP0705) and authorize City Administration to proceed with bidding the project when plans and specifications are finalized. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 9:15 p.m. the Commission adjourned.

  
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Gary S. Fees, MMC, City Clerk