



MINUTES
CITY COMMISSION MEETING
TUESDAY, JUNE 7, 2011
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor James E. Sherow and Commissioners Loren J. Pepperd, John Matta, Wynn Butler, and Richard B. Jankovich 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, 13 staff, and approximately 130 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

MAYOR'S COMMUNITY SERVICE AWARDS

Mayor Sherow recognized Howard Harrison, Nick Arena, Heidi Mosher, and Lorne Render, recipients of the Mayor's Community Service Award.

PROCLAMATIONS

Mayor Sherow proclaimed June 10-11, 2011, *Relay for Life of Riley County Days*. Nick Arena and Heidi Mosher, Co-Chairs, Riley County Relay for Life Planning Committee, were present to receive the proclamation.

Mayor Sherow proclaimed June 18, 2011, *Juneteenth*. Don Slater, Chair, Juneteenth Committee, and Master Sergeant King and Jonathon Anderson, Juneteenth Committee members, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Sherow opened the public comments.

PUBLIC COMMENTS (CONTINUED)

Russel Weisbender, 700 Fairman Drive, voiced concerns with the recent flooding occurring along Wildcat Creek River and informed the Commission that he has been flooded three times; each time it has been progressively worse. He urged the Commission to look at development along Wildcat Creek and the influence it is having. He also asked for aid to be sought for those that were affected by the flooding.

Mayor Sherow informed the community that the Commission received an update during Discussion/Briefing on the recent flooding events and current status of the situation.

Marti Meek, 155 Bethany Drive, expressed her appreciation to the City Commission and to the Fire Department personnel that warned and assisted them in time to remove a sleeping toddler from a crib downstairs. She informed the Commission that the flooding is getting worse and asked for help in addressing a huge problem to prevent the loss of property and the potential loss of lives.

Myron Calhoun, 2001 Dunbar Road, expressed concerns with the 100-year flood plain and stated that something needs to be done to resolve the issue.

Ladonna Piper, 939 Village Drive, informed the Commission that her home was placarded due to the flood and appreciated the Fire Department's help. She stated that she has not experienced flooding before and asked for help.

Brice Ebert, Vice President, Alliance Property Management, voiced concerns in handling flooding problems of this magnitude and asked for advice and assistance from the City.

Joey Hoke, 929 Village Drive, provided information on the flooding damage to his property and thanked the Manhattan Fire Department. He requested that remedies be looked at to provide advanced warnings and to provide a monitoring flow measurement system for Wildcat Creek.

Jerome Berry, 157 Bethany Drive, informed the Commission that he had over two feet of water in the living area of his house and that their furniture and majority of clothing were not salvageable. He expressed concerns with the flooding experienced and informed the Commission that he has lived in this house for 20 years without worrying about flooding until recently.

Stan Hoerman, 2021 Bluehills Road, informed the Commission that he grew up in south Manhattan and provided information on Wildcat Creek. He stated that the solution is to clean out the trees in Wildcat Creek, with cooperation from the City, the County, and the federal government.

PUBLIC COMMENTS (CONTINUED)

Pat Keating, 156 Bethany Drive, informed the Commission that up until two years ago, he hadn't experienced any problems with water. He voiced concerns with something major happening in the area during the last few years and asked that the issue be addressed.

Will Tiao, Co-Owner, Evergreen Apartments, informed the Commission on the damage sustained from last year's flooding event and provided an update on the water damage to their property and to the property of their tenants. He provided additional background information on the issue and voiced concerns with the stormwater and damage experienced to their property. He urged that the City take responsibility for what is happening and to be proactive.

Robert Buel, 2916 Tattarrax Drive, Owner, Garden Way Apartments, voiced concerns with the recent flooding and downstream issues associated with the Optimist fields. He asked to look into a community emergency response system to better respond to help people and save buildings from damage.

Sonja Berry, 157 Bethany Drive, thanked the Manhattan Fire Department for their assistance, but stated that she did not want this to happen again. She voiced concern with the development along Wildcat Creek and wanted assurance that this will not happen again.

Charly Pottorff, property owner, 3761 Cumberland Road, informed the Commission that he had more water at his property this year than he did last year and voiced concerns with the additional construction that has occurred. He stated that something needs to be done and recommended a moratorium on construction in this area until it is figured out.

After discussion and comments of the Commission, Ron Fehr, City Manager, responded to questions from the Commission. He provided additional information on the item regarding notifications, discussed the after action review plan by the agencies involved, explained the emergency declaration process, discussed the need for future initiatives to coordinate volunteer clean-up efforts, and discussed initiatives to take a community and multi-jurisdictional approach to look at the watershed area and options to deal effectively with events in the future.

Jerry Snyder, Director of Fire Services, provided additional information on assessments for the properties flooded to-date and informed the Commission that they are waiting for additional data.

Karen Davis, Director of Community Development, provided information on Federal Emergency Management Agency (FEMA) and the potential eligibility requirements.

PUBLIC COMMENTS (CONTINUED)

After additional discussion and comments of the Commission, Mayor Sherow thanked everyone for their comments and informed the community that the Commission will take a proactive approach to find a prudent, well-thought out plan. Hearing no other comments, Mayor Sherow closed the public comments.

COMMISSIONER COMMENTS

Commissioner Jankovich commended the K-State Flying Club in hosting an excellent fly-in at the Manhattan Regional Airport. He wished Mayor Sherow a happy birthday, on June 8, 2011.

Mayor Sherow commended City staff, agencies, and the many volunteers that worked during the recent devastating flooding. He extended birthday greetings to the previous mayor, Bruce Snead.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, May 17, 2011.

CLAIMS REGISTER NO. 2673

The Commission approved Claims Register No. 2673 authorizing and approving the payment of claims from May 11, 2011, to May 31, 2011, in the amount of \$6,351,832.66.

LICENSES

The Commission approved a Tree Maintenance License for calendar year 2011 for Sedalia Terra Bellus, 1228 Westloop Place #317; an annual Cereal Malt Beverage Off-Premises License for Little Apple Express, 809 N. 3rd Street; and a Fireworks Display Application for Rainbow Fireworks, 76 Plum Avenue, Inman, Kansas, at CiCo Park, on July 4, 2011.

ORDINANCE NO. 6898 – ANNEX – PORTIONS OF SCENIC DRIVE AND ANDERSON AVENUE

The Commission approved Ordinance No. 6898 annexing portions of Scenic Drive and Anderson Avenue rights-of-way, as requested by Board of Riley County Commissioners.

CONSENT AGENDA (CONTINUED)

FIRST READING - REPEAL - REGULATING FAMILY DAY CARE HOMES

The Commission approved first reading of an ordinance repealing Ordinance No. 6806 related to the regulation of family day care homes.

* **PETITION – CREATE - SOUTH PROJECT AREA TRANSPORTATION DEVELOPMENT DISTRICT**

Jason Hilgers, Assistant City Manager, responded to questions from the Commission and provided clarification on the item.

The Commission ratified the Mayor's signature on the petition and found the petition sufficient for the South Project Area Transportation Development District.

* **RESOLUTION NO. 060711-A – SET PUBLIC HEARING DATE - SOUTH PROJECT AREA TRANSPORTATION AREA DEVELOPMENT DISTRICT**

Jason Hilgers, Assistant City Manager, responded to questions from the Commission and provided clarification on the item.

The Commission approved Resolution No. 060711-A setting the date for a public hearing relative to the creation of the South Project Area Transportation Area Development District.

* **FIRST READING – CREATE - SOUTH PROJECT AREA TRANSPORTATION DEVELOPMENT DISTRICT**

Jason Hilgers, Assistant City Manager, responded to questions from the Commission and provided clarification on the item.

The Commission approved first reading of an ordinance creating the South Project Area Transportation Development District.

RESOLUTION NO. 060711-B - REVISED PETITION – MILLER RANCH, UNIT THREE, PHASE TWO, STREET IMPROVEMENTS (ST1102)

The Commission found the revised petition sufficient and approved Resolution No. 060711-B, rescinding Resolution No. 071106-E and finding the project advisable and authorizing construction for Miller Ranch, Unit Three, Phase Two, Street Improvements (ST1102).

CONSENT AGENDA (CONTINUED)

SUBMIT APPLICATIONS – GEOMETRIC IMPROVEMENT AND “KLINK” RESURFACING PROGRAM

The Commission authorized City Administration to submit applications for Geometric Improvement and “KLINK” Resurfacing Programs for fiscal year 2014 to the Kansas Department of Transportation.

AWARD CONTRACT – STREET MAINTENANCE PROJECT, CONCRETE PANEL REPLACEMENT (ST1105)

The Commission awarded a construction contract in the total amount of \$281,465.00 for the Street Maintenance Project, Concrete Panel Replacement (ST1105) to Carley Construction, of Wamego, Kansas.

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AWARD CONTRACT – STREET MAINTENANCE, ASPHALT MILL AND OVERLAY PROJECT (ST1106)

Commissioner Jankovich announced he had a conflict of interest and would abstain from voting on this item.

The Commission awarded a contract in the amount of \$537,628.75 to Shilling Construction Company, Inc., of Manhattan, Kansas, for the 2011 Street Maintenance, Asphalt Mill and Overlay Project (ST1106).

AWARD CONTRACT – CLAFLIN ROAD AND BEECHWOOD TERRACE INTERSECTION IMPROVEMENT (ST1015)

The Commission accepted the Engineer’s Estimate in the amount of \$555,872.90 and awarded a construction contract in the amount of \$494,849.70 to the low bidder, Emery Sapp and Sons. Inc., of Columbia, Missouri, for the Claflin and Beechwood Terrace Intersection Improvement (ST1015).

PURCHASE EQUIPMENT - SETH CHILD INTELLIGENT TRANSPORTATION SYSTEM PROJECT (SP1106)

The Commission authorized City Administration to purchase the equipment for the Seth Child Intelligent Transportation System Project (SP1106) in the amount of \$47,367.50, from Gades Electric Inc., of Wichita, Kansas.

AWARD CONTRACT – AGGIEVILLE PEDESTRIAN RELAMPING PROJECT (SP1103)

The Commission awarded the Aggieville Pedestrian Relamping Project (SP1103) in the amount of \$58,880.00 to IES Commercial Inc., of Holdrege, Nebraska, to be paid from the Energy Efficient Community Block Grant.

CONSENT AGENDA (CONTINUED)

* **AWARD CONTRACT - LEE MILL HEIGHTS, UNIT THREE, PHASE 2, AND UNIT FOUR, PHASE 3 - STREET (ST1101), SANITARY SEWER (SS1102), WATER (WA1102), AND STORM WATER (SM1101) IMPROVEMENTS**

Commissioner Jankovich announced he had a conflict of interest and would abstain from voting on this item.

The Commission accepted the Engineer's Estimate in the amount of \$493,219.00 and awarded a construction contract to Bayer Construction Company, Inc., in the amount of \$465,142.58 for the Lee Mill Heights, Unit Three, Phase 2, and Unit Four, Phase 3, Street (ST1101), Sanitary Sewer (SS1102), Water (WA1102), and Storm Water (SM1101) improvements.

* **CHANGE ORDER NO. 6 – WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION PROJECT (SP0705)**

Commissioner Jankovich announced he had a conflict of interest and would abstain from voting on this item.

The Commission approved Change Order No. 6 to the Wastewater Treatment Plant Upgrade and Expansion Project (SP0705), resulting in a net increase in the amount of \$301,976.00 (+1.5%) to the contract with Walters-Morgan Construction, Inc., of Manhattan, Kansas.

CHANGE ORDER NO. 5 – WATER TREATMENT EXPANSION PROJECT (WA0611)

The Commission approved Change Order No. 5 to the Water Treatment Expansion Project (WA0611), resulting in a net increase in the amount of \$334,744.00 (+4.2%) to the contract with Grimm Construction, Inc., of Gardner, Kansas.

CONTRACT AMENDMENT – RIGHT-OF-WAY ACQUISITION SERVICES - KONZA WATER MAIN EXTENSION (WA1006)

The Commission approved Contract Amendment No. 3 to the Agreement with Schwab Eaton, P.A., of Manhattan, Kansas, in the amount of \$58,950.00 for right-of-way acquisition services for the Konza Water Main Extension (WA1006).

CONTRACT ADDENDUM – PRODUCTION READY ART AND ILLUSTRATIONS FOR THE FLINT HILLS DISCOVERY CENTER

The Commission authorized the Mayor and City Clerk to execute a contract addendum with Verner Johnson, Inc., of Boston, Massachusetts, in an amount not to exceed \$131,000.00 for Production Ready Art and Illustrations for the exhibits of the Flint Hills Discovery Center.

CONSENT AGENDA (CONTINUED)

APPLICATION– TAKE CHARGE CHALLENGE AWARD GRANT

The Commission authorized City Administration to submit the Take Charge Challenge Award grant application to the Kansas Energy Office according to the priorities recommended by City Administration (*See Attachment No. 1*) and authorized the Mayor and City Clerk to execute the grant agreement and any other documents necessary to access the grant funds, if awarded.

BOARD APPOINTMENTS

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

Airport Advisory Board

Re-appointment of Jackie L. Hartman, 110 Anderson Hall, to a three-year KSU term. Ms. Hartman's term will begin June 27, 2011, and will expire June 26, 2014.

Re-appointment of Ken Mortensen, 702 North Washington, Junction City, to a three-year Junction City term. Mr. Mortensen's term will begin June 27, 2011, and will expire June 26, 2014.

Appointment of Jeff Hancock, 6353 Harbour Haven Drive, to fill the unexpired At-Large term of John Roberts. Mr. Hancock's term begins immediately, and will expire June 26, 2012.

Appointment of Dick Hayter, 1920 Grandview Drive, to fill the unexpired Chamber term of Richard Jankovich. Mr. Hayter's term begins immediately, and will expire June 26, 2012.

Code Appeals Board

Re-appointment of Anthony Allison, 1120 Hostetler Drive, to a three-year Master Electrician term. Mr. Allison's term begins immediately, and will expire May 31, 2014.

Re-appointment of Steve Kirby, 8838 Quail Lane, to a three-year Journeyman Plumber term. Mr. Kirby's term begins immediately, and will expire May 31, 2014.

Re-appointment of Warren Martin, 1906 Hayes Drive, to a three-year Journeyman Mechanic term. Mr. Martin's term begins immediately, and will expire May 31, 2014.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Historic Resources Board

Appointment of Mike Mesceri, 1015 Leavenworth Street, to a three-year Historic Preservation/Architectural Designer term. Mr. Mesceri's term begins immediately, and will expire April 30, 2014.

Housing Appeals Board

Re-appointment of Mark Bachamp, 1213 Hylton Heights, Ste. 129, to a three-year term. Mr. Bachamp's term will begin July 1, 2011, and will expire June 30, 2014.

Re-appointment of William Muir, 2040 Shirley Lane, to a three-year term. Mr. Muir's term will begin July 1, 2011, and will expire June 30, 2014.

Appointment of Derek Richards, 321 North 14th Street, to a three-year term. Mr. Richard's term will begin July 1, 2011, and will expire June 30, 2014.

Neighborhood Grant Review Committee

Re-appointment of Sara Fisher, 811 Osage Street, to a one-year term. Ms. Fisher's term begins immediately, and will expire December 31, 2011.

Parks and Recreation Advisory Board

Appointment of Ashalen Sims, 827 Colorado Street, Apt. No. 1, to a four-year term. Ms. Sim's term will begin July 1, 2011, and will expire June 30, 2015.

After discussion, Commissioner Jankovich moved to approve the consent agenda, as presented. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item J, AWARD CONTRACT – STREET MAINTENANCE, ASPHALT MILL AND OVERLAY PROJECT (ST1106); Item N, AWARD CONTRACT - LEE MILL HEIGHTS, UNIT THREE, PHASE 2, AND UNIT FOUR, PHASE 3 - STREET (ST1101), SANITARY SEWER (SS1102), WATER (WA1102), AND STORM WATER (SM1101) IMPROVEMENTS; and Item O, CHANGE ORDER NO. 6 – WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION PROJECT (SP0705), which carried 4-0-1 with Commissioner Jankovich abstaining from the items due to a conflict of interest.

GENERAL AGENDA

FIRST READING – AMEND - RESIDENTIAL RENTAL LICENSING AND INSPECTION PROGRAM

Brad Claussen, Building Official, presented an overview on the item. He then responded to questions from the Commission regarding repeal of the current ordinance, amending the current program, the inspection and registration process, refunding policy, recommended inspections and process, program costs, and provided additional information and components of the amended program.

Jerry Snyder, Director of Fire Services, and Brad Claussen, Building Official, responded to additional questions from the Commission.

Regina Schroeder, President, Emerald Property Management, responded to questions from the Commission and provided clarification on the item.

Gary Olds, 3308 Frontier Circle, stated that the International Property Maintenance Code applies to all properties and that if an inspection fee is going to be imposed, then all businesses should pay an inspection fee to maintain a level playing field for all businesses.

Robert Buel, 2916 Tatarax Drive, provided additional information on the item and informed the Commission that he liked the idea of everyone paying for a property inspection and that some kind of inspection would be good for all properties.

Dave McFarland, 2030 Hunting Avenue, asked the Commission to consider the benefits the current ordinance provides to ensure the safety and health of the renters. He also voiced concerns with mold issues and presented examples of poor housing.

Dixie West, 1014 Houston Street, Rental Inspection Committee member, stated that the bottom line is providing safety for a large population in the community. She encouraged the Commission to consider addressing issues related to mold and plumbing inspections and to not repeal the current ordinance.

Stan Hoerman, 2021 Blue Hills Road, provided examples of tenant deaths that would not have been prevented with a rental inspection program. He stated that tenants should be required to take a safety course and fined if they remove batteries from smoke detectors.

Tim Davenport, 3004 Pecanwood Drive, Manhattan firefighter, informed the Commission that the inspection program provides a safe place for everyone, including the firefighters and tenants.

Richard Hill, 3513 Stagecoach Circle, stated the need for safety in owner-occupied homes too and asked the Commission to repeal the current ordinance. He then responded to questions from the Commission about registered versus licensed.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - RESIDENTIAL RENTAL LICENSING AND INSPECTION PROGRAM (CONTINUED)

Anne Hill, 1518 Barrington Drive, asked what penalties are imposed for those not registering their properties and asked why it is a crime for a landlord to make a profit. She then questioned the fairness of the current program and three-year inspection proposal.

Roger Seymour, 1181 Rock Springs Lane, asked the Commission to repeal the ordinance and stated that every property is inspected every time it sells. He stated that if tenants are old enough to get a driver's license, they should be old enough to pick a safe rental. He encouraged the need for a registration of every tenant in every property.

Larry Limbocker, 2108 Snowbird Drive, recommended the Commission scrap the Rental Inspection Program and start over. He stated that the ordinance needs to be repealed and that a licensing structure is not needed.

Brad Claussen, Building Official, provided additional information on notices to landlords and fines for code violations.

Felicia Benedetto, renter in Manhattan, informed the Commission that the current inspection program is successful and that landlords defer the fees back to the tenants. She stated that renting in Manhattan is more expensive than in Kansas City and asked the Commission to protect renters in the community.

Conn Harrison, 8720 Hughes Road, informed the Commission that he was supportive of fire inspections for all properties and asked that the current ordinance be repealed. He asked that additional consideration be given to tenant education and responsibilities.

JoAnn Sutton, Executive Director, Manhattan Housing Authority, informed the Commission that she served as an ex-officio on the Rental Inspection Committee and that there are tenants that are afraid to call the Code Office in fear of retaliation from their landlord. She stated that there are good landlords and some that are not so good.

Rick Roffler 1006 Karla Lane, property owner in Manhattan, stated that this ordinance should be repealed and modified with some kind of registration process.

Russel Weisbender, 700 Fairman Drive, landlord, informed the Commission that this whole program has been blown out of proportion and the landlord community is being punished for the sins of a few. He stated that his biggest problem has been with tenant's being destructive and asked that the current ordinance be repealed.

Bill Frost, City Attorney, responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - RESIDENTIAL RENTAL LICENSING AND INSPECTION PROGRAM (CONTINUED)

After discussion and comments of the Commission, Commissioner Matta moved to approve first reading of an ordinance repealing the Residential Rental Inspection and Licensing Program and to direct City staff to come back to the Commission within 90 days with possible amendments to the program, along the fire inspection process and tiered for larger units being inspected, with the main point to repeal the current Rental Inspection Ordinance. Commissioner Pepperd seconded the motion.

After additional discussion of the Commission, Ron Fehr, City Manager, responded to questions from the Commission regarding fees for annual commercial fire inspections.

Commissioner Pepperd called for the question on the motion. On a roll call vote, motion failed 3-2, with Mayor Sherow and Commissioners Butler and Jankovich voting against the request.

After discussion of the Commission, Bill Frost, City Attorney, provided clarification on the procedure and motion on the table to repeal.

After additional discussion of the Commission and clarification of the motion, on a roll call vote, motion failed 3-2, with Mayor Sherow and Commissioners Butler and Jankovich voting against the motion.

After additional discussion of the Commission, Commissioner Butler moved to approve first reading of an ordinance amending the Residential Rental Inspection and Licensing Program using the life safety model. Commissioner Jankovich seconded the motion.

Mayor Sherow clarified that this motion would include life safety inspections.

After discussion, on a roll call vote, motion carried 3-2, with Commissioners Pepperd and Matta voting against the motion.

At 10:05 p.m., the Commission took a brief recess.

Ron Fehr, City Manager, responded to questions from the Commission regarding opportunities for additional input and timing of second reading of the ordinance to amend the Residential Rental Inspection and Licensing Program.

CONTRACT – DESIGN SERVICES - POYNTZ AVENUE IMPROVEMENTS

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

GENERAL AGENDA (CONTINUED)

CONTRACT – DESIGN SERVICES - POYNTZ AVENUE IMPROVEMENTS (CONTINUED)

Ron Fehr, City Manager, informed the Commission that the scope will include working with Downtown Manhattan, Inc., (DMI) to establish priorities for improvements.

Gina Scroggs, Executive Director, DMI, provided additional information on the priority for Poyntz Avenue projects and responded to questions from the Commission.

After discussion, Commissioner Jankovich moved to authorize the Mayor and City Clerk to execute a contract for the initial phase design in the amount of \$41,120.00 with Bowman, Bowman, Novick, of Manhattan, Kansas, for the Poyntz Avenue improvements. Commissioner Butler seconded the motion.

After additional discussion, on a roll call vote, motion carried 5-0.

FIRST READING - PUSH CART MOBILE FOOD VENDING - and - PEDDLERS LICENSE REVISIONS

Lauren Palmer, Assistant City Manager, presented background information on the item. She then responded to questions from the Commission regarding licensing and required clearance on public sidewalks.

Ralph DeZago, Owner, pushcart mobile food business, informed the Commission that the proposed ordinance addresses earlier concerns and was well crafted. He asked about the proration of fees if a business starts in the middle of the year and provided additional information on his operations.

Bart Thomas, 5640 Anderson Avenue, representing a number of Aggieville business owners, voiced concerns with the proposed ordinance and stated that many businesses have expressed concerns with allowing this to happen. He read a prepared statement from Dennis Erickson with Burger King in Aggieville, voicing his concerns in allowing food push carts and negative impact on local businesses.

Ewing Evans, Owner, Big D Burger Shack, informed the Commission that he has made a substantial financial commitment in this community and that it is an unfair advantage for a push cart vendor to sell food next to him and other restaurants. He asked that this be a level playing field for those that have made a financial addition to the community. He then responded to questions from the Commission.

Ralph DeZago, Owner, pushcart mobile food business, informed the Commission that he works only on Saturdays and provided additional information on the food inspection of his business.

GENERAL AGENDA (CONTINUED)

FIRST READING - PUSHCART MOBILE FOOD VENDING - and - PEDDLERS LICENSE REVISIONS (CONTINUED)

Lauren Palmer, Assistant City Manager, provided clarification on the food inspections conducted by the State of Kansas.

Ewing Evans, Owner. Big D Burger Shack, provided additional information on the item.

Gina Scroggs, Executive Director, DMI, provided additional information on the item and voiced appreciation for the restrictions that have been made to the ordinance. She stated that restaurants provide a huge portion of the vitality downtown and businesses believes this promotes an unfair advantage.

Katie Jackson, Assistant City Attorney, and Lauren Palmer, Assistant City Manager, responded to questions from the Commission on the ability for restaurants to provide food push carts, potential of waived or discounted fees, food inspections, and the distinction between public and private property.

After discussion, Commissioner Jankovich moved to approve Ordinance No. 6894 repealing the existing mobile food vending ordinance; and to approve Ordinance No. 6895 amending Chapter 24 relating to canvassers, peddlers, and solicitors. Commissioner Matta seconded the motion.

Ron Fehr, City Manager, and Lauren Palmer, Assistant City Manager, responded to questions from the Commission.

After discussion, on a roll call vote, motion failed 3-2, with Mayor Sherow and Commissioners Pepperd and Butler voting against the motion.

After additional discussion of the Commission, Commissioner Butler moved to approve Ordinance No. 6894 repealing the existing mobile food vending ordinance; approve Ordinance No. 6895 amending Chapter 24 relating to canvassers, peddlers, and solicitors; and approve first reading of the new mobile food vending ordinance, subject to adjustments at second reading of the ordinance. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 3-2, with Commissioners Matta and Jankovich voting against the motion.

FIRST READING - REPEAL - DRIVING WHILE LISTENING OR TALKING ON WIRELESS COMMUNICATION DEVICES

Katie Jackson, Assistant City Attorney, provided a brief presentation on the item. She then responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING - REPEAL - DRIVING WHILE LISTENING OR TALKING ON WIRELESS COMMUNICATION DEVICES (CONTINUED)

John Doehling, Assistant Director, Riley County Police Department, asked the Commission to retain the ordinance because of safety and the dangers in driving while talking on a cell phone. He stated that the driver's attention is diverted from the task at hand and said the ordinance also allows officers to be proactive with distracted drivers. He then responded to questions from the Commission about inattentive driving.

Bill Frost, City Attorney, provided additional information on inattentive driving.

Ron Fehr, City Manager, responded to questions from the Commission regarding additional signage within the city and potential locations for signs.

Katie Jackson, Assistant City Attorney, provided clarification on the definition of bicycles as identified in the ordinance.

David Pauls, 3604 Brenda Court, asked if bicycles have to abide by the same laws as motor vehicles.

Bill Frost, City Attorney, provided additional information on the Standard Traffic Ordinance and applicability of bicycles and motor vehicles.

After discussion, Commissioner Matta moved to approve first reading of an ordinance repealing the provision of the City's 2010 Standard Traffic Ordinance that relates to listening or talking on a wireless communication device while driving. Commissioner Pepperd seconded the motion. On a roll call vote, motion failed 3-2, with Mayor Sherow and Commissioners Butler and Jankovich voting against the motion.

EXECUTIVE SESSION

At 11:36 p.m., Commissioner Pepperd moved to recess into Executive Session until 11:50 p.m., for the purpose of discussing matters, that presently need to remain confidential, and are related to employer-employee negotiations between City Administration and Local 2275, International Association of Fire Fighters, the Union representing certain members of the Manhattan Fire Department. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION (*CONTINUED*)

At 11:50 p.m., the Commission reconvened with Mayor Sherow and Commissioners Pepperd, Matta, Butler, and Jankovich in attendance. Commissioner Pepperd moved to come out of Executive Session. Commissioner Matta seconded the motion. On vote motion carried 5-0.

At 11:51 p.m., Commissioner Pepperd moved to recess into Executive Session until 12:10 a.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 Jankovich seconded the motion. On vote, motion carried 5-0.

At 12:10 a.m., the Commission reconvened with Mayor Sherow and Commissioners Pepperd, Matta, Butler, and Jankovich in attendance.

ADJOURNMENT

Commissioner Pepperd moved to adjourn. Commissioner Matta seconded the motion. On vote, motion carried 5-0. At 12:10 a.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

Attachment No. 1

1. Investment Grade Audit - \$66,494

On April 5, 2011, the City Commission approved a lease-purchase agreement to finance approximately \$1.3 million of energy efficiency improvements through Kansas Energy Office's Facility Conservation Improvement Program (FCIP). As part of this program, an Investment Grade Audit (IGA) was performed to determine potential projects and associated energy/cost savings to develop a scope of work and financing package. The KEO has indicated that the cost of the IGA is eligible for reimbursement through Take Charge Challenge award funds. The award will help offset the City's existing lease-purchase payments. Construction costs for any projects included in the program are not eligible.

2. City Hall Steam Modifications - \$33,500

This is a project that was identified in the IGA but was not included in the final FCIP scope of work due to funding limitations. Modifications will be made to the air handling units in City Hall and City Auditorium to reduce the use of the steam boiler. The changes represent an economical modification that will reduce natural gas use without committing to significant heating/ventilation/air conditioning (HVAC) changes.

3. Airport Terminal HVAC Improvements - \$100,000

This is another project that was identified in the IGA but was not included in the FCIP due to timing conflicts with the Terminal Area Master Plan (TAP) that is in progress. The terminal is heated and cooled by seven rooftop units that have reached life expectancy and have required recent maintenance. These would be replaced with high efficiency units pending the outcome of the TAP. City Administration wants to ensure that the replacement units are compatible with any changes to the terminal that are recommended in the TAP. The award funds would be used to offset the full cost of the replacement units, which is estimated at \$112,000.

4. Traffic Synchronization - \$100,000

The City Commission has already designed \$100,000 of entitlement EECBG funds for synchronizing traffic signals along key traffic corridors. This work improves traffic flows and reduces the amount of vehicle idle time at intersections, thereby reducing energy consumption. The award funds could be directed to the City Engineer to identify the best areas in which to maximize the funds for traffic synchronization. Potential corridors include the Tuttle Creek Corridor from McCall Road to Marlatt Avenue, West Anderson from K-113 to Westport Road, and Kimball Avenue from K-113 to North Manhattan Avenue.

City Administration recommends applying for award funds in this priority order, beginning with projects 1 and 2. If those projects are rejected, City Administration will reapply for project 3, and so on.