



MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, JANUARY 10, 2012
7:00 P.M.

The Special 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, 10 staff, and approximately 55 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

MAYOR'S COMMUNITY SERVICE AWARDS

Mayor Sherow recognized Bryan Freed and Mandy Mills, recipients of the Mayor's Community Service Award.

PROCLAMATION

Mayor Sherow proclaimed January 16, 2012, *Dr. Martin Luther King, Junior, Day of Service*. Larry Fry, Member, Manhattan Martin Luther King Memorial Committee, was present to receive the proclamation.

PUBLIC COMMENTS

Mayor Sherow opened the public comments.

Hearing no comments, Mayor Sherow closed the public comments.

COMMISSIONER COMMENTS

Commissioner Jankovich announced that the Wildcat Creek Watershed Working Group would be meeting on Thursday, January 12, 2012, at 7:00 p.m., in the City Commission Room and that the public is invited to attend.

Mayor Sherow provided an overview of items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission reviewed calendars; discussed agenda items for the Joint City/County Meeting to be held on Thursday, January 19, 2012; reviewed the upcoming Chamber Leaders' Retreat to be held on January 13 and 14, 2012, in Overland Park, Kansas; discussed the City Commission Retreat and Goal Setting Session scheduled to begin at 12:00 Noon at the Flint Hills Discovery Center on January 20, 2012; discussed future items for City Commission Work Sessions; and reviewed input received and discussed future follow-up on the Housing Round Table conference.

Gary Fees, City Clerk, provided an update on the web streaming of City Commission meetings and vendor change to CivicPlus in order to achieve cost savings. He informed the community that the redesign of the City's website created by CivicPlus is nearing completion and that the new site is planned to launch on Thursday, January 12, 2012. He stated that the new domain for the City's website would be www.cityofmhk.com.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, December 20, 2011.

* CLAIMS REGISTER NO. 2687

Bernie Hayen, Director of Finance, responded to questions from the Commission regarding farm expenses listed in the Claims Register.

Peter Van Kuren, Airport Director, provided additional information on the item. He informed the Commission that the City of Manhattan has an agreement with a farmer and that costs and proceeds on the land being farm are shared.

The Commission approved Claims Register No. 2687 authorizing and approving the payment of claims from December 14, 2011, to December 30, 2011, in the amount of \$3,500,989.65.

CONSENT AGENDA (CONTINUED)

LICENSE

The Commission approved an annual Cereal Malt Beverage Off-Premises License for Ampride, 215 East Poyntz Avenue.

FINAL PLAT – LSB ADDITION, UNIT ONE

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of LSB Addition, Unit One, generally located northeast of the Gary Avenue and Candlewood Drive roundabout, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FIRST READING – CLARIFY LANGUAGE – NORTH END REDEVELOPMENT PLATS

The Commission approved first reading of an ordinance clarifying language on multiple plats within the North End Redevelopment area.

AWARD CONTRACT – CASEMENT ROAD/HAYES DRIVE INTERSECTION (ST1013)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$249,241.50; awarded a construction contract in the amount of \$232,377.12 to Pavers, Inc., of Salina, Kansas; and authorized the Mayor and City Clerk to execute a contract with Pavers, Inc., for Casement Road and Hayes Drive Intersection Improvement (ST1013).

AWARD CONTRACT – LEE MILL HEIGHTS, UNIT SEVEN – WATER (WA1112), SANITARY SEWER (SS1117), AND STREET (ST1110) IMPROVEMENTS

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$1,169,652.00; awarded a construction contract in the amount of \$1,155,324.80 to Larson Construction, of Manhattan, Kansas; and authorized the Mayor and City Clerk to execute the contract with Larson Construction for the Lee Mill Heights, Unit Seven, Water (WA1112), Sanitary Sewer (SS1117), and Street Improvements (ST1110).

BOARD APPOINTMENTS

The Commission approved appointments by Mayor Sherow to the Aggieville Business Improvement District Advisory Board.

Aggieville Business Improvement District Advisory Board

Re-appointment of Scott Bauer, 1911 Montgomery Drive, to a three-year term. Mr. Bauer's term begins immediately, and will expire December 31, 2014.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Aggieville Business Improvement District Advisory Board (CONTINUED)

Re-appointment of Steve Levin, 623 North Manhattan Avenue, to a three-year term. Mr. Levin's term begins immediately, and will expire December 31, 2014.

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

GENERAL AGENDA

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS

Lauren Palmer, Assistant City Manager, provided background information on the item, explained the current process, and presented recommendations and proposed penalties for overcrowding violations. She then responded to questions from the Commission.

Bill Frost, City Attorney, responded to questions from the Commission regarding the definition of a Class A Misdemeanor, the proposed fine structure, and the hearing process.

Ryan Almes, Assistant Fire Chief, responded to questions from the Commission regarding the Fire Department's no tolerance policy toward overcrowding and informed the Commission that they have increased the amount of time spent in Aggieville. He then responded to questions from the Commission.

Bill Frost, City Attorney, and Lauren Palmer, Assistant City Manager, provided additional information on the proposed ordinance and responded to questions from the Commission.

Jerry Snyder, Director of Fire Services, informed the Commission that the Fire Department needs to protect public safety and ensure that overcrowding does not occur. He responded to questions about the proposed ordinance and stated that having a minimum fine, as proposed, would assist in gaining compliance of occupancy limits.

Bill Frost, City Attorney, responded to questions from the Commission regarding the minimum and maximum fine amounts.

Katharine Jackson, Assistant City Attorney, provided clarification on changing the fine levels and classification. She then responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS (CONTINUED)

Lauren Palmer, Assistant City Manager, responded to questions from the Commission regarding the make-up of the Aggieville Safety Committee and on the notifications provided regarding the agenda item.

Evan Tuttle, Executive Director, Aggieville Business Association, informed the Commission that he has participated in the Aggieville Safety Committee meetings and that they have been going on for some time. He stated that the proposed ordinance did not receive strong support and asked that the Aggieville organization be allowed to stand up and take ownership.

Jeff Koenig, owner, Big Poppi Bicycle Company, provided clarification on the Business Improvement District's purpose and efforts to improve the development of the Aggieville District.

Evan Tuttle, Executive Director, Aggieville Business Association, provided suggestions to the Commission regarding Fake Patty's Day. He informed the Commission that if all bar owners would cooperate, a mechanism could be put in place with the use of wrist bands that could pay for overtime and clean-up costs associated with the Fake Patty's Day event.

Ryan Almes, Assistant Fire Chief, provided clarification on the occupancy numbers mentioned in the staff memorandum. He then responded to questions from the Commission on how the numbers are determined for the occupancy load and current practice in dealing with overcrowding.

Katharine Jackson, Assistant City Attorney, responded to additional questions from the Commission regarding the proposed fines and classification as a Class A Misdemeanor.

Rob Goode, owner, So Long Saloon and Taco Lucha, told the Commission that he has been in business in Aggieville for 21 years. He informed the Commission that there was not a consensus with the proposed ordinance and that bar owners have heeded the warning and are taking overcrowding seriously. He also voiced concern in giving additional enforcement power to the Riley County Police Department (RCPD) through the proposed ordinance and stated that the relationship between RCPD and Aggieville has seen better days.

Rusty Wilson, owner, Kite's Grille and Bar, informed the Commission on the importance to understand the ownership and interior of buildings and common ownership. He understood the seriousness of overcrowding and the no tolerance policy from the Fire Department and felt that they have done a remarkable job. He voiced concern giving the Riley County Police Department this type of authority as outlined in the proposed

GENERAL AGENDA (CONTINUED)

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS (CONTINUED)

ordinance and asked not to fight Fake Patty's Day. He suggested finding a compromise with an event having food, tents, and restricted access with the Aggieville merchants to get this accomplished. He then responded to questions from the Commission.

Billy Porter, owner, Porter's, informed the Commission that he discussed a festival approach with the Riley County Police Department and Assistant City Manager Lauren Palmer and started the process to create an LLC. However, he was later informed by RCPD that this would not work. He informed the Commission that the proposed ordinance is not needed and since receiving the letter from the Fire Department regarding overcrowding, everything is working much smoother. He then responded to questions from the Commission and asked for clarification of the staff memorandum regarding the occupancy counts for his business.

Ryan Almes, Assistant Fire Chief, provided additional information on the occupancy counts provided in the staff memorandum.

Shirley Bramhall, member, Aggieville Business Association and Aggieville Safety Committee, expressed concerns with the proposed ordinance and informed the Commission that there was not an overwhelming consensus in support of the ordinance during the Aggieville Safety Committee meeting. She provided additional information on the proposed ordinance and asked the Commission to table the item.

Brent Gallaher, living with owner of Big Poppi Bicycle Shop, voiced concern with the number of increased crimes occurring during Fake Patty's Day and the related issues that are bleeding into the neighborhoods.

Lauren Palmer, Assistant City Manager, clarified the discussion regarding a festival concept for the Fake Patty's Day event and past discussions regarding this event. She informed the Commission that a special event with alcohol needs to be submitted 45 days in advance of the event and requires the City Commission to adopt an ordinance, which would be very challenging for this year given the short timeframe.

Brad Schoen, Director, Riley County Police Department, provided additional information and clarification on the Fake Patty's Day event and situations in Aggieville. He informed the Commission that it would be difficult to have a special event permit with alcohol for a festival event without the support of every business in Aggieville. He stated that he had not seen 100 percent support from businesses in Aggieville and was skeptical that would occur in time for the Fake Patty's Day event this year. He said that if not everyone is on board to do this, then he could not support an event like this. He voiced concern with public safety and impact on the community.

GENERAL AGENDA (CONTINUED)

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS (CONTINUED)

Lauren Palmer, Assistant City Manager, responded to questions from the Commission on the process, requirements, details, and timeline required to obtain a special event permit with and without alcohol.

Jeff Koenig, owner, Big Poppi Bicycle Company, informed the Commission that we have a Fake Patty's Day problem and that it is not going away on its own. He voiced concerns with the Fake Patty's Day event and with people causing problems in the neighborhoods outside of Aggieville, conducting underage house parties and doing whatever they want. He stated that this activity is overwhelming our resources and asked that something be done. He encouraged those in power to walk around the neighborhoods the night of the event and ask the residents if they feel safe.

Shirley Bramhall, member, Aggieville Business Association and Aggieville Safety Committee, informed the Commission that the proposed ordinance item was not being discussed and that a lot of Aggieville businesses are not here tonight due to timing of the agenda item. She informed the Commission that there is a willingness of Aggieville businesses to work together to make this work.

Larry Couchman, Director, Riley County Emergency Medical Services (EMS), informed the Commission that there is a public safety issue with Fake Patty's Day. He stated that EMS sees an increased volume in the Aggieville District during Fake Patty's Day and on Friday and Saturday nights. He reiterated his desire to ensure public safety and stated that it would be difficult to gain consensus.

Elaine Wisdom, 2605 Sumac Drive, property owner around Aggieville, asked that there be a warning issued that drunkenness and underage drinking will be enforced, and that public safety will be maintained.

Jay Risner, 612 Vattier Street, informed the Commission that he and his neighborhood are under siege during Fake Patty's Day. He provided experiences that he and his family have encountered with patrons on Fake Patty's Day and voiced concerns for the safety of his family and his property.

Brett Allred, owner of several bars in Aggieville, informed the Commission that he understands the importance of occupancy loads and keeping them at or under the required limits. He voiced concern with RCPD having the additional authority as outlined in the proposed ordinance and with receiving inconsistent feedback on occupancy counts.

Eric Johnson, Graduate Student, Kansas State University, informed the Commission that technical solutions and sensors could be used to keep an accurate headcount of people.

GENERAL AGENDA (CONTINUED)

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS (CONTINUED)

After discussion and comments from the Commission on the item, Lauren Palmer, Assistant City Manager, responded to questions from the Commission regarding the costs associated with Fake Patty's Day for the Fire Department and the Riley County Police Department. She provided additional information and asked for clarification on the item.

Bill Frost, City Attorney, responded to questions from the Commission and provided clarification on regulating an event and regulating participants in that event. He informed the Commission that finding an entity to be responsible for meeting the requirements would be a big undertaking. He provided additional information for ordinances that would be needed and responded to additional questions from the Commission.

Lauren Palmer, Assistant City Manager; Ron Fehr, City Manager; and Bill Frost, City Attorney, responded to questions from the Commission and provided additional information on the requirements for a special event with alcohol and on the scope of the event.

Evan Tuttle, Executive Director, Aggieville Business Association, informed the Commission that the intent would not be to have a beer garden or glass in the street, but to have an ordinance created that would require the purchase of a wrist band to be able to drink in a bar in Aggieville that day to pay for costs associated with the event.

Shirley Bramhall, member, Aggieville Business Association and Aggieville Safety Committee, asked the Commission to allow the Aggieville Business group to meet and discuss a cover charge that would offset the costs associated with the event.

Lauren Palmer, Assistant City Manager, responded to additional questions from the Commission regarding the use and authorization of portable restrooms last year.

Brad Schoen, Director, Riley County Police Department, responded to questions from the Commission and informed the Commission that the street closure in Aggieville last year was due to safety considerations.

After additional discussion and comments from the Commission, Commissioner Butler moved to table the proposed ordinance. Commissioner Jankovich seconded the motion.

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

GENERAL AGENDA (CONTINUED)

FIRST READING - ENFORCEMENT - OVERCROWDING VIOLATIONS (CONTINUED)

Brad Schoen, Director, Riley County Police Department, informed the Commission that officers at RCPD would be working 12 hour shifts during Fake Patty's Day and would have assistance from other agencies. He stated that lengthy conversations will need to occur with members of the Riley County Law Board on its expectations and that RCPD will do whatever the direction is provided from the Riley County Law Board and City Commission. He stated that considering the timing limitations and what was discussed, the likelihood is that nothing will change this year for Fake Patty's Day and that policing activities would be similar to last year.

After additional discussion and comments from the Commission, Mayor Sherow stated there was a consensus of the Commission to set up a meeting with the Aggieville Business Association, City Commissioner Butler, a County Commissioner, the Director of Riley County Police Department, and Assistant City Manager Lauren Palmer to discuss the item further and to try to reach a consensus before the next legislative City Commission meeting. If a consensus could not be reached, it was discussed to expand enforcement measures, continue its current no tolerance policy established by the Manhattan Fire Department regarding overcrowding, and further evaluate the event.

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

FIRST READINGS - AMEND - PROCESSES TO ENFORCE NUISANCE VIOLATIONS

Katharine Jackson, Assistant City Attorney, presented the item. She then responded to questions from the Commission.

Ron Fehr, City Manager, responded to questions from the Commission regarding the removal of snow from public sidewalks.

Katharine Jackson, Assistant City Attorney, provided clarification on the ordinance amendment and responded to questions from the Commission regarding the timeline and notice procedure associated with the removal of snow or ice from public sidewalks.

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending Chapter 21 to clarify the process to enforce nuisance violations; and approve first reading of an ordinance amending Chapters 21 and 30 relating to the process to enforce nuisance violations involving the accumulation of snow or ice on sidewalks. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION

At 10:30 p.m., Commissioner Pepperd moved to recess into Executive Session until 10:50 p.m. for the purpose of discussions with the City Attorney concerning pending and possible litigation, which are deemed privileged in the attorney-client relationship. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

At 10:50 p.m., the Commission reconvened with Mayor Sherow and Commissioners Pepperd, Matta, Butler, and Jankovich in attendance.

ADJOURNMENT

At 10:51 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk