

MINUTES
CITY COMMISSION MEETING
TUESDAY, APRIL 3, 2012
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, 8 staff, and approximately 70 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

MAYOR'S COMMUNITY SERVICE AWARDS

Mayor Sherow recognized Gary Jeffrey and Wilma Schmeller, as recipients of the Mayor's Community Service Award for their service and dedication with the Manhattan Public Library.

Curt Loupe, Director of Parks and Recreation, was also recognized as a recipient of the Mayor's Community Service Award for his community service and volunteerism.

PROCLAMATIONS

Mayor Sherow proclaimed April 4, 2012, ***2012 Kansas Master Teacher***. Shelley Aistrup, Principal, Northview Elementary and College Hill Preschool, was present to receive the proclamation.

Mayor Sherow proclaimed April 28, 2012, ***March of Dimes March for Babies Day***. Niki Thiessen, Community Director, March of Dimes, was present to receive the proclamation.

Mayor Sherow proclaimed April 2012, ***Fair Housing Month***. Karen Davis, Director, and Shelly Carver, Grant Administrator, City of Manhattan Community Development, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Sherow opened the public comments.

Tim Lindemuth, 500 Denison Avenue, asked the City Commission to be a team player and to assist Flint Hills ATA Bus in their request for use of the public right-of-way for signage so that a transit system has a better opportunity to succeed.

Anne Smith, Director, Flint Hills ATA Bus, provided the Commission with an update on their bus operations and plans for city-wide fixed-route systems to begin April 23, 2012. She stated that the Flint Hills ATA Bus is working on pick-up locations along the new routes and would have additional information on their website in the future. She was hopeful that they could work with the City of Manhattan to develop a right-of-way agreement that would be beneficial for everyone.

Emilee Taylor, Marlatt Hall, No. 48, Kansas State University, informed the Commission that a fixed-route system needs to happen and that Kansas State University has a large international student population that needs this type of transportation system. She urged the Commission to consider the signage and use of right-of-way as a benefit to the community.

Dee Robert Ross, 8628 Hanna Lane, asked what the new name of the National Institute for Strategic Technology Acquisition and Commercialization, Inc. (NISTAC) is and if the City of Manhattan was still funding NISTAC, a not-for-profit company. He voiced concern with providing taxpayer dollars to fund a private not-for-profit corporation. He then questioned the Mayor about flying the Canadian and American flags at his residence.

Matt Decapo, 1126 Vattier Street, informed the Commission of the current parking issues on the Kansas State University campus and on the side streets near campus with the growth of the University and community. He stated that access to transportation is difficult for international students and with the rise in gas prices, a public transportation system makes sense. He then said that with the future plans for the National Bio and Agro-Defense Facility and the goal to be a top 50 public research institution, providing a public transit system would be a wise investment for the future.

Cindy Burr, 1213 Windsong Lane, informed the Commission that she was disappointed when she heard that the City Commission would not financially support Flint Hills ATA Bus for this service. She said that the Flint Hills ATA Bus is not asking for money, but asking for use of the public right-of-way. She stated that she would use the transit service and said that a lot of people would use transit in the community.

PUBLIC COMMENTS (CONTINUED)

Daniel Swenson, President, Thunderhead Engineering, 403 Poyntz Avenue, No. B, informed the Commission that he supported a public transportation system. He said that his experience with hiring engineers is that they do not worry about taxes as much as components of quality of life, including public transportation systems. He asked the Commission to support the Flint Hills ATA Bus system and see transportation as a vision for the future of Manhattan.

Betsy Haddox, 931 Moro Street, Apt. 11, stated that she supported the transit system and said that without a car, it is difficult to get to certain districts in the city. She said that many international students and sporting events would appreciate the bus system and that it would play an important consideration from a planning perspective in where students live to help alleviate campus and city parking problems. She also said that a public transit system could be a financial benefit to the city in creating links to shopping areas in the community and encouraged the Commission to support the bus system.

Manny Novice, 1426 McCain Lane, voiced support for the public transportation system and encouraged the City Commission to make the long-term investment.

Ben Champion, 2349 Bellehaven Road, asked the Commission to be consistent in the use of signage in the public right-of-way. He stated that if transportation signage is not allowed in the public right-of-way, then be prepared to remove signs for all other purposes that are in the public right-of-way.

Richard Hill, 3513 Stagecoach Circle, thanked Mayor Sherow for his work and for flying the American and Canadian flags. He provided additional analysis and information from the notes provided from the Housing Round Table regarding special assessments, number of housing units and affordability of housing, building expenses associated with building codes, and stated that homeowner's expectation returns are higher than they should be with sweat equity.

Michael Wangsgaard, 115 EJ Frick Drive, asked that additional clarification be provided from the Flint Hills ATA Bus that they are not looking for any City funding at this time or future considerations for funding.

Anne Smith, Director, Flint Hills ATA Bus, informed the Commission that they are only asking for right-of-way consideration from the City and will hire someone to install the signage in the right-of-way areas. She stated that she does not know what will happen in the future with grant cycles, but said that at some point it would not be an unreasonable expectation at some point to ask for funding from the City and the worst the Commission could say would be no.

PUBLIC COMMENTS (CONTINUED)

After additional comments and questions from the Commission, Anne Smith, Director, Flint Hills ATA Bus, responded to questions and provided clarification regarding a request to see the complete plan with additional detail on the revised budget, funding structure, and bus stop sign information. She then responded to additional questions from the Commission regarding the transit plan and stated that a memo was being prepared with additional information for Commissioner Butler and the City Commission.

Teresa Dowling, 4440 Tuttle Creek Boulevard, informed the Commission that she works for the Flint Hills ATA Bus and that many elderly people and others appreciate the service and couldn't understand why the Commission would not support a fixed-route service. She then responded to questions from the Commission and provided information on the Safe Ride program.

Dave Schafer, 2104 Fox Meadows, discussed the use of bicycles and stated that if the bus service can pay for itself and the right-of-way concerns can be alleviated, that he would have no objections. However, he voiced concern if taxpayer's funds were needed to support the proposed transit system.

Gary Olds, 3308 Frontier Circle, voiced concern with the expenses associated with additional employees, higher fuel expenses, low ridership levels, and national issues with transit systems and public subsidization. He stated that he has witnessed minimal passengers between Junction City and Manhattan and was not a supporter of the expanded transit system and use of public funding. He asked the Commission to hold its ground until the population growth warrants a public transportation system.

Anne Smith, Director, Flint Hills ATA Bus, provided additional information and clarification on ridership levels, fuel usage, and number of trips.

Hearing no other comments, Mayor Sherow closed the public comments.

COMMISSIONER COMMENTS

Mayor Sherow provided an overview of items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission updated calendar items; discussed the sales tax issue; discussed housing inspection procedures; received an update on the Wildcat Creek Watershed Working Group and upcoming meetings; and provided an update on the Blue Earth Plaza and water feature. He

COMMISSIONER COMMENTS (CONTINUED)

encouraged the community to attend the Grand Opening of the Flint Hills Discovery Center on Saturday, April 14, 2012. He then provided additional information on a public transportation system and on the request for the Flint Hills ATA Bus to use public right-of-way for the expanded transit system. He encouraged the Commission to listen to the request and let Anne Smith make a presentation to the City Commission at a future Commission meeting.

Commissioner Butler reiterated that he has asked for a memorandum from Anne Smith, Director, Flint Hills ATA Bus, with additional information for the Commission to review before the item is placed on a future agenda for use of public right-of-way. He stated that he did not want any public funds used for the new fixed-route bus service, requested that the liability concerns and traffic be satisfactorily addressed, and asked that bus stop locations be identified.

Commissioner Matta stated that he wanted to receive the actual operating plan, financial projections, funding sources, and required matching funds received to review and, then determine if the Commission should move forward with the request. He provided additional information on the financial difficulties and services other transit providers have experienced, including Ames, Iowa.

Mayor Sherow stated that Anne Smith, Director, Flint Hills ATA Bus, indicated that she would provide the information requested. He then provided additional information on the Ames, Iowa, transit system.

Anne Smith, Director, Flint Hills ATA Bus, informed the Commission that she would submit the revised plan to them and responded to additional questions from the Commission.

Commissioner Pepperd also requested additional information on the signs requested in the public right-of-way and stated that he did not want the City to have any liability or American with Disabilities Act (ADA) concerns associated with the new transit service.

Commissioner Jankovich informed the community that he and his wife, Caroline, were co-chairing "Dinner by Design" as a new fundraiser event for United Way of Riley County. He stated the event would be held Sunday, April 22, 2012, at the Hilton Garden Inn and Manhattan Conference Center and encouraged those interested to contact him or the United Way office to purchase tickets. He also informed the community that the next Wildcat Creek Watershed Working Group meeting would be Thursday, April 5, at 7:00 p.m., in the City Commission Room and another meeting would be scheduled for Thursday, April 26, 2012, at 7:00 p.m., in the City Commission Room to receive a report from AMEC, of Topeka, Kansas, on future conditions mapping, an update on gauges installed on Wildcat Creek, and presentations from K-State students regarding modeling and flood plain mitigation.

COMMISSIONER COMMENTS (*CONTINUED*)

After discussion and comments from the Commission, Commissioner Jankovich moved to place the half-cent sales tax initiative as a discussion item at the end of the general agenda. Commissioner Butler seconded the motion. On roll call vote, motion carried 5-0.

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission on the opening plans for the City Park Splash Park and stated that it would be opened shortly before Memorial Day.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, March 27, 2012.

CLAIMS REGISTER NOS. 2698 and 2699

The Commission approved Claims Register Nos. 2698 and 2699 authorizing and approving the payment of claims from March 21, 2012, to March 27, 2012, in the amount of \$4,030.00 and \$984,309.23, respectively.

LICENSE

The Commission approved an annual Merchant Guard Agency License for VendTech-SGI, LLC, 260 N. Rock Road, Suite 218, Wichita, Kansas.

ORDINANCE NO. 6944 – EMINENT DOMAIN PROCEEDINGS – FEATHER FIELD FARMS, LLC – WILDLIFE FENCE IMPROVEMENTS

The Commission approved Ordinance No. 6944 authorizing the commencement of eminent domain proceedings to acquire property owned by Feather Field Farms, LLC, for Wildlife Fence Improvements at the Manhattan Regional Airport.

ORDINANCE NO. 6945 – NO PARKING ZONE – NORTH 4TH STREET (BLUEMONT AVENUE TO VATTIER STREET)

The Commission approved Ordinance No. 6945 designating a “No Parking Zone” along the east side of North 4th Street from its intersection with Bluemont Avenue to Vattier Street and along the west side of North 4th Street from its intersection with Bluemont Avenue to the north alley between Bluemont Avenue and Vattier Street.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 040312-A – SET PUBLIC HEARING DATE – POYNTZ AVENUE IMPROVEMENTS (ST1203)

The Commission approved Resolution No. 040312-A setting May 1, 2012, as the date to conduct a public hearing to consider a resolution finding the project advisable, and creating a benefit district to improve Poyntz Avenue.

RESOLUTION NO. 040312-B – SUPPORT – SAFE ROUTE TO SCHOOL GRANT

The Commission authorized City Administration to advertise a Request for Qualifications for a consultant to submit an application to KDOT for a Safe Routes to School Phase One Grant, and if awarded, to perform the Phase One Services; and approved Resolution No. 040312-B to show Administrative Support of the Safe Routes to School Program.

* **CHANGE ORDER NO. 2 – FIRE STATION #3 (CIP #FRX75P)**

Ron Fehr, City Manager, responded to questions from the Commission.

Dan Knight, Anderson Knight Architects, provided clarification for the change order and presented an update on the status of the fire stations.

The Commission approved Change Order No. 2 for the construction of Fire Station 3 resulting in a net increase in the amount of \$2,875.00 (+0.1417%) to the contract with Murray and Sons Construction Co., Inc., of Topeka, Kansas.

* **CHANGE ORDER NO. 2 – FIRE STATION #5 (CIP #FR775P)**

Ron Fehr, City Manager, responded to questions from the Commission and clarified the responsibility of the structural engineer and the reason for the change order.

Dan Knight, Anderson Knight Architects, provided clarification for the change order and presented an update on the status of the fire stations.

The Commission approved Change Order No. 2 for the construction of Fire Station 5 resulting in a net increase of \$38,696.00 (+1.6045%) to the contract with Murray and Sons Construction Co., Inc., of Topeka, Kansas.

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – SANITARY SEWER MANHOLE REHABILITATION PROJECT (SS1201) (CIP #WW116P)

The Commission authorized the Mayor and City Clerk to execute a contract in the amount of \$52,450.00 with Mayer Specialty Services, of Goddard, Kansas, for the Sanitary Sewer Manhole Rehabilitation Project (SS1201).

AWARD CONTRACT – CURED-IN-PLACE PIPE SEWER LINING PROJECT (SS1202) (CIP #WW115P)

The Commission authorized the Mayor and City Clerk to execute a contract in the amount of \$414,916.00 with Western Slope Utilities, LLC, of Breckenridge, Colorado, for the Cured-in-Place Pipe Sewer Lining Project (SS1202).

AGREEMENT – DOWNTOWN FARMERS MARKET

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute an agreement with the Downtown Farmer's Market, Inc., for the use of the City's public parking lot at the corner of 5th Street and Humboldt Street for the 2012 season.

AGREEMENT – EMPLOYMENT – CITY MANAGER

The Commission authorized the Mayor and City Clerk to execute the modified Employment Agreement between the City of Manhattan and City Manager Ronald R. Fehr, retroactive to the first pay period of 2012.

BOARD APPOINTMENT - SPECIAL ALCOHOL FUNDS ADVISORY COMMITTEE

The Commission approved the appointment of Tanya Chengappa, 4104 Wellington Drive, to fill the unexpired term of Penny Pierce. Ms. Chengappa's term begins immediately and will expire June 30, 2012.

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

At 8:48 p.m., the City Commission took a brief recess.

GENERAL AGENDA

FIRST READING – VACATE - PORTION OF 9TH STREET RIGHT-OF-WAY

Rob Ott, City Engineer, presented an overview of the item. He then responded to questions from the Commission.

Greg Wilson, Co-Owner, Howie's Recycling, informed the Commission that they support the item and have no objection as long as they could pave the existing area for their business use.

Bart Thomas, 5640 Anderson Avenue, informed the Commission that he is the property owner of 902 Fair Lane and that the proposed item would be detrimental to accessing his property. He requested that the Commission not vacate a portion of 9th Street and to keep 9th Street open. He then responded to questions from the Commission.

Rob Ott, City Engineer, responded to questions from the Commission regarding their desire to have additional information on the item before second reading. He informed the Commission that he would schedule a meeting between the two landowners and try to facilitate a potential resolution.

Ron Fehr, City Manager, responded to questions from the Commission regarding the timing of second reading of the proposed ordinance.

Greg Wilson, Co-Owner, Howie's Recycling, provided additional information on the item.

After discussion and additional comments from the Commission, Commissioner Jankovich moved to approve first reading of an ordinance vacating a portion of 9th Street right-of-way adjacent to 625 South 10th Street, Manhattan, Kansas, 66502. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING – ESTABLISH - SPEED LIMIT ON MORO STREET BIKE BOULEVARD

Peter Clark, Civil Design Engineer, presented the item.

Ron Fehr, City Manager, and Dale Houdeshell, Director of Public Works, responded to questions from the Commission and provided additional information regarding traffic speeds, signage, and implementation plans.

Rob Ott, City Engineer, and Peter Clark, Civil Design Engineer, informed the Commission that this is an opportunity to educate the public and improve the bikeability and connectivity in the city without spending a lot of money. They then provided additional information regarding signage on Moro Street, with a future goal to create a network of bike boulevards throughout the city.

GENERAL AGENDA (CONTINUED)

FIRST READING – ESTABLISH - SPEED LIMIT ON MORO STREET BIKE BOULEVARD (CONTINUED)

After discussion and comments from the Commission, Commissioner Jankovich moved to approve first reading of an ordinance establishing the speed limit of 20 mph on Moro Street between 11th Street and 4th Street. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

DISCUSSION ITEM – HALF-CENT SALES TAX INITIATIVE

Ron Fehr, City Manager, provided background information on the item. He referred to a letter received from the Riley County Counselor regarding a request for an Attorney General's Opinion on the county-wide half-cent sales tax and highlighted the conclusion from a letter dated March 28, 2012, to the Kansas Attorney General from the Riley County Counselor regarding the Language of Riley County's 2002 County-wide Retailers' Sales Tax Ballot Question-Its Impact upon a Proposed 2012 Ballot Question. He then responded to questions and comments from the Commission.

After discussion and comments from the Commission, Bill Frost, City Attorney, responded to questions from the Commission and informed the Commission that Riley County's questions to the Attorney General (AG) seemed unclear and that if the AG does not understand the City's position, it could be adverse to the City Commission's wishes. He then responded to additional questions from the Commission and stated that in his view, the most likely response from the AG's office would be that the City and County are in dispute and the AG is not going to get involved in a response. However, he stated that if the City does not weigh-in and express its opinion, it runs the risk of the AG upholding the County's position and the AG will not know the City's position. He then responded to additional questions from the Commission and provided additional information on the item.

After further comments on possible options to pursue, the Commission discussed the second question in the conclusion of the March 28, 2012, letter to the Kansas Attorney General from the Riley County Counselor, which states: "If Riley County resubmits its 2002 ballot question to the voters, may it lawfully alter that portion of the question which restricts how the City of Manhattan may use its share of the proceeds?"

Ron Fehr, City Manager, responded to questions from the Commission and clarified the existing policy established for use of half-cent sales tax proceeds.

After additional discussion and comments from the Commission, there was a consensus to have the City Attorney write a letter to the Attorney General expressing and clarifying the City's position, especially the obligation of funds and use of the City's share of the proceeds.

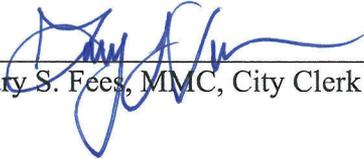
GENERAL AGENDA (CONTINUED)

DISCUSSION ITEM – HALF-CENT SALES TAX INITIATIVE (CONTINUED)

Ron Fehr, City Manager, stated that the half-cent sales tax question would be a discussion item on the Joint City/Riley County/Pottawatomie County meeting agenda on Thursday, April 19, 2012.

ADJOURNMENT

At 10:12 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk