



MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 15, 2019
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Michael L. Dodson and Commissioners Usha Reddi, Wynn Butler, Jerred McKee, and Linda Morse were present. Also present were Deputy City Manager Jason Hilgers, Assistant City Manager Dennis Marstall, City Attorney Katharine Jackson, City Clerk Gary S. Fees, 7 staff, and approximately 20 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Dodson led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Dodson recognized City Clerk Gary Fees on his upcoming retirement from the City of Manhattan. He stated that Gary has worked for the City over 20 and a half years and over 18 years as City Clerk. He said he has really made an impact on all of us. He stated the Commission has redone our meeting format in a very professional way and Gary is an integral part of all of this. He said there will be a celebration to recognize him soon and stated that on behalf of all of us and City staff, please join me in acknowledging Gary for his tremendous service to our community.

PROCLAMATIONS

Mayor Dodson proclaimed October 24, 2019, ***World Polio Day***. Mike Mayo and Bob Ward, Manhattan Rotary Foundation, and Betty Stevens, Manhattan Rotary, International Grants, were present to receive the proclamation.

Mayor Dodson proclaimed October 2019, ***Domestic Violence Awareness Month***. Polina Nations, Miss Chisholm Trail and Ambassador for the No More Organization, was present to receive the proclamation.

COMMISSIONER COMMENTS

Commissioner Morse echoed Mayor Dodson's comments about City Clerk Gary Fees and stated that Gary has helped trained clerks across the state as well as the Director of Finance Bernie Hayen has trained finance officers. She said that she has repeatedly been approached with compliments about Gary when attending League of Kansas Municipalities conferences and events. She stated that it is wonderful to hear from your peers from other cities about our staff in such positive ways. She highlighted the Manhattan Fire Department Open House. She also stated that advanced voting begins Wednesday, October 16, 2019.

Commissioner McKee thanked City Clerk Gary Fees for playing a big part in acclimating him to the job as one of the first commissioners after the election cycle changed. He said that during that time period, Gary reached out to him the very next day and then fielded all his questions. He stated that he had two months to think about being a commissioner rather than one week before he started, so had maybe 1.1 million questions and Gary fielded a million of those. He also discussed the upcoming Manhattan Housing Summit.

Dennis Marstall, Assistant City Manager, provided additional information on the Manhattan Housing Forum and agenda for the Housing Forum. He stated the Housing Forum would be on Tuesday, October 29, 2019, at 7:00 p.m., at the Kansas State University Student Union Ballroom and is open to the public.

Commissioner Butler highlighted the Citizens' Academy program and stated that he went through the Academy prior to running for City Commission. He stated that Gary Fees does a great job managing the program and said there are usually about 20 people in the Academy for each class. He encouraged citizens to apply online or call Gary if you have questions. He voiced his appreciation for the great work that has been done to make the Academy successful over the years.

Commissioner Reddi also thanked Gary Fees for what he has done for the City of Manhattan, saying that he is their therapist. She stated there are many times when we just sat there for no reason other than just to talk to him. She said there would be a ribbon cutting ceremony on Friday, October 18, 2019, for the Pawnee Mental Health Crisis Stabilization Center and discussed the significance of the Center. She also mentioned advanced voting starts Wednesday, October 16, 2019, and encouraged all citizens to be informed on the ballot questions. She encouraged everyone to participate in the local elections.

Mayor Dodson provided additional information on items on the upcoming ballot. He encouraged citizens to read up before going to the ballot.

CONSENT AGENDA
(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, October 1, 2019.

CLAIMS REGISTER NO. 2923

The Commission approved Claims Register No. 2923 authorizing and approving the payment of claims from September 25, 2019 - October 8, 2019, in the amount of \$5,169,110.54.

* **ORDINANCE NO. 7450 – AMEND – WATER RATES AND CHARGES**

Commissioner Butler stated that he voted no on the item during the last legislative meeting and would be voting no on the item tonight.

The Commission approved Ordinance No. 7450 amending applicable sections of Chapter 32 of the Code of Ordinances increasing water rates and charges by 5%, effective January 1, 2020.

* **ORDINANCE NO. 7451 – AMEND – SEWER RATES AND CHARGES**

Commissioner Butler stated that he voted no on the item during the last legislative meeting and would be voting no on the item tonight.

The Commission approved Ordinance No. 7451 amending applicable sections of Chapter 32 of the Code of Ordinances increasing sewer rates and charges by 5% and also further increasing the sewer minimum charges by \$2.60, and further increasing unit usage rates by \$.25, effective January 1, 2020.

ORDINANCE NO. 7452 – AMEND – STORMWATER RATES

The Commission approved Ordinance No. 7452 amending Section 32-185 of the Code of Ordinances setting the commercial Stormwater rate at \$5.47 per month, per Equivalent Unit and the residential Stormwater rate at \$6.34 per month, effective January 1, 2020.

ORDINANCE NO. 7453 – MUNICIPAL FACILITY – USD 383 KEITH NOLL MAINTENANCE CENTER

The Commission, having found that the public interests to be served by the proposed improvements to the Keith Noll Maintenance Center outweigh the impacts upon legitimate community interests, approved Ordinance No. 7453 authorizing the Municipal Facility for the proposed improvements to the Keith Noll Maintenance Center, located at 2301 Casement Road, based on the findings in the Staff Report

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7453 – MUNICIPAL FACILITY – USD 383 KEITH NOLL MAINTENANCE CENTER (CONTINUED)

(See Attachment No. 1), modifying condition four by lowering the eight-foot-tall chain-link fence with screening slats to a six-foot tall chain link fence with screening slats shall be provided around the perimeter of the rear parking, storage, loading area, by December 31, 2021, if not before.

ORDINANCE NO. 7454 – SPECIAL EVENT WITH ALCOHOL – YOUNG TRUSTEES MANHATTAN CHILI COOK-OFF

The Commission approved Ordinance No. 7454 authorizing a special event with alcohol permit for the application submitted by the Young Trustees for the Manhattan Chili Cook-Off to occur in Blue Earth Plaza and the adjacent sidewalks and streets along South Third Street and Blue Earth Place as defined in the submitted site plan, following all requirements of an ordinance relating to their special event with alcohol to be held on November 9, 2019, from 7:00 a.m. - 5:00 p.m.

ORDINANCE NO. 7455 - AUTHORIZE PROJECT/AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS - BLUEMONT AVENUE AND HAYES DRIVE EMERGENCY SANITARY SEWER REPAIRS (SS1920)

The Commission approved Ordinance No. 7455 authorizing the 2019 Emergency Sanitary Sewer Repairs for Bluemont Avenue and Hayes Drive (SS1920) and issuance of general obligation bonds to finance said project.

ORDINANCE NO. 7456 - AUTHORIZE PROJECT/AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS - LEVEE DRIVE AND HAYES DRIVE EMERGENCY SANITARY SEWER REPAIRS (SS1921)

The Commission approved Ordinance No. 7456 authorizing the 2019 Emergency Sanitary Sewer Repairs for Levee Drive and Hayes Drive (SS1921) and issuance of general obligation bonds to finance said project.

RESOLUTION NO. 101519-A - SUBMIT - KDOT TRANSPORTATION ALTERNATIVES PROGRAM APPLICATION - CASEMENT ROAD TRAIL, NORTHFIELD ROAD TO ALLEN ROAD (BICYCLE AND PEDESTRIAN CATEGORY)

The Commission approved Resolution No. 101519-A authorizing City Administration to complete and submit to the Kansas Department of Transportation the necessary application forms for the Transportation Alternatives Program for the Casement Road Trail, Northfield Road to Allen Road (Bicycle and Pedestrian Category).

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 101519-B - SUBMIT - KDOT TRANSPORTATION ALTERNATIVES PROGRAM APPLICATION - USD 383-MHK SAFE ROUTES TO SCHOOL (SRTS), PHASE 2C (SRTS CATEGORY)

The Commission approved Resolution No. 101519-B authorizing City Administration to complete and submit to the Kansas Department of Transportation the necessary application forms for the Transportation Alternatives Program for the USD 383-MHK Safe Routes to School (SRTS), Phase 2C (SRTS Category).

RESOLUTION NO. 101519-C - PETITION - ELIJAH ADDITION STREET (ST1906) IMPROVEMENTS

The Commission found the petition sufficient, and approved Resolution No. 101519-C finding the project advisable and authorizing construction for the Elijah Addition Street (ST1906) Improvements.

RESOLUTION NO. 101519-D - PETITION - ELIJAH ADDITION SANITARY SEWER (SS1916) IMPROVEMENTS

The Commission found the petition sufficient, and approved Resolution No. 101519-D finding the project advisable and authorizing construction for the Elijah Addition Sanitary Sewer (SS1916) Improvements.

RESOLUTION NO. 101519-E - PETITION - ELIJAH ADDITION WATER (WA1916) IMPROVEMENTS

The Commission found the petition sufficient, and approved Resolution No. 101519-E finding the project advisable and authorizing construction for the Elijah Addition Water (WA1916) Improvements.

AGREEMENT - PROFESSIONAL SERVICES - ELIJAH ADDITION STREET (ST1906), SANITARY SEWER (SS1916) AND WATER (WA1916) IMPROVEMENTS

The Commission authorized the Mayor and City Clerk to execute an Agreement for Professional Engineering Services with SMH Consultants, of Manhattan, Kansas, in an amount not to exceed \$68,600.00, for the Elijah Addition Street (ST1906), Sanitary Sewer (SS1916) and Water (WA1916) Improvements.

AGREEMENT - PROFESSIONAL SERVICES - KIMBALL AVENUE EXPANSION, FROM VANESTA DRIVE TO BERKSHIRE CIRCLE (ST1910, CIP #EN098P)

The Commission authorized the Mayor and City Clerk to execute an Agreement for Professional Engineering Services with Bartlett & West, of Manhattan, Kansas, in an amount not to exceed \$249,640.00, for the Kimball Avenue Expansion, from Vanesta Drive to Berkshire Circle (ST1910, CIP #EN098P) project.

CONSENT AGENDA (CONTINUED)

* **AGREEMENT - PROFESSIONAL SERVICES - STORMWATER MANAGEMENT DOCUMENT UPDATE (SW1907, CIP #SW092P)**

Commissioner Morse highlighted the Stormwater Management Update. She also called attention to items related to water and flood activities.

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute an Agreement for Professional Engineering Services, in an amount not to exceed \$226,589.00, with Burns & McDonnell, of Kansas City, Missouri, for the 2019 Stormwater Management Document Update (SW1907, CIP #SW092P), to be paid out of the Stormwater Fund.

NEGOTIATE AGREEMENT – PROFESSIONAL SERVICES – AGGIEVILLE HISTORIC RESOURCES SURVEY

The Commission accepted the recommendation of the Selection Committee and authorized City Administration to negotiate a contract and final scope of services with Spencer Preservation, of Wamego, Kansas, to carry out the Aggieville Historic Resources Survey.

CONTRACT AMENDMENT NO. 4 - PROFESSIONAL SERVICES - KIMBALL AVENUE AND COLLEGE AVENUE INTERSECTION, NORTH CAMPUS CORRIDOR PHASE VI, (ST1718)

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 4, in an amount not to exceed \$15,257.00, with BG Consultants, Inc., of Manhattan, Kansas, for additional design services for the Kimball Avenue and College Avenue Intersection, North Campus Corridor Phase VI, (ST1718) project.

REJECT BIDS – CDBG HOUSING REHABILITATION PROGRAM – 2734 KIMBALL AVENUE

The Commission rejected bids for the Community Development Block Grant Housing Rehabilitation Project located at 2734 Kimball Avenue.

PURCHASE – FORESTRY DIVISION UNIT #65 – AERIAL TRUCK (CIP #CP130E)

The Commission accepted the bid, and authorized the purchase of an Altec LR7-60E70RM Articulating Overcenter Aerial Device from Altec Industries, Inc., of Creedmoor, North Carolina, in the amount of \$168,739.00, less trade-in of a 2006 aerial truck unit in the amount of \$15,000.00, for a net amount of \$153,739.00 to replace Unit #65 Aerial Truck for the Forestry Division (CIP #CP130E).

CONSENT AGENDA (CONTINUED)

LEASE PURCHASE – FORESTRY DIVISION UNIT #65 – AERIAL TRUCK (CIP #CP130E)

The Commission authorized City Administration to finalize and the Mayor and/or City Clerk to execute a Lease Purchase Agreement and all documents necessary with Commerce Bank/Clayton Holdings, Inc., to replace Unit #65 Aerial Truck for the Forestry Division (CIP #CP130E).

* AGREEMENT – THE FESTIVAL OF LIGHTS

Commissioner Butler highlighted the item and stated this is a great event. He encouraged community members to consider making a financial contribution for “The Festival of Lights” with the Greater Manhattan Community Foundation.

The Commission authorized the Mayor and City Clerk to execute an agreement with Whoville, Inc., for the holiday lighting and special events regarding “The Festival of Lights” at Blue Earth Plaza.

Mayor Dodson opened the public comments.

Joe Knopp, 104 Oakwood Circle, voiced concerns with the proposed rate increases for stormwater, water, and sewer rates. He stated these proposed increases in rates are one of the most regressive fees there are. He also voiced concern with building a proposed Joint Maintenance Facility and stated this item is not a need of this community, but a want.

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

Commissioner McKee moved to approve the consent agenda. Commissioner Morse seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item C: ORDINANCE NO. 7450-AMEND-WATER RATES AND CHARGES AND ORDINANCE NO. 7451-AMEND-SEWER RATES AND CHARGES, which carried 4-1, with Commissioner Butler voting against the item.

PUBLIC HEARING

PUBLIC HEARING - MANHATTAN LEVEE IMPROVEMENTS (SM1813)

Bill Frost, Legal Counsel to the City, presented an overview of the item. He highlighted the process and stated the purpose of the Public Hearing is to hear objections to the Appraisers’ Report, and in order to raise an objection in the Hearing, a written objection must have filed before 5:00 p.m. on Friday, October 11, 2019, and, the objection must be related to an assessment that the Appraisers imposed upon a property. He informed the Commission that

PUBLIC HEARING (CONTINUED)

PUBLIC HEARING - MANHATTAN LEVEE IMPROVEMENTS (SM1813) (CONTINUED)

no written objections were received by the City, and since no property was assessed, there were no valid objections that could be raised. He informed the Commission that comments can be entertained from the public related to the project; however, those comments cannot be considered formal objections. He then responded to questions from the Commission about the state statute identifying the process, reiterated that no one filed a written objection with the City, and to accept the Appraiser's Report and issue general obligation bonds to pay for the City's share of the levee improvements. He then responded to questions from the Commission regarding the process.

Rob Ott, Director of Public Works, responded to questions from the Commission regarding annexation, ownership of the levee, and proposed levee improvements.

Mayor Dodson opened the public hearing. He asked if there were any public comment on the item.

Hearing no comments, Mayor Dodson closed the public hearing.

ORDINANCE NO. 7457 - ACCEPT APPRAISER'S REPORT - AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS - MANHATTAN LEVEE IMPROVEMENTS (SM1813)

After discussion and comments from the Commission, Commissioner Morse moved to approve Ordinance No. 7457 accepting the Appraiser's Reports and issuing general obligation bonds to pay for the City's share of the levee improvements. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING - LEVY 2020 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS

Bernie Hayen, Director of Finance, presented an overview of the item. He highlighted the ordinances levying the 2020 service fees within Aggieville and Downtown Business Improvement Districts. He then responded to questions from the Commission regarding the grace period and notification process for late fee charges.

Mayor Dodson opened the public comments.

GENERAL AGENDA (CONTINUED)

FIRST READING - LEVY 2020 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS (CONTINUED)

Gina Scroggs, Executive Director, Downtown Manhattan Inc., provided additional information on the item. She informed the Commission that they do their best to notify members with emails and provide reminders at their business.

Dennis Cook, Executive Director, Aggieville Business Association, informed the Commission that there were several issues of wrong addresses last year. He stated that he will be notified of those businesses who has and who has not paid and will follow-up with those businesses.

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

After discussion and comments from the Commission, Commissioner McKee moved to approve first reading of ordinances levying business improvement service fees for 2020 on businesses located within the Aggieville and Downtown Business Improvement Districts. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

KANSAS DEPARTMENT OF TRANSPORTATION (KDOT) CITY/STATE AGREEMENT - K-18/WILDCAT CREEK BRIDGE COST SHARE (ST1816)

Rob Ott, Director of Public Works, presented an overview of the item. He highlighted background information, discussed the three main components of the project, and informed the Commission that the City would be responsible for the costs of the additional items that would be paid through the Trail Sales Tax Fund. He also provided an overview of the project, stated that this is a Kansas Department of Transportation project and the roadway is under the control of the State of Kansas, and identified future improvements as well as considerations for the Commission. He then responded to questions from the Commission regarding the proposed improvements, safety considerations, and stated the item is supported by the Bicycle and Pedestrian Advisory Committee.

Mayor Dodson opened the public comments.

John Matta, 1213 Greystone Place, informed the Commission that this is a good project. He provided background information on safety considerations and voiced support for the item.

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

After discussion and comments from the Commission, Commissioner Reddi moved to authorize the Mayor and City Clerk to execute the City/State Agreement with the Kansas Department of Transportation for the K-18 Wildcat Creek Bridge (ST1816), in the estimated amount of \$69,000.00, to improve a pedestrian trail sidewalk from 6-foot-wide to 10-foot-wide. Commissioner Morse seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND - PUBLIC NUDITY

Katie Jackson, City Attorney, presented an overview of the item. She highlighted the existing ordinance that was adopted in 2003, provided aspects of the existing ordinance, and discussed criminal prosecutions from 2003-2019. She presented information on the 10th Circuit Court of Appeals and the 10th Circuit decision on *Free the Nipple v. City of Fort Collins, Colorado*. She highlighted the 10th Circuit decision and clarified that it does not “legalize female toplessness” in six states, invalidate Manhattan’s ordinance, or require Manhattan to amend its ordinance. However, the 10th Circuit decision does provide a basis for a civil lawsuit, a challenge to a criminal prosecution that challenger is “likely” to win and, creates risk of use of City funds or resources to defend. She informed the Commission that the likelihood of a challenge is uncertain and provided an update on reports in Kansas, Utah, Oklahoma, and the U.S. Supreme Court. She provided the Commission with two options for their consideration. Option One would be to amend the ordinance which decriminalizes general female toplessness (facts may warrant prosecution under state law; other forms of nudity, male or female, still illegal. Also, property owners and businesses can require all patrons to wear shirts). Option Two provided for the Commission to consider was to maintain the current ordinance. She highlighted Manhattan Ordinance No. 6369 and discussed protection of public peace, safety and welfare; maintain public order, community character; and adverse secondary effects. She informed the Commission that the recommendation of Option One is from a strictly legal perspective and stated the amendment provides a safe harbor. She stated the amendment reduces the City’s legal risk and potential use of City resources and funds to defend this ordinance; allows time for the courts to resolve; and allows state law prosecution if facts warrant. She then responded to questions from the Commission regarding definition changes that could occur at second reading, enforcement provisions, and considerations at public pools and parks. She informed the Commission that she would provide the number of individuals prosecuted prior to second reading of the item.

Commissioner Morse stated that we need to protect our resources as best we can and this will buy us additional time to find out what other cities are going to do. She said if there is a clamor from cities, the state legislature may act also.

Katie Jackson, City Attorney, responded to additional questions from the Commission regarding adult entertainment businesses as well as considerations for those sunbathing and breast-feeding in public. She responded to questions regarding enforcement of the ordinance and considerations in responding to complaints and writing citations by the Riley County Police Department and Kansas State University Police Department.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND - PUBLIC NUDITY (CONTINUED)

Commissioner Reddi stated that she wanted to hear more from community members, especially from businesses and Kansas State University. She commented about European countries that do fine with similar laws and understood that some families may be concerned with public pools and parks. She stated that this is about gender equality. She stated that she did not like the idea of one gender getting a higher penalty or fined more so than a different gender. She voiced a preference for Option One.

Commissioner Butler stated that he was not overly concerned; however, he said if this becomes a problem at the City pools, then we might have to consider saying that everybody is going to have to wear a shirt. He said that his preference was to go with Option One to avoid the potential financial risk.

Katie Jackson, City Attorney, informed the Commission that the ordinance can be changed later when we get a decision from the court. She reiterated the options for the Commission to consider.

Mayor Dodson stated that he did not want to put the Riley County Police Department or Kansas State University Police Department in a difficult position in the event that it would not be enforceable in court. He discussed the social mores changing nationally and potential changes to rules at City pools to prevent children from being exposed to nudity. He stated that if we enact this and the 10th Circuit finds a particular way or the U.S. Supreme Court decides which of the ways they want to go, we have the flexibility to change this as well.

Commissioner McKee said from his perspective, it is appropriate to amend the ordinance and to avoid a potential lawsuit. He said amending the law is just because it treats women's bodies as inherently sexual and is inappropriate. He stated that if we are going to treat males one way in terms of toplessness, then we should treat females the exact same way.

Mayor Dodson opened the public comments.

Hearing no comments, Mayor Dodson closed the public comments.

Commissioner Morse reiterated that she wanted to error on the side of protecting our resources the best that we can and avoid a potential lawsuit.

Commissioner Reddi provided additional comments on amending the ordinance and stated this item is about gender equality.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND - PUBLIC NUDITY (CONTINUED)

After discussion and additional comments from the Commission, Commissioner Butler moved to approve first reading of an ordinance amending Sections 22-60 and 22-61 of the Code of Ordinances relating to nudity in a public place. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 8:45 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk



Staff Report

Community Development Department

Municipal Facility Review	Keith Noll Maintenance Center
Case No:	file no. MFC-19-059
To:	Manhattan Urban Area Planning Board
From:	Barry Beagle, AICP, Senior Planner
Applicant:	Gould Evans (Jonathan Jay Holley)
Owner:	Unified School District 383
Property Location:	2031 Casement Road
Total Area:	2.85 acres
Date Neighborhood Meeting:	August 9 and 15, 2019
Date Public Notice Published:	August 23, 2019
Date of Public Hearing:	Planning Board: September 16, 2019 City Commission: October 1, 2019
Current Zoning:	R-1, Single-Family Residential District



Figure 1. Vicinity Map

MUNICIPAL FACILITY PROCESS:

The Municipal Facility Review process is outlined in Section 3-412 of the Manhattan Zoning Regulations (attached), which indicates, in part, that: “Any public utility, or facility, owned and operated by either the State or a Municipality is hereby authorized as a permitted use in any zoning district, subject to the remaining provisions of this section.”

If a utility or facility is specifically listed in a zoning district as a permitted or conditional use, the municipality can follow the requirements set out in Article IV, District Regulations, or follow the provisions of Section 3-412. If the utility or facility is not set out in a zoning district in which it is proposed, the utility or facility must follow the provisions of Section 3-412.

The process requires that both the Manhattan Urban Area Planning Board and the City Commission hold public hearings on the proposal. This process is not a rezoning action, but a process whereby the Planning Board and the City Commission consider the proposal by **balancing the public interests to be served by a proposed Municipal Utility or Facility, as opposed to the impact upon public interests intended to be protected by the Zoning Regulations**. In performing this balancing test and evaluating a proposed facility or use, the Planning Board and City Commission must consider the factors listed under the Staff Report headings.

The City Commission is not bound by the recommendations of the Planning Board, nor is it obligated to return the matter to the Planning Board for reconsideration, unless the City Commission chooses to do so. If the City Commission approves the request, it does so by adoption of an ordinance, following a public hearing.

EXISTING USE:

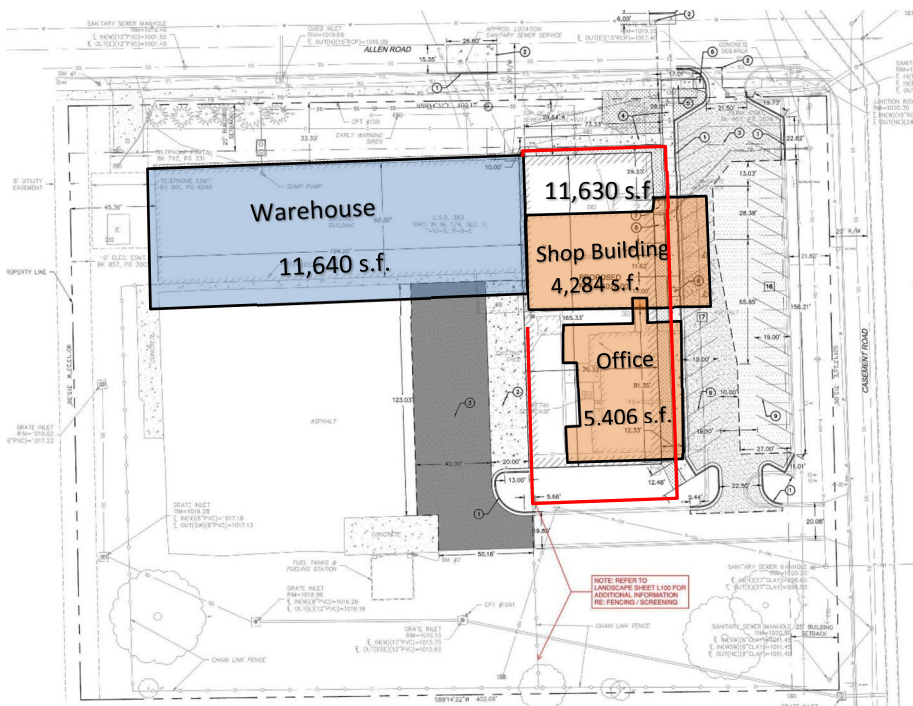
The subject property comprises 2.85-acres and the site of the USD 383 Keith Noll Maintenance Center. The maintenance center provides grounds and building maintenance for all district facilities. In a document produced by the Maintenance Department titled *2019 Manhattan-Ogden USD 383 Maintenance and Facilities Procedures*, it indicates “our team supports and maintains approximately 1.3 million square feet of building spaces and just under 300-acres of grounds at the District’s 21 locations. The Maintenance Department supports 102 full- and part-time employees including a custodial team 86 employees and a maintenance team of 16 employees. The bulk of the custodial staff are believed to be distributed among the district’s 21 sites around the community and not stationed at the maintenance center.

Attachment No. 1

As presently improved, the site includes three (3) building sections constructed at different times. "Strong School" initially constructed in 1920 consists of two-stories has been converted to an office use for the Maintenance Department that includes a total square footage of 5,406 square feet. A maintenance shop of 4,284 square feet was constructed in 1962 immediately north of and ultimately connected to the former school building. In 1974, a 11,640 square foot warehouse was constructed along Allen Road and connected to the shop building. Access is limited to a single point each on Allen Road and Casement Road. The access on Allen Road is located near the intersection with Casement Road, and, in the southern one-quarter of the property on Casement Road. A fence enclosed storage yard is located behind the existing buildings and used for general storage, loading and unloading of materials/supplies and a fueling station.

PROPOSED USE:

The Manhattan-Ogden Unified School District (USD 383) is proposing to make improvements to the Keith Noll Maintenance Center at 2031 Casement Road. The proposed project provides for the demolition of the two-story school building (5,406 square feet) and shop building (4,284 square feet) and build in their place a new 11,630 square foot, single-story structure that combines administrative office space (6,347 square feet) with warehouse/workshop space (5,292 square feet). This modernization project also includes a partial restoration of paving and curb and gutter in the parking area along Casement Road and within the storage area behind the building.



Attachment No. 1

Exterior Appearance.

The new structure will be a one-story, metal skin building that will be structurally attached to the existing 11,640 square foot warehouse building along Allen Road. The accompanying Exterior Elevations drawing (A201) supplied by the applicant indicates the metal façade will be of a light colored, light gray or off-white with a medium blue accent color at window and door trim, gutters and downspouts. The exterior design will also include a three (3) foot metal panel wainscoting, of a complimentary medium gray color that will extend around the base of the new building.

Parking and Circulation.

In conjunction with the partial repaving of the existing parking lot, the parking configuration and traffic flow will change. Currently, the parking lot along Casement Road consists of 24 perpendicular (90 degree) parking stalls accessible by a central drive aisle affording two-way traffic between the access points on Allen Road and Casement Road. With the construction of the new building, the parking lot will be reconfigured with 60-degree angled parking facilitating a one-way traffic flow with vehicles entering through the Allen Road access drive and exiting through the Casement Road access drive. The access drive on Casement Road will continue to be the point of access to the storage yard behind the building. The new parking lot design will increase the amount of on-site parking from 24 to 35 spaces. If the off-street parking requirements were applied to the interior spaces within the new combined buildings (i.e. business and professional office; and, warehouse, storage and wholesale establishments) a total of 29 parking spaces would be required.

Landscaping and Screening.

In accordance with the Zoning Regulations, five percent (5%) of the parking area is required to be landscaped. The calculated area of parking and driveways is 11,480 square feet of which five percent (5%) is 574 square feet. In addition, one (1) tree of 2½" caliper shall be provided for each 5,000 square feet of parking area. Based on the size of the parking area, at least two (2) trees are required.

Based on the accompanying Landscape Plan (L100), the applicant proposes to install foundation plantings within a six (6) foot wide landscape strip along the east side of the new building; and, a four (4) foot wide landscape strip along its north side. The combined area of both landscape strips is 1,112 square feet. Plant material within the foundation planting areas include Karl Foerster Grass, Lil Diddy Viburnum, Shenandoah Switch Grass, Daylilly, Buckthorn, Prarie Dropseed and Daffodil, Gray Guardian Juniper, Siberian Iris, and, Brandywine Viburnum. Given their proximity to the parking lot, the proposed foundation plantings meet and exceed the amount of parking lot landscaping required. Two (2) Swamp White Oak trees are to be installed within the parking area, one (2) at the north drive entrance off of Allen Road, and one (1) at the southwest corner of the parking area.

Attachment No. 1

All motor vehicle loading berths for loading and unloading of materials which abut or are adjacent to a residential district shall be screened by sight obscuring screening of not less than six (6) feet nor more than eight (8) feet in height. The existing loading and storage yard to the rear of the building is enclosed by a six (6) to eight (8) foot tall chain-link fence. To satisfy this requirement, the applicant proposes to install an eight (8) foot chain-link privacy fence, gray color, installed over existing poles. In the attached letter from Mr. Jonathan Jay Holley dated September 3, 2019, he indicates the districts willingness to convert the existing fence to a privacy fence, however, due to budgetary reasons they would like to delay its installation until no later than December 31, 2021.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:

The site is a relatively flat corner lot with approximately 402-feet of frontage along Allen Road to the north and 315-feet of frontage on Casement Road to the east. The site has long been established as a maintenance center in conjunction with the USD 383 school district. The 2.85-acre site is presently bounded by the Prairie Glen apartment complex (PUD), and, two (2), two-family dwellings (R-2) to the north; by the Countryside mobile home community (R-5) to the east; and, single-family residential development (R-1) to the south and west.

THE FOLLOWING SEVEN (7) FACTOR SHALL BE CONSIDERED WHEN BALANCING THE PUBLIC INTERESTS TO BE SERVED BY THE CONSTRUCTION OR EXPANSION OF THE UTILITY OR FACILITY, AS OPPOSED TO THE IMPACT UPON THE INTERESTS INTENDED TO BE PROTECTED BY THE ZONING REGULATIONS.

- 1. THE NATURE AND SCOPE OF THE MUNICIPALITY OR STATE AGENCY:** USD 383 is the Manhattan-Ogden Unified School District and is the public school system for the greater Manhattan and Ogden area. For the most recent 2018-2019 school year, USD 383 had a reported 6,363 students enrolled in preK-12 schools within the Cities of Manhattan and Ogden.
- 2. THE FUNCTION OF THE UTILITY OR FACILITY:** As noted, the USD 383 Maintenance Department housed at the Keith Noll Maintenance Center, provides district maintenance and custodial work to all school district facilities. As referenced on the USD 383 website, “the maintenance team [located at the maintenance center] work to keep building components and district equipment in functioning order to provide a safe comfortable place for students to learn.” The fence enclosed area behind the building is used as a storage area for vehicles, equipment and supplies and is also the location of a fuel station. Large overhead door openings on the back side of the building afford the loading and unloading of supplies. Outside of staff operating from the center, the center is not a location that the general public visits or accesses.

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- 3. THE EXTENT OF THE PUBLIC INTEREST TO BE SERVED BY THE UTILITY OR FACILITY:**
The Keith Noll Maintenance Center is the sole maintenance facility for the Manhattan-Ogden USD 383 School District. As previously noted, the maintenance center supports and maintains approximately 1.3 million square feet of building spaces and just under 300 acres of grounds at the School District's 21 locations. Maintaining the functionality of this center is essential to the operations of the School District. The proposed improvements are sought to modernize the maintenance center and make it more efficient and cost effective.
- 4. THE EFFECT THAT REGULATION OF THE CONSTRUCTION, OR EXPANSION, EITHER BY THE IMPOSITION OF REQUIREMENTS NECESSARY TO MITIGATE IMPACTS OR BY A COMPLETE DENIAL, WILL HAVE UPON THE MUNICIPALITY'S, OR STATE AGENCY'S, ABILITY TO EFFICIENTLY, ECONOMICALLY AND PRUDENTLY MEET THE PUBLIC INTERESTS THEY ARE SERVING:** The maintenance center and its operation is not currently listed as a permitted or conditional use in the R-1 District as presently zoned. To accommodate the proposed building improvement, it will be necessary for the School District to go through the Municipal Facility Review process. The change sought will replace two (2) aging, two-story structures with a new single-story metal skin building. The proposed building will present a lower profile on Casement Road to which it fronts and present a clean, updated exterior appearance. With an overall length of 165-feet along Casement Road, it would be preferable the front building façade incorporate other textural and color elements to break up the massing of the building wall. By contrast, however, the proposed building improvement will stand as a greater aesthetic benefit to the neighborhood compared to the two (2) existing structures to be replaced.

The applicant intends to install foundation plantings along the north and east sides of the proposed building addition that will more than satisfy the minimum parking lot landscaping requirements. This includes the planting of two (2) Oak trees, one at both ends of the parking lot.

The principal area of compromise with this proposal is with regard to screening the outdoor storage yard to the rear of the building in relation to neighboring residential properties. The School District requests to delay installation of screen fencing until December 2021 for budgetary reasons. In light of other improvements to be made to the property and for the length of time this facility has been in operation, City Administration believes this to be a reasonable request and would support a delay to installation of the screening fencing to no later than December 31, 2021.

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- 5. THE IMPACT THAT CONSTRUCTION OR EXPANSION OF THE UTILITY OR FACILITY WILL HAVE UPON THE LEGITIMATE INTERESTS OF THAT PORTION OF THE COMMUNITY IN WHICH IT IS PROPOSED TO BE LOCATED:** The principal change to the property sought with the Municipal Facility Review is the replacement of two (2) aging two-story structures with a new single-story structure. On-site operations will not change as a result of the proposed construction. The subject property has a long-standing history within the neighborhood as a maintenance facility in conjunction with the School District. It is not anticipated that proposed improvements will have any greater material impact on neighboring residential properties than the existing facility. Not only will a cleaner, metal skin building replace two (2) aging structures, but, the rear storage yard area that abuts residential property will ultimately be screened in the process.
- 6. IF THE OWNER OF THE UTILITY OR FACILITY IS THE CITY OF MANHATTAN, AND IF THE FACILITY OR UTILITY IS OF A TYPE EMBRACED WITHIN THE COMPREHENSIVE PLAN, WHETHER OR NOT IT IS IN CONFORMITY WITH THAT PLAN:** The City of Manhattan is not the owner of the proposed facility as the subject site is owned by the Unified School District 383. The Future Land Use Map shows the area encompassing site as predominantly Residential Low/Medium Density land uses except for the existing Prairie Glen apartment complex to the north and Countryside mobile park to the east that share the Residential Medium/High Density land use designation. As a long established municipal facility, the subject property is designated Public/Semi Public land use. The primary uses anticipated by this land use designation include schools, government offices, community centers, fire stations, airports, libraries, hospitals, cemeteries, churches and other places of worship. Also includes facilities needed for essential public services such as electrical substations, water and wastewater facilities, and other similar uses. The Public/Semi Public land use designation recognizes the subject property's long standing relationship with the community as a maintenance center for the USD 383 School District.
- 7. OTHER FACTORS AS THE PLANNING BOARD DEEMS APPROPRIATE AND RELEVANT:** In addition to the factors addressed above, the Manhattan Urban Area Planning Board may consider any other factors which it deems appropriate and relevant in its consideration regarding the proposed improvements to the Keith Noll Maintenance Center. City Administration finds the applicant has adequately demonstrated the need to modernize the existing maintenance center with the demolition and replacement of two (2) existing structures with a proposed 11,630 square foot addition to the existing warehouse structure extending along Allen Road. The proposed building is seen as an aesthetic improvement to the property and not anticipated to have any greater effect

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on neighboring residential property than the existing facility. Features not currently provided include the addition of landscaping, installation of two (2) parking lot trees, the addition of a landscaped 10-foot square concrete patio with picnic table for the community to use at the Allen Road drive entrance, and, the installation of a screen fence for the first time to encompass the outdoor storage area in behind the buildings. The addition of a screen fencing over the existing chain-link fence will provide a buffer to adjoining residential properties to the south and west.

STAFF RECOMMENDATION: City Administration recommends approval of the proposed Keith Noll Maintenance Center improvements with the following conditions of approval:

1. The Subject property shall be used and improved in accordance with the plans and materials submitted by the applicant:
2. Landscaping shall be installed and maintained as shown on the landscape plan.
3. Exterior lighting shall be installed as referenced on the submitted plans and in accordance with the lighting cut sheet specifications.
4. An eight foot tall chain-link fence with screening slats shall be provided around the perimeter of the rear parking, storage, loading area, by December 31, 2021, if not before.

The Planning Board shall not recommend approval of the request unless it determines, by a preponderance of the evidence, that the public interests to be served by the construction or expansion of the utility or facility outweigh any impact upon legitimate community interests, as such impact is mitigated by any requirements of the Planning Board.

If the Planning Board recommends approval, they shall also recommend any requirements or conditions they deem necessary to mitigate impacts caused by such use. Such requirements or conditions may include, but are not limited to, any bulk, or other requirements, which would have otherwise been applicable within the zoning district in which the proposed use is to be placed.

ALTERNATIVES

It appears the Planning Board has the following alternatives concerning the issue at hand. The Board may:

1. Hold a public hearing on the proposal and, following the hearing, recommend approval of the proposed improvements, based on the findings in the staff report, with the three (3) conditions of approval recommended by City Administration.
2. Hold a public hearing on the proposal and, following the hearing, recommend denial of the proposed improvements for specifically stated reasons.
3. Hold a public hearing on the proposal and, following the hearing, modify the site plan and/or conditions of approval, to meet the needs as perceived by the Planning Board, and establish such conditions, if any, as deemed necessary to mitigate any impacts created by the proposed parking lot.
4. Table the public hearing on the proposed improvements, for specifically stated reasons and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends that the Planning Board:

1. Hold a public hearing on the proposed improvements to the Keith Noll Maintenance Center;
2. Determine by a preponderance of the evidence, that the public interests to be served by the proposed improvements, outweigh the impacts upon the legitimate community interests, as mitigated by requirements of the Planning Board; and,
3. Recommend approval of the proposed improvements, with the three (3) conditions of approval recommended by City Administration. This recommendation is based on the findings in the Staff Report.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board finds that the public interests to be served by the proposed Municipal Facility, outweigh the impacts upon the legitimate community interests and recommends approval of the proposed improvements to the Keith Noll Maintenance Center, based on the findings in the Staff Report, with the three (3) conditions of approval recommended by City Administration.

PREPARED BY: Barry Beagle, AICP, Senior Planner

DATE: September 10, 2019