



***MINUTES  
CITY COMMISSION MEETING  
TUESDAY, NOVEMBER 16, 2021  
7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Wynn Butler and Commissioners Linda Morse, Mark J. Hatesohl, Aaron Estabrook, and Usha Reddi were present. Also present were City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, Assistant to the City Manager Jared Wasinger, City Attorney Katharine Jackson, Assistant City Clerk Chelsea Johnson, 7 staff, and approximately 30 interested citizens.

Attending virtually was Randy DeWitt, Assistant Director of Public Works Water and Wastewater.

**PLEDGE OF ALLEGIANCE**

Mayor Butler led the Commission in the Pledge of Allegiance.

**PROCLAMATIONS**

Mayor Butler proclaimed November 27, 2021, ***Small Business Saturday***. Jim Adams, Agency Manager and Independent Insurance Advisor, Legacy Solutions Insurance, was present to receive the proclamation.

Mayor Butler proclaimed November 2021, ***National Home Care and Hospice Month***. Dava Jones, Liaison, Interim HealthCare, was present to receive the proclamation.

Mayor Butler recognized ***Pawnee Mental Stabilization Center Staff***. Brynne Haverkamp, Director; Kelsey Harwood, Clinical Supervisor; and Jeremy Meek, Operations Supervisor, Crisis Stabilization Unit, were present to receive the proclamation.

## COMMISSIONER COMMENTS

Commissioner Morse and Commissioner Estabrook made comments and thanked the Pawnee Mental Stabilization Center.

Commissioner Reddi thanked Pawnee and the Crisis Stabilization Unit. She encouraged everyone to Shop Local and that we want the small businesses to be successful as well. She mentioned the Flint Hills Discovery Center and downtown has several events planned and to make Manhattan your holiday destination. She wished everyone a Happy Thanksgiving.

Commissioner Estabrook shared his personal experience and stated that having a local Crisis Stabilization Unit is an amazing resource to have.

Mayor Butler mentioned the Flint Hills Area Transportation Agency (ATA) District Loop that kicks off November 19 that connects Aggieville, Downtown Manhattan and Blue Earth Plaza and mentions that there aren't any parking problems because you can take a free shuttle bus on Friday 4:00 to 10 p.m. and Saturday 10 a.m. to 10 p.m. He said starting November 19 that the FHATA has decided that on Friday and Saturday all bus services will be free throughout the city during their normal times and that this will help with shop local and taking part in the spirit of the holidays. He commented that on the CVB website there is a list of about 22 events taking place. And highlighted those that had already kicked off, the Festival of Trees in Manhattan Town Center November 9-17, Holiday Open House Downtown November 13, and the Night of Lights Dining Platform Lighting Displays Contest November 14-December 1. Go to DowntownManhattan.com website for \$10 get a passport for the Twelve Drinks of Christmas. Mentioned the 20<sup>th</sup> year of the Manhattan Spirit of the Holidays Lighted Parade on Friday, December 3.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 2, 2021.

### CLAIMS REGISTER NO. 2986

The Commission approved Claims Register No. 2986 authorizing and approving the payment of claims from October 27, 2021 – November 9, 2021, in the amount of \$4,843,496.85.

## CONSENT AGENDA (CONTINUED)

### LICENSES – TREE MAINTENANCE LICENSES

The Commission approved a Tree Maintenance License for the calendar year 2022 for Flint Hills Tree Care, 10555 Wheaton Road, Westmoreland; Sheffield Tree Service, 10570 Anderson Avenue, Riley; Three Men Tree Service, 255 Ridge Drive; Tree Biologics, Inc., 2880 Zeandale Road; Tree Man-MHK, 2104 Fox Meadows; Wildcat Tree Service, 3761 Cumberland Road; and Wright Tree Service, Inc., 5930 Grand Avenue, West Des Moines, Iowa.

### RESOLUTION NO. 111621-A – ISSUE - TEMPORARY NOTES SERIES 2021-03

The Commission ratified acceptance of the best bid for the notes to Huntington Securities, Inc., of Chicago, Illinois; and approved Resolution No. 111621-A, issuing \$16,230,000.00 in temporary notes (Series 2021-03) to finance the following two (2) special assessment projects: *Stonehaven Addition, Unit Two – Storm Drainage Detention Pond (SM1903) and Stonehaven Addition, Unit Two – Amherst Street Improvements (ST1903)*; and four (4) capital projects: *North Campus Corridor, Phase Ten – Street Improvements (ST2001)*; *Aggieville Parking Garage – Building Improvements (AG1903)*; *Levee Storm Drainage Improvements (SM1813) and City Park Playground and Surfacing Improvements (PR2008)* to be debt financed.

### RESOLUTION NO. 111621-B – ADOPT – FIVE YEAR STRATEGIC PLAN

The Commission approved Resolution No. 111621-B adopting the City of Manhattan 5-year Strategic Plan.

### REQUEST FOR PROPOSALS - AMERICANS WITH DISABILITIES ACT (ADA) SELF-EVALUATION AND TRANSITION PLAN

The Commission approved the Request for Qualifications; authorized City Administration to solicit proposals to select a consultant to conduct an ADA Self-Evaluation for the City of Manhattan and update its Transition Plan; and appointed Commissioner Morse to serve on the Selection Committee.

### AWARD CONTRACT - KANSAS RIVER FLOOD PROTECTION PROJECT – WELL #18 ABANDONMENT (WA2017)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$69,112.47 and awarded and authorized the Mayor and City Clerk to execute a construction contract, in the amount of \$66,588.40, with Wildcat Construction Co., Inc. of Wichita, Kansas, for the Kansas River Flood Protection Project – Well #18 Abandonment (WA2017).

## CONSENT AGENDA (CONTINUED)

### GRANT – KDOT CCLIP – K-18 FROM MARTIN LUTHER KING JR. DRIVE TO JULIETTE AVENUE (ST2112)

The Commission authorized the Mayor and City Clerk to execute a City-State Agreement with Kansas Department of Transportation (KDOT) City Connecting Link Program (CCLIP) Grant not to exceed \$1M at an 80%/20% share for K-18 from Martin Luther King Jr. Drive to Juliette Avenue project (ST2112).

### BOARD APPOINTMENT - CITY-UNIVERSITY SPECIAL PROJECTS FUND COMMITTEE

The Commission approved the appointment of Marianne Korten, 814 Osage Street, to a one-year Faculty term which begins immediately and will expire June 30, 2022.

Mayor Butler opened the public comments.

Hearing no comments, Mayor Butler closed the public comments.

Commissioner Estabrook moved to approve the consent agenda. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

## PUBLIC HEARING

### FIRST READING - ADOPT - MANHATTAN DEVELOPMENT CODE (MDC)

John Adam, Senior Planner, presented the item.

Mayor Butler opened the public hearing.

Mel Borst, 1918 Humboldt Street, voiced concerns of the MDC that it would not only further damage established neighborhood integrity and historic environs but also conflicts with the Manhattan Urban Area Comprehensive Plan by allowing oversized houses to be constructed anywhere in any TNO neighborhood regardless of established house size, scale, or historic and other considerations. He stated the MDC contains zoning regulation changes that were inconsistent with the Comprehensive Plan. Asked for the MDC to be in compliance with the Comprehensive Land Use Plan.

Hearing no other comments, Mayor Butler closed the public hearing.

John Adam, Senior Planner; Chad Bunger, Assistant Director of Community Development; and Rob Ott, Director of Public Works answered questions from the Commission.

## PUBLIC HEARING (CONTINUED)

After discussion, Mayor Butler moved to override the recommendation of approval by the Planning Board on a prior version of the Manhattan Developmental Code, and approve first reading of an ordinance adopting the Manhattan Developmental Code, with required correction, as presented tonight. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 4-1 with Commissioner Estabrook voting against.

## GENERAL AGENDA

### BOYS & GIRLS CLUB APPEAL - HISTORIC RESOURCES BOARD DEMOLITION DENIAL - 212 SOUTH 5<sup>TH</sup> STREET (WURST HOUSE)

Mayor Butler asked each member of the City Commission who had engaged in ex parte communication with any individual either in favor of, or against, the matter being considered, to state what communication occurred and indicate that even in light of having engaged in the communication whether they were able to fairly, objectively, and impartially consider the measure based only upon the evidence provided on the record.

Ex parte communication was declared by Mayor Butler and Commissioners Linda Morse, Mark Hatesohl, Aaron Estabrook, and Usha Reddi. Mayor Butler and Commissioners Linda Morse, Mark Hatesohl, Aaron Estabrook, and Usha Reddi stated that they were able to fairly, objectively, and impartially consider the measure based only upon the evidence provided on the record.

Katie Jackson, City Attorney, presented on the item procedure and answered questions from the Commission.

Ben Chmiel, Planner III, Community Development, presented evidence for the item and answered questions from the Commission.

Trent Jones, Executive Director, Boys & Girls Club of Manhattan, presented on the item and answered questions from the Commission. He stated the Wurst house location was an opportunity to expand services at the Boys & Girls Club Fifth Street location, outdoor space will provide opportunity and life skills to the youth, ability to add programming space, and wants to provide a space that will contribute to the neighborhood, that would promote safety and hometown pride for residents of Manhattan. Asked the Commission to override the Historic Resources Board's decision. Stated the house itself was not historic nor contributing to the historic district.

## GENERAL AGENDA (CONTINUED)

Mayor Butler opened the public comments for relevant, competent evidence that related to the standards for the Commission to consider.

Kathy Dzewaltowski, 100 South Delaware Avenue, has knowledge of historic preservation from being on the Board of Directors for Manhattan/Riley County Preservation Alliance since 2006 (expertise to the matter), provided comments in opposition of the demolition of the Wurst House and that the applicant presented factors that were not relevant to the process. She stated that the house could continue to be a rental property and could be considered “contributing” to the historic district by replacing the inappropriate exterior siding and then renovation costs could then be eligible for state and federal tax credits. She asked the Commission to deny the appeal because there were clearly feasible and prudent alternatives to demolition and because the project does not attempt to minimize harm to the historic district.

Linda Glasgow, President, Manhattan/Riley County Preservation Alliance, representing 79 families who are members, expressed opposition to the demolition of the Wurst house, supported the Historic Resources Board’s decision, agreed with the City staff’s analysis that there are feasible and prudent alternatives to demolition and that all possible planning to minimize harm to the historic district has not taken place. The Manhattan Riley County Preservation Alliance was concerned about the potential precedence that would be set by permitting the demolition of a habitable house within a historic district for reasons that are not relevant.

Mel Borst, 1918 Humboldt Street, commented about his experience in installing and removing cement asbestos siding that it protects the siding underneath it. He said typically the siding is the traditional cedar lap siding and unless the trim on the windows is damaged and need replaced, typically the siding can be removed and not necessarily need to replace any siding to be more like the original.

Hearing no other comments, Mayor Butler closed the public comments for relevant, competent evidence that related to the standards for the Commission to consider.

Trent Jones, Executive Director, Boys & Girls Club of Manhattan, answered questions from the Commission.

Ben Chmiel, Planner III, Community Development, stated that statements made that the Wurst house itself was not historic was irrelevant and incorrect and statements regarding crime and nuisances are unrelated to the feasible and prudent alternatives to the use of the Wurst house was not a factor to consider. He then answered questions from the Commission.

## GENERAL AGENDA (CONTINUED)

Commissioner Hatesohl stated that demolishing the Wurst house was contributory to the betterment of the community since it would provide more opportunity for the youth than it contributes to the historical preservation of the community. He said that the Commission's hands are tied as there is no legal ground for the Commission to override the Historic Resources Board's decision; therefore, he would have to vote to support the decision of the Historic Resources Board.

Mayor Butler stated that as to feasibility, his thoughts were that the Wurst house is not on the historic register, it's noncontributing to the historic district, it doesn't currently qualify for tax credits; as to the economics, would pay \$115,000.00 which is less than the assessed value of it and would have to invest \$155,000.00 to make the house habitable, that is not feasible to invest \$270,000.00 to use as a rental. He stated that he could vote to overturn the Historic Resources Board's decision due to that it was not economically feasible to repurpose the house, that it doesn't do any irreparable harm to the historic district since the house itself is not on the historic register, and the greenspace would probably improve the historic district.

Commissioner Morse stated that the Commission have an obligation and that the evidence was clear to deny the demolition.

Commissioner Estabrook stated that he didn't know if feasible or realistic to make the investment that would be required and the changes that would be required to trigger the opportunity to use tax credits. He said the Wurst house is on the edge of the historic district, it's noncontributing to the historic district so he would overturn the Historic Resources Board's decision.

Commissioner Reddi stated she looked at the evidence and didn't know if she has all the facts that pertain to the health and safety of the house for tenants that live there. As for feasibility, she thought there were things that could be done so that the house would be eligible for tax credits. She stated that she would support the Historic Resources Board's decision but would like to table the item in order to receive more information as to health and safety issues.

Mayor Butler stated that the key missing element was that the property owner was not present. He mentioned that if the property owner would have Risk Reduction do an inspection, that would provide the information regarding health and safety issues.

Katie Jackson, City Attorney, answered questions from the Commission and the City Manager.

## GENERAL AGENDA (CONTINUED)

After discussion, Commissioner Reddi moved to table the recommendation to demolish until we have further information about Code Inspection of the house, of the residence, and breakdown of the cost to restore or what things are essential to be changed quickly to keep habitable, to the December 7, 2021, agenda. Commissioner Hatesohl stated that if the owner is not willing to allow a code inspector in, then maybe they would let the Boys and Girls Club in have an inspection then bring the Commission something that talks about what kind of things are essential to be changed quickly to keep it habitable. Commissioner Hatesohl seconded the motion. Mayor Butler stated the motion includes the owner to contact the Code office and have a full inspection of the home and for the applicant to give a total breakdown of what it would cost to put the building back into a better state than it is right now. Mayor Butler further stated that if the owner does not wish to do that then the Commission just won't get that piece of information, but they could get an update of the BHS breakdown of the \$155,000.00. Mayor Butler stated the applicant could address the cost to replace the siding to access tax credits. On a roll call vote, motion carried 5-0.

At 10:04 p.m., the Commission took a brief recess.

### FIRST READING – AMEND - WATER AND SEWER RATES

Rob Ott, Director of Public Works, presented the item.

Mayor Butler opened the public comments.

Hearing no comments, Mayor Butler closed the public comments.

Commissioner Hatesohl moved to approve first reading of an ordinance amending applicable sections of Chapter 32 of the Code of Ordinances to modify water rates and charges as recommended, effective January 1, 2022. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

Commissioner Hatesohl moved to approve first reading of an ordinance amending applicable sections of Chapter 32 of the Code of Ordinances to modify sewer rates and charges as recommended, effective January 1, 2022. Commissioner Estabrook seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – AMEND - STORMWATER RATES

Brian Johnson, City Engineer, presented the item. He then answered questions from the Commission.

Mayor Butler opened the public comments.

Monica MacFarlane, 213 Parker Drive, stated she noticed on the chart that 50% of the people think this is the most important thing but it's the last item on the agenda for discussion, if it's that big of an issue this should have been the first item on the agenda next time.

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

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance amending applicable sections of Chapter 32 of the Code of Ordinances to modify stormwater rates and charges as recommended, effective January 1, 2022. Commissioner Estabrook seconded the motion. On a roll call vote, motion carried 5-0.

### ADJOURNMENT

At 11:12 p.m. the Commission adjourned.



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Chelsea Johnson, Assistant City Clerk