



***MINUTES
CITY COMMISSION MEETING
TUESDAY, DECEMBER 7, 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, City Clerk Brenda K. Wolf, 5 staff, and approximately 41 interested citizens.

Attending virtually were Rina Neal, Director of Finance; Dominic Eck, Gilmore & Bell; and Jennifer Sourk, Legal Counsel, Bev Hub.

PLEDGE OF ALLEGIANCE

Mayor Butler led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Butler recognized the 2021 Citizen's Academy participants. Beth Ann Riley, Kaleb Roberts, Christine Weixelman, Marcia Maurer, Richards Jones, and Myron Kryschtal were in attendance to receive their certificate. Citizen's Academy participants not in attendance were Joan Jones, Edward McNamara, Brian Stinson, Paula Foerschler, Thomas Lane, Christina Stratman, Cindy LaBarge, Karen Martinez, Colin Cooper, Jeannie Sawyer Rummer, Bobbi French, Sara Hammon, Jack Platt, Claudia Hisson, Kiffnie Holt, and Dylan McKenzie.

PUBLIC COMMENTS

Mayor Butler opened the public comments and highlighted the process.

Lorenzo Lockett, 1920 Bluestem Terrace, representing Manhattan Coalition of Equal Justice, requested making the Riley County Law Board member appointment process a more public application process and provided suggestions on how to do that.

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

COMMISSIONER COMMENTS

Commissioner Reddi congratulated the 2021 Citizens Academy graduates. She stated she enjoyed the Festival of Lights tree lighting on Friday, November 26, 2021, and the Manhattan Spirit of the Holidays Lighted Parade on Friday, December 3, 2021. She also congratulated Dr. Richard Linton for being named the new Kansas State University President and the Kansas State University football team for making it to the TaxAct Texas Bowl Game on January 4, 2022.

Commissioner Estabrook mentioned that the Food and Farm Council did have preliminary survey results and that it would be important for the City and the County to work together on the food master plan in 2022. He also mentioned that there will be 30-50 more individuals arriving in Manhattan as part of the Afghanistan resettlement efforts and that he appreciated everyone that has stepped up in different ways to support that effort.

Commissioner Morse congratulated the 2021 Citizens Academy graduates and encouraged others to sign up. She stated that the events over last week were really special, as well as the Festival of Lights tree lighting on Friday, November 26, 2021, at Blue Earth Plaza. She also congratulated Dr. Richard Linton for being named the new Kansas State University President and stated how critical it was to work with the University Administration for the betterment of the community. She mentioned she was excited Kansas State University football team would be playing in the TaxAct Texas Bowl Game on January 4, 2022. She also stated that she served on the Board of the Flint Hills Regional Council which had been meeting to get as much done and in order before the current Executive Director Christy Rodriguez's last day, which would be Friday, December 10, 2021.

Mayor Butler thanked everyone who contributed to making Manhattan the spirit of the holidays destination and to check the Convention and Visitors Bureau website for upcoming events. He thanked the Parks and Recreation Department for their assistance in making the Manhattan Spirit of the Holidays Lighted Parade on Friday, December 3, 2021, successful. He stated the goal for the parade in 2022 was to have 85 or more entries to make it the largest parade in the state of Kansas next year. He thanked everyone involved over the years who have made the parade so successful.

CONSENT AGENDA (* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 16, 2021.

CONSENT AGENDA (CONTINUED)

CLAIMS REGISTER NO. 2987

The Commission approved Claims Register No. 2987 authorizing and approving the payment of claims from November 10, 2021 – November 30, 2021, in the amount of \$4,130,202.31.

LICENSES

The Commission approved a *Merchant Guard Agency License* for calendar year 2022 for Allied Universal Security Service, LLC, 161 Washington Street Suite 600, Conshohocken, Pennsylvania; Bradley Technologies Incorporated, 1700 Rockville Pike Suite 200, Rockville, Maryland; Prudential Command, Inc., 20600 Eureka Road #900, Taylor, Michigan; Prudential Security, Inc., 20600 Eureka Road #900, Taylor, Michigan; and Vend-Tech Enterprise, LLC, 250 North Rock Road Suite 360, Wichita, Kansas; a *Tree Maintenance License* for calendar year 2022 for Grogg's Stump Grinding Service, 5007 Vista Acres Drive; and Shiver Me Timbers LLC, 4521 Freeman Road; an annual *Cereal Malt Beverages Off-Premises License* for Dara's #1, 1816 Claflin Road; Dara's #2, 3270 Kimball Avenue; Dara's #10, 2323 Tuttle Creek Boulevard; Shop Quik #11, 3108 Anderson Avenue; Shop Quik #12, 430 Fort Riley Boulevard; Shop Quik #14, 529 Richards Drive; Shop Quik #16, 1127 Bluemont Avenue; Shop Quik #18, 1005 Scenic Landing; and Walgreens #12814, 2719 Anderson Avenue; and an annual *Cereal Malt Beverages On-Premises License* for Manhatchet, 316 Poyntz Avenue.

ORDINANCE NO. 7557 - AMEND - WATER RATES

The Commission approved Ordinance No. 7557 amending applicable sections of Chapter 32 of the Code of Ordinances to modify water rates and charges as recommended, effective January 1, 2022.

ORDINANCE NO. 7558 - AMEND - SEWER RATES

The Commission approved Ordinance No. 7558 amending applicable sections of Chapter 32 of the Code of Ordinances to modify sewer rates and charges as recommended, effective January 1, 2022.

ORDINANCE NO. 7559 - AMEND - STORMWATER RATES

The Commission approved Ordinance No. 7559 amending applicable sections of Chapter 32 of the Code of Ordinances to modify stormwater rates and charges as recommended, effective January 1, 2022.

* **ORDINANCE NO. 7560 - ADOPT - MANHATTAN DEVELOPMENT CODE**

Chad Bunger, Assistant Director of Community Development, provided clarification on the Manhattan Development Code in regard to the older neighborhoods in the Traditional Neighborhood Overlay District and inconsistency with the Manhattan Area Comprehensive Plan.

CONSENT AGENDA (*CONTINUED*)

* **ORDINANCE NO. 7560 - ADOPT - MANHATTAN DEVELOPMENT CODE
(*CONTINUED*)**

Chad Bunger, Assistant Director of Community Development; John Adam, Senior Planner, and Ron Fehr, City Manager, answered questions from the Commission after public comments.

Item was moved to the end of the General Agenda.

* **FIRST READING - AMEND - SPECIAL EVENTS WITH ALCOHOL -
AGGIEVILLE, DOWNTOWN, CITY PARK**

The Commission approved first reading of an ordinance amending Sections 4-2, 31-157, 31-159, and 31-160 of the Code of Ordinances relating to special events and possession of alcoholic liquor and cereal malt beverages in Aggieville, Downtown, City Park and Twin Oaks.

* **FIRST READING - AMEND - 2022 SALARY ORDINANCE**

The Commission approved first reading of a revised Salary Ordinance establishing a new range of salaries for 2022 for City Commissioners and City employees.

**RESOLUTION NO. 120721-A - RENAME - PLANNING, ZONING, AND
SUBDIVISION FEES**

The Commission approved Resolution No. 120721-A, Renaming Planning, Zoning, and Subdivision fees.

**RESOLUTION NO. 120721-B - AMENDED PETITION - ELIJAH
ADDITION - SANITARY SEWER IMPROVEMENTS (SS1916)**

The Commission accepted the Amended Petition amending the Elijah Benefit District, and approved Resolution No. 120721-B amending Resolution No. 101519-D which found the Elijah Addition Sanitary Sewer Improvements (SS1916) advisable and authorized construction.

**NEGOTIATE AGREEMENT - LEE MILL VILLAGE REAL ESTATE
SERVICES (SP1705) - THE ALMS GROUP**

The Commission approved the selection of The Alms Group and authorized City Administration to negotiate an Agreement with The Alms Group for the Lee Mill Village real estate services (SP1705).

CONSENT AGENDA (CONTINUED)

AGREEMENT - ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI)

The Commission authorized the Mayor and City Clerk to execute the Small Enterprise Agreement County and Municipal Government with Environmental Systems Research Institute, Inc. (Esri), in the amount of \$60,500.00 per year for a term of three years (2022-2024).

Mayor Butler opened the public comments.

Marianne Kurten, 814 Osage Street, stated her concern with the Manhattan Development Code regarding the older neighborhoods was the difference in the definition of coverage would add to the existing water management/flooding issue of when it rains in 800 block alley between Osage Street and Fremont Street.

Mel Borst, 1918 Humboldt Street, stated that he would like to see the City Commission send the Manhattan Development Code (MDC) Zoning Regulation Amendment back to the Manhattan Urban Area Planning Board to bring into required accordance with Manhattan Urban Area Comprehensive Plan. He stated the issue was Zoning Regulation changes in the MDC that allowed over scaled buildings to be constructed or enlarged anywhere in the Traditional Neighborhood Overlay District.

Betty Banner, 618 Osage Street, stated that if the Manhattan Development Code was adopted that she wanted to make certain that neighborhoods were not decimated by buildings that do not fit into the neighborhood as there had been two locations on Osage Street where that had happened. She highlighted the 500 block of Moro Street which had several bad conditioned homes which have been renovated and revitalized the neighborhood. She also mentioned the 600 block of Osage Street had water problems in the alleys. She spoke in support of the appeal process.

Sylvia Beeman, 1744 Leavenworth Street, stated she was concerned about the proposed amendment to the Manhattan Development Code opening the possibility for large-scaled buildings up to 50 percent larger than existing structures because foundation footprint is the basis for sole consideration instead of lot coverage and would eliminate current regulations on how rest of lot was to be covered. She mentioned her neighborhood had problem with water runoff and had houses that have been renovated that were in poor condition. She stated she was disappointed that more citizens or neighborhood representatives were not part of the process. She also stated that people do care about the size and scale of buildings in their neighborhood and lot coverage by impermeable surface. She spoke in support of the appeal process.

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

CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Hatesohl moved to approve the consent agenda. Commissioner Estabrook seconded the motion.

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

Commissioner Estabrook withdrew his second.

Commissioner Hatesohl moved to approve the consent agenda with Item D3 [ORDINANCE NO. 7560 - ADOPT - MANHATTAN DEVELOPMENT CODE] moved to the end of the General Agenda. Commissioner Estabrook seconded the motion. On a roll call vote, motion carried 5-0, with exception of E1, FIRST READING - AMEND - SPECIAL EVENTS WITH ALCOHOL - AGGIEVILLE, DOWNTOWN, CITY PARK, which carried 4-1 with Commissioner Morse voting against, and Item E-2 [FIRST READING - AMEND - 2022 SALARY ORDINANCE] which carried 4-1 with Mayor Butler voting against.

PUBLIC HEARING

PUBLIC HEARING/FIRST READING - ISSUE - INDUSTRIAL REVENUE BONDS- BEV HUB

Jason Hilgers, Deputy City Manager, presented the item. He then answered questions from the Commission.

Mayor Butler opened the public hearing.

Hearing no comments, Mayor Butler closed the public hearing.

Jason Hilgers, Deputy City Manager, answered additional questions from the Commission.

Commissioner Estabrook moved to approve first reading of an ordinance issuing up to \$1.665 million in Industrial Revenue Bonds for Bev-Hub. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

BOYS & GIRLS CLUB APPEAL HISTORIC RESOURCES BOARD DEMOLITION DENIAL - 212 SOUTH 5TH STREET

Commissioner Hatesohl moved to remove the item from the table. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

BOYS & GIRLS CLUB APPEAL HISTORIC RESOURCES BOARD DEMOLITION DENIAL - 212 SOUTH 5TH STREET (CONTINUED)

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 and Usha Reddi.

Katie Jackson, City Attorney, presented on the procedure for the item.

Ben Chmiel, Long Range Planner, Community Development, presented evidence requested by the City Commission from the November 16, 2021, Commission meeting. He then answered questions from the Commission.

Trent Jones, Executive Director, Boys & Girls Club, presented the additional evidence requested by the Commission on November 16, 2021, as to the breakdown of costs to put the building into better shape than it was currently. He pointed out the repairs to the foundation and mentioned that Schwab-Eaton conducted a visual structural investigation of the building and noted that the basement walls were in fair condition, there was significant water entry through cracks in the walls on all four sides of the basement, and would require excavation of the building, removal of the porches and any exterior concrete slabs, removal and replacement of the basement floor slab, and would need to include a below ground drainage system to a sump pump, all which would be additional \$40,000.00 in repairs previously estimated by BHS Construction.

Commissioner Reddi stated there was enough information provided by Ben Chmiel, Long Range Planner, for her to take a position. With the cost of \$2,300.00 to have asbestos removed so that tax credits could be applied for makes it more doable to make improvements to the property. She stated she would support the Historic Resources Boards recommendation of denial.

Mayor Butler stated that the building was a wreck based on his personal inspection, but since owner would not have an inspection done by Risk Reduction, the owner must think the property is worth keeping as a rental property, and therefore he would support the Historic Resources Boards recommendation of denial as the evidence does not show otherwise to overturn their decision.

GENERAL AGENDA (CONTINUED)

BOYS & GIRLS CLUB APPEAL HISTORIC RESOURCES BOARD DEMOLITION DENIAL - 212 SOUTH 5TH STREET (CONTINUED)

Commissioner Morse stated that she thought the property could be improved and restored and didn't think demolition was the only alternative. She also stated that she was not sure all possible planning had taken place to prevent harm.

Commissioner Hatesohl stated he had no competent, relevant evidence to overturn the Historic Resources Board decision.

Commissioner Estabrook provided no comments.

After discussion, Commissioner Reddi moved to uphold the decision of the Historic Resources Board to deny the demolition by finding that there is a feasible and prudent alternative to the proposed project [and/or] that the project has not included all possible planning to minimize harm to such historic property resulting from such use based upon the evidence. Commissioner Morse seconded the motion. On a roll call vote, motion carried 5-0.

DIVERSITY, EQUITY, AND INCLUSION (DEI) TASK FORCE REPORT

Corey Williamson and Tanya Gonzalez, Co-Chairs, DEI Task Force, presented the final report and acknowledged committee members that were in the audience. They then answered questions from the Commission.

Mayor Butler opened the public comments.

Julie Govert-Walter, Executive Director, Northcentral Flint Hills Area Agency on Aging, thanked the DEI Task Force for their excellent work. She stated that as representative for aging that the Agency looked forward to being involved in future conversations in age friendly community as well as the dementia friendly community initiatives.

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

After discussion, Commissioner Morse moved to accept the Diversity, Equity, and Inclusion Task Force report. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

ITEM REMOVED FROM CONSENT AGENDA

ORDINANCE NO. 7560 – ADOPT - MANHATTAN DEVELOPMENT CODE

Chad Bunger, Assistant Director of Community Development, answered questions from the Commission.

Commissioner Morse wanted to be sure that information regarding building permits that are issued was available to the public. Chad Bunger, Assistant Director of Community Development, stated that building permits that are issued are located on the City's Risk Reduction website and are approximately a month in the rear.

After discussion, Commissioner Hatesohl moved to approve override the recommendation of approval by the Planning Board on a prior version of the Manhattan Development Code, and approved Ordinance No. 7560 adopting the Manhattan Development Code, with required correction. Mayor Butler seconded the motion. On a roll call vote, motion carried 4-1 with Commissioner Estabrook voting against.

Mayor Butler moved to have the Manhattan Urban Area Planning Board revisit the Manhattan Developmental [Development] Code requirements on lot coverage in relation to Manhattan Urban Area Comprehensive Land Use Plan, Zoning Regulation 15-302d, and Kansas Statute 12-757a. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION

Mayor Butler moved to recess into Executive Session to conduct the annual performance evaluation of the City Manager, pursuant to the exception set forth in K.S.A. 75-4319(b)(1) allowing for discussion of personnel matters of non-elected personnel, and to resume the open meeting at 10:30 p.m. in the City Commission Room. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

At 10:30 p.m., the Commission reconvened with Mayor Butler and Commissioners Morse, Hatesohl, Estabrook, and Reddi in attendance. Mayor Butler stated that no binding action was taken during Executive Session; therefore, no vote in the open meeting was needed.

ADJOURNMENT

At 10:31 p.m. the Commission adjourned.



Brenda K. Wolf, CMC, City Clerk