

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD MAY 16, 2007

The governing body met in regular session on May 16, 2007 at 5:30 p.m. in the City Commission Room in the City Hall, the following members being present and participating, to wit: Commissioners Jindra, Johnson, Gilliland, Lanoue and Hosie.

Absent: None.

Other Officers: City Manager Paine and City Clerk Fleming.

The Mayor declared that a quorum was present and called the meeting to order.

Visitors: Jessica LeDuc, Toby Nosker, Amand Balthazor, Ralph E. Campbell, Susan Sutton, Steve Womack, Chér Knudsen, Mark Paul, Marcia Johnson, Bruno Rehbein, Jon F. Puckett, Bob Ballard, Ted Collins, Janet Lowell, Linda Houser, Ron Copple, Roger Nelson, Paul Abram, Ron Deal, Luann Miller, Janet Eubanks, Larry Eubanks, Mark C. Morgan, Susan Cantine-Maxson, Noel Hanson, Eric Johnson, Bob Maxson, Gay Robertson, Kirk Lowell, Marsha Wentz, Michael Wentz, Bill Garrison, Everett Miller, Robert L. Steimel, Burt Farrish, Blake Hendrix, Jerry Byrnes, Steven Bryant, Alan Epstein, J. T. Klaus, Larry Remmenga, John Forshee, Art Slaughter, Leonard Reedy, Judy Reedy, Everett L. Ford, Judy Hill, Tim Parker, Scott Condray, Ben Budreau, Julie Budreau, Mindy Condray, Dan Stehlik, Donald Lanoue, Marvin Copple, Barbara Henry, Lowell Thoman, and Bryan Deal.

Pastor Gay Robertson, Trinity United Methodist Church, provided the invocation before the city commission meeting.

Mayor Johnson announced a change to the agenda. City Manager Paine recommended the removal of item 7A Executive Session – Discussion of Confidential Information relating to Trade Secrets from the agenda and adding an executive session for non-elected personnel as item 9A. Commissioner Hosie moved to approve the agenda. Commissioner Lanoue seconded. Motion carried.

APPROVAL OF MINUTES

Commissioner Jindra moved to approve the minutes of the May 2, 2007 regular meeting as written. Commissioner Gilliland seconded. Motion carried.

APPROPRIATION ORDINANCE NO. 9

APPROVED

Commissioner Hosie moved to approve Appropriation Ordinance No. 9. Commissioner Gilliland seconded. Motion carried.

PROCLAMATION –
EMERGENCY MEDICAL SERVICES WEEK

READ

Mayor Johnson read a proclamation and declared the week of May 20–26, 2007 as Emergency Medical Services Week.

PROCLAMATION –
MENTAL HEALTH MONTH

READ

Mayor Johnson read a proclamation and declared the month of May 2007 as Mental Health Month.

APPOINTMENT TO
CLOUDCORP BOARD OF DIRECTORS

DARREL HOSIE

Commissioner Gilliland moved to nominate Commissioner Hosie to the city representative of the CloudCorp Board of Directors. The term will expire January 2008. Commissioner Lanoue seconded. Motion carried.

PUBLIC COMMENTS

Amand Balthazor asked the commission if a decision had been made on the flag pole at the Sports Complex. He stated if the Pee Wee Association could pay \$3,000, maybe the city could pay the balance of \$1,000. The flag pole is an important project. Ron Copple, Director of Public Works, informed the commission he has not had a chance to seek donations. Mr. Copple will work on this project next week.

Ron Deal stated a group of people approached him about some questions they had about the ethanol plant. Mr. Deal presented a sheet of questions to the mayor and commissioners.

Ben Retter encouraged the commission to consider the Everton Energy project.

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Bob Maxson, Vice President of Administrative Services at Cloud County Community College, representing Richard Underbakke, President of the college. On Mr. Underbakke's behalf, Mr. Maxson wanted to add his endorsement and support to the efforts of the ethanol plant.

John Forshee encouraged the commission to look at what Everton Energy ethanol plant could do, not only for the City of Concordia, but the surrounding area and to support this project.

Charles Leckberg commended the commission for doing a good job.

Jon Puckett, Mayor of the City of Miltonvale, encouraged the commission to favorably consider the Everton Energy project.

Bryan Deal expressed his support for Everton Energy for the future of the children in this community.

Steve Wornack felt this community is a great place to raise kids and by voting for the ethanol plant you could give an additional 50-60 families a chance to raise a family in Concordia.

**BROWN GRAND THEATER
REQUEST ALCOHOL PERMIT**

City Manager Paine informed the commission Susan Sutton has requested the commission to consider altering some of the ordinances to permit the serving of alcoholic beverages at the Brown Grand Theater. There are two main issues that do not allow alcoholic beverages in the Brown Grand. The first is K.S.A. 41-719(d) prohibits the sale or consumption of alcohol in public buildings and the city zoning ordinance prohibits dispensing of alcohol within 200 feet of a church, school or hospital (Article 9, Commercial Zoned Districts, Table 9-1, note 5). The statute allows local government to pass an ordinance to exempt particular buildings. A change to the zoning ordinance would require an initial public hearing process before the Planning Commission.

Susan Cantine-Maxson, manager of the Brown Grand Theater, spoke on behalf of the board and explained the request for an exemption from the current alcohol restrictions. She stated it is their wish to serve alcohol on special occasions and they could purchase a separate dram insurance policy which would cover each event, if necessary. Mrs. Cantine-Maxson thanked the commission for their consideration of this matter.

After discussion of this request, Bruno Rehbein stated he would add this as an agenda item for discussion at the Planning Commission meeting scheduled for May 22, 2007.

Pastor John States, First Christian Church, expressed his disagreement with the request and is not in favor of allowing alcohol to be served at the Brown Grand.

Charles Leckberg stated he also disagrees with serving alcohol at the Brown Grand.

**DISCUSSION OF EVERTON ENERGY
DEVELOPMENT AGREEMENT HELD**

Kirk Lowell, CloudCorp, thanked the commission for allowing further discussion of the proposed Everton Energy ethanol plant. Mr. Lowell introduced Burt Farrish and the Everton Energy team and stated they would allow each commissioner a chance to ask questions about the proposed project and would be reviewing the proposed development agreement and the draft Cost Benefit Analysis.

Commissioner Johnson suggested he would like to see the term "irrevocable" added to the letter of credit verbiage in the development agreement. Commissioner Johnson also questioned the airport being mentioned in the development agreement. Mr. Paine informed the commission if the airport item was in the development agreement, it would give the city a little more leverage with the FAA for another purpose.

Commissioner Gilliland addressed the building permit fees for the project. He stated the building permit fees could be \$180,000 to \$200,000 and wanted to be sure Mr. Farrish was aware what the fees might be. Mr. Farrish said he was aware of the fees and that it would be Everton Energy's responsibility.

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Commissioner Jindra stated his questions were more "big picture" and not necessarily development agreement related. One of Commissioner Jindra's concerns was the fire department. He asked if a study had been done regarding necessary equipment for fire protection at the proposed plant and if specialized training would be needed. Fire Chief Eubanks stated he had visited two ethanol plants and both companies had exceeded the expectations of the insurance companies for fire suppression. At this time, Mr. Eubanks stated the city's equipment is good and will be okay for the proposed plant. He stated the only thing needed is some specialized foam, which the department already has. Mr. Eubanks did not foresee any problems with EMS. Commissioner Jindra asked if there would be an increase in operational expenses. Chief Eubanks said there would not be.

Commissioner Jindra asked the similar question regarding law enforcement. He asked if there would be any special needs for law enforcement or additional operational expenses. Mr. Farrish stated he was not aware of any special law enforcement needs.

Commissioner Jindra also asked Mr. Farrish for a general breakdown of the \$2.2 million yearly payroll and jobs. Mr. Farrish explained there would be around 49 to 50 employees, with the average salary of around \$41,000 a year, with a competitive benefit package.

Commissioner Hosie questioned the financing, the letter of credit for the water development and the industrial revenue and utility bonds. Mr. Hosie asked if the city would have any responsibility on the project. J.T. Klaus, Everton's bond counsel stated the city will have no financial obligation if Everton is ever in default. Mr. Klaus stated with respect to the credit, it would not affect the city's credit; it would fall on Everton Energy.

Commissioner Hosie asked if there were adequate safety nets in the agreement and what would happen if the plant folded in 15 years. Mr. Klaus stated in every conceivable method of the industrial revenue bonds Everton has attempted to protect the city. Mr. Klaus did state however the special assessments are different. He stated the special assessments are a liability, but a contingent liability and it is secured by a bank letter of credit and that the city would only have to pay them if Everton did not.

Commissioner Lanoue asked about the financing. She asked if the 15-year special assessment could be reduced down to 10-year to match the IRB issue. Mr. Farrish stated the statute allows for 20-years, but Everton felt 15-years worked financially for them. Commissioner Lanoue stated she would like to see it as a 10-year. Commissioner Lanoue asked if the city would own the rights to the water. Mr. Klaus stated the city would own the water rights. Commissioner Lanoue asked when the project is completed and it comes to the commission to approve the assessed costs and the property owners have 30 days to pay if there would be any way if there is money left from the IRB issue could be applied to the special assessment. J.T. Klaus stated that it would not be possible, because that is a tax, and there will not be any extra. Commissioner Lanoue stated she had asked for the appraised value and the taxes currently being paid on the land versus what the taxes would be when the land is annexed. Kirk Lowell informed Ms. Lanoue they are currently working on getting the information she requested.

Commissioner Lanoue questioned if the corn would be purchased from the local co-ops or AgMark or directly from the local farmers. Mr. Farrish stated Everton Energy has not reached a definitive agreement with anyone. He anticipated it would come from a commercial entity.

Commissioner Lanoue also asked about public safety and the addition of personnel (police, fire and ems) and the equipment to utilize the foam. Mr. Eubanks stated the fire trucks are foam capable. Mr. Paine stated Danny Parker, Police Chief, had prepared a report on response. In the report Mr. Parker stated by annexing the property they would have to expand patrol and it could impact response time. Traffic control would be another concern, with the large trucks moving through the city. Mr. Paine stated this does not necessarily mean the police department will need more officers. In the report Mr. Parker mentioned additional police staff is needed generally.

Commissioner Johnson asked if the plant would have its own security.

Mr. Farrish stated there would be people on site all the time, 24 hours a day, seven days a week.

Commissioner Hosie asked with Everton Energy covering all expenses associated with the utility bond, is there was any reason for him to be concerned whether the utility bond is 5, 10, 15 or 20 years.

Commissioner Gilliland stated he didn't see any liability to the city on the special assessment bond. Commissioner Gilliland also stated the most asked question he hears is about the water issue. Mr. Farrish informed commission Bob Vincent assisted Everton in the water search and Mr. Vincent felt extremely confident the water would be available.

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Commissioner Lanoue asked about the increased traffic and maintenance cost on Sixth Street. Ron Copple stated there are KLINK grants available from KDOT to resurface streets. Mr. Lowell stated they have looked at resurrecting the bypass to the north. He said it would take time to get the project on KDOT's schedule.

J.T. Klaus reviewed the draft cost-benefit analysis for the Everton Energy project. Mr. Klaus said the cost-benefit analysis report was prepared using the Kansas Tax Abatement Cost-Benefit Model. The report shows the economic impact over the next ten years, along with the summary of costs and benefits for all taxing entities.

In conclusion, Mr. Farrish thanked the commission for their time and respectfully requested to move forward with an affirmative vote on June 6th.

DISCUSSION OF FINANCIAL DONATION TO THE CITY OF GREENSBURG TABLED

Larry Paine requested the commission to consider making a gesture to the city of Greensburg, which had been damaged by a tornado. Commissioner Gilliland said he would prefer to study the issue before making a decision. Commissioner Lanoue did not feel local tax dollars should go there and it should be an individual choice. Commissioner Hosie moved to table this issue until the next meeting. Commissioner Gilliland seconded. Motion carried.

ORDINANCE NO. 2007-2934 ZONING CHANGE FIRST CHRISTIAN CHURCH – 410 WEST 6TH PASSED

Bruno Rehbein stated the First Christian Church requested to rezone the property at 410 W. 6th "R-3" High Density Residential District to "C-4" Central Business District. The purpose of the rezone is to allow the church to build a multipurpose building adjacent to and abutting their property at 600 Cedar. The Planning Commission recommended the City Commission to approve the zoning change.

Thereupon there was presented an Ordinance entitled:

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN SPECIFICALLY DESCRIBED PROPERTY IN THE CITY OF CONCORDIA, KANSAS; ORDERING THE OFFICIAL CITY ZONING DISTRICT MAP TO BE CHANGED TO REFLECT SUCH AMENDMENTS; AND AMENDING SECTION 3-201 OF ARTICLE 3 OF THE ZONING ORDINANCE FOR THE CITY OF CONCORDIA, KANSAS; REZONED FROM "R-3" HIGH DENSITY RESIDENTIAL DISTRICT TO "C-4" CENTRAL BUSINESS DISTRICT.

The Ordinance was considered and discussed; and thereupon on motion of Commissioner Jindra, seconded by Commissioner Gilliland, the Ordinance was passed by the following roll call vote:

- Aye: Commissioners Jindra, Hosie, Lanoue, Johnson and Gilliland.
- Nay: None.

Thereupon, the Ordinance having been adopted by a 2/3rds vote of the members of the City Commission, it was given No. 2007-2934, and was directed to be signed by the Mayor, attested by the City Clerk and directed to be published one time in the official City newspaper.

EXECUTIVE SESSION – NON-ELECTED PERSONNEL HELD

At this time, Commissioner Johnson moved that the commission recess into executive session for five (5) minutes for the discussion of non-elected personnel. Inviting: Larry Paine. Commissioner Jindra seconded. Motion carried by the following vote:

- Aye: Commissioners Jindra, Johnson, Gilliland, Lanoue and Hosie.
- Nay: None.
- Time: 8:08 p.m.

The commission reconvened at 8:13 p.m.

Mayor Johnson announced there was no action taken.

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MAYOR/COMMISSIONER
COMMENTS AND REPORTS

Commissioner Hosie asked if the Planning Commission could look into the requirements for sidewalks in the industrial area and look at requirements for hard surfacing and curb and gutters in new additions, and making the requirements more flexible. Commissioner also asked for an update on the engineering on the retention dam. Mr. Paine said he talked with Frank Mercurio and the first phase of the engineering is completed.

Commissioner Lanoue thanked staff for the information she had requested, but there were a few items missing. Commissioner Lanoue again requested the 222 breakdown, debit card expenses and policy, administrative policies and the goals and objectives for the city manager, and the status of the employee benefit fund. Ms. Lanoue asked when the audit would be on the agenda and when the budget will be started. Mr. Paine informed her the audit would be on the first meeting in July and the budget review will start in June. Commissioner Lanoue asked to have an executive session on the next agenda for non-elected personnel.

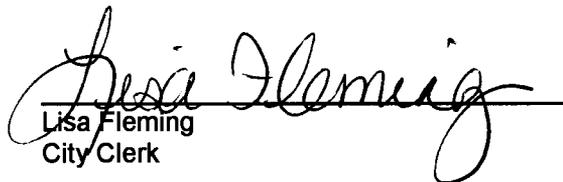
Commissioner Johnson asked what the status was on the Tallgrass Veterinary Hospital. Mr. Paine stated the plat is going to the Planning Commission agenda on May 22nd and should be back to the city commission the first meeting in June. Bruno Rehbein informed the commission the site plan is not done yet and if the final plat is approved by the Planning Commission, it will be presented to the city commission on June 6th. Commissioner Johnson asked if anything had been determined on mowing the railroad right-away. Commissioner Johnson reported on a few trees that need to be trimmed around town and some pot holes on Washington Street. Commissioner Johnson requested a salary schedule for employees.

Commissioner Lanoue asked if someone was addressing the nuisance problems. Mr. Paine informed Commissioner Lanoue staff has already sent some nuisance letters out.

STAFF COMMENTS

City Manager Paine informed the commission Cher Knudsen has been appointed Deputy City Clerk.

There being no further business, Commissioner Gilliland moved to adjourn the meeting. Commissioner Jindra seconded. Motion carried.


Lisa Fleming
City Clerk

(Seal)