

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD AUGUST 1, 2007

The governing body met in regular session on August 1, 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 Johnson, Gilliland, Lanoue and Hosie.

Absent: Commissioner Jindra.

Other Officers: Interim City Manager Armour, City Attorney Uri and City Clerk Fleming.

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

Visitors: Jessica LeDuc, Toby Nosker, Kirk S. Lowell, Dana Brewer, Chris Andregg, J.T. Klaus, Chér Knudsen, Steve Dailey, Ruby Maline, Rev. Cory Shipley, Ron Deal, Danny Parker, Tom Tuggle, Darrel Kearn, Jack Gould, Janet Eubanks, Larry Eubanks, Pam Gordon, Estalene Harrington, Carrie Pruitt, Larry Remmenga, Donald Lanoue, Marvin Copple, Kevin Cowan, Chuck Bouilly, Jim Kaup and Ima Jean Chavey.

Pastor Cory Shipley, Victory Faith Assembly of God, provided the invocation before the city commission meeting.

Tom Armour, Interim City Manager, requested adding under New Business Item C. Interim City Manager Comments.

APPROVAL OF MINUTES

Commissioner Hosie moved to approve the minutes of the July 18, 2007 regular meeting. Commissioner Lanoue seconded. Motion carried. Commissioner Hosie moved to approve the minutes of the July 25, 2007 special call meeting. Commissioner Gilliland seconded. Motion carried. Commissioner Lanoue moved to approve the minutes of the adjourned meeting of July 27, 2007. Commissioner Johnson seconded. Motion carried. Commissioner Hosie moved to approve the minutes of the July 27, 2007 special call meeting. Commissioner Gilliland seconded. Motion carried.

Commissioner Jindra arrived at 5:37 p.m.

APPROPRIATION ORDINANCE NO. 14

APPROVED

Commissioner Gilliland moved to approve Appropriation Ordinance No. 14. Commissioner Jindra seconded. Motion carried.

PUBLIC COMMENTS

Janet Eubanks, director of residence life at Cloud County Community College, thanked the Commission for their guidance and helpfulness in dealing with the college's water valve issues. She stated that after the city staff and college representatives met, they agreed on a solution that was agreeable to everyone involved, thus, allowing the students to be able to move in on August 12th.

Jack Gould commented, for the second time, about the cars across the sidewalk, trash barrels on the parking and tall weeds in the 300 Block of West 5th. Mr. Gould also stated he had complained to the police chief, a couple of times, about the corner of 6th Street and Second Avenue (the correct intersection is 6th Street and 1st Avenue) and nothing had been done. He stated coming from the north, it is a blind corner with overgrown bushes.

The following comments were made in the conversation that follows.

Tom Tuggle, was present to make a couple comments about public statements that the Mayor, you Mayor Johnson made, versus some of the actions you have taken, basically, under cover of darkness and then I would like to comment and tell you my concerns and how it affects me and how I think it affects the city. Now you have spoken much about the need to have open and honest government and no one can argue with that. That's the way it should be. You told me in a recent conversation that you kind of had with me, that you were in favor of economic development and the necessity that it be an open process. And again, you can't argue with that. That makes sense. But, we are well aware of the fact that you filed a letter with the KDHE asking that there be a pollution hearing with regard to Everton the ethanol plant. And of course in that one you said you were a City Commissioner, which implies that you are important and that you may, or are, speaking on behalf of the City of Concordia. And I think it is widely agreed, at least people I talked to, that that was inappropriate to even write the letter. But in our conversation I asked you why you did that. He said well I wanted to make sure that everyone that wanted to say something had their legal rights protected. And specifically you mentioned a woman that lives outside the City of Concordia.

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Mayor Johnson – No I didn't mention it, you did.

Mr. Tuggle – Well, I know, but you said she lived outside the City of Concordia and would you agree with me that she is not a resident of the City of Concordia.

Mayor Johnson – Well I think I would have to.

Mr. Tuggle – Ok. And so my question is, are you representing people outside the City or are you representing the people of Concordia?

Mayor Johnson – I represent the people of Concordia.

Mr. Tuggle – I see. Well to me there is an inconsistency there, but I don't want to get in to that right now. The other thing that I found interesting in view of your stated policy of fair and honest, open government, is in talking about these documents that you sent in to KDHE in advance of the hearing is specifically the one you sent requesting the hearing, you told me, well really those documents should not have been released until after the KDHE made a ruling on whether to issue the permit. Now I ask you, and I'm suggesting that you are required to answer, but is that open and honest, that you want all that information held sealed in effect until after a decision is made.

Mayor Johnson – They normally do that.

Mr. Tuggle – I see, OK. And so you were opposed to the fact that they complied with the open records act and provided that.

Mayor Johnson – I don't know whether they complied with the open records act. I don't know whether anybody requested them in the open records act.

Mr. Tuggle – So it was fine to keep that under cover of darkness?

Mayor Johnson – What was under cover of darkness?

Mr. Tuggle – Well, in other words, if you do things that are readily available to the public and are not available to your peers on the commission, to me that is an analogous to doing something

Mayor Johnson – That's all readily available to the public, it's one of those readily available things, public notice in the paper.

Mr. Tuggle – Sure there was.

Mayor Johnson – That's public.

Mr. Tuggle – One of the concerns is that when you act, well let me back up. Any public official, whether it be a judge, a commissioner or anything else, they can not completely separate their private life and their private views from their public views. And I think it's important to keep that in mind. For example, there are a lot of things that I could not properly do as a judge because it would appear that I was using the influence of my position for personal gain or personal motive and I think that applies to you as much as it does to anybody else. Now, I also think one of the dangers here is that it sends a negative message to businessmen in town and perspective businessmen. I think it is reasonable to assume with Everton, I can't speak for them, but they thought they had done everything they needed to do when the City Commission approved the development agreement and they weren't going to have anybody out meddling around, sniffing around, trying to cause problems, to be blunt about it. Now that's been enough said about that. But then I find that, again, under cover of darkness, you have been appointed to the Kansas South Republican River Basin Advisory Authority.

Mayor Johnson – Lower Republican River

Mr. Tuggle – OK, thank you for clarifying that. Now my information is that you applied for and were appointed to this commission on May 16th of this year. Your first meeting after you were appointed was July 17th of this year. And then finally on the 18th, the next day, when there was a regularly scheduled commissioner's meeting, you told the commissioners that you were on the board. But what you did not tell them, among other things, was that you are on there as the municipal water works representative for the advisory group. Now to me that is critical. Now when we talk about water rights I don't think anyone

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in here has been on Mars and doesn't understand the significance of water. And we all know that water rights and the competition between rural and urban areas are important and it's important that if you or one of the other commissioners wants to be on there that's fine. But why not talk to the other commissioners about it. It just is inconsistent in my view with proper public service.

Mayor Johnson – Do you know how that appointment was made?

Mr. Tuggle – No.

Mayor Johnson – Well you should find out before you come up here and accuse me of doing something publicly behind everybody's back. So if you have proof of that let me know. Otherwise I think we are done.

Mr. Tuggle – Well I'm not done.

Mayor Johnson – If you don't have any proof of what you are saying then it is innuendo.

Mr. Tuggle – Oh, well I have a draft of the minutes of that meeting when you were appointed.

Mayor Johnson – But you don't know how that position, or I was appointed to.

Mr. Tuggle – Well, I know. But would you agree that you did not tell anybody you might be appointed.

Mayor Johnson – I did not know I was going to be.

Mr. Tuggle – Did you turn in an application?

Mayor Johnson – Yes.

Mr. Tuggle – OK. Well wouldn't that be some indication

Mayor Johnson – I didn't turn it in for that position.

Mr. Tuggle – I see. Well now that is inconsistent with these minutes that I have.

Mayor Johnson – I can get you a copy of the application if that's what you want.

Mayor Johnson – There were four (4) open positions I qualified for. This is the one they put me on.

Mr. Tuggle – OK, so you qualified for four (4). You didn't specifically say which one.

Mayor Johnson – No.

Mr. Tuggle – OK. Well

Mayor Johnson – See if you were going to come up here and accuse me of something I would have found that out earlier.

Mr. Tuggle – Well now wait a minute, all I said was that you are the municipal public water supplier representative.

Mayor Johnson – That is the position they appointed me to.

Mr. Tuggle – Well I know. But did you tell anyone that you put the application in.

Mayor Johnson – I didn't put it in for that one.

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Mr. Tuggle – Well, thank you, I think that clarifies that. Now I see your good friend, Dennis Reedy, put in for the recreation category and he was not chosen and then also he put in for the sixth category, which was agriculture. So, and as far as other documentation, if I'm in error, of course I want to stand corrected and I will make amends. But the point of this whole thing is that you talked long and loud about openness. When you have a question of someone, or a question of a company, and my sense is, my belief is that you want that question answered no matter how irrelevant it is. And if you don't get it answered, then you are disappointed and you say these people are trying to stonewall you.

Mayor Johnson – Where did I say that?

Mr. Tuggle – That's my sense of what you said in general. I'm not quoting a specific situation.

Mayor Johnson – You just said I said I felt like I was being stonewalled. You would have had to heard me say that if you did I say that? Did I say that anywhere in public that I felt I was being stonewalled?

Mr. Tuggle – No.

Mayor Johnson – OK.

Mr. Tuggle – But you have ...you know the English language has a lot of synonyms and in talking with you; you use synonyms to that affect.

Mayor Johnson – No I didn't.

Mr. Tuggle – Yes you did. Now finally, and I need to wrap up here and I appreciate the time. So basically you want certain openness when you ask a question but then when you decide to take action, that affects you and is related to your position as a commissioner, you do it under cover of darkness and we have the KDHE letter requesting a hearing and now we have you sitting on this advisory committee, which is important to the people not only of Concordia, but the whole state. And to treat that lightly and under cover of darkness, I think is wrong. And the bottom line is this, as a long time resident of Concordia; I resent this kind of activity. These things that you have done in your capacity as a commissioner or whether you think it is or isn't, you can't divorce the two (2). I think it is unbecoming of an official. I think it is an embarrassment to the official as well as to the City. And so I would respectfully suggest that you re-evaluate your position on your openness policy when it comes to actions taken by you. Thank you very much.

ACCEPT 2006 AUDIT

TABLED

Commissioner Lanoue informed the Commission she had asked Ruby Maline, Director of Finance, some questions on Monday, regarding the audit. Commissioner Lanoue asked about the health care on page 47 of the 2006 Financial Statements. Commissioner Lanoue stated she believed the employer/employee contributions were reversed. Commissioner Lanoue stated if the employer contributed \$61,702 and the employees contributed \$643,100 in the health fund, the City should not have a problem with the employee share of health care. Commissioner Lanoue's other comments were from page 63, Capitol projects. Ms. Maline informed Commissioner Lanoue she visited with Doug Glenn from the external audit team, about her concerns. Mr. Glenn said the financial statements were accurate and he believed those issues did not have any reflection on the accuracy and financial stability of the City. He also informed Ms. Maline it would not be cost beneficial to change page 63 and that he verified the numbers on page 47. Commissioner Lanoue stated she felt the numbers on the health fund and capitol project dollars spent should be correct when they are released to the public. Commissioner Lanoue also commented about the following TIF projects: Stormwater Drainage figures, Mid America Auto Center should not be listed; Mastin and Womack should be listed. Commissioner Gilliland agreed with Commissioner Lanoue that the audit needs to be accurate as possible and didn't have a problem having Mr. Glenn review the audit. Commissioner Hosie also agreed. Commissioner Lanoue moved to table the 2006 Audit. Commissioner Jindra seconded. Motion carried.

SENIOR CITIZENS CENTER
ANNUAL FUNDING REQUEST

Estalene Herrington, representing the Senior Citizens Center, told the Commission with the increase in minimum wage, the Center was facing a problem of not having enough funds to pay salaries. Ms. Herrington introduced Pam Gordon, director of field services with the North Central Flint Hills Area

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Agency on Aging. Ms. Gordon advised the Commission the agency covers an 18 county region. Ms. Gordon informed the Commission the local center serves an average of 101 meals a day. She said the Concordia center has three (3) positions and to bring staff up to the average hourly wage, the Center needs an additional \$8,032.33 a year. Ms. Gordon thanked the Commission for their consideration and support of the funding request from the Concordia Senior Citizens Center. No decision was made on the funding request.

SET DATE FOR GOAL SETTING SESSION

The Commission scheduled a Goal Setting Session for Saturday, September 15, 2007 at 8:00 a.m.

MANAGER COMMENTS

Tom Armour, Interim City Manager, asked the Commission about an invoice in excess of \$10,000 from the Orphan Train Depot project. After discussion on the Orphan Train grant project, the Commission informed Mr. Armour this invoice could be processed for payment. Mr. Armour informed the Commission he signed a request for \$800 for a required FAA review of the consultant's suggested fee schedule. Mr. Armour stated Bruno Rehbein was on vacation, but Jim Kaup provided samples of RFP requirements the City will be able to use as a guideline.

RESOLUTION 2007- 1779

PERSONNEL POLICY AMENDMENT

PAY AND BENEFITS ON TERMINATION

APPROVED

Commissioner Lanoue asked Mr. Uri to review his memorandum regarding a Commissioner voting on pay and benefits for employees related to a Commissioner. Mr. Uri stated that Commissioner Lanoue has relation working for the city and it does not bar her from voting on their pay and benefits or other matters affecting their employment. Mr. Uri informed the Commission Concordia does not have an ordinance which would apply to this subject and the City's nepotism policy does not apply to a City Commissioner. Mayor Johnson stated the changes had been made to this Resolution.

Thereupon, there was presented to the City Commission a Resolution entitled:

WHEREAS, THE GOVERNING BODY FINDS IT ADVISABLE TO MAKE CERTAIN CHANGES IN THE PERSONNEL POLICIES OF THE CITY WITH RESPECT TO BENEFITS UPON TERMINATION;

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

Yea: Commissioners Hosie, Johnson, Jindra, Lanoue and Gilliland.

Nay: None.

Thereupon, the Resolution having been adopted by vote of the members of the City Commission it was given No. 2007-1779 and was directed to be signed by the Mayor and attested by the City Clerk.

EXECUTIVE SESSION –

ATTORNEY/CLIENT PRIVILEGE

HELD

At this time, Commissioner Johnson moved that the commission recess into executive session for twenty (20) minutes for the discussion of attorney/client privilege. Inviting: Larry Uri and Tom Armour. Commissioner Jindra seconded. Motion carried by the following vote:

Aye: Commissioners Jindra, Johnson, Gilliland, Lanoue and Hosie.

Nay: None.

Time: 6:41 p.m.

The commission reconvened at 7:01 p.m.

Mayor Johnson announced there was no action taken.

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Mayor Johnson announced the agenda would be re-arranged to have the Everton presentation as the first item on the Study Session.

**MAYOR/COMMISSIONER
COMMENTS AND REPORTS**

Commissioner Lanoue asked if all the transfers out of the Employee Benefit are complete. Ms. Maline advised her they were done. Commissioner Lanoue asked if Ms. Maline felt there was an issue with cash in that fund. Ms. Maline stated there could be a cash issue. Commissioner Lanoue questioned the status of the 16th & Lincoln property. Lisa Fleming, City Clerk, advised Commissioner Lanoue the ten (10) days have passed and the City should be scheduling to mow the property. Ms. Fleming will check on the status of the mowing at 16th & Lincoln. Commissioner Lanoue thanked Dean Lucko for the 25 plus years that he gave to the City and to the staff for the retirement reception for Dean. Commissioner Lanoue informed the Commission she had her questions for the interviews.

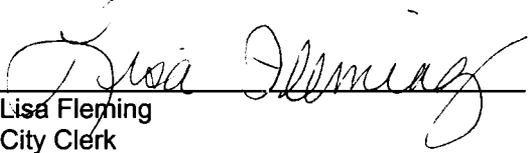
Commissioner Jindra congratulated the K-18 - F & A baseball team that will play in the state championship on Friday at Lucas.

STAFF COMMENTS

Danny Parker, Chief of Police, wanted to make a point of clarification to Mr. Gould's comments. Mr. Gould did approach Chief Parker about the bushes at the intersection of 6th & First Avenue. He explained to Mr. Gould he needed to talk to Ron Copple in the Public Works department and was not aware that he had spoken to Mr. Copple. Commissioner Lanoue said in the past it was Public Safety that checked out the problem and if there was a problem, it would be forwarded to city staff and nuisance abatement would be sent to the property owner. Ms. Maline stated this address was not listed in the nuisance file. City Clerk Fleming informed the Commission when a complaint is received a service request form is completed and then forwarded to the specific department for investigation.

Mayor Johnson announced there would be a study session following the meeting.

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



Lisa Fleming
City Clerk

(Seal)