

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007

The governing body met in regular session on September 5, 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: 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, Chér Knudsen, Eddie Splichal, Jodie M. Beisner, Helen Hansen, Margo Hosie, Marcia Johnson, Ron Deal, Linda Houser, Bill Garrison, Dennis W. Holt, Susan Sutton, Lisa Otott, Sue Gustafson, Brad Griffin, John F. Davis, Ted Collins, Holly Andrews, Jack Gould, Danny Parker, Verna Ferguson, Dale Ferguson, Larry Eubanks, Roy Reif, Roberta Lowery, Janet Eubanks, Marvin Copple, Thaniel Monaco, Brian Kemling, Katie Jones, Suzi Tuggle, Susan Cantan-Maxson, Kirk Lowell, J.T. Klaus, Steve Womack, Don Dean, Blake Hendrix, Dana Brewer, Eldon Wisdom, Luann Miller, Janet Lowell, Kent Otott, Alan and Julie Corbeil, Donald Lanoue, Tom Tuggle, Wendy Holt, Rick Voelker and John Luongo.

Mayor Johnson announced the agenda had been amended. Two (2) more proclamations were added to the agenda. Commissioner Jindra moved to approve the agenda. Commissioner Gilliland seconded. Motion carried.

Pastor Brad Griffin, representative of Wesleyan Church, provided the invocation before the city commission meeting.

APPROVAL OF MINUTES

Commissioner Hosie moved to approve the minutes of the August 15, 2007, regular meeting. Commissioner Gilliland seconded. Motion carried. Commissioner Gilliland moved to approve the minutes of the August 21, 2007, special call meeting. Commissioner Jindra seconded. Motion carried. Commissioner Hosie moved to approve the minutes of the August 24, 2007, special call meeting. Commissioner Lanoue seconded. Motion carried. Commissioner Jindra moved to approve the minutes of the August 27, 2007, special call meeting. Commissioner Gilliland seconded. Motion carried. Commissioner Johnson moved to approve the minutes of the August 29, 2007, special call meeting. Commissioner Lanoue seconded. Motion carried.

APPROPRIATION ORDINANCE NO. 16

APPROVED

Commissioner Hosie moved to approve Appropriation Ordinance No. 16. Commissioner Jindra seconded. Motion carried.

PROCLAMATION
NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH

Mayor Johnson read a proclamation and declared the month of September, 2007, as National Alcohol and Drug Addiction Recovery Month.

PROCLAMATION
CHILD PASSENGER SAFETY WEEK

Mayor Johnson read a proclamation and declared the week of September 16-22, 2007, as Child Passenger Safety Week.

PROCLAMATION
THE YEAR OF THE BROWN GRAND THEATRE

Mayor Johnson read a proclamation and declared September 17, 2007, and the 364 days following as the Year of the Brown Grand Theatre.

PROCLAMATION
NATIONAL ORPHAN TRAIN COMPLEX, INC. MONTH

Mayor Johnson read a proclamation and declared the month of September, 2007, as National Orphan Train Complex, Inc. Month.

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

PUBLIC COMMENTS

Don Dean, with Campbell & Johnson Engineers, informed the Commission about the pre-construction conference that was held Wednesday afternoon for the slurry seal projects. Mr. Dean stated the contractors would be starting around September 17th and estimated the project would be completed in two (2) weeks.

Sue Gustafson advised the Commission she was involved in a wreck on August 20th at the corner of 8th and Washington. Ms. Gustafson stated visibility of on coming traffic is very poor at that intersection due to overgrown hedge. She stated she had contacted city offices three (3) times this summer to report the bushes. Ms. Gustafson stated she read the City codes that pertained to this matter and the hedge constitutes a real hazard. Ms. Gustafson requested the Commission to remove the hedge.

Lisa Otott was present to voice her concern about the intersection at 8th & Washington. She thanked the Commissioners in advance for taking care of the issue.

The nuisance process was discussed and the Commission recommended Staff to allocate some time to investigate problem areas around the City and notify the property owners about the problems.

Helen Hansen informed the Commission about the neighbor north of her property at 15th and Cedar. Ms. Hansen stated the property has tall grass and weeds and needs to be mowed. She stated she called the City several times about the problem and nothing had been done. Staff advised the Commission and Ms. Hansen the property would be checked and notification would be sent to the property owner and if not completed, it would be on the next agenda.

VOTING DELEGATES FOR
2007 LEAGUE CONFERENCE

APPOINTED

Commissioner Gilliland moved to appoint Commissioner Johnson and Commissioner Hosie as voting delegates and Tom Armour and Lisa Fleming as alternate voting delegates for the 2007 League Conference. Commissioner Lanoue seconded. Motion carried.

DESIGNATION OF OFFICIAL DEPOSITORY

APPROVED

Commissioner Hosie moved to designate Elk State Bank as an official depository. Commissioner Jindra seconded. Motion carried.

PUBLIC UTILITIES TRUCK BID

TABLED

Mr. Uri advised the Commission Larry Remmenga, Director of Utilities, was on vacation. Commissioner Lanoue stated she didn't think the truck specifications had been approved, which is city policy. After discussion, Commissioner Johnson moved to table accepting the truck bid until Mr. Remmenga is present. Commissioner Lanoue seconded. Motion carried.

ITEM TWO OF EVERTON ENERGY DEVELOPMENT
AGREEMENT – WATER, SEWER AND EFFLUENT FACILITIES

Commissioner Johnson questioned the size of the sewer line from the plant to the wastewater treatment plant, he had heard it was going to be a 10-inch line. He also had heard the City may furnish water out of City wells for the plant. Mr. Uri addressed the Commission on Item two (2) of the Everton Energy Development Agreement, which refers to the water/sewer and effluent facilities. He said the paragraph states construction of the water, sewer and effluent facilities will not commence until the plans and specifications have been reviewed and approved by the city engineer. Blake Hendrix, vice president and director of processing operations for Everton, stated they are working with Bucher, Willis and Ratliff in developing a detailed engineering plan and working on preliminary design issues. Mr. Hendrix stated at staff's request, they hired BWR. Mr. Hendrix stated they are not asking for a 10-inch main, but rather a two-inch (2") one that will supply the plant's employees with sanitary sewer service. He said it will not be used for any process from the ethanol plant. Mr. Hendrix said Everton is considering to incorporate three (3) houses into the forced main. Mr. Hendrix stated, at Larry's request, they were providing telemetry for monitoring the wells. Commissioner Johnson stated he wanted to be informed, since the Commission would be signing off on \$240 million. Commissioner Johnson and Commissioner Lanoue stated they did not realize BWR was the engineer and suggested the city should have another engineer. Commissioner

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

Johnson felt if the development agreement was going to be amended, the amendments should all be made at once. Commissioner Gilliland stated the agreement is a living document and that may not be possible.

J.T. Klaus, attorney for Everton Energy, informed the Commission he was not present to discuss the topic of water, sewer and effluent facilities or answer water engineering questions, but he would refer to the agreement to let the Commission know what Everton anticipates. Mr. Klaus stated the plant needs a certain amount of water to work and in anticipation of this plant it was not disclosed that apparently there was another ethanol plant being constructed in this area. He stated Joe Reedy had filed to obtain water rights for a 50 million gallon ethanol plant. Mr. Klaus stated that because of Mr. Reedy obtaining his own water rights, it had forced them to develop agricultural wells that are not in the development agreement, and will not be given to the city. Mr. Klaus stated Everton would not take water from the city for processing. Larry Uri clarified that any facilities that Everton seeks to have special assessment financing for will be given to the city.

Eldon Wisdom stated he had heard comments around town about the capabilities of the sewer plant and water system facility here in Concordia being overloaded or strained because of the ethanol plant. Mr. Wisdom hoped the Commission would make sure the present facilities can handle the ethanol plant without expanding them.

**APPROVE FIRST AMENDMENT TO
EVERTON ENERGY DEVELOPMENT AGREEMENT**

J.T. Klaus stated the scope of the Everton Energy project was initially estimated to be \$223 million for the construction of the process part of the plant and upon further refinement it is coming in about \$230 to \$235 million. Mr. Klaus advised the Commission, the request to amend the development agreement was to increase the maximum amount of the industrial revenue bonds issued by the city to \$240 million. Mr. Uri stated he had reviewed the amendment to the development agreement. Commissioner Gilliland moved to approve the first amendment to the development agreement. Commissioner Jindra seconded. Motion carried.

**RESOLUTION NO. 2007-1780
EVERTON ENERGY – INTENT TO ISSUE IRB**

PASSED

Among other business, there came on for consideration and discussion the following:

A RESOLUTION INDICATING THE INTENT OF THE GOVERNING BODY OF THE CITY OF CONCORDIA, KANSAS, TO ISSUE CERTAIN INDUSTRIAL REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO HUNDRED FORTY MILLION DOLLARS (\$240,000,000) FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING AN ETHANOL PLANT AND RELATED FACILITIES TO BE LOCATED IN THE CITY OF CONCORDIA, KANSAS.

Thereupon, the Resolution was considered and discussed, and on motion of Commissioner Hosie, seconded by Commissioner Jindra, the Resolution was adopted by vote of the majority of all members present.

Thereupon, the Resolution, having been adopted by a majority vote of the members of the governing body, it was given No. 2007-1780, and was directed to be signed by the Mayor and attested by the City Clerk.

**RESOLUTION NO. 2007-1781
APPROVE AIRPORT OPERATING POLICY**

APPROVED

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

WHEREAS, THE GOVERNING BODY FINDS IT ADVISABLE AND IN THE BEST INTERESTS OF THE CITY TO ADOPT A NEW COMMISSION POLICY, TO BE KNOWN AS COMMISSION POLICY NO. 2007-1 TO ESTABLISH PROCEDURES FOR THE OPERATION OF BLOSSER MUNICIPAL AIRPORT.

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

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

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

Nay: None.

Thereupon, the Resolution having been adopted by vote of the members of the City Commission it was given No. 2007-1781, and was directed to be signed by the Mayor and attested by the City Clerk.

ORDINANCE NO. 2007-2936

INCREASE IN TAX REVENUE FOR 2008 BUDGET

APPROVED

Thereupon there was presented an Ordinance entitled:

AN ORDINANCE ATTESTING TO AN INCREASE IN TAX REVENUES FOR BUDGET YEAR 2008 FOR THE CITY OF CONCORDIA, KANSAS.

Thereupon, Commissioner Hosie moved that said Ordinance be passed. The motion was seconded by Commissioner Gilliland. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the City Commission, the vote being as follows:

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

Nay: None.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 2007-2936 was signed and approved by the Mayor and attested by the City Clerk.

ORDINANCE NO. 2007-2937

ADOPT 2008 BUDGET

APPROVED

Commissioner Lanoue stated she had some discussion.

Commissioner Lanoue asked Tom if there were any changes.

Mr. Armour informed Ms. Lanoue that Ruby could answer that better than he could, but he thought there had been a few changes they'd talked about.

Commissioner Lanoue asked "What are those changes?"

Mr. Armour advised Ms. Lanoue, one for sure had to do with the \$10,000 which was for computer services that were not shown on the transfer page in the '06 budget, it was put in there. Mr. Armour said another one had to do with \$15,800 and some dollars again in '06 and that has been put in there. Commissioner Lanoue asked if it had been moved to '07. Ruby Maline stated "no", when she talked with the State, when closing that fund, they told her not to put it on the transfer page, just show it as closing a fund on the revenue page. Ms. Maline stated it was the same thing with the \$175,000 for the health care fund.

Commissioner Lanoue asked Ms. Maline if they had new copies that showed that. Ms. Maline stated "Not with these two (2) changes, with the \$15,895 and the \$175,000, those are changes on this one. This \$10,000 that he brought to my attention was late this afternoon; I will get that corrected and send that page out."

Commissioner Lanoue said "So we are not putting the \$15,895 on the transfer page, nor the \$175,000, but we are showing that back in the fund pages."

Ms. Maline stated "It's showing on page seven (7) of the general revenue, which is the second page of the general revenue and if you look in 2007 to the bottom,"

Commissioner Lanoue stated "I see that."

Ms. Maline continued "This is the way the people at the State budget office told me to do this."

Commissioner Lanoue said "But they told you not to show it on the transfer page."

Ms. Maline said "Yes, when you are closing a fund you are not really transferring it, it's not an expenditure, you are just moving the cash."

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

Commissioner Lanoue asked "What about the \$26,000, the water/sewer bond reserve?"

Ms. Maline said "The same thing, because it's a _____."

Commissioner Lanoue asked "And what about the \$22,000 in general fund for state grants, did we ever find out what that was?"

Ms. Maline said "Those are miscellaneous small grants; one is Click it or Ticket grant and other small grants."

Commissioner Lanoue asked "And the employee benefit fund, I know you changed that and it was reduced down to \$15,000 to the general fund. It appears that we probably will have no cash in that account. Currently there is a \$30,000 negative amount."

Ms Maline said "That \$15,000 is estimated to be taxes that we receive in 2008 that really belong to 2007, because some of those taxes come in late."

Commissioner Lanoue asked "Bond and Interest."

Mr. Armour said "On that one, Commissioner, the State requires us to show what is required of us to make as payments for bond principal and interest."

Commissioner Lanoue "Correct."

Mr. Armour said "it is up to local choice, providing what you're estimating to be available to show an amount higher, that is what's happened here, if the Commission wishes to partially pay off in advance."

Commissioner Lanoue said "I don't believe we have any bond payments that we can actually pay in advance since that ten year clause is in our bond ordinances."

Mr. Armour said "I don't know the answer to that. I didn't have a chance to check on that."

Commissioner Lanoue said "The GO debt service in '07 estimate doesn't reflect what our debt payments are and I'm OK with that as long as we are going to apply it to debt. I guess in '08, I think it needs to reflect what our true debt payment is and we carry over the \$59,000 to '08 and so we can apply it to debt. The other issue is the \$49,000 in the TIF revenue. We transferred in \$289,619, but the TIF debt payment was \$246,019, which is a \$49,000 difference, which is truly TIF revenue, not Bond and Interest revenue used for bond and interest payments. So, at a minimum, we need to reduce the transfer in from TIF by that amount so that we're not taking TIF dollars to pay for our bond and interest payments."

Mr. Armour stated "I'm sorry, I don't have an answer to that, I have not ever encountered that."

Commissioner Lanoue said "And the other one, the transfer in bond and interest doesn't match the transfer sheet on page 16, which is the transfers in 403 which is TIF. I personally believe, the City Commission knowingly, that we transferred \$49,000 too much from TIF to use that money to pay bond and interest payments. We should at least reduce the revenue coming in from TIF so that money stays where it is supposed to, which is the TIF projects."

Commissioner Johnson asked if we could take it out. Commissioner Johnson asked if you could use TIF funds for any other bond and interest payments other than TIF.

Mr. Uri stated you can only use TIF funds for TIF projects, but he is not familiar with the funding and doesn't know what was being addressed.

Commissioner Lanoue stated "what is happening is that in '06 we transferred \$289,619 into Bond & Interest. The bond payments in '06 were \$240,619, the difference is \$49,000,"

Mr. Uri replied "The TIF Bond."

Commissioner Lanoue said "Right, there's \$49,000 additional dollars in Bond & Interest that should go back to TIF or we should reduce the transfer in this year so that we are not allocating the dollars to bond and interest,"

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

Ms. Maline stated "I can do that."

Mr. Uri stated "We have not spent any TIF money for non-TIF bond payments as I understand; we want to be sure we don't do it."

Ms. Maline "We can either move the money back or reduce the transfer, either way it does not matter to me."

Commissioner Lanoue stated "It doesn't matter to me."

Commissioner Lanoue said "As I looked at our CIP that this Commission approved in '07, the '07 estimate doesn't reflect all of the projects that we actually agreed to do. Which, if we're not going to use CloudCorp Business Park, maybe it doesn't really matter. But if we plan to do that this year, it does matter. What I show is \$115,500 which is CloudCorp Business Park; \$200,000 for slurry sealing; \$13,000 for tennis courts which comes up to \$328,500 which should be in the street projects for '07. The '08 amounts are about \$924,000 if all the mill and overlays are happening next year. 11th Street which is \$206,000; slurry seal program is \$230,000; the mill and overlay which is 6th Street, from Broadway to Cedar is \$171,165; Washington, 5th to 8th is \$146,020; 7th - Lincoln to Cedar \$176,805 which is a total of \$924,590. With the rest of the money being used to save for projects, along with \$15,000 for downtown and \$10,000 for curb and gutter. I don't think those amounts reflect what we actually said."

Commissioner Lanoue "And then the last thing is the '07 estimate in utilities under administration for debt service there's \$93,415 there, if you go back to page five (5) the debt payment is \$68,415. The GO Bond Series 2002B, the \$18,415 and \$50,000 is \$68,415."

Commissioner Lanoue thanked Ruby for making all the other changes.

Thereupon there was presented an Ordinance entitled:

AN ORDINANCE APPROVING, ADOPTED AND APPROPRIATING BY FUND THE CITY OF CONCORDIA FOR THE YEAR BEGINNING JANUARY 1, 2008, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CONCORDIA, KANSAS.

Thereupon, Commissioner Jindra moved that said Ordinance be passed as presented in the packet. The motion was seconded by Commissioner Gilliland. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the City Commission, the vote being as follows:

Yea: Commissioners Hosie, Gilliland, Johnson and Jindra.

Nay: Commissioner Lanoue.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 2007-2937 was signed and approved by the Mayor and attested by the City Clerk.

AT & T FRANCHISE ORDINANCE

TABLED

Larry Uri, City Attorney, advised the Commission this is an existing telephone line franchise granted by the City 20 years ago. Mr. Uri stated the new ordinance is put forward by the existing owner which is AT & T. He stated it is like the previous one that had a five percent (5%) franchise fee on the phone line. The Commission requested Mr. Uri to investigate other communities to see how they handle third party carriers on a franchise. Commissioner Gilliland moved to table the AT & T Franchise ordinance until the next meeting. Commissioner Lanoue seconded. Motion carried.

MAYOR/COMMISSIONER COMMENTS AND REPORTS

Commissioner Lanoue asked if any dates had been set for applicants coming back. Mr. Armour informed the Commission we don't have any dates set yet.

Commissioner Jindra asked about the nuisance abatement process and if there was a paper trail. Mr. Armour stated there is a work order that starts the whole process, with a log and suspense.

Chér Knudsen advised the Commission she had been working on the nuisances.

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD SEPTEMBER 5, 2007, contd.

Commissioner Jindra suggested reviewing the nuisance process during the goal setting session.

Commissioner Jindra asked staff to explore and schedule a study session on having the commission meeting taped and shown on the local channel.

Commissioner Lanoue asked Ruby Maline about the information she had requested about the revolving loan fund. Ms. Maline said she would get it for her.

Commissioner Hosie stated the article Jessica LeDuc had in the paper about overgrown trees in Concordia was a good one. Larry Eubanks, Fire Chief, also stated Ms. LeDuc did a fine article. Mr. Eubanks had noticed some trees being cut. He said another survey will be done of the problem trees and a letter will be sent out to the property owners.

Commissioner Jindra thanked Larry Eubanks, Danny Parker and Toby Nosker for their participation in the CASA Men in Tights program.

STAFF COMMENTS

Larry Uri, City Attorney, commented on the communication problem between staff and the commission on the Everton agreement. Mr. Uri said he would take some of the fault for the miscommunication. Mr. Uri suggests having weekly updates on this project as well as any projects that will develop.

Larry Eubanks reported on the MDA fundraiser the firemen held. Mr. Eubanks informed the Commission, Tim Stangel was in charge of the fundraiser which raised over \$1,400.00.

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)