

MINUTES OF THE REGULAR CITY COMMISSION MEETING HELD JUNE 3, 2009

The governing body met in regular session on June 3, 2009, at 5:30 p.m. in the City Commission Room at City Hall, with the following members being present: Mayor Hattan, Commissioners Jindra, Johnson, Lanoue, and Hosie.

Other Officers: Interim City Manager Uri and City Clerk Crum.

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

Visitors: Brad Lowell, Toby Nosker, Don Lanoue, Janet Lowell, Janet Eubanks, Bob Burns, Marvin Copple, Ron Deal, Jim Stromberg, Ron Copple, Larry Eubanks, Larry Remmenga, Thaniel Monaco, Tammy Britt, Tom Tuggle, Terry Collins, Deb Ohlde, Rick Underbakke, Amber Hein, Bruno Rehbein, Danny Parker.

Pastor Bob Burns gave the invocation followed by the reciting of the Pledge of Allegiance.

Mayor Hattan asked for changes on the agenda. Interim City Manager Uri added a discussion of the engineer's estimates for the college water project on the study session.

APPROVAL OF MINUTES

APPROVED

There were no comments.

Commissioner Hosie moved to approve the minutes of the May 20, 2009, meeting. Commissioner Johnson seconded. Motion carried unanimously.

APPROPRIATION ORDINANCE NO. #10

APPROVED

Interim City Manager Uri answered an earlier emailed question from a commissioner about check #50968 to the college, which included busing lifeguards to Salina for testing, and the recreation bus trip to the Royals game.

Mayor Hattan moved to approve appropriation ordinance #10. Commissioner Hosie seconded. Motion carried unanimously.

PUBLIC COMMENTS

There were no comments.

NEW BUSINESS:

DEMOLITION PROGRAM APPLICATION

Bruno Rehbein introduced the application for the Baptist Church's property at 336 W. 6th, with the demo allowing for more parking for them. Commissioner Hosie asked if there has been much interest in the demo program this year. Mr. Rehbein answered that there has not.

Commissioner Johnson moved to approve the demolition program application at 336 W. 6th. Commissioner Lanoue seconded. Motion carried unanimously.

CLOUDCORP PRESENTATION ON NORTH DEVELOPMENT

Kirk Lowell of CloudCorp was on hand to give a presentation for the proposed annexation of the north development property. The Kansas Department of Transportation has purchased land on Hwy. 81 and Union Road, and would like to be annexed in order to receive city services of water and sewer. Concordia Tractor is in negotiations for land for their new building and a lagoon system is not cost-effective. Also, they would be limited on their water usage as the area is closed to new commercial and irrigation water permit allocations. The annexation would be an island annexation, which means that no property will be annexed except for tracts whose owners specifically request annexation.

Discussion included the possibility of bonds for the city to pay for this project, \$850,000 from KDOT, and projected fees to new businesses that choose to have their land annexed to contribute to the total cost. No new roads could come off of Hwy. 81 but a frontage road could be added off of Union Road for further development. Also it was noted that the property tax would not increase for those landowners who choose not to have their land annexed.

Mr. Lowell is asking for separate development agreements between Concordia Tractor and the city, and KDOT and the city. It was decided that there was time to discuss this during the budget.

OLD BUSINESS:

COMMUNITY DEVELOPMENT BLOCK GRANT – FIRE TRUCK

Deb Ohlde presented paperwork on the recently awarded grant to purchase a new fire truck, needing signatures before submitting it to the state. This grant will cover half of the purchase. If the cost is less than the original estimate of \$337,500, the city and the state would share the savings. If the cost is higher, the difference will be the city's responsibility. A code of conduct is required for the grant, together with written procurement procedures, and a civil rights policy.

Commissioner Hosie moved to enter into the state contract for the grant application. Commissioner Lanoue seconded. Motion carried unanimously.

Commissioner Johnson moved to adopt the civil rights policy. Commissioner Lanoue seconded. Motion carried unanimously.

Commissioner Johnson moved to authorize the mayor to sign all documents. Mayor Hattan seconded. Motion carried unanimously.

Ms. Ohlde said that the state has no regulation requiring performance bid or payments bonds. Larry Eubanks said that a performance bond is around \$1000 and added onto the purchase. Also, by making a pre-payment for the truck, there could be a savings of about \$5000. Interim City Manager Uri felt that with the economy the way it is, it would be best to not send money up front.

MANAGER'S REPORT

Interim City Manager Uri introduced Amber Hein, the city's new finance director. He also noted that a representative of the Corps of Engineers would be present at the next meeting to answer questions on the flood control project. Interim City Manager Uri said that the IRS penalties assessed to the city over unpaid withholding taxes in 2008 would not be abated.

MAYOR/COMMISSIONER COMMENTS AND REPORTS

Commissioner Johnson asked about a street light application on the east edge of the city limits on 4th St. Ron Copple said he had not had time to look into it. Commissioner Johnson asked what progress had been made on changing the dais. Interim City Manager Uri said that he had not heard from Eric Johnson. Commissioner Johnson asked about the Farmers Market. Interim City Manager Uri explained that there was talk of blocking off the entire street for this and a business owner was unhappy with this decision.

Commissioners Hosie and Lanoue welcomed Amber to the city staff.

Mayor Hattan voiced his disapproval over past staff members who had allowed the withholding taxes to go unpaid for three quarters, with penalties and interest totaling \$42,961.

STAFF COMMENTS

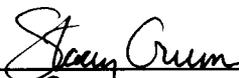
Ron Copple invited everyone to Community Day at the airport on June 12. HWS will have a presentation on the airport master plan update.

ADJOURN

Mayor Hattan announced there would be a study session following the adjournment of the meeting.

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

(Seal)



Stacey Crum
City Clerk

ATTACHMENTS

IN

FILE

Memorandum

Date: 1 December 2008

To: Larry Uri, Interim City Manager; Megan Murdock, Payroll Clerk

From: Ruby Maline, Director of Finance

Re: Payroll Issues

This year, the IRS and Ks Dept of Revenue strongly encouraged entities to begin online paying for payroll taxes as well as filing the tax reports online. For quite some time we utilized a form of electronic payment by calling the information in, but this year everyone was supposed to go ACH using the EFTPS system.

Early on, while doing bank reconciliations, I noticed that these payments were not being deducted from our checking account. I brought this to Cher's attention. She told me that she would take care of it. This went on unresolved for several months. Finally, I brought it to City Manager, Mark Skiles attention. He addressed the issue with Cher. It still didn't get resolved. Finally, Sept 5th he told me to just get Cher's files and handle it myself. When that happened, Cher terminated her employment with the city.

After a review of the very brief and incomplete notes Cher had on her attempts to resolve the issue, I contacted the IRS and started working on paying our liabilities. On Sept 5th, I made arrangements with EFTPS to withdraw the amount of our liability from our bank account. By the time I was transferred to the right person (this was an all day process-I spent 40 minutes on hold with each of three different people and ended up speaking with 11 people before the issue was resolved) it was late afternoon and they couldn't take the money out of our account until Sept 8th. I also contacted the State and made arrangements to withdraw the amount of our state liability.

In the meantime, Stacey and I started going through the stacks of papers on and in Cher's desk and those that she had put back in the office we use for HR files, and found numerous unopened envelopes from the IRS and the State Dept of Revenue.

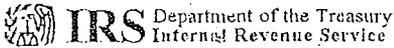
The State of Kansas charged us with penalties and interest in the amount of \$6,839.35. I requested and received an abatement of that entire amount.

The IRS has charged us with penalties and interest in the amount of \$42,961.07. On Sept 8th, I requested an abatement of those penalties and interest. Originally, I was inclined to not pay the

penalties and interest because I had requested an abatement and believed they would put a hold on the accrual of additional charges until the matter was resolved.

I received an acknowledgement of receipt of my request. They told me to call back Oct 8th to check the status of the request. I did and they told me to call back November 10th to check on the status. On that date they told me they had assigned my request to a representative but it had not been reviewed, yet. It was during this conversation that I learned the penalties and interest were still accruing. The representative I talked to said we should go ahead and pay those and if the IRS decided in our favor, they would refund whatever amount they agreed to abate. So we paid them. I would prefer to say we have all issues resolved but we do not.

We received a letter today (December 1st) saying it would be another 45 days before they would review our file. Since we are now fully integrated with the EFTPS system and our payments are current and are now filed timely and accurately, we believe that we will receive the requested abatement of penalties and interest.



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In reply refer to: 0244548554
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PO BOX 603
CONCORDIA KS 66901-0603

Taxpayer Identification Number: 48-6020606
Tax Periods: Mar. 31, 2008 June 30, 2008
Sep. 30, 2008
Form: 941
Kind of Penalty(s): Failure to Deposit
Failure to Pay

Dear Taxpayer:

WHY WE ARE CONTACTING YOU

Thank you for your inquiry dated Feb. 02, 2009 asking us to remove your penalty(s).

You asked us to remove the penalty(s) charged on tax periods ended Mar. 31, 2008, June 30, 2008, and Sep. 30, 2008. However, after carefully reviewing your case, we did not find a basis for removing your deposit penalties.

WHY WE COULD NOT REMOVE YOUR PENALTY CHARGES

You explained that your untimely tax deposit was caused by the actions of someone else. The courts have held that the responsibility for making a timely deposit cannot be delegated. Thus, the fact that your employee handled all of your tax matters is not a mitigating circumstance. You are responsible for making a timely deposit and someone else's failure cannot serve as a basis for removing your penalty.

You explained that you were unable to make your federal tax deposit timely because you were not aware of general tax deposit rules. We understand that your failure to make a timely deposit was not intentional. However, it is the responsibility of the taxpayer to become familiar with the basic requirements for making federal tax deposits. These requirements are fully explained in the Employer's Tax Guide (Circular E, Publication 15) which you can get from any local IRS office. Your lack of knowledge of, or your lack of familiarity with, general tax deposit rules cannot be used as a basis for removing your deposit penalty.

We appreciate the difficulties associated with the transition you described. However, the kind of transition you described,

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a changing of personnel, is not uncommon in the business world. It is reasonable to expect an employer to take measures to assure the timely deposit of taxes during a transition period.

We have reviewed your account and are sending you this corrected 852C letter, as the previous 854C letter was based off of incorrect information. This letter is more complete and correct for your situation. We have forwarded your Form 2848 for processing. If you wish to appeal please follow the guidelines set forth herein.

Also, we are unable to remove the penalty for Failure to Pay for the same reason(s) we are unable to remove your Failure to Deposit penalty.

You asked us to remove the interest as well as the penalty(s) on your account. However, the law does not permit us to remove interest for reasonable cause. We charge interest on any unpaid tax, regardless of whether you had reasonable cause.

WHAT TO DO IF YOU DISAGREE

If you have additional information and want your case to receive further consideration by the Office of Appeals, please provide a detailed written statement of the dispute issues, along with supporting documentation, to the Service Center Appeals Coordinator within 60 days from the date of this letter. It should include:

1. Your name and address;
2. Your employer identification number;
3. A statement that you want to appeal the findings;
4. A statement of facts supporting your position on the issues you are appealing;
5. If possible, a statement outlining the law or other authority on which you rely;
6. A copy of your original request, if available; and
7. A copy of this letter.

The statement of facts, in 4 above, should be detailed and complete, including specific dates, names, amounts, and locations. You must declare the statement true under penalties of perjury. You may do this by adding to your statement the following signed declaration:

"Under penalties of perjury, I declare that the facts presented in my written protest, which are set out in the accompanying statement of facts, schedules, and other statements are, to the best of my knowledge and belief, true, correct, and complete."

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If your authorized representative sends us the protest for you, he or she may substitute a declaration stating that he or she prepared the statement and accompanying documents and whether he or she knows that the statement and accompanying documents are true and correct.

Please address your response to:

Internal Revenue Service
Service Center Penalty Appeals Coordinator
Attn: Gloria M. Collini
201 W. Rivercenter Blvd. Stop 511
Covington KY 41011

Even though you are requesting consideration by the Appeals Office, the Service Center Appeals coordinator will review your additional information first, to determine whether the penalty should be removed or reduced. If your appeal can't be resolved immediately with the additional information, the coordinator will send your written statement to the Appeals Office serving your district.

REPRESENTATION

An attorney, certified public accountant, or person enrolled to practice before the Internal Revenue Service may represent you. To have someone represent you, attach a Form 2848, Power of Attorney and Declaration of Representative, (or similar written authorization) to your written statement.

Forms, instructions, and Treasury Department Circular No. 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers before the Internal Revenue Service are available from any Internal Revenue Service office. They are also available by calling 1-800-829-3676 and from our website at www.irs.gov.

OTHER INFORMATION

If taxes are overdue on your account, you will continue to receive bills even if you appeal the penalty. If you decide to appeal, you may pay the penalty to avoid further interest charges on the penalty amount. If you appeal the penalty and the Appeals Officer determines that you are not required to pay it, we will adjust your account and send you a refund.

If you don't appeal, you may file a claim for refund after you pay the penalty. If you want to take your case to court immediately, you

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should request in writing that your claim for refund be immediately rejected. Then you will be issued a notice of disallowance. You have two years from the date of the notice of disallowance to bring suit in the United States District Court having jurisdiction or in the United States Claims Court.

HOW TO CONTACT US

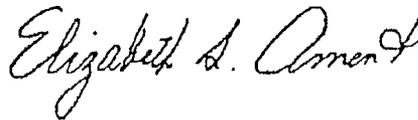
If you have any questions, please call us toll free at 1-800-829-0115.

If you prefer, you may write to us at the address shown at the top of the first page of this letter.

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. Also, you may want to keep a copy of this letter for your records.

Telephone Number () _____ Hours _____

Sincerely yours,



Elizabeth S. Ament, Operations Mgr.
Accounts Management Operations

Enclosures:
Copy of this letter
Envelope
Publication 15