

Commission Meeting

11:00 a.m.

August 21, 2024

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, August 21, 2024, with Mayor Harter presiding and Commissioners Brinkman, Curtis, Sauder and Smith present. Also present were City Manager Cocking, Deputy City Manager Detter, Assistant City Manager Wash, City Clerk Sull and City Attorney Montgomery.

City Clerk Sull administered the Oath of Office to Tyler Curtis.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Please state your name and address prior to making comments.

Jenny Wagers, on behalf of Thompson Brake and Alignment, LLC, 2104 W. 6th Avenue. She stated she had concerns about the drainage ditch on the west side of the business causing flooding and erosion. The Commission stated the issue would be discussed with city staff and Thompson Brake and Alignment would be contacted.

Jerald Campbell, 1201 Presby Dr. He spoke in favor of the local rural community hospital staying in business 24 hours a day 7 days a week. He stressed the importance of working together to keep medical resources local and open.

Linda Forbes, 1357 Road 205. She also spoke in favor of the local hospital. Her concerns were a local hospital that could provide care 24/7 versus a clinic with limited hours and days.

Shairlynn Platt, 115 Grand Blvd. She stated she had concerns about the new changes to the animal code and particularly cat colonies, registration of colonies of cats, and the restrictions placed on owners.

**COMMUNITY DEVELOPMENT BLOCK GRANT
(Scope of Work and Budget Amendments)
(Gazette Building, LLC.)**

Assistant City Manager Wash was recognized and addressed the Governing Body. She stated with the initiation of the Industrial Revenue Bonds for this project, the comprehensive tax exemption on all materials and labor reduces the necessity for full utilization of the CDBG tax exemptions. Initially, the budget for the project was \$1,342,440.93 which included comprehensive improvements and was set to be completed in one phase to leverage the CDBG tax exemptions. With the exemptions included in the IRB's, the developer has an opportunity to reduce the cost of the project and complete the first phase approximately six months earlier, which will strengthen the City's standing in future CDBG applications. For this to be beneficial, the developer needs to remove certain alternatives from the scope of work which will lower the budget, for a budget amendment. The total for the new project budget is \$392,231.00. The match requirement will still be met. She stated the developer will complete all planned improvements, which will take place in the second phase of the project. She stated staff recommends authorizing the Mayor to sign scope of work and budget amendments for the Gazette Building LLC Community Development Block Grant.

Commissioner Smith made a motion to authorize the Mayor to sign the Scope of Work and Budget Amendment for the Gazette Building, LLC Community Development Block Grant. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

**COMMUNITY DEVELOPMENT BLOCK GRANT
(Gazette Building, LLC – 517 Merchant Street)
(Contractor Selection)
(Bids)**

Assistant City Manager Wash was recognized and addressed the Governing Body. She stated bids for contractor selection were received for the Gazette Building LLC located at 517 Merchant Street. The project consists of extending the existing fire sprinkler system, miscellaneous roof, gutters and downspouts, restrooms, water service

line and fire alarm system, masonry repairs, and other building improvements. The bids are as follows:

BID TABULATION FOR GAZETTE BUILDING LLC.

Bidder:	Base Bid:	Alternate #1	Total
<i>Mitchell Markowitz Const.</i>	<i>\$254,631.00</i>	<i>\$ 137,600.00</i>	<i>\$392,231.00</i>
Vogts Construction	\$368,000.00	\$154,800.00	\$522,800.00

She stated Mitchell Markowitz Construction was the low bidder for the project. Staff recommends awarding the base bid and alternate #1 to Mitchell Markowitz Construction contingent upon CDBG approval of budget and scope of work amendments.

Commissioner Smith asked if there was any conflict of interest with the low bidder being the same person as the owner for this project.

Garrett Nordstrom, representing Governmental Assistance Services, stated the conflict-of-interest policy with CDBG only applies to elected officials and employees of the city itself.

Commissioner Brinkman then made a motion to award the base bid and alternate one to Mitchell Markowitz Construction contingent upon CDBG approval of budget and scope of work amendments. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

**CITY COMMISSION
(Pertaining to Animals and Fowl)
(Amending Chapter 6)
(Ordinance Number 24-24)**

AN ORDINANCE PERTAINING TO ANIMALS AND FOWL; AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF EMPORIA, KANSAS AND REPEALING SAID CHAPTER AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 24-24, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated Prairie Paws Animal Shelter and city staff are proposing various updates to the animal code as previously discussed at the meeting on August 7, 2024. The updates are designed to enhance public safety, welfare and improve clarity in legal requirements,

guide enforcement efforts and empower Prairie Paws to effectively manage the shelter and assist with implementation of the dog and cat registration program. She stated the proposed ordinance will update the animal code in chapter 6 of the Code of Ordinances of the City of Emporia. Changes following discussion at the last meeting include a clause for keeping of domestic animals, Sec 6-10 (b), the additional language states: "Persons legally owning dogs or cat in excess of the permitted number prior to September 1, 2024, shall be allowed to continue ownership of such animals, provided ownership remains with the same person. Veterinary records or animal registration records establishing ownership of such dogs or cats prior to September 1, 2024, shall be presented to an enforcement officer upon request." She stated the other change was made after conversations with the Street Cats Club relating to the Community Cat, Colonies, they request that an update the definition of Caregiver to a person or organization to register as the caregiver contact, which is updated in Sec 6-1 Definitions. Another update includes Sec 6-30, Community Cats, Colonies, and Caregivers, subsection c) 2) "All cats that are part of a community cat colony shall be sterilized, vaccinated against rabies, and ear tipped." They requested an additional sentence stating FVRCP vaccination is encouraged. Updates will also include updated leash requirements, registration requirements for community cat caregivers, a new offense pertaining to dangerous animals, a new designation of reckless animal owner, and a minimum fine schedule. She stated staff recommends approval of Ordinance Number 24-24, amending chapter 6 of the Code of Ordinances pertaining to animals and fowl.

Following further discussion, Commissioner Smith made a motion to approve Ordinance 24-24 amending chapter 6 of the code of the City of Emporia pertaining to animals and fowl. Commissioner Sauder seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; and Mayor Harter, aye.

**PAVING
(KDOT CCLIP Surface Preservation Project FY2025)
(KS-99 Highway – Kansas Avenue to Railroad Crossing)
(12th Avenue to North City Limits)
(Project No. PV2401 KDOT Project No. 056 U-2506-01)
(Bids)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the CCLIP Resurfacing Project No. PV2401 KDOT Project No. 056 U-2506-01. The City entered into a cost sharing agreement with KDOT in 2023 for CCLIP Resurfacing of KS-99 Highway between Kansas Avenue and the Railroad Crossing and 12th Avenue to North City Limits. The project will consist of milling and grinding of KS-99 Highway and restriping on the roadway. The City will be required to contribute a minimum of 10% plus the amount over KDOT's cost share portion of \$400,000.00. He stated the City's share of funding will be paid from the Multi-Year Fund and county wide sales tax revenue. The bids are as follows:

BID TABULATION FOR CCLIP SURFACE PRESERVATION PROJECT FY2025

Contractor	Base Bid
<i>APAC-Kansas Inc. Shears Division</i>	<i>\$791,070.22</i>
Killough Construction	\$806,684.91
Engineer's Estimate	\$785,078.10

He stated staff recommends awarding the bid to APAC-Kansas Inc., Shears Division for the base bid of \$791,070.22.

Commissioner Brinkman made a motion to award the CCLIP FY2025 Resurfacing KS-99 Highway Kansas Avenue to Railroad Tracks and 12th Avenue to North city limits, Project No. PV2401 KDOT Project No. 056 U-2506-01 to APAC-Kansas Inc., Shears Division for the base bid amount of \$791,070.22. Commissioner Smith seconded the motion. Following further discussion, the vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

**ENGINEERING
(South Avenue Box Bridge Improvements)
(Project No. SW2403)
(Bids)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. Kansas Department of Transportation (KDOT) performed a bridge inspection audit on the City's bridge inventory this past year. He stated this project is in response to KDOT's audit of the bridges the City has listed as assets. The bridge inspection found that a RCB box scour located 330' East of Prairie Street needs repair. Engineering was informed by KDOT about the repair to the RCB box at the bridge. If repairs are not completed, the City would begin inspecting the bridge every year. He stated the RCB bridge scour improvements will be Project No. SW2403 and will be funded by stormwater funds which is funded by the Multi-Year Fund. The bids are as follows:

BID TABULATION FOR SOUTH AVENUE BOX BRIDGE IMPROVEMENTS

Contractor	Base Bid
<i>L. Underwood, LLC</i>	<i>\$37,387.70</i>
S. R. Coffman Construction	\$48,460.51
Engineer's Estimate	\$22,350.00

He stated the low bid is over the Engineer's estimate, however, there is no advantage to rebid the project. There were three (3) bidders, one was non-responsive. He stated staff recommends awarding the bid to L. Underwood, LLC for the base bid amount of \$37,387.70.

Commissioner Smith made a motion to award the bid for the South Avenue Box Bridge Improvements Project No. SW2403 to L. Underwood, LLC in the amount of \$37,387.70. Commissioner Sauder seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; and Mayor Harter, aye.

SANITATION
(Fourth Addendum for Transport and Disposal of Solid Waste)
(Agreement b/w City of Emporia & Board of County Commissioners of Lyon Co.)
(Second Addendum to Recyclables Processing & Marketing Service Agreement)
(N.R. Hamm Quarry, Inc.)

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated the City of Emporia has two (2) contracts the Hamm Companies, one for Municipal Solid Waste and one for Single Stream Recycling. They have requested an amendment to the Municipal Solid Waste contract that would change language referencing the number of tons per load and any trailer damage while in the possession of the City. This agreement will be effective September 1, 2024, and continue until December 31, 2026. He stated on the Single Stream Recycling contract, Hamm Companies gave notice of termination on the current contract. They have requested to increase the per ton rate, and an increase on the rate for the recycling to be hauled to the processing center. He stated the new rates would increase single stream recycling from \$45.00 per ton to \$105.00 per ton, and the hauled rate would increase from \$295.00 per load to \$625.00 per load. There will also be a built-in annual increase based on the Consumer Price Index plus three percent (3%). This amendment would be effective September 1, 2024, and would also extend the single stream recycling contract to December 31, 2026, with both the Municipal Solid Waste contract and the Single Stream Recyclables Processing contracts terminating at the same time. He stated there is no financial impact to the Municipal Solid Waste contract. The Single Stream Recycling contract will increase approximately \$100,000.00 in the first year with the expenditure to the Solid Waste Fund. He stated staff is recommending approval of the Fourth Addendum for Transport and Disposal of Solid Waste agreement contract and approval of the Second Addendum to Recyclables Processing & Marketing Service Agreement with N.R. Hamm Quarry, Inc.

Mayor Harter asked when the last time was there was a rate increase for Single Street recycling with Hamms.

Charlie Sedlock, representing Hamm Companies, stated the contract called for an annual increase since 2015, due to computer and other processing issues, the rate was

held flat. Between those issues and good negotiations by staff, you have the best rate in the Midwest.

Mayor Harter stated recycling is becoming more expensive for users and haulers and wanted to know if there were ways to combat the rise in expensive.

Mr. Sedlock stated the best way was to educate the public on what items are safe to recycle to reduce contamination, and to educate the public that all waste disposal is becoming more expensive.

Commissioner Brinkman made a motion to approve Amendment No. 4 to the Municipal Solid Waste contract and approve Amendment to the Singel Steam Recyclables Processing contract. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

CITY MANAGER'S REPORT (Financials & Building Permits)

This is the time for the City Manager to make comments and reports to the public.

The following is general information for the month of July 2024 for community:

1. Monthly Local Retail Sales Tax Receipts Update

	2023	2024	
	\$ 558,471.20	\$ 556,223.25	Decrease of \$2,247.95 for the month, and
YTD	\$3,742,949.80	\$3,715,822.34	Overall decrease of 0.73% from year 2023.

2. City Share from County Tax

	2023	2024	
	\$ 288,673.57	\$ 283,605.37	Decrease of \$5,068.20 for the month, and
YTD	\$1,963,273.83	\$1,896,393.17	Overall decrease of 3.53% from year 2023.

Building Permits issued from 7/1/2024 to 7/31/2024 for new construction, remodeling/repairs and demolition.

Total number of building permits issued through Code Services:	65
Total of valuations associated with those building permits:	\$2,055,831.04
Total number of dollars collected for Building Permit Fees:	\$ 13,393.50
Construct – Single-family dwellings	0
Demo – Single-family dwellings	0
Flint Hills Mall CID for July 2024	\$ 22,952.33
YTD	\$ 141,951.19

Pavilions CID for July 2024	\$ 14,707.14
CID #2	\$ 14,698.31
YTD	\$ 218,470.94
Fairview Hotel CID for July 2024	\$ 8,830.52
YTD	\$ 15,350.31

Consent Agenda

It was moved by Commissioner Sauder, seconded by Commissioner Smith that the Consent Agenda listed below be ratified as a whole:

- a. Approve minutes of the Regular Meeting held on August 7, 2024.
- b. Ordinance No. 24-25 Authorizing Beer Garden for Halfway to Everywhere Festival on September 7, 2024.

AN ORDINANCE EXEMPTING A ONE-HALF BLOCK AREA WEST OF COMMERCIAL STREET BETWEEN AND INCLUDING WEST 9TH AVENUE, WEST 10TH AVENUE AND PORTIONS OF THE ALLEY WEST OF COMMERCIAL STREET FROM THE PROHIBITION ON THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FROM THE HALFWAY TO EVERYWHERE FESTIVAL SEPTEMBER 7, 2024.

The vote follows: Commissioner Sauder, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; and Mayor Harter, aye.

CITY COMMISSION (City Manager's Report)

This is an opportunity for the City Manager to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

TENTATIVE AGENDA FOR SEPTEMBER 4, 2024, MEETING.

- Proclamation Recognizing National Hispanic Heritage Month, September 15th-October 15th.
- Proclamation for National Adult Education and Family Literacy Week, September 15 through 21, 2024.
- Proclamation for September as Library Card Sign-Up Month.

- Proclamation Naming September 13 through 12, 2024, as Welcoming Week in Emporia.
- Public Hearing for Revenue Neutral Rate.
- Resolution for Revenue Neutral Rate.
- Public Hearing for 2025 Budget and 5-Year Plan.
- Adopt the 2025 Budget and 5-Year Plan.
- Adopt Safe Routes to School Plan.
- Contract with BG Consultants for REC Center.

City Manager Cocking introduced Brenda Young as the New Zoo Director for the David Traylor Zoo.

Study Session: - Zoo Education Center

Introduction of the New Zoo Director.
CDBG Update.
Discuss the Formation of the Public Building Commission.
Discuss Social Media in Local Government.

CITY COMMISSION (Public Comment)

This is the time for the Mayor and City Commissioners to make comments and reports to the public.

No comments were made at this time.

EXECUTIVE SESSION

Commissioner Sauder made a motion to recess into Executive Session for 45 minutes inviting pertinent city staff for the purpose of consultation with the City Attorney regarding a legal matter. The justification for the executive session is provide in K.S.A. 75-4319(b)(2) to protect privileged communication in the attorney-client relationship. The open meeting will resume in City Commission Meeting Room at approximately 12:30 p.m. Commissioner Smith seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; and Mayor Harter, aye.

Upon reconvening the meeting in Regular Session, at 12:30 p.m., this same date in the City Commission Meeting Room, Mayor Harter stated they had consultation with the City Attorney regarding a legal matter and no action was taken.

Commissioner Curtis made a motion to recess the meeting until 1:00 p.m. to Conference Room 1AB. Commissioner Sauder seconded the motion. The vote follows: Commissioner Curtis, aye; Commissioner Sauder, aye; Commissioner Brinkman, nay; Commissioner Smith, nay; and Mayor Harter, aye.

Mayor Harter then made a motion to recess the meeting until 12:52 p.m. to Conference Room 1AB. Commissioner Brinkman seconded the motion. The vote follows: Mayor Harter, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Commissioner Smith, aye.

The following items were discussed at Study Session:

1. Appoint City Commissioner to Emporia Enterprises.
2. Discuss KDOT's Safe Routes to School Plan.
3. Discuss Stormwater Utility.
4. Discuss Utility Fund Budget.

Study Session Discussion:

1. Appoint City Commissioner to Emporia Enterprise

City Commission

Emporia Enterprises Board

Appoint Governing Body Representative

City Manager Cocking stated Danny Giefer was appointed as the representative to the Emporia Enterprise Board. Tyler Curtis was appointed as a member at large. He is no longer eligible for that position. He stated Tyler should be appointed as the Governing Body representative.

Mayor Harter requested that Emporia Enterprises advertise for an opening.

Commissioner Smith made a motion to appoint Tyler Curtis as the representative of the Governing Body to participate in the activities of the Emporia Enterprise Board and to open up the position of member at large for applications. Commissioner Sauder seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis aye; and Mayor Harter, aye.

Commissioner Sauder then made a motion to adjourn. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Smith, aye; and Mayor Harter, aye.



Erren Harter, Mayor

ATTEST:



Kerry Sull, City Clerk

