



CITY COMMISSION
WEDNESDAY, OCTOBER 2, 2024 AT 11:00 AM
CITY COMMISSION CHAMBER

ORDER OF BUSINESS

CALL MEETING TO ORDER Mayor Erren Harter

MEMBERS PRESENT

Vice-Mayor Susan Brinkman
Commissioner Tyler Curtis
Commissioner Becky Smith
Commissioner Jamie Sauder

PROCLAMATIONS

Proclamation Recognizing Domestic Violence Awareness Month.

Accepted by: Kathryn Wilkerson, Therapist & Assistant Executive Director and Hannah Crowl,
Community Relations Coordinator for SOS, Inc.

PUBLIC FORUM

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.

NEW BUSINESS

- 1) **Ordinance No. 24-30 Creating a Planned Unit Development Overlay for Property Located at 2915 W. 6th Avenue.**

Presented by: Justin Givens, Planning & Zoning Administrator

Recommended Action: Approve Ordinance No. 24-30 Creating a Planned Unit Development Overlay for Property Located at 2915 W. 6th Avenue.

- 2) **Final Plat for the Lockwood Addition.**

Presented by: Justin Givens, Planning & Zoning Administrator

Recommended Action: Approve Final Plat for Lockwood Addition.

- 3) **Ordinance No. 24-31 Rezoning Property Located at 1200 Whittier Place Lane from Single-Family Detached to Multi-Family.**

Presented by: Justin Givens, Planning & Zoning Administrator

Recommended Action: Adopt Ordinance No. 24-31 Rezoning Property Located at 1200 Whittier Place Lane from Single-Family Detached to Multi-Family.

- 4) **Resolution No. 3740 Regarding the Intent to Issue Industrial Revenue Bonds (IRBs) in the amount of \$10,500,000 for Whittier Place III, LP, and Whittier Place III MR, LLC.**

Presented by: Tayler Wash, Assistant City Manager

Recommended Action: Adopt Resolution No. 3740 regarding the Intent to Issue Industrial Revenue Bonds (IRBs) in the Amount of \$10,500,000 for Whittier Place III, LP, and Whittier Place III MR, LLC.

5) **License Agreement with RCM LLC for 502 Graham Street.**

Presented by: Jim Ubert, City Engineer

Recommended Action: Approve License Agreement with RCM, LLC, and authorize the mayor to sign the License Agreement.

6) **Resolution No. 3739 of Intent to Allow the City of Emporia to Reimburse Costs from the Project Associated with the Fire Station from Proceeds of Tax-Exempt Bonds.**

Presented by: Mark Detter, Deputy City Manager

Recommended Action: Authorize Resolution No. 3739 Declaring the intent of the City of Emporia, Kansas to Authorize Reimbursement of the Expenditures Related to the Issuance of Approximately \$15,000,000 in Public Building Commission Revenue Bonds.

7) **Ordinance No. 24-29 Establishing A Credit Card Processing Fee.**

Presented by: Janet Harrouff, Director of Finance

Recommended Action: Approve Ordinance No. 24-29 Establishing A Credit Card Processing Fee.

COMMUNICATIONS

Presented by Trey Cocking, City Manager.

CONSENT AGENDA

Presented by Trey Cocking, City Manager.

- 1) Commission Meeting Minutes for September 11 and September 18, 2024.
- 2) Authorize the Mayor to Sign a Letter of Support for Southwick.

INFORMATIONAL ITEMS

Presented by Trey Cocking, City Manager.

- 1) Informational Items

GOVERNING BODY COMMENTS

Mayor Erren Harter
Vice-Mayor Susan Brinkman
Commissioner Tyler Curtis
Commissioner Becky Smith
Commissioner Jamie Sauder

EXECUTIVE SESSION

- 1) Recess into executive session for 15 minutes inviting pertinent city staff to discuss the possibility of acquiring easement interest in real property. The justification for the executive session is provided by K.S.A. 75-4319(b)(6) to minimize the cost of the property to the taxpayer. The open meeting will resume in this room at approximately __:____ a.m./p.m.
- 2) Recess into executive session for 30 minutes inviting pertinent city staff to discuss confidential data of a third party relating to economic development. The justification for the executive session is provided by K.S.A. 75-4319(b)(4) to protect financial affairs and trade secrets of third parties. The open meeting will resume in this room at approximately __:____ a.m./p.m.

RECESS

Recess to Emporia Municipal Airport, 1005 Road 120 for Study Session

STUDY SESSION AGENDA ITEMS

- 1) Discuss Social Media in Local Government.
- 2) Hazardous Sidewalk Program Cost Share Discussion.
- 3) Airport Discussion

ADJOURNMENT



PROCLAMATION

WHEREAS, domestic violence is a serious crime that affects people of all races, ages, genders, and income levels; and

WHEREAS, domestic violence is widespread and affects more than four million Americans each year; and

WHEREAS, one in three Americans have witnessed an incident of domestic violence; and

WHEREAS, children who grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, domestic violence costs the nation billions of dollars annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism, non-productivity; and

WHEREAS, only a coordinated community effort will put a stop to this heinous crime; and

WHEREAS, Domestic Violence Awareness Month provides an excellent opportunity for citizens to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services, and assistance to victims.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Erren Harter, Mayor of the City of Emporia, Kansas, proclaim the month of October as

Domestic Violence Awareness Month

and urge the citizens of Emporia to work together to eliminate domestic violence from our community.

On this 2nd Day of October 2024

ATTEST:

Erren Harter, Mayor

Kerry Sull, City Clerk



Commission Action Report

Ordinance No. 24-30 Creating a Planned Unit Development Overlay
for Property Located at 2915 W. 6th Avenue

Title: Ordinance No. 24-30 Creating a Planned Unit Development Overlay for
Property Located at 2915 W. 6th Avenue

Agenda Date: October 2, 2024

Presented By: Justin Givens, Planning & Zoning Administrator

Background:

The owner of the property located at 2915 W. 6th Avenue has requested that a Planned Unit Development Overlay be created for their property. The request comes as the owners intend to build 24 single-family homes on the 5-acre tract of land.

The Planning Commission, at their February 20, 2024, meeting, conducted the required public hearing and made a recommendation for approval to the City Commission.

Discussion:

The proposed Planned Unit Development would allow the property owner to build 24 single-family homes. The development would use three new private drives from W 6th Avenue. that would service the development. The interior infrastructure of the development will be private, and a homeowner's agreement will be filed to provide for the maintenance of the common and private infrastructure. Creating a Planned Unit Development Overlay is technically a change in zoning, so an ordinance approving the PUD is required.

The Governing Body, when considering a recommendation from the Planning Commission on a Rezoning Application may; 1) Adopt the ordinance as presented or with conditions that the Governing Body sees fit; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

Financial considerations:

The cost of publication of the ordinance is borne by the City.

Recommended action:

Approve Ordinance No. 24-30 Creating a Planned Unit Development Overlay for Property Located at 2915 W. 6th Avenue.

Attachments:

Ordinance No. 24-30 Creating PUD
Lockwood Final PUD
Excerpt of Minutes from Planning Commission meeting including the Staff Report
Aerial Location Map
Area Zoning Map

ORDINANCE NO. 24-30

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM FLEX-USE LOW (F-L) PARCEL TYPE TO A RESIDENTIAL PLANNED UNIT DEVELOPMENT AND AMENDING THE OFFICIAL ZONING MAP TO CONFORM WITH SAID ZONING

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from Flex-Use Low Parcel Type to that of a Residential Planned Unit Development to wit:

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NW1/4 NE1/4 NE1/4 NW1/4) AND A STRIP 12 RODS IN WIDTH OFF THE ENTIRE EAST SIDE OF THE NE1/4 NW1/4 NE1/4 NW1/4, ALL IN THE SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

ALSO:

8 RODS OFF THE WEST SIDE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

And generally located: 2915 W 6th Ave., Emporia, KS

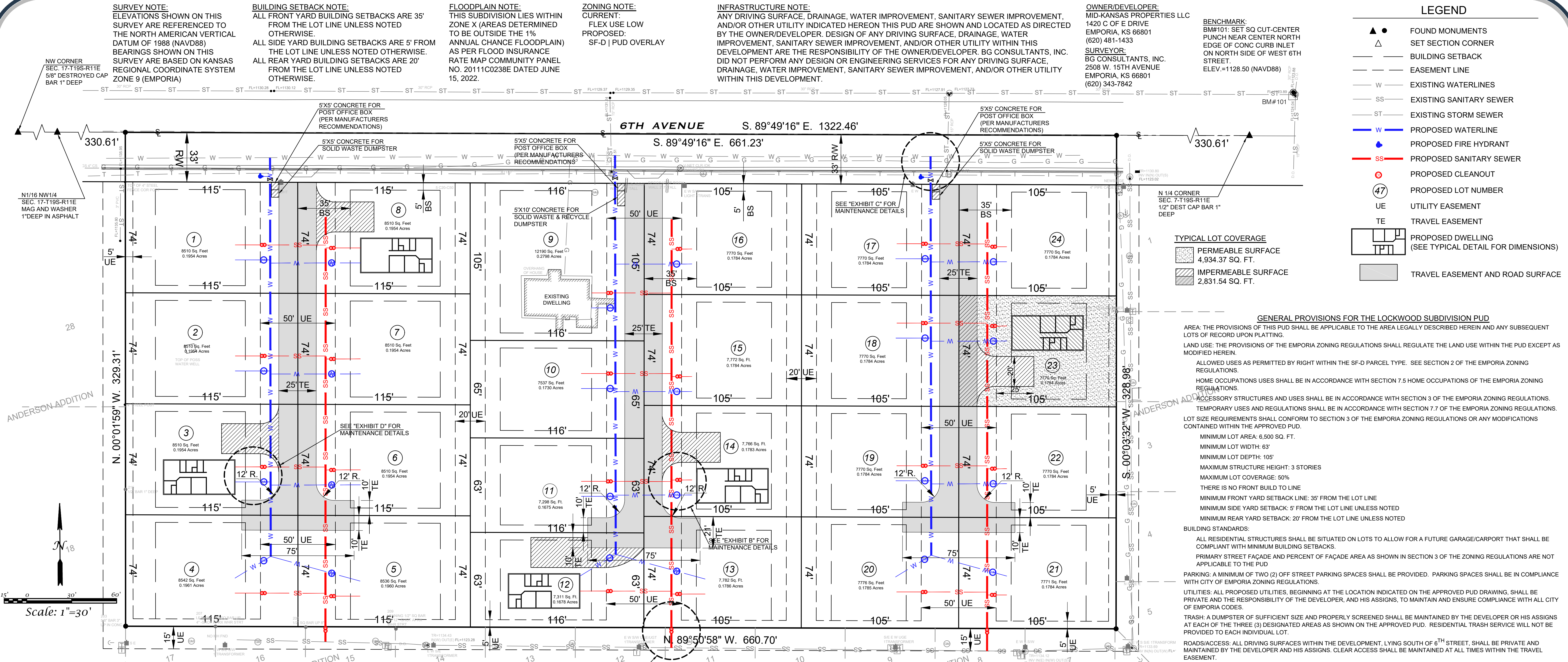
Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 2nd day of October, 2024.

SUSAN BRINKMAN, Vice-Mayor

ATTEST:

KERRY SULL, City Clerk



Certificate of the Governing Body:

(State of Kansas)
(County of Lyon) SS

The dedications shown on this plat have been accepted by the City of Emporia, Kansas, this ____ day of ____, 2024.

Mayor: _____

Attest: City Clerk: _____

City Attorney: _____

Certificate of the Planning Commission:

(State of Kansas)
(County of Lyon) SS

This Plat of Lockwood Subdivision has been submitted to and approved by the Emporia-Lyon County Metropolitan Area Planning Commission this ____ day of ____, 2024.

Chair: _____

Attest: Secretary: _____

Certificate of the Register of Deeds:

(State of Kansas)
(County of Lyon) SS

This is to certify that this instrument was filed for record in the Register of Deeds office on the ____ day of ____, 2024, in Book ____, Page ____.

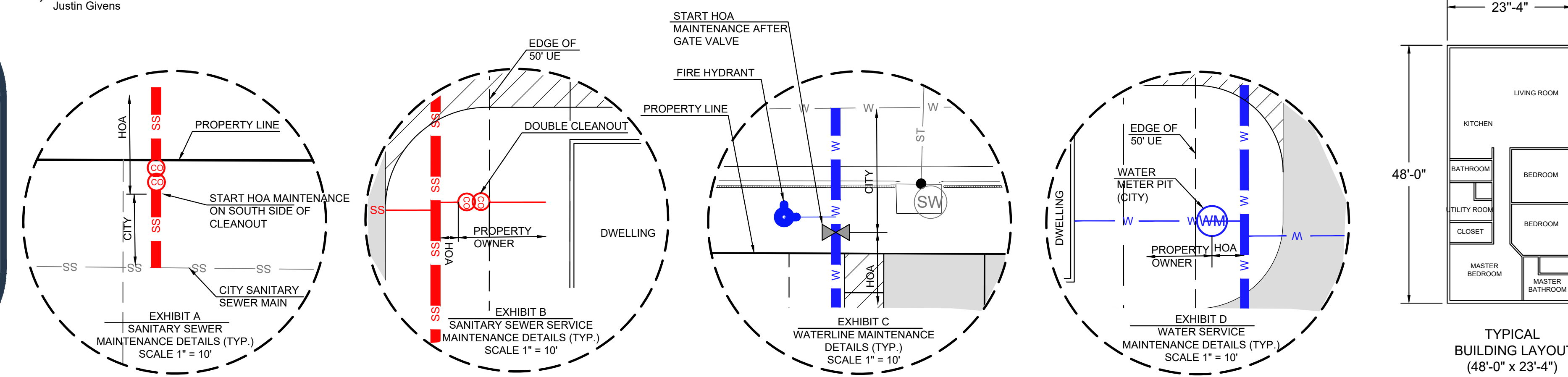
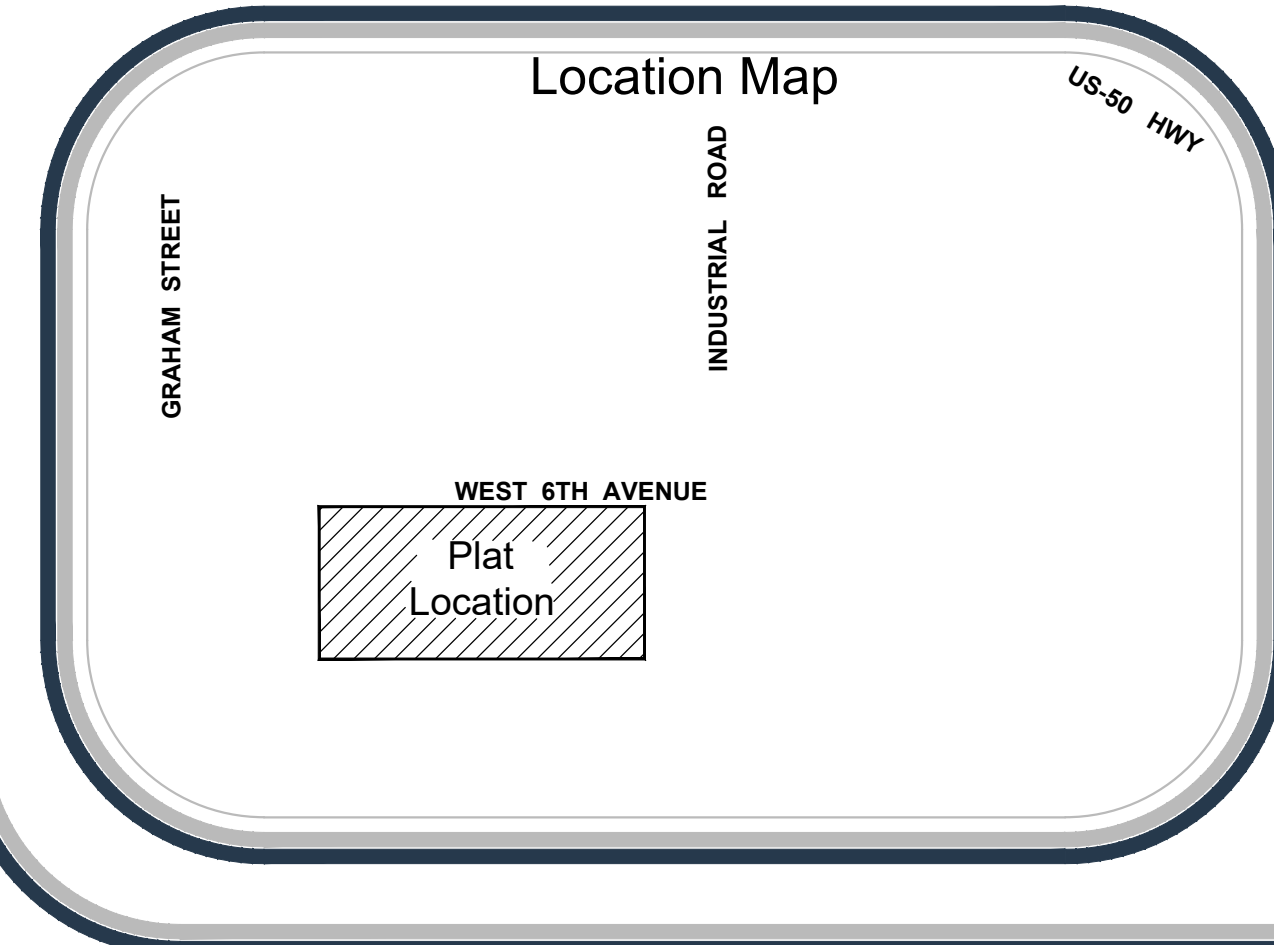
Lyon County Register of Deeds: _____

Deputy: _____

DESCRIPTION

A TRACT OF LAND LOCATED IN NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6th P.M., IN THE CITY OF EMPORIA, LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED BY BRIAN J. WESTBERG, P.S. 1708, ON OCTOBER 31, 2023, AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 17; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17 N. 89°49'16" W. 330.61 FEET TO THE POINT OF BEGINNING ON THE EXTENDED WEST LINE OF LOT 1, BLOCK 6, ANDERSON ADDITION TO THE CITY OF EMPORIA, LYON COUNTY, KANSAS; THENCE ALONG THE EXTENDED WEST LINE OF SAID LOT 1 AND THE WEST LINE OF LOTS 1-5, BLOCK 6, OF SAID ANDERSON ADDITION S. 00°03'52" W. 328.98 FEET (SAID ANDERSON ADDITION: 330.4 FEET) TO A WESTERLY CORNER OF SAID LOT 5, BEING A NORTHERLY CORNER OF LOT 6, BLOCK 6, OF SAID ANDERSON ADDITION; THENCE ALONG THE NORTH LINE OF LOTS 6-17, BLOCK 6, OF SAID ANDERSON ADDITION N. 89°50'58" W. 660.70 FEET TO THE NORTHWEST CORNER OF SAID LOT 17, BEING ON THE EAST LINE OF LOT 18, BLOCK 6, OF SAID ANDERSON ADDITION; THENCE ALONG THE EAST LINE OF SAID LOT 18 AND THE EAST LINE AND EAST LINE EXTENDED OF LOT 28, BLOCK 6, OF SAID ANDERSON ADDITION N. 00°01'59" W. 329.31 FEET (SAID ANDERSON ADDITION: 330.4 FEET) TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17, BEING 330.61 FEET EAST OF THE NORTH 1/16 CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17 S. 89°49'16" E. 661.23 FEET TO THE POINT OF BEGINNING, CONTAINING 4.99 ACRES



FINAL PUD

Lockwood Subdivision

an Addition to the City of Emporia, Lyon County, Kansas

Prepared By:

BG CONSULTANTS
ENGINEERS - ARCHITECTS - SURVEYORS

MANHATTAN, KANSAS LAWRENCE, KANSAS EMPORIA, KANSAS

February 14, 2024

23-1274E

EXCERPT OF MINUTES- 02/20/2024

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, February 20, 2024, with Chair Rogers presiding. Members Barnes, Ogle, Bucklinger, Thomas, Weaver and Duncan were present.

City staff: Justin Givens was present.

Chair Rogers called the meeting to order.

3. Consider Application PC 2024-04 a Request to Approve a Final Planned Unit Development for the Lockwood Subdivision Planned Unit Development.

Chair Rogers asked if proper notice had been given. **Givens** confirmed that proper notice was provided to the newspaper and to property owners within 200 feet of the subject property.

Chair Rogers asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No Commissioners needed to recuse themselves or report any ex-parte communications.

Givens provided the Staff Report.

STAFF REPORT

Application #: PC 2024-04

Applicants: Mid-Kansas Properties LLC (owner / applicant)
BG Consultants (agent)

Requested Action: Applicant requests approval of a Final Planned Unit Development (PUD)

Purpose: Applicant desires to develop a 4.99 acre tract of land consisting of 24 single-family detached lots.

Address: 2915 W 6th Ave. Emporia, KS

Legal description: THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NW1/4 NE1/4 NE1/4 NW1/4) AND A STRIP 12 RODS IN WIDTH OFF THE ENTIRE EAST SIDE OF THE NE1/4 NW1/4 NE1/4 NW1/4, ALL IN THE SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

ALSO:

8 RODS OFF THE WEST SIDE OF THE NORTHEAST QUARTER OF THE

NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

Lot Size: 4.99 acres

Existing Zoning: Flex-Use Low

Future Zoning in ELC Comp. Plan: Flex-Use Low

Surrounding Zoning:

North – Light Industrial

East – Flex-Use Low

South – Flex-Use Low

West – Flex-Use Low

Surrounding Actual Uses:

North – Vacant Property

East – Single-Family Detached Homes

South – Single-Family Detached & Attached Homes

West – Industrial Warehouse & Miscellaneous Industrial Yard

Analysis: The applicants have requested to plat and develop a 4.99-acre tract of land as a Planned Unit Development (PUD). The proposed development would consist of 24 single-family detached lots with 23 new homes being built and the existing home on the property remaining.

The PUD is unique, in that it is designed with three private drives serving the development. Each drive would serve 8 lots with a hammer head turn around at the end of drive. Infrastructure within the development would be privately maintained by a Homeowners Association that would be managed by the developer.

The drive width is of sufficient size to allow for two way traffic, but parking will not be allowed on either side of the drive. Each unit is required to provide at a minimum two off street parking spaces, but in most cases should be able to provide more parking as driveways will be on the side of the house and not directly in front of it.

The Final PUD, which will be filed with the Register of Deeds, and will run with the property in perpetuity, is in substantial compliance with the approved preliminary plan. The applicant has addressed staff and Planning Commission comments from the Preliminary PUD. General provisions for development within the PUD have been provided for and shall govern the development of the property. Any deviations from the plan will require resubmittal to the Planning Commission and Governing Body for approval.

Considerations:

It is the intent of the Planned Unit Development District to encourage innovation in residential, commercial and industrial development by greater variety in type, design, and layout of buildings, to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of the land; and to provide a procedure which relates the type, design and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

This project, as proposed, meets the intent of a Planned Unit Development District. It maximizes the existing space by modifying lot sizes, and uses private roads and utilities to reduce development costs, thus helping to reduce the cost of a house within the development. As proposed, this development would increase, what is often called the missing middle. Missing middle housing units are more affordable to those who may not qualify for subsidies but cannot afford high end housing. The development will also blend with the adjacent uses and staff feels will preserve, if not increase, property values of residential homes in the immediate area.

A planned unit development shall be in general conformity with the provisions of the comprehensive plan, and shall not have a substantially adverse effect on the development of the neighboring area. **As this is considered an infill development, staff does not feel that there would be any adverse effects on the existing neighborhoods. The areas immediately to the east and south are a mix of owner occupied single-family detached residences, and single-family attached and multi-family rental units. This project would help to compliment those areas. The proposed development is in conformance with Plan ELC, as it promotes affordable housing, uses existing infrastructure to expand the missing middle housing stock, and is an adaptive reuse of vacant property.**

Neighborhood Communications: Staff received one call and had one person attend the preliminary public hearing. No additional comments have been provided.

Recommendation: Staff recommends a motion to recommend approval of the Final PUD subject to staff and Planning Commission comments to the Governing Body.

Attachments: Final PUD | Aerial Map | Current Zoning Map

The Public Hearing was opened.

Jamie Sauder, Mid-Kansas Properties, LLC, spoke in favor of the application.

No person spoke against the application.

The Public Hearing was closed.

Commissioners discussed the concepts of a Planned Unit Development and the requirements of the Home Owners Association and the need to have them in place prior to City Commission approval.

Commissioner Weaver made a motion to recommend approval of the Final Planned Unit Development for the Lockwood Subdivision PUD subject to review and acceptance of Home Owners Agreement by staff and the applicant providing No Parking signage along the private drives/hammerheads. Duncan seconded the motion. The motion passed 7-0.

Lockwood Subdivision
Aerial Photo



Lockwood Subdivision Zoning Map





Commission Action Report

Final Plat for the Lockwood Addition

Title: Final Plat for the Lockwood Addition

Agenda Date: October 2, 2024

Presented By: Justin Givens, Planning & Zoning Administrator

Background:

The owner of the property located at 2915 W. 6th Avenue has requested that a Final Plat be approved for their property. The request comes as the owners intend to build 24 single-family homes on the approximately 5-acre tract of land.

The Planning Commission, at their February 20, 2024, meeting, conducted the required public hearing and made a recommendation for approval to the City Commission.

Discussion:

The proposed plat would allow for the development of the Lockwood Planned Unit Development. The proposed development calls for the construction of 24 single-family homes. The development would use three new private drives from W 6th Avenue that would service the development. The interior infrastructure of the development will be private, and a homeowner's agreement will be filed to provide for the maintenance of the common and private infrastructure. The approval of the final plat from the Planning Commission was subject to the developer submitting and staff reviewing the Homeowners Agreement. Staff has completed that review and has found it to be acceptable.

The Governing Body, when considering a recommendation from the Planning Commission on a Final Plat may; 1) Approve the Plat; 2) Disapprove the Plat; 3) Accept or Refuse any Dedications of Land for Public Purposes within 30 days; 4) Defer any Action for 30 days for the Applicant to Modify or Comply with any Additional Requirements; 5) Return the application to the Planning Commission, giving reasons for doing so and request reconsideration.

Financial considerations:

No city funds are required for the approval of the plat

Recommended action:

Approve Final Plat for the Lockwood Addition.

Attachments:

Lockwood Final Plat
Excerpt of Minutes from Planning Commission meeting including the Staff Report
Aerial Location Map
Area Zoning Map

Legend

SIDEWALK NOTE:
NO SIDEWALKS ARE BEING
PROPOSED ON THIS PROJECT

▲ Found Monuments	Controlled Access	UE Utility Easement
■ Found Stone	Section Line	PE Pedestrian Easement
○ Set 1/2" x 24" Iron Bar w/BG Cap	Lot Line/Right of Way Bearing and Distance	SE Sewer Easement
× Surveyed Position Point Not Set	Utility Easement Line	Travel Easement and Road Surface
47 Proposed Lot Number	Building Setback Line:	

FLOODPLAIN NOTE:
THIS SUBDIVISION LIES WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN) AS PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 20111C0238E DATED JUNE 15, 2022.

BUILDING SETBACK NOTE:
ALL FRONT YARD BUILDING SETBACKS ARE 35' FROM THE LOT LINE UNLESS NOTED OTHERWISE.
ALL SIDE YARD BUILDING SETBACKS ARE 5' FROM THE LOT LINE UNLESS NOTED OTHERWISE.
ALL REAR YARD BUILDING SETBACKS ARE 20' FROM THE LOT LINE UNLESS NOTED OTHERWISE.

SURVEYOR:
BG CONSULTANTS, INC.
2508 W. 15TH AVENUE
EMPORIA, KS 66801
(620) 343-7842

OWNER/DEVELOPER:
MID-KANSAS PROPERTIES LLC
1420 C OF E DRIVE
EMPORIA, KS 66801
(620) 481-1433

BENCHMARK:
BM#101: SET SQ CUT-CENTER
PUNCH NEAR CENTER NORTH
EDGE OF CONC CURB INLET
ON NORTH SIDE OF WEST 6TH
STREET.
ELEV.=1128.50 (NAVD88)

SURVEY NOTE:
ELEVATIONS SHOWN ON THIS SURVEY
ARE REFERENCED TO THE NORTH
AMERICAN VERTICAL DATUM OF 1988
(NAVD88)
BEARINGS SHOWN ON THIS SURVEY ARE
BASED ON KANSAS REGIONAL
COORDINATE SYSTEM ZONE 9 (EMPORIA)

ZONING NOTE:
CURRENT: FLEX USE LOW
PROPOSED: SF-D | PUD OVERLAY

Description:

A TRACT OF LAND LOCATED IN NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6th P.M., IN THE CITY OF EMPORIA, LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED BY BRIAN J. WESTBERG, P.S. 1708, ON OCTOBER 31, 2023, AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 17; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17
N. 89°49'16" W. 330.61 FEET TO THE POINT OF BEGINNING ON THE EXTENDED WEST LINE OF LOT 1, BLOCK 6, ANDERSON ADDITION TO THE CITY OF EMPORIA, LYON COUNTY, KANSAS; THENCE ALONG THE EXTENDED WEST LINE OF SAID LOT 1 AND THE WEST LINE OF LOTS 1-5, BLOCK 6, OF SAID ANDERSON ADDITION
S. 00°03'32" W. 328.98 FEET (SAID ANDERSON ADDITION: 330.4 FEET) TO A WESTERLY CORNER OF SAID LOT 5, BEING A NORTHERLY CORNER OF LOT 6, BLOCK 6, OF SAID ANDERSON ADDITION; THENCE ALONG THE NORTH LINE OF LOTS 6-17, BLOCK 6, OF SAID ANDERSON ADDITION
N. 89°50'58" W. 660.70 FEET TO THE NORTHWEST CORNER OF SAID LOT 17, BEING ON THE EAST LINE OF LOT 18, BLOCK 6, OF SAID ANDERSON ADDITION; THENCE ALONG THE EAST LINE OF SAID LOT 18 AND THE EAST LINE AND EAST LINE EXTENDED OF LOT 28, BLOCK 6, OF SAID ANDERSON ADDITION
N. 00°01'59" W. 329.31 FEET (SAID ANDERSON ADDITION: 330.4 FEET) TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17, BEING 330.61 FEET EAST OF THE NORTH 1/16 CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17
S. 89°49'16" E. 661.23 FEET TO THE POINT OF BEGINNING, CONTAINING 4.99 ACRES

Surveyor's Certificate:

(State of Kansas) SS
(County of Lyon)

I, the undersigned do hereby certify that I am a Registered Land Surveyor in the State of Kansas with experience and proficiency in land surveying, that the heretofore described property was surveyed and subdivided by me, or under my supervision, that all subdivision regulations of the Subdivision Regulations of Emporia have been complied with in the preparation of this plat, and that all the monuments shown herein actually exist and their positions are correctly shown to the best of my knowledge and belief.

Given under my hand and seal at Manhattan, Kansas

this ____ day of _____ A.D., 2024.

BG CONSULTANTS, INC.
2508 WEST 15th AVENUE
EMPORIA, KANSAS 66801
(620)343-7842

Brian J. Westberg, PS 1708

Certificate of the Register of Deeds:

(State of Kansas) SS
(County of Lyon)

This is to certify that this instrument was filed for record in the Register of Deeds office on the ____ day of _____, 2024, in Book _____, Page _____.

Lyon County Register of Deeds: Wendy Weiss

Deputy:

Transfer of Record:

(State of Kansas) SS
(County of Lyon)

Entered on Transfer Form this ____ day of _____, 2024.

Lyon County Clerk: Tammy Vopat

County Treasurer Certificate:

(State of Kansas) SS
(County of Lyon)

I hereby certify that the taxes on the included tracts are current.

Lyon County Treasurer: Sharon Gaede

Date:

Certificate of the Planning Commission:

(State of Kansas) SS
(County of Lyon)

This Plat of Lockwood Subdivision has been submitted to and approved by the Emporia-Lyon County Metropolitan Area Planning Commission this ____ day of _____, 2024.

Chair: Raymond Rogers

Attest: Secretary: Justin Givens

Certificate of the Governing Body:

(State of Kansas) SS
(County of Lyon)

The dedications shown on this plat have been accepted of by the City of Emporia, Kansas, this ____ day of _____, 2024.

Mayor: Danny Giefer

Attest: City Clerk: Kerry Sull

City Attorney: Christina Montgomery

County Surveyor Review Certificate:

(State of Kansas) SS
(County of Lyon)

I hereby certify this plat is in accordance with the Land Survey Act, K.S.A. 58-2001, et seq.

Lyon County Surveyor: Warren Chip Woods

Date:

Owners Certificate:

(State of Kansas) SS
(County of Lyon)

This is to certify that the undersigned are the owners of record of the land hereon described on this plat, and that the undersigned have caused the same to be surveyed and subdivided as herein set forth. The undersigned, as such owners, do hereby state that all street right-of-ways as shown on this plat are hereby dedicated to the public. An easement and license to locate, construct, operate, inspect, replace and maintain, or authorize the location, construction, operation, inspection, replacement and maintenance of poles, wires, conduits, water, gas and sewer pipes, required drainage channels or structures; hard and impervious surfaces; or other structures necessary to carry out the function of the easement, upon the area marked for easements on this plat is also hereby dedicated to the public. When, and if, used on this plat, the term "Utility" shall include, by way of example, but not limited to sewer, water, gas, electricity, cable t.v. and telephone. When, and if, used on this plat, the term "Travel" shall include all forms of travel, by whatever means, unless the term is limited by other words or phrases, such as "Pedestrian Travel", etc. The undersigned acknowledges that pursuant to K.S.A. 12-406, the dedication of right-of-ways and easements to the public constitute a conveyance thereof to the City of Emporia, Kansas, in trust, for the uses named, expressed or intended.

Given under my hand at Emporia, Kansas

this ____ day of _____ A.D., 2024.

MID-KANSAS PROPERTIES LLC
JAMIE SAUDER, PRESIDENT

INFRASTRUCTURE NOTE:
DESIGN OF ANY DRIVING SURFACE, DRAINAGE, WATER IMPROVEMENT, SANITARY SEWER IMPROVEMENT, AND/OR OTHER UTILITY WITHIN THIS DEVELOPMENT ARE THE RESPONSIBILITY OF THE OWNER/DEVELOPER.

BG CONSULTANTS, INC. DID NOT PERFORM ANY DESIGN OR ENGINEERING SERVICES FOR ANY DRIVING SURFACE, DRAINAGE, WATER IMPROVEMENT, SANITARY SEWER IMPROVEMENT, AND/OR OTHER UTILITY WITHIN THIS DEVELOPMENT.

Notary Certificate:

(State of Kansas) SS
(City of Emporia City)

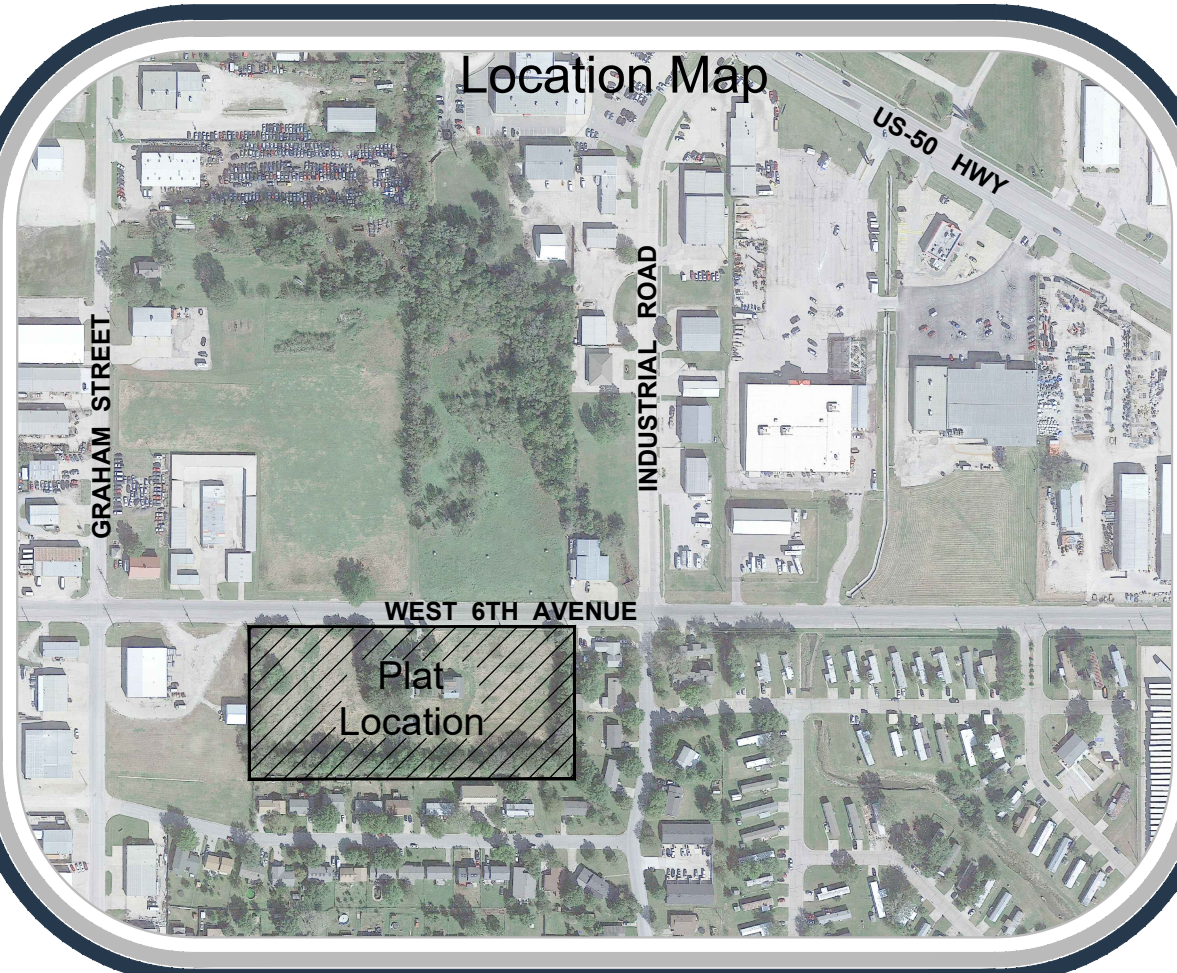
The foregoing instrument was acknowledged before me

this ____ day of _____ of A.D., 2024

by _____

Notary Public

My commission expires:



FINAL PLAT

Lockwood Subdivision

an Addition to the City of Emporia, Lyon County, Kansas

Prepared By:

BG CONSULTANTS
ENGINEERS - ARCHITECTS - SURVEYORS

MANHATTAN, KANSAS LAWRENCE, KANSAS EMPORIA, KANSAS
February 14, 2024 23-1274E

EXCERPT OF MINUTES- 02/20/2024

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, February 20, 2024, with Chair Rogers presiding. Members Barnes, Ogle, Bucklinger, Thomas, Weaver and Duncan were present.

City staff: Justin Givens was present.

Chair Rogers called the meeting to order.

2. Consider Application PC 2024-03, a Request to Approve a Final Plat for the Lockwood Subdivision.

Chair Rogers asked if proper notice had been given. **Givens** confirmed that proper notice was provided to the newspaper and to property owners within 200 feet of the subject property.

Chair Rogers asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No Commissioners needed to recuse themselves or report any ex-parte communications.

Givens provided the Staff Report.

STAFF REPORT

Application #: PC 2024-03

Applicants: Mid-Kansas Properties LLC

Owners: Mid-Kansas Properties LLC

Requested Action: Approval of a Final Plat and Planned Unit Development.

Purpose: Applicants desire to plat a 4.99-acre tract of land consisting of 24 lots.

Address: 2915 W 6th Ave., Emporia KS

Legal description:

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NW1/4 NE1/4 NE1/4 NW1/4) AND A STRIP 12 RODS IN WIDTH OFF THE ENTIRE EAST SIDE OF THE NE1/4 NW1/4 NE1/4 NW1/4, ALL IN THE SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

ALSO:

8 RODS OFF THE WEST SIDE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST

QUARTER OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS.

Area Size: 4.99 Acres

Existing Zoning: Flex-Use Low

Surrounding Zoning:

North- Light Industrial

East- Flex-Use Low

South- Flex-Use Low

West – Flex-Use Low | Light Industrial

Surrounding Actual Uses:

North – Vacant Property

East – Single-Family Detached Homes

South – Single-Family Detached & Attached Homes

West – Industrial Warehouse | Miscellaneous Industrial Yard

Future Zoning in ELC Comp. Plan: Flex-Use Low

Analysis:

The applicant has requested to plat a 4.99-acre tract of land within a Rural Housing Initiative District. The RHID is a financing mechanism that promotes development, by allowing developers to recoup cost associated with infrastructure improvements and vertical (building) costs.

The proposed plat will call for 24 lots with 23 new homes being built. The existing house will remain, but other structures on the property will be removed during site preparation. The homes are set up in a courtyard layout with three primary private drives coming off W 6th Ave. Each drive will serve eight lots. Utilities and the roads will be considered private and be the responsibility of the property owners within the subdivision to maintain. The developer has indicated that an HOA will be created and maintained for the purpose of maintaining the private infrastructure within the development.

1. **Plat Name:** The proposed name of the development is the Lockwood Subdivision, which meets requirements.
2. **Legal Description:** The legal description shown on the preliminary plat meets requirements.
3. **Lots:** The plat proposes 24 lots, which are labeled appropriately. The subject property is proposed to be developed as a Residential Planned Unit Development, which will control lot size, building setbacks, and other development aspects. The development parameters are listed below:
 - Minimum Lot Size: 6,500 sq. ft. (Single-Family Attached Infill Lot Standard)
 - Proposed: Each of the lots exceeds the minimum lot area.

- Minimum Lot Width: 40 ft. (Single-Family Attached Infill Lot Standard)
 - Proposed: Each of the lots exceeds the minimum lot width.
- Minimum Lot Depth: 120 ft. (Single-Family Attached Infill Lot Standard)
 - Proposed: The minimum lot depth varies from 116 ft. to 105 ft. Below the Single-Family Attached Infill Lot Standard, but additional width of lots provides acceptable amount of lot space.
- Gross Development:
 - 217364.4 sq. ft. / 6,500 sq. ft. (Single-Family Attached Infill Lot Standard) = 33 Lots
 - Proposed: 24 lots

4. **Blocks:** One block is proposed, which is acceptable.

5. **Streets and Access:** The development is adjacent to W 6th Ave. and access will be taken from three private drives off W 6th Ave.

- The Final Plat shall provide access control from W 6th Ave. for Lots 1, 8, 16, 17, and 24.

6. **Building Lines:**

- A 35 ft. front yard building setback has been provided from the centerline of the private drive. This will provide a 22.5 ft. effective distance from the edge of the pavement of the private drive.
 - The proposed front-yard building setbacks are a variance from new regulations and part of the PUD Development.
- A 20 ft. rear yard setback has been provided, which meets requirements.
- A 5 ft. side yard setback has been provided, which meets the requirement for a Single-Family Residential Infill lot.
 - The developer is encouraged to site homes closer to one side yard setback to accommodate possible future garage additions.

7. **Easements:** Easements for utilities are shown on the plat.

- The applicant has meet with public and private utility companies to ensure that proper easements have been provided and are shown correctly on the plat.
- Private water lines will be installed on one side of the private drives with private sewer lines being installed on the opposite side.
- The applicant has provided maintenance acknowledgement and details on the final plat and PUD.

8. **Reserves:** No reserves are shown on the plat.

9. **Drainage:** The City Engineer has discussed the drainage / grading and stormwater management concept with the applicant's design team. Staff feels that the drainage concept, as proposed, with lots being graded to ensure drainage to the north is acceptable. The engineer has determined that no retention ponds are necessary for this project based on the location of the property within the drainage basin.

10. **Public & Private Improvements:** A utility plan has been reviewed by the Utility Advisory Board, and other private utilities. Adequate easements have been provided for

all utilities.

- **Streets & Sidewalks:** 25 ft. wide private drives have been provided to serve the development. These type of drives are common in other private developments within the city.
- **Sanitary Sewer:** A private line will be located on one side of each private drive to serve the adjacent lots. The sewer line will tie into an existing sewer main at the southern edge of the property.
- **Water:** Lots will be served by an appropriately sized private line as approved by city code.
- **Fire Protection:** The Fire Marshall has approved the location of hydrants. Three hydrants will be provided at the entrance of each private drive on W 6th Ave. to provide fire protection
 - A hammerhead turnaround is provided at the end of each private drive and had been approved by the Fire Marshall.
- **Private Utilities:** The applicant has met with all private utility companies and has provided sufficient easements for the placement of private utilities.

Neighborhood Communications: At the time of writing this report, staff has been in contact with one property owner who has expressed his support of the development. All property owners were mailed an updated notice with the revised hearing date included.

Recommendation: Staff recommends a motion to recommend approval of the Final Plat subject to staff and Planning Commission comments to the Governing Body.

Attachments: Final Plat / Aerial Map / Zoning Map

The Public Hearing was opened.

Jaimie Sauder, (Mid-Kansas Properties LLC), spoke in favor of his request and answered questions from the Commission.

Commissioner Ogle asked about the nature of the buildings that he is proposing on the property. **Sauder** stated that the buildings were stick built homes, just built in a factory and that he could have the homes ready much more quickly that if they were built on site.

Commissioner Rogers asked about parking in the hammerheads. **Sauder** stated that these areas would be posted as no parking.

Commissioner Ogle asked about financing of the houses. **Sauder** stated that the houses are treated as stick built homes and that conventional financing and home ownership programs are available to purchasers of the homes.

Commissioner Bucklinger asked about parking on the private drive. **Sauder** stated that the private drive would be marked no parking.

No person spoke against the application.

The Public Hearing was closed.

There was no further discussion from the Planning Commission.

Commissioner Barnes made a motion to recommend approval of the Final Plat for the Lockwood Subdivision. Bucklinger seconded the motion. The motion passed 7-0.

Lockwood Subdivision Zoning Map



Lockwood Subdivision
Aerial Photo





Commission Action Report

Ordinance No. 24-31

Rezoning Property Located at 1200 Whittier Place Lane
from Single-Family Detached (SF-D) to Multi-Family (M-F)

Title: Ordinance No. 24-31 Rezoning Property Located at 1200 Whittier Place Lane from Single-Family Detached (SF-D) to Multi-Family (M-F)

Agenda Date: October 2, 2024

Presented By: Justin Givens, Planning & Zoning Administrator

Background:

The owner of the property located at 1200 Whittier Place Lane has requested that the property be rezoned from Single-Family Detached (SF-D) to Multi-Family (M-F). The request comes as the owners intend to build additional apartments to compliment the three existing units within the complex.

The Planning Commission, at their August 20, 2024, meeting, conducted the required public hearing and made a recommendation for approval to the City Commission.

Discussion:

The proposed rezoning would allow the property owner to build a 24-unit apartment complex with additional parking to the south of the existing apartments. The owner has proposed this unit and another new unit to the west. That area is currently zoned Multi-Family (M-F) and does not necessitate a rezoning.

The Governing Body, when considering a recommendation from the Planning Commission on a Rezoning Application may; 1) Adopt the ordinance as presented or with conditions that the Governing Body sees fit; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

Financial considerations:

The cost of publication of the ordinance is borne by the City.

Recommended action:

Adopt Ordinance No. 24-31 Rezoning Property Located at 1200 Whittier Place Lane from Single-Family Detached (SF-D) to Multi-Family (M-F)

Attachments:

Rezoning Ordinance No. 24-31

Aerial Location Map

Area Zoning Map

Excerpt of Minutes from Planning Commission meeting including the Staff Report

ORDINANCE NO. 24-31

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM SINGLE FAMILY DETACHED (SF-D) PARCEL TYPE TO MULTI-FAMILY (M-F) PARCEL TYPE AND AMENDING THE OFFICIAL ZONING MAP TO CONFORM WITH SAID ZONING

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from Single-Family Detached (SF-D) Parcel Type to that of Multi-Family (M-F) Parcel Type to wit:

COMMENCING AT A POINT 223 FEET NORTH OF A STONE AT THE SOUTHEAST CORNER OF THE NE1/4 OF THE SW1/4 OF SECTION 11, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE WEST ON A LINE PARALLEL WITH THE SOUTH LINE OF SAID SW1/4, 656 FEET TO A POINT; THENCE NORTH ON A LINE PARALLEL WITH THE EAST LINE OF THE SAID SW1/4, 109 FEET; THENCE EAST ON A LINE PARALLEL WITH THE SOUTH LINE OF SAID SW1/4, 656 FEET TO A POINT ON THE EAST LINE OF SW1/4; THENCE SOUTH 109 FEET TO THE PLACE OF BEGINNING, EXCEPT A TRACT IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., PREPARED BY STEVEN S. BROSEMER, PS 752, ON MAY 15, 2023; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT 223 FEET NORTH OF A STONE AT THE SE CORNER OF SAID NE1/4 SW1/4; THENCE S.88°25'17"W. (GRID BEARINGS) FOR 397.96 FEET TO THE POINT OF BEGINNING; THENCE N.01°36'54"W. WITH THE LINE OF AN EXISTING FENCE FOR 108.97 FEET TO THE SOUTH LINE OF KNUTH ADDITION; THENCE S.88°25'38"W. FOR 230.00 FEET TO THE EAST LINE OF WHITTIER STREET; THENCE S.01°05'21"E. ON SAID EAST LINE FOR 109.00 FEET; THENCE N.88°25'17"E. FOR 231.00 FEET TO THE POINT OF BEGINNING, Emporia, Lyon County, Kansas

And generally located: 1200 Whittier Place Lane, Emporia, KS

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 2nd day of October, 2024.

ERREN HARTER, Mayor

ATTEST:

KERRY SULL, City Clerk

1200 Whittier Place Lane
Rezoning
Aerial Photo



1200 Whittier Place Lane
Rezoning Request
Zoning Map



Emporia Regulating Plan

	Emporia City Limits
	MU Mixed-Use
	FH Flex-Use High
	FL Flex-Use Low
	C Commercial
	MF Multi-Family
	SF-A Single-Family Attached
	SF-D Single-Family Detached
	CH Country Home
	IF Industrial-Flex
	LI Light Industrial
	HI Heavy Industrial
	C/P Civic/Public
	G/P/R Green space/Parks/Recreation
	Tax Lots

EXCERPT OF MINUTES- 08/20/2024
EMPORIA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, August 20, 2024, with Chair Rogers presiding. Members Ogle, Bucklinger, Barnes, and Lingenfelter were present. Commissioner Fowler was absent.

City staff: Justin Givens, Planning & Zoning Administrator, was present.

Chair Rogers called the meeting to order.

2. Consider PC-2024-09 – A Request to Rezone Property Located at 1200 Whittier Place Lane

Chair Rogers asked if proper notice had been given. **Givens** confirmed that proper notice was provided to the newspaper.

Chair Rogers asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No ex-parte communications or conflict of interests were reported.

Givens provided the Staff Report.

Staff Report

Application #: PC 2024-09

Applicants: Whittier Place III MR, LLC

Requested Action: Consider a request to rezone property from Single-Family Detached (SF-D) to Multi-Family (M-F)

Purpose: Applicant desires the rezoning to facilitate the construction of a multi-family unit.

Address: 1200 Whittier Place Lane, Emporia, KS

Legal description: COMMENCING AT A POINT 223 FEET NORTH OF A STONE AT THE SOUTHEAST CORNER OF THE NE1/4 OF THE SW1/4 OF SECTION 11, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE WEST ON A LINE PARALLEL WITH THE SOUTH LINE OF SAID SW1/4, 656 FEET TO A POINT; THENCE NORTH ON A LINE PARALLEL WITH THE EAST LINE OF THE SAID SW1/4, 109 FEET; THENCE EAST ON A LINE PARALLEL WITH THE SOUTH LINE OF SAID SW1/4, 656 FEET TO A POINT ON THE EAST LINE OF SW1/4; THENCE SOUTH 109 FEET TO THE PLACE OF BEGINNING, EXCEPT A TRACT IN THE NORTHEAST QUARTER OF THE SOUTHWEST

QUARTER OF SECTION 11, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., PREPARED BY STEVEN S. BROSEMER, PS 752, ON MAY 15, 2023; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT 223 FEET NORTH OF A STONE AT THE SE CORNER OF SAID NE1/4 SW1/4; THENCE S.88°25'17"W. (GRID BEARINGS) FOR 397.96 FEET TO THE POINT OF BEGINNING; THENCE N.01°36'54"W. WITH THE LINE OF AN EXISTING FENCE FOR 108.97 FEET TO THE SOUTH LINE OF KNUTH ADDITION; THENCE S.88°25'38"W. FOR 230.00 FEET TO THE EAST LINE OF WHITTIER STREET; THENCE S.01°05'21"E. ON SAID EAST LINE FOR 109.00 FEET; THENCE N.88°25'17"E. FOR 231.00 FEET TO THE POINT OF BEGINNING, Emporia, Lyon County, Kansas

Lot Size: 395' x 110' (43,450 sq. ft.)

Existing Zoning: Single-Family Detached

Future Zoning in ELC Comp. Plan: Single-Family Attached

Surrounding Zoning:

North – Multi-Family

East – Multi-Family | Single-Family Detached

South – Single-Family Detached

West – Single-Family Detached | Multi-Family

Surrounding Actual Uses:

North – Whittier Place Apartments

East – Single-Family Detached Residential | Single-Family Attached Residential

South – Larger Lot Single-Family Detached Houses

West – Single-Family Detached Houses | Proposed Multi-Family Unit

Analysis: The applicant is requesting a zoning change to expand the number of multi-family units on the property. The subject parcel is an approximately 1-acre tract of land that adjoins the current Whittier Place Apartments. The proposal would see the existing drive and parking are be continued south with another multi-family unit built on what is now vacant land. Another proposed multi-family unit is being considered to be built immediately west of the current apartments. That property is zoned Multi-Family and does not need any action from the Planning Commission to approve the development. The subject tract is of sufficient size to accommodate another unit and parking. Also, the proposed development would redirect stormwater runoff on the site. A portion of the runoff would flow to the west versus going east now, which would help to reduce the volume of water that uses the Mary Street drainage system.

Considerations: 9.8.3.a.8. Factors to be Considered for a Rezoning:

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification,

the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines: **Staff Commentary in Bold**

1. Whether the change or approval would be consistent with these regulations; **Extending the area that multi-family units could be built, would be consistent with the zoning regulations. The area has already been contemplated for multi-family and adding this area would not be inconsistent with the regulations.**
2. The character and condition of the neighborhood and its effect on the proposed change; **Extending the number of multi-family units in the area would not change or harm the character or condition of the neighborhood. The proposed development would be an extension of the current multi-family area and proper screening would still provide separation from adjacent single-family detached properties.**
3. The zoning and uses of properties nearby; **The adjacent properties are single-family detached residences. The properties to the south are very long lots with the homes being located approximately 130 feet from the common property line. The two properties to the east that would abut the proposed development are single-family detached structures with traditional setbacks. Proper screening will help to ensure the new development does not negatively impact these properties.**
4. The suitability of the subject property for the uses to which it has been restricted; **The subject property has been vacant for an extended period of time and is very well suited for the proposed project. Allowing multi-family units on this property would be an excellent use for the property. The property's only access is from the current multi-family development and restricting it to single-family detached housing, as it is currently zoned is not a feasible use of the property.**
5. The extent to which removal of the restrictions will detrimentally affect nearby property; **Property values for the single-family detached homes that abut the existing multi-family units have steadily increased in a manner that is consistent with other properties in the city. Staff does not see that the additional units would bring a detrimental impact to the nearby properties.**
6. The length of time the subject property has remained vacant as zoned; **Staff is unaware of any structures being built on the property in the past, and as previously stated, the only access to the property is thru the multi-family development. If the rezoning is not approved, staff would not anticipate single-family detached dwellings being built on the property.**
7. The relative gain to the public health, safety, and welfare by the destruction of the

value of plaintiff's property as compared to the hardship imposed upon the individual landowner public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified or granted a conditional use; **Extending the multi-family units in this area is a logical progression for the area. Adequate public services exist in the area and the additional units would not create an undue hardship on those services.**

8. The recommendations of a permanent or professional planning staff; **Staff is supportive of the request.**
9. The conformance of the requested change to Plan ELC; **Plan ELC promotes the adaptive use of infill lots such as this project and additional units will help to meet the housing demand in the community.**
10. Such other factors as are deemed relevant by the Planning Commission or Governing Body.

Neighborhood Communications: Staff has received several phone and email inquiries about the proposed rezoning and has provided written correspondence as part of the agenda report.

Recommendation: Staff recommends the Planning Commission make a motion of approval for the Rezoning to the Governing Body based on the following;

- 1) The request is consistent with the Comprehensive Plan;
- 2) The request conforms to the intent of the Zoning Regulations
- 3) There would not be a negative impact on the existing neighborhood

Attachments: Aerial Map | Current Zoning Map | Concept Site Plan

Commissioner Barnes asked about the existing drainage issues on Mary Street and if the City Engineer had looked into those issues. Givens responded that he had not been in contact with the City Engineer on any drainage reviews in the area. **Commissioner Lingenfelter** asked about the existing flooding situation between the properties. **Givens** stated that the applicant or their agent could address the drainage in the public hearing.

Commissioner Rogers provided some background on previous zoning applications and actions.

The Public Hearing was opened.

Buck Driggs, Driggs Design Group, (Applicant's Agent) spoke on behalf of the applicant and in favor of the project. Driggs provided some general background on the ongoing drainage issues with the property owner immediately to the east of the

development, a subsequent lawsuit between the two property owners and a judicial order for correction on the existing drainage. **Driggs** spoke about the proposed drainage plan for the new development.

Commissioner Barnes asked about the volume of water that the proposed drainage plan would handle and if the City Engineer was involved in the drainage agreement. **Driggs** stated that the drainage was designed to hold a 100 year storm event and an additional one foot of rain and that the City Engineer had reviewed the accepted plans for mitigation.

Commissioner Bucklinger asked if there had been any calculations on how the new drainage would impact the existing flooding issues on Mary St. **Driggs** stated that he had not, but felt that removing the apartments drainage would help in reducing the amount of stormwater runoff.

Commissioner Barnes reiterated his question on other developments in the area impacting the drainage issues. **Givens** responded that yes, the city was working with the property owners engineering firm to help mitigate and reduce the amount and timing of water entering the box culvert on 12th Street. **Givens** stated that the proposed development was in a holding pattern as they are working on whether the project is viable or not.

Driggs stated that the water from the apartment complex would be redirected away from Mary and that could help the drainage in the area.

Commissioner Rogers asked about the legal agreement between the parties. **Driggs** stated he was really not that familiar with the actual agreement and would defer to the City Attorney or the parties attorneys as they were involved in those discussions.

Commissioner Lingenfelter asked what safeguards were put in place to minimize any negative impacts on drainage in the area that the new plan might have. **Driggs** stated that the drainage plan would slow the amount of water released during and after a rain event and would be modeled to conform to the stormwater ordinance.

Marvin Tajchman, 902 Mary St. expressed concerns about the existing drainage issues in the area and on site especially based on the previous development. He stated he was not necessarily against the project, but has expressed concerns about drainage on Mary St.

Terrance Weaver, 1206 E 9th, expressed concerns about the overall development including the existing drainage. He also had concerns about how the development might impact the existing area including a fence line and overhead power lines.

Commissioner Rogers asked about who would be responsible for the maintenance for this area currently and in the future. **Givens** stated that it would be the responsibility of property owner.

The Public Hearing was closed

Commissioner Rogers stated that based on the public comment, speakers were not necessarily against the project, but the conditions that development had created, and with proper design, those conditions might be alleviated.

Commissioner Lingenfelter asked to clarify that the court settlement would require some of the drainage changes even if the rezoning was not approved. **Givens** stated that was correct.

Commissioners asked **Driggs** to readdress and provide more details on the retention ponds as they related to the property at 1206 E 9th. **Driggs** stated that the owner was willing to work with neighbors to ensure the property was in a good condition.

Commissioner Ogle asked about the enforcement of stormwater regulations. **Givens** stated that it is the responsibility of the city engineering department.

Commissioner Bucklinger asked if any additional measures would be needed to be put in place from a development perspective prior to approval. **Givens** stated that Multi-Family projects would require full site plan review and felt that yes, there are safeguards in place to protect neighboring properties.

Commissioner Barnes made a motion to recommend approval of the rezoning from Single-Family Detached to Multi-Family based on the request being consistent with the Comprehensive Plan; the request conforms to the intent of the Zoning Regulations; and there would not be a negative impact on the existing neighborhood contingent upon the City Engineer approving the drainage plan. Commissioner Ogle seconded the motion. The motion carried 5-0.

Adjournment: With no further discussion, the meeting was adjourned.

Respectfully Submitted,

Justin Givens, Secretary



Commission Action Report

Resolution No. 3740

Regarding the Intent to Issue Industrial Revenue Bonds (IRBs)
in the amount of \$10,500,000 for Whittier Place III, LP, and Whittier Place III MR, LLC

Title: Resolution No. 3740 Regarding the Intent to Issue Industrial Revenue Bonds (IRBs) in the amount of \$10,500,000 for Whittier Place III, LP and Whittier Place III MR, LLC

Agenda Date: October 2, 2024

Presented By: Tayler Wash, Assistant City Manager

Background:

The adoption of the Resolution is the first step in the eventual issuance of IRBs in the amount of \$10,500,000 for the costs of purchasing, acquiring, constructing, furnishing, and equipping two residential apartment buildings, each containing 24 apartments located at 1002 Whittier Street and South of 1100 and 1200 Whittier Place Lane.

Discussion:

The bond-financed property will be eligible for sales tax exemption and property tax exemption for a term of ten years, subject to fulfillment of the conditions of the City's public incentives policy. The City is not liable for the principal or interest on the bonds under Kansas Statutes. See further information below.

Financial Considerations:

The bonds, together with the interest thereon, are not general obligations of the City but are special obligations payable solely from the lease payments under the Lease, and the Bond Fund and other monies held by the Trustee, as provided in the indenture. Neither the credit nor the taxing power of the State of Kansas or of any political subdivision of such State (i.e. the City of Emporia) is pledged to the payment of the principal of the Bonds and premium if any, and interest thereon or other costs incident thereto.

Recommended Action:

Adopt Resolution No. 3740 regarding the Intent to Issue Industrial Revenue Bonds (IRBs) in the Amount of \$10,500,000 for Whittier Place III, LP, and Whittier Place III MR, LLC.

Attachments:

Resolution No. 3740 regarding the Intent to Issue Industrial Revenue Bonds (IRBs) in the Amount of \$10,500,000 for Whittier Place III, LP, and Whittier Place III MR, LLC.

RESOLUTION NO. 3740

OF

THE
GOVERNING BODY OF
THE CITY OF EMPORIA, KANSAS

RELATING TO THE INTENT TO ISSUE
TAXABLE INDUSTRIAL REVENUE BONDS

(WHITTIER PLACE III, LP AND WHITTIER PLACE III MR, LLC)

RESOLUTION NO. 3740

A RESOLUTION INDICATING THE INTENT OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS IN AN APPROXIMATE PRINCIPAL AMOUNT OF \$10,500,000 FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING RESIDENTIAL APARTMENT BUILDINGS AND RELATED SPACE ALL LOCATED IN THE CITY OF EMPORIA, KANSAS.

WHEREAS, the governing body of the City of Emporia, Kansas (the “City”) desires to promote, stimulate and develop the general economic welfare and prosperity of the City, and to further promote, stimulate and develop the general economic welfare and prosperity of the state of Kansas; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), the City is authorized to issue revenue bonds of the City; and

WHEREAS, Whittier Place III, LP, a Kansas limited partnership and Whittier Place III MR, LLC, a Kansas limited liability company, and collectively, the “Tenant”, has requested the City provide for the issuance of certain taxable industrial revenue bonds (the “Bonds”) pursuant to the Act to pay the costs of purchasing, acquiring, constructing, furnishing and equipping two residential apartment buildings, each containing 24 apartments and located at 1002 Whittier St. and South of 1100 and 1200 Whittier Place Lane in the City, at an estimated cost of \$10,500,000 (the “Project”), which the Tenant will lease from the City under terms of a Lease Agreement or agreements entered into in connection with issuing the Bonds (the “Lease”); and

WHEREAS, the Project will be located within the corporate limits of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS:

SECTION 1. The City finds and determines the acquisition, construction, and equipping of the Project will promote, stimulate and develop the general welfare and economic prosperity of the City by promoting residential housing and general commercial development of the City and the City intends and is authorized to finance the Project and issue the Bonds in the estimated principal amount of \$10,500,000 to further the public purposes of the Act.

SECTION 2. The City is authorized to provide for the issuance of its Bonds, in one or more series, for the purpose of purchasing, acquiring and installing the Project, but subject to the

limitations, conditions and requirements of the provisions in this Resolution, the Lease and subsequent ordinances or resolutions of the City authorizing the Bonds.

SECTION 3. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds is subject to obtaining any necessary governmental approvals, and agreement by the City, the Tenant, and the purchaser(s) of the Bonds upon mutually acceptable terms for the Bonds and for the sale and delivery of the Bonds, and mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, including, but not limited to, provisions relating to the security for payment of the Bonds, and the repayment to the City of its expenses incurred in connection with the Bonds. The Bonds shall be issued subject to the approving opinion of Triplett Woolf Garretson, LLC, Bond Counsel and shall be special limited obligations of the City payable solely from the revenues derived by the City in connection with the Project and the Lease. THE BONDS SHALL NOT BE GENERAL OBLIGATIONS OF OR CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND THE BONDS SHALL NOT BE PAYABLE IN ANY MANNER FROM TAX REVENUES.

SECTION 4. The sale of the Bonds shall be the Tenant's responsibility. The City and Tenant understand that to expedite the process of acquiring and constructing the Project, the Tenant may, in reliance upon this Resolution, but subject to mutually satisfactory documents as described in Section 3, incur temporary indebtedness and expend its own funds or funds available to it in connection with the anticipated Project, prior to the issuance of the Bonds. The Bonds and all interest thereon shall, in any event, be paid solely from a Trust Estate created pursuant to a Trust Indenture, including the money and revenue received pursuant to the lease of the Project to the Tenant and not from any other fund or source, and nothing here shall obligate the City in any manner except as set out in this Resolution. The Tenant proceeds at its own risk and if, for any reason the Bonds are not issued, the City will have no liability to the Tenant for any reason.

SECTION 5. The City does not intend this Resolution to include any agreement for ad valorem tax abatement for the Project.

SECTION 6. Any and all expenses incurred, and applicable fees charged in connection with the issuance of the Bonds, including administrative expenses and legal fees incurred by the City shall be paid from the proceeds of the Bonds or from the Tenant's funds. Nothing in this Resolution shall obligate the City in any manner in connection with the costs of the issuance of the Bonds, except as otherwise agreed by the City and Tenant.

SECTION 7. The Mayor, City Clerk and Bond Counsel are authorized and directed to take all such other actions not inconsistent with this Resolution as may be appropriate or desirable to accomplish the purposes described by this Resolution, including but not limited to, (1) execution on behalf of the City of an appropriate notice of the proposed issuance of such Bonds with the Kansas State Board of Tax Appeals pursuant to K.S.A. 12-1744a, (2) seeking a retailers' sale tax exemption certificate for the construction of the Project; and (3) requesting any necessary approvals of the issuance of such Bonds in accordance with K.S.A. 12-1741a.

SECTION 8. This Resolution shall become effective upon its approval and passage by the governing body of the City of Emporia, Kansas.

ADOPTED AND APPROVED by the governing body of the City of Emporia, Kansas on October 2, 2024.

CITY OF EMPORIA, KANSAS

[seal]

By _____
Erren Harter, Mayor

ATTEST:

By _____
Kerry Sull, City Clerk

EXCERPT OF MINUTES

The Governing Body of the City of Emporia, Kansas, met in regular session at the usual meeting place in the City on October 2, 2024, at 11:00 a.m., with Mayor Erren Harter presiding and the following members present:

The following members were absent:

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 EMPORIA, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS IN AN APPROXIMATE PRINCIPAL AMOUNT OF \$10,500,000 FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING RESIDENTIAL APARTMENT BUILDINGS AND RELATED SPACE ALL LOCATED IN THE CITY OF EMPORIA, KANSAS.

The Resolution was considered and discussed, and on motion of _____, seconded by _____, the Resolution was adopted by vote of the majority of all members present.

The Resolution was assigned No. 3740.

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CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify the foregoing is a true and correct Excerpt of Minutes of the October 2, 2024 meeting of the governing body of the City of Emporia, Kansas.

[Seal]

By _____
Kerry Sull, City Clerk



Commission Action Report

RCM, LLC License Agreement

Title: RCM, LLC License Agreement at 502 Graham Street

Agenda Date: October 2, 2024

Presented By: James Uberty, City Engineer

Background:

RCM, LLC is expanding their business at 502 Graham Street, requiring a license agreement for their stormwater pond on site.

Discussion:

The proposed stormwater pond is adjacent to the City Right-of-Way and this license agreement will allow for construction and maintenance of such.

Financial considerations:

N/A

Recommended action:

Approve License Agreement with RCM, LLC, and authorize the mayor to sign the License Agreement.

Attachments:

License Agreement and Exhibits

LICENSE AGREEMENT

THIS AGREEMENT made this 16th day of September, 2024, by and between the City of Emporia, Kansas, a municipal corporation, hereinafter referred to as "CITY"; and RCM, LLC, hereinafter referred to as "LICENSEE".

WITNESSETH:

WHEREAS, LICENSEE is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described as:

TRACT II: LOTS 18, 19, AND 20, EXCEPT NORTH 55 FEET THEREOF AND ALL OF LOTS 21 AND 22 IN BLOCK 6 IN ANDERSON ADDITION TO THE CITY OF EMPORIA, ACCORDING TO THE RECORDED PLAT THEREOF

and more commonly known as 502 Graham Street, Emporia, Kansas: and

WHEREAS, the CITY is the owner of an utility easement/right-of-way (hereinafter "CITY RIGHT OF WAY") and LICENSEE desires to construct and maintain a stormwater detention facility along the road right of way on Melrose Place (hereinafter "LICENSED USE") within the North 14 feet of CITY RIGHT OF WAY for a distance of 80 feet West of the Southeast corner of said lot 18 for the purposes of storage of stormwater for this site; and

WHEREAS, the CITY is willing to allow the placement of such LICENSED USE within the CITY RIGHT OF WAY upon the terms and conditions as hereinafter set forth.

NOW, THEREFORE, the parties hereto in consideration of the mutual promises and covenants contained herein do hereby agree as follows:

1. The CITY does hereby grant and convey to LICENSEE a license, under, upon and over a portion of the CITY RIGHT OF WAY as shown by the diagram attached hereto as Exhibit A and incorporated by reference herein.

2. The license granted herein to LICENSEE is for the sole purpose of the LICENSED USE in the CITY RIGHT OF WAY and for the purpose of ingress and

egress for the purpose of maintenance; provided that LICENSEE'S use of the CITY RIGHT OF WAY does not unduly interfere nor is hazardous to the traveling public or any use of the public right-of-way.

3. That LICENSEE agrees it will repair/replace the CITY RIGHT OF WAY and any improvements or utilities therein at LICENSEE'S expense, to City standards, approved by the City Engineer, that are disturbed during LICENSED USE of the CITY RIGHT OF WAY including, without limitation, the installation/construction and/or maintenance of the LICENSED USE.

4. LICENSEE does hereby acknowledge that the license granted hereunder is under, over and upon a public easement and right-of-way and the parties agree that said grant is terminable at the will of the CITY if for any reason the CITY deems it necessary, the determination of which is in the sole discretion of the CITY. This license shall automatically terminate 60 days after the City enacts a licensing permit procedure for regulating installations in the City's rights-of-way and easements or institutes a fee requirement for installations in such easements and rights-of-way.

5. In the event the CITY determines to cancel this license, it may do so by a written notification to LICENSEE to remove the LICENSED USE and LICENSEE agrees to remove said LICENSED USE within 30 days of said notification at its expense and to restore the property to its condition prior to installation of the LICENSED USE.

6. LICENSEE agrees that the City, or any of its franchisees, does not have any responsibility or liability for damage to said LICENSED USE as a result of any installation, maintenance or construction of facilities/utilities presently existing or subsequently installed within the CITY RIGHT OF WAY, and LICENSEE does hereby

waive any liability for and agrees to assume all risk of loss or damage to the LICENSED USE.

7. LICENSEE agrees to indemnify and hold harmless the CITY, its officers, and employees from any liability to person or property due to the placement or maintenance of said LICENSED USE in the CITY RIGHT OF WAY, including the cost of any attorney's fees incurred in the defense of any legal action associated with such placement or maintenance and further to indemnify the CITY against any real estate taxes or other costs and expenses it may occur due to the placement of said LICENSED USE in the CITY RIGHT OF WAY.

LICENSEE shall, during the term of this License Agreement, at its sole cost and expense, maintain a comprehensive general liability insurance policy insuring the CITY, its officers and employees, from any liability to person or property due to the placement or maintenance of the LICENSED USE in and on the CITY RIGHT OF WAY.

Each policy of insurance shall be non-cancelable and non-amendable to the extent any proposed amendment reduces the limits or scope of insurance required without thirty (30) days prior written notice to the CITY. A certificate of insurance shall be delivered to the CITY. The minimum limits of liability of such insurance shall be \$1,000,000 for combined bodily injury or death and damage to property (per occurrence)

8. LICENSEE covenants that it will not interfere through its use of the CITY RIGHT OF WAY with any utilities currently existing therein or hereinafter installed. They further covenant that any damage to such utilities caused by LICENSEE or their employees, contractors, agents or assigns shall be repaired at the cost of LICENSEE.

9. LICENSEE agrees to provide to the City Engineer a map locating for the CITY the "as built" location of the aforementioned LICENSED USE including distances to property lines and centerlines of streets.

10. The obtaining of any easements, licenses, or right-of-ways from adjoining property owners necessary for LICENSEE to make effective use of the license granted hereunder shall be the sole responsibility of the LICENSEE.

11. The license granted hereunder shall be deemed a covenant running with the land so long as the license thus granted continues, moreover the parties hereto bind and obligate themselves and their executors, administrators, successors and assigns to the rights and obligations respectfully granted and assumed hereunder. The foregoing notwithstanding LICENSEE shall not assign this license without the express written consent of the CITY which consent may be withheld in the discretion of the CITY.

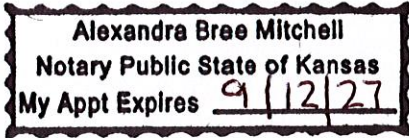
12. This agreement may be filed of record with the Lyon County Register of Deeds by the CITY, at its expense, and if so filed may be terminated by filing a copy of the written notice provided for herein with the Lyon County Register of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date and year first above written.

BY: 
MANAGING MEMBER
(TITLE)

BE IT REMEMBERED, that on this 16th day of September, A.D., 2024, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Rick Mitchell, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



Alexandra Mitchell
Notary Public

My Commission Expires 9/12/27

CITY OF EMPORIA, KS
BY:

, Mayor

ATTEST:

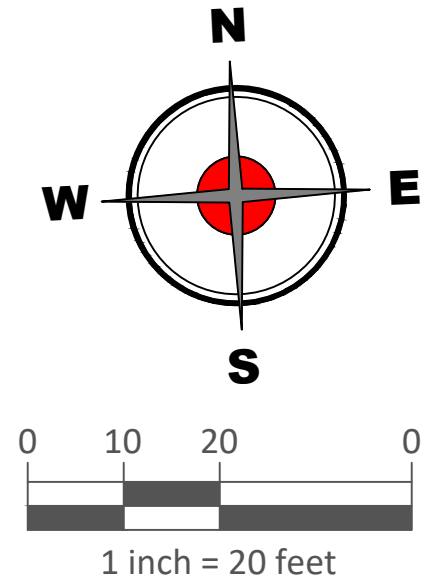
KERRY SULL, City Clerk

BE IT REMEMBERED, that on this ____ day of _____, A.D., 20____, before me, the undersigned, a Notary public in and for the County and State aforesaid, came _____, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public

My Commission Expires _____



SITE INFORMATION

- 1. Current Zoning: FL (Flex-Use Low)
- 2. Lot Usage: Office Space, Fitness Center, Fabrication (Welding) Shop
- 3. Building Setbacks:
 - Front = 25 ft
 - Interior Side = 5 ft
 - Rear = 20 ft
 - Street Side = 25 ft
- 4. Provided Parking: 17 Stalls
- 5. Lot Details: +/- 1.2 Acres

- Green Space
- Construct Sidewalk
- Construct Concrete Pavement
- Construct Building
- Construct Gravel Pavement

No.	Revision	Date

CITY OF EMPORIA, KANSAS
GRAHAM STREET PROJECT
CONCEPT

DRIGGS DESIGN GROUP, PA

Surveying Engineering Planning

MANHATTAN - HAYS - EMPORIA - TOPEKA - GOODLAND

Project No.: EC2024-01
Date: 2/20/2024
Sheet No.: 1 OF 1



Commission Action Report

Resolution No. 3739 of Intent to Allow
the City of Emporia to Reimburse Costs from the Project Associated
with the Fire Station from Proceeds of Tax-Exempt Bonds.

Title: Resolution No. 3739 of Intent to Allow the City of Emporia to Reimburse Costs from the Project Associated with the Fire Station from Proceeds of Tax-Exempt Bonds.

Agenda Date: October 2, 2024

Presented By: Mark Detter, Deputy City Manager

Background:

The City of Emporia is in the process of designing and demolition of a new fire station in the 500 Block of Market Street.

Discussion:

The Design team which includes Tesserae Architects, Crossland Construction Managers at Risk, the City Manager, Fire Chief, and several members of the Fire Department are making progress on the design and construction of the Fire Station. The site of the Fire Station has been cleared and construction should begin this fall and go through the winter months.

Financial Considerations:

Either later this fall or early next year a bond of approximately \$15 million will be issued by the Emporia Public Building Commission for the design, site preparation, and construction of a new Fire Station on Market Street,

Other Considerations:

The Resolution will make proceeds from any such bond issue eligible to reimburse expenditures for architectural design and site preparation for the building.

Recommended Action:

Authorize Resolution No. 3739 declaring the intent of the City of Emporia, Kansas to authorize reimbursement of the expenditures related to the issuance of approximately \$15,000,000 in Public Building Commission Revenue Bonds.

Attachments:

Resolution No. 3739 for reimbursement

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF EMPORIA, KANSAS
HELD ON OCTOBER 2, 2024**

The governing body met in regular session at the usual meeting place in the City at 11:00 A.M., the following members being present and participating, to-wit:

Absent:

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

* * * * *

(Other Proceedings)

There was presented a Resolution entitled:

**A RESOLUTION DECLARING THE INTENT OF THE CITY OF EMPORIA,
KANSAS, TO AUTHORIZE THE REIMBURSEMENT OF EXPENDITURES
RELATED TO THE ACQUISITION, CONSTRUCTION, FURNISHING, AND
EQUIPPING OF A FIRE STATION FACILITY.**

Commissioner _____ moved that the Resolution be adopted. The motion was seconded by Commissioner _____. The Resolution was duly read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the vote of the governing body as follows:

Yea: _____.

Nay: _____.

The Mayor declared the Resolution duly adopted and the Resolution was then duly numbered Resolution No. 3739 and was signed by the Mayor and attested by the Clerk.

* * * * *

(Other Proceedings)

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CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Emporia, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Kerry Sull, Clerk

RESOLUTION NO. 3739

A RESOLUTION DECLARING THE INTENT OF THE CITY OF EMPORIA, KANSAS, TO AUTHORIZE THE REIMBURSEMENT OF EXPENDITURES RELATED TO THE ACQUISITION, CONSTRUCTION, FURNISHING, AND EQUIPPING OF A FIRE STATION FACILITY.

WHEREAS, the governing body of the City of Emporia, Kansas (the “City”) hereby finds and determines it to be necessary to acquire, construct, furnish, and equip a new fire station facility at an estimated cost of \$15,000,000 (the “Project”), and hereby further finds and determines it to be necessary to declare its intent to authorize the reimbursement of expenditures related to the Project from the proceeds of tax-exempt obligations of the City or of a public building commission formed by the City.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS;

Section 1. The City hereby declares its intent to issue tax-exempt obligations of the City or to request the issuance of tax-exempt obligations of a public building commission formed by the City (collectively, the “Obligations”). The Obligations may be issued to reimburse expenditures related to the Project made on or after the date that is 60 days before the date of this Resolution pursuant to Treasury Regulation § 1.150-2.

Section 2. This Resolution shall take effect and be in full force from and after its adoption by the governing body of the City.

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ADOPTED AND APPROVED by the governing body of the City of Emporia, Kansas, on October 2, 2024.

(Seal)

Erren Harter, Mayor

ATTEST:

Kerry Sull, Clerk



Commission Action Report

Ordinance No. 24-29 Establishing A Credit Card Processing Fee

Title: Ordinance No. 24-29 Establishing A Credit Card Processing Fee

Agenda Date: October 2, 2024

Presented By: Janet Harrouff, Director of Finance

Background:

The city accepts all types of credit cards for all services including utility payments, permits, court fines, golf course, park rentals, transfer station, concession stands, and police fees. The City of Emporia currently pays all credit card processing fees. As the use of credit cards and online payment usage has increased so have the costs associated with this payment type. During the past 4 years, the costs to the City have been:

2024 \$131,268 through August
2023 \$160,169
2022 \$150,673
2021 \$139,467
2020 \$119,995

Approximately 25% of total charges are paid by credit card and 47% of the customers pay by credit card.

Discussion:

The city has 5 different credit card processors that staff will need to work with to coordinate the pass-through of credit card fees. If approved the pass-through fees would go into effect January 1, 2025. Customers will be able to have their payment drafted from their checking account with no processing fee and checks and cash will also be accepted.

Financial considerations:

The city will save over \$100,000 annually by passing on credit card fees. The fee to our customers is expected to be approximately 3% per credit card transaction.

Recommended action:

Approve Ordinance No. 24-29 Establishing A Credit Card Processing Fee.

Attachments:

Ordinance No. 24-29 Establishing A Credit Card Processing Fee.

ORDINANCE NO 24-29

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS ESTABLISHING A CREDIT CARD PROCESSING FEE.

WHEREAS, K.S.A. 12-16,125 authorizes cities to accept credit card payments and impose a fee for payments made by credit card equal to the charge paid by the city for the use of the credit card by the person; and

WHEREAS, the City of Emporia incurs various processing fees for acceptance of credit card payments; and

WHEREAS, the Governing Body deems it in the best interest of the City to pass these fees on to consumers to ensure financial responsibility and budgetary efficiency.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. Imposition of Credit Card Processing Fee. A processing fee shall be added to each credit card transaction equal to the charge paid by the City of Emporia for the use of the card by the person for payment of taxes, utility fees, and other exactions.

Section 2. Notice to Customers. The City will provide clear notice of such processing fee prior to the completion of any credit card transaction. This notification will appear on customer invoices, online payment portals, and at physical points of sale.

Section 3. Exemptions. The City Manager is authorized to exempt certain credit card payments from the processing fee, if deemed appropriate and in the public interest.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2025, after its publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 2nd day of October 2024.

Erren Harter, Mayor

ATTEST:

Kerry Sull, City Clerk

The Governing Body of the City of Emporia, Kansas, met in a Special Commission Meeting, on Wednesday, September 11, 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, Deputy City Clerk Bryson and City Attorney Montgomery. City Clerk Sull was absent.

ECONOMIC DEVELOPMENT
(Economic Development Organizational Assessment)

At the May 15, 2024, Study Session the City Commission, voted to enter into a contract with Vision First Advisors to develop the Economic Development Organization Assessment.

At this meeting, City Manager Cocking read the Vision First framework:

- *An organizational structure that allows Emporia's five city-funded entities to work together in collaboration and efficiency.*
- *Recommendations to improve processes metrics and expected outcomes of the collective entities for success.*
- *Process and efficiency strategies utilizing best practices and research to position Emporia's entities for success.*
- *A customer-groups-served-matrix.*
- *A shared economic development vision and mission that will guide the stakeholders in implementing economic development programs and efforts.*

City Manager Cocking stated the five city-funded entities are the Regional Development Association of East Central Kansas, Visit Emporia, Emporia Chamber of Commerce, Emporia Main Street, and Ignite.

Tayler Wash, Assistant City Manager was recognized and addressed the Governing Body. Mr. Grey Swoope with Vision First was present for the meeting by phone, to present the draft of the Economic Development Organizational Assessment for initial review. He stated that Vision First's approach incorporated a collection of local and regional data, a review of existing documentation, and stakeholder feedback to strategically align the City's economic development efforts. While each phase was unique, the results provided the foundation for the recommendations. He stated they had in-depth conversations with the Commissioners, and stakeholders from all the

organizations' boards to get key findings to develop tactics from an organizational point. The report recommended the formation of a Steering Committee to organize entities receiving City Funds, the dissolution of Emporia Enterprises, the transfer of assets to the RDA, and the establishment of a private not-for-profit umbrella organization to coordinate a holistic approach to economic development. VisionFirst recommends the early development of an organization at 18 months with a goal to launch a new organization in three years.

Commissioner Sauder asked about expediting the implementation of the umbrella organization.

Mr. Swoope stated the RDA with an interim president, unfortunately, leaves the organization sitting on an interim basis. Full-time leadership would be beneficial for moving forward in any manner. It would require the board to put the right person in place, which will take time.

Commissioner Curtis requested the addition of Simmons Pet Foods to the "Employment and Unionization" list on page 8, and disc golf be added to the list of activities under "Residents Are Proud but Want Additional Services" on page 10 of the report.

Commissioner Brinkman stated she was pleased with the functionality of the report, and how it did not come back as something unattainable, it was actionable with options. She asked how we should contractually engage with that non-governmental organization so there is open access, the community has access, transparency, and equitability, while not impinging upon their membership structure.

Mr. Swoope stated the importance of any umbrella organization are the contractual relationships with these entities. The importance of transparency, being transparent with funds, and the use of those funds in the overall plan.

Commissioner Curtis stated one of the tenets of an umbrella organization is to operate at the speed of business. When you layer over an umbrella organization. Does it make you more efficient or less efficient? What are your thoughts on this in terms of speed of action?

Mr. Swoope stated speaking from experience, leadership matters. If you have the right people on your board have the right people in place, and have the right goals, your paid staff can move efficiently.

Mayor Harter asked Mr. Swoope if he could foresee the umbrella organization micromanaging the organizations underneath it.

Mr. Swoope stated this does not happen if the organizations are all in. You have one staff, and one CEO, managing through contract for the others. The correct leadership, and philosophy, will help make relationships, and show how we can work together instead of working against each other.

Commissioner Curtis stated the report provided the profile for the RDA President & CEO. What is the profile of someone who oversees an umbrella organization?

Mr. Swoope stated an umbrella organization leader must have the ability to facilitate and communicate. It requires broad experience in economic development but must understand how economic development and tourism can work together. They understand how each organization works in Emporia, and how to navigate an umbrella organization with a unified shared vision.

City Manager Cocking asked if the RDA could serve as an umbrella organization?

Mr. Swoope stated if you restructured the RDA it could be an umbrella organization, but it could also be perceived as the RDA taking over.

Mayor Harter stated if we were to move forward into an umbrella organization, he would like the boards in charge of their executives.

Commissioner Sauder stated proof must be shown for future funding, requests. We are asking that those boards be held accountable to the commission and commission be accountable to those boards.

Mr. Swoope pointed out page 17 of the report which shows Organizational Focus & Roles. It shows all the organizations, how to streamline them and make them more effective, and more efficient in resources and working together.

Jim Shephard asked if Mr. Swoope could give examples of cities that had the umbrella organization structure.

Mr. Swoope stated he could provide a list of cities in the future.

Jim Kessler stated it was a good report. He did not see anything in the report that showed him anything was broken. He agreed with the recommendation for more communication. He also spoke in favor of the search for a new RDA executive director.

Brad Kraft, stated some concerns about hiring the RDA executive director. This role is very different than that of an administrator of an umbrella organization.

Mayor Harter stated regardless of whether the position is filled or not the philosophy needs to be in place, the city wants to see metric-wise and deliverable-wise with each organization.

Jeff Longbine stated after a brief review of the report, he agreed there should be goals objectives and metrics measured. He is hopeful this governing body has the political courage needed to follow up with an organization not performing according to its goals, objectives, and matrices.

City Manager Cocking briefly stated we need to look at the strategic plan, then the agencies, state what those agencies are good at, and determine which agencies will take that on, the report has the suggested indicators.

Following further discussion, it was agreed Mr. Swoope would provide the City Commission with samples of contracts of entities in umbrella organizations, and key performance indicators and what those indicators would look like. It was also requested to have all those entities review the report and state what are their likes and dislikes. Topics will be discussed at a future, Study Session.

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

Erren Harter, Mayor

ATTEST:

Sue Bryson, Deputy City Clerk

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, September 18, 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 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.

Linda Forbes, 1347 Road 205, spoke in favor of the importance of supporting the local hospital and what it offers the community.

**CITY COMMISSION
(Board Appointment)**

Multi-Use-Path Planning Board:

It was moved by Commissioner Brinkman seconded by Commissioner Smith that Ryan Conley be appointed to the Multi-Use-Path Planning Board to fill an unexpired term of a previous member and a full first initial term ending December 31, 2029. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

**CITY COMMISSION
(Exempting the City from the Provisions of K.S.A. 12-1758 & K.S.A. 12-1767)
(Relating to Public Building Commissions)
(Charter Ordinance Number 45)**

A CHARTER ORDINANCE OF THE CITY OF EMPORIA, KANSAS, EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 12-1758 AND K.S.A. 12-1767

RELATING TO PUBLIC BUILDING COMMISSIONS AND THE ISSUANCE OF REVENUE BONDS THEREBY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO, to which the City Clerk assigned Charter Ordinance Number 45, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the Commission previously heard a joint presentation by Dominic Eck with Gilmore & Bell and Greg Vahrenberg with Raymond James about the City establishing Public Building Commissions and their ability to issue revenue bonds. She stated the proposed Charter Ordinance Number 45 exempts the City from statutory provisions relating to Public Building Commissions and the procedure for the issuance of PBC bonds. Once Charter Ordinance Number 45 becomes effective, the City may proceed with the establishment of a Public Building Commission by ordinance. She stated approval of a Charter Ordinance requires 2/3 majority vote of the City Commission, publication in the official city newspaper for two consecutive weeks, and a sixty-day protest petition window following publication. This will allow potential issuance of bonds through a Public Building Commission for appropriate projects providing flexibility for the City staying below its Statutory Debt Limit. Staff recommends approval of Charter Ordinance Number 45, exempting the City from provision of K.S.A. 12-1758 and K.S.A. 12-1767 relating to Public Building Commissions.

Commissioner Brinkman made a motion to approve Charter Ordinance Number 45 exempting the City from the provisions of K.S.A. 12-1758 and K.S.A. 12-1767 relating to Public Building Commissions. 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
(White Park License Agreement)
(Gazette Building Development, LLC)**

Tayler Wash, Assistant City Manager, was recognized and addressed the Governing Body. She stated the City of Emporia owns White Memorial Park, adjacent to the property owned by the Gazette Building Development, LCC at 517 Merchant Street.

The developer plans to renovate the property into a multi-use facility including residential units, office spaces, studios, event space and restaurant. The developer would like a license use agreement to expand a small portion of the project into the park area creating a food and beverage service area, event space and public patio. She stated the developer will be responsible for all improvements and final improvement plans must be approved by the City Commission before implementation. The W. A. White Memorial will remain accessible to the public. The park, outside of the license use area, will continue to function as a public park, adhering to normal park hours and regulations. She stated the agreement is for an initial period of 10 years, with 5 automatic renewals for up to 50 years, unless terminated by either party. Termination of the agreement can be initiated by either party with 90 days' notice. The developer must then either market the facility for sale or remove it, with failure to act resulting in the City's ownership of the improvements. She stated the developer will pay an annual license fee of \$1,200.00. The developer will be responsible for the costs of construction, maintenance, and any potential tax increases resulting from the project. The developer must also maintain insurance policies, including \$1,000,000.00 liability coverage and \$2,000,000.00 aggregate coverage, as well as property insurance to cover any damages. Staff recommend the Mayor be authorized to sign the White Park License Agreement.

Commissioner Sauder made a motion to authorize the Mayor to sign the White Park License Agreement. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Smith, aye; and Mayor Harter, aye.

**WATER TREATMENT PLANT
(Water Treatment Plant Evaluation and Master Plan)
(Burns & McDonnell Engineering Company, Inc.)**

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated in June 2024, a Request for Qualifications to engineering firms for the Water Treatment Plant evaluation and master plan was sent out. There were three (3) proposals received and each of the engineering firms were given the opportunity to present their evaluation process, tools, and expertise to city staff. After evaluating

each firm, staff selected Burns & McDonnell to negotiate scope and pricing. He stated Burns & McDonnell will perform an evaluation of the water plant's treatment process, performance efficiencies, limitations, future regulatory needs, and develop a master plan for future needs. He stated the last time this type of evaluation was done on the water treatment plant was in 1990's. Burns and McDonnell are partnered with BG Consultants for the evaluation and master plan. He stated this process will take approximately 12 months to complete, with a final report to the commission. The total proposed cost is \$346,000.00 and will be paid for by the Water Fund. This expenditure is budgeted in the Water Fund Capital Improvement Project for 2024. Staff recommend authorizing the City Manager to sign the Water Treatment Plant Evaluation and Master Plan task order with Burns & McDonnell for \$346,000.00.

Following further discussion, Commissioner Brinkman made a motion to authorize the City Manager to sign the Water Treatment Plant Evaluation and Master Plan task order with Burns & McDonnell for \$346,000.00. Commissioner Sauder seconded the motion.

Commissioner Curtis asked what the length of years the master plan was for.

Director of PWC Grant stated the goal was for a possible 30 years, making sure planning is set up to accept any possible regulatory changes from EPA that may occur after the master plan is complete.

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

**EMPORIA MUNICIPAL AIRPORT
(Airport Apron Expansion Design Agreement)
(H.W. Lochner, Inc.)**

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated the airport was awarded \$906,000.00 in grant money from the Kansas Department of Transportation (KDOT) for the design and construction to expand the apron at the Emporia Municipal Airport. This grant will allow more parking spaces for planes and easier access to the self-serve fuel area. He stated the design of the project will cost \$120,000.00, KDOT will pay \$114,000.00 or 95% and the city's match

is \$6,000.00 or 5%. He stated staff recommend approval of the apron expansion design agreement with H.W. Lochner, Inc., in the amount of \$120,000.00.

Commissioner Sauder made a motion to approve the apron expansion design agreement with H.W. Lockner, Inc. in the amount of \$120,000.00. Commissioner Curtis seconded the motion.

Commissioner Brinkman complimented the recent open house at the airport and encouraged citizens to take a tour at Emporia Airport.

Commissioner Sauder, aye; Commissioner Curtis, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Harter, aye.

**HEALTH CARE FACILITIES REVENUE BONDS
(Presbyterian Manor, Inc.
(Approve City of Wichita Resolution No. 24-297)**

Tayler Wash, Assistant City Manager, was recognized and addressed the Governing Body. She stated on September 3, 2024, the City of Wichita adopted Resolution No. 24-297 declaring the intent to issue Health Care Facility Revenue Bonds on behalf of senior living facilities operated by Presbyterian Manor, Inc. throughout the State of Kansas, include the facility in Emporia. In order for the bonds to be issued through the City of Wichita for an improvement to the facility in Emporia, the City of Emporia must approve or disapprove the issuance of the bonds pursuant to K.S.A. 12-1740a. She stated if the City of Emporia takes no action, the bonds will be deemed approved. The bonds are special obligations of the City of Wichita and will not be the financial obligation of the City of Emporia in any way. Staff recommend approval of City of Wichita, Kansas, Resolution No. 24-297 declaring intent to issue Heath Care Facility Revenue Bonds on behalf of Presbyterian Manor, Inc.

Commissioner Sauder made a motion to approve City of Wichita, Kansas Resolution No. 24-297 declaring intent to issue health care facilities revenue bonds. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Smith, 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 August 2024 for community:

1. Monthly Local Retail Sales Tax Receipts Update

	2023	2024	Decrease of \$16,588.19 for the month, and
	\$ 569,303.74	\$ 552,715.55	Overall decrease of 1.02% from year 2023.
YTD	\$4,312,253.54	\$4,268,537.89	

2. City Share from County Tax

	2023	2024	Decrease of \$25,031.79 for the month, and
	\$ 317,808.00	\$ 292,776.21	Overall decrease of 4.20% from year 2023.
YTD	\$2,281,084.83	\$2,189,169.38	

Building Permits issued from 8/1/2024 to 8/31/2024 for new construction, remodeling/repairs and demolition.

Total number of building permits issued through Code Services:	74
Total of valuations associated with those building permits:	\$2,578,672.70
Total number of dollars collected for Building Permit Fees:	\$ 15,067.00

Construct – Single-family dwellings (tiny home)	1
Demo – Single-family dwellings	0

Flint Hills Mall CID for August 2024	\$ 23,038.31
YTD	\$ 164,989.50

Pavilions CID for August 2024	\$ 14,284.67
CID #2	\$ 14,284.67
YTD	\$ 247,050.28

Fairview Hotel CID for August 2024	\$ 6,177.22
YTD	\$ 21,527.53

Consent Agenda

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

- a. Approve minutes of the Regular Meeting held on September 4, 2024.
- b. Ordinance No. 24-28 Authorizing Beer Garden for Oktoberfest Special Event on October 5, 2024.

AN ORDINANCE EXEMPTING AN AREA INCLUDING A PORTION OF THE ALLEY BEHIND 610 MERCHANT STREET AND 614 MERCHANT STREET IN THE CITY OF EMPORIA FROM THE PROHIBITION ON THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR AN OKTOBERFEST SPECIAL EVENT OCTOBER 5, 2024, to which the City Clerk assigned Ordinance Number 24-28, was presented to the Governing Body for their consideration.

- c. Request from ESB Financial to gift Lisa Keith a retirement Thank You to travel with ESB Spirited 50 trip to the Kansas City Swope Park Zoo.

The vote follows: Commissioner Sauder, aye; Commissioner Curtis, aye; Commissioner Brinkman, aye; Commissioner Smith, 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 OCTOBER 2, 2024, MEETING.

- Proclamation for Domestic Violence Awareness Month.
- Ordinance for Credit Card Fees.
- Intent to Issue Industrial Revenue Bonds for Woodco.
- Naming Road F.

Study Session: - Emporia Municipal Airport, 1005 Rd 120.

Discuss Social Media in Local Government.
Hazardous Sidewalk Program Cost Share Discussion.
Discuss Rules and Regulations with Water and Wastewater.

CITY COMMISSION (Public Comment)

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

Commissioner Sauder stated staff, Vice Mayor Brinkman and himself have been in very constant communication with both Stormont Vail and Newman Regional Health, including a meeting today that lasted about 2 hours. There were fruitful conversations with both entities and while our media outlets have shared that there is potential doom and gloom on the horizon, he felt there is lots of optimism.

Commissioner Brinkman stated she concurred with Commissioner Sauder, and over the last 12 months, Commissioner Sauder and herself have put in hundreds of hours on the issue and it was the most hopeful conversation she has attended.

Commissioner Sauder stated while he does appreciate the public's comments that they have made at recent meetings, he hoped that they are giving equal attention to all governing bodies in this matter.

Mayor Harter stated kudos goes to the Emporia Recreation Steering Committee for deciding on a location for the new recreation center.

EXECUTIVE SESSION

Commissioner Sauder made a motion to recess into Executive Session for 30 minutes inviting pertinent city staff to discuss confidential data of a third party relating to economic development. The justification for the executive session is provide in K.S.A. 75-4319(b)(4)) to protect financial affairs and trade secrets of third parties. The open meeting will resume in the City Commission Meeting Room at approximately 2:18 p.m. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis aye; Commissioner Smith, aye; and Mayor Harter, aye.

Upon reconvening the meeting in Regular Session, at 2:18 p.m., this same date in the City Commission Meeting Room, Mayor Harter made a motion to continue the executive session discussion for the reason stated previously with all the same pertinent city staff and resuming the open meeting in the City Commission Meeting Room at approximately 2:24 p.m.

Upon reconvening the meeting in Regular Session, at 2:24 p.m., this same date in the City Commission Meeting Room, Mayor Harter stated they had discussed confidential data of a third party relating to economic development with the following action to be taken:

Commissioner Sauder made a motion to authorize the City Manager to enter into negotiations with Champions Landing for a purchase agreement for a portion of their land that will be subject to successful sales tax election for the new Recreation Center. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Smith, aye; and Mayor Harter, aye.

NO STUDY SESSION TO FOLLOW:

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



Kansas Board of Tax Appeals
KSA 79-201 Ninth Humanitarian Service Provider

October 2, 2024

RE: Tax Exemption for Southwick House

To Whom It May Concern:

Please find this letter as evidence of our support for the tax exemption request for Southwick House located at 115 E. Logan Avenue in the City of Emporia, Kansas.

Southwick House provides a needed and non-duplicated service in the Emporia and surrounding region through transitional housing and supportive services to women and families experiencing homelessness.

We are excited for Southwick's new facility and their continued work in the community.

Sincerely

Erren Harter
Mayor



Commission Action Report

Informational Items

Title: Informational Items

Agenda Date: October 2, 2024

Presented By: Trey Cocking, City Manager

Background:

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 the organization's accomplishments.

Discussion:

At the time this Agenda was prepared, the following items were in the works for the tentative Agendas of the upcoming meetings on Wednesday, October 16, 2024.

Commission Meeting :

- Appoint Members to the Homelessness Advisory Board.
- Annex Property at 1500 Hwy 99 into the City Limits.
- Final Plat for Flint Hills Crossing.
- Award Flint Hills Crossing Improvement Contract.
- Acceptance of Easements for Kretsinger Development.
- Equipment Purchase for Golf Course.
- 502 Lofts Intent to Issue IRBs.
- Rename City's Portion of Road F.

Study Session:

- Review the Snow Removal Policy.
- Discuss Economic Development Organization Assessment Review.
- Discuss Q&A with Trey on November 14, 2024.



Commission Action Report

Executive Session

Title: Executive Session

Agenda Date: October 2, 2024

Recommended Action:

Recess into executive session for 15 minutes inviting pertinent city staff to discuss the possibility of acquiring easement interest in real property. The justification for the executive session is provided by K.S.A. 75-4319(b)(6) to minimize the cost of the property to the taxpayer. The open meeting will resume in this room at approximately __:____ a.m./p.m.



Commission Action Report

Executive Session

Title: Executive Session

Agenda Date: October 2, 2024

Recommended Action:

Recess into executive session for 30 minutes inviting pertinent city staff to discuss confidential data of a third party relating to economic development. The justification for the executive session is provided by K.S.A. 75-4319(b)(4) to protect financial affairs and trade secrets of third parties. The open meeting will resume in this room at approximately __:____ a.m./p.m.

Title: Social Media in Local Government

Agenda Date: October 2, 2024

Presented By: Christina Montgomery, City Attorney and
Christine Torrens, Communications Manager

Background:

In light of recent developments in Supreme Court case law regarding the First Amendment, the City of Emporia has updated its social media policy to better align with constitutional protections. This presentation will provide an overview of the key changes, specifically addressing how the new policy restricts City staff and Commission members from making official statements on behalf of the City through their personal social media accounts. The rationale behind these changes stems from the legal implications of blurring the lines between personal and official communication. By ensuring that personal accounts do not serve as public forums, the City aims to protect both the individual rights of its employees and the integrity of its official communication channels.

Discussion:

Recent Supreme Court rulings, specifically *Lindke v. Freed* and *Felts v. Reed*, have significant implications for how First Amendment law is applied to government-operated social media platforms. These cases clarified that blocking users or removing posts from government-associated accounts could result in charges of "deliberate indifference." Such actions not only expose the department or entity to potential liability but could also hold the individual administrator personally accountable. Federal court damages in such cases can exceed \$200,000, including court fees.

Additionally, a public official who prevents someone from commenting on their social media page could be engaging in state action under §1983 if the official both (1) possesses actual authority to speak on the State's behalf on a particular matter, and (2) purports to exercise that authority when making posts on social media.

In response, the City is updating our current social media policies to ensure compliance with these rulings. These updated policies, which include guidelines for public interaction on our platforms, will be shared with Public Information Officers (PIOs) prior to implementation. It's important to note that while hiding certain comments may be allowed under specific circumstances, deletion of any content is prohibited.

City staff strongly encourages City Commission members and City staff to carefully consider these recent case law changes before making comments in an official capacity online or creating public profiles on social media platforms.

Attachments:

Supreme Court Case Law: [Lindke v. Freed Supreme Court Case](#)

Supreme Court Case Law: [Felts v. Reed](#)

INTERNAL POLICY

Purpose. The City of Emporia encourages the appropriate use of social media to further the goals of the City and the missions of its departments. The purpose of this policy is to provide guidance for City staff, elected officials, and board members to take advantage of social media technologies while, at the same time, protecting the City by mitigating risks inherent in using these services.

Approval and Registration. All City social media sites must be approved by the Communications Manager or designated City staff, published using approved social media platform and tools, and administered by authorized individuals.

Acceptable Use. Individuals posting content to social media sites in their official capacity are speaking on behalf of the City and should take appropriate steps to ensure the information they provide meets the following guidelines:

- All social media posts, comments, and other communications shall be conducted in accordance with the City's communications policy and branding guidelines.
- Content may only be posted to approved City social media sites.
- Posted information should be accurate and factual.
- Usage of photos and videos must comply with City photo policies.
- All content on City social media sites is public record and must be retained in accordance with record retention policies.
- All content shall comply with accessibility requirements of the Americans with Disabilities Act.
- Professional standards for good grammar, spelling, brevity, clarity, and accuracy should be followed. The use of jargon, obscure terminology, and acronyms should be avoided.
- All content and communications through social media platforms should remain professional and courteous in nature.

Prohibitions. Individuals may not publish content on city social media sites that includes:

- Confidential information of any person, governmental agency, business, or organization.
- Improper use of materials protected by copyright, trademark, or other intellectual property protections, including the use of images and graphics that the City has not legally acquired the right to use.
- Promotion of a political party or a candidate running for office.
- Vulgar or abusive language, personal attacks of any kind, or offensive terms targeting individuals or groups.
- Any content endorsing, promoting, or favoring a specific religious belief.
- Commercial advertising for products or services of businesses or outside organizations.
- Surveys, polls, or questionnaires or similar requests for information without prior approval by the Communications Manager.

Limited Public Forum. City social media accounts are designated as limited public forums under federal caselaw pertaining to the First Amendment and the U.S. Constitution. Members of the public have certain free speech rights in limited public forums. City social media administrators shall not block or ban users and shall not hide or delete user content except as specified in the External Policy, Content Moderation section. Any action taken to limit user content or interaction shall be reported to the Communications Manager.

Personal Accounts. The U.S. Supreme Court decision in *Lindke v. Freed* held that social media accounts of public officials may be considered government accounts when the account holder has the authority to speak on the government's behalf and exercises that authority through speech on social media. A government account is considered public record and is subject to laws and regulations that a private account is not required to follow.

The line between private and public speech can be blurred. Personal posts by elected officials, board members, or staff may be interpreted by other people as official City posts and may become the subject of a legal challenge. To help keep a personal account private, consider some basic precautions:

Do:

- Consider keeping personal accounts separate from City business.
- Understand and use privacy settings to manage your account.
- Post a disclaimer on your personal account that identifies the account purpose and states that the opinions you express are your own.
- Forward city-related comments to the Communications Manager for official response.
- Ask the Communications Manager to post information about City events or services through official City accounts rather than posting from your personal account.

Don't

- Post content from personal accounts that would fit within the scope of your employment or position.
- Discuss your private accounts in public meetings or documents.
- Link your private accounts from an official City account.
- Use personal accounts to discuss or conduct City business.
- Use agency devices to maintain your private account.

If, consistent with the test set forward by the U.S. Supreme Court in *Lindke v. Freed*, the City determines that a social media account maintained in the name of one of our government officials is a government account, such account shall be maintained in accordance with this policy.

Violations. Violation of the City Social Media Policy by employees or board members may result in disciplinary action up to and including termination of employment or removal from board membership.

EXTERNAL POLICY

Purpose. Because many of our citizens and other stakeholders utilize social media for news and communications, we have developed our own social media accounts, which help us inform the public about our work and mission.

We have an important interest in assuring the accuracy and consistency of information associated with our social media accounts. We also respect the First Amendment to the U.S. Constitution, the rights outlined in our state constitution, and the right to freedom of speech. These terms and conditions establish guidelines for the public's use of our social media accounts that balance all these values.

Definitions.

1. "Social media" means content (text, images, audio, links, or video) created or shared by us and communicated on our online accounts. The platforms on which we have created these accounts allow sharing, commenting, and other engagement. Examples of social media accounts we may use are Facebook, X, Instagram, YouTube, and LinkedIn.
2. "Comments" include any content (text, images, audio, links, or video) posted to one of our social media accounts by a user.
3. "User" means a person who views or interacts with one or more of our social media accounts.

General Guidelines.

1. These terms and conditions apply to all our social media accounts. Where possible, a link to these terms and conditions will be made available as a hyperlink or posted as text somewhere on our social media accounts.
2. Users should know that social media posts we make – as well as comments and replies to those posts, and any direct or private messages sent to us -- may be public records subject to applicable public records release.
3. Our social media accounts are not monitored 24/7 and no one should utilize our social media accounts to seek emergency services. Anyone in need of emergency help should call 9-1-1.
4. We do not guarantee we will respond to comments or messages sent on our social media accounts.

Expectations

We believe that honest, civil, and productive discussions provide the best environment for citizens to understand the work of their government and participate in constructive engagement. That's why we ask users to consider that our social media accounts may be viewed by children and other impressionable people. Please avoid profanity, personal attacks, bullying, or use of incorrect information.

Content Moderation

1. **Limited Public Forum.** Our social media accounts are created and maintained as limited public forums under federal caselaw pertaining to the First Amendment to the U.S Constitution. We invite members of the public to view and engage with our social media accounts.
2. **Prohibited Content.** Relevant First Amendment caselaw permits us to hide certain comments on our social media accounts. We will not hide or delete comments solely because such comments are critical of our organization, its officials, or its employees. The following comments may be hidden:
 - a. Comments directly advocating violence or illegal activity.
 - b. Comments containing direct threats of violence.
 - c. Comments containing sexually explicit content.
 - d. Comments that directly promote or advocate for our organization to illegally discriminate against any person or group of people.
 - e. Comments containing links to malware and/or malicious content that affects the normal functioning of a computer system, server, app, or browser.
 - f. Duplicate comments posted repeatedly within a short period of time.
 - g. Comments containing defamatory or fraudulent content.
 - h. Comments that contain images or other content that violate the intellectual property rights of someone else.
 - i. Comments that contain a hyperlink to any website other than those we control.
 - j. Content that promotes or campaigns for an elected official or a candidate running for office.
 - k. Comments that include an individual's confidential information without the person's permission.

I. Comments that are not related to City business.

3. **Retention.** When a comment containing any of the above content is posted to one of our social media accounts and we proceed to hide the comment, a copy or electronic record of that content may be retained pursuant to our records retention policy, along with a brief description of the reason the specific content was hidden.

4. **Right of Appeal.** If we hide or delete a user comment pursuant to these terms and conditions, that user has the right to appeal that decision by sending an email or letter to the City of Emporia within five business days of our action.

Upon receipt of an appeal, our attorney will determine whether the comment at issue contained content protected by the First Amendment. If the appeal is successful, the comment may (if possible) be restored for public view. Upon a determination that the comment was not protected by the First Amendment, the user will be notified that the appeal was denied. The return correspondence, sent within a reasonable amount of time, will provide the user with a brief legal explanation for the action taken.



SOCIAL MEDIA STRATEGY AND POLICY

PRESENTATION 2024





Brand Importance

A strong brand identity is essential for the City of Emporia as it builds trust through clear, reliable communication. When residents can easily identify official channels, it promotes transparency and engagement. Consistent branding also helps ensure compliance with city standards, streamlining communication and delivering accurate information. Overall, it strengthens the city's connection with its community.

A strong brand identity builds a foundation for effective emergency communication. In crises like natural disasters or public health emergencies, residents can quickly identify and trust official channels for accurate information. Familiarity with the city's brand reduces confusion and ensures emergency messages are received and acted upon, enhancing the city's ability to respond swiftly and keep the community safe.

City Official[®] Platforms



Website

Our City's official website serves as a central hub for hosting key information, including city contacts, forms, calendars, and news releases. It provides easy access to official documents, services, and updates, ensuring residents stay informed and can efficiently engage with city resources and events.



Facebook

Our City's official Facebook page shares important updates, emergency notifications, event overviews, and City facts. This platform helps keep the community informed in real-time and provides insights into local government operations, fostering a better understanding and connection between residents and their city.



X

Our City's official X (formerly Twitter) account provides quick, concise informational updates and emergency notifications. This platform ensures residents receive timely alerts and important news, helping to keep the community informed and responsive in real-time.



Instagram

Our City's official Instagram account highlights event overviews, offers behind-the-scenes looks at city operations, and promotes the City of Emporia. Through engaging visuals and stories, it helps showcase the city's activities and culture, creating a more personal connection with the community and enhancing its image.



TikTok

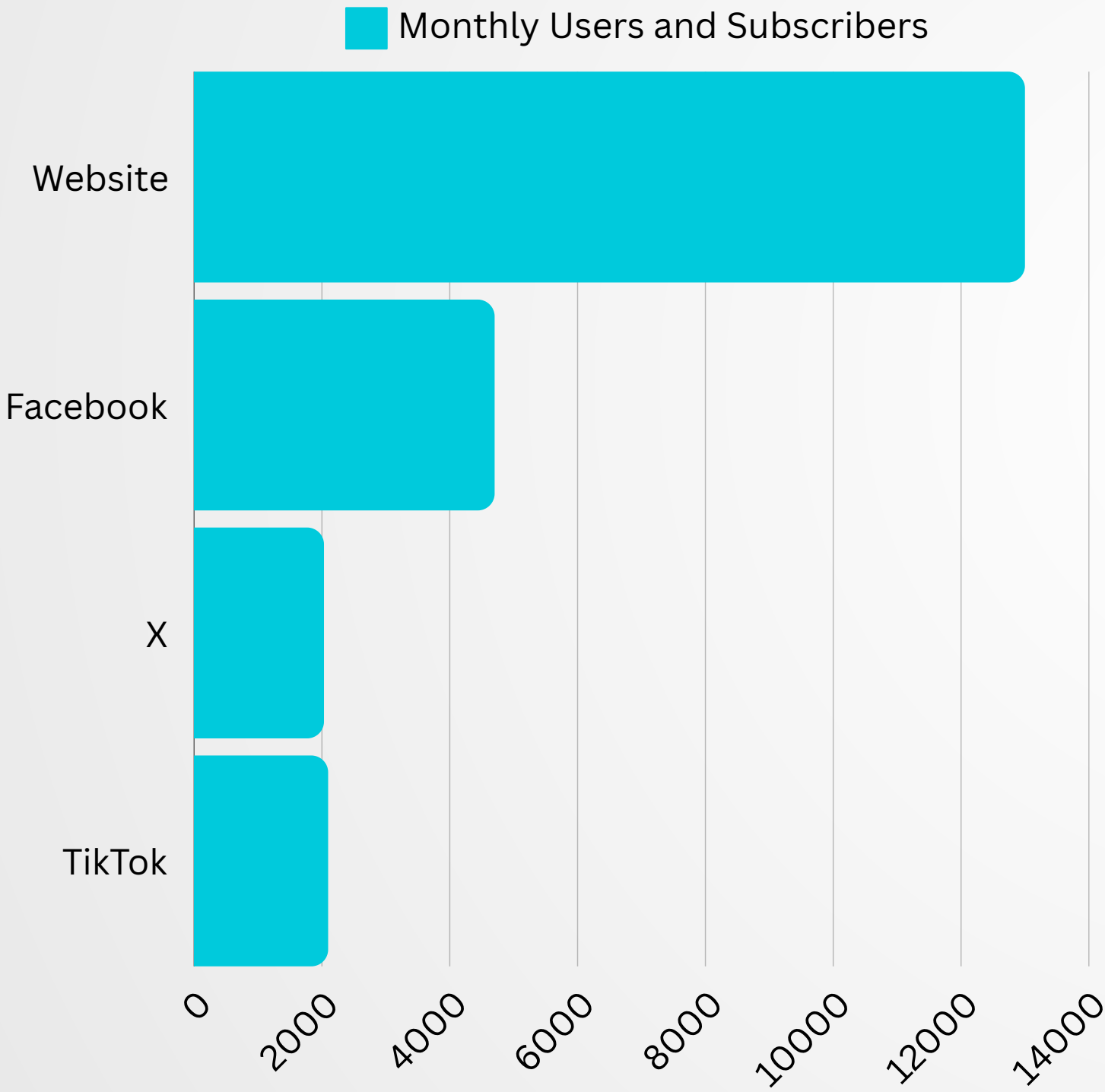
Our City's official TikTok account shares dynamic event overviews, behind-the-scenes looks at city activities, and creative content that promotes the City of Emporia. With short, engaging videos, it connects with a broader audience, showcasing the city's unique character and fostering community engagement.



YouTube

Our City's official YouTube account hosts event overviews, behind-the-scenes content, and features "How It Works" videos, which are currently being revamped. This platform provides in-depth insights into city operations and services, offering residents a clearer understanding of how their local government functions.

Audience



Case Law and Policy



City staff strongly encourages City Commission members and City staff to carefully consider these recent case law changes before making comments in an official capacity online or creating public profiles on social media platforms.

Lindke v. Freed Supreme Court Case

Lindke v. Freed involved Lindke claiming that Freed violated his First and Fourth Amendment rights, focusing on free speech and unreasonable searches. The case addressed the balance between individual rights and government authority.

Felts v. Reed District Court Case

Felts v. Reed involved a plaintiff, Felts, alleging that Reed violated his First and Fourth Amendment rights related to free speech and unreasonable searches and seizures. The case addressed the balance between individual rights and government actions.

City Social Media Policy.

The City of Emporia's social media policy sets guidelines for employees and officials on using social media, focusing on professionalism, protecting sensitive information, and aligning posts with city values and legal requirements.



How Should I Respond?

Government officials and employees should stay up-to-date with case law on social media to ensure compliance, avoid legal pitfalls, and mitigate risks of rights violations or abuse of power.



I, Commissioner Jane Doe ...
I, Director or Manager of ...



I, Jane Doe, am expressing
my personal opinion...



Create an event as City
official or employee.



Request City staff assist
with hosting and advertising
special event.



Defending vote ...
Defend department decision ...



Contact City Communications to
respond to community concern.



Create content as City
official or employee on
personal account.



Request City staff assist with
creating content that answers
community concerns.



Argue or respond as City official
or employee on social media.



Contact City Communications to
respond to community concern.



Create a page, identifying self
as City official or employee.



Contact City Communications to
respond to community concern.



Emporia
Kansas

Benefits of Official City Social Media



Increasing Awareness

Increasing Awareness means showcasing city achievements, projects, and resources to keep residents informed and engaged. This helps residents stay updated on positive changes and available opportunities.



Engaging the Community

Engaging the Community means encouraging residents to interact, give feedback, and participate in local events and decisions. This strengthens connections and ensures diverse voices are heard.



Enhancing Communication

Enhancing Communication means delivering timely, accurate updates about city services, events, and emergencies through various channels. This keeps residents informed and prepared.



Promoting Transparency

Promoting Transparency means openly sharing updates on city projects, decisions, and operations to build trust and confidence with residents.



Questions?

The Communications Department and the City Attorney are committed to addressing any concerns or questions you may have regarding social media and the First Amendment. We are here to provide clear, accurate information and support to ensure that your rights and concerns are respected. Please do not hesitate to reach out for assistance or clarification on these important issues.



620-343-4250



emporiainfo@emporiaks.gov



www.emporiaks.gov



Title: Hazardous Sidewalk Program Costs
Agenda Date: October 2, 2024
Presented By: James Ubert, City Engineer

Background

See attachments.

Discussion

In 2006, the City of Emporia increased the property owner's share to \$400 maximum (for a residential lot) along one street and \$700 maximum (for a residential lot) along two streets in the Hazardous Sidewalk Program. Since that time (in 18 years) our unit bid costs have increased 80% (about 3.3% annually for 18 yrs) with no cost share increase to property owner participants.

I recommend that for 2025 Hazardous Sidewalk program we raise the residential property owner max to \$600 for participation along one street and \$1,000 for participation along two streets, which is a 50% (2.3% annualized) and 43% (2.0% annualized) increase respectively from the capped costs set in 2006.

Commercial property participation would remain at 50% property owner/50% City.

Financial Considerations

This will allow the City to complete more projects with our matching budget.

Attachments

Resolution 3532 with accompanying Hazardous Sidewalk policy and City Ordinance defining a Hazardous Sidewalk.

Sec. 24-62. Hazardous Sidewalk Defined:

A "hazardous sidewalk" is a sidewalk or portion thereof that becomes inadequate or unsafe for public travel due to broken or missing pieces, unevenness or upheaval which causes at least a one-half inch ($1/2$ ") difference in height between two (2) adjoining portions of the sidewalk, or one that has an abrupt change in elevation, or a sidewalk which in the opinion of the city engineer has become unsafe for travel due to deterioration or other reasons. (Ord. 86-2, § 2, 2-19-1986; Ord. 96-39, § 4, 11-6-1996)

RESOLUTION NO. 5532

**A RESOLUTION OF THE GOVERNING BODY OF EMPORIA, KANSAS REPEALING
AND REPLACING THE CITY'S HAZADOUS SIDEWALK POLICY**

WHEREAS, the City Commission adopted the hazardous sidewalk policy on June 5, 1991; and

WHEREAS, the City Commission amended the hazardous sidewalk policy on April 5, 2006; and

WHEREAS, the City has determined that its policies and practices have not been conterminously changed; and

WHEREAS, the City Commission has determined that, in order to promote the public health, safety and welfare it is necessary and appropriate to repeal and replace the hazardous sidewalk policy to permit the City to repair or replace public sidewalks or permit property owners to participate in the City's annual hazardous sidewalk program;

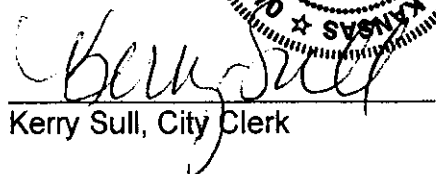
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS that the City's hazardous sidewalk policy adopted in 1991 and amended in 2006 is hereby repealed and replaced and that the City hazardous sidewalk policy attached hereto is hereby approved.

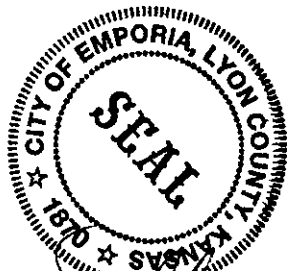
BE IT FURTHER RESOLVED that any policies in conflict with this policy are hereby null and void regarding any conflicts.

BE IT FURTHER RESOLVED that this policy shall be inserted into the City of Emporia Policy Manual.

APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS this 19th day of June, 2013.

ATTEST:


Kerry Sull, City Clerk




Robert F. Gilligan, Mayor

4-5 Sidewalk Improvements

A. BACKGROUND

The following policy was developed by the Governing Body as a response to the need to improve, maintain, repair and establish sidewalks in the City of Emporia. Much of the City has been developed without sidewalks being constructed at the time of development. Furthermore, no comprehensive program of sidewalk repair has been followed to assure that existing sidewalks remain safe for pedestrian travel. The following policy addresses these issues as well as requirements for sidewalk installation in new developments or in conjunction with new street construction. This policy shall apply to all public sidewalks under the jurisdiction of the City of Emporia regardless of the zoning of the abutting property.

B. PURPOSE

The purpose of this policy is to establish guidelines for the improvement, maintenance, repair and establishment of sidewalks in the City of Emporia and to set out the extent of the City-at-large participation in the financing of such efforts, if any.

C. POLICY

Section 1. General: The City encourages the construction and maintenance of sidewalks throughout the City.

Section 2. Compliance with City Construction Standards: All sidewalks shall be constructed or reconstructed in accordance with standards established by the City Engineer. All sidewalk construction shall be inspected by the City Engineering Department to determine compliance with said standards.

Section 3. Construction of sidewalks in new subdivisions or in conjunction with new street construction: Sidewalks shall be required on at least one side of all new streets constructed in the City of Emporia. The cost of the sidewalk shall be assessed 100% against the abutting property and property directly across the street from said sidewalk, or against a benefit district petitioned for by the developer.

Section 4. Construction of sidewalks in developed areas not presently served by sidewalks: Sidewalks shall be constructed on one side of the street along arterial and collector streets and heavily used pedestrian routes not presently served by sidewalks. Such sidewalks shall be constructed on a priority basis established by the City Commission subject to the annual appropriation of funds for such purposes.

Section 5. Repair or Replacement of Existing Sidewalks: The owner of property abutting a sidewalk shall be responsible for maintaining said sidewalk. Such maintenance may be initiated in the following ways:

- a. The City Manager may cause any sidewalk in the City to be inspected. In the event such inspection reveals that the sidewalk is in need of repair or replacement, the affected property owner shall be notified and given ninety (90) days to repair or replace the sidewalk. If needed repair or replacement is

not made by the property owner, then the City shall cause the work to be done as provided by State statute. In either event costs of such repair or replacement shall be shared by the City and property owner as outlined below.

- b. The adjacent property owner may initiate repair or replacement of sidewalk. Such repair or replacement shall be at the expense of the property owner unless an inspection is conducted by the City building official and a determination made that the City should participate in the expense. Such participation to be at the rate and under the conditions listed in Section 6 of this policy.
- c. The City may repair or replace any public sidewalk at its sole expense if it is deemed to be in the best interest of the public health, safety and welfare. The City shall focus repairs and replacements on sidewalks abutting vacant lots not being offered for sale.
- d. Property owners that wish to repair or replace public sidewalks that are determined by the City Engineering Department to not be hazardous may participate in the City sidewalk repair program at the rate and under conditions listed in Section 6 below.

Section 6. City-at large participation in the cost of repair or replacement of existing sidewalks: On or about January 1, of each year the City Manager shall establish a rate for City-at-large participation in the cost of repair or replacement of existing sidewalks that are deemed to be hazardous according to Section 24-62 of the City Code. Such rate shall be expressed in dollars per square foot of sidewalk and shall be equal to one-half (1/2) of the estimated cost per square foot of a sidewalk. For residential property only, no owners share shall exceed four hundred dollars (\$400.00) on any one property or seven hundred dollars (\$700.00) for a corner lot.

Section 7. Deviations: Any deviation from the standards set forth in this policy shall be approved by the City Manager.

Section 8. Amendments: This policy may be amended by action of the Governing Body.