

Commission Meeting

11:00 a.m.

November 6, 2024

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, November 6, 2024, with Mayor Harter presiding and Commissioners Brinkman, Curtis, and Smith present. Commissioner Sauder was present via phone. Also present were City Manager Cocking, Assistant City Manager Wash, City Clerk Sull and City Attorney Montgomery. Deputy City Manager Detter was absent.

Jess Buchholz, Community Development Coordinator for Emporia Main Street, was in attendance to accept a proclamation declaring November 30, 2024, as "Small Business Saturday" in Emporia. She stated Emporia celebrates small local business and the contribution they make to our economy and community. Locally owned businesses contribute to our unique and vibrant community character. She stated for every \$100 spent at a small local retailer, \$67 will be returned to the community through taxes, payroll and donations to local schools and charities. She stated we join American Express, Main Street American, Kansas Main Street and Emporia Main Street in supporting America's locally owned Small Businesses. She urged all residents of Emporia to join the rest of America in shopping at the small locally owned businesses on this day and throughout the year.

Mayor Harter then presented the proclamation.

Vanessa Cowie, Director of Prairie Paw Animal Shelter, and Bailey Estes, Director of Emporia Animal Shelter, were in attendance to accept a proclamation declaring November 3 through 9, 2024, as "Animal Shelter Appreciation Week" in Emporia. She stated dogs and cats are an integral part of the quality of life in our community. Animal shelters help both animals and people in many ways by returning lost pets to their owners, educating the public, and matching homeless animals with loving new families. She stated they receive important donations of money, goods, and volunteer time to assist in their important missions. Prairie Paws Animal Shelter reflects the best shelter practices, with veterinary care, enrichment, and socializations programs to provide the best possible outcome for each animal in its care. She urged all citizens to recommit to the animals in

our community with responsible pet ownership and support of local efforts to help homeless animals.

Mayor Harter then presented the proclamation.

**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.

Alana Longwell, 1405 Lincoln St., Emporia, Ks
Don Hill, 2805 Twin Lakes Dr., Emporia, Ks
Jerald Campbell, 1201 Presby Dr., Emporia Ks
Ester Knobloch, 2378 Ks 58 Hwy, Madison, Ks
Christina Faulkner, 3641 Windsor Cir, Emporia, Ks
Cathy Pimple, 502 Charles St., Olpe, Ks
Larry Finley, 3601 Windsor Cir, Emporia, Ks
Viola Heskett, 2211 Birch Rd., Emporia Ks
Will Spencer, 1511 W. 6th Ave., Emporia, Ks
Nancy Wells, 868 Road 290, Americus, Ks
Chris Batel 1465 Road 20, Madison, Ks
Holly French, 2578 Burlingame Rd., Admire, Ks
Raymond Rogers, 1704 Berkeley Rd., Emporia, Ks
Steven Bazan, 2833 Rio Vista Dr., Emporia, Ks

All spoke concerning the annexation of property East of Road G and South of W. 18th Avenue into City limits.

**CITY COMMISSION
(Board Appointments)**

Emporia Human Relations Commission:

It was moved by Commissioner Smith seconded by Commissioner Brinkman that Donnia Hinrichs be appointed to the Emporia Human Relations Commission to fill an unexpired term that ends on June 1, 2025, and appoint Misty Williams to the Emporia Human Relations Commissioner to fill an unexpired term that ends on June 1, 2026. The

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

PLANNING AND DEVELOPMENT
(Annex Property East of Road G and South of W. 18th Avenue)
(Ordinance Number 24-35)

AN ORDINANCE ANNEXING LAND TO THE CITY OF EMPORIA, KANSAS, to which the City Clerk assigned Ordinance Number 24-35, was presented to the Governing Body for their consideration.

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated the City of Emporia received consent to annexation from the owner of the property located at the southeast corner of Road G and south of W. 18th Avenue. The property adjoins the City and is eligible for annexation under K.S.A. 12-520. The annexation request is in anticipation of future commercial development, which could include a medical facility on the property. He stated K.S.A. 12-520, permits a city to annex land if the land adjoins the city, and the owner of subject property has consented to the annexation. Kansas Annexation Law specifically allows that when a property that adjoins the city, and the owner has consented to annexation, no review from either a city or county Planning Commission, or the Board of County Commissioners is required. Prior to any development on the property, the property owner or developer is required to plat the property, have approved site plan, building plans as well as probably a developer's agreement that would cover infrastructure improvements, land use, or other issues that would need attention, through the developer's agreement. The only required action is for the City Commission to adopt an ordinance annexing property. The property is currently zoned Commercial, which was attested to by the County Counselor, and County Zoning Administrator. Upon annexation, the property retains its zoning designation of Commercial Parcel Type. He stated staff recommend the approval of Ordinance Number 24-35 annexing land east of Road G and south of W. 18th Avenue into city limits.

Following further discussion, Commissioner Brinkman made a motion to approve Ordinance Number 24-35 annexing land East of Road G and South of W. 18th Avenue pursuant to K.S.A. 12-520. Commissioner Smith seconded the motion. The vote follows:

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

**FIRE DEPARTMENT
(Fire Station #1 Construction)
(Bid Package #1 to Crossland Construction)**

Brandon Beck, Fire Chief, was recognized and addressed the Governing Body. He stated city staff have been working with architect, Tessere and construction manager at risk, Crossland Construction, to complete construction documents for the new fire station. Requests for bid went out to 7,959 companies. Crossland Construction initiated the process of collecting bids for Bid Package #1. Crossland reviewed and confirmed the scope of work on the bid packages received from over 120 bids. He stated some of the largest scopes, mechanical, electrical, and plumbing were all won by local contractors. The contract sum guaranteed by the Construction Manager not to exceed is \$10,084,115.00, subject to additions and deductions by change order. Allowances for fixtures, furniture and equipment are not to exceed \$500,000.00 . The new fire station will be paid out of the City's bond and interest fund. He stated staff recommend awarding bid package #1 to Crossland Construction for \$10,084,115.00 with an allowance of \$500,000.00 for fixtures, furniture and equipment for a total amount not to exceed \$10,584,115.00.

Commissioner Smith made a motion to award bid package #1 to Crossland Construction for \$10,084,115.00 with an allowance of \$500,000.00 for fixtures, furniture, and equipment for a total of \$10,584,115.00. Commissioner Curtis seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Curtis, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

**ENGINEERING
(Amend Hazardous Sidewalk Program Costs)
(Resolution Number 3744)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the City implemented the Hazardous Sidewalk Program with City cost sharing in 1991. In 2006, the City 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. Since that time, the unit bid costs have increased 80%, which has been about 3.3% annually for the past 18 years, with no cost share increase to property owner participants. He stated this proposed resolution would raise the residential property cost share to 25% of actual costs with the City paying 75% of the cost. This cost share will create some equity for residential lots varying frontage widths while still being a generally affordable way for property owners to participate in the Hazardous Sidewalk maintenance and repair program. He stated Commercial property participation would remain at the 50% property owner and 50% City share. Staff recommend approval of Resolution Number 3744 amending Hazardous Sidewalk Program costs.

Mayor Harter made a motion to approve Resolution Number 3744 to amend the hazardous Sidewalk cost-share program. Commissioner Smith seconded the motion. The vote follows: Mayor Harter, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; and Commissioner Smith, aye.

CITY COMMISSION
(Amend Removal of Snow and Ice from Sidewalks)
(Ordinance Number 24-33)

AN ORDINANCE AMENDING SECTION 24-8 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 24-33, was presented to the Governing Body for their consideration.

James Watson, Assistant City Attorney, was recognized and addressed the Governing Body. He stated the current city code section 24-8 requires snow and ice to be removed from sidewalks within five (5) hours from the end of a snow event or in the case of accumulation ending during the night, within five (5) hours of sunrise. He stated this proposed ordinance would better clarify the requirements of property owners or tenants for snow and ice removal on public sidewalks by lengthening the time to comply with the code. He stated property owners or tenants would have 24 hours after the end of a snow or ice event to have snow or ice removed or alternative measures performed. The changes will allow property owners or tenants more time to comply with the code and

still address safety concerns. He stated staff recommend approval of Ordinance Number 24-33 amending City Code Section 24-8 for the removal of snow and ice from sidewalks.

Commissioner Smith made a motion to approve Ordinance Number 24-33 amending City Code Section 24-8 removal of snow, ice from sidewalks. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Mayor Harter, aye.

PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting Held 10-15-24)
(Application No. 2024-12 – Request of Mike & Shelley Wise)
(Conditional Use Permit at 928 Neosho St.)

The Planning Commission met in a regular session on Tuesday, October 15, 2024, with Chair Rogers presiding. Members Ogle, Bucklinger, Barnes, Fowler, and Lingenfelter were present.

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

Chair Rogers called the meeting to order.

3. Consider PC-2024-12 – A Request for an Accessory Dwelling Unit for 928 Neosho.

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 2024-12

Applicants: Mike & Shelley Wise

Requested Action: Approval of a Conditional Use Permit for an Accessory Dwelling Unit

Purpose: Applicant desires to remove an existing garage and replace with an accessory dwelling unit.

Address: 928 Neosho

Legal description: Lot 144 Neosho St, Emporia Original Township, Emporia, Lyon County, Kansas

Lot Size: 50 ft. x 130 ft.

Existing Zoning: Single-Family Detached (SF-D)

Future Zoning in ELC Comp. Plan: Single-Family Detached (SF-D)

Surrounding Zoning:

North – Single-Family Detached (SF-D) | Multi-Family (MF)

East – Multi-Family (MF)

South – Single-Family Detached (SF-D) | Multi-Family (MF)

West – Single-Family Detached (SF-D)

Surrounding Actual Uses:

North: Single-Family Detached Homes | Single-Family Attached Homes

East: Single-Family Detached Homes

South: Single-Family Detached Homes

West: Single Family Detached Homes

Analysis:

The applicants desire to remove an existing detached accessory structure and erect a new Accessory Dwelling Unit in the rear of the property. The applicants are requesting the CUP for an ADU in order to provide better living accommodations for an elderly parent. The removal of the existing garage and planned expansion will still keep the property below the maximum lot coverage and meet our required setbacks. A single off-street parking space will remain for the occupant of the ADU to use.

Considerations: 26-109. Factors to be Considered for a Conditional Use Permit:

Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as conditional uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a conditional use, the minimum requirements set out in these regulations for the underlying district must be met unless otherwise reduced by specific reference in the approval of the Governing Body. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property or the neighborhood or which may be contrary to public health, safety or welfare.

The Planning Commission may recommend approval of a Conditional Use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such Conditional Use, using the following factors as guidelines: **Staff Commentary in Bold**

1. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations; **When the zoning regulations were adopted, properties**

such as this one were contemplated to allow ADUs outright because of the alley access and location to amenities. Had the regulations not changed to require all properties needing conditional uses for ADUs the applicants could have installed one without approval from the Planning or City Commission. Staff feels that this request is consistent with the regulations.

2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood; **Based on the location the proposed ADU is compatible to other land uses in the area. There are multi-family units in the area and the ADU would be adjacent to the alley so as not to intrude on other homes.**

3. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided; **there would be no undue burden placed on any existing service.**

4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected; **as identified in PLAN ELC, there is a housing shortage within Emporia and units such as this were encouraged to be built. Until housing demands are met, ADUs should continue to be encouraged.**

5. The length of time the subject property has remained vacant or undeveloped as zoned; (the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped); **N/A**

6. Whether the applicant's property is suitable for the proposed conditional use; **as previously stated properties such as this are encouraged by the comprehensive plan and as it can meet all setback requirements the property is suitable for the proposed ADU**

7. The recommendations of professional staff; **staff is supportive of the proposed ADU.**

8. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan; **the proposed project would be considered infill development as it does not require the extension of services, which is an objective of Plan ELC. Additionally, the proposed development of the ADU is encouraged in PLAN ELC.**

9. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed conditional use; **ADUs as contemplated by the comprehensive plan provide a measurable gain to the community as it creates housing options and units that are lacking in Emporia.**

10. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;

staff does not for see an adverse impact on the neighboring property owners. The ADU unit will have a dedicated parking spot and since it is on the corner limited traffic would be generated by the ADU.

11. For uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with the adopted Solid Waste Management Plan of Lyon County, and amendments thereto; **N/A**

12. Such other factors as may be relevant from the facts and evidence presented in the application. **N/A**

Neighborhood Communications: Staff received one call about the proposed ADU and its relationship to a historical structure across the alley. The necessity for review of projects adjacent to a historic structure has been eliminated and this project does not require a review as other projects previously did.

Recommendation: If the Planning Commission finds that the project is advisable, it may forward a recommendation to approve the Conditional Use Permit to the Governing Body based on the findings that the project is consistent with the intent and purpose of the zoning regulations, will not have an adverse impact on the surrounding area and the use is consistent with neighboring uses subject to the following conditons;

- 1) The project meets all applicable zoning, building, fire, and other applicable code regulations.
- 2) Any additional conditions the Planning Commission or City Commission deem necessary to protect the public health, safety, and general welfare.

Attachments: Aerial Map | Current Zoning Map

Commissioner Fowler asked about additional parking in the future if the applicant would want to expand their parking. **Givens** stated that yes, the applicant could add additional parking if they wanted.

The Public Hearing was opened.

Mike Wise, 928 Neosho (applicant) stated that the reason for the accessory dwelling unit was for an aging parent, who wanted to maintain some independence, but they wanted to move them closer. He stated that he was aware of the discussions of accessory dwelling units when Urban Collaborative was proposing them in the zoning regulations.

Commissioner Fowler asked about utilities for the property. **Wise** stated that all utilities would be run from the house and billed to their existing accounts.

No Person spoke against the accessory dwelling unit.

The Public Hearing was closed.

Chair Rogers asked about the setbacks. **Givens** stated that based on city code, the applicant is allowed to build back on the rear property line as long as the do not extend or increase an existing variance.

Commissioner Barnes made a motion to recommend approval of the Conditional Use Permit for an Accessory Dwelling Unit. Commissioner Ogle seconded the motion. The motion carried 6-0.

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated the owners of 928 Neosho Street are proposing to remove an existing garage and replace the garage with an accessory dwelling unit. The unit is being built with the intention of housing an aging relative but could be used as a rental in the future. He stated under the new Zoning Regulations, Accessory Dwelling Units (ADU) are allowed through the Conditional Use Permitting process. The proposed accessory dwelling unit meets all of the required building standards for the development of an ADU. It is located on the site of the former garage and expanded slightly. The ADU will provide for one off-street parking space as required by the zoning regulations and the applicant have proposed a structure that will have a similar look in building materials and colors as the main structure so that it blends with the existing home. He stated this property is in close proximity to a registered historic site. Previously projects in proximity to historic sites were required for review from the State Historic Preservation Office. However, as of 2013, review of projects on adjacent properties are no longer required. At their October 15, 2024, regular meeting, the Planning Commissioner voted unanimously to recommend approval of the Conditional Use Permit for an accessory dwelling unit at 928 Neosho Street.

PLANNING AND DEVELOPMENT
(Application No. 2024-12 – Request of Mike & Shelley Wise)
(Conditional Use Permit at 928 Neosho St.)
(Ordinance Number 24-34)

AN ORDINANCE ISSUING A CONDITIONAL USE PERMIT FOR A CERTAIN DESCRIBED AREA IN THE CITY OF EMPORIA, KANSAS, to which the City Clerk assigned Ordinance Number 24-34, was presented to the Governing Body for their consideration.

Commissioner Curtis made a motion to approve Ordinance Number 24-34 for a conditional use permit for an accessory dwelling unit at 928 Neosho Street. Commissioner Smith seconded the motion. The vote follows: Commissioner Curtis, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Sauder, and Mayor Harter, aye.

**SEWER MAINTENANCE
(Engineer Services Agreement – BG Consultants, Inc.)
(Supplement Agreement No. 5)
(Construction Services for Lift Station No. 1)**

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated Lift Station No. 1, located at 1836 Merchant Street, which is on the north side of ESU property and right up against the on ramp to I35 and next to the power substation. This lift station has had no significant rehabilitation since being placed into service over 40 years ago. This lift station currently operates with only one pump. The planned project will replace the wet well, convert the lift station to a two-pump submersible style and the ability to add a third pump, add a screen to remove solids from the collection system and replace the antiquated odor control system. The cost of construction engineering services with BG Consultants is not to exceed \$260,514.00. Staff recommend approval of the Supplement Agreement No. 5 with BG Consultants for construction engineering services for Lift Station No. 1 project.

Commissioner Brinkman made a motion to approve the agreement with BG Consultants, Inc. for the construction services on the Lift Station No. 1 project. Commissioner Curtis seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Harter, aye.

Consent Agenda

Mayor Harter and Commissioner Sauder abstained from discussion and voting on the Consent Agenda due to conflict of interest pertaining to item d.

City Manager Cocking stated the Lockwood Heights RHID Reimbursement Agreement is an agreement with a Commissioner and wanted it noted for transparency.

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

- a. Minutes of Regular Commission Meetings Held on October 16, 2024.
- b. Approve Memorandum of Understanding Corridor Planning Study with BNSF.

c. KDOT TA Supplemental Agreement No. 1, Project No. SK2201, KDOT 056 TE-0516-01.

d. Lockwood Heights RHID Reimbursement Agreement.

The vote follows: Vice Mayor Brinkman, aye; Commissioner Smith, aye; and Commissioner Curtis, 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:

**STUDY SESSION AGENDA AT A SPECIAL MEETING DATE OF
NOVEMBER 15, 2024, AT 12:00 P.M.**

Discuss Utility Rates Increases

TENTATIVE AGENDA FOR NOVEMBER 20, 2024, MEETING.

- Ordinance for Rate Increase for Utilities.
- Franchise Agreement with Zayo.
- Easement for Kretsinger Development.
- 2024 Emergency Shelter Grant

STUDY SESSION

Groundbreaking for New Fire Station @ 1:00 p.m.

Discuss Rules and Regulations for Water/Wastewater.

Discuss Tyler Technologies' Work Order Asset Management.

Discuss Common Consumption in Downtown Area Sponsored by City of Emporia.

**CITY COMMISSION
(Governing Body Comment)**

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

Commissioner Curtis stated that at the JADEC meeting the City Manager was commended for his communication concerning the water issues by the school board, Flint Hills Tech, Emporia State, and the hospital were all saying they were appreciative of the communication on the issue.

EXECUTIVE SESSION

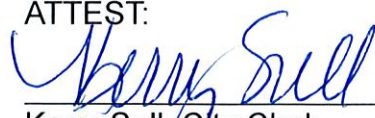
Mayor Harter made a motion to recess into Executive Session for 60 minutes inviting pertinent city staff to discuss confidential data of a third party relating to economic development. The justification for the executive session is provided by K.S.A. 75-4319(b)(4) to protect financial affairs and trade secrets of third parties. The open meeting will resume in City Conference Room 1AB, at approximately 1:22 p.m. Commissioner Brinkman seconded the motion. The vote follows: Mayor Harter, aye; Commissioner Brinkman, aye; Commissioner Curtis, aye; Commissioner Sauder, aye; and Commissioner Smith, aye.

Upon reconvening the meeting in Regular Session, at 1:22 p.m., this same date, in the City Conference Meeting Room 1AB, Mayor Harter stated they had discussed confidential data of a third party relating to economic development and no action was taken.

No 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; and Commissioner Smith, aye.

ATTEST:


Kerry Sull, City Clerk





Erren Harter, Mayor