

CITY COMMISSION MEETING

May 19, 2021 at 7:00 PM

CITY COMMISSION / MUNICIPAL COURT ROOM
518 MECHANIC, EMPORIA, KS

Agenda

Meeting Items

1. Members Present:
2. Mayor and City Commission Reports and Comments
3. Consent Agenda
4. Public Comment
5. Consider Ordinance Authorizing Beer Garden for Night in the Wild Event
6. Consider Approval of Memorandum of Understanding with Bird Rides, Inc.
7. Consider Ordinance Amending City Code Sections 25-93 and 25-94 Pertaining to Bicycles and Electric-Assisted Scooters
8. Consider Ordinance Amending City Code Section 25-21 to Adopt Section 135.1 of 45th Edition of Standard Traffic Ordinances for Kansas Cities
9. Consider Approval of Resolution of Intent for the Issuance of Industrial Revenue Bonds to Woodco, Inc. for Whittier Place II Project
Conduct a Public Hearing regarding Tax Exemption related to Issuance of Industrial
10. Revenue Bonds by the City of Emporia for the Citizens National Plaza & Lofts and Preston Plaza & Lofts project
Consider Approval of Resolution Authorizing the City to Exempt Certain Property Acquired
11. with the Proceeds of Industrial Revenue Bonds for the Citizens National Plaza & Lofts and Preston Plaza & Lofts Project
12. Report from City Manager on City Activities
13. Executive Session



**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact City of Emporia Jeff Lynch, ADA Coordinator at least 48hours before the event at 620-343-4285 or jlynch@emporia-kansas.gov*

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 2

SUBJECT: Mayor and City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY:

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

The following is general information for the month of April for the community:

1) Monthly Local Retail Sales Tax Receipts Update

	2020	2021	
	\$385,066.14	\$405,026.43	Increase of \$19,960.29 for the month, and
YTD	\$1,634,093.72	\$ 1,682,955.63	Overall increase of 2.99% from year 2020

2) City Share from County Tax

	2020	2021	
	\$193,979.70	\$206,929.84	Increase of \$12,950.14 for the month, and
YTD	\$ 834,807.27	\$ 851,787.29	Overall increase of 2.03% from year 2020

3) **Building Permits issued from 4/1/2021 to 4/30/2021 for new construction, remodeling / repairs and demolition.**

Total number of building permits issued through Code Services:	104
Total of valuations associated with those building permits:	\$ 6,922,064.00
Total number of dollars collected for Building Permit Fees:	\$ 26,403.00

Construct - single family dwellings	0
Demo - single family dwellings	0

Flint Hills Mall CID for April	\$ 12,117.22
Year to Date Total	\$ 63,213.34

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 3

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items.

Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Meeting held on May 5, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on May 7, 2021.
- c. Consider Approval of April Budget.
- d. Consider Change Order No. 1 for the 30th Avenue Construction Project (PV2006).

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Budget
- d. Approve Change

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 3d

SUBJECT: Consider Change Order No. 1 for the 30th Avenue Construction Project (PV2006).

RECOMMENDATION: Approve Change Order No. 1 for the 30th Avenue Construction Project (PV2006) that increases the total amount of the contract by \$ 22,811.34 and 12 working days.

BACKGROUND SUMMARY:

Attached are the change order quantities for the 30th Avenue Construction Project (PV2006). The awarded contract amount was \$819,586.89. This Change Order for \$22,811.34 would decrease the final contract dollar amount to \$842,398.23.

Attached is Change Order No. 1 and supporting documentation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

30TH AVENUE CONSTRUCTION PROJECT (NO. PV2006)
EXPLANATION FOR CHANGE ORDER 1

During construction of the 30TH AVENUE CONSTRUCTION PROJECT PV2006, changes and adjustment of quantities were made with additional changes added to the project. This change order results in an increase of the contract in the amount of \$22,811.34.

Quantities Deleted:

Quantities Added:

1. 12" Butterfly Valve (In Place) –
This change represents an overrun of 1.00 Each. of 12" Butterfly Valve. The addition of this valve allowed the contractor to isolate area of water line work and prevent residents from being out of water during construction. Amount added to contract \$4,648.94.
2. Extension of Water Line and Extension of Contract time of 7 Working Days – (See Attachment)
This work was added to the project as 1.00 Lump Sum for Extension of Water Line. This work consisted of Transition Tie-Ins to Existing Waterline for added lengths. Pricing from contractor included Labor, Equipment, and Supervision. Amount added to contract \$5,320.00.
3. Rock Excavation and Extension of Contract time of 5 Working Days– (See Attachment)
This work was added to the project as 65.69 Cubic Yards for Rock Excavation. During excavation for water line, the contractor encountered rock between Stations 43+00 and 44+00. Due to the location and elevation of the water line, the removal of rock took extra time, resources, and employees. A total of 65.69 Cubic Yards of Rock was removed at \$195.50 per C.Y. Amount added to contract \$12,842.40

CHANGE ORDER
For
Change in Plans and Construction

Contract No. PV2006 Change Order No. 2 - Pipe
Description Emporia 30th Ave. Construction Project.
Contractor: APAC-Kansas, Shears Division Address: 302 Peyton Street, Emporia, KS

EXPLANATION OF CHANGES:

Transition Tie-Ins to Existing Waterline for added lengths. Pricing includes Labor, Equipment, and Supervision. Excludes Materials: Retainer Glands, and Solid Sleeves. These are to be provided by the city.

7 working days to be added to the contract duration.

Contract Revisions

Add or Deduct	Unit Price No.	Item of Work	Contract Qty.	Revised Qty.	Units	Unit Price	Amount (+/-)
Add		Connection Tie-In to Existing	0	1.0	LSU	\$5,320.00	\$ 5,320.00

This is to affirm that I/we have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amount shown above.

TOTAL - INCREASE \$ 5,320.00

Contractor: APAC-Kansas, Shears Division
Signed By Cody Williams
Date 4/13/2021

Recommended:
Engineer _____
Signed By _____
Date _____

APPROVED:
Owner _____
Signed By _____
Date _____

Memo

To:	Michael Gudmonson, APAC	From:	Jim Ubert
Fax:		Pages:	3
Phone:	620-342-2047 ofc	Date	4/6/2021
Re:	Change Proposal No. 2	cc:	File

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

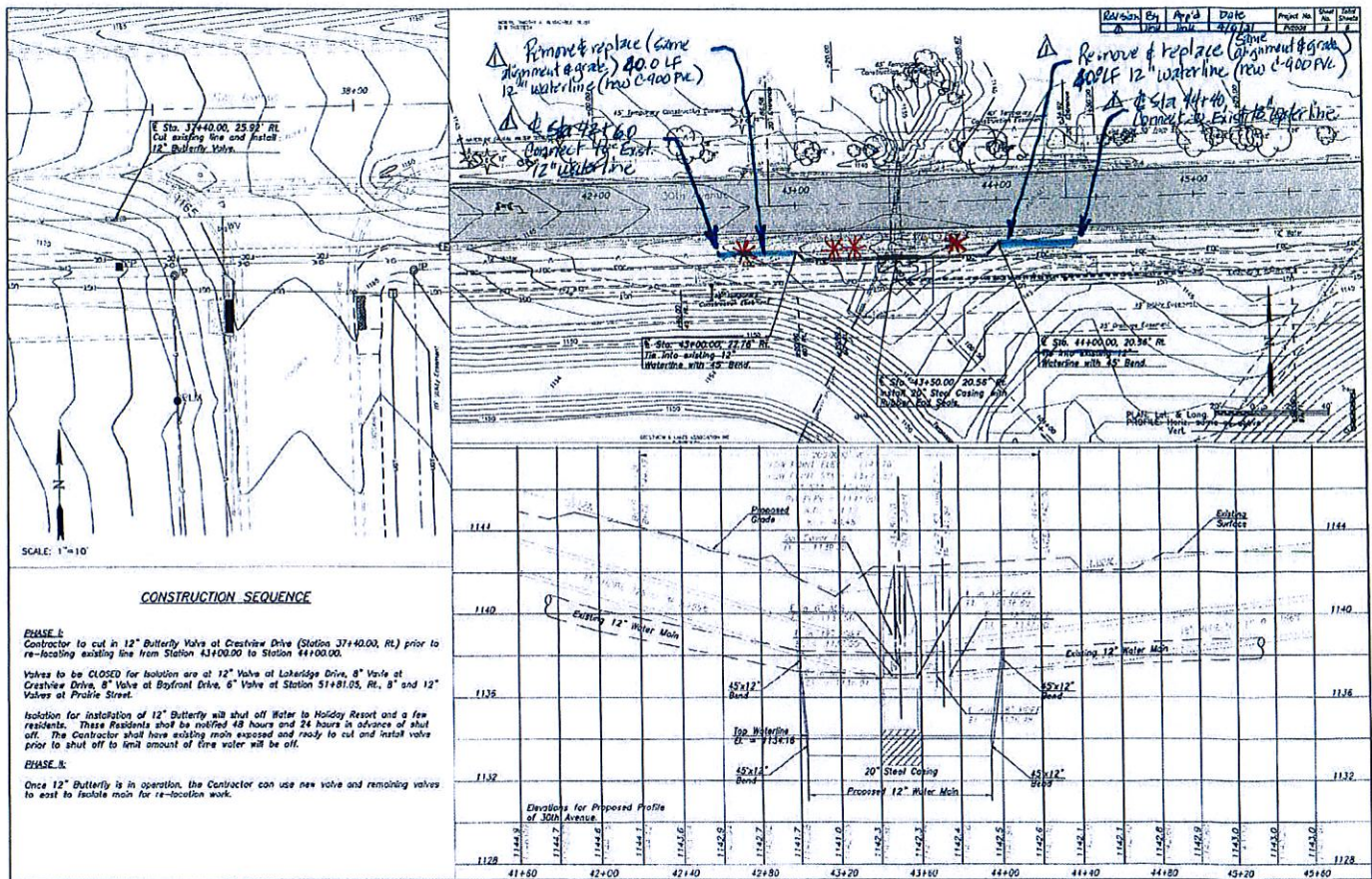
Please see attached Change Proposal No. 2:

We propose to add 20.0 LF of 12" waterline (C900 PVC) pipe each direction as shown on the waterline sheet 2 of 5. See attached plan and profile and our waterline break history map.

Our intent is to have new waterline within the area that we have a documented history of recent line breaks and get new waterline out from under the proposed concrete path.

The City can provide 4 – 20 ft sticks of 12" c900 pvc (and a partial stick, about 12 to 14 ft as needed) from public works off the shelf, 2 solid sleeves, mega lugs and glands for transitions connection between the pvc to existing ductile iron.

We propose to increase the quantities constructed of the 12" pvc pipe per unit bid prices and you provide an install price only (city supplies materials) for the transition connection solid sleeve from pvc to ductile iron pipe. The city will expect replacement 12" pvc pipe (80 LF +/-) ordered and delivered to public works department offices/yard from Apac/Victory Excavating.



CHANGE ORDER
For
Change in Plans and Construction

Contract No. PV2006 Change Order No. 3 - Rock Exc.
Description Emporia 30th Ave. Construction Project.
Contractor: APAC-Kansas, Shears Division Address: 302 Peyton Street, Emporia, KS

EXPLANATION OF CHANGES:

Victory Excavating encounter Rock Shale while excavating dirt for the water line. The rock was encountered between STA 43+00 and STA 44+00. Due to its location and the waterline work that was required, rock excavation took extra time, resources, and people to accomplish the task. Estimated quantities are as follows.

-19' long x 4.92' wide x 2.5' Deep = 8.66 CY
-20' long x 5' wide x 4' deep = 14.81 CY
-25' long x 4' wide x 5' deep = 18.52 CY
-45' long x 4' wide x 3.5' deep = 23.33 CY
-10' long x 1' wide x 1' deep = 0.37 CY
TOTAL = 65.69 CY

An extension in the contract time for a total of 5 working day is requested

Contract Revisions

Add or Deduct	Unit Price No.	Item of Work	Contract Qty.	Revised Qty.	Units	Unit Price	Amount (+/-)
Add		Rock Excavation	0	65.69	CY	\$ 195.50	\$ 12,842.40

This is to affirm that I/we have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amount shown above.

TOTAL - INCREASE \$ 12,842.40

Contractor: APAC-Kansas, Shears Division
Signed By Cody Williams
Date 4/29/2021

Recommended:
Engineer _____
Signed By _____
Date _____

APPROVED:
Owner _____
Signed By _____
Date _____

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

- Proclamation Recognizing May 30TH through June 5, 2021 as MUPP “Walk, Run & Bike Days” in Emporia.
-to accept MUPP Board Chair Mark Schondelmaier and Vice-Chair Daphne Mertens.

Citizen Appearance Procedures

Presentations by individuals during “Citizen Appearance” portion of the Commission agenda shall be limited two minutes each. No personal attacks, comments or opinions shall be expressed or made against or about any member of the Commission, Mayor, City Employee, individual group or corporation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____



PROCLAMATION

WHEREAS, From May 30, 2021 through June 5, 2021, Emporia will be the focus of a major international bicycling event; and

WHEREAS, From June 1st through June 5th, Emporia will once again be the host to the Garmin UNBOUND Gravel bike race which is one of North America's premier, annual, ultra-endurance cycling challenges; this year's event will include the rides of 25, 50, 100, 200 & 350 miles and the High School event as well as the open-air, market-style "All Things Gravel" expo; and

WHEREAS, The UNBOUND Gravel rides will bring in nearly 3,000 participants from all 50 states, Puerto Rico, and 38 foreign countries. In addition, more than 10,000 friends, family, fans and supporters will visit our City and provide a large economic impact for the community and surrounding areas; and

WHEREAS, We encourage our community to welcome these guests to our City, as they deserve the recognition for the many countless hours of training they have endured to prepare for this biking event transpiring in these Flint Hills we call home; and

WHEREAS, the Multi-Use Path Planning Board encourages everyone to walk, run or ride a bicycle to work during the week of this event,

NOW THEREFORE, I, Robert F. Gilligan, Mayor for the City of Emporia, Kansas do proclaim that the week of May 30th through June 5th as

WALK, RUN & BIKE WEEK

in Emporia, Kansas. I encourage the residents of Emporia to follow the example of our bicycling visitors and get up, get out and walk, run, or bicycle as exercise leads to a healthy lifestyle and reduces illnesses related to a sedentary life.

On This 19th Day of May 2021

ATTEST:

Robert F. Gilligan, Mayor

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 5

SUBJECT: Consider Ordinance Authorizing Beer Garden for Night in the Wild Event.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The Emporia Friends of the Zoo and Josh Williams with Trolley House Distillery request permission to host a beer garden in connection with the Night in the Wild private fundraising event within the fenced area of the David Traylor Zoo, on June 18, 2021 between the hours of 5:00 p.m. and 8:00 p.m. The applicant will be required to meet City and state requirements for alcohol sales.

The ordinance and a letter from Lisa Keith describing the event are attached.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SALE OF ALCOHOL AT THE DAVID TRAYLOR ZOO IN THE CITY OF EMPORIA FOR THE NIGHT IN THE WILD SPECIAL EVENT JUNE 18, 2021

WHEREAS, the Emporia Friends of the Zoo and Josh Williams with Trolley House Distillery have requested permission to sell alcoholic liquor at the David Traylor Zoo at 75 Soden Road in connection with the Night in the Wild special event;

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

SECTION 1. The Governing Body temporarily authorizes the sale of alcohol at the David Traylor Zoo at 75 Soden Road, with the exact location to be approved by the Chief of Police or designee, in conjunction with the Night in the Wild special event on June 18, 2021, between the hours of 5:00 p.m. to 8:00 p.m., as authorized by the city manager and subject to any other laws or ordinances regulating the possession, sale and/or consumption of alcoholic liquor.

SECTION 2. Sale and consumption shall be allowed within the fenced area of the David Traylor Zoo. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor from inside the fenced area of the David Traylor Zoo.

SECTION 4. Licensees must meet all the requirements for obtaining a temporary license for sale of alcoholic beverages by the city and the state.

SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 19th day of May, 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

Kerry Sull

From: Lisa Keith
Sent: Monday, May 3, 2021 4:13 PM
To: Kerry Sull
Subject: Night in the Wild
Attachments: EFOZ 21 Fund Post Frt.jpg; EFOZ 21 Fund Post Back.jpg

Kerry,

The Emporia Friends of the Zoo are preparing for the first ever event "Night In The Wild" which will be held on Friday, June 18 from 5:00 - 8:00pm at the David Traylor Zoo. This event is a fundraiser that helps support the Zoo's mission of providing an environment that inspires respect and stewardship for the natural world, improves the future for wildlife and provides a recreational opportunity for learning about nature and conservation.

Tickets for the event are \$25/each and sold by board members ahead of the event.

The gates will open at 5pm on event night and we will have a full-time staff member stationed at the entrance gate to ensure no one enters without a ticket or leaves with alcohol.

Event goers are welcome to stroll the Zoo and have a meet and greet with some of our ambassador animals before heading to the East end of the Zoo for the rest of the evenings activities.

The Food, bar, auction and entertainment will be stationed on the East side of Zoo. The event ends at 8pm with checkout shortly thereafter.

Please let me know if you need anything further.

Lisa Keith, Director
David Traylor Zoo of Emporia
75 Soden Road
Emporia, Kansas 66801
620-341-4365
lkeith@emporia-kansas.gov



AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 6

SUBJECT: Consider Approval of Memorandum of Understanding with Bird Rides, Inc.

RECOMMENDATION: Approve Memorandum of Understanding and Authorize Mayor to Sign.

BACKGROUND SUMMARY:

Bird Rides, Inc. has requested a Memorandum of Understanding with the City allowing deployment of electric scooters in Emporia. The MOU includes provisions addressing operations, management, safety, parking, and liability.

Memorandum of Understanding attached.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

Memorandum of Understanding

This Memorandum of Understanding (MOU) between the City of Emporia, Kansas (hereinafter referred to as "City") and Bird Rides, Inc. delineates the agreement of the parties regarding the circumstances under which the City will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until June, 2022 unless terminated as set forth below.

AGREEMENT

- 1) **Scope:** This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within Emporia jurisdictional boundaries by Bird Rides, Inc. No employee, agent, franchisee, or other representative or affiliate of Bird Rides, Inc. shall deploy a Stand-up electric scooter sharing system in the City in violation of this Agreement.
- 2) **Stand-up electric scooters** shall be governed by the rules applying to bicycles and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Stand-up electric scooters who violate these provisions may be fined by Emporia consistent with fines for cyclists.
- 3) **Bird Rides, Inc.** shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices.
- 4) **Hours of operation:** Stand-up electric scooters will be made available to rent from 4 a.m. to midnight (local time) to users 18 years of age or older.
- 5) **Bird Rides, Inc.** shall provide a minimum of 50 vehicles at launch.
- 6) **Safety Education:** Bird Rides, Inc. will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 7) **Parking Management:** The Emporia Police Chief (or designee) shall have the authority to designate Stand-up electric scooter parking areas. Bird Rides, Inc. will direct and incentivize riders to park in City designated areas.
- 8) **Nuisance:** Stand-up electric scooters shall not obstruct any street, alley, sidewalk, or other public way. Stand-up electric scooters shall not be left on private property without consent of the owner or occupier of such property. Any Stand-up electric scooters found to be in violation of this provision may be moved and relocated by City staff or any affected person. Should serious or ongoing nuisance issues occur, Bird Rides, Inc. will work with City staff to prevent future nuisance through directives, incentives, and/or geofencing.
- 7) **Data sharing:** Bird Rides, Inc. will provide data to the City as necessary to assist with monitoring program usage.
- 8) **Indemnification:** Bird Rides, Inc. agrees to indemnify, defend and hold harmless Emporia (and City's employees, agents and affiliates) from and against all actions, damages or claims brought against City arising out of Bird Rides, Inc.'s negligence or willful misconduct, except that Bird Rides, Inc.'s indemnification obligation shall not extend to claims of City's (or City's employees', agents' or affiliates') negligence or willful misconduct. Bird Rides, Inc.'s

indemnification obligations shall survive for a period of two (2) years after expiration of this Agreement. Bird Rides, Inc. shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's negligent construction or maintenance of public infrastructure. Emporia's right to indemnification shall be contingent on City notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Ride, Inc. shall have sole control of any defense; City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Ride, Inc.

9) Insurance: Bird Rides, Inc. shall provide Emporia with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.

10) Notices: All notices and communications to the City from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of Kansas.

Emporia, KS

Bird Rides, Inc.

Signed By:

Signature: _____

Print Name: _____

Title: _____

Signature: _____

Print Name: _____

Title: _____

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 7

SUBJECT: Consider Ordinance Amending City Code Sections 25-93 and 25-94 Pertaining to Bicycles and Electric-Assisted Scooters.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The ordinance proposal amends City Code to allow bicycles and electric-assisted scooters to operate and park on sidewalks in the central business district. Bicycles may already operate on sidewalks in other sections of town. Operating any wheeled device in a reckless manner, or without due care for the safety of others, or to otherwise endanger or interfere with pedestrian traffic while riding a wheeled device on the sidewalks will remain unlawful.

A separate City Code Section, 24-1 makes it illegal for any person to cause, create or maintain any obstruction on any street, alley, sidewalk or other public way.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO 21-__

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO BICYCLES; AMENDING SECTION 25-93 AND 25-94 OF THE CODE OF THE CITY OF EMPORIA, KANSAS.

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

Section 1. That Section 25-93 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 25-93. Parking:

(a) Bicycles and electric-assisted scooters shall not be parked on public streets in such a manner as to interfere with the normal operation of motor vehicles.

(b) Bicycles may be parked in approved racks upon the public streets or sidewalks, but only after said racks and their location are approved by the chief of police. Any person who places or permits a bicycle rack upon any street or sidewalk without first securing the approval of the chief of police shall be in violation of this article. The chief of police may designate such public areas in which bicycles can be parked. (1962 Code §§ 21-504, 21-505; Ord. 21-__ §1, 5-19-21)”

Section 1. That Section 25-94 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 25-94. Riding On Sidewalks; Skateboards:

(a) No person shall roller skate or ride a skateboard, upon any sidewalk in the central business district, provided, however, that this section shall not apply to a law enforcement officer engaged in the performance of his or her official duties.

(b) It is unlawful within the city for any person upon a skateboard, scooter, or other similar wheeled device, with the exception of electric-assisted scooters:

(1) To go upon any street or highway in the city except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

(2) To go upon any property, whether publicly or privately owned, within the central business district.

(3) To go upon any city owned parking lot or grounds, other than a designated skateboard park.

(4) To go upon any other parking lot or property within the city when such property is clearly and visibly marked by a sign or signs indicating that skateboard, scooter or other similar wheeled

device use is prohibited therein. Such signs shall have lettering of at least one and one-half inches (1 1/2") high and one-half inch (1/2") wide. When such signs are present upon privately owned property, the police department shall be authorized thereby to enforce the provisions of this section.

(c) It is unlawful within the city for any person to coast, ride, or otherwise move upon a skateboard, scooter, bicycle, electric-assisted scooter, or other similar wheeled device in a reckless manner on any public sidewalk within the city, or without exercising due care for the safety of others using the sidewalks, or to otherwise endanger or interfere with pedestrian traffic.

(d) Violation of any of the provisions of this section is punishable by a fine of up to one hundred dollars (\$100.00) and up to forty (40) hours of community service.

(e) In addition to any other penalty imposed, any skateboard, scooter or other similar wheeled device may be seized by the police department in connection with said violation and may be released to the owner upon the payment of a twenty five dollar (\$25.00) impoundment fee. (1962 Code § 21-506; Ord. 89-4, § 1, 2-1-1989; Ord. 94-54, § 1, 12-21-1994; Ord. 01-39, § 1, 10-17-2001; Ord. 21-____ §2, 5-19-21)"

Section 3. That Sections 25-93 and 25-94 of the Code of the City of Emporia, Kansas as they existed prior to the adoption of this ordinance are hereby repealed.

Section 4. This ordinance shall take effect upon its publication in the official City newspaper.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, KS as an amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 19th day of May, 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 8

SUBJECT: Consider Ordinance Amending City Code Section 25-21 to Adopt Section 135.1 of 45th Edition of the Standard Traffic Ordinances for Kansas Cities.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The League of Kansas Municipalities publishes the Standard Traffic Ordinances for Kansas Cities incorporating the most recent legislative changes which affect City ordinances. The City adopted the 45th Edition in 2019 and deleted Section 135.1 pertaining to traffic law application for electric-assisted scooters. The proposed ordinance amends City Code Sec. 25-21 to include the electric-assisted scooter provisions. All other City amendments to the 45th Edition of the Standard Traffic Ordinances remain the same.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. 21__

AN ORDINANCE ADOPTING THE STANDARD TRAFFIC ORDINANCE AND AMENDMENTS THERETO, AMENDING SECTION 25-21 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE.

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

Section 1. That Section 25-21 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Section 25-21. Adopted; Amendments and Deletions:

(a) *Adopted:* There is hereby incorporated by reference, for the purpose of regulating traffic within the corporate limits of the City, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", 47th Edition, 2019, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Section 25-21 of the Code of the City of Emporia, Kansas", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and to which shall be attached a copy of this Ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

(b) *Amendments and Deletions:* The Standard Traffic Ordinance for Kansas Cities, 47th Edition, 2019, is hereby amended in the following respects:

(1) Section 2 shall be amended by the addition of subparagraph (c) as follows:

“(c) Articles 7, 8, 9, 10, 11, 13 and 14 of The Standard Traffic Ordinance for Kansas Cities, 46st Edition, 2018, shall be applied to private drives, private parking areas and private streets within the corporate limits of the City of Emporia, Kansas, only if requested in writing by the owner of the property and authorized by the Governing Body with appropriate signage stating, ‘THE TRAFFIC ORDINANCES OF THE CITY OF EMPORIA, KANSAS, AS AMENDED, ARE ENFORCED UPON THIS PROPERTY PURSUANT TO CITY CODE SEC. 25-21’.”

(2) Sections 30.4 and 105 are hereby deleted.

(3) Section 85(b)(1) is amended to read as follows:

"(1) In front of or within five (5) feet of a public or private driveway."

- (4) Section 85(c) is amended by adding new subparagraph (3) to read as follows:

"(3) At any place where the curb has been painted yellow."

- (5) Section 88 is amended by adding new subparagraph (c) to read as follows:

"(c) Advertising or promoting the sale of merchandise, wares or goods, the selection of any public official, or any public or private event."

- (6) Section 126 is hereby deleted.

- (7) Section 103 is amended to read as follows:

"No person, except an authorized emergency vehicle operated by Emporia Fire Department, shall operate any motor vehicle on the streets, alleys, or roadways of the City while wearing headphones which in any way interfere with hearing of traffic noise or warning devices or signals."

- (8) Section 114.2 is amended by adding the following subparagraph:

"(d) Micro utility trucks may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. No micro utility truck shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated. Every person operating a micro utility truck on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a micro utility truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect."

- (9) Section 114.4 is amended by adding the following subparagraph:

“(d) A golf cart may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. Every person operating a golf cart on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a golf cart on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver’s license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.”

- (10) Section 114.5 is amended by adding the following subparagraph:

“(e) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. No work-site utility vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated. Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver’s license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.”

Section 2. PENALTY FOR SCHEDULED FINES.

- (a) It is unlawful for any person to violate any of the provisions of this ordinance.
- (b) The judge of the Municipal Court shall in the manner prescribed by K.S.A. 12-4305 and Article 20 of the Standard Traffic Ordinance for Kansas Cities establish a schedule of fines for violation of any section of this ordinance classified as an ordinance traffic infraction. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.

Section 3. That Section 25-21 of the Code of the City of Emporia, Kansas as it existed prior to the adoption of this ordinance is hereby repealed.

Section 4. This ordinance shall take effect upon its publication in the official City newspaper.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, KS as an addition or amendment thereto and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 19th day of May, 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 9

SUBJECT: Consider a resolution indicating the intent of the Governing Body of Emporia, Kansas to issue Taxable Industrial Revenue Bonds in an approximate amount of \$6,300,000.00 for the purpose of purchasing , acquiring, constructing, furnishing and equipping two 24-unit residential apartment buildings and related space in Emporia, Kansas.

RECOMMENDATION: Approve the Resolution.

BACKGROUND SUMMARY:

Gabe Woodman, Woodco, Inc., requested the city issue Industrial Revenue Bonds for his housing project in Emporia, Kansas at a recent study session. The project entails the construction of two 24-unit residential apartment buildings located at 1300 Whitter Place Lane at an estimated cost of \$6,300,000.00. The adoption of the resolution and the issuance of Industrial Revenue Bonds will allow the developer to receive a sales tax exemption on the purchase of construction materials. Mr. Woodman requested the Industrial Revenue Bonds in order to deal with the recent sharp hike in construction materials. The developer will be responsible for all expenses associated with the issuance of the Industrial Revenue Bonds and the city will have no liability for the repayment of the Industrial Revenue Bonds. A copy of the resolution is attached.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

RESOLUTION NO. ____

OF

THE
GOVERNING BODY OF
THE CITY OF EMPORIA, KANSAS

RELATING TO THE INTENT TO ISSUE
TAXABLE INDUSTRIAL REVENUE BONDS

(WHITTIER PLACE II, L.P AND WHITTIER PLACE II MR, LLC)

RESOLUTION NO. _____

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 \$6,300,000 FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING TWO 24- UNIT 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 II, L.P., a Kansas limited partnership and Whittier Place II 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 1300 Whittier Place Lane in the City, at an estimated cost of \$6,300,000 (, 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 approximate principal amount of \$6,300,000 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.

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 May 19, 2021 at 7:00 p.m., with Mayor Gilligan 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 \$6,300,000 FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING TWO 24- UNIT RESIDENTIAL APARTMENT BUILDINGS AND RELATED SPACE ALL LOCATED IN THE CITY OF EMPORIA, KANSAS.

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

The Resolution was assigned No. ____.

[Remainder of Page Intentionally Left Blank]

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify the foregoing is a true and correct Excerpt of Minutes of the May 19, 2021 meeting of the governing body of the City of Emporia, Kansas.

[Seal]

By _____
Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 10

SUBJECT: Conduct a Public Hearing regarding Tax Exemption related to Issuance of Industrial Revenue Bonds by the City of Emporia for the Citizens National Plaza & Lofts and Preston Plaza & Lofts project.

RECOMMENDATION: Conduct the Public Hearing.

BACKGROUND SUMMARY:

In accordance with Kansas Statutes, the City of Emporia is required to give public notice and conduct a public hearing in conjunction with the granting of a tax exemption related to the issuance of Industrial Revenue Bonds. The public notices have been sent to the other governmental agencies and a notice has been published in *The Emporia Gazette*.

A copy of the Public Notices is attached for your review.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AFFIDAVIT OF PUBLICATION

The Emporia Gazette
517 Merchant St.
(620) 342-4800

I, Bettina Shank, of lawful age, being duly sworn upon oath, deposes and says that I am the Operations Manager of The Emporia Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Emporia, for the County of Lyon, in the state of Kansas, that this affidavit is Page 1 of 2 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:

May. 11, 2021

Notice ID: MdN0tnRA0BLs1F0a8u9D

Notice Name: Notice of Public Hearing Haag Properties

PUBLICATION FEE: \$80.65


Operations Manager

VERIFICATION

STATE OF KANSAS
COUNTY OF LYON



LISA M. STUEVE
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 4-10-2023

Signed or attested before me on this

11th day of May, A.D. 2021.


Notary Public

(First Published in the Emporia Gazette
on May 11, 2021).

**NOTICE OF PUBLIC HEARING FOR
ISSUANCE OF INDUSTRIAL REVENUE
BONDS AND GRANTING AN AD
VALOREM TAX ABATEMENT**

In accordance with K.S.A. 12-1749d, as amended, public notice is given that the governing body of the City of Emporia, Kansas (the "City") will conduct a public hearing in connection with the granting of a tax exemption related to the proposed issuance by the City of Emporia, Kansas of its Industrial Revenue Bonds, in one or more series, in an aggregate principal amount of \$6,972,727.08. The public hearing will be on Wednesday, May 19, 2021, at 7:00 p.m., or as soon thereafter as possible, in the City Commission meeting room at City Hall, 522 Mechanic, Emporia, Kansas 66801. The Bonds are proposed to be issued by the City, in multiple series, in a total estimated amount of \$6,972,727.08 to finance the costs of purchasing, acquiring, constructing, furnishing and equipping (1) an existing 3-story building at 529 Commercial Street (the former Citizens National Bank building) to be redeveloped as a mixed use building with twenty (20) residential units plus one to three (1-3) commercial suites, to be known as Citizens National Plaza & Lofts, and at an estimated cost of \$3,916,352.50 (the "Citizens National Project"); and (2) a new 3-story mixed use building at 528 Merchant Street, with twenty-two (22) residential units and one to three (1-3) commercial suites, to be known as Preston Plaza & Lofts, at an estimated cost of \$3,056,374.58 (the "Preston Plaza Project").

The Bonds, which will make the Citizens National Project and Preston Plaza Project eligible for an accompanying ad valorem property tax exemption, are proposed to be issued under authority of K.S.A. 12-1740 to 12-1749d, as amended. The Citizens National Project is located at 529 Commercial Street, Emporia, Kansas and will be leased to Citizens National Plaza and Lofts, LLC, a Kansas limited liability company. The Preston Plaza Project is located at 528 Merchant Street, Emporia, Kansas, and will be leased to Preston Plaza & Lofts, LLC, a Kansas limited liability company. A copy of this notice and the resolution of intent relating to the proposed financing is on file in the office of the City Clerk and is available for public inspection during normal business hours.

In the event the Bonds are not issued for any reason, the City of Emporia, Kansas, shall not be deemed to have assumed or incurred any liability or obligation to Citizens National Plaza and Lofts, LLC, Preston Plaza & Lofts, LLC, or any other party by virtue of any proceedings or actions taken in connection with such Bonds.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place stated above.

The governing body of the City will not take action authorizing the issuance of such Bonds or approving the accompanying tax abatement until the passage of seven (7) days from the date this Notice is published in the official city newspaper of the City of Emporia, Kansas, and until the public hearing is concluded.

CITY OF EMPORIA, KANSAS
By: /s/ Keny Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 11

SUBJECT: Consider approval of Resolution authorizing the Governing Body of the City of Emporia, Kansas to exempt certain property acquired with the proceeds of Industrial Revenue Bonds for the Citizens National Plaza & Lofts and Preston Plaza & Lofts Project.

RECOMMENDATION: Approve Resolution.

BACKGROUND SUMMARY:

The Emporia City Commission previously adopted Resolution No. 3617 on January 16, 2019 indicating its intent to issue Industrial Revenue Bonds in the approximate amount of \$6,500,000.00 for the Citizens National Plaza & Lofts and Preston Plaza & Lofts Project. Project costs have exceeded estimates. The proposed resolution amends Resolution No. 3617 increasing the approximate principal bond amount to \$6,972,727.08 and authorizes the approval of items purchased with the Industrial Revenue Bonds to be tax exempt for up to ten years.

A copy of the Resolution is attached for your review.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

RESOLUTION NO. _____

OF THE

GOVERNING BODY

OF THE

CITY OF EMPORIA, KANSAS

RELATING TO AD VALOREM PROPERTY TAX ABATEMENT
IN CONNECTION WITH NOT TO EXCEED

\$6,972,727.08

TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2021
(CITIZENS NATIONAL PLAZA & LOFTS, LLC
AND PRESTON PLAZA & LOFTS, LLC)

RESOLUTION NO. ____

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS APPROVING AN AD VALOREM PROPERTY TAX EXEMPTION FOR PROPERTY ACQUIRED WITH THE PROCEEDS OF CERTAIN INDUSTRIAL REVENUE BONDS AND AMENDING RESOLUTION NO. 3617 OF THE CITY.

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 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”), and all acts amending or supplementing the same, the City is authorized to issue revenue bonds of the City; and

WHEREAS, pursuant to Resolution No. 3617 of the City adopted on January 16, 2019, the City indicated its preliminary intent to issue certain Industrial Revenue Bonds in an aggregate estimated principal amount of \$6,500,000 with such bonds to be issued pursuant to the Act to finance costs incurred in connection with purchasing, acquiring, constructing, reconstructing, furnishing and equipping (1) an existing 5 – story building at 529 Commercial Street (the former Citizens National Bank building) to be redeveloped as a mixed use building with twenty (20) residential units plus one to three (1-3) commercial suites, to be known as Citizens National Plaza & Lofts, and at an estimated cost of \$3,625,000 (the “Citizens National Project”), and (2) a new 3-story mixed use building with twenty-two (22) residential units and one to three (1-3) commercial suites to be known as Preston Plaza & Lofts, located at 528 Merchant Street and at an estimated cost of \$2,875,000 (the “Preston Plaza Project”); and,

WHEREAS, the City’s interest in the Citizens National Project will be leased to Citizens National Plaza LLC (the “Citizens National Tenant”) and the City’s interest in the Preston Plaza Project will be lease to Preston Plaza & Lots, LLC (the “Preston Plaza Tenant”) under terms of separate Lease Agreement or agreements entered into in connection with issuing the Bonds (the “Lease”); and

WHEREAS, since the adoption of Resolution No. 3617, Project costs have exceeded the estimated amount stated therein and the City finds it necessary to amend Resolution No. 3617 to provide the estimated total principal amount of the Bonds to be issued (in several series) for the Citizens National Project and the Preston Plaza Project (collectively, the “Project”) is \$6,972,727.08; and

WHEREAS, the City has caused a notice of its consideration of the issuance of the Bonds and the accompanying ad valorem property tax abatement on the Project to be published in the official City newspaper at least seven days prior to the date of this Resolution and has notified Lyon County, Kansas and Unified School District No. 253 in writing of its intent to consider the ad valorem tax abatement, as required by statute; and

WHEREAS, the City has caused a cost benefit analysis to be prepared in connection with its consideration of ad valorem property tax abatement on the Project, which cost benefit analysis includes an analysis of the effect on state revenues; and

WHEREAS, the City conducted a public hearing on the ad valorem property tax exemption, and all persons present were given an opportunity to be heard; and

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

Section 1. Amendment of Resolution No. 3617. The costs of the Citizens National Project to be acquired with proceeds of Bonds is \$3,916,352.50, and the costs of the Preston Plaza Project to be acquired with proceeds of Bonds is \$3,056,374.48. Section 1 of Resolution No. 3617 adopted by the governing body of the City on January 16, 2019, is thus amended by replacing said Section 1 with the following Section 1:

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 through the promotion and advancement of commercial development of the City and the City intends and is authorized to finance the Project and issue the Bonds in the approximate principal amount of \$6,972,727.08 to further the public purposes of the Act.

SECTION 2. Tax Exemption. The City intends that the Project acquired with the proceeds of the Bonds be 100% exempted from ad valorem property taxation for a ten-year period commencing the year after in which the Bonds are issued in accordance with Kansas law; provided proper application is made to and such exemption is ultimately granted by the Kansas Board of Tax Appeals, or other administrative body then having jurisdiction over such matters.

Section 3. Special Assessments. Any special assessment levied against the real property portion of the Project, if any, shall not abate and shall continue to be the obligation of the Tenant, payable in the manner provided by law.

Section 4. Approval of Exemption. This Resolution is conditioned on the issuance by the Board of Tax Appeals of the State of Kansas of an order exempting the Project from *ad valorem* taxation in accordance with Kansas law, including particularly K.S.A. 79-201a *Second* or K.S.A. 79-201a *Twenty-Fourth*.

Section 5. Other Actions Required. The Mayor and City Clerk are authorized and directed to take all such other actions not inconsistent with this Resolution as necessary or desirable to accomplish the purposes contemplated by this Resolution.

Section 6. Effective Date. This Resolution shall become effective upon its approval and passage by the governing body of the City of Emporia, Kansas.

PASSED AND APPROVED by the governing body of the City of Emporia, Kansas on May 19, 2021.

CITY OF EMPORIA, KANSAS

[Seal]

By _____
Robert F. Gilligan, 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 May 19, 2020 at 1:30 p.m., with Mayor Robert F. Gilligan presiding, and the following members of the governing body present:

and the following members absent:

Among other business, in accordance with a notice published on May 11, 2021 in the *Emporia Gazette*, and a notice to the County Clerk of Lyon County, Kansas and the Clerk of the Board of Education of Unified School District No. 253 mailed via certified mail, return receipt requested on May 11, 2021, a public hearing was convened by the governing body relating to the granting of a tax exemption for property financed and relating to the issuance by the City of Emporia, Kansas of its Industrial Revenue Bonds in the principal amount of not to exceed \$6,972,727.08 (the "Bonds") for the purpose of financing costs incurred in connection with purchasing, acquiring, constructing, furnishing and equipping (1) an existing 5 – story building at 529 Commercial Street (the former Citizens National Bank building) to be redeveloped as a mixed use building with twenty (20) residential units plus one to three (1-3) commercial suites, to be known as Citizens National Plaza & Lofts, and at an estimated cost of \$3,916,352.50, and (2) a new 3-story mixed use building with twenty-two (22) residential units and one to three (1-3) commercial suites to be known as Preston Plaza & Lofts, located at 528 Commercial Street and at an estimated cost of \$3,056,374.58 (collectively, the "Project").

All interested persons were given an opportunity to present their views on the Project and the granting of the tax exemption. After the public hearing and presentation of the required Cost Benefit Analysis dated May __, 2021, which included an analysis of the proposed effect on state revenues with respect to the granting of an ad valorem property tax exemption for the Project, the public hearing was closed.

A resolution was presented entitled:

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS APPROVING AN AD VALOREM PROPERTY TAX EXEMPTION FOR PROPERTY ACQUIRED WITH THE PROCEEDS OF CERTAIN INDUSTRIAL REVENUE BONDS AND AMENDING RESOLUTION NO. 3617 OF THE CITY.

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 and assigned No. _____.

CITY CLERK'S

CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the May 19, 2020 meeting of the governing body of the City of Emporia, Kansas.

[Seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 12

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity 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.

Tentative Agenda for May 26th Study Session at 10:00 a.m.

- Discuss Revenue Neutral Rate.
- CIP Review.
- Discuss Water Tap Fees.
- Discuss w/Commission Budget.
- Discuss Agreement with Animal Shelter.
- Discuss Becker Addition.
- Discuss REG ICA Termination.
- Wage Scale Discussion.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: May 19, 2021

ITEM NUMBER: 13

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commission request 10 minutes for an Executive Session to discuss proprietary information of a business within the City limits of Emporia, and to invite Special Projects Coordinator Jim Witt.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

COMMISSION MEETING

1:30 P.M.

MAY 5, 2021

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, May 5, 2021, in the City Commission Meeting Room with Mayor Gilligan presiding and Commissioners Brinkman, Giefer, and Smith present. Commissioner Geitz was absent. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

Consent Agenda

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

- a. Consider minutes of the Regular Meeting held on April 21, 2021 and the Adjourned Meeting on April 28, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on April 23, 2021.

The vote follows: Commissioner Giefer , aye; Commissioner Smith, aye; Commissioner Brinkman, aye; and Mayor Gilligan, aye.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments. No comments were made at this time.

Ed Owens, Chief of Police and Sgt. Lisa Hayes representing the Emporia Police Department, were in attendance to accept a proclamation declaring the week of May 9 through 15, 2021 as "National Police Week" in Emporia. They stated every day our Nation's dedicated law enforcement officers put themselves at risk to keep their fellow Americans safe. Law enforcement officers deserve our appreciation for the work they do, and citizens fulfill an important civic responsibility to supporting their work to protect our communities. They stated on Peace Officers Memorial Day and during Police Week, we honor the heroism of all our law enforcement officers, especially those who have given their lives so that others might live. By joint resolution of the US Congress in 1962, the President of the United States designated May 15th of each year as "Peace Officer Memorial Day" and the week in which it falls as "Police Week" and also directed the

flag be flown at half-staff on Peace Officers Memorial Day on May 15th of each year. They urged everyone to remember those throughout our Nation who lost their lives while protecting others.

Mayor Gilligan then presented the proclamation.

Mayor Gilligan accepted a proclamation declaring the month of May 2021 as "Community Action Month" in Emporia. He stated Community Action has made essential contributions to individuals and families in the City of Emporia by providing them with innovative and cost-effective programs such as emergency rent and utility assistance, transportation assistance, food vouchers, savings, dental and Community Action Agencies are needed as major participants in the reform of the welfare systems as we know it. He stated the poverty rate in Emporia is 20.5% and Kansas must continue to wage war on poverty by providing support and opportunities for all citizens in need of assistance. He urged all citizens to recognize the hard work and dedication of Kansas Community Action Agencies.

**CITY COMMISSION
(Board Appointment)**

Community Housing Board/Land Bank:

It was moved by Commissioner Giefer, seconded by Commissioner Brinkman that Matthew Lowery be reappointed to the Community Housing Board/Land Bank for a term that expires May 31, 2024. The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

**CITY COMMISSION
(Request of Emporia State Federal Credit Union)
(Appeal State of Kansas Historic Preservation Office - SHPO)
(Property Located at 727 Merchant Street)
(Public Hearing)**

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request of Emporia State Federal

Credit Union to appeal the State of Kansas Historic Preservation Office (SHPO) findings regarding the proposed demolition of the building at 727 Merchant Street. The building is located within the City of Emporia's Downtown Historic District as such any permits issued will be reviewed by the SHPO. The SHPO office recommends not destroying the historic contributing building. He stated if the Commission overrides SHPO's recommendation, then the applicant will be issued the demolition permit for the building.

Mayor Gilligan then declared the public hearing open.

Angie Miller, President of Emporia State Federal Credit Union, was recognized and addressed the Governing. She stated ESFC purchased the building located at 715 Merchant and this property is adjacent to building. The additional space will allow the bank to expand its services in the future. She reviewed information from Ben Moore Studio, who provided a proforma analysis of 727 Merchant. Ben Moore found the existing condition of the building would require a remodel budget of \$318,000.00. It was found that the project was not feasible to rehabilitate.

As no one else in attendance wished to address the Governing Body. Mayor Gilligan then declared the public hearing close.

Commissioner Smith made a motion to override SHPO's recommendation as there are no other feasible and prudent alternatives for the building at 727 Merchant. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; and Mayor Gilligan, aye.

SOLID WASTE
(Equipment Purchase - Flatbed Pickup Truck)
(Bids)

Tim Frevert, Purchasing Agent, was recognized and addressed the Governing Body. He stated bids were received for one new flatbed pickup for Solid Waste. The new 1-ton regular cab, 2X4, cab and chassis with flatbed will be used in the Solid Waste Collections. The truck being replaced is a 2012, 1-ton Chevy with over 100,000 miles on it. The bids are as follows:

BID TABULATION

Vendor	Year	Model	Cost
John North Ford	2022	F-350	\$34,977.68
Clint Bowyer Autoplex	2021	Ram 3500	\$39,843.00
Longbine Auto Plaza	GM is not producing fleet units for year		

He stated the budgeted amount if \$40,000.00 for the new unit. Staff will be transferring some unit within departments to best utilize our fleet. The least valuable unit will be sold on Purple Wave at a late date. He stated staff is recommending the purchase of one new 2022 Ford F-350 with flatbed to John North Ford in the amount of \$34,977.68.

Commissioner Giefer made a motion to award one 2022 Ford F-350 with flatbed to John North Ford for \$34,977.68 for the Solid Waste Department. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

PAVING

(2021 Street Rehabilitation Project No. PV2102) (South Exchange Street Project No. PV2009) (Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the 2021 Street Rehabilitation Project No. PV2102 and South Exchange Street Project PV2009. The City had three bidders out of three plan holders. The following are the bids and Engineer's estimate.

BID TABULATION FOR 2021 STREET REHABILITATION PROJECT

Contractor	Base Bid	Add Alternate Bid	Total
APAC-Kansas Inc. Shears Div.	\$726,075.82	\$51,457.96	\$ 777,533.78
Killough Construction	\$752,695.57	\$57,791.92	\$ 810,487.49
Bettis Asphalt	\$976,617.28	\$90,576.78	\$1,067,194.06
Engineer's Estimate	\$679,223.89	\$45,245.90	\$ 724,469.79

He stated the total budgeted amount for this project is \$785,000.00. The project is funded out of the Multi-Year Fund. He stated staff is

recommending awarding the project to APAC-Kansas Inc., Shears Division for the base bid of \$729,075.82 and add alternate bid of \$51,457.96, for a total bid price of \$777,533.78. APAC has completed past street rehabilitation projects and staff have been pleased with the quality of work and professionalism.

Commissioner Smith made a motion awarding the bid for the 2021 Street Rehabilitation Project No. PV2102 and South Exchange Street Project No. PV2009 to APAC-Kansas, Inc. Shears Division in the base bid amount of \$726,075.82 with add alternate bid of \$51,457.96, for a total bid amount of \$777,533.78. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; and Mayor Gilligan, aye.

WATER SERVICE
(Consider Increase of Water Tap Fees)
(Ordinance Number 21-18)

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO MUNICIPAL WATER WORKS; AMENDING SECTION 28-18, 28-20, 28-21, AND 28-22 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, to which the City Clerk assigned ordinance Number 21-18, was presented to the Governing Body for their consideration.

Janet Harrouff, Director of Administrative Services, was recognized and addressed the Governing Body. She stated the City has charged the same amount to tap a water or sewer main for at least 12 years. Staff has calculated the current costs of the items provided and needed when a tap is performed. She stated she reviewed other cities charges for same type of service and found charges range from \$340 to \$3,400. This proposed ordinance would increase the City's charge for a tap as follows:

\$1,100.00 for a 5/8" meter by tapping a main with a 1" tap.

\$1,150.00 for a 3/4" meter by tapping a main with a 1" tap.

\$1,200.00 for a 1" meter by tapping a main with a 1" tap.

\$1,000.00 plus actual cost of material and labor for any meter larger than 1" by tapping a main with a tap larger than 1".

She stated she was recommending increasing fees of water taps.

Commissioner Giefer stated this has been discussed over the past years

when the commission first started talking about increases and this will help defray some of the increases to individual water rates.

Commissioner Smith made a motion to approve Ordinance Number 21-18, an ordinance pertaining to water tap fees. Commissioner Brinkman seconded the motion.

Mayor Gilligan made an alternate motion to increase the fees to \$300.00 for a 5/8"; \$350.00 for 3/4"; \$400.00 for 1"; and \$300.00 plus actual cost of material and labor for any meter larger than 1". He stated it was a service that the City provides to the community the same way other utilities are provided to the community. He stated the tap and meter is property that belongs to the city and the city does not allow the customer to access, remove or tamper with tap or the meter. When a customers meter needs to be replaced the city replaces the meter free of charge to the customer due to fact that meter belongs to the city. The fees are not so far out of line that it is causing the city to have budget concerns. He stated the alternate motion with lower fees as stated.

Commissioner Brinkman questioned the fee of \$300.00 compared to \$1,100.00.

Mayor Gilligan stated staff had provided that information as the actual operational cost of labor verses the equipment and tools used.

Janet Harrouff verified the labor costs were \$300.00 and materials and equipment use costs were \$800.00.

Following further discussion, the motion made by Mayor Gilligan did not receive a second and therefore the alternate motion died.

Mayor Gilligan then stated there was a call for the vote to approve Ordinance Number 21-18 with fees stated at \$1,100.00 and up based on the size of the meter. Mayor Gilligan asked City Attorney when the ordinance would go into effect.

City Attorney Montgomery stated the ordinance would take effect upon publication of ordinance, however this date can be changed.

Commissioner Smith amended the motion for the effective ordinance date be changed to July 1, 2021.

The call for the vote was Commissioner Smith, aye; Commissioner Brinkman, nay; Commissioner Giefer, aye; and Mayor Gilligan, nay. Motion

fails.

Mayor Gilligan requested this item be on a future study session for more discussion.

JONES AQUATIC COMPLEX
(Agreement b/w City of Emporia & Emporia Recreation Commission)
(2021 Season)

City Manager McAnarney stated the Emporia Recreation Commission has operated the Jones Aquatics Complex for the City of Emporia for many years. The agreement for the 2021 season is substantially similar to previous years. The ERC will be responsible for daily operations and staffing. The City will pay for utilities and major repairs. At the end of the season, the City will pay for any deficit in Jones Aquatic Complex operating expenses up to \$47,000.00. He stated this year may be flexible with possible adjustments to help the pool work if needed. He stated staff is recommending approval the agreement with the Emporia Recreation Commission to operate the Jones Aquatic Complex for the 2021 season.

Commissioner Smith made a motion to approve the agreement with the Emporia Recreation Commission to operate the Jones Aquatic Complex for the 2021 season. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(City Manager's Report)

This is a verbal report that announces upcoming events, recognized employees for outstanding contributions and provides the public information that may be of a general interest. The following information was presented at the meeting.

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

TENTATIVE AGENDA FOR MAY 12TH STUDY SESSION @ 9:30 A.M.

Electric Scooters.
Discuss REG ICA Termination.
Sewer System Connection Policy.
Continued Discussion for City of Emporia Stormwater Management Plan.
Wage Scale Discussion.
Discuss Revenue Neutral Rate.
Discuss Credit Card Convenience Fee.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session for preliminary discussion of the acquisition of real property and to invite City Engineer, Jim Ubert, from 2:10 p.m. to 2:25 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Giefer, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Regular Session, at 2:25 p.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they had preliminary discussion of the acquisition of real property and no action was taken.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session for the discussion of non-elected personnel Mark McAnarney from 2:25 p.m. to 2:35 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Giefer, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Regular Session, at 2:35 p.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they had discussed non-elected personnel and no action was taken.

It was the consensus of the Commission to move the Study Session scheduled for May 12, 2021 to May 19, 2021, at 5:30 p.m.