

COMMISSION MEETING

10:30 A.M.

NOVEMBER 16, 2022

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, November 16, 2022, with Mayor Smith presiding and Commissioners Brinkman, Giefer, and Sauder present. Also present were City Manager Cocking, City Clerk Sull and City Attorney Montgomery. Commissioner Harter arrived at 10:33 a.m.

**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. Hate speech, profanity, and defamation are not allowed. Please stated your name and address prior to making comments.

Ann Bowman, 909 Pheasant Ridge, addressed the Governing Body with concerns about the need of an Animal Control Officer and asked if the public could be notified when high speed traffic was within the City.

**INDUSTRIAL REVENUE BONDS
(Fairview Hotels, LLC)
(Fairfield Inn and Conference Center)
(Public Hearing)**

Jim Witt, Special Projects Manager, was recognized and addressed the Governing Body. He stated this is the first step in the issuance of Industrial Revenue Bonds for the construction of a Fairfield Inn and Conference Center at 3010 Eaglecrest Drive. A public hearing is a requirement of Kansas Statutes 12-1740, et seq. He stated the City has authority to issue IRB's limited by Kansas Statutes. Besides traditional industrial projects, eligible uses include multifamily development and hotels and motels with or without conference centers. The IRB's were part of a package of incentives derived to accommodate the construction of a hotel/conference center. He stated the developer is responsible for all legal and administrative fees associated with the issuance of the IRB's. A notice of the public hearing was published and letters to other taxing entities were mailed for information regarding the public hearing and issuance of Industrial Revenue Bonds proposed by the City of Emporia. He stated Gilmore and Bell bond attorneys will be representing the City in this process.

Mayor Smith then declared the public hearing opened.

As no one in attendance wished to address the Governing Body, Mayor Smith then declared the public hearing closed.

**INDUSTRIAL REVENUE BONDS
(Fairview Hotels, LLC)
(Fairfield Inn and Conference Center)
(Resolution Number 3683)**

Jim Witt, Special Projects Manager, and Dominic Eck, representing Gilmore & Bell, were in attendance and addressed the Governing Body. He stated the adoption of the proposed resolution is the next step in the issuance of industrial revenue bonds in the amount of \$13,000,000 for the construction of a Fairfield Inn and Conference Center on the site of the old Montana Mike's or 3010 Eaglecrest Drive. The bond-financed property will be eligible for sales tax exemption and property tax exemption for a term of ten years, subject to fulfillment of the conditions of the City's public incentives policy. He stated the City is not liable for the principal or interest on the bonds under Kansas Statutes. He stated staff recommends approval of Resolution Number 3683 regarding the intent to issue Industrial Revenue Bonds for Fairview Hotels, LLC.

Commissioner Brinkman made a motion to approve Resolution Number 3683 regarding the Intent to Issue Industrial Revenue Bonds (IRB's) for Fairview Hotels, LLC. Commissioner Harter seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Prohibiting Camping on Public Property)
(Ordinance No. 22-49)**

AN ORDINANCE AMENDING CHAPTER 17 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, BY CREATING ARTICLE VI UNLAWFUL CAMPING INCLUDING SECTIONS 17-69 THROUGH 17-72 PERTAINING TO THE PROHIBITION OF CAMPING ON PUBLIC PROPERTY WITHOUT A PERMIT, to which the City Clerk assigned

Ordinance Number 22-49, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated staff has requested regulation of camping on public property. The unauthorized use of public areas for camping purposes can constitute a public health and safety hazard which adversely impacts commercial areas and neighborhoods. She stated the proposed ordinance will create a new City Code section prohibiting camping on public property without a permit. It would include streets, sidewalks, alleys, parks, parking lots, easements, or any other property owned or managed by a governmental agency. The proposed ordinance would also delegate authority to the City Manager to establish a program for the issuance of temporary permits to allow camping on public property. She then reviewed the proposed ordinance as follows:

"Unlawful Camping. It is unlawful and a public nuisance for any person or persons to camp in or upon any public property or public right-of-way, unless such person or persons have been granted a temporary permit allowing such activity as set forth in Section 17-71."

"Definitions"

- (a) "To camp" means to set up, or to remain in or at a campsite for the purpose of remaining overnight, or of establishing or maintaining a temporary place to live.
- (b) "Campsite" means any place where any camp paraphernalia is placed, established, set up, used, or maintained, or personal property is kept or stored.
- ©) "Camp Paraphernalia" includes but is not limited to tents, tarpaulins, cots, beds, sleeping bags, hammocks, cooking equipment, stoves, lanterns, tents, huts, lean-tos, shacks, trailer campers, vehicles, or any part thereof, or any other sleeping matter, or any other shelter or structure.
- (d) "Public property" means any publicly owned property, including but not limited to streets, sidewalks, alleys, parks, parking lots, easements improved or unimproved land,

or any property owned or managed by the City or other governmental agency.

- (e) "Public right-of-way" means the entire width of the area from the property line to property line, including all area intended, designed, or used for vehicles or pedestrian traffic and the area between the roadway and the abutting private property line.

She stated temporary camping permits shall be established by the City Manager or the Manager's designee to review and approve a temporary camping, storage permits or campsite that will no way jeopardize public health, safety or welfare. Any person who is convicted of a violation of any provision shall be deemed guilty of a class C misdemeanor.

Commissioner Brinkman stated she had concerns about the language in the proposed ordinance directed to the unhoused members of the community, which, in her opinion, will not offer the help that is needed.

Ed Owens, Police Chief, was recognized and addressed the Governing Body. He reviewed some of the issues with the unhoused population that the Emporia Police Department deal with. He stated he felt the proposed ordinance gives the department a way to address an issue with the unhoused community on public property.

It was the consensus of the Commission for to have further discussion after six (6) months of the passage of this ordinance.

Following further discussion, Commissioner Giefer made a motion to approve Ordinance Number 22-49, an ordinance pertaining to the prohibition of camping on public property with a provision of this ordinance remaining in effect until 11:59 p.m. on May 7, 2023. Commissioner Sauder seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Harter, aye; Mayor Smith, aye; and Commissioner Brinkman, nay.

CITY COMMISSION
(Assignment and Assumption Agreement)
(Emporia Friends of the Zoo and Mitchell-Markowitz Construction)

City Attorney Montgomery was recognized and addressed the Governing Body. She stated Emporia Friends of the Zoo (EFOZ) entered into a construction contract with Mitchell-Markowitz Construction for renovation of and addition to the Zoo Education Center located at 75 Soden Road on May 16, 2022. At that time, EFOZ owned the Zoo Education Center. In August of 2022, EFOZ transferred ownership of the Zoo Education Center to the City of Emporia. She stated the proposed Assignment and Assumption Agreement assigns EFOZ's rights and responsibilities under the Construction Contract to the City of Emporia. The Agreement requires EFOZ to donate funds to the City of Emporia sufficient to fully fund all project costs for the Zoo Education Center renovation and addition, including any costs incurred under supplemental agreements or work change orders. She stated EFOZ and Mitchell-Markowitz Construction agree with the terms of the Assignment and Assumption Agreement. She stated staff is recommending approval of the Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction.

Commissioner Harter stated he would abstain from the vote.

Commissioner Sauder made a motion to approve Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction. Commissioner Giefer seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; and Mayor Smith, aye. Commissioner Harter abstained.

CITY MANAGER'S REPORTS
(Financials & Building Permits)

This is the time for the City Manager to make comments and reports to the public. **The following is general information for the month of October 2022 for the community:**

1. Monthly Local Retail Sales Tax Receipts Update

	2021	2022	Increase of \$2,204.28 for the month, and
	\$420,454.53	\$422,658.81	Overall increase of 11.82% from year 2021
YTD	\$4,483,679.47	\$5,013,564.19	

2. City Share from County Tax

	2021	2022	Increase of \$5,980.18 for the month, and
	\$216,738.30	\$ 222,718.48	Overall increase of 12.29% from year 2021
YTD	\$2,280,456.62	\$2,560,620.40	

3. **Building Permits issued from 10/1/2022 to 10/31/2022 for new construction, remodeling, repairs and demolition.**

Total number of building permits issued through Code Services:	101
Total of valuations associated with those building permits:	\$2,881,157.00
Total number of dollars collected for Building Permit Fees:	\$ 17,374.76
Construct - single family dwellings	0
Demo - single family dwellings	0
Flint Hills Mall CID for October 2022	\$ 12,216.67
Year to Date Total	\$ 188,352.70

Consent Agenda

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

- Approve the minutes of the Regular Meeting held on November 2, 2022.
- Ratification and approval of Payroll Ordinance for the period ending November 4, 2022.
- Approve Change Order No. 1 for Raw Water Intake Site Improvements.
- Approve the Kansas Housing Resources Corporation Emergency Solutions Grant on behalf of S.O.S.
- Approve KDOT CCLIP 6th Avenue and Prairie Street Intersection Improvements Supplemental Agreement No. 1, KDOT Project 50-56 KA-5412-01, Project No. PV1909.

f. Set Bid Date and Time of December 20, 2022 at 2:00 p.m. for Highland Street Improvements.

The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Smith, 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 for the tentative Agendas of the December 7, 2022 meetings.

- Approve RFQ for Elevated Tank Maintenance.

Study Session:

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

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk