

CITY COMMISSION MEETING

November 17, 2021 at 7:00 PM

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

Agenda

Meeting Items

1. Members Present:
2. Report from City Manager on Activities
3. Consent Agenda
4. Public Comment
5. Consider Public hearing for Red Brick Investment Redevelopment TIF District.
6. Consider ORdinance to Establish Red Brick Investment Redevelopment District
7. Consider Approval of an Ordinance & Request to Rezone 1501 E. Logan Ave., 1503 E. Logan Ave., and 1201 S. Weaver St. from Agricultural to Light Industrial Zoning
8. Consider Approving a Contract with BG Consultants for Design Services for Proposed Coronado Stream/Becker Addition Stormwater Improvements.
9. Consider an Appointment to the City Commission to Fill the Vacancy Created by the Resignation of Commissioner Jon Geitz
10. Report from City Manager on City Activities



**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: November 17, 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 October for the community:

1) Monthly Local Retail Sales Tax Receipts Update

	2020	2021	
	\$448,883.96	\$420,454.53	Decrease of \$28,429.43 for the month, and
YTD	\$4,176,093.58	\$ 4,483,679.47	Overall increase of 7.37% from year 2020

2) City Share from County Tax

	2020	2021	
	\$226,975.88	\$216,738.30	Decrease of \$10,237.58 for the month, and
YTD	\$2,127,314.57	\$ 2,280,456.62	Overall increase of 7.20% from year 2020

3) **Building Permits issued from 10/1/2021 to 10/31/2021 for new construction, remodeling/repairs and demolition.**

Total number of building permits issued through Code Services:	70
Total of valuations associated with those building permits:	\$10,435,885.00
Total number of dollars collected for Building Permit Fees:	\$ 31,140.25

Construct - single family dwellings	2
Demo - single family dwellings	1

Flint Hills Mall CID for October	\$ 17,715.44
Year to Date Total	\$ 175,542.17

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 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 Regular Meeting held on November 3, 2021 and the Adjourned Meeting on November 10, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on November 5, 2021.
- c. Consider the Approval of October Budget.
- d. Consider Set Bid Time and Date to receive bids for the Funston Street & 5th Ave paving improvements, Project No. PV2008.

RECOMMENDATION:

- a. Approve Minutes.
- b. Approve Payroll.
- c. Approve Budget.
- d. Approve Time & Date.

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 3d

SUBJECT: Set 3:00 pm, Tuesday, December 7th, 2021, as the time and date to receive bids for the Funston Street & 5th Ave paving improvements, Project No. PV2008 (5th Ave – 6th Ave & Funston St – Sunnyslope St, respectively).

RECOMMENDATION: Set bid date and time.

BACKGROUND SUMMARY:

The Funston St & 5th Ave Paving project will consist of new subgrade, concrete curb & gutter and asphalt or concrete streets for these two (2) streets that are South of 6th Ave and East of Prairie St. The following are the street segments that will be included withing this project:

Funston Street (*6th Ave – 5th Ave*)
5th Ave (*Funston St – Sunnyslope St*)

This project is being bid with both asphalt and concrete pavement surface options. This project is being paid for with a bond issuance.

Attached is the Invitation to Bid.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

INVITATION TO BID

Sealed bids for the **Funston Street & Fifth Avenue Paving Improvements Project No. PV2008 (5th Ave. – 6th Ave.) (Funston St. – Sunnyslope St.)** will be received at the office of the City Clerk, City of Emporia, Kansas located at 104 E. 5th Avenue, up to 3:00 p.m. on Tuesday, December 7th, 2021, and then publicly opened in the Engineering Department's Conference Room located at 522 Mechanic Street. A pre-bid conference will be held at 2:00 p.m. on Tuesday, November 30th, 2021, at the same location. Contractors will have the choice of bidding for Concrete Base Bid, Asphalt Base Bid, or both.

The work for the Funston St. and 5th Avenue Paving Improvements Project will consist of the approximate quantities:

Concrete Base Bid:

Mobilization	1	LS
Contractor Construction Staking	1	LS
Removal of Existing Structures	1	LS
Foundation Stabilization (Set Price)	1	CY
Common Excavation	1,054	CY
Pavement Removal	63	CY
Storm Sewer Manhole (Precast)	2	EA
Storm Sewer Inlet (Type 22 Curb) (Precast)	5	EA
Storm Sewer (12" RCP)	27	LF
Storm Sewer (15" RCP)	55	LF
Storm Sewer (18" RCP)	656	LF
Storm Sewer (6" PVC)	8	LF
Compaction of Earthwork (Type B) (MR-90)	105	CY
Compaction of Earthwork (Type A) (MR 5-5)	543	CY
Water (Grading) (Set Price)	1	MGAL
Water (Aggregate Base) (Set Price)	1	MGAL
Combined Material (AB-3) (5" Compacted)	921	SY
Curb and Gutter (2'-6" Combined) (AE)	1,825	LF
Concrete Pavement (8" NRDJ) (AE)	2,262	SY
Concrete Pavement (6" Uniform) (Reinforced) (AE)	415	SY
Concrete Pavement (8" Uniform) (Reinforced) (AE)	204	SY
Mailbox (Relocation)	3	EA
Sidewalk Construction (4") (AE)	272	SY
ADA Sidewalk Ramp	29	SY
Temporary Slope Barrier (Silt Fence)	200	LF
Temporary Inlet Sediment Barrier	5	EA
Sediment Removal (Set Price)	1	CY
Seeding, Fertilizer & Mulching	1	LS
Traffic Control	1	LS

Asphalt Base Bid:

Mobilization	1	LS
Contractor Construction Staking	1	LS
Removal of Existing Structures	1	LS
Foundation Stabilization (Set Price)	1	CY
Common Excavation	1,316	CY
Pavement Removal	63	CY
Storm Sewer Manhole (Precast)	2	EA
Storm Sewer Inlet (Type 22 Curb) (Precast)	5	EA
Storm Sewer (12" RCP)	27	LF
Storm Sewer (15" RCP)	55	LF
Storm Sewer (18" RCP)	656	LF
Storm Sewer (6" PVC)	8	LF
Compaction of Earthwork (Type B) (MR-90)	105	CY
Compaction of Earthwork (Type A) (MR 5-5)	543	CY
Water (Grading) (Set Price)	1	MGAL
Water (Aggregate Base) (Set Price)	1	MGAL
Combined Material (AB-3) (5" Compacted)	921	SY
Curb and Gutter (2'-6" Combined) (AE)	1,825	LF
HMA (Commercial Grade) (Class A)	1,630	TONS
Concrete Pavement (6" Uniform) (Reinforced) (AE)	415	SY
Concrete Pavement (8" Uniform) (Reinforced) (AE)	204	SY
Mailbox (Relocation)	3	EA
Sidewalk Construction (4") (AE)	272	SY
ADA Sidewalk Ramp	29	SY
Temporary Slope Barrier (Silt Fence)	200	LF
Temporary Inlet Sediment Barrier	5	EA
Sediment Removal (Set Price)	1	CY
Seeding, Fertilizer & Mulching	1	LS
Traffic Control	1	LS

Plans and bid documents are on file at the office of the City Engineer, 522 Mechanic Street, P.O. Box 928, Emporia, KS 66801 (620-343-4260). The cost for plans and bid documents is fifty dollars (\$50), which is nonrefundable. If the Contractor prefers plans and bid documents sent by UPS, there is an additional required fee of ten dollars (\$10). Also, the Contractor may request an electronic copy of plans and bid documents for a flat rate fee of twenty dollars (\$20). The City of Emporia 2014 Master Set of Specifications (for all projects) is available upon request for a cost of \$20 for a hard copy. A contractor either shall have a current set of City Master Specs or have a signed contractor's acknowledgement on file with the City Engineer's Office that they have read and shall abide by the 2014 Master Set of Specifications on the City Web page in order to bid City of Emporia projects.

Each bid shall be accompanied by a certified check, a cashier's check, or an approved bidder's bond in an amount of not less than five percent (5%) of the total amount of the bid. Any bid bond must be with a surety and guaranty company authorized to do business in the State of Kansas and acceptable to the City as Surety.

The Bidder to whom the Contract is awarded will be required to furnish statutory bond in the amount of one hundred percent (100%) of the Contract, and performance and maintenance bond in the amount of one hundred percent (100%) of the Contract; the bonds to be acceptable to the City of Emporia, Kansas, and conform to the requirements of the Contract documents.

The City of Emporia, Kansas, reserves the right to reject any or all bids and to waive defects in bids. No bids will be withdrawn for a period of sixty (60) days after the time set for opening of bids.

If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact Jeff Lynch, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4291 or e-mail jlynch@emporia-kansas.gov.

THE CITY OF EMPORIA, KANSAS
Kerry Sull
City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

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 _____

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 5

SUBJECT: Consider Public Hearing for Red Brick Investment Redevelopment (TIF) District.

RECOMMENDATION: Conduct Hearing for Red Brick Investment Tax Increment Financing District.

BACKGROUND SUMMARY:

Resolution #3652 which passed on 10-6-2021 established this hearing date in accordance with statutory requirements.

Resolution is attached.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

(Published in the *Emporia Gazette* on November __, 2021)

RESOLUTION NO. 3652

A RESOLUTION STATING THE INTENTION OF THE CITY OF EMPORIA, KANSAS TO CONSIDER CREATION OF A REDEVELOPMENT DISTRICT, APPROVE A REDEVELOPMENT PLAN FOR THE DISTRICT AND PROVIDING FOR NOTICE OF A PUBLIC HEARING ON SUCH MATTERS.

WHEREAS, K.S.A. 12-1770 *et seq.*, as amended (“Act”) authorizes the city of Emporia, Kansas (“City”) to create redevelopment districts, approve redevelopment plans for such districts and provide for the financing of eligible costs of such redevelopment from tax increments within the district allocated to the project and other revenues as allowed by the Act; and

WHEREAS, the City is considering the findings necessary for the creation of a redevelopment district located on the land particularly described in Section 1 (b) of this Resolution (the “Redevelopment District”); and

WHEREAS, pursuant to the Act the City is required to set a date for a public hearing to consider the creation of the proposed Redevelopment District.

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

SECTION 1. The governing body of the City finds and determines that, pursuant to the Act:

(a) A public hearing shall be held as part of the regular meeting of the City Commission on November 17, 2021 at 7:00 p.m., in the Commission Meeting Room at 522 Mechanic Street, Emporia, Kansas, to consider the creation of the Redevelopment District.

(b) The proposed Redevelopment District includes approximately 39 acres generally located at the intersection of Interstate 35, the Kansas Turnpike and Highway 50, legally described as follows:

A part of the Southeast Quarter of Section 7, Township 19 South, Range 11 East of the 6th PM, Lyon County, Kansas, as shown on the Final Plat of Brownstone Addition to the City of Emporia, Lyon County, Kansas

And

Brownstone Second Addition to the City of Emporia, Lyon County, Kansas, as shown on the Final Plat thereof, being a replat of Lots 2,3,7,8,9 and 10 of Martin-Eagle Subdivision to the City of Emporia, Lyon County, Kansas

The boundaries of the proposed Redevelopment District are shown on the map attached to this resolution as **Exhibit A**.

(c) The proposed redevelopment district plan is generally described as the acquisition of certain property and development of a variety of land uses, including but not limited to, some or all of the following: a travel plaza and related commercial uses, one or more full service hotels and related hotel uses, restaurants, retail businesses, other commercial development, and associated public and private infrastructure including site work, utilities, storm water and drainage improvements, landscaping, parking facilities and other infrastructure permitted under the Act. A summary of the preliminary redevelopment district plan is attached to this resolution as **Exhibit B**.

(d) A description of the proposed redevelopment district and the proposed redevelopment district plan submitted by Red Brick Emporia, LLC are available for inspection at the City Clerk's office, 522 Mechanic Street, from 8:00 a.m. to 5:00 p.m., Monday through Friday.

SECTION 2. This Resolution and **Exhibits A and B** shall be sent, by certified mail with return receipt requested, to the Board of Education of Unified School District No. 253, to the Board of County Commissioners of Lyon County, and to each owner or occupant of land in the proposed redevelopment district, not less than 10 days after the date of this resolution. This resolution and **Exhibits A and B** shall also be published one time in the official city newspaper not less than one week nor more than two weeks before the public hearing date of November 17, 2021.

SECTION 3. The City intends to use tax increment revenues as defined by the Act to reimburse qualified redevelopment costs incurred before the City completes the procedures required by the Act to create a redevelopment district and adopts a project plan. Such revenues may be used to reimburse redevelopment costs only if a redevelopment district is created and a project plan is approved.

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ADOPTED AND APPROVED by the governing body of the City of Emporia, Kansas on
October 6, 2021.

CITY OF EMPORIA, KANSAS

[seal]



By

Robert F. Gilligan, Mayor

ATTEST:

By

Kerry Sull, City Clerk

EXHIBIT A – RESOLUTION NO. _____

(MAP OF PROPOSED DISTRICT)

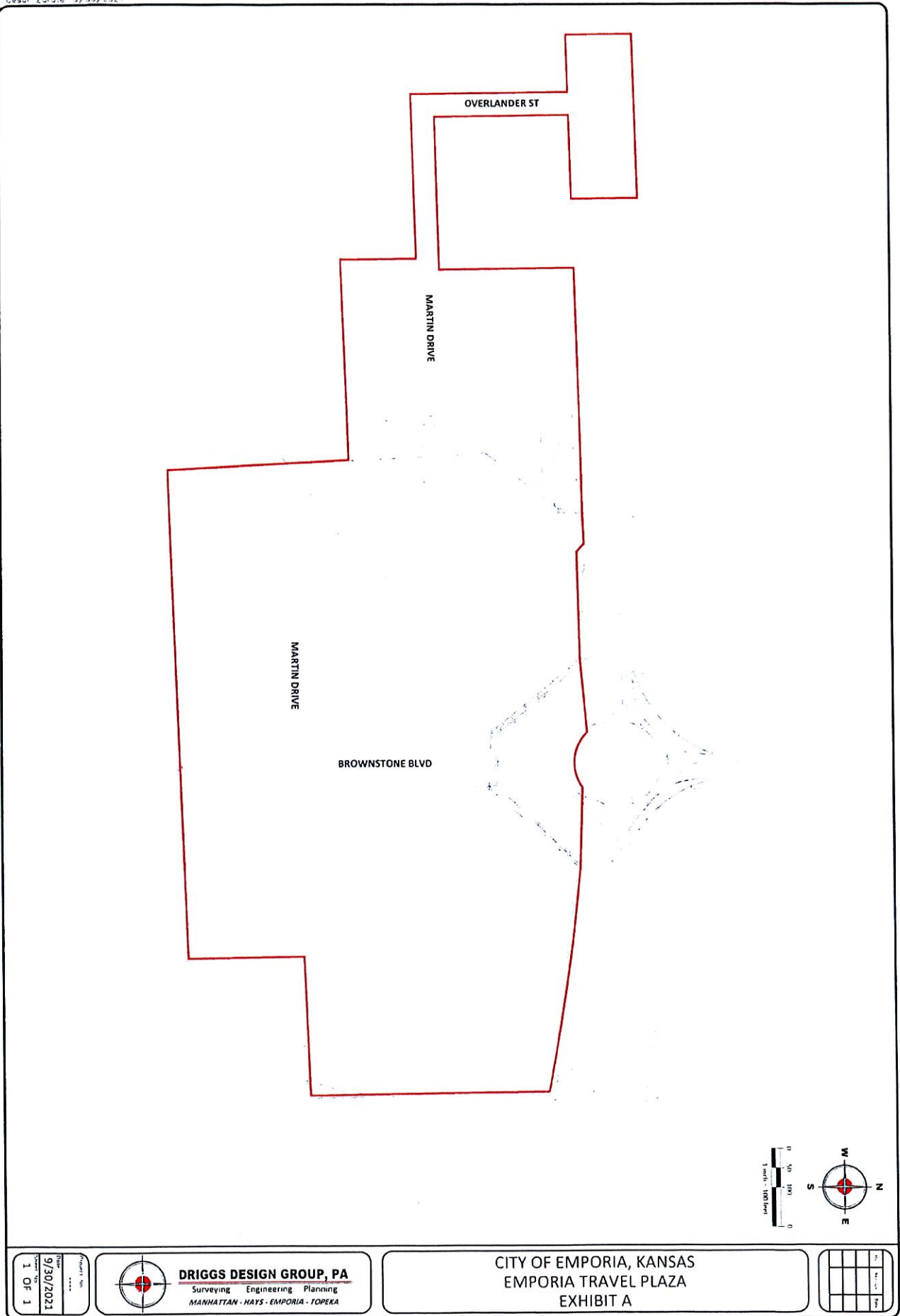


EXHIBIT B – RESOLUTION NO. _____

(REDEVELOPMENT DISTRICT PLAN)

**REDEVELOPMENT DISTRICT PLAN FOR REDEVELOPMENT
THROUGH TAX INCREMENT FINANCING
RED BRICK EMPORIA PROJECT**

EMPORIA, KANSAS

September 2021

SECTION 1. PURPOSE

The City of Emporia, Kansas (the "City") intends to create a redevelopment district within the City. Kansas statutes governing the creation of redevelopment districts and tax increment financing (K.S.A. 12-1770 *et seq.*, and particularly, K.S.A. 12-1771(a)) require preparation of a "redevelopment district plan" (referred to herein as the "district plan") before creation of a redevelopment district. The district plan is the preliminary plan identifying the proposed redevelopment project areas and generally describing the buildings, facilities and improvements proposed to be constructed in such areas.

SECTION 2. DESCRIPTION OF TAX INCREMENT FINANCING

Projects financed through tax increment financing involve the creation of an "increment" in real estate property taxes. The increment is the amount of property taxes paid on the increase in assessed valuation of property in the redevelopment district over the property taxes paid in the redevelopment district before redevelopment occurs. When the aggregate tax rates of all tax jurisdictions are applied to the increased property valuation in the redevelopment district, tax increment is generated and paid to the City (as permitted by the Act, certain taxes levied by school districts are not included in tax increment) to fund, pay or reimburse certain costs of the development project over time as tax increment is collected. The property taxes attributable to the assessed value of the district before redevelopment (the "base valuation"), are distributed to all taxing jurisdictions just as before development of the redevelopment district.

SECTION 3. REDEVELOPMENT DISTRICT

A map showing the boundaries of the proposed redevelopment district is attached as **Exhibit A** to the City's resolution setting a public hearing for considering the creation of the district and the district plan. The proposed redevelopment district is within the city limits of Emporia, Kansas and consists of 39 acres (more or less) of currently undeveloped land located in the City of Emporia and legally described as follows:

A part of the Southeast Quarter of Section 7, Township 19 South, Range 11 East of the 6th PM, Lyon County, Kansas, as shown on the Final Plat of Brownstone Addition to the City of Emporia, Lyon County, Kansas

And

Brownstone Second Addition to the City of Emporia, Lyon County, Kansas, as shown on the Final Plat thereof, being a replat of Lots 2,3,7,8,9

and 10 of Martin-Eagle Subdivision to the City of Emporia, Lyon County,
Kansas

The proposed redevelopment district qualifies as an “eligible area” for tax increment financing because it is an area in the City designated as an enterprise zone before July 1, 1992, pursuant to K.S.A. 12-17,107 to 12-17,113 before such statutes were repealed, and the development of the area is necessary to promote the general and economic welfare of the City.

SECTION 4. REDEVELOPMENT PROJECT

The proposed district is in an area identified by the City as desirable for additional commercial, retail and residential development. The establishment of the proposed redevelopment district will permit the City to aid in financing of eligible costs including land acquisition, infrastructure, site development and to partner with private developers to bring additional retail and other commercial development to the City.

The proposed redevelopment project consists of the acquisition of the site and associated public and private infrastructure including site work, utilities, storm water and drainage improvements, landscaping, parking facilities and other infrastructure and site improvements to permit phased development of a variety of land uses, including but not limited to, a travel plaza and related commercial uses, one or more full service hotels and related hotel uses, restaurants, retail businesses, and general commercial uses. The proposed costs eligible to be financed in this case include costs of land acquisition and the previously mentioned infrastructure, public improvements, and other site improvements, as well as soft costs and costs of financing related to those items. These eligible costs may include costs incurred prior to the time the redevelopment district is created.

SECTION 5. TAX INCREMENT FINANCING

Kansas statutes governing tax increment financing allow such financing to be used for property acquisition, site preparation, utilities, drainage, street improvements, landscape amenities, public outdoor spaces, streetscape amenities and parking facilities in a redevelopment district. The City anticipates using tax increment financing pay a portion of these costs related to the proposed project. The project plan (described in Section 6) and development agreements between the City and private developers will specify details. The anticipated plan contemplates that 100% of the ad valorem tax increment legally permitted to be captured under the Act and attributable to the redevelopment projects from the redevelopment district will be pledged to finance such costs for a period not exceeding 20 years from approval of a project plan, as provided by law. Tax increment financing may be accomplished by issuing the City’s special obligation bonds and/or the City’s general obligation bonds with such bonds payable over time from the tax increment. Financing may also be structured as “pay as you go” reimbursement over time. The City plans to utilize a “pay as you go” financing structure for the proposed redevelopment project and does not intend to issue bonds.

SECTION 6. PROJECT PLAN

The statutes governing tax increment financing and redevelopment districts require that all proposed redevelopment projects in a redevelopment district be presented to and authorized by the City Commission through its approval of detailed “project plans” applicable to each phase of

development. Each project plan will identify specific project areas within the redevelopment district and will include detailed descriptions of the proposed improvements and methods of financing. Before approving a project plan the City must obtain a financial feasibility study as required by statute. Project plans must be reviewed by the Planning Commission and are submitted to a public hearing after published notice and notification of affected property owners. Before going forward a project plan must be adopted by a two-thirds majority of the City Commission. No tax increment may be applied to a redevelopment project until a project plan is approved.

EXCERPT OF MINUTES

The governing body of the City of Emporia, Kansas, met in special session at the usual meeting place in the City on October 6, 2021, at 1:30 p.m., with Mayor Rob Gilligan presiding, and the following members of the governing body present:

Brinkman, Gertz, Giefer, Smith

The following members were absent: none

A Resolution was presented to the governing body entitled:

A RESOLUTION STATING THE INTENTION OF THE CITY OF EMPORIA,
KANSAS TO CONSIDER CREATION OF A REDEVELOPMENT DISTRICT,
APPROVE A REDEVELOPMENT PLAN FOR THE DISTRICT AND
PROVIDING FOR NOTICE OF A PUBLIC HEARING ON SUCH MATTERS.

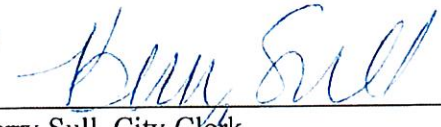
The Resolution was considered and discussed; and on motion of Brinkman, seconded by Smith, the Resolution was adopted by a majority vote of the members present and assigned No. 3652

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the October 6, 2021 meeting of the governing body of the City of Emporia, Kansas.

[seal]





Kerry Sull, City Clerk

CITY OF EMPORIA, KANSAS
TAX INCREMENT FINANCE DISTRICT PROCEDURES
BROWNSTONE TIF 2021
TENTATIVE CALENDAR OF EVENTS

Date	Description	Responsible Parties
Completed	Discussions/meetings with City staff and Counsel, related parties, review and determination of type of "eligible area" under TIF Act applicable to proposed project, review City TIF policy, review of proposed TIF plan by City TIF Committee	City, TWG, City MA
Completed	City TIF Committee recommendations to RDA, to City Commission study session to discuss project and plans; present recommendations of City staff and counsel	City, TWG, City MA
	Develop scope of services and contracts for preparation of financial feasibility study required by TIF statutes [if necessary]	City, City MA
	Prepare "district plan" generally describing proposed development, legal description of proposed redevelopment district, draft resolution calling public hearing on district plan	City, TWG, Developer
	Receive and review final version of feasibility study	City, City MA
	City Commission adopts district intent resolution giving notice that city is considering establishing district, describing district plan, district and map and sets a <i>public hearing date</i> , which must be held <i>not less than 30 days or more than 70 days after the district intent resolution date</i> . Action required: SIMPLE MAJORITY approval.	City/TWG
	City delivers notice of public hearing and delivers (certified mail/return receipt) the district plan and notice of hearing to USD, County and all property owners/occupants in district (must be delivered <i>not more than 10 days after resolution adopted</i>)	City/TWG
	District intent resolution published once in <i>Emporia Gazette</i> (not less than one week or more than two weeks before the hearing date of 2021)	TWG/ City
	City Commission conducts district public hearing, after the hearing City Commission may pass ordinance making findings required by statute, including eligible area finding and creating the redevelopment district. SIMPLE MAJORITY Commission approval	City/TWG
	30-day period after conclusion of district plan public hearing during which County or USD may adopt a resolution objecting to the redevelopment district and veto the plan, requiring City to repeal district ordinance	City/TWG, County, USD
	Ordinance creating district published in <i>Emporia Gazette</i> (establishes "Base Year Assessed Valuation" for TIF District as of this date.)	City/TWG
	Begin preparation of Project Plan for entire district in consultation with planning commission; project plan must include summary of feasibility study, legal description and map of district, "detailed" description of improvements, buildings and facilities to be constructed, identifies Project Plan phases, details phase 1.	City, Developer and TWG
	Project Plan complete, delivered to Planning Commission, County, USD	City/TWG, PC
	Planning Commission makes findings re: Project Plan and consistency with comprehensive plan and reviews	City, Developer, PC
	Prepare Draft of Development Agreement between City and Developer (if any) identifying TIF reimbursable costs, method of reimbursement and other obligations of parties	City/TWG and Developer
	City Commission adopts project plan resolution giving notice of public hearing and setting date for public hearing on project plan. <i>Public hearing must be held not less than 30 or more than 70 days after date of project plan resolution</i> . SIMPLE MAJORITY approval by City Commission	City, TWG
	City delivers notice of public hearing (certified mail/return receipt) on the project plan to USD, County and all property owners/occupants in district, <i>notice must be delivered within 10 days of date project plan intent resolution adopted</i>	City/TWG
	Project plan intent resolution published once in <i>Emporia Gazette</i> (not less than one week nor more than two weeks before hearing date of	City, TWG

	).	
	City Commission conducts public hearing on project plan. After hearing City Commission may adopt the project plan ordinance (<i>REQUIRED 2/3RD VOTE of City Commission</i>); ordinance also approves Development Agreement and makes ordinance effectiveness depend on executed Development Agreement	City
	Publish ordinance approving project plan in <i>Emporia Gazette</i> ;	City/TWG
	City delivers copy of project plan ordinance to County clerk, County appraiser, County treasurer and to governing bodies of USD and County.	City

City = City of Emporia, Kansas
 TWG = City Counsel/Triplett Woolf Garretson, LLC
 City MA = City Municipal Advisor –Raymond James & Associates
 Developer = Brownstone
 County = Lyon County, Kansas
 USD = Unified School District No. 253
 PC=Planning Commission

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 6

SUBJECT: Consider Ordinance to establish the Red Brick Redevelopment District.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

This is the next step in the formation of a Redevelopment District and eventually the designation of a TIF for this particular property. All statutory publication and notification requirements have been completed.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

(Published in the *Emporia Gazette* on November 23, 2021)

ORDINANCE NO. ____

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF
EMPORIA, KANSAS MAKING FINDINGS REGARDING A
REDEVELOPMENT DISTRICT AND ESTABLISHING A
REDEVELOPMENT DISTRICT WITHIN THE CITY

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 *et seq.*, as amended (the “Act”), the City of Emporia, Kansas (the “City”) is authorized to establish redevelopment districts within defined areas of the City that are determined by the City’s governing body to be “eligible areas” as defined in the Act; and

WHEREAS, the Act defines “eligible area” to include an area in the City designated as an enterprise zone before July 1, 1992 pursuant to K.S.A. 12-17,107 through 12-17,113, before such statutes were repealed, and where the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of the City; and

WHEREAS, the proposed redevelopment district in the City is in an area that was designated an enterprise zone pursuant to K.S.A. 12-17,107 through 12-17,113 and before July 1, 1992, and is included in the definition of an “enterprise zone” as defined in the Act; and

WHEREAS, the governing body of the City previously adopted Resolution No. 3652 stating its intent and calling public hearing under the provisions of the Act to receive public comment on the advisability of creating the redevelopment district as described in Resolution No. 3652 and further described herein (the “Red Brick Emporia Redevelopment District”); and

WHEREAS, the public hearing was held on this date, after publication and delivery of notice in accordance with the provisions of the Act.

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

Section 1. Eligible Area Legislative Findings. The governing body finds and determines the Red Brick Emporia Redevelopment District is an “eligible area” under the Act because it is an area in the City designated as an enterprise zone before July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and the conservation, development or redevelopment of the Red Brick Emporia Redevelopment District is necessary to promote the general and economic welfare of the City.

Section 2. Description of and Creation of Redevelopment District. The legal description of the Red Brick Emporia Redevelopment District is:

A part of the Southeast Quarter of Section 7, Township 19 South, Range 11 East of the 6th PM, Lyon County, Kansas, as shown on the Final Plat of Brownstone Addition to the City of Emporia, Lyon County, Kansas

And

Brownstone Second Addition to the City of Emporia, Lyon County, Kansas, as shown on the Final Plat thereof, being a replat of Lots 2,3,7,8,9 and 10 of Martin-Eagle Subdivision to the City of Emporia, Lyon County, Kansas

The property described above, including adjacent rights-of-way, is designated and created as the Emporia Red Brick Redevelopment District, according to the Act.

A map depicting the general location of the Emporia Red Brick Redevelopment District is attached as **Exhibit A** and incorporated here by this reference. The Emporia Red Brick Redevelopment District does not contain any property not referenced in Resolution No. 3652 providing notice of a public hearing.

Section 3. Redevelopment District Plan. The proposed redevelopment project may include separate project areas, and consists of some or all of the following: a travel plaza and related commercial uses, one or more full service hotels and related hotel uses, restaurants, retail businesses, other commercial development, and associated public and private infrastructure including site work, utilities, storm water and drainage improvements, landscaping, parking facilities and other infrastructure permitted under the Act. The redevelopment district plan is attached to this ordinance as **Exhibit B**. A description of the Red Brick Emporia Redevelopment District and the redevelopment district plan are available for inspection at the City Clerk's office, 522 Mechanic Street, from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Section 4. Consequences to Other Governmental Units. No privately owned property subject to ad valorem taxation within the Emporia Red Brick Redevelopment District shall be acquired and redeveloped pursuant to the Act if the Board of County Commissioners of Lyon County, Kansas (the "County") or the Board of Education of Unified School District No. 253 (the "School District") determines by resolution adopted within thirty (30) days following the adoption of this Ordinance that the Emporia Red Brick Redevelopment District will have an adverse effect on the County or the School District, respectively.

Section 5. Further Action. The Mayor, City Manager, City Clerk and other officials and employees or consultants of the City, including the City Attorney, the City's Financial Advisor and Bond Counsel, are further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Ordinance.

Section 6. Effective Date. This Ordinance, including Exhibit A and Exhibit B, shall become effective upon its passage by the governing body of the City and publication in the official newspaper of the City.

PASSED AND APPROVED by the governing body of the City of Emporia, Kansas on November 17, 2021.

CITY OF EMPORIA, KANSAS

[seal]

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

EXHIBIT A
(MAP OF THE REDEVELOPMENT DISTRICT)

EXHIBIT B
REDEVELOPMENT DISTRICT PLAN FOR REDEVELOPMENT
THROUGH TAX INCREMENT FINANCING
RED BRICK EMPORIA PROJECT

EMPORIA, KANSAS

September 2021

SECTION 1. PURPOSE

The City of Emporia, Kansas (the “City”) intends to create a redevelopment district within the City. Kansas statutes governing the creation of redevelopment districts and tax increment financing (K.S.A. 12-1770 *et seq.*, and particularly, K.S.A. 12-1771(a)) require preparation of a “redevelopment district plan” (referred to herein as the “district plan”) before creation of a redevelopment district. The district plan is the preliminary plan identifying the proposed redevelopment project areas and generally describing the buildings, facilities and improvements proposed to be constructed in such areas.

SECTION 2. DESCRIPTION OF TAX INCREMENT FINANCING

Projects financed through tax increment financing involve the creation of an “increment” in real estate property taxes. The increment is the amount of property taxes paid on the increase in assessed valuation of property in the redevelopment district over the property taxes paid in the redevelopment district before redevelopment occurs. When the aggregate tax rates of all tax jurisdictions are applied to the increased property valuation in the redevelopment district, tax increment is generated and paid to the City (as permitted by the Act, certain taxes levied by school districts are not included in tax increment) to fund, pay or reimburse certain costs of the development project over time as tax increment is collected. The property taxes attributable to the assessed value of the district before redevelopment (the “base valuation”), are distributed to all taxing jurisdictions just as before development of the redevelopment district.

SECTION 3. REDEVELOPMENT DISTRICT

A map showing the boundaries of the proposed redevelopment district is attached as **Exhibit A** to the City’s resolution setting a public hearing for considering the creation of the district and the district plan. The proposed redevelopment district is within the city limits of Emporia, Kansas and consists of 39 acres (more or less) of currently undeveloped land located in the City of Emporia and legally described as follows:

A part of the Southeast Quarter of Section 7, Township 19 South, Range 11 East of the 6th PM, Lyon County, Kansas, as shown on the Final Plat of Brownstone Addition to the City of Emporia, Lyon County, Kansas

And

Brownstone Second Addition to the City of Emporia, Lyon County, Kansas, as shown on the Final Plat thereof, being a replat of Lots 2,3,7,8,9

and 10 of Martin-Eagle Subdivision to the City of Emporia, Lyon County,
Kansas

The proposed redevelopment district qualifies as an “eligible area” for tax increment financing because it is an area in the City designated as an enterprise zone before July 1, 1992, pursuant to K.S.A. 12-17,107 to 12-17,113 before such statutes were repealed, and the development of the area is necessary to promote the general and economic welfare of the City.

SECTION 4. REDEVELOPMENT PROJECT

The proposed district is in an area identified by the City as desirable for additional commercial, retail and residential development. The establishment of the proposed redevelopment district will permit the City to aid in financing of eligible costs including land acquisition, infrastructure, site development and to partner with private developers to bring additional retail and other commercial development to the City.

The proposed redevelopment project consists of the acquisition of the site and associated public and private infrastructure including site work, utilities, storm water and drainage improvements, landscaping, parking facilities and other infrastructure and site improvements to permit phased development of a variety of land uses, including but not limited to, a travel plaza and related commercial uses, one or more full service hotels and related hotel uses, restaurants, retail businesses, and general commercial uses. The proposed costs eligible to be financed in this case include costs of land acquisition and the previously mentioned infrastructure, public improvements, and other site improvements, as well as soft costs and costs of financing related to those items. These eligible costs may include costs incurred prior to the time the redevelopment district is created.

SECTION 5. TAX INCREMENT FINANCING

Kansas statutes governing tax increment financing allow such financing to be used for property acquisition, site preparation, utilities, drainage, street improvements, landscape amenities, public outdoor spaces, streetscape amenities and parking facilities in a redevelopment district. The City anticipates using tax increment financing pay a portion of these costs related to the proposed project. The project plan (described in Section 6) and development agreements between the City and private developers will specify details. The anticipated plan contemplates that 100% of the ad valorem tax increment legally permitted to be captured under the Act and attributable to the redevelopment projects from the redevelopment district will be pledged to finance such costs for a period not exceeding 20 years from approval of a project plan, as provided by law. Tax increment financing may be accomplished by issuing the City’s special obligation bonds and/or the City’s general obligation bonds with such bonds payable over time from the tax increment. Financing may also be structured as “pay as you go” reimbursement over time. The City plans to utilize a “pay as you go” financing structure for the proposed redevelopment project and does not intend to issue bonds.

SECTION 6. PROJECT PLAN

The statutes governing tax increment financing and redevelopment districts require that all proposed redevelopment projects in a redevelopment district be presented to and authorized by the City Commission through its approval of detailed “project plans” applicable to each phase of

development. Each project plan will identify specific project areas within the redevelopment district and will include detailed descriptions of the proposed improvements and methods of financing. Before approving a project plan the City must obtain a financial feasibility study as required by statute. Project plans must be reviewed by the Planning Commission and are submitted to a public hearing after published notice and notification of affected property owners. Before going forward a project plan must be adopted by a two-thirds majority of the City Commission. No tax increment may be applied to a redevelopment project until a project plan is approved.

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 November 17, 2021, at 7:00 p.m., with Mayor Rob Gilligan presiding, and the following members of the governing body present:

The following members were absent:

At ____ p.m. Mayor Gilligan opened a public hearing on the creation of a redevelopment district within the City as previously authorized by Resolution No. 3652. All persons present who wished to comment were given the opportunity to do so.

The Mayor closed the public hearing at ____ p.m.

An ordinance was presented to the governing body entitled:

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF
EMPORIA, KANSAS MAKING FINDINGS REGARDING A
REDEVELOPMENT DISTRICT AND ESTABLISHING A
REDEVELOPMENT DISTRICT WITHIN THE CITY

The Ordinance was considered and discussed; and on motion of _____, seconded by _____, the Ordinance was passed by a majority vote of the members present. The ordinance was 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 November 17, 2021 meeting of the governing body of the City of Emporia, Kansas.

[seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 7

SUBJECT: Consider Approval of an Ordinance and Request to Rezone a Parcel of land located at 1501 E. Logan Ave., 1503 E. Logan Ave., and 1201 S. Weaver St. from Agricultural to I-1, Light Industrial Zoning.

BACKGROUND SUMMARY:

Emporia Enterprises is seeking the rezoning of a parcel of land. The Planning Commission denied the request at its May 18th, 2021 meeting. The Planning Commission voted 6-1 to deny the request. There were multiple objections from neighboring property owners and the general public. Neighbors were concerned with noise and pollution that could impact surrounding residential properties if this area was developed.

This item came before the City Commission on July 21st, 2021, and the Commission voted 4-1 to return the item to the Planning Commission for further consideration.

At its August 17th, 2021 meeting the Planning Commission denied the request for the second time with a 5-2 vote. The uncertainty of the type of industrial use that may develop, possible noise and other pollution, and neighbor concerns were all factors in denying the request.

This property was recently annexed into the city limits.

LEGAL DESCRIPTION:

TRACT IN THE SE 1/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE SAID SE¼, MARKED BY AN IRON PIN, LYING S00°34'18"E A DISTANCE OF 100.00 FEET FROM THE NORTHEAST CORNER OF THE SAID SE¼; THENCE ON A BEARING OF N89°31'12"W ON A LINE PARALLEL WITH AND 100.00 FEET SOUTH OF THE NORTH LINE OF THE SAID SE¼ FOR A DISTANCE OF 781.88 FEET TO AN IRON PIN; THENCE ON A BEARING OF S00°52'42"E FOR A DISTANCE OF 121.66 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN; THENCE ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET TO AN IRON PIN; THENCE ON A BEARING OF N88°39'47"E FOR A DISTANCE OF 50 FEET TO AN IRON PIN; THENCE ON A BEARING OF N1°20'13"W FOR A DISTANCE OF 27.70 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°31'12"E FOR A DISTANCE OF 779.98 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE SE ¼; THENCE ON A BEARING OF N00°34'18"W ALONG THE SAID EAST LINE FOR A DISTANCE OF 215.31 FEET TO THE POINT OF BEGINNING;

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

AGENDA ITEM SUMMARY

ALSO:

A TRACT OF LAND IN THE SE ¼ OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 23, THENCE NORTH ALONG THE EAST LINE OF SAID SECTION ON AN ASSUMED BEARING OF N00°34'18"W FOR A DISTANCE OF 2,568.66 FEET; THENCE WESTERLY ON AN ASSUMED BEARING OF S89°14'04"W FOR A DISTANCE OF 781.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTHERLY ON AN ASSUMED BEARING OF S00°59'52"E FOR A DISTANCE OF 104.66 FEET; THENCE WESTERLY ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET; THENCE EASTERLY ON A BEARING OF N88°39'47"E FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'13"E FOR A DISTANCE OF 100.00 FEET; THENCE SOUTHEASTERLY ON A BEARING OF S39°51'15"E FOR A DISTANCE OF 163.20 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 250.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°14'56"W FOR A DISTANCE OF 142.75 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 384.62 FEET; THENCE NORTHERLY ON A BEARING OF N00°32'59"W FOR A DISTANCE OF 573.06 FEET; THENCE EASTERLY ON A BEARING OF N89°14'04"E FOR A DISTANCE OF 531.56 FEET TO THE POINT OF BEGINNING.

ALSO:

THE NORTH 87.5 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS

ALSO:

THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, EXCEPT THE FOLLOWING DESCRIBED TRACTS:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE SOUTH 260 FEET; THENCE EAST 206 FEET; THENCE NORTH 260 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

AND

A TRACT OF LAND IN THE EAST HALF OF THE NORTHEAST QUARTER (E 1/2 NE 1/4) OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT POINT 260 FEET SOUTH THE NORTHWEST CORNER OF THE EAST HALF OF THE SAID NORTHEAST QUARTER; THENCE SOUTH 50 FEET; THENCE EAST 206 FEET; THENCE NORTH 50 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

RECOMMENDATION:

Approve the request of Emporia Enterprises to rezone the subject property to I-1, Light Industrial.

ACTION:

You may 1) adopt the recommendation of the Planning Commission by a majority vote; 2) revise or amend and adopt the recommendation of the Planning Commission by a majority vote; or 3) take no further action.

ATTACHMENTS:

Planning Commission Minutes from May 18th, 2021 (Excerpt), and Aug. 17th, 2021; Zoning Maps; July 21, 2021 City Commission Minutes (Excerpt); Current and Future Floodplain Maps

The Planning Commission met in a regular session on Tuesday, May 18, 2021, with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett, Dewitt, Weaver, and Colson were present.

1. 2021-14: A request of Emporia Enterprises Inc. to rezone an approximately 90 acre unplatted parcel located at 1501 E. Logan Ave, 1503 E. Logan, and 1201 S. Weaver Street from Agricultural District Zoning to I-1, Light Industrial Zoning District for potential development as authorized under Article 26-1 of the Zoning Regulations.

Staff confirmed jurisdiction over this application.

No ex parte communication was declared.

LEGAL DESCRIPTION:

TRACT IN THE SE 1/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE SAID SE 1/4, MARKED BY AN IRON PIN, LYING S00°34'18"E A DISTANCE OF 100.00 FEET FROM THE NORTHEAST CORNER OF THE SAID SE 1/4; THENCE ON A BEARING OF N89°31'12"W ON A LINE PARALLEL WITH AND 100.00 FEET SOUTH OF THE NORTH LINE OF THE SAID SE 1/4 FOR A DISTANCE OF 781.88 FEET TO AN IRON PIN; THENCE ON A BEARING OF S00°52'42"E FOR A DISTANCE OF 121.66 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN; THENCE ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET TO AN IRON PIN; THENCE ON A BEARING OF N88°39'47"E FOR A DISTANCE OF 50 FEET TO AN IRON PIN; THENCE ON A BEARING OF N1°20'13"W FOR A DISTANCE OF 27.70 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°31'12"E FOR A DISTANCE OF 779.98 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE SE 1/4; THENCE ON A BEARING OF N00°34'18"W ALONG THE SAID EAST LINE FOR A DISTANCE OF 215.31 FEET TO THE POINT OF BEGINNING;

ALSO:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

A TRACT OF LAND IN THE SE ¼ OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 23, THENCE NORTH ALONG THE EAST LINE OF SAID SECTION ON AN ASSUMED BEARING OF N00°34'18"W FOR A DISTANCE OF 2,568.66 FEET; THENCE WESTERLY ON AN ASSUMED BEARING OF S89°14'04"W FOR A DISTANCE OF 781.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTHERLY ON AN ASSUMED BEARING OF S00°59'52"E FOR A DISTANCE OF 104.66 FEET; THENCE WESTERLY ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET; THENCE EASTERLY ON A BEARING OF N88°39'47"E FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'13"E FOR A DISTANCE OF 100.00 FEET; THENCE SOUTHEASTERLY ON A BEARING OF S39°51'15"E FOR A DISTANCE OF 163.20 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 250.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°14'56"W FOR A DISTANCE OF 142.75 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 384.62 FEET; THENCE NORTHERLY ON A BEARING OF N00°32'59"W FOR A DISTANCE OF 573.06 FEET; THENCE EASTERLY ON A BEARING OF N89°14'04"E FOR A DISTANCE OF 531.56 FEET TO THE POINT OF BEGINNING.

ALSO:

THE NORTH 87.5 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS

ALSO:

THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, EXCEPT THE FOLLOWING DESCRIBED TRACTS:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE SOUTH 260 FEET; THENCE EAST 206 FEET; THENCE NORTH 260 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

AND

A TRACT OF LAND IN THE EAST HALF OF THE NORTHEAST QUARTER (E1/2 NE1/4) OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT POINT 260 FEET SOUTH THE NORTHWEST CORNER OF THE EAST HALF OF THE SAID NORTHEAST QUARTER; THENCE SOUTH 50 FEET; THENCE EAST 206 FEET; THENCE NORTH 50 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

Mellisa McAllister, Americus. Addressed the board and inquired about the legal notice and application, and questioned if the Planning Commission had jurisdiction.

After further discussion, the meeting proceeded, and the public hearing continued.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

Staff presented:**Applicant:** Emporia Enterprises**Requested Action:** Rezoning**Purpose:** Change the zoning classification to meet needs**Address:** non-addressed**Size:** approximately 90 acres**Existing Zoning:** Agricultural**Existing Land Use:** Undeveloped lot**Physical Characteristics:** floodplain, utilities available, easement in place on pending plat.**Comprehensive Plan:** The subject area is slated to be Single Family County Housing (R-1/CH) in the ELC Comp Plan Future Land Use Map.**Analysis:**

The applicant is requesting to rezone the subject property. This request is to change the zoning district from Agricultural to I-1, Light Industrial. The applicant desires to use this area for future development of industrial uses.

There is a 1% Annual Chance Flood Channel that is on the far south side of this property but will not impact the buildable area on any of the lots. The current floodplain maps will be reduced with the new maps that should be adopted in November, 2021.

This location is adjacent to Industrial Park 3 to the north. There is residential property to the east. Some of these properties are within the city limits, some are within the county. West and south of the subject location is zoned for agricultural use.

Applicable Regulation For Rezoning (Section 26-108).

Factors to be Considered in a Rezoning: When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:

1. Whether the change in classification would be consistent with the intent and purpose of these regulations;
2. The character and condition of the surrounding neighborhood and its effect on the proposed change;
3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
6. The suitability of the applicant's property for the uses to which it has been restricted;
7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as allowing the land to be vacant or undeveloped;
8. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
10. The recommendations of professional staff;
11. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;
12. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,
13. Such other factors as may be relevant from the facts and evidence presented in the application.

Recommendations: Staff recommends approval as this location borders Industrial Park 3, and will act as an extension to the existing park. If approved this item will go to the City Commission for final approval.

Attachments: Application, Zoning/Easement maps, FP Map, Zoning Regulations for Section 5 Section 15

Public Hearing: (May 18th, 2021)

The Public Hearing portion was opened.

Kent Heermann, 1720 Trowman Way, Emporia, KS, applicant, addressed the Board and presented background and history on the property and Industrial Park 3, explaining how this area has grown over the last 25 years. Mr. Heermann noted that the location would be platted in future and discussed the changes in the proposed zoning regulations and how they might impact future industrial land. Mr. Heermann expressed possible concerns with the proposed flex use of Industrial Park 4, possibly limiting some industrial uses for that area.

Member Weaver inquired about the possibility of protective covenants for this location.

Mr. Heermann noted that this would be decided by a committee, it could be added in the future if needed, and noted that when platted it would be likely called Park 3 South, and could tie into Park 3.

Member Garrett asked about Industrial Flex use.

Mr. Heermann noted that the ELC Comp Plan has a classification for Industrial Flex that allows for a range of commercial uses as well as some industrial uses. Industrial Park 4 is to be changed to Industrial Flex in the regulating plan. Mr. Heermann expressed that similar uses bring assurance to the potential developers of an area.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

Member Colson inquired about Industrial Park 4 vacancy and available industrial land.

Mr. Heermann noted that the park has been vacant for 20 years, that this is a very competitive market, and we do a good job. Industrial Park 3 was vacant for 20 years before it was developed.

Member Colson asked how much inventory of land do you need?

Mr. Heermann said, as long as we continue to grow, and the workforce and housing is available we will continue to need the space. The market is extremely hot right now. We had a boom from 1997 to 2000, and then from 2006-07, and 2010. There are a lot of competition out there, we need to be patient.

Member Colson: What would you say to someone who says we don't need more industrial land.

Mr. Heermann, Emporia needs to grow, and business will come and go, if we are not proactive we are reactive. Our objective is to grow the community.

Member DeWitt inquired about the biodiesel (RDG) plant.

Mr. Heermann noted that this would go back to Emporia Enterprises within 3 years.

Jeanne McKenna, 719 Commercial, Emporia, KS

Spoke in favor of the application, and noted industrial uses have provided over a billion towards property taxes and helps the community grow and prosper.

Opposition.

Coleen Hanson, 1022 Weaver, Emporia, KS

Lived in the area since 2003, noted that the berms didn't work. Noted that street improvements would be needed. Mrs. Hanson expressed concerns about property value if the area was developed.

Gerald Hanson, 1022 Weaver, Emporia, KS

Lived near this location since 2003. Lived in Emporia his life, and has been retired for 6 years. Mr. Hanson express that he planned to live at this location the rest of his life, and did not want to noise or the sight of an industrial plant located here. He was also concerned how a new industrial sight might impact well water in the area.

Janet Haag, 1811 E. Logan, Emporia, KS

Location Fronts Hills Pet Food Plant. Had more questions, than issues. Wanted to inquire about the possibility of residents on Wannamaka to get city water. Mrs. Haag has concerns about overnight truck noise, lighting, and impacts on well water contamination. The unknown uses are the scary for the neighboring property owners. Mrs. Hagg asked when is the time to discuss the future uses?

Mr. Foster explained the role and function of the public hearing.

Mrs. Haag inquired about transitional zoning. Buffering between residential and industrial uses.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

Mellissa McAlester, Americus, KS

Inquired about possible adverse effects of the application, as well as the general health and welfare due to possible zoning change. Expressed concern that the ELC Comp Plan Regulating Plan and current zoning regulations were not matching. Question the Metropolitan Planning Area (MPA) jurisdiction.

Mr. Foster, the MPA is not dissolved and this location is in the city limits. Neighboring properties are within the city limits or MPA.

Chair Thomas, the application being applied for is within the city limits. Our concern is for property within the MPA and city limits.

Mrs. McAlester, inquired about how the interlocal agreement will change the jurisdiction.

Chair, this is beyond our conversation today, and is currently unknown.

Mrs. McAlester, questioned how the new interlocal agreement would impact the neighboring property owners.

Mrs. McAlester, express concerns with the tax base increase and noted the joint luncheon discussion, and how the BOCC needed to “weigh-in” on the issue. These are bigger issues that need to be discussed.

Member Garrett asked how the interest in the county houses would be any different than the city houses for this location.

Mrs. McAlester, people live the county for different reasons, the zoning would be differed.

Mr. Foster, stated that the zoning for all the houses being discussed were zoned the same, R-1 Single Family.

Mrs. McAlester, the city and county do not have a joint zoning plan, they do have a joint comprehensive plan.

Mrs. McAlester, noted that these people moved to the county, and they want to stay in the county.

Member Garrett, noted there is no difference between the city and county for how is area could be impacted by the proposed use.

Member Weaver, asked staff about the new regulations and how the subject area will be impacted.

Mr. Foster, the proposed regulation might broaden uses while limited specific types, allowing for more flexibility overall but still regulating the land uses. Mr. Foster explained some general history of zoning regulations and that the health, welfare, and safety are always paramount with zoning regulations.

Member Colson, weighted out the pros and cons of this application, and expressed a desire to see more concrete plans for this location.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

Rebuttal:

Kent Heermann, 719 Commercial St.

The closer you have the sites to shovel ready, the more likely business will locate to the community. There is currently infrastructure at this location, and has the highest potential for future development. This will not be a dog kennel, but will be a Simmons, or Hills. If we don't have the zoning, we will miss out on potential business. Next step will be platting, where we can discuss more details, to pave the road.

Mr. Weaver, is there any instance for the potential companies to discuss future plans with the neighbors.

Mr. Foster, nothing would be required.

Member Colson, what are the average wages of Hills and Simmons?

Mr. Heermann, \$18-25 an hour, with some seasonal workers.

Mr. Foster, address the audiences question, that this meeting is opportunity for public comment. The City Commission might allow comments, but this the public hearing.

The Public Hearing portion was closed.

Chair Thomas, noted that the public hearing is closed. Also, stated the he voted against the Hill rezoning in the past and wanted to stay consistent with this application.

Question: Could this location be rezoning from I-1, to residential in the future. Mr. Foster noted that the property could be zoned, and/or rezoned as needed in the future, but it would require a public hearing for each request.

Motion: Member Garrett made a motion to deny the application at this time, and expressed concerns that there was not a specific use for this property.

Member Colson seconded the motion.

Member Garrett, added a condition to confirm that the legal notice was applicable to all 90 acres of the subject property.

Application was denied by the Planning Commission 6-1.

Public Hearing: (August 17, 2021)

Duncan asked Heermann (Emporia Enterprise) you are retiring after this year, correct? Heermann replied, 1st quarter of next year. Duncan also asked so when you say that #32 is the focus it would be on that would

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

probably be the same after you retire? Heermann said it depends, if you turn it to light industrial it could be any of those uses in light industrial. Our purpose and intent is to recruit manufacturing fabrication type industries. It will be manufacturing like CAMSO, Simmons, Hills, VEKTEK, and those types of operations.

Colson asked the homeowners after taking a look at the list of proposed uses does it change your concerns? One homeowner that lives towards the south end said no, what bothers him the most is that there was a plan that was set up that states it would be agricultural and if it was to be changed that it would be country homes (1-5 acres). All of us out there along Weaver St. facing to the west we all have 3 acres which we fit in that deal and you can't leave out the people who live behind us on Wanamaka because they're impacted by it too (22 homes there). The amount of truck traffic, especially with trains crossing they've got it backed up to Logan Ave., now we are going to have even more down there. Even though we don't have to pay for the road, the homeowners will have to maintain that road and our taxes are going to go up.

Jeff Morgan, lives on 1100 South Weaver said we bought our home in 1992 before any of that stuff was ever built out there. My biggest concern is increase of truck traffic north of us. We were offered rural water at Coffey County District one time at which we signed up for. The city of Emporia later came back and said anyone north of the cut-off station would not be able to get rural water. You pretty much have to live in the city to get water.

Brian Morgan lives in 1100 South Weaver and works at Hostess Brands. He sees a lot of manufacturing plants always hiring because they're short on staff. He thinks if another manufacturing plant is built there it will not last.

Janet Haag, 1811 Logan Ave., the screening and the buffers and the landscaping that you're referring to in this document with the City of Emporia is extremely minimal. This is not what we got when we worked for Hills and with all of the other manufacturing plants. This is not as good of a situation for a homeowner who owns property there. Right now if we sell our home we have to disclose on our real estate contract this proposed zoning change; that is an exact immediate hit to our property value and it hasn't even been done yet. So it's important to us that it stays agriculture and not industry because it definitely affects us. If you drive around CAMSO and the old Lenze Building there are piles of stuff everywhere, they're not behind the screens, they're not behind the fence.

Kent Heermann (Emporia Enterprise) said the history of where Hills is we bought 3 tracks long before Hills was even considered, they contacted my office April 16, 2007. We have a covenant about landscaping. Whoever owns land out there has a voice and a vote on there so Emporia Enterprise is not the majority owner out there and we still go through covenant review on landscaping and type of colors of the buildings, etc. The concern regarding CAMSO and the old Lenze Building about stuff being everywhere not behind the screens and fence that's the City's issue, they need to enforce it, it has nothing to do with the covenants within the park. There are 88 acres out there and you're going to have one acre lots, 90 acres. You're going to have 90 residential there. So is there a requirement on that residential lot south of that industrial park to put a landscaping berm? Well, no because it's residential. If an industry comes in there they would be required to do so. When the zoning was changed it was done here at the Planning Commission during the conference and planning we were never asked,

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

it just got changed. I'm talking now about Park 4 got changed to Industrial Flex. I got the regulations and saw what they put in there, they said we're going to allow more uses in industrial, one of the uses is a mobile home park and I can tell you no industry will build next to a mobile home park. It doesn't make sense to build 90 homes there. We don't have any choices where we can go. We have Park 4 infrastructure costs that needs to be put out there, roads were supposed to be paved this year, we got to relocate utilities. We got a grant from the state because limited access to highway 50 which would make it safer. They're paying for the entire construction process so that there'll be at 1.4 million of the 1.8 million cost. The city is doing the engineering it time. You have Every building out there. I'm just trying to find land to get jobs for people.

Garrett asked Heermann what covenants do you envision for this 90 acres? Heermann said we don't have any covenants on Hills. We don't have any covenants on Norfolk or for Iron and Metal. Covenants are forced by the landowners. How are covenants supposed to help the property owner? Is it better not to have the zoning ordinance or a subdivision plat that regulates what needs to be there?

Garrett asked Heermann what part of the process someone said you've got to put trees there? I understand it wasn't done till the construction was over before the certificate of occupancy. Where did the requirement come from? In Park 3 there were covenants put in there that specified the amount of landscaping that had to be put in there and there had to be a landscaping plans submitted to the covenant.

Garret asked Heermann why does Emporia Enterprise need to do this now? Heermann said we have no sites. We have a 15 acre site and we have 2 eight acres sites. I need a bigger site that's ready to go and that can go quicker. This lot can go quicker. In this area we can get pretty good electrical service, we have natural gas there, water and sewer can be extended in a pretty quick time frame, it's not that expensive.

Garrett asked Heermann how long did it take for that process from agriculture to neighborhood meeting to rezoning? Heermann said 4-5 months, we didn't plat it till it was all developed. Garrett verified with Heermann that the difference between shovel ready in the Hills process is 4-5 months. Heermann said maybe that is if you don't get anything tabled and you don't get anything sent back. It could get protracted 6-9 months.

Garrett has a couple of ideas. While the new zoning regulations are in process, there are some things we could do with respect to the proposed zoning changes that would mitigate this even if the rezoning moves to the proposed country home use under the new code. Let's take a look at the definitions of the barriers because the new code is going to apply to any development that starts after its enacted. If the application is approved through the new zoning regulations that have not been adopted yet, there could be additional requirements imposed not just on this 90 acres but on similar tracts to address the perceived deficiencies of buffering and that concept of the intrusion of noises, odor, smoke, and etc. on neighboring properties. I think there will be opportunities to reexamine the new zoning codes. We can address some of these things that we might not be able to address now and in a similar fashion, it wouldn't be targeted to the 90 acres, it would be similar tracts. At the same time we can address Mr. Heermann's concerns about industrial flex and what contemplates and what the implications to other businesses there are and whether something should really be changed in industrial flex and maybe it shouldn't. Maybe they need more space of a certain kind that can be fixed too.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

Thomas added no matter what our decision is tonight it would go to the city in 2 weeks.

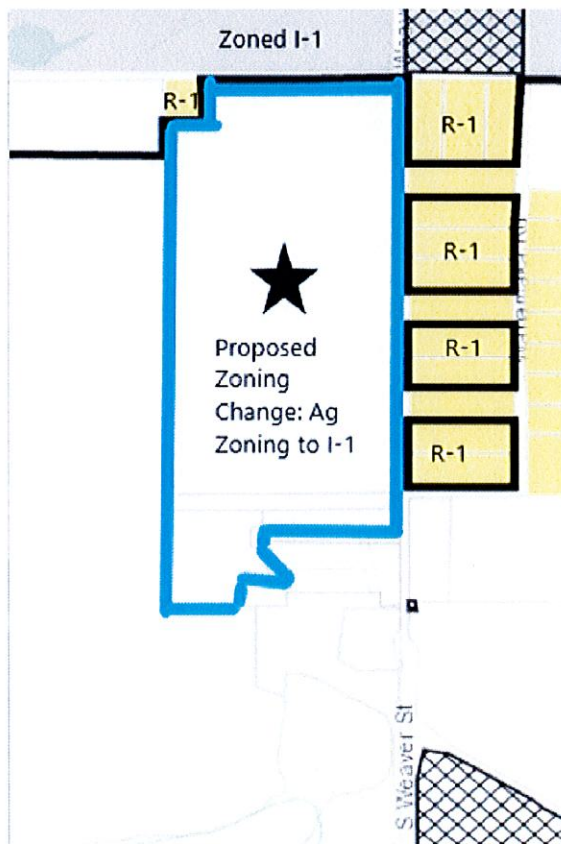
Weaver motioned to reject the application because the information that was presented and the new knowledge of these categories of obnoxiousness in the city stated intent to make sure that any industry does not generate noise, vibrations, etc. from the regulations.

Garrett seconded the motion because he doesn't think doing that minimizes Emporia Enterprises goals.

Vote: 5 to uphold the motion and 2 to reject the motion. Colson, Weaver, Garrett, Duncan, and Thomas uphold the motion. Dewitt and Bucklinger rejected the motion. Application is again voted down.

AERIAL/ZONING MAP:

1: MAP SHOWING LOCATION OF THE PROPERTY (IN BLUE)



ACTION RECORD

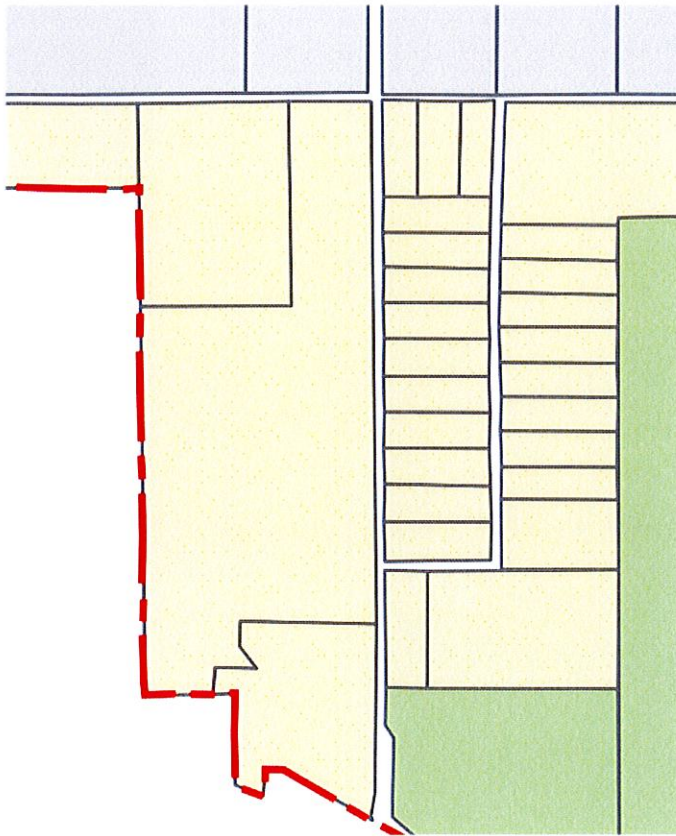
Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY



Legend

	Country Home		Industrial-Flex
	SF Detached		Light Industrial
	SF Attached		Heavy Industrial
	Multi-Family		Civic/Public
	Commercial		Greenspace/Park

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

AGENDA ITEM SUMMARY

Floodplain Map (Effective Nov. 2021): Green area will be out of the floodplain, yellow remaining, red is new floodplain.



ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

ORDINANCE NO. _____

AN ORDINANCE REZONING A PROPERTY IN THE CITY OF EMPORIA, KANSAS FROM AGRICULTURAL ZONING, TO I-1, LIGHT INDUSTRIAL ZONING AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING

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

Section 1. The following described a portion of a property is hereby rezoned from Agricultural Zoning to that of I-1, Light Industrial Zoning to wit:

TRACT IN THE SE 1/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE SAID SE¼, MARKED BY AN IRON PIN, LYING S00°34'18"E A DISTANCE OF 100.00 FEET FROM THE NORTHEAST CORNER OF THE SAID SE¼; THENCE ON A BEARING OF N89°31'12"W ON A LINE PARALLEL WITH AND 100.00 FEET SOUTH OF THE NORTH LINE OF THE SAID SE¼ FOR A DISTANCE OF 781.88 FEET TO AN IRON PIN; THENCE ON A BEARING OF S00°52'42"E FOR A DISTANCE OF 121.66 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN; THENCE ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET TO AN IRON PIN; THENCE ON A BEARING OF N88°39'47"E FOR A DISTANCE OF 50 FEET TO AN IRON PIN; THENCE ON A BEARING OF N1°20'13"W FOR A DISTANCE OF 27.70 FEET TO AN IRON PIN; THENCE ON A BEARING OF S89°31'12"E FOR A DISTANCE OF 779.98 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE SE ¼; THENCE ON A BEARING OF N00°34'18"W ALONG THE SAID EAST LINE FOR A DISTANCE OF 215.31 FEET TO THE POINT OF BEGINNING;

ALSO:

A TRACT OF LAND IN THE SE ¼ OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 23, THENCE NORTH ALONG THE EAST LINE OF SAID SECTION ON AN ASSUMED BEARING OF N00°34'18"W FOR A DISTANCE OF 2,568.66 FEET; THENCE WESTERLY ON AN ASSUMED BEARING OF S89°14'04"W FOR A DISTANCE OF 781.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTHERLY ON AN ASSUMED BEARING OF S00°59'52"E FOR A DISTANCE OF 104.66 FEET; THENCE WESTERLY ON A BEARING OF S89°00'08"W FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'12"E FOR A DISTANCE OF 121.68 FEET; THENCE EASTERLY ON A BEARING OF N88° 39'47"E FOR A DISTANCE OF 50.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°20'13"E FOR A

DISTANCE OF 100.00 FEET; THENCE SOUTHEASTERLY ON A BEARING OF S39°51'15"E FOR A DISTANCE OF 163.20 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 250.00 FEET; THENCE SOUTHERLY ON A BEARING OF S1°14'56"W FOR A DISTANCE OF 142.75 FEET; THENCE WESTERLY ON A BEARING OF N88°45'04"W FOR A DISTANCE OF 384.62 FEET; THENCE NORTHERLY ON A BEARING OF N00°32'59"W FOR A DISTANCE OF 573.06 FEET; THENCE EASTERLY ON A BEARING OF N89°14'04"E FOR A DISTANCE OF 531.56 FEET TO THE POINT OF BEGINNING.

ALSO:

THE NORTH 87.5 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS

ALSO:

THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, EXCEPT THE FOLLOWING DESCRIBED TRACTS:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE SOUTH 260 FEET; THENCE EAST 206 FEET; THENCE NORTH 260 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

AND

A TRACT OF LAND IN THE EAST HALF OF THE NORTHEAST QUARTER (E 1/2 NE 1/4) OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT POINT 260 FEET SOUTH THE NORTHWEST CORNER OF THE EAST HALF OF THE SAID NORTHEAST QUARTER; THENCE SOUTH 50 FEET; THENCE EAST 206 FEET; THENCE NORTH 50 FEET; THENCE WEST 206 FEET TO THE POINT OF BEGINNING.

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

PASSED AND APPROVED this 17th day of November 2021.

ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 8

SUBJECT: Consider approving a contract with BG Consultants for design services for proposed Coronado Stream (Becker Addition) stormwater improvements.

RECOMMENDATION: Staff recommends approving the contract with BG Consultants.

BACKGROUND SUMMARY:

BG Consultants professional services contract is for the design of proposed storm sewer improvements along Coronado Stream (Becker Addition). The proposed improvements are approximately 1,100 LF of concrete lined channel from Coronado Street north (downhill/stream) to approximately Lot 7, Block 1, Becker's 6th Addition Replat. Natural revetment design with select bank armoring will be proposed from approximately that location to further downhill/stream toward the Neosho River.

As discussed at the November 10, 2021 study session, to this point BG has considered designs for the proposed storm sewer stream improvements with the following options:

1. Do nothing – no cost.
2. Open channel (concrete lined) - \$2.9M + \$0.5M (mitigation cost estimate from 2017) = \$3.4M
3. Open channel (natural revetment) - \$2.8M (expect more maintenance than Option #2)
4. Enclosed RCB culvert – (May not be approved by USACE from 2017) - \$2.4M + \$0.5M (mitigation) = \$2.9M.

There are design issues involving environmental permitting and litigation at the federal level involving the EPA and USACE and the applicability of the Waters of the United States and LEDPA to this stream that will need further research to understand their total impact to the project and the construction options that can be designed and permitted.

The agreement from BG Consultants, Inc. is based upon the Option No. 2 with concrete lined channel, which is the highest capital cost (but expected to be the best option in terms of project life cycle costs, which includes capital costs, future maintenance, and expected life of proposed improvements).

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 9

SUBJECT: Consider an appointment to the City Commission to fill the vacancy created by the resignation of Commissioner Jon Geitz.

RECOMMENDATION: Consider applications for the vacancy and make an appointment.

BACKGROUND SUMMARY:

Commissioner Jon Geitz recently announced his resignation effective on November 17, 2021. The City Clerk advertised to fill the vacancy. The City received one application and it is attached in your agenda.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

APPLICATION FOR ADVISORY BOARD MEMBERSHIP

DATE: 11/03/2021

NAME: James A Sauder
First Name MI Last Name

ADDRESS: 2919 Crestview Dr
Street
Emporia ☐ KS 66801
City State ZIP

Email: jamiesauder@gmail.com

PHONE: 6204811433

PLACE OF EMPLOYMENT: Coldwell Banker Emporia Real Estate

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 42 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:

—

**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON THE
ADVISORY BOARD(S) MENTIONED ABOVE:**

I would like to be appointed to the city commission to fill out the remainder of Jon Geitz's term.

OTHER ACTIVITIES AND INTERESTS:

working, golfing, other civic groups.

In Lieu of Signature, ☒ Click Here

Comments / Notes

AGENDA ITEM SUMMARY

MEETING DATE: November 17, 2021

ITEM NUMBER: 10

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.

No Study Session-November 24th

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

COMMISSION MEETING

1:30 P.M.

NOVEMBER 3, 2021

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, November 3, 2021, in the City Commission Meeting Room with Mayor Gilligan presiding and Commissioners, Geitz, Giefer and Smith present. Commissioner Brinkman was present via phone. 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 Meetings held on October 20, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on October 22, 2021.
- c. Consider Change Order No. 1 for the 2021 Street Rehab Paving, Project No. PV2102 and South Exchange Street Paving, Project No. PV2009.
- d. Consider Change Order No. 4 for the Watermain Project Elm Street and 9th Avenue Project No. WM1904, KDHE Project No. KPWSLF 2968.
- e. Consider Set Time and Date to Receive bids for the 6th Avenue Waterline Improvements Project No. WM2101.

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

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

Casey Woods and Jessica Buchholz, representing Emporia Main Street, were in attendance to accept a proclamation declaring November 27, 2021 as

"Small Business Saturday" in Emporia. They stated Emporia celebrates local small businesses and the contributions they make to our economy and community. Locally owned businesses of Emporia contribute to our unique and vibrant community character. They stated for every \$100 spent at a small local retail, \$68 will return to the community through taxes, payroll and donation to local schools and charities. They urged the residents of the Emporia area to join the rest of America and do a portion of their holiday shopping at small locally owned businesses.

Mayor Gilligan then presented the proclamation.

ENGINEERING
(Americus Road Sanitary Sewer Extension Project No. SS2002)
(US Hwy 50 - Road 180)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the three (3) bids were received for the Americus Road Sanitary Sewer Extension, Project No. SS2002. He stated this is part of the Evergy project. The bids are as follows:

Contractor	Base Bid	Add Alternate No. 1	Base Bid + Add Alt No. 1
Nowak Construction	\$1,148,044.40	\$26,130.00	\$1,174,174.40
Middlecreek Corp.	\$ 841,975.00	\$35,000.00	\$ 876,975.00
Carlson Utilities	\$ 808,765.00	\$37,500.00	\$ 846,265.00
City Engineer's Est.	\$ 649,810.00	\$ 8,000.00	\$ 657,810.00

He stated the Add Alternate No. 1 bid included the lining of manholes and due to the higher additional expense, this part of the project can be done at a late date. He stated staff is recommending awarding the bid to Carlson Utilities in the amount of \$808,765.00 for the base bid only.

Following further discussion, Commissioner Giefer made a motion to award the bid for Americus Road Sanitary Sewer Extension Project No. SS2002 to Carlson Utilities for the base bid amount of \$808,765.00. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

**CITY COMMISSION
(Engineering Services Agreement)
(BG Consultants, Inc.)
(Lift Stations 1, 2 and 15 Rehabilitation & Replacement)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated as previously discussed at a Study Session, this contract would be for construction services with BG Consultants for the Lift Station No. 2 Project. He stated the contract will cover services during the bidding process and construction inspection. The amount of the contract is not to exceed \$215,036.00. He stated staff was recommending approval of the Construction Services Contract with BG Consultants.

Commissioner Smith made a motion to approve the Construction Services Contract with BG Consultants for Lift Station No. 2 Project in an amount not to exceed \$215,036.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

**CITY COMMISSION
(Authorizing Execution & Delivery of First Supplemental Lease Agreement)
(Amendments Related to IRB Bonds Series A & B - Overlander Street, LLC)
(Ordinance Number 21-37)**

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS, AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE BY AND BETWEEN THE CITY OF EMPORIA, KANSAS, AS ISSUER, AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, A STATE BANKING CORPORATION, KANSAS CITY, KANSAS, AS TRUSTEE; AUTHORIZING EXECUTION OF A FIRST SUPPLEMENTAL LEASE AGREEMENT BETWEEN THE CITY AND OVERLANDER STREET, LLC AND APPROVING ADDITIONAL DOCUMENTS RELATED TO SUCH AMENDMENTS, to which the City Clerk assigned Ordinance Number 21-37, was presented to the Governing Body for their consideration.

City Attorney Montgomery stated this ordinance authorized amendments to documents relating to the City's Taxable Industrial Revenue Bonds, Series A & B, issued in 2015 and related to a project owned by Overlander Street, LLC. She stated the amendments are evidenced by a First Supplemental Lease Agreement and a First Supplemental Indenture and provide for a restatement of the interest rate on the Series A Bonds to reduce the rate and fix it for the remaining term of the Series A Bonds. The

amendments also acknowledge the project is now subleased to Simmons Foods as permitted by the Lease documents. She stated the ordinance approves delivery of an Amended and Restated Individual Guaranty Agreement, which names Sophie Mallon as an Individual Guarantor, in place of her late husband. The ordinance also authorizes the execution of related closing documents and certificates. The closing date on these documents is November 20, 2021. She stated staff is recommending approval of the ordinance.

Commissioner Giefer made a motion to approve Ordinance Number 21-37, an ordinance of the City of Emporia, Kansas authorizing the execution and delivery of a first supplemental indenture by and between the City of Emporia, Kansas, as issuer, and Security Bank of Kansas City, Kansas City, Kansas, a state banking corporation as Trustee; Authorizing execution of a First Supplemental Lease Agreement between the City Overlander Street, LLC and approving additional documents related to such amendments. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Intent to Issue Taxable Industrial Revenue Bonds)
(S&S Quality Meats, LLC)
(Resolution Number 3656)

City Attorney Montgomery stated this resolution states the City's intention to issue taxable industrial revenue bonds for the new Fanestil production facility. The resolution of intent does not authorize issuance of the bonds. She stated the bonds are expected to be issued upon completion of the new project and serve as part of permanent financing for the project. The project will be build using private equity and proceeds of a construction loan from RCB Bank. Adopting this resolution gives the city the ability to apply for a sales tax exemption certificate available to projects financed with proceeds of the City's bonds. Obtaining the certificate allows the contractors building the project to use the exemption certificate when purchasing materials or services subject to

retailers' sales tax. She stated this is the same process we apply in connection with other Industrial Revenue Bonds issued by the City. The City of Emporia will have no obligation and zero liability in the repayment of the Industrial Revenue Bonds. He stated staff recommends approving the resolution.

Commissioner Giefer made a motion to approve Resolution Number 3656, 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 \$14,000,000 for the purpose of purchasing, acquiring, constructing, furnishing and equipping a commercial food processing facility and related space all located in the City of Emporia, Kansas. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, 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 NOVEMBER 10TH STUDY SESSION AT 10:00 A.M.

Discuss Sewer System Connection Policy
Discuss Becker Addition Storm Water
Continued Discussion for City of Emporia Stormwater Management Plan

Joint Luncheon w/Golf Advisory Board at Noon Conference Room 1AB

Commissioner Smith then made a motion to adjourn to November 10, 2021 at 9:00 a.m. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ADJOURNED

COMMISSION MEETING

9:00 A.M.

NOVEMBER 10, 2021

The Governing Body of the City of Emporia, Kansas, met in Adjourned Session, Wednesday, November 10, 2021, with Mayor Gilligan presiding and Commissioners Brinkman, Geitz, and Smith present. Commissioner Giefer was absent. Also present were Assistant City Manager Massey, City Clerk Sull and City Prosecutor Brandy Roy-Bachman. City Manager McAnarney and City Attorney Montgomery were absent.

EXECUTIVE SESSION

Commissioner Smith made a motion to adjourn into Executive Session for consultation with City Attorney for discussion of proprietary information of Emporia State University including Commissioner Giefer who will be present via phone, and to invite representatives from Emporia State University including Shane Shivley, Diana Kuhlman, Jim Williams, Shelly Gehrke, Kelly Heine, and Don Hill from 9:00 a.m. to 9:30 a.m., in the City Commission Meeting Room. Commissioner Geitz seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Geitz, aye; Commissioner Brinkman, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Adjourned Session at 9:30 a.m., this same date in the City Commission Meeting Room the City, Mayor Gilligan stated they had consultation with City Attorney for discussion or proprietary information of Emporia State University and no action was taken.

Commissioner Smith then made a motion to adjourn. Commissioner Geitz seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye. Commissioner Brinkman was absent.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk