

COMMISSION MEETING

7:00 P.M.

APRIL 20, 2022

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, April 20, 2022, with Mayor Smith presiding and Commissioners Brinkman, Harter and Sauder present. Commissioner Giefer was absent. Also present were City Manager Cocking, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

City Clerk Sull administered the Oath of Office to Erren Harter.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Hate speech, profanity, and defamation are not allowed. Please stated your name and address prior to making comments.

Jeff Lynch, Community Development Coordinator, and a representative of the Natural Resources Advisory Board were in attendance to accept a proclamation declaring April 22, 2022, as "Earth Day" in Emporia. Earth Day originated on April 22, 1970 and was declared an international event on April 22, 1990. Annually some 180 countries, with participation of over 4,000 separate organizations celebrate. Individuals and institutions have a mutual responsibility to seek ecological, economical, and ethical choices that enable the world, as well as our individual communities to establish and maintain sustainable societies. Citizens were urged to celebrate Earth Day and to remind each person of their right and responsibility to the wise use of global home, to heal, preserve and improve the Earth and the quality of life for this and future generations, and to approach every day as an Earth Day.

Mayor Smith then presented the proclamation.

Josh Nelson, City Horticulturist, was in attendance of accept a proclamation declaring April 29, 2022, as "Arbor Day" in Emporia. Arbor Day was first observed with the planting of more then a million trees in Nebraska and Arbor Day is now observed throughout the nation

and the world. Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife. Trees in our city increase property values, enhance the economic vitality of business areas and beautify our community. He urged all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands and to plant trees to promote the well-being of this and future generations.

Mayor Smith then presented the proclamation.

CITY COMMISSION
(Repealing Charter Ordinance No. 26)
(Utilizing the City's Home Rule Authority Relating to Meetings)
(Charter Ordinance Number 40)

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 26 OF THE CITY OF EMPORIA, KANSAS, to which the City Clerk assigned Charter Ordinance Number 40, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated Charter Ordinance Number 26 utilized the City's Home Rule authority to exempt the City from certain provisions of state law relating to meetings of the City Commission for Cities of the First Class. The state law provisions reference in Charter Ordinance Number 26 have since been repealed making Charter Ordinance Number 26 no longer necessary. She stated repealing Charter Ordinance Number 26 will allow the City Commission to set a meeting schedule by ordinary ordinance. If Charter Ordinance Number 40 is approved, it will be published for two (2) consecutive weeks and become effective sixty-one (61) day after final publication. She stated staff was recommending approval of Charter Ordinance Number 40.

Commissioner Harter made a motion to approve Charter Ordinance Number 40, an ordinance repealing Charter Ordinance Number 26. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Harter aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Reschedule City Commission Meetings)**

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the City Commission's schedule provided in Charter Ordinance Number 26 will remain in effect until Charter Ordinance Number 40 goes into effect. The City Commission may vote to reschedule action meetings whenever the Commission determines that a conflict exists with the regular scheduled meetings. She stated at the strategic planning session on April 13, City Commission discussed conducting all action meetings at the same time and holding study sessions immediately following action meetings to improve consistency and efficiency. She stated staff recommends rescheduling the May 4th action meeting to 11:00 with a study session immediately following and the May 18th action meeting to 11:00 a.m. with a study session immediately following as a trial basis for a potential new permanent schedule. Study session would not be held on May 11th or 25th. She stated staff was recommending to vote to reschedule the May 4th action meeting to 11:00 a.m. on May 4th and the May 18th action meeting to 11:00 a.m. on May 18th finding that the existing meeting times conflict with the City Commission goals identified during strategic planning.

Commissioner Sauder made a motion to reschedule the May 4th action meeting to 11:00 a.m. on May 4th and the May 18th action meeting to 11:00 a.m. on May 18th. Commissioner Harter seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; and Mayor Smith, aye.

**POLICE DEPARTMENT
(Consider Agreement w/Humane Society of the Flint Hills, Inc.)
(Animal Shelter Lease Agreement for 2022)
(Operation of Animal Shelter for 2022)**

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the Humane Society of the Flint Hills has operated the Emporia Animal Shelter on behalf of the City of Emporia since 2015. The City and HSFH are parties to a Lease Agreement and Operations Agreement which are specify the terms of the Emporia Animal

Shelter Management. She stated the proposed agreements for 2022 year are substantially similar to agreements in previous years. HSFH will be responsible for management and operations of the animal shelter including providing appropriate shelter and veterinary care for animals, maintaining appropriate staffing, providing an annual financial report to the City, accepting all animals from Emporia Police Department and Animal Control, honoring all court orders, and offering walk-in services to the public at least 30 hours per week. HSFH will be responsible for daily maintenance and cleaning of the facility. The City will be responsible for snow removal, mowing, and nonroutine maintenance items such as mechanical, electrical, and plumbing. HSFH may make alterations or improvements to the building with written consent of the City. She stated the agreement is for a period of two (2) years and the City will pay HSFH \$132,000.00 per year. This is an increase of 10%. She stated staff was recommending approval of Lease Agreement and Operations Agreement with the Humane Society of the Flint Hills, Inc. for a period of two (2) to operate the Emporia Animal Shelter and authorize the Mayor to sign the agreements.

Mayor Smith stated she would abstain from the vote.

Commissioner Brinkman made a motion to approve Animal Shelter Lease Agreement for 2022 and the Operation of Animal Shelter for 2022. Commissioner Harter seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Harter, aye; and Commissioner Sauder, aye. Mayor Smith abstained.

CITY COMMISSION
(Consider Project Plan for Tax Increment Financing)
(Brownstone/Red Brick Investment)
(Resolution Number 3669)

Jim Witt, Special Projects Manager, was recognized and addressed the Governing Body. He stated this resolution establishes a hearing date of June 1, 2022, for consideration of a project plan for the Red Brick Tax Increment Financing (TIF) district. This project is the Travel Plaza on the west side of Emporia. He stated this is a required

public hearing in accordance with Kansas Statutes. The project plan has been reviewed by our bond and incentive attorney and does meet the required Statutory requirements.

Commissioner Sauder made a motion to approve Resolution Number 3669, a resolution stating the intent to consider the adoption of the redevelopment project plan within the Red Brick Emporia Redevelopment District establishing a public hearing date of June 1, 2022. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Smith, aye.

CITY COMMISSION
(Establish Public Hearing Date)
(Creating a Community Improvement District)
(Brownstone/Red Brick Investment)
(Resolution Number 3670)

Jim Witt, Special Projects Manager, was recognized and addressed the Governing Body. He stated this resolution is to establish a public hearing date on June 1, 2022 for the Red Brick Community Improvement District and accept the CID Petition in accordance with Kansas Statutes. He stated the developer of the Red Brick travel plaza and associated uses has submitted a petition as required by Kansas Statutes for the creation of a Community Improvement District. The request is for a 2% sales tax on eligible items sold only within the district. He stated the 2% is the maximum allowed under Kansas law. This would include a sales tax on a hotel/motel which is planned at this time. He stated, if approved, this will be the fourth CID sales tax improvement district in the City.

Commissioner Brinkman made a motion to approve Resolution Number 3670, a resolution giving notice of a public hearing on creating a Community Improvement District known as Red Brick Emporia Community Improvement District. Commissioner Sauder seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Sauder, aye; Commissioner Harter, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Whittier Tract)
(Establish Public Hearing Date)
(Rural Housing Incentive District)
(Resolution Number 3671)**

Jim Witt, Special Project Manager, was recognized and addressed the Governing Body. He stated this resolution will establish a public hearing date of June 1, 2022 for the Whittier Tract. He stated this resolution authorizes the required public hearing for the establishment of a Rural Housing Incentive District (RHID). The Commission previously adopted a resolution requesting the eligibility of the Whittier Tract as an RHID. The Kansas Department of Commerce approved the eligibility of the property. The developer submitted a development plan as required by Kansas statutes for the establishment of an RHID. He stated the plan has been reviewed by staff and meets the required statutory requirements.

Commissioner Sauder made a motion to approve Resolution Number 3671, a resolution declaring an intent to establish a Rural Housing Incentive District and establishing a public hearing on June 1, 2022. Commissioner Harter seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; and Mayor Smith, aye.

**ENGINEERING
(Agreement with Kansas Department of Transportation)
(Federal Fund Exchange Program 2022)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the Kansas Department of Transportation allows the city to trade all or a portion of our federal fund annual allocations in the upcoming 2022 year with KDOT in exchange for state transportation dollars. The exchange rate for the 2022 program is \$0.90 of state funds for every \$1.00 of local federal obligation authority exchanged, making the available federal funds in the amount of \$306,716.15 available to the City of Emporia. He stated the

Federal Fund Exchange is a reimbursement program with KDOT. The monies received each year are reimbursement from qualified paving projects from previous years. He stated the City must continue to spend the monies received to be eligible for future reimbursement. The Federal Fund Exchange program monies can no longer be banked at KDOT and must be captured each year by the local public agency. He stated staff is recommending approve the Request to Exchange Federal Funds for the year 2022 and authorize the Mayor to sign the 2022 Master Agreement.

Commissioner Brinkman made a motion to approve the request to exchange Federal Funds under the Federal-Aid Fund Exchange Master Agreement for the year 2022 and authorize the Mayor or City Manager to sign the 2022 Master Agreement. Commissioner Sauder seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Sauder, aye; Commissioner Harter, aye; and Mayor Smith, aye.

**SIDEWALK
(2022 Hazardous Sidewalk Program)
(Bids)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated one (1) bid was received for the 2022 Hazardous Sidewalk Program. The bid received is intended for setting unit prices for each individual project line item. Bid totals were achieved by multiplying these unit prices with our initial estimated quantities from the list of site work projected for the 2022 Hazardous Sidewalk program.

BID TABULATION FOR 2022 HAZARDOUS SIDEWALK PROGRAM

Contractor	Base Bid
<i>S.R. Coffman Construction, Inc.</i>	<i>\$53,315.00</i>
Engineer's Estimate	\$52,375.00

The 2022 Hazardous Sidewalk Program is budgeted at \$100,000.00, additional locations and quantities will be added throughout the year as property owners sign up for participation. The program also allows

the homeowner the option to hire their own bonded contractor to replace their sidewalk at these set unit prices. He stated the base bid exceeded the Engineer's Estimate by 1.8%, however, staff is recommending awarding the bid for the 2022 Hazardous Sidewalk Program to S.R. Coffman Construction, Inc. in the amount of \$53,315.00.

Commissioner Harter made a motion to award the bid for the 2022 Hazardous Sidewalk Program to S.R. Coffman, Inc. in the amount of \$53,315.00. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; and Mayor Smith, aye.

**PAVING
(2022 Street Rehabilitation Project No. PV2203)
(Various Locations Within City Limits)
(Bids)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the 2022 Street Rehabilitation Project PV2203 for various locations around the city. The City had three (3) bidders out of three (3) plan holders. The following are the bids and Engineer's estimate.

BID TABULATION FOR 2021 STREET REHABILITATION PROJECT

Contractor	Base Bid	Add Alternate Bid	Total
APAC-Kansas Inc. Shears Div.	\$802,009.33	\$165,825.79	\$ 967,835.12
Killough Construction, Inc.	\$881,619.15	\$165,621.70	\$1,047,240.85
Bettis Asphalt & Const, Inc.	\$886,166.51	\$168,434.39	\$1,054,600.90
Engineer's Estimate	\$606,403.90	\$102,475.70	\$ 708,879.60

He stated the base bid exceeded the Engineer's Estimate by 32.3%, due to current inflationary conditions in the construction economy. The budgeted amount was \$600,000.00, but has since been revised to \$850,000.00 to cover the project. This project will be funded from the Multi-Year Fund. Staff recommends awarding the project to APAC-Kansas Inc., Shears Division for the Base Bid only in the amount of \$802,009.33 and authorize the Mayor to sign the agreement.

Commissioner Brinkman made a motion to award the Base Bid to APAC-Kansas, Inc., Shears Division in the amount of \$802,009.33.

Commissioner Harter seconded the motion. The vote follows:
Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

**CITY MANAGER'S REPORTS
(Financials & Building Permits)**

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

1. Monthly Local Retail Sales Tax Receipts Update

	2021	2022	
	\$421,533.71	\$458,149.13	Increase of \$36,615.42 for the month, and
YTD	\$1,277,929.20	\$1,461,762.19	Overall increase of 14.39% from year 2021

2. City Share from County Tax

	2021	2022	
	\$ 214,110.73	\$ 236,477.70	Increase of \$22,366.97 for the month, and
YTD	\$ 644,857.43	\$ 754,057.95	Overall increase of 16.93% from year 2021

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

Total number of building permits issued through Code Services:	167
Total of valuations associated with those building permits:	\$5,187,934.00
Total number of dollars collected for Building Permit Fees:	\$ 29,059.88
Construct - single family dwellings	0
Demo - single family dwellings	0
Flint Hills Mall CID for March 2022	\$ 13,132.63
Year to Date Total	\$ 49,199.29

Consent Agenda

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

- Consider minutes of the Regular Meeting held on April 6, 2022.
- Consider ratification of Payroll Ordinance for the period ending April 8, 2022.
- Consider Purchase of a Bi-Directional Amplifier (BDA).
- Approve Agreement with BG Consultants for Highland Street Construction Plans and Construction Engineering Services.

- e. Approve Agreement with BG Consultants for Flint Hills Construction Plans and Traffic Impact Study for Phase 1.
- f. Approve Jones Aquatic Center Agreement.

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

**CITY COMMISSION
(City Manager's Report)**

This is an opportunity for the City Manager to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works for the tentative Agenda of April 27, 2022 Study Session at 10:00 a.m.

Continued HomeServe Discussion.

Enterprise Leasing.

Mini Excavator Lease for Underground Utilities.

Kansas Open Meetings Act Overview.

Future Commission Luncheons:

- RDA & Emporia Enterprises City/County Luncheon on May 18, 2022 at 11:30 a.m. in the Little Theatre.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session to discuss potential land acquisition and to invite Jim Ubert, City Engineer, from 7:47 p.m. to 7:57 p.m., in the City Commission Meeting Room. Commissioner Harter seconded the motion.

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

Upon reconvening the meeting in Regular Session at 7:57 p.m., this same date, in the City Commission Meeting Room, Mayor Smith stated they had discussed potential land acquisition and no action was taken.

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

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk