

COMMISSION MEETING**7:00 P.M.****APRIL 21, 2021**

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, April 21, 2021, with Mayor Gilligan presiding and Commissioners Brinkman, Giefer and Smith present. Commissioner Geitz was present via phone. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

MAYOR AND CITY COMMISSIONERS REPORTS AND COMMENTS

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

1. Monthly Local Retail Sales Tax Receipts Update

	2020	2021	
	\$385,927.00	\$421,533.71	Increase of \$35,606.71 for the month, and
YTD	\$ 1,249,027.58	\$1,277,929.20	Overall increase of 2.31% from year 2020

2. City Share from County Tax

	2020	2021	
	\$196,092.81	\$214,110.73	Increase of \$18,017.92 for month, and
YTD	\$ 640,827.57	\$ 644,857.45	Overall increase of 0.63% from year 2020

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

Total number of building permits issued through Code Services:	57
Total of valuations associated with those building permits:	\$ 3,083,699.00
Total number of dollars collected for Building Permit Fees:	\$ 13,857.50
Construct - single family dwellings	2
Demo - single family dwellings	1
Flint Hills Mall CID for March	\$ 16,212.69
Year to Date Total	\$ 51,096.12

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 Meeting held on April 9, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on April 9, 2021.
- c. Consider the Approval of March Budget.
- d. Consider Set Bid Time and Date for New Flatbed Pickup for the Solid Waste Department.

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. No comments were made at this time.

**PAVING
(Accept Agreement KDOT FY 2023 CCLIP-SP US-50)
(Prairie Street to Neosho Street)
(KDOT Project No. 50-56 U-2390-01)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated this is part of the ongoing surface preservation program with US-50 Highway from Prairie Street to Neosho Street for KDOT's fiscal year 2023. He stated the agreement is funded 90% KDOT to 10% City of Emporia up to the maximum of \$300,000.00 of construction and construction engineering expenses. The City is responsible for 100% of construction and construction engineering costs beyond \$300,000.00 or any non-participating costs. The City's portion of the project will be funded by the county wide sales tax and multi-year fund. He stated staff is recommending accepting the KDOT FY 2023 CCLIP agreement between KDOT and authorize the Mayor to sign the agreement.

Commissioner Brinkman made a motion accepting the KDOT FY 2023 CCLIP-SP US-50 Prairie Street to Neosho Street agreement with KDOT and authorize the Mayor to sign the documents. Commissioner Giefer seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Consider Resolution Adopting a Housing Development)
(Rural Housing Incentive District Policy)
(Resolution Number 3642)

Jim Witt, Special Project Manager, was recognized and addressed the Governing Body. He stated this was a request to revise the Housing Development and Rural Housing Incentive Policy and a Resolution adopting the policy. This was previously discussed at a study session and changes made to the initial policy document. He stated if the revised policy is acceptable staff recommends approval of the Resolution.

Following further discussion, it was moved by Commissioner Smith to approve Resolution Number 3642 a resolution adopting a Housing Development and Rural Housing Incentive District Policy. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Giefer, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Kretsinger Tract)
(Request Rural Housing Incentive District)
(Resolution Number 3643)

Jim Will, Special Project Manager, was recognized and addressed the Governing Body. He stated staff received a request from the potential developers of the Kretsinger tract to add the property to the eligible RHID districts within the City. He stated this resolution is the first step in the RHID designation process. A copy of the resolution along with the August 2020 Housing Study will be forwarded to the Kansas Department of Commerce for consideration as an additional eligible district. If the Kansas Department of Commerce approves the addition of the district the developer may then take the statutory steps to formally designate the district through City Commission action.

Following further discussion Commissioner Brinkman made a motion to approve Resolution Number 3643, a resolution proposing the

establishment a RHID Designation for the Kretsinger Tract. Commissioner Giefer seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; and Commissioner Smith, aye. Mayor Gilligan abstained.

PLANNING AND DEVELOPMENT

(MAPC Excerpts of Regular Meeting Held 3-16-21)

(Application No. 2021-10 - Request of Emporia Enterprises)

(Annex Property Located at 3601 W. 6th Avenue into City Limits)

Excerpt of Planning Commission Minutes from March 16, 2021.

The Planning Commission met in a regular session on Tuesday, March 16, 2021, with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett were present. Board currently has 5 vacancies.

(This meeting was held via Zoom and on Facebook Live, due to the restrictions in place because of Covid19.)

2021-10 Approve a Request to Annex Property at 3601 W. 6th Ave into the City of Emporia and Revoke Conditional Use Permit

Staff confirmed jurisdiction over this application.

No exparte communication was declared.

BACKGROUND SUMMARY

SECTION 3-3 ANNEXATION 3-301. Land hereafter annexed into the City of Emporia shall retain the zoning district status received in Lyon County unless procedures are followed to amend the zoning status.

2014 State Statute 12-520

ANALYSIS:

2021-10 Approve a Request to Annex Property at 3601 W. 6th Ave into the City of Emporia and Revoke Conditional Use Permit

LEGAL DESCRIPTION:

A TRACT IN THE NORTHEAST AND NORTHWEST QUARTERS OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 18; THENCE N.90°00'00"E. ON THE NORTH LINE OF

SAID NE 1/4 OF THE NE 1/4 (BASIS OF BEARINGS) FOR A DISTANCE OF 523.80 FEET;
THENCE S.00°32'29"E. FOR A DISTANCE OF 1174.90 FEET TO THE NORTHERLY RIGHT OF WAY OF THE BN&SF RAILROAD;
THENCE N.88°46'24"W. ON THE NORTH LINE OF SAID RAILROAD FOR A DISTANCE OF 546.94 FEET TO THE WEST LINE OF SAID NE 1/4 OF THE NE 1/4; THENCE N.88°47'07"W. ON SAID NORTH LINE OF THE RAILROAD FOR A DISTANCE OF 103.00 FEET; THENCE N.00°35'13"E. FOR A DISTANCE OF 1161.03 FEET TO THE NORTH LINE OF SAID NW 1/4 NE 1/4. THENCE N.90°00'00"E. ON THE NORTH LINE OF SAID NW 1/4 NE 1/4 FOR A DISTANCE OF 103.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 16.64 ACRES, EXCLUSIVE OF THE NORTH 33 FEET FOR RIGHT OF WAY FOR OLD US 50 HIGHWAY.

ANNEXATION:

Applicants: Emporia Enterprises

Requested Action: Annexation and revoke previous Conditional Use

Purpose: To bring location into the city limits, and revoke previous Conditional Use Permit

Address: 3601 W. 6th Ave

Size: Approximately 2.60 acres

Existing Zoning: Agricultural

Existing Land Use: Agricultural

Physical Characteristics: Undeveloped land in Floodplain

Comprehensive Plan: Industrial Use

Public Utilities: Water and sewer are available.

Analysis: The applicant would like to annex this property in order clean up city property lines and connect with utilities if ever needed.

Mr. Foster addressed the PC noting the revocation of the Conditional Use Permit for this parcel was also being requested. Staff noted that the revoking of the Conditional Use is within the authority of Planning Commission.

Mr. Foster noted that the Conditional Use was for a gun range at this location. The gun was never operational and the use has been vacant for over 12 months and it would not create a hardship for the property owner of neighbors to revoke the CUP.

Zoning Regulations Section 26-504. The Planning Commission may revoke any Conditional Use Permit upon finding that (a) necessary building permits have not been issued within twelve (12) months of approval of the Conditional Use Permit or (b) if no building permit is required for the use allowed under the Conditional Use Permit, that the use so allowed has not been commenced within twelve (12) months of the approval of the Conditional Use Permit.

Chair Thomas asked if we needed to have two motions. One for the annexation and one to revoke the Conditional Use. Staff agreed that would be best.

Member Garrett asked when the ordinance was past and if a building permit would have been required. Member Garrett asked, how do factually find that no building permit was issued, given the passing of time?

Mr. Heermann noted that Emporia Enterprises has owned the property since December of 2020, and it was previously owned by Dynamic Disc for some time.

Member Bucklinger noted that he remembered when the Conditional Use was passed but it was never used.

Member Garrett stated that we needed evidence that it was not in use.

Mr. Foster noted he could do more research and get back with the Planning Commission at the next meeting.

Staff provided information regarding the annexation request, noting the locations, floodplain and that surrounding locations are within city limits.

Mr. Foster stated that City staff discussed the requested annexation, there were no concerns noted that would prevent this request.

Annexations do not require a legal publication, and because of that can be added to the PC agenda at any time.

In accordance with 2014 State Statute 12-520 as long as one of the following is met the City can annex without County approval.

(1) The land is platted, and some part of the land adjoins the city.

(2) The land adjoins the city and is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%. (Yes)

(5) The land if annexed will make the city boundary line straight

or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose. (Yes)

(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition. (Yes)

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner. (Yes)

REGULATIONS:

Zoning Regulations SECTION 3-3 ANNEXATION 3-301. Land hereafter annexed into the City of Emporia shall retain the zoning district status received in Lyon County unless procedures are followed to amend the zoning status.

2014 State Statute 12-520

Zoning Regulations Section 26-504. The Planning Commission may revoke any Conditional Use Permit upon finding that (a) necessary building permits have not been issued within twelve (12) months of approval of the Conditional Use Permit or (b) if no building permit is required for the use allowed under the Conditional Use Permit, that the use so allowed has not been commenced within twelve (12) months of the approval of the Conditional Use Permit.

Recommendation: Staff recommended the approval of the annexation as normal extension of the community.

Public Hearing:

The Public Hearing portion was opened.

Kent Heermann, 1720 Trowman Way, Emporia, KS, applicant, addressed the Board and was available to answer any questions.

No opposition from the public or general public.

The Public Hearing portion was closed.

Revocation Request: Member Duncan made a motion to Table the Revocation of the Condition Use Permit for 2021-10. Member Garrett seconded the motion. Approved to table 4-0.

Annexation: Member Bucklinger made a motion to approve the application based on staff's recommendation. Member Duncan seconded the motion. Approved 4-0

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request from Emporia Enterprises to annex a parcel of land located at 3601 W. 6th Avenue into City limits. The annexation is contiguous with City of Emporia and will make the city boundary line straight or harmonious with surrounding properties that are already in the city limits. All utilities and easements are in place at this location. He stated the Technical Review Team had no objections to the request. At their March 16, 2021 regular meeting, the Planning Commission voted unanimously to approve the request.

PLANNING AND DEVELOPMENT

**(Application No. 2021-10 - Request of Emporia Enterprises)
(Annex Property Located at 3601 W. 6th Avenue into City Limits)
(Ordinance Number 21-12)**

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND, to which the City Clerk assigned Ordinance Number 21-12, was presented to the Governing Body for their consideration.

Commissioner Brinkman made a motion to approve Ordinance Number 21-12, an ordinance extending the boundaries of the City of Emporia to include 3601 W. 6th Avenue. Commissioner Giefer seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

PLANNING AND DEVELOPMENT

**(MAPC Excerpts of Regular Meeting Held 3-16-21)
(Application No. 2021-09 - Request of Emporia Enterprises)
(Annex Property Located at 1501 E. Logan Avenue into City Limits)**

Excerpt of Planning Commission Minutes from March 16, 2021.

The Planning Commission met in a regular session on Tuesday, March 16, 2021, with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett were present. Board currently has 5 vacancies.

(This meeting was held via Zoom and on Facebook Live, due to the restrictions in place because of Covid19.)

2021-09 Approve a Request to Annex a Parcel of land 1501 E. Logan into the City of Emporia

LEGAL DESCRIPTION:

Beginning at the Northwest corner of the East Half of the Northeast Quarter of Section 23, Township 19 South, Range 11 East of the 6 P.M.; 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/2 NE/4) of Section 23, Township 19 South, Range 11 East of the 6th P.M. being described as follows; Beginning at a point 260 feet South of 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.

Member Garrett asked for clarification regarding the applicant connection to the Regional Development Agency, concerned with a possible conflict of interest.

Application Kent Heermann addressed the board and explained that Emporia Enterprises was not directly connected to the RDA, as it is a subsidiary of the Chamber of Commerce. Emporia Enterprises is a 501C6, that act as a property holder, that also owns and manages industrial properties. Member Garrett noted that he had no conflict of interested and the item continued.

Staff report continued

REGULATIONS:

SECTION 3-3 ANNEXATION 3-301. Land hereafter annexed into the City of Emporia shall retain the zoning district status received in Lyon County unless procedures are followed to amend the zoning status.

2014 State Statute 12-520

ANALYSIS:

Applicants: Emporia Enterprises

Requested Action: Annexation

Purpose: To bring location into the city limits

Address: 1501 E. Logan

Size: Approximately .20 acres

Existing Zoning: Agricultural

Existing Land Use: Agricultural

Physical Characteristics: Undeveloped land/Family Home

Comprehensive Plan: R-1/Single Family House

Public Utilities: Water and sewer are available.

Analysis: The applicant would like to annex this property in order to expand the existing building. This annexation is contiguous with the city limit line to the north and west.

City staff discussed the requested annexation, there were no concerns noted that would prevent this request.

Annexations do not require a legal publication, and because of that can be added to the PC agenda at any time.

In accordance with 2014 State Statute 12-520 as long as one of the following is met the City can annex without County approval.

(1) The land is platted, and some part of the land adjoins the city.

(2) The land adjoins the city and is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%. (Yes)

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose. (Yes)

(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner. (Yes)

Recommendation: Approve as a normal extension of the community.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request from Emporia Enterprises to annex a parcel of land located at 1501 E. Logan Avenue into City limits. The annexation is contiguous with City of Emporia and will make the city boundary line straight or harmonious with surrounding properties that are already in the city limits. All utilities and easements are in place at this location. He stated the Technical Review Team or Utility Advisory Board had no objections to the request. At their March 16, 2021 regular meeting, the

Planning Commission voted unanimously to approve the request.

PLANNING AND DEVELOPMENT
(Application No. 2021-09 - Request of Emporia Enterprises)
(Annex Property Located at 1501 E. Logan Avenue into City Limits)
(Ordinance Number 21-13)

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND, to which the City Clerk assigned Ordinance Number 21-13, was presented to the Governing Body for their consideration.

Commissioner Giefer made a motion approve Ordinance Number 21-13, an ordinance extending the boundaries of the City of Emporia to include 1501 E. Logan Avenue. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting Held 3-16-21)
(Application No. 2021-11 - Request of Emporia Enterprises)
(Annex Property Located at 1503 E. Logan Avenue into City Limits)
(Annex Property Located at 1201 S. Weaver St. Into City Limits)

Excerpt of Planning Commission Minutes from March 16, 2021.

The Planning Commission met in a regular session on Tuesday, March 16, 2021, with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett were present. Board currently has 5 vacancies.

(This meeting was held via Zoom and on Facebook Live, due to the restrictions in place because of Covid19.)

Application 202-11: Approve a Request to Annex a Parcel of land 1503 E. Logan Ave and 1201 S. Weaver St. into the City of Emporia.

Staff confirmed jurisdiction over this application.

No exparte communication was declared.

BACKGROUND SUMMARY

SECTION 3-3 ANNEXATION 3-301. Land hereafter annexed into the City of Emporia shall retain the zoning district status received

in Lyon County unless procedures are followed to amend the zoning status.

2014 State Statute 12-520

ANALYSIS:

Applicants: Dan Smoots/Emporia Enterprises

Requested Action: Annexation

Purpose: To bring location into the city limits

Address: No dedicated address

Size: approximately 90 acres

Existing Zoning: Agricultural

Existing Land Use: Agricultural

Physical Characteristics: Undeveloped land

Comprehensive Plan: R-1, Single Family

Public Utilities: Water and sewer are available.

Analysis: The applicant would like to annex this property in order to expand industrial growth in the future. This annexation is contiguous with the city limit line to the north, east, and west.

City staff discussed the requested annexations, there were no concerns noted that would prevent this request.

Annexations do not require a legal publication, and can be added agenda at any time.

In accordance with 2014 State Statute 12-520 as long as one of the following is met the City can annex without County approval.

- (1) The land is platted, and some part of the land adjoins the city.
- (2) The land adjoins the city and is owned by or held in trust for the city or any agency thereof.
- (3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).
- (4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%. (Yes)
- (5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose. (Yes)
- (6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner. (Yes)

RECOMMENDATION:

Approve as a normal extension of the community.

Member Garrett asked if this was standard procedure for annexation. Mr. Foster noted, that yes, this was standard way to annex in accordance with local and state regulations.

Public Hearing:

The Public Hearing portion was opened.

Kent Heermann, 1720 Trowman Way, Emporia, KS, applicant, addressed the Board and was available to answer any questions.

Mr. Heermann noted that he desired to annex the property at 1503 E. Logan Ave and 1201 S. Weaver St. as well as rezoning the property in the near future. He would rather take the rezoning to the City Planning Commission and City Commission rather than the County Commission.

No opposition.

The Public Hearing portion was closed.

Application 2021-11: Member Bucklinger made a motion to approve the application based on staff's recommendation. Member Thomas seconded the motion. Approved 4-0

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request from Emporia Enterprises to annex a parcel of land located at 1503 E. Logan Avenue and 1201 S. Weaver Street into City limits. The annexation is contiguous with City of Emporia and will make the city boundary line straight or harmonious with surrounding properties that are already in the city limits. All utilities and easements are in place at this location. He stated the Technical Review Team had no objections to the request. There were no objections from neighboring property owners or the general public. At their March 16, 2021 regular meeting, the Planning Commission voted unanimously to approve the request.

PLANNING AND DEVELOPMENT

**(Application No. 2021-11 - Request of Emporia Enterprises)
(Annex Property Located at 1503 E. Logan Avenue into City Limits)
(Annex Property Located at 1201 S. Weaver St. Into City Limits)
(Ordinance Number 21-14)**

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND, to which the City Clerk assigned Ordinance Number 21-14, was presented to the Governing Body for their consideration.

Commissioner Giefer made a motion to approve Ordinance Number 21-14, an ordinance extending the boundaries of the City of Emporia to include 1503 E. Logan Avenue and 1201 S. Weaver Street. 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, recognizes employees for outstanding contribution 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 APRIL 28TH STUDY SESSION 9:30 A.M.

Scooter Information.

Discuss Motor Grader.

Continued Discussion on Water Tap Fees.

Discuss Agreement with JAC with ERC.

Discuss New Electronic Sign for the Emporia Public Library.

Kansas State Historic Preservation Office Appeal.

Commissioner Brinkman then made a motion to adjourn the meeting to April 28th at 10:00 a.m. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk