

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

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, July 21, 2021, 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.

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 June for the community:**

1. Monthly Local Retail Sales Tax Receipts Update

	2020	2021	
	\$393,788.13	\$476,228.07	Increase of \$82,439.94 for the month, and
YTD	\$ 2,418,125.99	\$2,663,268.14	Overall increase of 10.14% from year 2020

2. City Share from County Tax

	2020	2021	
	\$ 203,615.11	\$ 238,737.69	Increase of \$35,122.58 for month, and
YTD	\$1,240,499.18	\$1,344,923.57	Overall increase of 8.42% from year 2020

3. **Building Permits issued from 6/1/2021 to 6/30/2021 for new construction, remodeling, repairs and demolition.**

Total number of building permits issued through Code Services:	83
Total of valuations associated with those building permits:	\$ 1,666,334.00
Total number of dollars collected for Building Permit Fees:	\$ 11,683.50

Construct - single family dwellings	1
Demo - single family dwellings	0

Flint Hills Mall CID for June	\$ 18,417.40
Year to Date Total	\$ 101,955.59

Consent Agenda

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

- Consider minutes of the Meeting held on July 7, 2021.
- Consider ratification of Payroll Ordinance for the period ending on July 2, 2021.
- Consider the Approval of June Budget.
- Consider Set Date for Notice of Hearing to Exceed Revenue Neutral Rate and 2022 Budget Hearing.

- e. Consider Approval of 2020 Annual Report.
- f. Consider the Approval of an Agreement with SOS, Inc. for a Parking Lot Easement Regarding a parking lot easement at 1420 C of E Drive.

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

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

Tagan Trahoon, 400 W. 15th Avenue, representing SOS Strong Campaign, thanked the community for the support and for the second year in a row set a new record of \$57,395.00.

PLANNING AND DEVELOPMENT

**(MAPC Excerpts of Regular Meeting Held 5-18-21)
(Application No. 2021-14 - Request of Emporia Enterprises)
(Rezone Approximately 90 Acre Unplatted Parcel of Land)
(1501 E. Logan Ave., 1503 E. Logan Ave. & 1201 S. Weaver)
(From Agricultural to I-1 Light Industrial)**

Excerpts of Planning Commission Minutes from May 18, 2021.

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.

2. 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 exparte 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 ¼, MARKED BY AN IRON PIN, LYING S00°34'18"E A DISTANCE OF 100.00 FEET FROM THE NORTHEAST CORNER OF THE SAID SE ¼; 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 ¼ 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 (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.

Melissa 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.

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;
- 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:

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.

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.

Melissa 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. McAllister, inquired about how the interlocal agreement will change the jurisdiction.

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

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

Mrs. McAllister, 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. McAllister, 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. McAllister, 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.

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.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated the this was a request of Emporia Enterprises, Inc. to rezone a parcel of land located at 1501 E. Logan

Avenue, 1503 E. Logan Avenue and 1201 S. Weaver Street from Agricultural to I-1, Light Industrial Zoning. This is an approximately 90 acre tract that was previously annexed into the City. At their May 18, 2021 regular 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. He stated the Commission would need to take action in one of the following ways: 1. Approve the recommendation of the Planning Commission by a majority vote; 2. Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3. Table the request; or 4. Return the application to the Planning Commission, giving reason for doing so.

Commissioner Smith asked if there was any interest in this area to keep the rezoning to Light Industrial. She stated the Planning Commission voted 6 -1 to deny the rezoning, she was in favor of sending this back to the Planning Commission.

Commissioner Geitz made a motion to approve Ordinance Number 21-29, a ordinance to rezone land located at 1501 E. Logan Avenue, 1503 E. Logan Avenue and 1201 S. Weaver Street from Agricultural to I-1, Light Industrial. Commissioner Giefer seconded the motion.

Commissioner Brinkman asked about what the other potential uses for this property could be when the new zoning regulations are adopted, and could the uses for this property increase and what is the advantage of rezoning the property before there is an applicant.

Commissioner Smith asked if the property could be rezoned once there was an applicant for the area.

Commissioner Brinkman stated she was not in favor of the rezoning at this time.

Mayor Gilligan stated this land could be used to attract businesses for industrial ready uses.

Commissioner Brinkman asked what were the concerns of the Planning Commission to deny the rezoning request.

Joe Foster stated it was the concerns from the neighboring property owners and the general public of light pollution, noise pollution, possible water issues, traffic, and not knowing what the intended use was going to be.

Mayor Gilligan stated the investment of this property was made for the property to be used as industrial development.

Commissioner Smith stated she voted for the City to have the land available for possible other uses not just industrial use. She stated she was not in favor for rezoning the property at this time.

Commissioner Giefer stated the intent of Emporia Enterprises was to have the property rezoned as industrial from the beginning. This process has been discussed for over a year.

Commissioner Geitz stated the city has a long history having industrial ground ready for use. He stated he was in favor of changing the rezoning.

Commissioner Brinkman stated she was not in favor to override the Planning Commission's decision.

Commissioner Geitz recalled the motion. Commissioner Giefer seconded the recall motion.

Mayor Gilligan made a motion to return the application to the Planning Commission with direction to the applicant for provide better details on what the goals are for the property so the Planning Commission can reconsider it accordance with the future plans of what the development might be. Commissioner Giefer seconded the motion. The vote follows: Mayor Gilligan, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Commissioner Geitz, nay.

CITY COMMISSION
(Installing Electric Vehicle Charging Stations)
(Parking Lot at 1005 Mechanic St.)
(Approve Site License Agreement with Evergy)

Jeff Lynch, Community Development Coordinator, was recognized and addressed the Governing Body. He stated at previous study sessions discussions about allowing Evergy to install electric vehicle charging

stations in the City-owned lot at 1005 Mechanic St. He stated the location of the charging stations would be along the alley on the west side, at the south end, and would utilize four parking stalls. The parking stalls would remain accessible by non-electrical vehicles and would be available on a first come basis. There would be no cost to the City for installation. The cost of using the charging stations would be approximately 21 cents per hour, paid for by the end user (vehicle owners). He stated City staff has reviewed the legal, insurance and construction aspects of the project, and there are no known issues with the project at this time. Staff is recommending approval of the site license agreement.

Commissioner Smith made a motion to approve the installation of the electric vehicle charging stations in the parking lot at 1005 Mechanic and the execution of Site License Agreement. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

PAVING
(KDOT CCLIP Resurfacing K99 Highway)
(Commercial St. from BNSF to 12th Ave.)
(US Hwy 50 - 6th Ave. from Neosho St. to Mechanic St.)
(Project No. PV2102 & KDOT Project No. 56 U-2389-01)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed to Governing Body. He stated bids were received on the KDOT CCLIP Resurfacing K99 Highway Commercial Street from BNSF to 12th Avenue and US50 Hwy 6th Avenue from Neosho Street to Mechanic Street city project PV2101 and KDOT Project No. 56 U-2389-01. The follow is the bid tabulation.

Contractor	Base Bid
APAC-KS, Inc. Shears Div.	\$619,297.76
Killough Construction	\$740,896.67
Engineer's Estimate	\$590,252.40

He stated this project will be funded with a combination of Multi-Year Funds and \$300,000.00 of KDOT CCLIP funds. He stated staff was recommending awarding the bid to APAC-KS, Inc., Shears, Div. for a total base bid amount of \$619,297.76.

Commissioner Smith made a motion awarding the bid for the construction of the KDOT CCLIP resurfacing K99 Highway Commercial Street from BNSF to 12 Avenue and US50 Hwy 6th Avenue from Neosho Street to Mechanic Street city project PV2101 and KDOT Project NO. 56 U-2389-01 to APAC-KS Inc., Shears Div. for a total base bid amount of \$619,297.76. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

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

City Attorney Montgomery, was recognized and addressed the Governing Body. She stated she had a request from the Humane Society of the Flint Hills, Inc. to table these items until September. They indicated they were not prepared to move forward with this and anticipated these items be placed back on a study session for further discussion.

Commissioner Giefer made a motion to table items number 8 and 9 with the Humane Society of the Flint Hills for operation and lease agreements for the Emporia Animal Shelter. Commissioner Geitz seconded the motion and requested the Friends of the Animal Shelter be present for future discussions. The vote follows: Commissioner Giefer, aye; Commissioner Geitz, aye; Commissioner Brinkman, aye; Mayor Gilligan, aye; and Commissioner Smith abstained.

CITY COMMISSION
(Consider Development Agreement)
(Flint Hills Crossing Community Improvement District)

Jim Witt, Special Projects Coordinator, was recognized and addressed the Governing Body. He stated this project started with a petition of a

CID which is a self imposed 1% overlay of sales tax. The project is located at the north round-a-bout on the west side of Emporia. A public hearing was held and an ordinance was approved to create the Community Improvement District for Flint Hills Crossing on February 3, 2021 for the property subject to the Development Agreement being completed as follows:

1. The initial commercial construction is an 8,292 square foot Quik Trip Travel Plaza.
2. The CID includes an 11-acre site which is the first phase of a potential 72-acre commercial development.
3. The CID will contribute 50% of the cost of construction of the collector road and adjacent utilities with the remaining 50% being borne by the City and County through their share of sales tax collected from QT operations.
4. Sales tax projections for the City and County local sales tax are \$3,110,063.00 for the 22-year CID period.
5. The maximum exposure is covered in this agreement and is capped at the current estimate.
6. The City may cancel the Agreement if cost estimated exceed the 20% cap.
7. City holds first position for reimbursement from CID funds. Developer costs will be reimbursed after the City's direct costs are reimbursed.
8. The agreement is transferable only with Commission approval.
9. The end user (QT) must provide sufficient evidence of the project being construction before the City makes a final commitment to construction of the roadway.
10. Planning meeting between the City the end user will begin in the 4th quarter of 2021.

He stated staff was recommending approval of the Agreement for the Flint Hills Crossing Community Improvement District.

Commissioner Geitz made a motion to approve the Development Agreement for the Flint Hills Crossing Community Improvement District. Commissioner Giefer seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Consider Establishing Common Consumption Area)
(Approve Visit Emporia as Sponsor)
(Ordinance 21-29)

AN ORDINANCE ESTABLISHING A COMMON CONSUMPTION AREA AND AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOL LIQUOR AND CEREAL MALT BEVERAGE WITHIN THE COMMON CONSUMPTION AREA BOUNDARIES, to which the City Clerk assigned Ordinance Number 21-29, was presented to the Governing Body for their consideration.

City Attorney Montgomery, was recognized and addressed the Governing Body. She stated Visit Emporia would like to sponsor a Common Consumption Area in downtown Emporia in a two block area from 6th Avenue to 8th Avenue between Merchant Street and Commercial Street. The Common Consumption Area (CCA) would allow consumption of alcohol liquor and cereal malt beverages (CMB) in the public parking lots and alleys in that area as well as 7th Avenue. She stated licensed drinking establishments (DE) adjacent to the CCA may apply to the state to participate in the CCA. That would allow patrons of participating DE's to remove alcoholic beverages and CMB from the licensed premises into the CCA. Participating DE's will be required to serve beverages in non-glass containers that include the DE's trade name, logo, or other identifying mark that is unique to the DE. A special event permit approved by the Emporia Police Department would be required for the CCA area to be open. When open, alcohol may be consumed in the CCA between the hours of 12:00 p.m. and 12:00 a.m. When the CCA is open, city fencing will be required to specify the boundaries where alcohol and CMB may be consumed. Alcohol and CMB may not be removed from the boundaries of the CCA and outside alcohol may not be brought into the CCA. The CCA permit holder will be held liable for all alcohol violations that occur within the CCA and participating licensed DE's will be held liable for alcohol violations that occur within their licensed premises. She stated staff was recommending approval of the ordinance.

Commissioner Smith made a motion to table this item to a future study session for further discussion. Commissioner Giefer seconded the motion.

Commissioner Brinkman stated she was not in favor of tabling this item.

Commissioner Geitz stated he was in favor of moving forward of this item.

There was a call for the vote to table the item. Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, nay; Commissioner Geitz, nay; and Mayor Gilligan, nay. Motion failed.

Commissioner Geitz then made a motion to approve Ordinance 21-29, an ordinance establishing a Common Consumption Area. Commissioner Brinkman seconded the motion.

Commissioner Geitz amended the motion to include an end date of December 31, 2021. Commissioner Brinkman seconded the amended motion. The vote follows: Commissioner Geitz, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; Mayor Gilligan, aye; and Commissioner Smith, nay.

**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 JULY 28TH STUDY SESSION 10:00 A.M.

Continued Review Funds with Tax Levy.

Review Non-levied funds & 5-year plan.

Discuss Highland Street.

**JOINT LUNCHEON W/EMPORIA RECREATION COMMISSION BOARD
AT THE EMPORIA RECREATION CENTER**

EXECUTIVE SESSION

Commissioner Smith made a motion to adjourn into Executive Session for preliminary discussion regarding property acquisition and to invite City Engineer, Jim Ubert, from 7:35 p.m. to 7:45 p.m., in the City Commission Meeting Room. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Regular Session, at 7:45 p.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they had preliminary discussion regarding property acquisition and no action was taken.

Commissioner Brinkman left the meeting.

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

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk