

COMMISSION MEETING

7:00 P.M.

AUGUST 18, 2021

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, August 18, 2021, with Mayor Gilligan presiding and Commissioners Geitz, Giefer and Smith present. Commissioner Brinkman was absent. 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 July for the community:**

1. Monthly Local Retail Sales Tax Receipts Update

	2020	2021	
	\$431,070.55	\$461,611.41	Increase of \$30,540.86 for the month, and
YTD	\$ 2,849,196.54	\$3,124,879.55	Overall increase of 9.68% from year 2020

2. City Share from County Tax

	2020	2021	
	\$ 214,478.17	\$ 233,186.28	Increase of \$18,708.11 for month, and
YTD	\$1,454,977.35	\$1,578,109.85	Overall increase of 8.46% from year 2020

3. **Building Permits issued from 7/1/2021 to 7/31/2021 for new construction, remodeling, repairs and demolition.**

Total number of building permits issued through Code Services:	72
Total of valuations associated with those building permits:	\$ 1,993,583.00
Total number of dollars collected for Building Permit Fees:	\$ 12,287.50
Construct - single family dwellings	1
Demo - single family dwellings	1
Flint Hills Mall CID for July	\$ 18,804.40
Year to Date Total	\$ 120,756.99

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 August 4, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on August 13, 2021.
- c. Consider the Approval of July Budget.
- d. Consider Request to Set Date for Notice of Hearing to Exceed Revenue Neutral Rate and 2022 Budget Hearing.

- e. Consider Set Bid Date and Time for the Public Works Center Pavement Improvements.

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

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

Ben Lienemann, 828 Road K, was recognized and addressed the Governing Body. He stated his concerns of the 2022 budget salary discussion.

**CITY COMMISSION
(Consider Approval of Incentive Compliance Agreement)
(Emporia Land Development, LLC - Emporia Pavilions)**

Jim Witt, Special Projects Coordinator, was recognized and addressed the Governing Body. He stated this is an Incentive Compliance Agreement (ICA) related to a forgivable loan for the expansion of the Pavilions retail center. The \$100,000.00 forgivable loan is to be used for site development work related to the construction of 50,500, square feet of new retail space at an approximate cost of \$7,000,000.00. He stated the 50,500 square feet shall be occupied by three (3) retail users with construction to begin in 2021 and continue into 2022. The term of the forgivable loan is 5 years beginning on the date each individual retail space received their Certificate of Occupancy from the City on or before October 1, 2022. The pay back provision is based on a square foot pro-rated share of the original loan amount. Staff recommended approval of the Incentive Compliance Agreement for Emporia Pavilions.

Commissioner Geitz made a motion to approve the Incentive Compliance Agreement for Emporia Pavilions. Commissioner Giefer

seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

**EMPORIA MUNICIPAL AIRPORT
(Consider Approval of Contract with HW Lochner)
(Airport Runway 51' Extension)**

Dean Grant, Public Work Director, was recognized and addressed the Governing Body. He stated the airport received a grant from the Kansas Department of Transportation for the design of a 51' extension. The grant reimburses the City for 95% of the design costs. Total design cost for the extension design is \$153,800.00 and the City's share is 5% of the cost, which is \$7,690.00. He stated staff is recommending approval of the contract to design the Airport Runway 51' Extension with HW Lochner in the amount of \$153,800.00.

Commissioner Geitz made a motion to approve the contract to design the airport runway 51' extension with HW Lochner in the amount of \$153,800.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

**CITY COMMISSION
(Consider Bids of Vacant Lots)
(902 Neosho Street and 1626 LaSalle Street)**

Jeff Lynch, Community Development Coordinator, was recognized and addressed the Governing Body. He stated there has been interest from the public in purchasing and developing new homes on two (2) vacant lots currently owned by the City. The lots are located at 902 Neosho Street and 1626 LaSalle Street. He stated both lots were acquired for future development and previous grant funding used to development homes has been exhausted and the City has no immediate plans for the lots. He stated bids from the same bidder include \$10,000.00 for 902

Neosho Street and \$8,500.00 for 1626 LaSalle Street. The bidder is an active real estate agent and housing developer in the community. The bidder states that construction of homes on both of the lots will be completed within six (6) months of purchase date as weather permits. He stated the proceeds from the sale of both lots could be utilized for other housing activities such as demolition and development of currently dilapidated property. He stated staff is recommending the sale of vacant lots at 902 Neosho Street and 1626 LaSalle St.

Commissioner Geitz stated the proceeds should go to Land Bank to utilize the funds.

Commissioner Smith made a motion to accept the bids for the sale of vacant lots at 902 Neosho Street for \$10,000.00 and 1626 LaSalle Street for \$8,500.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

PLANNING AND DEVELOPMENT

(MAPC Excerpts of Regular Meeting Held 5-18-21)

(Application No. 2021-15 - Request of City of Emporia)

(Annex Parcel of Land Located at 600 Road 180 into City Limits)

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.

2021-15: Annexation Request for 600 Road 180 to bring the property into the city limits 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

<http://kslegislature.org/li> 2014/b2013 14/statute/012 000 0000
chapter/012 005 0000 article/012 005 0020 section/012 005 0020
k/

RECOMMENDATION:

Approve as a normal extension of the community.

ANALYSIS:

Applicants: Evergy

Requested Action: Annexation

Purpose: To bring location into the city limits

Address: 600 Road 180

Size: approximately 19 acres

Existing Zoning: Agricultural

Existing Land Use: Agricultural

Physical Characteristics: Undeveloped land

Comprehensive Plan: None

Public Utilities: Water and sewer will be available.

Analysis: The applicant would like to annex this property in order to expand industrial growth in the future.

City staff have discussed the requested annexation, there were no concerns noted that would prevent this request. There is a Memo of Understanding concerning the water, sewer connections and paving of Road 180. A property needs to be annexed into the City to connect to water and sewer. 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. This location does not meet the requirements so it will require County Commission approval.

State Statute 12-520:

(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%.

(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.

(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.

Member Bucklinger, asked what the indented use of this location would be?

Mr. Foster noted this location has been platted and rezoned already, this annexation would allow the connection of city utilities.

No other questions for staff.

Public Comment:

JR Glenn, 818 South Kansas, Topeka.
Building a new service center at this location. Have Memo of Understanding with the Commission, as part of it, we agreed to annexation.

Opposition:

Melissa McAlester, Americus

Wanted to be sure that neighbors had the opportunity to express concerns.

Rebuttal:

JR Glenn, express that the neighbors were notified for the past rezoning.

Motion:

Member Duncan made a motion to approval, based on staff recommendation, MOU, and letter of agreement. Member Weaver seconded.

Member Garrett noted that there had been two public hearings for this location.

Motion approved 7-0

Jeff Lynch, Community Development Coordinator, was recognized and addressed the Governing Body. He stated this was a request of the City of Emporia. He stated Everygy is seeking the annexation of an approximately 20 acre parcel of land. The annexation is not contiguous with City of Emporia and has received the Board of County Commissions approval. This annexation will annex a portion of Road 180 into the City limits. He stated under the Memorandum of Understanding city utilities

will be available, and there were no objections from the Technical Review Team that would interfere with this application. At their May 18, 2021 regular meetings, the Planning Commission voted unanimously to approve this request.

PLANNING AND DEVELOPMENT
(Application No. 2021-15 - Request of City of Emporia)
(Annex Parcel of Land Located at 600 Road 180 into City Limits)
(Ordinance Number 21-30)

AN ORDINANCE ANNEXING AND INCORPORATING CERTAIN LAND WITHIN THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS PURSUANT TO AND IN ACCORDANCE WITH THE PROVISION OF K.S.A. 12-520c, to which the City Clerk assigned Ordinance Number 21-30, was presented to the Governing Body for their consideration.

Commissioner Geitz made a motion to approve Ordinance Number 21-30, an ordinance annexing a parcel of land located at 600 Road 180 into City limits. Commissioner Giefer seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Request from Bourbon Cowboy-Susan Brinkman)
(Appeal State of Kansas Historic Preservation Office - SHPO)
(605 Commercial Street)
(Public Hearing)

Jeff Lynch, Community Development Coordinator, was recognized and addressed the Governing Body. He stated this is a request of Bourbon Cowboy and Susan Brinkman to appeal the State Historic Preservation Office decision regarding the proposed painting of a mural/sign on the building exterior of 605 Commercial Street. SHPO determined that historic brick is designed to be a breathable material that is capable of releasing water vapor and by covering unpainted brick with paint, the historic material will potentially be damaged. He stated State statute K.S.A. 75-2724 gives the governing body the authority to reaffirm or overrule the decision of the Kansas State Historic Society. The City Commission must find that all

feasible and prudent alternatives to minimize the harm to the property have been considered in order to override SHPO's recommendation.

Mayor Gilligan then declared the public hearing opened.

Alex Polzin, representing A&A Signs, addressed the Governing Body speaking in favor of mural. He stated the building is in great shape and care will be taken so there is no harm to the building. He stated they will not be covering the entire wall with paint. SHPO had concerns about water vapor issues and not having any water transfer. This mural will only cover a small area of the building.

City Attorney Montgomery asked are there any other feasible or prudent alternates that would achieve this mural with a different type of paint.

Alex replied the paint that will be used is a very high quality masonry paint that is very vibrant in color.

City Attorney Montgomery asked if there are any other feasible alternatives that would not damage the historic property of the building?

Alex replied this paint can be removed and will not damage the building. He stated he uses high quality acrylic paint that will last for many years and will not cause any damage to the historic building.

As no one else wished to address the Governing Body, Mayor Gilligan then declared the public hearing closed.

Commissioner Smith made a motion to overrule the determination of the State Historic Preservation Office and approve the project based on a determination that there is no feasible and prudent alternative to the proposal and that the project includes all possible planning to minimize harm to the historic property. Commissioner Giefer seconded the motion. The vote follows: The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye.

CITY COMMISSION
(Consider Letter of Support)
(Extension of Lyon County 1-Cent Sales Tax)

City Manager McAnarney stated the Lyon County Commission has requested the City Commission support their renewal of the 1-cent county-wide sales tax. He stated the county will be seeking renewal of the sales tax on the upcoming election.

Mayor Gilligan stated the city receives approximately \$2,000,000.00 a year as revenue stream for investment in community infrastructure projects.

Commissioner Smith made a motion authorizing the Mayor to sign a letter or support supporting the extension of the Lyon County Sales tax in the amount of 1-cent. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer 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 AUGUST 25TH STUDY SESSION

Final Discussion of 2022 Budget.

Discuss Redevelopment Project on 700 Block of Commercial Street.

EXECUTIVE SESSION

Commissioner Geitz made a motion to adjourn into Executive Session to discuss attorney/client privilege from 7:28 p.m. to 7:38 p.m., in the City Commission Meeting Room. Commissioner Giefer seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Regular Session, at 7:38 p.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they had discussed attorney/client privilege and no action was taken.

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