

Commission Meeting

11:00 a.m.

July 5, 2023

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, July 5, 2023, with Mayor Brinkman presiding and Commissioners Giefer, Harter Sauder and Smith present. Also present were City Manager Cocking, Assistant City Manager Detter, City Clerk Sull and City Attorney Montgomery.

**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 state your name and address prior to making comments.

No comments were made at this time.

**CITY COMMISSION
(Board Appointment)**

Natural Resources Advisory Board:

It was moved by Commissioner Smith seconded by Commissioner Giefer that Keith Senn be appointed to the Natural Resources Advisory Board for a term that expires December 31, 2026. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Brinkman, aye.

**PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting 6-20-23)
(Application No. 2023-05 – Kretsinger Final Plat)
(Kretsinger Subdivision)**

The Planning Commission met in a regular session on Tuesday, June 20, 2023, with Chair Thomas presiding. Members Duncan, Weaver, Barnes, Ogle, Rogers, and Bucklinger were present.

City staff: Justin Givens was present.
Chair Thomas called the meeting to order.

1. **Considered the minutes of the May 16 and May 23, 2023 Planning Commission Meetings. Commissioner Barnes** made a motion to approve the

minutes. **Commissioner Bucklinger** seconded. **May 16, 2023 Minutes Approved 6-0-1 (Thomas abstained) May 23, 2023 Minutes Approved 7-0.**

2. Consider Application PC 2023-05 Kretsigner Final Plat

Chair Thomas asked if proper notice had been given. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens provided the staff report:

Application #: PC 2023-05

Applicants: Emporia Chamber of Commerce

Owners: Emporia Chamber of Commerce

Requested Action: Approval of a Final Plat

Purpose: Applicants desire to plat a 16.65-acre tract of land consisting of 55 lots.

Address: South Exchange St. & Sodens Rd.

Legal description:

A TRACT OF LAND IN THE NE1/4 OF SECTION 22, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT A STONE THAT IS S89°53'02"W, 1022.43 FEET AND S0°16'06"E, 689.37 FEET FROM THE NORTHEAST CORNER OF SAID NE1/4 AND DESCRIBED ON PAGE 491 IN BOOK 129 OF MISCELLANEOUS RECORDS AT THE LYON COUNTY REGISTER OF DEEDS OFFICE AS BEING 689 FEET SOUTH OF A POINT 1023 FEET WEST OF THE NORTHEAST CORNER OF SECTION 22; THENCE N89°53'02"E, 501.60 FEET; THENCE S0°20'48"E, 15.50 FEET; THENCE N89°53'02"E, 521.77 FEET TO THE EAST LINE OF THE AFOREMENTIONED NE1/4; THENCE S0°20'48"E, 697.92 FEET ALONG THE EAST LINE OF THE SAID NE1/4; THENCE S89°53'02"W, 1028.37 FEET; THENCE N0°20'48"W, 713.42 FEET; THENCE N89°53'02"E, 5.00 FEET TO THE POINT OF BEGINNING, LYON COUNTY, KANSAS.

Area Size: 16.65 Acres

Existing Zoning: R-1 Single Family Residential with a Housing Opportunity Overlay District

Surrounding Zoning:

North- Agricultural District / Low Density Residential Districts

East- Agricultural District

South- Public Use District / Agricultural District

West – Public Use District

Surrounding Actual Uses:

North – Low Density Single Family Homes and Abutting Properties

East – Flood Plain / Agricultural Land

South – David Taylor Zoo / Cultivated Farm Land / Wastewater Treatment Facility

West – Public Use Lyon County Historical Society Vacant Land

Future Zoning in ELC Comp. Plan: Single-Family Residential

Analysis:

The applicants have requested to plat a 16.65-acre tract of land into 55 single-family residential lots. The property was rezoned to R-1 from Agricultural and a Housing Opportunity Overlay District was approved for the property. The preliminary plat was approved at the February 15, 2022 meeting. Since that meeting, several changes have been made to the preliminary plat.

The most significant change was the deletion of the reserve area that encompassed the floodplain on eastern and northern lots. The City advised it was not receptive to the property being dedicated as a new park after approval of the preliminary plat. Since there will be no homeowners association to maintain the reserve area, the most prudent path forward was to include these areas into the adjoining lots, and create a drainage easement. The drainage easement will restrict building within the floodplain, but the individual property owners will own the areas.

The designers of the subdivision were also able to add two additional lots through a slight reconfiguration.

1. **Plat Name:** The preliminary plat is proposed to be named Kretsinger Addition, which meets requirements.

2. **Legal Description:** The legal description shown on the preliminary plat meets requirements.

3. **Lots:** The final plat proposes a total of 55 lots, which are labeled appropriately. The subject property is proposed to be developed in accordance with R-1 Residential and Housing Opportunity Overlay zoning bulk and lot size regulations, as listed below:

- Minimum Lot Area: 5,800 sq. ft.
 - Proposed: Each of the lots exceeds the minimum lot area.
- Minimum Lot Width: 50 ft.
 - Proposed: Each of the lots exceeds the minimum lot width.
- Minimum Lot Depth: 90 ft.

- Proposed: Each of the lots exceeds the minimum lot depth.
- Gross Development Allowance:
 - HO-O: 596,648* ft. sq./5800 ft. sq. = 102 lots
 - R-1: 596,648* ft. sq./9000 ft. sq. minimum lot size = 66 lots
 - Proposed: 55 lots
 - *square footage excludes area dedicated for right-of-way.
- 4. **Blocks:** One block appropriately shown on the face of the plat shall be included prior to submitting to the City Commission for approval.

- 5. **Streets and Access:** The development is adjacent to S. Exchange St. to the east. Two road entrances and one alley entrance is proposed from S. Exchange St. which is acceptable.
 - Access Control has been provided along S. Exchange St.
 - Access Control has been provided along the interior loop for those lots served by the alley.
- 6. **Building Setbacks:**
 - A 30 ft. front yard building setback has been provided on exterior lots.
 - A 20 ft. front yard building setback has been provided on interior lots.
 - A 20 ft. rear yard setback has been provided for exterior lots without a drainage easement
 - A 10 ft. rear yard setback has been provided for interior lots with alley access. This will encompass all buildings and any fence that may be placed on the property.
 - A 5 ft. side yard setback has been provided, which meets requirements for lots with as built surveys. A 6 ft. side yard setback is required when structures are built without an as built survey.
 - Lots 1, 55, and 34 have been provided with 15 ft. side yard setbacks to accommodate their corner lot status.
 - **Lot 33 shall be revised to show a 25 ft. side yard setback to match the front yard of the lots to the south.**
 - **Lot 30 shall be revised to create at 20 ft. rear/side yard on the western property line.**
- 7. **Easements:** Easements for utilities are shown on the preliminary plat.
 - The Utility Advisory Board has provided the Applicant with comments and feedback on proposed locations of public and private utilities and the easements necessary to accommodate apparatus. The applicant has provided an additional 10 ft. utility easement at the front of the exterior lots and at the rear of the south interior lots to accommodate private and public utilities.
 - The pedestrian easement that was shown on the preliminary plat has been removed, as it is no longer necessary.
 - A drainage easement has been provided for the floodplain area that will restrict development within the floodplain.

- **A utility easement is shown on Lot 24. If a sewer lift station is required it will be located within this easement. If no lift station is required, it would be removed prior to adoption by the City Commission.**
8. **Reserves:** No reserves are being shown on the final plat. The area previously shown as a reserve had been removed on advice of the City and the property has been incorporated into the adjoining lot.
9. **Drainage:** The City Engineer has given approval for the development to NOT use retention ponds, but to allow stormwater to exit the property prior to upstream flows creating additional flooding issues.
10. **Public & Private Improvements:** A utility plan has been reviewed by the Utility Advisory Board, and comments have been provided to the Applicant on the location and sizing of utilities necessary to serve the development. The incorporation of these revisions have been reviewed by the Utility Advisory Board and City Engineer and are found to be sufficient to serve the property.
- **Streets & Sidewalks:** Street widths of appropriate size have been provided. Sidewalks have been provided on one side of the street which is acceptable.
 - **Sanitary Sewer:** The applicant is in the process of obtaining approvals for a full gravity system. If approved by KDHE, the utility easement shown on Lot 24 will be removed from the final plat. If not approved, a lift station will be placed within that easement.
 - **Water:** Lots will be served by an appropriately sized main that will loop the development. This new main will tie into a main that will be extended from the city main on E Logan St. and the Sodens Rd. main creating a looped system for the city. The new main along E Logan St. will also provide an opportunity to reduce long service line runs for the two houses north of the development.
 - **Fire Protection:** The Fire Marshall will approve the final location and type of hydrants prior to installation. Preliminary plans show additional hydrants will be provided along S Exchange to increase fire protection in the area.
 - **Private Utilities:** Private utilities have provided comments on the location of lines and apparatus such as electrical and communication pedestals. The Applicant has incorporated the comments into an approved utility plan and provided additional easements to accommodate private utilities.
11. **Plat Binder:** A plat binder, identifying all property interests and encumbrances shall be submitted with the final plat prior to City Commission approval.
12. **Miscellaneous:**
- Staff is recommending that the Applicant include language on the face of the plat or documents for closing that would acknowledge the proximity to the wastewater treatment facility and the possibility of odors and other nuisances arising from operations at the plant.

- The Applicant shall include any information on Lot or Homeowners Associations including restrictive covenants with the final plat prior to City Commission approval.

Neighborhood Communications: At the time of writing this report, staff has been in contact with one neighboring property owner who did not provide any opinion as to being for or against the project.

Recommendation: Staff recommends approval of the Final Plat subject to staff and Planning Commission comments, and that a revised Final Plat be submitted and approved by staff prior to the submittal of the Final Plat to the City Commission.

The Public Hearing was opened.

Commissioner Barnes asked if there was 5,800 buildable square feet. **Givens** stated we do not require lots to be a minimum of 5,800 buildable square feet, but 5,800 square feet including building setbacks and easements. He further stated that most of the lots have roughly 4,000 square feet of building space.

Jeanine McKenna, President/CEO Emporia Chamber of Commerce stated that the intended house size was between 1,200 and 1,600 square feet. **Givens** stated that a house of that size would meet our requirements for lot coverage as well.

Matthew Kohl, BG Consultants (applicants' agent) discussed the front and side setbacks as shown on the plat versus staff's questions as to a modified setback being more appropriate. **Givens** stated that the setback of these corner lots was different than what he was used to seeing. He further stated that the setbacks as shown on the plat were consistent with past plats approved by the City.

Commissioners discussed options for setbacks and agreed that the setbacks as shown for the corner lot cul-de-sac lots would not need to be adjusted.

Commissioner Bucklinger recommended that this be a discussion item in the future for subdivision regulations.

Commissioner Weaver asked about a Home Owners Association for the development. **McKenna** stated there would be a loose homeowners association but it would not collect dues or provide other functions as some homeowners associations do. Their primary function would be to enforce covenants and building standards.

Commissioner Ogle asked about the utilities for the development, specifically the sewer system. **Kohl** provided an overview of the utility layout.

Commissioner Weaver asked about Sodens Road extending further east and the odors that might arise from the wastewater treatment plant. **Givens** stated that the provisions put in place to advise residents of the location of the plant would

help in any future issues with residents. He further stated that Sodens Road is not intended to extend further east.

The Public Hearing was closed.

Commissioner Weaver made a motion to recommend approval of the plat to the City Commission subject to staff and Planning Commission comments and a final determination of the need for a lift station of Lot 24 easement requirements. Commissioner Bucklinger seconded the motion. Motion carried 7-0.

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated this is to consider a Final Plat for the Kretsinger Subdivision. The proposed plat would create 65 lots on 16.65 acres of property south of East Logan Avenue and immediately east of South Exchange Street. The development is unique in that it contains lots with access from an alley and lot size have been reduced from the 9,000 square feet that is typically seen in new residential subdivisions. He stated the Planning Commission approved the plat subject to the final determination of the type of sewer system that will be used, gravity verses a lift station, which will affect the easement that will be required for Lot 24 of the development and a minor change to Lot 23 which moved the east side setback to 15 foot versus 5 foot. He stated this action only approved the final plat for the Kretsinger Subdivision requirements. At their June 20, 2023, regular meeting, the Planning Commission unanimously approved a recommendation for the final plat of Kretsinger Subdivison.

Commissioner Harter made a motion to approve the final plat Kretsinger Subdivision subject to final determination of easement requirements for Lot 24. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

ENGINEERING
(Peyton Street Waterline Improvements
(12th Ave. Water Tower to 6th Ave. and South Ave. to Warren Way Tower)
(Project No. WM2104 KDHE KPWSLF Project No. 3070)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the Peyton Street Waterline from 12th Avenue Water Tower to 6th Avenue and South Avenue to Warren Way Tower. This will be a 16 inch water line to bolster the City's water transmission capabilities between the 12th Avenue water tower and Industrial Park III. The bids are as follows:

BID TABULATION FOR PEYTON STREET WATERLINE IMPROVEMENTS

Contractor	Total Bid
<i>Carlson Utility</i>	\$2,353,920.00
Middlecreek Corporation	\$2,378,250.00
Timco Blastings & Coatings	\$2,449,411.59
Mies Construction	\$2,497,702.00
Nowak Construction	\$2,778,056.10
Engineer's Estimate	\$2,169,201.00

He stated this project will be funded by the Kansas Public Water Supply State Revolving Fund Loan No. 3070 that the City has in place with Kansas Department of Health and Environment. Staff recommends awarding the project to Carlson Utility for the total bid of \$2,353,920.00, subject to KDHE approval.

Following further discussion, Commissioner Smith made a motion to award the Peyton Street Waterline Improvements 12th Avenue Water Tower to 6th Avenue and South Avenue to Warren Way Tower, Project No. WM2104 KDHE KPWSLF Project No. 3070 to Carlson Utility in the amount of \$2,353,920.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Brinkman, aye.

ENGINEERING
(Sodens Watermain Extension)
(Zoo Education Center to 155' East – Project No. WM2302)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the City is investing in the David Traylor Zoo Improvements to include public access to parking lots as well as utility work to directly benefit the zoo area. The Sodens Road watermain extension project will extend the City's waterline for connection by the planned Zoo Administration Improvements. He stated bids were received for the Sodens Road Watermain Extension Zoo Education Center as follows:

BID TABULATION SODENS WATERMAIN EXTENSION

Contractor	Total Bid
<i>S.R. Coffman Construction</i>	\$53,654.31
Nowak Construction	\$58,811.50
Mies Construction	\$60,000.00
Engineer's Estimate	\$40,535.00

He stated this part of Sodens and South Exchange waterline will be paid for by the Kretsinger Addition RHID as a separate project from the Kretsinger Addition due to timing of the improvements. Staff is recommending awarding the project to S.R. Coffman Construction for the total bid amount of \$53,654.31.

Following further discussion, Commissioner Giefer made a motion to award Sodens Watermain Extension Zoo Education Center to 155' East, Project No. WM2302 to S.R. Coffman Construction for total bid amount of \$53,654.31. Commissioner Sauder seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

Consent Agenda

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

- a. Approve minutes of the Regular Meeting held on June 21, 2023.

- b. Utility Easement Agreement for 500 block of Wilson Street for Street Light Installation.
- c. Change Order No. 1 for 18th Avenue/Road 180 Paving Improvements Project No. PV1910 / 56 KA-6154-01.

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

TENTATIVE AGENDA FOR JULY 19, 2023 MEETING.

- Ordinance for Standard Traffic Ordinance.
- Ordinance for Uniform Public Office Code.
- Award Mahtropolis Street and Storm Sewer Improvements.
- Award KDOT CCLIP Surface Preservation Project.
- Contract for SE Transmission Water Main Design.

CITY COMMISSION (Public Comment)

This is the time for the Mayor and City Commissioners to make comments and reports to the public.

Mayor Brinkman complimented the success of the fireworks show; there are openings on various board for volunteers; and a Meet and Greet for Assistant City Manager Mark Detter and Director of Special Projects Tayler Wash is scheduled for July 13 at Fremont Park before the Band Concert.

EXECUTIVE SESSION

Commissioner Harter made a motion to recess into Executive Session to discuss confidential matters of a third party regarding proprietary information resuming the open

meeting in the City Commission Meeting Room, this same date, at 12:14 p.m. and to invite Chuck Scott, RDA President and Jim Witt, Special Project Coordinator. Commissioner Smith seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; and Mayor Brinkman, aye.

Upon reconvening the meeting in Regular Session, at 12:14 p.m., this same date in the City Commission Meeting Room, Mayor Brinkman stated they had discussed confidential matters of a third party regarding proprietary information and no action was taken.

Commissioner Sauder made a motion to recess the meeting until 12:30 p.m. to Conference Room 1AB. Commissioner Giefer seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye. Commissioner Harter was not present at the time of the vote.

STUDY SESSION:

1. Final Report from the Homeless Taskforce.
2. Ordinance 23-20 Extending the Provisions of City Code Pertaining to the Prohibition of Camping on Public Property.
3. Review Outside Appropriation Requests.
4. Resolution No. 3699 for Revenue Neutral Rate.
5. Whittier Park Concept Plan.

Study Session Discussion:

City Commission Prohibiting Camping on Public Property Ordinance Number 23-20

AN ORDINANCE AMENDING CHAPTER 17-69 THROUGH 17-72 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, PERTAINING TO THE PROHIBITION OF CAMPING ON PUBLIC PROPERTY WITHOUT A PERMIT AND REPEALING SAID SECTIONS AS THEY EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 23-20, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the Commission previously approved an ordinance enacting a temporary prohibition on camping on public property, which was later extended and is scheduled to expire on July 8, 2023. She stated the established Taskforce on Homelessness has developed recommendations to address homelessness in Emporia and this proposed ordinance includes removal of certain "Whereas" language and a maximum fine of \$100.00 or community service in lieu of a fine and has no scheduled end date.

Commissioner Sauder made a motion to approve Ordinance Number 23-20, an ordinance extending the provisions of City Code pertaining to the prohibition of camping on public property. Commissioner Smith seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Brinkman, aye.

**City Commission
Exceeding the Revenue Neutral Rate
Resolution Number 3699**

City Manager Cocking stated the City's RNR is 39.492 as calculated by the County Clerk. The final mill levy for 2022 taxes was 44.426 and the 2023 budget was approved on a mill levy of 43.8. He stated for 2024 there are 10 mills budgeted for Bond and Interest, 5 mills for Library and .005 mills for Industrial and the General Fund mills will adjust depending on the total mills approved. The budget assumes a 3% property tax delinquency rate. This resolution is submitted for the proposed mill levy. The final mill levy can be lower as the final budget numbers are determined in the next several weeks. The RNR and Budget public hearings are scheduled for September 6, 2023. The legislation requires on or before July 20, the governing body shall notify the county clerk of its proposed intent to exceed the revenue neutral rate and provide the date, time and location of the public hearing and its proposed tax rate. A letter will be sent by the county clerk to all taxing entities notifying them of the proposed tax levies.

Following further discussion, Commissioner Harter made a motion to exceed the Revenue Neutral Rate with a proposed mill levy of 43.5 mills and approve Resolution Number 3699, a resolution to levy a property tax exceeding the revenue neutral rate. Mayor Brinkman seconded the motion. The vote follows: Commissioner Harter, aye; Mayor Brinkman, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; and Commissioner Smith, aye.

**Park Department
Whittier Park Concept Plan**

Kevin Hanlin, Director of Public Lands and Facilities, was recognized and addressed the Governing Body. He stated the City entered into an agreement with Foster Design Associates, LLC for a redevelopment of Whittier Park to include a new skate park.

He stated a committee was formed to serve as community stakeholders in the process. The Whitter Park concept plan was presented to the Whitter Park Committee for review. The concept plan included features and locations within Whittier Park with the following: Skate Park; Dog park, playground, ball diamonds, batting cages, restroom, concessions, walking path, parking lot, storage shed, visitor seating, way finding signs, trees and irrigation to fields.


After much discussion of the entire concept plan, it was the consensus of the Commission to move forward with the Skatepark portion of Whittier Park.

EXECUTIVE SESSION

Commissioner Sauder made a motion to recess into Executive Session to discuss data related to financial affairs or trade secrets of corporations, partnerships, trust, and individuals for economic development projects resuming the open meeting in Conference Room 1AB, this same date, at 2:45 p.m., and to invite Jim Witt, Special Projects Coordinator. Commissioner Harter seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

Upon reconvening the meeting in Study Session, at 2:45 p.m., this same date, in the Conference Room 1AB, Mayor Brinkman stated they discussed data related to financial affairs or trade secrets of corporations, partnerships, trust and individuals for economic development projects and no action was taken.

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


Susan Brinkman, Mayor

ATTEST:


Kerry Sull, City Clerk

