

**Commission Meeting**

**11:00 a.m.**

**August 2, 2023**

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, August 2, 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. Please state your name and address prior to making comments.***

No comments were made at this time.

**CITY COMMISSION  
(Kansas Department of Commerce for Small Cities)  
(Community Development Block Grant CVR Application)  
(Public Hearing)**

Mark Detter, Assistant City Manager, was recognized and addressed the Governing Body. He stated the public hearing is for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Development Block Grant under the Economic Development category COVID Resiliency.

Garrett Nordstrom, CDBG Grant Administrator, was recognized and addressed the Governing Body. He stated the application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant for funds under the CVR category. This application will be to provide funds to local for-profit businesses to adopt innovative solutions to become more resilient to pandemics like COVID-19. This is a federal program with a number of requirements for funds to be awarded to potential applicants. He stated he is working with Casey Woods, Executive Director of Emporia Main Street, to help local businesses that could benefit from this COVID Resiliency grant.

Mayor Brinkman then declared the public hearing opened.

As no one in attendance wished to address the Governing Body, Mayor Brinkman then declared the public hearing closed.

**CITY COMMISSION  
(2023 Standard Traffic Ordinance 50<sup>th</sup> Edition)  
(Ordinance Number 23-21)**

AN ORDINANCE ADOPTING AND INCORPORATING BY REFERENCE THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES 50<sup>TH</sup> EDITION, AMENDING SECTION 25-21 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 23-21, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the League of Kansas Municipalities annually publishes the Standard Traffic Ordinance for Kansas Cities which incorporates traffic law changes from the most recent legislative session. The 50<sup>th</sup> edition includes changes to the following sections:

Section 163. Additional Lighting Equipment.

- Defines "Ground effect lighting"
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Section 179. Spilling Loads on Highways Prohibited.

- Adds subsection (a)(2)(A)(iii) providing exception to certain requirements for trucks, trailers, or semitrailers when hauling cotton bales.
- Adds subsection (a)(2)(B) providing exception to certain requirements for trailers or semitrailers used for hauling livestock when livestock are not being hauled.
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Section 194. Driving While License Canceled, Suspended, or Revoked; Penalty.

- Removes, for a first-time offender, the mandatory term of imprisonment for driving with a driver's license that was canceled, suspended or revoked for failure to appear in response to a traffic citation or failure to pay fines or otherwise comply with a traffic citation.

She stated all Standard Traffic Ordinance amendments specific to the City of Emporia passed in previous years remain in effect. Staff is recommending amending City Code Section 25-21 to adopt the 50<sup>th</sup> Edition of the Standard Traffic Ordinance for Kansas Cities.

Commissioner Harter made a motion to approve Ordinance Number 23-21, an ordinance adopting and incorporating the Standard Traffic Ordinance for Kansas Cities, 50<sup>th</sup> Edition. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**CITY COMMISSION  
(2023 Uniform Public Offense Code 39<sup>th</sup> Edition)  
(Ordinance Number 23-22)**

AN ORDINANCE ADOPTING AND INCORPORATING BY REFERENCE THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, 39<sup>TH</sup> EDITION. AMENDING SECTION 16-4 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 23-22, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the League of Kansas Municipalities annually published the Uniform Public Offense Code for Kansas Cities which incorporates Kansas state criminal law changes from the most recent legislative session. She stated this proposed ordinance would adopt the 39<sup>th</sup> Edition of the Uniform Public Offense Code for Kansas Cities that includes changes as follows:

Section 1.1	Definitions
Section 3.2.3	Battery Against a Health Care Provider
Section 3.6	Unlawful Restraint
Section 3.13	Stalking
Section 5.5	Watercraft; Lifesaving Devices Required
Section 5.6	Purchase or Possession of Cigarettes or Tobacco Products by a Minor
Section 6.7	Criminal Trespass
Section 6.22	Criminal Hunting
Section 6.27	Counterfeit Airbag Violation
Section 7.2	Interference with Law Enforcement
Section 10.5	Unlawful Discharge of a Firearm
Section 10.30	Operating an Aircraft Under the Influence
Section 11.3	Commercialization of Wildlife
Section 11.11	Cruelty to Animals

She stated staff recommends adoption of the Uniform Public Offense Code with the changes as stated.

Commissioner Giefer made a motion to approve Ordinance Number 23-22, an ordinance adopting the Uniform Public Offense Code for Kansas Cities, 39<sup>th</sup> Edition. Commissioner Harter seconded the motion. The vote follows: Commissioner Giefer aye; Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**ENGINEERING**  
**(Sunset Lake Addition - Stormwater Pond Improvements)**  
**(Resolution Number 3701)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the Engineering Department has been working with the Sunset Lake Addition property owners to construct stormwater pond improvements consisting of dredging and cleaning the pond that receives storm water drainage that serves the area. The improvements were petitioned by the homeowners and the improvement costs will be spread as special assessment tax on the petitioned benefit district. He stated the city will pay the initial costs of the project and the homeowners will pay 100% of the project costs and any interest through special assessments over a 15 year period. He stated staff recommends approval of Resolution Number 3701 for Sunset Lake Stormwater Pond Improvements.

Commissioner Harter made a motion to approve Resolution Number 3701, a resolution for Sunset Lake Addition Stormwater Pond Improvements. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**ENGINEERING**  
**(Sunset Lake Addition – Stormwater Pond Improvements)**  
**(Ordinance Number 23-23)**

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF CERTAIN INTERNAL IMPROVMENTS IN THE CITY OF EMPORIA, KANSAS, AS DETERMINED ADVISABLE AND AUTHORIZED BY RESOLUTION NO. 3701 OF THE CITY, UNDER

THE AUTHORITY OF K.S.A.12-6a01 ET SEQ., PROVIDING FOR THE PAYMENT OF THE COSTS OF THE IMPROVEMENTS; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR THE PAYMENT OF THE COSTS OF THE IMPROVEMENTS AND AUTHORIZING ISSUANCE OF TEMPORARY IMPROVEMENT NOTES AS FUNDS ARE NEEDED FOR THE CONSTRUCTION OF IMPROVEMENTS, to which the City Clerk assigned Ordinance Number 23-23, was presented to the Governing Body for their consideration.

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the proposed ordinance would authorize the construction of the improvements in the Sunset Lake Addition for the stormwater pond improvements and provide for payment. He stated the city will pay the initial costs of the project and the homeowners will pay 100% of the project costs and any interest through special assessments over a 15 year period. He stated staff recommends approval of Ordinance 23-23 for Sunset Lake Addition Stormwater Pond Improvements.

Commissioner Harter made a motion to approve Ordinance Number 23-23, an ordinance authorizing improvements at Sunset Lake Addition Stormwater Pond Improvements. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**ENGINEERING**  
**(Mahtropolis Addition – Riley Avenue to Trusler Road)**  
**(Paving Improvements - Paving Project No. HD23MAHT)**  
**(Bids)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the Mahtropolis Addition will create 27 single-family homes along Mahnopoly Avenue and Riley Avenue. The paving improvements portion of this project will consist of paving improvements, sidewalk installation with ramps, curb and gutter and stormsewer. The bids were received as follows:

**BID TABULATION FOR MAHTROPOLIS ADDITION PAVING IMPROVEMENTS**

<b>Contractor</b>	<b>Base Bid</b>	<b>Add Alternate Bid</b>	<b>Total</b>
<b><i>Bruce Davis Const., LLC</i></b>	<b><i>\$476,615.30</i></b>	<b><i>\$23,500.00</i></b>	<b><i>\$500,115.30</i></b>
Rubick Construction	\$578,454.94	\$13,407.00	\$591,861.94

S.R. Coffman Construction	\$687,206.34	\$18,500.00	\$705,706.34
Engineer's Estimate	\$573,623.00	\$15,000.00	\$588,623.00

He stated staff recommends awarding the project to Bruce Davis Construction, LLC for the total bid amount of \$500,115.30.

Commissioner Harter made a motion to award the Mahtropolis Addition Paving Improvements, Project No. HD23MAHT to Bruce Davis Construction, LLC., for the total bid amount of \$500,115.30. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**WATER MAINTENANCE  
(Southeast Transmission Water Main Design)  
(BG Consultants, Inc.)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated the Southeast transmission water main is a proposed 20-inch water main that would complete the city's distribution system. The waterline project will start at the existing 20-inch water main on 12<sup>th</sup> Avenue, at Garfield Street, and terminate at the existing 16-inch water main on South Avenue, at Carter Street. The transmission line will connect to every north/south waterline from Neosho Street to Carter Street. This will reestablish connections that were lost in the past due to leaks and strengthen the city's water distribution system. The transmission main will have a 4-inch service main installed along the route where needed to serve customers. He stated staff would like to contract BG Consultants, Inc. for the design of the Southeast Transmission Main project. The design will take approximately 18 months to complete and will be submitted to KDHE for approval. The cost for design will be \$700,100.00 and will be paid from the State Revolving Fund Loan.

Commissioner Sauder made a motion to approve the Southeast Transmission Main Design Contract with BG Consultants, Inc., in the amount of \$700,100.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**WATER MAINTENANCE  
(12<sup>th</sup> Avenue Elevated Storage Tank)  
(Cleaning, Repairing, Painting and Internal Mixing Project)  
(Bids)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated the 12<sup>th</sup> Avenue elevated storage tank was constructed in 1989 and needs some structural repairs and a new interior and exterior coating to protect the structure. Additionally, the tank will have a mixer installed to improve water quality, upgraded interior lighting, tank ventilation and repair/upgrades to various safety features. He stated this complete rehabilitation of the 12<sup>th</sup> Avenue elevated storage tank should extend the lifespan 20 to 30 years of major maintenance. He stated the engineer's estimate was provided by KLM Engineering and the bids are as follows:

**BID TABULATION FOR ELEVATED STORAGE TANK**

<b>Company</b>	<b>Bid Price</b>
<b><i>J.R. Stelzer Company</i></b>	<b>\$ 684,385.00</b>
Viking Painting, LLC	\$ 719,300.00
BRZ Coating, Inc.	\$ 817,000.00
Classic Protective Coatings	\$ 984,950.00
Tank Pro	\$1,182,176.00
TMI Coatings	\$1,776,000.00
Engineer's Estimate	\$ 827,000.00

He stated staff recommends awarding the contract for cleaning, repairing, painting and internal mixing system of the 12<sup>th</sup> Avenue elevated storage tank project to J.R. Stelzer Company for \$684,385.00.

Following further discussion, Commissioner Harter made a motion to award the contract for cleaning, repairing, painting and internal mixing system of the 12<sup>th</sup> Avenue elevated storage tank project to J.R. Stelzer Company in the amount of \$684,385.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**CITY COMMISSION  
(12<sup>th</sup> Avenue Elevated Storage Tank Design Contract)  
(Emporia State University)  
(Memorandum of Understanding)**

City Manager Cocking stated since the city announced that the 12<sup>th</sup> Avenue elevated storage tank needed repair, upgraded and paint, there have been several discussions regarding the design on the tower. He stated Emporia State University expressed their interest in partnering on the project by reaching out to the city. The city contacted Flint Hills Technical College, USD 253 and the local veterans group to explore other potential options. He stated Emporia State University was the sole organization interested in partnering with the city on the project. This Memorandum of Understanding with Emporia State University provides that the city agrees to paint and display a mural depicting ESU branding on the tower. Emporia State University will pay \$7,500 per year over 10 years for mural placement and maintenance, with the first annual payment due January 1, 2024.

Commissioner Sauder made a motion to authorize the mayor to sign the Memorandum of Understanding with Emporia State University regarding the painting of a mural on the 12<sup>th</sup> Avenue elevated storage tank. Commissioner Harter seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**WATER TREATMENT PLANT  
(Equipment Purchase - Hach Turbidity Probe)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated the water treatment plant purchased turbidimeters to be placed at the pre-sedimentation basins, primary settling basins and secondary settling basins. This style of turbidimeter would require additional electrical work, pumps to supply water to each turbidimeter and shelters to protect the turbidimeters. The installation of additional equipment would add significant cost to the project. He stated talking with the Hach Company sales representative a different instrument was offered as a solution. The Solitax Turbidity Probe would be immersed in the basins without causing damage to the probe. While there will still be some additional costs for supplying electricity to the units,

it will be much cheaper for the overall project. He stated staff was recommending the return of the original turbidimeters and exchanged for the Solitax turbidity probes. The total cost of Solitax turbidity probes is \$56,097.00 and Hach Company will credit \$22,705.12 for the original turbidimeters. There was \$300,000.00 bonded for the purchase and installation of this project. Staff has spent \$111,711.83 and this exchange will leave \$154,896.29 to complete the project.

Following further discussion, Commissioner Harter made a motion to approve the purchase of the Solitax Turbidity Probes from Hach Company in the amount of \$56,097.00. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

### **Consent Agenda**

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

- a. Approve minutes of the Regular Meeting held on July 19, 2023.

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

### **Consent Agenda (Item b.)**

City Manager Cocking removed item b. from the Consent Agenda. This item has already been completed.

- b. South Arundel Sanitary Sewer Change Order No 1, Project No. SS1903.

## **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 AUGUST 16, 2023 MEETING.**

- Approve the Appointment of a Member to the Emporia Public Library.
- Appointment of Members to the Homelessness Advisory Board.
- Memorandum of Understanding with Dynamic Discs.
- Memorandum of Understanding with USD 253.
- Award Hauling and Beneficial Land Application of Biosolids.
- Industrial Park III Waterline Easement.
- 24<sup>th</sup> Avenue Waterline Easement.

Study Session:

- Discuss Transient Guest Tax
- Budget Discussion

## **CITY COMMISSION (Public Comment)**

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

Mayor Brinkman reminded the community the Battle of the Badges Blood Drive begins August 9 – 11, 2023 at Twelfth Avenue Baptist Church.

Commissioner Sauder stated the Lyon County Fair takes place from August 3 – 12, 2023 at the Lyon County Fairgrounds.

## **EXECUTIVE SESSION**

Commissioner Harter made a motion to recess into Executive Session to discuss confidential matters of a third party relating to economic development projects resuming the open meeting in the City Commission Meeting Room, this same date, at 12:03 p.m.

and to invite Rick Worner, Developer; Jim Witt, Special Project Coordinator; and Tayler Wash, Special Projects Director. 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 12:03 p.m., this same date in the City Commission Meeting Room, Mayor Brinkman stated they had discussed confidential matters of a third party relating to economic development projects 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. Proposed Revisions to Kansas Statute Related to RHID.
2. Discuss Board Appointment Policy.
3. Discuss Homelessness Advisory Board's Commissioners.
4. Wastewater Treatment Plant Instrumentation.

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



ATTEST:

  
Kerry Sull, City Clerk

  
Susan Brinkman, Mayor