

Commission Meeting

11:00 a.m.

February 21, 2024

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, February 21, 2024, with Mayor Giefer presiding and Commissioners Brinkman, 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.

Caron Daugherty, Flint Hills Technical College President, was in attendance to accept a proclamation declaring the month of February, 2024, has Career and Technical Education (CTE) by the Association for Career and Technical Education and supported by Flint Hills Technical College. She stated the CTE programming offers students the opportunity to gain the academic, technical, and employability skills necessary for true career readiness. Leaders from business and industry nationwide report increasing challenges relate to addressing the skills gap and connecting qualified professional with careers in critical and growing CTE related fields, such as advanced manufacturing cybersecurity, energy health care, information technology and transportation. She stated CTE programs with FHTC ensure that employers have access to a qualified and thriving workforce. She urged all citizens to become familiar with the services and benefits offered by the CTE programs at FHTC in this community and to support and participate in these programs to enhance their individual skills and productivity.

Mayor Giefer then presented the proclamation.

**SANITARY SEWER
(Increase in Sanitary Sewer Rates)
(Ordinance Number 24-04)**

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO SEWER RATES; AMENDING SECTION 28-144 SCHEDULE OF CHARGES, to which the City Clerk assigned Ordinance Number 24-04, was presented to the Governing Body for their consideration.

Janet Harrouff, Director of Finance, was recognized and addressed the Governing Body. She stated as previously discussed, the annual debt payment for the wastewater treatment plant started March 1, 2019. The reserves in the wastewater fund have been used to make the annual bond payment causing a steady decline in reserves. The standard debt service ratio is 1.25%. She stated in 2023 the debt service ratio in the wastewater fund was .48%. The low ratio indicates the rates are not sufficient to cover the debt service payments. Wastewater rates were increased in 2016, 2018, 2019, 2020 and 2021. She stated after discussions, various options were presented to the Commission and a 7.14% rate increase to the base and consumption rate is proposed by this ordinance. This increase equates to approximately \$3.00 more per month for an average water consumption of 5,000 gallons. She stated staff recommends approve of Ordinance Number 24-04 for a rate increase effective March 1, 2024.

Commissioner Brinkman stated she asked about reserve levels in other funds and would like additional information. The Solid Waste Fund continually grows, with the exception of one year, but is at a 57% reserve level, well over the 20% we need. Her question was if the fund continually grows over its reserves level and over our internal policy requirement, are those rates too high; should they be lowered; or why does the fund continually show a gain well over the 20%.

City Manager Cocking stated in the Solid Waste Fund there are two things to consider. The Recycling Contract expires in May, 2024, and we are still working on exactly what that investment looks like; and the other is two large projects that have been delayed for various reasons. One project is reflooring the existing transfer station and the second is separating the commercial and non-commercial trash drop off into separate locations. Currently, both are being dropped off in the same location which creates hazards for residential trash drop off.

Commissioner Brinkman stated the three funds, water, sewer, solid waste, work together and it doesn't seem like we are working them very well together. She stated she understood the increase and the need to service debt but an increase of 7.14% she would not be in favor of.

Commissioner Harter stated that he felt he had enough discussion about the proposed rate increase and did agree with Commissioner Brinkman about the 20% reserve level and try to keep the reserves at the level even if it means increases or decreases in rates.

City Manager Cocking stated there has been a strong growth of commercial waste which has contributed to the Solid Waste Fund reserve level.

Commissioner Brinkman asked if the at the end of the fiscal year did the city have the legal ability to move the funds over the 20% reserve level out and into a fund where we could put that money to work such as CIP. She asked for that to be considered.

Janet Harrouff stated rate increases were pushed back because reserves were there and reserves have been spent down over the last three years.

Following further discussion, Commissioner Smith made a motion to approve Ordinance Number 24-04, pertaining to sewer rates effective March 1, 2024 in the amount of 7.14%. Commissioner Harter seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Brinkman, nay; and Mayor Giefer, aye.

**CITY COMMISSION
(Board Appointments)**

EMPORIA PLANNING COMMISSION/BOARD OF ZONING APPEALS:

It was moved by Commissioner Sauder, seconded by Commissioner Smith, that Lillian Lingenfelter and Stan Fowler be appointed to the Emporia Planning Commission/Board of Zoning Appeals for terms that expire on December 31, 2027. The vote follows: Commissioner Sauder, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Giefer, aye.

PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting Held 1-16-24)
(Application 2024-01 – Request of Thomas Felts, Felts Properties, LLC)
(Rezone Property Located at 612 E. 7th Avenue)

The Planning Commission met in a regular session on Tuesday, January 16, 2024, with Chair Rogers presiding. Members Duncan, Barnes, Thomas, Ogle, and Bucklinger were present. Commissioner Weaver was absent.

City staff: Justin Givens was present.

Chair Rogers called the meeting to order.

1b. Consider Application PC 2024-01, a Request to Rezone Property at 612 E 7th ST From Single-Family Detached (SF-D) to Single-Family Attached (SF-A)

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

Chair Rogers asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No Commissioners needed to recuse themselves or report any ex-parte communications.

Givens provided the Staff Report.

STAFF REPORT

Application #: PC 2024-01

Applicants: Thomas Felts, Felts Properties, LLC

Requested Action: Consider a request to rezone a single property from Single-Family Detached (SF-D) to Single-Family Attached (SF-A).

Purpose: Applicant desires the rezoning to facilitate future residential construction.

Address: 612 E 7th St., Emporia, KS

Legal description: Lot 101 On East Street, In The City Of Emporia, Lyon County, Kansas, According To The Recorded Plat Thereof.

Lot Size: 50' x 170' 8,500 sq. ft.

Existing Zoning: Single-Family Detached

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

Surrounding Zoning:

North – Single-Family Detached
East – Single-Family Detached
South – Single-Family Detached
West – Single-Family Detached

Surrounding Actual Uses:

North – Single-Family Detached Residential Units
East – Single-Family Detached Residential Units
South – Single-Family Detached Residential Units
West – Single-Family Detached Residential Units

Analysis: The applicant is exploring options to develop multiple units on his property at 612 E 7th St. The current house is situated that a second unit could be built to the east, but based on current zoning would require a lot split. The residual lot would not meet our requirements for approval and therefore that applicant has requested a change in zoning to Single-Family Attached (SF-A). SF-A zoning would allow the applicant to build a new dwelling unit to the east of the existing unit, or as an alternative, demo the existing dwelling and build a new single-family attached unit on the property.

Considerations: 9.8.3.a.8. Factors to be Considered for 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: **Staff Commentary in Bold**

1. Whether the change or approval would be consistent with these regulations; **Staff feels that the change in zoning would be consistent with the regulations. The applicant would be eligible to build an accessory dwelling unit on the property except for the location of the existing dwelling unit being located closer to the alley and more lot space to the east. The change in zoning would allow the applicant to have either two separate dwelling units or one larger duplex on the property.**
2. The character and condition of the neighborhood and its effect on the proposed change; **the property is located in an area that has older and mostly smaller single-family detached homes. Any new building, either a duplex or a smaller single-family unit would not have a detrimental effect on the neighborhood.**
3. The zoning and uses of properties nearby; **The surrounding zoning is Single-Family Detached, but with the lot size and the proposed change to Single-Family Attached, the applicant would be limited in types of residential units that could be built on this property that it would not have a negative impact.**
4. The suitability of the subject property for the uses to which it has been restricted; **the property is currently a single-family dwelling unit, which makes it suitable to both the SF-D and SF-A parcel types.**
5. The extent to which removal of the restrictions will detrimentally affect nearby property; **Staff maintains that there would not be any detrimental impact on the neighboring properties if SF-A zoning was approved. There are still limitations in place that**

would restrict the size of any building to remain in scale with the existing neighborhood.

6. The length of time the subject property has remained vacant as zoned; **the balance of this property has been vacant for a lengthy amount of time. The property was platted as part of the original township as one lot and has most likely only had one structure built on it.**
7. The relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified or granted a conditional use; **Staff feels that by allowing the rezoning, the property could be used to its maximum value, with little to no detriment to existing services or the surrounding properties.**
8. The recommendations of a permanent or professional planning staff; **By the virtue of this property being located on a corner lot, staff feels that an additional unit or new duplex would not have a negative impact on the surrounding properties, and feels that the proposal is consistent with the Comprehensive Plan.**
9. The conformance of the requested change to Plan ELC; **Plan ELC states that the demand for middle income one and two bedroom units is the highest demand in Emporia and this project would help to increase infill housing**
10. Such other factors as are deemed relevant by the Planning Commission or Governing Body.

Neighborhood Communications: As of writing this report, Staff has had no inquiries about the proposed rezoning.

Recommendation: Staff recommends the Planning Commission make a motion of approval for the Rezoning to the Governing Body based on the following;

- 1) The request is consistent with the Comprehensive Plan;
- 2) The request conforms to the intent of the Zoning Regulations
- 3) There would not be a negative impact on the existing neighborhood

Attachments: Aerial Map | Current Zoning Map

The Public Hearing was opened.

Thomas Felts, 1626 Trowman Way (owner and applicant), spoke in favor of the rezoning. He stated that his intention was to build either a duplex or additional single-family structure on the balance of the property, while keeping the existing home. Mr. Felts stated that the existing home had been recently renovated and he was currently renting the property.

The Public Hearing was closed.

Commissioner Bucklinger asked about whether this rezoning would be considered a spot zoning. **Givens** responded that yes, it would technically be considered spot zoning, but discussed that rezoning, such as this, were contemplated when adopting the new zoning regulations and anticipated based on the new regulations.

Commissioner Bucklinger expressed concerns about setting precedent allowing spot zonings and had previously denied a similar request. **Givens** stated that the Planning Commission had

also recently approved a similar request also. **Givens** stated that the up zoning to Single-Family Attached from Single-Family Detached was not as concerning from a planning standpoint, and that the allowed uses within each parcel type were very compatible.

Commissioner Duncan asked about the minimum lot size that would allow for a lot split. **Givens** stated that the minimum lot size for infill development in the single-family detached zoning would be 6,500 sq. ft. and would be 2,000 square feet per unit for single-family attached parcel types.

Commissioners discussed the number or size of lots or area that would be required for this action to not be considered spot zoning with no determination as to what a minimum number would be.

Commissioner Barnes made a motion to recommend approval of the rezoning based on the findings of; 1) the request is consistent with the Comprehensive Plan; 2) the request conforms to the intent of the Zoning Regulations; 3) there would not be a negative impact on the existing neighborhood. **Commissioner Ogle** seconded the motion. The motion carried 4-2 (**Duncan & Bucklinger**).

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated the owner of the property located at 612 E. 7th Avenue has requested that the property be rezoned from Single-Family Detached (SF-D) to Single Family Attached (SF-A). He stated the property has an existing house located on the west portion of the property with a large vacant area east of the house. He stated the proposed rezoning would allow the property owner options to use the vacant portion of the lot for residential uses. The SF-A parcel type would allow for an additional detached house or a single-family attached house with a maximum of two units to be built on the property. At their January 16, 2024, regular meeting, the Planning Commission recommended approval of the rezoning with following findings: it was consistent with the Comprehensive Plan; the request conforms to the intent of the Zoning Regulations; and there would not be a negative impact on the existing neighborhood. The motion carried 4-2.

PLANNING AND DEVELOPMENT
(Application 2024-01 – Request of Thomas Felts, Felts Properties, LLC)
(Rezone Property Located at 612 E. 7th Avenue)
(Ordinance Number 24-05)

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM SINGLE FAMILY DETACHED (SF-D) PARCEL TYPE TO SINGLE FAMILY ATTACHED (SF-A) PARCEL TYPE AND AMENDING THE OFFICIAL ZONING MAP TO CONFORM

WITH SAID ZONING, to which the City Clerk assigned Ordinance Number 24-05, was presented to the Governing Body for their consideration.

Commissioner Harter made a motion to approve Ordinance Number 24-05, an ordinance to rezone property located at 612 E. 7th Avenue from Single Family Detached to Single Family Attached. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Brinkman aye; Commissioner Smith, aye; and Mayor Giefer, aye.

ENGINEERING
(Award CCLIP-SP FY2024)
(US-50 Highway from Graphic Arts Road to Prairie Street)
(KDOT Project No. 56 U-2465-01 – Project No. PV2305)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the CCLIP FY2024 Surface Preservation US-50 Highway from Graphic Arts Road to Prairie Steet. The bids are as follows:

BID TABULATION FOR CCLIP SURFACE PRESERVATION

Contractor	Total Bid
<i>Killough Construction</i>	<i>\$786,903.80</i>
APAC-Kansas, Shear's Division	\$805,970.97
Engineer's Estimate	\$815,496.55

He stated Kansas Department of Transportation approved funding of the project and participates 90% to the City's share of 10% up to \$400,000.00 of participating costs, with the remaining funds provided by the Multi-Year Fund. He stated staff recommends awarding the project to Killough Construction for the bid amount of \$786,903.80.

Commissioner Smith made a motion to award the CCLIP Surface Preservation FY2024 US-50 Highway from Graphic Arts Road to Prairie Street, KDOT Project No. 56 U-2465-01 Project No. PV2305 to Killough Construction in the amount of \$786,903.80. Commissioner Harter seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

**CITY MANAGER'S REPORT
(Financials & Building Permits)**

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

The following is general information for the month of January 2024 for community:

1. Monthly Local Retail Sales Tax Receipts Update

	2023	2024	
	\$ 516,306.92	\$ 517,369.36	Increase of \$1,062.44 for the month, and
			Overall increase of 0.21% from year 2023.
YTD	\$ 516,306.92	\$ 517,369.36	

2. City Share from County Tax

	2023	2024	
	\$ 265,044.38	\$ 267,962.91	Increase of \$2,918.53 for the month, and
			Overall increase of 1.09% from year 2023.
YTD	\$ 265,044.38	\$ 267,962.91	

Building Permits issued from 1/1/2024 to 1/31/2024 for new construction, remodeling/repairs and demolition.

Total number of building permits issued through Code Services:	16
Total of valuations associated with those building permits:	\$ 663,737.00
Total number of dollars collected for Building Permit Fees:	\$ 3,655.00

Construct – Single-family dwellings	0
Demo – Single-family dwellings	1

Flint Hills Mall CID for January 2024	\$ 16,709.02
YTD	\$ 16,709.02

Pavilions CID for January 2024	\$ 17,150.98
CID #2	\$ 17,150.98
YTD	\$ 34,301.96

Consent Agenda

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

- a. Approve minutes of the Regular Meeting held on February 7, 2024.
- b. KAW Valley Engineering Agreement for Design Service of RCB Box Bridge in 6th Avenue near Overlander Road.

The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Smith, aye; and Mayor Giefer, 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 MARCH 6, 2024, MEETING.

- Award Hazardous Sidewalk Program.
- 2024 Annual Operation and Maintenance Assurance Statement for Land & Water Conservation.

Study Session:

- Discuss Tyler Technology Software.
- Discuss Resolution to Adopt the Revised Compensation Plan.

CITY COMMISSION (Public Comment)

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

EXECUTIVE SESSION

Commissioner Smith made a motion to recess into Executive Session to discuss confidential matters of a third party for a potential development project resuming the open meeting in the City Commission Meeting Room, this same date, at 11:39 a.m. and invite Tayler Wash, Director of Special Projects and Jim Ubert, City Engineer. Commissioner Sauder seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 11:39 a.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed confidential matters of a third party for a potential development project and no action was taken.

Commissioner Harter made a motion to recess the meeting until 11:55 a.m. to Conference Room 1AB. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder aye; Commissioner Brinkman, aye. Commissioner Smith; and Mayor Giefer, aye.

The following items were discussed at Study Session:

1. Year-End Financial Report.
2. Discuss Burning of Leaves.
3. Petition Process/Quaker Park Discussion.
4. Review Neighborhood Revitalization Area Map Update.
5. Discuss Proposed Update to Weeds and Grass Ordinance.
6. KDHE MS4 NPDES Permit Discussion.
7. Review Civic Leadership Institute Proposal.

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



Danny Giefer, Mayor

ATTEST:



Kerry Sull, City Clerk

