

**Regular Meeting
December 20, 2022
6:00 p.m.**

The Herington City Commission met on the above date and time in the Commission Chambers at City Hall. In attendance were Mayor Eric Gares, Commissioner Robbin Bell, Commissioner Debi Urbanek, Commissioner Ben Castleberry, City Manager Branden Dross, City Attorney Brad Jantz, City Clerk Megan Lawrenz, Larry Mann, Carl Urbanek and Don Osenbaugh.

The meeting opened with the Pledge of Allegiance.

Mayor Gares called the meeting to order.

Public Forum – None.

Additional Agenda Items – Add 9a Resignation of Branden on Ethics Commission, add 9b Discuss and Action on Appointment of Ethics Commission Administrator. Add 21a ES consultation with an attorney, real estate acquisition, GB, City Manager and City Attorney.

Approval of Agenda – Commissioner Bell made a motion to approve the agenda with the addition of 9a, 9b and 21a, seconded by Mayor Gares. Motion carried 4-0.

Consent Agenda – Commissioner Bell made a motion to approve the consent agenda as written Regular City Commission Meeting Minutes December 6, 2022, Special City Commission Meeting Minutes December 12, 2022, Nathan Lawrenz's Application for the Building and Trades Board – Term to expire 12/31/2023, Andy Urbanek's Application for the Building and Trades Board – Term to expire 12/31/2024, Jeff Ledy's Application for the Building and Trades Board-Term to expire 12/31/2024, Resolutions 964-968 to be re-published in the Dickinson County News Times, CMB Renewal for Ampride for the 2023 year, Fire Protection Service Agreement for 2022 – Lyon Township \$20,436.59, Fire Protection Service Agreement for 2022 – Union Township \$2,504.72, Fire Protection Service Agreement for 2022 – Clarks Creek \$5,326.69, Fire Protection Service Agreement for 2022 – Fire District 7 \$10,783.84, seconded by Commissioner Castleberry. Motion carried 4-0.

City Manager Recruitment Service with Osenbaugh Consulting – Don Osenbaugh introduced himself to the commission, proposed 3 meetings with the commission. The first one to discuss what the commission is wanting in a CM will then compose and post an opening for about 4 weeks, he will collect resumes. He would also be out talking to potential candidates. He would whittle down to 7-9 to be brought back to the commission, for the second meeting in executive session, would hope to whittle down to 3 or 4, and then the third meeting would be interviews of the candidates.

Executive Session – Mayor Gares made a motion that the Herington City Commission Recess into Executive Session, pursuant to the: Attorney Client Privilege exception, K.S.A. 75-4319(b)(2) to discuss contract negotiations. To include the following: Governing Body, City Manager, City Attorney, City Clerk, Commissioner-Elect Dan McDonald, with the regular meeting to resume at 6:40pm, seconded by Commissioner Bell. Motion carried 4-0. The regular meeting resumed with no action taken.

Discuss and Action on Recruitment Services for a City Manager – Commissioner Bell made a motion to approve the contract with Osenbaugh after staff review and authorize the mayor's signature. Seconded by Commissioner Urbanek motion carried 4-0.

Resignation CM from Ethics Commission – City Manager Branden Dross verbally resigned from the

Ethics Commission. Mayor Gares made a motion to approve the resignation, seconded by Commissioner Castleberry. Motion carried 4-0.

9b. Appoint new Ethics Administrator – Mayor Gares made a motion to appoint the City Clerk as the Ethics Administrator, seconded by Commissioner Bell. Motion carried 4-0.

RESOLUTION 969

A RESOLUTION OF THE CITY OF HERINGTON, AMENDING THE CITY OF HERINGTON PROCUREMENT POLICY ORIGINALLY ADOPTED BY RESOLUTION NO. 527 OF THE CITY OF HERINGTON AND SUBSEQUENTLY AMENDED BY RESOLUTION NO. 878.

City of Herington Procurement Policy – Commissioner Bell made a motion to approve Resolution 969 City of Herington Procurement Policy and authorize the mayor's signature, seconded by Commissioner Castleberry. Motion carried 4-0.

USD 487 Permit Fee Abatement for Childcare Center – Brad advised that we don't have to have a policy allowing the City Manager to waive fees, but we can create one if needed. There was a consensus agreement between all members of the commission that waiving the fees for this circumstance did fall under the city managers discretion.

Cooperation and Fisheries Contract with KDWP for Five Years to end December 31, 2028, with an Annual Payment of \$11,200 to the City of Herington – Commissioner Bell made a motion to approve the contract, seconded by Commissioner Urbanek. Motion carried 4-0.

Public Safety Building Roof Installation Contract of \$31,750 with Bird Contracting – Commissioner Urbanek made a motion to approve the roof installation contract with Bird Contracting for \$31,750 for the public safety building, seconded by Commissioner Bell. Motion carried 4-0.

ORDINANCE 1879

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO REPEAL AND REPLACE CHAPTER VII, ARTICLE 7, SECTION 722 IN ITS ENTIRETY EFFECTIVE DECEMBER 1, 2022, REGULATING MONTHLY CHARGES PER DWELLING UNIT FOR RESIDENTIAL CUSTOMERS OF THE MUNICIPAL SOLID WASTE UTILITY, AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THERE OF IN CONFLICT HEREWITH.

Ordinance 1879 – Commissioner Urbanek made a motion to approve Ordinance 1879 and authorize the mayor's signature, seconded by Commissioner Castleberry. Motion carried 4-0.

RESOLUTION 970

A RESOLUTION PURSUANT TO K.S.A. 12-517 DECLARING THE BOUNDARIES OF THE CITY OF HERINGTON, KANSAS

Resolution 970 - 2022 Updated Herington City Limit Boundaries – Includes the land that was annexed in that will be Casey's – Commissioner Bell made a motion to approve Resolution 970 and authorize the mayor's signature, seconded by Commissioner Urbanek. Commissioner Urbanek asked who reviewed the legal, Branden reviewed what Kaw Valley provided. Motion carried 4-0.

Bucket Truck Needs for the Electric Department – Testing was completed on the trucks; they are over 15 years old now and did not pass. The electric department is unable to get parts, they use the small

truck to get in yards without tearing up the grass and the small easements. David did reach out to three companies for trucks and only responded. Commissioners requested various options for trucks to consider.

Purchase of a Transformer in the amount of \$13,214.00 to be Reimbursed by Casey's for Electrical Services Upgrade – Commissioner Castleberry made a motion to approve the purchase of a Transformer for \$13,214.00 to be reimbursed by Casey's, seconded by Commissioner Bell. Motion carried 4-0.

Herington Tomorrow Comprehensive Plan Process Timeline – Final draft goes to planning commission tomorrow. The Planning Commission will send it to public hearing, and will have to publish it 20 days out, Branden asked that they hold the public hearing in the evening so that the community can attend.

Herington Regional Airport Cropland Lease Bids – Leases are ready to go out for bid early next year. Hopefully bids can be opened in February.

Moderate Income Housing Grant – The City of Herington did not receive the grant. We need to add a developer's support, and we can apply for this grant again in January.

Executive Session – Mayor Gares made a motion that the Herington City Commission recess into Executive Session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relations exception K.S.A. 75-4319(b)(2) to discuss litigation. To include the following: Governing Body, City Manager, City Attorney, and City Clerk, with the open meeting to resume at 7:56pm, seconded by Commissioner Urbanek. Motion carried 4-0. The regular meeting resumed with no action taken.

Executive Session – Mayor Gares made a motion that the Herington City Commission recess into - Executive Session, pursuant to the preliminary discussions relating to the acquisition of real property exception K.S.A. 75-4319(b)(6) to discuss real estate acquisition. To include the following: Governing Body, City Manager, City Attorney, and Commissioner-Elect Dan McDonald, with the open meeting to resume at 8:20pm, seconded by Commissioner Castleberry. Motion carried 4-0. The regular meeting resumed with no action taken.

Executive Session – Mayor Gares made a motion to move the Herington City Commission into Executive Session, pursuant to the: Personnel matters of non-elected personnel exception, K.S.A. 75-4319(b)(1) to discuss contract negotiations. To include the following: Governing Body, City Manager, City Attorney, Interim City Manager Candidate, City Clerk, if needed and Commissioner Elect Dan McDonald, with the open meeting to resume at 8:40pm, seconded by Commissioner Castleberry. Motion carried 4-0. The regular meeting resumed with no action taken.

Mayor Gares made a motion to amend the agenda to add 22a – Discussion and action on an interim city manager contract, seconded by Commissioner Urbanek. Motion failed 0-4.

Mayor Gares made a motion to amend the agenda to add 22a – Discussion and action on an interim city manager contract, and 22b Executive Session for Real Estate Negotiations, seconded by Commissioner Bell. Motion carried 4-0.

22a – Interim City Manager Contract – Commissioner Urbanek made a motion to appoint Chief Andrew Avantagiato as Interim City Manager and enter employment contract with staff revisions and authorize the mayor's signature. Seconded by Commissioner Castleberry. Motion carried 4-0.

22b. Executive Session – Mayor Gares made a motion that the Herington City Commission recess into - Executive Session, pursuant to the preliminary discussions relating to the acquisition of real property exception K.S.A. 75-4319(b)(6) to discuss real estate acquisition. To include the following: Governing Body, City Manager, City Attorney, and Commissioner-Elect Dan McDonald, with the open meeting to resume at 9:01pm, seconded by Commissioner Bell. Motion carried 4-0. The regular meeting resumed with no action taken

City Manager Comments – Branded told the commissioner that restaurant lease at the airport has been terminated but spoke to someone else who is interested in opening something. Branden read his goodbye letter.

City Commission Comments –

Commissioner Castleberry - MKC Pumps not in city limits, wondered if we should purchase fuel from someone in city limits. Thanked Branden for his time here.

Commissioner Urbanek – Thanked Branden for his time here.

Commissioner Bell – Thanked Branden for his time here.

Mayor Gares – Safe Routes to school discussions will continue in January. Staff policy on donations for non-profits has not been completed. Thanked Branden for his time here.

Adjourn – Commissioner Urbanek made a motion to adjourn, seconded by Commissioner Castleberry. Motion carried 4-0.

Megan Lawrenz, City Clerk