

Regular Meeting
October 6, 2020
5:30 p.m.

The Board of City Commissioners for the City of Herington, Kansas met at City Hall at 5:30 p.m. on the above date - the following being present: Mayor Debi Urbanek, Commissioner Robbin Bell, Commissioner Vance Donahue, Commissioner Eric Gares, Commissioner Curtis Hartman, City Manager Branden Dross, City Attorney Brad Jantz, City Clerk Marcus Hawkes and City Clerk Trainee Megan Lawrenz.

The meeting opened with the Pledge of Allegiance. Mayor Urbanek called the meeting to order. A motion was made by Commissioner Gares, seconded by Commissioner Donahue to approve the Minutes of the Regular Meeting September 15, 2020 and the Special Meeting September 25, 2020 and Special Meeting September 30, 2020. Motion carried with all voting "Aye".

Public Forum Items- There were no public forum items.

Additional Agenda Items – Commissioner Gares requested item 20a. Discuss and Take Action as Needed Regarding Hospital Financials and Ownership.

Approval of Agenda - A motion was made by Commissioner Bell to approve the agenda with the addition of item 20a, seconded by Commissioner Gares. Motion carried with all voting "Aye".

City Update on COVID-19 - Mayor Urbanek said she has not seen any updates from the Dickinson County or the State but to continue with mask wearing and social distancing guidelines.

North Central Regional Planning Commission – New Fire Department Update – Mayor suggested tabling discussion until the representatives from North Central Regional Planning Commission arrive. Mayor Urbanek asked if there were any objections to not having a specific line item, there were no objections.

David Kahle – Meter Can Explanation Action as Necessary – Department Head David Kahle brought examples of various meters/meter cans to show the Commissioners and to explain some problems the electric department has had recently. Many meter cans in town are only rated for 40amps while the standard now is 100amps. The City provides the meter can and hub free to residents, but the resident is currently responsible for hiring an electrician to install. The question is, does the City of Herington have the authority to force residents to replace the cans. Mayor Urbanek volunteered to look up past discussion and possible ordinance change. Discussion to happen at the next department head meeting October 12, 2020. Table to next regularly scheduled commission meeting.

North Central Regional Planning Commission – New Fire Department Update – Mayor Urbanek gave some history saying that the Commission voted to approve moving forward with the grant application process in January 2020. Mayor Urbanek stated that the Commissioners had not seen

the plan, the dollar amount or anything else since the approval in January. Mayor Urbanek stated that the City of Herington has had some changes in staff. She requested that the Commissioners be brought up to speed on what their options are at this time. The representative informed the Commissioners that if they wanted to submit the grant for the 2021 time frame the decision would have to be made tonight, the application is due 10/30/2020. The representative said that discussion could be tabled, to be picked up next year with no extra cost incurred. Project will be tabled until next year.

David Rziha – Statement from Kay's Pharmacy – A couple weeks ago David heard that the Hospital would be opening a retail pharmacy. He spoke with hospital board members and CEO Isabel Schmedemann who all claimed that it was proprietary information, David contacted the construction company who said that they are there to build a pharmacy. Then David called the City Manager Branden Dross who had no knowledge of it. David attended the hospital board meeting on September 22, 2020, there was no mention of a pharmacy. David has hired a lawyer to assist with the Kansas Open Records Act. He has requested documents from the hospital that show that the hospital has been intentionally withholding the hospitals plans for constructing a retail pharmacy from David and other members of the public. Minutes show there has been no discussion of a Retail Pharmacy in open meetings so far this year. A retail pharmacy has also not been included on any agenda. David feels that there has been a violation of the KORA. Last week Isabel reached out to David and explained the reason behind a retail pharmacy is to better serve their employees and to provide prescription benefits and was not intended to run Kay's out of business. David feels that reasoning is false. Under the hospital pharmacy license, it can dispense medications not only for patients but for hospital employees and their families. From a financial standpoint it is cheaper for the hospital to fill prescriptions for employees from the hospitals inventory. David was told that one reason for the hospital opening a retail pharmacy is because David demanded a rate increase on the 340B program earlier this summer. David stated that was not true and is inconsistent with the alleged reason the hospital is opening a pharmacy per Isabel's email. As for the rate increase, the hospital offered, and Kays agreed to the contracted rates for the 340B program in 2019. Shortly after, Kays was provided a contract that he was told reflected the rates. He did not have a lawyer read the contract. Kays signed it and sent it back. During implementation, Kay's received an email from SumRX identifying the terms that were different than what was agreed upon in previous emails. David asked how he could get the rates that were first discussed and SumRX advised that Kay's would have to terminate their current contract and start a new one with the current rates, which Kay's did. They were not increasing their rates; they were trying to get the original rates that were offered to them. The Hospital Board claimed that Kay's was holding them hostage on the 340B rates. The Dickinson County Attorney has been assigned the claim. Attorney has COVID, so nothing will happen with the investigation until at least 10/12/2020. David requested that the Commission step in and halt progress on the hospital's pharmacy until after the investigation has been completed. City Attorney Brad Jantz informed the Commissioners that they do not have the authority to do that.

Standard Traffic Ordinance for Kansas Cities, Edition of 2020 – This is an annual revision that the City upgrades to be compliant. Kansas league releases it based of federal legislation. Mayor Urbanek moved to approve the Standard Traffic Ordinance for Kanas Cities, Edition of 2020,

seconded by Commissioner Bell. Commissioner Gares questioned whether any changes needed to be made, City Attorney Brad Jantz said there were no changes. Motion carried with all voting "Aye".

Discuss and Consider Uniform Public Offense Code for Kansas Cities, Edition of 2020 – Commissioner Gares asked if there were any changes, City Attorney Brad Jantz said none were made. Mayor Urbanek motioned to approve the Uniform Public Offense Code for Kansas Cities, Edition of 2020m seconded by Commissioner Gares. Motion carried with all voting "Aye".

Discussion of Reconnection of Utilities – Staff Proposal – City Manager Dross presented the staffs proposal for reconnection of utilities after shut off for non-payment. A letter will now be sent out twice yearly to residents in the spring and fall with energy conservation tips, and any other important information regarding utility assistance. Changes made include allowing utilities to be reconnected once the past due amount and reconnection fee is made. The current bill will not be included in the amount due for reconnection and will be due upon receipt as normal. Residents will also be allowed one 10-day extension per quarter, provided they contact City Hall prior to due date. Mayor Urbanek requested that information about the Cities Level Pay program be included in the bi-yearly letter. Mayor Urbanek motioned to approve the recommended changes to Section 7-406 Reconnection Charges as provided, pending staff review. Commissioner Bell seconded; motion carried all voting "Aye".

Discuss and Consider Replacing the Current KMEA Board Member with the City Manager – The current main POC is Department Head David Kahle. City Manager Dross would be replacing Mitch Gehrke as a secondary voting member. Mayor Urbanek made a motion to consider replacing current KMEA board member with the City Manager. Commissioner Gares seconded the motion, motion carried all voting "Aye".

Discussion of Logan Pointe HOA – Commissioners all received communication from former Mayor Jones, on his activity with the HOA. Mayor Urbanek informed us that after speaking with Dickinson County there have been no additions or revisions to the original covenants. City Attorney Brad Jantz explained that the situation is convoluted, the city had a land bank but now it does not. The land bank became the recipient of the remaining lots from the developer. The City could go back to the county and search under the homeowner's association and see if the documents were indexed that way. Mayor Urbanek said they will proceed with gathering information and will keep trying to locate the documents.

Discuss and Consider the City's Cement Policy – After explanation from City Manager Branden Dross, Mayor Urbanek made a motion to approve the cement policy as presented. Commissioner Hartman seconded; motion carried with all voting "Aye".

Update on Annexation – Just needed Mayor Urbanek's signature. City Manager Branden Dross will file with the County after receiving the publication affidavit from the newspaper.

Update on KDOT Loan Payoff – A formal request was sent off by City Clerk Marcus Hawkes requesting payoff as of 12/5/2020. Once staff makes the payment, they will bring it back to the Commissioners for review.

2019 Audit Reports – City Manager Branden Dross, Clerk Hawkes and City Clerk in training Lawrenz presented the Commissioners with copies of the 2019 Audit Report. Commissioner Gares made a motion to table the acceptance of the 2019 Audit Report until the next meeting for time to review. Seconded by Commissioner Donahue. Motion carried with Commissioner Donahue, Gares and Hartman voting “Aye” and Mayor Urbanek and Commissioner Bell casting the dissenting vote.

Establish a Townhall Date for Herington Municipal Hospital Discussion – After discussion it was determined that the City does not have the authority to request a town hall meeting with the expectations of the Hospital Board attending if they don’t want to. City Manager Dross mentioned having a townhall to discuss partnering, the PBC and pros and cons etc. There was discussion about creating an advisory board, to gather information about a PBC and bring it to the Commissioners. Staff to look for previous PBC, to find out if we can use the one that is already established. After further discussion there will not be a townhall date set.

20a. Discuss and Take Action as Needed Regarding Hospital Financials and Ownership – A lot of Commissioner Gares’ questions were answered in previous discussion. Commissioner Gares withheld his motion.

Update on ASTRA – City Clerk Hawkes has installed the ASTRA lake reservation software on one computer at City Hall so far. City Clerk Lawrenz plus two other staff members will train on the software. Mayor Urbanek is working on mapping and Commissioner Donahue is still interested in keeping some spots first come first serve.

Update on City Clerk Transfer Plan – City Clerk in training Lawrenz, is doing well. After completing some outstanding tasks with City Clerk Hawkes, City Clerk in training Lawrenz will officially take the City Clerk position. Estimated to happen in the next week or two.

Discussion of Making a Public Safety Director to fill the roll of Fire Chief and Police Chief – Commissioner Donahue suggested consideration of a Public Safety Director to fill both open positions. Both positions are in the same location. While a Public Safety Director did not work in the past, Commissioner Donahue feels that this might be a good time to refresh that position, while potentially saving the city money. City Manager Dross expressed concerns that a job listing for Police Chief has already been posted with many interested applicants responding. He expressed that changing the job description now may deter some potential applicants. Police Chief Hornady voiced his opinion that a Public Safety Director is not a good idea, and that the position takes away from the expertise of each position separately. City Manager Dross proposed the Commissioners table discussion until after a new Chief of Police is hired and in the position for 6 months, so that the public safety director position could potentially be offered to the Chief.

A motion was made by Mayor Urbanek, seconded by Commissioner Bell to recess into executive session K.S.A. 75-4319 (b)(1) to protect the privacy rights of persons being discussed, pursuant to the Non-Elected Personnel matters exception, to include the Governing Body, City Attorney Jantz, City Manager Dross, City Clerk Hawkes, and City Clerk in training Lawrenz, with the regular meeting to resume at 7:23 p.m. Motion carried with all voting "Aye". No action taken.

A motion was made by Commissioner Gares, seconded by Commissioner Hartman to adjourn. Motion carried all voting "Aye".

Also present: Larry and Karla Mann, Carl Urbanek, Isabel and Ralph Schmedemann, David Kahle, Police Chief Brain Hornaday, Suzanne and Robert Snurpus, Ben Castleberry and Benjamin Castleberry.

Megan Lawrenz, City Clerk in Training