

Regular Meeting
December 1, 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 Curtis Hartman, Commissioner Eric Gares, Commissioner Vance Donahue, City Manager Branden Dross, City Attorney Brad Jantz and City Clerk Megan Lawrenz. Also, in attendance were Chief John Matula and Sergeant Curtis Trya. Not present was Commissioner Robbin Bell.

The meeting opened with the Pledge of Allegiance. Mayor Urbanek called the meeting to order. A motion was made by Commissioner Gares, seconded by Mayor Urbanek to approve the Minutes of the Regular Meeting November 17, 2020 and Special Meeting November 19, 2020. Motion carried 4-0.

Public Forum Items-

Linda Herbel with the Herington Housing Authority emailed that there was still one full-term position on the Herington Housing Authority Board after Isabel Schmedemann is confirmed.

Robert Danzman – 801 W Walnut St, Herington, KS 67449 – I request the following comments be read audibly to the City Commission and entered into the City Commission's public record as part of the regularly scheduled City Commission meeting December 1, 2020. I would have preferred to present these comments in person. But the person or persons in charge of the City Commission meeting agenda denied the author to appear in person. It is important, therefore, this document be read without any voice inflection, phrasing or any other vocal effects which might "color" the underlying message.

It appears the administration of Herington Community Hospital may have improperly modified, expanded, its operations. That is, purchasing and renovating commercial property in the City of Hillsboro, Kansas. Such activity appears to be in violation of Kansas law governing city, county, owned hospitals. Enclosed is an excerpt from the September 23, 2020 edition of the Hillsboro Free Press this newspaper report explains how Herington Community Hospital purchased three adjoin buildings on Main Street in Hillsboro and was, at the time of the published article, renovating them to build out what Herington Community Hospital spokesperson was calling the Hillsboro Health Care Clinic. Apparently the entity is now seeing patients. The understanding is that Herington Community Hospital is owned by the City of Herington. If so, Herington Community Hospital is governed by Kansas Statutes ranging from 14-601 to 14-6,114. Enclosed are Kansas Attorney General Opinions 2012-6 from February 22, 2012 and 2015-13 from July 23, 2015. The cited opinions appear to require certain things to take place. Including at least requisite public notice(s) and votes of approval. Before the community owned hospital can expand outside its designated area. It is hereby requested Herington City Commission implement an investigation to determine if Herington Community Hospital is in full compliance with all applicable laws and regulations. It is further requested the Herington City Commission, as the parent board of Herington Community Hospital Board, exercise its authority as such, require the Herington

Community Hospital Board provide full and complete documentation, for public consumption, which was used to support, authorize, validate, such expansion. It is further requested Herington City Commission require the Herington Community Hospital Board to cease all operations and activities relevant to the subject expansion until such time as the matter has been fully investigated.

Herington Community Hospital may have improperly used funds, money, from the federal government which was allocated as Covid-19 relief funds to finance the Hillsboro Health Care Clinic. The Herington Community Hospital administration may have also improperly used the said funds to make a well publicized donation of \$100,000.00 to the City of Hillsboro for the construction of a “splashpad”. Such financial transactions are most likely in violation of the rules regarding the use of CARES Act funding to hospitals. There is a published report that Herington Community Hospital CFO Bryan Coffey stated “Some of the money for these services is coming from COVID funds that have become available”. CFO Coffey also stated that he was able to get 3.6 million dollars in COVID Act funds and he put 2 million dollars into a local Hillsboro bank. CFO Coffey said, “That’s the seed money to help Hillsboro. That isn’t money to help Herington but it’s for Hillsboro”.

There are certain Department of Health and Human Services restrictions on how a hospital can spend CARES Act funds. It seems clear that Herington Community Hospital, by acts of the CEO and CFO, has violated the funding rules, laws, regulations. If the federal government demanded payment of improperly spent fund, the City of Herington could, would, be liable as the owner of Herington Community Hospital. Further, it is requested that Herington City Commission require the Herington Community Hospital Board order cessation of all activities relevant to (1) the startup of a retail pharmacy and (2) the pursuit of a new hospital building, until such time as every investigation as to the veracity and full transparency of all activities and, or, business transactions initiated by the Herington Community Hospital CEO and CFO. Make for public access all documentation showing the feasibility of any physical or service expansion.

Additional Agenda Items – Number 7 was removed from the agenda as the involved parties were not able to be present. Commissioner Donahue requested agenda item 8a be added – Vote on COVID policy/ordinance.

Approval of Agenda – Mayor Urbanek motioned to approve the Agenda as written, seconded by Commissioner Donahue. Motion carried with all Commissioners voting “Aye”.

City Update on Covid-19 – Chief Matula reported that there had been 3 calls related to COVID/mask wearing. One to Barnes and two to Ampride. No citations to individuals were issued. Commissioner Gares clarified for the Commission and Staff that per the order masks are to be worn in doors even while social distancing.

8a. Vote on COVID policy/ordinance – Commissioner Donahue motioned to not go in line with County and State mask order, and to instruct police not to enforce. Motion failed for lack of a second.

Discuss and Consider Logan Pointe Recommendations – City Manager Dross explained that he would like to see lots have plans within 6 months of being purchased, with construction starting within 9 months, and completion by 15 months. If multiple lots are purchased, he would like to see the lots combined with the county within 3 months and follow the same timeline as a single lot. He also explained that extensions would be on a case by case basis and would ultimately be the City Managers decision. City Attorney Jantz and City Manager Dross will work together to prepare a contract.

Discuss and Consider Herington Housing Authority Board Member Application – Isabel Schmedemann – to expire 11/30/2024. Mayor Urbanek motioned to approve Isabel Schmedemann's application for a Herington Housing Authority Board Member position to expire 11/30/2024, seconded by Commissioner Gares. Motion carried with all Commissioners voting "Aye".

Discuss and Consider Vacant Building Ordinance – Commissioners directed City Manager Dross to make some changes to 6A. They would like it to read, "Name, physical address or email address and phone number". City Manager Dross will make the corrections and it will be on the agenda for approval at the next regular commission meeting.

Discuss and Consider Employee Personnel Policy – After discussion it was decided, and more changes need to be made. City Manager Dross will continue to revise the policy.

Update on 205 N 10th – A certified letter was mailed on November 19, 2020, the letter states that the owner has until January 6, 2021 to get the property cleaned up.

Discuss and Consider City Manager moving forward with designating the Pool House Historical – City Manager Dross explained that to restore/remodel the pool house more funds will be needed. He said that seeking grants could be the least impactful option for the City financially. Commissioner Donahue motioned to allow the City Manager to move forward with trying to designate the pool house historical, seconded by Mayor Urbanek. Motion carried with all commissioners voting "Aye".

Update on Water Treatment Plant Construction – Construction will start in January 2021. City Manager Dross has reached out to previous City Managers to attend the ceremonial groundbreaking. Will start reaching out to past commissioners soon. Project is expected to be completed in August 2021.

A motion was made by Mayor Urbanek, seconded by Commissioner Gares to recess into executive session K.S.A. 756-4319(b)(1) pursuant to the personnel matters of non-elected personnel exception, moving from non-exempt to exempt to include the Governing Body, City Attorney and City Manager with the regularly scheduled meeting to resume at 7:28pm. Motion carried with all Commissioners voting "Aye". No action taken.

A motion was made by Mayor Urbanek, seconded by Commissioner Gares to recess into executive session K.S.A. 75-4319 (b)(1) for consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship – potential litigation, to include the Governing Body, City Attorney Jantz, City Manager Dross, and City Clerk Lawrenz, with the regular meeting to resume at 8:00 p.m. Motion carried with all voting “Aye”. No action taken.

A motion was made by Mayor Urbanek, seconded by Commissioner Gares to recess into executive session K.S.A. 75-4319 (b)(1) for consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship – potential litigation, to include the Governing Body, City Attorney Jantz, City Manager Dross, and City Clerk Lawrenz, with the regular meeting to resume at 8:15 p.m. Motion carried with all voting “Aye”.

Commissioner Gares directed City Attorney Jantz to amend the Charter and have a draft form available for the special meeting December 11, 2020.

Commissioner Donahue motioned to amend the agenda for the Executive Session related to non-elected personnel, seconded by Mayor Urbanek. Motion carried with all Commissioners voting “Aye”.

Commissioner Donahue motioned to move the City Clerk position from non-exempt to exempt, seconded by Mayor Urbanek. Motion carried with all Commissioners voting “Aye”.

A motion was made by Commissioner Hartman, seconded by Commissioner Gares to adjourn. Motion carried with all Commissioners voting “Aye”.

Megan Lawrenz, City Clerk