

Special Meeting  
December 11, 2020  
6:00 p.m.

The Board of the City Commission for the City of Herington, Kansas met at City Hall at 6:00 p.m. on the above date – The following being present: Mayor Urbanek, Commissioner Bell, Commissioner Hartman, Commissioner Gares, Commissioner Donahue, City Manager Branden Dross, City Attorney Brad Jantz, City Clerk Megan Lawrenz and Chief of Police John Matula. Also present were Herington Municipal Hospital staff and board members Bryan Coffey CFO, Isabel Schmedemann CEO, Andy Ramirez Hospital Attorney, Ed Mueller Hospital Board and Leslie Mayes Hospital Board.

The meeting opened with the Pledge of Allegiance.

Commissioner Gares opened with a personal statement. Inserted below.

Personal Statement of Eric Gares, Commissioner City of Herington, Kansas

(Read out loud at the Special Session of the City Commission on December 11, 2020)

Please allow me a moment for some clarification regarding not only my position regarding the Herington Municipal Hospital, but my intentions, desires and hopes for the continued success of the Herington Municipal Hospital. This statement is in no way an attempt to explain the full collective desires of the Governing Body of the City of Herington, Kansas, and is meant only to express my individual desires and opinion. I apologize in advance for the length of this, but please bear with me until the end.

In all aspects it should be made clear, that I personally would like to see the Herington Municipal Hospital continue to be a successful and be a vibrant asset to the City of Herington, Kansas. I personally have heard and have been told by others that the perception around our fair City is that I am soon to be out of my seat as a City Commissioner and I just trying to "stick it to the hospital" or "want to see it closed down". That can't be farther from the truth! My goal is to see the hospital be successful and to see it continue to be an asset that benefits our City in many more ways than one. However, I also want to see it operate lawfully and within the bounds and authority that it is allowed to operate...I'll touch more on that in just a moment.

There are many reasons why having this entity within our City is a benefit to all and I can in no way sit here and express all of those reasons and be confident enough to say that I have covered everything. It is a benefit not just to those that live here (regardless of their age, race, creed, and what have you) but to those that may want to think about moving here and to those who travel through the area on daily or even on an occasional basis. The aspect that reaches out first and foremost in my mind is that of the basic quality of life having the Herington Municipal Hospital provides to our City. Think about being able to go and see a primary care

provider for even just a routine checkup rather than having to drive out of town to have such an easy appointment. How many people have you heard say that they wouldn't live here if there wasn't some type of medical care facility? But, what about those unfortunate accidents or situations that require time saving moments to be stabilized in an emergency for more safe and more advanced services? Can it always be said that a twenty-to-thirty-minute ambulance ride to a nearby facility before you even see any primary treatment is best for anyone? I applaud the entire Hospital Board of Trustees who are working towards expanding the services locally provided to help build on that aspect and help build a better quality of life for the entire community.

Yes, the Herington Municipal Hospital is a critical access care facility and yes, they have been known to only get people stabilized just enough to get them moved on safely to another facility for continuing care and treatment. But they have done much more than that as well. Yes, I am not personally happy seeing the cost of these services go up over the last few years. Yes, you can probably see someone somewhere else for a fraction of the cost that you might see here. However, in the end that critical access is what really makes the difference. The additional services are just a bonus and you can choose to utilize those services or not, but in the end, they are there to be used as a benefit to this entire community. There is a lot that can also be said for a community of this size to be able to support and keep such a facility like it within our City when so many other communities may not be so lucky. It is because of this, that I want to see the

Herington Municipal Hospital be successful, even if that means it is feasible to expand outside our City. However, like I said above, I want to see it operate lawfully and within the bounds and authority that it is allowed to do so.

You are probably now wondering what I meant by that and asking yourself, "Is it operating unlawfully and outside the bounds and authority that it is allowed to do?" Unfortunately, I submit to you here and now that it is not operating in such a lawful manner within its bounds and authority given to it by the City of Herington, Kansas.

In September of 2020, the Herington Municipal Hospital officially opened an already operating clinic with new plans for expansion in the remaining adjoining building within the City of Hillsboro, Kansas. There not normally would be a problem with doing such a venture; however, it is outside the city limits of the City of Herington, Kansas...the location that provides for the existence of such municipal entity to exist and operate for the benefits of the City in which it is approved for. This is not a district hospital or a county hospital or a privately owned hospital, it is a municipal hospital. Understand that the Herington Municipal Hospital operates under a very blended situation in which the Hospital Board of Trustees, elected by the electors from within the City of Herington, Kansas, is a municipally owned hospital and governed by Charter Ordinance of the City of Herington, Kansas, and done under the authority provided to it by the Governing Body of the City of Herington, Kansas and those electors within the city limits of such city. As such, the Governing Body has, while though limited, general oversight of the operations

and is, for lack of better terminology, the parent board that provides the authority for the Hospital Board of Trustees to act in its stead.

However, this is where it gets a bit dicey. It has been my understanding and been brought to my attention that the following is true. Among the many things that the Hospital Board of Trustees can do is, but not limited to: it can operate and set rules in regards to the Herington Municipal Hospital; provide for the facility and operation of a clinic or hospital facility through generated revenue; and it can hold funds in trust on the behalf of the Governing Body and the citizens of the City of Herington, Kansas in which to operate, maintain, furnish and repair such facility or facilities authorized within the city limits. What it can't do is own and operate property or take on public debt without first seeking the backing and approval of the Governing Body. It certainly, at present, cannot own and operate a facility outside the city limits of the City of Herington, Kansas, such as it does currently in the City of Hillsboro, Kansas. It can also not utilize public and municipal funds for investment in unsecured investment options such as has been suggested to the Hospital Board of Trustees to take municipal funds and invest it in stock options. It must also, on an annual basis, have its next fiscal budget approved by the Governing Body which must also at the same time that it holds a public hearing for its own budget, hold a public hearing on the budget presented by the Hospital Board of Trustees for public comment and objection before that budget can be final and approved.

These basic actions that are required of the Herington Municipal Hospital have not been completed in any of the recent years in which I have sat on the Governing Body as a City Commissioner or in the years prior to that that I can recall. It is because of this and because of other actions already undertaken or currently under consideration that I submit to you that the Herington Municipal Hospital at this moment in time is not currently operating in a lawful

manner or within its bounds and authority that it is allowed to do so. Steps are being taken to investigate these matters and inadequacies. Steps are being taken to find a solution to remedy these inadequacies.

I have said it above and I'll say it again, I want to see the Herington Municipal Hospital be successful and I want to, regardless if I am member of the Governing Body or not, see both the Governing Body of the City of Herington, Kansas, and the Board of Trustees of the Hospital Municipal Hospital operate in a lawful manner and within its bounds and authorities that they are allowed to do so. I also want to make sure that both municipally elected bodies understand and protect the liabilities that are expected of them to protect on behalf of the citizens in which they serve. There are options that exist for the Governing Body to take a more proactive approach to help the Hospital Board of Trustees remedy these inadequacies and already taken improper steps. However, should the Herington Municipal Hospital be required to operate in its entirety as authorized...I submit to you that it should and until it is changed, should stay within that authority in which it currently exists until otherwise altered.

\_\_\_\_/s/ Eric Gares\_\_\_\_\_

Eric Gares, Commissioner

City of Herington, Kansas

There was extensive discussion between the Herington City Commission and the Herington Hospital Staff and Board.

A motion was made by Mayor Urbanek, seconded by Commissioner Bell 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 7:30p.m. Motion carried with all voting “Aye”. No action taken.

It was the consensus of the Commissioners after Executive Session to proceed with developing a new draft charter ordinance so everyone can work together and be clear and on the same page. Legal counsel will need to help everyone work through this.

Adjourn. Commissioner Gares made a motion to adjourn seconded by Commissioner Hartman. Motion carried all voting “Aye”.

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Megan Lawrenz, City Clerk