

Regular Meeting
March 17, 2020
5:30 p.m.

The Board of City Commissioners of 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 Curtis Hartman, Commissioner Eric Gares, Commissioner Vance Donahue II, City Attorney Brad Jantz, City Clerk Marcus Hawkes and Deputy Clerk Kathy Matkins.

The meeting opened with the Pledge of Allegiance. A motion was made by Commissioner Gares, seconded by Commissioner Bell to approve the minutes of the regular meeting March 3, 2020 and Special Meeting March 2, 2020. Motion carried with all voting “Aye.”

There were four signees for Public Forum. One of the signees was listed on the agenda and would be addressed at that time. Dan McDonald spoke on the street sign and the power lines. He said there was an accident at D St & Vine, a street sign was knocked over and still is not up yet. Dan said there is excessive speeding on D St. and a red and white pickup with young kids 18-20 yrs. old are drag-racing side by side on D St, usually after 5 p.m. in the evening. Dan spoke about the power lines on Trapp St and inquired what added benefits will the residents get from this project and how does Herington benefit as a whole? Mayor Urbanek said responses will be provided at a public meeting later. Kymberley Harper spoke on the Governor’s Executive Order and said the Business Community wants to know what it means for them. The city is bound by this Executive Order from Governor Laura Kelly and there shouldn’t be any mass gatherings over 50 people. Kymberley asked about possible fines and Chief Hornaday said his department would respond if a complaint was made and if the situation wasn’t resolved he would charge interference with Police Duties. Attorney Jantz said it constitutes a Class C Misdemeanor, \$500.00 Fine, and 30 Days Incarceration. Janet Wade spoke on the power lines and governor’s executive orders. Janet said it was unclear to her whether approval was given to Evergy moving forward with the project or whether the City Commissioners approved the Evergy Project. Janet asked the City Commissioners to define their decision-making procedures including community involvement and participation. The Governor’s Executive Order on gatherings of 50 or fewer people should preserve the 6-foot social distancing between people and Janet felt the meeting should be moved to a larger area to accommodate this spacing distance or adjourn the meeting.

Additional Agenda Items. Mayor Urbanek struck Item #8 and Item #10 on the Agenda. A Change to Item #9 to read CVB in place of Tri-County Chamber of Commerce.

A motion was made by Commissioner Bell, seconded by Commissioner Gares to approve the agenda with the mentioned changes. Motion carried all voting “Aye.”

Review of Protocol in the Absence of City Manager. City Attorney Jantz will review the protocol and provide a written summary preface to the Commissioners. Attorney Jantz said the city commission is commission based and is a 2nd class city. Decision Making vests with the City Commissioners in a collective fashion. Hiring and Firing is the City Manager’s responsibility. The city can call a special meeting to define specific individuals i.e. city staff/ employees to handle certain delegated duties in the absence of the City Manager. City Commissioners can accept special duties if assigned and delegated. Financial Authority was discussed pertaining to City Clerk’s Spending Authority and the Department Heads Spending

Authority. Attorney Jantz said City Clerk could authorize normal, day to day city business and operations but any additional, large expenditures he couldn't approve and would have to be brought before the city commissioners for approval with the way the spending authority is set up now with the city. Real authority would have to be given to the City Clerk above and beyond normal city business and expenditures. Attorney Jantz said he could draw up limits for spending authority, have it declared, and set in place during a special meeting. The City Manager sets the Department Heads spending limits and should run it by the city commissioners for transparency and informative reasons. The Department Heads and City Clerk are still operating on the former City Manager's guidance for spending limits. A decision was agreed on spending limits and authority by the city commissioners to set City Clerk limit at \$10,000.00 limit and cap. Motion was made by Mayor Urbanek, seconded by Commissioner Gares designating authority to \$10,000.00 cap for the City Clerk spending limit. Motion carried with all voting "Aye."

Department Head Authority Limit was set at \$2500.00 per Department Head without going to City Clerk for approval. Motion was made to set limit to \$2500.00 per expenditure per project and related items by Commissioner Gares, seconded by Commissioner Hartman. Motion carried with Commissioner Bell and Mayor Urbanek voting "Nay."

Discuss and Consider CVB Request for a Mud Run/Obstacle Course at the City Lake/Reservoir. Kymberley Harper spoke about this request and said the CVB wants to be more involved with city events. The Battalion at Fort Riley are interested in participating in this event. Tri County Free Fair would carry insurance and have waivers of liability for the event scheduled on Saturday, July 11, 2020. Commissioner Bell spoke about the hay leases and other possible concerns relating to this event and Kymberley said they will make sure all areas of concerns are met and covered with city commissioners' approval of final plans. Insurance requirements will be discussed with city insurance agent, Tandi Reiff, and whether a permit will be needed or required for this event. Kymberley was wanting verbal consensus of the city commissioners to proceed with the planning requirements for the event. Mayor Urbanek was in favor of moving forward on the event planning making sure all bases are covered and a final plan is presented to the city commissioners. Commissioner Donahue II is the liason for this project and will help in the process.

Water Treatment Plant Update from Buck Driggs. Buck said Wes-Tech is here to start pilot testing on 3-24-2020. Buck hopes to have all permits in place by the end of March 2020. Buck recommended going with Primo Zone Unit as it is less expensive overall. Buck needs approval to move forward with Primo Zone and Wes Tech pilot testing from City Commission. Mayor Urbanek asked Buck if there was any way to make this happen quicker as the roof at the water plant is collapsing and the concern for the water filters is alarming. Mitch Gehrke said the water crew will finish the roof repairs this week to help protect the filters and Mitch said Jason does not want to disturb the building any more than is necessary. Buck said the bids will go out in April 2020 and he hopes to have the building and plant operating in place by January 2021. Buck said it could take a year for completion of the project. Motion was made by Mayor Urbanek, seconded by Commissioner Bell to approve the purchase of Ozone Equipment and Testing subject to staff review and KDHE approval. Motion carried with all voting "Aye."

Discussion of Powerlines on Trapp Street-Vance Donahue. Vance said the Open House meeting with Evergy doesn't constitute a Public Forum. He felt there should be a Public Forum and asked if this was going to happen. Vance suggested getting a Contractor and an Engineer to give input and insight to this project in addition to Evergy providing the information themselves. He said an Engineer would do an environmental impact study relaying more information for thorough decisions to be made and considered. Vance recommended using the city committees available, i.e. planning committee. He doesn't want the city to make a hasty decision and act too quickly on behalf of Evergy only. Mayor

Urbanek said there is a lot of research being done on this project and Evergy will be re-scheduling the Open House meeting due to the cancellation of it on March 26, 2020 with Coronavirus issues. Evergy Associates will respond to customer questions and concerns at this Open House meeting. Mayor Urbanek said everything is in the fact-finding stage at this point in the project.

Discuss and Consider Proposal to Replace Current Tie Breaker with Siemens' Type SVD7-AR Outdoor Vacuum Circuit Breaker. David Kahle said the city vacuum breaker does not have back-up, if the city loses power we are completely out of power. The Breaker will cost \$24,792.00 plus taxes and will take 26-30 weeks to receive it once ordered. Installation costs are included in this price. David said there would be a town outage and it would be done over the evening periods or on the weekend to cause the least amount of disruption to the community and residents. David said he has been working with Mid-States on this and he recommends the Siemens' Type SVD7-AR Breaker as it has the back-up and everything the city needs to tie in with Evergy. David said the KMEA representative was on the agenda, but it was cancelled due to coronavirus and the first time he could come back would be 4-21-2020. David told him to continue working on the Rate Study and David would get back in touch with him to be here at another scheduled meeting or hold a phone conference with the commissioners. Motion was made by Mayor Urbanek, seconded by Gares to purchase this Siemens' Breaker in the amount of \$24,792.00 plus taxes to replace the current Tie Breaker. Motion carried with all voting "Aye."

Discuss Herington Airbase Showdown MOU-Jeff Kilmer. Jeff wants to have the drag races back in Herington and had a previous agreement with the former city manager, Matt Townsend, but he didn't get anything in writing. Jeff would like some form of protection with the city so no one else uses the dragstrip as he and fellow workers have put a lot of time and work into this event. Jeff said this event will most likely be rescheduled to a later date due to coronavirus and that he can reschedule the porta potties and change the dates on the insurance clause as he is open to rearrange the date of the event. Mayor Urbanek felt everything was in order and there should be an agreement or lease honored to protect Jeff Kilmer and his investment in this event. Attorney Jantz said a 5-year lease could be drawn up and the city agreed to not charge Jeff Kilmer for this lease as he is supporting the town and community with this event he puts on. Jeff said the proceeds minus his expenses would be going to the Fireworks Committee this year. City Attorney Jantz will draw up this 5-year lease for the city on behalf of Jeff Kilmer.

Update 5 West Walnut. Scott said this property is condemned and no one is allowed in the building whatsoever for any reason. The entire contents of the building are contaminated throughout and will have to be demolished rather than doing an abatement. KDHE will not be able to help the city financially due to it being demolished rather than abated. Mayor Urbanek has one bid from Jeff Blixt. Jeff had a one on one conversation with Phil at KDHE and said he will have to give KDHE a 10-day notification and have an asbestos supervisor on site for one of the two weeks it will take to complete this demolition project. Jeff presented a Preliminary Bid of \$65,000.00 - \$70,000.00 total and that includes a \$1,000.00 Tipping Fee to Saline County. Leo spoke to Earl Newbury who has done local work for the city and he is not available to do this project. Mayor Urbanek said there is only one bid from Blixt and if the city wants to utilize his services, the city needs to let him know as soon as possible. The building to be demolished is owned by a private landowner and it continues to degrade with the owner not wanting to put any money in to it. Attorney Jantz said there is a common wall issue along with mold and remediation issues. There is a Distressed Structure Hearing that was put in place and this has been ongoing for 17 months. It was noted the city has budget money set aside for this demolition project. Attorney Jantz said he could probably get 2 more bids from the Wichita Area to see if they have an interest in this project and he set a timeline of 30 days for the contractors to get him bids for the city. Tabled this discussion until 4-21-2020 to see if Attorney Jantz receives additional bids to look at.

A motion was made by Mayor Urbanek, seconded by Commissioner Bell to recess into Executive Session K.S.A. 75-4319 (b) (2) for attorney-client privilege matters relating to potential litigation. To include the Governing Body, the City Attorney, the City Clerk, Merlin Oswald, and Scott Melcher available if needed. Meeting to resume at 7:33pm in the City Hall Board Room. Motion carried with all voting "Aye." Meeting resumed with no action taken.

Discuss Vacant Building Ordinance. Attorney Jantz said this has been at a stand- still and he sent a Grant Program example by email to all city commissioners. Attorney Jantz said this has proven to be very successful and beneficial and the city should consider and evaluate this Grant Program. Mayor Urbanek made a motion, seconded by Commissioner Gares to defer and table conversation on vacant building ordinance until there is a new City Manager in place. Motion carried with all voting "Aye."

Discuss and Consider Vehicle Request by Herington Police Department. Chief Hornaday submitted bid proposals to the commissioners and gave justification for this purchase relating to costs, expenses, and needs of the department including his 5-year rotation plan for disposal and acquisition of police vehicles. This purchase would come out of the Equipment Reserve Budget. The year- end financials are not complete, so the city commissioners decided to wait until the financials are complete and the city has a record of exactly how much money is in each fund for 2020. It was also suggested to wait until the new City Manager is hired and in place to look at this purchase again. This item was tabled for 60 days when the financials are complete, and a new City Manager is hired and on board.

Commissioner Gares moved for a 10- minute recess, seconded by Commissioner Bell. Motion carried with all voting "Aye." Meeting back in session.

Update of Neighborhood Revitalization Program. Attorney Jantz said he has received 2 different answers as to the program being expired or lapsed. Attorney Jantz is going to talk to Chuck Scott to see if the city needs to renew the program and to do the entire city looking at tiers and percentages. Commissioner Gares would like 1 more quick review and for Attorney Jantz to have the paperwork in order to bring back to the meeting once prepared.

Update on the Flint Hills Trail. Mayor Urbanek said former Mayor David Jones will provide current updates to the city. Commissioner Gares attended 1 meeting in Wichita, KS. and Commissioner Bell is planning to attend this Thursday, March 19, 2020 at 1 pm. Commissioner Gares was checking his schedule to see if he could attend this meeting. Mayor Urbanek said there are no available funds in 2021.

Discussion of K-9 Unit for the Herington Police Department. Commissioner Gares requested information on the progress and plan of the K-9 Unit in its current stages of development. Chief Hornaday gave a lot of history on how the program works, costs involved with obtaining a dog and training costs for dog and handler and Chief shared he had a SOP typed up using calea standards and he uses this as an operational plan that stays within the department. Former city manager was good with the K-9 plan. Chief Hornaday shared the importance of having this K-9 Plan and Drug Dog as he feels the community has a very serious drug problem with drugs in the school system and in the City of Herington. This involves marijuana and meth and narcotics, both as users and dealers in the community. He needs a dog with a great nose to sniff out and smell narcotics to help reduce the problems with drugs in the community. Commissioner Gares spoke with the city insurance agent about insurance regarding this K-9 program and liability for the city. Chief Hornaday said he will talk with Tandi, insurance agent, on insurance coverage if needed due to the dog and liability issues. There will be more discussion on this topic in future meetings.

Discuss and Consider Amending Ordinance for Section 1-104 of the City Code, to Adopt the 4th Edition of the Code of Procedures. Attorney Jantz gave all the commissioners a copy with everything being current and correct to Adopt the 4th Edition of the Code of Procedures. Motion was made by Commissioner Gares, seconded by Commissioner Donahue II to adopt the 4th Edition of the Code of Procedures. Motion carried with all voting "Aye."

Update on City Manager Search. Mayor Urbanek said the City Commission has identified 3 Finalists. The names and identities remain confidential to protect the candidates and their jobs and to protect the city in case the primary candidate's name is released and prevents the city from obtaining that primary candidate.

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

Also, present: Scott Melcher, Dan McDonald, Jeff Kilmer, Ingrid Herwick, Carl Urbanek, Kim Mann, Amanda Miller, Kymberley Harper, Allen Patterson, Buck Driggs, Brian Hornaday, Jennifer Duenas, David Gehrke, Mitch Gehrke, David Kahle, Cynthia Naylor, Vance Donahue I, Janet Wade, Robyn Heitfield, Troy Heitfield, Jim Hay, Renate Sweet and J.R. Sparke-Herington Times.

Marcus Hawkes, City Clerk