

**Regular Meeting  
December 19, 2023  
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 Robbin Bell, Commissioner Eric Gares, Commissioner Debi Urbanek and Commissioner Ben Castleberry. Absent was Commissioner Dan McDonald. Also in attendance were City Manager Thatcher Moddie, City Attorney Brad Jantz, City Clerk Megan Lawrenz, Chief of Police Chad Langle, Fire Chief Andrew Avantagiato, Analda Shepherd, Matthew Shepherd, Gabriele Simmons, Karen Soliz, Isabel Martinez, Larry Mann, Carl Urbanek, Cynthia Naylor, Rhonda Rice and Deborah Churan.

The meeting opened with the pledge of allegiance.

Mayor Bell called the meeting to order.

Public Forum –

Analda Shepherd – 616 N D St – Medical Reasons for Chickens/Ducks.

John Shepherd – 616 N D St – Donated Microchip Reader to the Police Department.

Handout from the Analda and John Shepherd read: The 5 most common reasons hens crow. #1 The hen is taking on the role of the rooster. Sometimes, in flocks with no roosters, a hen may take on a masculine role. She may act as a sentinel for the flock, attempt mating with other hens, and yes-she may start crowing. #2 The hen is diseased. Laying hens commonly die from reproductive diseases and disorders. Sometimes, if a hen has had something go terribly wrong with her reproductive organs (for example, ovarian cancer), her hormones may change, resulting in crowing. #3 The hen is aging. After peak egg production (typically, the first couple years of laying), hens' reproductive systems tend to slow down pretty drastically over the remainder of their lives. Sometimes, this slowing down is accompanied by hormone changes that result in crowing. Growing spurs is also common. #4 The hen has a genetic disorder. In the question posed at the beginning of this post, my subscriber states that cowering hen is unusually tiny, about the size of the other Polish hens in the flock. I suspect she has some kind of genetic disorder affecting her hormones. It's speculation, but it makes sense. For more on this topic, watch the short video at the top of this post. #5 Genetics. Some hens are just genetically prone to crow. There's nothing wrong with them-no diseases or disorders-it's just their genes. Longcrowing hens are actually bred to crow. Longcrows are chickens who, as the name suggests have in credibly long crows. These chickens are often used in crowing contests-the rooster with the longest crow wins. And hens who crow tend to produce rooster offspring with longer crows.

Gabriele Simmons – 15 N 12<sup>th</sup> – Questions for Commissioners. Handout from Gabriele Simmons read: Let me start off by thanking the City Commission for finally taking the anticipated steps to remove the residence located at 211 N E Street. That residence for many years has been not only an eyesore for the neighborhood around it, it also posed a significant health and safety risk to families and children who attend the Discovery Child Care Learning Center and all others in the neighborhood. As you are aware, we are in the final stages of construction for our long awaited expansion project. This expansion has caused us to increase the number of employees hired by DCCLC to a total of 13 employees and will balloon our available enrollment at the center to 49 children serving approximately 26 new families. This has been completely funded through private grants and through a program with the Kansas Department of Commerce where we were able to sell off tax credits in exchange for private donations. This is a huge deal for our nonprofit organization to take on and a huge investment into the community and future generations. Today, I am asking the City Commission to consider taking action on two things. The first request I have is in regards to the city-owned property located in the 200 blk of North E Street. Because of the flood zone, it is my understanding that no buildings can be constructed on this property, at least not easily, and more times than not, city crews forget that this is

city-owned property and that it needs to be regularly maintained and mowed throughout the summer months. We have done that this past summer due to an agreement to use the property during construction, which we do appreciate. However, due to the increase in employees and the further anticipated increase in vehicular traffic along North E Street and East Wyatt Street, I am requesting the City create a parking lot and provide authorization to allow my staff to park off the street on that property. This would open the street for child drop offs and for neighborhood residents to be able to park in front of their homes while staff at SCCLC park off the street. Alternatively, if the City would agree, I can purchase the rock needed to put in an improved surface on the property for my employees and maintain the remainder of the property in exchange for the City deeding it over to us. This saves the City money not needing to maintain the property any longer and allows neighborhood residents and visitors greater access to be able to park in front of their homes instead of down the street. My second request, because there are two licensed child care businesses in the neighborhood, I am asking the City Commission to consider two traffic related items. First, consider installing "Slow Child at Play" signs along East Wyatt Street beginning at N D Street and going east through the 500 blk of East Wyatt Street and also beginning near the intersection of N E Street and E Wilde Street. Secondly, I would also ask that when it does snow please remember that child care businesses do routinely remain open; because of this, I would ask if the City can remember that there are two businesses not on a main road that could use enhanced consideration for snow clearing to allow for parents to safely drop off their children on the way to and from work. Thank you for your time and consideration. Gabriele Simmons.

Karen Soliz – 602 N D St – Nuisance Animals.

Isabel Martinez – Nuisance Animals. Jonathan Murphy – 463 S 5<sup>th</sup> St – Fowl Ordinance. Handout from Isabel Martinez read: Procedure: Offending animal should be recorded for photo'd if possible to provide proof, if unsafe to do so, complaint should be directed to Herington Police Department (HPD).  
1. If cats owner is known to complainant: A. Contact owner and try to resolve complaint. B. If unable to reach a solution, HPD should be called for intervention. C. HPD may determine ownership by: 1. Scan for identification chip or B. Look for license/registration with the City of Herington. 2. HPD to determine if cat is dangerous/vicious, or nuisance. A. HPD may provide a trap or allow a humane trap to be used, to trap the cat. B. Only the HPD or Animal Control Agency may be allowed to impound the cat and turn over to Animal Shelter/Veterinary for rehoming or possible euthanasia. 3. Field Complaint with cats owner; A. Discretionary warning up to two times, with possibility of fine or impoundment. B. After two warnings, HPD may impose a \$100.00 fine up to two times. C. After two fines of \$100.00, and no resolution, mandatory impounding of the cat. Animal to be remanded to Animal Control/Shelter for rehoming or euthanasia.

Brian Parrish – 2 N F St – 1-904G Inquiry for Dan McDonald/Ethics. Debroah Churan - 605 N D St – Fowl Ordinance.

John Woltz – 1157 S Webb Rd #1402, Wichita, KS 67207 – Fowl Ordinance/Ethics. An email received from John Woltz, read by City Manager Thatcher Moddie: My name is John Woltz. I write you because I've been considering moving to Herington. My girlfriend and I are both residents of Wichita, and have started to see the city grow to levels that we're seeking a reprieve from. We've visited many times, and last month we assisted some friends of ours with the Teachers Benefit BBQ. We enjoy helping good local causes, and had a blast helping raise funds for the teachers. Herington has a wonderful small-town charm, with more conveniences than other surrounding towns, such as Wilsey. However, there has been a lot of squabbling recently regarding one of your city council members. Without a doubt, this would be Dan. I watched the recording of the council meeting where some of my friends confronted the rumors about cat trapping. I found it rather amusing that Dan self-identified as the perpetrator, without being named. Like an adolescent child he has now engaged in petty revenge. His call for enforcement of fowl outside of chickens, is honestly shocking. Even Wichita allows for ducks, turkeys, and other fowl. Asking for something more strict than the largest city in Kansas is a big ask. Certainly, it's within the city of Herington's power to enforce such a code, but why is it being so stringent? If there

are no health concerns that alarm larger cities, then where is this motivation coming from? The answer is simple: Dan is abusing his position to engage in petty revenge. He did not enjoy being confronted about his actions that impacted some local pet owners. Now he is seeking to try and inflict whatever pain he can on those who confronted him. This is the very definition of petty. I have always believed that a council member is a public servant. Who does this act serve? It serves Dan's petty motives. I firmly believe is not in the general interest of the community to enforce stricter requirements than Wichita, and would only be of detriment to your constituents as a whole. I also shudder at the thought that this wonderful small town would have reached the size that council members can take such corrupt actions as to be so self-serving. I think the city can do better, and I think Dan should be held to a higher standard than these adolescent tactics. He should have taken the feedback, and grown from it. He should have found that his place on the council should be held with reverence, and consider how he can best grow and assist his community. As mentioned before, I have already submitted this directly, and Dan has responded. He chose to take another spiteful path, calling me someone who "lacks intestinal fortitude", "hides behind social media" and asked "why are you even in this conversation? You don't live here!". I believe Dan does not know the culture of the state that he migrated to. As a natural born proud Kansan, I informed him of our rich history of taking up action for social justice. Dan has demonstrated his poor moral fiber at every given opportunity, and if the "rumblings of social media" are anything to consider, they are against Dan and his actions. I do not believe he is considering the collateral damage in his petty crusade, or at least does not care about those impacted. Raising fowl is a very common practice in the United States, even the state he migrated from allows for raising various fowl, within restrictions. For his edification: ducks are not restricted in California. I believe his actions would worsen the approach for anyone in the Herington area to engage in homesteading. This is Kansas, the heartland of America, and homesteading should not be frowned upon as its part of our heritage. Please take note of my concerns related not only to more stringent restrictions on allowed fowl, and the actions of Dan McDonald. These are issues my girlfriend and I are considering when looking at our new permanent residence, and this may be the deciding factors on choosing another area. Thank You. John "Chris" Woltz

Additional Agenda Items: 6A Discussion on the Fowl Ordinance, 6B – Discussion on 200 Blk of E Wilde.

Approval of Agenda – Commissioner Gares made a motion to approve the agenda, seconded by Commissioner Castleberry. Motion carried 4-0.

Consent Agenda – Commissioner Gares made a motion to approve the following consent agenda items: Minutes of the Regular December 5, 2023, Library Board Minutes November 14, 2023, Planning Commission Minutes October 24, 2023, Consider Appointment of Bryan Parish to 3-year Planning Commission Term 2024-2026, Consider re-appointment of Karen Soliz to remaining tenure of 2024 Planning Commission Term, Fire District Contracts (Agreements for Fire Protection Services), Clarks Creek Township Contract, Lyon Township Contract, Union Township Contract, Fire District 7 – Morris County Contract, CMB Approvals 2024, Family Dollar, Pizza Hut, Casey's Retail Company, North Agrimart LLC, Ampride and Uncle Bob's Bowling, seconded by Mayor Bell. Motion carried 4-0.

6a – Fowl Ordinance Discussion – Commissioners would like this added to an agenda in January for more discussion and possible revision to the ordinance.

6b – 200 BLK of E and Wilde – Consensus to allow parking on the proposed lot but hold off on deeding it over until all demos in the area are completed.

Update from Police Chief – There were 273 calls for service with 59 traffic stops and 5 misdemeanor arrests. Officer Walker has completed FTO. The Chief is working on getting officers into various trainings for next year. Animal Control Issues – The dogs on the west side of town are vicious. One has already been tranquilized and removed. The second dog seems less aggressive now. To clear up some confusion: It was a different dog that killed the dog that is being spoke about on social media.

The Herington Police Department is actively working on this situation, they have called 4 different agencies for assistance, and have reached out to two vet clinics. One did agree to help. The police department has set out live traps, and the dogs were not interested. In order for a tranquilizer gun to work you must be within 15 yards of the animal, the police department can't get within 50 yards of the animal. The Chief wanted the community to be aware that the department aware of the situation and is putting in hours to rectify it. Someone is providing food, water and shelter to these animals, and the police department has images of a suspect. The department received a donated pet chip reader from the Shepherd Family. To clarify on the fowl ordinance as written the department reads that chickens, ducks, and fowl are allowed within city limits.

Update from Fire Chief – There were 35 calls for service. 1 off road vehicle or heavy equipment fire, 22 medical assists, 2 motor vehicle accidents with injuries, 2 gas leaks, 7 authorized controlled burnings and 1 false alarm. The fire department is still looking for volunteers. Department and equipment updates include, fuel issues with the rescue are fixed, they completed training with five other departments on-house, and completed training on grain engulfment, forcible entry and basic rope.

2023 year-in-review from the CVB – Cynthia Naylor CVB President presented that the CVB worked on Strategic Planning, including where they were, where they want to be and setting goals. A new sign was installed on Highway 77, and they are still working to install lights. They have invested in KS Travel. They are working on maps for this summer. The EV charger is up and running and on the website. Working on visitherington.com website, securing office space and on a come to Herington video. The Fall festival was a success, with great turn out.

1. Closing on land swap for Trailhead development
  - a. Attempting to have land remediated by mid-January 2024.
  - b. KDWP is still working on internal Federal Grant administrative process.
  - c. Attempting to meeting in early Spring to discuss preparation for trail development in 1-2 years.
2. KMEA Generator Authorization
  - a. Approved new generator to increase capacity to cover entire City and further commercial, industrial and residential development
  - b. Renovation of existing generator scheduled for Early 2024. Met recently with Foley to discuss the project
3. Airport Projects
  - a. Applied for a Federal Grant match with the FAA for a new lighting and PAPI system for the Airport. Should have an answer by early Spring 2024
  - b. Working on bids or preliminary pricing for new Hangars at the Airport. The biggest challenge facing the Airport is the need to keep over 10 planes always stocked. If we fall below, it can make us ineligible for FAA grants and set us behind for years.
  - c. Luckily, we are near 12 planes currently and airport staff are always seeking out more clients.
4. Disc Golf Course
  - a. Partnered with Discs Unlimited on development of Lake Disc Golf Course. Drafted an MOU Agreement for Lake Course.
  - b. Expansion and improvement of Father P course is included.
  - c. Will be working with grant dollars and city resources to move both forward. City will take a lead with help on event planning to draw tourism in the future.
5. Code Updates
  - a. Manufactured Home Ordinance
  - b. Building and Trades updates
6. Grant Applications for MIH, HITC for Logan Pointe Development
  - a. Looking at creative ways to develop lots in Logan Pointe for 2024
7. Upgrades to Municipal Pool
  - a. Improved leaks at pool

- b. Added new improvements around main pool, new diving stands, ladders, etc.
  - c. Replaced Pool Roof.
- 8. Code issues
  - a. Took 3 properties through to demolition.
  - b. Follow-up on prior year code issues and provided updates at numerous Commission meetings.
  - c. Started resolutions which led to remediation of numerous local properties.
- 9. New Ordinances and Resolutions
  - a. Planning Commission reduction
  - b. Open Consumption, Common Consumption Areas.
- 10. Budget Process
  - a. Worked with auditors to improve General fund, savings for the 2024 budget.
  - b. Completed internal improvement to reconciliation, accounting and finance which were identified as major problems in the prior budget years.
  - c. Completed numerous budget workshops.
- 11. New Business growth
  - a. Casey's
    - i. Casey's utility project went for bid and was approved. Contractor over halfway done with utility project.
    - ii. Development will be nearing completion in early 2024.
  - b. Conditional Use Permit for new business at 620. N G Street
- 12. Fleet Improvements
  - a. New Fire Tender truck
  - b. Able to purchase used replacement rescue truck with insurance claim. Entered into MOU for County Support.
  - c. New Fire Department Truck
  - d. New police cruiser purchase
  - e. New Water Department Truck
  - f. New small bucket truck ordered
- 13. Walking Trail C-Street
  - a. Completed walking trail to USD 487, further improvements coming 2024
  - b. Will be focusing on Safe Walks to School program and grant application in 2024, in partnership with the District.
  - c. Working on sidewalk connectivity and biking paths for students in the coming year.
- 14. Comprehensive Plan
  - a. Conducted numerous meetings with Planning Commission, subcommittee, City Commission and Community Members
  - b. Authorized a plan for PEC engineering firm to see the document to Completion.
  - c. Will include a plan to address the document yearly, with substantial updates every 3-5 years.
  - d. Incorporate a proposal in the budget to contribute monetarily to Comp Plan improvements and to budget for a new comp plan in 15 years.
  - e. Utilize CIP budget to establish a new Capital Improvement Plan, in which the city plans for long-term extensive projects and improvements.
  - f. Hoping to see a completed document by April 2024.
- 15. School Resource Officer
  - a. Partnered with USD 487 on taking over the SRO position.
  - b. Officer attended training and accepted added responsibility.
  - c. City Commission and School board will review program yearly and adjust.
- 16. Conducted Staff Reviews
  - a. Numerous promotions were offered to continue staff growth.
  - b. Review documents are being completed and filed for all staff members.

- c. Several staff members shifted departments and applied for open positions in various parts of the City. Proving flexibility, self-improvement and hiring from within to be effective measures.

#### 17. 2024 Goals

- a. Complete Comprehensive Plan
- b. Establish grant-writing program with rotating list to reapply yearly for grants
  - i. Partner with grant-writing organizations
- c. Economic Development
  - i. Focus on improving City-owned lots to make more marketable for developers.
  - ii. Consider state programs like the Shovel-ready program to appeal to industrial, commercial and manufacturing companies.
  - iii. Work on downtown development and recruitment of small business. Carry the UPTICC program forward to continue small business improvement and growth.
  - iv. Partner with DKEDC to seek out grants and improvements to Economic Development policy.
  - v. Work on residential growth and expansion. Reestablish program for renovation housing throughout the community.
  - vi. Develop land bank to create developable lots for new business growth.
- d. Budget
  - i. Start earlier on budget process and incorporate new Comprehensive Plan objectives into budget process.

Update on Sewer Treatment Facility project and updated rate study – We are currently working on a rate study, to help determine where we will be for the second phase of the wastewater treatment plant. Still working closely with SMH.

Discussion of Ethics Committee and scheduling potential Ethics Workshop for January 2024 – Consensus to have workshop in January.

City Manager Comments – City Hall will be closed Monday and Tuesday the 25<sup>th</sup> and 26<sup>th</sup> and January 1<sup>st</sup>. Staff is working on a Grant with SMH for repairs to the raw water line. There is a Disc golf meeting tomorrow. The city has come to an agreement with the Insurance Agency on the dump truck that was involved in an accident, the City will keep the vehicle on a salvaged title. Staff is still working on the Krause Land Contract. Staff will look into the Daycare's requests.

Commissioner Comments

Commissioner Castleberry – Thanked the community! Thanked Thatcher and Branden and Vinny as city managers. Thanked the commissioners, past and present.

Commissioner Urbanek – Suggests that Thatcher and Brad reach out to Mr. Parrish to acknowledge comments made in public forum. Requests revised punch list to finish out the year. Asked for update on Trapp Street repair and subsequent turn over to the city. Keep The Spot property on the list. Expressed gratefulness to the community for the opportunity to serve.

Commissioner Gares – Nothing.

Mayor Bell – Asked for an update on an A street project. Will start next year. Thanked Ben and Debi.

Adjourn – Commissioner Castleberry made a motion to adjourn, seconded by Mayor Bell. Motion carried 3-1, with Commissioner Gares casting the dissenting vote.