

This is a business meeting of the governing body for the City of Herington. There is no implied or expressed right for persons outside the governing body to speak or voice their opinion unless specifically recognized by the chair.

**Regular Meeting
June 7, 2022
6:00 p.m.**

1. Pledge of Allegiance
2. Call to Order
3. Consider the Minutes of the Regular City Commission Meeting on May 17, 2022
Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares
4. Public Forum
5. Additional Agenda Items
6. Approval of Agenda
Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares
7. Police Department Update
8. Fire Department Update
9. Neighborhood Enforcement Officer Update
10. Discussion on Tax and Specials Abatement
11. Discussion on Quarterly Work Sessions with City Attorney
12. Discuss and Action on the Lake and Reservoir Master Plan
Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

13. Discuss and Action on Resolution 955 Granting Temporary Exemption from Prohibiting Consumption of Alcoholic Liquor at the Herington Fairgrounds and South Recreation Complex on July 3, 2022 from 12:00 pm to 11:59pm.

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

14. Discuss and Action on Resolution 956 Granting Temporary Exemption from Prohibiting Consumption of Alcoholic Liquor at the Herington Fair Grounds on July 8, 2022 from 5:00 pm to 11:59 pm and again on July 9, 2022 until 11:59 pm.

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

15. Discuss and Action on Resolution 957 Granting Temporary Exemption from the Requirements of the Herington City Code Regulating the Retail Sale of Fireworks within the City Limits

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

16. Discuss and Action on Ordinance 1870 Amending the Code of the City of Herington, Kansas to Repeal and Replace Chapter 7, Article 1, Section 7-112 Establishing and Regulating Connection Fees for Electrical Service

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

17. Discuss and Action on Ordinance 1871 Amending the Code of the City of Herington, Kansas to Repeal and Replace Chapter 7, Article 2, Section 7-216 Establishing and Regulating Connection Fees for Water Service

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

18. Discuss and Action on Revisions to the CVB By-laws

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

19. Discussion on City Equipment Rental Policy

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

20. City Manager Comments

21. Commissioner Comments

22. Adjourn

Motion _____ Seconded _____ Action _____
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,
Commissioner Donahue, Mayor Gares

To join the City Commission meetings from your computer, tablet, or smartphone, go to:
<https://www.youtube.com/channel/UBbvSBw614w85XQHSX0S1BXg>
Public Forum Comments can be dropped in the deposit box or email to
cityoffice@cityofherington.com

**Regular Meeting
May 17, 2022
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 Eric Gares, Commissioner Vance Donahue, Commissioner Debi Urbanek, Commissioner Robbin Bell and Commissioner Castleberry. Also in attendance were City Manager Branden Dross, City Attorney Brad Jantz, City Clerk Megan Lawrenz, Larry Mann, Carl Urbanek and Nick Acheson.

The meeting opened with the pledge of allegiance.

Mayor Gares called the meeting to Order.

Commissioner Bell made a motion to approve the minutes from the regular city commission meeting on May 3, 2022, seconded by Commissioner Donahue. Motion carried 5-0.

Public Forum – None.

Additional Agenda Items – Add 14a Ordinance and 14b Resolution.

Approval of Agenda - Commissioner Donahue made a motion to approve the agenda with the addition of 14a and 14b, seconded by Commissioner Bell. Motion carried 5-0.

City Clerk Update – City Clerk Megan Lawrenz provided the Commissioners with March and April 2022 financial documents. Also, discussed the audit findings.

Update on Investing City Funds – City Manager Branden Dross gave an update on city funds currently saved.

Update on Planning Commission Rules and Procedures – Staff and some planning commissioners attended MTI Training. PC was concerned about land use being approved by the commission without going through the planning commission first. There were concerns that the city was not in compliance, but Brad confirmed that the city is.

Ethics Commission Appointment - Commissioner Donahue made a motion to table the agenda item until the first meeting in June to clarify term expiration date, seconded by Commissioner Urbanek. Motion failed 5-0. Commissioner Bell made a motion to appoint John Thissen to the Ethics Commission term to expire 5/31/2022, seconded by Commissioner Urbanek. Motion carried 5-0.

CVB Appointment - Commissioner Donahue made a motion to appoint Amy Thibodeau to the CVB board term to expire 5/31/2024, seconded by Commissioner Castleberry. Motion carried 5-0.

ORDINANCE 1866

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINTON, KANSAS, TO SUPPLEMENT AND ADD A SECTION AT CHAPTER VII, ARTICLE II, SECTION 7-219 REGULATING PRIVATE WATER WELLS CURRENTLY MAINTAINED OR SUBSEQUENTLY SETABLISHED WITHIN THE CITY LIMITS OF HERINTON, KANSAS; PROVIDING PENALTIES THEREFORE; AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

Commissioner Urbanek made a motion to approve Ordinance 1866, with staff correction on first and second penalty amounts, seconded by Commissioner Castleberry. Motion carried 5-0.

Mayor Gares made a motion to authorize the mayor's signature, seconded by Commissioner Castleberry. Motion carried 5-0.

Amendment of City Code, Chapter 7, Article I, Section 7-112 – Electric Connection Fee - Mayor Gares made a motion to table Ordinance 1867 for staff correction, seconded by Commissioner Urbanek. Motion carried 5-0. Mayor Gares directed staff hold ordinance number 1867.

Amendment of City Code, Chapter 7, Article II, Section 7-216 – Water Connection Fee - Mayor Gares made a motion to table Ordinance 1868 for staff correction, seconded by Commissioner Castleberry. Motion carried 5-0.

Mayor Gares directed staff hold ordinance number 1868.

ORDINANCE 1869

AN ORDINANCE REPEALING AND REPLACING, IN ITS ENTIRETY, CHAPTER 8, ARTICLE I, SECTION 8-102, OF THE CODE OF THE CITY OF HERINGTON, KANSAS RELATING TO THE ADMINISTRATION OF THE HERINGTON PLANNING COMMISSION AND APPOINTMENT OF ITS MEMBERS, SPECIFYING THE TERMS OF EACH APPOINTMENT AND ALLOWING FOR REASSIGNMENT OR CORRECTION OF TERMS BY RESOLUTION; AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HERewith.

Commissioner Bell made a motion to approve Ordinance 1869 and authorize the mayor's signature, seconded by Commissioner Urbanek. Motion carried 5-0.

RESOLUTION 953

A RESOLUTION OF THE CITY OF HERINGTON, KANSAS REASSIGNING TERMS OF SERVICE TO AND FOR THE HERINGTON PLANNING COMMISSION; FIXING SAID TERMS OF EACH EXISTING COMMISSIONER; ESTABLISHING THE EFFECTIVE DATE THEREOF; PURSUANT TO THE HERINGTON CITY CODE, CHAPTER 8, ARTICLE I, SECTION 8-102 DULY ADOPTED BY THE CITY OF HERINGTON, KANSAS.

Commissioner Urbanek made a motion to approve the Resolution in the next sequential order, subject to publication of Ordinance 1869, seconded by Commissioner Castleberry. Motion carried 5-0.

Fair Board Update – Tri County Free Fair Board President Nick Acheson provided an update about goals and progress the fair board has made.

Mayor Gares made a motion to move that the Herington City Commission recess into Executive Session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2), in order to discuss contract negotiations. To include the following persons: Governing Body, City Manager, City Attorney, City Clerk. With the open meeting to resume at 7:20. Seconded by Commissioner Urbanek. Motion carried 5-0. The regular meeting resumed with no action taken.

City Manager Comments -

Small pool repairs happening on 5/18 to fix a crack in deep end and finish the kiddie pool. Staff received a \$500 per year increase from Union Township on the fire contract. Reminded the community about the drag races this weekend, and the pool opening on May 28th. Should expect to see the pool report and lake master plan on the agenda in June. The first trail meeting will be June 15th in Topeka. DKEDC hired a new director this week.

Commissioner Comments –

Commissioner Bell – Thanked Branden for taking him to tour Flint hills pork with him. Flint Hills Pork is still hiring.

Commissioner Castleberry – Thanked Corkie and the revitalization group for the work on the sign! One spot still available.

Commissioner Urbanek – Question for Brad, regarding the rec commission, how does the board operate? Do commissioners have a say in their day-to-day operation, Brad requested a copy of a full set of their bylaws to review. Interlocal agreement is expired as well as the lease. City receives rent for the hilltop. City has not given money outside of improvements but does provide property. Monday Branden and Donalyn will attend the next rec commission meeting.

Commissioner Donahue – Asked if the pool rates would be staying the same, was told they should remain the same. Confirmed the special meeting on June 8th and suggested having it at the Community Building. Donalyn will be providing agenda items, city looking at an interlocal agreement agenda item. Where will it be? Probably have it at the community building.

Mayor Gares – None.

Commissioner Urbanek made a motion to adjourn, seconded by Commissioner Castleberry. Motion carried 5-0.

Megan Lawrenz, City Clerk

Herington Lakes Parks MP

CITY OF HERINGTON, KANSAS

MAY 2022

DRAFT



CONFLUENCE

MAYOR

ERIC GARES

CITY MANAGER

BRANDEN DROSS

CITY COMMISSION MEMBERS

VANCE DONAHUE II

BEN CASTLEBERRY

ROBBIN BELL

DEBI URBANEK

STEERING COMMITTEE

DEBI URBANEK

MARCUS HAWKES

BRAD HOMMAN

JEAN KREMIER

JANET WADE

BECCA EGGLESTON

TIM BETTLES

CHUCK SCOTT

DRAFT

PLANNING TEAM

CONFLUENCE

LANDSCAPE ARCHITECTURE

PJ NOVICK - PRINCIPAL

HANK MOYERS - PROJECT MANAGER/ LANDSCAPE ARCHITECT

AVERY NICHOLS - LANDSCAPE ARCHITECT-IN-TRAINING

PADEN CHESNEY - LANDSCAPE ARCHITECT-IN-TRAINING

DRAFT

Introduction

Herington Lakes has served the City of Herington's recreational, and infrastructure needs since the original lake was dammed in 1923. Since their inception, the lakes were utilized to serve as the City's water supply. Today the lakes serve the City's population of 2,147 residents in addition to tourists on a yearly basis that come to utilize the lakes amenities including RV camp sites, tent camping sites, beach areas, fishing docks and pavilions. Implementation of this Master Plan would be one of the most significant parks and recreation investments in the region. The facilities recommended for the two lakes will provide users with a broad range of activities for all ages and abilities. Improvements of both parks will not only provide residents access to recreational amenities currently unavailable to them, but also serve as a catalyst for drawing tourists to the area for camping, festivals, and recreational opportunities. The addition of these facilities will enhance the quality of life for residents and visitors for years to come.

Purpose

For nearly 100 years, the 1,560 acres that comprise the Herington Lake Parks have served residents as a source of both household drinking water and recreation. Over the years, a variety of changes have impacted the lake function and character. Events that were once possible, including boat races are no longer possible due to the siltation of the lake. In addition, with the shallow water in the original lake, algae blooms in the heat of the summer are more common, limiting the ability to use the lake for recreational opportunities. Tourists and users today also expect quality amenities to draw people to these facilities. The lakes serve as a unique destination that can draw users throughout the region with updated facilities.

To continue the City of Herington's excellence in providing its residence with recreational opportunities and activities, the City commissioned the new Herington Lakes Park Master Plan in 2021. After issuing a Request for Proposals (RFP) and conducting interviews, Confluence was selected. The team was tasked with creating a vision for this facility that provides a wide range of recreation and activity spaces. The plan establishes a vision for the parks combining community input and desires with a holistic and environmentally responsible approach.



1929 SHELTER HOUSE - HERINGTON KS



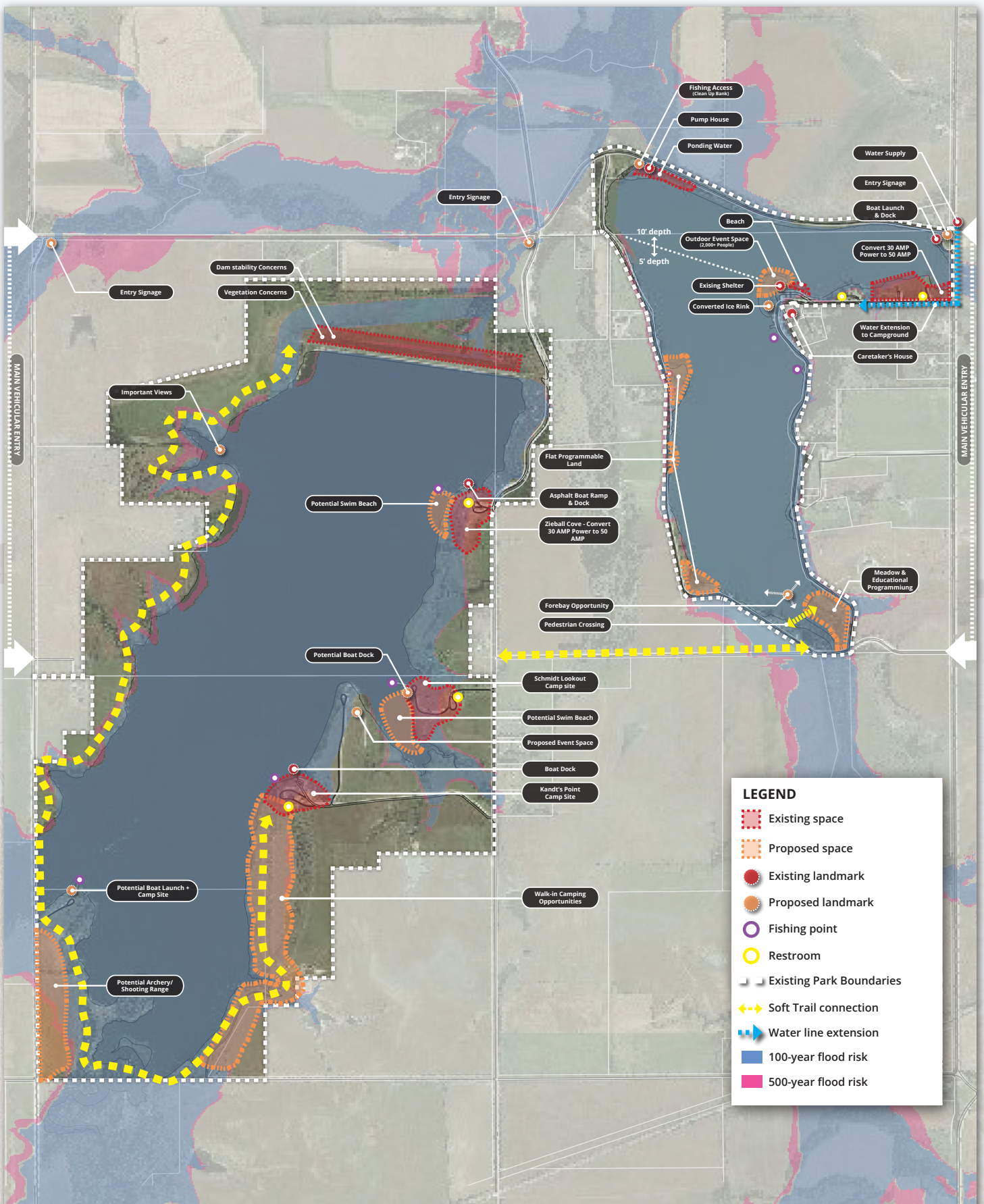
MAIN STREET - HERINGTON KS



HERINGTON CITY PARK - HERINGTON KS



HERINGTON LAKE - HERINGTON KS



SITE ANALYSIS DIAGRAM

Process

The design process began with the Design Team and Steering Committee members completing a “Walk the Park” analysis on November 3rd, 2021. This step in the master planning process allowed for both the Design Team and client group to gain an in-depth knowledge and understanding of the various aspects of the park sites. This also provided input to the Design Team regarding maintenance, operations, and programming of the current park facilities.

Following the site walk, the group gathered at Herington City Hall for continued discussion and a summary of the site walk. The group also participated in a ‘Dot Exercise’, where they prioritized the program elements, architectural aesthetic and signage character to guide development of the Herington Lakes Master Plan. The information gathered, along with research, extensive public input and information from the site inventory, was then used as a tool to guide the design recommendations for the master plan.



WALK THE PARK



CITY COUNCIL & DESIGN TEAM CHARRETTE



SITE PHOTO AT 500 AVE AND TRAIL RD

Goal and Vision Statement

The next step in the design process was for the Design Team and City Staff to develop Goal and Vision Statements as a means to set a level of expectation for these important projects and to become the guiding principles for the project. Design options and recommendations were weighed against the Goal and Vision Statements as a means to validate their ability to meet the expectations set forth.

GOAL:

To create a destination unique to the central Kansas region drawing a multi-generational population of Herington community residents and tourists for memorable and repeated visits while still preserving and sustaining the existing ecological character.

VISION STATEMENTS:

1. Capitalize on partnerships with the local schools, county, community businesses and public-private partnerships to accelerate phasing opportunities and create a regional and economic draw.
2. Establish a sustainable and maintainable vision for the parks that create community buy-in and establish the park as a regional tourist destination.
3. Develop an aesthetic that is complementary to the existing park character to create a memorable and iconic experience for all users while incorporating experiences on and adjacent to the water.



Benchmarking Analysis

The next step in the design process was to begin the process of “Understanding the Market.” A “Comparative Analysis” of six similar facilities within the region was conducted to understand and identify facilities or programs to be considered in order for each park to become a unique regional destination which provides one of a kind recreational opportunities. Finding this “sweet spot” that incorporates amenities unseen throughout the other parks increases the regional draw of the parks for extended uses.

	Acres	Shelters	Plumbed Restroom Facilities	Water Recreation	Designated Fishing	Paved Trails	Playground	Soft Trails	Ball Diamonds	Multi-Purpose Fields	Sand Volleyball	Disc Golf	Marina/Filling Station	Outdoor Amphitheater	Tennis	Beach	Kayak/Canoe/Paddle Board Rental	Gardens/Meadows	Horseback Riding	Tent/RV Camping	Visitor/Nature/Activity Center	Cabins/Over Night Accommodations	Dog Park	Pool/Water Play Area	Off-Road Adventure Trails
# of Parks with Amenity	→	6	5	4	6	3	4	6	2	2	3	1	3	2	1	4	2	2	2	5	1	2	0	1	1
Kanopolis Lake	3,406	X	X	X	X	X	X	X	X			X	X	X		X	X	X	X	X	X				
Council Grove Lake	3,235	X	X	X	X	X	X	X		X	X		X	X	X	X	X			X				X	X
Lake Kahola	1,205	X		X	X			X					X					X				X			
Chase State Fishing Lake	802	X	X		X			X								X				X					
Harvey County East Park Lake	570	X	X	X	X		X	X	X		X								X	X					
Marion County Park	300	X	X	X	X	X	X	X		X	X					X	X			X					
Present Day Herington Lake(s)	1,560	X		X	X		X	X								X				X					

BENCHMARK ANALYSIS

Committee/Public Input Findings

On December 8, 2021, the Design Team gathered additional input through a public workshop at the Herington Community Building. This open house format gave participants the opportunity to provide their input regarding preferred amenities and programs for the parks. Additional feedback was gathered related to amenity location and surrounding context of the properties around the park. Participants were polled on preferences of program, architectural character, signage/wayfinding and public art. Results were utilized to develop a preferred program for the two initial concepts.

Following the input meeting with the public, additional feedback was solicited input from students at Herington High School. The additional responses were added to the public input to verify overall direction for program and amenities to be considered in the parks concept plans.

Design Alternatives Review

Upon completion of the site review and various programming workshops, the Design Team developed two master plan alternatives for Herington Lakes. The plans were then presented at a workshop on March 1st, 2022. The public was invited to provide their thoughts regarding each of the proposed master plan alternatives and the facilities and programs each provided. Those attending the workshop were also encouraged to provide any additional thoughts and ideas via email.

Common facilities and program elements were found between plan alternatives based on the activities desired within the park. The results of the input gathered are shown below:

- Dog Park
- Water Overlooks and Fishing Pavilions
- Single Track Trails
- Disc Golf
- Cabins
- RV Camp Sites
- Tent Camp Sites
- Pavilions
- Beach Areas
- Year-Round Event Pavilions
- Archery/Paintball Courses
- Food Truck Plaza and Amphitheater



SWIM BEACH



ARCHERY



YEAR-ROUND EVENT PAVILION



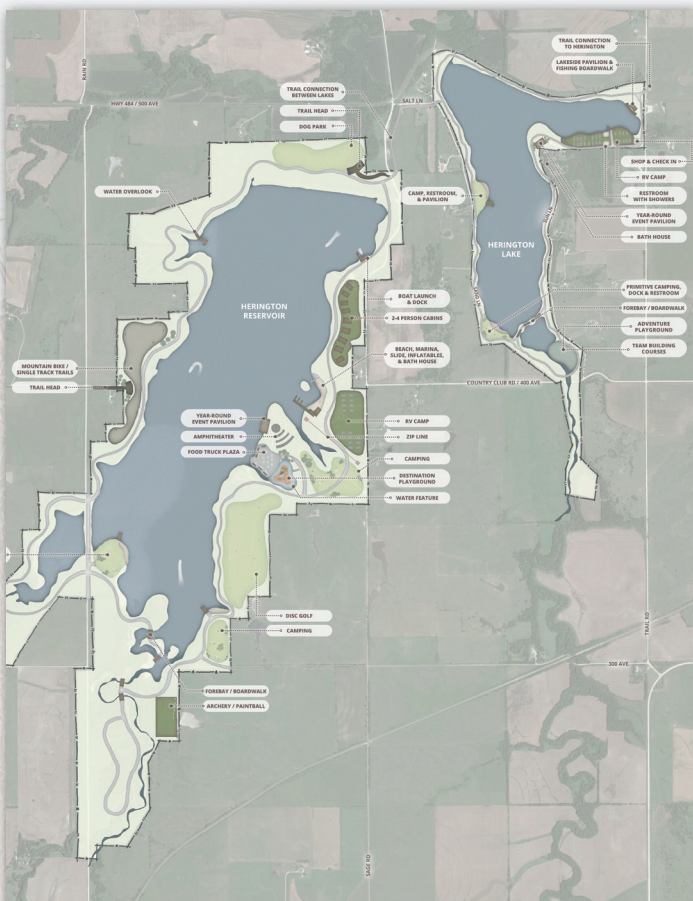
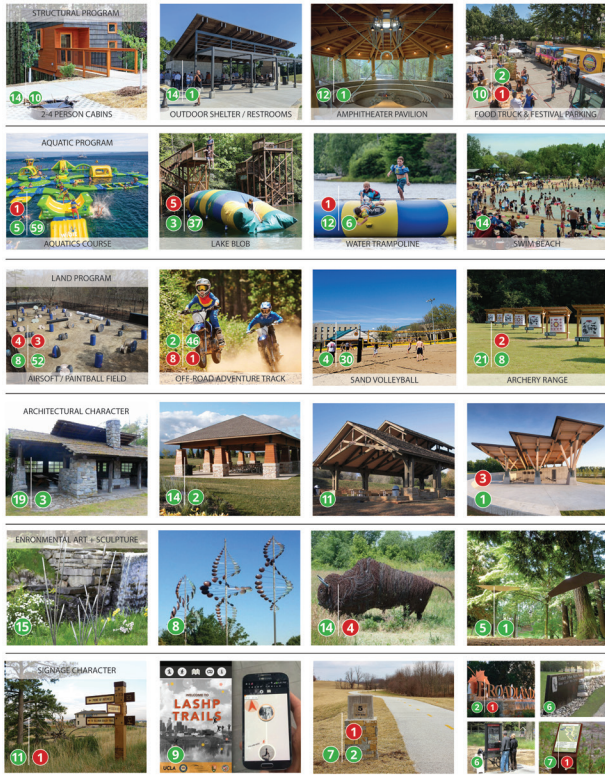
POLE FISHING AREA

Design Alternatives Review (Continued)

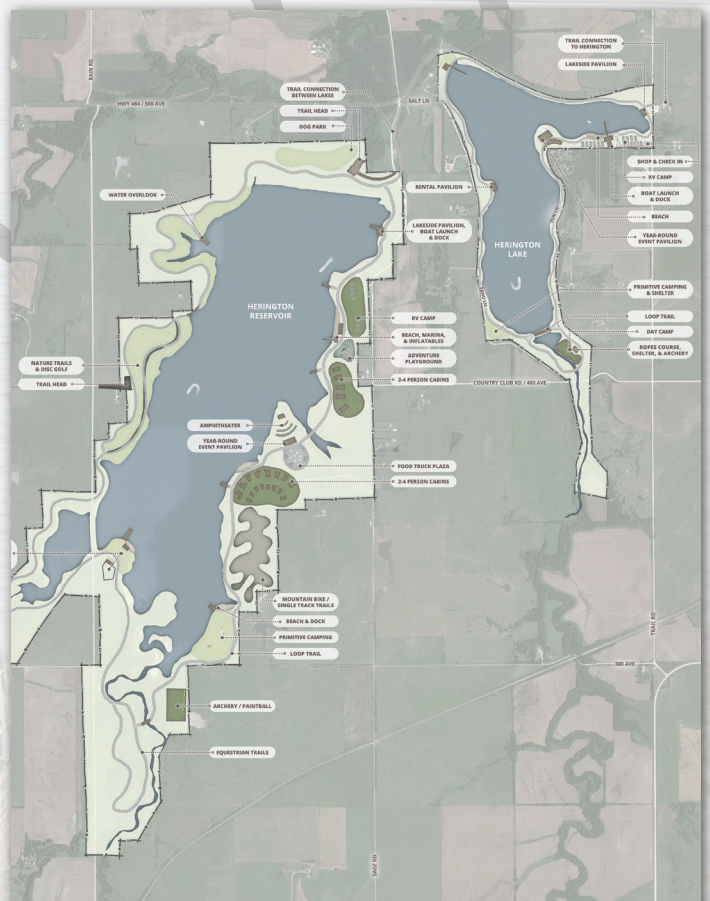
Amenities that were unique to each option included equestrian trails, destination playground and spray ground, a water feature, a zip line, ropes course and day camp. It was noted within the presentation that portions of each plan could be combined to form the final master plan.

The public was given an opportunity to provide additional feedback on the concepts. An overwhelming preference from participants was toward Option 1 was noted with a few elements and layout of Option 2 included in the final plan.

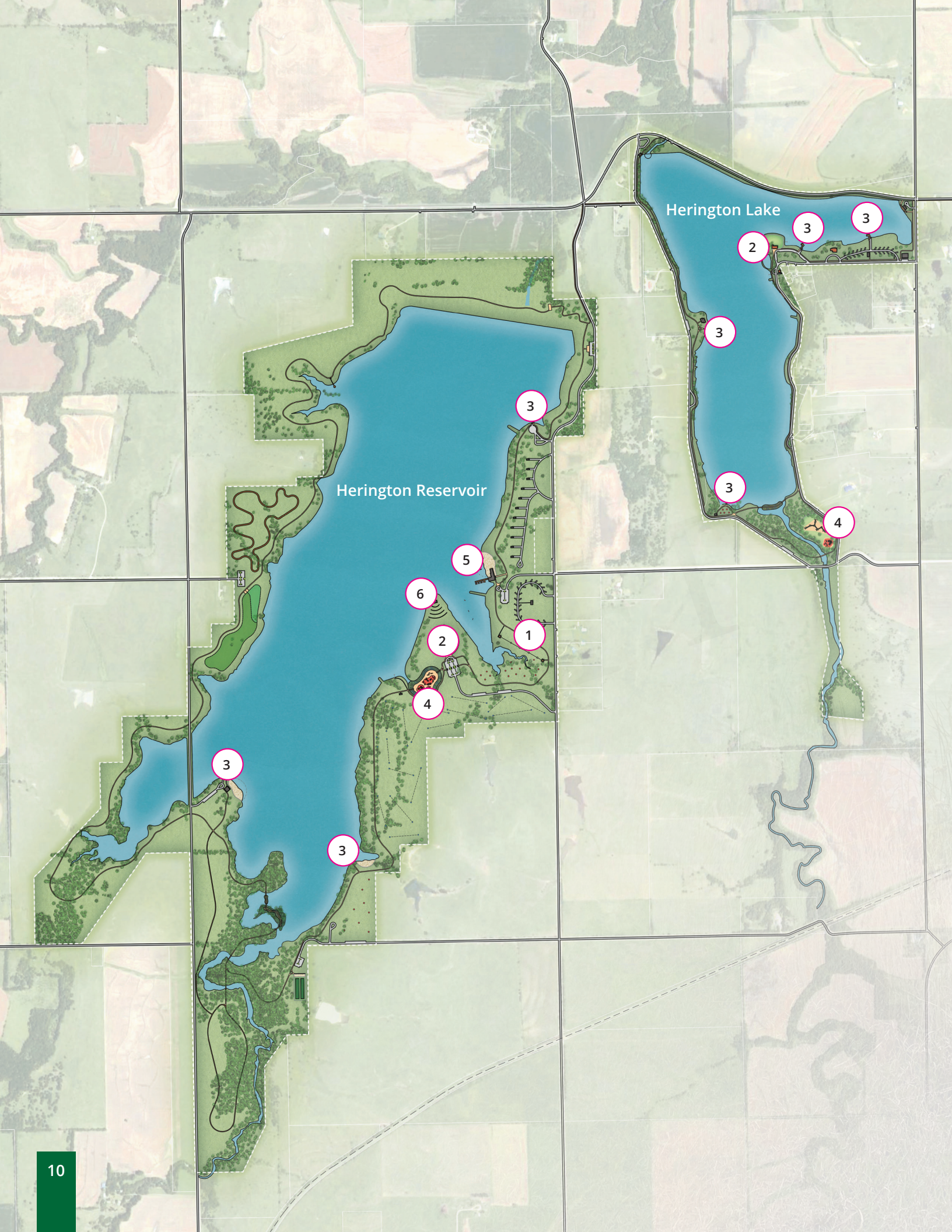
Following the public meeting, extensive coordination was completed between the Design Team, City Staff and Steering Committee members. Through meetings conducted over several months, City Staff and the Design Team responded to comments and questions raised about the final master plan. Refinements of Option 1 in the final master plan represent the Design Team response to meet the public's desires for the new facilities proposed in the master plan.



CONCEPTUAL MASTER PLAN OPTION 1



CONCEPTUAL MASTER PLAN OPTION 2



Herington Lake

Herington Reservoir



1 Zip Line

Master Plan

The Master Plan for Herington Lakes embraces the rustic character of the sites and provides a variety of options for both daytime users as well as overnight experiences. The plan maximizes visitor interaction with the lake, allowing for fishing, boating, and nature exploration along the shoreline, which were identified as desired elements in the public input process. The Master Plan provides a wide variety of recreational facilities and programs for park users to experience within the rolling topography of the site. The plan includes a variety of amenities geared towards drop-in passive activities, small and large scale gatherings/events, and active recreational uses alike. The locations of the various features capitalize on the scenic rolling topography within the picturesque site. Key elements in the recommended master plan include:



2 YEAR-ROUND EVENT PAVILION



3 BOAT DOCK



4 PLAYGROUND SPACE

Herington Lake

- Lakeside Pavilion/Fishing Boardwalk
- Check In Station/Shop
- RV Campsites
- Restrooms with Showers
- Year-Round Event Pavilion
- Trailhead Connection to Herington
- Primitive Camp Sites
- Forebay and Boardwalks
- Adventure Playground
- Ropes/Team Building Courses
- Boat and Fishing Docks
- Soft Loop Trail

Herington Reservoir

- Trailhead Parking
- Boat Launch and Fishing Dock
- 2-3 Person Cabins
- Beach/Marina with Inflatable
- RV Camp Sites
- Zip Line
- Primitive Camp Sites
- Disc Golf Course
- Event Lawn and Food Truck Parking
- Year-Round Event Pavilion
- Amphitheater
- Destination Adventure Playground and Splash Pad
- Water Feature
- Archery and Paintball Range
- Equestrian Trails
- Equestrian Camping and Horse Corral
- Small and Large Dog Park
- Single Track Trails
- Forebay and Boardwalks
- Soft Loop Trail



5 BEACH MARINA



6 AMPHITHEATER

Herington Lake





1 LAKESIDE PAVILION/FISHING



2 CHECK IN STATION/SHOP



3 RV CAMPSITE



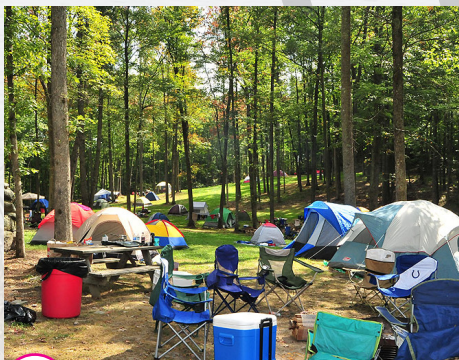
4 RESTROOM WITH SHOWER



5 YEAR-ROUND EVENT PAVILION



6 TRAIL CONNECTION TO CITY



7 PRIMITIVE CAMPSITE



8 FOREBAY & BOARDWALK



9 ADVENTURE PLAYGROUND



10 TEAM BUILDING COURSE

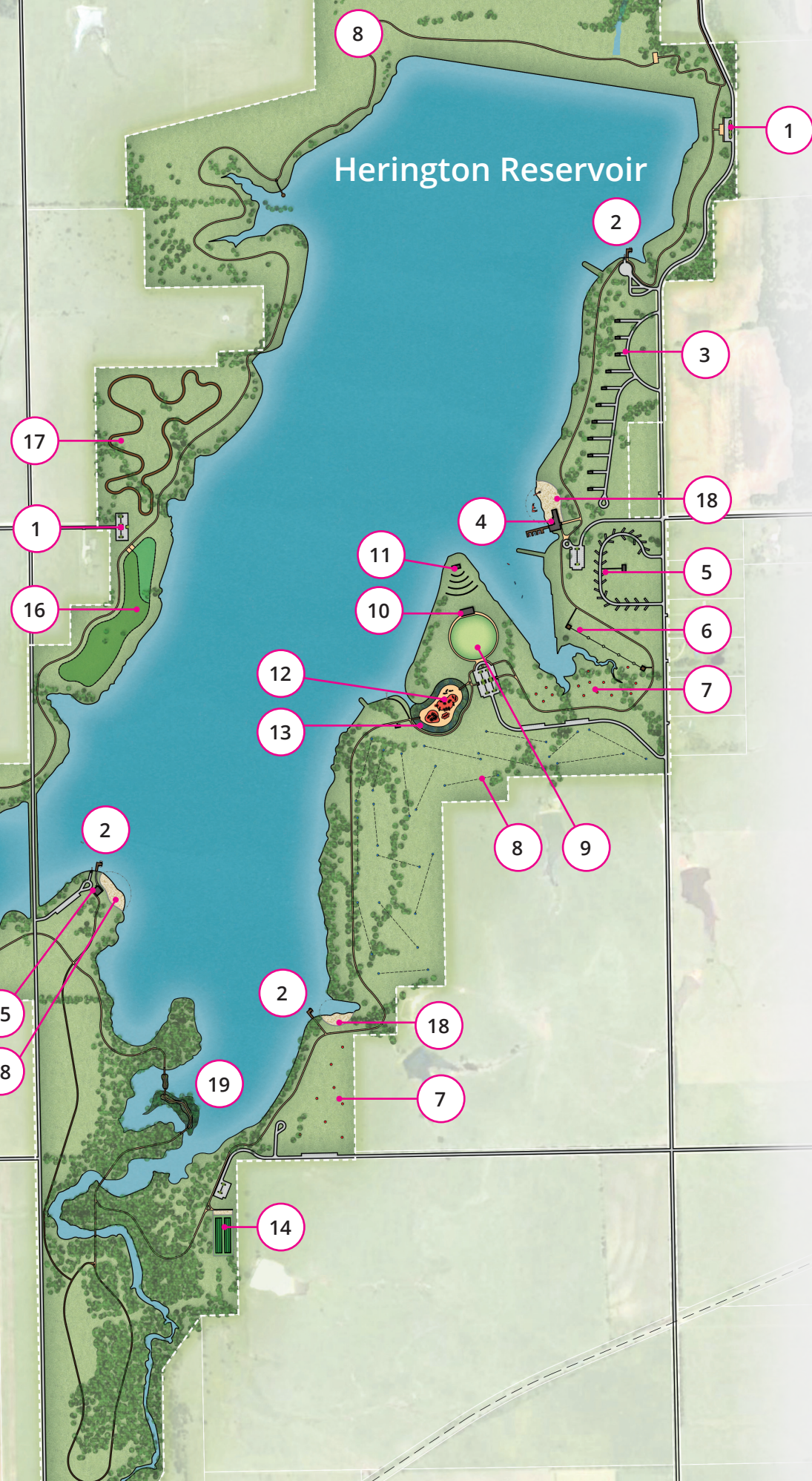


11 BOAT AND FISHING DOCK



12 SOFT LOOP TRAIL

Herington Reservoir





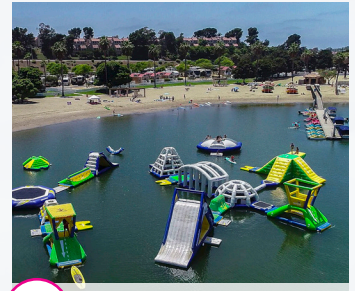
1 TRAILHEAD PARKING



2 LAUNCH/FISHING DOCK



3 2-3 PERSON CABINS



4 MARINA WITH INFLATABLES



5 RV CAMPSITE



6 ZIP LINE



7 PRIMITIVE CAMP SITE



8 DISC GOLF COURSE



9 LAWN & FOOD TRUCK PLAZA



10 YEAR-ROUND PAVILION



11 AMPHITHEATER



12 DESTINATION PLAYGROUND



13 WATER FEATURE



14 ARCHERY AND PAINTBALL



15 HORSE CORRAL



16 SMALL & LARGE DOG PARK



17 SINGLE TRACK TRAILS



18 SWIM BEACH



19 FOREBAY & BOARDWALK



20 SOFT LOOP TRAIL

Project Capital/Funding

It is anticipated that funding for these projects will be phased over multiple years. Initial Phase I improvements and funding sources for the planned amenities are still being determined. Multiple sources are anticipated; including public-private partnerships, grant opportunities, and possible bonding. The final budget for enhancements may vary from phase to phase depending on the overall scope of construction and the recommended aesthetic enhancements as outlined in this master plan.



SHELTER HOUSE EVENT SPACE AND OPEN LAWN



AMPHITHEATER AND YEAR-ROUND EVENT LAWN WITH FOOD TRUCK PARKING

Summary

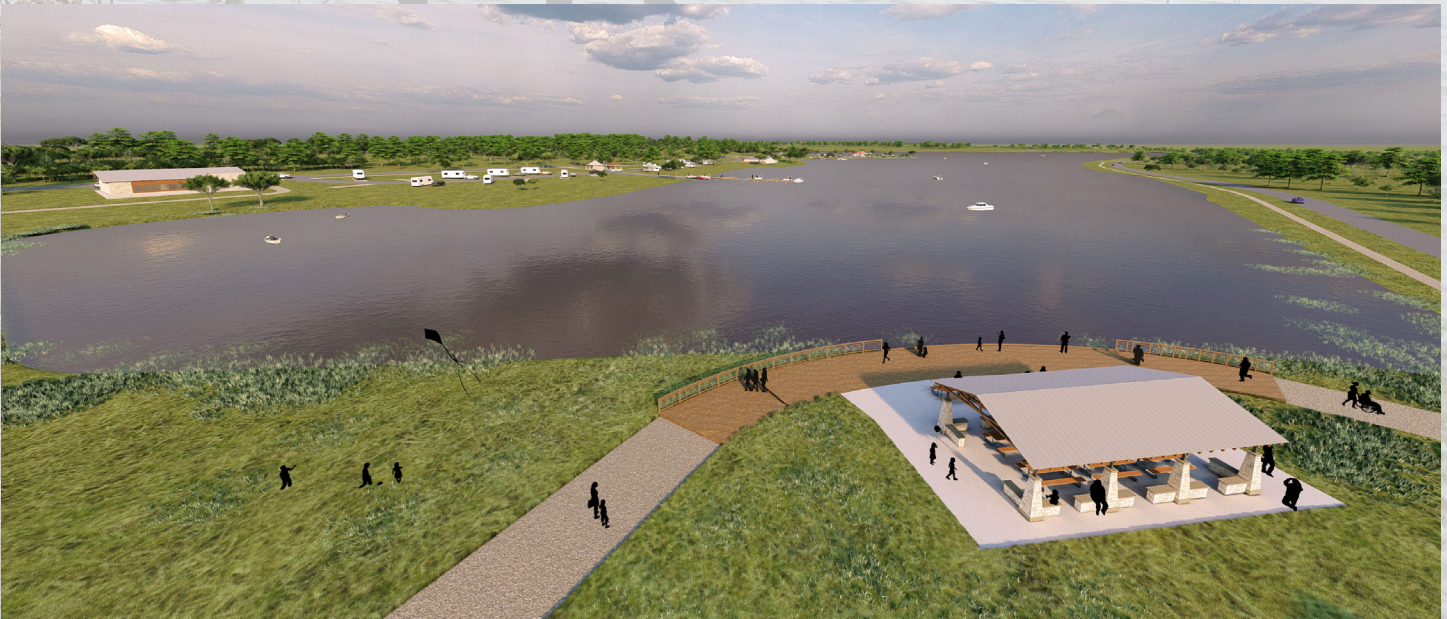
The completed Master Plan for the Herington Lakes will establish a new beginning point for these remarkable public amenities. Due to the strong vision and leadership provided by the Herington City Council and City Staff coupled with the thoughtful input of the residents of Herington, the resurgence of these incredible public assets has begun. Through creative design and careful implementation, the completed facilities will provide the City of Herington and the Central Kansas region with extraordinary park experiences and recreational programs to benefit countless park users. The deliberate connection between natural environments and diverse programming will create a destination unique to the area that draws repeated visits from a multi-generational population while still preserving wildlife habitat. These facilities will be awe-inspiring and memorable destinations for Herington residents and visitors for years to come..



DESTINATION PLAYGROUND AND EVENT LAWN



RV CAMPSITE, BATHHOUSE, AND BOAT LAUNCH/DOCK



HERINGTON LAKE OVERVIEW AND FISHING PAVILION

RESOLUTION NO. 957

A RESOLUTION GRANTING TEMPORARY EXEMPTION FROM THE REQUIREMENTS OF CHAPTER 5, ARTICLE VI, SECTION 5-601 ET. SEQ. OF THE HERINGTON CITY CODE, REGULATING THE RETAIL SALE OF FIREWORKS WITHIN THE CITY LIMITS OF THE CITY OF HERINGTON, DICKINSON COUNTY, KANSAS.

WHEREAS, the City of Herington, Kansas generally regulates and specifies approved zones and property for the retail sale of fireworks within the city limits; and,

WHEREAS, the Governing Body desires to allow for temporary exemptions from such regulation as authorized in the Herington City Code, Chapter 5, Article VI, Section 5-603(b) by resolution lawfully approved by majority vote of the governing body; and,

WHEREAS, the Governing Body has received a request for exemption for the sale of fireworks in a zone not originally authorized in the Herington City Code, Chapter 5, Article VI, Section 5-603(a) deems it appropriate to allow for a temporary exemption.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HERINGTON, KANSAS:

1. The Governing Body hereby finds that a temporary exemption should be granted for the retail sale of fireworks as authorized and regulated in the Herington City Code, Chapter 5, Article VI, Section 5-601 et. seq. on certain property within the city limits of Herington, Kansas, identified in paragraph 2 of this resolution.
2. The exemption shall apply only to a clearly defined and secure area in and on the area with the address of 700 S. Broadway, Herington, Kansas currently bearing a zoning designation of "A-1", within the city limits of the City of Herington, Kansas. Such defined area as established, and any signage or surrounding security barriers identifying the prescribed area, shall be approved in advance by the Herington Fire Chief.
3. The exemption for the retail **sale** of fireworks only, shall be allowed on June 27, 2022 through July 5, 2022 from 12:00 p.m. until 11 p.m. at which time such temporary exemption shall expire.
4. Such exemption shall apply only to the retail sale of fireworks as regulated in the Herington City Code, Chapter 5, Article VI, Section 5-601 et. seq. All other provisions and requirements of the applicable Code sections as cited shall remain in full force and effect. Compliance therewith is required in order to continue retail sales of fireworks.

5. All necessary permits required for authorizing the retail sale of fireworks shall be timely applied for and granted by the appropriate licensing agency in advance of the noted date herein as a precondition for award of this exemption.

ADOPTED AND APPROVED by the Governing Body of the City of Herington, Dickinson County, Kansas this 7th day of June, 2022.

Vance Donahue II, Vice-Mayor

ATTEST:

Megan Lawrenz, City Clerk



City Approved
Fireworks Show
Shooting Area

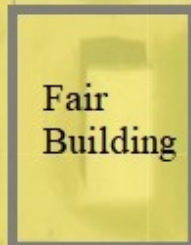


City Approved
2022 Independence Celebration
(Sunday, July 3)

R-1

E HAWLEY ST

S BROADWAY ST



Fair
Building

A-1

ORDINANCE NO. 1870

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO REPEAL AND REPLACE CHAPTER 7, ARTICLE I, SECTION 7-112 ESTABLISHING AND REGULATING CONNECTION FEES FOR THE CONNECTION TO CITY SERVICES FOR ELECTRICAL SERVICE AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS.

SECTION 1. That Chapter 7, Article I, Section 7-112 of the Code of the City of Herington, Kansas, is hereby repealed and replaced to read as follows:

Sec. 7-112. – Connection fee.

- (a) Every customer shall pay to the City Clerk at the time of giving an order for connection to the municipal electrical system the sum of \$25.00 for each such connection.
- (b) In the event City personnel are required to return more than twice (an initial and second appointment on the same connection request), to attempt service connection upon the absence or unavailability of the applicant for service, a fee of \$12.50 shall be assessed for each subsequent attempt after the second appointment.

SECTION 2. REPEAL: Other ordinance or portions thereof in conflict herewith, are hereby repealed.

SECTION 3. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its publication in the official City newspaper, ***THE DICKINSON COUNTY NEWS-TIMES***.

PASSED AND ADOPTED by the Governing Body of the City of Herington, Kansas, this 7th day of June, 2022.

Signed by the Mayor this 7th day of June, 2022.

Eric Gares, Mayor

ATTEST:

Megan Lawrenz, City Clerk

(SEAL)

ORDINANCE NO. 1871

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO REPEAL AND REPLACE CHAPTER 7, ARTICLE II, SECTION 7-216 ESTABLISHING AND REGULATING CONNECTION FEES FOR THE CONNECTION TO CITY SERVICES FOR WATER SERVICE AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS.

SECTION 1. That Chapter 7, Article II, Section 7-216 of the Code of the City of Herington, Kansas, is hereby repealed and replaced to read as follows:

Sec. 7-216. – Connection fee.

- (a) Every customer shall pay to the City Clerk at the time of giving an order for connection to the municipal water system the sum of \$25.00 for each such connection.
- (b) In the event City personnel are required to return more than twice (an initial and second appointment on the same connection request), to attempt service connection upon the absence or unavailability of the applicant for service, a fee of \$12.50 shall be assessed for each subsequent attempt after the second appointment.

SECTION 2. REPEAL: Other ordinance or portions thereof in conflict herewith, are hereby repealed.

SECTION 3. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its publication in the official City newspaper, ***THE DICKINSON COUNTY NEWS-TIMES***.

PASSED AND ADOPTED by the Governing Body of the City of Herington, Kansas, this 7th day of June, 2022.

Signed by the Mayor this 7th day of June, 2022.

Eric Gares, Mayor

ATTEST:

Megan Lawrenz, City Clerk

(SEAL)

RESOLUTION NO. 956

A RESOLUTION GRANTING TEMPORARY EXEMPTION FROM THE REQUIREMENTS OF CHAPTER 3, ARTICLE II, SECTION 3-204 PROHIBITING CONSUMPTION OF ANY ALCOHOLIC LIQUOR OR ENHANCED CEREAL MALT BEVERAGE ON PUBLIC PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF HERINGTON, DICKINSON COUNTY, KANSAS.

WHEREAS, the City of Herington, Kansas generally prohibits consumption of alcoholic liquor or enhanced cereal malt beverages on public property within the city limits; and,

WHEREAS, the governing body desires to allow for temporary exemptions from such a general prohibition by resolution lawfully approved by majority vote of the governing body; and,

WHEREAS, the governing body has received a request for exemption for a public event to be held on city property and deems it appropriate to allow for a temporary exemption.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HERINGTON, KANSAS:

1. The governing body hereby finds that a temporary exemption should be granted for possession and consumption of any cereal malt beverage including enhanced cereal malt beverages defined as having an alcohol concentration of no more than 6.0% by volume and alcoholic liquor, on certain public property identified in paragraph 2 of this resolution.
2. The exemption shall apply only to a clearly defined, fenced and secure area in and on the area commonly known as the Herington Fairgrounds within the city limits of the City of Herington, Kansas. Such defined area as established, and any signage or surrounding security barriers identifying the prescribed area, shall be approved in advance by the Herington Police Chief.
3. The exemption shall be allowed on Sunday July 8, 2022 from 5:00 p.m. until 11:59 p.m. and again on Saturday, July 9, 2022 until 11:59 p.m. at which time such temporary exemption shall expire.
4. Such exemption shall apply for the possession and consumption of enhanced cereal malt beverages only, defined as having an alcohol concentration of no more than 6.0% by volume.

All necessary permits authorizing the possession, and consumption of any cereal malt beverage including enhanced cereal malt beverages defined as having an alcohol concentration of no more than 6.0% by volume, shall be timely applied for and granted by the appropriate licensing agency in advance of the noted date herein as a precondition for award of this exemption.

ADOPTED AND APPROVED by the Governing Body of the City of Herington, Dickinson County, Kansas this 7th day of June, 2022.

Eric Gares, Mayor

ATTEST:

Megan Lawrenz, City Clerk

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April 28, 2000

ATTORNEY GENERAL OPINION NO. 2000-25

Steven W. Hirsch
 Oberlin City Attorney
 124 South Penn, P.O. Box 296
 Oberlin, Kansas 67749

Re:

Cities and Municipalities--Cities of the Third Class--Public Purpose Doctrine;
 Renting City Owned Equipment to Private Individuals

Synopsis:

In the absence of a public purpose, a city cannot rent city equipment to private individuals for private use. Cited herein: Kan. Const., Art. 12, § 5.

* * *

Dear Mr. Hirsch:

You request an opinion regarding the ability of a city to rent city equipment to individuals for private purposes. You indicate that the City of Oberlin rents bucket trucks, backhoes and other city equipment to private citizens as well as city employees for private use.

Prior to 1960, Kansas appellate courts generally disapproved of a city's leasing public property to individuals for private purposes because such action violated "Dillons Rule."⁽¹⁾ Dillons Rule prohibited municipal corporations from exercising any powers except those expressly granted by the Legislature or incident to the powers expressly granted. In a series of cases, the Kansas Supreme Court held that cities had no statutory authority to lease publicly financed buildings to private individuals for private purposes.⁽²⁾ Moreover, in a case involving a city leasing part of a military memorial building to an individual who operated a movie theatre, the Court opined that even if such authority existed, it would offend public policy that frowned on cities engaging in commercial endeavors:

"Aside from the consideration that the statute does not expressly or impliedly authorize municipalities to carry on the business in which defendants are engaged, we think that it is repugnant to our state policy as evidenced by the constitutional, statutory and common law of the state." [It] has been the policy of our government to exalt the individual rather than the state, and this has contributed more largely to our rapid national development than any other single cause. Our constitution was framed and our laws enacted with the idea of protecting, encouraging and developing the individual enterprise, and if we now intend to reverse this policy and to enter the state as a competitor against the individual in all lines of trade and commerce, we must amend our constitution and adopt an entirely different system of government."⁽³⁾

The Home Rule Amendment⁽⁴⁾ to the Kansas Constitution trumped Dillons Rule by specifically empowering cities to "determine their local affairs and government,"⁽⁵⁾ by enacting

ordinary ordinances provided that state law does not preempt or conflict with local legislation. In Attorney General Opinion No. 87-88, Attorney General Robert T. Stephan concluded that the Home Rule Amendment allowed a city to lease public park land to a private individual for the development of a recreational facility provided that there was a public purpose in doing so.

Regarding the propriety of cities engaging in commercial enterprises, General Stephan noted, in another opinion, that while prior court decisions had prohibited political subdivisions from engaging in commercial enterprises, there is no objection when a public purpose is demonstrated.⁽⁶⁾

We find no statutes that specifically address a city's authority to rent equipment such as backhoes and bucket trucks to individuals for private use. Therefore, it is our opinion that the Home Rule Amendment would allow a city to do so. However, a city cannot escape its obligation to ensure that renting city equipment to private individuals for private use is for a public purpose.

The seminal cases that address a municipality's use of public funds for a public purpose are *Ullrich v. Board of County Comm'rs of Thomas County*⁽⁷⁾ and *Duckworth v. City of Kansas City, Kansas*.⁽⁸⁾ In *Ullrich*, the Kansas Supreme Court upheld a statute authorizing the transfer of assets from the county hospital to a private association because such transfer was for a public purpose. The Court recognized that a state may appropriate public money or *property* for private individuals if the public welfare is promoted. "If the purpose of the expenditure of public money is legitimate because for a public purpose, it will not be defeated because the execution of it involves payments to individuals or private corporations."⁽⁹⁾ Moreover, the Court opined that it would defer to the governing body the question of what is a public purpose:

"What is for the public good or what are public purposes for which appropriations may be made are questions which the legislature must in the first instance decide. In determining those questions, a state legislature is vested with a broad discretion, which cannot be controlled by the courts, except when its action is clearly evasive or violative of a constitutional provision. It has been said that a strict formula to determine public purposes for all times cannot be formulated, since the concept expands with the population, economy, scientific knowledge, and changing conditions. As people are brought closer together in congested areas, the public welfare requires governmental operation of facilities which were once considered exclusively private enterprises, and necessitates the expenditure of tax funds for purposes which were not classified as public.

"What is a public purpose for which public funds may be expended is not a matter of exact definition, and the line of demarcation is not immutable or incapable of adjustment to changing social and economic conditions that are properly of public and governmental concern."⁽¹⁰⁾

In *Duckworth*, the Court, citing *Ullrich*, concluded that the City of Kansas City could loan public moneys to an individual who planned to use the funds to remodel a building in the blighted downtown area. The Court noted the City's resolution authorizing the loan stated that the purpose was to revitalize the central business district by improving the appearance of the neighborhood which the Court found to be a legitimate public purpose.

In Attorney General Opinion No. 93-1, Attorney General Robert T. Stephan concluded that, absent a public purpose, a county could not contract with an individual to provide county personnel and equipment to perform private road work.

We do not have any information concerning the City of Oberlin's practice of renting equipment to private individuals for private uses and, therefore, we cannot opine regarding whether such use is for a public purpose. In the absence of a public purpose, it is our opinion that a city cannot rent city equipment to private individuals for private use.

You also inquire whether the public purpose doctrine distinguishes between moneys generated from general tax funds and moneys derived from other kinds of public funds such as utility funds. While there are no Kansas appellate court decisions that address this point, it is our opinion that public funds, regardless of their origin, can only be used for public purposes. Moreover, in some cases, certain public funds can be used only for specified purposes set forth in statute or in other guidelines.

Very truly yours,

CARLA J. STOVALL
Attorney General of Kansas

Mary Feighny
Assistant Attorney General

CJS:JLM:MF:jm

FOOTNOTES

Click footnote number to return to corresponding location in the text.

¹ Dillon, *Municipal Corporations*, § 237 (5th ed. 1911).

² *State, ex rel. Mitchell v. City of Coffeyville*, 127 Kan. 663 (1929); *State, ex rel. Smith v. City of Hiawatha*, 127 Kan. 183 (1928); *Darby v. Otterman*, 122 Kan. 603 (1927).

³ 127 Kan. at 186 (citation omitted).

⁴ Kan. Const., Art. 12, § 5.

⁵ *Id.* at § 5(b).

⁶ Attorney General Opinion No. 83-90: city may pool its oil and gas rights with private individuals where public purpose shown.

⁷ 234 Kan. 782 (1984).

⁸ 243 Kan.386 (1988).

⁹ 234 Kan at 788-789.

¹⁰ 234 Kan. at 789.



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RESOLUTION NO. 955

A RESOLUTION GRANTING TEMPORARY EXEMPTION FROM THE REQUIREMENTS OF CHAPTER 3, ARTICLE II, SECTION 3-204 PROHIBITING CONSUMPTION OF ANY ALCOHOLIC LIQUOR OR ENHANCED CEREAL MALT BEVERAGE ON PUBLIC PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF HERINGTON, DICKINSON COUNTY, KANSAS.

WHEREAS, the City of Herington, Kansas generally prohibits consumption of alcoholic liquor or enhanced cereal malt beverages on public property within the city limits; and,

WHEREAS, the governing body desires to allow for temporary exemptions from such a general prohibition by resolution lawfully approved by majority vote of the governing body; and,

WHEREAS, the governing body has received a request for exemption for a public event to be held on city property and deems it appropriate to allow for a temporary exemption.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HERINGTON, KANSAS:

1. The governing body hereby finds that a temporary exemption should be granted for possession and consumption of any cereal malt beverage including enhanced cereal malt beverages defined as having an alcohol concentration of no more than 6.0% by volume and alcoholic liquor, on certain public property identified in paragraph 2 of this resolution.
2. The exemption shall apply only to a clearly defined, fenced and secure area in and on the area commonly known as the Herington Fairgrounds and the South Recreation Complex (including the east and west baseball and soccer fields) within the city limits of the City of Herington, Kansas. Such defined area as established, and any signage or surrounding security barriers identifying the prescribed area, shall be approved in advance by the Herington Police Chief.
3. The exemption shall be allowed on Sunday July 3, 2022 from 12:00 p.m. until 11:59 p.m. at which time such temporary exemption shall expire.
4. Such exemption shall apply for the possession and consumption of enhanced cereal malt beverages only, defined as having an alcohol concentration of no more than 6.0% by volume.

All necessary permits authorizing the possession, and consumption of any cereal malt beverage including enhanced cereal malt beverages defined as having an alcohol concentration of no more than 6.0% by volume, shall be timely applied for and granted by the appropriate licensing agency in advance of the noted date herein as a precondition for award of this exemption.

ADOPTED AND APPROVED by the Governing Body of the City of Herington, Dickinson County, Kansas this 7th day of June, 2022.

Vance Donahue II, Vice-Mayor

ATTEST:

Megan Lawrenz, City Clerk