

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 2

SUBJECT: Mayor and City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY:

The following is general information for the month of May for the community:

1) Monthly Local Retail Sales Tax Receipts Update

2015	2016	
\$384,947.48	\$416,835.34	Increase of \$31,887.86 for the month, and Overall increase of 2.06% from year 2015

2) City Share from County Tax

2015	2016	
\$191,636.07	\$202,127.59	Increase of \$10,491.52 for the month, and Overall increase of 0.58% from year 2015

3) Building Permits issued from 5/1/2016 to 5/31/2016 for new construction, remodeling / repairs and demolition.

Total number of building permits issued through Code Services:	41
Total of valuations associated with those building permits:	\$1,408,775.00
Total number of dollars collected for Building Permit Fees:	\$9,220.75

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 3

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items. Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Regular Meeting held on June 1, 2016.
- b. Consider ratification of Payroll Ordinance for the period ending in June 10, 2016.
- c. Consider the Approval of May Budget.
- d. Consider the Set Bid Date and Time for Liquid Oxygen Tank & Supply Contract.

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Budget
- d. Approve Set Bid Date and Time.

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 3d

SUBJECT: Liquid Oxygen Tank & Supply Contract – Set Bid Date and Time

RECOMMENDATION: Staff recommends approval of request to set Bid Date and Time to receive bids.

BACKGROUND SUMMARY:

The Public Works Department respectfully requests approval to establish Tuesday, June 28, 2016 at 2:00 PM to formally receive bids for the Liquid Oxygen Tank and Supply Contract.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

- Above and Beyond Employee Award recipients.
 - Tina Weeks-**Public Works**
 - Aric Kenyon-**IT**
 - Brad Hinderliter-**IT**

ACTION RECORD

Action: _____

Motion: _____ Second: _____
Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 15, 2015

ITEM NUMBER: 5

SUBJECT: Request to Adopt the 5 Year Plan for 2017-2021.

RECOMMENDATION: Adopt the 5 Year Plan

BACKGROUND SUMMARY:

Attached is the 2017 5 year fiscal plan for the City of Emporia. This is the third year of the comprehensive fiscal planning process and the plan was presented in three segments at the May 2016 and June 8, 2016 Study Sessions and revised according to input and guidance from the Commission. The plan acts as the foundation for the preparation of the Annual Budget and has resulted in a more streamlined budget process that clearly defines expenses and revenues, for Commission review and discussion. Within the 5 year plan details are also presented regarding CIP needs for the planning period. The sources of funding for all CIP items is defined and analyzed. The formal 5 year planning document will be assembled by mid-August.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 6

SUBJECT: Consider a lease agreement for the placement of monitoring wells at 100 Block of South Commercial Street right-of-way.

RECOMMENDATION: Recommend Commission accept and the Mayor sign the attached agreement.

BACKGROUND SUMMARY:

The lease agreement with Cipra Oil Company is for the purpose of locating two (2) monitoring wells within the right-of-way at the 100 block of South Commercial Street. Installation of the monitoring wells is the result of an agreement between the Cipra Oil Company and the Kansas Department of Health and Environment to monitor subsurface water to discern whether there is any subsurface transmission of petroleum products in the vicinity of current fuel storage located in this area. Please refer to the attached map detailing the location of the two proposed monitoring wells.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

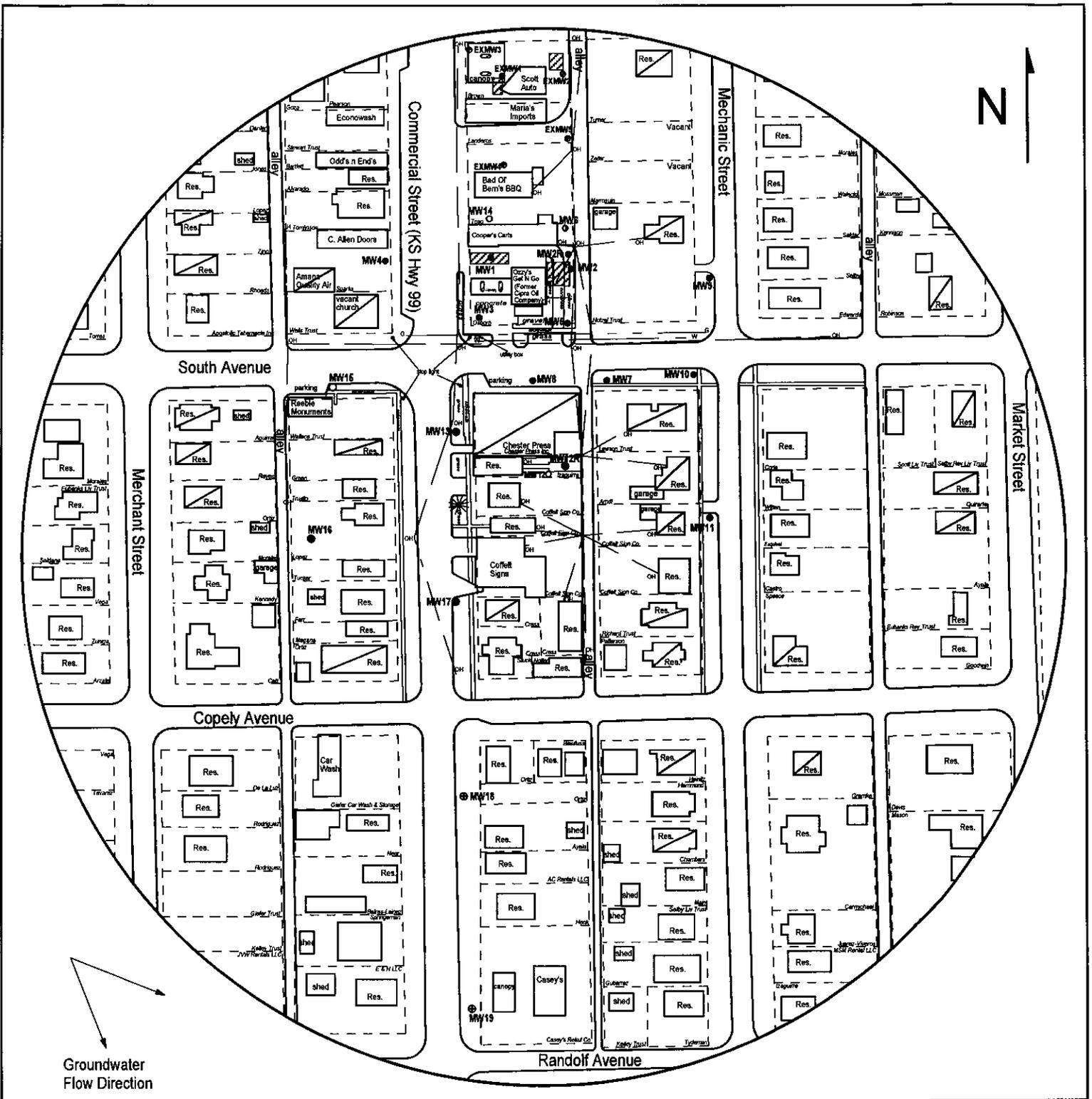


FIGURE 2.3 - 650 FT RADIUS AREA BASE MAP

LEGEND

- Approximate Location of Former UST Basins and Pump Islands
- Building with Basement
- Approximate Location of Property Line
- Monitoring Well
- Proposed Monitoring Well
- Plugged/Destroyed Monitoring Well
- Existing Monitoring Well (TF Site: U3-056-13957)
- Gas Line (1.5 - 3 ft bgs)
- Water Line (2 - 6 ft bgs)
- Overhead Lines (20-45 ft high)

PROJECT:

Cipra Oil Company
 2 Commercial
 Emporia, KS
 KDHE ID: U3-056-13957
 Date: 4/29/16



1311 E 25th St., Suite B (785) 841-8707 office
 Lawrence, KS 66046 (785) 865-4282 fax

NOTE: Utility depths, heights and locations are approximate.

LICENSE AGREEMENT

This License Agreement made this ___ day of May, 2016 is between the City of Emporia (“City”), Kansas, a municipal corporation, and Cipra Oil Company (“Licensee”).

Background

- I. City is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described on the attached Exhibit A with Easement descriptions and more commonly known as the east right-of-way of South Commercial Street approximately 50 feet north of the intersection of South Commercial Street with East Randolph Avenue, at location MW19.
- II. City is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described on the attached Exhibit B with Easement descriptions and more commonly known as the east right-of-way of South Commercial Street approximately 75 feet south of the intersection of South Commercial Street with East Copley Avenue, at location MW18.
- III. City is the owner of an utility easement/right-of-way (“City Easement”) which generally runs east and west.
- IV. Licensee desires to install, maintain, and sample groundwater monitor wells within the City Easement (“Licensed Use”).
- V. City is willing to allow Licensed Use within City Easement upon the terms and conditions of this Agreement.

Accordingly, the parties agree as follows:

1. City grants and conveys a license to Licensee, under, upon and over a portion of City Easement as shown by the diagrams attached as Exhibit A and Exhibit B and incorporated by reference in this Agreement.
2. The license granted to Licensee is for the sole purpose of Licensed Use in the City Easement by Licensee or its agents or contractors; and for the purpose of ingress and egress by Licensee or its agents or contractors necessary for Licensed Use.
3. Licensed Use and Licensee's activities on City Easement must not unduly interfere with existing and lawful use of the public right-of-way and must not be hazardous to the traveling public.
4. After installation of the groundwater monitor wells, Licensee shall repair, or cause to be repaired, City Easement as reasonably necessary to meet City standards applicable to the City Easement and consistent with Licensed Use.
5. Licensee shall repair or replace, at Licensee's expense, any improvements or utilities disturbed during installation of the groundwater monitor wells, as nearly as practicable to the condition of the improvement or utility prior to installation of the groundwater monitor wells.
6. Licensee shall install all monitor wells off the city street behind a curb. Further, Licensee shall install monitor wells at least three feet from any existing utilities if possible. If existing utilities do not allow installation of monitor wells with at least three feet of clearance, Licensee shall install the monitor well at a reasonable location providing as much clearance as possible with existing utilities.
7. Licensee shall enroll in the Kansas One Call System (or a successor system) and register the monitor wells installed under this agreement with the Kansas One Call System.

8. City may terminate this Agreement at will and for any reason. City shall provide a minimum of 60 days notices to Licensee to terminate this Agreement. Licensee shall close and abandon monitor wells installed by Licensee on City Easement no later than 5:00 p.m. 60 days after Licensee receives notice from City and according to the regulations of the Kansas Department of Health and Environment. Licensee shall restore City Easement as reasonably practicable to its condition immediately prior to closure and abandonment of Licensee's monitor wells.
9. Licensee shall release City and any of its franchises from any responsibility or liability for damage to monitor wells installed under this Agreement, except for gross negligence or willful misconduct by City or and of its franchises.
10. Licensee shall indemnify City, its officers, and employees from any liability to persons or property arising out of any gross negligence or intentional misconduct of Licensee or and of its agents or contractors in connection with Licensed Use of City Easement.
11. Licensee shall reimburse City for any real estate taxes it may incur based on the presence of Licensee's monitor wells on City Easement.
12. Licensee is solely responsible for obtaining any additional easements, licenses, right-of-ways, etc. from other property owners if required to make effective use of this license.
13. The license granted by this Agreement is a covenant running with the land so long as the license continues. Further, the parties bind and obligate themselves and their executors, administrators, successors, and assigns to the rights and obligations granted and assumed by this Agreement. Despite the previous sentence, Licensee shall not assign this license without the express written consent from City, and City shall not unreasonably withhold consent.

14. This Agreement may be filed of record with the Lyon County Register of Deeds by City, at its expense, and if so filed may be terminated by filing a copy of the written termination notice provided for in Section 8 with the Lyon County Register of Deeds.

[signature page follows]

City of Emporia, Kansas

ATTEST

By: _____
Danny Giefer, Mayor

Kerry Sull, City Clerk

BE IT REMEMBERED, that on this ____ day of _____, A.D., 2012, before me, the undersigned, a notary public in and for the County and State aforesaid, came Danny Giefer, Mayor, Emporia, Kansas, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public

Cipra Oil Company

By: _____

BE IT REMEMBERED, that on this ____ day of _____, A.D., 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my notarial seal the day and year last above written.

Notary Public

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 7

SUBJECT: Consider a lease agreement for the placement of monitoring wells at the corner of 12th and Merchant Street right-of-way.

RECOMMENDATION: Recommend Commission accept and the Mayor sign the attached agreement.

BACKGROUND SUMMARY:

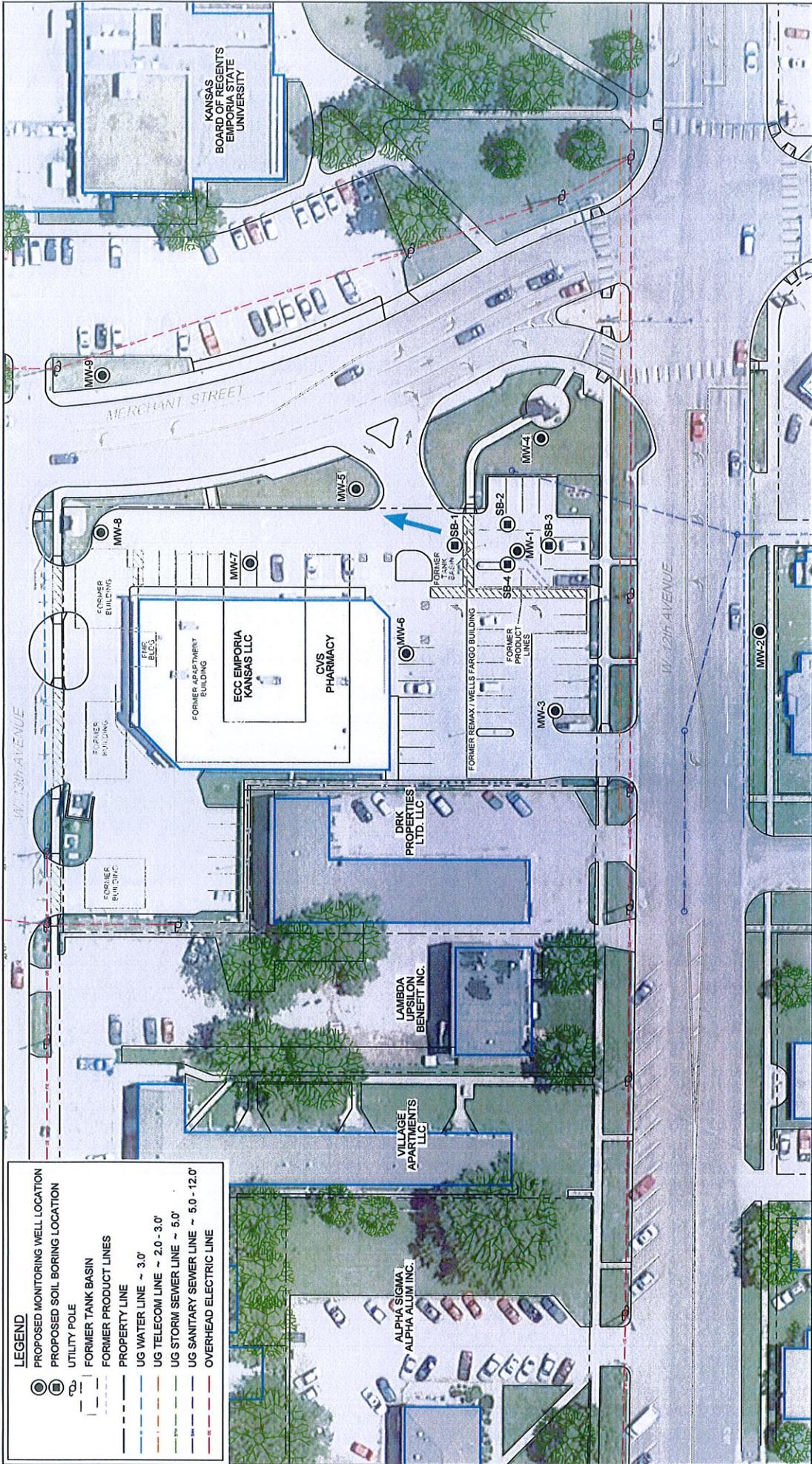
The lease agreement with CVS Pharmacy is for the purpose of locating four (4) monitoring wells within the right-of-way at the corner of 12th and Merchant Street. Installation of the monitoring wells is the result of an agreement between the CVS Pharmacy and the Kansas Department of Health and Environment to monitor subsurface water to discern whether there is any subsurface transmission of petroleum products in the vicinity of former fuel storage area previously located at the same site as CVS Pharmacy. Please refer to the attached map detailing the location of the four proposed monitoring wells.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____



- LEGEND**
- PROPOSED MONITORING WELL LOCATION
 - PROPOSED SOIL BORING LOCATION
 - UTILITY POLE
 - ▭ FORMER TANK BASIN
 - ▭ FORMER PRODUCT LINES
 - ▭ PROPERTY LINE
 - ▭ UG WATER LINE ~ 3.0'
 - ▭ UG TELECOM LINE ~ 2.0 - 3.0'
 - ▭ UG STORM SEWER LINE ~ 5.0'
 - ▭ UG SANITARY SEWER LINE ~ 5.0 - 12.0'
 - ▭ OVERHEAD ELECTRIC LINE

11109492
May 17, 2016

CVS PHARMACY STORE #10294
(CHEVRON #373804) U3-086-14615
12th AVENUE & MERCHANT STREET, EMPORIA, KANSAS

Figure 2



SITE PLAN



SOURCE: BASEMAP MODIFIED FROM A STEPLAN PROVIDED BY TERRACON AND AERIAL IMAGERY FROM GOOGLE EARTH PRO

CAD File: \\SRV-01\11109492-Emporia_KS\11109492-FIGURE2\11109492-RPT\011109492-20160517\04-EM002.dwg

LICENSE AGREEMENT

This License Agreement made this __ day of May, 2016 is between the City of Emporia (“City”), Kansas, a municipal corporation, and GHD Consultants (“Licensee”).

Background

- I. City is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described on the attached Exhibit A with Easement descriptions and more commonly known as the south right-of-way of West 12th Avenue approximately 45 feet west of the alley entrance between Merchant Street and Constitution Street.
- II. City is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described on the attached Exhibit B with Easement descriptions and more commonly known as the west right-of-way of Merchant Street approximately 10 feet south of the entrance to CVS Pharmacy which is approximately 125 feet north of West 12th Avenue.
- III. City is the owner of an utility easement/right-of-way (“City Easement”) which generally runs east and west.
- IV. Licensee desires to install, maintain, and sample groundwater monitor wells within the City Easement (“Licensed Use”).
- V. City is willing to allow Licensed Use within City Easement upon the terms and conditions of this Agreement.

Accordingly, the parties agree as follows:

1. City grants and conveys a license to Licensee, under, upon and over a portion of City Easement as shown by the diagrams attached as Exhibit A and Exhibit B and incorporated by reference in this Agreement.
2. The license granted to Licensee is for the sole purpose of Licensed Use in the City Easement by Licensee or its agents or contractors; and for the purpose of ingress and egress by Licensee or its agents or contractors necessary for Licensed Use.
3. Licensed Use and Licensee's activities on City Easement must not unduly interfere with existing and lawful use of the public right-of-way and must not be hazardous to the traveling public.
4. After installation of the groundwater monitor wells, Licensee shall repair, or cause to be repaired, City Easement as reasonably necessary to meet City standards applicable to the City Easement and consistent with Licensed Use.
5. Licensee shall repair or replace, at Licensee's expense, any improvements or utilities disturbed during installation of the groundwater monitor wells, as nearly as practicable to the condition of the improvement or utility prior to installation of the groundwater monitor wells.
6. Licensee shall install all monitor wells off the city street behind a curb. Further, Licensee shall install monitor wells at least three feet from any existing utilities if possible. If existing utilities do not allow installation of monitor wells with at least three feet of clearance, Licensee shall install the monitor well at a reasonable location providing as much clearance as possible with existing utilities.
7. Licensee shall enroll in the Kansas One Call System (or a successor system) and register the monitor wells installed under this agreement with the Kansas One Call System.

8. City may terminate this Agreement at will and for any reason. City shall provide a minimum of 60 days notices to Licensee to terminate this Agreement. Licensee shall close and abandon monitor wells installed by Licensee on City Easement no later than 5:00 p.m. 60 days after Licensee receives notice from City and according to the regulations of the Kansas Department of Health and Environment. Licensee shall restore City Easement as reasonably practicable to its condition immediately prior to closure and abandonment of Licensee's monitor wells.
9. Licensee shall release City and any of its franchises from any responsibility or liability for damage to monitor wells installed under this Agreement, except for gross negligence or willful misconduct by City or and of its franchises.
10. Licensee shall indemnify City, its officers, and employees from any liability to persons or property arising out of any gross negligence or intentional misconduct of Licensee or and of its agents or contractors in connection with Licensed Use of City Easement.
11. Licensee shall reimburse City for any real estate taxes it may incur based on the presence of Licensee's monitor wells on City Easement.
12. Licensee is solely responsible for obtaining any additional easements, licenses, right-of-ways, etc. from other property owners if required to make effective use of this license.
13. The license granted by this Agreement is a covenant running with the land so long as the license continues. Further, the parties bind and obligate themselves and their executors, administrators, successors, and assigns to the rights and obligations granted and assumed by this Agreement. Despite the previous sentence, Licensee shall not assign this license without the express written consent from City, and City shall not unreasonably withhold consent.

14. This Agreement may be filed of record with the Lyon County Register of Deeds by City, at its expense, and if so filed may be terminated by filing a copy of the written termination notice provided for in Section 8 with the Lyon County Register of Deeds.

[signature page follows]

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 8

SUBJECT: Consider awarding a bid for the Merchant St. Storm Drainage Improvements (18th & Merchant to I-35) Project No. SW1503.

RECOMMENDATION: Staff recommends awarding the project to Rubick Construction, Inc. for a total bid amount of \$234,819.87.

BACKGROUND SUMMARY:

At 2:00 p.m. on Tuesday, June 7, 2016, the City Engineer's Office publicly opened bids on the Merchant St. Storm Drainage Improvements Project No. SW1503. The City had five bidders out of seven plan holders submit a bid. The following are the bids received and the Engineer's Estimate.

Contractor	Total Bid
APAC-Kansas, Inc., Shear Division	\$322,194.25
Skillman Construction, LLC	\$303,027.10
Criqui Construction, Inc.	\$422,640.25
Mies Construction	\$439,595.00
Rubick Construction, Inc.	\$234,819.87
Engineer's Estimate	\$340,445.00

The staff recommends awarding the project to Rubick Construction, Inc.

This project is budgeted at \$325,000.00 out of the Bond Fund along with ESU contribution of \$50,000.00 for their portion of the project.

Attached is the complete project bid tabulation sheet for the total bids.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

**CITY OF EMPORIA, KS
 BID TABULATION
 FOR MERCHANT ST. STORM DRAINAGE IMPROVEMENTS
 (18th & Merchant to I-35) Project No. SW1503**

Quantity	Units	Description	APAC-KS Shear Div. Emporia, KS		Skillman New Strawn, KS		Crique Construction, Inc. Melvern, KS		Mies Construction Wichita, KS		Rubick Construction, Inc. Williamsburg, KS		City Engineer's Estimate		Date June 7, 2016
			Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	
1	L.S.	Contractor Construction Staking	\$3,529.41	\$3,529.41	\$3,400.00	\$3,400.00	\$5,000.00	\$5,000.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	
603	C.Y.	Common Excavation	\$10.51	\$6,337.53	\$20.00	\$12,060.00	\$18.00	\$10,854.00	\$50.00	\$30,150.00	\$2.20	\$1,326.60	\$16.00	\$9,648.00	
290	L.F.	42.2 SQ. FT. Arch Pipe	\$250.36	\$72,604.40	\$265.77	\$77,073.30	\$424.00	\$122,960.00	\$215.00	\$62,350.00	\$182.71	\$52,985.90	\$220.00	\$63,800.00	
484	L.F.	48" Corrugated HDPE Pipe	\$139.45	\$67,493.80	\$124.45	\$60,233.80	\$259.00	\$125,356.00	\$145.00	\$70,180.00	\$106.43	\$51,512.12	\$150.00	\$72,600.00	
425	S.Y.	6" Reinf. Concrete Channel	\$95.09	\$40,413.25	\$105.00	\$44,625.00	\$69.00	\$29,325.00	\$115.00	\$48,875.00	\$72.91	\$30,986.75	\$300.00	\$127,500.00	
2283	C.Y.	Compacted Backfill (Type-B MR-90) (Contractor Furnish)	\$16.52	\$37,715.16	\$15.00 *	\$34,245.00	\$21.75	\$49,655.25	\$30.00	\$68,490.00	\$11.10	\$25,341.30	\$9.00	\$20,547.00	
1	Ea.	8" Reinforced Concrete Headwall (CMP)	\$6,404.71	\$6,404.71	\$6,975.00	\$6,975.00	\$4,900.00	\$4,900.00	\$9,850.00	\$9,850.00	\$7,020.00	\$7,020.00	\$7,500.00	\$7,500.00	
1	Ea.	8" Reinforced Concrete Headwall (2-48" HDPE)	\$6,404.71	\$6,404.71	\$8,850.00	\$8,850.00	\$4,900.00	\$4,900.00	\$8,450.00	\$8,450.00	\$5,790.00	\$5,790.00	\$6,500.00	\$6,500.00	
1	Ea.	Area Inlet	\$5,612.54	\$5,612.54	\$4,150.00	\$4,150.00	\$3,600.00	\$3,600.00	\$2,000.00	\$2,000.00	\$2,697.20	\$2,697.20	\$750.00	\$750.00	
1	Ea.	Concrete Transition Box	\$51,598.81	\$51,598.81	\$33,315.00	\$33,315.00	\$43,840.00	\$43,840.00	\$53,750.00	\$53,750.00	\$34,080.00	\$34,080.00	\$17,500.00	\$17,500.00	
1	L.S.	Seeding	\$3,293.55	\$3,293.55	\$3,000.00	\$3,000.00	\$2,500.00	\$2,500.00	\$9,250.00	\$9,250.00	\$4,100.00	\$4,100.00	\$1,000.00	\$1,000.00	

**CITY OF EMPORIA, KS
 BID TABULATION
 FOR MERCHANT ST. STORM DRAINAGE IMPROVEMENTS
 (18th & Merchant to I-35) Project No. SW1503**

**Date
 June 7, 2016**

Quantity	Units	Description	APAC-KS Shear Div. Emporia, KS		Skillman New Strawn, KS		Crique Construction, Inc. Melvern, KS		Miles Construction Wichita, KS		Rubick Construction, Inc. Williamsburg, KS		City Engineer's Estimate	
			Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
1	L.S.	Traffic Control	\$5,749.78	\$5,749.78	\$5,000.00	\$5,000.00	\$2,500.00	\$2,500.00	\$8,500.00	\$8,500.00	\$4,620.00	\$4,620.00	\$2,500.00	\$2,500.00
1	L. S.	Mobilization	\$13,650.81	\$13,650.81	\$7,500.00	\$7,500.00	\$16,000.00	\$16,000.00	\$65,750.00	\$65,750.00	\$7,810.00	\$7,810.00	\$7,500.00	\$7,500.00
10	S.Y.	Stone Ditch Check	\$117.41	\$1,174.10	\$60.00	\$600.00	\$100.00	\$1,000.00	\$30.00	\$300.00	\$115.00	\$1,150.00	\$100.00	\$1,000.00
1	Ea.	Curb Inlet Protection	\$211.69	\$211.69	\$2,000.00	\$2,000.00	\$250.00	\$250.00	\$200.00	\$200.00	\$400.00	\$400.00	\$100.00	\$100.00
TOTAL AMOUNT OF BID:			\$322,194.25		\$303,027.10		\$422,640.25		\$439,595.00		\$234,819.87		\$340,445.00	

*An error in calculation was found in the bid from Skillman Construction. Bid document indicated the quantity of 2284 while plan quantity is 2283.

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 9

SUBJECT:

APPLICATION 2016-02. A request of Frontier Farm Credit, FLCA to annex 6.87 acres of land located at 1808 Rd G into the City of Emporia.

RECOMMENDATION:

At their February 23, 2016 regular meeting, the Planning Commission voted 6-0 to recommend approval of the application based on Staff's recommendation, specifically that it is consistent with the Future Use and Comprehensive Plan and it appears to be in the best interest of the city of Emporia and Lyon County to facilitate and promote this type of investment and growth. Additional the County Commission passed Resolution 8-18 to approve the annexation of 1808 Rd G and 18th Ave from KTA to Road G.

BACKGROUND SUMMARY

The County Commission passed a resolution June 2, 2016 accepting the resolution from the City of Emporia to annex the property within the city limits.

This is following the previous action taken by the City Commission to sign a resolution requesting the County Commission accept the annexation of this property into the city limits. Adoption of the attached ordinance will finalize the annexation of this property.

The agreement made with the County Commission was for the City to maintain all of 18th Ave right-of-way between KTA Overpass on 18th to Road G.

The applicant is requesting to annex 6.87 acres into the city limits onto an existing island. The purpose of annexing the property is so the applicant can connect to public utilities with the City of Emporia.

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Ordinance, County Commission Resolution 08-18

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

RESOLUTION NO. 8-16

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LYON COUNTY, KANSAS CONSIDERING THE RESOLUTION OF THE CITY OF EMPORIA, KANSAS, AS TO THE ADVISABILITY OF ANNEXATION OF CERTAIN PROPERTY.

BE IT RESOLVED BY THE BOARD OF THE COUNTY COMMISSIONERS OF LYON COUNTY, KANSAS:

Section 1. The Board of County Commissioners of Lyon County, Kansas finds that a request for annexation of the following described land has been presented to it by the City of Emporia, Kansas.

1808 Road G, known legally as:

A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF N01°07'21"W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 473.09 FEET; THENCE N87°46'40E, 741.53 FEET; THENCE S02°13'21"E, 473.09 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE S87°46'39"W, ALONG SAID SOUTH LINE, 750.61 FEET TO THE POINT OF BEGINNING.

18th Avenue right-of-way from the City of Emporia to Road G, known legally as:

THAT PORTION OF SECTION 6 AND SECTION 7, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LYON, STATE OF KANSAS, BEING A PORTION OF THE RIGHT-OF-WAY OF 18TH AVE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

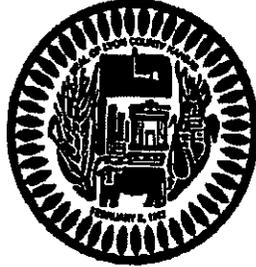
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE WITH AN ASSUMED BEARING ON THE WEST LINE OF SAID SECTION 6, N 01°07'20" W 90.47 FEET; THENCE PERPENDICULAR TO SAID WEST LINE, S 88°52'40" W 70.00 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF ROAD G AND THE NORTH RIGHT-OF-WAY LINE OF SAID WEST 18TH AVENUE AND THE POINT OF BEGINNING; THENCE ON SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 5 COURSES, S 81°21'54" E 234.50 FEET, N 87°46'39" E 1152.15 FEET, N 00°44'57" E 14.97 FEET, N 87°46'39" E 535.33 FEET, N 77°28'13" E 802.16 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF KANSAS TURNPIKE AUTHORITY; THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE, S 27°53'20" W 150.00 FEET; THENCE CONTINUING ON SAID WESTERLY RIGHT-OF-WAY LINE, S 28°12'27" W 287.77 FEET TO THE SOUTH RIGHT-OF-WAY OF SAID 18TH AVENUE; THENCE ON THE SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES; N 80°02'11" W 637.03 FEET, S 87°46'39" W 1525.82 FEET, S 81°23'47" W 313.72 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE, N 11°24'09" W 166.10 FEET TO THE POINT OF BEGINNING.
CONTAINS 7.84 ACRES, MORE OR LESS.

Section 2. The Board having determined that the annexation of the subject property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Lyon County, Kansas all as provided in K.S.A. 12-520(c).

Section 3. Approval for annexation shall take effect upon passage and publication of the resolution.

ADOPTED AND APPROVED by the Board of County Commissioners of Lyon County, Kansas this 2nd day of June, 2016.

BOARD OF COUNTY COMMISSIONERS
LYON COUNTY, KANSAS



Rollie Martin
Rollie Martin, Chairman

Dan Slater
Dan Slater, Member

Scott Briggs
Scott Briggs, Member

ATTEST:

Tammy Vopat
Tammy Vopat, Lyon County Clerk

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The boundary of the City of Emporia, Kansas is hereby extended to include the following described land and such land is hereby annexed into the City of Emporia, Kansas:

1808 Road G, known legally as:

A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF N01°07'21"W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 473.09 FEET; THENCE N87°46'40E, 741.53 FEET; THENCE S02°13'21"E, 473.09 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE S87°46'39"W, ALONG SAID SOUTH LINE, 750.61 FEET TO THE POINT OF BEGINNING.

18th Avenue right-of-way from the City of Emporia to Road G, known legally as:

THAT PORTION OF SECTION 6 AND SECTION 7, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LYON, STATE OF KANSAS, BEING A PORTION OF THE RIGHT-OF-WAY OF 18TH AVE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE WITH AN ASSUMED BEARING ON THE WEST LINE OF SAID SECTION 6, N 01°07'20" W 90.47 FEET; THENCE PERPENDICULAR TO SAID WEST LINE, S 88°52'40" W 70.00 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF ROAD G AND THE NORTH RIGHT-OF-WAY LINE OF SAID WEST 18TH AVENUE AND THE POINT OF BEGINNING; THENCE ON SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 5 COURSES, S 81°21'54" E 234.50 FEET, N 87°46'39" E 1152.15 FEET, N 00°44'57" E 14.97 FEET, N 87°46'39" E 535.33 FEET, N 77°28'13" E 802.16 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF KANSAS TURNPIKE AUTHORITY; THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE, S 27°53'20" W 150.00 FEET; THENCE CONTINUING ON SAID WESTERLY RIGHT-OF-WAY LINE, S 28°12'27" W 287.77 FEET TO THE SOUTH RIGHT-OF-WAY OF SAID 18TH AVENUE; THENCE ON THE SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES; N 80°02'11" W 637.03 FEET, S 87°46'39" W 1525.82 FEET, S 81°23'47" W 313.72 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE, N 11°24'09" W 166.10 FEET TO THE POINT OF BEGINNING. CONTAINS 7.94 ACRES, MORE OR LESS.

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this _____ day of _____, 2016

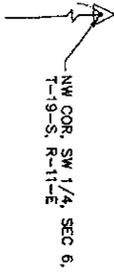
ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk



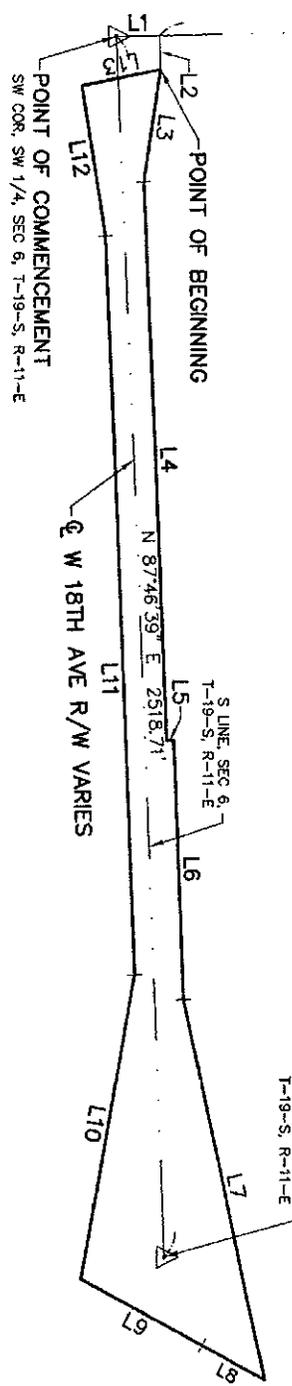
ROAD ANNEXATION EXHIBIT



N 01°07'20" W 2549.98'

ROAD G R/W

LINE	BEARING	LENGTH
L1	N 01°07'20" W	90.47'
L2	S 88°52'40" W	70.00'
L3	S 81°21'54" E	234.50'
L4	N 87°46'39" E	1152.15'
L5	N 00°44'57" E	14.97'
L6	N 87°46'39" E	535.33'
L7	N 77°28'13" E	802.16'
L8	S 27°53'20" W	150.00'
L9	S 28°12'27" W	287.77'
L10	N 80°02'11" W	637.03'
L11	S 87°46'39" W	1525.82'
L12	S 81°23'47" W	313.72'
L13	N 11°24'09" W	166.10'



DESCRIPTION:

THAT PORTION OF SECTION 6 AND SECTION 7, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LYON, STATE OF KANSAS, BEING A PORTION OF THE RIGHT-OF-WAY OF 18TH AVE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

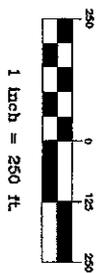
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE WITH AN ASSUMED BEARING ON THE WEST LINE OF SAID SECTION 6, N 01°07'20" W 90.47 FEET; THENCE PERPENDICULAR TO SAID WEST LINE, S 88°52'40" W 70.00 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF ROAD G AND THE NORTH RIGHT-OF-WAY LINE OF SAID WEST 18TH AVENUE AND THE POINT OF BEGINNING; THENCE ON SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 5 COURSES, S 81°21'54" E 234.50 FEET, N 87°46'39" E 1152.15 FEET, N 00°44'57" E 14.97 FEET, N 87°46'39" E 535.33 FEET, N 77°28'13" E 802.16 FEET TO THE WESTERNLY RIGHT-OF-WAY LINE OF KANSAS TURNPIKE AUTHORITY; THENCE ON SAID WESTERNLY RIGHT-OF-WAY LINE, S 27°53'20" W 150.00 FEET; THENCE CONTINUING ON SAID WESTERNLY RIGHT-OF-WAY LINE, S 28°12'27" W 287.77 FEET TO THE SOUTH RIGHT-OF-WAY OF SAID 18TH AVENUE; THENCE ON THE SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES: N 80°02'11" W 637.03 FEET, S 87°46'39" W 1525.82 FEET, S 81°23'47" W 313.72 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE, N 11°24'09" W 166.10 FEET TO THE POINT OF BEGINNING. CONTAINS 7.94 ACRES, MORE OR LESS.

DESCRIPTION CERTIFICATION:

I WILLIAM C. DELKER BEING A DULY LICENSED AND REGISTERED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS DESCRIPTION WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND ABILITY.



WILLIAM C. DELKER
 KANSAS RLS NO. 1201
 delker@kveeng.com



AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 10

SUBJECT:

APPLICATION 2016-06. A request of Frontier Farm Credit, FLCA to rezone 6.87 acres of land located at 1808 Rd G from A-L, Agriculture Use to C-3, General Commercial District.

RECOMMENDATION:

At their May 24, 2016 regular meeting, the Planning Commission voted 9-0 to recommend approval of the application based upon consistency with the surrounding area and Staff's recommendation.

BACKGROUND SUMMARY

The applicant requested a rezone of their property to change zoning from A-L, Agricultural Land to C-3 General Commercial District to allow for an office building at the location. The applicant is proposing a business office to be constructed on the property. C-3, General Commercial District is recommended. The proposed use is consistent with the comprehensive plan, as well as surrounding properties to the east and south (see aerial map).

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Planning Commission Minutes Excerpt, Site Plan, Map, Ordinance

The Planning Commission met in regular session on Tuesday, May 24, 2016, with Chair Thomas presiding. Members Bucklinger, Fowler, Miller, Pontius, Sauder, Springeman, Wade and Rech were present.

APPLICATION 2016-06. A request of the Frontier Farm Credit, FLCA to change the zoning status of 1808 Road G from A-L, Agricultural District to C-3, General Commercial District, as authorized by Article 26-1 of the Zoning Regulations.

Staff confirmed jurisdiction over this application.

No exparte communication was declared.

STAFF REPORT: The applicant would like to rezone their property to change zoning from A-L, Agricultural Land to C-3 General Commercial District to allow for an office building at the location. The applicant is proposing a business office to be constructed on the property. C-3, General Commercial District is recommended. The proposed use is consistent with the comprehensive plan, as well as surrounding properties to the east and south (see aerial map).

At the February 23, 2016 Planning Commission meeting the applicant requested annexation into the city for the use of utilities. Staff recommends approval of the application as it is consistent with the Comprehensive Plan and surrounding properties.

Member Bucklinger asked if city utilities are available. Secretary Foster replied, water is available at W. 18th Avenue

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

and sewer is not available but the applicant is considering a private septic system.

Being no further questions, the Public Hearing portion was opened.

Public Hearing:

Keith Beatty, Kaw Valley Engineering, 1104 E. 12th Ave., represented the applicant. Mr. Beatty did not have anything further to add to the staff report but offered to answer any questions from the Board.

Member Sauder asked if the applicants plan was the same as when they had requested annexation into the City. Mr. Beatty answered the plan had not changed.

Being no further comments, the Public Hearing portion was closed.

Member Bucklinger moved to approve Application 2016-06, to change the zoning status of 1808 Road G from A-L, Agricultural District to C-3, General Commercial District, based upon consistency with the surrounding area and Staff's recommendation. Member Wade seconded. Motion approved 9-0.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN AREA IN THE CITY OF EMPORIA, KANSAS FROM AL AGRICULTURE DISTRICT TO C3, GENERAL COMMERCIAL DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from AL, Agricultural District to C3, General Commercial District to wit:

A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS, A TRACT IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF N01°07'21"W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 473.09 FEET; THENCE N87°46'40E, 741.53 FEET; THENCE S02°13'21"E, 473.09 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE S87°46'39"W, ALONG SAID SOUTH LINE, 750.61 FEET TO THE POINT OF BEGINNING.

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this _____ day of _____, 2016.

ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 11

SUBJECT:

APPLICATION 2016-07. A request of Burnham Basement and Foundation Repair Inc. to change the zoning status of 309 State Street from R-3, High Density Residential District to C-3, General Commercial District, as authorized by Article 26-1 of the Zoning Regulations.

RECOMMENDATION:

At their May 24, 2016 regular meeting, the Planning Commission voted 8-0 to recommend approval of the application based upon Staff's recommendations with conditions added that limit the uses of the subject property to: retail sales and retail services.

BACKGROUND SUMMARY

The applicant desires to rezone their property to change zoning classification from R-3, High Density Residential to C-3, General Commercial District. The subject property formerly had a blighted single family housing the demolished in March of 2015. The property is adjacent to a right-of-way near the railroad tracks.

Staff met with the applicant on April 11th, 2016 and discussed some of the challenges. Applicant reviewed the allowable uses of a C-3 General Commercial Area (Table 9-1, Section 9-301), and of the 68 permitted uses only 1 will be required (retail sales).

The applicant is proposing to use the property for overflow parking and storage of building materials used for business purposes. The applicant plans to fence and landscape the property to meet all the zoning regulations, and to keep the rapport with the neighbors.

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Planning Commission Minutes Excerpt, Ordinance, Photos, Map

Excerpt of the May 24, 2016 Planning Commission Meeting minutes:

The Planning Commission met in regular session on Tuesday, May 24, 2016, with Chair Thomas presiding. Members Bucklinger, Fowler, Miller, Pontius, Sauder, Springeman, Wade and Rech were present.

APPLICATION 2016-07. A request of the Burnham Basement and Foundation Repair Inc., to change the zoning status of 309 State Street from R-3, High Density Residential District to C-3, General Commercial District, as authorized by Article 26-1 of the Zoning Regulations.

Staff confirmed jurisdiction over this application.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

No exparte communication was declared.

Member Miller stated, he did not technically have a conflict of interest but to avoid the appearance of an impropriety, he recused himself from the hearing.

Staff Report:

The applicant would like to rezone their property to change zoning classification from R-3, High Density Residential to C-3, General Commercial District. The subject property formerly had a blighted single family housing the demolished in March of 2015. The property is adjacent to a right-of-way near the railroad tracks.

The rezoning of this property is challenging due to the fact that the Comprehensive Plan shows the area as R-3 High Density Residential. The uniqueness of the area, in combination of the commercial nature of neighboring properties gives this case some merit for consideration as to rezoning.

The stated uses of the applicant for the subject property would best work as a C-3 General Commercial District or a I-1 Light Industrial District. The applicant has reviewed the allowable uses of the C-3 district and has eliminated uses that would generate high traffic, noise, blight, or odors that could affect the neighboring properties.

Staff met with the applicant on April 11th, 2016, and discussed some of the challenges. The applicant reviewed the allowable uses of a C-3 General Commercial Area (Table 9-1, Section 9-301), and of the 68 permitted uses only 1 will be required (retail sales).

The applicant is proposing to use the property for overflow parking and storage of building materials used for business purposes and plans to fence and landscape the property to meet all the zoning regulations and to keep the rapport with the neighbors.

The applicant understands that if the Planning Commission recommends approval of this application, there might be some limitations of uses as a C-3 General Commercial District. Staff recommends approval of the rezoning at 309 State Street from an R-1 to C-3 with conditions added that limit the uses of the subject property to: retail sales and retail services.

Adding supplemental requirements to this request could help protect the surrounding property, the neighborhood and the zoning jurisdiction now and in the future. By making the requirement more stringent it will protect the public health and safety of the community, as well as allow the applicant to use the subject property as they need.

Member Bucklinger asked if the proposed usage, storage, is it consistent with a retail sales zoning. Mr. Foster replied that it would be consistent with storage and the material that would be stored there, such as rock and gravel, would be used in the foundation repairs sold to consumers. Member Bucklinger asked if there would be restrictions on the type of material stored at the location. Mr. Foster replied there would be limitations.

Member Wade if there would be fencing required. Mr. Foster replied that a fence with at least 80% screening would be required.

Being no further questions, the Public Hearing portion was opened.

Public Hearing:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

Max Burnham, 314 Neosho Street, addressed the Board. He explained, the materials used in their business would be stored on the lot but would not be used in a retail type setting. The lot would be fenced on 3 sides and there will not be access from State Street.

Member Wade asked the applicant if there were any future plans to have a structure on the lot. Mr. Burnham explained that he already owns other property in the surrounding area and he is not planning on adding anything to 309 State Street.

Being no further comments, the Public Hearing portion was closed.

Member Sauder voiced his concern regarding the type of allowable uses under the C3 zoning and asked if a CUP would be appropriate for this request. Mr. Foster did not think a CUP would be needed or work for the requested zoning change but he felt the Board could attach limitations to their motion if they chose to approve the zoning change. Member Bucklinger also spoke of the same concerns with future owners & the useage available with a C3 zoning.

Member Sauder moved to approve Application 2016-07, request to change 309 State St. from R-3, High Density Residential District to C-3, General Commercial, based upon Staff's recommendations with conditions added that limit the uses of the subject property to: retail sales and retail services. Member Springeman seconded. Motion approved 8-0.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN AREA IN THE CITY OF EMPORIA, KANSAS FROM R3, HIGH DENSITY RESIDENTIAL DISTRICT TO C3, GENERAL COMMERCIAL DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from R3 High Density Residential District to C3, General Commercial District to wit:

LOT 147 ON STATE STREET IN THE CITY OF EMPORA, LYON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF.

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this _____ day of _____, 2016.

ROBERT F. GILLIGAN, Mayor

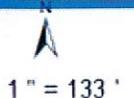
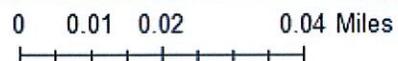
ATTEST:

KERRY SULL, City Clerk

309 State St: Rezoning



DATA IS NOT SURVEY ACCURATE



309 State: Looking Northeast



309 State: Northwest corner



AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 12

SUBJECT:

APPLICATION 2016-09. A request of Thomas Corporation of Kansas to annex property at 24 S. Prairie Street into the City of Emporia.

RECOMMENDATION:

At their May 24, 2016 regular meeting, the Planning Commission voted 9-0 to recommend approval of the annexation as it is consistent with the Future Use and Comprehensive Plan it is a normal extension of the community.

BACKGROUND SUMMARY

The applicant is requesting to annex a portion of the property located at 24 S. Prairie St. This property is contiguous with the City of Emporia. The annexation will clean up boundary lines, and bring the remainder of the storage facility into the city limits. The property was given a LOMA, a letter of map amendment from the Federal Emergency Management Agency, in 2010, as it is in a floodplain.

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Planning Commission Minutes Excerpt, Map, Ordinance

Excerpt of the Map 24, 2016 Planning Commission Meeting minutes:

The Planning Commission met in regular session on Tuesday, May 24, 2016, with Chair Thomas presiding. Members Bucklinger, Fowler, Miller, Pontius, Sauder, Springeman, Wade and Rech were present.

APPLICATION 2016-09. A request of Thomas Corporation of Kansas to annex property at 24 S. Prairie Street into the City of Emporia.

Staff confirmed jurisdiction over this application.

No ex parte communication was declared.

Staff Report:

The applicant would like to annex their property to clean up boundary lines, and bring the remainder of the storage facility into the city limits. The applicant is proposing additional storage units to be constructed on the property. The proposed use is consistent with the comprehensive plan and this annexation is contiguous with the city limit line. The property was give a LOMA, a letter of map amendment from the Federal Emergency Management Agency, in 2010. Staff recommends approval since it is a normal extension of the community.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

With no further discussion, the public hearing portion is opened.

With no further discussion, the public hearing portion is closed.

Member Sauder moved to approve Application 2016-09, to annex property at 24 S. Prairie St. into the City of Emporia, based upon Staff recommendation. Member Pontius seconded. Motion approved 9-0.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The boundary of the City of Emporia, Kansas is hereby extended to include the following described land and such land is hereby annexed into the City of Emporia, Kansas:

A tract in the Southwest quarter of Section 16, Township 19 South, Range 11 East of the 6th P.M., Lyon County, Kansas; being more particularly described as follows:

Commencing at the Northwest corner of said SW¼;
Thence S. 00°00'00" E. on an assumed bearing along the West line of said SW¼ for a distance of 670.00 feet;
Thence S. 89°04'34" E. for a distance of 230.03 feet to a point 230.00 feet East of the West line of said SW¼, and the True Point of Beginning;
Thence N. 00°00'00" E. parallel with said West line for a distance of 312.69 feet;
Thence N. 89°14'33" E. for a distance of 74.97 feet;
Thence S. 00°03'57" W. for a distance of 314.88 feet;
Thence N. 89°04'34" W. for a distance of 74.61 feet to the True Point of Beginning.
Containing 0.54 acres.

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this _____ day of _____, 2016.

ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk

**Aerial/ Location map
24 S. Prairie Street**



AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 13

SUBJECT:

APPLICATION 2016-10. A request of Mid-Kansas Properties, LLC, Stephen L. Sauder, to change the zoning status of a portion of the property approximately located on W. 30th Ave., between Hidden Lakes and Crestview Six subdivisions, from R3, High Density Residential District to R1, Low Density Residential District, as authorized by Article 26-1 of the Zoning Regulations. (The same application also considered a preliminary plat).

RECOMMENDATION:

At their May 24, 2016 meeting, the Planning Commission voted 8-0 to recommend approval of the application as it will encourage housing that is consistent with surrounding properties and it is compatible with the proposed future use of the Comprehensive Plan.

BACKGROUND SUMMARY

The applicant is requesting rezoning from R3 High Density Residential District to R1, Low Density Residential District, to allow for single family homes that will be consistent with the area and the comprehensive plan.

The subject properties consist of 26 acres. The adjacent properties are zoned R1 Low Density Residential. The Future Land Use Map in the Comprehensive Plan identifies the subject properties as R1 Low Density Residential. The applicant is proposing single family lots within a 3 phase subdivision.

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Planning Commission Minutes Excerpt, Map, Ordinance

Excerpt of the May 24, 2016 Planning Commission Meeting:

The Planning Commission met in regular session on Tuesday, May 24, 2016, with Chair Thomas presiding. Members Bucklinger, Fowler, Miller, Pontius, Sauder, Springeman, Wade and Rech were present.

Application 2016-10. A request of Mid-Kansas Properties, LLC, Stephen L. Sauder, to change the zoning status of a portion of the property approximately located on W. 30th Ave., between Hidden Lakes and Crestview Six subdivisions, from R3, High Density Residential District to R1, Low Density Residential District, as authorized by Article 26-1 of the Zoning Regulations. Additionally, the applicant is also requesting a Preliminary Subdivisions Plat as authorized by Article 6-201 of the Subdivision Regulations.

Staff confirmed jurisdiction over this application.

No ex parte communication was declared.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

Member Sauder recused himself since he is one of the applicants.

Staff Report:

- **Preliminary Plat Application:**

The application for the Preliminary Plat would make the proposed parcels useable and consistent with other properties in the area. The Zoning Department had multiple meetings with the applicant and the BG Consultants to discuss this project. Additionally, the Utility Advisory Board met May 11, 2016, and approved the plat with the shown easements and setbacks.

The Plat consists of 59 buildable lots for single family dwelling (as part of 3 phases). The lot sizes range from 9,283 sq ft (lot 22) to 28,563 sq ft (lot 43). Rollback curb and cutter is proposed as well as sidewalks on one side of each street.

For Phase 1, Utility Easements (UE) boarder the west side on Lots 1 through 12 and also include a Pedestrian Easement (PE) on Lots 5,6,9,11. There is also a Pedestrian Easement between Lots 2 and 3, and 5 and 6, and Lots 9 and 10 have a UE between them but not a PE.

A Westar Easement runs through a portion of the development as shown of the site plan. The Easement borders Lots 59 to 55, Lots 39-34, and Lots 29-31. There is currently an existing 12" raw waterline that is being proposed to be moved within the Westar Easement.

Section 4-501.c. of the Subdivision Regulations states the following concerning drainage easements:

Drainage Easements. If a subdivision is traversed by a watercourse, drainage way or channel then a storm water easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of the natural watercourse and shall be of such width or construction, or both, as may be necessary to provide adequate storm water drainage and for access for maintenance thereof. Parallel streets or parkways may be required in connection therewith. The engineer having jurisdiction shall make a study and report his or her recommendation to the Planning Commission as to the desired width of such easement. Such study and report shall be based on the one hundred year flood depth (if known). Maintenance of storm water easements and drainage right-of way shall be the responsibility of the owners of property adjoining such easements or right-of-way.

It is Staffs understanding that there will be an agreement between the HOA's and property owners for use of surrounding detention areas.

- **Rezoning Application**

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

Changing the zoning from an R-3 to a R-1 would be consistent with surrounding uses, and compatible with the proposed future use of the Comprehensive Plan. Staff recommends approval of the Preliminary Plat to subdivide the property and conform to the Subdivision Regulations Section 6-301. Staff also recommends approval for the zoning change for an R-3 to a R-1, as it is a consistent use with neighboring properties. Staff recommends approval of the Rezoning Application, as it will encourage housing that is consistent with surrounding properties and it is compatible with the proposed future use of the Comprehensive Plan.

With no further discussion, the public hearing portion is opened.

Jamie Sauder, 2407 Twin Lakes Dr., spoke on behalf of the applicant. Mr. Sauder, a real estate agent, has been working on this project for over 2 years. The project was driven by a severe housing shortage, not just in this community but nationwide, and has exhausted buildable lots. Mr. Sauder gave a scenario of the city attracting a large employer to the area only to lose out to the possibility due to limited available housing.

Mr. Sauder explained that they have worked to design the lots to have a wider appeal, such as larger lot sizes, which would hopefully avoid the need to come before the Board of Zoning Appeals for any variances.

With no further discussion, the public hearing portion is closed.

Member Miller moved to approve Application 2016-10, to change a portion of the property located on W. 30th Avenue, between Hidden Lakes and Crestview Six subdivisions from R-3, High Density Residential to R-1, Low Density Residential and the request of a Subdivision Plat, based upon Staff recommendation and it appears to be in the best interest of the community. Member Wade seconded. Motion approved 8-0.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN AREA IN THE CITY OF EMPORIA, KANSAS FROM R3, HIGH DENSITY RESIDENTIAL DISTRICT TO R1, LOW DENSITY RESIDENTIAL DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from R3 High Density Residential District to R1, Low Density Residential District to wit:

A tract of land located in the North Half of the Northeast Quarter of Section 5, Township 19 South, Range 11 East of the 6th P.M., in the City of Emporia, Lyon County, Kansas, more particularly described as follows:

Commencing at the North Quarter Corner of said Section 5; thence along the North line of said Northeast Quarter of Section 5

N. 88°32'02" E. 385.63 feet; thence perpendicular to the North line of said Northeast Quarter of Section 5 S. 01°27'58" E. 40.00 feet to the Point of Beginning, also being the Northeast Corner of Hidden Lakes Subdivision, a subdivision in the City of Emporia, and on the South Right of Way line of 30th Avenue, a public street in the City of Emporia; thence along the South Right of Way line of said 30th Avenue, being parallel with and 40 feet South of the North line of said Northeast Quarter of Section 5

N. 88°32'02" E. 272.61 feet to the Northwest Corner of Hidden Mesas 2, a subdivision in the City of Emporia; thence along the West line of said Hidden Mesas 2 the following four courses:

1) S. 01°27'14" E. 25.08 feet

2) S. 09°35'14" E. 222.94 feet

3) S. 35°22'01" E. 68.88 feet

4) S. 20°49'43" W 124.45 feet to the Southwest Corner of said Hidden Mesas 2; thence along the South line of said Hidden Mesas 2

S. 72°01'50" E. 129.61 feet to the Southeast Corner of said Hidden Mesas 2; thence along the East line of said Hidden Mesas 2

N. 17°59'55" E. 59.93 feet; thence along the South Right of Way line of Crestview Drive, a public street in the City of Emporia

S. 72°00'56" E. 60.00 feet to the Southwest Corner of Lot 27, Crestview Lakes Sixth Addition, a subdivision in the City of Emporia; thence along the Southwesterly line of said Crestview Lakes Sixth Addition the following five courses:

1) S. 75°30'53" E. 70.09 feet

2) S. 66°05'26" E. 176.43 feet

3) S. 47°59'07" E. 150.00 feet

4) N. 53°05'29" E. 41.67 feet

5) S. 35°42'19" E. 151.18 feet to the Southerly Corner of Lot 22 of said Crestview Lakes Sixth Addition; thence along the Southwesterly Right of Way line of said Crestview Drive

S. 57°42'34" E. 64.71 feet to the Northwest Corner of Lot 21 of said Crestview Lakes Sixth Addition; thence along the Southerly line of said Crestview Lakes Sixth Addition the following four courses:

1) S. 35°42'19" E. 120.00 feet

2) N. 54°17'41" E. 78.47 feet

3) N. 88°48'17" E. 123.28 feet

4) S. 53°42'17" E. 68.38 feet to the Southerly Corner of Lot 18 of said Crestview Lakes Sixth Addition, also being the Westerly Corner of Lot 3, Crestview Lakes Fourth Addition, a subdivision in the City of Emporia; thence along the Southerly line of said Crestview Lakes Fourth Addition

S. 53°42'17" E. 275.20 feet to the South corner of said Crestview Lakes Fourth Addition, also being a point on the West line of Crestview Lakes Second Addition, a subdivision in the City of Emporia; thence along the West line of said Crestview Lakes Second Addition

S. 37°48'58" W. 228.76 feet to the Southwest Corner of said Crestview Lakes Fourth Addition, also being a point on the South line of the North Half of said Northeast Quarter of Section 5; thence along the South line of the North Half of said Northeast Quarter of Section 5, also being the North line of Grandview Addition, a subdivision in the City of Emporia

S. 88°32'09" W. 451.06 feet to the Center Corner of said Northeast Quarter of Section 5; thence continuing along the South line of the North Half of said Northeast Quarter of Section 5

S. 88°41'30" 1309.04 feet to the Southeast Corner of Lot 12 of said Hidden Lakes Subdivision, said point being N. 88°41'30" E. 10.86 feet from the West Quarter Corner of said Northeast Quarter of Section 5; thence along the East line of said Hidden Lakes Subdivision the following four courses:

1) N. 34°31'11" E. 382.58 feet

2) N. 01°39'13" W. 325.87 feet

3) N. 19°52'38" E. 284.29 feet

4) N. 07°21'15" E. 312.51 feet to the Point of Beginning, containing 26.74 acres.

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this _____ day of _____, 2016.

ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 14

SUBJECT: Public Hearing for the Creation of a Community Improvement District for Emporia Pavilions Project.

RECOMMENDATION: Conduct Hearing

BACKGROUND SUMMARY:

The City Commission will conduct a Public Hearing on the establishment of a Community Improvement District (CID) for the Emporia Pavilions Project as required by Kansas Law. After receiving any public comment the Commission should make a motion to close the hearing.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

RESOLUTION NUMBER 3581

A RESOLUTION TO PROVIDE NOTICE OF A PUBLIC HEARING ON THE ADVISABILITY OF CREATING EMPORIA PAVILLONS COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive, as amended (the "Act"), authorize the governing body of any municipality to adopt an ordinance establishing a community improvement district ("CID") after receipt of a proper petition and holding a public hearing thereon;

WHEREAS, on April , 2016, the petition to establish the Emporia Pavilions Community Improvement District was filed with the City Clerk (the "City Clerk") of the City of Emporia, Kansas (the "City");

WHEREAS, the petitioners request the formation of a CID for the purpose of financing project costs eligible for reimbursement pursuant to the Act (the "Project") within the District;

WHEREAS, the cost of the Project is estimated to be \$36,836,951 with \$3,000,000 financed through CID revenues over the life of the district;

WHEREAS, the petitioners propose financing the eligible Project costs through pay-as-you-go financing; and;

WHEREAS, the petitioners propose levying a one-percent (1.0%) community improvement district sales tax on retail sales within the district;

WHEREAS, a boundary map of the proposed District is attached hereto as Exhibit A;

WHEREAS, the legal description of the proposed district is attached hereto as Exhibit B; and

WHEREAS, pursuant to the Act, on June 15, 2016, the Board of Commissioners will hold a public hearing on the advisability of creating or modifying the proposed Emporia Pavilions Community Improvement District.

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners of the City of Emporia, Kansas:

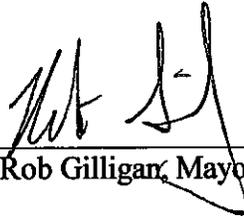
1. That the City Commission shall hold a public hearing on the advisability of creating the Emporia Pavilions Community Improvement District in Emporia, Kansas on the 15th day of June, 2016 at 7:00 p.m., in the Municipal Court Room/City Commission Room located at 518 Mechanic Street, Emporia, Kansas.

2. That the City Clerk shall cause notice of the public hearing to be published at least once each week for two consecutive weeks, with the second publication occurring at least seven days prior to the hearing, in the newspaper.

3. That the City Clerk shall cause notice of the public hearing to be sent by certified mail to all owners within the proposed district at least ten days prior to the hearing.

4. That this resolution shall be in full force and effect from and after its adoption.

Adopted by the Board of Commissioners and signed by the Mayor this 4th day of May, 2016.


Rob Gilligan, Mayor

(SEAL)

ATTEST: 
Kerry Sull, City Clerk



EXHIBIT A

MAP OF COMMUNITY IMPROVEMENT DISTRICT

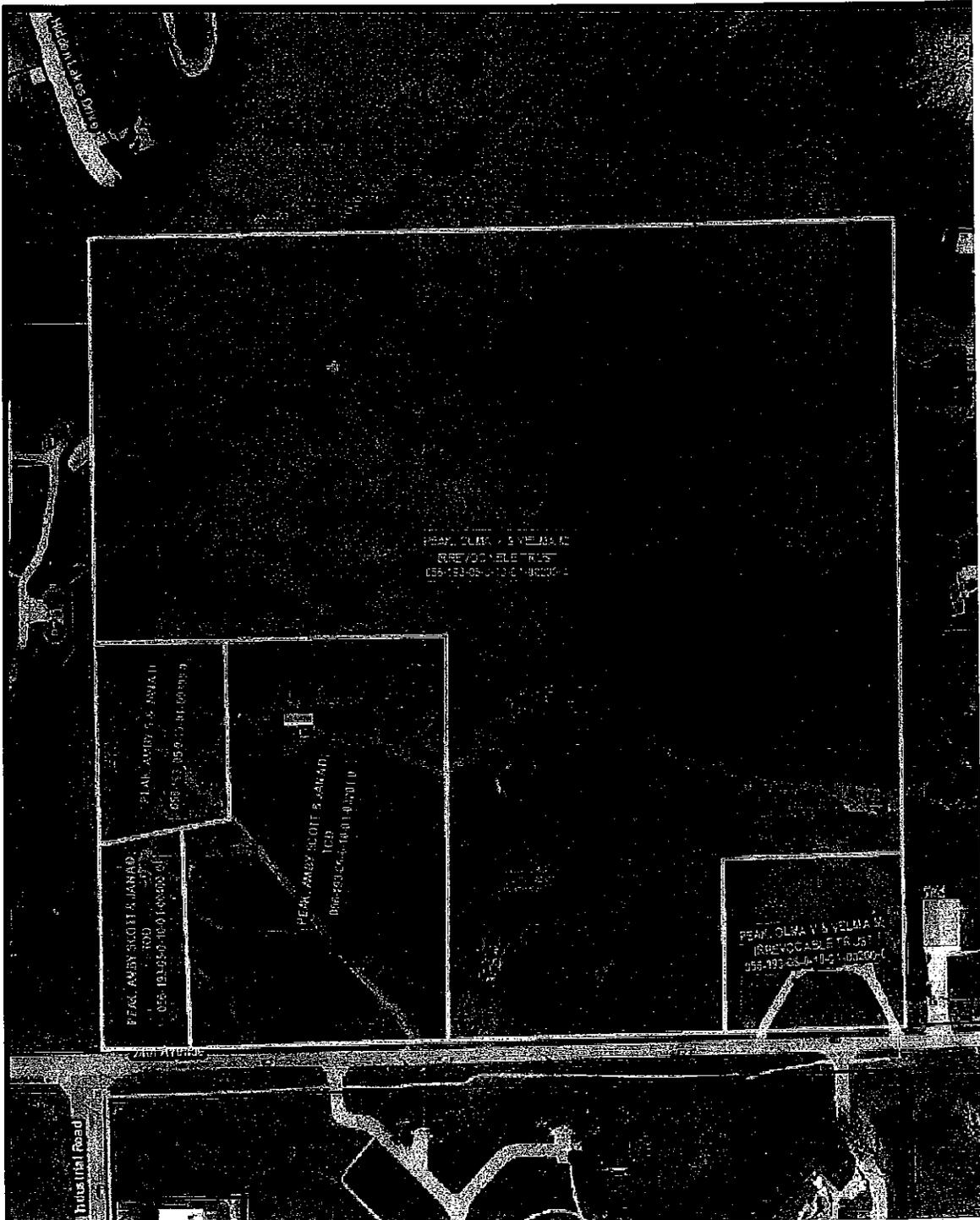


EXHIBIT B

LEGAL DESCRIPTION OF COMMUNITY IMPROVEMENT DISTRICT

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., CITY OF EMPORIA, LYON COUNTY, KANSAS; EXCEPTING THEREFROM THE SOUTH 30 FEET FOR RIGHT OF WAY FOR 24TH AVENUE. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF THE SW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SAID SECTION 5;

THENCE N.01°26'44"W. (BASIS OF BEARINGS) ON THE WEST LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 30 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N.01°26'44" ON SAID WEST LINE FOR A DISTANCE OF 1289.80 FEET TO THE NW CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

THENCE N.88°41'35"E. ON THE NORTH LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1320.04 FEET TO THE NE CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

THENCE S.01°29'54"E. ON THE EAST LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1287.71 FEET TO A POINT 30 FEET NORTH OF THE SE CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

THENCE S.88°36'08"W. PARALLEL WITH THE SOUTH LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1321.22 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 39.07 ACRES.

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 15

SUBJECT: Ordinance Creating a Community Improvement District for the Emporia Pavilions Project.

RECOMMENDATION: Mayor Sign Ordinance

BACKGROUND SUMMARY:

The attached Ordinance creates the Community Improvement District for Emporia Pavilions Project and set forth the legal requirements necessary to implement the CID thru the Kansas Department of Revenue. The Ordinance was prepared by Mary Carson at the City Staff and in conjunction with the attorneys for the Emporia Pavilions Project.

The Ordinance also has a clause approving the attached development agreement which received approval subject to the CID Ordinance being adopted at the April 20, 2016 City Commission Meeting.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

(Published in the *Emporia Gazette* on June __, 2016)

ORDINANCE NO. ____

AN ORDINANCE CREATING THE EMPORIA PAVILIONS COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF EMPORIA, KANSAS AND AUTHORIZING THE LEVY OF A COMMUNITY IMPROVEMENT DISTRICT RETAILERS' SALES TAX TO BE COLLECTED WITHIN THE DISTRICT

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Emporia, Kansas (the "City") is authorized to create community improvement districts in the City for economic development purposes and for any other purpose for which public money may be expended; and

WHEREAS, on April 26, 2016 a petition (the "Petition") was filed with the City Clerk by the owners of record of 100% of the property in a proposed community improvement district (the "Petitioners"), requesting (i) the creation of a community improvement district under the Act to be known as the Emporia Pavilions Community Improvement District (the "CID"), (ii) the construction of the Project as described in the Petition and authorized by the Act, and (iii) the imposition of a community improvement district sales tax within the CID in the amount of one percent (1.0%) to pay a portion of the costs of the Project (the "CID Sales Tax"); and

WHEREAS, the Petition is signed by the owners of record of 100% of the land area within the proposed CID, and by owners collectively owning 100% by assessed value of the land area within the proposed CID; and

WHEREAS, pursuant to the Act and Resolution No. 3581 and after providing notice of hearing as required by the Act, a public hearing on the creation of the CID and the imposition of the CID Sales Tax was opened on June 15, 2016 and all interested parties were given an opportunity to be heard; and

WHEREAS, the governing body of the City finds and determines it is in the best interest of the City and in furtherance of the purposes of the Act to create the CID and authorize levy of the CID Sales Tax.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS:

SECTION 1. Creation of District. The CID is created within the City and shall be designated the Emporia Pavilions Community Improvement District. The legal description of the CID is attached as **Exhibit A** and the boundaries of the District are depicted on the map attached as **Exhibit B**.

SECTION 2. Project and Project Costs. The Project as defined below is authorized and described as follows: the commercial development of approximately 39.07 acres of real property

located generally on the north side of 24th Avenue in Emporia, Kansas. The Project will consist of the construction of a large commercial development, which is planned to at full build-out feature over 258,300 square feet of commercial space dedicated to a mix of national level retailers, other large and small scale retail, restaurants, and associated commercial uses, and will include planned street improvements and infrastructure improvements (including utilities).

The governing body approves the total estimated cost of the Project of \$36,836,951 and the total estimated cost of the Project to be financed by the CID Sales Tax of \$6,069,235. The estimated amount expected to be reimbursed from the CID Sales Tax revenue stated in the preceding sentence shall not be deemed a limitation on reimbursement and revenues of the CID Tax may be used to reimburse the Developer or the City, as applicable, for additional City administrative fees and other City expenses or other qualifying costs of the Project.

SECTION 3. Method of Finance. The portion of Project cost to be financed from revenues of the CID Sales Tax will be funded on a pay-as-you-go basis, as defined in the Act. No special assessments will be levied under the Act and no bonds of the City will be issued.

SECTION 4. Levy of Sales Tax. Pursuant to the Act, a one percent (1.0%) retailers' sales tax shall be levied within the CID on the selling of tangible personal property at retail or rendering or furnishing of services taxable under provisions of the Kansas retailers' sales tax act, as amended. The imposition of the CID Sales Tax shall begin on April 1, 2017 or any other effective date the City may approve by ordinance if a change in the effective date of the CID Sales Tax is requested by the Petitioners or owners of land within the CID and such date is approved by the Kansas Department of Revenue. The CID Sales Tax shall be administered, collected by the Kansas Department of Revenue, subject to the provisions of K.S.A. 12-187 *et seq.*

SECTION 5. Development Agreement and Other Actions. The implementation of the CID authorized by this ordinance is subject to terms of the Emporia Pavilions Tax Increment Redevelopment District and Community Improvement District Development Agreement between the City and Emporia Land Development, LLC, the developer of the Project (the "Development Agreement"). The Development Agreement, in substantially the form presented to the governing body with this ordinance, is approved and the Mayor and City Clerk are authorized to execute the Development Agreement on behalf of the City, with such non-substantive changes as they may approve, and such officials along with other officials and employees of the City, are further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after passage by the governing body and publication one time in the official City newspaper. When this Ordinance becomes effective, the City Clerk shall provide a certified copy of the ordinance to the Kansas Department of Revenue – Director of Taxation. This Ordinance shall also be recorded in the office of the Lyon County Register of Deeds, as required by the Act.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by vote of the governing body of the City of Emporia,
Kansas on June 15, 2016.

CITY OF EMPORIA, KANSAS

[Seal]

By _____
Rob Gilligan, Mayor

ATTEST:

By _____
Kerry Sull, City Clerk

EXHIBIT A

(Legal Description of Emporia Pavilions Community Improvement District)

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., CITY OF EMPORIA, LYON COUNTY, KANSAS; EXCEPTING THEREFROM THE SOUTH 30 FEET FOR RIGHT OF WAY FOR 24TH AVENUE. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF THE SW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SAID SECTION 5;

THENCE N.01°26'44"W. (BASIS OF BEARINGS) ON THE WEST LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 30 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N.01°26'44" ON SAID WEST LINE FOR A DISTANCE OF 1289.80 FEET TO THE NW CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

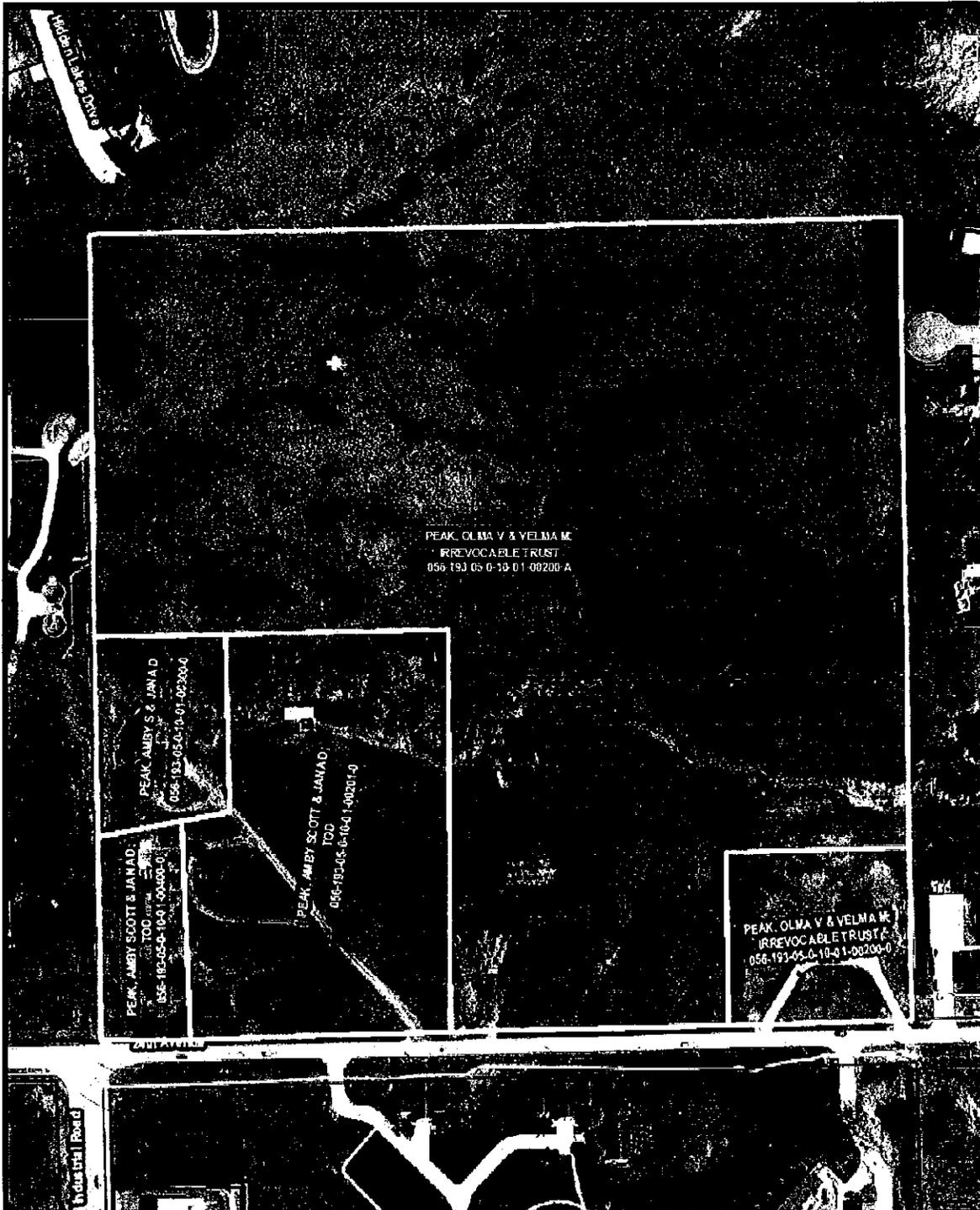
THENCE N.88°41'35"E. ON THE NORTH LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1320.04 FEET TO THE NE CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

THENCE S.01°29'54"E. ON THE EAST LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1287.71 FEET TO A POINT 30 FEET NORTH OF THE SE CORNER OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$;

THENCE S.88°36'08"W. PARALLEL WITH THE SOUTH LINE OF SAID SW $\frac{1}{4}$ NE $\frac{1}{4}$ FOR A DISTANCE OF 1321.22 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINING 39.07 ACRES.

EXHIBIT B

(Map of proposed Emporia Pavilions Community Improvement District)



EXCERPT OF MINUTES

The governing body of the City of Emporia, Kansas, met in regular session at the usual meeting place in the City on June 15, 2016, at 7:00 p.m., Central Time, with Mayor Rob Gilligan presiding, and the following members of the governing body present:

The following members were absent:

The Mayor opened a public hearing on creation of the proposed Emporia Pavilions Community Improvement District and the levy of a sales tax within the proposed district pursuant to public notice given as authorized by Resolution No. 3581. All those persons present to speak to the issue were heard. The Mayor closed the public hearing.

An Ordinance was presented to the governing body an Ordinance entitled:

AN ORDINANCE CREATING THE EMPORIA PAVILIONS COMMUNITY
IMPROVEMENT DISTRICT IN THE CITY OF EMPORIA, KANSAS AND
AUTHORIZING THE LEVY OF A COMMUNITY IMPROVEMENT
DISTRICT RETAILERS' SALES TAX TO BE COLLECTED WITHIN THE
DISTRICT

The Ordinance was considered and discussed; and on motion of _____, seconded by _____, the Ordinance passed by the following vote of the governing body:

Yes:

No:

The Ordinance was assigned No. ____.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the June 15, 2016 meeting of the governing body of the City of Emporia, Kansas.

[Seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 16

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

There will be no June 22nd Study Session

Tentative Agenda for June 29th Study Session

- Discuss CAFR
- Review NON-Personnel Funds

Joint Luncheon w/Library Board

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: June 15, 2016

ITEM NUMBER: 17

SUBJECT: Request to Adjourn Meeting

RECOMMENDATION: Adjourn Meeting

BACKGROUND SUMMARY:

The City Commission request to adjourn meeting to delegate authority to conduct a PMI public hearing related to Presbyterian Manor to the City Clerk to be held on June 22, 2016 at 10:00 a.m.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____