

**COMMISSION MEETING**

**7:00 P.M.**

**JUNE 17, 2020**

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, June 17, 2020, with Mayor Giefer presiding and Commissioners Brinkman, Geitz, Gilligan and Smith present. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

**MAYOR AND CITY COMMISSIONERS REPORTS AND COMMENTS**

This is the time for the Mayor and City Commissioners to make comments and reports to the public. **The following is general information for the month of May for the community:**

1. Monthly Local Retail Sales Tax Receipts Update

	2019	2020	
	\$410,860.15	\$390,244.14	Decrease of \$20,616.01 for the month, and
<b>YTD</b>	<b>\$ 2,011,138.11</b>	<b>\$ 2,024,337.86</b>	Overall increase of 0.66% from year 2019

2. City Share from County Tax

	2019	2020	
	\$ 204,673.02	\$202,076.80	Decrease of \$2,596.22 for month, and
<b>YTD</b>	<b>\$ 992,285.90</b>	<b>\$1,036,884.07</b>	Overall increase of 4.49% from year 2019

3. Building Permits issued from 5/1/2020 to 5/31/2020 for new construction, remodeling, repairs and demolition.

Total number of building permits issued through Code Services:	54
Total of valuations associated with those building permits:	\$ 620,786.00
Total number of dollars collected for Building Permit Fees:	\$ 10,693.38
Construct - single family dwellings	0
Demo - single family dwellings	0

Flint Hills Mall CID for May	\$ 13,866.43
Year to Date Total	\$ 79,568.30

**Consent Agenda**

It was moved by Commissioner Geitz, seconded by Commissioner Smith that the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Regular Meeting held on June 3, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on June 5, 2020.
- c. Consider Change Order No. 1 for Peyton Street Waterline Project.
- d. Consider Change Order No. 1 for 2020 Sidewalk Improvements Project 19Pathg.

The vote follows: Commissioner Geitz, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION**  
**(Public Comment)**

This is the time for the public to make comments. No comments were made at this time.

Skyler Beatty, Xzavier Bryson, and Max Piper, Troop 157, were in attendance to accept certificates for the achievement of the Eagle Scout Rank. Thomas Halleran and Caleb Schmidt, Troop 157, were not in attendance but also recognized for their achievement of the Eagle Scout Rank. The conferring of an Eagle Scout is the highest rank advancement which can be bestowed upon a Scout. Such an award is an earned award in which the recipient must perform and successfully complete the rigid requirements exacted to achieve an Eagle Scout Rank and less than five percent of all registered Scouts actually achieve this goal.

Mayor Giefer presented Skyler Beatty, Xzavier Bryson, Max Piper, Thomas Halleran and Caleb Schmidt their certificates and congratulated all these young men for demonstrating the leadership towards achieving the Eagle Scout Rank.

**CITY COMMISSION**  
**(Appointment to the Fire/Emergency Medical Service Task Force)**  
**(Capital Improvements)**

At a previous study session, it was recommended a task force be created to study capital improvement needs to the Emporia/Lyon county Fire Department and Emergency Medical Service. It was recommended that an elected official from the City of Emporia and Lyon County be appointed to the task force along with a staff person from each entity. The commission suggested possible members for the Task Force could include additional

Fire/EMS staff, representative from a Rural Fire District and the Emergency Communication Center.

Commissioner Gilligan made a motion to appoint Commissioner Jon Geitz as the elected official from the City of Emporia to serve on the Fire/Emergency Medical Service Task Force for Capital Improvements. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

**PLANNING AND DEVELOPMENT**  
**(MAPC Excerpts of Regular Meeting Held 5-19-20)**  
**(Application No. 2020-06 - Request of Scott Strahm)**  
**(Preliminary Planned Unit Development at 2910 W. Hwy 50)**

**Excerpts of the May 19, 2020 Planning Commission Meeting Minutes:**

The Planning Commission met in a regular session on Tuesday, May 19, 2020 with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett, Just, Sauder and Williams were present. Members Springeman and Moore were absent. (This meeting was held via Zoom and on Facebook Live, due to the restrictions in place because of Covid19.)

**APPLICATION 2020-06.** A request of Scott Strahm for approval of a Preliminary Planned Unit Development Application for property on and associated with the address of 2910 W. Hwy 50 and, as authorized by Article 16 of the Zoning Regulations.

Staff confirmed jurisdiction over this application.

No ex parte communication was declared.

**STAFF REPORT:**

**LEGAL DESCRIPTION:** LOTS 13, 14, AND 28 IN LESTER MATLOCK'S 1<sup>ST</sup> ADDITION TO THE CITY OF EMPORIA, LYON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF.

**RECOMMENDATION:** Staff recommends approval of the Preliminary PUD request as it is consistent with the ELC Comprehensive Plan for infill development.

**PUBLIC HEARING:**

This is a request for consideration of a Planned Unit Development located on approximately 2.1 acres. The PUD will consist of both indoor climate

control storage units, as well as outdoor 2 story storage units, north of the existing property. The PUD will be developed as one large tract.

A PUD is a zoning tool that combines the platting process with the land use amendment process. PUD's are designed to join residential, commercial and industrial development into urban locations while protecting existing neighborhoods. Article 16 states it better as, "...to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of the land; and to provide a procedure which relates the type, design and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods".

The PUD district is an overlay zone, which means the zoning currently at the time of an approved PUD will remain, but the additional uses and developments provided in the PUD will be permitted. In this case, the current C-3 Zoning will continue with the land, but a Conditional Use Permit would not be required for the allowance of the storage units.

There are two phases to the PUD, which would be the preliminary phase and the final phase. This application is for approval of the preliminary phase. This portion of the PUD is normally where the public hearing portion is conducted but Mr. Foster requested the Board to consider, if the application is approved, to also allow a public hearing portion for the final phase of the PUD.

The Technical Review Team met May 7, 2020 and discussed the project. At that time, there were no immediate concerns regarding the Engineering, Building Code Services, Fire Department, Community Development, City Management or Planning and Zoning. Engineering did have questions regarding to access and parking but there will be requirements for storm water runoff due to the size of this project and the current infrastructure. The Building Code Services department had not seen a completed set of plans but that does not have much bearing on this application. City Management voiced concern, if this would impact the adjacent neighborhood. As this is the preliminary step, there may need to be modifications made.

The applicant and the project architect had met with city departments previously and discussed the plans at a DRT Meeting in early 2020.

Items concerning lighting, landscaping, and fencing requirement can be solidified for the final PUD, if needed.

Staff has reviewed the PUD and has found it to be compliant with Article 16, Section 16-5 of the Zoning Regulations. Other consideration for the PUD can be reviewed in Article 26, Section 26-108, "Factors to be considered in a rezoning", found in the Zoning Regulations. Staff recommends approval.

Mr. Foster explained, he notices were sent by mail and had been contacted by a property owner inquiring about the application. Following the conversation, he mailed information to the interested property owner but he

did not receive any other feedback.

Member Bucklinger asked, what type of requirements will there be for screening, etc. Mr. Foster replied, screening is always required between a commercial and residential use. Furthermore, he thought there was a fence already in place.

With no further discussion, the Public Hearing was opened.

Scott Strahm, 1554 Road 175, addressed the board. Mr. Strahm spoke of the project being in 3 phases. The first phase would consist of putting climate-controlled storage within the existing building. The second phase would consist of the container concept, directly north of the building (west side of Scott St.). The third phase, which would include the lot on the east side of Scott St., probably won't be happening.

Mr. Strahm spoke of an example of the container concept being used in Wichita for different types of applications. He felt the design by Evergreen Design/Build is very attractive and will enhance the neighborhood.

Member Williams asked about the design of the container units. Mr. Strahm described the units to have 3 foot roll-up doors with 4 units per container. They will be 2 units high.

Member Duncan inquired if the containers would be visually appealing. Mr. Strahm replied, if it doesn't look nice, it's not an asset to him. The containers will be painted so they match the existing building as well as good lightening and security cameras.

Mr. Foster asked if there is a time frame for the project. Mr. Strahm stated, he would like start with the climate-controlled units in the existing building, once approval is given. He would be able to do the containers also.

Mr. Foster explained, the cargo units are not allowed in residential zones but are allowed in commercial and industrial zones as an outright use.

This is a preliminary stage and it will be required to come back to the Planning Commission for their final approval.

With no further discussion, the Public Hearing was closed.

Member Bucklinger asked, what is the timeline and process for the PUD. Mr. Foster explained that this is a 2-step process. The Planning Commission will review the plans and if they approve, the applicant has 18 months to use those plans. If they change the approved plans substantially, they will need to go before the Planning Commission again.

Member Thomas explained, the action of the board at this meeting is to recommend approval, not recommend approval or recommend with amendments, conditions or restrictions.

Member Duncan moved to approve Appliance 2020-06, for a Preliminary Planned Unit Development application for property on and associated with the address of 2910 W. Hwy 50 based on Staff's approval. Member Sauder seconded. Members voiced their vote. Member Bucklinger - Aye, Member Sauder - Aye, Member Thomas - Aye, Member Williams - Aye, Member Duncan - Aye, Member Just - Aye, Member Garrett - Aye. The motion was approved 7-0.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request of Scott Strahm for a Preliminary Planned Unit Development (PUD) to allow standalone onsite storage units made from cargo storage containers as well as inside climate-controlled storage at 2910 W. Hwy 50. He stated the requested use of cargo storage containers, double stacked, to be used a storage units to the north and northwest of the existing building. The applicant will use the existing building for climate-controlled storage. The PUD replaces the need for a Conditional Use Permit or rezoning to allow for storage units. Cargo containers are allowed in Commercial and Industrial Districts. He stated the applicant desires to make these units attractive and will meet all zoning and building code requirements. He stated at their May 19, 2020 regular meeting, the Planning Commission voted unanimously to approve the request. He stated there were no objections from neighboring property owners or the general public.

**PLANNING AND DEVELOPMENT**  
**(Application No. 2020-06 - Request of Scott Strahm)**  
**(Preliminary Planned Unit Development at 2910 W. Hwy 50)**  
**(Ordinance Number 20-16)**

AN ORDINANCE APPROVING THE PRELIMINARY PLANNED UNIT DEVELOPMENT AMENDING THE DISTRICT ZONING MAP TO DESIGNATE A CERTAIN AREA IN THE CITY OF EMPORIA, KANSAS AS A PLANNED UNIT DEVELOPMENT, to which the City Clerk assigned Ordinance Number 20-16, was presented to the Governing Body for their consideration.

Commissioner Geitz made a motion to approve Ordinance Number 20-16, an ordinance approving the Preliminary Planned Unit Development at 2910 W. Highway 50. Commissioner Smith seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION**  
**(Request from Evergreen Design Group and Mark Schreiber)**  
**(Appeal State of Kansas Historic Preservation Office - SHPO)**  
**(713 Commercial Street)**  
**(Public Hearing)**

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request by Evergreen Design Group and Mark Schreiber to appeal the State Historic Preservation Office (SHPO) regarding the property located at 713 Commercial Street. This property is requesting the installation of new windows and making facade updates. SHPO determined that changing the facade and removing the windows did not meet the standards for the rehabilitation of historic properties and would not conform to requirements of the National Register. He stated State statute K.S.A. 75-2724 give the Governing Body the authority to reaffirm or overrule the decision of the Kansas State Historical Society.

Mayor Giefer then declared the public hearing opened.

Justin Mallon, Evergreen Design Group, addressed the Governing Body speaking in favor of changes to the facade and removing the existing windows. He stated the changes would match the store front on 715 Commercial, as the two buildings are identical. Installing aluminum storefront glass on second story facade similar to matching the adjacent building and installing new windows will reduce maintenance and increase energy efficiency.

As no one else in attendance wished to address the Governing Body, Mayor Giefer then declared the public hearing closed.

Commissioner Gilligan made a motion to override the decision of the Kansas State Historical Society and based on all relevant factors that there are no feasible and prudent alternatives to the proposal, and the project includes all possible planning to minimize harm to the historic property located at 713 Commercial Street. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

**CITY COMMISSION  
(Kansas Department of Commerce)  
((CDBG-CV Economic Development/Meals Program)  
(Consider Acceptance of a 2020 Small Cities CDBG-CV Grant)**

Assistant City Manager Massey, was recognized and addressed the Governing Body. He stated the City of Emporia was recently awarded a CDBG-CV economic development grant in the amount of \$167,000.00. The grant award specifies \$132,000.00 will be used for Economic Development/Micro Loan grants and \$35,000.00 will be used for Meal Programs. He stated staff was recommending accepting the 2020 Small Cities Community Development Block Grant, CDBG-CV grant in the amount of \$167,000.00 and authorize the Mayor to sign the appropriate documents and agreements. He stated the following documents and agreements will need to be authorized.

1. A letter announcing the grant award.
2. Grant Agreement No. 20-CV-019 between the City of Emporia and the State of Kansas.
3. The budget for grant Agreement No. 20-CV-019
4. A copy of the Emergency Response - CDBG Application
5. The Employee Certification Form.
6. The Close-out Certificate for Businesses.

Commissioner Geitz made a motion to accept the 2020 Small Cities Community Development Block Grant CDBG-CV Grant in the amount of \$167,000.00 and authorize the Mayor to sign the appropriate documents and agreements. Commissioner Smith seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION  
(City Manager's Report)**

This is a verbal report that announces upcoming events, recognizes employees for outstanding contribution and provides the public information that may be of a general interest. The following information was presented at the meeting:

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

**TENTATIVE AGENDA FOR JUNE 24th STUDY SESSION**

Auditor Present CAFR.

Legislative Update.

Discuss Rural Water District #2.

Lowther South Flashing Light Discussion.

CIP Review of the following Departments: Engineering, Street, Airport, Shop, PWC, Park, Golf and Zoo

**EXECUTIVE SESSION**

Commissioner Gilligan made a motion to adjourn into Executive Session to discuss proprietary information of a potential residential developer and to invite Special Projects Manager Jim Witt from 7:17 p.m. to 7:32 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 7:32 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discuss proprietary information of a potential residential developer and no action was taken.

**EXECUTIVE SESSION**

Commissioner Gilligan made a motion to adjourn into Executive Session to discuss preliminary information related to potential land acquisition, from 7:34 p.m. to 7:44, p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 7:44 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed preliminary information related to potential land acquisition and no action was taken.

**EXECUTIVE SESSION**

Commissioner Geitz made a motion to table an Executive Session to discuss proprietary information of a local business considering expansion. Commissioner Gilligan seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

Commissioner Geitz then made a motion to adjourn. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Brinkman, aye; Commissioner Gilligan, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

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Danny Giefer, Mayor

ATTEST:

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Kerry Sull, City Clerk