

**CITY COMMISSION MINUTES
May 10, 2005**

The Newton City Commission convened in regular session at 7:00 p.m. on May 10, 2005 in the City Commission room at 201 East 6th Street. Attending were Mayor Heck, Vice Mayor Nightingale and Commissioners Harris, Scott and Treaster. Also attending were City Manager Heinicke, City Attorney Myers, City Engineer/DPW Loomis, Director of Finance/City Clerk Ahsmuhs, Community Development Director Johnson, PIO Balzer and Deputy Clerk Duerksen.

Pastor Heide Regier Kreider, Bethel College Mennonite Church, provided the invocation. The Mayor then led in the Pledge of Allegiance to the US Flag and presided over the items of business.

CONSENT AGENDA

1. **Review minutes of April 26, 2005 meeting.**
2. **Consider a Resolution granting Millennium Machine and Tool, a six-month extension on their time to complete their tax abatement application.**

This Resolution extends the time for the completion of certain tax abatement proceedings on behalf of Millennium Machine and Tool, Inc., is assigned Resolution G-924, and is contained in Volume E of General Resolutions.

3. **Consider an application for cereal malt beverage license for Alco as a limited retailer.**
4. **Receive plans and specifications for water and sewer to serve Wheatridge 2nd Addition and set date and time to receive bids (May 24 at 10:00 a.m. is suggested).**

Appointments: Tim Richards reappointment to Recreation Commission, term ending 4-30-2009; Tom Bergquist and Joe Regier appointment to the Building Code Board of Examiners and Appeals, terms ending 4-30-2008.

MOTION: Commissioner Treaster moved and Commissioner Scott seconded to approve the Consent Agenda as presented. Motion carried 5-0.

REGULAR AGENDA

5. **Citizen's Forum.**
 - A. **Receive proclamation declaring the week of May 15-21 as Public Works Week.**

Suzanne Loomis, City Engineer/DPW, read the proclamation declaring the week of May 15-21 as National Public Works Week in Newton.

MOTION: Commissioner Scott moved and Commissioner Treaster seconded to approve the proclamation as presented. Motion carried 5-0.

B. Receive proclamation declaring the week of May 15-21 as National Police Week.

Chief Daily read the proclamation declaring the week of May 15-21 as National Police Week and May 15th as Peace Officer's Memorial Day.

MOTION: Vice Mayor Nightingale moved and Commissioner Treaster seconded to approve the proclamation as presented. Motion carried 5-0.

6. Manager's Update.

- The Kansas Sampler Festival drew over 14,000 visitors to Newton during the two year program. Park staff was commended for having the facilities looking good.
- The PBC met last week and took bids on the Fischer Field parking lot. Kansas Paving was awarded the contract in the amount of \$418,474. The project is to begin May 11.
- The golf course construction is still on target. A golf course management company will be selected with Commissioner Scott representing the Commission in the selection process.
- A mass pharmaceutical tabletop exercise was held with the Harvey County Health Department on May 3.
- Final figures for expenses incurred during the January ice storm were shared. Total expenses were \$832,546, with \$569,182 eligible toward reimbursement from FEMA. If FEMA reimburses these expenses at its 75 percent rate and the State of Kansas contributes its 10 percent, the City of Newton's share of the costs will be \$348,740.
- Chief Denny reported his department had received a Fire Prevention and Safety Grant from FEMA in the amount of \$57,495 for the purchase of a Scotty Fire Safety House. The safety house is a 39-foot trailer with interactive programs to teach the community how to deal with home hazards, inclement weather and fire. The grant is a 90/10 match with the City's share being \$6,300.
- Mayor Heck reported on REAP legislative activity. He also expressed his appreciation to the parks and public works employees for their work with the Sampler Festival.

7. Consider transfer of Axtell Clinic property to the City of Newton from Newton Medical Management.

This item was moved the end of the meeting.

8. Receive recommendation of the Newton/North Newton Area Planning Commission and approve the final plat for Windward Drive Second Addition.

Community Development Director Johnson reported the Planning Commission voted unanimously to recommend approval of the final plat for Windward Park Second Addition contingent upon approval of the drainage plan by the City Engineer. That drainage plan has been approved. The property is located along the south side of Windward Drive, south of Wal-Mart. The property is currently zoned C-2 (General Business District) and will retain this zoning classification.

MOTION: Commissioner Treaster moved and Commissioner Scott seconded to approve the Planning Commission's recommendation and approve the final plat for Windward Park Second Addition. Motion carried 5-0.

9. Consider policy on naming City facilities.

City Attorney Myers addressed each question raised at the last meeting about the naming of City facilities and has placed the guidelines into policy form. He reviewed the document. Commissioners felt the policy was very good and covered all their questions. They will review the document and make a decision at the next meeting.

10. Consider approval of an amendment to the Contract for Hazardous Materials Emergency Response Team.

Chief Denny reviewed the contract agreement entered into with the State Fire Marshall's Office for Newton Fire/EMS to provide staffing for one of 13 Hazardous Materials Emergency Response Teams. The original contract allowed the City to be reimbursed for normal wages. The amended reimbursement will be at the overtime rate for all who respond. Any extra money that differs from the overtime rate and actual personnel expenses will pay for restocking incidental items.

MOTION: Vice Mayor Nightingale moved to approve the amendment to the contract. Commissioner Scott seconded the motion which carried 5-0.

11. Receive update on the Home Address Identification Campaign

Chief Denny reported the Address Identification campaign is underway. There are three phases to the campaign. Flyers detailing this campaign were mailed in the City of Newton's April utility bills. The Post Office will help assist in the Phase 2, auditing. They have agreed to give Fire/EMS personnel a list of residents which do not have the address posted. Phase 3 will be to notify those with no address posting. The objective of the campaign is to enhance response capabilities.

12. Continue discussion regarding a licensing procedure for a temporary event permit for the sale of cereal malt beverages.

Staff is seeking direction from the Commission on whether they support allowing an event permit to sell cereal malt beverages. Dixie Pomeroy with the Saddle Club outlined the Saddle Club's plan for hosting a beer garden at their rodeo. The beer garden would be in a controlled environment. Those wishing to participate would have to show proof of age, would be given an armband, and would only be able to purchase and consume the beer in the roped off area. No alcohol would be allowed in the stands. They would have security in the garden to ensure safety. The Saddle Club believes allowing the beer garden will increase gate sales and they would have to rely less on the local merchants for donations. Commissioners asked about liability and expressed concern about getting pressure to allow beer sales in the parks. City Attorney Myers noted liability issues would fall back on the Saddle Club and their insurance. He also suggested if it was the Commission's wish, to confine the permit to only non-profit groups for isolated events. Vice Mayor Nightingale noted he has worked security at events such as this and said if it is handled properly, it can be done safely.

MOTION: Vice Mayor Nightingale moved to direct staff to proceed with developing a structured Ordinance for a beer garden as described. Commissioner Scott seconded the motion which carried 3-2 with Commissioner Harris and Mayor Heck voting nay.

13. Review in-lieu-of tax alternatives for non-profits seeking revenue bonds.

City Manager Heinicke reported how non-profits had been assessed a fee in-lieu of paying property taxes in past bond issues. Those seeking industrial or health facility bonds have agreed to pay an origination fee since they are exempt from property tax. The amount of such a fee is a percentage of the total bond issue. The bond attorney would calculate the maximum fee allowed for tax exempt bonds and utilize that percentage to determine the origination fee (less than 1%). This amount is added to the bond and remitted at the time of issuance. Most cities do not charge anything to their non-profits. Consensus was to stay with the origination fee.

14. Old business.

City Engineer/DPW Loomis noted the update CIP map in the packet.

Mayor Heck asked for an update on the railroad park. Myers reported the condemnation has been filed and worked out with the railroad. He is working with the owner of the vacant house to get an easement. Loomis noted that once all that is worked out she will file forms with KDOT and then construction could begin. Mayor Heck also noted that he and staff would be meeting with KDOT on May 18 in Topeka to discuss US 50 and Old Main.

15. New business.

City Manager Heinicke received a request from 1st Baptist Church to block off the park entrance at 5th Street to the circle drive on May 11.

MOTION: Commissioner Scott moved and Vice Mayor Nightingale seconded to take up the park closing as a new business item. Motion carried 5-0.

MOTION: Vice Mayor Nightingale moved and Commissioner Scott seconded to grant the request for closure of the entrance to Athletic Park at 5th Street. Motion carried 5-0.

The Commission returned to item #7.

7. Consider transfer of Axtell Clinic property to the City of Newton from Newton Medical Management.

MOTION: Commissioner Harris moved and Commissioner Scott seconded to go into executive session for 10 minutes to discuss matters preliminary to the acquisition of real estate. Motion carried 5-0.

The Commission recessed to executive session at 8:30 p.m. and reconvened at 8:40 p.m.

At the last meeting Steve Kelly presented the City with the opportunity to receive Axtell Clinic as a gift from Newton Medical Management. Of special interest to the City is the accompanying parking lot, valued at \$75,000 to \$100,000. There are several businesses interested in the property. It is not the City's intent to hold onto the property for a long time. Those tenants not associated with Axtell Clinic would be encouraged to stay.

Cindy Bartel, physical therapist, noted she would like to maintain her business activity in that building and would like to have additional space.

Gary Loyd questioned if the expenses of insurance and utilities had been considered should the City take over the building. He was informed that those items have been discussed.

Bill Brown felt this was an excellent opportunity and the City should not turn the building down. It would be a way to put the building back on the tax rolls and put money to work in the City.

MOTION: Commissioner Scott moved to accept the gift of Axtell Clinic from Newton Medical Management subject to a suitable donation agreement being finalized and with the understanding that the doctors

have use of the storage facility for the next two years. Commissioner Treaster seconded the motion which carried 5-0.

16. **Adjournment.**

There being no further business to come before the Commission, the meeting was adjourned at 8:50 p.m.

Mayor

ATTEST:

City Clerk