

CITY COMMISSION MINUTES November 8, 2005

The Newton City Commission convened in regular session on November 8, 2005 at 7:00 p.m. in the City Commission room at 201 East 6th Street. Attending were Mayor Heck, Vice Mayor Nightingale, and Commissioners Harris and Treaster. Also attending were City Manager Heinicke, City Attorney Myers, City Engineer/DPW Loomis, Director of Finance/City Clerk Ahsmuhs, PIO McDaniel and Deputy Clerk Duerksen. Commissioner Scott was going to be late.

Pastor Bill Hickerson of the 1st United Church of Christ 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 October 25, 2005 meeting.**
- 2. North Dillon's project**
 - A. Receive amended petitions for the water line improvements to serve North Dillon's.**
 - B. Consider an amending Resolution finding the project advisable and authorizing the improvements.**

This Resolution finds advisable and authorizes the construction of a water line to serve Water District 2-C and repeals Resolution I-1044. The estimated cost of the improvement is \$99,000 with 93.46% to be paid by the improvement district and 6.54% to be paid by the City at large. This Resolution is assigned I-1046, which is contained in Volume D of Improvement Resolutions.

- 3. Mission Plant chemical mixing improvements:**
 - A. Receive plans and specifications for the Mission Plant chemical mixing improvements.**
 - B. Consider a Resolution finding advisable and authorizing the improvements.**

This Resolution of the City of Newton, Kansas, authorizes improvement to the City public water supply system; and provides for the payment of the costs thereof; and is assigned I-1047 which is contained Volume D of Improvement Resolutions.

- C. Set date and time to receive bids (November 22 at 10:00 a.m.).**

MOTION: Commissioner Treaster moved and Vice Mayor Nightingale seconded to approve the Consent Agenda as presented. Motion carried 4-0.

REGULAR AGENDA

4. Citizen's Forum.

A. Consider a proclamation declaring the week of November 20-26 as National Family Week.

Terry Moller with Youthville presented the proclamation declaring the week of November 20-26 as National Family Week.

MOTION: Vice Mayor Nightingale moved and Commissioner Treaster seconded to approve the proclamation as presented. Motion carried 4-0.

5. Manager's Update.

- The golf course turf equipment bids were reviewed and awarded by the PBC. The maintenance building is nearly complete.
- Staff will be bringing new recycling recommendations to the Commission at the next meeting. This should simplify recycling and allow a larger proportion of waste to be recycled.
- A work session has been scheduled for December 6 at 7:00 p.m. to discuss the City's future financial needs.
- League regional dinners will be held in Hutchinson on November 16.
- Numerous staff members have been presenters at the annual Kansas Clerk's Academy.
- Mayor Heck placed REAP legislative material in Commissioner's mailboxes for their review. REAP will be concentrating on keeping a low fare carrier in Wichita.

6. Consider participation in improvement of Kansas Avenue from Centennial Park to the Sand Creek bridge.

A letter was received from North Newton requesting that the City participate in the paving project of 24th Street to Kansas Avenue. The City would be responsible for paving Kansas Avenue from Centennial Park to the Sand Creek bridge. The City's share of the project would be \$40,300, which is acceptable to staff.

MOTION: Commissioner Treaster moved to indicate participation in the paving of Kansas Avenue from Centennial Park to the Sand Creek bridge. Vice Mayor Nightingale seconded the motion which carried 4-0.

Commissioner Scott entered the meeting at 7:15 p.m.

7. Consider an Ordinance updating and revising the City's alcoholic liquor and cereal malt beverage licensing requirements and regulations to conform with changes made in the State statutes.

An Ordinance amending Chapter IV of the Code of the City of Newton, Kansas, pertaining to regulations and restrictions as to cereal malt beverages and alcoholic liquors; repealing original Chapter IV of the Code of the City of Newton, Kansas; repealing sections 17-227, 17-228, 17-229, 17-230 and 17-231 of the Code of the City of Newton, Kansas; and repealing Ordinance No. 4534-05 was considered. The Legislature made amendments to the Kansas Liquor Control Act. The most significant feature of that legislation was the removal of provisions which had previously caused the Act to not be uniformly applicable to all cities across the State, and the insertion of provisions restricting the nature and scope of local regulations. City Attorney Myers noted one change in the Act which prohibits the possession or consumption of alcoholic liquor on any "public property" unless that property is subject to a specific exemption. A City may exempt from that prohibition any specific property which the City owns. Planning for the new golf course has always included, as an element, the possible marketing of the facilities for private parties or special events, which may include alcohol service of some type. This does not mean that anyone using the golf course may possess or consume alcoholic liquor. Instead, it means a private party of special event could be served by a licensed caterer or the hosts of a private event. The rules and regulations will still need to be established by the Commission for the golf course.

MOTION: Commissioner Treaster moved and Vice Mayor Nightingale seconded that this Ordinance, assigned 4553-05, be approved as presented. Motion carried 5-0. (This Ordinance is contained in Volume X of Ordinances.)

8. Consider sidewalk assistance program.

Erin McDaniel, PIO, presented the sidewalk repair program. Under the program, property owners who have been ordered by the City to repair sidewalks would be eligible to receive \$2.50 per square foot of sidewalk replaced, up to \$500. Property owners also could opt to pay off the cost of repairs over a five-year term, with those costs added to their annual property tax statement. In order to qualify for the cost-sharing and/or special assessment plan, the repairs must be completed by a low-bid contractor determined by the City and must meet City specifications. Any issues caused by tree roots, would be evaluated by the City Horticulturist on a case-by-case basis. The cost of the program would be between \$20,000-\$25,000 per year. Discussion was held regarding the effective date of the program. Staff was directed to make the program retroactive to the latest round of repairs ordered along Walnut. The Commission will make a final determination on the program at the next meeting.

9. 12th Street sanitary sewer rehabilitation project:

A. Receive plans and specifications for the 12th Street sanitary sewer rehabilitation project.

City Engineer/DPW Loomis noted that the City has completed the 10th Street sewer improvements and is now moving to the 12th Street area to make similar improvements. After heavy rain events, runoff was getting into the sanitary sewer system. The City previously had expanded sewer capacity and repaired manholes to prevent stormwater from getting in the sanitary sewer system. An Insituform process in which a plastic liner is inserted into the sewer lines will be done as a final fix.

B. Consider a Resolution finding advisable and authorizing the improvements.

A Resolution of the City of Newton, Kansas, authorizing and providing for the alteration, repair or reconstruction of a sanitary sewer in the City; and providing for the payment of the costs thereof was considered.

MOTION: Commissioner Scott moved and Vice Mayor Nightingale seconded that this Resolution, assigned I-1048, be approved as presented. Motion carried 5-0. (This Resolution is contained in Volume D of Improvement Resolutions.)

C. Set date and time to receive bids (November 22 at 10:00 a.m.).

MOTION: Commissioner Scott moved and Vice Mayor Nightingale seconded to receive bids on November 22 at 10:00 a.m. Motion carried 5-0.

10. Consider action necessary for the SE 14th Street water line project:

A water line to loop the Newton Industrial Park to facilitate water capacity and firefighting capacity was previously authorized. Two easements will be needed to complete this project as well as a pipeline agreement with the Railroad.

A. Consider dedication of easement for SE 14th Street waterline project north of the Union Pacific Railroad.

MOTION: Commissioner Harris moved and Commissioner Scott seconded to approve the dedication of SE 14th Street water line. Motion carried 5-0.

B. Consider a Resolution determining the advisability of acquiring property by eminent domain and directing the preparation of a survey.

A Resolution determining the necessity of appropriating certain private property for use by the City of Newton, Kansas, and authorizing a survey and description of such

property to be prepared and filed with the City Clerk was considered. Staff has visited with property owners Richard and Kathy Hall and made them an offer for the easement. They felt it was not enough money and counter offered a price of \$2,000. Staff noted this price is not unreasonable and suggested the offer be accepted. It is also recommended to move forward with the survey in case the offer is not accepted.

MOTION: Commissioner Harris moved and Commissioner Scott seconded that this Resolution, assigned G-937, be approved and staff be instructed to offer up to \$2,000 to acquire the property for a utility easement. Motion carried 5-0. (This Resolution is contained in Volume E of General Resolutions.)

C. Consider a pipeline agreement with the Union Pacific Railroad Company for access under the tracks.

A Resolution authorizing the execution of an agreement with the Union Pacific Railroad Company in relation to a pipeline crossing under and through property of the Union Pacific Railroad Company in the City of Newton, Kansas was considered.

MOTION: Commissioner Treaster moved and Vice Mayor Nightingale seconded that this Resolution, assigned G-938, be approve as presented. Motion carried 5-0. (This Resolution is contained in Volume D of Improvement Resolutions.)

D. Receive bids and award contract for SE 14th Street waterline extension.

City Engineer/DPW Loomis recommended awarding the bid to the low bidder, Rod's Ditching.

BIDDER	BID AMOUNT
Rod's Ditching	\$135,090.88
Wilk's Inc	\$151,463.75
Middlecreek Corp	\$153,328.00
Dondlinger & Sons	\$159,859.00
Nowak Construction	\$161,323.50
Mies Construction	\$170,694.00
Duling Construction	\$189,376.00
Engineer's Estimate	\$166,972.00

MOTION: Commissioner Scott moved to accept the bids and award the contract to the low bidder, Rod's Ditching, in the amount of \$135,090.88. Commissioner Harris seconded the motion which carried 5-0.

11. Receive bids and award contract for the Sand Creek Station Golf Course clubhouse.

City Engineer/DPW Loomis noted bids were taken in October and all bids were over the original estimate. Staff did some value engineering with the low bidder and looked at different items that could be altered or deducted. The negotiated bid price is \$922,354. Staff recommends awarding the contract for the negotiated bid price to Simpson & Associates Inc.

BIDDER	BASE BID
Simpson & Associates Inc	\$ 967,300
Robl Construction	\$1,005,000
Compton Construction	\$1,208,000

MOTION: Commissioner Scott moved to accept the bids and award the contract for negotiated price to Simpson & Associates Inc. in the amount of \$922,354. Commissioner Treaster seconded the motion which carried 5-0.

12. Receive bids and award contract for water and sewer improvements for North Dillon's project.

Staff recommended awarding the contract to the low bidder, Mies Construction.

BIDDER	BID AMOUNT
Mies Construction	\$ 98,091.50
Nowak Construction	\$108,656.00
Duling Construction	\$122,945.00
Middlecreek Corp	\$125,029.00
Engineer's Estimate	\$108,657.00

MOTION: Commissioner Treaster moved to accept the bids and award the contract to the low bidder, Mies Construction, in the amount of \$98,091.50. Motion carried 5-0.

13. Receive a request for annexation, and consider an Ordinance annexing certain property along North Meridian as per the property owner's request.

City Engineer/DPW Loomis reported she has received a call from Ms. Markee to annex two properties along Meridian into the City. She has also received a request for annexation. At this point the southern property can be annexed but the northern property does not physically adjoin the existing City limits. For non-adjointing tracts, even with a consent annexation, the request will need to go to the County Commission. Staff is having title work done at this point. Commissioners felt it best to just accept the request for annexation and let the County approve the annexation before moving ahead.

MOTION: Commissioner Harris moved and Commissioner Scott seconded to accept the request for annexation. Motion carried 5-0.

14. Old business.

There was no old business.

15. New business.

MOTION: Commissioner Treaster moved Vice Mayor Nightingale seconded to go into executive session to discuss personnel matters for 20 minutes. Motion carried 5-0.

The Commission recessed to executive session at 8:10 p.m. The Commission reconvened at 8:30 p.m. Mayor Heck announced no decisions were made and no action was taken.

16. Adjournment.

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

Mayor

ATTEST:

City Clerk