

CITY COMMISSION MINUTES October 10, 2006

The Newton City Commission convened in regular session on October 10, 2006 at 7:00 p.m. in the City Commission room at 201 East 6th Street. Attending were Mayor Nightingale, Vice Mayor Heck, and Commissioners Harris, Scott and Treaster. Also attending were City Manager Heinicke, City Attorney Myers, Director of Finance/City Clerk Ahsmuhs, Community Development Director Johnson, PIO McDaniel, and Deputy City Clerk Duerksen. City Engineer/DPW Loomis was absent.

Pastor Steve Friesen with Grace Community 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 September 26, 2006 meeting.
2. Consider a Resolution amending and correcting the legal description in prior Resolution No. I-1081.

This Resolution of the City of Newton, Kansas, amends Subsection (c) of Section 1 of Resolution No. I-1081 authorizing the improvement of a portion of Duncan Street within the City of Newton, Kansas, is assigned Resolution I-1083, which is contained in Volume D of Improvement Resolutions.

3. Mayor's appointments - Convention & Visitors Bureau - Ed Griswold, Karen Penner, Chris Tuohey - terms ending 8-31-2008

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

REGULAR AGENDA

4. Citizen's Forum

Virgil Penner, Chamber of Commerce, thanked all the City departments for their help with the Taste of Newton. It was a great success this year.

- A. Receive a proclamation declaring the week of October 15-21, 2006 as National Business Women's Week.

Pat Curtis, representing the Newton Business Women's Organization, read the proclamation declaring the week of October 15-21, 2006 as National Business Women's Week.

MOTION: Vice Mayor Heck moved to approve the proclamation as read. Commissioner Treaster seconded the motion which carried 5-0.

5. Manager's Update.

- The Trail of Two Cities was dedicated at the Taste of Newton. Maps of access trails are available at both city halls.
- HCC has had two visits to the Axtell Clinic building. The project still appears on target.
- The new sales tax approved by voters took effect October 1, 2006.
- The Commission has been invited to attend a dinner and tour of Standridge Color Corporation on October 18 at 4:45 p.m.
- A follow-up annexation hearing was held to see if the City fulfilled their obligations for the Westside annexation. Two parties appeared and expressed appreciation for being annexed.
- Vice Mayor Heck reported REAP has received the money for the fair fares.

6. Employee Recognition of T Walton for Investigator of the Year.

Mayor Nightingale presented an award to T Walton for Investigator of the Year from the National Alliance for Mental Illness and the Disability Rights Center of Kansas for his work on the Kaufman case.

7. Proceedings regarding conditions in the Sunset Mobile Home Park:

- A. **Conduct a public hearing pursuant to Section 7.17 of the Mobile Home Park District regulations to receive evidence and determine whether conditions present warrant the issuance of further orders and directives.**

City Attorney Myers explained the purpose of the public hearing is for the Commission to receive evidence regarding the existing conditions in the Sunset Mobile Home Park. The operator of this park, F & W Development, has been given notice of the proceedings and provided a copy of the inspection reports. After listening to all the evidence, the Commission needs to make findings regarding the violations and set a period of time in which the matters are to be resolved. If violation conditions are not dealt with, the Commission can revoke the mobile home permit. He noted that the owner has to deal with problems that are created by tenants, but ultimately the responsibility falls on the owner.

Mayor Nightingale opened the public hearing at 7:18 p.m. Environmental Inspector Dealy presented evidence of violations at the Sunset Mobile Home Park. Inspections were performed at the property on three different occasions, April 17, 2006, July 26, 2006, and October 4, 2006 and notices of violations sent to the trailer park owner to be corrected. At the last inspection, 20 lots were found to have violations of City ordinance/code. Most of the violations have to do with unkempt premises/nuisance conditions from improper trash storage and disposal practices, tall grass and weeds, inoperable vehicles, minimum housing codes, building code violations and zoning violations. Several of the most serious issues have to do with hazardous electrical wiring at multiple trailers. Between July and October, some violation issues have been addressed and some of the unkempt conditions have been

remedied. Environmental Inspector Dealy noted the electrical violations need to be addressed immediately.

Herb Brackeen, attorney for F & W Development, stated some violations have been addressed. The problem, according to Mr. Brackeen, is the owners of the trailers are on limited incomes and do not have the funds to make some of the repairs. After receiving the last correspondence from Environmental Inspector Dealy, Mr. Weed has retained an electrician to inspect the homes sited for electrical violations in the letter by next Friday. They have given notice to the tenants that they must replace the missing windows and steps. They are doing their best with the funds available. After receipt of the August 26 letter, Mr. Weed has raked and bagged the debris along the fence line and cleaned up by the tree line. A letter has been sent to the owner of lot 37 regarding the dangerous structure. That owner plans to get someone to take care of the violations, and all inoperable vehicles in question have been removed. Mr. Brackeen suggested a timetable of 30 days be given to complete the electrical problems and then an additional 30 days (a total of 60 days) be given to take care of the windows, steps, etc. He asked that the Commission not revoke their permit at this time.

Mayor Nightingale closed the public hearing at 7:50 p.m. and brought the discussion back to the bench. Discussion ensued regarding a timeline for getting the violations taken care of. Commissioners felt 30 days was too much time for the electrical violations to be remedied, and decided those needed to be complete by October 23 at 8:00 a.m. A review hearing on the electrical violations would take place at the October 24 Commission meeting. The other violations would need to be taken care of by November 13, with the hearing on November 14.

B. Consider a Resolution in relation to any adverse findings to direct the elimination of enumerated conditions by a time given.

A Resolution finding certain conditions present within the Sunset Mobile Home Park constitute violations under Section 7.17 of the Zoning Ordinances, and directing the abatement of such nuisances was considered. City Attorney Myers will make the changes to the Resolution as outlined by the Commission and get a copy of that to Mr. Brackeen.

MOTION: Vice Mayor Heck moved and Commissioner Scott seconded that this Resolution, assigned G-962, be approved with a review hearing on the electrical hazards to be held at the October 24 meeting and the review hearing on the other violations be held at the November 14 meeting. Motion carried 5-0. (This Resolution is contained in Volume F of General Resolutions.)

8. Review the fireworks Ordinance and determine dates of sale and discharge for 2007.

An Ordinance establishing certain days and hours during which the retail sale and discharge of certain fireworks shall be permitted within the City of Newton, Kansas, and establishing the amounts of the application fees and performance bonds

required for permits to engage in the retail sale of fireworks in the City of Newton, Kansas, all as provided under Ordinance No. 4226-97 of the City of Newton, Kansas was considered. Making this decision now enables vendors to plan for next year's sales. Next year July 4 falls on a Wednesday. The Commission will need to decide if they want to allow for weekend sales.

Larry Hale, Wholesale Fireworks, noted State law allows sale from June 27 to July 5. They would like as much time as possible for sale. It takes a lot for them to get set up, price merchandise, and then to tear down. If the Commission will not allow the full amount of time for sale and discharge, they would at least like a complete weekend for sale.

Fire/EMS Chief Denny and Police Lt. Murphy each expressed the need for dates of sale and discharge to be the same. Neither department has experienced a lot of problems in the past years regarding fireworks.

MOTION: Commissioner Harris moved and Commissioner Scott seconded that this Ordinance, assigned 4599-06, allowing sales and discharge on June 30 through July 3 from 10:00 a.m. to 10:00 p.m. and on July 4 from 7:00 a.m. to 12:00 midnight with a license fee of \$2,300 and a performance bond of \$1,000 be approved. Motion carried 4-1 with Vice Mayor Heck voting nay. (This Ordinance is contained in Volume Y of Ordinances.)

9. Consider a Resolution authorizing a survey toward the potential acquisition by eminent domain of street right-of-way for the extension of Old Main Street.

A Resolution determining the necessity of appropriating certain private property for use by the City of Newton, Kansas, and authorizing survey and description of such property to be prepared and filed with the City Clerk was considered. This survey authorizes the right-of-way for the extension of Old Main to be surveyed and then it also starts the process should condemnation of the roadway property be needed.

MOTION: Commissioner Treaster moved and Commissioner Scott seconded that this Resolution, assigned G-963, be approved as presented. Motion carried 5-0. (This Resolution is contained in Volume F of General Resolutions.)

10. Old business.

There was no old business.

11. New business.

MOTION: Commissioner Treaster moved to bring up the Buxton CommunityID Report as a new business item. Commissioner Scott seconded the motion which carried 5-0.

The Buxton CommunityID, identifies the community's retail customers and then finds retailers and restaurants that could be a good fit for the customer base. The analysis provides hard data and marketing packages that can be used to recruit those retailers. The program also fits within the City's pledge to use 25 percent of the revenue from the new countywide sales tax for economic development.

MOTION: Commissioner Treaster moved to hire Buxton Corporation to provide an analysis of the Newton community for economic development purposes. Commissioner Scott seconded the motion which carried 5-0.

12. Executive Session - City Manager & City Attorney evaluations.

MOTION: Vice Mayor Heck moved to recess to executive session for the purpose of discussion of personnel matters involving non-elected personnel for one hour. Commissioner Scott seconded which carried 5-0.

The Commission recessed to executive session at 8:15 p.m. The Commission reconvened at 9:15 p.m. Mayor Nightingale announced no decisions were made and no action was taken.

MOTION: Mayor Nightingale moved and Vice Mayor Heck seconded to continue the executive session for another 20 minutes for the same purpose as previously stated. Motion carried 5-0.

The Commission recessed to executive session at 9:15 p.m. The Commission reconvened at 9:35 p.m. Mayor Nightingale announced no decisions were made and no action was taken.

13. Adjournment.

There being no further business to come before the Commission, the meeting adjourned at 9:35 p.m.

Mayor

ATTEST:

City Clerk