

**CITY COMMISSION MINUTES**  
**November 28, 2006**

The Newton City Commission convened in regular session on November 28, 2006 at 7:00 p.m. in the City Commission room at 201 East 6<sup>th</sup> 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, City Engineer/DPW Loomis, Community Development Director Johnson, PIO McDaniel, and Deputy City Clerk Duerksen.

Father Floyd McKinney with Our Lady of Guadalupe 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 November 14, 2006 meeting.
2. Receive financial reports for October 2006.
3. Springlake Addition
  - A. Receive petitions, plans and specs for water and sewer improvements for Springlake Addition.
  - B. Consider a contract for engineering services between the City and MKEC.
  - C. Consider a Resolution authorizing and finding advisable the water improvements to serve Springlake Addition.

This Resolution finds advisable and authorizes the construction of water lines to serve Lots 25-43, Block 2 and Lots 1-31, Block 4, Springlake Addition. The estimated cost of the improvement is \$124,753.35 with 100% to be assessed against the improvement district and 0% to be paid by the City at large. This Resolution is assigned I-1084, which is contained in Volume D of Improvement Resolutions.

- D. Consider an Ordinance creating Water District 19-I.

This Ordinance creates Water District 19-I in the City of Newton, Kansas, is assigned Ordinance 4603-06, which is contained in Volume Y of Ordinances.

- E. Consider a Resolution authorizing and finding advisable the sewer improvements to serve Springlake Addition.

This Resolution finds advisable and authorizes the construction of sanitary sewer lines to serve Lots 22-43, Block 2, Lots 14 & 15, Block 3, Lots 1-38, Block 4 and Lots 59 & 60, Block 4, Springlake Addition. The estimated cost of improvement is \$295,395.85 with 100% to be assessed against the improvement district and 0% to be paid by the City at large. This Resolution is assigned I-1085, which is contained in Volume D of Improvement Resolutions.

**F. Consider an Ordinance creating Sewer District 31-H.**

This Ordinance creates Sewer District 31-H in the City of Newton, Kansas, is assigned Ordinance 4604-06, which is contained in Volume Y of Ordinances.

**G. Set date and time to receive bids (December 19 at 10:00 a.m. is suggested).**

4. Receive an engineering agreement with Ruggles & Bohm for Homewood Lane paving.
5. Mayor's appointments: Tree Board - Donald Rogers & Chris Zuercher, terms ending 4-30-2009.

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

**REGULAR AGENDA**

**6. Citizen's Forum**

There was no one to appear.

**7. Manager's Update**

- Buxton has identified three sites for analysis. They will prepare a psychographic profile of spending habits and rank the sites.
- The Fire/EMS station location and personnel development study has been completed. Mr. McGrath will present the study in January.
- East Broadway should be substantially complete by the second week in December.

The Commission moved to Item #11.

**11. Consider the following actions in relation to the State concealed weapons legislation which will be going into effect on January 1, 2007:**

- A. Consider an Ordinance amending Sec. 10.1.2 of the Uniform Public Offense Code to correct errors in the Code provision regarding employer, property owner and business owner/operator rights to prohibit concealed weapons on their premises.

An Ordinance amending Section 10.1.2 of the Uniform Public Offense Code as adopted by reference pursuant to Section 17-101 of the Code of the City of Newton, Kansas, pertaining to restrictions on the carrying of concealed weapons; and repealing original Section 10.1.2 of the Uniform Public Offense Code was considered. Errors were found in some of the cross-references of the UPOC, and the title of that UPOC section is misleading in terms of what it covers. The Ordinance will serve to correct those errors.

**MOTION:** Commissioner Harris moved and Vice Mayor Heck seconded this Ordinance, assigned 4605-06, be approved as presented. Motion carried 5-0. (This Ordinance is contained in Volume Y of Ordinances.)

**B. Consider an Ordinance prohibiting the carrying of weapons on certain properties owned by the City of Newton.**

An Ordinance establishing prohibitions against the possession or carrying of certain weapons while upon designated property owned by the City of Newton, Kansas was considered.

City Attorney Myers noted he has drafted an Ordinance prohibiting the carrying of weapons on properties owned by the City, but needs Commission direction on whether they wish to impose any such prohibition. Current state statute contains a list of places where a concealed weapon cannot be taken, such as any place the governing body is meeting, libraries, courtrooms, etc. Parks and playgrounds are not included in the statute. They would be a difficult place to enforce such an Ordinance. Ball fields are also not covered, unless it's for a school event. Commissioners discussed the need for such an Ordinance and felt there are too many gray areas to try to enforce. No action was taken on the proposed Ordinance.

**8. Big A Supply**

**A. 7:00 p.m. conduct a public hearing on the issuance of a tax abatement request by Big A Supply in relation to an expansion project of their existing facilities in Newton.**

Mickey Fornaro-Dean, EDC Director, presented the cost benefit analysis for Big A Supply. The net benefit over the next ten years for all taxing entities will be \$228,843. They look to hire seven employees over the next ten years with an average salary of \$28,000. Mayor Nightingale opened the public hearing at 7:30 p.m. There being no one wishing to speak, the Mayor closed the hearing at 7:31 p.m.

**B. Consider a resolution declaring the City's intent to grant a tax abatement to Big A Supply as to the new valuation created through an expansion project of their existing facilities in Newton.**

A Resolution declaring the intent of the governing body of the City of Newton, Kansas, to grant an exemption from ad valorem taxation for certain property proposed to be acquired, improved, expanded and equipped by R & B Leasing, L.C. a Limited Liability Company, doing business as Big A Supply Co., for manufacturing and warehousing purposes was considered.

**MOTION:** Commissioner Treaster moved and Commissioner Scott seconded this Resolution, assigned G-971, granting a tiered tax abatement, be approved. Motion carried 5-0. (This Resolution is contained in Volume F of General Resolutions.)

Commissioner Treaster left the meeting at 7:30 p.m.

**9. Mackey & Sons**

- A. 7:00 p.m. conduct a public hearing on the issuance of a tax abatement request by Mackey & Sons in relation to an expansion project of their existing facilities in Newton.**

Mickey Fornaro-Dean presented the cost benefit analysis for both the 100% abatement and the tiered abatement for Mackey & Sons, Inc. The net benefit over the next ten years for all taxing entities with the tiered abatement would be \$238,300 and with the 100% abatement would be \$134,422. This is the company's first expansion.

Mayor Nightingale opened the public hearing at 7:35 p.m. Mindy Buddy with Mackey & Sons, Inc. noted the company has been in business, in Newton, for 21 years. They build heavy construction equipment including overhead cranes and hoists and work with companies such as Raytheon. Currently they employ 17 and have relocated a number of employees to Newton. They looked at expanding their company in Colorado, but decided to stay in Newton. There being no one else to speak, the public hearing was closed at 7:45 p.m.

It was noted that 100% tax abatements have been granted in the past to Tech-Weld, Millennium Machine and Standridge Color Corporation. Commissioners discussed the pros and cons of granting a 100% tax abatement. Granting the 100% abatement would reward Mackey & Sons, Inc. for their longevity in the community, but it could also set a precedent for other companies wanting to expand. It was also noted that this is economic development and there is a need to take care of our own. The company also has the potential for more growth.

- B. Consider a Resolution declaring the City's intent to grant a tax abatement to Mackey & Sons as to the new valuation created through an expansion project of their existing facilities in Newton.**

A Resolution declaring the intent of the governing body of the City of Newton, Kansas, to grant an exemption from ad valorem taxation for certain property proposed to be improved, expanded and equipped by Mackey & Sons, Inc., for manufacturing purposes was considered.

**MOTION:** Vice Mayor Heck moved and Commissioner Harris seconded the Resolution, assigned G-972, granting a 100% tax abatement, be approved. Motion carried 4-0. (This Resolution is contained in Volume F of General Resolutions.)

**10. Street right-of-way vacation**

- A. 7:00 p.m. Conduct a public hearing on a petition by Community Broadcasting, Inc., for the vacation of the street right-of-way.**

City Attorney Myers presented the petition for vacation of the street right-of-way on the northwest corner of 1<sup>st</sup> and Meridian. The right-of-way is located on the former KJRG lot, which has been purchased by Community Broadcasting. Staff sees no future need for the property. Current utility easements will remain. Mayor Nightingale opened the public hearing at 7:49 p.m. There being no one to speak, the hearing was closed at 7:50 p.m.

- B. Consider adoption of an Ordinance and an Order of Vacation.**

An Ordinance vacating street right-of-way in a portion of the Southeast Quarter of Section 13, Township 23 South, Range 1 West of the 6<sup>th</sup> Principal Meridian, Harvey County, Kansas was considered.

**MOTION:** Commissioner Harris moved and Commissioner Scott seconded this Ordinance, assigned 4606-06, and the Order of Vacation be approved as presented. Motion carried 4-0. (This Ordinance is contained in Volume Y of Ordinances.)

**12. Receive bids and award contract for Wheatridge 2<sup>nd</sup> streets.**

Staff recommends bids be awarded to the low bidder, Kansas Paving.

<b>BIDDER</b>	<b>BID AMOUNT</b>
Kansas Paving	\$362,470.20
Vogts Construction	\$398,354.50
LaFarge North America	\$442,628.95
Cornejo & Sons, Inc.	\$450,839.10
Hi-Plains Sand Inc.	\$478,607.04
Engineer's Estimate	\$446,127.80

**MOTION:** Vice Mayor Heck moved and Commissioner Scott seconded to accept the bids and award the contract to the low bidder, Kansas Paving, in the amount of \$362,470.20. Motion carried 4-0.

**13. Consider a Resolution to submit an application to the Sunflower Foundation for the walking trails project in the City of Newton.**

A Resolution declaring the eligibility of the City of Newton, Kansas, to submit an application to the Sunflower Foundation for use of funds for a walking trails project in the City of Newton, Kansas was considered. PIO McDaniel reported the grant is for a trail from 24<sup>th</sup> Street, south to Autumn Glen. This is a complimentary project to the Safe Routes to Schools program. The total cost of the project is estimated at \$93,000, and the grant amount would be for \$15,000.

**MOTION:** Commissioner Scott moved and Commissioner Harris seconded that this Resolution, assigned G-973, be approved as presented. Motion carried 4-0. (This Resolution is contained in Volume F of General Resolutions.)

**14. Old business**

City Manager Heinicke reported that there is a group from the area attending a KDOT meeting to lobby for a four-lane road on Highway 50.

Community Development Director Johnson reported he received a letter from the Chairman of the Board of Northview stating they would be releasing the CDBG funds back to the City and State. Staff will begin the process to return the grant money to the State.

Mayor Nightingale asked for an update on the soccer fields out by the High School. He was informed that dirt is being moved right now.

**15. New business**

Mayor Nightingale asked staff to look at different ways to provide trash service and to put together a proposal to discuss at the December 12 meeting with Harvey County. Commissioner Scott added since we are looking at buying new equipment, now is the time to look at other options.

**MOTION:** Vice Mayor Heck moved and Commissioner Scott seconded to recess to executive session under attorney/client privilege for 10 minutes. Motion carried 4-0.

The Commission recessed to executive session at 7:57 p.m. The Commission reconvened at 8:07 p.m. Mayor Nightingale announced no decisions were made and no action was taken.

**16 . Adjournment**

There being no further business to come before the Commission, the meeting adjourned at 8:13 p.m.

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Mayor

ATTEST:

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City Clerk