

**CITY COMMISSION MINUTES**  
**September 25, 2007**

The Newton City Commission convened in regular session September 25, 2007 at 7:00 p.m. in the City Commission room at 201 East 6<sup>th</sup> Street. Attending were Mayor Heck, Vice Mayor Nickel, Commissioners Hall, Harris and Thiesen, City Manager Heinicke, City Attorney Myers, Director of Finance/City Clerk Ahsmuhs, City Engineer/DPW Loomis, Community Development Director Johnson, PIO McDaniel, Chief Denny, Lt. Walton and Deputy City Clerk Duerksen.

Pastor Eric Massanari with Shalom Mennonite Church provided the invocation. The Mayor then led in the Pledge of Allegiance and presided over the items of business.

**CONSENT AGENDA**

1. Review minutes of September 11, 2007 meetings.
2. Consider an Ordinance adopting the 2006 Edition of the Uniform Plumbing Code.

This Ordinance amends Sections 6-301 and 6-302 of the Code of the City of Newton, Kansas, to adopt the 2006 Edition of the Uniform Plumbing Code and certain amendments thereto, and repeals original Sections 6-301 and 6-302 of the Code of the City of Newton, as assigned Ordinance No. 4640-07, which is contained in Volume Y of Ordinances.

3. Consider an Ordinance amending Section 10-103 of the Code of the City of Newton to establish right and obligations pertaining to periodic fire safety inspection programs conducted by the Fire/EMS Department.

This Ordinance amends Section 10-103 of the Code of the City of Newton, Kansas, as amended by Section 4 of Ordinance 4498-04, pertaining to the establishment of the Bureau of Fire Prevention in the Newton Fire/EMS Department; repeals original Section 10-103 of the Code of the City of Newton, Kansas, as amended by Section 4 of Ordinance No. 4498-04; and repeals Section 4 of Ordinance 4498-04, is assigned Ordinance 4641-07, which is contained in Volume Y of Ordinances.

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

**REGULAR AGENDA**

4. Citizen's Forum
  - A. Receive Newton High School students with report from their trip to Paraguay.

Mary Bradshaw, teacher at Chisholm Middle School, along with Newton High students Kevin & Megan Leary, Lea Bartel and Phillip Bradshaw shared about their recent experience in Paraguay. They went there through the Kansas/Paraguay Partners.

- B. Consider a proclamation declaring the week of October 7-13 as Fire Prevention Week.

Randall McBee, Fire Marshall, read the proclamation declaring the week of October 7-13 as Fire Prevention Week.

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

**C. Consider a proclamation declaring October 14, 2007 as Newton Night Out.**

Kay Perkins, representing the Newton Citizen Police Academy, read the proclamation declaring October 14 as Newton Night Out.

**MOTION:** Commissioner Thiesen moved and Commissioner Hall seconded to approve the proclamation as presented. Motion carried 5-0.

**D. Receive a request to close Main Street from 5<sup>th</sup> to 7<sup>th</sup> Street on October 27 from 4:00-6:00 p.m. for the Halloween Walk.**

Billi Jo Wilson, Chamber of Commerce, requested the closure of Main Street from 5<sup>th</sup> Street to 7<sup>th</sup> Street on October 27 from 4:00-6:30 p.m. for the Annual Safe Halloween Walk. Closing the street will provide a safe environment for the children.

**MOTION:** Commissioner Hall moved and Commission Thiesen seconded to approve the request to close Main Street as presented, subject to KDOT approval. Motion carried 5-0.

**5. Manager's update**

- PIO McDaniel announced that *US News and World Report* has listed Newton among the best places in the US to retire.
- Community Development Director Johnson reported approximately 60 people gathered to share ideas on Newton and the I-135 corridor. Topics included neighborhood and commercial development standards, transportation, the environment and I-135. Participants supported interconnectivity of neighborhoods and commercial areas, expansion of hike/bike trail system, buffer zones between different land uses, common setbacks, open parking connecting multiple businesses, design guidelines and construction of an elementary school south of US-50. Information gathered will be used in drafting future land use plans for the primary study area.
- Mayor Heck and the City Manager visited with the Senior Center officers last week about their expense ledger. Staff will seek clarification about what services are available to the aging.
- HCCOG is promoting better health for residents. One of the components is a clean air ordinance, which each city in Harvey County is encouraged to adopt.
- A press conference was held earlier in the day to announce a group has secured an option on land in Hesston which could be sold to developers for an ethanol plant.
- Mayor Heck reported the KDOT Committee Policy Committee met and had a presentation on the shortfall of federal money for all states for highway construction. He noted Organization Consultants has sent a questionnaire to each Commissioner, which will need to be returned by October 2. The consultant will be meeting with the Commission the week of October 8 to start creating a profile for the position.

**6. Receive the 2006 Audit Report.**

Jack Blazer, Knudsen Monroe, Co., presented the 2006 audit report. He noted everything was in order and there were no irregularities or violations.

**MOTION:** Vice Mayor Nickel moved and Commissioner Harris seconded to accept the 2006 audit report. Motion carried 5-0.

**7. Consider the proposals for sanitation services.**

Mayor Heck noted six private vendors, plus the City, submitted sanitation proposals. There were three points of importance to the Commission: 1. The collection process should be simple and does not deviate too much from what is currently being done; 2. Recycling stays a high priority; 3. Is it possible to save money by franchising? He then outlined the process that would be followed for this item.

Commissioner Harris distributed the memo Harvey County wrote back in December 2006. She felt the City had gotten off track and questioned if the process reflected the original discussions about the trash collection issue. She noted this decision is not about the cost of recycling, but of the efficiency of the program. She also questioned if the City could keep up with the changing needs or if it would be better to partner with someone to be more efficient and have a win-win situation.

City Manager Heinicke reviewed the solid waste proposals. He noted the goals identified by the Commission: retain the current rate of recycling and minimize disruption of service to the citizens. Other issues that arise when looking at the whole process include the cost of collection, the quality of service, and the risks of losing control of the service. The proposals and the collection expense spreadsheet were reviewed. Heinicke noted the City will have non-collection costs that need to be recaptured. The costs of the Service Center building bonds and electricity will have to be paid. If the Commission does not collect the costs through the sanitation rate, then they will have to be collected through property taxes or some other source.

Heinicke then discussed the inspection process. City employees would have to be out front of the private collectors checking the recycling compliance. This part of the operation cannot be handed off to the vendors and must be performed by the City. The reality is the actual enforcement costs are unknown. If a vendor is great, then the costs could be low. If the vendor is terrible, staff may need constant inspection. Vendors could argue that the enforcement estimate is too high. If the City were to take a flat five percent estimate on the inspection, the City rate would be \$13.37 (enforcement costs are already included in the process), South Central Recycling would be \$10.50, Stutzman Refuse Disposal would be \$13.28 and Inland Service Corporation would be \$14.42. Heinicke then asked if the goals stated by the Commission are better met by a private vendor. He reminded the Commission the City is a leader in the state in recycling. Based on the past performance of the City sanitation department, there is very limited risk of failure with recycling. Other vendors might be able to replicate this experience, but they have not had the opportunity to establish a track record. Continuing City service would result in the least disruption of the routes and service to citizens. Based upon the detailed costs analysis, the City service is the most cost-

effective. Heinicke reminded the Commission this is not a bid process and they are not obligated to take the low bid.

Mayor Heck questioned if a price was set in place for a certain number of years. He was informed there would be adjustments for gas and land fill costs. The contract with a private vendor would be seven years.

Commissioner Harris felt it was important to hear from all the vendors present because they made the effort to come to the meeting. She questioned if a work session could be held to receive more information from the vendors that normally would not be discussed in this environment. City Manager Heinicke asked what further information she felt was needed that was not in the proposals. Commission consensus was to allow each vendor to make a five minute presentation on their proposal.

The Commission moved on to Item #8 to allow the vendor's time to prepare their presentation.

## **8. Planning Commission**

### **A. Receive a request to annex Bunting Magnetics Co. property and consider an Ordinance granting the request.**

Community Development Director Johnson reported the Planning Commission received an annexation request from Bunting Land Company for property located along the east side of Spencer Road, south of Bunting Magnetics Company. The applicant also requested a change of zoning from the current Harvey County A-1 (Agricultural District) classification to an I-2 (General Industrial District) classification. At the September Planning Commission meeting, a public hearing was conducted and at the conclusion thereof, the Planning Commission voted unanimously to approve the request.

An Ordinance including and incorporating certain land within the limits and boundaries of the City of Newton, Kansas was considered.

**MOTION:** Commissioner Thiesen moved and Commissioner Harris seconded to approve the annexation request. Motion carried 5-0. (This Ordinance is contained in Volume Y of Ordinances.)

### **B. Receive the recommendation of the Newton-North Newton Area Planning Commission for the rezoning of property located on South Spencer Road from an A-1 (Harvey County Agricultural) zoning classification to an I-2 (General Industrial District) zoning classification.**

**MOTION:** Vice Mayor Nickel moved and Commissioner Hall seconded to accept the recommendation of the Newton/North Newton Area Planning Commission. Motion carried 5-0.

### **C. Consider an Ordinance granting the amendment.**

An Ordinance amending the official zoning map incorporated by reference in Article II, Section 2.2-1, of the Zoning Ordinances of the City of Newton, Kansas was considered.

**MOTION:** Commissioner Thiesen moved and Commissioner Harris seconded this Ordinance, assigned 4643-07, be approved as presented. Motion carried 5-0. (This Ordinance is contained in Volume Y of Ordinances.)

**9. Consider Requests For Proposals for the Downtown Corridor Redevelopment.**

City Engineer/DPW Loomis noted the Commission held a work session with the Chamber Downtown Design Committee, who presented ideas for the downtown area. From that work session, the Design Committee has refined the needs for the downtown and is now seeking requests for proposals to move forward with a master plan. Loomis has put together a letter along with the proposal details and scope of the project to be sent out. A review committee would look over all the RFP's received and then interview consultants. The Design Committee will then make a recommendation to the City Commission for approval.

Commissioner Harris proposed this issue be tabled until the Commission has had a chance to discuss all the projects going on. She noted the last time a study was done, the plan was not implemented. Loomis informed the Commission a study was done in 1996 and some of the ideas were implemented, but not the whole plan. The downtown area has since been expanded. Community Development Director Johnson also noted that the Commission asked the Design Committee to go back and refine the ideas for an RFP, then bring that back to the City to move forward. At this point, the Commission would not be committing any funds.

**MOTION:** Commissioner Thiesen moved and Vice Mayor Nicked seconded to proceed with the RFP process. Motion carried 4-1 with Commissioner Harris voting nay.

The Commission returned to Item #7.

John Stutzman, Stutzman Refuse Disposal, noted they have been hauling trash since 1957. They also have a history of switching trash service from a local government over to the private sector. They have a good working relationship with Harvey County. Should they get the contract, they would look at combining some of their operations in Newton, which would add to the tax base. He advised the City to put a penalty clause in the contract for not keeping the recycling at the current level.

Monty Davis, Inland Service, noted they have been around for 53 years and they cater only to municipalities. Should they get the contract, they would set up a local office in Newton and would look at hiring the current sanitation staff. They would use new trucks to collect the trash and the City recycling trucks for the recyclables. He stated they take recycling very serious.

Steve Meyer, South Central Recycling, noted he has been in business since 1991. He felt a reduced rate could be given to customers who recycle and noted his bid shows what is possible if the City works with him. He would use the City trucks, plus two trailers and would be very interested in hiring City employees.

Hershel West, Waste Connection, noted his company has been in business for 20 years and they employ 350 people in Kansas and would be interested in hiring City staff. They

would provide a performance bond so if they could not provide the service the City would be reimbursed.

City Engineer/DPW Loomis stated the City has been collecting trash since 1946 and has an efficient, quality service with professional staff. It is the intent of the City to purchase two new automated refuse trucks for trash and then phase in new split body packers over the years for recycling materials. Also bulky waste pickup will be added at no additional cost to residents. The new trucks would not be placed in service until 2008.

Joan Bernowich, 408 East 4<sup>th</sup>, said she gets excellent service from the sanitation department and would hate to see that service go out of town or out of state. She noted that October 12 is the date to thank refuse collectors for the job they do. Each year she places an ad in the newspaper thanking them for their service.

Nate Rice, 209 SW 5<sup>th</sup>, expressed his concern, as a street division employee, with losing the in-house sanitation services. He noted there are a number of intangibles that are not seen. The sanitation department provides services for public events, and plans change at the last minute. He felt this department handles those changes very professionally and did not believe any of the other vendors could handle the changes with the compassion and patience the sanitation department does. He also noted the department represents an emergency work force for the street division. The ice storm of 2005 taxed the street department, and the workers from the sanitation department were used to help that department.

Commissioner Hall asked what the current rate was. Staff noted the rate is \$18.00 and it has been at that level for three years. The rate will have to go up regardless of which way the Commission decides to go. Any rate change must be approved by the City Commission.

Commissioner Harris felt there were discrepancies in the numbers for enforcement. She also wondered what the details might look like if the City partnered with one of the vendors. Staff explained the numbers are based on the number of trucks each vendor would use for collection. The more trucks the vendor has on the route, the more people will be needed for enforcement. That cost is not reflected in the City proposal since enforcement takes place as refuse/recyclables are collected. Loomis noted that it is the City that is most familiar with the process, and while it might look as though staff is putting numbers in for enforcement, it is not.

Following further discussion, Commissioner Thiesen said she did not need additional information. She noted the City needed to be responsible to the taxpayers, but not be micro-managers for each of the departments to address inefficiencies. Citizens have expressed loyalty and support for the sanitation department in much the same way they have expressed support for Fire/EMS. She felt this was a quality of life issue, not a dollars issue. She was not in favor of a work session and not in favor of moving away from the City providing sanitation services.

Vice Mayor Nickel stated when this process first started, he was enthused about saving money and thought the exercise has been good for the Commission and sanitation department. He was surprised the numbers were as close as they are and the fact the City is in the ballpark. There are a number of unknowns if the Commission decides to go with an

outside vendor that are already known with the City providing the service. He stated the citizens are satisfied and there is not a lot to gain by going with a private vendor. He did not think it was worth trying to change something that was working well and efficiently.

Commissioner Hall reported he has spoken with lots of citizens about this issue and all were in favor of not changing vendors. He too felt he had enough information to make a decision.

Mayor Heck said he had to ask himself if the City could save money going with a private vendor and had to look at the issue as a money issue. He noted the numbers were very close. He stated he was in favor of staying with the program as it is and not change.

Commissioner Harris questioned what has changed with the City proposal regarding the longer route times, offloading the recycling, worker fatigue, etc. She also questioned if the City would be able to keep up with the growth of development. Loomis stated nothing has changed at this point in the collection process, but the proposal submitted would address the issues brought up and changes would be made. She also noted with the change, staff would be reduced by one employee through attrition.

**MOTION:** Commissioner Thiesen moved and Vice Mayor Nickel seconded to make the City of Newton the vendor for the sanitation services. Motion carried 5-0.

#### 10. Old business

City Engineer/DPW Loomis reported the US-50 improvements from K-15 to the west are complete except for the striping, which will be completed this week.

Mayor Heck noted the major window replacement that was done at 501 and the improvement it has made to the building.

#### 11. New business

Mayor Heck noted he has received numerous compliments about the way parks look and asked that be passed on to the park staff. He also felt it would be worthwhile for the Commission to find a time to become better educated on upcoming projects, budgets, etc. through a work session. He thought having this information would help the Commission in their decision when hiring a new manager. Commissioners will look for a date that works to hold such a work session.

City Manager Heinicke informed the Commission about a ribbon cutting on October 3 at 4:00 p.m. celebrating the renovation of the Midtown Arboretum.

#### 12. Executive Session

**MOTION:** Vice Mayor Nickel moved and Commissioner Hall seconded to recess to executive session for 15 minutes under attorney/client privilege to include City Engineer/DPW Loomis, Community Development Director Johnson, and Director of Finance/City Clerk Ahsmuhs. Motion carried 5-0.

The Commission recessed to executive session at 9:30 p.m. and reconvened at 9:45 p.m.

**MOTION:** Commissioner Harris moved and Commissioner Thiesen seconded to continue the executive session for another 10 minutes. Motion carried 5-0.

The Commission returned to executive session at 9:47 p.m. and reconvened at 9:57 p.m. Mayor Heck 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 9:57 p.m.

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Mayor

ATTEST:

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Deputy City Clerk