

## CITY COMMISSION MINUTES October 9, 2007

The Newton City Commission convened in regular session on October 9, 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 and Thiesen, City Manager Heinicke, City Attorney Myers, City Engineer/DPW Loomis, Community Development Director Johnson, PIO McDaniel, Captain Brackeen, Corporal Douglass and Deputy City Clerk Duerksen. Commissioner Harris and Director of Finance/City Clerk Ahsmuhs were absent.

Pastor Phil Fischer with Trinity Heights United Methodist 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 25, 2007 meeting.
2. Authorize the Mayor and City Clerk to reconvey to Newton Medical Management, Inc., the Newton Medical Office Building property which was conveyed to the City as security for their Taxable Industrial Revenue Bonds, Series A, 1996, which bonds have now been redeemed.
3. Consider a Resolution setting a public hearing date as to a tax abatement request by Bunting Magnetics Company.

This Resolution establishes a time and date for the conduct of a public hearing on an application to the governing body of the City of Newton, Kansas, for the granting of an exemption from ad valorem taxation for certain property proposed to be an acquired improvement expanded and equipped by Bunting Magnetics and is assigned G-994, which is contained in Volume F of General Resolutions.

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

### REGULAR AGENDA

4. Citizen's Forum
  - A. Consider a proclamation in support of the school bond issue.

This proclamation was removed from the agenda.

**B. Consider a proclamation declaring October as Month of the Young Adolescent.**

City Manager Heinicke read the proclamation declaring October as Month of the Young Adolescent.

**MOTION:** Commissioner Hall moved and Commissioner Thiesen seconded to approve the proclamation. Motion carried 4-0.

**C. Consider a proclamation declaring the week of October 15-19, 2007 as National Business Women's Week.**

Helen Werry, Chair of the Business Women's Week in Newton, read the proclamation declaring the week of October 15-19 as National Business Women's Week.

**MOTION:** Vice Mayor Nickel moved and Commissioner Hall seconded to approve the proclamation. Motion carried 4-0.

**5. Manager's update**

- KDOT will share the results of their long range transportation planning discussions at a meeting on October 10.
- A work session to review internal operations will be held October 24 from 3:30 to 7:15 p.m. at Fire Station #2. **MOTION:** Commissioner Thiesen moved and Vice Mayor Nickel seconded to set the meeting for October 24 at 3:30 p.m. Motion carried 4-0. **MOTION:** Commissioner Hall moved and Vice Mayor Nickel seconded to hold a Special Meeting on October 11 at 6:30 p.m. to meet with Robert Saunders to discuss the city manager search process. Motion carried 4-0.
- Fire/EMS staff are involved in fire prevention activities at the schools this week.
- The Mayor and City Manager went to the annual Economic Outlook Conference. All segments of the Wichita area economy are forecast to be positive.
- Mayor Heck reported REAP would meet next week. He also noted the Special Commission Meeting on the 11<sup>th</sup> will be to create a profile of the next city manager.

**6. Soccer Fields**

**A. Receive plans and specifications for the soccer fields at Newton High School.**

Previously, the City Commission had budgeted \$100,000 for new soccer fields. Land was traded between a developer and the high school for these facilities, since parking would be available at the site. Just preparing the grounds, putting in fencing and seeding is estimated to cost \$125,000. This price does not include irrigation. Staff feels if the Commission is going to invest in new fields, they should be irrigated.

Brian Bascue, NRC Superintendent, said back when the soccer field's price tag was discussed, they had the understanding it would be a flat piece of ground for them to work with and the dirt work, which is the most expensive part of putting in a field, would be done. The NRC is willing to help with seeding to cut some of the costs. He noted there is a desperate need for soccer fields.

City Engineer/DPW Loomis said in order to complete this project to state soccer standards, seven cubic yards of fill will have to be brought in and compacted, etc. This project will be bid with a number of add alternates for fencing, seeding, etc., which can or cannot be added to the base bid. The project would also be done in phases if irrigation is added. Commissioners felt the project should not be done without irrigation.

Commissioner Hall stated the current site has no restroom facilities and in order to get to the parking lot you have to cross Boyd Street. He wondered if there would be a better site for these fields and suggested looking back at the master plan developed for the West 1<sup>st</sup> Street property and do a cost comparison for that property. Loomis responded that the cost will be much higher for the 1<sup>st</sup> Street site since so much dirt work needs to be done and a parking lot would need to be constructed. She stated this site was selected because the school district traded for the land and parking was available.

Mayor Heck also questioned whether the 1<sup>st</sup> Street location would be better. He felt that watering, mowing, fertilizing, etc. would be more work and not as environmentally safe as going with artificial turf. Bascue noted more communities are going to artificial turf. The major expense is right up front. He also stated the NRC board would be okay with relocating the fields to the 1<sup>st</sup> Street location.

Vice Mayor Nickel stated these fields might be obsolete in the future because of the recreation issue. He questioned what would happen if this project would be delayed until November. Loomis stated the fields might not be able to be used come summer, due to the seeding not getting done.

Commissioner Thiesen stated she would hate to see this issue placed on the back burner when there is an obvious need for the fields now, and nothing has been done. She said there would not be a time or site that would be 100 percent right for everyone.

**MOTION:** Commissioner Thiesen moved to approve the plans and specifications, adopt a Resolution finding the project advisable and set the date and time to receive bids as October 23 at 10:00 a.m.

The motion died for lack of a second.

**MOTION:** Commissioner Hall moved to table this item until the next meeting to receive more information on the costs for four fields at the 1<sup>st</sup> Street location as well as the cost for artificial turf. Vice Mayor Nickel seconded the motion.

City Manager Heinicke suggested the Commission look at building these fields at the proposed location as a stop-gap measure. Revisiting the sports complex would be a long-term fix, and be more complicated and entail much more detail to do it right.

**Call of the question:** Motion carried 3-1 with Commissioner Thiesen voting nay.

**B. Consider a Resolution finding advisable and authorizing the construction of soccer fields at Newton High School.**

**C. Set date and time to receive bids (October 23 at 10:00 a.m. is suggested).**

**7. Consider a clean air Ordinance.**

PIO McDaniel shared a presentation on clean indoor air. The Surgeon General's Report released in 2006 has definitive scientific evidence that secondhand smoke is harmful to human health and contains more than 50 cancer-causing chemicals and is itself a known human carcinogen. Their findings also state no amount of exposure is safe and no length of time of exposure is safe. Designating smoking areas, cleaning the air and ventilating buildings will not eliminate the health effects of secondhand smoke. In Harvey County, 13.7 percent of adults smoke. McDaniel then shared about the cities throughout Kansas that have adopted clean indoor air ordinances. Most cities have adopted a comprehensive ordinance which prohibits smoking in all indoor areas accessible by the general public and in all indoor places of employment. The City of Walton is the only city within Harvey County that has already enacted a clean air ordinance. Under its home-rule charter, the City is empowered to enact and enforce ordinances for the purposes of protecting public peace, order, health, morals and safety in inhabitants.

Rita Flickinger, County Health Department, said the Health Department is in favor and supported a clean air act in Harvey County and all the cities in the

incorporated areas in Harvey County. Smoke free ordinances are good for business, lower risks of fires and accidental injuries, and reduce maintenance costs. She also stated adopting a smoke free ordinance will have the greatest impact on health effects.

Harvey County Commissioner Roberson stated passing a clean air ordinance became clear to her as the Harvey County Council of Governments looked at the ways smoking impacts people's health. Sometimes young students or single women don't have a lot of choice in the kind of job they have, and end up being wait staff at restaurants and bars where smoking is allowed. Smoking is detrimental to everyone, whether they smoke or not. Harvey County will look at adopting a clean air ordinance at their next meeting.

City Attorney Myers then reviewed the different possible expansions and exemptions to the prohibitions of the ordinance. Public schools have prohibited smoking on their sites for a long time and Newton Medical Center has now made their campus smoke free. He noted this ordinance is a working draft that can be built to suit the needs of the city. If an ordinance is adopted, proprietors will be responsible for posting no smoking signs in their establishments and then take the responsible steps for enforcing the ordinance.

Lonnie Patterson stated smoking should not be legislated and each business should be allowed to decide what they want to do. He did not want to see such an ordinance passed as it will be detrimental to the fraternal organizations such as the VFW and American Legion.

Charles Lanham, owner of CJ's Pancake House, stated by adopting this ordinance, the Commission would be taking away liberty from people and restricting the use of a legal product. He noted he has customers that come to his restaurant because they are allowed to smoke. Those who do not want to be around the smoke can go to a number of restaurants in town that do not allow smoking. He presented a petition with over 800 signatures of those who oppose such an ordinance.

Dr. Michael Bates, Associates in Women's Health, stated he understands where restaurants and business owners were coming from. He works with mothers on a daily basis, who are pregnant, to try to get them to not smoke around their children. He felt now was the time to consider not only the children, but our friends and neighbors and pass an ordinance that protects everyone.

Kerry Newell, Newell's Truck Stop, said he could not argue about the health risks of smoking. He has visited with the owners of the Salina truck stop and found out that they lost 25 percent of their revenue when the no smoking ordinance was passed in Salina. A 25 percent reduction in the sales tax for Newton would have a big impact. This ordinance will have a major impact on his business. He has shared with

Mayor Heck he would consider having a designated place for smokers that is enclosed, and add a ventilation system to that area.

Nancy Homewood, CJ's Pancake House, stated they have a number of customers who drive from Salina because they can smoke in the restaurant and also have a number of truckers who patronize their restaurant. Their customers have stated that they would just drive to Wichita to eat should a no smoking ordinance be passed.

Commissioners felt they should table adoption of this ordinance to allow more public input at the next meeting.

**MOTION:** Vice Mayor Nickel moved and Commissioner Thiesen seconded to table this issue until the next meeting. Motion carried 4-0.

**8. Consider a proposal for the traffic impact study for the US-50 corridor from Meridian to Ridge Road.**

This traffic study is necessary to determine the potential traffic impacts of the proposed ethanol plant south of US-50. The study area will be Meridian to Ridge Road and is proposed to take 75 days to complete. Harvey County has expressed an interest to help pay for the study.

**MOTION:** Commissioner Hall moved and Commissioner Thiesen seconded to authorize the traffic impact study for the US-50 corridor. Motion carried 4-0.

**9. Consider a Resolution authorizing the bike path extension from SW 14<sup>th</sup> to Windward Drive on the west side of Kansas Avenue.**

A Resolution authorizing an addition to the Newton public park system, and authorizing the issuance of General Obligation Bonds of the City of Newton, Kansas, to pay such costs was considered. City Engineer/DPW Loomis reported Wal-Mart has committed to paying \$50,000 towards the bike path which will run along the west side of Kansas Avenue between SW 14<sup>th</sup> and Windward Drive.

**MOTION:** Commissioner Thiesen moved and Commissioner Hall seconded this Resolution, assigned I-1099, be approved as presented. Motion carried 4-0. (This Resolution is contained in Volume D of Improvement Resolutions.)

Dortha Trouslot, 212 SE 14<sup>th</sup>, spoke in opposition of a proposed bike path being constructed along SE 14<sup>th</sup> Street. She feels there is not enough room to place a bike

path along the north side of the street because of the power poles and mailboxes being in the way. She suggested it be moved to the south side of the street.

**10. Consider an Ordinance setting refuse collection rates.**

An Ordinance amending Section 18-206 of the Code of the City of Newton, Kansas, as amended by Ordinance No. 4438-03, pertaining to the collection of municipal solid waste and establishing regulations and charges in relation thereto; and repealing Ordinance 4438-03 was considered. At the last meeting, the Commission decided to retain the sanitation services as a City function. The proposal was based on a rate of \$18.87 for service and adopting this Ordinance would incorporate that rate.

**MOTION:** Vice Mayor Nickel moved and Commissioner Hall seconded this Ordinance, assigned 4644-07, be approved with the effective date for the rate change as January 1, 2008. Motion carried 4-0. (This Ordinance is contained in Volume Y of Ordinances.)

**11. Planning Commission**

**A. Receive the recommendation of the Newton/North Newton Area Planning Commission for the final plat for Field Stone Addition.**

Community Development Director Johnson reported at their last meeting, the Planning Commission approved the final plat for the Field Stone Addition contingent upon some technical corrections on the final plat being made and the drainage plan being approved by the City Engineer. Those requirements have been satisfied.

**MOTION:** Commissioner Hall moved and Commissioner Thiesen seconded to accept the recommendation of Newton/North Newton Area Planning Commission. Motion carried 4-0.

**B. Consider approval of the final plat for Field Stone Addition.**

**MOTION:** Vice Mayor Nickel moved and Commissioner Hall seconded to approve the final plat for Field Stone Addition. Motion carried 4-0.

**12. Old business**

There was no old business.

**13. New business**

Commissioner Hall shared highlights from the League meeting. He felt that networking was the most important part of the conference.

Mayor Heck asked if staff could research if signage could be placed on the south side of US-50 promoting the housing developments on the south side of town. Developers have said the closing of the Old Main intersection has had an adverse effect of the sale of property. Staff will report back a future meeting. He then noted that it was time for the annual evaluation of the City Attorney. This will take place at the end of the next meeting in executive session.

**MOTION:** Commissioner Hall moved and Commissioner Thiesen seconded to go into executive session for 15 minutes to discuss matters pertaining to an economic development prospect which involves confidential information regarding its financial affairs and trade secrets to include the City Engineer and Community Development Director Johnson. Motion carried 4-0.

The Commission recessed to executive session at 9:20 p.m. and reconvened at 9:35 pm. Mayor Heck announced no decisions we made and no action was taken.

#### 14. Adjournment

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

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Mayor

ATTEST:

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City Clerk