

City Commission of Arkansas City Meeting Minutes

The Arkansas City Board of City Commissioners met in regular session at 5:30 p.m. Tuesday, December 6, 2016, in the Commission Room at City Hall, 118 W. Central Ave., in Arkansas City.

Mayor Duane L. Oestmann called the meeting to order. Those also present at roll call were Commissioner Dan Jurkovich, Commissioner Charles Tweedy III, Commissioner Jay Warren and Commissioner Karen Welch.

City employees present at roll call were City Manager Nick Hernandez, City Attorney Tamara Niles, Public Information Officer Andrew Lawson, City Clerk Lesley Shook, Public Works Director Eric Broce, Assistant Public Works Director Mike Crandall, Neighborhood Services Superintendent Richard Brown, City Planner Josh White, Finance Director Kathy Cornwell, Police Chief Dan Ward, ACPD Capt. Mark McCaslin and Human Resources Manager Marla McFarland.

Cowley College was represented by Gloria Walker, vice president of finance and administration. Creekstone Farms Premium Beef LLC was represented by controller Tom Minton. Professional Engineering Consultants, P.A. was represented by Ben Mabry.

Citizens in attendance included Ken Harader, Brett Martin, Dennis Phillips, Charles White, Cody White, Cowley CourierTraveler reporter Cody Griesel and Ark City Daily Bytes reporter Jeni McGee.

Commissioner Warren offered the opening prayer. Mayor Oestmann led the pledge of allegiance.

Agenda Changes and Approval

City Manager Hernandez asked to move Item 4 on the Consent Agenda to the first item under Old Business. He also requested to move Items 4 and 5 of New Business up to Items 1 and 2, bumping down the three ahead of them. Finally, Hernandez asked for a 15-minute executive session to discuss matters of non-elected personnel.

Commissioner Tweedy moved to amend the agenda as requested. Mayor Oestmann seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the agenda amended and approved.

Consent Agenda

Commissioner Warren made a motion to approve the consent agenda as presented, including the following:

1. Approving the November 15, 2016, regular meeting minutes as written.
2. Ratifying Resolution No. 2016-12-3060, approving the notice of budget hearing for publication and setting the date for a public hearing at 5:30 p.m. December 20, 2016, to amend the 2016 City budget.
3. Approving a Memorandum of Understanding between the Office of the State Fire Marshal and Arkansas City Fire-EMS Department as a participating agency in the Kansas Search and Rescue Response System.

Mayor Oestmann asked for an explanation of Item 3. City Manager Hernandez said the City has been a part of the S&R system and has trained many of its firefighters at Crisis City in Salina. The just renews that participation.

Commissioner Tweedy seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the consent agenda approved.

City Commission of Arkansas City Meeting Minutes

Old Business

Housing Resolution of Support Resolution No. 2016-12-3061

City Clerk Shook presented for discussion a resolution of support for and approval of a senior housing development at 1401 S. Sixth St. in Arkansas City, east of Veterans Memorial Lake, and urging the Kansas Housing Resources Corporation (KHRC) to award Low Income Housing Tax Credits to Red-Wood Development, Inc., of Joplin, Missouri, to enable construction of 48 apartment units at said address.

City Manager Hernandez said there is no development agreement in place yet, but the resolution gives Red-Wood the ability to apply for the tax credits. This doesn't mean the project will proceed without credits, he said.

As far as the location, Hernandez said the development had to be located south of Central Avenue and west of Summit Street, within the census zone defined by the U.S. Department of Housing and Urban Development.

He said the parcel in question is a large tract of land not being used for anything else, and relatively close enough to existing utilities for extensions to cost affordable. Any existing use by the City can be relocated to another lot.

Another attractor is that it would put more eyes in the Veterans Lake area and help deter illegal activity, he said.

In return for donating the land to Red-Wood, the City would get a paved extension of the current hike-bike trail along the property and a permanent restroom facility west of the Lions Club pavilion, deeded back to the City.

Mayor Oestmann asked what the City could do to improve the aesthetics of the area. Hernandez said the developer has not requested any aesthetic improvements, just support in seeking the federal tax credits.

Charles White, 1225 S. Sixth St., said he has not observed any problems with crime and is worried about losing the rural character of the neighborhood around the lake. He thought the lot was to be used to expand the park.

White acknowledged that there are some positives to the development proposal — he just wants a different site.

After a discussion regarding how much parking might be lost to the development, White asked if there would be an opportunity for the public to weigh in on the decision. Hernandez said the time for that would be during a Planning Commission public hearing on rezoning at 5:30 p.m. December 13 in the Commission Room at City Hall.

Mayor Oestmann explained that the resolution of support doesn't necessarily mean the project will proceed, nor is it likely to continue if the Planning Commission does not approve the rezoning request.

Commissioner Jurkovich said he thinks the current use of the land to store pieces of pipe is not very attractive.

Hernandez showed where a community building for the development would be built. He said it could be rented.

Commissioner Warren asked if the large parking lot to the north would be paved. Hernandez said that would be a City decision, but the funds might be available if it doesn't have to pay for bathrooms or utility extensions.

He mentioned a few other properties that are possibly suitable for the development, but they are smaller and one of them is in a floodplain. Commissioner Warren cited the need for low-income and senior housing.

City Commission of Arkansas City Meeting Minutes

Commissioner Warren also pointed out that the commission has been criticized in the past for ignoring the south end of town, but this project is a significant investment that could drive future development in the area.

Commissioner Welch made a motion to approve the resolution. Commissioner Tweedy seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-12-3061.

New Business

Water Line Engineering Design **Resolution No. 2016-12-3062**

City Clerk Shook presented for discussion a resolution authorizing the City to enter into a contract with Professional Engineering Consultants, P.A. to provide engineering design and construction administration services for the 2017 KLINK U.S. 77 and water line replacement project, for an amount not to exceed \$64,100.

Public Works Director Broce said the water line replacement will be concurrent with the 2017 KLINK resurfacing project on South Summit Street from the U.S. 77 bypass intersection to the south bridge over the Arkansas River.

He said the timeline was accelerated considerably by the Kansas Department of Transportation. Field check plans now are due by December 19, final plans by mid-February 2017 and project letting by March 2017.

If the City misses those deadlines, Broce said, KDOT cannot guarantee the \$300,000 still will be available in 2018.

A lot of 4- and 6-inch cast iron pipe, including some under the northbound lanes, will be replaced. About 2,500 feet, or half a mile, of water lines would be replaced. Tying into 16- and 12-inch lines will improve fire protection.

Broce said City Manager Hernandez had authorized the field survey to get a jump on the deadline — the results were expected as soon as the day after the meeting — and he invited PEC representative Dan Mabry to speak.

Mabry said it is an extremely tight deadline that was moved up by three months, but he is confident PEC can make it and ensure funding. The field survey is the biggest factor in how fast engineering design can be completed.

Broce also said he tried to obtain some additional funding through KDOT's Access Management to address curb and gutter issues along South Summit Street, but was told there is no funding available.

Commissioner Tweedy asked if there was a possibility of replacing the Summit Street-U.S. 77 bypass intersection with concrete. Hernandez said it would be very expensive and might require a Geometric Improvements grant.

Broce also previewed the potential completion of the bypass between South Summit Street and West Madison Avenue. He said KDOT is excited about the project, but commissioners might need to lobby Topeka for funding.

Mayor Oestmann made a motion to approve the resolution. Commissioner Welch seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-12-3062.

City Commission of Arkansas City Meeting Minutes

Comprehensive Fee Schedule **Resolution No. 2016-12-3063**

City Clerk Shook presented for discussion a resolution amending the Comprehensive Fee Schedule for 2017.

City Manager Hernandez said there have been a number of changes to water rates for the top two tiers, commercial and monthly dumpster rental fees, refuse fees for trailer courts, rubbish and garbage cleanup fees, other property maintenance code fees, Northwest Community Center daily rental fees, and Municipal Court fines for failure to appear, illegal burning, and parking disabled and recreational vehicles on City streets.

Mayor Oestmann asked what the City previously charged for picking up trash next to carts. Hernandez said the City will negotiate if called ahead of time, but the fees are for those found guilty of refusing to pick up garbage.

Commissioner Welch asked about the bulk water rate. Hernandez explained how the option was being altered.

Commissioner Warren asked City Attorney Niles to explain the changes in court fees. She said it was a response to the U.S. Department of Justice report that recommended reducing the fines in order to avoid unintentionally penalizing people of lower socioeconomic status. The other changes are so she can prosecute those offenses.

Creekstone Farms controller Tom Minton said he understand that the rates must go up to afford the new water treatment plant, but he questioned why the Creekstone rate would go up so much when everyone else is only going up an average of 2 percent each year. He said Creekstone's rate has gone up faster than anyone else's.

He said the proposed published rates would be higher in Arkansas City than in other comparable cities with meatpacking plants. Creekstone averaged around \$2.19 per thousand gallons this year, while others are \$2.05.

Minton said the proposed increases would make it harder for Creekstone to be competitive. Mayor Oestmann questioned the comparisons to some of the other meatpacking plants, which could have different situations.

He reminded Minton that Creekstone pays much less per thousand gallons than any other customer in Arkansas City. Commissioner Jurkovich said there also was a 30-percent reduction in the rate that lasted for 12 years.

Hernandez said citizens took their biggest hit starting in 2003, with annual increases of 7 to 9 percent for several years, and he thinks the City should try to hold those rates down now and raise the industrial rates instead.

Commissioner Welch asked how much an average citizen pays. Hernandez said it depends on their usage, but it tends to fluctuate between \$8 and \$8.50 per thousand gallons. Creekstone uses about 40 percent of the water.

Minton said it is not unusual to subsidize the largest users because it costs less to deliver the water to them than to all of the other customers, who require more pipes. He said the plant has plans to expand in the near future.

Hernandez said a plan to have Creekstone pay for 40 percent of the cost of the new plant, and then be sold water at a very low rate from then on, but it fell through. So did a long-term agreement with a lid and a floor.

Ultimately, he said, it falls to commissioners to determine what the fair and equitable rate moving forward is.

Commissioner Tweedy asked if rate increases could be phased in over three years instead. Hernandez said yes.

City Commission of Arkansas City Meeting Minutes

Minton said he just wanted to figure out 2017 and discuss future years at a later time. He said he was not interested in talking about a two- or three-year phased approach at this time.

Hernandez asked Public Works Director Broce to show a pie chart, and explain the breakdown in costs and rates.

Broce said it costs about \$6.79 per thousand gallons to maintain the entire water system, including \$1.03 to operate and maintain the water distribution network, \$0.34 to operate and maintain the well field, \$1.20 to operate and maintain the water treatment plant, \$2.05 in anticipated debt service on the new plant, \$0.44 toward replacement and rehabilitation in the future at the new plant, \$0.55 to provide customer service, \$0.14 to comply with regulatory standards and monitoring requirements, and \$1.03 for capital improvement projects.

Of that, Broce said, Creekstone only is being asked to pay for its portion of the \$1.20 for plant operations and \$2.05 for debt service, and not any of the rest of the \$6.79 per thousand gallons. He said that is sort of a subsidy.

Commissioner Jurkovich asked why commissioners previously were told it cost about \$0.90 per thousand gallons to produce water in the new plant, not \$1.20. Hernandez said the difference is due to water loss and flushing.

Broce said the new plant will produce a higher quality of water that will extend the life of Creekstone's boilers.

Minton disagreed that the rate Creekstone pays is subsidized because it is paying more than the variable cost.

He also said raising the top rate could discourage other large industrial employers from coming to Arkansas City.

Hernandez said raising everyone's rates equally would be about 22 percent across the board. Commissioner Jurkovich asked if the rates could be chained to the CPI-U inflation index. Hernandez said if that had been done three to four years ago, the City probably would be fine, but Creekstone's rate still would be around \$2.50.

Broce took issue with Minton's reference to the percentage of increase, saying 100 percent of \$1 is the same as 10 percent of \$10 — \$1. He said Creekstone has annual operating expenses of about \$900 million, so the proposed water rate increase would be an increase of just 0.001 percent to Creekstone's bottom line.

Commissioner Warren said he'd like to see Hernandez and Minton negotiate some more, with the commission making a decision at its next meeting, but Hernandez said three years of negotiations have not been fruitful.

Commissioner Jurkovich made a motion to approve the resolution, but with an increase of about 38 percent (to \$3) in Creekstone's average rate in 2017 and reverting to the 2016 rate in 2018. Commissioner Welch seconded. Both Hernandez and Minton objected. A roll call vote resulted in two aye and three nay votes, with Mayor Oestmann, Commissioner Tweedy and Commissioner Warren dissenting. Mayor Oestmann declared the motion failed.

Mayor Oestmann made a motion to approve the resolution, but with an increase of 15 percent (to \$2.52) to Creekstone's average rate in 2017 and again (to \$2.90) in 2018. Commissioner Tweedy seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-11-3058.

Commissioner Jurkovich suggested that Creekstone could come back in the future after expanding and ask for a lower rate to compensate for that expansion. Hernandez said a rate study likely will be needed before 2019.

City Commission of Arkansas City Meeting Minutes

2017 Budgeted Pay Plan **Ordinance No. 2016-12-4422**

City Clerk Shook presented for discussion a first reading of an ordinance adopting the budgeted pay plan for 2017 and repealing Ordinance No. 2015-12-4401.

Human Resources Manager McFarland said the entire pay ordinance was being pushed to the right, including the minimum and maximum pay rates, in order to implement the 2-percent cost-of-living adjustment for 2017.

Mayor Oestmann made a motion to approve the ordinance. Commissioner Tweedy seconded the motion.

A roll call vote was unanimous in favor of the motion. Mayor Oestmann declared the ordinance approved and given Ordinance No. 2016-12-4422.

Cowley College Softball Field **Ordinance No. 2016-12-4423**

City Clerk Shook presented for discussion a first reading of an ordinance authorizing the vacating of a portion of the 300 block of South Seventh Street and a portion of the 700 block of West Adams Avenue, adjacent to the Cowley College softball field.

City Planner White said the 15-foot extension will take the property line to the fence that was built outside of it with a "fence easement." This vacation will allow for the expansion of Cowley College's softball field press box.

The Planning Commission met November 8 and voted unanimously to recommend approving the vacation, contingent on relocation of the water meter at Cowley College's cost and the extension of a sewer easement.

Commissioner Warren made a motion to approve the ordinance. Commissioner Tweedy seconded the motion.

A roll call vote was unanimous in favor of the motion. Mayor Oestmann declared the ordinance approved and given Ordinance No. 2016-12-4423.

Telecommunications Towers **Ordinance No. 2016-12-4424**

City Clerk Shook presented for discussion a first reading of an ordinance modifying Article 23 of the Zoning Regulations regarding telecommunications towers and amending Arkansas City Municipal Code to so reflect.

City Planner White said the changes were necessary due to recent changes in state law. The new statute, which was lobbied for by the telecommunications industry, greatly restricts how cities can restrict any such towers.

Mayor Oestmann made a motion to approve the ordinance. Commissioner Welch seconded the motion.

A roll call vote was unanimous in favor of the motion. Mayor Oestmann declared the ordinance approved and given Ordinance No. 2016-12-4424.

City Commission of Arkansas City Meeting Minutes

Paris Park Lion Statue Adoption **Resolution No. 2016-11-3059**

City Clerk Shook presented for discussion a resolution approving a recommendation of the Beautification and Tree Advisory Board to initiate an adoption contract for one year with the Early Bird Lions Club for the lion statue in Paris Park.

Public Information Officer Lawson said the statue has been transported to Tahlequah, Oklahoma, for refurbishment and renovation. The Early Bird Lions Club is paying for that work and researching its history.

Commissioner Tweedy asked if the statue would be returned to its original location. Lawson said that was the intent, as long as it is determined that the location won't further deteriorate the statue's condition.

Other than paying for the work, he said the Lions Club wants to install a plaque to recognize the restoration and also the original design of the statue. Mayor Oestmann commended the club for stepping up in this way.

Commissioner Jurkovich made a motion to approve the resolution. Commissioner Tweedy seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-11-3059.

City Manager Updates

City Manager Hernandez presented the holiday schedule for City employees for 2017. Instead of being celebrated on Good Friday, he said the floating holiday will be on July 3 to allow a four-day weekend for July 4.

Public Works Director Broce asked if the commissioners would be willing to share part of the cost of a new meter vault for KanPak's water meter. He said KanPak already paid to relocate a 16-inch water line serving the plant.

Mayor Oestmann made a motion to authorize funding up to \$26,000 of the total \$56,000 vault replacement cost.

Commissioner Tweedy seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the motion approved. The spending already is in the proposed budget amendment for 2017.

Executive Session

Mayor Oestmann made a motion to recess to a 15-minute executive session to discuss matters of non-elected personnel, with no action to follow, to include only City Attorney Niles. Commissioner Tweedy seconded.

A voice vote was unanimous in favor of the motion. The executive session began at 8:01 p.m. and ended at 8:16.

Afterward, Commissioner Jurkovich made a motion to recess into an additional five-minute executive session.

Mayor Oestmann seconded the motion. A voice vote was unanimous in favor of the motion. The executive session began at 8:18 p.m. and ended at 8:23 p.m.

City Commission of Arkansas City Meeting Minutes

Adjournment

Commissioner Jurkovich moved to adjourn the meeting. Commissioner Warren seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the meeting adjourned at 8:24 p.m.

THE ARKANSAS CITY
BOARD OF CITY COMMISSIONERS

Duane L. Oestmann, Mayor

ATTEST:

Lesley Shook, City Clerk

Prepared by:

Andrew Lawson, Public Information Officer