

City Commission of Arkansas City Meeting Minutes

The Arkansas City Board of City Commissioners met in regular session at 5:30 p.m. Tuesday, September 15, 2015, in the Commission Room at City Hall, 118 W. Central Ave., in Arkansas City. Those present at roll call were Commissioners Brandon Every, Dan Jurkovich, Duane Oestmann and Jay Warren, and Mayor Chad Giles.

Also present at roll call were City Manager Nick Hernandez, Public Information Officer Andrew Lawson, City Clerk Lesley Shook, Public Works Director Eric Broce, Assistant Public Works Director Mike Crandall, Public Services Superintendent Randy Jacobs, Public Services Supervisor Brian Edwards, Finance Director Kathy Cornwell and Fire Chief Bobby Wolfe.

Arkansas City Police Department personnel in attendance were Police Chief Dan Ward, Capt. Mark McCaslin, Sgt. Jason Legleiter, Officer Wade Hammond and Officer Ann Hale.

Citizens in attendance included Mason Coley and Kevin Scruggs, of BroCorp; Kanyon Gingham; Chris Meinen, of Smith & Oakes, Inc.; Jenifer Ratcliff; Steven Walker; and Traveler reporter Jeni McGee.

Pastor Mark Fry offered the opening prayer. Mayor Giles led the pledge of allegiance.

Agenda Additions/Deletions and Approval

Commissioner Oestmann moved to approve the agenda as presented. Commissioner Warren seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Giles declared the agenda approved.

Recognition of Visitors

Officer Hammond was introduced to the City Commission by Chief Ward and sworn in by City Clerk Shook.

Kevin Scruggs informed the Commission that BroCorp once again would be sponsoring the Arktoberfest beer garden during Arkalalah. The event will move to the southeast corner of Chestnut Avenue and Summit Street, which is private property, so as long as State licenses are in order, Commission approval is not needed.

However, Scruggs said he still wanted the City's blessing, which the Commission gave. Chief Ward said there were no problems with the event last year. City Manager Hernandez also mentioned that the Arkalalah fireworks show would be a little shorter than it was last year.

Consent Agenda

Commissioner Warren made a motion to approve the consent agenda, to include the following items:

1. Approving the September 1, 2015, regular meeting minutes as written.
2. Approving Resolution No. 2015-09-2991, authorizing the City to enter into an agreement with Aging Projects, Inc. for the provision of nutritional services at the Senior Citizens Center.

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

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Old Business

CDBG Grant Administration Agreement **Resolution 2015-09-2992**

City Clerk Shook presented for discussion a Resolution to enter into an agreement with Ranson Financial Consultants, LLC for professional administrative services for the Community Development Block Grant (CDBG) program through the Kansas Department of Commerce, for an amount not to exceed \$19,500.

City Manager Hernandez said Ranson consultant Steve Saunders' last day of conducting the LMI survey in Arkansas City would be Sept. 16. Commissioner Warren asked if the City would have to pay the contract fee if it is not awarded a CDBG grant this year. Hernandez said the City would not have to pay anything if that happened.

Commissioner Every asked if the City knew about the second contract with Ranson when the first contract was approved. Both Hernandez and Commissioner Jurkovich said that was discussed previously.

Mayor Giles asked if the City could be approved for a grant of less than \$500,000. Commissioner Every said he had been told it was all or nothing.

Commissioner Jurkovich asked about a later item on the agenda, the water conservation code, and whether it had to be approved at this meeting in order for the City's grant application to qualify by the deadline. Public Works Director Broce said the Kansas Water Office required the updated code, but this was the only item in need of updating that had been mentioned to him. The last time the code was updated was in 1989.

Broce said having engineering contracts on file for the wastewater line project that would be funded in part by a CDBG grant could lead to extra priority "points" on Arkansas City's application, hence the next two action items.

Mayor Giles moved to approve the agreement with Ranson Financial Consultants. Commissioner Warren seconded the motion. A voice vote was unanimous in favor of the motion.

Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2992.

Contract Agreement with Smith & Oakes **Resolution 2015-09-2993**

City Clerk Shook presented for discussion a Resolution authorizing the City to enter into a contract agreement with Smith & Oakes, Inc. to provide engineering design, bidding, construction administration, staking and inspection services for the Water Treatment Facility waste line to the Wastewater Treatment Facility, for an amount not to exceed \$164,600.

Public Works Director Broce presented a brief history of how the City gravitated toward this method of disposal with the approval of the State of Kansas, which originally was going to require deep-well injection of the waste.

Commissioner Every asked for an explanation of the inspection services and what they entailed, which was provided by Chris Meinen, of Smith & Oakes. Commissioner Every also asked what engineering design would entail, and Meinen explained that a lot of it encompassed locating utilities, securing the necessary permits from the Kansas Department of Transportation and BNSF Railroad, and selecting the best route for the waste line.

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Meinen said the line would be around 9,600 feet long, in response to a question from Commissioner Warren.

Commissioner Every asked for a project timeline. Meinen said the design would take around four to five months, with construction starting by next summer and lasting from five to six months.

Commissioner Oestmann asked if the contract needed to be approved in order to finish the CDBG grant application. Broce said it did not, but could help with the priority of the project.

Commissioner Every said he is concerned about the rising costs for professional engineering services for the new Water Treatment Facility and suggested some of the services could be brought under the City umbrella. Broce said specialized firms such as Burns & McDonnell provide technical services that cannot feasibly be duplicated in-house and added that ongoing negotiations with the firm have resulted in cost savings in multiple areas.

City Manager Hernandez said the City does as much work through Smith & Oakes as the firm's work load allows, and Meinen said it seems like a good time to begin a pipeline project based on what contractors have told him.

Commissioner Every made a motion to negotiate with Burns & McDonnell to absorb the proposed design fees in the firm's existing contract with the City, but the motion died for lack of a second.

Broce explained that the waste disposal design was eliminated from the scope of Burns & McDonnell's original contract because the work is not as technical as plant design and because the method of disposal wasn't determined then the contract was approved. Hernandez added the CDBG application was another part of it.

Mayor Giles said he was concerned about going back to Burns & McDonnell and risking that company would contract with a civil engineering firm other than Smith & Oakes, taking the dollars out of the community. He said he felt most comfortable with a prestigious firm such as Burns & McDonnell to handle such an important project. Commissioner Every said the community had just qualified as an LMI (low to moderate income) community and couldn't afford to hire the best firm available to design a top-of-the-line facility. Mayor Giles said he trusts the numbers provided by staff and believes the community can afford the project.

Mayor Giles moved to approve the contract agreement with Smith & Oakes. Commissioner Warren seconded the motion. A voice vote resulted in four aye votes and one nay vote, with Commissioner Every dissenting.

Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2993.

Amendment to Burns & McDonnell Contract **Resolution 2015-09-2994**

City Clerk Shook presented for discussion a Resolution approving Amendment No. 2 to the contract agreement between the City of Arkansas City and Burns & McDonnell Engineering Company, Inc. for modifications to the original scope of professional engineering services for the new Water Treatment Facility, for an amount not to exceed \$197,786.

Public Works Director Broce began his presentation by citing examples of where poor engineering had led to subpar outcomes and higher costs during construction. He mentioned a sewer interceptor project in Wellington that resulted in four or five expensive change orders due to insufficient engineering before the project began.

Commissioner Every again brought up the LMI status of the community and said the engineering was too pricy.

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Broce said many items have been stripped out of the engineering and plans for the new plant in order to save on costs, but insisted the plant must be sustainable for future generations and could not be built on the cheap.

In order to explain the 10-percent contingency in the contract, which Commissioner Every said he would like to see eliminated, Broce also cited a project in Hutchinson where prices jumped 15 to 20 percent just before a new water plant was bid. He explained there are no certainties and there has to be a contingency, but emphasized that Burns & McDonnell would meet with contractors to discuss constructability issues in their design before the plant is bid in order to save on costly change orders down the line and minimize the contingency.

Commissioner Every asked if there would be any other engineering costs for the new plant other than those presented at a special meeting on September 11. Broce said a \$20,000 change order on the clearwell, which currently is under construction, would be forthcoming in order to save on costs and improve the structure.

City Manager Hernandez clarified that LMI status doesn't necessarily mean the city is poor. He explained how the CDBG process has evolved through the years, and that cities of between 10,000 and 50,000 are disadvantaged in the funding process unless they go after LMI funds. He said the City did what it could to take advantage of LMI.

Commissioner Jurkovich said the City was close to attaining LMI status in the last Census and that the new numbers did not reflect any significant change from 2010. Commissioner Every asked what income ranges constituted LMI, but Hernandez said he did not have that information readily available at the time.

Broce said some of the items in the amendment have been accomplished in a sign of good faith from Burns & McDonnell, including the reclassification of the City's source water to groundwater in order to switch from micro/ultrafiltration to the less costly greensand treatment process, and now the City needed to pay for them.

Mayor Giles moved to approve the contract amendment with Burns & McDonnell. Commissioner Warren seconded the motion. A voice vote resulted in four aye votes and one nay vote, with Commissioner Every dissenting. Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2994.

Water Rights Evaluation Contract **Resolution 2015-09-2995**

City Clerk Shook presented for discussion a Resolution authorizing the City to enter into a contract agreement with Burns & McDonnell Engineering Company, Inc. to provide professional engineering services for water rights evaluation, for an amount not to exceed \$24,786.

Public Works Director Broce explained that this item had nothing to do with the waste line project and was not required in order to move forward with the new water treatment plant. However, he said increasing the City's water rights would be prudent because the reverse osmosis treatment process consumes more water.

The first step of the process involves using improved hydraulic monitoring and supporting documentation to request a change in recharge rates from the State of Kansas, which could increase the City's current water rights.

Commissioner Warren asked Broce how much he thought the rights could be increased. Broce said it would depend on what the data show based on pump testing and drawdown calculations. City Manager Hernandez said the last time the City looked at this sort of thing was in 1994-95, which led to the acquisition of more property.

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The second phase would be to explore possibilities for acquiring additional water rights, and develop a 10-year plan for growth and diversification. Broce and Commission Warren talked about the difficulties associated with possibly pumping water out of the Walnut River.

Commissioner Jurkovich asked if the water rights needed to be expanded now. Broce said the City would be cutting it close with the new plant, with water waste expected to increase from an estimated 7 percent to closer to 14 or 15 percent. Commissioner Every said he thought expanding the water rights was a good idea, but questioned why it couldn't be done in-house by the City and if it required another engineering contract.

Broce explained the technical aspects of what needs to be done to satisfy the Division of Water Resources.

Commissioner Jurkovich asked if any work had been done already on water rights evaluation. Broce said there only had been preliminary conversations.

Commissioner Warren moved to approve the contract amendment with Burns & McDonnell. Commissioner Jurkovich seconded the motion. A voice vote resulted in four aye votes and one nay vote, with Commissioner Every dissenting. Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2995.

Recognition of Visitors (Continued)

Officer Hale was introduced to the City Commission by Chief Ward and sworn in by City Clerk Shook.

New Business

Uniform Public Offense Code **Ordinance No. 2015-09-4394**

City Clerk Shook presented for discussion a first reading of an Ordinance adopting by reference the updated Uniform Public Offense Code.

City Manager Hernandez and Chief Ward explained that the UPOC is updated every year by the League of Kansas Municipalities in response to changes in criminal statutes by the Kansas Legislature. Adopting it allows the City to prosecute these crimes in municipal court.

Ward said most of the changes concern definitions. He said battery of a school employee was a new criminal offense that had been created. Commissioner Warren asked if that had been a problem in Arkansas City and Ward said he was not aware of any problems, but added that it probably has happened in other communities.

Commissioner Every asked if the ordinance needed to be passed that night. Ward said the UPOC came out July 1 and the City was a little late in adopting it, but he did not think it was critical to pass it on the first reading.

Commissioner Oestmann moved to approve the updated Uniform Public Offense Code. Commissioner Every seconded the motion. A voice vote was unanimous in favor of the motion.

Mayor Giles declared the ordinance adopted and given Ordinance No. 2015-09-4394.

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Standard Traffic Ordinance **Ordinance No. 2015-09-4395**

City Clerk Shook presented for discussion a first reading of an Ordinance adopting by reference the updated Standard Traffic Ordinance.

Chief Ward explained that the STO is updated every year by the League of Kansas Municipalities in response to changes in traffic statutes by the Kansas Legislature. Adopting it allows the City to prosecute these traffic violations in municipal court.

Ward said most of the changes again concern definitions. References have been added concerning autocycles, which are vehicles with two front wheels and one back wheel. Commissioner Every asked if there were any changes to rules concerning child safety restraints. No one saw any.

Mayor Giles moved to approve the updated Uniform Public Offense Code. Commissioner Oestmann seconded the motion. A voice vote was unanimous in favor of the motion.

Mayor Giles declared the ordinance adopted and given Ordinance No. 2015-09-4395.

Purchase of New Freightliner **Resolution 2015-09-2996**

City Clerk Shook presented for discussion a Resolution authorizing the purchase of a new 2015 Freightliner dump truck with a stainless steel dump body, snow plow and spreader, for an amount not to exceed \$150,964.

Assistant Public Works Director Crandall explained that the truck was part of a 92-unit bid through the Kansas Department of Transportation, which would allow the City to purchase the truck at a lower-than-normal price.

He said that based on his extensive experience in procurement and fleet management, this was an extremely good pricing. Adding on the brine tank raised the price by about \$2,000, but the overall bid still was quite good.

Commissioner Every agreed that it was a highly competitive bid and he couldn't find a comparable truck for cheaper. City Manager Hernandez said the City only had three trucks, but usually didn't receive that much snow.

Commissioner Warren mentioned that long-range weather forecasts predict Kansas will have a stronger-than-normal winter with higher-than-normal snowfall totals, so he thought the snow plow was a good investment.

Hernandez said spraying the brine improved snow and ice removal last year tremendously. He also said the new truck will have a distribution system that is tied into the speed of the truck, with no spraying while it is idle.

Commissioner Jurkovich asked what else the truck could be used for, other than snow and ice removal. Public Services Superintendent Jacobs said the specialized components can be removed so it can serve as a dump truck.

Commissioner Warren moved to approve the purchase of the new Freightliner. Commissioner Oestmann seconded the motion. A voice vote was unanimous in favor of the motion.

Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2996.

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Water Conservation Code Update **Ordinance No. 2015-09-4396**

City Clerk Shook presented for discussion a first reading of an Ordinance to update the City's water conservation code to current standards.

City Manager Hernandez said most of the ordinance was based on a model ordinance from the Kansas Water Office. Some language was added to mirror other Kansas cities' prohibitions of drilling residential or commercial water wells inside city limits, other than for the purposes of irrigation for gardening or landscaping.

Commissioner Every asked if there had been a history of people drilling wells. Hernandez said he only knew of one and it would be grandfathered in. He said the ordinance was a protection for the City in the future. It requires new homes to connect to City water, ensuring safety and health, and protecting the City's investment.

Commissioner Oestmann asked about the punitive fees included in the accompanying resolution. Hernandez said those would not apply to the normal connection/disconnection process, but only would apply if a water emergency were to be declared by the city manager or City Commission.

Commissioner Every said he didn't see the harm in allowing private wells and he was concerned about who could declare a water emergency. He also objected to prohibiting drilling for commercial purposes and asked whether it would affect current industrial water users. Hernandez said it would as long as they were inside city limits.

Public Works Director Broce said the language concerning drilling wells came from a city in Texas. He pointed out the City had made a large investment in its infrastructure, including water lines, meters and standpipes, and protecting that investment means recouping as much of the costs as possible. Fire protection also is a factor.

Hernandez said all sewer customers are required to pay for sanitation service, and outside services are not allowed except in extreme circumstances. He said this ordinance would provide a similar function.

Commissioner Jurkovich said part of living in a city means accepting some curtailing of personal freedoms out of respect for the rights of one's neighbors and the overall community, and this was just one example of that.

Hernandez said the ordinance needed to be approved that night as part of the City's pending Community Development Block Grant application, but the language concerning the drilling of private wells was not required.

Mayor Giles said it was acceptable to ask industrial users to be team players because the City provides them with various services. He cited the example of Skyline Corp., which is on an island parcel that is not part of the City.

Commissioner Oestmann moved to approve the updated water conservation code. Commissioner Jurkovich seconded the motion. Commissioner Every requested that Commissioner Oestmann amend his motion to exclude the language about prohibiting the drilling of private wells, but Oestmann declined to amend it.

A voice vote resulted in four aye votes and one nay vote, with Commissioner Every dissenting.

Mayor Giles declared the ordinance adopted and given Ordinance No. 2015-09-4396.

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Amending Comprehensive Fee Schedule **Resolution 2015-09-2997**

City Clerk Shook presented for discussion a Resolution amending the comprehensive fee schedule to add fees for reconnection to City service of residential or commercial users who violate the water conservation code.

City Manager Hernandez said the rates could be left as they were in 1985, but the fines were not established as part of municipal court and this resolution would address that.

Commissioner Jurkovich moved to approve the amended comprehensive fee schedule. Mayor Giles seconded the motion. A voice vote resulted in four aye votes and one nay vote, with Commissioner Every dissenting.

Mayor Giles declared the resolution adopted and given Resolution No. 2015-09-2997.

City Manager Updates

City Manager Hernandez said he hoped to have a light agenda for the October 6 meeting so commissioners could leave in time to attend some National Night Out neighborhood block parties. The kickoff party will be October 5 at Paris Park. He also mentioned a legislative forum starting at 11 a.m. October 9 at the Senior Citizens Center, 320 South A St., with a luncheon to follow.

Police Chief Ward said this year's event was on place to surpass last year's, which was ranked fourth in the nation, despite losing a school resource officer to another department. He asked that anyone planning a block party contact the police department. He praised the kickoff party as a wonderful community outreach program.

Hernandez urged Commissioners Every and Oestmann to attend a League of Kansas Municipalities conference on October 10-12. Commissioner Warren also praised the training and recommended that they attend it.

Other Business

Commissioner Dan Jurkovich asked for a study session to discuss email protocol for commissioners as it relates to the Kansas Open Meetings Act and including unexpected additional items, such as information from individual commissioners, in that meeting's agenda to satisfy the Kansas Open Records Act.

Commissioner Every defended his use of emails, but Mayor Giles contended they use too much staff time at the direction of a single commissioner, rather than a consensus of the governing body. Hernandez estimated it can take between nine and 15 hours of staff time to research some of the requests.

Mayor Giles said he didn't think the emails are productive and he didn't want to receive them. He believes staff is becoming frustrated with the requests for information. Commissioner Every asked if more items could be tabled after first reading because he doesn't feel he has sufficient time to research things before voting is held.

Jenifer Ratcliff addressed the commissioners, and thanked them for questioning every purchase and trying to be good stewards of the public's money. Commissioner Warren suggested bringing back work sessions.

Mayor Giles instructed commissioners not to email staff until a study session could be held to address the issue.

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Adjournment

Commissioner Oestmann moved to adjourn. Commissioner Warren seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Giles declared the meeting adjourned at 8:37 p.m.

THE ARKANSAS CITY
BOARD OF CITY COMMISSIONERS

Chad Giles, Mayor

ATTEST:

Lesley Shook, City Clerk