

City of Spring Hill, Kansas
Minutes of City Council Regular Session
JANUARY 11, 2018

A Regular Session of the City Council was held in the Spring Hill Community Center, 613 S. Race, Spring Hill, Kansas on January 11, 2018. The meeting convened at 7:00p.m. with Mayor Ellis presiding and Glenda Gerrity, City Clerk, recording.

Councilmembers in attendance: Chris Leaton arrived at 7:10p.m.
Tim Pittman
Floyd Koder
Chad Eckert
Andrea Hughes

Staff in attendance: Melanie Landis, Asst. City Administrator
Jim Hendershot, Asst. City Administrator
Richard Mann, Chief of Police
Natalie Lazenby, Human Resource Manager

Consultants in attendance: Frank Jenkins, City Attorney

INVOCATION

The invocation was given by Pastor Jack Smith, Antioch Baptist Church.

PLEDGE OF ALLEGIANCE

Jack Wagner, Boy Scout, lead the audience in reciting the Pledge of Allegiance. The Mayor thanked Mr. Wagner.

ROLL CALL

The City Clerk called the roll of the City Council. With a quorum present, the meeting commenced.

APPROVAL OF THE AGENDA

The Mayor requested to add Item 14. Letter of Credit: Dayton Creek Third Plat

Motion by Koder, seconded by Eckert, to approve the revised agenda. Motion carried 4-0-0.

CITIZEN PARTICIPATION

There was no citizen participation.

CONSENT AGENDA

Motion by Koder, seconded by Pittman, to approve the consent agenda

1. Appropriation Order 2018-01-11
2. Consider Approval of Agreement: Facility Use Agreement, Chamber of Commerce
3. Consider Approval of Agreement: Service Agreement, Chamber of Commerce
4. Consider Approval of Agreement: Maintenance Agreement, Sumner One / DataMax
5. Consider Approval of Agreement: Propane Services, Ferrellgas
6. Consider Approval of Agreement: Public Improvements of Lone Elm Road Box Culvert, County Assistance Road System (CARS), Johnson County, Kansas
7. Consider Acceptance of Bid and Approval of Agreement: 2018 Emergency Generator Service, CK Power
8. Consider Approval of Agreement: SCADA Telemetry Control, 2018 Extended Service Warranty Plan, Micro-Comm, Inc.
9. Consider Approval of Agreement: Utility Locating Service, Integrity Locating Services, LLC
10. Consider Approval of Purchase: Software Maintenance Service Plan, Water Utility Reading Equipment, Neptune Technology Group
11. Consider Acceptance of Dedication of Right-of-Way: Woodland Road and 191st Street, Mr. John Hatcher

Motion carried 4-0-0.

FORMAL COUNCIL ACTION

12. Consider Approval of Proposal: City Administrator Recruitment Services

Mrs. Lazenby presented the proposal for City Administrator recruitment services.

In October 2017, the City released a request for proposal for Recruitment Services for the position of City Administrator. Four proposals were received and evaluated according to the purchasing policy. Austin Peters Group submitted an impressive plan that outlined the goals and objectives that were comparable to the City's.

Staff recommended that the City Council accept the bid for Recruitment Services for the City Administrator position by Austin Peters Group, Inc. in the amount of \$14,400.00, plus advertising costs not to exceed \$3,000.

Motion by Eckert, seconded by Pittman, to accept the bid for Recruitment Services for the City Administrator position by Austin Peters Group, Inc. in the amount of \$14,400.00, plus advertising costs not to exceed \$3,000. Motion carried 4-0-0.

13. Consider Approval of Board Appointment: Board of Zoning Appeals

The Mayor gave a brief history about the vacancy on the Board of Zoning Appeals and reported that he received an email from Mr. Jim Rose, who was interested in serving on a City board.

The Mayor requested consent of the City Council, the appointment of Mr. Jim Rose to serve on the Board of Zoning Appeals to an unexpired term ending June 2019.

Motion by Koder, seconded Pittman, to accept the Mayor's appointment of Mr. Jim Rose to the Board of Zoning Appeals for a term ending June 2019. Motion carried 4-0-0.

Mr. Leaton arrived at 7:10p.m.

14. Consider Approval of Letter of Credit: Dayton Creek Third Plat (Payment deferral of excise taxes), PV Investments

Mr. Hendershot presented the Letter Agreement with PV Investments, LLC relating to deferral of payment of the excise taxes applicable to Dayton Creek, Third Plat.

Mr. Hendershot stated the following:

On September 28, 2017, the City Council approved Dayton Creek Third Plat and the Deed of Dedication; however, neither document has been recorded pending completion of the Deed of Dedication form which requires adding exceptions to the deed that would be acceptable to the City. The City requested Dayton Creek provide an ALTA survey of the area subject to the Deed of Dedication, along with a title insurance policy commitment that has been updated based on the survey. When the survey and the updated commitment have been provided the City will be able to determine the title exceptions to be shown on the Deed, and whether or not the Deed with those title exceptions is acceptable.

To date, the ALTA survey and the updated title commitment have not been provided to the City. Consequently, the City does not yet know if the final form of the Deed of Dedication, with exceptions shown by the survey and the commitment, will be acceptable to the City.

On December 15, 2017, Dayton Creek advised the City that it was absolutely critical to proceed with the next phase of the project.

Dayton Creek has further advised that the only issue preventing the recording of the Third Plat was the payment of the excise tax which would otherwise be due except for the credit to be provided under the Deed of Dedication. In order to ensure the excise tax obligation is met in the event the Deed of Dedication is not timely provided (or, once provided, is not acceptable to the City), Dayton Creek has offered to provide a \$125,000.00 Letter of Credit to the City to assure payment of the anticipated amount of the excise tax that will be due when the Third Plat is filed (\$122, 625.85).

The Letter of Credit has been reviewed and is in proper form.

If the Letter Agreement is approved, a Letter of Credit in the form attached to the Letter Agreement will be issued by Intrust Bank to the City within 5 days after the Letter Agreement is signed by all parties. Dayton Creek will have until April 30, 2018, to provide the City with the ALTA survey, the revised title commitment, and a Deed of Dedication in a form that is acceptable to the City. If the survey, revised commitment, and Deed of Dedication are timely provided to the City, and accepted by the City, all no later than April 30, 2018, then the City will not draw on the Letter of Credit because the excise taxes for the Third Plat will have been paid by the City accepting the Deed. But, if the April 30, 2018, deadline is not met, then the City will have until May 11, 2018, to draw on the Letter of Credit in the amount of the excise tax due for the Third Plat (expected to be \$122,625.85). The money from the Letter of Credit will be used to pay the excise tax. In order to draw on the Letter of Credit, the City will need to issue the statement certifying the tax is due (statement is described in the Letter of Credit), complete the form of the Sight Draft attached to the Letter of Credit, and fax the statement and completed Sight Draft to Intrust Bank at the fax number shown in the Letter of Credit.

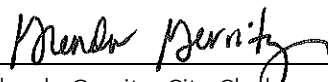
Funding: If the City accepts the survey, revised title commitment, and Deed of Dedication, then Dayton Creek will receive a \$327,572 credit against excise taxes due for filing the Third Plat and subsequent Dayton Creek plats. The excise tax due for filing the Third Plat will be paid by way of this credit, leaving a remaining credit of approximately \$205,000.00 to be applied against excise tax due for filing subsequent Dayton Creek plats. As a result of granting of the excise tax credits for the Deed of Dedication, the City will not receive excise taxes for Dayton Creek Third Plat; however, it will acquire the designated right-of-way.

Mr. Hendershot confirmed that the excise tax credit can be passed on to a new owner of Dayton Creek, but only for Dayton Creek. The excise tax credit is only applicable to Dayton Creek. Also, there is a 10-year window for the credit to be used (June 1, 2028).

Mr. Curtis Holland, Polsinelli, is the attorney for the applicant and stated that they expect the ALTA survey to be completed next week if the weather cooperates; the updated title commitment will be completed soon, they just need to finalize some easements. This is all subject to approval by the City's legal counsel.

Motion by Leaton, seconded by Koder, to approve the Letter of Credit for Dayton Creek Third Plat, payment deferral of excise tax for PV Investments. Motion carried 5-0-0.

The meeting adjourned at 7:31p.m.



Glenda Gerrity, City Clerk

Approved by the Governing Body on January 25, 2018.