

THE REGULAR MEETING OF THE LIBERAL CITY COMMISSION

July 14, 2015

The regular meeting of the Liberal City Commission was held at 6:30 p.m. in the Commission Chambers located at 325 North Washington on Tuesday, July 14, 2015.

Commissioners Present: Mayor Joe Denoyer, Vice Mayor Dean Aragon, Jack Carlile, Dave Harrison and Tony Martinez.

City Staff Present: City Manager Mark Hall, Public Works Director Joe Sealey, Finance Director Chris Ford, City Clerk Debbie Giskie, Human Resources Director Sheena Schmutz, Zoning Administrator Kory Krause, Economic Development Director Jeff Parsons, Assistant Fire Chief Skeety Poulton, LPD Captain David Odle, Recreation Director William Weber and City Attorney Shirla McQueen.

Mayor Denoyer declared the meeting called to order, and City Clerk Giskie read the roll call declaring a quorum present. The Pledge of Allegiance was recited, and the invocation was given by Ann Holman of the Risen Glory Church.

1. Awards/Proclamations/Presentations. *No items were presented.*

2. Approval of Agenda.

Mayor Denoyer requested approval of the agenda.

Commissioner Harrison moved to approve the agenda, as presented, with Vice Mayor Aragon seconding the motion. The motion carried unanimously.

3. Approval of Minutes.

Commissioner Harrison reported a correction on page 2 in the last bulleted sentence where he made that statement, instead of Commissioner Carlile.

Commissioner Carlile moved to approve the minutes of the June 23, 2015 regular meeting, as amended. The motion was seconded by Commissioner Harrison and carried unanimously.

4. Items from Citizens.

Mayor Denoyer read the rules of the Commission and requested members of the audience approach the podium to address the Commission.

- Judy Barnes, Liberal, appeared before the Commission and thanked the Commission for giving her the opportunity to share her concern. She noted she has lived in Liberal since 1977 and has always been supportive of the community. She noted Liberal is a great place to live, raise children, work, retire and worship. She noted the home they purchased in 1977 adjoins an area that is zoned commercial. She described the area where there is a two-story professional building on the north side of 15th Street just west of the 15th and Western Avenue intersection. She further explained the professional building shares the alley with the east side of the 1500 block of Nelson.
- Mrs. Barnes advised a few years ago a 90' cell tower appeared to the north side of the professional building and didn't recall receiving any notification given to the neighborhood at that time. She further advised that this summer a very imposing wire fence with a barb wire

top is being built to the west of the professional building and all kinds of work has gone on inside the fence, such as concrete, etc. She explained she was told the purpose is to raise a tower that will be 130 feet tall with an 8 foot lightening rod. She further noted the metal fence is just fourteen steps away from her back fence and no notification has been received regarding this project. Mrs. Barnes advised Nelson is a nice residential neighborhood, where kids play, families work together and it's a good place to live.

- Mrs. Barnes advised she didn't want to be misunderstood; commercial property owners have the right to construct anything they choose within the approved limits, but she wished that the residential side could have known what was pending and could have at least stated their concerns or approval.
- In that light, she asked the following questions of the Commission:
 1. How would you respond if you went into the alley and found a metal fence and barb wire was standing in the place where a parking lot use to be?
 2. Would you be pleased to hear that a 130' cell tower with an 8' lightening rod would be placed inside that fence?
 3. Would you have concerns about not being notified about something that has possibly been in the works for two years; a project that would impact the residential side of Nelson?
 4. Would you have safety issues?
 5. Would you wonder about the effect the cell towers would have on your property value or on the property values of your neighbors?
- Mrs. Barnes noted the first day she saw the fence, she tried to find out what it was, she wanted it stopped and investigated, as she didn't want it or like it.
- She noted if all that is accomplished is to use this situation to give heads up to a better way, a more informative way, a kinder way, to handle cell tower issues and other issues that come before you - that will have value. She advised if in her own life because of this, she is more aware of how every decision and how every personal behavior affects others in a positive or negative way - that will have a good result also.
- Mayor Denoyer and Vice Mayor Aragon thanked Mrs. Barnes for her presentation.
- Commissioner Harrison asked what our policy is. Mr. Hall advised there is no requirement of notice and this situation suggests the permitting process should include an effort to notify the property owner.
- Commissioner Harrison advised we need to revisit this and noted the new tower is quite a bit higher than the current tower. Mr. Hall advised this has been discussed, no one did anything wrong, but as Mrs. Barnes suggests, maybe we can suggest or help with notification issues in the future.

5. Items from Groups.

Mayor Denoyer read the rules of the Commission and requested members of the audience approach the podium to address the Commission. *No items were presented.*

6. Consent Agenda.

a. Approval of Airport Leases:

1. # 21.03	Liberal New Iron & Metal	\$2,385.11	1 year
2. # 27.02	Don Small	\$ 510.51	1 year
3. # 52.00	Ag One	\$2,108.40	10 years
4. # 60.01	Kenny McElvain	\$1,344.00	1 year

5. #124.00	Crown Consulting	\$1,783.20	1 year
6. #175.02	Brungardt Pumping	\$1,875.85	1 year

- Mayor Denoyer inquired if the Commission wished to remove any items for further discussion.

Commissioner Carlile moved to approve the Consent Agenda, as presented, with Vice Mayor Aragon seconding the motion. The motion carried unanimously.

7. First and Final Reading of Ordinance No. 4456 - Amending Section 12-305 of the Code of the City of Liberal, Kansas pertaining to Consumption of Cereal Malt Beverages.

Mayor Denoyer requested Commission consideration of the first and final reading of Ordinance No. 4456, entitled, "AN ORDINANCE AMENDING CHAPTER XII, ARTICLE III, CHAPTER 12-305 OF THE CODE OF THE CITY OF LIBERAL, KANSAS, PERTAINING TO CONSUMPTION OF CEREAL MALT BEVERAGES".

- City Manager Hall advised with the opening of the baseball season hopefully next week, he asked the Commission to consider restrictions on the consumption of cereal malt beverages at the National Beef Family Sports Complex. He explained the proposed ordinance removes Rosel Field, which will be for young girls softball. He also noted the ordinance includes the National Beef Family Sports Complex, which allowed it previously, but it does clear up the softball fields which will be utilized by the high school until approximately Memorial Day and from Memorial Day to Thanksgiving Day would allow beer consumption for recreation softball.
- Mr. Hall noted the ordinance would not allow consumption at the Babe Ruth ball fields which are predominantly young adults and also at the youth ball fields on 15th Street. He noted the prohibited areas would be posted.

Commissioner Harrison moved to adopt Ordinance No. 4456, as presented, with Vice Mayor Aragon seconding the motion.

- Commissioner Carlile questioned why we are not including all the parks in the ordinance. Mr. Hall advised the parks will remain the same and noted this ordinance will address the fields where youth play ball.
- Mayor Denoyer noted he was in favor of removing Blue Bonnet and Mahuron Parks.
- Commissioner Harrison advised if it is a problem, he would agree. He noted when there had been an event that included consumption of alcohol at Light Park in the past, that event was moved to the parking lot between Walgreens and the Fire Station.
- City Manager Hall advised we could bring the ordinance back for further discussion at a later time and explained the purpose of the ordinance is to make sure there isn't any misunderstanding for the start of the ball season.
- Commissioner Harrison felt it would cause confusion if we change. He noted the police department is patrolling the parks and the public understands the way it is now.

It was the consensus of the Commission to revisit the public use parks in the future.

The motion carried unanimously.

8. Equipment Purchase - Pagers - Fire Department.

- Assistant Fire Chief Poulton advised the fire department is asking for approval to purchase eight pagers, as budgeted. He the recommendation is for the purchase of the Motorola "Minitor 6" pagers from G & G Electronics at a cost of \$3,192.00; however, while reviewing the bids tonight, he noticed the Flanigan Communications quote allowed a \$25

rebate per pager and they would check with G & G Electronics to see if they would honor the rebate/payback.

- Assistant Chief Poulton recommended approving the purchase of 8 pagers in an amount not to exceed \$3,192 after checking with both vendors on the rebate clause.
- Commissioner Martinez noted he had talked to some firefighters about their pagers and they indicated it is difficult to keep them charged.

Vice Mayor Aragon moved to approve the purchase of eight (8) Minitor 6 pagers in an amount not to exceed \$3,192, as presented, with Commissioner Martinez seconding the motion. The motion carried unanimously.

9. Air Conditioner Purchase - Police Department.

- LPD Captain Odle requested Commission consideration to purchase a replacement air conditioner to serve the northwest corner of the police departments. He explained this equipment serves as an air conditioner and heater and had an inoperable compressor and the condenser has a crack and can't be replaced because of its age. He noted the last unit that was replaced was done in 1984 and the unit being discussed is older than that unit.
- Captain Odle referred to the bids received as listed in the packet and recommended the purchase of the unit from Luck Refrigeration for \$11,873 to be paid from the equipment reserve fund.
- Mayor Denoyer pointed out that Luck offered a 5-year warranty and Lynn's offered a one-year warranty.
- Commissioner Martinez advised he recently replaced the unit at his house and felt it would provide some energy cost savings.

Commissioner Harrison moved to accept the bid of Luck Refrigeration for the purchase of the HVAC for the police department, in the amount of \$11,873, as presented. Commissioner Carlile seconded, which carried unanimously.

10. Bids for Ice Machine - Recreation Department.

- City Manager Hall advised the request is for the purchase of two ice machines; one for Adventure Bay Water Park to be funded from the aquatics center budget and one for the National Beef Family Sports Complex, for which funding was received from a private local foundation. He referred to the quotes received and noted a commissioner with experience with ice machines contacted City staff regarding other options. He expressed appreciation for the tips to utilize better purchasing.
- Mr. Hall advised Recreation Director Weber reviewed the quotes received from Central Restaurant Products for a Hoshizaki model for \$3,550 each, a Scotsman for \$3,782 each and Ice-o-Matic for \$3,172 each and the quote from Lynn's Total Comfort for a Manitowoc model for \$4,380 each.
- Mr. Weber explained he received a quote from Central Restaurant Products for a quote for a Manitowoc model for \$3,087 each or \$6,174 and recommended the purchase of two Manitowoc ice machines from Central Restaurant Products for \$3,087 each or \$6,174, delivered.

Commissioner Harrison moved to accept the grant monies and to approve the purchase of two Manitowoc ice machines from Central Restaurant Products in the amount of \$6,174 delivered, as presented, with Vice Mayor Aragon seconding the motion. The motion carried unanimously.

11. CITY MANAGER'S REPORT.

- City Manager Hall reported it is City staff's intent is to open the softball complex as early as possible and it should be done on Monday with games to start on Tuesday. He advises there will be a ceremony on Monday and taking some photos at the ball complex this week. He reported that Mr. Weber had put out a letter to the teams and thanking them for their patience. He noted the season will go a little longer into the fall and noted City staff will continue making the improvements. He expressed appreciation to all involved in the project.
- Mr. Hall reported City staff has been working to stay ahead of the weed problem and thanked private citizens for taking care of their property.

12. ITEMS FROM COMMISSIONERS.

Vice Mayor Aragon thanked Mrs. Barnes for coming to the meeting and noted her presentation was very eloquently spoken. He advised he has been to the ball fields and thanked City staff for working hard and doing a great job. He looked forward to seeing people playing ball at the facility.

Commissioner Martinez noted he was elected to do positive things for the community and felt the ball fields and the Walmart deal with 90 jobs will be positive. He felt the Commission needs to work together to be one and noted he is working to learn and continue to work together and move forward on a positive note for the community.

Commissioner Carlile advised he would like to revisit the last meeting. He believed we were informed that we didn't need FAA approval for the land sale. He reported he didn't understand that, being a citizen of Liberal for a long time and having been involved in some land sales to some family members in the past, therefore, he traced down the FAA lady and called her and was not pleased with the response received. He thought the City has been put into some major jeopardy because we did not pick up the phone at the very start of this Price Properties project ... make a phone call on how we could do this and expedite it. He indicated we are looking at maybe being fined – he didn't know and believed you and the city manager know more than he does and he would like to know what is going on and think the public has a right to know.

- Mayor Denoyer reported the FAA has requested additional information from the City of Liberal regarding the land sale at 7th and Western and we're in the process of acquiring that requested data, and we'll be responding to the FAA here probably by the end of the week if not the first of next week. He further noted as was discussed at the last meeting, a question has arisen of whether the city needed to get the FAA's permission prior to selling the property, and after reviewing all the recorded deeds, it appeared to the City, to Walmart, and to the title company, that the FAA had released the relevant tract from any prior reservations, restrictions and conditions. Thus, the city did not seek a release from the FAA prior to selling the property.
- Mayor Denoyer further noted that the FAA has disagreed with that interpretation and that is why they have asked for additional information. He noted they have asked for land sale contracts and requested an additional appraisal and thus the proceeds regarding the fair market value, that's why we transferred those to the land sale fund. We are working in the process with the FAA to clear up this matter and we are in the process of legal counsel having taken this over to provide all the necessary documentation and the thought process as

to how we arrived at this decision. He noted the FAA has given us 30 days to respond and legal counsel should have that response within seven days of their request. At this time, everything is still pending. He advised the title company said we had a clear title and I know on prior land sales it has popped up that FAA had ownership and this one did not pop up that way.

- Commissioner Carlile inquired if we couldn't have made a call to the FAA at the start so we wouldn't be in this predicament.
- Commissioner Harrison noted actually the city manager went to Kansas City to meet with the FAA.
- Commissioner Carlile noted that happened in March, after the land was sold.
- Commissioner Harrison stated it was not sold - that is incorrect.
- Mayor Denoyer noted the paperwork had been on the FAA's desk for several weeks, prior to them looking at it. He advised he spoke with Lynn at FAA and it is their desire to work through this to an equitable solution.
- Commissioner Harrison noted he has a concern; noting we have two people who are paid to represent the City of Liberal; the city attorney and city manager on matter like this and both have been in contact with the FAA. He didn't feel it was helpful for us as commissioners to be calling these folks and it only causes confusion to the matter. Commissioner Harrison indicated this is very simple to clear up.
- Commissioner Carlile advised it isn't fairly simple.
- Commissioner Harrison advised yes it actually is, all the FAA has to do is to produce documentation that says we are required to put money somewhere else, which they haven't been able to produce at this point and if they do, we will have to do that. He further noted that right now, in all actuality, he didn't think we are required to put any funds into that airport land sale fund. We have done it because we want to keep our airport viable, and we have actually taken money not from land sales but from sales tax so we can do projects out there and that is what people don't understand.
- Commissioner Harrison noted he wanted to be real honest with Commissioner Carlile and advised ever since he has been on the commission, he has tried to dig a hole for this Commission.
- Commissioner Carlile advised, no, he hadn't.
- Commissioner Harrison, stated, yes he had and noted a few weeks ago, Commissioner Carlile had asked two or maybe three commissioners to vote no on everything and questioned what was the point to that.
- Commissioner Carlile advised he had no idea at this point.
- Commissioner Harrison asked if Commissioner Carlile had been the one who wanted to do it.
- Commissioner Carlile advised he had been and he had asked what would be hypothetical.
- Commissioner Harrison questioned what would be hypothetical and what was he talking about.
- Commissioner Carlile wanted to explain something and continued noting this is his town and that Commissioner Harrison is a move-in.
- Commissioner Harrison noted he has been here 30 years.
- Commissioner Carlile advised he had been here for 59 years.
- Commissioner Harrison advised, so what.

- Commissioner Carlile noted his point is that he had been through these land sales and questioned what made this sale different from anybody else's.
- Commissioner Harrison noted it is real simple, and if Commissioner Carlile had been listening, he would have heard. He continued by stating we have always been told, anyone who's ever sat on the city commission, anyone who's ever been a city manager here, has always been told this money has to go in the airport land sale and that we don't own that land out there. He noted that, guess what, we discovered we have a deed to that land out there and the FAA does not own that land - the City of Liberal owns that land. He further noted by our definition, by our city attorney's definition, Walmart's definition and the title company's definition, even the FAA isn't arguing that we own the land - are they?
- Legal counsel McQueen reported in 1948, when the property was conveyed to the City, there were restrictions and reservations that the City had to follow to sell the property. She noted the City acquired the property from the federal government, the predecessor to FAA, in 1948; however, in 1984, the FAA issued a deed releasing the City from all the prior reservations and she wasn't sure if anyone knew about that deed.
- Commissioner Harrison stated the FAA didn't know about the deed when the city manager went to see them.
- City Manager Hall advised it was the FAA's contention is that this deed does not relieve the requirements, and noted as discussed with the prior commission, this is what we want to do to be compliant with the FAA and work towards a solution.
- Commission Harrison noted this has been the crux of this whole deal for the last two weeks. As far as he was concerned, we will jump through the hoops and try to make FAA happy until we get to a resolution and then circle back to them and have them show us where we have to do that.
- Commissioner Carlile advised he will be happy to see that.
- Commissioner Harrison stated that is where we're headed.
- Mayor Denoyer noted we are working through this with legal counsel to get this done. He noted he was copied in the e-mail from the FAA with the original letter that prompted his phone call to the FAA and that was the last time he talked to them.
- Commissioner Harrison questioned if Commissioner Carlile was copied and had he talked to the FAA and how they had known he was a city commissioner.
- Commissioner Carlile advised they were public documents and he has received all the public documents.
- Commissioner Harrison questioned if he requested them.
- Commissioner Carlile advised yes he had.
- Commissioner Harrison advised that is all he wanted to know.
- Commissioner Harrison thanked City staff for all the hard work and time has been put into this project and knows this has been very trying to himself and to Mr. Parsons, as well as the three commissioners to his left know how hard and important it was to the community it was to put together an \$8 million dollar building, plus 90+ jobs in a location where ball fields were and we found a way to legally to reconstruct not only three fields but five fields that will extremely nice and better than we had before. He also felt strongly that the three lots adjacent to the Walmart building will be developed. He advised there is not a Walmart Neighborhood Market close to Liberal, the closest is Wichita or Amarillo. He also noted as we go forward there are several projects that are about to happen and others in the works.

- Commissioner Harrison it was hard for him to understand why anyone wants to raise a red flag or throw dirt on either of those projects and he and others are trying to help move these projects forward. He noted there is nothing wrong with asking questions and he advised he has done so several times, but we need to do so in a positive manner and follow the chain of command that we as commissioners have to follow. He advised we have one employee and that is the city manager, and if we have problems then he is who you go to. He noted if you don't have success we get together as a commission and go into executive session and talk about personnel matters. But as far as somebody stepping out and jumping that chain of command, I kind of have a problem with it. That's just me personally telling how I feel. I think as we go forward and people see the projects...just have a hard time understanding why anybody is trying to...
- Commissioner Carlile stated he doesn't have a problem with Walmart, the 90+ jobs or the new ball fields, but felt it could have been handled a lot easier and quicker with a phone call at the very start and it might have taken 30 days longer, but he thought it would have been handled and done right.
- Commissioner Harrison asked if he was saying it hasn't been done right.
- Commissioner Carlile noted he didn't know, but a government agency says it not.
- Commissioner Martinez questioned if it isn't their job to if we've made a mistake, let's figure what we need to do and fix it. If you're not doing anything you won't be making mistakes. He felt like we should learn from this and we'll go on and find out what we need to do to fix it and let's move on; that is our job.
- Commissioner Harrison agreed with Commissioner Martinez and he respectfully disagreed with Commissioner Carlile. He didn't think we made a mistake and thinks we are right and time will show that we were right.
- Commissioner Carlile stated that he hoped.
- Mayor Denoyer advised since the initial e-mail he received last Friday, he has been in contact with legal counsel and with the city manager and feels confident that this will work out and everybody will be satisfied when it is all said and done. He feels confident the construction will continue and everyone will be excited with the project as well as future development of the other lots.

Commissioner Harrison expressed appreciation to all the members of City staff and noted it is tough to take care of all the weeds and they can only do so much. He indicated he mows his yard twice a week and it's tough to stay ahead of the growing weeds. Commissioner Harrison advised it is easy to voice your concerns by calling the City and noted everybody wants what is best for the City of Liberal.

Mayor Denoyer reminded the Commission of the 7:00 a.m. budget meeting on Thursday at the Randall Girl Scout Building and welcomed the new commissioners to the process. He was pleased to hear that games would be played on the new ball fields this year and thanked City staff for their efforts. He also commended the police department for their efforts in showing restraint in difficult situations and that says a lot about the training they have received.

13. VOUCHERS.

\$1,607,286.52, dated July 14, 2015. *Commissioner Carlile moved to approve the vouchers, as presented, with Commissioner Martinez seconding the motion. The motion passed unanimously.*

The meeting was adjourned by motion of Commissioner Harrison.

Joe Denoyer, Mayor

ATTEST:

Debra S. Giskie, CMC, City Clerk