0THE REGULAR MEETING OF THE LIBERAL CITY COMMISSION
December 26, 2012

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 Wednesday, December 26, 2012.

Commissioners Present: Mayor Tim Long, Vice Mayor Joe Denoyer, Dave Harrison Larry Koochel and Janet Willimon.

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, Chief of Police Al Sill and City Attorney Shirla McQueen.

Mayor Long 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 Joe Sealey.

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

2. Approval of Agenda.
Mayor Long requested approval of the agenda.
Vice Mayor Denoyer moved to approve the agenda, as presented, with Commissioner Willimon seconding the motion. The motion carried unanimously.

3. Approval of Minutes.
Commissioner Koochel moved to approve the minutes of the December 11, 2012 regular meeting, as presented. The motion was seconded by Vice Mayor Denoyer and carried unanimously.

4. Items from Citizens.
Mayor Long read the rules of the Commission and requested members of the audience approach the podium to address the Commission. *No items were presented.*

5. Items from Groups.
Mayor Long 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. Acknowledge Receipt of Minutes:
    1. Liberal Housing Authority, October 10, October 17, and November 20, 2012.
b. Cereal Malt Beverage License Renewals:
    1. Taqueria el Gallo de Jalisco   719 South Kansas Avenue

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

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

7. First Reading of Ordinance No. 4407 - United Wireless Communications, Inc. Franchise Agreement.

Mayor Long requested Commission consideration of the first reading of Ordinance No. 4407, entitled, "AN ORDINANCE GRANTING UNITED WIRELESS COMMUNICATIONS, INC., A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF LIBERAL, KANSAS AND PRESCRIBING THE TERMS OF SAID CONTRACT FRANCHISE".

- City Manager Hall reported Roger Mock, general manager of United Wireless Communications, was in the audience to answer any questions.
- Mr. Mock advised United Wireless was formed and built in 2007 with Dodge City, Garden City and Liberal being the biggest communities in their territory. He noted in the beginning they only needed a time circuit to run base equipment and now they need more bandwidth to acquire better equipment to better serve the communities. He advised they have received some inquiries from some local business and intend to provide service to businesses that need five to seven trunk lines with fiber, but not to residences at this time.
- Commissioner Koochel asked if they would have an office here. Mr. Mock advised they are based out of Dodge City, currently they have a store in Liberal and have a technician in Ulysses.
- Commissioner Harrison asked Attorney McQueen if the proposed ordinance addresses the concerns currently being experienced with Zito Media. Attorney McQueen advised the State has taken over cable television franchise ordinances and this ordinance is for a telecommunication system. She noted there are provisions in the ordinance that would allow the City to take action regarding the concerns we are currently experiencing.
- It was noted that United Wireless' legal counsel had reviewed the proposed ordinance and that they would be asking for a franchise ordinance from Dodge City and Garden City.
- Mayor Long asked, "Does United Wireless intend to use the fiber optic cables for any reason other than to provide enhanced service to its wireless customers and to lease to third parties. If so, what are these other issues? Does United Wireless agree that any gross receipts derived from any use other than its collections from its wireless customers will form the basis for a franchise fee?" Mr. Mock advised they intend to connect anyone that requests service and the more customers that are connected, the more viable it will be. He noted they can lease dark fiber, can provide internet bandwidth, have the expertise to provide TDM circuits and agree to pay a commission on the fixed phone service and also on leased fiber.
- Attorney McQueen advised the City wants to make sure the franchise ordinance covers all the uses they intend to lease. She explained the ordinance covers leasing of the dark fibers and questioned if bandwidth was the same as dark fiber. Mr. Mock noted bandwidth is Ethernet access to the Internet and advised there are State and Federal statutes that would need to be addressed in that regard.
- Discussion was held on wireless telephone usage and it was noted the user of the fiber optics can be charged, but not for wireless telephone service "up in the air".
- Commissioner Koochel questioned how many sections of fiber would be involved initially. Mr. Mock advised they are thinking about looping back from Liberal to Dodge City with anywhere from 96 to 144 cables of fiber about the thickness of your thumb. He noted the glass fibers are very thin and most of them will be dark until more customers are connected.
- Mayor Long asked, "The franchise ordinance specifies that United Wireless will pay the City a franchise fee for gross receipts resulting from, among other things, the lease of dark fibers.

Is there anything else that United Wireless will be leasing and, if so, will United Wireless pay a franchise fee on such usage?" Mr. Mock advised they will be leasing circuits and are looking into leased telephone service.

- City Manager Hall advised it was his understanding that anything that ran through the fiber optic system, other than their wireless customers, would be subject to the franchise fee. Discussion was held on usage of the dark fiber, Internet bandwidth and backhauling data through the fiber optic system. Mr. Hall noted tonight was the first time the term "bandwidth" had been brought up during negotiations and this needs to be discussed further.

Commissioner Harrison moved to table Ordinance No. 4407 until further discussion is held with legal counsel on the issues discussed. The motion was seconded by Commissioner Koochel and carried unanimously.

8. 2012 Budget Amendments:

a. Public Hearing.

Mayor Long called the public hearing open and City Clerk Giskie reported the proper legal notice has been given.

- Finance Director Ford reviewed the budget amendments dealing with the employee benefits fund and the debt service fund.

There being no further questions or comments from the Commission, City staff or audience, Mayor Long declared the public hearing closed.

b. First and Final Reading of Ordinance No. 4406 - Amending the 2012 Fiscal Year Budget Appropriations for the Employee Benefits Fund and Debt Service Fund.

- Mayor Long requested Commission consideration of the first and final reading of Ordinance No. 4406, entitled, "AN ORDINANCE AMENDING THE 2012 FISCAL YEAR BUDGET APPROPRIATIONS FOR THE EMPLOYEE BENEFITS FUND AND THE DEBT SERVICE FUND".
- City Clerk Giskie reported the Mayor had signed a letter waiving the first reading of the ordinance and deeming it an emergency to adopt the ordinance on first and final reading.

Commissioner Koochel moved to adopt Ordinance No 4406 by waiving the first reading and adopt the ordinance on the first and final reading, as presented, with Vice Mayor Denoyer seconding the motion. The motion carried unanimously.

9. Fiscal Year 2012 Transfers.

- Finance Director Ford reviewed the year-end transfers as outlined in the packet and noted this is an annual housekeeping item.

Vice Mayor Denoyer moved to approve the fiscal year 2012 transfers, as presented, with Commissioner Harrison seconding the motion. The motion carried unanimously.

10. Reclassifications of Delinquent Accounts Receivable and Utility Accounts.

- Finance Director Ford referred to the amended memo distributed tonight. He advised the total amount of delinquent accounts receivable, notes receivable and utility accounts for reclassification is $34,309.74.
- Commissioner Koochel questioned how this compares to past years. Mr. Ford advised this amount has been pretty constant compared to previous years. He explained the total delinquencies equal ½ of 1% of more than $6.4 million of total utility sales for the year.

Vice Mayor Denoyer moved to approve the reclassification of delinquent accounts receivable, notes receivable and utility accounts over 120 days past due, in the amount of $34,309.74. Commissioner Koochel seconded the motion, which carried unanimously.

11. CITY MANAGER'S REPORT.

- City Manager Hall referred to the financial report from Adolescent Support Services for the truancy program. Discussion was held on monitoring the expenses by receiving copies of invoices with A concern raised on the fuel expenditures.
- Mr. Hall thanked the Commission for a great year, expressed appreciation to the efforts taken by City staff to go above and beyond to make the community look good and that he looks forward to good things happening in 2013.
- The Commission commended Mr. Hall for putting together an excellent staff that works well together in getting things done for the community.

12. ITEMS FROM COMMISSIONERS.

Commissioner Harrison advised he had attended award banquets for the fire and police departments and noted it was nice to see employees get recognized for their efforts. He wished every a Happy New Year and looks forward to 2013.
Commissioner Koochel hoped that everyone had a Merry Christmas and it was nice to a have a white Christmas. He asked that everyone keep a positive outlook of life as we approach another good year in 2013.
Vice Mayor Denoyer thanked City staff for another tremendous year and appreciated how they have stepped up and done more with less. He wished everyone a Happy New Year and looks forward to a good 2013.
Mayor Long thanked City staff for all they do all year long and noted he hears constant comments on how good our community looks. He noted he had observed the new equipment and furniture at the Youth Center that were made possible by much appreciated donations.

- Mayor Long reported the tentative date for the State of City Address is February 6, 2013, which will be confirmed at a later date.

Commissioner Willimon had no items to present.

13. VOUCHERS.

$542,271.54, dated December 26, 2012. *Commissioner Koochel moved to approve the vouchers, as presented, with Commissioner Willimon seconding the motion. The motion passed unanimously.*

The meeting was adjourned by motion of Vice Mayor Denoyer.

ATTEST: Tim Long, Mayor

Debra S. Giskie, CMC, City Clerk