

**CITY OF LOUISBURG, KANSAS
MINUTES OF REGULAR MEETING
AUGUST 3, 2020**

The Council of the City of Louisburg, Kansas met at 6:30 p.m. in regular session in the City Hall Council Chambers. Mayor Marty Southard presiding. Councilmember Thorvald McKiernan arrived at 6:39 p.m.

Council Members Steve Town, Kalee Smith, Sandy Harris, Donna Cook,
Thorvald McKiernan
City Administrator Nathan Law
City Clerk Traci Storey
City Attorney Kelly Stohs
Police Chief Tim Bauer
Fire Chief Gerald Rittinghouse
Communications Coordinator Jean Carder
Public Works Supervisor Craig Hufferd
Press
Visitors

PLEDGE OF ALLEGIANCE

Councilmember Steve Town led the pledge of allegiance.

APPROVAL OF CONSENT AGENDA

Councilmember Sandy Harris moved, seconded by Councilmember Donna Cook and carried 4-0, to approve the consent agenda to include adoption of the agenda, approval of the regular meeting July 20, 2020 minutes, and approval of the bills.

VISITORS

None

PUBLIC COMMENTS

None

DEPARTMENT REPORTS

Fire Department: Chief Rittinghouse said the aerial truck has had a certification done recently. Conrad Fire Equipment will be taking care of some warranty work in September.

Police Department: Police Chief Tim Bauer said our newest officer Nathan Lamb is excelling at the Police Academy. We are looking forward to having him back in October.

CITY ATTORNEY'S REPORT

None

MAYOR'S REPORT

Mayor Marty Southard asked if the Labor Day Parade was still on. Councilmember Steve Town said he had heard so far it still is. Administrator Law said this is not a City event. The Legion puts it all on.

ADMINISTRATOR'S REPORT

International Fire Code: Staff was directed by Council in June to provide additional consideration to the International Fire Code, 2018 Edition, regarding agricultural properties and ability to have aboveground fuel storage tanks. In the previous ordinance regarding this code, fuel storage is specifically exempted from a number of zoning districts existing at the time of the previous ordinance approval. Not included in the specific prohibition by ordinance is: C-2 Central Business District, C-3 General Business District, C-4 Special Use Business District, C-S Highway Service District, BP Business Park District, I-1 Light Industrial District, and I-2 Heavy Industrial District. Previous zoning regulations compared to current regulations show the same slate of zoning classifications, but has since added HC-O Highway K-68 Corridor Overlay District.

Staff reviewed the current zoning regulations for any mention of allowing aboveground storage tanks, as well as city code book. Zoning Regulations 2010 does not include mention of allowing tanks in most zoning classifications except for I-2 Heavy Industrial, wherein it mentions allowing “manufacturing or storage of bulk oil, gas and explosives” by Special Use Permit only. City Code simply prohibits the use of aboveground or underground propane storage tanks, aside for

20 pounds or less in size, but does allow for tanks utilizing anhydrous ammonia with certain limitations (City Code, section 14-402).

Kansas Statute Annotated (KSA) 65-34,101 et seq. addresses the allowance of storage tanks in this regard. The allowances are limited to certain size tanks, require permitting on an annual basis, but do not address safety considerations of distancing from structures, neighboring structures, local permitting, or local notification of change. Information regarding permitted tanks may be identified through the state, but would require annual staff search of existing and permitted tanks, unaware of accuracy of those records.

There is an apparent gap between the specifically prohibited (by ordinance), the specifically allowed (by statute), and the unidentified or otherwise not addressed (by zoning regulations or city code). This highlights the reason of having local regulations or other guidance to either prohibit or allow, and should be addressed accordingly. In regard to agricultural aboveground tanks, currently there are 20 properties located within the City of Louisburg that are currently zoned as A-L Agricultural Land exclusively. There are another 10 properties that have partial A-L classification and partial additional zoning classification (C-3, I-2, and R-1). Additional zoning classifications have been added to match the current zoning regulation's lack of specific allowance of the aboveground tank consideration whether by regular use or special use. If Council would like to see Agricultural Land allowed to have aboveground storage tanks for various fuel types, staff suggests the following considerations:

- Storage tanks must be permitted through the State of Kansas and provide proof thereof to the City of Louisburg;
- Storage tanks must be located 150 feet from any structure on a neighboring property (KSA 65- 34,105);
- Storage tanks must be located 50 feet from any property line, and must be located farther away from any public access than the primary structure (KSA 65-34,105);
- Property owner to provide proof of annual permit and inspection as required by state of Kansas, and must be inspected and re-permitted whenever an agriculturally zoned property changes from one ownership to another, regardless of sale, forfeiture or inheritance;
- Limit the petroleum allowed to be stored to include certain types of fuel only;
- Limit the volume of fuel to be stored to less than a certain quantity (perhaps less than 660 gallons, and/or less than 1,100 gallons for farm or residential non-

commercial use, as is permitted by the Kansas Department of Health and Environment and KSA 65-34,101 et seq.);

- Enter into an agreement with the state to have the local fire department, building inspection department, health department, department of environmental control or other municipal agency to act as the secretary's agent to carry out the provisions of the state act, allowing for civil penalty for any violation in an amount up to \$10,000 (not sure if that goes to City or state)

Councilmembers discussed the information and asked Chief Rittinghouse if he was aware of any houses still using kerosene. Chief Rittinghouse said he does not believe there are any in the town using it for heat. Councilmembers would like Administrator Law to bring back updated information with the changes that were discussed that allow zoning districts C-4, I-1, I-2, and exclude kerosene and place certain other restrictions.

Stormwater Priority Projects 3-6: Early last year Olsson presented the Louisburg Stormwater Master Plan document to Council. Following Council's acceptance of that report, staff sought to obtain construction documents through Olsson and an engineer's estimate of construction costs for the first two projects on the priority list. Having either bypassed or completed the first two projects, and having sought out updated proposals for continued engineering work on the list of priority projects, attached with this memorandum is the engineer's estimate for the next four projects. The cost estimates for these projects is for engineering only, and does not include actual construction or construction oversight. As shown in the estimate, the combined cost for engineering the four projects is \$443,280. There may be a price reduction if all four projects are engineered at the same time, as the current estimate is for each project individually.

The 2020 budget includes \$433,259 budget authority for capital outlay, which would ideally be utilized for this effort. There is another \$50,000 budget authority in the current year for stormwater maintenance. To date that fund has utilized \$249,357 budget authority between annual maintenance and capital outlay, allowing for \$233,902 remaining budget authority in 2020 to be allocated towards these four priority projects. However, there is currently \$547,512 cash on hand in the stormwater utility fund, and may accommodate a budget amendment to allow for currently available project funds of that full amount (adding additional budget authority), plus any additional utility revenue realized between now and when the budget amendment occurs.

Any budget amendment must follow the same process as adopting an annual budget.

Stormwater Project Summary from Olsson is as follows:

PROJECT LOCATION SURVEY AND DESIGN FEE

N. 9th and N. Metcalf	\$61,180
S. 1st and S. Vine	\$116,420
S. 5th and S. Broadway	\$144,990
S. 9th and S. Rogers	\$136,740
TOTAL	\$459,330
Single Bid Package Reduction	\$16,050

COMBINED TOTAL	\$443,280
-----------------------	------------------

Councilmembers Smith, Cook and McKiernan don't feel that N. 9th and N. Metcalf should be on the priority list. Councilmember Harris asked if any homes are affected at this intersection. Councilmember Town doesn't think there is a problem at this area either. Councilmembers had discussion. Councilmember Thorvald McKiernan moved, seconded by Councilmember Sandy Harris and carried 5-0, to approve the survey and design at S. 1st and S. Vine, S. 5th and S. Broadway and S. 9th and S. Rogers.

Recreational Trails Grans Application Authorization: City Administrator said staff is looking at another opportunity to enhance the City of Louisburg sidewalk and trail system with an option to apply for a recreational trails grant through the Kansas Department of Wildlife, Parks and Tourism. The idea is that this grant would perhaps coincide with the Metcalf 2.0 project, allowing the City to continue the trail planned along S. Metcalf Road – which currently may end just south of the Ron Weers Park entrance – taking it to the north side of the S. 16th/287th Street intersection, crossing west, continuing on the north side of S. 16th Street, and turning north along S. Rogers Road on either the east or west side, connecting to the Hidden Creek Phase I entrance sidewalks. This would consist of approximately three-quarters of a mile worth of trail. Staff does not have a cost estimate for this project currently, but with a September 1, 2020, date for submitting applications for this funding, staff is seeking Council guidance at this time. Staff is not seeking funding for a motorized project, as is listed as one of the options. The following is information on the specific grant:

RECREATIONAL TRAILS GRANTS

The Kansas Department of Wildlife, Parks and Tourism (KDWPT) is accepting applications for Recreational Trails Funding until September 1, 2020. The program provides 80 percent reimbursement to selected outdoor recreation projects. Projects that provide for motorized recreation activities are encouraged, as 30% of the funding is to be devoted to motorized projects. Qualifying projects include new trail or trailhead construction, maintenance or reconstruction of existing trails, enhancements or upgrades to existing trails/trailheads, development and planning, or land acquisition and easements. The application must include the completed forms available and a detailed cost breakdown along with a detailed site plan. This program is very similar to the Land and Water Conservation Program grant in which improvements are being made currently at Lewis-Young Park. Many of the same guidelines, forms and documentation will be utilized. Generally, overhead or administrative costs will not be funded from this program, but a portion of these costs may be used as part of the local match. The objective of the program is to get trails and trail facilities on the ground and not to fund administration. The local match must be detailed on the application form and may not be from any other Federal source. All projects selected must fall into one or more of three categories: motorized, non-motorized, or diversified recreational trail or trail-related projects. Proposals that provide for improved ADA and environmental impacts will receive a high priority.

If approved, this application would realize 80% funding of the total amount requested, whereas the previous KDWPT Land and Water Conservation Fund matching dollars for the Lewis-Young Park projects is 50% funding. This could greatly stretch City dollars for connecting people with places, a goal that has been in the works for years.

Without having the details completely worked through, a rough estimate by staff of the cost of an engineered trail, with necessary easements procured, is \$400,000. Of that estimate, \$50,000 is for engineering, \$35,000 for easement acquisition, and \$315,000 for construction. It is hoped those are over-estimated, and offered simply for the sake of discussion and approval to proceed with the application process.

Funding of the 20% local match may be from Infrastructure Improvement Reserve or from Streets Fund.

Approval of this application and associated projects does not obligate the City to proceed with or allocate funding for the listed projects.

Recommendation: Authorize staff to complete, sign and submit the application and include budget consideration toward the stated project for future budget years, with a local match not to exceed \$80,000 of a \$400,000 project.

Councilmembers had discussion and decided against having staff apply for the grant.

COUNCIL REPORTS

Councilmember Town: Councilmember Steve Town asked if the pool would still have a dog swim after the pool was closed. Councilmembers had discussion and agreed to close the pool on Sunday, August 16th, and have a dog swim on Tuesday, August 18th, 2020.

Councilmember Smith: Councilmember Kalee Smith asked if the painting of the curbs (painting of curbs at fire hydrants) had been fixed. She had read that grass had been painted over and it was messy. She had heard if grass was too tall they had painted the grass as well as curbs. Public Works Supervisor Hufferd said he was not aware of anything.

Smith asked about the vacant properties in town, specifically a wooded property on N. 3rd, and asked if these properties have to be maintained. City Administrator Law said the intersection at N. Broadway and N. 3rd is problematic every year. Smith said the overhanging trees on N. 3rd cause problems for drivers.

Smith asked who is in charge of maintaining the ditches. Mr. Law said that is the property owner's responsibility. He said a former colleague told him that properly maintaining ditches keeps stormwater from backing up into your yard and it is part of the value of your property. Councilmember Cook said she didn't know if she should sit on the other side and have a discussion because she has some of that property and there is no way it can be mowed after the City has dug the ditches down so deep. Cook asked what property owners are supposed to do if you can't mow it and you don't own a weed eater. Mr. Law said he has no recommendation at this point. Councilmember Town suggested that the property owner hire someone to mow the area similar to hiring a lawn service. Councilmember Cook said the City has caused an issue for her and she can't mow a ditch located on her property. She said the intersection across from her at N. Broadway and N. 9th is

too steep for the property owner to mow. Councilmember Cook said that property owner would need to weed eat the entire block.

City Administrator Law said if it were in the long-term plans to install improved stormwater infrastructure where it were needed and we continued to use the revenue from the stormwater fee, that kind of work on a regular basis would far exceed the revenue we get in annual fees. The difficult choice is increasing the stormwater fees to garner more revenue to build up funds and take on those projects or utilizing things like the Infrastructure Sales Tax funds, which can be used, or do you lump it in with street work and use those funds to complete that work instead of doing annual street maintenance or concrete work like curbs, gutters and sidewalks. The real question is what are your goals? If your goals long-term are to improve those ditches to help out property owners, City staff just needs to know how we get to that.

Councilmember Cook asked if the high school kids that work in the summer could weed eat those areas. Administrator Law said those seasonal employees assist with maintaining city-owned property. The seasonal employees only weed eat around intersections when there is a safety consideration from Council directive due to sight visibility. Seasonal employees do maintain some intersection corners that are adjacent to city-owned property.

Councilmember Cook asked what the suggestion is for a landowner and said she is not going to weed eat her property as the City made it that way. Administrator Law recommends that Councilmembers think on the issue for two weeks and ask themselves 2 questions:

1. Do you want to see more stormwater infrastructure long-term?
2. How do you pay for it?

Administrator Law said during that same time frame he would look at what other municipalities do in similar situations with problematic elevation changes that are difficult to reach with a mower.

Councilmember Cook said a number of years ago a city employee did mow these types of ditches. Administrator Law said a previous councilmember on a previous council asked why the city was maintaining other peoples' property. There was no long-term contractual agreement and there was no trade-off for right-of-way acquisition so notifications were sent to those property owners that the City would

no longer mow those areas and those property owners would need to maintain those rights-of-way.

Councilmember Smith said she would like to see those notifications resent in case the property has changed ownership and the new property owner is unaware that area must be maintained and also see if there is anything that can be done about the hard-to-reach areas.

Councilmember Harris: Councilmember Sandy Harris asked Chief Bauer if he had any leads on the lake trail vandalism. Chief Bauer said not at this time.

Councilmember Harris said it was hard to hear the recording of the last meeting that was aired on Facebook Live. He would like staff to get a plan with costs to be able to stream meetings on Facebook without using a cell phone as the recording device. Lots of people watched during the meeting and he feels that it is important to hear what is going on. Councilmember Smith said her concern is she likes the idea of more access but then no one comes and they use Facebook to complain instead of coming to Council and so we are setting ourselves up like the last meeting where people can complain on social media. She wants to encourage people to show up and is not a proponent of putting meetings on Facebook. Councilmember McKiearnan said we would also have to store the meeting recordings. Councilmember Smith said if people have a passion for writing about it on Facebook they should have a passion to come to the meetings. Mayor Southard said he can see both sides and people argue that you put it on Facebook to provide transparency. Harris said he would like to know the cost for setting something up. Administrator Law had previously been looking at that option and will get that information put together.

Councilmember McKiearnan: Councilmember Thorvald McKiearnan said trees need to be trimmed on S. 1st intersections behind the West Gym.

Councilmember McKiearnan would like to see a committee set up that would go over zoning regulations with business owners. He wonders if there are things we could do differently that would help out our local businesses. He thinks some of our regulations are too restrictive and it would be nice to hear from the business community. He would like the committee to be made up with someone from the planning commission, someone from the Chamber, someone who has a business who is not a Chamber member, and a council member. Mayor Southard asked how that should be set up. Councilmember McKiearnan said he isn't sure and maybe nothing needs to be changed. Councilmember McKiearnan would like

the Mayor to find persons to serve on the committee. Councilmember Harris asked what this committee would address. McKiernan wonders if there are things we as a city could do and maybe not just with zoning but other things the City could do to help out our local businesses.

Councilmember Cook asked if we are having a budget workshop. Councilmembers recalled that happened via a Zoom meeting and that the Council was in agreement there were no Council priorities. Administrator Law reminded Council there will be a presentation at the public hearing on the budget, and he would send out a copy of the workshop presentation to Councilmembers via email.

ADJOURNMENT

At 7:30p.m. Councilmember Kalee Smith moved, seconded by Councilmember Thorvald McKiernan and carried 5-0, to adjourn the meeting.

Approved:

Marty Southard, Mayor

Attest:

Traci Storey, City Clerk