

September 13, 2016  
Garnett, Kansas

The Governing Body of the City of Garnett met in regular session on September 13, 2016 at 6:00 p.m. at City Hall with the following present: Greg A. Gwin, Mayor; W. Gordon Blackie and Jody M. Cole, City Commissioners; Joyce E. Martin, City Manager and Kristina L. Kinney, City Clerk. Absent: Terry J. Solander, City Attorney. Also attending: Jeremy DuPont, ACHS Youth in Government Representative.

### **CALL TO ORDER**

Mayor Gwin called the meeting to order at 6:00 p.m.

The Pledge of Allegiance was recited followed by Bill Driver, Minister of the First Methodist Church, giving the invocation.

### **MINUTES APPROVED**

Commissioner Cole stated the last sentence on page four (4) of the minutes of August 23, 2016 needs to be amended to read “no action was taken following the executive session”. Mayor Gwin stated a sentence needs to be added to this same section that the city manager left the executive meeting at 10:20 p.m. The executive session was adjourned at 10:30 p.m. A motion was made by Mayor Gwin, seconded by Commissioner Blackie to approve the minutes of August 23, 2016 as amended. On roll call, the following vote was recorded: Ayes – three; Noes – none.

Commissioner Cole stated the date on the first line of the minutes of August 25, 2016 needs corrected. She also requested a change to the last paragraph to read that no action was taken following the executive session. A motion was made by Commissioner Cole, seconded by Commissioner Blackie to approve the minutes of August 25, 2016 as amended. On roll call, the following vote was recorded: Ayes – three; Noes – none.

A motion was made by Commissioner Blackie, seconded by Commissioner Cole to approve the minutes of September 6, 2016 as written. On roll call, the following vote was recorded: Ayes – three; Noes – none.

### **COMMUNICATIONS & REPORTS**

Mayor Gwin questioned what happened on the street paving project by Hurricane Services. He said the governing body had changed their minds from repairing the entire road to approving repairs from the entrance of Hurricane, west to Neosho Road. City Manager Martin replied that when she and Farrel King were called to come to the site on Friday at 12:30 p.m., Ken Massengale of Killough Construction, said he thought he was only to do a portion of the road however it was quite clear that the entire road had been milled. Somehow a misunderstanding occurred and he thought he was supposed to go ahead with the original bid. Mayor Gwin, who had gone to the job site, questioned who was supposed to be on top of what they were doing. City Manager Martin said Mr. King had gone to the site before they started working that Friday morning and told them to only do part of the road as approved by the governing body the previous evening. Mr. Massengale said he thought he understood what Farrel had told him

earlier that morning. It is unclear why he went ahead and did the entire road. He apologized for any misunderstanding of what was to be done.

Mayor Gwin said he had understood that the two (2) areas repaired on the North Lake Road were going to have more extensive repairs and overlay on it. City Manager Martin stated there was some confusion about the approved repairs so she reviewed the commission minutes to determine which bid the governing body approved. Mayor Gwin stated that he felt that he should have just stayed at home rather than go to the racing group meeting because what they had discussed was not what was done. City Manager Martin stated that C.B. Harris and his group are happy with the repairs, as is the racing association who gave money for the work to be done.

Mayor Gwin stated that during the budget workshop we discussed no deals on assault and battery on law enforcement officers and asked what the status is on that. City Manager Martin replied that she relayed this information to the city attorney and he stated that it is up to the attorneys to make that decision on whether to plead down or dismiss the charges. She said she also told the judge the Commission's discussion on the matter. Mayor Gwin questioned whether the governing body can request that there be no pleading down of the charges in these instances. City Manager Martin stated that City Attorney Solander backed away from discussing this with her saying it is a legal matter. Mayor Gwin said someone might plead out of a seatbelt ticket but not be given the ability to plead down the assault and battery on a law enforcement officer. He asked the other commissioners if they agreed with this. Commissioner Blackie stated he would like to just stand firm but making it mandatory could be a problem. Commissioner Cole concurred and stated she does not want to make any decision on this without the City Attorney being present.

Mayor Gwin stated he was contacted by Chad Maley regarding a letter dated November 16, 2015 from the city manager. This letter was addressed to him, Lori Libel and Melissa Brandenburg as owners of the property at 614 West Fourth. The letter was in regards to the city accepting full responsibility to repair the driveway at this address after installation of a storm water drainage pipe. Mayor Gwin questioned why nothing had been done on this yet. City Manager Martin replied that she will check into this matter.

Mayor Gwin stated that he received a call from Dorothy Dice's daughter. Mrs. Dice had lived in an apartment at Park Plaza North and the daughter had told the housing director she might not be able to stay there depending upon her health. The director told her that a thirty (30) day notice was required to insure her \$500 deposit would be returned if she had to move to another facility. Mrs. Dice moved and the thirty (30) day notice was not given, therefore the deposit was not returned. The City Manager explained that Mrs. Dice's daughter talked to her about this matter and she took the appeal to the Housing Board who upheld the director's decision not to refund the deposit because of the written policy. Mayor Gwin questioned why that decision was made even with a doctor's certificate stating that she needed to move into Guest Homes. City Manager Martin replied that she informed the board of this. Mayor Gwin stated a policy like this is bad business and bad news for the housing authority. City Manager Martin stated she has no authority over the Housing Authority Board as they are regulated by state statute. The Governing Body can't change their policy but she can let them know how the governing body feels. Commissioner Blackie questioned why they are not answerable to the Governing Body when the

City owns the buildings. City Manager Martin replied that the Governing Body appoints the board members, but they operate under the authority of state statute. Mayor Gwin asked the city manager to revisit this with the board since the tenant gave pre-notice that her doctor may not let her stay.

Commissioner Blackie stated that Saturday there was a high speed chase through the city that he witnessed and heard about from numerous people. The city was extremely busy due to the city-wide garage sales. He questioned if there is a written policy as to when it's appropriate to chase at very high speeds in close proximity to children. Kevin PeKarek, Police Chief, replied yes. He said that Osage and Coffey County officers were involved and the chase came into Garnett. An accident occurred at Highway 59 and Park Road which ended the pursuit. Commissioner Blackie stated that Osage and Coffey county vehicles came into Garnett and it was very unsafe especially with small children around. He asked Chief PeKarek if he was telling him that we can't control someone else coming into our jurisdiction. Chief PeKarek replied that our policy is that if another agency comes into our jurisdiction, we step back and give them control.

Commissioner Blackie stated there was no rhyme or reason for driving through our streets like that. It was unsafe for our citizens and to our police cars. He said one police car went airborne. Chasing a suspect in town only prods the person to drive faster through our city streets. He said it literally looked like a scene out of the Dukes of Hazards TV show. Chief PeKarek said 50 miles per hour is the maximum speed on city streets. Commissioner Blackie questioned if that is in our policy. Chief PeKarek replied no, it's left to the officer's discretion and the seriousness of the Offense. Commissioner Blackie said activities taking place around town need to be considered. Chief PeKarek said he was told the chase within the city lasted six (6) minutes. Commissioner Blackie stated if a child steps off a curb they could be run down in a matter of seconds and the chase should be called off immediately.

Mayor Gwin stated it is bad that other agencies can come into our territory and go all out in a chase on our streets. Commissioner Blackie asked if any of our police cars were involved in the case. Chief PeKarek replied there was one (1). Also involved were vehicles from Anderson County, Coffey and Osage Counties. A trooper arrived afterwards to work the accident.

Commissioner Blackie stated he would like to know what the law says about whether we have any control over other departments coming into our jurisdiction. Chief PeKarek stated dispatchers can call him or Lt. Kurt King to contact the other departments and tell them to back off. Commissioner Blackie questioned if they were called. Chief PeKarek said no, he was off duty and Lt. King was working for the county. Commissioner Blackie stated that is what we should have done then. Anything that exceeds 40 miles per hour, especially during the day when a special event is going on in town, we need to know the law on stopping this. If it's at 3:00 a.m., that's different.

Commissioner Blackie questioned whether there was any earthquake damage. City Manager Martin replied that crews were out for approximately an hour and checked overhead electric structures, water and power plants, sewer treatment plant, regulator houses and substations. Water plant personnel were advised to monitor the water tower levels to make sure the water

level stayed constant. The City Manager said she was glad she called the department heads out because a report had to be filed with the State on what action, if any, the city took.

Commissioner Cole thanked Chief PeKarek for what the officers do. She suggested having someone else take the calls if Chief PeKarek and Lt. King are off. Chief PeKarek stated the on duty officers can contact him or Lt. King at any time. The department has a policy of events that require all duty officers to notify them.

Commissioner Cole complimented the street crew and said the streets look really nice.

Commissioner Cole stated the policies and personnel manual needs to be reviewed annually to ensure that no changes need to be made.

Commissioner Cole questioned if the city manager had a chance to prepare a line item report on individual salaries as discussed during the budget workshop. City Manager Martin replied that HR has been involved in a KPERS audit so she still needs to get that done.

Commissioner Cole stated that Personnel Policy 1-3 Administrative Responsibilities reads: “The personnel program consists of all policies and procedures related to personnel administration in the service of the City and shall be administered by the City Manager. The policies and procedures of the personnel program shall apply to all employees in the service of the City except the City Manager and elected officials.” She stated she contacted six (6) city managers and was able to talk to three (3) of them. Their policies have nothing that exempts them out of their employee handbook. They lead by example and follow the same procedures as their city employees. She would like that policy changed to apply to the city manager as well.

Jeremy DuPont spoke to the skate boarders and told them to figure out what equipment they want. The company will put a plan together for them to present to the governing body. He also stated they will work on fund raising to help pay for equipment at the skate park. They plan to establish a skate club.

John Olson, Wastewater Superintendent, reported on the insituform pipe lining project that was just completed on Highway 59, where 2,400-feet of pipe was lined. We still have many more sewer lines to do. The new push camera worked well. We need to show an improvement on the state forms which are submitted to the EPA. Commissioner Blackie questioned if there was a reduction in flow after recent rains. Mr. Olson replied no. Mr. Olson said 6.2 million gallons of water was measured each day and it currently registers at 6.8 million gallons which is as high as crews can read.

The General Report of City Manager Joyce E. Martin was received and discussed, a copy of which is attached hereto and made a part hereof.

City Manager Martin reported she has received many compliments on the street repairs and North Lake Road. The Lake Garnett Grand Prix group and C.B. Harris were happy with the repairs.

City Manager Martin reported she would like to advise CenturyLink that their equipment will be taken off our poles on Walnut Street and dropped to the ground if they don't get everything removed. The company was included in project discussions from the beginning. She also met with VYVE representatives and they have one (1) or two (2) more poles they need to remove their services off of but are waiting on the phone company. Commissioner Blackie questioned whether we can just drop their equipment on the ground. City Manager Martin replied that we would get in trouble with the KCC if we did. Mayor Gwin stated since the phone company is KCC regulated, we need to inform them about this. Century Link has known all along that this would be a major move of their equipment between Fourth and Fifth Avenues. Electric crews would like to get this project completed because they will be starting with the Christmas lights and banners within the next few weeks.

Fall clean-up continues. Crews had to stop picking up brush in order to get everything else picked up that went to the county landfill during free dump week. They will go back and pick up the brush later since this goes to the city's dump site west of town.

City Manager Martin reported several departments are operating with limited staff because of sickness and vacation, so crews are spread thin. Crews have started preparing for Cornstock.

City Manager Martin reported that the new trash truck has been delivered. There has been a problem with the cable in the lifting bin area, a small regulator is malfunctioning and the tires are not as ordered. A company representative will come to Garnett to look at these problems.

City Manager Martin reported that we had 275 third through sixth graders participate in the football jamboree at the city's football field on Saturday. Many were accompanied by parents, grandparents and siblings. All restaurants reported good sales that day.

Mayor Gwin stated we will skip down on the agenda to Letter A under Claims to allow John Olson to respond to this claim.

### **PUBLIC HEARING**

At 7:25 p.m., Commissioner Blackie made a motion, seconded by Mayor Gwin to take a five minute recess. On roll call, the following vote was recorded: Ayes – three; Noes – none.

At 7:35 p.m., Mayor Gwin called the meeting back to order.

City Manager Martin reported that two (2) budget workshops had been held. The proposed mill levy for 2017 is 43.007 mills, which is up 0.359 from 2016. For 2016, the total budget is estimated at \$11,093,672. The proposed 2017 budget is \$10,720,288. The projected expenditures for 2017 are down due to the combined utility bond issue having a final balance of \$100,000 to be paid off rather than the annual \$500,000 payment. We have to be careful on estimating purchase power and natural gas purchases because we never know what the weather will be.

City Manager Martin reported she worked with the Department of Administration to make sure the estimated tax to be paid by EKAE versus the amount of tax that may need to be repaid if they

are successful in their appeal to the Board of Tax was budgeted properly. As the protested tax is paid in 2017, it will need to be deposited in a reserve account that will cover any amount to be refunded.

City Manager Martin stated we need to be aware of the cash balance in the general fund. She has an idea on a source of additional revenue, however she has to check on the legality of transferring possible revenues from the water fund to general. There is very little capital outlay equipment included in the 2017 budget. She stated her concern about the condition of our street equipment, particularly the 1984 road grader and KOMATSU.

City Manager Martin reported that the airport board discussed the administration building and a plan to get the ADA work done this year. They have asked the city manager to look into something new for the airport operation and they will come to a commission meeting once details are worked out.

City Manager Martin reported infrastructure improvements will continue including more sewer rehabilitation and a proposed water treatment plant upgrade. More testing regulations are coming from the Kansas Department of Health so plans are to be included in the new drawings to make sure we are compliant. Purchase of a car is included in the law enforcement budget. Maximum expenditures have been published so individual department expenditures can go down but not up. If necessary, the commission can have a hearing to amend the budget at the end of the year if adequate revenues are available. Beginning next year, if we have to raise the mill levy over the consumer price index it must go to the citizens for a vote. A few funds are exempt from that rule.

At 7:44 p.m., Mayor Gwin opened the public hearing for comments.

Mayor Gwin asked city commission candidate Paula Scott if she had any comments. Ms. Scott replied that it is hard to comment when she hasn't seen the budget. The City Manager replied that the budget will be made available to anyone requesting a copy.

There being no further comments, Mayor Gwin closed the public hearing at 7:46 p.m.

A motion was made by Mayor Gwin, seconded by Commissioner Cole to approve the proposed 2017 budget as published. On roll call, the following vote was recorded: Ayes – three; Noes – none.

#### **NEW BUSINESS**

A motion was made by Commissioner Cole, seconded by Mayor Gwin to appoint Mayor Gwin and City Manager Martin as League voting delegates, and Commissioner Blackie and City Clerk Kinney as alternate League voting delegates. On roll call, the following vote was recorded: Ayes – three; Noes – none.

#### **RESOLUTIONS**

Resolution 9/13/16-1 was read as follows: A RESOLUTION AUTHORIZING THE EXECUTION OF SUPPLEMENTAL AGREEMENT #1 TO AN AGREEMENT WITH THE KANSAS SECRETARY OF TRANSPORTATION, KANSAS DEPARTMENT OF

TRANSPORTATION, DATED OCTOBER 12, 2012 (#176-12). City Manager Martin reported this project was started in September 2017 to provide a left hand turn lane at Garnett Elementary for parents and buses. The state put a hold on the project because of the lack of funds and the MKEC engineer resigned which added another delay. This project is funded 100% by the State. A motion was made by Commissioner Cole, seconded by Commissioner Blackie to approve Resolution 9/13/16-1 as written. On roll call, the following vote was recorded: Ayes – three; Noes – none.

Resolution 9/13/16-2 was read as follows: A RESOLUTION RESCINDING AND DECLARING NULL AND VOID THE PROVISIONS OF PARAGRAPH 6.3 OF THE CITY OF GARNETT'S PERSONNEL POLICY MANUAL, RELATING TO MANDATORY RETIREMENT AGE. City Manager Martin reported that even though a motion had been made at the last meeting to rescind this provision, the city attorney thought it best to make this change by resolution. Mayor Gwin stated when we review the personnel policies, care needs to be taken so we don't violate federal law. A motion was made by Commissioner Blackie, seconded by Mayor Gwin to approve Resolution 9/13/16-2 as written. On roll call, the following vote was recorded: Ayes – three; Noes – none.

#### **CLAIMS, BONDS & COMMERCIAL LIABILITY INSURANCE**

A claim submitted by Justine Herod, 113 West 12<sup>th</sup> was discussed. The claim said that on August 16, 2016 they noticed sewage leaking from their basement pipes so rented an auger because they assumed their line was stopped up. When they were not able to clear the line they checked the manhole and found water in it. They are asking for reimbursement for the rental fee of \$63.80.

John Olson, Wastewater Superintendent, said he was called to this address and broke the clog free. Investigation of the problem revealed that someone had rodded their own line at some point in time and broke part of the rod piece off in the line which collected everything that came in contact with it which caused the clog. There has never been any problem with this line in the past.

Mr. Olson reported that we don't do preventative maintenance on our lines but can clean them out multiple times so they watch manholes on the lines that cause problems.

Mayor Gwin asked what size the average sewer line is in neighborhoods. Mr. Olson replied 90% of the lines are 8-inch. Olive Street is 10-inches and past the Catholic Church is 12-inches. There is one location where we have a 16-inch line.

Commissioner Blackie questioned who was at fault as our policy has been that if it's our fault we pay. This was done by an unauthorized person not the city. Mayor Gwin stated people expect when they use our sewer system there will be no problems. A motion was made by Commissioner Blackie, seconded by Mayor Gwin to pay the claim for damages of Justine Herod, 112 W. 12<sup>th</sup> Avenue, in the amount of \$63.80. On roll call, the following vote was recorded: Ayes – three; Noes – none.

Ordinance # 4155 was read as follows: AN ORDINANCE FOR THE APPROPRIATION OF CERTAIN CLAIMS. Commissioner Blackie stated that the warrants list the airport manager's salary as "monthly salary". He questioned if that is the correct term to use since he is a contract employee. He also questioned whether the airport manager got city benefits. City Manager Martin replied no, he does not get benefits. Mayor Gwin stated he does get a Christmas bonus. City Manager Martin replied yes and a cell phone reimbursement. A motion was made by Commissioner Blackie, seconded by Mayor Gwin to approve Ordinance #4155 as written. On roll call, the following vote was recorded: Ayes – three; Noes –none. Ordinance #4155 paid warrants in the amount of \$271,424.40.

**EXECUTIVE SESSION**

At 8:05 p.m., City Manager Martin requested to meet in executive session with the governing body for 30 minutes to discuss personnel. Commissioner Cole stated she would like to table this until the city attorney was present. City Manager Martin said she wishes to discuss personnel regarding herself, the subject matter of which was discussed prior with the city attorney since she was aware he would not be at this meeting.

Mayor Gwin adjourned the regular meeting to executive session to discuss personnel for 30 minutes, after a 5-minute break, to 8:35 p.m.

At 8:35 p.m. the executive session was extended for another 25 minutes until 8:50 p.m.

At 8:50 p.m., Mayor Gwin called the meeting back to order. No action was taken following the executive session.

There being no further business to come before the Governing Body, Mayor Gwin adjourned the meeting at 8:55 p.m.

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Mayor

Attest:

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City Clerk