

The Board of Commissioners met in regular session in the great room at City Hall practicing social distancing at 2:00 p.m. on Wednesday, November 11, 2020 with Mayor Johnson presiding and Commissioners Moffatt and Nichol present.

Commissioner Moffatt moved to approve the agenda as presented with the addition of Item 4N Zoning Variance: 901 Church. Seconded by Commissioner Nichol. Motion carried.

Commission and Administrator Reports were heard.  
Community Development Director report was heard.  
Public Comments were invited and heard.

Commissioner Nichol moved to approve the Consent Agenda consisting of the minutes from the October 28, 2020 Special Call Meeting; October 28, 2020 Minutes; October 30, 2020 Special Call Minutes; November 4, 2020 Special Call Minutes; Appropriation (2020) 21; Raw Water Project Bond Appropriation No. 81; and Gas Line Project Appropriation No. 17. Seconded by Commissioner Moffatt. Motion carried.

The Commission welcomed Valon Jones and Sydney Cullison, USD 461, for a presentation and proposal to assist the school with the establishment of an Animal Science Learning Lab. Presentation given; discussion held. No action taken.

Administrator Truelove addressed the commission regarding Ordinance 1736 and Ordinance 1737, both of which are related to the Neodesha City Code on Court Costs and Fees. Discussion held.

#### **ORDINANCE NO. 1736**

**AN ORDINANCE AMENDING SECTION 24-6 OF CHAPTER 24 – MUNICIPAL COURT OF THE NEODESHA CITY CODE DEALING WITH MUNICIPAL COURT COSTS, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:**

**Section 1:** Section 24-6 of Chapter 24 – Municipal Court of the Neodesha City Code is hereby amended to read as follows:

Sec. 24-6 - Court Costs and Fees.

Court costs and fees to be paid by all defendants brought before the municipal court of the city, upon a plea or finding of guilty or a plea of nolo contendere, shall be established in section 16-24.

**Section 2:** Old Section 24-6, of Chapter 24 – Municipal Court of the Neodesha City Code and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3:** This ordinance shall take effect on December 1, 2020 after publication once in the official city newspaper.

Commissioner Moffatt moved to approve Ordinance 1736, amending Section 24-6 of the Neodesha City Code relating to Court Costs and Fee. Seconded by Commissioner Nichol. Motion carried.

#### **ORDINANCE NO. 1737**

**AN ORDINANCE AMENDING SECTION 16-24 OF CHAPTER 16 OF THE NEODESHA CITY CODE DEALING WITH MUNICIPAL COURT COSTS, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:**

**Section 1:** Section 16-24 of Chapter 16 of the Neodesha City Code is hereby amended to read as follows:

Sec. 16-24 – Court Costs and fees.

- (a) *General costs.* Whenever a defendant, in a case before the municipal court of the city is convicted of a violation of a municipal ordinance, or ordinances, or enters into a diversion agreement concerning a violation thereof, said defendant shall be assessed court costs in the amount of \$80 plus \$23.50 state-assessed fees. Said sum shall be in addition to any fine that is imposed by the court for said violation.
- (b) *Driver's license reinstatement fees.* The municipal court judge shall assess reinstatement costs in the amount of \$122 to any defendant whose driver's license was suspended for such person's failure to appear at a scheduled hearing or to whom a driver's license suspension was ordered in sentencing.
- (c) *Diversion fees.* Whenever a defendant enters into a diversion agreement concerning a violation, a diversion fee of \$200 shall be assessed by the municipal judge as part of sentencing. Said sum shall be in addition to any fine that is imposed by the court for said violation.
- (d) *Attorney fees.* As part of the court costs, the municipal judge shall also assess to the defendant, upon conviction, the amount of attorney fees and costs expended by the city if the defendant was represented by court-appointed counsel. In determining the amount and method of payment of such sum, the court shall take into account the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may petition the court to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will constitute a hardship on the defendant or the defendant's immediate family, the court may waive payment of all or a portion of the amount due, or modify the payment amount or due date.

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- (e) *Incarceration fees.* The municipal court judge shall assess the jail costs the city incurs for each day, or portion thereof, that a convicted defendant is required to serve in jail in an amount equal to the rate the city is charged for the jail time by the Wilson County Department of Corrections.
- (f) *Medical fees.* Any costs incurred by the city for the provision of medical treatment of a defendant who is arrested and/or incarcerated pursuant to a city ordinance, or due to an order of the municipal court judge, shall be assessed against the defendant.
- (g) *Expungement fees.* In addition to any other costs, the municipal court shall assess an expungement processing fee of \$100 for each expungement petition filed with the municipal clerk.
- (h) *Notice to appear fees.* For a notice to appear issued to an individual charged in Neodesha Municipal Court, an additional fee of \$35 shall be charged to that individual to assist in the recovery of costs associated with enforcing the notice to appear.
- (i) *Warrant fees.* For a warrant issued to an individual charged in Neodesha Municipal Court for failure to appear for court, an additional fee of \$60 shall be charged to that individual to assist in the recovery of costs associated with law enforcement serving and enforcing the warrant.
- (j) *Witness fees.* All witnesses compelled to appear in the Municipal Court of the City of Neodesha, Kansas by subpoena or order of the Court shall be entitled to a witness fee of \$10 per day for any person compelled to appear in the Municipal Court. Additionally, witnesses shall be entitled to a mileage fee at a rate used by the State of Kansas actually driven in excess of fifteen (15) miles. All such fees shall be paid by the party calling the witness except in the event the defendant is found not guilty, then all fees shall be paid by the City.
- (k) If the defendant is unable to pay the costs assessed, there shall be and remain a judgment against the defendant, which may be enforced as a judgment for payment of money in civil cases.
- (l) For the purpose of determining the amount of court costs to be assessed in accordance with this article, if more than one complaint is filed against one individual arising out of the same incident, all such complaints shall be considered as one case for assessment purposes.

**Section 2:** Old Section 16-24, of Chapter 16 of the Neodesha City Code and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3:** This ordinance shall take effect on December 1, 2020 after publication once in the official city newspaper.

Commissioner Nichol moved to adopt Ordinance 1737, amending Section 16-24 of the Neodesha City Code relating to the Court Costs and Fees. Seconded by Commissioner Moffatt. Motion carried.

This being the time and date published in the official newspaper for the hearing on the Dangerous Structures located at 906 Church, the public hearing was opened. Discussion was held. Then the hearing was closed.

#### **RESOLUTION NO. 20-16**

**A RESOLUTION FINDING THAT THE STRUCTURE LOCATED ON LEGAL DESCRIPTION: LOTS TWENTY-ONE (21) AND TWENTY-TWO (22), BLOCK SIX (6) FORD'S ADDITION TO THE CITY OF NEODESHA, WILSON COUNTY, KANSAS, COMMONLY KNOWN AS 906 CHURCH, IS UNSAFE OR DANGEROUS AND DIRECTING THE STRUCTURE TO BE REPAIRED OR REMOVED AND THE PREMISES MADE SAFE AND SECURE.**

**WHEREAS**, the Enforcing Officer of the City of Neodesha, Kansas did on the 30<sup>th</sup> day of January, 2020 file with the governing body of said City a statement in writing that a certain structure, hereinafter described, was unsafe and dangerous; and

**WHEREAS**, the governing body did by Resolution dated the 23<sup>rd</sup> day of September, 2020, fix the time and place of a hearing at which the owner, his or her agent, any lienholders of record and any occupant of such structure could appear and show cause why such structure should not be condemned and ordered repaired or demolished, and provided for giving notice thereof as provided by law; and

**WHEREAS**, such Resolution was published in the official city paper on the 1<sup>st</sup> day of October, 2020, and on the 8<sup>th</sup> day of October, 2020, and a copy of such Resolution was served on all persons entitled thereto in all respects as provided by law; and

**WHEREAS**, on this 11th day of November, 2020, the governing body has heard all evidence submitted by the enforcing officer of the City, the owners, agents, lienholders and occupants of such structure (having appeared or having failed to appear);

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF NEODESHA:**

that said governing body hereby finds that the structure located on Legal Description: LOTS TWENTY-ONE (21) AND TWENTY-TWO (22), BLOCK SIX (6) FORD'S ADDITION TO THE CITY OF NEODESHA, WILSON COUNTY, KANSAS, COMMONLY KNOWN AS 906 CHURCH, is unsafe and dangerous and hereby directs such structure to be removed and the premises made safe and secure. The owner of such structure is hereby given 10 (ten) days from the date of publication of this Resolution within which to commence the removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, said governing body will cause the structure to be razed and removed and the costs of such razing and removing, less salvage if any, to be

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assessed as a special assessment against the lot or parcel of land upon which the structure is located as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders and occupants as provided by law.

Commissioner Moffatt moved to approve Resolution 20-16 declaring the property located at 906 Church as unsafe or dangerous, and allow the property owner 10 (ten) days to repair or remove the structures and make the property safe and secure. Seconded by Commissioner Nichol. Motion carried.

Administrator Truelove addressed the Commission regarding the 2021 AirMedCare renewal. Linda Barnes from AirMedCare was present to answer questions. Discussion was held.

Commissioner Nichol moved to table the 2021 AirMedCare renewal until the November 25, 2020 meeting. Seconded by Commissioner Moffatt. Motion carried.

Administrator Truelove addressed the Commission regarding the renewal of the 2021 Employee Health Insurance Plans. Discussion held.

Commissioner Moffatt moved to approve the Freedom 105 health insurance plan utilizing a high deductible Blue Cross and Blue Shield of Kansas plan and a self-insured dental plan for 2021. Seconded by Commissioner Nichol. Motion carried.

Administrator Truelove addressed the Commission regarding the sale or lease of the City's communication tower. Discussion held.

Commissioner Nichol moved to direct Staff to prepare a lease agreement for the Communications tower, with Wilco Wireless, for Commission consideration. Seconded by Commissioner Moffatt. Motion carried.

Administrator Truelove addressed the Commission regarding the sale of the Osage Street property to So Home Kids Foundation. Discussion held.

Commissioner Moffatt moved to approve the donation of the Osage property to So Home Kids Foundation. Seconded by Commissioner Nichol. Motion carried.

Administrator Truelove addressed the Commission regarding the consideration of transferring the property commonly known as the City Pond into the Neodesha Land Bank. Discussion held.

Commissioner Nichol moved to approve the donation of the City Pond property to the Neodesha Land Bank. Seconded by Commissioner Moffatt. Motion carried.

Commissioner Moffatt moved to convene as the Neodesha Land Bank to discuss the sale of property located at 1633 N 1<sup>st</sup> and accepting the donation of City property commonly known as the City Pond. Seconded by Commissioner Nichol. Motion carried. Discussion held.

Commissioner Moffatt moved to table the sale of property located at 1633 N 1<sup>st</sup> Street until the December 9, 2020 meeting. Seconded by Commissioner Nichol. Motion carried.

Commissioner Nichol moved to accept the donation of the City Pond property from the City of Neodesha. Seconded by Commissioner Moffatt. Motion carried.

Commissioner Nichol moved to adjourn as the Neodesha Land Bank and reconvene as the City of Neodesha Governing Body. Seconded by Commissioner Moffatt. Motion carried.

Administrator Truelove addressed the Commission regarding the possibility of changing the November 25, 2020 Commission Meeting to another date due to the Holiday schedule. Discussion held.

Commissioner Moffatt moved to leave the November 25, 2020 Commission Meeting date as originally scheduled. Seconded by Commissioner Nichol. Motion carried.

Administrator Truelove addressed the Commission regarding a zoning variance request for the property located at 901 Church. Discussion held.

Commissioner Moffatt moved to accept the Planning and Zoning Boards recommendation to deny the variance request for 901 Church Street. Seconded by Commissioner Nichol. Motion carried.

Commissioner Nichol moved to recess to an Executive Session including the Governing Body, City Administrator, City Clerk and Fire Chief Duane Banzet in the Commission Room to discuss an individual employee's performance pursuant to the non-elected personnel matter exception KSA 75-4319(b)(1) because if this matter were discussed in open session it might invade the privacy of those discussed. The open meeting will resume in the great room at City Hall at 4:25 p.m. Seconded by Commissioner Moffatt. Motion carried.

At 4:25 p.m. the regular meeting of the Governing Body reconvened in the great room at City Hall. No action taken.

Commissioner Nichol moved to extend the Executive Session including the Governing Body, City Administrator, City Clerk and Fire Chief Duane Banzet in the Commission Room to discuss an individual employee's performance pursuant to the non-elected personnel matter exception KSA 75-4319(b)(1) because if this matter were discussed in open session because it might invade the privacy of those discussed. The open meeting will resume in the great room at City Hall at 4:35 p.m. Seconded by Commissioner Moffatt. Motion carried.

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At 4:35 p.m. the regular meeting of the Governing Body reconvened in the great room at City Hall. No action taken.

Commissioner Nichol moved to extend the Executive Session including the Governing Body, City Administrator, City Clerk and Fire Chief Duane Banzet in the Commission Room to discuss and individual employee's performance pursuant to the non-elected personnel matter exception KSA 75-4319(b)(1) because if this matter were discussed in open session it might invade the privacy of those discussed. The open meeting will resume in the great room at City Hall at 4:45 p.m. Seconded by Commissioner Moffatt. Motion carried.

At 4:45 p.m. the regular meeting of the Governing Body reconvened in the great room at City Hall. No action taken.

The next regular meeting of the Governing Body will be held in the great room at City Hall on Wednesday, November 25, 2020 at 2:00 p.m.

At 4:45 p.m. Commissioner Moffatt moved to adjourn. Seconded by Commissioner Nichol. Motion carried.

/s/ Devin Johnson

Devin Johnson, Mayor

ATTEST:

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk