

SPECIAL CALL FOR SPECIAL MEETING OF BOARD OF COMMISSIONERS

Neodesha, Kansas
March 8, 2021

To the Board of Commissioners:

The Board of Commissioners will hold a Special Call meeting March 8, 2021, at 12:00 p.m. for the following purposes:

1. Resolution: Authorizing the City to Apply for the City Utility Low-Interest Loan Program
2. Ordinance: Authorizing Execution of a Loan Agreement for the Utility Low-Interest Loan Program
3. Consider Temporary Increase to KMEA Line of Credit

The Board of Commissioners met in a Special Call Session at 12:00 p.m., Monday, March 8, 2021. The meeting was called to order by Vice Mayor Moffatt with Commissioner Nichol present. Mayor Johnson arrived at 12:08 p.m.

Administrator Truelove addressed the Commission regarding information on the State of Kansas, City Utility Low-Interest Loan Program for cities negatively impacted by the extraordinary increase in utility fees due to the February 2021 weather event. Resolution 21-09 was presented as a means to authorize the City of Neodesha to apply for the City Utility Low-Interest Loan Program. Discussion held.

RESOLUTION NO. 21-09

A RESOLUTION AUTHORIZING THE CITY OF NEODESHA, KANSAS TO APPLY FOR THE CITY UTILITY LOW-INTEREST LOAN PROGRAM FOR THE PURPOSE OF OBTAINING A LOAN FROM THE STATE OF KANSAS TO FINANCE EXTRAORDINARY ELECTRIC AND/OR NATURAL GAS COSTS INCURRED DURING THE EXTREME WINTER WEATHER EVENT OF FEBRUARY 2021.

WHEREAS, the health, safety, and economic well-being of our residents is the top priority for the governing body of the City of Neodesha, Kansas (the “City”); and

WHEREAS, on February 14, 2021, pursuant to the Kansas Emergency Management Act, Chapter 48, Article 9, of the Kansas Statutes Annotated, Governor Laura Kelly proclaimed a State of Disaster Emergency, recognizing power outages and critical energy supply shortages were anticipated; and

WHEREAS, during February 2021, the City faced a winter weather emergency that resulted in extraordinary electric and/or natural gas costs; and

WHEREAS, annually, the City budgets \$2,211,000 to cover the costs associated with electricity needs and \$800,000 to cover the costs associated with natural gas needs; and

WHEREAS, as of this date, the City estimates it will have an obligation to pay a total of \$914,929.39 in electricity and \$215,156.80 in natural gas costs as a result of the unprecedented prices charged during the extreme winter weather conditions in February 2021; and

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WHEREAS, without emergency action and aid, the increased prices required to purchase natural gas and/or electricity will result in significantly higher than normal utility bills for the citizens of the City threatening the financial health and the physical welfare of the City's residents and businesses; and

WHEREAS, on March 3, 2021 Governor Laura Kelly signed into law House Substitute for Senate Bill 88, establishing the City Utility Low-Interest Loan Program and authorizing the State Treasurer to distribute up to \$100 million in loans for the purpose of providing loans to cities for extraordinary electric and/or natural gas costs incurred during the extreme winter weather event of February 2021.

THEREFORE, BE IT RESOLVED BY THE CITY OF NEODESHA; KANSAS AS FOLLOWS:

1. The City shall begin the process of borrowing funds in the amount of not to exceed \$825,000 from the State of Kansas through the City Utility Low-Interest Loan Program, to pay the extraordinary electric and/or natural gas costs incurred during the extreme winter weather event of February 2021 (the "Extraordinary Costs"). The Governing Body hereby certifies that such amounts are attributable only to extraordinary electric and/or natural gas costs incurred during the extreme winter weather event of February 2021 and not to any other utility costs previously budgeted for by the City

2. The Governing Body agrees to the following terms designed to ensure the lawful use of funds and transparency, equity, and accountability:

a. The loan shall be used only for those extraordinary electric and/or natural gas costs incurred during the extreme winter weather event of February 2021 as certified by the Governing Body and not for any other utility costs previously budgeted for by the City.

b. The City requests that the term of the loan be for a period of not to exceed 3 years.

c. The interest rate on the loan shall be 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%.

d. Payments on the loan will begin no later than July 1, 2021. The City requests the loan provide for semi-annual payment arrangements.

e. The City understands that the final terms of the loan, including amortization terms and repayment schedule, will be established through a loan agreement between the City and the State Treasurer's Office. Upon delivery to the City of the form loan agreement, the City will have 5 business days to return an executed loan agreement. In the event the City does not return an executed loan agreement, it will be required to repay the loan in full plus accrued interest. The plan for such repayment must be submitted to the State Treasurer within 5 business days of the City receiving the form loan agreement, and the repayment plan must be accomplished with all reasonable dispatch.

f. The City certifies that if the City receives any federal monies related to the extreme winter weather event of February 2021, the first priority for expenditure of such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be the payment of any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program as provided in Section 4(b) of the legislation creating the loan program. If the City receives any recoveries as a result of settlement or litigation or other refunds of Extraordinary Costs paid by the City that relate to the extreme winter weather event of February 2021, such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be used to pay any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program. The City will establish a dedicated source of revenue for repayment of the loan from rates, fees and charges for the use and services furnished by or through its related utility system.

3. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents
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4. and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Resolution, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

5. This resolution shall take effect and be in force immediately upon its adoption and shall remain in effect until future action is taken by the Governing Body.

Commissioner Nichol moved to approve Resolution 21-09 as presented. Seconded by Commissioner Moffatt. Motion carried.

Administrator Truelove addressed the Commission regarding an Ordinance that would authorize the City to enter into a loan agreement with the State of Kansas for the City Utility Low-Interest Loan Program for cities negatively impacted by the extraordinary increase in utility fees due to the February 2021 weather event. Discussion held.

ORDINANCE NO. 1743

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF NEODESHA, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS STATE TREASURER FOR THE PURPOSE OF OBTAINING A LOAN PURSUANT TO THE CITY UTILITY LOW-INTEREST LOAN PROGRAM TO FINANCE EXTRAORDINARY ELECTRIC AND/OR NATURAL GAS COSTS INCURRED DURING THE EXTREME WINTER WEATHER EVENT OF FEBRUARY 2021; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

WHEREAS, on March 3, 2021, Governor Laura Kelly signed into law House Substitute for Senate Bill 88, establishing the City Utility Low-Interest Loan Program and authorizing the State Treasurer to distribute up to \$100 million in loans for the purpose of providing loans to cities for extraordinary electric and/or natural gas costs incurred during the extreme winter weather event of February 2021 (the “Act”); and

WHEREAS, the City of Neodesha, Kansas (the “City”) has previously adopted Resolution No. 21-09 authorizing the City to make application to the State Treasurer for a loan pursuant to the City Utility Low-Interest Loan Program (the “Loan”); and

WHEREAS, the governing body of the City hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement such loan agreement.

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

Section 1. Authorization of Loan Agreement. The City is hereby authorized to accept the Loan and to enter into a Loan Agreement with the State of Kansas acting by and through the State Treasurer (the “Loan Agreement”) to finance the extraordinary electric utility costs incurred during the extreme winter weather event of February 2021 (the “Extraordinary Costs”).

The Loan shall be in the amount of not to exceed \$825,000.

The interest rate on the loan shall be 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%.

The Loan shall be repaid over a term of not to exceed 3 years. The City has requested semi-annual repayment dates.

The Mayor and Clerk are hereby authorized to execute the Loan Agreement, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

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Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. The City hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the City shall impose and collect such rates, fees and charges for the use and services furnished by or through its electric utility (the "System"), including all improvements and additions thereto hereafter constructed or acquired by the City as will provide revenues which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, (c) pay all other amounts due at any time under the Loan Agreement and (d) pay the principal of and interest on all other outstanding bonds or indebtedness of the System; provided, however, no lien or other security interest is granted by the City to the State on the System revenues pursuant to the Loan. If the City receives any federal monies related to the extreme winter weather event of February 2021, the first priority for expenditure of such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be the payment of any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program as provided in Section 4(b) of the legislation creating the loan program. If the City receives any recoveries as a result of settlement or litigation or other refunds of Extraordinary Costs paid by the City that relate to the extreme winter weather event of February 2021, such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be used to pay any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program.

In accordance with the Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the City.

Section 3. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. The Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication (or publication of a summary thereof) in the official City newspaper.

Commissioner Moffatt moved to approve Ordinance 1743 as presented. Seconded by Commissioner Nichol. Motion carried.

Administrator Truelove addressed the Commission regarding a ballot question received from the Kansas Municipal Energy Agency (KMEA), to authorize an increase in the existing lines of credit from \$1.25 Million to \$2.5 Million for a period of 30 days with an interest rate equal to prime rate less 25 basis points on any funds advanced under the lines of credit for each of the Energy Management Projects 1, 2, and 3 at a cost of \$250 per line of credit. Discussion held.

Commissioner Nichol moved to approve the KMEA request for a temporary increase to their line of credit, and direct Staff to vote "Aye" on the ballot question.

At 1:15 p.m. Commissioner Moffatt moved to adjourn. Seconded by Commissioner Nichol. Motion carried.

ATTEST:

/s/ Devin Johnson

Devin Johnson, Mayor

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk