

The Board of Commissioners met in regular session at 2:00 p.m., on Wednesday, October 9, 2024, in the Commission Room at City Hall conducting the meeting by live streaming with Zoom with Mayor Johnson presiding and Commissioners Banzet and Vail-Keller present.

Commissioner Banzet moved to approve the agenda as presented with the addition of an Executive Session to discuss Financial Affairs/Trade Secrets. Seconded by Commissioner Vail-Keller. Motion carried.

Civic organization reports were invited and heard.

Commission reports were heard.

City Administrator Comments were heard.

Community Development Director reports were heard.

Financial reports were distributed.

Public Comments were heard.

Commissioner Vail-Keller moved to approve the consent agenda as presented consisting of minutes from the September 25, 2024 meeting; and Appropriation (2024) 18. Seconded by Commissioner Banzet. Motion carried.

Administrator Jones, along with Tyson McGreer of KMEA, addressed the Commission regarding the presentation of a Large Scale Solar Project. An Executive Session is required to protect the financial interests of all parties involved.

Commissioner Banzet moved to recess to an Executive Session including the Governing Body, City Administrator, Electric Superintendent; and City Clerk to discuss data relating to the financial affairs or trade secrets of a Corporation, Partnership, Trust, or Individual Proprietorship, KSA 75-4319(b)(4) because if this matter were discussed in open-session it might invade the privacy of subjects discussed. The open meeting will resume in the Commission Room at 2:35 p.m. Seconded by Commissioner Vail-Keller. Motion carried. The live streamed Zoom meeting was then placed on hold with audio, video and recording ceased.

At 2:35 p.m. the regular meeting of the Governing Body reconvened in the Commission Room at City Hall. The live streamed Zoom meeting then resumed with audio, video and recording. No action taken.

Administrator Jones addressed the Commission regarding an ordinance that addresses updates to franchise agreements with the City. Discussion held.

ORDINANCE NO. 1810

AN ORDINANCE AMENDING CHAPTER 32 OF THE NEODESHA CITY CODE TO ADD ARTICLE VI THERETO REGARDING THE USE AND MANAGEMENT OF CITY RIGHT-OF-WAY AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City of Neodesha, Kansas (“City”) has specifically been granted authority including K.S.A. 17-1902, to establish permitting requirements for structures or equipment in the public Right-of-Way (“ROW”) and the City desires to reaffirm its intent to regulate and enforce permitting requirements for use of its ROW; and

WHEREAS, the City Commission’s legislative findings include that: (a) the ROW is a unique and physically limited resource; (b) the ROW is critical to the travel and transportation of persons and property in the City; (c) the ROW is intended for public uses and must be managed and controlled consistent with that intent and can be partially occupied by facilities and public service entities to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and (d) such findings require adoption of regulations to ensure coordination of users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of a maximum most efficient number of ROW users that will serve the public interest; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of facilities within and using the ROW pursuant to its zoning powers established in K.S.A. 12-753 and additionally, pursuant to its general and specific powers established by the Kansas Constitution Art. 12, § 5, and K.S.A. 12-121; and

WHEREAS, consistent with state and federal law and the City Commission’s legislative findings, the City Commission desires to enact new regulations for use of the ROW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NEODESHA, KANSAS, AS FOLLOWS:

Section 1. Chapter 32 of the Code of Ordinances, City of Neodesha, Kansas is amended, and Article VI dealing with Right-of-Way Use and Management is created and enacted therein to read substantially in the form of Exhibit 1, attached hereto and incorporated herein by reference.

Section 2. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

Section 4. Ordinance 1809 and all ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 5. This ordinance shall be in full force and effect after passage and publication in the official city newspaper. *(a complete copy of this Ordinance can be obtained and/or viewed in the City Clerk’s office)*

Commissioner Vail-Keller moved to approve Ordinance 1810 as presented. Seconded by Commissioner Banzet. Motion carried.

Administrator Jones addressed the Commission regarding an ordinance that addresses fees regarding franchise agreements with the City. Discussion held.

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ORDINANCE NO. 1811

AN ORDINANCE AMENDING CHAPTER 16 OF THE NEODESHA CITY CODE BY ADDING SECTION 32 REGARDING FEES FOR USE OF CITY RIGHT OF WAY AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City of Neodesha, Kansas (“City”) has specifically been granted authority including K.S.A. 17-1902, to establish permitting requirements for structures or equipment in the public Right-of-Way (“ROW”) and the City desires to reaffirm its intent to regulate and enforce permitting requirements for use of its ROW; and

WHEREAS, the City Commission’s legislative findings include that: (a) the ROW is a unique and physically limited resource; (b) the ROW is critical to the travel and transportation of persons and property in the City; (c) the ROW is intended for public uses and must be managed and controlled consistent with that intent and can be partially occupied by facilities and public service entities to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and (d) such findings require adoption of regulations to ensure coordination of users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of a maximum most efficient number of ROW users that will serve the public interest; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of facilities within and using the ROW pursuant to its zoning powers established in K.S.A. 12-753 and additionally, pursuant to its general and specific powers established by the Kansas Constitution Art. 12, § 5, and K.S.A. 12-121; and

WHEREAS, consistent with state and federal law and the City Commission’s legislative findings, the City Commission desires to enact new regulations for use of the ROW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NEODESHA, KANSAS, AS FOLLOWS:

Section 1. Chapter 16 of the Code of Ordinances, City of Neodesha, Kansas is hereby amended and Section 32 setting fees and charges for use of the city right-of-way is created and enacted therein to read substantially in the form of Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

Section 4. Ordinance 1809 and all ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 5. This ordinance shall be in full force and effect after passage and publication in the official city newspaper. *(a complete copy of this Ordinance can be obtained and/or viewed in the City Clerk’s office)*

Commissioner Banzet moved to approve Ordinance 1811 as presented. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones along with Building Inspector Tommy John addressed the Commission regarding a resolution that addresses a yard abatement for the blighted property located at 1529 N 1st Street. Discussion held.

RESOLUTION NO. 24-24

A RESOLUTION FINDING THAT THE PROPERTY LOCATED AT 1529 North 1st Street, LEGAL DESCRIPTION: Lots 31,32,33 and 34, Block 3, Vivan Deer’s Subdivision of a part of the Northwest Quarter of the Southeast Quarter (NW/4 SE/4) of Section Seventeen (17), Township Thirty (30) South, Range Sixteen East of the Sixth Principal Meridian. IS FOUND TO BE IN VIOLATION OF THE CITY OF NEODESHA ENVIROMENTAL CODE, ARTICLE 3, SECTION 26-43. THE PREMISES HAS BEEN DETERMINED UNSAFE AND A BLIGHTING INFLUENCE AND IS DIRECTED TO BE MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Neodesha, Kansas did on the 30th day of September 2024 file with the governing body of said City a statement in writing that a certain premises, hereinafter described, was unsafe and causing a blighting influence; and

WHEREAS, the governing body did by Resolution dated the 9th day of October, 2024, direct the enforcing officer or other agents of the city to abate the conditions causing the violation, and provided for giving notice thereof as provided by law; and

WHEREAS, such Resolution was published in the official city paper on the 17th day of October, 2024, and on the 24th day of October, 2024, and a copy of such Resolution was served on all persons entitled thereto in all respects as provided by law; and

WHEREAS, on this 9th day of October, 2024, the governing body has heard all evidence submitted by the enforcing officer of the city, the owners, agents, lienholders, and occupants of such premises (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 premises is unsafe and causing a blighting influence and hereby directs such premises **LOCATED AT 1529 North 1st Street, Lots 31,32,33 and 34, Block 3, Vivan Deer’s Subdivision of a part of the Northwest Quarter of the Southeast Quarter (NW/4 SE/4) of Section Seventeen (17), Township Thirty (30) South, Range Sixteen East of the Sixth Principal Meridian**, to be repaired or abated and the premises made safe and secure. The owner of such structure is hereby given **30 days** from the date of publication of this Resolution within which to commence the abatement and/or clean up of such property within

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the time stated or fails to diligently prosecute the same until the work is completed, said governing body will cause the premises to be repaired or abated and the costs of such repair or abatement, less salvage if any, to be 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 Vail-Keller moved to approve Resolution 24-24 as presented. Seconded by Commissioner Banzet. Motion carried.

Administrator Jones along with Building Inspector Tommy John addressed the Commission regarding a resolution that addresses a yard abatement for the blighted property located at 905 N 11th Street. Discussion held.

RESOLUTION NO. 24-25

A RESOLUTION FINDING THAT THE PROPERTY LOCATED AT 905 North 11th Street, LEGAL DESCRIPTION: Lots (3), Four (4), Five (5), and Six (6), Block Four (4), Shutt's Second Addition to the City of Neodesha, IS FOUND TO BE IN VIOLATION OF THE CITY OF NEODESHA ENVIROMENTAL CODE, ARTICLE 3, SECTION 26-43. THE PREMISES HAS BEEN DETERMINED UNSAFE AND A BLIGHTING INFLUENCE AND IS DIRECTED TO BE MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Neodesha, Kansas did on the 30th day of September, 2024 file with the governing body of said City a statement in writing that a certain premises, hereinafter described, was unsafe and causing a blighting influence; and

WHEREAS, the governing body did by Resolution dated the 9th day of October, 2024, direct the enforcing officer or other agents of the city to abate the conditions causing the violation, and provided for giving notice thereof as provided by law; and

WHEREAS, such Resolution was published in the official city paper on the 17th day of October, 2024, and on the 24th day of October, 2024, and a copy of such Resolution was served on all persons entitled thereto in all respects as provided by law; and

WHEREAS, on this 9th day of October, 2024, the governing body has heard all evidence submitted by the enforcing officer of the city, the owners, agents, lienholders, and occupants of such premises (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 premises is unsafe and causing a blighting influence and hereby directs such premises **LOCATED AT 905 North 11th Street, Lots (3), Four (4), Five (5), and Six (6), Block Four (4), Shutt's Second Addition to the City of Neodesha**, to be repaired or abated and the premises made safe and secure. The owner of such structure is hereby given **30 days** from the date of publication of this Resolution within which to commence the abatement and/or clean up of such property within the time stated or fails to diligently prosecute the same until the work is completed, said governing body will cause the premises to be repaired or abated and the costs of such repair or abatement, less salvage if any, to be 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 Banzet moved to approve Resolution 24-25 as presented. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones along with Building Inspector Tommy John addressed the Commission regarding a resolution that addresses a junked/abandoned vehicles for the blighted property located at 905 N 11th Street. Discussion held.

RESOLUTION NO. 24-26

A RESOLUTION FINDING THAT THE PREMISES LOCATED AT 905 North 11th Street, LEGAL DESCRIPTION: Lots (3), Four (4), Five (5), and Six (6), Block Four (4), Shutt's Second Addition to the City of Neodesha, IS FOUND TO BE IN VIOLATION OF THE CITY OF NEODESHA ENVIROMENTAL CODE ATRICLE 4, SECTION 26-66, AND IS UNSAFE OR CAUSING A BLIGHTING INFLUENCE AND DIRECTING THE VIOLATION TO BE ABATED OR REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Neodesha, Kansas did on the 30th day of September, 2024 file with the governing body of said City a statement in writing that a certain premises, hereinafter described, was unsafe and causing a blighting influence; and

WHEREAS, the governing body did by Resolution dated the 9th day of October, 2024, instruct the enforcing officer or other agent of the city to abate the conditions causing the violation, and provided for giving notice thereof as provided by law; and

WHEREAS, such Resolution was published in the official city paper on the 17th day of October, 2024, and on the 24th day of October, 2024, and a copy of such Resolution was served on all persons entitled thereto in all respects as provided by law; and

WHEREAS, on this 9th day of October, 2024, the governing body has heard all evidence submitted by the enforcing officer of the city, the owners, agents, lienholders, and occupants of such premises (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 premises is unsafe and causing a blighting influence and hereby directs such premises

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LOCATED AT 905 North 11th Street , Lots (3), Four (4), Five (5), and Six (6), Block Four (4), Shutt's Second Addition to the City of Neodesha, to be abated and the premises made safe and secure. The owner of such premises is hereby given **30 days** from the date of publication of this Resolution within which to commence the repair or removal of such violation on the premises within the time stated or fails to diligently prosecute the same until the work is completed, said governing body will cause the premises to be repaired or abated and removed and the costs of such repair, abatement and removing, less salvage if any, to be assessed as a special assessment against the lot or parcel of land upon which the premises 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 Banzet moved to approve Resolution 24-26 as presented. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones addressed the Commission regarding the Construction Engineering Agreement and CE Letter for the Safe Routes to School Project. Discussion held.

Commissioner Vail-Keller moved to approve the Construction Engineering Agreement for the Safe Routes to School Project as presented. Seconded by Commissioner Banzet. Motion carried.

Administrator Jones addressed the Commission regarding a Notice of Award for the Union Pacific Gas Line Project. Discussion held.

Commissioner Banzet moved to approve the bid from NPL Construction Co for the gas line bore project in an amount not to exceed \$225,000. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones addressed the Commission regarding the termination of the current Pole Attachment Agreement with KwiKom. Termination of the current agreement will allow negotiations to be initiated with the City's new agreements and pricing. Discussion held.

Commissioner Vail-Keller moved to terminate the Pole Attachment Agreement with KwiKom effective February 25, 2025. Seconded by Commissioner Banzet. Motion carried.

Administrator Jones addressed the Commission regarding the new Pole Attachment Agreement with KwiKom allowing them to proceed with their project coming to town. Discussion held.

Commissioner Banzet moved to authorize the City Administrator and City Clerk to begin negotiations with KwiKom on behalf of the City of Neodesha. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones along with Public Works Director Ryan Toms addressed the Commission regarding an updated invoice received for the manhole rehabilitation project. Discussion held.

Commissioner Banzet moved to approve the Manhole Rehab Project in an amount not to exceed \$40,000. Seconded by Commissioner Vail-Keller. Motion carried.

Administrator Jones addressed the Commission regarding a request for an extension on a variance that was approved at the property located at 502 N 8th Street. Discussion held.

Commissioner Vail-Keller moved to approve the variance for 502 N 8th Street for 90 days. Seconded by Commissioner Banzet. Motion carried.

Commissioner Banzet moved to recess to an Executive Session to include the Governing Body, City Administrator, Police Chief, and City Clerk 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 Commission Room at 3:20 p.m. Seconded by Commissioner Vail-Keller. Motion carried. The live streamed Zoom meeting was then placed on hold with audio, video and recording ceased.

At 3:20 p.m. the regular meeting of the Governing Body reconvened in the Commission Room at City Hall. The live streamed Zoom meeting then resumed with audio, video and recording. No action taken.

Commissioner Banzet moved to extend the Executive Session to 3:30 p.m. Seconded by Commissioner Vail-Keller. Motion carried. The live streamed Zoom meeting was then placed on hold with audio, video and recording ceased.

At 3:30 p.m. the regular meeting of the Governing Body reconvened in the Commission Room at City Hall. The live streamed Zoom meeting then resumed with audio, video and recording. No action taken.

The next regular meeting of the Governing Body will be held at City Hall on Wednesday, October 23, 2024 at 2:00 p.m.

At 3:32 p.m. Commissioner Banzet moved to adjourn. Seconded by Commissioner Vail-Keller. Motion carried.

/s/ Devin Johnson

Devin Johnson, Mayor

ATTEST:

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk