

## MANAGERS REPORT

**DATE:** May 12, 2022  
**TO:** Mayor Benage and City Council  
**FROM:** Ty Lasher, City Manager  
**RE:** May 17, 2022 Agenda

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### **Proclamations (Item V):**

*National Public Works Week (NPWW)* - Is a celebration of the tens of thousands of men and women in North America who provide and maintain the infrastructure and services collectively known as public works. Since 1960, the American Public Works Association (APWA) has sponsored National Public Works Week. The goal is to use this week to energize and educate the public on the important contribution of public works to our daily lives: planning, building, managing and operating the heart of our local communities and building the quality of life.

*National Kids to Parks Day* - 2022 marks the 12th anniversary of Kids to Parks Day, an annual day of outdoor exploration at local, state, and national parks and public lands across the country. Organized by National Park Trust, the mission of Kids to Parks Day is to foster future outdoor enthusiasts and help with developing the next generation of park stewards by engaging kids in memorable outdoor experiences. While discovering and exploring our parks, kids learn about park stewardship, outdoor recreation, STEM, and the history of our country and its amazing national treasures. Always hosted on the third Saturday of May, Kids to Parks Day encourages kids and families to get outside and create their own adventure at thousands of local parks.

*Memorial Day* - "Decoration Day" was changed to "Memorial Day" after World War II and declared the official name by Federal law in 1967. Memorial Day is an American holiday, observed on the last Monday of May, honoring the men and women who died while serving in the U.S. military.

### **Consent Agenda (Item VII)**

Contains the minutes of the May 3<sup>rd</sup> City Council meeting as well as the May 10<sup>th</sup> Special City Council Meeting.

The consent agenda also contains several Petitions and related Resolutions for Improvements for three residential housing developments: Cedar Pass, Chapel Landing 5<sup>th</sup>, and Skyview at Block 29 2<sup>nd</sup> Addition. If approved, the Resolutions will authorize financing for the projects. The cost of these improvements will ultimately be bonded and spread as special assessments against the benefitting lots.

### **Appropriations Ordinance (Item VIII)**

This reporting period includes debt payments to the Kansas State Treasurer totaling \$474,45 and Security Bank of Kansas totaling \$1,028,132. Bonded project expenses totaled \$510,104.

### **City Requested Appearances (IX)**

MKEC- Mayor Benage asked MKEC to attend the meeting to discuss quantity changes that resulted in the last change order. MKEC will share their research on bid quantities verses actual amounts and answer any questions.

Catholic Care Center – City Council approved a resolution beginning the IRB issuance process at the May 3<sup>rd</sup> meeting. Included in that resolution were fees that are charged to any company obtaining an IRB. The Catholic Care Center would like those fees reduced or waived and have requested the opportunity to address Council on this topic.

### **Public Hearing (XI):**

As part of the IRB process, a public hearing is required. Public notice for the hearing was published on the City's website, as required by Federal tax regulations. This hearing gives interested parties the ability to address council on the IRB issuance.

### **IRB Amending Resolution and Ordinance for Catholic Care Center (Items A & B):**

The Catholic Care Center is making some improvements to their facilities as well as refinancing a portion of previous debt. Since Catholic Care operates as a non-profit, they do not pay property taxes or sales taxes. However, utilizing an IRB does have additional benefits such as federal income tax-exempt interest rates, which are available to 501c(3)

organizations, as long as there is local government issuer of municipal bonds. As with All IRB's, the city is not liable for the debt nor does it appear on the city's financial statements. Council approved a Resolution of Advisability for issuing the IRB at the May 3<sup>rd</sup> meeting which included an origination fee and annual administration fee. The Catholic Care Center (CCC) Board feels the fee is excessive and is asking the fee be reduced or eliminated.

I wanted to explain how the fee was calculated. CCC could use the Kansas Development Finance Authority (KDFA) to issue the bonds so I reviewed their fees (copy included in your packet). Based on the IRB amount and formula for KDFA, below is what they would charge and what I included in the resolution. As noted at the meeting, the sum of these fees equals \$125,000 or .5% of the IRB and in line with current practices.

Application Fee: Waived

Issuers Fee:	.35% for \$10 million = \$35,000	Resolution \$35,000
	.20% for \$15 million = \$30,000	Resolution \$30,000

Annual Fee:

.04% on \$25 million = \$10,000	Not in Resolution
.04% on \$22.5 million = \$9,000 + \$5,000 flat fee = \$14,000	Resolution is \$13,000
.04% on \$20 million = \$8,000 + \$5,000 flat fee = \$13,000	Resolution is \$13,000
.04% on 17.5 million = \$7,000 + \$5,000 flat fee = \$12,000	Resolution is \$12,000
.04% on 15 million = \$6,000	Resolution is \$6,000
.04% on \$12.5 million = \$5,000	Resolution is \$5,000
.04% on \$10 million = \$4,000	Resolution is \$4,000
.04% on \$7.5 million = \$3,000	Resolution is \$3,000
.04% on 5 million = \$2,000	Resolution is \$2,000
.04% on \$2.5 million = \$1,000	Resolution is \$1,000
Bel Aire annual fee is \$1,000	Resolution is \$1,000

IRB's can be issued by a municipality, state or county. The jurisdiction where the business resides can issue the IRB or the business can go to another entity but must be approved to do so by the municipality where the business is located. In other words, Bel Aire can issue the IRB for CCC or if CCC wants to go to another issuer, Bel Aire must approve that happening. Included in your packet is a list of all the IRBs issued by Bel Aire, the amount of the IRB, as well as origination fee. You can see that 10 have a 1% fee with one being .5% and three having none. Here are the reasons for the three with no fee: Concierge SRC (Tierra Verde) was done with many other incentives to get some kind of commercial going and waived by the City Council at that time. Buzzi was waived as they paid for half the rail siding in the Sunflower Commerce Park with the other half

coming from a grant. Epic Sports was waived as we were directly competing with Andover for the large company with 200 employees. Can't remember why Empire was .5%. I can also tell you that SCKEDD and Homestead Affordable Housing are both not-for-profits. As you can see, all business received property tax abatements that vary based on job creation and investment.

The concern I have in adjusting the fee below .5% or waving the fee is that it becomes much more difficult for me to explain why CCC is getting the lower fee. Every business asks to have the fee lowered or waived. In my view, lowering the fee for one will be lowering the fee for all. I understand the thought that a not-for-profit should be waived. However, SCKEDD is a non-profit and was assessed a 1% origination fee as well as later on the agenda Homestead Senior Housing is being consider for an IRB with a 1% origination fee. I assure you I am not trying to penalize not-for-profits but merely trying to maintain a structure that is fair to any business.

On the agenda is an amending resolution for your consideration that has the fee portion blank. You can simply deny the amending resolution which means the original resolution with fee structure approved at the May 3<sup>rd</sup> meeting stands. You can approve the amending resolution and insert the fee you determine or no fee. Lastly, you can table the amending resolution, but I believe CCC is wanting to finalize the IRB soon and may not have the time to wait two weeks.

If the Amending Resolution is approved, the Council may then consider the Ordinance and related documents, which give details of the bond sale.

### **IRB Ordinance for Homestead Senior Residences (Item C)**

At the February 15<sup>th</sup> meeting, Council approved a Letter of Intent to issue an Industrial Revenue Bond (IRB) for the Homestead Senior Residences to construct senior living apartments. Then at the April 5<sup>th</sup> meeting, Council held a public hearing where taxpayers and interested parties were given the opportunity to speak on the matter. At the same meeting the Council approved a Resolution to start the process of issuing the bonds. The Ordinance to issue the bonds now comes before Council for approval.

If Council determines non-profits should pay a different origination fee than the 1% included in the documents or be waived all together, this item will need amended to include that new fee.

### **Bid for Fire Hydrant Replacement (Item D)**

Every year Sedgwick County Fire Department tests and inspects all fire hydrants in Bel Aire and provides a report of hydrants that are in need of repair or replacement. Public Works staff have made repairs to all the hydrants that were identified in the 2021 report. Six hydrants were identified as leaking or difficult to operate and are in need of replacement. Staff is recommending that one fire hydrant be removed completely and a valve installed in its place. This hydrant is no longer needed because there was a new hydrant installed across the street. Staff recommend that one hydrant be removed permanently, 5 hydrants be removed and replaced, and 4 gate valves be installed to allow for better water system isolation. Funding is available in the water system repair budget for this project. Staff recommends Council accept the low bid from Utility Maintenance Contractors in the amount of \$39,175.

### **Bid for 2022 Sewer Cleaning (Item E)**

Each year staff identifies neighborhoods that are in need of sewer cleaning. Sewer cleaning is necessary to prevent stoppages in sewer lines. Stoppages in gravity sewers are caused either by structural defects or by an accumulation of material in the pipe. This year Central Park, Elk Creek, Park Vista, Lawn Terrace, Eagle Lake and Westlake neighborhoods need to be cleaned to maintain the EPA recommended schedule of cleaning every 3-5 years. Eagle Lake has 6,400 ft of pipe and Westlake has 14,740 ft. of pipe that was last cleaned in 2017 and this is in need of both cleaning and televising. Televising is done by running a small camera through the pipe to identify conditions that can create stoppages, such as intruding tree roots, protruding taps, or accumulated solids. In the past, televising has been contracted out to companies who have the specialized equipment for the job. Also, Public Works expects to be very busy this year with street maintenance and other projects that will not allow enough time to clean the identified neighborhoods. Therefore, staff recommends the outsourcing of this project. Funds are available in the wastewater system maintenance and repair line of the sewer budget. Two local vendors were contacted for proposals to clean and televise Eagle Lake and Westlake. Staff is recommending Council accepting the low bid from Utility Maintenance Contractors (UMC) in the amount of \$50,313.20.

### **Memo of Understanding with Terry Beall (Item F)**

Terry Beall has been the Bel Aire Municipal Judge since 2016. Terry is a respected attorney and serves as Municipal Judge for a number of smaller cities around the Wichita Metro. Judge Beall does a great job, is respected

by many and appreciated by Bel Aire staff. There are a select few attorneys who take on the role of Municipal Judge and important to retain when a good one is found. A Memorandum of Understanding is used to state responsibilities, expectations and compensation instead of a contract. The reason being is that court must keep at an arm's length from the political process and therefore a contract can be viewed as an agreement between parties with the potential of influence being made by the Governing Body. The only change that is being proposed is compensation increasing to \$575.00 per court session (2 per month) which is up from \$475.00 per session in 2016. This will be the first raise for Judge Beall since 2016 amounting to a 21% increase overall or 2.8% annually since 2016. Staff appreciates Terry and is supporting this increase.

#### **Cedar Pass Engineering Contracts (Item G)**

Earlier in the meeting, Council will consider Petitions and Resolutions for Cedar Pass Addition, formerly known as Rock Spring 5<sup>th</sup> Addition. The Developer has asked Garver to prepare this agreement for Engineering Design and Construction services. The costs associated with the project will be financed through a bond and spread as special assessments against the benefiting lots. Staff recommends that Council accept the Agreement for Professional Services from Garver in the amount of \$507,000.

#### **Cedar Pass Development Agreement (Item H)**

City Code requires that the Developer file this Development Agreement with the final plat. The final plat was approved by Council on April 19<sup>th</sup>. The Development Agreement outlines the Developer's responsibilities before and after construction. The agreement now comes before Council for approval.

#### **Revised Development Agreement, Homestead Senior Landing (Item I)**

The original Development Agreement was approved by Council at their April 5<sup>th</sup> meeting. Since then, the Developer has requested a few minor changes, including allowing special events in the apartments community room to be approved by the City Manager, allowing different ownership of separate development phases, and allowing use of undeveloped property as agricultural land. City staff has reviewed the requested revisions and do not have any concerns. Staff did request that a paragraph be added to the top of the Development Agreement indicating that a previous Agreement had been approved by the City Council but was never filed with the County. This version of the Development Agreement shall supersede any previous version. There are no costs associated with this item.