

**Agenda
For
Joint City/County Commission Meeting
Monday, August 10, 2015
City Hall City Commissioners Chambers
6:00 PM
Meeting # 5012**

CALL TO ORDER

COUNTY COMMISSION ROLL CALL: Chairman Gillum

CITY COMMISSION ROLL CALL: Mayor Warshaw

REPORT:

1. Dodge City/Ford County Regional Aquatics Park Update-Report by Director of Parks and Recreation-Paul Lewis

UNFINISHED BUSINESS:

1. WSB Expo Center Horse Stalls Project Update-Report by County Administrator Ed Elam

NEW BUSINESS:

1. Approval of Name for Dodge City/Ford County Regional Aquatics Park -Report by Parks and Recreation Director-Paul Lewis and Project Development Coordinator-Melissa McCoy
2. Discussion and Appointment of New CFAB Board Member-Report by Project Development Coordinator-Melissa McCoy
3. Dodge City Raceway Park Contract Agreement-Report by City Manager Cherise Tieben

UPCOMING MEETINGS:

1. Monday, November 9, 2015 6:00 pm -Joint Commission Meeting- City Commissioners Chambers City Hall

ADJOURNMENT:

CFAB

PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8100 • Fax: 620/225-8144

Memorandum:

To: City Manager, City Commissioners, County Administrator and County Administrations

From: Project Development Coordinator, Melissa McCoy and Director of Parks and Recreation, Paul Lewis

Date: August 10, 2015

Subject: Dodge City/Ford Co. Regional Aquatics Park Naming Contest

Recommendation: Approve the final name for the Dodge City/Ford County Regional Aquatics Park from the three recommendations from CFAB that were chosen from the naming contest.

Background: The City of Dodge City and Ford County established a naming contest for the Regional Aquatics Park. The deadline to submit entries was June 29 and a total of 186 entries were submitted. The winner of the naming contest will receive a family pass to the aquatics park for 2016.

A committee was formed including representatives from the City, County, Dodge City Convention and Visitor's Bureau and two marketing professionals from the community to help narrow down the list of entries. Each committee member was asked to choose his/her top five recommendations from the list of entries. Then, the committee discussed their selections and established their top five choices to present to the CFAB Board.

Staff presented the five names to CFAB on July 15 at 6:00 pm. CFAB recommended the following three names to the Joint Commissions:

1. Cowboy Cove
2. Long Branch Lagoon
3. Wrangler Rapids

Legal Considerations: The winning name will become property of the City of Dodge City and Ford County and no other royalties or compensation will be given. The City and County may modify the name as needed.

Attachments: Regional Aquatics Park Naming Contest Entry Form

Dodge City/Ford County Regional Aquatics Park Naming Contest

Contest Information and Rules

The City of Dodge City and Ford County want your help in naming the Regional Aquatics Park that will open in 2016 adjacent to Wright Park. Ideas are being sought that will capture the spirit of Dodge City's Western Heritage as well as the excitement of this premier destination for Southwest Kansas.

The Regional Aquatics Park will be one of the largest of its kind in the state of Kansas. The park will include the following amazing features and amenities:

- Wave Pool
- Lazy River w/ dual channels and running through the wave pool
- Rockscape w/ cascading waterfalls into the lazy river
- Multiple slides including drop slides, a family slide and Commercial water park class slides including Boomerango
- Children's play pool w/ Zero-Depth entry, sprays and fountains,
- Large interactive play structure in the play pool
- 50 Meter lap Pool



The winner of the naming contest will receive a family pool pass for 2016.
The contest will remain open through June 29, 2015.

Contest Rules

- The Contest is open to all individuals
- There is no limit to the number of entries that each contestant may submit
- The name should be reflective of Dodge City's western heritage
- The name should be simple and lend itself to effective marketing.
- All ideas must be suitable for family viewing and must not exploit anyone's sex, race, religion, morality or culture
- Any trademarked or copyrighted names or slogans are ineligible
- The winning name will become property of City of Dodge City and Ford County and no other royalties or compensation will be given. The City and County may modify the name as needed.
- The decision of the Community Facility Advisory Board, the City and the County will be final.
- Submissions should be made by June 29, 2015 and must include the completed Name Contest Form with the contestant's name, address, phone number and signature.

For questions regarding the Contest, contact Melissa McCoy (620) 225-8100.

Naming Contest Entry Form

Name _____

Phone # _____

Address _____

Email _____

Aquatic Park Name Idea _____

Contestant's Signature _____

I, hereby certify that my Name entry is not copyrighted or trademarked. I understand that my entry may not be returned and will become the sole property of the City of Dodge City (City) and Ford County (County). The City and County will have no responsibility for lost, delayed or damaged entries. Any entry that does not satisfy the requirements will not be eligible for the Naming Contest.

All entries must be received by Monday, June 29, 2015.

Electronic entries may be sent to: melissam@dodgecity.org

Hard copies may be hand delivered or mailed to:

Attention: Melissa McCoy, City of Dodge City, 806 N. 2nd Avenue, Dodge City, KS. 67801

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RACETRACK OPERATING AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Dodge City, Kansas (hereinafter the “City”) acting pursuant to the authority provided for in the Interlocal Agreement dated July 21, 1997 by and between the City and Ford County, Kansas (hereinafter the “Interlocal Agreement”) and Triple T Promotions, LLC. (hereinafter the “Operator”).

WHEREAS, utilizing sales tax revenues as provided for in the Interlocal Agreement, the City issued bonds for and did construct a motorsports complex located in Ford County, Kansas, consisting of a three eighths (3/8ths) mile racetrack, grandstand and other racing amenities known as Dodge City Raceway Park (hereinafter the “Facility”); and,

WHEREAS, the City has operated the Facility for the past several years as a recreational complex with sales tax revenues as authorized by the Interlocal Agreement; and,

WHEREAS, the parties to the Interlocal Agreement desire to contract for the promotion and operation of the Facility on behalf of the City, utilizing sales tax revenues as provided for in the Interlocal Agreement to fund such promotion and operations; and,

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WHEREAS, the Operator has experience and expertise in the promotion and operation of dirt track racing facilities and desires to promote and operate the Facility on behalf of the City; and,

WHEREAS, the City and the Operator have reached an agreement whereby the Operator would promote and operate the Facility under the terms and conditions set forth herein.

NOW, THEREFORE, IN CONSIDERATION OF THE MONIES TO BE PAID HEREUNDER, AND THE MUTUAL PROMISES OF THE PARTIES, IT IS AGREED AS FOLLOWS:

1. EXCLUSIVE USE OF FACILITY: The City hereby grants to the Operator, during the term of this Agreement and any extension hereof and subject to the conditions set forth herein, the exclusive right and responsibility for the operation, promotion, scheduling and use of the Facility for motor sports racing events and other related events.

2. TERM: The initial term of this Agreement shall be for a period of five (5) years, commencing January 1, 2016 and expiring December 31, 2020, which agreement may be extended or earlier terminated as provided herein.

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3. MAINTENANCE OF DIRT TRACK: The Operator at its sole cost and expense will be responsible for and shall perform any and all maintenance, alterations, preparations and care of the dirt track during the term of this Agreement, and all extensions hereof, so as to provide a dirt track surface equal to the highest standards for like facilities. The Operator shall maintain the dirt track in a safe and proper manner during all events. The Operator shall supply all equipment and materials necessary for all repairs, maintenance and preparation of the dirt track.

4. MAINTENANCE OF FACILITY: Operator shall direct and City shall provide, at its expense, all maintenance, clean up and care of the structures and grounds located at Dodge City Raceway Park, to include grandstands, concession and restroom areas, ticket booths, pit area, parking lot and all other amenities located at the Facility, with the exception of the interior of the general office building. The City will provide staff, at its expense, for watering, mowing, trimming and care of all grassy areas, shrubbery and trees at the Facility. Said staff persons will be directed in these activities by the Operator. The Operator shall, at its expense, maintain the interior of the general office building in a clean, neat, safe and proper manner at all times throughout the term of this Agreement.

5. FACILITY REPAIRS: The City shall, at its expense, provide for all normal day-to-day repairs at the Facility, including but not limited to plumbing repairs, electrical repairs, replacing of including track and security lighting and damage to track fencing. The City will be responsible for the repairs to the Facility caused by normal use or natural deterioration caused by age, such repairs to the Facility will be the sole

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responsibility of the City. Such repairs will be performed in a good and workman-like manner, and will be performed at times which would be least disruptive to the operation of the Facility.

In the event of structural damage to any aspect of the Facility resulting from fire, wind, hail, rain, vandalism, defacement or other casualties, not the fault or beyond the control of the City or the Operator, or the result of a latent structural defect, the City shall pay for such repair costs from sales tax revenues pursuant to the Interlocal Agreement.

The Operator shall immediately notify the City, in writing or by email, of the need for any repairs to the Facility.

Required repairs to the Facility due to neglect of the Operator will be the sole financial responsibility of the Operator. Such repairs will be made by the City and all costs for such repairs will be immediately reimbursed to the City by the Operator. If the Operator proposes to make such repairs itself, such repairs must be approved by the City prior to the commencement of any such work.

6. INSPECTION OF FACILITY AND EQUIPMENT: The Operator understands and agrees that the City is entitled to perform random inspections throughout the race season in order to assure proper maintenance of the general office building. The City shall provide the Operator no less than twenty-four (24) hours' notice prior to any such inspection occurring.

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7. MODIFICATIONS AND IMPROVEMENTS: Any modification of the dirt track configuration or any other permanent improvements within the Facility will be subject to the prior approval of the City and must be based upon specific plans, specifications and cost estimates, as well as an agreement between the City and the Operator as to the responsibility for payment of such modifications and/or improvements. Any such improvements to the Facility shall become a part of the Facility at the time of their completion and the Operator will have no ownership interest in such improvements.

Any modification made to the dirt track configuration, which is approved as temporary in nature, shall be removed by the party responsible for the modification. Damages resulting from any such modification will be the sole responsibility of the party constructing the modification.

8. EQUIPMENT: The Operator shall provide all equipment necessary for the operation of the Facility as well as the costs and expense of the maintenance and operation of said equipment. The Operator will be entitled to utilize, on the premises of the Facility, existing City-owned equipment. The Operator shall repair and/or replace any and all such City-owned equipment if such equipment is damaged as the result of the Operator's negligence. The Operator may not dispose of any City-owned equipment without the prior written approval of the City Manager or her designee.

Any equipment provided or purchased by the Operator and utilized at the Facility will remain the property of the Operator and may be removed from the Facility upon termination of this Agreement, if such removal can be accomplished without damage to the Facility.

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9. PERSONNEL: The Operator shall provide all personnel necessary for the proper operation, promotion and use of the Facility and all events conducted at the Facility, including but not limited to security, fire, safety and emergency medical, gatekeepers, ticket sales, concessions, fan accommodations, office staff, sales representatives, dirt track surface preparation and maintenance, racing officials and judges, non-racing event supervision and personnel, PA announcer, and all other required personnel.

The Operator is solely responsible for the payment of all wages, salaries and/or other benefits provided to such personnel. All such personnel are employees, independent contractors or volunteers of the Operator, and not of the City. The Operator further agrees to save and hold harmless the City of and from any and all claims which might be asserted against the City in any manner whatsoever by or through any such personnel arising out of any injuries or death to such personnel arising out of their duties or services provided at the Facility.

10. INSURANCE: During the term of this Agreement, and all extensions hereof, the Operator shall, at its sole cost and expense, maintain in full force and effect liability insurance providing coverage for liability for any injuries, damages, or death for participants and fans in an amount not less than Two Million Dollars (\$2,000,000.00). Said insurance coverage must list the City and Ford County, Kansas as named additional insureds. The Operator shall also provide workers compensation insurance for all

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employees and volunteers of the Operator who provide any services at the Facility. All insurance policies provided by the Operator must contain provision for at least 30-day prior written notice to the City of any cancellation or modification of insurance coverage. Copies of all such policies and insurance binders will be provided to the City in advance of the season.

11. UTILITIES: The utility bills relating to the operation of the Facility, including electric, gas, water, sewer and trash pickup services, will be the responsibility of the City from sales tax revenues received pursuant to the Interlocal Agreement; provided, however, the City reserves the right to provide a well to provide water for track preparation and irrigation of Facility grounds from sales tax revenues pursuant to the Interlocal Agreement or other sources, subject to the Operator's approval as to the location of any such well if located within the Facility, which approval shall not be unreasonably withheld.

The Operator is responsible for phone service and bills relating to such service.

12. TAXES: The City shall pay any real estate taxes assessed against the Facility from sales tax revenues received pursuant to the Interlocal Agreement. The Operator will be responsible for and shall pay in a timely manner, all other taxes, fees, permits or licenses associated with the Operator's use of the Facility, including but not limited to personal property taxes, sales taxes, payroll taxes, concession and beer licenses and any and all other operating permits, licenses or fees.

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13. OPERATIONAL REVENUES AND EXPENSES: Except as specifically provided herein, the Operator will be solely responsible for the timely payment of any and all operational expenses of the Facility and will retain all revenues resulting from the operation of the Facility, including but not limited to all gate fees, ticket sales, concession sales, advertising sales, sponsorship fees, membership fees and other revenues resulting from the use and operation of the Facility by the Operator.

14. SCHEDULE AND NUMBER OF EVENTS: On or before November 1 of each year the, the Operator shall provide the City with a calendar of proposed events scheduled for the Facility for the following season, which schedule will specify classes and include not less than five (5) major racing events and seven (7) local racing events during the racing season, all of which will be subject to prior approval by the Racing Advisory Board. Any reduction in the required number of scheduled events must have the prior written approval of the City Manager and County Administrator or their designees. Additional events may be added at any time by the Operator.

During the course of any year, the City may request the use of the Facility for non-racing events, subject to the Operator's approval and upon such terms and conditions as are mutually acceptable to the parties. The Operator's approval for such events shall not be unreasonably withheld.

15. CONSIDERATION FOR PROMOTIONAL AND OPERATIONAL SERVICES OF MAJOR SPECIAL EVENTS: Upon agreement of the schedule for major

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special event and classes the Operator and the Racing Advisory Board shall commence negotiations for major special event subsidies. The major special event subsidy, if any, should be agreed to no later than December 1. The major special event subsidy shall be documented each calendar year.

In consideration of the promotional and operational services to be provided by the Operator for the five (5) annual major racing events in accordance with terms and conditions as set forth herein, the City, in addition to any other payment obligation provided for herein, shall make payments to the Operator from sales tax revenues received pursuant to the Interlocal Agreement, in the time and manner following:

- a. Within thirty (30) days from the date the Operator has provided the City Manager and County Administrator with an itemized accounting of all costs, expenses, revenues and income for the completed major racing event, including but not limited to all revenues received by the Operator from ticket sales, concessions, sponsorships, fees and other compensation whatsoever and documentation from the Operator of all expenses incurred by the Operator in the operation of the Facility and proof of payment of all such expenses, the City will pay to the Operator the agreed upon subsidy.

16. **CONSIDERATION FOR PROMOTIONAL AND OPERATIONAL SERVICES OF LOCAL RACING EVENTS:** In consideration of the promotional and operational services to be provided by the Operator for the seven (7) local racing events in

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accordance with terms and conditions as set forth herein, the City, in addition to any other payment obligation provided for herein, shall make payments to the Operator from sales tax revenues received pursuant to the Interlocal Agreement, in the time and manner following:

a. The City and the Operator shall negotiate the dates for payment of the subsidy for the following year. The subsidy will be divided into four (4) equal payments to be made on four (4) separate dates. The Operator shall provide to the City all attendance and car count information prior to the final subsidy payment.

b. Subsidy should not exceed the following amounts in each subsequent year:

2017- One Hundred Ninety-Five Thousand Dollars (\$195,000)

2018- One Hundred Ninety Thousand Dollars (\$190,000)

2019- One Hundred Eighty-Five Thousand Dollars (\$185,000)

2020- One Hundred Eighty Thousand Dollars (\$180,000)

c. The Operator will be solely responsible for any and all expenses incurred with regard to any such event, including but not necessarily limited to the obligations of the Operator pursuant to the terms of this Agreement; and shall retain all revenues resulting except for the commission as may be negotiated per events.

18. **PERFORMANCE STANDARDS:** The Operator will keep accurate attendance records for all events conducted at the Facility. Within thirty (30) days following each event conducted at the Facility, the Operator will provide to the City an

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affidavit and supporting records verifying the total attendance for the event. The total attendance figure for the major racing events will be divided by the number of major racing events actually conducted at the Facility during the year to establish an “average attendance” per major racing event.

If the “average attendance” per major racing event for any year should fall below One Thousand (1000), then the City will have the option of terminating this Agreement by providing written notice of such intent to terminate within thirty (30) calendar days of receipt of the Operator’s attendance report. If within thirty (30) days of receipt of the notice of termination the parties have not reached a mutually acceptable agreement for the continued operation of the Facility by the Operator, this Agreement will terminate and both parties will be released from any further obligations pursuant to this Agreement, except only for the Operator’s obligation for full payment of any outstanding unpaid obligations at the time of such termination.

19. EXTENSIONS OF INITIAL TERM: Upon the expiration of the initial term of this Agreement on December 31, 2020, this Agreement will automatically extend for an additional term of five (5) years, unless either party provides written notice to the other of its intent not to renew this Agreement in accordance with the following procedure:

(a) If either party desires not to renew this Agreement, the terminating party must deliver to the other party, on or before August 1st of the year of expiration of any extended term, written notice of its intent not to extend this Agreement. In the event of such notice the parties agree to immediately enter into good faith negotiations for renewal of an operation agreement based on terms and conditions that are mutually acceptable to

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both parties. If such negotiations fail to produce a mutually acceptable agreement, this agreement will expire on December 31 of that year. Upon either such termination both parties shall be released from any further obligations under this Agreement except only for the Operator's full payment of any outstanding unpaid obligations of the Operator at the time of termination.

20. NON-APPROPRIATION OF CITY PAYMENTS: The parties understand and agree that the payment obligations of the City as set forth herein, including the payment obligation described in Paragraph 15 above, are subject to the provisions of the Kansas Cash Basis Law and continued collection of sales tax revenues. The City currently intends to continue this Agreement through its term and to make all payments as provided for herein, and currently intends to make provision for such payments in each annual budget submitted and adopted in accordance with applicable provisions of state law and the provisions of the Interlocal Agreement. Notwithstanding the foregoing, however, the parties acknowledge that the City is obligated only to pay periodic payments as provided herein as may lawfully be made from sales tax funds budgeted and appropriated for that purpose during the current budget year, or funds made available from any lawfully operated revenue producing source. The City agrees to give written notice of such non-appropriation to the Operator at least thirty (30) days prior to December 31 of the year during which such non-appropriation occurs. The City shall pay all payments remaining due through the end of that year, if any. In the event of such non-appropriation, the Operator may terminate this Agreement at any time after receiving notice from the City of such non-appropriation of funds to satisfy the payment obligations. Such non-appropriation will not constitute a default or breach of this Agreement by the City and the

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Operator may elect to continue this Agreement notwithstanding the City's failure to satisfy its payment obligations due to such non-appropriation.

21. GENERAL CONDITIONS:

a. The Operator shall pay in a timely manner any and all obligations incumbent upon it under the terms and conditions of this Agreement and shall not allow any type of lien or encumbrance to attach to the Facility resulting from nonpayment of any obligations of the Operator.

b. This Agreement may be amended at any time by mutual written agreement of the parties.

c. This Agreement shall not be assigned or transferred to any other person or entity without the prior written consent of the City.

d. This Agreement shall be binding on the parties hereto and their respective successors and assigns.

e. The parties hereto do hereby warrant that each party is legally authorized to enter into this Agreement and that all actions necessary to authorize approval of this Agreement by the persons executing the same has been duly obtained so as to legally bind the party so represented.

f. The relationship created by virtue of this Agreement between the City and the Operator is that of an independent contractor, and nothing contained herein is intended to establish and does not establish any relationship other than that of an independent contractor.

g. For purposes of this Agreement, the effective date of said Agreement shall be January 1, 2016, despite the later approval by the parties of said agreement.

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h. All reports, notices or other communications called for pursuant to this Agreement will be between the Operator and the City's City Manager who is hereby designated to administer this Agreement on behalf of the City.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates reflected below.

TRIPLE T PROMOTIONS, LLC

By _____
Tommie Estes, Managing Member

ATTEST:

Secretary

Dated this _____ day of _____, 2015.

CITY OF DODGE CITY, KANSAS

By _____
Joyce Warshaw, Mayor

ATTEST:

Nannette Pogue, City Clerk

Dated this _____ day of _____, 2015.

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APPROVED BY THE FORD COUNTY COMMISSION:

By

Danny Gillum, Chairman

By _____
Shawn Tasset, County Commissioner

By _____
Chris Boys, County Commissioner

ATTEST:

Sharon Seibel, Ford County Clerk

Dated this _____ day of _____, 2015.

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