

CITY COMMISSION AGENDA

City Hall Chambers
Monday, March 16, 2009
7:00 p.m.
MEETING #4753

CALL TO ORDER

ROLL CALL

INVOCATION: Reverend Ryan Ausmus, Ford County Church

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

CONSENT CALENDAR

1. Approval of Joint City/County Commission minutes, March 4, 2009
2. Approval of City Commission Work Session minutes, March 4, 2009
3. Approval of City Commission Meeting minutes, March 4, 2009
4. Appropriation Ordinance No. 6, March 16, 2009
5. Cereal Malt Beverages:
 - a. El Korita Restaurant, 2001 W. Wyatt Earp Blvd
 - b. Donny G's, 1202 S. Second Ave
6. City/County Joint Mortgage Agreement with Swift Investments, LLC

UNFINISHED BUSINESS

NEW BUSINESS

Approval of Klassen Subdivision Addition First Replat. Presented by Dennis Veatch,
Director of Development Services

ORDINANCES & RESOLUTIONS

OTHER BUSINESS

ADJOURNMENT

JOINT CITY/COUNTY COMMISSION MINUTES

City Commission Chambers

Wednesday, March 4, 2009

5:30 p.m.

MEETING #4750

Mayor Kent Smoll called the meeting to order in conjunction with Chairman Kim Goodnight from the Ford County Commission

ROLL CALL - Mayor Kent Smoll, Commissioners Rick Sowers, Jim Sherer, Brian Weber and Monte Broeckelman

Ford County Commission – Chairman Kim Goodnight, Commissioners Terry Williams and John Swayze

NEW BUSINESS

1. The joint Commissions discussed the Special Events Center Building Plan as presented by Global Entertainment and the location for the Events Center. The plan and the location were previously approved by the Community Facilities Advisory Board (CFAB). Commissioner Sowers moved and Commissioner Sherer seconded to approve the Special Events Center building plan and location as presented. The motion carried unanimously.

Ford County Vote: Chairman Goodnight moved and Commissioner Williams seconded the motion to approve the plan and location of the Special Events Center. The motion carried unanimously.

2. Ken Strobel presented the Architect Contract for the Special Events Center with Sink Combs Dethlefs, P.C. Commissioner Sherer moved and Commissioner Sowers seconded the motion to approve the Architect Contract for the Special Events Center with Sink Combs Dethlefs, P.C. in the amount of \$1,600,000. The motion carried unanimously.

Ford County Vote: Goodnight moved and Williams seconded to approve the contract. The motion carried on a vote of 2-1, with Swayze voting no.

3. Pat Hinojos representing the securities and financial advisory firm of Stifel Nicolaus & Company, Inc. presented information regarding the issuance of approximately \$40,000,000 in new revenue bonds to fund the construction of a Special Events Center. Commissioner Sherer moved to approve the issuance of revenue bonds by the City in an amount not to exceed \$44,000,000. Commissioner Weber seconded the motion. The motion carried on a unanimous vote.

Ford County Vote: Chairman Goodnight moved to approve the issuance of the bonds and Terry Williams seconded the motion. The motion carried on a vote of 2-1, with John Swayze voting no.

Adjournment was had on a motion by Commissioner Sowers, seconded by Commissioner Broeckelman. The motion carried unanimously.

CITY COMMISSION WORK SESSION MINUTES

City Commission Chambers

Wednesday, March 4, 2009

6:45 p.m.

MEETING #4751

CALL TO ORDER – Mayor Kent Smoll called the meeting to order.

ROLL CALL - Mayor Kent Smoll, Commissioners Rick Sowers, Monte Broeckelman, Jim Sherer, and Brian Weber.

Joe Finley, Director of Engineering Services, presented the City Commission with information regarding the Wastewater Treatment Facility Contractor. No action was taken.

Adjournment was had on a motion by Commissioner Sowers, seconded by Commissioner Weber. Motion carried unanimously.

CITY COMMISSION MINUTES

City Hall Chambers
Wednesday, March 4, 2009
7:00 p.m.
MEETING #4752

CALL TO ORDER – Mayor Kent Smoll called the meeting to order.

ROLL CALL – Mayor Kent Smoll, Commissioners Monte Broeckelman, Rick Sowers, Jim Sherer and Brian Weber.

INVOCATION by Jerry Kitner

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

Keep America Beautiful's, Great American Cleanup. Deb Rodda, Keep America Beautiful Coordinator updated the Commissioners about activities for the Great American Cleanup

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

March City Character Trait: Sincerity vs Hypocrisy

CONSENT CALENDAR

1. Approval of City Commission Work Session minutes, February 16, 2009
2. Approval of City Commission Meeting minutes, February 16, 2009
3. Appropriation Ordinance No. 5, March 2, 2009
4. Cereal Malt Beverages:
 - a. Taqueria Mexico, 1010 E. Wyatt Earp, Dodge City

Commissioner Weber moved and Commissioner Sowers seconded the motion to approve the consent calendar as presented. The motion carried unanimously.

NEW BUSINESS

1. Joe Finley, Director of Engineering Services presented a proposal for a contractor for the wastewater treatment facility. Approval to negotiate a contract for Design/Build of the new Wastewater Treatment Facility with UCI of Wichita, KS, was had on a motion

by Commissioner Sowers, seconded by Commissioner Sherer. The motion carried unanimously.

2. Joe Finley, Director of Engineering Services presented an agreement between U.S. Army CORPS of Engineers and the City of Dodge City. The agreement between U.S. Army CORPS of Engineers and the City of Dodge City to perform a riverine hydraulics analysis of the Arkansas River in an amount not to exceed \$29,000 was approved on a motion by Commissioner Weber, seconded by Commissioner Broeckelman. The motion carried unanimously.

3. Joe Finley, Director of Engineering Services presented the 2009 Manhole Rehabilitation Program and bid to complete the program. A contract with Mayer Specialty Services of Goddard, KS, to rehab 490 vertical feet of sewer in the amount of \$102.00 per v.f. for a total contract amount of \$49,980.00 was approved on a motion by Commissioners Sowers, seconded by Commissioner Weber. The motion carried unanimously.

4. Dennis Veatch, Director of Development Services presented the Plat for Beeson Court Subdivision. The Beeson Court Subdivision Plat was approved on a motion by Commissioner Sherer, seconded by Commissioner Broeckelman. The motion carried unanimously.

5. Corey Keller, Sanitation and Recycling Forman presented the bids received for the Purchase of three police vehicles. The bid from Olathe Ford in the amount of \$76,830, with a trade-in of 2 vehicles in the amount of \$4,700, for a total amount of \$71,330 was approved on a motion by Commissioner Sowers, seconded by Commissioner Sherer. The motion carried 3-2, with Broeckelman and Weber voting no.

6. Mike Klein, Superintendent of Public Works presented the bids for the 2009 supply of water utility supplies. The bid from: Municipal Supply, Inc. for meters, pipe and other items in the amount of \$142,148.10; Water Products, Inc. for brass items and copper in the amount of \$10,917.00; HD Supply Waterworks for mechanical joint fittings, gate valves, fire hydrants in the amount of \$25,713; D.C. Whole Sale for meter jars and lids in the amount of \$7,404.75; and D.C. & B. Supply for couplings, tapping sleeves in the amount of \$5,149.73; for a total expenditure of \$191,332.58 was approved on a motion by Commissioner Broeckelman, seconded by Commissioner Sherer. The motion carried unanimously.

7. Ray Slattery, City Engineer presented the 2009 Street Program. The Street program includes:

GO Bond funded projects:

Cemetery Roadway Paving	\$100,000
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Trail Street reconstruction Design	125,000
Comanche Street Reconstruction Design	125,000
Asphalt Street Chip Sealing	400,000
US 50 Corridor Study	<u>30,000</u>
TOTAL	780,000

Special Street Fund Projects:

Signal & Sign Improvements at the Middle School, Northwest & Soule Center Schools	225,000
“Poly Patch” Material Purchase	25,000
Sidewalk Construction/Repairs	45,000
Traffic Signal Improvements/Repairs	25,000
Pavement Markings	25,000
Curb & Gutter Repairs	25,000
Asphalt Street Overlays	100,000
Concrete Street Repairs	<u>70,000</u>
TOTAL	540,000

The 2009 Street program was approved on a motion by Commissioner Weber, seconded by Commission Broeckelman. The motion carried unanimously.

8. Ken Strobel, City Manager, presented a Third Party Plan Review Agreement with Schwerdt Design Group to review plans for code compliance primarily for the construction of the Casino. The agreement with Schwerdt Design Group was approved subject to further review and clarification of some items by the City Attorney on a motion by Commissioners Sherer, seconded by Commissioner Sowers. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

Ordinance No. 3468: Rezoning Beeson Court from Residential to Commercial was approved on a motion by Commissioner Sowers, seconded by Commissioner Weber. The motion carried unanimously.

Resolution No. 2009-03: A Resolution Authorizing the Offering for Sale of Sales Tax Revenue Bonds, Series 2009, of the City of Dodge City, Kansas, was approved on a motion by Commissioner Sowers, seconded by Commissioner Sherer. The motion carried unanimously.

OTHER BUSINESS

Ken Strobel, City Manager

- Several staff members have been working on appropriation requests and stimulus package from the Federal government
- Several people attended Dodge City Night in Topeka. It was well attended and supported by a cross sector of the community.
- Reminded the Commission and the audience of the Home and Leisure Show that will be held this weekend at the mall.

Cherise Tieben, Assistant City Manager

- Commented on purchase of T-shirts included in appropriation ordinance.

Jim Sherer

- Reported on Dodge City Night

Monte Broeckelman

- Asked about the ceramics program

Rick Sowers

- Thanked Jim Sherer for attending Dodge City night
- Thanked Commissioners and staff that have attended the casino meetings

Kent Smoll

- Attended the police awards program that was held the previous weekend

Adjournment was had on a motion by commissioner Sherer, seconded by Commissioner Weber. The motion carried unanimously.

(Individual Application Form)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

Dodge City, Ford COUNTY, KANSAS, Feb, 20 09

TO THE GOVERNING BODY OF THE CITY OF Dodge City, KANSAS,

or

THE BOARD OF COUNTY COMMISSIONERS OF Ford COUNTY, KANSAS.

I hereby apply for a license to retail cereal malt beverages in conformity with the laws of the State of Kansas and the rules and regulations prescribed and hereafter to be prescribed by you relating to the sale or distribution of cereal malt beverages; for the purpose of securing such license, I make the following statements under oath:

- 1. (a) Name of proposed licensee Jesus A Castillo
(b) Age 40
(c) Place and date of birth 12-02-68 Nayarit Mexico
(d) Residence address 210 N. 60th street Laoti, KS 67861
(e) I have been a resident of the State of Kansas 18 years.
2. The premises for which the license is desired are located at for a Restaurant 2001 W Wyatt earp Blvd
(a) The legal description of said property is Restaurant
(b) The street number is 2001 W Wyatt earp Blvd
(c) The building to be used is El Korita Restaurant
(d) The business will be conducted under the following name: El Korita Restaurant
3. The name and address of the owner or owners of the premises upon which the proposed business will be located is 1604 Ave A Monica Hernandez
4. I am a citizen of the United States. Yes (X), No ()
(a) My citizenship arises by birth (), Naturalization (X)
(b) My place of naturalization and the date thereof is as follows: Wichita Ks 03, 14 2008
5. I have (), have not (X) been convicted of a felony within two years immediately preceding the date of this application.
6. I have (), have not (X) been convicted of a crime involving moral turpitude within two years immediately preceding the date of this application.
7. I have (), have not (X) been adjudged guilty of drunkenness within two years immediately preceding the date of this application.
8. I have (), have not (X) been adjudged guilty or entered a plea, or forfeited bond on a charge of driving a motor vehicle while under the influence of intoxicating liquors within two years immediately preceding the date of this application.
9. I have (), have not (X) been convicted of a violation of any state or federal intoxicating liquor law within two years immediately preceding the date of this application.
10. My place of business will be conducted by a manager or agent— Yes (), No (X)
(a) If the answer above is yes, the name, age, and residence of manager or agent is Said manager or agent does (), does not (), have the qualifications to have a license issued in his own name. The same to be determined by reference to K.S.A. 41-2703, K.S.A. 41-2702. Specifies concerning his residence, citizenship, and the answers to questions 5 through 9 are as follows:
11. I have (X), have not (), been a resident of this State for at least one year immediately preceding making this application.
12. My spouse would (), would not (X) be eligible to receive a retailer's license.
13. This application is for a license to retail cereal malt beverages for consumption on the premises (X). For a license to retail cereal malt beverages in original and unopened containers and not for consumption on the premises ().

A license fee of \$ 225.00 is enclosed herewith.

(This form prepared by the Attorney General's office)

(Individual Application Form)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

DODGE CITY, FORD COUNTY, KANSAS, MAR. 10, 2009

TO THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS,

or

THE BOARD OF COUNTY COMMISSIONERS OF FORD COUNTY, KANSAS.

I hereby apply for a license to retail cereal malt beverages in conformity with the laws of the State of Kansas and the rules and regulations prescribed and hereafter to be prescribed by you relating to the sale or distribution of cereal malt beverages; for the purpose of securing such license, I make the following statements under oath:

1. (a) Name of proposed licensee DON GILBERT
- (b) Age 56
- (c) Place and date of birth DODGE CITY KS.
AUG 28 - 1952, 20
- (d) Residence address WEST HWYWAY 50
10774 DODGE CITY KS.
- (e) I have been a resident of the State of Kansas 56 years.
2. The premises for which the license is desired are located at 1202 SOUTH 2ND AVE
DODGE CITY KS.
 - (a) The legal description of said property is SUB - GRADEN ADDN. BLK - 1
LOT 6-7 PROP ADDR. 1202
S. 2ND AVE 67801
SEC - 02 - Twp 27 Rng 25
 - (b) The street number is 1202 SOUTH 2ND
AVE. D.C. KS.
 - (c) The building to be used is 1202 SOUTH 2ND
AVE DC KS.
 - (d) The business will be conducted under the following name:
DONNY G'S
3. The name and address of the owner or owners of the premises upon which the proposed business will be located is DON GILBERT WEST HWYWAY 50
10774, Bus. LOCATED AT 1202 SOUTH 2ND
4. I am a citizen of the United States. Yes () No ().
 - (a) My citizenship arises by birth () Naturalization ().
 - (b) My place of naturalization and the date thereof is as follows:
_____ , _____ 20
5. I have () have not () been convicted of a felony within two years immediately preceding the date of this application.
6. I have () have not () been convicted of a crime involving moral turpitude within two years immediately preceding the date of this application.
7. I have () have not () been adjudged guilty of drunkenness within two years immediately preceding the date of this application.
8. I have () have not () been adjudged guilty or entered a plea, or forfeited bond on a charge of driving a motor vehicle while under the influence of intoxicating liquors within two years immediately preceding the date of this application.
9. I have () have not () been convicted of a violation of any state or federal intoxicating liquor law within two years immediately preceding the date of this application.
10. My place of business will be conducted by a manager or agent— Yes () No ().
 - (a) If the answer above is yes, the name, age, and residence of manager or agent is DON GILBERT 56
WEST HWYWAY 50 10774 DC KS.
Said manager or agent does () does not () have the qualifications to have a license issued in his own name. The same to be determined by reference to K.S.A. 41-2703, K.S.A. 41-2702. Specifies concerning his residence, citizenship, and the answers to questions 5 through 9 are as follows:

11. I have () have not () been a resident of this State for at least one year immediately preceding making this application.
12. My spouse would () would not () be eligible to receive a retailer's license.
13. This application is for a license to retail cereal malt beverages for consumption on the premises () For a license to retail cereal malt beverages in original and unopened containers and not for consumption on the premises ().

A license fee of \$ 225⁰⁰ is enclosed herewith.

Memorandum

To: City Commission
From: Ken W. Strobel, City Manager
Date: March 12, 2009
Subject: Joint Mortgage Agreement

Several years ago, Glenn Kerbs (as County Legal Counsel) and I (as City Attorney) drafted an agreement between the City and County to be utilized when both government entities were making a revolving loan to the same business or individual. The agreement basically provides that the City and County will share a joint mortgage position in the collateral for the loan regardless of which mortgage is recorded first.

The attached agreement serves to create this joint mortgage position regarding the revolving loan to the owners of the Dodge House. Several months ago the City authorized a \$75,000 loan on this project. More recently the County closed their loan for the project in the amount of \$175,000. The final loan documents have been signed and the matter is now closed except for the adoption and recording of the Joint Mortgage Agreement.

Staff recommends approval of this agreement.

JOINT MORTGAGE AGREEMENT

WHEREAS, the City of Dodge City, a municipal corporation, located in Ford County, Kansas, hereinafter called the "City", has entered into a loan transaction with Swift Investments, LLC, hereinafter called "Debtor", whereby the City is the payee on a certain promissory note dated the 7th day of November, 2008, in the original amount of \$75,000.00, and the "Mortgagee" on a real estate mortgage dated the 7th day of November, 2008; in the original amount of \$75,000.00 and recorded in the Ford County Register of Deeds Office on November 26, 2008, covering the following described real estate located in Ford County, Kansas, to-wit:

Lot One (1), Block One (1), Final Plat of Central Properties Two Addition, a Replat of a Portion of Block 6, Maple Grove Addition to Dodge City, Ford County, Kansas, part of Spruce Street Vacated and a Tract lying between Spruce Street and West Wyatt Earp Boulevard in the Southwest Quarter of Section 27, Township 26 South, Range 25 West of the 6th Principal Meridian in Dodge City, Ford County, Kansas, according to the recorded Plat thereof.

The Real Property or its address is commonly known as 2408 W. Wyatt Earp Blvd., Dodge City, Kansas 67801

WHEREAS, the Board of County Commissioners of Ford County, Kansas, hereinafter called the "County", has entered into a loan transaction with Swift Investments, LLC, hereinafter called the "Debtor", whereby the County is the payee on a certain promissory note dated the 9th day of March, 2009, in the original amount of \$175,000.00, and the "Mortgagee" on a real estate mortgage dated the 9th day of March, 2009, in the original amount of \$175,000.00, and recorded in the Ford County Register of Deeds Office on March 10, 2009, covering the identical real estate and premises as contained in the mortgage given by the Debtor to the City described above;

WHEREAS, the loan by the City in the amount of \$75,000.00 to Debtor and the loan by the County in the amount of \$175,000.00 to Debtor has acted as a mutual inducement to both the City and the County to make each of their respective loans to Debtor such that for all practical purposes the City and the County have created a joint and mutual inducement to each other to make their respective loans to the Debtor;

AND WHEREAS, because of said mutual inducement, it is the desire of the City and the County to have a shared second lien position in and to the above described mortgaged real estate, regardless of whether the City or the County have a preference due to the time of the filing of their respective liens.

NOW, THEREFORE, the City to induce the County to make its loan in the amount of \$175,000.00 to Debtor, and the County to induce the City to make its loan in the amount of \$75,000.00 to Debtor, do hereby covenant and agree as follows:

1. The City and the County shall have a mutual joint and equal position with respect to each other in their rights to the above described mortgaged real estate pledged by Swift Investments, LCC, Debtor, as evidenced by the above described promissory notes and mortgages given by Debtor to the City and the County respectively.

2. The City and the County acknowledge the fact that the time of the filing of their respective mortgages in the office of the Ford County Register of Deeds would give either the City or the County a priority lien position over the other party and therefore agree that the City and the County will each be estopped in any way from asserting against the other a priority lien with respect to the mortgage subject to this agreement, it being specifically understood and agreed that the mortgage position by and between the City and the County shall be equal regardless of any other factor which would create a priority of right in the other.

3. Unless otherwise specifically agreed in writing, this agreement shall in no way limit the City or the County in pursuing individually or collectively any of their rights against the Debtor in the event of default.

4. In the event of Debtor's default, or otherwise, such that the mortgage of Debtor is made to account for any sums due and owing to the City and/or the County pursuant to their respective promissory notes, mortgages, or other agreements with the Debtor, then it is agreed by and between the City and the County that the proceeds realized from the sale, execution or otherwise of said mortgaged real estate shall be disposed of as follows:

- a. All non-reimbursed costs of whatever nature and kind (including, but not limited to court costs, attorney fees, expenses of sale, etc.) shall be paid to the party incurring said costs.
- b. The net proceeds shall be shared equally between the City and the County provided, however, that should the County's share of proceeds satisfy the outstanding balance of the Debtor's obligation to the County, then and in that event any remaining proceeds shall be applied 100% to the City's remaining balance due; provided, further, that should the City's share of proceeds satisfy the outstanding balance of the debt obligation to the City, then and in that event any remaining proceeds shall be applied 100% to the County's remaining balance due.

5. The City and the County agree that they will not without the written consent of the other make any advances upon their above referred mortgages. Further, unless otherwise agreed in writing any future loans and associated mortgages given by the City or the County to Debtor shall be subordinate to any mortgage which is the subject of this Joint Mortgage Agreement and that if any subsequent loan is made, for the purposes of this agreement, unless otherwise agreed to in writing, all payments made by the Debtor to the party making said subsequent loan shall first be credited to that party's promissory note which is subject to this agreement, it being the intent of the parties to not create any situation whereby one of the parties hereto might achieve an unfair lien position not otherwise contemplated by this Joint Mortgage Agreement.

City of Dodge City

Memorandum

Date: March 11, 2009

TO: Ken Strobel, City Manager

FROM: Dennis Veatch, Development Service Director

RE: Klassen Addition First Replat

Attached for your review and approval by the City Commission is the Klassen Addition First Replat. The Dodge City Zoning Board met January 20, 2009 to review this plat. The Zoning Board is recommending to the City Commission that this final plat be approved.

If you have any questions or need additional information, please let me know.