

CITY COMMISSION SPECIAL MEETING AGENDA

City Hall Commission Chambers

Wednesday, December 28, 2011

7:30 a.m.

MEETING #4872

CALL TO ORDER

ROLL CALL

ORDINANCES & RESOLUTIONS

Resolution No. 2011-33: A Resolution for the Temporary Suspension and Waiver of Certain Provisions of Ordinance No. 2838 and the Uniform Fire Code Pertaining to the Discharge of Fireworks Within the City Limits of the City of Dodge City, Kansas. Report by Fire Chief, Kevin Norton.

NEW BUSINESS

1. Approval of Designation Agreement. Report by City Manager, Ken Strobel.
2. Approval of 2011 Budget Amendments. Report by City Clerk/Director of Finance, Nannette Pogue.

ADJOURNMENT

Memorandum

*To: City Manager
Assistant City Manager
City Commissioners*

From: Kevin Norton DCFD

Date: 12/28/2011

*Subject: Temporary Suspension of Ord.
No.2838 (Fireworks Ban)*

Agenda Item: Ordinances and Resolutions

Recommendation: Approve the resolution.

Background: As you recall on June 28th , 2011 at my request, you rescinded the resolution allowing citizens to discharge fireworks over the July 4th holiday; due to extreme weather conditions. It was recommended at this meeting that fireworks would be allowed at a future date when conditions improved.

Justification: With recent moisture, cooler temperatures and the fact that retail sales of fireworks has ended, I support this recommendation. Allowing the public a time period to discharge the fireworks they purchased in July would also help eliminate the boxes of fireworks that I know are now being stored in garages, basements and closets throughout the city.

Financial Considerations: None

Purpose/Mission: Mission Statement: "Together, we promote open communications with our community members to improve quality of life and preserve our heritage to foster a better future."

Legal Considerations: None

Attachments: A copy of resolution no. 2011- 33 is attached.

RESOLUTION NO. 2011-33

A RESOLUTION FOR THE TEMPORARY SUSPENSION AND WAIVER OF CERTAIN PROVISIONS OF ORDINANCE NO. 2838 AND THE UNIFORM FIRE CODE PERTAINING TO THE DISCHARGE OF FIREWORKS WITHIN THE CITY LIMITS OF THE CITY OF DODGE CITY, KANSAS:

SECTION 1: For the time periods and under the conditions set forth herein, the provisions of Ordinance No. 2838 and the International Fire Code prohibiting the discharge of legal fireworks, as defined by state statutes and regulations of the State Fire Marshal, shall be temporarily suspended and waived so as to allow the lawful discharge of such legal fireworks within the corporate limits of the City of Dodge City, Kansas, subject to the exceptions and under the conditions as provided herein, for the period from December 31, 2011 at 12:00 p.m. through January 1, 2012 at 12:30 a.m.

SECTION 2: This waiver and suspension shall not apply to, and the discharge of fireworks shall be prohibited at any time, including December 31, 2011 through January 1, 2012, on any public property, including but not limited to all public parks, public recreation areas such as ball fields and soccer fields, any school grounds including, school playgrounds and athletic facilities, any public rights of way, or public parking areas (Civic Center / Memorial Stadium).

SECTION 3: This waiver and suspension shall not apply to, and the discharge of fireworks shall be prohibited at any time, including December 31, 2011 through January 1, 2012, on any real property within the corporate limits of the City of Dodge City without the permission of the owner or person or entity in control of said real property.

SECTION 4: Notwithstanding this suspension and waiver, officers of the Dodge City Fire Department and the Dodge City Police Department shall have the authority to confiscate any fireworks from any individual possessing the same, if in the opinion of said officer, the use or discharge of such fireworks is being conducted in such a manner as to create a health or safety hazard for the user or other persons, or in such a manner as to create a safety hazard to public or private property.

SECTION 5: This waiver will automatically expire at 12:31 a.m. on January 1, 2012, and may be rescinded prior thereto by action of the governing body.

SECTION 6: This Resolution shall take effect and be in force from and after its adoption and publication once in the official City newspaper.

Adopted by the governing body this 28th day of December, 2011.

Rick Sowers, Mayor

ATTEST:

Nannette Pogue, City Clerk

Memorandum

To: City Commissioners
From: Ken Strobel
Date: December 27, 2011
Subject: Designation Agreement
Agenda Item: New Business

Recommendation: Approval of Designation Agreement

Background: The Development Agreement between BHC Development L.C. (“BHC”), the owner of the Boot Hill Casino & Resort (the “BHC Tract”) provides that the owner of the BHC Tract is to be responsible for the maintenance of all common areas associated with the Casino and the City/County Special Events and Convention facilities (the “SEC Tract”).

Under the Agreement, BHC is to perform all maintenance of the common area, including mowing and trimming of grass, shrubs and trees, cleaning and repair of the parking lots and, snow removal for both the BHC Tract and the SEC Tract. BHC is to designate a company to perform the maintenance responsibilities, subject to the approval of the City. The City is to then reimburse BHC for the costs incurred for the maintenance of the SEC Tract, plus an administrative fee for overseeing the program.

Upon completion of the Events Center and after giving the matter further thought, both BHC and the City agreed that the original maintenance provisions of the Agreement were cumbersome and unnecessary. The parties verbally agreed that each owner would be responsible for the maintenance of their own common areas at their own expense. However, the wording of the Agreement was never amended to reflect the verbal agreement.

Justification: Within the past couple of months a portion of the BHC Tract has been conveyed the BHC Lodging, L.C. for the construction of the new hotel. Now there are 3 different tracts which are impacted by the Common Area Maintenance Agreement. The proposed Designation Agreement basically provides that each owner of each separate tract of property shall maintain and care for their individual tracts and shall be responsible for the costs associated with such care and maintenance.

Financial Considerations: The City will provide for the maintenance of the SEC Tract and will be reimbursed for such from the Events Center budget. There will be no reimbursement nor administrative fee paid to the owner of the BHC Tract.

Legal Considerations: None

Attachments: Designation Agreement

DESIGNATION

Page 1 of 2

This Designation is made effective the 1st day of January, 2012 by BHC Development, L.C. as the Approving Owner of the BHC Tract pursuant to that certain Development and Operation Agreement between BHC Development, L.C. ("BHC"), City of Dodge City, Kansas ("Dodge City"), and the County of Ford County, Kansas ("Ford County") dated September 9, 2009 (the "Agreement").

Pursuant to the Agreement, the owner of the BHC Tract has been designated to maintain the BHC Tract and the SEC Tract in accordance with the terms, provisions and standards of the Agreement.

Section 7.1 permits the owner of the BHC Tract to approve a designee to maintain, or cause to be maintained the Common Areas of the Development, subject to the approval of the Approving Owner of the SEC Tract.

A portion of the BHC Tract has been conveyed to BHC Lodging, L.C., a Kansas limited liability company, for construction and operation of a hotel.

Effective as of the date set forth above and in accordance with Section 7.1 of the Agreement, BHC does hereby designate:

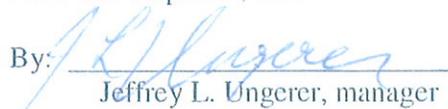
- 1) The City of Dodge City, Kansas to be responsible for all maintenance and repair of the SEC Tract in accordance with the standards and requirements of the Agreement;
- 2) BHC Lodging, L.C. to be responsible for all maintenance and repair of that portion of the BHC Tract owned by BHC Lodging, L.C. (legally described as Lot 1B of Mariah Center Replat) all in accordance with the standards and requirements of the Agreement.

This Designation shall remain in full force and effect until altered or revoked by BHC in writing with approval by the Approving Owner of the SEC Tract.

This Designation does not limit, prohibit or prevent any Owner designated to maintain a portion of the Development from using joint contracts, shared responsibilities, common sub-contractors, etc. for performing similar tasks on one or more Tracts, provided all maintenance and repairs meet the standards of the Agreement.

Executed effective the day and year set forth above.

BHC Development, L.C.

By: 
Jeffrey L. Ungerer, manager

Signatures continued on page 2

Designation
Page 2 of 2

The City of Dodge City, Kansas, as the Approving Owner of the SEC Tract does hereby approve and accept the designations set forth above for maintaining and repairing the SEC Tract and the Tract owned by BHC Lodging, L.C.

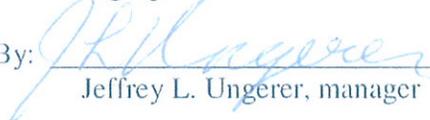
Executed this ____ day of _____, 2012, by the City of Dodge City, Kansas.

By: _____
Name: _____
Title: Mayor

Attest: _____
Name: _____
Title: City Clerk

Acknowledged and accepted by BHC Lodging, L.C. this ____ day of _____, 2012.

BHC Lodging, L.C.

By: 
Jeffrey L. Ungerer, manager

Memorandum

*To: Ken Strobel, City Manager
Cherise Tieben, Assistant City Manager*

From: Nannette Pogue

Date: December 27, 2011

Subject: Approval of 2011 Budget Amendments

Agenda Item Public Hearing and New Business

Recommendation: I recommend the approval 2011 Budget Amendments.

Background: Kansas law provides that each year municipalities set a budget for each of the funds that the municipality has. It also provides that if the revenues exceed what was budgeted and the expenditures exceed the budget, the budget can be amended by going through the same procedure as when the budget was originally adopted. The 2011 budget was passed by the City Commission in August of 2010. A public hearing notice was published in the December 20th edition of the Dodge City Daily Globe notifying the public that the City Commission would hold a public hearing to consider the amendments for the 2011 budget.

Justification: To ensure no violations of the budget law.

Financial Considerations: Cash is available in all funds that are being amended. The following funds are being amended:

Sales Tax-Special Projects Fund – This fund accounts for the special sales tax projects and the operating budgets for those projects which include the Athletic Fields Maintenance, payment of sales tax revenue bond payments, administration of the projects, Dodge City Raceway Park and the special events centers. The original budget for this fund that was sent to the State of Kansas was a basic budget that was approved at the same time the overall city budget was approved in August. In February, 2011 the Joint City/County Commissions approved a budget which included all of the items that caused an amendment to the 2011 Special Sales Tax Project Fund. The major items were: a transfer to the Depreciation and Replacement fund of \$3,250,000; contractual services for the Special Events Centers including an agreement that prepaid some items when the Global contract was terminated; and capital outlay items at the special events center which was the parking lot and landscaping.

ST Fund – This is the fund that a transfer is made for organizational funding from the Sales Tax Projects Fund. When the 2011 budget was approved, it was unknown how much would be approved to transfer to this fund. Earlier this year, the CFAB, City Commission and County Commission approved the transfer to this fund as well as approved expenditures for the Tourism Task Force.

Convention and Visitors Fund. It is proposed to adjust this budget by \$100,000. The reasons for the amendment are: the trolley was originally budgeted at \$150,000 and the approved bid was \$197,000; the transfer to the General Fund was increased by \$30,000; it was approved to assist in the funding for a Chamber position to assist with 3i show organization; and some of the office staff was relocated to an office at Military Plaza and there were expenses for rent and office equipment that was not originally budgeted. Funds are available in this fund for the additional expenses.

Special Alcohol and Drug Fund – This is the Fund that 1/3 of the Alcohol and Drug Sur Tax funds are deposited. These funds are to be used for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, detoxification, intervention or treatment of persons with alcohol or drug problems. Revenues exceeded that which was budgeted, so the amount in the fund was spent to accommodate the requests from organizations that provide the services described.

Drainage Utility – A contract with Wilson and Company for Phase III of the levy assessment was approved in an amount of \$499,950 which requires the amendment.

Vehicle Maintenance – This fund is an internal service fund for the maintenance and repair of the City's fleet. The expenditures are charged back to the departments, but it is difficult to anticipate the amount needed each year for the maintenance of the vehicles.

Purpose/Mission: To promote open communications and inform the public when necessary budget changes are needed.

Legal Considerations: This amendment will allow us to comply with the State of Kansas Budget Law.

Attachments: Notice of hearing and budget amendments.

**Amended
Certificate**

To the Clerk of Ford County, State of Kansas
We, the undersigned, duly elected, qualified, and acting officers of
City of Dodge City
certify that: (1) the hearing mentioned in the attached publication was held;(2) after the Budget Hearing this Budget was duly approved and adopted as the maximum expenditure for the various funds for the year.

| | | 2011 Amended Budget | | | |
|--------------------------------|---------------|------------------------|--|---------------------------------|--|
| | | Page No. | Amount of 2010 Tax that was Levied | Adopted 2011 Expenditures | Proposed Amended 2011 Expenditures |
| Fund | K.S.A. | | | | |
| Sales Tax-Special Projects | | 2 | | 4,543,774 | 10,611,540 |
| ST Fund-Organizational Funding | | 4 | | 517,845 | 640,000 |
| Convention and Visitors | | 4 | | 782,394 | 882,394 |
| Special Alcohol and Drug | | 5 | | 80,000 | 108,000 |
| Drainage Utility | | 5 | | 363,524 | 680,000 |
| Transportation | | 6 | | 267,475 | 312,500 |
| SMPC Trust | | 6 | | 66,000 | 110,000 |
| Totals | | xxxxxxx | 0 | 6,621,012 | 13,344,434 |
| Summary of Amendments | | 8 | | | |

Attested date: _____

County Clerk

Assisted by: _____

Address: _____

| |
|---------------------------|
| State Use Only |
| Received _____ |
| Reviewed by _____ |
| Follow-up: Yes ___ No ___ |

Governing Body

Adopted Budget

| Sales Tax-Special Projects | 2011 Adopted Budget | 2011 Proposed Budget |
|--|---------------------------|----------------------------|
| Unencumbered Cash Balance Jan 1 | 8,576,921 | 8576921 |
| Receipts: | | |
| Sales Tax | 4,000,000 | 4,000,000 |
| Sales Tax from Ford County | 1,000,000 | 1,000,000 |
| Interest Income | 100,000 | 100,000 |
| Concessions | 50,000 | 50,000 |
| Field Rental | 6,600 | 6,600 |
| Other Athletic Field Inc | | |
| Sign Sponsorships | | |
| Transfer from General Fund | 50,000 | 50,000 |
| Total Receipts | 5,206,600 | 5,206,600 |
| Resources Available: | 13,783,521 | 13,783,521 |
| Expenditures: | | |
| Field Sports: | | |
| FIELD MAINTENANCE | | |
| Personal Services | 247,757 | 247,757 |
| Contractual | 80,900 | 92,713 |
| Commodities | 85,070 | 85,070 |
| Capital Outlay | <u>81,000</u> | <u>81,000</u> |
| Total - Field Maintenance | 494,727 | 506,540 |
| CONCESSIONS | | |
| Personal Services | 20,177 | 32,177 |
| Contractual | 1,300 | 1,300 |
| Commodities | <u>32,500</u> | <u>44,523</u> |
| Total - Concessions | 53,977 | 78,000 |
| ADMINISTRATION | | |
| Personal Services | 0 | 0 |
| Contractual | 100,000 | 100,000 |
| Commodities | <u>0</u> | <u>0</u> |
| Total - Administration | 100,000 | 100,000 |
| TOTAL - FIELD SPORTS OPERATIONS | 648,704 | 684,540 |

| | | |
|-----------------------|-----------|-----------|
| ADMINISTRATION | | |
| Personal Services | 0 | 0 |
| Contractual | 1,116,905 | 1,116,905 |
| Commodities | 300 | 300 |
| Capital Outlay | | |

City of Dodge City
State of Kansas
2011 Amendment

| | | |
|-------------------------------------|------------------|------------------|
| Transfer to Depr & Replacement Fund | | 3,250,000 |
| Series A & B - Debt Service | 2,420,065 | 2,429,995 |
| Other Payments | <u>2,800</u> | <u>2,800</u> |
| TOTAL-ADMINISTRATION | 3,540,070 | 6,800,000 |
| MOTOR SPORTS | | |
| Personal Services | 0 | 0 |
| Contractual | 355,000 | 355,000 |
| Commodities | 0 | 0 |
| Capital Outlay | 0 | 0 |
| Concessions | <u>0</u> | <u>0</u> |
| TOTAL-MOTOR SPORTS | 355,000 | 355,000 |
| SPECIAL EVENTS CENTER | | |
| Contractual | 0 | 1,285,000 |
| Commodities | 0 | 24,000 |
| Capital Outlay | <u>0</u> | <u>1,445,000</u> |
| TOTAL-SPECIAL EVENTS CENTER | 0 | 2,754,000 |
| FACILITIES MAINTENANCE | | |
| Personnel | <u>0</u> | <u>18,000</u> |
| TOTAL-FACILITES MAINTENACE | 0 | 18,000 |
| Total Expenditures | 4,543,774 | 10,611,540 |
| Unencumbered Cash Balance Dec 31 | 9,239,747 | 3,171,981 |

Adopted Budget

| ST Fund-Organizational Funding | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 489,275 | 489,275 |
| Receipts: | | |
| Transfer from Other Funds | 748,605 | 464,000 |
| Total Receipts | 748,605 | 464,000 |
| Resources Available: | 1,237,880 | 953,275 |
| Expenditures: | | |
| Personal Services | 63,415 | 23,000 |
| Contractual | 428,430 | 591,000 |
| Commodities | 26,000 | 26,000 |
| Capital Outlay | 0 | 0 |
| Total Expenditures | 517,845 | 640,000 |
| Unencumbered Cash Balance December 31 | 720,035 | 313,275 |

Adopted Budget

| Convention and Visitors | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 625,136 | 623,136 |
| Receipts: | | |
| Intergovernmental | 600,000 | 600,000 |
| Trolley Charges | 32,000 | 32,000 |
| Ticket Sales | | |
| Other | 3,000 | 3,000 |
| Contributions & Donations | 23,547 | 23,547 |
| Total Receipts | 658,547 | 658,547 |
| Resources Available: | 1,283,683 | 1,281,683 |
| Expenditures: | | |
| Personal Services | 309,942 | 309,942 |
| Contractual | 257,872 | 283,872 |
| Commodities | 28,580 | 28,580 |
| Capital Outlay | 156,000 | 200,000 |
| Transfer to General | 30,000 | 60,000 |
| Total Expenditures | 782,394 | 882,394 |
| Unencumbered Cash Balance December 31 | 501,289 | 399,289 |

Adopted Budget

| Special Alcohol and Drug | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 41,656 | 41,656 |
| Receipts: | | |
| Intergovernmental | 70,000 | 99,700 |
| Total Receipts | 70,000 | 99,700 |
| Resources Available: | 111,656 | 141,356 |
| Expenditures: | | |
| Contractual | 80,000 | 108,000 |
| Total Expenditures | 80,000 | 108,000 |
| Unencumbered Cash Balance December 31 | 31,656 | 33,356 |

Adopted Budget

| Drainage Utility | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 553,185 | 553,185 |
| Receipts: | | |
| Service Fees | 187,000 | 187,000 |
| Interest | 1,000 | 1,000 |
| Total Receipts | 188,000 | 188,000 |
| Resources Available: | 741,185 | 741,185 |
| Expenditures: | | |
| Personal Services | 55,224 | 55,224 |
| Contractual | 2,600 | 319,076 |
| Commodities | 1,500 | 1,500 |
| Capital Outlay | 268,000 | 268,000 |
| Bad Debt Expense | 1,200 | 1,200 |
| Transfer to General Fund | 35,000 | 35,000 |
| Total Expenditures | 363,524 | 680,000 |
| Unencumbered Cash Balance December 31 | 377,661 | 61,185 |

Adopted Budget

| Transportation | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 1,827 | 9,611 |
| Receipts: | | |
| Reimbursements | 275,000 | 303,000 |
| Miscellaneous | | |
| Total Receipts | 275,000 | 303,000 |
| Resources Available: | 276,827 | 312,611 |
| Expenditures: | | |
| Personnel Services | 116,675 | 116,675 |
| Contractual | 25,500 | 31,525 |
| Commodities | 125,300 | 164,300 |
| Capital | | |
| Total Expenditures | 267,475 | 312,500 |
| Unencumbered Cash Balance December 31 | 9,352 | 111 |

Adopted Budget

| SMPC Trust | 2011 Adopted Budget | 2011 Proposed Budget |
|---------------------------------------|---------------------------|----------------------------|
| Unencumbered Cash Balance January 1 | 105,683 | 105,683 |
| Receipts: | | |
| Trust Fund Proceeds | 25,000 0 | 25,000 |
| Total Receipts | 25,000 | 25,000 |
| Resources Available: | 130,683 | 130,683 |
| Expenditures: | | |
| Contractual | 0 | 0 |
| Commodities | 0 | 0 |
| Capital Outlay | 66,000 | 110,000 |
| Total Expenditures | 66,000 | 110,000 |
| Unencumbered Cash Balance December 31 | 64,683 | 20,683 |