

COMMISSION AGENDA

July 3, 2006 - 7:00 p.m.

Commission Chambers

MEETING NO. 4654

CALL TO ORDER

ROLL CALL

INVOCATION by Josh of the First Christian Church

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

VISITORS (Limit of 5 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)

City of Character Trait for July - Meekness

CONSENT CALENDAR

1. Approval of Minutes of Regular Meeting of June 19, 2006
2. Approval of payment of bills.
3. Approval of cereal malt beverage license for:
 - A. Mariah Hills Golf Course, 1800 Matt Down Lane
 - B. Love's Country Store #62, 400 E. Wyatt Earp
(pending inspections and approval of City Fire, Inspection & Police Dept.)
4. Approval of amendment of contract with BHC for 14th Street Reconstruction Project.

ORDINANCES & RESOLUTIONS

Ordinance No.3413: An Ordinance providing for the approval, transfer and assignment of an electric franchise as provided in Ordinance No. 3074. Report by City Attorney, Ken Strobel.

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval of temporary suspension of CMB licenses and liquor licenses for violation of code. Report by Police Chief, John Ball.
2. Approval of appointment to CVB Advisory Board to fill vacancy. Report by Administrative Assistant to the City Manager, Jane Longmeyer.

OTHER BUSINESS

Commissioners
City Manager

EXECUTIVE SESSION to discuss pending litigation with attorney and employee negotiations.

ADJOURNMENT

MINUTES
June 19, 2006 - 7:00 p.m.
MEETING NO. 4653

MAYOR Jim Sherer called the regular meeting to order at 7:00 p.m.

RESPONDING TO ROLL CALL were Mayor Jim Sherer, Commissioners Kent Smoll, Rick Sowers, and Jim Lembright. Reported absent was Commissioner Terry Lee

Invocation was led by Rev. Dennis Zimmerman of St. Cornelius Episcopal Church

The PLEDGE OF ALLEGIANCE was recited.

PETITIONS & PROCLAMATIONS

VISITORS (Limit of 5 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)

The CONSENT CALENDAR was approved on a motion by Commissioner Smoll, seconded by Commissioner Lembright, by a vote of 4-0.

1. Approval of Minutes of Regular Meeting of June 5, 2006
2. Approval of payment of bills.
3. Approval of cereal malt beverage license for:
 - A. Love's Country Store, 1108 W. Wyatt Earp
(pending inspections and approval of City Fire, Inspection & Police Dept.)

ORDINANCES & RESOLUTIONS

Resolution 2006-10: 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 was adopted on a motion by Commissioner Lembright, seconded by Commissioner Sowers, by a vote of 4-0.

UNFINISHED BUSINESS

NEW BUSINESS

1. A bid for Taxiway B Rehabilitation Project from APAC of Dodge city for the base bid and bid alternate A (asphalt) for a total bid of \$1,027,190.25 was approved on a motion by Commissioner Smoll, seconded by Commissioner Lembright, by a vote of 4-0. This project is 95% FAA funded and 5% local match for an estimated \$51,360.25.

OTHER BUSINESS

Commissioner Smoll reminded everyone the USBL Tournament will be in town this weekend.

On a motion by Commissioner Smoll, seconded by Commissioner Sowers, the meeting adjourned by a vote of 4-0.

V. James Sherer, Mayor

ATTEST:

Nannette Pogue, City Clerk

(Corporate Application Form)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

COUNTY, KANSAS,

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

or

THE BOARD OF COUNTY COMMISSIONERS OF FORD COUNTY, KANSAS.

GENTLEMEN—On behalf of the MARIAH HILLS GOLF COURSE

corporation whose principal place of business is MARIAH HILLS GOLF COURSE

and under authority of the resolution of the Board of Directors of said corporation. 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 on behalf of said corporation; for the purpose of securing such license, I make the following statements under oath:

1. The proposed licensee is PAUL MEININGER corporation with principal place of business at MARIAH HILLS GOLF COURSE The resident agent is PAUL MEININGER with offices at

4. The name and address of the owner or owners of the premises upon which the place of business is located is PAUL MEININGER 1800 MATT DOWN LN

Said corporation was incorporated on A copy of the Articles of Incorporation are presently on file with the Register of Deeds of this County. Yes (), No ().

5. I hereby certify with regard to each of the persons named in number 2 above the following statements are true:

2. The following are the full and complete list of officers, directors, stockholders owning in the aggregate more than 25 percent of corporate stock, and managers of said corporation together with their position and address, age, date of birth, place of birth, method of acquiring United States citizenship—if acquired by naturalization, date and place of naturalization, and the length of residence in the State of Kansas.

- (a) None of them has within the last two years from this date been convicted of (1) A felony (2) A crime involving moral turpitude (3) Drunkenness (4) Driving a motor vehicle while under the influence of intoxicating liquor (5) Violation of any state or federal intoxicating liquor law

If any of the above have been convicted of any of the above specified offenses, the details are set out hereinafter.

(b) No manager, officer or director or any stockholder owing in the aggregate more than 25% of the stock of the corporation has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock of a corporation which:

- (A) has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of The Drinking Establishment Act or the Cereal Malt Beverage Laws of the State.

3. The premises for which the license is desired are located at MARIAH HILLS GOLF COURSE

6. The place of business will be conducted by the following manager or agent:

Name PAUL MEININGER Address 1800 MATT DOWN LANE Residence 11328 40th AVE WEST Length of residence within this city or county in which the application is being made 30 YRS

Method of obtaining U.S. citizenship together with date of naturalization if such is the method

Date and place of birth

I hereby certify that with regard to this above-named manager the statement contained in number 5 above is in every respect true. If not, the details are set out hereinafter.

- (a) The legal description of the premises is (b) The street number is 1800 MATT DOWN LN (c) The building is described as MARIAH HILLS CLUBHOUSE (d) The corporate business under the license will be conducted in the name of the corporation or in the following name:

7. 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 be consumption on the premises. ().

A license fee of \$ is enclosed herewith.

(Corporate Application Form)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

Dodge City, Ford COUNTY, KANSAS, June 13, 2006

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

or

THE BOARD OF COUNTY COMMISSIONERS OF Ford COUNTY, KANSAS.

GENTLEMEN—On behalf of the Love's Travel Stops & Country Stores, Inc.

corporation whose principal place of business is Love's Country Store #62

and under authority of the resolution of the Board of Directors of said corporation. 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 on behalf of said corporation; for the purpose of securing such license, I make the following statements under oath:

1. The proposed licensee is Love's Travel Stops & Country Stores, Inc.

corporation with principal place of business at

Oklahoma City, OK

The resident agent is C.T. Corporation

with offices at Topeka, KS

Said corporation was incorporated on 12/29/86

A copy of the Articles of Incorporation are presently on file with the Register of Deeds of this County. Yes (), No (X).

2. The following are the full and complete list of officers, directors, stockholders owning in the aggregate more than 25 percent of corporate stock, and managers of said corporation together with their position and address, age, date of birth, place of birth, method of acquiring United States citizenship—if acquired by naturalization, date and place of naturalization, and the length of residence in the State of Kansas.

* SEE ATTACHED *

4. The name and address of the owner or owners of the premises

upon which the place of business is located is

Love's Travel Stops & Country Stores, Inc.

P.O. Box 26210, Oklahoma City, OK 73126

5. I hereby certify with regard to each of the persons named in number 2 above the following statements are true:

(a) None of them has within the last two years from this date been convicted of

(1) A felony

(2) A crime involving moral turpitude

(3) Drunkenness

(4) Driving a motor vehicle while under the influence of intoxicating liquor

(5) Violation of any state or federal intoxicating liquor law

If any of the above have been convicted of any of the above specified offenses, the details are set out hereinafter.

(b) No manager, officer or director or any stockholder owning in the aggregate more than 25% of the stock of the corporation has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock of a corporation which:

(A) has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or

(B) has been convicted of a violation of The Drinking Establishment Act or the Cereal Malt Beverage Laws of the State.

6. The place of business will be conducted by the following manager or agent:

Name Brandon Kreger

Address

Residence

Length of residence within this city or county in which the application is being made

Method of obtaining U.S. citizenship together with date of naturalization if such is the method

Date and place of birth

I hereby certify that with regard to this above-named manager the statement contained in number 5 above is in every respect true. If not, the details are set out hereinafter.

3. The premises for which the license is desired are located at 400 E. Wyatt Earp

Dodge City, KS 67801

(a) The legal description of the premises is

(b) The street number is 400 E. Wyatt Earp

(c) The building is described as

Concrete Block

(d) The corporate business under the license will be conducted in the name of the corporation or in the following name:

Love's Country Store #62

7. 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 be consumption on the premises. (X).

A license fee of \$125.00 is enclosed herewith.

Memorandum

June 27, 2006

TO: Jeff Pederson, City Manager
FROM: Joseph E. Finley, P.E., Director of Public Works
RE: 14th Ave. Reconstruction (Comanche to US50) - ST 0508

Attached for you review and signature are three copies from BHC regarding additional compensation for the work they performed outside the original scope of the contract.

During the course of design and review of various submitted plans to City staff, we requested BHC modify the plans to accommodate several business entrances that we felt would be adversely affected by the recommended design. This required some additional survey and design work to modify the street sections and storm drainage system. After reviewing the initial storm drainage improvements, staff requested that the plans be altered in an effort to reduce and redirect the flow that currently flows down the backside of homes adjacent to 14th Ave. We felt that this modification would benefit the area and redirect the flow in a manner that would reduce flooding concerns and improve the flow in the channel. In addition, the size of the pipe in structures would have required that the tree line along 14th Ave. also be removed. It is not typical to place the storm pipe in structures into the road system. However, we felt that this was a better design that would also allow the mature trees to stay in place and provide a buffer between the neighborhood and the street and not require the replanting of the trees. This change also requires some additional survey and design review by structural engineer and modifications to the plans. BHC also spent some additional time and design work to modify the DCC access to accommodate the various changes requested by the college.

Once the final layout was determined, staff requested that BHC also incorporate into their design the installation of a sanitary sewer along the west side of 14th Ave. to accommodate the residents north of Hi St. and south of Soule Ave. that currently are not served by City Sewer. With the widening of a section of 14th Ave. in this area, it is important to install the sewer line as a part of this project, as there would be no right of way left once we are done widening the road way.

The additional compensation requested is \$18,470, this will bring the total design fees to \$91,370 or 2.8% of the anticipated construction cost. Typically we see fees for this type of design in the 8-12% range. As staff directed BHC to perform these additional tasks, we would recommend approval of the additional compensation as submitted. Should you have any questions please let me know.

JF/jlg

June 20, 2006

Mr. Joe Finley, P.E.
Director of Public Works
City of Dodge City
806 2nd Avenue
Dodge City, Kansas 67801-0880

Re: 14th Avenue Improvements (Comanche to US 50)
Additional Design and Plan Preparation

Dear Mr. Finley:

The purpose of this letter is to request compensation for additional design services rendered on the above referenced project. As you know, the scope of this project has grown significantly from the initial pavement rehabilitation project that we originally discussed. During the course of the initial design, we were asked to perform additional design services for improvements to the 14th Avenue project as itemized in the attached estimate.

Rather than delay the project we have continued working in good faith to provide these additional services and absorb it in our current services contract. However, now that we are nearing the end of our services on this project we have exceeded our current design fee and must request this additional compensation. For this additional work, we are requesting additional compensation. A summary of our current and requested design fees are shown below. The proposed total design fee of \$91,370 amounts to approximately 2.8% of the anticipated construction cost of \$3.2 million.

Original Contract Design Fee	\$56,500
Field Survey for Drainage	\$ 6,700
Field Survey for 14 th St.	\$ 9,700
<u>Total Original Contract Amount</u>	<u>\$72,900</u>
<u>Requested Additional Compensation</u>	<u>\$18,470</u>
Proposed Total Design Fee	\$91,370

Best regards,

Brungardt Honomichl & Company, P.A.


Kevin Honomichl, P.E.
President

APPROVED: _____

(date)

CITY OF DODGE CITY, KS

By: _____

Attachment

ORDINANCE NO. 3413

AN ORDINANCE PROVIDING FOR THE APPROVAL, TRANSFER AND ASSIGNMENT OF AN ELECTRIC FRANCHISE AS PROVIDED IN ORDINANCE NO. 3074:

WHEREAS, on January 17, 1994, the City granted a franchise agreement (the "Franchise Agreement") to Aquila, Inc. (f/k/a UtiliCorp United Inc.) d/b/a Westplains Energy (the "Company") as Ordinance No. 3074;

WHEREAS, Aquila, Mid-Kansas Electric Company ("MKEC"), Sunflower Electric Power Corporation ("Sunflower"), and the six rural electric cooperatives members of each of MKEC and Sunflower the "Members") are parties to that certain Asset Purchase Agreement dated as of September 21, 2005 (the "Asset Purchase Agreement"), by which Aquila has agreed to transfer, assign and sell to MKEC, and MKEC has agreed to assume, substantially all of the assets and obligations of Aquila constituting the electric utility business conducted by Aquila that serves customers in the State of Kansas (collectively, the "Business"), including without limitation all of Aquila's right, title and interest in, to and under the Franchise Agreement and its plant, facilities, system and operation located in Dodge City;

WHEREAS, following the acquisition of the Business by MKEC, MKEC, Sunflower and the Members desire to consider the transfer and assignment of the electric generation and transmission assets and obligations of the Business to Sunflower, and the transfer and assignment of the electric distribution assets, obligations and operations of the Business to the various Members, or a subsidiary thereof, including the transfer and assignment of the electric distribution assets, obligations and operations of the Business located in Dodge City to the Victory Electric Cooperative Association, Inc. ("Victory");

WHEREAS, the City has determined that each of MKEC, Sunflower, and Victory is, individually, suitable to carry out the Company's obligations under the Franchise Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY:

SECTION 1. That the City Commission hereby approves and consents to the transfer, assignment and sale of the Business by Aquila to MKEC, including without limitation all of Aquila's right, title and interest in, to and under the Franchise Agreement and in and to its electric plant, facilities, system and operation located in Dodge City, effective as of the Effective Time (as defined in the Asset Purchase Agreement) which Effective Time shall not be later than 180 days from the date of the City's approval of this Ordinance; Provided further that within 30 calendar days following the Effective Time Aquila and MKEC will provide written notice of the

successful closing of the Asset Purchase Agreement and MKEC's acceptance of the Franchise Agreement obligations as the assignee under the Franchise Agreement.

SECTION 2. That subject to the provisions set forth herein, the City Commission hereby approves and consents to, for all purposes under the Franchise Agreement, (1) the transfer and assignment by MKEC of the electric generation and transmission assets, obligations and operations of the Business, including the electric generation and transmission assets and operations in Dodge City, to Sunflower, and (2) the transfer and assignment by MKEC of the electric distribution assets, obligations and operations of the Business to the various Members, including the transfer and assignment by MKEC of the electric distribution assets, obligations and operations of the Business located in Dodge City to Victory, in each case effective upon the date specified in written notice by MKEC to the City; Provided, however, that in the event of the transfer and assignment to Victory Electric by MKEC, the customers of Victory Electric within the limits of the City of Dodge City shall be entitled to all of the incidents of membership provided in the Bylaws of Victory Electric including, but not limited to, the provisions of Article IV, Section 2 of the By-Laws regarding representation on the Board of Trustees by inclusion in a district or districts which elect a member or members to the Board of Trustees; Provided further, that the procedures adopted and implemented by Victory to facilitate the above described representation shall be subject to the prior approval of the city manager as a condition precedent to the approval and consent of the City as set forth in (2) above of this Section 2, which approval shall not be unreasonably withheld.

SECTION 3. That the City Commission hereby directs the City Clerk to send written notice of the City Commission's approval to the Company and to MKEC and to obtain from the Company and MKEC their written approval and acceptance of the duties, obligations, terms and conditions as set out in the Franchise Agreement and this Ordinance.

SECTION 4. That this Ordinance is adopted this 3rd day of July, 2006, and shall become effective upon the date of publication in official city paper.

Jim Sherer, Mayor

ATTEST:

Nannette Pogue, City Clerk

Memorandum

To: Jeff Pederson
From: Nannette Pogue
Date: 6/29/2006
Re: Suspension of Cereal Malt Beverage Licenses and Liquor Store License

Recently 5 Businesses or employees of businesses were convicted in Municipal Court of selling alcohol to minors. The City of Dodge City Code says that any one convicted of a violation of the code, the license will be suspended for one week. This is in the Cereal Malt Beverage statute. The Liquor statute states that any violation of the code may result in the suspension of the license.

Approximately 5 years ago, these suspensions were routinely given for anyone convicted of "Sale of Alcohol to a Minor". In the past few years, if any convictions were made, the information has not been relayed to the City Manager's office, so that suspension could be passed down by the City Commission. With the newly established "Underage Alcohol Abuse Program", priority has been given to making sure that minors are not able to buy alcohol. So, the Police Department is once again aggressive in checking on local businesses. Recently, as the attached memo states, five businesses have been convicted of "Selling Alcohol to Minors". To continue to relay the seriousness of the offense, we are asking the City Commission to suspend the Cereal Malt Beverage License of Wal Mart, Convenience Plus, Presto and Tianguis Market, and to suspend the Liquor License of South Side Liquor for 5 days. It is recommended that this suspension be enacted July 10 – 14, 2006.

Notifications of the meeting in which this will be discussed were sent to the 5 businesses.

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

June 26, 2006

To: Jeff Pederson
Nannette Pogue

From: John K. Ball

RE: Suspension of License for local businesses

On April 29, 2006 officers of the Dodge City Police Department in conjunction with agents from Kansas Alcohol Beverage and Control conducted an operation at local businesses selling alcoholic beverages. This operation was part of the Department's JUDGE program (Juvenile Underage Drinking Group Education / Enforcement) intended to curtail the use of alcohol by underage individuals per Kansas statute. Underage individuals were teamed with law enforcement agents and checked local businesses to determine if they would sell alcoholic beverages to the minor. Six local businesses sold to the minors. At this time, five have pled guilty to the offense and one is pending trial.

Per the Code of the City of Dodge City, the governing body has the authority to suspend the license of a business that violates any provisions of the City Code, including sale to a minor (3-209 and 3-311). It is the request of the Police Department that the following businesses be suspended for a period of one week as a result of the conviction for sale to a minor.

1. Wal Mart 1905 14th
2. Convenience Plus 2501 Central
3. Presto 2615 E. Trail
4. Tianguis Market 512 S. 2nd
5. South Side Liquor 710 S. 2nd

John K. Ball
Chief of Police

Memorandum

*To: City Commission
Jeff Pederson, City Manager*
From: S. L. Martin, CVB Interim Director
Date: Thursday, June 29, 2006
Subject: CVB Advisory Board Appointments

Please be advised the Convention and Visitors Bureau Advisory Board has approved the nomination of **Kurt Scadden** to a three-year term on the Advisory Board as one of five representatives filling the hospitality function. Kurt is co-owner of the Boot Hill Bed & Breakfast.

The Board has also approved the nomination of **Cyd Champlin Stein** to complete an at-large term that ends January 31, 2007. Cyd is a marketing consultant with NRG Media. Cyd would be completing the term of at-large member Jill Druse, who submitted her resignation June 26.

Thank you for your consideration of these individuals for appointment to the CVB Advisory Board.