

CITY COUNCIL AGENDA
Monday, September 22, 2014

No Workshop Meeting

City Council Meeting – 7:30 p.m.

1. Proclamation Waste Water Department
2. Proclamation Presentation National Community Planning Month
3. Proclamation Presentation Fire Prevention Week October 5 to 11
4. Citizen Concerns About Items Not on Today's Agenda. (Copies of written material presented to the City Council also needs to be provided to the City Clerk.)
CONSENT AGENDA - If a Councilmember has a simple question about an item, it can be asked before the Mayor calls for the vote on the Consent Agenda. An item only needs to be removed from the Consent Agenda if it warrants discussion.
5. Minutes of the September 8, 2014 City Council Meeting
6. Claims for City Operations for September 22, 2014
7. Public Housing Authority Claims for September 22, 2014
8. Contract for Purchase of Property
9. Request for Special Olympics Bike Run on September 27, 2014 Rain Date September 28
10. Anti-Drug & Alcohol Use Policy - KDOT Program

REGULAR MEETING AGENDA

11. Award Bid for 2015 Chevrolet 3500HD Truck with Utility Body & Crane
12. Award Bid for Backwash Settling Tank Project to Crossland Heavy Contractors, Inc. for a Total Amount of \$499,900 Contingent Upon KDHE Approval & Approve an Increase in the KDHE Loan from \$550,000 to \$900,000
13. Ordinance Public Amusement Definition Amendment
14. Ordinance to Amend Chapter V Business Regulations Article 10 Massage Therapy
15. City Manager's Report
16. City Council Items
17. Mayor's Report



City of Bonner Springs

P. O. Box 38, 205 East Second Street, Bonner Springs, KS 66012

NO WORKSHOP MEETING

REGULAR CITY COUNCIL MEETING

7:30 p.m.

CITY HALL COUNCIL CHAMBERS

Monday, September 22, 2014

Life is Better in Bonner Springs

ITEM NO. 1.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Proclamation Waste Water Department

ACTION: Presentation by the Mayor to the Waste Water Department

STAFF RECOMMENDATION: None

The Mayor will present a Proclamation to members of the Waste Water Department in recognition of the receipt of their award three years in a row.

ITEM NO. 2.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Proclamation Presentation National Community Planning Month

ACTION: Presentation of Proclamation by Mayor

STAFF RECOMMENDATION: None

The Mayor will present a Proclamation to the Planning Director and Members of the Planning Commission.

ITEM NO. 3.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Proclamation Presentation Fire Prevention Week October 5 to 11

ACTION: Proclamation Presentation

STAFF RECOMMENDATION: None

The Mayor will present a proclamation to members of the Fire Department in recognition of Fire Prevention Week October 5 to 11.

ITEM NO. 4.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Citizen Concerns About Items Not on Today's Agenda. (Copies of written material presented to the City Council also needs to be provided to the City Clerk.)

ACTION: None

STAFF RECOMMENDATION: None

This item is for comments and questions from the audience about items that are not included on today's agenda.

CONSENT AGENDA

The City Council will consider Consent Agenda items by one motion with no discussion unless the City Council, Staff or the audience requests removal of an item from the Consent Agenda. The City Council will consider an item removed from the Consent Agenda as the next item after their action on the Consent Agenda.

ITEM NO. 5.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Minutes of the September 8, 2014 City Council Meeting

ACTION: Make a Motion to Approve the Minutes of the Regular Meeting Held on September 8, 2014

STAFF RECOMMENDATION: The City Clerk Recommends Approval

Enclosed are the minutes for approval and the Workshop Minutes for information.

City Council Minutes – Regular Meeting – Monday, September 8, 2014

The Bonner Springs City Council met in regular session at 7:30 p.m. on Monday, September 8, 2014.

Governing Body Present: Mayor Jeff Harrington; Councilmembers: Tom Stephens, Bob Reeves, Racheal Haas, Joe Peterson, Eric Freeman and Roger Shannon

Governing Body Absent: Councilmembers: George Cooper and Jack Knight

City Staff Present: Jack Helin; City Manager; Rita Hoag, City Clerk; Tillie LaPlante, Finance Director; Krista Gentry, Public Housing Authority Director and Kevin Bruemmer, Public Works Director

The Mayor opened with the Pledge of Allegiance to the Flag of the United States of America.

Item No. 1 – Proclamation – Marlin Kerby – The Mayor presented a Proclamation to Marlin Kerby to honor him for his service to his country and community and for his planned participation in the Honor Flight Program to Washington D.C. on September 11, 2014.

Item No. 2 – Citizen Concerns About Items Not on Today’s Agenda – None Presented.

CONSENT AGENDA

The Mayor read the Consent Agenda Items 2 through 7 and asked the Staff, audience or City Council if they wished to remove an item for separate consideration. No items were removed.

Item No. 3 – Minutes of the August 25, 2014 City Council Meeting – Presented for approval.

Item No. 4 – Claims for City Operations – September 8, 2014 – Presented for approval were the Supplement Claims in the amount of \$44,975.32 and Regular Claims in the amount of \$197,342.39.

Item No. 5 – Public Housing Authority Claims – September 8, 2014 – Presented for approval were the Supplement Claims in the amount of \$571 and Regular Claims in the amount of \$3,883.13.

Item No. 6 – Public Housing Authority Admission and Continued Occupancy Policy – The City Council held a public hearing on this item at the August 25 City Council meeting. The Department of Housing and Urban Development (HUD) requires every Public Housing Authority (PHA) with public housing units to have an approved Admission and Continued Occupancy Policy (ACOP). **Assigned Resolution No. 2014-12.**

Item No. 7 – Resolution to Approve Public Housing Authority Amended Lease – The current residential lease used by the PHA is twenty years old. Staff recommends the City Council approve the lease amendments to bring the PHA into compliance with HUD requirements and the Kansas Residential Landlord and Tenant Act. **Assigned Resolution No. 2014-13.**

CONSENT AGENDA APPROVAL

Reeves made a Motion to Approve the Consent Agenda as presented. Peterson seconded the motion and it carried on a vote of six to zero.

REGULAR MEETING AGENDA

Item No. 8 – Presentation and Accept the 2013 Audit – Staff provided a copy of the audit in the agenda packet. Sean Gordon, Mize, Houser and Company, made a brief presentation:

- The 2013 audit contains an unqualified opinion which is the best opinion the City can receive.
- Did not find any items for discussion/recommendation to require a management letter and explained the audit.
- Congratulated the Finance Director and her staff for an absolutely clean audit.

Reeves made a Motion to Accept the 2013 Audit. Peterson seconded the motion and it carried on a vote of six to zero.

Item No. 9 – Final Acceptance, Change Order No. 1 and Approve Final Payment for Westland Construction 2013 Storm Water Project – The Public Works Director made a presentation:

- The City awarded the project in December 2013.
- The contractor replaced five curb inlets in various locations and a pipe extension along an area of Bluegrass Drive.
- The Change Order is to replace deteriorated pipe under Bluegrass Drive, backfill, new curb sections and asphalt pavement repairs to total \$12,594.
- The City encumbered the original contract amount of \$67,030 in 2013 and will pay the change order amount of \$12,594 with budgeted 2014 Storm Water Utility Funds.
- Acceptance of the project and approval of final payment initiates the two-year warranty period.
- Staff recommends the City Council approve the final change order, accept the 2013 Storm Water Repair Program and approve final payment to Westland Construction.

Stephens made a Motion to Approve Final Acceptance, Approve Change Order No. 1 and Approve Final Payment for Westland Construction for the 2013 Storm Water Project in the Total Amount of \$79,624. Shannon seconded the motion and it carried on a vote of six to zero.

Item No. 10 – Ordinance to Adopt the Standard Traffic Ordinance 2014 Edition – Annually the City adopts the Standard Traffic Ordinance prepared by the League of Kansas Municipalities. The City Attorney’s office reviewed the 2014 Edition and recommends adoption with the same amendments as in past years. Reeves made a Motion to Adopt the Standard Traffic Ordinance 2014 Edition. Haas seconded the motion and it carried on a vote of six to zero. **Assigned Ordinance No. 2390.**

Item No. 11 – Ordinance to Adopt the Uniform Public Offense Code 2014 Edition – Annually the City adopts the Uniform Public Offense Code prepared by the League of Kansas Municipalities. The City Attorney’s office reviewed the 2014 Edition and recommends adoption with the same amendments as in past years. Shannon made a Motion to Approve the Uniform Public Offense Code 2014 Edition. Peterson seconded the motion and it carried on a vote of six to zero. **Assigned Ordinance No. 2391.**

Item No. 12 – City Manager’s Report – The City Manager discussed items as follows:

➤ Staff included in the agenda a draft letter to KDOT to express the City’s issues about the K-7 construction. Upon consensus, the City Manager will mail the letter to KDOT. The City Council reached consensus with no opposition.

➤ Deffenbaugh proposed a schedule change to better manage trash and recycle collection. Option A – Five separate collection routes, one each day of the week; Option B- One collection route and Deffenbaugh will collect all trash and recycle on the same day. Staff recommends Option B. Deffenbaugh will collect trash and recycle for all residents on Tuesdays. The City will notify residents on the utility bills and Deffenbaugh will notify residents affected by the change. The City Council reached consensus on Option B with no opposition.

➤ Sent an email to City Councilmembers to request feedback to the Mid-America Regional Council (MARC) about the three-city K-32 grant application agreement. The City Manager requested City Councilmembers go to the website included in the mail and submit comments.

Item No. 13 – City Council Items –

➤ Freeman asked about the quality of the chip seal on 134 Street. The City Manager stated the chip seal application is as expected but will look at the pothole reported in the 200 block of 134 Street.

Item No. 14 – Mayor’s Report –

➤ Received compliments from the community about Tiblow Days.

The meeting adjourned at 7:55 p.m.

Rita Hoag, City Clerk

City Council Workshop Meeting – Monday, September 8, 2014 – 7:15 p.m.

Governing Body Present: Mayor Jeff Harrington; Councilmembers: Tom Stephens, Bob Reeves, Racheal Haas, Joe Peterson, Eric Freeman and Roger Shannon

Governing Body Absent: Councilmembers: George Cooper and Jack Knight

City Staff Present: Jack Helin; City Manager and Rita Hoag, City Clerk

WS – 1 – Massage Therapy Regulation Amendments – The City Clerk made a presentation:

- The City first adopted Massage Therapy regulations in June 2006 and in January 2014, placed a moratorium on issuance of new licenses which expires September 25.
- Staff reviewed Lenexa and Overland Park regulations and modeled the City's regulations after Lenexa's more stringent regulations.
- Staff included the proposed amendments in legislative style in the agenda packet and significant changes included:
 - Section 5-1001: Added a definition of Accredited Schools.
 - Sections 5-1005 and 1006: Removed the distinction between Massage Therapist I and II and Student Massage Therapist.
 - Sections 5-1010 and 5-1011: Extended the time of conviction to precede license issuance from five (5) years to ten (10) years.
 - Sections 5-1012 and 5-1013: Added language to explain eligibility to receive a future license after a violation.
 - Section 5-1016: Added language which makes it prohibitive for an individual to reside, inhabit or sleep where a Massage Therapist practices.
- The City Manager, Police Chief and the City Prosecutor reviewed the proposed amendments and recommend adoption.
- The City Council reached consensus without opposition to place approval of the amendments on the September 22 City Council agenda.

The meeting adjourned at 7:25 p.m.

ITEM NO. 6.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Claims for City Operations for September 22, 2014

ACTION: Make a Motion to Approve the Claims for City Operations for September 22, 2014

STAFF RECOMMENDATION: The City Manager and City Clerk Recommend Approval and State that all Expenditures Comply with the State of Kansas Cash Basis Law

Enclosed are the Supplement Claims for City Operations in the amount of \$25,971.67 and the Regular Claims in the amount of \$390,111.97 that includes a payment for the street mill and overlay work and payment for a new dump truck for the Public Works Department.

Note: If a Councilmember has questions on any of the claims, it would be helpful to call or email ahead in order to get a detailed answer.

Check Register Report

SUPPLEMENTAL CHECK REGISTER

Date: 09/17/2014

Time: 11:56 am

Bonner Springs City Hall

BANK: UNION BANK & TRUST

Page: 1

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| 124866 | 09/12/2014 | Printed | | 2470 | ATMOS ENERGY | GAS SERVICE | 416.61 |
| 124867 | 09/12/2014 | Printed | | 7193 | CHASE PROCESSING | PAYROLL DEDUCTIONS | 695.00 |
| 124868 | 09/12/2014 | Printed | | 0898 | ICMA RETIREMENT CORPORATION | PAYROLL DEDUCTS/BENEFITS | 3,693.31 |
| 124869 | 09/12/2014 | Printed | | 0981 | ING FINANCIAL PARTNERS | PAYROLL DEDUCTIONS | 818.38 |
| 124870 | 09/12/2014 | Printed | | 3960 | JOHN HANCOCK | PAYROLL DEDUCTS/BENEFITS | 310.00 |
| 124871 | 09/12/2014 | Printed | | 2195 | KANSAS PAYMENT CENTER | PAYROLL DEDUCTIONS | 851.22 |
| 124872 | 09/12/2014 | Printed | | 2014 | KCPL | ELECTRIC SERVICE | 490.38 |
| 124873 | 09/12/2014 | Printed | | 9879 | MAINSTREET CREDIT UNION | PAYROLL DEDUCTIONS | 2,862.32 |
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| 124877 | 09/12/2014 | Void | 09/12/2014 | | | Void Check | 0.00 |
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| 124879 | 09/12/2014 | Printed | | 2839 | RYAN SIRRIDGE | REPLACES CK #124710 | 100.00 |
| 124880 | 09/12/2014 | Printed | | 2870 | THE PEXCO COMPANY | BLASTING PERMIT REFUND | 100.00 |
| 124881 | 09/12/2014 | Printed | | 3790 | WESTAR ENERGY | ELECTRIC SERVICE | 12,968.31 |
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| Total Payments: 17 | | | | | | Grand Total (excluding void checks): | 25,971.67 |

Check Register Report

CHECK REGISTER

Date: 09/17/2014

Time: 4:27 pm

Page: 1

Bonner Springs City Hall

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| 124883 | 09/17/2014 | Printed | | 0549 | A SURE CLEAN | CARPET/SPOT CLEANING SUNFLW RM | 475.00 |
| 124884 | 09/17/2014 | Printed | | 3562 | ALAMAR | UNIFORMS-POLICE/FIRE | 1,316.32 |
| 124885 | 09/17/2014 | Printed | | 2877 | JILL ALBRIGHT | SECURITY DEPOSIT REFUND | 26.39 |
| 124886 | 09/17/2014 | Printed | | 0402 | ALDEN-HARRINGTON FUNERAL HOME | FLOWERS F/MAYOR'S BANQUET | 258.00 |
| 124887 | 09/17/2014 | Printed | | 5513 | AMERICAN FIRE SPRINKLER CORP | WET/BACKFLOW ANNUAL INSPECTION | 189.00 |
| 124888 | 09/17/2014 | Printed | | 3303 | ASPHALT SALES CO INC | ASPHALT-PW | 57.23 |
| 124889 | 09/17/2014 | Printed | | 2470 | ATMOS ENERGY | GAS SERVICE | 240.52 |
| 124890 | 09/17/2014 | Printed | | 9842 | AUTOZONE | BATTERY F/EQUIPMENT-PW | 91.49 |
| 124891 | 09/17/2014 | Printed | | 2129 | BARTLETT & WEST INC | DESIGN BACKWASH TANK-UT | 3,700.00 |
| 124892 | 09/17/2014 | Printed | | 0109 | BERNING TIRE COMPANY | FLAT REPAIR & TIRE F/MOWER | 38.50 |
| 124893 | 09/17/2014 | Printed | | 2849 | BOCKYN LLC | RECREATION SOFTWARE FEES | 150.00 |
| 124894 | 09/17/2014 | Printed | | 0170 | BONNER SPGS THRIFTWAY | SALT & PEPPER F/SENIOR CENTER | 10.28 |
| 124895 | 09/17/2014 | Printed | | 4172 | BOUND TREE MEDICAL | MEDICAL SUPPLIES-EMS | 301.81 |
| 124896 | 09/17/2014 | Printed | | 2685 | DAVID BUCKALLEW | REIMBURSE CDL LICENSE RENEWAL | 29.73 |
| 124897 | 09/17/2014 | Printed | | 0203 | CARTER WATERS | PAVER TILES -PW | 723.52 |
| 124898 | 09/17/2014 | Printed | | 0144 | CITY OF BONNER SPRINGS KS | SECURITY DEPOSITS APPLIED | 1,425.00 |
| 124899 | 09/17/2014 | Printed | | 0213 | COLEMAN EQUIPMENT INC | EQUIPMENT MAINT-PW | 38.08 |
| 124900 | 09/17/2014 | Printed | | 6858 | KATHLEEN COLLINS | TRANSCRIPTION SERVICES-PD | 152.00 |
| 124901 | 09/17/2014 | Printed | | 1413 | CONCORDIA TRACTOR, INC | EQUIPMENT REPLACEMENT PARTS-PW | 267.67 |
| 124902 | 09/17/2014 | Printed | | 0222 | CONRAD FIRE EQUIPMENT INC | VEH MAINT/REPAIRS-FIRE | 439.18 |
| 124903 | 09/17/2014 | Printed | | 3200 | CREATIVE LANDSCAPING& CONCRETE | MOWING-PROPERTY MGMT | 400.00 |
| 124904 | 09/17/2014 | Printed | | 6683 | KENNETH RAY CROSBY | PLUMBING REPAIRS-COMM CNT | 592.00 |
| 124905 | 09/17/2014 | Printed | | 0238 | DEFFENBAUGH DISPOSAL SERVICE | DUMPSTER RENTALS | 97.00 |
| 124906 | 09/17/2014 | Printed | | 0014 | DEFFENBAUGH INDUSTRIES INC | PORTABLE TOILET RENTAL | 113.03 |
| 124907 | 09/17/2014 | Printed | | 2882 | DOUBLE CHECK | SECURITY DEPOSIT REFUND | 847.28 |
| 124908 | 09/17/2014 | Printed | | 1075 | DSA PRECISION CLEANING | CUSTODIAL SUPPLIES | 401.99 |
| 124909 | 09/17/2014 | Printed | | 2880 | ALYSSA DYKES | SECURITY DEPOSIT REFUND | 48.48 |
| 124910 | 09/17/2014 | Printed | | 4342 | FELDMANS | WEED KILLER & SUPER GLUE | 32.68 |
| 124911 | 09/17/2014 | Printed | | 7225 | FORTILINE, INC | DISTRIBUTION MAINT SUPPLIES-UT | 296.60 |
| 124912 | 09/17/2014 | Printed | | 3286 | GCI CASTINGS INC | SEWER COVERS-UT | 117.90 |
| 124913 | 09/17/2014 | Printed | | 6621 | H & A MEDIA GROUP, INC | ADS F/SEPT-OCT- CTC | 913.00 |
| 124914 | 09/17/2014 | Printed | | 2878 | BLAKE HAAS | SECURITY DEPOSIT REFUND | 11.71 |
| 124915 | 09/17/2014 | Printed | | 0021 | HACH COMPANY | CHEMICALS-UT | 440.91 |
| 124916 | 09/17/2014 | Printed | | 7242 | HELGET GAS PRODUCTS INC | OXYGEN - EMS | 127.87 |
| 124917 | 09/17/2014 | Printed | | 4587 | EDWARD WAYNE HICKMAN | POOL PUMP REPAIRS | 2,470.36 |
| 124918 | 09/17/2014 | Printed | | 0818 | SCOTT HOCH | REIMBURSE MEALS F/TRAINING | 46.00 |
| 124919 | 09/17/2014 | Printed | | 6620 | HOUR MEDIA LLC | ADS F/SEPT-OCT-CTC | 591.00 |
| 124920 | 09/17/2014 | Printed | | 2852 | LISA ISABELL | SECURITY DEPOSIT REFUND | 50.00 |
| 124921 | 09/17/2014 | Printed | | 5902 | JC'S SPEEDY LUBE | VEH MAINT/REPAIRS-UT | 105.04 |
| 124922 | 09/17/2014 | Printed | | 3351 | JO WY CO COUNCIL OF MAYORS | MEMBERSHIP FEES- MAYOR | 340.00 |
| 124923 | 09/17/2014 | Printed | | 5345 | JOHNSON COUNTY WASTEWATER | WASTEWATER CHARGES/AUGUST 14 | 136.72 |
| 124924 | 09/17/2014 | Printed | | 2848 | KANSAS CITY FREIGHTLINER SALES | VEH MAINT/REPAIRS-FIRE | 420.14 |
| 124925 | 09/17/2014 | Printed | | 5308 | KANSAS ONE-CALL | LOCATE FEES/AUGUST 2014 | 246.00 |
| 124926 | 09/17/2014 | Printed | | 2625 | KCR INTERNATIONAL | NEW DUMP TRUCK W/PLOW FRAME-PW | 92,024.00 |
| 124927 | 09/17/2014 | Printed | | 1773 | KDHE BUREAU OF WATER | WASTEWATER PERMIT FEE | 370.00 |
| 124928 | 09/17/2014 | Printed | | 5818 | KS RECREATION & PARK ASSOC | MEMBERSHIP FEES-POOL | 75.00 |
| 124929 | 09/17/2014 | Printed | | 2384 | KU PUBLIC MANAGEMENT CENTER | LELA TRAINING-PD (2) | 5,590.00 |

Check Register Report

CHECK REGISTER

Date: 09/17/2014

Time: 4:27 pm

Bonner Springs City Hall

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| 124931 | 09/17/2014 | Printed | | 2419 | LARUE DISTRIBUTING INC | COFFEE AND SUPPLIES-PD/EMS | 128.92 |
| 124932 | 09/17/2014 | Printed | | 3008 | LEAGUE OF KS MUNICIPALITIES | EMPLOYEE LEAGUE SVC AWARDS (6) | 532.96 |
| 124933 | 09/17/2014 | Printed | | 2879 | SARAH LINDAHL | SECURITY DEPOSIT REFUND | 18.12 |
| 124934 | 09/17/2014 | Printed | | 1836 | LOWE'S CREDIT SERVICES | TOILET, SHELF,FLAG POLE,GLUE | 172.15 |
| 124935 | 09/17/2014 | Printed | | 4050 | JERRY MALLORY | REIMBURSE CDL LICENSE RENEWAL | 26.00 |
| 124936 | 09/17/2014 | Printed | | 2883 | MASON MONITORING, INC. | FIRE MONITORING: 9/1-9/30/14 | 50.00 |
| 124937 | 09/17/2014 | Printed | | 0930 | STANLEY R MCAFEE | COURT APPOINTED ATTORNEY | 690.00 |
| 124938 | 09/17/2014 | Printed | | 2710 | METRO ASPHALT, INC | STREET MILL & OVERLAY -PW | 133,422.39 |
| 124939 | 09/17/2014 | Printed | | 6137 | METRO COURIER INC | DELIVERY CHARGES-UT | 99.98 |
| 124940 | 09/17/2014 | Printed | | 1978 | MID AMERICA COACH INC | BUS MAINT/REPAIRS-TIBLOW | 794.07 |
| 124941 | 09/17/2014 | Printed | | 6849 | MJV-A LLC | UNIFORM CLEANING-PD | 600.43 |
| 124942 | 09/17/2014 | Printed | | 6244 | NEXTEL | RAVEN-X/AIR CARDS-PD | 174.52 |
| 124943 | 09/17/2014 | Printed | | 9823 | NORTHEAST WISCONSIN TECHNICAL | TASER TRAINING-PD | 175.00 |
| 124944 | 09/17/2014 | Printed | | 5050 | NORTHERN SAFETY CO INC | SAFETY EQUIPMENT-PW | 219.31 |
| 124945 | 09/17/2014 | Printed | | 0947 | O'REILLY AUTO STORES INC | VEHICLE/COLLECT MAINT SUPPLIES | 171.60 |
| 124946 | 09/17/2014 | Printed | | 2126 | OMNI SVC GROUP LLC | AUGUST AMB BILLING | 799.65 |
| 124947 | 09/17/2014 | Printed | | 3334 | PITNEY BOWES | QTRLY MAINT/RENT AGMT | 527.44 |
| 124948 | 09/17/2014 | Printed | | 6374 | POLYDYNE INC | POLYMER F/BELT PRESS-WW | 2,142.00 |
| 124949 | 09/17/2014 | Printed | | 7022 | POSTMASTER | PO BOX RENEWAL-PD | 192.00 |
| 124950 | 09/17/2014 | Void | 09/17/2014 | | | Void Check | 0.00 |
| 124951 | 09/17/2014 | Printed | | 0904 | PREDATOR TERMITE & PEST CONTRL | LAWN MAINTENANCE-UT | 570.00 |
| 124952 | 09/17/2014 | Printed | | 0646 | PUSHWATER ENTERPRISES INC | OCCUP LICENSE FORMS & GUIDES | 397.00 |
| 124953 | 09/17/2014 | Printed | | 4746 | QUEEN'S PRICE CHOPPER | FOOD F/SENIOR ACTIVITIES | 45.28 |
| 124954 | 09/17/2014 | Printed | | 1811 | RICOH USA, INC. | COPIER LEASES | 699.05 |
| 124955 | 09/17/2014 | Printed | | 2873 | VICKI ROBINSON | COURT BOND REFUND | 438.00 |
| 124956 | 09/17/2014 | Printed | | 6120 | ROK BROTHERS INC | VEHICLE MAINT/REPAIRS-PD | 54.71 |
| 124957 | 09/17/2014 | Printed | | 2872 | AUSTEN SCHULMEISTER | REIMBURSE UNIFORM BOOTS-PW | 76.66 |
| 124958 | 09/17/2014 | Printed | | 2868 | KIMBERLY SCOTT | RETAIL INCENTIVE REBATE | 70.64 |
| 124959 | 09/17/2014 | Printed | | 8441 | SHAWNEE COPY CENTER | BAND FLIERS & CALENDAR F/SC | 130.00 |
| 124960 | 09/17/2014 | Printed | | 3628 | DON SLONE | KAFM CONFERENCE EXP-PLANNING | 130.84 |
| 124961 | 09/17/2014 | Printed | | 9993 | SOUTHEASTERN EMERGENCY | MEDICAL SUPPLIES-EMS | 343.20 |
| 124962 | 09/17/2014 | Printed | | 6081 | STAPLES ADVANTAGE | PAPER, HAND SANITIZER,FOLDERS | 589.52 |
| 124963 | 09/17/2014 | Printed | | 0963 | STATE INDUSTRIAL PRODUCTS | MEDICAL SUPPLIES-EMS | 368.88 |
| 124964 | 09/17/2014 | Printed | | 0766 | T A STOLFUS DVM | VET SERVICES-PD | 392.00 |
| 124965 | 09/17/2014 | Printed | | 2876 | JOSHUA STUART | SECURITY DEPOSIT REFUND | 24.09 |
| 124966 | 09/17/2014 | Printed | | 6525 | SUNFLOWER EMBROIDERY LLC | UNIFORM SHIRTS-PD | 38.00 |
| 124967 | 09/17/2014 | Printed | | 6802 | TOTAL ELECTRIC CONTRACTORS INC | TRAFFIC SIGNAL REPAIRS-PW | 1,392.24 |
| 124968 | 09/17/2014 | Printed | | 3388 | TRINITY AUTOMOTIVE INC | VEHICLE MAINT/REPAIRS-PD | 848.91 |
| 124969 | 09/17/2014 | Printed | | 6819 | UNIFIRST COPRORATION | UNIFORM,RUG RENTAL-PW,UTIL | 103.54 |
| 124970 | 09/17/2014 | Printed | | 5442 | UNITED COMMUNICATIONS CORP | PAGER REPAIRS-FIRE | 242.15 |
| 124971 | 09/17/2014 | Printed | | 8308 | UNIVERSITY OF KANSAS | FIRE FIGHTER I-TESTING | 220.00 |
| 124972 | 09/17/2014 | Printed | | 4137 | UNIVERSITY OF KS HOSPITAL AUTH | PHYSICALS & DRUG SCREENS | 359.00 |
| 124973 | 09/17/2014 | Printed | | 3078 | USA BLUE BOOK | CHEMICALS-WW | 63.30 |
| 124974 | 09/17/2014 | Printed | | 8402 | VALLEY FEED & SUPPLY COMPANY | STRAW-UT | 28.00 |
| 124975 | 09/17/2014 | Printed | | 0915 | VERIZON WIRELESS | COMMUNICATION - IND PK - UT | 51.02 |
| 124976 | 09/17/2014 | Printed | | 8404 | VESTA LEE LUMBER COMPANY | PLYWOOD -PROPERTY MANAGEMENT | 58.75 |
| 124977 | 09/17/2014 | Printed | | 0712 | W W GRAINGER | EQUIPMENT MOTOR,CAN LINERS | 1,158.31 |
| 124978 | 09/17/2014 | Printed | | 6537 | WAITT OUTDOOR LLC | BILLBOARD LEASE-CTC | 460.00 |

Check Register Report

CHECK REGISTER

Date: 09/17/2014

Time: 4:27 pm

Page: 3

Bonner Springs City Hall

BANK: UNION BANK & TRUST

| Check Number | Check Date | Status | Void/Stop Date | Vendor Number | Vendor Name | Check Description | Amount |
|--------------------------------------|------------|---------|----------------|---------------|--------------------------------|--------------------------------|------------|
| UNION BANK & TRUST Checks | | | | | | | |
| 124979 | 09/17/2014 | Printed | | 4731 | WALKER TOWEL & UNIFORM SVC INC | RUG RENTAL-FIRE/EMS | 60.00 |
| 124980 | 09/17/2014 | Printed | | 2518 | WESTAR ENERGY | ELECT SVC UPGRADE LF LIFT ST | 2,650.15 |
| 124981 | 09/17/2014 | Printed | | 3790 | WESTAR ENERGY | ELECTRIC SERVICE | 2,902.42 |
| 124982 | 09/17/2014 | Printed | | 8399 | WESTFALL GMC TRUCK INC | VEH MAINT/REPAIRS-EMS | 87.14 |
| 124983 | 09/17/2014 | Printed | | 4735 | WESTLAND CONSTRUCTION | STORM WATER & PRATT WATER MAIN | 113,950.00 |
| 124984 | 09/17/2014 | Printed | | 8411 | WILSON & COMPANY ENGINEERS | ENGINEER SERVICES | 1,640.22 |
| 124985 | 09/17/2014 | Printed | | 2881 | KERRY WITHERS | SECURITY DEPOSIT REFUND | 5.78 |
| 124986 | 09/17/2014 | Printed | | 4353 | THE WORLD COMPANY | LEGAL PUBLICATIONS AND ADS | 347.20 |

| | | |
|----------------------------|--|-------------------|
| Total Checks: 105 | Checks Total (excluding void checks): | 390,111.97 |
| Total Payments: 105 | Bank Total (excluding void checks): | 390,111.97 |
| Total Payments: 105 | Grand Total (excluding void checks): | 390,111.97 |

ITEM NO. 7.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Public Housing Authority Claims for September 22, 2014

ACTION: Make a Motion to Approve the Public Housing Authority Claims for September 22, 2014

STAFF RECOMMENDATION: The City Manager & Public Housing Authority Director Recommend Approval

Enclosed are the claims in the total amount of \$19,022.97.

Check Register Report

PUBLIC HOUSING CHECK REGISTER

Date: 09/17/2014

Time: 2:30 pm

Bonner Springs City Hall

BANK: UNION BANK & TRUST-PHA

Page: 1

| Check Number | Check Date | Status | Void/Stop Date | Vendor Number | Vendor Name | Check Description | Amount |
|--|------------|---------|----------------|---------------|--------------------------------|--------------------------------|-----------|
| UNION BANK & TRUST-PHA Checks | | | | | | | |
| 97000 | 09/17/2014 | Printed | | P827 | P ATMOS ENERGY | TENANT UTILITY REIMBURSEMENT | 194.13 |
| 97001 | 09/17/2014 | Void | 09/17/2014 | | | Void Check | 0.00 |
| 97002 | 09/17/2014 | Void | 09/17/2014 | | | Void Check | 0.00 |
| 97003 | 09/17/2014 | Printed | | P 797 | P BANKCARD PROCESSING CENTER | REFRIGERATORS,CARBON DETECTORS | 1,863.86 |
| 97004 | 09/17/2014 | Void | 09/17/2014 | | | Void Check | 0.00 |
| 97005 | 09/17/2014 | Printed | | P506 | P CITY OF BONNER SPGS | REIMB WAGES/BENEFITS/UTIL | 10,713.00 |
| 97006 | 09/17/2014 | Printed | | P832 | P CREATIVE LANDSCAPING&CONCRET | MOWING-6 SITES | 1,925.00 |
| 97007 | 09/17/2014 | Printed | | P540 | P DEFFENBAUGH DISPOSAL SVC | REFUSE SERVICE | 310.72 |
| 97008 | 09/17/2014 | Printed | | P301 | P ELIZABETH NAU | SECURITY DEPOSIT REFUND | 175.85 |
| 97009 | 09/17/2014 | Printed | | P995 | P GARY L BLANKENSHIP | MAKE READY 1 UNIT | 70.00 |
| 97010 | 09/17/2014 | Printed | | P991 | P JAMES O. GOSS JR | PEST CONTROL SVC | 325.00 |
| 97011 | 09/17/2014 | Printed | | P302 | P LYNN MARICHE | SECURITY DEPOSIT REFUND | 98.01 |
| 97012 | 09/17/2014 | Printed | | P800 | P NUTS & BOLTS | PLUMBING/MAINTENANCE SUPPLIES | 25.23 |
| 97013 | 09/17/2014 | Printed | | P 798 | P PERRY & TRENT LLC | LEGAL SERVICES | 62.50 |
| 97014 | 09/17/2014 | Printed | | P303 | P R.E. HANSEN INDUSTRIES, INC | AIR CONDITIONERS (2) | 2,740.00 |
| 97015 | 09/17/2014 | Printed | | P753 | P RICOH USA, INC | COPIER LEASE | 142.80 |
| 97016 | 09/17/2014 | Printed | | P472 | P WESTAR ENERGY | TENANT UTILITY REIMBURSEMENT | 376.87 |

Total Checks: 17 **Checks Total (excluding void checks): 19,022.97**

Total Payments: 17 **Bank Total (excluding void checks): 19,022.97**

Total Payments: 17 **Grand Total (excluding void checks): 19,022.97**

ITEM NO. 8.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Contract for Purchase of Property

ACTION: Make a Motion to Approve a Contract for the Purchase of Property Located at 130 North Nettleton with Gilliland Group Partnership No. 2, LLC & Authorize the City Manager to Sign the Contract

STAFF RECOMMENDATION: The City Manager, City Clerk, Finance Director, Police Chief & City Attorney Recommend Approval

The City Staff discussed the purchase of this property as part of the 2015 Budget process. The negotiated purchase price is \$260,000. The City will be responsible for a portion of the closing costs per the enclosed contract language.

CONTRACT FOR PURCHASE OF REAL ESTATE

THIS CONTRACT made this ____ day of _____, 2014, between Gilliland Group Partnership No. 2, LLC, a Texas limited liability corporation, hereinafter called "Seller" and the City of Bonner Springs, a municipal corporation of the State of Kansas, hereinafter called "Buyer", and is effective as of the last date of acceptance on the signature page of this Contract, (the "Effective Date").

In consideration of the agreements contained herein, it is mutually agreed by said parties that:

1. PROPERTY DESCRIPTION. The Seller agrees to sell and convey to Buyer, and Buyer agrees to buy and pay for, the following described real estate, located in Wyandotte County, Kansas, to-wit:

All of Lots Seven (7) and Eight (8), less the North 50 feet thereof and all of Lot Nine (9), Block Eleven (11), Bonner Springs, an addition in Wyandotte County, Kansas. Street address of 130 No. Nettleton, Bonner Springs, KS 66012

for the sum of Two hundred sixty thousand dollars, (\$260,000.00).

2. PURCHASE PRICE. The purchase price of \$260,000.00 shall be payable as follows:

- (a) \$1,000.00 as earnest money, the receipt of which is hereby acknowledged; and
- (b) The balance of \$259,000.00 in cashier's check or certified funds at closing.

3. TITLE INSURANCE. Seller shall deliver an owner's ALTA title insurance policy (the "Title Policy") insuring marketable fee simple title to Buyer in the amount of the purchase price as of the time and date of recordation of Seller's general warranty deed, subject only to the Permitted Exceptions (as defined below). Seller, as soon as possible and not later than thirty (30) days after the Effective Date of this Contract, shall cause to be furnished to Buyer a current preliminary commitment to issue the policy (the "Title Commitment"), issued through First American Title (the "Title Company"), accompanied by all documents noted as exceptions in the Title Commitment (the "Exception Documents"). Buyer shall have twenty (20) days after receipt of the Title Commitment and the Exception Documents, in which to notify Seller in writing of any objections Buyer has to any matters shown or referred to in the Title Commitment (the "Title Review Period"). Any matters which are set forth in the Title Commitment and to which Buyer does not object within said twenty (20) days shall be permitted exceptions to the status of Seller's title to the Property (the "Permitted Exceptions"). Seller shall have twenty (20) days after its

receipt of Buyer's objections to matters reflected in the Title Commitment to cure such objections. If Seller does not cure any such objection made by Buyer within such twenty (20) day period, then Buyer may terminate this Contract by delivery of written notice of such termination to Seller, in which event the Earnest Money shall be returned to Buyer.

4. CONVEYANCE. At or before Closing, Seller agrees to properly execute and deliver into escrow a general warranty deed for the Property in a form reasonably acceptable to Buyer, and all other documents reasonably necessary to complete the Closing. The general warranty deed shall convey to Buyer marketable fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Exceptions, zoning ordinances, laws, and taxes and assessments, not yet due and payable. At or before the Closing, Buyer agrees to deliver into escrow a cashier's check or guaranteed funds sufficient to satisfy Buyer's obligations under this Contract. Seller understands that, unless otherwise agreed, disbursement of proceeds will not be made until after the Title Company has confirmed that the general warranty deed will be timely recorded and the Title Company can issue the Title Policy with only the Permitted Exceptions.

Notwithstanding the remaining terms and conditions of this Contract, Buyer's obligation to close the purchase of the Property upon the terms provided in this Contract is conditioned upon Buyer's satisfaction that the Seller's warranties and representations set forth in Section 10 below remain true and accurate as of the date of Closing. If Buyer determines that any of such warranties and representations are not true and accurate as of the date of Closing, Buyer may terminate this Contract by delivery of written notice of such termination to Seller not later than the date of Closing, in which event the Earnest Money shall be returned to Buyer.

5. CLOSING. Subject to all the provisions of this Contract, the closing of this Contract (the "Closing") shall take place at the offices of First American Title Insurance Co., 7925 State Avenue, Suite 104, Kansas City, KS 66112, on or before the fifteenth (15th) day following the expiration of the Title Review Period as provided in Section 3 above, or such other date as agreed upon by Seller and Buyer, and possession of the Property shall be delivered by Seller to Buyer immediately following the Closing.

6. RECORDING AND CLOSING COSTS. Seller shall pay for one half of the Title Policy and one half of closing fees due the Title Company. Buyer shall pay for recording fees to record the deed, for one half of the Title Policy and one half the closing fees due the Title Company.

7. TAXES. The Seller shall pay all installments of special assessments and general taxes for the years prior to the current calendar year. Special assessment installments and general taxes for the current calendar year shall be prorated between the Buyer and the Seller as of the date of closing. If the amount of such taxes cannot be ascertained, proration

shall be computed on the amount of the special assessments and general taxes for the previous year. Buyer shall assume all taxes and special assessments arising after the date of closing.

8. DAMAGE-CONDEMNATION. If before the date of closing any of the improvements on said property are destroyed or damaged by fire, lightning, wind, flood or any cause whatsoever, or condemnation proceedings are commenced to acquire all or any part of said real estate, the Buyer shall have the option of enforcing this contract or canceling by written notice within ten (10) days thereafter. If canceled, the earnest money deposit shall be returned to the Buyer.

9. DEPOSIT. The earnest money deposited pursuant to this contract shall be deposited with the Title Company, and shall be transferred pursuant to the terms of this contract. Neither Seller nor Buyer shall be entitled to any interest earned on said earnest money deposit.

In the absence of written escrow instructions, and notwithstanding any other terms of this Contract providing for forfeiture or refund of the Earnest Money, the Escrow Agent shall not distribute the Earnest Money or other escrowed funds or documents, once deposited, without the written consent of all parties to this Contract. A party's signature on a closing statement prepared by the Escrow or Closing Agent shall constitute such consent. In the absence of either written consent or written notice of a dispute, failure by either Buyer or Seller to respond in writing to a certified letter from the Escrow Agent within fifteen (15) days of receipt, or failure by either Buyer or Seller to make written demand upon the other party and upon the Escrow Agent for return or forfeiture of the Earnest Money, other escrowed funds or documents within sixty (60) days after receiving written notice of cancellation of this Contract, shall constitute consent to distribution of all funds and documents deposited with the Escrow Agent as suggested in any such certified letter or written demand.

If a dispute arises over the disposition of funds or documents deposited with the Escrow Agent that results in litigation, any attorneys' fees, court costs and other legal expenses incurred by the Escrow Agent in connection with such dispute shall be reimbursed from the Earnest Money or from other funds deposited with the Escrow Agent.

10. SELLER'S WARRANTIES AND COVENANTS. Seller warrants, represents and covenants to Buyer that the following statements are now, and will at the Closing be, true and accurate:

(a) Authority. Seller has the authority, right and power to enter into this Contract and to consummate the transactions provided for herein.

(b) Existing Reports. Within ten (10) days after the date of this Contract, Seller shall deliver to Buyer copies of any surveys, soil reports, hydrological reports, environmental reports, engineering, platting, or other studies, reports, test results or notices pertaining to the Property that Seller has in Seller's possession.

(c) Other Interests. The Property is not subject to any other lease or sublease, other than as provided in Section 21 below, nor are there any other tenants or parties in possession thereof or any persons or entities claiming possession or any related rights; and Seller has not granted to anyone any right of first refusal or option (which has not expired or otherwise terminated) to acquire title to the Property or any part thereof or interest therein.

(d) Compliance. Seller has received no notice of any failure of the Seller to comply with any applicable governmental requirements in respect to the use, occupation and construction of the Property, including, but not limited to environmental, zoning, platting and other land use requirements which have not been heretofore corrected to the satisfaction of the appropriate governmental authority, and Seller has received no notice of and has no knowledge of any violations or investigations resulting from any such governmental requirement.

(e) Storage of Pollutants. To Seller's knowledge, there has not been any storage of any pollutants, contaminants, hazardous or toxic wastes in, on or underlying the Property, and Seller has not received any notice from any governmental authority with respect thereto.

Seller has neither stored any hazardous substance (as that term is defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as may be amended, 42 U.S.C. 960 et seq.) or toxic materials on, in or under the Property or permitted the Property to be used for storage of the same, nor does Seller have knowledge of any prior storage of hazardous materials or toxic substances on, in or under the Property.

11. SURVIVAL OF WARRANTIES. Notwithstanding any legal presumption to the contrary, the warranties, representations, covenants, statements and indemnities made and expressed in this Agreement shall survive the Closing. Any inspection of the Property by the Buyer shall not be construed as a waiver of any warranty contained in this Contract.

12. DEFAULT AND REMEDIES. Seller or Buyer shall be in default under this Contract if either fails to comply with any covenant, agreement or obligation within any time limits required by this Contract. Following a default by either Seller or Buyer under this Contract, the other party shall have the following remedies:

(a) If Seller defaults, Buyer may (i) specifically enforce this Contract; or (ii) terminate this Contract by written notice to Seller. If Buyer elects to terminate this Contract, the Earnest Money Deposit shall be returned to Buyer upon written demand as Buyer's sole and exclusive remedy.

(b) If Buyer defaults, Seller may terminate this Contract by written notice to Buyer and retain the Earnest Money as liquidated damages as Seller's sole remedy (the parties recognizing that it would be extremely difficult to ascertain the extent of actual damages caused by Buyer's breach, and that the Earnest Money represents as fair an approximation of such actual damages as the parties can now determine).

(c) If, as a result of a default under this Contract, either Seller or Buyer employs an attorney to enforce its rights, the defaulting party shall, unless prohibited by law, reimburse the non-defaulting party for all reasonable attorneys' fees, court costs and other legal expenses incurred by the non-defaulting party in connection with the default.

13. NOTICES. All notices, consents, approvals, requests, waivers, objections or other communications (collectively "notices") required under this Contract shall be in writing and shall be served by hand delivery, by prepaid United States certified mail, return receipt requested, or by reputable overnight delivery service guaranteeing next-day delivery and providing a receipt. All notices shall be addressed to the parties at their respective addresses as set forth below, except that any party may, by notice in the manner provided above, change its address for all subsequent notices. Notices shall be deemed served and received upon the earlier of the third day following the date of mailing (in the case of notices mailed by certified mail) or upon delivery (in all other cases). A party's failure or refusal to accept service of a notice shall constitute delivery of the notice.

SELLER

Robert W. Hall

Phone: 806-206-9183

Fax:

Email: rwhall2210@sbcglobal.net

with a copy to

BUYER

John N. Helin

City of Bonner Springs

P.O. Box 38

Bonner Springs, KS 66012

Phone: 913 422 1020

with a copy to

Joseph P. Perry

Perry and Trent, L.L.C.

13100 Kansas Avenue, Suite C

Bonner Springs, KS 66012

913 441 3411
Fax: 913 441 3656
Email: joe@perrytrent.com

14. EXECUTION IN COUNTERPARTS. This Contract may be executed in several counterparts, each of which shall constitute one and the same instrument. This Contract may be delivered by facsimile transaction or by scanned email transmission. This Contract shall be considered to have been executed by a person if there exists a photocopy, facsimile copy, or a photocopy of a facsimile copy of an original hereof or of a counterpart hereof which has been signed by such person. Any photocopy, facsimile copy, or photocopy of facsimile copy of this Contract or a counterpart hereof shall be admissible into evidence in any proceeding as though the same were an original.

15. BINDING EFFECT. This contract shall extend to and become binding upon the heirs, representatives, executors, administrators, successors and assigns of the respective parties.

16. NON-FOREIGN SELLER. Seller represents that Seller is not a foreign person as described in the Foreign Investment in Real Property Tax Act and agrees to deliver a certificate at Closing to that effect which shall contain Seller's tax identification number.

17. REAL ESTATE BROKER: No brokers have been involved in this transaction. Any party to this Contract through whom a claim to any broker's, finder's or other fee is made, contrary to the representations made above in this paragraph, shall indemnify, defend and hold harmless the other party to this Contract from any other loss, liability, damage, cost or expense, including without limitation, reasonable attorney's fees, court costs and other legal expenses paid or incurred by the other party, that is in any way related to such a claim. The provisions of this paragraph shall survive Closing or termination of this Contract.

18. TERMINATION: If this Contract is terminated by Buyer pursuant to a right expressly given in this Contract, Buyer shall be entitled to an immediate return of the Earnest Money Deposit, and neither party shall have any further rights or obligations under this Contract except as otherwise stated in this Contract.

19. GOVERNING LAW. This contract shall be interpreted and enforced according to the laws of the State of Kansas, and shall be construed without regard to any presumption or rule requiring construction against the party causing the instrument to be drafted. Jurisdiction and venue shall lie with the Wyandotte County District Court, Kansas City, Kansas.

20. ENTIRE AGREEMENT. This agreement constitutes the entire contract between the

parties and there are no representations, warranties, conditions, or agreements other than those expressly set forth herein. No other agreement, statements, promise, warranty or representation made by any party to this contract, or by any employee, officer or agent of any party, that is not in writing and signed by all parties to this agreement shall be binding.

21. EXISTING LEASE. The parties acknowledge that the Buyer currently occupies the premises as a subtenant under the Seller’s existing lease with Atmos Energy, which prime lease and sublease shall be deemed terminated as of the date of Closing. Seller acknowledges that Buyer has paid the September, 2014 rent on the Premises pursuant to said sublease. Assuming this transaction closes as provided herein, no further lease payments shall be due from the Buyer.

IN WITNESS WHEREOF, the parties have executed this contract on the date specified below.

SELLER

BUYER

Gilliland Group Partnership No. 2, LLC

The City of Bonner Springs

By: Andrew Hall (date)
Manager

By: John N. Helin (date)
City Manager

ITEM NO. 9.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Request for Special Olympics Bike Run on September 27, 2014 Rain Date September 28

ACTION: Make a Motion to Approve the Use of the Centennial Park Parking Lot for a Special Olympics KCK Huggers Bike Run for September 27, 2014 with a Rain Date of September 28, 2014

STAFF RECOMMENDATION: The City Manager & City Clerk Recommend Approval

Enclosed is the application submitted by KCK Huggers Special Olympics that requests the use of the Centennial Parking Lot for their event on Saturday, September 27, from 10 a.m. to 5:30 p.m. They request a rain date of September 28 with the same event time.

The applicant provided the required certificate of insurance that names the City as an additional insured.

City of Bonner Springs

Private Use of Public Parking Lot Application

Fee \$50.00 (Non-Alcohol) - Fee \$250.00 (Alcohol on Premises) - Per Ordinance No. 2304

Not-for-profit associations, organizations or individuals exempt from payment of established fees.

GB Policy GB-11-01R Provides Administrative Approval for Annual Uses with no Significant Changes.

Date: 9-16-14

Applicant/Sponsor Name: KCK Huggers Special Olympics

Business or Organization: Attn: Terra Morehead

Street Address/Mailing Address: 5033 State Avenue

City/State/Zip: K.C KS Phone: Home: 913.299-4772

Cell: 913.208.9642 terra.morehead@usdoj.gov

Date/Time/of Requested Event: 9/27/14 10:00 a.m.-5:30 p.m.

Public Parking Lot(s) Requested: Centennial Parking Lot Park Requested: n/a rain date 9/28/14 10:00 a.m.-5:30 p.m. 208-9642

Police, Fire, EMS or Other Municipal Services Needed: Yes [] No [x] If yes, what services? _____

Clear diagram of the Parking Lot area to be used attached. [x] (Cannot be located closer than 30 feet from Centennial Park). Or attach route if use of City Streets requested. Attached []

Organization Status Proof Attached. [x]

Names of Security Personnel for Chief Police Approval: NK

Certificate of Insurance that Names the City as an Additional Insured Attached. [x]

Tent will be Used: Yes [] No [x] If yes, you must submit an application for a tent permit.

Event to Raise Funds for Charitable Purposes: Yes [x] No [] If yes, what Charitable Purpose? Funding for KCK Special Olympics programming

Provide Full Explanation of Purpose of Event to Include Details if there will be admissions charged or rental of booth spaces charged:

See attached flyer; this is an annual event with a \$30 fee per bike plus \$10 per rider; silent auction and a donation drawing

Attach List of Vendors that will participate in event. [] Attach a list of planned activities. [x] N/A

Application Requirements:

- A. Submit this application to the City Clerk's Office Two (2) Weeks Prior to the City Council Meeting prior to the date of the Event for City Council Approval
B. The applicant shall bag the signs that state alcohol is prohibited before an event for alcohol, remove the bags after the event and clean the entire parking lot and adjacent area immediately following the end of the event.
C. Attach sketch/diagram (Exhibit A) of area of the parking lot. Define Fenced Area for Sale/Consumption & Possession of Alcoholic Beverages on the diagram if applicable. Area requires Building Official approval for type of fence material, size and egress. Must keep a twenty foot minimum fire lane open from Second Street to the south end of the parking lot.
D. Submit two copies of the State Temporary Alcoholic Beverage License (limited to four permits per year per KSA 41-2645) if applicable. One copy to be attached to the application for a City Temporary Alcoholic Beverage Permit and the other copy attached to this application for an Alcoholic Beverage Consumption/Possession Permit.
E. Not-for-profit organizations, as defined by the IRS, must provide proof of their non-profit status.

City Receipt Number

Applicants of for-profit businesses or organizations must have or obtain an occupational license and ensure vendors that participate in the event have or obtain an occupational license from the City.

- F. Not-for-profit organizations, association or individuals must provide proof of their non-profit status. A not-for-profit certificate of good standing from the Kansas Secretary of State is an acceptable proof for purposes of this subsection.
- G. Unincorporated associations, organizations or individuals not registered with the Kansas Secretary of State Who requests use of a parking lot for a not-for-profit event or activity must provide certification of their not-for-profit status.
- H. All applicants must have or obtain all applicable business licenses and ensure vendors that participate in the event have or obtain an occupational license from the City.
- I. A late or incomplete application will not be placed on the agenda for City Council consideration on the date requested.

Restrictions:

- A. No more than four special event permits will be approved per calendar year to any individual, business, association, or organization for the use of a public parking lot.
- B. Any event or activity that a for-profit individual, business, association or organization co-sponsors, promotes or participates in any way with any not-for-profit qualified individual, business, association or organization as defined in Section 12-703, paragraph J or K of this ordinance, will count as an event for the for-profit entity.
- C. No permit will be approved for more than three consecutive days, except for the carnival for Tiblow Days.
- D. No permit will be issued for use of the Centennial Park Parking Lot that is within thirty (30) feet of Centennial Park.
- E. No permit will be approved that will conflict with the Annual Chamber of Commerce Tiblow Days, Marble Days or any other city approved celebration.
- F. Activities for any approved event shall not take place between the hours of 12 a.m. midnight and 6 a.m. of any day of the permitted event.
- G. No permit will be issued in conflict with any Zoning Ordinance, or other City Ordinance or regulation.
- H. Sale, possession and/or consumption of alcoholic beverages or cereal malt beverages require separate permits per Chapter III Beverages, Article 1 General Provisions, Sections 3-104 and 3-105 and Chapter 8 Temporary Permits of this Code. Applications for these permits shall be submitted at the same time as the permit required in this Article.

Display of Permit: A permit issued shall prominently display the permit at the special event site or have the permit available to display to any officer or employee of the City upon demand.

Revocation of Permit: The City Manager or designee may suspend or revoke a permit issued if: The permittee fails to meet the conditions imposed on the issuance of the permit; violates any provision of this Code or other ordinance of the City governing the activities permitted by the permit or if the permit was obtained by fraud or misrepresentation.

Hazard Prohibited: No person shall make any use of the public parking lot that constitutes an immediate hazard requiring immediate action to protect the public.

Penalty: Any person who violates the requirements of Ordinance No. 2304, upon conviction, shall be fined not less than \$20.00 nor more than \$500.00 or be imprisoned for not more than thirty (30) days, or be both so fined and imprisoned. Each day that a person violates the requirements of this Article shall constitute a separate offense.

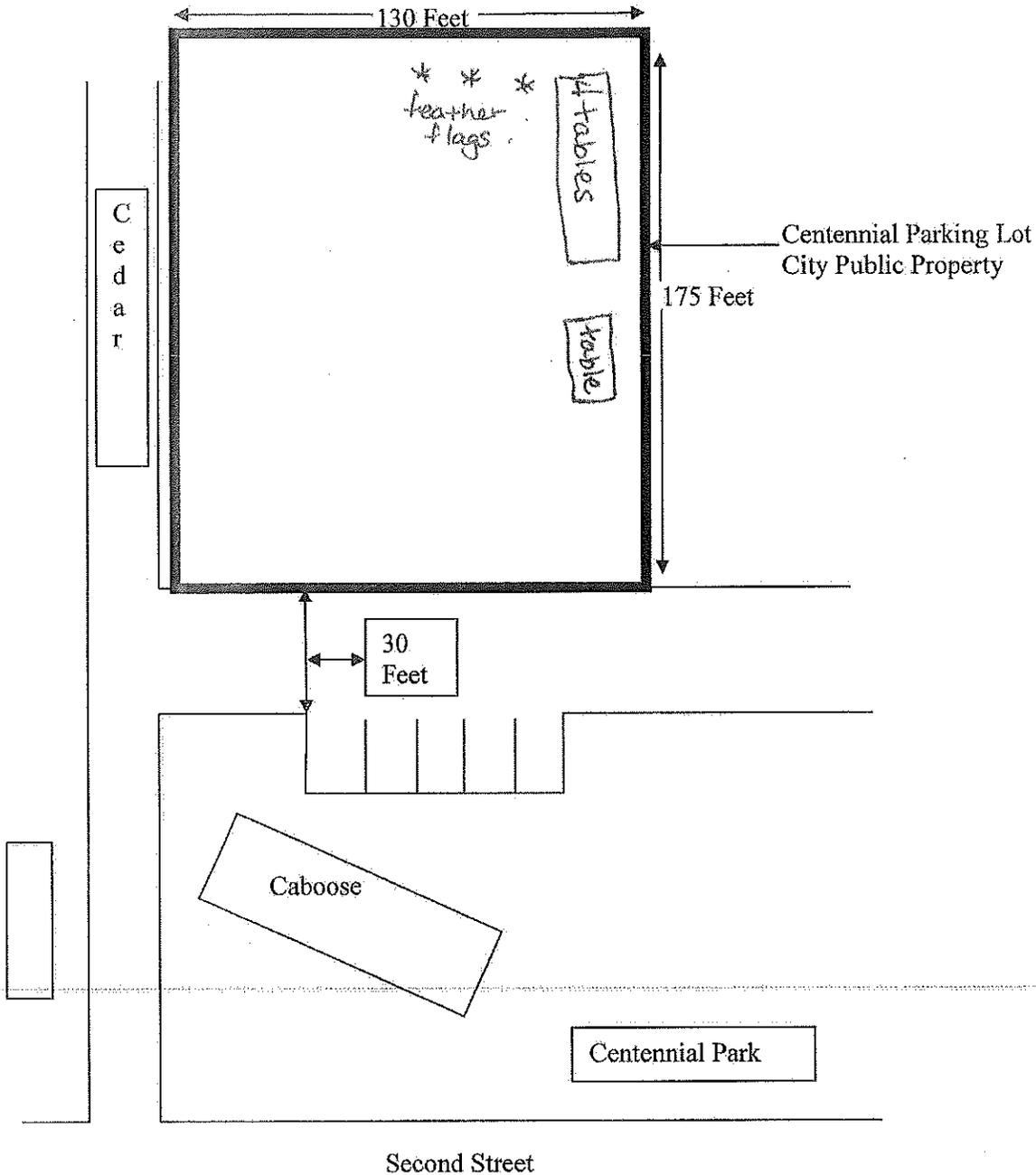
I hereby confirm by signing this application that I understand the regulations and will comply with all regulations and ordinances of the City of Bonner Springs, as outlined above.

Dessa D. Morehead
Signature of Applicant

Date Approved by the Governing Body: _____

Parking Lot Diagram Public Parking Lot Use Special Event Application

Draw in the diagram below (or attach a separate sheet) the area of the parking lot to be used for the requested event. Draw in area for access that will be available for emergency access. The area outlined in black is the parking lot area available for use. Describe the type of fence material to be used:



Email Copy to: Police Department, Fire Department, EMS Department, Public Works Department

4th ANNUAL
KCK SPECIAL OLYMPICS
MOTORCYCLE CHICKEN RUN

Saturday, September 27, 2014
(Rain Date – Sunday September 28, 2014)



Start Location: Kobi's Bar & Grill
113 Oak Street, Bonner Springs, Kansas
Registration starts at 10 a.m.
Bikes out at Noon

\$30 per Rider/\$10 Passenger

Meet some of our Special Athletes who will steal your hearts!!

Show your skill by landing a dart on a card
on the Chicken's nest dart board at each location
Extra hands \$10 each; Prizes for Best Hands
Prize drawing at the end of the run at Kobi's
Donation requested for each ticket - \$1 each, 6 for \$5

Route:

- Kobi's Bar & Grill
- Callahan's West
- Slow Ride Roadhouse
- Helen's Hilltop
- Kobi's Bar & Grill

Visit our website: kckhuggers.org to learn about us
Servicing more than 400 local athletes in many activities.
Our success depends on donations and fund raising events.



ITEM NO. 10.

City Council Regular Agenda Monday, September 22, 2014 – 7:30 p.m.

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Anti-Drug & Alcohol Use Policy - KDOT Program

ACTION: Make a Motion to Approve the Anti-Drug & Alcohol Misuse Prevention Policy for Employees in the FTA/DOT Drug Pool

STAFF RECOMMENDATION: The City Manager & City Clerk Recommend Approval

The City receives Section 5311 Grant Funds from the FTA and KDOT for operation costs and for capital vehicle purchases. The grant program must comply with the Federal Transit Administration regulations. KDOT administers the program and recipients of the funds must adopt an Anti-Drug and Alcohol Misuse Prevention Policy.

KDOT requires Tiblow Transit drivers and "main" dispatchers be placed in the FTA/DOT State Drug Pool for random drug tests as "safety sensitive" positions.

The City Council last approved revisions to the Policy in August 2013. We received an updated Policy with amendments that requires City Council approval. The changes are shown on the attached sheet. In order to continue to receive grant funds for the Tiblow Transit, the City must comply with the requirements to adopt the amended Policy. TMHC Services, Inc., Topeka, Kansas, administers this Policy for KDOT.

A complete copy of the amended Policy will be available at the meeting on Monday if City Councilmembers wish to see it.

Based on recommendations from the FTA the following information has been changed and/or added to your program policy:

Page 1: A. 3. Change- subcontractors to contractors

Page 4: B. 1. b. Remove- vehicles incur and replace with any vehicle incurs; and remove vehicles are and replace with any vehicle is

Page 4: B. 1. d. Add- and fails to remain readily available for testing, the

Page 6: E. a. b. c. Replace- Details of the return-to-duty testing process can be found in 49 CRF Part 40, subpart E with the detailed information

Page 6: F. a. b. c. Replace- Details of the follow-up testing process can be found in 49 CFR Part 40, subpart O with the detailed information

Page 7: D. 2. Remove- All costs for such testing are to be reimbursed to Company by the applicant/employee unless the result of the split sample invalidates the results of the original test and Replace with: As the employer, you must not condition your compliance with these requirements on the employee's direct payment to the MRO or laboratory or the employee's agreement to reimburse you for the costs of testing

Page 8: VI. C. 2. Remove- A covered employee that is on call shall be prohibited from performing a covered function, if the employee has consumed alcohol within four hours of being called to duty and Replace it with: No employee shall use alcohol 4 hours prior, on call, or while performing a safety-sensitive function. This includes beverages containing alcohol or substances containing alcohol including any medication, mouthwash, food, candy, or any other substance that would cause alcohol to be present in the body

ACTION FOR CONSENT AGENDA

MOTION: _____

SECOND: _____

Stephens _____
Cooper _____
Reeves _____
Haas _____

Peterson _____
Knight _____
Freeman _____
Shannon _____

- Reminder:**
- 1. Councilmembers need to abstain on check numbers on the claims issued to their personal business.**
 - 2. If a Councilmember has a simple question about a Consent Agenda item, it can be asked before the Mayor calls for a vote on the Consent Agenda.**
 - 3. If a Councilmember feels a Consent Agenda item warrants discussion, then it needs to be removed from the Consent Agenda.**

Staff Present: _____

REGULAR AGENDA

The City Council will consider the following items individually.

ITEM NO. 11.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Award Bid for 2015 Chevrolet 3500HD Truck with Utility Body & Crane

ACTION: Make a Motion to Award the Bid for the Purchase of a 2015 Chevrolet 3500HD Truck with Utility Body & Crane for a Total Amount of \$44,475

STAFF RECOMMENDATION: The City Manager, Utilities Director, City Clerk & Finance Director Recommend Approval

The enclosed memorandum provides the information and recommendation for this item.



BONNER SPRINGS UTILITIES



PROVIDING SAFE DRINKING WATER FOR OUR CITY AND CLEAN WATER FOR THE ENVIRONMENT

MEMORANDUM

Date: September 17, 2014

To: Mayor and City Council
Through: Jack Helin, City Manager
From: Rick Sailer, Director

Subject: Purchase of 2015 Chevrolet 3500HD Truck with Utility Body & Crane

Recommendation: Award the Bid for the Purchase of a 2015 Chevrolet 3500HD Truck mounted with a Knapheide Utility Body & Steller Telescoping Crane in the amount of \$44,795 to Roberts Chevrolet Buick located in Platte City, Missouri.

Background: We published bids for the vehicle on 28 August 2014 and sent a bid package directly to several vendors that included the local dealer, Victory Ford.

Discussion: We received three (3) bids and opened them on 11 September 2014 as follows:

| | |
|-------------------------|----------|
| Roberts Chevrolet Buick | \$44,475 |
| Shawnee Mission Ford | \$47,838 |
| Olathe Ford | \$61,695 |

Staff evaluated the bids and recommends that the City Council award the bid to Roberts Chevrolet Buick for a total amount of \$44,475. The truck will be delivered to the City which avoids the Missouri sales tax.

Financial Impact: The 2014 Water Fund Operations & Maintenance budget includes \$48,000 for the truck purchase.

ITEM NO. 12.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Award Bid for Backwash Settling Tank Project to Crossland Heavy Contractors, Inc. for a Total Amount of \$499,900 Contingent Upon KDHE Approval & Approve an Increase in the KDHE Loan from \$550,000 to \$900,000

ACTION: Make a Motion to Award the Bid for Backwash Settling Tank Project to Crossland Heavy Contractors, Inc. for a Total Amount of \$499,900 Contingent Upon KDHE Approval & Approve an Increase in the KDHE Loan from \$550,000 to \$900,000

STAFF RECOMMENDATION: The City Manager, Utilities Director, City Clerk & Finance Director Recommend Approval

The enclosed memorandum fully provides the recommendation, background, discussion and financial impact for this item. KDHE confirmed that they do not have a problem if the City awards this project contingent upon their approval.

MEMORANDUM

Date: September 17, 2014
To: Mayor and City Council
Through: Jack Helin, City Manager
From: Rick Sailler, Director

Subject: **Award of Construction Contract for Backwash Settling Tank (BWST)
Project to Crossland Heavy Contractors, Inc. for a total amount of \$499,900.**

Recommendation: The City Council approve the bid and award the construction contract for BWST Project to Crossland Heavy Contractors, Inc. of Columbus, Kansas for a total amount of \$499,900 contingent upon KDHE approval and approve an increase in the KDHE loan by \$350,000 from \$550,000 to \$900,000.

Background: The City Council approved an Ordinance on 28 January 2013 to authorize the execution of a Loan Agreement for a total of \$550,000 with the State of Kansas for Kansas Public Water System Loan Fund (KPWSLF) to be used for Well 6 Construction and Water Treatment Plant (WTP) improvements which consists of the BWST Project. The City Council awarded an Engineering Contract for the BWST Project to Bartlett & West Engineering on 8 April 2013 and they completed the design engineering work during 2013-2014.

Bartlett & West completed a Preliminary Engineering Report in August 2012, which was used as the basis for the portion of the loan dedicated to the WTP improvements. The Report detailed the various options of how the backwash water could be captured and treated to meet the State requirements prior to discharge to the Kansas River. The Report also included an estimated construction cost for the options detailed within the report and a total project cost estimate, which varied between \$255,000 and \$368,000. The estimated construction cost estimate did not include detailed information on the operational aspects of the Project; those details were handled during the design phase of the Project. During the design phase, electronic actuated valves and controls were added to allow operators to control the system with SCADA technology used for all operations that includes treatment, pumping and storage.

The original Project Cost estimate of \$368,000 included in the Engineering Contract Award was higher than the original Project cost estimate that used for the WTP portion of the loan application. At the time, Well #5 was still considered for rehabilitation, but ultimately the decision was made to drill a new well instead of investing money in an older, failed well. The BWST Project estimate included some costs that were deemed unlikely to be needed; therefore, the Project Cost was actually reduced to an estimated \$300,000. Reducing the Project cost was based on the Preliminary Report, prior to the final design completion. The Project design was completed in May and submitted to Kansas Department of Health & Environment for final review and approval. KDHE approval on 20 June 2014 allowed the City to move forward with the Construction bid process.

Discussion: We released the Project for bid on 14 July 2014 and opened the two bids received.

- Crossland Heavy Contractors, Inc. \$499,900
- Smi-Co Construction, Inc. \$559,023
- Engineer's Estimate \$412,500

The construction bids were much higher than expected, even with the revised construction cost estimate completed by the design engineer prior to the bid opening. Staff discussed the bid amount with the Contractor, the design engineer and our City Engineer to determine if any options were available to reduce the cost of the Project or if we should start the process over, reject the bids submitted and re-bid the Project in an attempt to lower the construction cost. After a thorough review and evaluation of the bids and the options to accept and award or re-bid, Staff and the Engineering team recommends acceptance and award of the bid to Crossland Heavy Contractors for the lowest bid amount of \$499,900. Ultimately, the construction cost was higher than expected due to multiple factors which included final design items that were not calculated into the preliminary report, tank foundation work based on the geotechnical report, the overall construction market that has seen a recent spike in activity and the higher prices due to supply and demand. Since KDHE mandates this Project to meet our WTP discharge permit to the Kansas River, to delay or eliminate this Project is not an option. The City Engineer recommends that we continue to work with the contractor on the costs.

Financial Impact: The KDHE loan amount is \$550,000, of which \$350,000 was originally budgeted for the BWST project and the balance of \$200,000 for the Well #5 rehabilitation. Once the decision was made to drill a new well, we adjusted the estimates to \$250,000 for Well 6 and \$300,000 for the BWST Project, based on preliminary engineering estimates. Well 6 Project is now estimated at \$300,000 and the BWST Project is estimated at \$600,000 that includes engineering cost. The increased costs of these projects will require an increase of the KPWSLF, which KDHE will allow based on the construction cost bids. The \$50,000 overrun for Well 6 was budgeted in the 2014 O&M Water Fund Budget, but in light of the need to increase the loan amount for the BWST, Staff recommends we avoid use of Cash Reserves and incorporate the \$50,000 in the increase of KPWSLF. KDHE has one Project Loan Fund assigned for both projects, so inclusion of both projects is acceptable.

ITEM NO. 13.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Ordinance Public Amusement Definition Amendment

ACTION: Make a Motion to Approve an Ordinance to Amend Chapter V Business Regulations, Article 5 Public Amusements, Section 5-502 Definitions of the Code of Ordinances of the City of Bonner Springs, Kansas

STAFF RECOMMENDATION: The City Manager & City Clerk Recommend Approval

The enclosed proposed Ordinance shows in legislative style two changes to definitions for Public Amusements. The strikethrough changes for Items (a) and (c) are the only amendments. The change deletes the words "massage shows" in both sections as a clean up of the previous language.

Ordinance No. _____

**An Ordinance to Amend Chapter V Business Regulations, Article 5 Public
Public Amusements to Amend Section 5-502 Definitions of the Code of
Ordinances of the City of Bonner Springs, Kansas**

Be it Ordained by the Governing Body of the City of Bonner Springs, Kansas:

Section I: Chapter V Business Regulations, Article 5 Public Amusements, Section 5-502 Definitions of the Code of Ordinances of the City of Bonner Springs, Kansas is hereby amended to read as follows:

“(a) The term amusement or entertainment enterprise as used in this Section shall be held to mean and include band concerts, carnivals, ~~massage shows~~ or other similar amusement or entertainment enterprises which are open to the public and for which an admission fee is charged or a donation required or requested.

(b) Carnival as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conducting or games of skill, food dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of State laws and/or City ordinances.

(c) Party as used in this Section shall mean and include events including overnight camping, or at which musical entertainment, theatrical performances, band concerts, circuses, carnivals, ~~massage shows~~ or other forms of entertainment is provided or used, regardless of whether open to the general public or open only to invited guests and for which no admission is charged or donation required or requested.

(d) Vacant Private Property as used herein shall mean and include property on which no person resides or conducts business.

(e) Person as used herein shall mean and include, natural persons, firms, corporations, non-corporate associations, including, but not limited to, partnerships and joint ventures.

(f) Owner as used herein shall mean and include the legal title holder of the property on which the event shall occur, the owner of an equitable interest in the property (including, but not limited to, a purchaser under a written contract for deed, option contract or similar instrument).

(g) Event as used herein shall mean and include a carnival, or an amusement or entertainment enterprise and a party or any of them.”

Section II: This Ordinance shall be in effect from and after its passage and publication in the City’s official newspaper.

Approved by the City Council and Signed by the Mayor on September 22, 2014.

Attest:

Jeff Harrington, Mayor

Rita Hoag, City Clerk

(Seal)

ITEM NO. 14.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

| | | | | |
|-----------------------------------|----------|-------|----------|-------|
| Present & Vote | Stephens | _____ | Peterson | _____ |
| | Cooper | _____ | Knight | _____ |
| | Reeves | _____ | Freeman | _____ |
| | Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

**AGENDA ITEM: Ordinance to Amend Chapter V Business Regulations Article 10
Massage Therapy**

**ACTION: Make a Motion to Approve an Ordinance to Amend Chapter V Business
Regulations, Article 10 Massage Therapy**

**STAFF RECOMMENDATION: The City Manager, City Clerk, City Attorney & Police
Chief Recommend Approval**

The City Staff briefed the City Council on this item at the September 8, 2014 Workshop Meeting. The City Council at that meeting reached consensus with no opposition to place this item on the Agenda for September 22.

The City Council approved a moratorium on issuance of new massage therapy business establishment licenses until September 25 or until the approval of amendments to the regulations. With the approval of the enclosed Ordinance, the moratorium will expire upon the effective date of the Ordinance which is the publication date on September 25, 2014.

An Ordinance to Amend Chapter V, Business Regulations, Article 10, Massage Therapy of the Code of Ordinances of the City of Bonner Springs, Kansas

Be it Ordained by the Governing Body of the City of Bonner Springs, Kansas:

Section I: Chapter V, Business Regulations, Article 10, Massage Therapy is hereby amended as follows:

5-1001. Definitions.

(a) Accredited School: Any school or institute of learning which is accredited by the State Board of Education or equivalent and approved by any state massage specific license organization. For schools located in states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board for Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Article.

(b) Business premises: Those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.

(c) Employee: Refers to any person, other than massage therapists, who renders any service to a licensee under this Article, who receives compensation from the licensee or patron.

(d) Establishment Applicant: Refers to any individual, who applies as an individual or a group of individuals; each stockholder who holds more than ten (10) percent of the stock of the corporation and each officer and director, if the application is a corporation; each partner, to include limited partners, if the applicant is a partnership.

(e) Establishment Representative: An employee, manager, independent contractor, unpaid volunteer or anyone who works at or on behalf of a massage establishment.

(f) Healing Arts Practitioner: Defined by the provisions of K.S.A. 65-2801, et. seq. and refers to a license issued to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(g) In-office massage therapy: Massage that is conducted on the business premises of a massage client and is limited to massage therapy applied only above the massage client's waist. The patron must be fully clothed.

(h) In-office massage therapy establishment: Any establishment having a place of business where any person, firm, partnership, association, or corporation engages in the activities mentioned in 5-1001 (f) for compensation.

(i) Massage Therapy: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. Massage as defined herein does not include the touching in any fashion of human genitalia.

(j) Massage therapy establishment: Any establishment where any person, firm, partnership, association, or corporation engages in or carries on or permits to be engaged in or carries on any of the activities mentioned in 5-1001 (f) for compensation but does not include "in-office massage therapy establishments".

(k) **Massage therapy (therapeutic):** The practice of therapeutic massage as the application of various techniques to the muscular structure and soft tissues of the human body, as a healing art, strictly non-sexual, requiring proof of education, training or education from an institution or business with accreditation recognized by the State, or as an apprentice to a licensed therapeutic massage therapist.

(l) **Massage therapist:** Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(m) **Patron:** Any person who utilizes or receives the services of any establishment subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist only if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.

5-1002. Reference to Chief of Police, Other Staff.

Any reference in this Article to the Chief of Police, City Clerk, Planning Director, Building Official, Code Enforcement Officer or Fire Chief shall include those persons, designees and any individuals designated by the City Manager.

5-1003. Business License Required.

No person, firm, partnership, association or corporation shall operate an in-office massage therapy establishment and/or massage establishment, as defined herein, without first having obtained a business license therefor, issued by the Governing Body of this City. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license shall be valid for a period of twelve (12) months from the date of issuance; provided individuals conducting in-office massage therapy as defined by this Article shall be required to hold only one (1) permit; and provided further that individuals conducting massage therapy on permanent premises in addition to providing in-office massage therapy must hold a separate permit for in-office massage therapy and for the massage therapy establishment conducted on permanent premises.

5-1004. Limitations on In-Office Massage Therapy Licenses.

The authority granted a licensee issued an in-office massage therapy license is limited to the authority to conduct massage therapy on the non-permanent office premises of the licensee's clients and specifically does not include the authority to conduct massage therapy at a permanent premises operated by the licensee; provided, the licensee must have a permanent business office located within the City. If the licensee desires to conduct massage therapy both on the non-permanent office premise of the licensee clients and a permanent premises operated by the licensee, the applicant must obtain a separate license for in-office massage therapy establishment and a massage establishment license by submitting separate applications for each, provided only one (1) license fee shall be charged for both applications.

5-1005. Massage Therapist License Required, Categories, Educational Requirements, Renewal & Restrictions.

No person shall perform massage therapy or in-office massage therapy within the City, unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Article. It is unlawful to perform such services unless the license issued is current, unrevoked and not suspended. Such license is not transferable or refundable and shall be valid for a period of twelve months from the date of issuance.

(a) The massage therapist license and educational requirements shall be as follows:

(1) **Massage Therapist.** To be eligible for issuance of a Massage Therapist license, an applicant must provide proof of completion of:

- (A) Successful completion of a course of instruction of not less than 500 hours, in the theory, method or practice of massage from one or more accredited schools. All practical and/or modality instruction must be completed as in-classroom/hands-on instruction, while theory instruction may be completed online. The applicant must also have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent and provide current certification.
- (B) Proof of successful passage of the Board Certification exam administered by the National Certification Examination for Therapeutic Massage and Bodywork. The applicant must also have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent, and provide current certification.

(b) Proof of completion of educational and training requirements must be by certified transcripts. The educational and training requirements required by this Article may be received from more than one school. An hour of instruction is defined as fifty minutes of actual instructional time.

(c) All applicants for renewal of a massage therapist license in any category must provide proof of recertification in American Red Cross first aid and American Heart Association CPR or the equivalent thereof prior to the approval of any renewal.

(d) All licensed massage therapists who apply for a renewal license must show proof that they received a minimum of twelve hours (fifty minutes per hour) of professional massage continuing education in the preceding twelve-month period. One hour continuing education credit will be awarded for each hour attendance at programs that relate to the theory or clinical application of theory pertaining to the practice of massage to include, but not limited to, clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws that are sponsored by a university, junior college or otherwise found to be acceptable by the City Clerk.

(e) Massage therapists shall notify the City of any change in employment within thirty (30) calendar days of the change to include a change in the therapist's employer or the addition or reduction of locations they perform massage therapy.

5-1006. Application for Massage Therapy Establishment and In-Office Massage Therapy Establishment Business License; Fees.

Every applicant for a business license to maintain, operate or conduct any establishment covered by this Article shall file an application with the City Clerk and pay an annual fee, as approved by the City Council, to the City Clerk, which shall not be refundable and an annual renewal fee as approved by the City Council. Sole practitioners who own and operate an establishment and are the only massage therapist on the premises will only be required to pay the annual massage therapy establishment and/or in-office massage therapy establishment business license fee.

The application for a license to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities and the name, address, and telephone number of each applicant.

In addition, any applicant for a business license shall furnish the following information:

- (a) Written proof that the applicant and/or manager is at least 18 years old.
- (b) Two portrait photographs at least two (2) inches by two (2) inches, and fingerprints, provided once an applicant has submitted an application containing their fingerprints, they will not have to submit fingerprints in any subsequent renewal application for that person.
- (c) The business, occupation or employment locations and contact information for each applicant and manager for the three (3) years immediately prior to the date of application.

(d) The massage therapy and in-office massage therapy establishment business license history of the applicant and managers; whether such person, in previously operating in this or another City or State under an establishment or therapist license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

(e) Proof that managers successfully completed an in-person (not online) certification program in American Heart Association CPR and American Red Cross first aid or equivalent in-person programs and provide current proof of certification.

(f) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.

(g) In the case of applicants who intend personally to provide in-office massage therapy or massage therapy, the applicant must also apply for and receive a massage therapist license as provided for in Section 5-1007.

(h) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the establishment applicant for the license and the managers to work in a massage establishment.

(i) Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

5-1007. Application for Massage Therapist License; Fees.

Any person who desires to perform or provide massage therapy or in-office massage therapy or to perform any massage services in a massage therapy establishment, as defined herein, shall file a written application with the City Clerk and pay a fee as approved by the City Council to the City Clerk for the first application, which shall not be refundable and an annual renewal fee as approved by the City Council. A massage therapist license shall be valid for a period of twelve (12) months from the date of issuance. This fee shall cover the cost to process the application to include the current KBI fingerprint fee. Only one massage therapy license shall be required for a massage therapist regardless of the activity or activities the therapist engages in that are permitted by this Article. Sole practitioners (who own and operate an establishment and are the only massage therapist on the premises), apply for a massage therapist license of any type and have successfully obtained a massage therapy establishment license or in office massage therapy license are exempt from paying the massage therapist license fee.

The application for a massage therapist license shall contain the following:

(a) Name, address and telephone number.

(b) Two portrait photographs at least two inches by two inches and a copy of a valid government issued identification card issued by the State of Kansas or Missouri.

(c) Applicant's weight, height, color of hair and eyes and fingerprints, provided once an applicant submitted fingerprints, they shall not be required to submit new fingerprints for any renewal application for that person.

(d) Written evidence that the applicant is at least 18 years old.

(e) Business, occupation, or employment of the applicant for the three (3) years immediately prior to the date of application.

(f) Disclosure of any criminal convictions or diversions, except minor traffic violations, and fully disclose the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.

(g) The position or function the applicant will perform services within each location establishment. (If applicable).

(h) Authorization for the City, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(i) Proof of the education and experience requirements set forth at 5-1005 herein.

(j) Copy of valid government issued identification card issued by the State of Kansas or Missouri.

(k) History of the applicant, whether such person, in operation in Kansas or another state under an establishment license, a therapist license or under another name had such license revoked or suspended and the reason therefor.

5-1008. Massage Therapy Establishment and In-Office Massage Therapy Establishment Business License Application Processing.

Upon receipt of a complete application for a "massage therapy establishment business license," the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application, which will include a background check. In addition, the City Clerk shall transmit a copy of the application to the Planning Director, Building Official, Code Enforcement Officer and Fire Chief, as applicable. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Planning Director, Building Official, Code Enforcement Officer and Fire Chief to determine whether the structure where the massage therapy business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided the premises need not be designed or set up for the requirements of a license being issued, provided further, all other code and zoning requirements must be met. All standards for premises set forth in 5-1016 must be met prior to the first day the premises opens for business. The Planning Director, Building Official, Code Enforcement Officer and Fire Chief shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police, Planning Director, Building Official, Code Enforcement Officer and Fire Chief, the City Clerk shall schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application shall be approved or disapproved within 45 days from the date filed with the Clerk's office. The applicant shall be notified of the date when the Governing Body will consider the application, at which time the applicant will be afforded an opportunity to be heard. If there exist inspection items that relate to the structural design of the premises that cannot be verified prior to consideration of the application by the Governing Body, the Governing Body may approve the application and a license issued contingent upon satisfactory resolution of any such items.

5-1009. Identification Cards.

All massage business establishment owners, managers or massage therapists issued a license pursuant to the provisions of this Article shall, at all times when working in an establishment or providing any service regulated by this Article, have in their possession a valid identification card issued by the City to include the massage therapist's license number, physical description and a photograph. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted licenses under this Article shall at all times keep their licenses available for inspection upon request of any person who by law may inspect same. Provided further that all licensees shall, when conducting in-office massage therapy or massage therapy off their business premises, wear on their clothing in a conspicuous location their identification card.

5-1010. Issuance of Massage Therapy Establishment Business License.

After the filing of an application in the proper form, the Governing Body shall examine the application, and after such examination, shall approve the issuance of a license for an in-office massage therapy establishment or a massage therapy establishment, unless the Governing Body finds that:

(a) The correct license fee was not tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation;

(b) The establishment operation, as proposed by the applicant, if permitted, would not comply with all applicable laws to include, but not limited to, the City's building, zoning and health regulations;

(c) The applicant, if an individual, or any of the stockholders who holds more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, having been convicted of, or diverted on,

(1) a person felony, as defined by Kansas law;

(2) a non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;

(3) an offense involving sexual misconduct with children;

(4) obscenity;

(5) promoting prostitution or equivalent charge as defined by K.S.A. 21-3513;

(6) solicitation of a lewd or unlawful act;

(7) prostitution;

(8) pandering or other sexually related offense;

(9) any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.

(d) The applicant made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;

(e) The applicant or manager has had a massage therapy establishment or other similar permit or license denied, revoked, suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension for any of the above causes by the City or any other State or local agency within ten (10) years prior to the date of the application;

(f) Any establishment applicant or manager has previously been issued a license for an adult entertainment business or escort service or has been employed by any such establishment.

(g) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, has not attained the age of 18 years; and

(h) The manager or other person principally in charge of the operation of the business would be ineligible to receive any license under the provisions of this Article.

The record of the Governing Body shall show the action taken on the application, and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek judicial review to the Wyandotte County District Court as provided by law. Upon denial, any establishment applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial.

5-1011. Application Process and Issuance of Massage Therapist License.

The City Clerk shall issue a massage therapist license within 21 days following application, unless he/she finds that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on,
 - (1) a person felony, as defined by Kansas Law;
 - (2) a non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;
 - (3) an offense involving sexual misconduct with children;
 - (4) obscenity;
 - (5) promoting prostitution as defined by K.S.A. 21-3513;
 - (6) solicitation of a lewd or unlawful act;
 - (7) prostitution;
 - (8) pandering or other sexually related offense;
 - (9) any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- (c) The applicant had a massage establishment or therapist permit or license denied, revoked or suspended or involuntarily surrendered the permit or license in lieu of revocation or suspension by the City or any other state or local agency within ten (10) year prior to the date of application.
- (d) The applicant was issued a license for an adult entertainment business or escort service or was employed by any such establishment within ten (10) year prior to the date of application.
- (e) The applicant has not attained the age of 18 years.
- (f) That the correct license fee has not been tendered to the City, and in the case of a check or bank draft, honored with payment upon presentation;
- (g) That the applicant has not successfully completed the education standards required under the provisions of this Article.

The record of the Governing Body shall show the action taken on the application, and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek judicial review to the Wyandotte County District Court as provided by law. Upon denial, any establishment applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial.

5-1012. Revocation or Suspension of Business License.

(a) Any business license issued for an in-office massage therapy establishment or a massage therapy establishment may be suspended or revoked by the City Clerk for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for in this Article.

(b) Written notice shall be sent to the person entitled to notice as stated in the business license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the Governing Body to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the business license, if a licensee, its employee, or agent:

- (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof.
- (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal.
- (3) Allows the use of his or her establishment by an unlicensed person.
- (4) Violates any zoning, building or fire prevention ordinance.
- (5) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy.
- (6) Has been convicted, to include a massage therapist, of any offense found in 5-1011 and 5-1012 herein and the licensee has actual or constructive knowledge of the violation or conviction.
- (7) Conducts or allows to be conducted any other business enterprise in the establishment.
- (8) Conducts any illegal activities or allows them to be conducted by anyone else.
- (9) Has an arrest record for any sexual offense or violation.
- (10) Has fraudulently obtained a license pursuant to the provisions of this ordinance.
- (11) Has ceased to meet any of the requirements for issuance of a massage therapy license or massage therapy establishment license.
- (12) Refuses to permit any duly authorized police officer or employee of the City to inspect the premises or the operations of the licensee.
- (13) Fails to comply with all applicable laws and regulatory provisions herein.

(c) Business Closed and Posted. Upon suspension or revocation of the business license, the business shall cease to operate and City officials shall post the business as closed.

(d) Appeal. Upon receipt of a written request delivered to the City Clerk, an appeal of the suspension or revocation shall be heard by the Governing Body within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The Governing Body shall make a final determination as to suspension or revocation. A licensee aggrieved by the decision of the Governing Body may appeal the decision to the Wyandotte County District Court as provided by law.

5-1013. Revocation of Massage Therapist License.

(a) Any Massage Therapist license issued for a massage therapist may be suspended or revoked by the City Clerk for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for in this Article.

(b) Written notice shall be sent to the person entitled to notice as stated in the Massage Therapist license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation, and shall notify the licensee of the licensee's right to a hearing before the Governing Body to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the Massage Therapist license, if a licensee:

- (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof.
- (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal.
- (3) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy.
- (4) Convicted of any offense found in 5-1011 and 5-1012 herein.
- (5) Conducts any other business enterprise in the establishment.
- (6) Conducts any illegal activities.
- (7) Has an arrest record for any sexual offense or violation.
- (8) Has fraudulently obtained a license pursuant to the provisions of this ordinance.
- (9) Has ceased to meet any of the requirements for issuance of a massage therapy license.
- (10) Refuses to permit any duly authorized police officer or employee of the City to inspect the records of the operations of the licensee.
- (11) Fails to comply with all applicable laws and regulatory provisions herein.

(c) Upon suspension or revocation of the Massage Therapist license, the Massage Therapist shall cease to operate in the City of Bonner Springs.

(d) Appeal. Upon receipt of a written request delivered to the City Clerk, an appeal of the suspension or revocation shall be heard by the Governing Body within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The Governing Body shall make a final determination as to suspension or revocation. A licensee aggrieved by the decision of the Governing Body may appeal the decision to the Wyandotte County District Court as provided by law.

5-1014. Inspection Necessary.

No business shall be conducted on licensed premises unless an inspection by the Building Official or an authorized representative reveals that the establishment complies with each of the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door that can be locked. These provisions are not applicable to an in-office massage therapy establishment.

(b) Toilet facilities shall be provided in convenient locations. When five (5) or more massage establishment employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. These provisions are not applicable to an in-office massage therapy establishment.

(c) Lavatories or wash basins provided with both hot and cold water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels. These provisions are not applicable to an in-office massage therapy establishment.

(d) At least one water fountain, water cooler or bottled water shall be provided but shall not be located in toilet rooms or bathrooms.

The Building Official shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk and Chief of Police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance that relates to the maintenance of premises, nor to preclude authorized inspection thereof.

5-1015. Inspections, Immediate Right of Entry.

The Police Department and Building Official may from time to time make an inspection of each licensed establishment in this City, to include those locations where an in-office massage therapy establishment conducts its business and areas where a therapist performs massage therapy, to determine that the provisions of this Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee, manager or representative to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee, manager or representative to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license.

5-1016. Operation Regulations.

The operation of any in-office massage therapy establishment or massage therapy establishment, to include the provision of service by massage therapists, shall be subject to the following regulations:

(a) Hours. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day provided the hours of operation for in-office massage therapy may be extended for in-office therapy conducted on premises with established evening and night shifts.

(b) Separation of sexes. It shall be unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time. This provision is not applicable to in-office massage therapy establishments.

(c) Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the Building Official, Property Maintenance Officer or Fire Chief to the safety or health of any person, and after such notice in writing has been delivered to the licensee from such director.

(d) Alcoholic beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises licensed under the provisions of this Article or during in-office massage therapy. Provided this restriction shall not apply to businesses where the licensed massage therapy is accessory to the predominant business purpose of the establishment, provided further, no alcohol is permitted on that portion of such premises where massage therapy occurs.

(e) Conduct of premises. All licensees licensed under the provisions of this Article shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or her employees which constitutes a violation of the provisions of this Article. Any violation of the City, State, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or may be grounds for suspension or revocation of same.

(f) Every portion of a licensed establishment to include appliances and personnel shall be kept clean and operated in a sanitary condition.

(g) All licensees and representatives shall be clean and wear clean, modest outer garments. On all premises except in-office massage therapy establishments, provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(h) All licensed employees and massage therapists must be modestly attired. Diaphanous or transparent clothing is prohibited. Clothing must cover the licensee's employees' or massage therapists' chests at all times.

(i) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.

(j) All licensed establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and such items shall be laundered after each use thereof and stored in a sanitary manner.

(k) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soak areas shall be thoroughly cleaned after each use.

(l) Table showers are strictly prohibited.

(m) No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of the licensee who operates an establishment in his/her home or residence but shall not reside, inhabit or sleep in the portion of the home or residence devoted to the practice of massage therapy.

5-1017. Supervision.

A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed as a Massage Therapist shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this Article. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee.

5-1018. Employee and Patron Registers.

(a) All establishments licensed under the provisions of this Article shall keep and maintain on their premises a current register of all their establishment representatives and list such employee's name, address and license number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the Police Department.

(b) Every person who engages in or conducts a licensed establishment shall keep a daily register of services provided and all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by City officials and by the Police Department and shall be kept on file for one (1) year.

5-1019. Persons Under Age 18 Prohibited Services.

No licensee shall perform or permit any massage therapy to be provided to a person under the age of 18, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian authorized such therapy in writing.

5-1020. Advertising.

No establishment granted a license under provisions of this Article shall place, publish, or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in 5-1001, or that employees or massage therapists are dressed in any manner other than described in 5-1016.

5-1021. Transfer of Licenses; Other Licenses and Fees.

(a) No massage therapy establishment or in-office massage therapy establishment, or massage therapist licenses are transferable and such authority as a license shall be conferred only on the licensee named therein.

(b) Any applications made, fees paid, and licenses obtained under the provisions of this Article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinances of this City.

5-1022. Applicability to Existing Businesses.

The operators of any existing massage therapy establishment or in-office massage therapy establishment must comply with all provisions of this Article, subject to the educational and experience requirements set forth in Section 5-1005.

5-1023. Exceptions.

The provisions of this Article shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of this State, persons licensed to practice as a physical therapist under the laws of this State, or persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.

5-1024. Further Regulations.

The City Clerk, Chief of Police or the City Manager may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Article.

5-1025. Restriction of Business to Premises.

(a) All massage therapy (not to include in-office massage therapy) provided for under this Article shall be conducted on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:

- (1) If done at the direction of a licensed healing arts practitioner, or

- (2) If done at the written request of a person that shall provide the name and address of the requesting person, the date and time of the service, and the fees charged for the service. When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by any City official. Private residence massage therapy shall not be conducted between the hours of 10:00 p.m. and 9:00 a.m.

(b) All license massage therapy establishments shall be operated from a commercial business premise or shall be allowed by Special Use Permit in R-1 and R-1A residential zoning districts upon review and recommendation by the Planning Commission and approval by the Governing Body. Sole practitioners (therapists who work alone), are required to have both a massage therapist license and massage therapy establishment license and may work from a commercial business premise or private home, residence or non-commercial business establishment. (Ord. 2158, 1-2007)

(c) Massage therapy is permitted in the guest rooms of hotels and bed and breakfast establishments upon written approval of the hotel and bed and breakfast owners and/or managers.

Section II: This Ordinance shall in in effect from and after its passage and publication in the City's official newspaper.

Approved by the City Council and Signed by the Mayor on September 22, 2014.

Attest:

Jeff Harrington, Mayor

Rita Hoag, City Clerk

(Seal)

ITEM NO. 15.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

Stephens _____
Cooper _____
Reeves _____
Haas _____

Peterson _____
Knight _____
Freeman _____
Shannon _____

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: City Manager's Report

ACTION: None

STAFF RECOMMENDATION: None

Report attached.

City Managers Update

Date: September 22, 2014

To: Mayor and City Council

1. **Drug Take Back Day** - The Bonner Springs Police Department will participate in Drug Take Back day. Officer Jeff Weissman will be at the Bonner Springs Price Chopper on Saturday, September 27, 2014, from 10:00 a.m. until 2:00 p.m. to collect expired and unwanted prescriptions.
2. **Boy Scout Sporting Clay Tournament** – The Heart of America Boy Scout Council will hold a Sporting Clay tournament for Boys Scouts on their Camp Naish property October 10-11.
3. **Deffenbaugh Trash Service Change** – Deffenbaugh will work to make the change to pick up trash and recycle in Bonner Springs all on one day (Tuesday). They originally anticipated the change could occur by the first of October but now report that it will be the first part of November.
4. **Bonner Springs High School Homecoming Parade** – The High School requested the use of the parking lot behind Harrington Funeral Home and the use of City streets for their Homecoming Parade, Friday, October 10, 2014 at 5 p.m. This is an annual event permitted by the approved Governing Body Policy to be approved administratively unless there are significant changes. There are no changes from prior years and a current certificate of insurance is on file in the City Clerk's office.
5. **Traffic Signal at Nettleton & Kump** – The following changes have now been made to the signal:
 - Turned off and bagged dedicated left turn heads for North and Southbound Nettleton.
 - Changed timing to 20 sec. cycles for both directions.
 - Set for four-way red flash from 10:00 pm to 5:00 am.
6. **Community and Economic Development Update** –
 - a. **Atlas Holistic Health** – This new business will open October 1 at 300 Oak Street, Suite D. Kaleigh Jones-Clark is the owner of the business and previously was located in Lee's Summit. Dr. Clark provides holistic treatments such as chiropractic care and massage and treats a range of ailments from allergies and injuries to depression and insomnia. She grew up in Bonner Springs and wanted to move the business back to her hometown.
7. **Street Program** – The Contractor completed the East Riverview roadwork on 13 September. This work included profile milling approximately 2,100 linear feet of roadway and a two-inch asphalt overlay. This concludes all the roadwork with the Contractor for this year. We anticipate the acceptance of this project will be recommended at the 13 October City Council meeting.

ITEM NO. 16.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

Stephens _____
Cooper _____
Reeves _____
Haas _____

Peterson _____
Knight _____
Freeman _____
Shannon _____

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: City Council Items

ACTION: None

STAFF RECOMMENDATION: None

ITEM NO. 17.

**City Council Regular Agenda
Monday, September 22, 2014 – 7:30 p.m.**

**Present
&
Vote**

| | | | |
|----------|-------|----------|-------|
| Stephens | _____ | Peterson | _____ |
| Cooper | _____ | Knight | _____ |
| Reeves | _____ | Freeman | _____ |
| Haas | _____ | Shannon | _____ |

Mayor Vote on Charter Ordinances & Planning Items _____

MOTION: _____ **SECOND:** _____

AGENDA ITEM: Mayor's Report

ACTION: None

STAFF RECOMMENDATION: None

The Mayor will give a verbal report at the meeting on Monday.