

OSAWATOMIE CITY COUNCIL
AGENDA

September 28, 2023

6:30 p.m. | Memorial Hall | 411 11th Street

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Invocation
5. Consent Agenda

Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.

 - A. September 28, 2023 Agenda
 - B. September 14, 2023 Meeting Minutes
 - C. Pay Application(s)
 - Killough Construction - \$ 80,467.51 (Main St. Terrace/18th/Walnut Ave)
 - Killough Construction - \$337,442.83 (Brown Ave. 7th – 12th)
 - D. Special Event Permit(s)
6. Comments from the Public

Citizen participation will be limited to 5 minutes. Stand & be recognized by the Mayor.
7. Public Hearing
8. Presentations, Proclamations, and Appointments
 - A. Presentation of Power Plant Graduation Cert. to Andrew Burkhart – John Littleton, KMU
9. Unfinished Business
10. New Business
 - A. Resolution 1171 – Condemnation of Certain Properties in Osawatomie
 - B. Ordinance 3837 – Consent Annexation of KDOT Property, Victory, & City-Owned Property
 - C. Resolution 1172 – Accept. Work and Authorize Final Payment Main St. Terr/18th/Walnut Ave.
 - D. Resolution 1173 – Direct Staff to Develop Economic Development Policies
 - E. Resolution 1174 – Direct Staff to Negotiate a Development Agreement with Newly Annexed Property Owner(s)
 - F. Ordinance TBD – Amending Zoning Regs to Allow for Restoration of Original Plats (*No Action*)
11. Council Report
12. Mayor's Report
13. City Manager & Staff Report
14. Adjourn

NEXT REGULAR MEETING – October 12, 2023

Osawatomie, Kansas. **September 14, 2023.** The Council Meeting was held at Memorial Hall located at 411 11th Street. Mayor Nick Hampson called the meeting to order at 6:30 p.m. Council members present were: Schasteen, Macek, Diehm, Dickinson, LaDuex, Bratton, Filipin and Caldwell. City Staff present at the meeting were: City Manager Bret Glendening, City Clerk Tammy Seamands, City Attorney Jeff Deane, Utility Director Terry Upshaw, Public Works Director Michele Silsbee and Assistant to the City Manager Samantha Moon. Members of the public were: Chris Carey, Ryan Rogers, Renee Slinkard, Wayne Ova, Brian McCauley, Lindsay Freeman, Kevin McGinnis, Derek Henness and Shay Hanysak.

INVOCATION. – Pastor Wayne Ova, Faith Baptist Church

CONSENT AGENDA. Approval of September 14, 2023 Agenda, August 24th Council Meeting Minutes, Pay Application – Killough Construction – Main St. Terr/18th/Walnut - \$114,700.27, Pay Application – Killough Construction – Brown Avenue - \$260,101.33, Pay Application – BG Consultants – WWTP Improvements - \$9,055.31, Pay Application –BG Consultants – Water Distribution (6th Street) Improvements - \$7,533.00, Pay Application – John Brown & Levee Loop KDOT/TA - \$6,533.00, Pay Application – BG Consultants – 2022/2023 Street Improvements - \$23,388.00. **Motion** made by LaDuex, seconded by Dickinson to approve the consent agenda as presented. Yeas: All

COMMENTS FROM THE PUBLIC.

Pastor Wayne Ova – We have been working with John Wastlund. He heads up a grief comfort support group to help those that have suffered loss. We have had some sessions at our church a couple of months ago and it seemed beneficial to those that attended.

Ryan Rogers –We live at 1801 Brown and my wife and I are looking at building a new house on our property. We have 11 ½ acres. We also own the two lots to the east of that property that is located in Hickory Valley Subdivision. We would like to build a driveway off of Brown through those two properties in Hickory Valley to access the new house. There is currently nothing in the zoning regulations that would allow that. We are hoping that the city council would approve this change.

PUBLIC HEARINGS. -None.

PRESENTATIONS, PROCLAMATIONS AND APPOINTMENTS.

CONSTITUTION WEEK – Renee Slinkard with Daughters of the American Revolution gave a brief history on how constitution week came about. LaDuex read the proclamation. **Motion** made by Dickinson, seconded by LaDuex to accept the Proclamation setting September 17th through September 23, 2023 as Constitution Week as presented. Yeas: All.

UNFINISHED BUSINESS.

RESOLUTION 1164 – APPROVING SPECIAL USE PERMIT – EVERGY SOLAR ARRAY– The city’s zoning regulations require that an application be made that contains certain pieces of information advertisement be made at least 20 days in advance of a public hearing, the public hearing be held, and the planning commission make a recommendation on whether to issue or not issue the special use permit.

Each of these steps has been followed. No one appeared to speak for or against the construction of the solar array and the planning commission voted unanimously to recommend approval. While the planning commission did not recommend any conditions be placed on the facility, there are a handful of basics that should be noted and they are:

1. The facility shall be screened or fenced to prevent unauthorized access to the facility;
2. The facility shall be constructed and operated in conformance with city code;
3. The footprint of the facility may be expanded and additional panels added as demand warrants;
4. The special use permit is transferrable to another utility or the City of Osawatomie;
5. In the event a storage component is desired in the future, application for a revision to the special use permit shall be made and approved as required by city code;

Motion made by Macek, seconded by Bratton to approve Resolution 1164 – Issuing a special use permit to Evergy Kansas Central for the construction and operation of a 5-mw solar array on Parcel ID #1473500002010000 as presented. Yeas: All.

RESOLUTION 1165 – APPROVING SPECIAL USE PERMIT – ECHO HOUSING AT 306/308 WALNUT – The city’s zoning regulations require that an application be made, that contains certain pieces of information be provided, that advertisement be made at least 20 days in advance of a public hearing, the public hearing be held, and the planning commission make a recommendation on whether to issue or not issue the special use permit.

Each of these steps has been followed. No one appeared to speak for or against the application for echo housing.

There are a handful of restrictions that the zoning regulations require be attached if the special use permit is to be issued. They are:

1. The secondary residential dwelling shall be for dependent members of the family residing in the principal dwelling;
2. Nonconforming lots shall be re-platted to conform to current subdivision regulations;
3. The secondary residential dwelling shall be located in the established rear yard no less than ten (10) feet from the rear lot line and in conformance to side yard setbacks;
4. Where dwellings are held in separate fee simple ownership, easements shall be dedicated for separate utility connections;
5. The architectural style of the secondary dwelling structure shall echo the architectural style and materials of the principal structure, to which it shall be subordinate in height and bulk;
6. Lot coverage shall not exceed seventy five percent (75%) of the buildable lot area;

7. All structures shall meet or be brought up to current building code requirements;
8. A maximum of one off-street, parking space with direct access to a public street via the existing driveway shall be provided for the secondary residence, which space may be located in the established front yard of the principal structure. **Motion** made by Bratton, seconded by Caldwell to approve Resolution 1165 – Issuing a special use permit for echo housing at 306/308 walnut as presented. Yeas: All.

RESOLUTION 1166 – APPROVING FINAL PLAT – 5TH STREET TERRACE SUBDIVISION (10 ACRES) The purchase of 10 acres began roughly in September/October of 2021. Once the purchase was completed, the city entered into a predevelopment agreement with Wright Way Homes. That agreement was extended in March of 2023 for 180 days.

Also beginning in March, the city engaged Lamp Rynearson to engineer the public improvements and to assist with the surveying and platting process.

The culmination of all this work is contained in Resolution 1166 which approves the final plat, accepts the dedication of land to the city for public purposes, authorizes the mayor to sign the final plat and directs the city manager to file the final plat once all the signatures are obtained from the requisite parties. **Motion** made by Macek, seconded by Bratton to approve Resolution 1166 – Approving the final plat for 5th Street Terrace, accepting the dedication of public space(s), authorizing the mayor to sign the Final Plat, and directing the city manager to file the final plat with the register of deeds for Miami County as presented. Yeas: All.

NEW BUSINESS.

RESOLUTION 1162 – APPROVING GRANT AGREEMENT 23-CR005 FOR 525 MAIN STREET – This resolution allows the city to work as a conduit for the financing of \$250,000 in CDBG improvements for the properties located at 525 Main Street. **Motion** made by Schasteen, seconded by Filipin to approve Resolution 1162 – Authorizing grant agreement no. 23-CR-005 between the State of Kansas Department of Commerce and the City of Osawatomie for the renovation of commercial property owned by Rockwall Properties LLC (successors and assigns) located at 525 Main Street as presented. Yeas: All.

RESOLUTION 1163 – DESIGNATING DORMANT CIP FUND FOR USE BY THE ARTS COMMISSION – The fund proposed for use by the arts commission is the “CIP General” fund. It was last actively used by the Fire Dept. to complete the remodel of the fire station in 2021 and the city has other funds that this last project could have used to account for the project’s expenditures.

Additionally, the new Public Arts Fund would become active on January 1, 2024, but the arts commission could begin fundraising upon this resolution’s passage. **Motion** made by LaDuex, seconded by Schasteen to approve Resolution 1163 – Designating a dormant CIP fund for use by the City Arts Commission as presented. Yeas: All.

RESOLUTION 1167 – AUTHORIZING ELECTRICAL EQUIPMENT FOR SOLAR ARRAY & INVENTORY – the city is has committed to provide the substation to get power generated from the solar array onto the City’s distribution system. The city must install reclosers (protective devices), and other equipment to control and meter the energy produced by the solar array.

City staff received four quotes from the request, the bids were from:

- | | |
|------------------|--|
| 1. Anixter | Reclosers \$57,970, PT CT \$10,980.10. |
| 2. Graybar | Reclosers \$53,859.97 PT CT \$14,361.86, utility poles \$23,244.92 |
| 3. Border States | Reclosers \$62,010.98 PT CT \$9,569.68, utility poles \$24,666.40 |
| 4. Bridge well | Utility poles \$24,884.00 |

Motion made by Dickinson, seconded by Filipin to approve Resolution 1167 – Authorizing the purchase of poles from Graybar in the amount of \$23,244.92, reclosers from Graybar in the amount of \$53,859.97 and CTs, PTs and mounting bracket from Border States in the amount of \$9,569.68 as presented. Yeas: All.

RESOLUTION 1168 – AUTHORIZING CHANGE ORDER #1 BROWN AVENUE - In previous meetings with the council, we have discussed the issues that have been encountered crossing Main Street to size the storm water system appropriately. To get across Main at 10th, the cost was approximately \$8,500.

To get across Main at 8th and across 8th however, that cost is approximately \$38,000. We’ve also discussed previously who will be paying for this additional cost and what that number looks like. BG Consultants have agreed to pay \$30,000. **Motion** made by Schasteen, seconded by Macek to approve Resolution 1168 – Authorizing a change to the 2023 Brown Avenue Project to modify original stormwater design across Main Street at 10th and 8th as presented. Yeas: All.

RESOLUTION 1169 – AUTHORIZING MAYOR TO EXECUTE PREDEVELOPMENT AGREEMENT – Alcove Development LLC is contemplating the purchase of the property at 1009 Pacific to be redeveloped as a set of residential units. A Predevelopment Agreement would authorize the City to work with Alcove Development LLC in redeveloping this property, commonly known as “Old Swenson School.” **Motion** made by LaDuex, seconded by Schasteen to approve Resolution 1169 – Authorizing the City Council to enter into a predevelopment agreement for the redevelopment of the property located at 1009 Pacific with Alcove Development, LLC as presented. Yeas: All.

RESOLUTION 1170 – DIRECTING STAFF AND PLANNING COMMISSION TO REORGANIZE PLANNING COMMISSION - As the Planning Commission begins the process of an update to the following documents:

- Future Land Use Map
- Comprehensive Plan
- Zoning Regulations

- Subdivision Regulations

Staff believes it's important to increase the number of Planning Commissioner to help with the work. Additionally, staff believes – as is seen in most cities – that the Planning Commission should mirror the number of City Councilmembers that are elected. It's likely that in the past decades, because of a lack of citizen participation, the number of planning commissioners has been whittled down over time. We believe a large more diverse body would be extremely helpful as we tackle the future planning of our city. **Motion** made by Bratton, seconded by Filipin to approve Resolution 1170 – Directing the City Manager to work with the planning commission members in establishing an increased membership on the Osawatomie Planning Commission as presented. Yeas: All.

EXECUTIVE SESSION – None.

COUNCIL REPORTS

Dale Bratton ~ Freedom Festival is this Saturday and Sunday. The benches out front of Memorial Hall looks nice. Thank you, Kevin Schasteen.

Lawrence Dickinson ~ The Ministerial Alliance will be sponsoring the community Thanksgiving dinner on November 19th at the City Auditorium.

Kevin Schasteen ~ It is crazy living on Brown right now but the crews are doing a great job.

MAYOR'S REPORT

Third Saturday is this weekend.

Sharice Davids will be here on the 23rd for the Pottawatomie Trail of Death luncheon.

There is progress everywhere in Osawatomie.

Trojan Booster Club that is being developed.

CITY MANAGER & STAFF REPORTS.

Bret Glendening – We receive a signed consent for annexation from KDOT so at the next council meeting we will have an ordinance on the agenda for annexation.

Sam Moon ~ The cabin roof has been replaced by the state and hopefully the HVAC will get replaced next. They also had a contractor come down to look at the windows.

Mike Scanlon ~ We are working on a number of grants.

OTHER DISCUSSION/MOTIONS.

Motion made by LaDuex, seconded by Bratton to adjourn. Yeas: All. The mayor declared the meeting adjourned at 08:39 p.m.

/s/ Tammy Seamands
Tammy Seamands, City Clerk



ACTION ITEM SUMMARY	Item Number:	
	Date:	September 28, 2023
Building Official	From:	Keith Myers

RE: Condemnation Resolution 1171

RECOMMENDATION: Staff recommends that City Council approve Resolution 1171

DETAILS: The City of Osawatomie has identified the following properties as candidates for condemnation and demolition. Each property is currently vacant.

700 Pacific Ave.

- This property is currently vacant, and the utilities have not been active since October 2011. The wall on the east side of the structure appears to be separating from the rest of the structure, causing potential structural issues. The property is in a state of decay and is in violation of multiple adopted ordinances. Note the owner of the property has obtained a demolition permit for this property and is expecting to remove it in the next month.

904 Chestnut

- This property is currently Vacant. City staff received report the interior of the property is not in a habitable condition due to deterioration and the report of vermin in the property. This property also is in violation with multiple adopted ordinances, including but not limited to, broken/missing windows, deteriorating wood and uncontrolled roof drainage.

719 5th St.

- This property is currently vacant, and the utilities have not been active since August 2023. The south side of the structure has siding removed with the interior plaster and insulation exposed. This issue, along with the soffits and the rest of the structure being in disrepair is allowing excessive deterioration to the structure.

321 Mill St.

- This property is currently vacant. The structural stability of this home has been removed due to the owners intending on remodeling the structure. The structure has been stripped down to the studs, removing all the windows, plaster, and other misc. items. The owners were intending on remodeling the structure and was advised to stop work in August of 2023 due to not having the proper permitting or licensed contractors. Permitting and Contractor licensing has not been filed for on this property since the stop work order was placed.

1116 4th St.

- This property is currently vacant, and the water is not turned on. The north side of the structure has siding removed with the interior walls being exposed. This issue, along with the rest of the structure being in disrepair is allowing excessive deterioration to the structure. Speaking with the owner of the property, he advised he is aware of the issue and is currently fixing other dwellings he currently owns in the City of Osawatomie. He advised he intends on fixing the structure as soon as possible.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 1171

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, AT WHICH THE OWNERS, THE OWNER'S AGENT, ANY LIEN HOLDERS OF RECORD, AND ANY OCCUPANT AND OTHER PARTIES IN INTEREST OF STRUCTURES LOCATED WITHIN SAID CITY AND DESCRIBED HEREIN MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED IN THE CASE OF UNSAFE OR DANGEROUS STRUCTURES.

WHEREAS, the enforcing officer of the City of Osawatomie, Kansas, did on the 28th day of September, 2023, file with the Governing Body of said City, a statement in writing that the structures hereinafter described, are either abandoned, or unsafe and dangerous.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

That a hearing will be held on the 14th day of December, 2023, before the Governing Body of the City at 6:30 p.m., at Memorial Hall, 411 11th Street, Osawatomie, Kansas at which the owners, the owners' agents, any lien holders of record, any occupants and other parties in interest, as that term is defined by law, of the following described structures:

1. Lot 11 in Block 78, Ellensville Addition, City of Osawatomie, Miami County, Kansas, as shown on the recorded plat thereof in the City of Osawatomie, Miami County, Kansas, as per the plat thereof; Commonly known as **700 Pacific Ave.**
2. Lots 15, 16, 17, 18 and 20, in Block 1, Roberts 2nd Addition, City of Osawatomie, Miami County, Kansas, as shown on the recorded plat thereof in the City of Osawatomie, Miami County, Kansas, as per the plat thereof; Commonly known as **904 Chestnut**
3. Lot 20, in Block 91, Ellensville Additions, City of Osawatomie, Miami County, Kansas, as shown on the recorded plat thereof in the City of Osawatomie, Miami County, Kansas, as per the plat thereof; Commonly known as **719 5th St.**
4. Lot 6, in Block 2, Blaine's Addition, City of Osawatomie, Miami County, Kansas, as shown on the recorded plat thereof in the City of Osawatomie, Miami County, Kansas, as per the plat thereof; Commonly known as **321 Mill St.**
5. Lot 4, in Block 1, Ida May Sinkay's Addition, City of Osawatomie, Miami County, Kansas, as shown on the recorded plat thereof in the City of Osawatomie, Miami County, Kansas, as per the plat thereof; Commonly known as **1116 4th St.**

May appear and show cause why such structures should not be condemned and ordered repaired or demolished in the case of unsafe or dangerous structures.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this resolution to be published once each week for two consecutive weeks on the same day of each week with at least thirty days between the last publication and the date set for the hearing herein.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be mailed by certified mail within three days after its first publication to each owner, owners' agent, lienholder and occupancy and other party in interest at the last known address marked "deliver to addressee only."

PASSED AND ADOPTED by the Governing Body of the City of Osawatomic, Kansas this 28th day of September, 2023, a majority being in favor thereof.

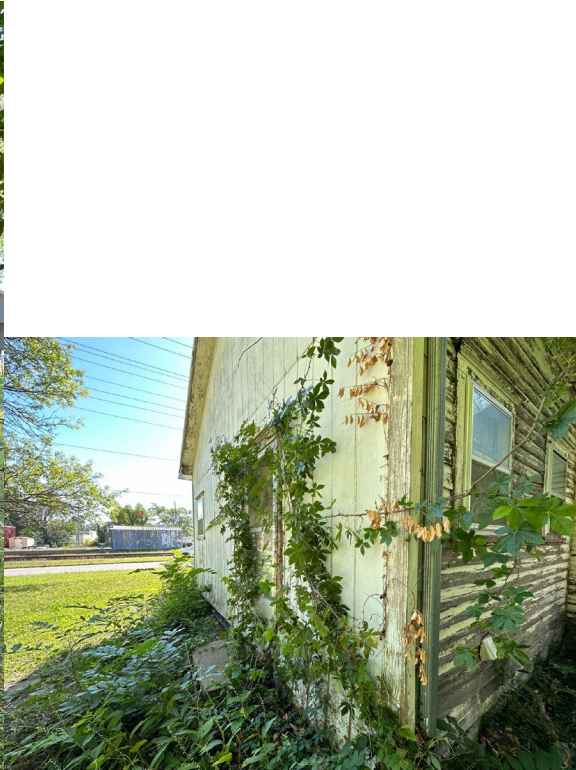
APPROVED AND SIGNED by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk





904 Chestnut















ACTION ITEM SUMMARY	Item Number:	10.B.
	Date:	September 18, 2023
City Manager	From:	Bret Glendening

RE: Ordinance 3837

RECOMMENDATION: Adopt Ordinance 3837

DETAILS:

This is finally coming to an end. We've received KDOT's consent for annexation. I've confirmed with Victory Chevrolet that they are still willing to move forward with the annexation as well.

Due to this proposed annexation's proximity to election day, the ordinance will not take effect until the day after the election.

The next steps for this process will be:

1. Finalize the appraisal to establish "fair market value";
2. Execute the bid/buy/sell agreement;
3. Purchase the subject property from KDOT;
4. Execute the development agreement;

Items 2 – 4 above require council action and we need to have all three of these completed by the end of October.

ORDINANCE NO. 3837

AN ORDINANCE INCLUDING, INCORPORATING AND ANNEXING CERTAIN LAND INTO THE LIMITS AND BOUNDARIES OF THE CITY OF OSAWATOMIE, KANSAS.

WHEREAS, the owner(s) of certain property, hereinafter described, have requested annexation thereof by the City of Osawatomie, Kansas; and

WHEREAS, the land described as parcel 1 below adjoins the city and is owned by the City of Osawatomie, Kansas who consents hereby to annexation, and;

WHEREAS, the land described as parcel 2 below adjoins the city and a written petition for or consent to annexation has been filed with the city by the owner(s), and;

WHEREAS, all of the conditions precedent to annexation of such property, as set forth in K.S.A. 12-520(a)(7), have been satisfied.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, AS FOLLOWS:

SECTION 1. That the following-described real estate parcels (and as shown in Exhibit A) are hereby annexed into the corporate limits of the City of Osawatomie, Miami County, Kansas, pursuant to K.S.A. 12-520, as amended and other relevant authority:

Parcel 1:

"(a) A tract of land in the Southeast Quarter of Section 29, Township 17 South, Range 23 East of the 6th P.M., described as follows: BEGINNING at the Southwest corner of said Quarter Section; FIRST COURSE, thence on an assumed bearing of North 02 degrees 32 minutes 47 seconds West, 171.505 meters (562.68 feet) along the West line of said Quarter Section; SECOND COURSE, thence South 35 degrees 49 minutes 43 seconds East, 81.237 meters (266.53 feet); THIRD COURSE, thence South 14 degrees 56 minutes 53 seconds West, 108.748 meters (356.78 feet) to the South line of said Quarter Section; FOURTH COURSE, thence South 88 degrees 03 minutes 31 seconds West, 11.890 meters (39.01 feet) along said South line to the point of beginning. The above described tract contains 0.444 hectare (1.10 acres), more or less."

AND

"(d) A tract of land in the Southwest Quarter of Section 29, Township 17 South, Range 23 East of the 6th P.M., described as follows: BEGINNING at the Southeast corner of said Quarter Section; FIRST COURSE, thence on an assumed bearing of South 86 degrees 49 minutes 46 seconds West, 199.579 meters (654.79 feet) along the South line of said Quarter Section; SECOND COURSE, thence North 06 degrees 23 minutes 02 seconds East, 29.494 meters (96.77 feet); THIRD COURSE, thence North 41 degrees 54 minutes 52 seconds East, 247.978 meters (813.58 feet) to a point on Northerly right of way line of the existing right of way as described in Tract 4 in District Court Case No. 18393 in the District Court of County, Kansas; FOURTH COURSE, thence South 35 degrees 49 minutes 43 seconds East, 38.814 meters (127.34 feet) to the East line of said Quarter Section; FIFTH COURSE, thence South 02 degrees 32 minutes 47 seconds East, 171.505 meters (562.68 feet) along said East line to the point of beginning. The above described tract contains 2.433 hectares (6.01 acres), more or less."

Parcel 2:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 23 EAST OF THE SIXTH P.M., FIRST COURSE, THENCE NORTH 879.6 FEET ALONG THE WEST LINE OF SAID QUARTER SECTION (ASSUMED BEARING OF NORTH 0 DEGREES 00 MINUTES); SECOND COURSE, THENCE EASTERLY TO A POINT 880.8 FEET NORTH AND 121.2 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING ON THE EXISTING EAST RIGHT OF WAY OF U.S. HIGHWAY 169 SPUR, THE PLACE OF BEGINNING; THIRD COURSE, THENCE EASTERLY 857 FEET TO A POINT 889.5 FEET NORTH AND 972.5 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING ON THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD); FOURTH COURSE, THENCE SOUTHWESTERLY 670.5 FEET ALONG THE SAID WEST RIGHT OF WAY OF U. S. HIGHWAY 169 (MAIN ROAD) TO A POINT 509.6 FEET NORTH AND 419.6 FEET EAST OF SAID SOUTHWEST CORNER, FIFTH COURSE, THENCE SOUTHWESTERLY 11.4 FEET ALONG THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD) TO A POINT 504.0 FEET NORTH AND 409.7 FEET EAST OF SAID

SOUTHWEST CORNER, SIXTH COURSE, THENCE SOUTHWESTERLY 91.1 FEET ALONG THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD) TO A POINT 474.6 FEET NORTH 310.8 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING THE INTERSECTION WITH THE EAST RIGHT OF WAY OF U.S. HIGHWAY 169 SPUR ROAD, SEVENTH COURSE, THENCE ON A CURVE OF 1055.92 FEET RADIUS TO THE RIGHT AN ARC DISTANCE OF 473.5 FEET, SUBJECT TO RIGHT OF ACCESS TO THE HIGHWAY OVER AND ACROSS THE FOLLOWING DESCRIBED COURSE, BEGINNING AT THE BEGINNING POINT OF SAID DESCRIBED TRACT AND EXTENDING SOUTHEASTERLY 179.2 FEET ALONG THE SEVENTH COURSE.

SECTION 2. Pursuant to the provisions of the Zoning Regulations, upon annexation, the both Parcel 1 and Parcel 2 shall be classified as “G-B – General Business”.

SECTION 3. This ordinance shall be published one time in the official city newspaper and shall take effect on November 8, 2023 in accordance with K.S.A. 12-523 and K.S.A. 12-539 and be in force thereafter.

SECTION 4. The City Clerk shall file a certified copy of this ordinance with the county clerk, the register of deeds, and the county election commissioner of Miami County, Kansas in accordance with K.S.A. 12-522, and amendments thereto.

SECTION 5. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 6. That the City Clerk is authorized by this ordinance to correct any scrivener’s errors identified within this Ordinance.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 28th day of September, 2023.

APPROVED AND SIGNED by the Mayor.

Nick Hampson, Mayor

(Seal)

ATTEST:

Tammy Seamands, City Clerk

EXHIBIT A



REQUEST FOR ANNEXATION BY CONSENT

This is a request for annexation of property by consent of the owners of property. This form must be completed and filed at City Hall, 509 Fifth St., Osawatomie, Kansas 66064.

Owner of Property Interest Approving Annexation by Consent:

Name(s): Secretary of Kansas Department of Transportation _____

Address: 700 SE Harrison Street; FL 14; Topeka, KS 66033 _____

Phone: _____

Email: _____

Primary Contact? (Please Check): ☐ Yes ☐ No

Agent Representing the Applicant (if applicable): - N/A

Contract Purchaser (if applicable): - N/A

PROPERTY INFORMATION

Property Address (if assigned): N/A

Size of Property: 7.31 Acres

Current Land Use(s): Vacant

Proposed Land Use(s) (if applicable): Commercial

Requested Zoning Classification Upon Annexation: G-B (General Business)

Legal Description of Property to be Annexed (if insufficient space, please provide full legal description on a separate page submitted with request form):



"(a) A tract of land in the Southeast Quarter of Section 29, Township 17 South, Range 23 East of the 6th P.M., described as follows: BEGINNING at the Southwest corner of said Quarter Section; FIRST COURSE, thence on an assumed bearing of North 02 degrees 32 minutes 47 seconds West, 171.505 meters (562.68 feet) along the West line of said Quarter Section; SECOND COURSE, thence South 35 degrees 49 minutes 43 seconds East, 81.237 meters (266.53 feet); THIRD COURSE, thence South 14 degrees 56 minutes 53 seconds West, 108.748 meters (356.78 feet) to the South line of said Quarter Section; FOURTH COURSE, thence South 88 degrees 03 minutes 31 seconds West, 11.890 meters (39.01 feet) along said South line to the point of beginning. The above described tract contains 0.444 hectare (1.10 acres), more or less."

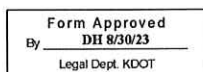
AND

"(d) A tract of land in the Southwest Quarter of Section 29, Township 17 South, Range 23 East of the 6th P.M., described as follows: BEGINNING at the Southeast corner of said Quarter Section; FIRST COURSE, thence on an assumed bearing of South 86 degrees 49 minutes 46 seconds West, 199.579 meters (654.79 feet) along the South line of said Quarter Section; SECOND COURSE, thence North 06 degrees 23 minutes 02 seconds East, 29.494 meters (96.77 feet); THIRD COURSE, thence North 41 degrees 54 minutes 52 seconds East, 247.978 meters (813.58 feet) to a point on Northerly right of way line of the existing right of way as described in Tract 4 in District Court Case No. 18393 in the District Court of County, Kansas; FOURTH COURSE, thence South 35 degrees 49 minutes 43 seconds East, 38.814 meters (127.34 feet) to the East line of said Quarter Section; FIFTH COURSE, thence South 02 degrees 32 minutes 47 seconds East, 171.505 meters (562.68 feet) along said East line to the point of beginning. The above described tract contains 2.433 hectares (6.01 acres), more or less."

I, (We) being the owner(s) of the previously described real property, hereby consent to annexation of such property into the City of Osawatomie, Kansas.

I, (We) further waive notice and hearing upon such annexation, and other formal proceedings and conditions precedent to annexation, all provided by K.S.A. 12-520a.

Signature of Owner(s): *[Signature]*



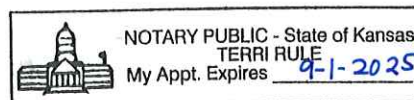
Date: 9/14/23

State of Kansas)
County of Miami) §
Shawnee

Subscribed and sworn to before me this 14th day of September, 2023.

[Signature]
Notary Public

My commission expires: 9-1-2025



REQUEST FOR ANNEXATION BY CONSENT

This is a request for annexation of property by consent of the owners of property. This form must be completed and filed at City Hall, 509 Fifth St., Osawatomie, Kansas 66064.

Owner of Property Requesting Annexation by Consent:

Name(s): Premier Automotive Real Estate of Paola LLC

Address: 32575 Old KC Road Paola KS

Phone: 816-365-8031

Email: egentry@victorykc.com

Primary Contact? (Please Check): ☒ Yes ☐ No

Agent Representing the Applicant (if applicable):

Name(s): Eric Gentry

Address: 1720 N 100th Terrace KC KS 66111

Phone: 816-365-8031

Email: egentry@victorykc.com

Primary Contact? (Please Check): ☒ Yes ☐ No

Contract Purchaser (if applicable):

Name(s): _____

Address: _____

Phone: _____

Email: _____

Primary Contact? (Please Check): ☐ Yes ☐ No

PROPERTY INFORMATION

Property Address (if assigned): 32575 Old KC Road Paola KS

Size of Property: 4 Acres Approx

Current Land Use(s): Automobile Dealership

Proposed Land Use(s) (if applicable): Dealership Expansion

Requested Zoning Classification Upon Annexation (some zones require a zone change): Commercial

Legal Description of Property to be Annexed (if insufficient space, please provide full legal description on a separate page submitted with request form): _____

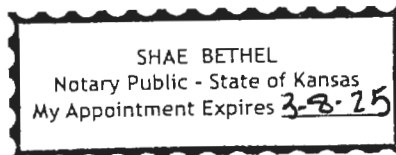
I, (We) being the owner(s) of the previously described real property, hereby request and consent to annexation of such property into the City of Osawatomie, Kansas.

I, (We) further waive notice and hearing upon such annexation, and other formal proceedings and conditions precedent to annexation, all provided by K.S.A. 12-520a.

Signature of Owner(s): _____

Date: 10-6-2022

State of Kansas)
) §
County of Miami)



Subscribed and sworn to before me this 6th day of October, 2022.

Shae Bethel
Notary Public

My commission expires: 3-8-25

ALL THAT PART OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 23 EAST IN THE CITY OF PAOLA, MIAMI COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 23 EAST OF THE SIXTH P.M., FIRST COURSE, THENCE NORTH 879.6 FEET ALONG THE WEST LINE OF SAID QUARTER SECTION (ASSUMED BEARING OF NORTH 0 DEGREES 00 MINUTES); SECOND COURSE, THENCE EASTERLY TO A POINT 880.8 FEET NORTH AND 121.2 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING ON THE EXISTING EAST RIGHT OF WAY OF U.S. HIGHWAY 169 SPUR, THE PLACE OF BEGINNING; THIRD COURSE, THENCE EASTERLY 857 FEET TO A POINT 889.5 FEET NORTH AND 972.5 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING ON THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD); FOURTH COURSE, THENCE SOUTHWESTERLY 670.5 FEET ALONG THE SAID WEST RIGHT OF WAY OF U. S. HIGHWAY 169 (MAIN ROAD) TO A POINT 509.6 FEET NORTH AND 419.6 FEET EAST OF SAID SOUTHWEST CORNER, FIFTH COURSE, THENCE SOUTHWESTERLY 11.4 FEET ALONG THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD) TO A POINT 504.0 FEET NORTH AND 409.7 FEET EAST OF SAID

SOUTHWEST CORNER, SIXTH COURSE, THENCE SOUTHWESTERLY 91.1 FEET ALONG THE WEST RIGHT OF WAY OF U.S. HIGHWAY 169 (MAIN ROAD) TO A POINT 474.6 FEET NORTH 310.8 FEET EAST OF SAID SOUTHWEST CORNER, SAID POINT BEING THE INTERSECTION WITH THE EAST RIGHT OF WAY OF U.S. HIGHWAY 169 SPUR ROAD, SEVENTH COURSE, THENCE ON A CURVE OF 1055.92 FEET RADIUS TO THE RIGHT AN ARC DISTANCE OF 473.5 FEET, SUBJECT TO RIGHT OF ACCESS TO THE HIGHWAY OVER AND ACROSS THE FOLLOWING DESCRIBED COURSE, BEGINNING AT THE BEGINNING POINT OF SAID DESCRIBED TRACT AND EXTENDING SOUTHEASTERLY 179.2 FEET ALONG THE SEVENTH COURSE.



ACTION ITEM SUMMARY	Item Number:	10.C.
	Date:	September 27, 2023
Public Works Director	From:	Michele Silsbee

RE: Acceptance of work on Main St. Terrace/18th Street/Walnut Ave. and approving final payment

RECOMMENDATION: That the city council accept the work and approve final payment and approve Res. 1172.

DETAILS: The original contract value for this project was: \$1,734,521.07. The council has approved two change orders to this project totaling \$21,029.61 making the final contract value is: \$1,755,550.68.

Final value of work completed for this project is \$1,717,092.59; approximately \$39,000 under the amended contract value.

City staff recommends accepting the project as completed, releasing of retention and approving the final payment in the amount of: \$80,467.51.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 1172

A RESOLUTION ACCEPTING COMPLETED WORK ON MAIN STREET TERRACE, 18TH STREET AND WALNUT AVENUE, AUTHORIZING FINAL PAYMENT AND RELEASE OF RETENTION

WHEREAS, the council approved a property tax rate increase from 63.236 to 80.000 mills for the 2022 fiscal year by Resolution 918; and

WHEREAS, the citizens of Osawatomie also voted in favor of a ½ cent sales tax also dedicated to street projects; and

WHEREAS, the City Council approved Resolution 931 which contracted with BG Consultants for the design of Main Street Terrace, 18th Street and Walnut Ave.; and

WHEREAS, the Governing Body, by Resolution 1037, awarded the contract to construct Main Street Terrace, 18th Street and Walnut Avenue to Killough Construction from Ottawa, Kansas.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: The Governing Body hereby accepts the work performed by Killough Construction for Main Street Terrace, 18th Street and Walnut Ave.

SECTION TWO: The Governing Body hereby approves the final payment and release of retention in the amount of: \$80,467.51.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 28th day of September, 2023, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk



ACTION ITEM SUMMARY	Item Number:	10.D.
	Date:	September 20, 2023
From: Our City Planning	From:	Mike Scanlon

RE: Resolution 1173 directing staff to develop a City Council Policy for Economic Development Grants

RECOMMENDATION: That the city council approve Resolution 1173 directing staff to develop a City Council Policy for Economic Development Grants.

DETAILS: As we have been both approached and explored Economic Development projects in our community one of the emerging trends is to simplify how economic incentives are given. For the most part local government incentives are based various state statutes. Attached to this resolution is a Memorandum from Gilmore Bell in regards to Economic Development Grants (EDGs). We believe this a far simpler and more transparent approach and one that can be repeated for various types of companies. But for these EDGs to be effective and beneficial to the community there needs to be an agreed upon set of policies that outlines, where, when, in what amount and for whom they can be granted. There also needs to be reporting requirements and other terms and conditions that should be considered when a unique situation presents.

City staff recommends that we begin work on an EDG City Council Policy that can be considered at the October 12, 2023 City Council meeting. We anticipate this will require a couple of council meetings for questions and consideration, so the agendas for the meetings in October reflect presentations of these resolutions/ordinances at the first meeting with votes on them at the second meeting.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 1173

**A RESOLUTION DIRECTING STAFF TO DEVELOP A CITY COUNCIL POLICY FOR
ECONOMIC GRANTS.**

WHEREAS, the City Council in 2020 identified one of the five major five goals of the community as Economic Development (including housing); and

WHEREAS, the city continues to pursue various economic development projects; and

WHEREAS, all of the major projects that we've been asked to submit proposals to have a tax sharing or tax abatement piece; and

WHEREAS, staff believes there is a far easier and more transparent approach in which the city council could consider various economic incentive, through the use of Economic Development Grants.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY
OF OSAWATOMIE, KANSAS:**

SECTION ONE: The Governing Body hereby directs the city staff to prepare for consideration a city council policy that will address the use and consideration of Economic Development Grants.

SECTION TWO: The city staff will prepare a draft version of this City Council to consider at their October 12, 2023 meeting with final passage expected on October 26, 2023.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 28th day of September, 2023, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk

Date: March 22, 2022

To: Mike Scanlon, City Manager, City of Osawatomie, Kansas (the "City")

Re: Legal Authority for Economic Development Grant

Mike;

You have inquired about the ability of the City to provide funds to private entities to foster economic development. It is well established under Kansas law that cities may exercise their constitutional home rule power to make appropriations for economic development purposes. *See e.g. Duckworth v. City of Kansas City*, 758 P.2d 201, 205 (Kan. 1988) (a city may provide a loan to a private business). Accordingly, the City may make an economic development grant (an "ED Grant") to a private entity upon such terms as the City deems advisable for the public purpose of promoting the economic development of the City. Sources of funds for an ED Grant may include, but are not limited to, City ad valorem property tax revenues, City sales tax revenues not otherwise pledged to other purposes, transient guest tax revenues, and franchise fees.

Additionally, as a utility provider, the City has the ability to negotiate specific rate structures within its utilities for the purpose of creating economic development opportunities. Although the City has substantial latitude in setting utility rates, there are some limitations. As a general rule, utility rates must be reasonable in the sense that they are not excessive or confiscatory. *See e.g. Holton Creamery v. Brown*, 20 P.2d 503 (Kan. 1933), *Shawnee Mobile Homes, Inc., Inc. v. Rural Water District No. 6*, 537 P.2d 210 (Kan. 1975).

I would recommend that before the City begins negotiations to make an ED Grant, it establishes a policy and set of procedures regarding their use. As part of the economic development team of the City, we welcome the opportunity to participate in this process.

Sincerely,



Mitch Walter
Gilmore & Bell, P.C.



ACTION ITEM SUMMARY	Item Number:	10.E.
	Date:	September 20, 2023
From: Our City Planning	From:	Mike Scanlon

RE: Resolution 1174 directing staff to begin negotiations with newly annexed properties for Economic Development purposes

RECOMMENDATION: That the city council approve Resolution 1174 directing staff to begin negotiations with newly annexed properties for Economic Development purposes.

DETAILS: As indicated on the September 28, 2023 Agenda there are property owners that have agreed to be annexed into the City of Osawatomie. This annexation will yield the addition of a large commercial property owner (business owner) that would like to consider the expansion and redevelopment of their facilities and properties.

City staff needs to begin discussions and negotiations on the potential economic development opportunity with this property owner and build a framework and possible Economic Development Grant that the City Council can consider. At the same time, as contemplated in Resolution 1173, city staff will begin working on City Council policies that will set the parameters for future negotiations with future business partners in our community.

For this first opportunity, our goal is to be done by the end of October. Which, may be difficult to achieve since we are simultaneously crafting the policies that development agreement will follow.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 1174

**A RESOLUTION DIRECTING STAFF TO BEGIN NEGOTIATIONS WITH NEWLY
ANNEXED PROPERTIES FOR ECONOMIC DEVELOPMENT PURPOSES.**

WHEREAS, the City Council is contemplating the annexation of new territories into the City of Osawatomie in the coming 90 days; and

WHEREAS, the annexation of some of these properties will bring about the opportunity for a greater investment in our community; and

WHEREAS, in order for that investment to be realized a Tax Sharing Agreement or Economic Development Grant needs to be negotiated; and

WHEREAS, staff has determined that it is a far easier and more transparent approach to consider economic incentives through the use of Economic Development Grants.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY
OF OSAWATOMIE, KANSAS:**

SECTION ONE: The Governing Body hereby directs the city staff to begin negotiations with soon to be annexed areas to assist them with the development of their properties.

SECTION TWO: Once the development agreement is finalized, staff is further directed to present the agreement to the council for review and confirmation that the agreement conforms to the council's Economic Development Policy. The Governing Body will have the final authority in approving or disapproving the final agreement.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 28th day of September, 2023, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk



CITY OF OSAWATOMIE

CITY MANAGER'S REPORT

September 28, 2023

Water Treatment Plant Status:

We are in receipt of our State Revolving Loan Fund paperwork for the water treatment plant and distribution system project. In speaking with Austin Masters with the USDA, he advised that as of August 11, the national office had called back all unspent/uncommitted funds for pooling and reallocation. They are still not hopeful that there will be adequate grant dollars remaining in the pooling process for our project to receive a Letter of Conditions and they further advised that we wait a bit longer until the start of the new federal fiscal year (October 1) when their new appropriation becomes available. Everything else is ready to go. **As part of the design process, beginning in March, we will be piloting a trailer mounted ozone treatment system which will aid our engineering team in sizing the ozone equipment properly.**

Wastewater Treatment Plant Status:

Substantial completion has been achieved and most of the punch list items have been completed with the exception of the ferric tank, operator training on new systems, and some controls. Additionally, since we have had meaningful use of the facility again and the overflow basin has been pumped out and cleaned, we have not had a bypass. However, we have not had a storm large enough to really test the improvements and added storm capacity either so we cannot say for certain if I & I (inflow and infiltration) will continue to be an issue. Hopefully not.

Evergy Solar Array Development:

We are having monthly progress meetings with Evergy for the engineering and construction progress. Construction is set to begin in October of this year with energization occurring in 2024. **REMINDER: Groundbreaking for solar array project is 10/12 @ 5:00 p.m. Estimated energization is third quarter of 2024.**

Lead/Copper Inventory:

We only received one bid for the lead/copper inventory RFP that we sent out. We are currently evaluating it and identifying other firms that may be able to assist us in the completing the inventory. That being said, we have received test results from all residents who participated in the initial testing and all test results came back as good as we could have hoped. No samples that were tested revealed levels of lead or copper in excess of the actionable levels established by the EPA so no action needs to be taken on either the part of the homeowner or the city.

Levee Certification / Flood Insurance Rate Map Revisions – Status Update:

The flood hazard determination notice was published in the Federal Register on April 3. The appeal period ended on Tuesday, and we did not receive any appeals or comments. We are now in the preparation phase for the Final Map Products. I will update the council once we have the Letter of Final Determination (LFD) date established, but it should be in early 2024.

Anyone who would like to view the current flood insurance rate maps can view them here:

<https://gis2.kda.ks.gov/gis/osawatomie/>

August 8, 2022	Kickoff Meeting
September 8, 2022	Provide Review Comments to Certification Data
November 29, 2022	Distribute Preliminary Flood Insurance Rate Maps (FIRMs)
January/February 2023	Community Coordination & Outreach (CCO) meetings
February 2023	End CCO Meetings
Spring 2023	Appeals Period (90 days from date of last publication)
Spring 2024	Letter of Final Determination
Summer 2024	Final FIRMs established and effective

2023 Street Improvements:

Staff is ready to close out the Main Street Terrace/18th St/Walnut Avenue project. All in all, the project came in better than budgeted and only slightly above the original contract amount. The resolution on tonight's agenda accepts the work, closes the project out, and approves the final payment and release of retention.

Brown Ave. has been painful and we appreciate the impacted resident's patience (even if it is understandably thin at times). We await new materials for the storm water crossing at 8th Street, but the storm water system on Brown Ave. itself is nearly installed. Killough has two crews working and will have two crews working until such time as two crews cannot be warranted, in order to get the project finished before we lose our construction season. However, the installation of the water line on this project has left a lot to be desired in my opinion. The asphalt thickness on Brown Ave averaged 3". By today's standards, that is 1/3rd of what we build to today. When this project is done, we will have a much better product.

The bid opening for 6th Street is tomorrow (9/29). It is a public bid opening of course and you are all welcome to attend if you wish. Michele and I will be out of town, but anxiously awaiting the results. We will be able to confirm a low bidder the following week and have a resolution to the council formalizing the award on the October 12 agenda. Considering the amount of work involved with this project, we have a short timeline to get it completed. We will spend the rest of this year chasing temporary easements. The selected contractor and utilities will need to start relocating their infrastructure shortly after the contract is awarded. This is driven by the schedule of this project and the cost share funding from KDOT. We have structured the contract to allow the contractor to work weekends if they need to (calendar day vs. business day).

Lastly, we will be exploring ways to get the next round of streets designed and ready for when we can issue additional bonds. Those streets are basically around the middle school and first street from Main St. to the levee.

AMI Meter Update:

We are still moving forward with the AMI system and we continue to look for grants to offset the cost. As a reminder, the cost is \$1,500,000 and that is split roughly 50/50 between the water and electric fund. We expect to start receiving meters in March or April of next year. Our utility crews will install the electric meters and we expect to contract out the installation of the water meters.