

Dodge City/Ford County CFAB Advisory Board Meeting
City Hall City Commission Chambers
Wednesday, June 25, 2014
6:00 P.M.
Agenda

Welcome: Chair Justin Banning

Roll Call

Call to Order: Chair Justin Banning

Visitors

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

Consent Calendar

1. Approval of Minutes from May 21, 2014 Meeting
2. "Why Not Dodge" Sales Tax Fund Monthly Financial Report

Unfinished Business

1. Recommendation for Caviler Field Rental Rates- Report by Director of Parks and Recreation-Paul Lewis

New Business

1. Approval of Features and Amenities for Regional Aquatics Park-Report by Director of Parks and Recreation-Paul Lewis
2. Report on Aquatics Park Procurement Process-Report by Director of Parks and Recreation-Paul Lewis

Reports:

1. Dodge City Raceway Park (DCRP) Update-Report by DCRP Promoter Tommie Estes

Other:

1. Kansas Open Meetings Act-Report by Project Development Coordinator Melissa McCoy

Next Meeting Date: July 23, 2014 at 6:00 PM in the City Commission Chambers

Adjournment

***Community Facilities Advisory Board Minutes
City Hall, Commission Chambers
Wednesday May 21, 2014***

City Commission Chambers

6:00 p.m.

WELCOME: Tom Stanley, Vice Chair

ROLL CALL: Chris Boys, Dr. Perak, Rick Sowers, Tom Stanley, Dan Schenkein, Cherise Tieben, City Manager, Ed Elam, County Administrator and Glenn Kerbs, County Legal Counsel. Absent: Justin Banning and Bill Turley.

APPROVAL OF CONSENT CALENDAR:

1. Approval of CFAB Meeting Minutes, May 1, 2014-Dr. Perak moved to approve the consent calendar as presented, Dan Schenkein seconded the motion. The motion carried 5-0.

NEW BUSINESS:

1. Developer Presentation-Report by City Manager, Cherise Tieben. Presenters at the meeting were Bill Crandall and Jasen Glasrud with Carr, Baier and Crandall (CBC) Real Estate, Scott Slaggie with Slaggie Architects, Steve Olsen and Gary Endicott with Leisure Hotels and Resorts as well as Dave Swartz with Water's Edge Design. Mr. Bill Crandall with CBC Real Estate began by talking about the Star Bonds district particularly the Heritage District. Followed by an overview of the downtown district development including expansion of Boot Hill Museum, the regional aquatics park and hotel by Scott Slaggie of Slaggie Architects.

Steve Olsen, CEO of Leisure Group Companies shared with CFAB, his ideas on the hotel to be located adjacent to the Water Park. While Dave Swartz with Water's Edge Design discussed the proposed Water Park and the Wright Park site.

2. Water Park Progress Report and Features Discussion-Report by Director of Parks and Recreation Paul Lewis. Mr. Lewis asked for feedback and direction on the process to involve the public in the discussion on the proposed features and amenities. The goal of having the park open in May of 2015 was presented. Staff will work with consultants on the timeline. The proposed 2015 opening date will require more frequent meetings with CFAB and the joint commissions.

The idea of an open house or some other types of public forums were discussed and it was the consensus by CFAB to move forward with a public forum.

City Manager, Cherise Tieben spoke regarding the downtown concept and wanted CFAB and the public to see the potential for future development. Bill Crandall commented that Leisure Group Companies would be a partner for the project.

UPCOMING MEETINGS:

1. CFAB Meeting: June 25 at 6:00 PM in the City Commissioners Chambers
2. City Manager, Cherise Tieben made CFAB aware that the board was also subject to the open meetings act.

ADJOURNMENT: Chris Boys made a motion to adjourn the meeting. Dr. Perak seconded. The motion passed 5-0.

SALES TAX PROJECT FUND
STATEMENT OF REVENUE AND EXPENDITURES
BUDGET PERFORMANCE
 May, 2014

	Current Month (May 2014) Actual	Current Month (May 2014) Budget	Current YTD (Jan - May 2014) Actual	Current YTD (Jan - May 2014) Budget	Annual FY 2014 Budget	
OPERATING FUND-SALES TAX PROJECTS						
Revenues						
Sales Tax	848,608.78	466,666.00	2,424,697.48	2,333,330.00	5,600,000.00	43.30%
Transfer from general Fund	0.00	0.00	0.00	0.00	0.00	0.00%
Investment Earnings	141.83	416.00	651.80	2,080.00	5,000.00	13.04%
Field Sports Revenues	3,420.00	1,499.00	13,420.00	7,495.00	18,000.00	74.56%
Racetrack Revenues	0.00	0.00	0.00	0.00	0.00	0.00%
Sale of Advertising	2,000.00	583.00	2,000.00	2,915.00	7,000.00	28.57%
Miscellaneous	0.00	0.00	0.00	0.00	0.00	0.00%
	<u>854,170.61</u>	<u>469,164.00</u>	<u>2,440,769.28</u>	<u>2,345,820.00</u>	<u>5,630,000.00</u>	<u>43.35%</u>
Expenditures						
Field Sports						
Personnel Services	24,675.12	18,929.00	66,427.88	94,645.00	227,185.00	29.24%
Contractual Services	8,582.17	8,181.00	24,306.43	40,905.00	98,250.00	24.74%
Commodities	31,257.08	7,109.00	47,196.66	35,545.00	85,350.00	55.30%
Capital	0.00	1,250.00	5,390.00	6,250.00	15,000.00	35.93%
Field Sports-Concessions	0.00	0.00	0.00	0.00	0.00	
Field Sports-Tournaments	<u>50,000.00</u>	<u>11,333.00</u>	<u>75,000.00</u>	<u>56,665.00</u>	<u>136,000.00</u>	<u>55.15%</u>
Total-Field Sports	114,514.37	46,802.00	218,320.97	234,010.00	561,785.00	38.86%
Administration						
Contractual Services	2,538.70	73,774.00	8,038.69	368,870.00	885,300.00	0.91%
Commodities	0.00	25.00	0.00	125.00	300.00	0.00%
Bond Payment Transfers	218,476.24	210,833.00	1,277,315.84	1,054,165.00	2,530,000.00	50.49%
Transfer to Depr & Repl	0.00	28,750.00	0.00	143,750.00	345,000.00	0.00%
Other	<u>0.00</u>	<u>166.00</u>	<u>0.00</u>	<u>830.00</u>	<u>2,000.00</u>	<u>0.00%</u>
Total-Administration	221,014.94	313,548.00	1,285,354.53	1,567,740.00	3,762,600.00	34.16%
Special Events Centers						

Total Revenues	211,767.92	1,263,245.59
Expenditures		
Principal Payments	0.00	0.00
Interest Payments	<u>0.00</u>	<u>0.00</u>
Total Expenditures	0.00	0.00
Revenue Over/Under Expenditures	211,767.92	1,263,245.59

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Other	<u>0.00</u>	<u>166.00</u>	<u>0.00</u>	<u>830.00</u>	<u>2,000.00</u>	<u>0.00%</u>
Total-Administration	221,014.94	313,548.00	1,285,354.53	1,567,740.00	3,762,600.00	34.16%
Special Events Centers						

Contractual	139,564.19	50,882.00	540,191.04	254,410.00	610,600.00	88.47%
Commodities	<u>0.00</u>	<u>0.00</u>	<u>877.00</u>	<u>0.00</u>	<u>0.00</u>	0.00%
Total-Special Events Centers	139,564.19	50,882.00	541,068.04	254,410.00	610,600.00	88.61%
Facilities Maintenance						
Personnel Services	840.80	1,394.00	1,105.62	6,970.00	16,740.00	6.60%
Contractual Services	<u>0.00</u>	41.00	<u>0.00</u>	205.00	500.00	0.00%
Commodities	<u>0.00</u>	<u>815.00</u>	<u>0.00</u>	<u>4,075.00</u>	<u>9,800.00</u>	0.00%
Total-Facilities Maintenance	840.80	2,250.00	1,105.62	11,250.00	27,040.00	4.09%
Raceway Park						
Personnel Services	1,189.74	584.00	2,048.80	2,920.00	7,020.00	29.19%
Contractual Services	55,758.26	22,354.00	113,010.14	111,770.00	268,300.00	42.12%
Commodities	1,454.26	1,625.00	4,050.35	8,125.00	19,500.00	20.77%
Capital Outlay	<u>0.00</u>	<u>500.00</u>	<u>0.00</u>	<u>2,500.00</u>	<u>6,000.00</u>	0.00%
Total-Raceway Park	58,402.26	25,063.00	119,109.29	125,315.00	300,820.00	39.59%
TOTAL EXPENDITURES-OPERATING FUN	534,336.56	438,545.00	2,164,958.45	2,192,725.00	5,262,845.00	41.14%
Revenue Over/Under Expenditures	319,834.05	30,619.00	275,810.83	153,095.00	367,155.00	
ST Organizational Funding Fund						
Revenues						
Grants	0.00	0.00	0.00	0.00	0.00	
Charges for Services	0.00	0.00	22.98	0.00	0.00	
Transfer From Sales Tax Fund	0.00	25,000.00	0.00	125,000.00	300,000.00	0.00%
Total Revenue-ST Organizational Funding	0.00	25,000.00	22.98	125,000.00	300,000.00	
Expenditures						
Personnel Services	6,661.62	5,267.00	22,975.00	26,335.00	63,235.00	36.33%
Contractual Services	2,194.46	19,097.92	260,357.02	95,489.60	229,175.00	113.61%
Commodities	41,815.00	625.00	4,333.50	3,125.00	7,500.00	57.78%
Capital Outlay	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	
Total Expenditures-ST Organizational Fundin	50,671.08	24,989.92	287,665.52	124,949.60	299,910.00	95.92%
Revenue Over/Under Expenditures	-50,671.08	10.08	-287,642.54	50.40	90.00	
Debt Service Account						
Revenues						
Investment Income	0.00		0.00			
Transfer from Project Fund	0.00		204,405.99			
Transfer from Operating Funds	<u>211,767.92</u>		<u>1,058,839.60</u>			

Total Revenues	211,767.92	1,263,245.59
Expenditures		
Principal Payments	0.00	0.00
Interest Payments	<u>0.00</u>	<u>0.00</u>
Total Expenditures	0.00	0.00
Revenue Over/Under Expenditures	211,767.92	1,263,245.59

BALANCE SHEET
SALES TAX PROJECT FUNDS
ENDING May 31, 2014

	Operating Fund	Organizational Funding Fund	ST-Depr. & Replacement Fund	Event Fund	SEC Project Fund	Debt Service Account	TOTAL SALES TAX PROJECTS FUNDS
ASSETS							
Assets							
Cash	3,816,916.90	-83,155.49	4,648,773.57	235,065.80	0.00	2,099,330.14	10,716,930.92
Cash - Reserve						3,435,167.64	3,435,167.64
Miscellaneous Receivable	3,323.93						3,323.93
Sales Tax Receivable	378,748.34	0.00	0.00	0.00			378,748.34
Deferred Bond Issuance Costs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>		<u>831,124.81</u>	<u>831,124.81</u>
TOTAL ASSETS	4,198,989.17	-83,155.49	4,648,773.57	235,065.80	0.00	6,365,622.59	15,365,295.64
LIABILITIES & FUND BALANCE							
Liabilities							
Accounts Payable	428,515.53	834.00	0.00	0.00			429,349.53
Salaries Payable	0.00	0.00	0.00	0.00			0.00
Sales Tax Payable		2.00					2.00
Compensated Absences Payable	7,660.95	2,298.90	0.00	0.00			9,959.85
Accrued Interest Payable	0.00	0.00	0.00	0.00			141,986.67
Bond Premium	0.00	0.00	0.00	0.00			60,244.84
Bonds Payable-Current	0.00	0.00	0.00	0.00			825,000.00
Bonds Payable-Non-Current	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>			<u>37,070,000.00</u>
TOTAL LIABILITIES	436,176.48	3,134.90	0.00	0.00	0.00	38,097,231.51	38,536,542.89
Total Current Liabilities							
FUND BALAN:							
Reserve for Encumbrances	3,762,812.69	-288,427.39	4,648,773.57	235,065.80	0.00	5,738,072.91	14,096,297.58
Net Capital Assets-Related Debt		202,137.00					
Unused debt proceeds							-37,895,000.00
Total Fund Equity							204,369.00
							<u>-31,952,558.09</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>4,198,989.17</u>	<u>-83,155.49</u>	<u>4,648,773.57</u>	<u>235,065.80</u>	<u>0.00</u>	<u>6,144,673.42</u>	<u>14,942,209.47</u>



Parks and Recreation

PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

Memorandum

To: Community Facilities Advisory Board
From: Paul Lewis, Parks & Recreation Director
Date: June 18, 2014
Cc: Cherise Tieben, City Manager
Subject: Cavalier Field Rental Rates

A handwritten signature in black ink, appearing to be "P. Lewis", is written to the right of the "From:" line.

RECOMMENDATION: Staff requests input and a recommendation from the Advisory Board for revised rental rates for Cavalier Field.

BACKGROUND: At a previous Community Facility Advisory Board meeting, staff presented information regarding potential field rental rates for Cavalier Field and requested input from CFAB for a recommendation to the City Commission. This review of rental rates was based upon the pending improvements of Cavalier from a natural turf infield to an artificial turf surface. Attached with this memo is a breakdown of current charges and multiple options for your consideration that would offset a portion of the capital cost and/or the depreciation amount for future replacement of the turf surface.

Also included in the breakdown is the anticipated income generated from the various options based on the facilities primary users and their typical schedules. Those numbers incorporate a concept to distinguish between standard users and programs and activities funded by the Why Not Dodge sales tax.

Finally I've included comparison information of fee structures from two comparable facilities that have installed artificial turf infields.

JUSTIFICATION: The anticipated cost to upgrade the surface of the field is \$350,000. Additionally, the life expectancy of the new surface will be somewhere between eight and ten years. At the end of that period, the carpet will have to be replaced which should be in the neighborhood of 40-50% of the original construction cost. When that replacement time comes, we can expect a capital expense of \$140,000 or more based on today's costs.

FINANCIAL CONSIDERATIONS: The information provided lays out multiple options to offset a portion of the anticipated capital cost or the future replacement costs. It also gives various methods to charge users who benefit from the improvements while not overly impacting Why Not Dodge funded activities the sales tax fund was intended to promote.

PURPOSE/MISSION: This project continues the community's efforts to provide first class recreational opportunities that attract people and teams to the area to build and enhance a recreation tourism economy.

LEGAL CONSIDERATIONS: CFAB is being asked to provide a recommendation to the City Commission. Based on CFAB actions, a resolution will be presented to the City Commission for their approval which will formalize the rates to charge the various users of the facility.

ATTACHMENTS: Proposed Rate Information



Cavalier Field Rental Rates

Standard Rentals	Proposals			
	Current	Option 1	Option 2	Option 3
Field Rental	\$120 day	\$500 day	\$300 day	\$180 day
	\$80 1/2 day	\$300 1/2 day	\$180 1/2 day	\$100 1/2 day
Lights	\$20 per hour	\$75 day	\$75 day	\$75 day
Field Prep	\$20 day	n/a	n/a	n/a
Field Supervisor*	\$9 per hour	\$9 per hour	\$9 per hour	\$9 per hour
Gate Admission	15% of gross	NC	NC	NC
Novelty Sales	10% of gross	NC	NC	NC
Daily Practice	per agreement	\$100 day	\$60 day	\$40 day

Why Not Dodge

Field Rental	\$120 day	\$300 day	\$180 day	\$120 day
	\$80 1/2 day	\$180 1/2 day	\$110 1/2 day	\$80 1/2 day
Lights	\$20 per hour	\$50 day	\$50 day	\$50 day
Field Prep	\$20 day	NC	NC	NC
Field Supervisor*	\$9 per hour	NC	NC	NC
Gate Admission	15% of gross	NC	NC	NC
Novelty Sales	10% of gross	NC	NC	NC
Daily Practice	per agreement	\$60 day	\$40	\$25

Estimated Charges

DCCC Fall/Spring	Number	Total	Total	Total
game days	23	\$11,500	\$6,900	\$4,140
Light Charges	23	\$1,725	\$1,725	\$1,725
Practice Days (fall)	40	\$4,000	\$2,400	\$1,600
(spring)	50	\$5,000	\$3,000	\$2,000
		<u>\$22,225</u>	<u>\$14,025</u>	<u>\$9,465</u>
Dodge City A's				
game days	21	\$3,780	\$2,310	\$1,680
Light Charges	21	\$1,050	\$1,050	\$1,050
Practice Days	30	\$1,800	\$1,200	\$750
		<u>\$6,630</u>	<u>\$4,560</u>	<u>\$3,480</u>
SW Sports Tournaments				
game days	14	\$2,520	\$1,540	\$1,120
Light Charges	8	\$400	\$400	\$400
Practice Days	0	n/a	n/a	n/a
		<u>\$2,920</u>	<u>\$1,940</u>	<u>\$1,520</u>

Comparison Sites

	USD 443	Garden City Rec
field	\$500 day	\$225 day
		\$100 1/2 day
lights	\$250 day	\$30 hour
practice	\$100 per day	
	\$10 443 coaches	

* If Required



Parks and Recreation

PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

Memorandum

To: Community Facilities Advisory Board
From: Paul Lewis, Parks & Recreation Director
Date: June 19, 2014
Cc: Cherise Tieben, City Manager
Subject: Regional Water Park Features

A handwritten signature in black ink, appearing to be "P. Lewis", is located to the right of the "From:" line.

RECOMMENDATION: Staff requests a recommendation from CFAB for specific features to be incorporated into the Regional Water Park schematic design. Included with this memo is an outline of the features provided by the concept initially proposed and a schedule of additions or modifications that have been suggested or recommended by others including cost implications.

BACKGROUND: Both CFAB and the Joint Commissions have approved a regional water park project for funding through the Why Not Dodge program. Those approvals were based upon a concept developed and modified over time through the efforts of staff, the consulting team from Water's Edge and various community groups.

The most recent concept was based on a ten million dollar budget and included features that achieve the primary goals of the project. That budget figure was established from staff efforts to re-evaluate the annual depreciation set aside, shifting certain expenses to other funds, and reviewing operating budgets from existing projects. The budget was subsequently approved by CFAB and the Joint Commission's. The feature list supported by this budget is extensive and provides wide ranging amenities consistent with a modern water park intended to serve area residents as well as create an attraction for tourists and travelers from the region and beyond.

In order to complete the preliminary design and move forward with final design, Water's Edge needs confirmation of the principal amenities. To assist CFAB in making that determination, staff and Water's Edge conducted two come and go receptions for the general public and a special focus group meeting with swim team supporters, aquatic task force members and YMCA staff to review specific needs for local programming and competitive swim.

Additionally, a last push was made to get a features survey out in front of the public. The results from that survey are being correlated and will be presented at the CFAB meeting on Thursday night.

Based on those efforts, a presentation will be made at the CFAB meeting to allow the Board to review all of the supported amenities and the optional choices and to make a final

recommendation to the Joint City/County Commission on features. Once a final feature list is approved, Water's Edge will be able to continue the process into final design with the approval of the Joint Commissions.

FINANCIAL CONSIDERATIONS: Capital costs to add any of the optional amenities is provided with the outline. Additionally those amenities might impose significant operational impacts as well including utility expense, additional guard staff, and chemicals and supplies. The operating deficit for the submitted concept is anticipated in the Why Not Dodge fund. Any additions to that concept that impact overall operating expense will have to be accommodated, potentially in the amount of funds available for debt service.

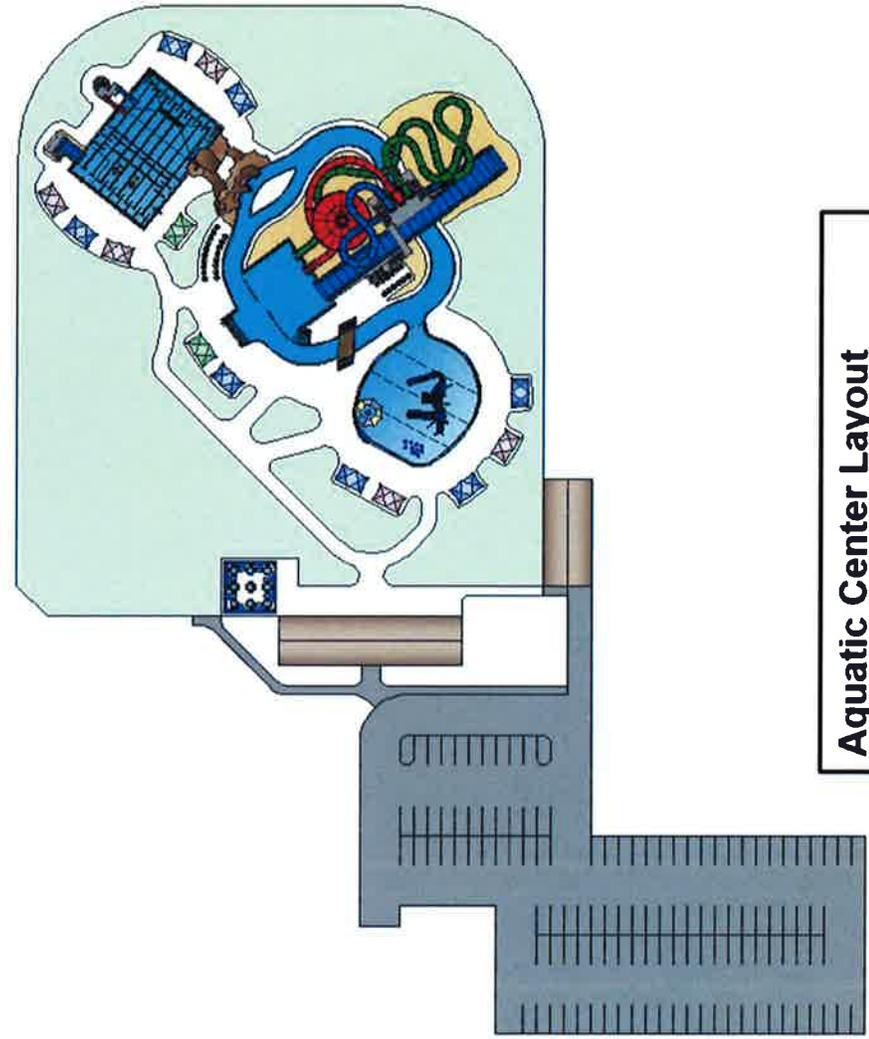
LEGAL CONSIDERATIONS: N/A

ATTACHMENTS: Park Conceptual Plan
Features Outline



REGIONAL WATER PARK CONCEPTUAL PLAN

Site Concept Plan



Aquatic Center Layout
Dodge City, Kansas

Regional Water Park Features

Submitted Concept	Budget
17,783 sq. feet of water surface including:	10,000,000
Children's Play area w/ Zero-depth entry	
Interactive play structure	
Lazy River with dual channel	
Action channel in river w/ riffles and waterfalls	
Short Course lap pool for competitive swim and diving	
Boomerango signature slide	
Swirl Bowl Slide	
Raft Slide	
Family Slide	
Double Drop Slide	
Toddler Slide	
Rockscape w/ waterfalls & built in diving	
Shade in water/Water Bench	
Fountains and Sprays	
Floatables	
Basketball Goal	
Deck Shade Structures	
 Optional Enhancements	
Enhanced competition/lap pool	
Option a) 50 Meter long course	1,300,000
Option b) 50 Meter long course w/ 75' wide	1,600,000
Option c) Future Expansion 25 yd. to 50 meter	1,700,000
Option d) 10 Lane Short Course	300,000
Air Suspension Dome over 50 meter	2,700,000
Add waves to existing lazy river plan	120,000
Expand shallow play pool	100,000
Flow Rider	1,600,000
Wave Pool	1,700,000
Party Shelters (3)	75,000



Parks and Recreation

PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

Memorandum

To: Community Facility Advisory Board
From: Paul Lewis, Parks & Recreation Director
Date: June 23, 2014
Cc: Cherise Tieben, City Manager
Subject: Water Park Procurement Process

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RECOMMENDATION: Staff recommends utilizing a hybrid Design/Build process for the development and construction of the new regional water park. The hybrid process is intended to reduce the amount of time required for project development and construction and potentially provide a cost savings over traditional design-bid-build projects.

BACKGROUND: Staff working in conjunction with the design team of Water's Edge have developed a project schedule that could allow the water park project to be completed in 2015. That schedule is not likely under a traditional design-bid-build environment so staff is recommending a hybrid of the Design/Build process.

This hybrid process was recently used by the City in the design and construction of the new Wastewater Treatment Plant. The hybrid process deviates from the normal Design/Build process in that the Owner hires a specific Engineer/Architect (EA) to draw the project, produce construction documents and represent the Owner throughout the design and construction. In our situation, the City and County have already contracted with Water's Edge as our representative.

Under this scenario, the City/County will issue a Request for Qualifications soliciting responses from qualified construction firms who wish to be considered for the project. Based on an evaluation of those responses and with approval from the Joint Commissions, a contractor will be selected for the project.

At the same time, the EA will continue developing project plans and specifications. At the 30% complete stage, the contractor will be required to provide a Gross Maximum Price (GMP). Our design team and staff will review the GMP and present the information to the Joint Commissions for their review and approval.

Once approved, the project will move forward to final design and the contractor can begin his efforts to arrange for sub-contractors and solicit bids for equipment and materials. The process includes checks and balances requiring the contractor to bid components of the work and allows

the owner to select bids/quotes that represent the best value and to pass along any cost savings reflected in those bids.

JUSTIFICATION: This process can save time and money. It identifies a qualified contractor early in the process and gets them on board to understand the project from the beginning. It eliminates some of the waiting period in a design/bid/build process while bids are out, contracts are reviewed and awarded, etc. Additionally it allows work to begin at the 30% plan stage prior to the full completion of the construction documents.

There is also potential cost savings. All of the components of the work are still bid out and the contractor is required to pass along cost savings that are realized.

The advantage to the owner over a traditional Design/Build process is the EA is under contract to the Owner. When an issue or question comes up, the EA has a contractual obligation to represent the owner's best interest rather than providing a cost savings to the contractor.

FINANCIAL CONSIDERATIONS: There are no negative financial impacts to this procurement process. The contractor will be required to provide a GMP which will be reviewed by staff and the design team. The Joint Commissions will be required to approve the GMP amount prior to the project moving forward. Potential cost savings identified through the construction process are passed along to the owner.

As part of the overall budget and GMP, contingency amounts are identified, one for the contractor and another for the owner. The contractor's contingency will be in place to protect him in the event a problem arises with one of the component bids. The owner's contingency is in place to allow for changes or improvements that might come up during construction.

PURPOSE/MISSION: This procurement method is consistent with the goal of Working Towards Excellence by utilizing alternative concepts and techniques to provide an important project in a fiscally responsible manner and a concise time frame.

LEGAL CONSIDERATIONS: This hybrid Design/Build process is a legal form of procurement for local entities of government and represents a system utilized by the City on a previous project. All of the requirements for notice and appropriate selection of contractors and bids will be fulfilled.

ATTACHMENTS: N/A



City of Dodge City

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Memorandum

To: CFAB
From: Melissa McCoy
Date: June 19, 2014
Subject: Explanation of Kansas Open
Meeting Act Information
Agenda Item: Kansas Open Meetings Act

Background: Attached is additional information on the Kansas Open Meetings Act.

(5) **Action on Noncontractual Matters.** A municipal officer or employee who has on file a **current** statement of substantial interest may act in his or her official capacity upon any **noncontractual** matter that will affect any business in which the officer or employee holds a substantial interest.

(6) **Changes.** Statements should be reviewed and updated each year between April 1 and April 30.

should be reviewed and updated (302a(b)(5))

(7) **Penalties.** Failure to file a statement of substantial interest is a class B misdemeanor and may result in a fine of up to \$1,000. Violation of the B misdemeanor and may result in a fine of up to \$1,000. Violation of the B misdemeanor and may result in a fine of up to \$1,000. Violation of the B misdemeanor and may result in a fine of up to \$1,000.

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statement of substantial interest and/or fine of up to \$1,000. Violation of the B misdemeanor and may result in a fine of up to \$1,000.

C. The Kansas Open Meetings Act (KOMA)

Next to the Kansas conflict of interest laws, the requirements of the Kansas Open Meetings Act (KOMA) present some of the greatest ethical challenges to municipal elected officials. Perhaps no law better demonstrates the contrast between running a private and public business than KOMA. Few private businesses would thrive if they held open, public business meetings. Yet few elected governing bodies would survive operating in the dark, smoke-filled rooms of yesterday. The public expects and demands a certain degree of openness in the management and conduct of public business, and KOMA is designed to ensure that goal is met. KOMA is uniformly applicable to all cities, and therefore, may not be modified by passage of a charter ordinance. (K.S.A. 75-4317 *et seq.*)

✦ For an in depth discussion of KOMA, see the LKM publication, *Kansas Open Meetings Manual: A Resource for Kansas Government Officials.*

Governmental Bodies Covered. KOMA applies to all the meetings of all legislative and administrative bodies and agencies of the state and its political and taxing subdivisions (including cities). It is also important to note that all established sub-groups, committees, task forces, etc., must comply with KOMA. Any officially constituted group (regardless of whether any governing body members are a part of that group) is considered a public entity for purposes of KOMA and must comply in the same way that the city governing body must comply. Certain bodies are excepted when they are exercising quasi-judicial powers (e.g., boards of zoning appeals). (K.S.A. 75-4318 (f))

Myth: A governing body may recess into executive session for only 15 minutes at a time.

Fact: Not true. You are limited only by the time you specify in the motion that you will resume the open meeting.

What Meetings Are Covered. The requirements of KOMA apply to: 1) a majority of the membership of the governing body; 2) engaged in interactive communications such as meetings, telephone, teleconferencing, and discussions over the Internet; 3) discussing the business or affairs of the public body.

Majority of the Membership Requirement. The first element necessary for KOMA to apply is strictly numerical in nature. It takes a majority of the membership of the body or agency in order for KOMA to apply. This refers to the number of voting members of the body. In other words, in a city with a non-voting mayor and five councilmembers, two persons can have a conversation outside of an open meeting without violating KOMA.

In a city where the mayor is a voting member of the commission, the mayor's position is counted toward the determination of the number on the body or agency. Therefore, in a commission city with seven commissioners, including a mayor that votes regularly, a majority of the membership of the body would be four, meaning that three persons could have a discussion about city business without violating KOMA. Each position should be counted as part of the body regardless of whether or not the position is vacant at any given time.

Engaged in Interactive Communication. KOMA applies to all meetings, gatherings, assemblies, and other types of interactive communication.

(1) Telephone Calls and Other Forms of Interactive Communication. As a result of amendments to KOMA in 1994, it is now clear that telephone calls among a majority of the members of the body can constitute meetings that are subject to KOMA. KOMA also prohibits other forms of interactive communication. LKM believes the Legislature's intent by using this term was to include meetings via video teleconference, interactive e-mail, and other forms of **contemporaneous** communications.

(2) Work Sessions and Subcommittee Meetings Covered. KOMA clearly covers work sessions, council subcommittee meetings, and informal meetings before and after the regular meeting, as well as meetings with organizations and interest groups. For example, there is no KOMA violation when members of a governing body attend and participate in meetings of the League of Kansas Municipalities and similar conferences and programs, so long as members do not use these occasions to discuss specific business or affairs of the body.

(3) Other Gatherings. Even gatherings of a majority of the membership of a governing body meeting with a neighborhood organization, for example, may constitute meetings subject to KOMA when the purpose of the gathering is the discussion of issues of concern to the governing body. Intergovernmental meetings come under the scope of KOMA when a majority of the membership of any one or more governing bodies attends and the business of the body is discussed.

★ **Discussing the Business or Affairs of the Body.** KOMA does not prohibit governing body members from interacting socially or on non-city business matters. Rather, the focus of the law is on **discussions** of "the business or affairs of the public body." It is not necessary for "binding action" to be taken before a violation of KOMA can occur. Mere discussion of city business by a majority of the membership of the governing body triggers the law.

Serial Meetings. KOMA also requires that certain “serial meetings” must be open. (K.S.A. 75-4318(f)) This occurs when there is a series of interactive communications of less than a majority that:

1) Collectively involve a majority of the membership of the body or agency.

This requirement reflects the same language that is used in the definition of meeting. Therefore, when a series of smaller meetings eventually adds up to a majority of the membership, there is the potential that a violation of KOMA has occurred if the remaining two elements are met **and** the meetings were not open pursuant to the Act.

2) Share a common topic of discussion concerning the business or affairs of the body or agency. Again, this language is reflective of the language in the definition of a meeting. If there is a series of smaller meetings about the same topic that collectively add up to a majority of the membership being involved in the discussion, there is the potential for a violation of KOMA if the final element is met.

3) And, are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the body or agency. If any of the participants in a series of meetings is attempting to reach agreement among a majority of the membership of the body on a matter that requires binding action outside of an open meeting, a serial meeting has occurred and KOMA has been violated unless proper notice has been given. The term “participants refers to individuals who are part of the membership of the body and does not include third parties such as non-voting mayors, city managers, city clerks, citizens, members of the media, etc.

KOMA Requires:

- ✓ **Open Meetings.** Every part of the meeting, except validly called executive sessions, must be open to the public.
- ✓ **No Secret Ballots or Action.** Binding action may be taken only in public view.
- ✓ **Notice of Meetings.** Notice of the time, date, and place of regular and special meetings must be furnished to those individuals and groups requesting it. Personal notice, not notice by publication, is necessary.
- ✓ **Copies of Agendas.** Any agenda prepared for a meeting covered by the act must be made available before the meeting to those who request it. The clerk is not required to mail the agenda to those requesting it, only to make the agenda available at a convenient location.
- ✓ **Cameras, Lights, and Recording Devices.** The use of cameras, lights, and recording devices may not be prohibited, but reasonable rules regarding their use may be adopted.