

Manager Report

CM20-0139

Report Date: Sunday, November 01, 2020

COUNCIL NOVEMBER 3rd AGENDA:

COMMUNICATIONS AND PETITIONS

- **Park Board-Driving range update:** Eric Cameron plans to attend to update the Council on the Driving Range Turf project. Cottonwood Scramble raised funds for this project.
- **Park Board-Disc Golf Expansion Project:** Adrienne will address the Council and present research on the Disc Golf Expansion Project. Park & Tourism funds are planned to be used for this project.

OLD BUSINESS

- **SECOND READING:** Changing the zoning at 412 E highland to planned District (RP-3)
- **SECOND READING:** City Clerk, Michele Bailey's employment contract.

NEW BUSINESS

- **ITEM B: Vacation of utility easements in the 700 Block of W Timberbrook Drive:** Rodney Beard owns two lots in the Timberbrook Subdivision. He wants to combine two lots into one parcel and construction a residential house. The request is to vacate the 10' easement that splits the lots (5 & 6). Easements are still in place on the outer borders. Water, Sewer & Stormwater are already installed and the vacation of this easement will have no impact on future development.
- **ITEM C: Disc Golf Marmaduke Park:** The Park Board has worked extensively on the expansion of our 9-hole Disc Golf Course at Marmaduke Park. The Coronavirus pandemic, locally, regionally & nationwide, has seen an increase in safe outdoor activities including a surge of Discs Golf popularity. The Expansion cost can be completed for under \$12,000. With funding coming from the Parks project fund and Tourism Fund.
- **ITEM D: Amending Chapter 2:** In mid-2006, the City didn't have a City Manager or Finance Director. The Currently Council put emergency changes in place to ensure a functioning government. These changes were never revisited. To restore the original intent of the

Charter the proposed ordinance will revert the control of the Finance Department back to the City Manager.

- **ITEM E: Designation of Handicapped parking at 216 W Cherry:** A Handicapped space requires Council's approval per Sec 19-125.1 of the City Code. We received a request for a Handicapped space in front of 216 W Cherry. NPD did a report and contacted all neighboring property owners and there was no opposition. **NOTE:** We are currently reviewing the parking code and will make recommendations at upcoming Council Meetings
- **ITEM F: Airport Consultant:** Airport Board reviewed and scored various engineering firms to complete our Airport Master Plan. Lochner of Lenexa, Kansas scored highest. This is step one of our Airport Crosswind project. A MoDot funding agreement, Engineering Agreement, Construction bid and contract are forthcoming. **(RFQ Score Sheet Attached).**

CITY MANAGER REPORT

- **Department Updates:** Brief the Council on staffing issues and Audit updates.
 - **City Hall Hours:** Considering changing hours of City Hall to 8:30-4:30. We are running into overtime issues in the Finance Department.
 - **Primacy Fee Delinquent:** It was discovered the required MoDNR primacy fee payment was due October 31, 2020 and was never submitted. By State Statutes a small fee is collected on every water bill. Invoice was mailed in August 2020. 12% penalty or \$50.00 per day can be charged. I made contact with MoDNR and received a grace period. Payment is scheduled to be processed on Monday (11-2).
- **Water & Wastewater Operations:** Discussion of interviews with Alliance & PeopleService.

PROJECT UPDATES:

AIRPORT:

- Runway Lights are still not functioning properly. We are looking into options to fix this issue.

ANIMAL SHELTER:

- Environmental Report is completed and sent to USDA. No issues were found. This is the last item needed for the application

PARKS & RECREATION

- Lights at the Lake: Started installing lights and working on event.
- We are considering postponing the Candy Cane Hunt this year for Safety reasons.
- Considering Youth Basketball tourney and league for Dec/Jan.

POLICE DEPT:

- Derelict Vehicle Updated statistics:
 - 278 warnings issued
 - 240 vehicles removed or made compliant
 - 17 vehicles ticketed. Of the 17 tickets issued: 13 have already been adjudicated (defendant pleaded guilty). The remaining 4 are in process with the municipal court but are not yet adjudicated
- Animal Ordinance Update:
 - Contacted 1201 W. Douglas who had the two calves that got loose last month. The calves have already been removed and the tenant was provided a copy of the updated ordinance.
 - Contacted property owner at 503 E. Central who has the horse. Was informed by a relative that the property owners were out of state for the next few weeks. A copy of the updated ordinance was left with the relative. Will make contact with the property owners upon their return.
- Worked with the YMCA to re-route their Sunday food distribution vehicle traffic to reduce congestion on Ash Street. New route has traffic going down Highland to Marmaduke Park then to YMCA.

PUBLIC WORKS

- Osage & Walnut sidewalk replacement project. Current cost to date is approximately \$8,000. Remaining improvements to Subway underpass include fencing and weed removal.
- Finishing up street improvements for 2020 project. Driveways completed. Have a small sidewalk to replace and dirt work remains.
- Leaf pickup to begin on November 30, 2020. Weather permitting.

WATER/SEWER

- Water main replacement on Sycamore behind Cottey College.

- 500 Block Spring Street Sewer extension still in process.
- There are empty lots in City limits that are unserved by Sewer mains. Developers are considering building multiple new homes. Working on sewer line installations for these planned construction projects.
- No update on Water Plant project. Last communications with USDA funding - application not processed yet.

MISCELLANEOUS

- **Fare Share (Taxi):** We are reviewing operations and looking at options to improve response time. Issued RFP for additional hours. RFP due Nov 18th.
- **Senior Center Lease:** In negotiations with Senior Center for lease arrangement. **(See attached letter and lease for negotiations)**
- **Dangerous Buildings:** Working on securing a Hearing Officer. McCaffree is assisting in the search.

UPCOMING COUNCIL ITEMS:

- Financial Consultant Contracts
- Rock, Fuel Bids
- Street Improvement List
- Senior Center Lease
- Court Clearing Check Signers
- Domestic Animal updates (cats & dogs)
- Parking Code Updates: ADA Parking, No parking Zones, Etc
- Sidewalk, Tourism, & Parking: City Comparisons Report
- Solid Waste Updates
- RFP for IT Services
- RFQ for Engineering Services
- RFP for Internet & Phone Renewal

Submittals for RFQ for Airport Consulting Engineer 10/01/2020								
Company	Address	score #1	score #2	score #3	score #4	score #5	Total	Ave
Burns & McDonnell	Kansas City MO	0	18	0	0	0	18	3.6
Coffman Associates	Kansas City, MO	26	20	28	24	18	116	23.2
IMEG/SE3	St. Louis/ KC, MO	28	16	20	32	12	108	21.6
Jviation	Jefferson City, MO	22	20	32	34	24	132	26.4
Lochner	Kansas City, MO	34	40	36	36	35	181	36.2

THE MUDD LAW FIRM

Civil Trial Practice and Criminal Defense
Licensed in MO & KS

October 28, 2020

Via Email Only: Doug@warrensburglaw.com

Mr. Doug Harris, Esq.
Harris Harris & Gilbert Law Firm
206 North Holden Street
Warrensburg, Missouri 64093

RE: *Neal Senior Center*
Your Client: District III Area Agency On Aging

Dear Doug:

I represent the City of Nevada, Missouri and I understand that your office continues to represent District III Area Agency On Aging.

As you know, the City of Nevada owns the Neal Center. For a number of years District III has been utilizing the Neal Center to manage and operate one of its senior centers. While the City and District III in the past had been in negotiations to finalize a written lease agreement for District III's use and occupancy of the Neal Center, to date District III never executed a written lease. Over the years the City has absorbed a number of financial expenditures relating to the Neal Center [including but not limited to the utility bills] which truly should be the responsibility of the tenant. The City is no longer in a position to continue footing those expenditures. I have been retained by the City to resolve that issue.

Please find attached a proposed 5-page lease agreement for the Neal Center. The terms of this lease are more than generous to District III. Doug, District III needs to execute a written lease for the Neal Center and begin shouldering some fairly minimal tenant responsibilities. I respectfully ask that you please advise me before the close of business on November 11, 2020 whether District III is unwilling to execute a written lease for the Neal Center.

Very truly yours,

Tim Mudd
Attachment [lease]

NEAL SENIOR CENTER LEASE AGREEMENT

This lease agreement is made and entered into this ____ day of _____, 2020, by and between the City of Nevada, Missouri [hereinafter called Owner] and District III Area Agency On Aging [hereinafter called Lessee].

1. **Property to be Leased.** Owner shall lease to the Lessee the “Neal Senior Center” located at 301 North Main Street in Nevada, Vernon County, Missouri.

During the term of this lease the Owner shall retain possession of these specific public items:

- a. The parking lot located north of the Neal Senior Center building, and
- b. The main sidewalks along Main Street and Hunter Street and the land [including landscaping] surrounding the Neal Senior Center, excluding the flower bed located north of the building.

During the term of this lease the Owner shall be responsible for maintenance and repair of these specific public facilities, including, but not limited to, mowing and general maintenance of these specified landscaped areas, clearing snow from the main sidewalks along Main Street and Hunter Street adjacent to the Neal Senior Center, and performing other general maintenance and repair operations to the Neal Senior Center infrastructure.

2. **Term.** The term of this lease shall begin on October ____ 2020, and unless terminated or extended, shall end on October ____ 2025. The lease term may only be extended by mutual written agreement of the parties. The Lessee accepts the premises in its present condition. Possession shall pass to the Lessee upon execution of this lease.

3. **Option to Renew.** The lease for the facilities outlined in Paragraph 1 above is renewable for a three-year period beginning on the date of the expiration of the initial lease term. The Owner and Lessee must agree in writing to renew this lease by contacting the representative of the other party as specified in Paragraph 19 herein at least 90 days prior to the expiration of the initial lease term. Should either party wish to not renew the lease upon expiration of the initial lease term, the party wishing to terminate the lease shall notify in writing the representative of the other party of its decision to terminate the lease upon expiration of the initial term as outlined in this paragraph for renewal of the lease. The provisions of the original lease shall fully apply to the option unless modified in writing, bearing both party signatures, through an addendum to this lease.

4. **Rent.** Lessee covenants and agrees to pay Owner as rent for the property during the lease term the sum of **\$100** annually, due on the first day of April of each year.

5. **Trust fund.** Lessee shall place in a trust fund for future maintenance and repair of the Property equal monthly payments of **\$400**, payable on the first of each month, beginning on November ____ 2020 and continuing to fall due on the first day of each consecutive month thereafter during the lease term. The trust fund shall be held by the City of Nevada and shall be designated the “Neal Senior Center Trust Fund.”

6. **Utilities and solid waste removal services.** Lessee shall pay and be responsible for all charges for utility services rendered or used on or about the Property during the lease term including any interest or penalty added to the basic utility charges. Lessee will also be responsible for contracting for and financing for all Neal Senior Center solid waste disposal.

7. **Use of leased property.** The Neal Senior Center was partially constructed with Community Development Block Grant funds under the “limited clientele” national objective. The use of the property shall be for a senior citizens center in accordance with limited clientele requirements as stipulated in 24 CFR 570.483 in the Code Of Federal Regulations. All uses of this facility shall conform with 24 CFR 570.483 and all other laws, restrictions, regulations and ordinances governing the use of city property and the use of federal funding to assist in the construction of public facilities. Lessee covenants and agrees to not permit or allow a public or private nuisance to occur or remain on the premises. The Lessee shall not commit or permit the commission by others of any waste on the premises, nor shall the Lessee use or permit the use of the premises for any unlawful purpose. The Lessee shall not commit or permit the commission of any hazardous acts on the premises, nor use or permit the use of the premises in any manner which would increase the existing rates or cause a cancellation of any fire, liability or extended coverage insurance policy insuring the demised premises.

8. **Liens against the property.** The Lessee shall keep the premises free and clear from any and all liens, claims or demands for materials furnished for use in the operation of the center, and from operations conducted thereon at the request of the Lessee.

9. **Alterations and additions.** The Lessee shall not make, or allow any other person to make, any alterations, improvements, repairs or additions to the Property without first obtaining the written consent of the Owner. The Owner shall procure for and authorize all such activities in accordance with their procurement ordinances, policies and procedures. Costs for repairs to the Property shall be at the expense of the lessee through the trust fund established pursuant to Paragraph 5 above.

10. **Fixtures and equipment.** Owner agrees that all fixtures and equipment purchased and installed by the Lessee at the Lessee’s expense shall not become a part of the property regardless how affixed to the property and may be removed in a good and workman-like manner by the Lessee at any time during the lease term. It is agreed that Lessee shall be responsible for any and all damages to the Property caused by the installation or removal of said equipment, and that Owner shall procure and authorize repairs at the Lessee’s expense, including but not limited to, by way of the trust fund established pursuant to Paragraph 5 above.

11. **Maintenance.** Notwithstanding any other provisions of this lease, it is agreed by the Owner and the Lessee that the Lessee shall be responsible at its own cost for:

- a. Cleaning and maintaining all walks, steps and staircases from the building and from the building to the sidewalks along Main Street on the east and from the building to the sidewalks along Hunter Street on the south;

- b. Having the grease trap for the Neal Senior Center emptied and serviced by a professional licensed plumber no less than once every 120 days throughout the term of this lease;

In addition to the responsibilities set forth with paragraphs 11a and 11b above, Lessee shall also be financially responsible through the trust fund established pursuant to Paragraph 5 above, for all other maintenance, repairs and services within the Neal Senior Center building. Owner shall procure for, and authorize all repair activities, at the expense of the Lessee, in accordance with the applicable city procurement ordinances, policies and procedures.

12. **Casualty loss.** In the event the leased premises should be damaged by fire or other insured casualty during the lease term to the extent of 25% or more of the cost of replacement of the entire structure, or damaged by any insured casualty, both the Owner and Lessee shall have the option of terminating this lease. If the lease is not terminated and the owner rebuilds, Owner shall repair and/or restore the premises to substantially its condition immediately prior to such damage or destruction. Owner's obligation shall in no event exceed the scope of the work in the original construction, and shall not include the replacement or repair of any of the fixtures installed by the Lessee. Proportionate abatement of the rent payable under this lease shall occur according to the amount of floor area of the premises usable by the Lessee, but if such damage was caused by the fault of the Lessee or its employees, agents or clients, there shall be no abatement of any rent. Any abatement afforded shall continue for the time period of the restoration and repair.

13. **Insurance.** The Lessee hereby agrees and promises to maintain in effect at all times during the term of this lease, comprehensive general public liability insurance against claims for bodily injury and property damage arising out of the use, occupancy and/or maintenance of the leased premises by Lessee or Owner, in a combined single limit the amount not less than \$2 million, and to cause the City of Nevada, Missouri to be named as an additional insured under said policy of insurance. Not less than once every 180 days, the Lessee shall provide the Owner with written verification of the existence of such insurance coverage.

14. **Waiver.** It is understood and agreed that the waiver of any breach of any of the provisions of this lease by the Owner shall not constitute a continuing waiver of any subsequent breach by the Lessee, either of the same provision or any other provision of this lease.

15. **Lessee's default.** This lease may be terminable at the option of the Owner upon the occurrence of any of the following events:

- a. Filing of a voluntary or involuntary petition by or against Lessee, seeking bankruptcy adjudication or reorganization or similar acts; or,
- b. Appointment of a trustee or receiver for Lessee; or
- c. Lessee's making of an assignment for the benefit of creditors; or
- d. Failure to use the leased property in accordance with its intended purpose as described in Paragraph 7 of this lease agreement; or
- e. Abandonment of the property for more than 30 days; or
- f. Default by Lessee in any of the terms of this agreement.

Upon default occurring by the Lessee with respect to the provision of subparagraph (f) above, the Owner shall send to the Lessee at the post office box address set forth with Paragraph 19 herein written notice of the specific nature of the impending default to the Lessee, and the Lessee shall then have 30 calendar days in which to cure the situation. Failure to cure any such problem[s] within such time immediately places the Lessee into default. Should the Lessee default in the performance of any covenant, condition or agreement contained in this lease, the Owner may terminate this lease and reenter and retain possession of the premises in the manner provided by the laws of the State of Missouri then in effect. This election to terminate and reenter the premises shall in no way affect the rights of the Owner to recover any damages incurred arising from the Lessee's breach, abandonment or default.

16. **Owner's default.** This lease may be terminable at the option of the Lessee upon default by the Owner in any of the terms of this agreement. Upon a default occurring by the Owner, the Lessee shall send written to the Nevada City Manager as set forth in Paragraph 19 herein written notice of the specific nature of the impending default to the Owner and the Owner shall then have 30 calendar days in which to cure the situation. Failure to cure the problem within such time places the Owner into default and Lessee may lawfully terminate the lease upon 30 days written notice to the Owner. This election to terminate the lease shall in no way affect the rights of the Lessee to recover any damages incurred arising from the Owner's breach or default.

17. **Assignment.** The Lessee shall not have any right to encumber, assign, sublet or otherwise transfer this lease or any rights contained herein without first obtaining the express written consent of the Owner. All sublet contracts shall provide the same rights and protection for the Owner's interests as outlined in this lease agreement.

18. **Subordination.** This lease and all rights of the Lessee hereunder are subject to and subordinate to the lien of any and all deeds of trust which may not affect the leased premises, however, the leasehold interests shall be superior to all renewals, modifications, replacements or extensions thereof, or to the lien of any and all new deeds of trust.

19. **Notices.** All notices, requests, demands or other communications shall be in writing and shall be deemed to have been given when sent by certified mail, return receipt requested, addressed as the case may be, as follows:

Owner: City Manager
City of Nevada
110 South Ash
Nevada, MO 64772

Lessee: District III Area Agency On Aging
10 West Young Avenue
P.O. Box 1078
Warrensburg, MO 64093

20. **Surrender of premises.** Upon the expiration or earlier termination of the lease, Lessee shall surrender the Property to Owner in good order and condition, except for ordinary wear and tear, and except for the results of any damage or destruction within the provisions of the paragraph of this

agreement dealing with casualty loss. Lessee shall remove from the property on or prior to such expiration or earlier termination all of its property. Any property not so removed shall become the property of the Owner.

21. **Litigation.** Should any litigation be commenced between the parties to this lease concerning the Property, this lease, or the rights and duties in relation thereto, the Party, Owner or Lessee, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, a reasonable sum for its attorney fees in such litigation, which shall be determined by the court presiding over said litigation. All litigation concerning this written lease shall be conducted in the Circuit Court of Vernon County, Missouri, and Owner and Lessee hereby expressly waive any potential right to a change of venue pursuant to Missouri Supreme Court Rule 51.03.

22. **Entire agreement.** This lease contains the entire agreement between the parties. None of the terms of this lease shall be waived or modified to any extent, except by a written instrument signed and delivered by both parties.

23. **Severability.** If any provision of this lease shall be declared invalid or unenforceable, the remainder of the lease shall continue in full force and effect.

24. **Captions.** The section headings within this lease are for convenience of reference only and shall not limit or otherwise affect the meaning of the section.

25. **Counterparts.** This lease agreement will be simultaneously executed in two counterparts, each of which, when so executed and delivered, shall constitute an original lease.

26. **Governing law.** This law shall be governed by and construed in accordance with the laws of the State of Missouri.

District III Area Agency on Aging, Lessee

City of Nevada, Missouri, Owner

Signature

Position with Lessee

George Knox, Mayor of City of Nevada

(seal)
ATTEST:

Nevada City Clerk