

Hillsboro, Kansas
October 16, 2007

1. The city council met in regular session on Tuesday, October 16, 2007 at 4:00 p.m. in council chambers with Council members Shelby Dirks, Bob Watson, Byron McCarty & Shane Marler present. Absent: Mayor Delores Dalke.

2. Others Present: Gari-Ann Patzwald, P.O. Box 6; Bob Fenstermacher, 219 N. Adams; Dan Baldwin, City Attorney; Don Ratzlaff, Hillsboro Free Press; Susan Berg, Hillsboro Star Journal; Bob Previtera, Reiss & Goodness Engineers; Ann & Plato Shepherd, 803 West "A"; Gib Suderman, 216 S. Madison; Bill Calloway, KPP; David Shupe, Westar Energy; Larry Paine, City Administrator; and, Jan Meisinger, City Clerk

3. CALL TO ORDER – Council president Shelby Dirks called the meeting to order at 4:00 p.m.

4. PUBLIC COMMENTS – none

5. MINUTES – The minutes of the 10-2-07 regular meeting were approved as distributed.

6. VOUCHERS – After questions, motion was made by Council member Watson and seconded by Council member Marler to approve the vouchers in the amount of \$74,538.09. Motion carried unanimously. *City Clerk's Note: Check 12306 to Jantz Construction was included on the manual check list. This is for the window replacement at City Hall and it replaces Voided Check 12275. The Hillsboro Development Corporation reviewed the invoice and elected to pay a portion of the window replacement cost.

7. KANSAS POWER POOL PROPOSED CONTRACT – BASE LOAD WITH WESTAR – The following KPP Executive Summary of the Westar Base Load Contract was presented by Bill Calloway:

1. This is a twenty year cost based agreement that provides low cost capacity and energy to KPP member cities.
2. The amount of capacity and energy is based upon each city's minimum load, in other words this amount will be taken by the city continuously.
3. The current price associated with this base load resource is based on a demand charge of \$12.69 per kW and energy charge, variable operation and maintenance charge and an energy charge of approximately \$18/mWh. Taken as base load, this currently results in a total cost of under \$38/mWh.
4. The contract includes language that protects the city should the Kansas Corporation Commission rule in the future that Westar is to recover costs from their wholesale customers that are not being included in their retail rates. The contract provides for the opportunity to renegotiate and if unsuccessful, both parties have the option to cancel the agreement.

5. The contract limits future increases in the demand charge to 10% per year. Should Westar's actual costs exceed this 10% cap, the additional cost will be carried forward to the next without interest being applied.
6. The contract allows for interruptions or curtailments of your transmission service. In other words, should your transmission service be interrupted, you will pay only for the energy actually delivered. Transmission interruptions and curtailments do not affect the requirement to pay for the demand charges.
7. This contract includes capacity that each city can count in fulfilling their obligations for both SPP and NERC requirements.
8. This is a formulary rate – the demand, variable operations and maintenance and energy charges can and will change annually based on Westar's actual costs. The formulary rate includes a calculation for Westar's return on equity (ROE). The ROE has a set range of 9 to 18%. Currently the formula results in an ROE of 12%. KPP has verified that using this formula going back to 1919, the formula would have resulted in an ROE of 18% for only 4 years. Currently, the trend based on this formula is declining.
9. The formula used in this contract is based on Westar's "consolidated capital structure". In other words, this is based on KG&E's capital structure and KP&L's capital structure treated as one capital structure, rather than two separate organizations. The contract is with Westar, therefore this is an important issue considering that this is a 20 year agreement.
10. The formula used to determine the future demand and energy costs is the same formula that Westar will use for all wholesale contracts within Westar's control area. This will stand until Westar is granted by FERC the right to sell at market rates within their control area. At such time, Westar does not plan to offer cost based contracts.
11. This contract does not restrict the rights of each KPP member to enter into additional power supply agreements in the future. However, these additional agreements must be in addition to this base load agreement.

Summary

Base load contracts are difficult to find these days. Cost based base load contracts are only available by either participating in or building your own new units. Unfortunately, the political climate, both nationally and locally make building new coal fired or nuclear plants unlikely. And even if such opportunities existed, service from these units would not be available for years. This contract is being offered due to Westar's commitment to be a partner with the public power communities in Kansas and their willingness to partner with the Kansas Power Pool.

If your city has no base load, this is an excellent opportunity. Locally owned generation is important, however units fired by diesel or natural gas are subject to the markets associated with these fuel supplies are no substitute for a contract such as this that is based on Westar's system average costs.

In KPP's opinion, taking this offer as base load provides the best opportunity available at this time for each KPP city to provide affordable, reliant power supply working cooperatively with both Westar and the Kansas Power Pool.

This contract will need to be approved by FERC before it becomes effective, which will probably take 60 days. Once approved, the city can then sign the contract. This gives council a chance to review the information. Mr. Calloway said the KPP wants us to be comfortable with what we are signing. Motion was made by Council member Marler and seconded by Council member McCarty to table the contract. Motion carried unanimously.

8. ORDINANCE 1156 – CONDITIONAL USE PERMIT – COTTONWOOD VALLEY INDEPENDENT BAPTIST CHURCH – At the September 27th meeting, the planning commission recommended that the city council approve the application from the Cottonwood Valley Independent Baptist Church for a conditional use permit to allow a church at 108 West “C”, which is currently zoned Limited Commercial. In the Limited Commercial District, churches are permitted only by conditional use permits. Motion was made by Council member McCarty and seconded by Council member Watson to approve Ordinance 1156 – *(AN ORDINANCE ISSUING A CONDITIONAL USE PERMIT FOR A CHURCH AS PROVIDED FOR BY SECTION 18 OF THE ZONING REGULATIONS FOR THE CITY OF HILLSBORO, KANSAS)*. Council was polled with the following vote: Marler, yes; McCarty, yes; Watson, yes; Dirks, yes. Motion carried unanimously.

9. ORDINANCE – ZONING TEXT CHANGE – HIGHWAY COMMERCIAL ZONING DISTRICT – LIQUOR BY THE DRINK IN RESTAURANTS – At the September 27th planning commission meeting, they recommended to the city council that the proper zoning district for liquor by the drink be designated as Highway Commercial, and that if the Highway Commercial District were the approved zoning district, no conditional use permit would be required. City Administrator Paine told council that their options were (1) accept the recommendation of the planning commission as presented; (2) modify or change the recommendation, which would take a super majority or 4 yes votes; or, (3) do nothing, which would allow liquor by the drink in any zone that would allow a restaurant. City Administrator Paine said part of the discussion at the planning commission meeting focused on a particular restaurant here in town. This is not an issue about a particular restaurant, but it is about policy. It is a policy-orientated issue that applies to the general operation of the city, and he felt this was important to remember. He also didn't see any conflict of interest for any of the city council members as this relates to policy making. In the zoning code, all of the commercial districts refer back to the initial list of permitted uses listed in the Limited Commercial District. If this is allowed in the Limited Commercial District, it would be allowed in the other three commercial zoning districts, unless a specific district is eliminated. After further discussion, motion was made by Council member Watson and seconded by Council member Marler to change the district allowed from HC to LC. Council was polled with the following vote: Marler, yes; McCarty, no; Watson, yes; Dirks, yes. Motion failed. Council member McCarty said people in the district he represents felt strongly that they

did not want liquor by the drink downtown, and he would like to hear positive input from people on why a restaurant downtown should serve liquor by the drink. He said he would also like to know what the tax benefits would be. Motion was made by Council member McCarty and seconded by Council member Watson to table this issue. Motion carried unanimously. Council member Watson withdrew his previous motion. Plato Shepherd asked to speak. He felt the city council should consider not allowing restaurants selling liquor by the drink to be located next to a school or church. It seemed to him that the planning commission didn't want to allow liquor by the drink anywhere, and he felt the city should place some restrictions on this. Gari-Ann Patzwald felt liquor by the drink should not be allowed along the old highway because this could adversely affect parent's views of Tabor College and the rest of the services they offer. City Administrator Paine said this could be done if it was zoned differently. Mr. Shepherd said their church would eventually be looking at a piece of property. Distance limits should be very much of a consideration. A majority of the people in Hillsboro, based on election results when the county voted, want nothing or a very limited amount. He felt the council should go with what the people want.

10. SALE OF LOT 1 – HILLSBORO BUSINESS PARK – The city has received an offer on Lot 1 in Hillsboro Business Park for \$20,000.00. Motion was made by Council member Marler and seconded by Council member McCarty to approve the sale. Motion carried unanimously.

11. ENGINEER'S REPORT – Mr. Previterra delivered the Mylar and paper copies of the signed Hillsboro Business Park plat. He is working on the drainage plan, and will have new cost estimates and engineering contracts for the next meeting.

Reiss & Goodness did a survey on the property the school is buying from HDC.

12. CHIP SEAL – A proposal was received from APAC for single chip seal – 23,000 sq yd = \$29,440.00; Asphalt Skin Patching = \$17,620.20; Crack Seal – 16,940 Linear feet - \$17,956.40 for a total of \$65,016.60. Motion was made by Council member McCarty and seconded by Council member Watson to accept the proposal for APAC. Motion carried unanimously.

13. FOLLOW-UP FROM PREVIOUS MEETINGS –

EMT Jackets – Motion was made by Council member Marler and seconded by Council member Watson to approve the purchase of 13 winter jackets for the Hillsboro EMS crew, at a cost of \$845.00 + embroidery. Motion carried unanimously.

Rental of Safety Equipment – If contractors are using the city's cones and barricades, then they are not available for city use. There are companies who rent out these items, and we do not want to be in competition with them. City Administrator Paine recommended that the city not rent out any safety equipment. Council concurred.

Snow Removal Ordinance & Noise Ordinance – City Administrator Paine said he and the city attorney needed to review these ordinances.

Economic Development Policy – City Administrator Paine said the Economic Development Policy should be discussed at a work session.

Utility Bill Inserts - A policy needs to be developed for this.

14. CITY ADMINISTRATOR’S REPORT –

League Meeting – City Administrator Paine said he and Mayor Dalke were at the League meeting last week. He also said he gained information that will be helpful as we go through our utility rate studies.

Safety Inspections – Council received copies of the safety inspection results. There are some concerns relating to our historic properties and what the State Historic Preservation Society will allow us to do.

Hospital Consolidation – The county commissioners have asked for input on the hospital consolidation issue. A work session was scheduled for next Tuesday afternoon at 4:00 p.m. Council also needs to discuss the moving of the Bartel House and what to do with the AMPI building.

15. ADJOURNMENT – Motion was made by Council member McCarty and seconded by Council member Watson to adjourn at 5:18 p.m. Motion carried unanimously.

DELORES DALKE, MAYOR

ATTEST:

JANICE K. MEISINGER, CITY CLERK