

Contact: Nick Hernandez
Phone: (620) 441-4415
Fax: (620) 441-0869
nhernandez@arkansascityks.gov

City Manager's Office
City of Arkansas City
118 W. Central Ave.
Arkansas City, KS 67005



News Release

District court judgment signed; Revenue Department allows tax

One-cent sales tax will go into effect Oct. 1; half-cent tax to remain until 2019

ARKANSAS CITY, Kan. (August 16, 2016) — The City of Arkansas City was notified this afternoon by the Kansas Department of Revenue that implementation of the one-cent, 10-year SCKMC Sales Tax, approved by Arkansas City voters by an 4-to-1 margin on May 24, may proceed as scheduled Oct. 1.

The decision came after Cowley County District Court Judge Jim Pringle found the existing half-cent sales tax that benefits South Central Kansas Medical Center (SCKMC) — enacted April 1, 2009, and set to expire March 31, 2019 — is general in nature, as intended, and not a special-purpose tax.

K.S.A. 12-189 limits cities to a sales tax of no more than 2 percent for general purposes and of no more than 1 percent for special purposes. The new one-cent tax fits the latter category, while the current half-cent tax and an existing one-cent tax that has no sunset date fall under the prior classification.

The existing one-cent sales tax is used to supplement general fund revenues in providing police, fire and emergency medical services protection to the Arkansas City area. It was approved by two actions, one in 1978 and one in 1985.

City Attorney Tamara Niles and SCKMC legal counsel Otis Morrow filed a declaratory judgment petition today in district court and asked Pringle to “affirmatively declare that the 2008 sales tax was a general sales tax due to its general description,” Niles explained Monday night.

“There’s no adverse party,” Niles said during the meeting. “It would simply be us asking a judge to interpret our own ordinance from 2008.” She said there are multiple state statutes that allow the City to file such declaratory judgment actions for the interpretation of municipal ordinances.

Additionally, Niles said, “There’s no statute or case law that defines what’s a general sales tax versus what’s a special sales tax. In 2008, the attorney general issued an opinion that said it all depends on how specific you are in defining (the tax’s usage).”

For immediate release

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"The Legislature chose not to define it," Morrow said. "You have to look at each case to determine it."

The chief advantage of today's decision is that SCKMC will be better equipped to repay the City, now that it should not have to contribute its operating revenue to the bond payments in 2017 or 2018.

Since August 2015, the City has outlaid more than \$1.55 million to SCKMC in loans and unpaid special assessments. That amount grows as assessments remain unpaid, but is to be repaid at a rate of \$25,000 a month. Currently, health care consultant Quorum Health Resources is in the process of studying what operational and financial changes SCKMC can make to become more fiscally solvent and efficient. Chief executive officer Virgil Watson reported Monday that Quorum had made its first site visit.

Quorum's final recommendations will be implemented to the fullest extent possible, in accordance with SCKMC's bond document requirements, which also mandated Quorum's hiring in the first place.

The sales tax in Arkansas City will increase from 8.25 percent to 9.25 percent, effective Oct. 1, while the special rate at the Summit Plaza Community Improvement District will go from 9.25 to 10.25 percent.

In other business Monday night, the City Commission:

- Heard from Vickie Jackson, who objected to the proposed traffic engineering services study of North First Street from Birch to Kansas avenues. She lives at the corner of First and Poplar Avenue. Jackson said she did not think traffic was a problem and she had not seen any trucks on First. She objected to spending \$9,500 or more on the study, which was not on the agenda.
- Unanimously approved the following consent agenda items: approval of the July 26 regular meeting and Aug. 2 regular meeting minutes as written; ratification of Oestmann's appointments of Mary Benton and Carl Mills to the Planning Commission; approval of an audit engagement letter with Jarred, Gilmore & Phillips, PA for an audit of the fiscal year ending Dec. 31, 2016.
- Voted unanimously to authorize Niles to file the declaratory judgment petition in district court.
- Voted unanimously to approve a payment of \$3,600 to Spring Hill Golf Course for payment of its immediate obligations. The commissioners told golf course clubhouse manager Cathy Vaughn and Spring Hill Golf Association treasurer Dale Kuhn to make a report at their Sept. 6 meeting.
- Held a public hearing on and voted 3-2 to approve the 2017 budget as presented, with a projected mill levy of 69.656 mills and total expenditures capped at **\$36,384,927**. The **amount of ad valorem tax to be levied is \$3,765,969**. Mayor Duane Oestmann and Commissioner Charles Tweedy III voted against the proposed budget after floating the idea of a budget of 70 mills, with

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the remainder of budgeted expenditures going into the emergency reserve fund in order to provide more money with which to possibly assist Spring Hill Golf Course at a future time. If the mill levy of 69.656 mills holds after final valuation, it would represent a slight decrease in taxes.

- Heard a second reading of and voted unanimously to approve an ordinance modifying Municipal Code Part II, Chapter 38, Article II, Sec. 38-21, concerning the composition and functions of the Historic Preservation Board. Strict membership requirement were removed from the board's bylaws, placing more emphasis on having an interest in historic preservation.
- Heard a second reading of and voted unanimously to approve a charter ordinance exempting the City from the provisions of K.S.A. 12-4207 regarding public officials with the authority to sign and serve a notice to appear in Arkansas City Municipal Court. The ordinance will go into effect 61 days after its second publication and allows public service officers to write notices for animal control violations, code enforcement officials for code violations, fire officials for fire violations, building inspectors for building code violations, and zoning inspectors for zoning code violations.
- Heard a first reading of and voted unanimously to approve an ordinance amending Ordinance No. 2015-12-4401, regarding the City's compensation plan. The new ordinance raises the starting pay for police officers from \$15.02 an hour to \$16.56, for master police officers from \$16.56 to \$17.39 and for firefighters/emergency medical technicians from \$10.19 to \$10.70. It was needed to make the City more competitive in recruiting to these positions, said Human Resources Manager Marla McFarland, Police Chief Dan Ward and Fire Chief Bobby Wolfe.
- Heard updates from Hernandez on Water Treatment Facility construction, C Street canal cleanup, preparation for the Last Run Car Show, the Radio Lane mill and overlay project, and the purchase of two new City servers to run its Incode financial software. The low bid for the server hardware was \$9,995, from 31st Century Techsupport in Arkansas City.
- Voted unanimously to hold a 10-minute executive session, with no City employees present, to discuss personnel matters of non-elected personnel. No action followed the executive session.

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