

OVERLAND PARK CITY COUNCIL MEETING

February 8, 2010

Mayor Carl R. Gerlach called the Overland Park City Council meeting to order at 7:30 p.m. The following members were present, constituting a quorum:

Mr. Fred Spears, Council President; Mr. Terry Goodman; Mr. George Kandt; Mrs. Terry Happer Scheier; Mr. David White; Mr. Jim Hix; Mr. Dave Janson; Mr. Curt Skoog; Mrs. Donna Owens; Mr. Dan Stock; and Mr. Paul Lyons. Mr. John Skubal was absent (excused).

Also present were: Mr. John M. Nachbar, City Manager; Mr. Dave Scott, Chief Financial Officer; Mr. Bryan Dehner, Fire Chief; Mr. Brian Shields, City Traffic Engineer; Ms. Gena McDonald, Assistant Chief Financial Officer; Mrs. Tammy Owens, Senior Assistant City Attorney; Mr. Bob Watson, City Attorney; Mr. Bill Ebel, Director of Planning and Development Services; Mr. Greg Ruether, Acting Director of Parks Services; Mrs. Vicki Irely, Director of Information Technology; Mr. Mike Garcia, Acting Director of Human Resources; Mrs. Kristy Stallings, Deputy City Manager; Mr. Doug Brown, Director of Public Works; Mr. Sean Reilly, Communications Manager; Ms. Karen Arnold-Burger, Presiding Judge; Mr. Mike Santos, Deputy City Attorney; Mr. Jack Cauley, Police Lieutenant Colonel; Mr. Tony Cosby, Acting Director of Recreation Services; Mr. David Price, Senior PC Technician; and Mrs. Barbara Potts, Recording Secretary. Approximately 30 people were in the audience.

PLEDGE OF ALLEGIANCE

Mayor Carl R. Gerlach led the audience in the Pledge of Allegiance.

Mayor Gerlach recognized Boy Scout Troop No. 91 sponsored by Village Presbyterian Church and Boy Scout Troop No. 6 sponsored by Emmanuel Baptist Church.

PUBLIC HEARING

2011-2015 CAPITAL IMPROVEMENTS PROGRAM.

Assistant Chief Financial Officer Gena McDonald said the 2011-2015 Capital Improvements Program (CIP) includes \$138,879,000 in funding for capital projects. The total includes all financing, such as federal and state grants, County Assisted Road System (CARS) funding, developer funding and City financing. The Planning Commission held their second public hearing this afternoon and recommended to Council approval of the 2011-2015 CIP as presented.

Mayor Gerlach invited comments from the public in regard to the 2011-2015 CIP. There being none, he closed the hearing.

Mayor Gerlach informed the audience that adoption of the CIP is scheduled to be held at the Monday, February 15, 2010, City Council meeting. He explained that adoption of the 2011-2015 CIP will be the basis for beginning development of the 2011 Budget.

MAYOR CARL R. GERLACH

PROCLAMATION – Proclaiming the year of 2010 as Overland Park’s 50th Anniversary.

Mayor Gerlach asked Mary Birch and Liz Hochschild, co-chairs of the 50th Anniversary Committee to join him at the podium. He presented them with a plaque, which proclaimed the year of 2010 as Overland Park’s 50th Anniversary. He encouraged all citizens to celebrate the City’s success.

Ms. Mary Birch, 10509 Goddard, introduced the members of the 50th Anniversary Committee. She said the Committee has been meeting since August to help the City appropriately celebrate its 50th birthday in 2010.

Ms. Birch said the Committee is planning to celebrate the current leaders and past leaders who have built this community. Secondly, it is obvious that the schools have played a major role in what the City of Overland Park has become, so the Committee will be including them in the celebration. Third, it is the Committee’s desire to highlight the civic leaders and also the transition of celebrating the next 50 years.

Ms. Birch explained that the 50th Anniversary Committee is in attendance to make a few requests. One of the requests was a proclamation, and she thanked Mayor Gerlach for presenting the proclamation to them. Secondly, the Committee is requesting a grant of \$25,000 from the City. She explained that the Committee has put together a \$100,000 budget and, to date, with a little effort and support from the City’s business community, they have raised approximately \$47,000 of their \$75,000 goal. The Committee has done some research and found that most local governments spend more taxpayer dollars to celebrate, but in this economy, they did not feel that to be appropriate. The Committee believed this amount to be an austere budget, but one that will bring them success.

In reference to the amount requested for Overland Park’s celebration, Ms. Birch indicated that there have been a few of the surrounding cities celebrating anniversaries such as the city of Leawood which spent \$50,000; the city of Lenexa spent \$50,000; the city of Olathe spent \$70,000; and the city of Prairie Village spent \$60,000 on their celebration about ten years ago. She informed the Governing Body that these cities also received funding from many private sector companies to merge with the City’s money.

Ms. Birch stated that there is no doubt that everyone is facing economic issues, so the two ideas that the Committee decided to implement are to fund most of this money privately and use existing City events so they would not be exorbitant in their spending. She explained that the 50th Anniversary Committee believed these two ideas would be helpful in raising \$100,000. She noted that the City’s appropriate grant would be \$25,000 in recognition of a very tough economy.

According to Ms. Birch, the Committee has begun the process of asking the City businesses and citizens in Overland Park to display bumper stickers, yard signs

and banners to celebrate the City's 50th Anniversary from May 1st to October 1st. They are also asking permission to hang the 50th Anniversary Banner on the inside and the outside of City facilities.

Ms. Liz Hochschild, co-chair of the 50th Anniversary Committee, 9548 Bona Vista, said that, as mentioned, the Committee is planning to celebrate Overland Park's birthday with existing City events. She distributed a 2010 Calendar that showed 50 fun events to celebrate Overland Park's birthday. She explained that it begins with the Mayor's State of the City address on February 16th. The 2010 events and activities will end on December 5th with the Nutcracker Tea Party at the Ritz Charles. She highlighted some of the other activities that are planned throughout 2010.

Ms. Birch said there are many volunteers who are helping to put this together, but this would not be possible without Communications Manager Sean Reilly and his staff. She thanked him and the City staff for their cooperation and efforts. She looks forward to celebrating with the City all year long.

Mr. Fred Spears moved to approve a \$25,000 grant from the City to the Committee to assist in the planning and celebration of Overland Park's 50th birthday. Mr. George Kandt seconded, and the motion passed unanimously.

Mayor Gerlach thanked them for their hard work and efforts to organize and plan for Overland Park's 50th birthday.

REAPPOINTMENTS TO THE LEGACY OF GREENERY COMMITTEE:

Larry Jiskra – Term 2/1/10 to 2/1/12
Paul Hartsock – Term 2/1/10 to 2/1/12

A motion was made by Mr. Spears to approve the preceding reappointments to the Legacy of Greenery Committee as listed. Mrs. Terry Happer Scheier seconded the motion, which passed by a vote of 11 to 0.

CITY MANAGER JOHN NACHBAR

No report.

CONSENT AGENDA:

PUBLIC WORKS

STAFF ITEMS:

ORDINANCE NO. MTI-2861 – Providing for the public improvement of a main trafficway on 127th Street, Metcalf to Nall.

RESOLUTION NO. 3803 – Declaring it necessary to appropriate private property for the use of the City for the improvement of a main trafficway on 127th Street, Metcalf to Nall.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

STAFF ITEMS:

COUNCIL MINUTES – January 4, 2010, Joint Council and Planning Commission meeting.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 2A – Outlining the expenditures from the Capital Projects Fund for January 28 through February 3, 2010.

APPLICATION FOR RENEWAL OF DRINKING ESTABLISHMENT LICENSE CONTINGENT ON RECEIVING STATE LICENSE - Bacchanalia, L.L.C., d/b/a Bacchanalia, L.L.C., 12450 Newton, Eric Parrinello, manager.

APPLICATION FOR RENEWAL OF CLASS A PRIVATE CLUB LICENSE - Santa Fe Trail VFW Post No. 846, d/b/a Santa Fe Trail VFW Post No. 846, 8804 Grant, Sally F. Moore, new manager.

APPLICATION FOR NEW CEREAL MALT BEVERAGE LICENSE - Highly Unusual Concepts, L.L.C., d/b/a Nica's Cafe, 14319 Metcalf, Bryan Merker, manager.

APPLICATIONS FOR RENEWAL OF CEREAL MALT BEVERAGE LICENSES:

Eight Stars Restaurant Corporation, d/b/a Hunan Magic Wok, 11729 College Boulevard, Sophia Tien, manager.

Liway, Inc., d/b/a George's Pizza, 8435 W. 95th Street, Lawrence N. Thoennes, manager.

Minute Stop, Inc., d/b/a Minute Stop, Inc., 10395 Marty, Sanjih Biswas, manager.

COMMUNITY DEVELOPMENT

COMMITTEE ITEMS:

LETTER OF AGREEMENT, ADDENDUM TO AGREEMENT, AND AUTHORIZATION OF EXPENDITURES FOR RELATED SIGNAGE – Union Broadcasting, Inc., a Kansas Corporation, d/b/a Sports Radio 810 WHB, for field sponsorship at the Overland Park Soccer Complex located at 135th Street and Switzer, and authorizing expenditures not to exceed \$7,500 for related sponsorship signage.

U.S. 69 HIGHWAY AND I-435 HIGHWAY IMPROVEMENTS PROJECT – Confirm project will not adversely affect the activities, features and attributes of Oak Park Manor located in the vicinity of 106th Street and Bond.

2010 COMPREHENSIVE PLAN WORK PROGRAM AND RELATED WORK PROJECTS.

REVIEW REQUIREMENT FOR CONNECTION TO PUBLIC SEWERS – SBA Towers, Inc., regarding connection to public sewers for the New Apostolic Church located at 10034 W. 151st Street.

RESOLUTION NO. 3799 – Sewer District Enlargement at 9001 W. 151st Street, Islamic Center of Johnson County.

RESOLUTION NO. 3802 – Sewer District Enlargement located in the vicinity of 175th Street and Kenneth.

Mr. Spears moved to approve the preceding Consent Agenda items as listed. After a second by Mr. Kandt, the motion passed by an 11 to 0 roll-call vote.

REGULAR AGENDA:

PUBLIC WORKS

COMMITTEE REPORT – Terry Happer Scheier, Chair

No report.

STAFF REPORT

AGREEMENT – Olsson Associates for engineering services for the 2011 Major Storm Sewer Repair Program in an amount not to exceed \$147,111.

Director of Public Works Doug Brown said the Public Works Committee approved the consultant selection of Olsson Associates for the 2011 Major Storm Sewer Repairs, and authorized staff to negotiate a contract with them at the October 12, 2009, meeting. Staff has negotiated a scope and fee for the project and recommends approval of the agreement. The specific project locations are two ditch liner replacements. One of the ditch liner replacements is near 101st Street and Melrose between Ballentine and Bluejacket. The second ditch liner replacement is near the Dennis Garrett Public Works Maintenance Facility at 11300 West 91st Street. He indicated that sufficient funds are available through the Storm Water Utility Fund for the 2011 Major Storm Sewer Repairs.

Mrs. Happer Scheier moved to approve the agreement with Olsson Associates in an amount not to exceed \$147,111 for the 2011 Major Storm Sewer Repairs. Mr. David White seconded the motion, which passed by a vote of 11 to 0.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT – Jim Hix, Chair

No report.

STAFF REPORT:

AGREEMENT – Lee Hecht Harrison, L.L.C., for provision of transition support and outplacement services.

Deputy City Manager Kristy Stallings presented the Agreement with Lee Hecht Harrison, L.L.C., for provision of outplacement services. She explained that this contract is related to the reduction in force that was implemented by the City about two weeks ago. She offered to answer questions.

Mr. Jim Hix moved to approve the Agreement with Lee Hecht Harrison, L.L.C, for provision of transition support and outplacement services. Mrs. Donna Owens seconded, and the motion passed by an 11 to 0 vote.

AGREEMENT – A Connecting Pointe for Community Weekend Intervention Program services for a three-year period of time.

Presiding Judge Karen Arnold-Burger stated that the Agreement is with A Connecting Pointe for a Weekend Intervention Program. About a month ago, she said this was presented to the Finance, Administration and Economic Development Committee with a recommendation that the City enter into a contract with two different entities. One was Hope Harbor and the second one was A Connecting Pointe. She explained that the existing entity, Charles Stebbins Counseling Services, provides the Weekend Intervention Program for Driving Under the Influence (DUI) offenders.

When asked why the agreement was only with A Connecting Pointe and not the other vendor, Hope Harbor Associates, Judge Arnold-Berger said that Hope Harbor had some issues to handle prior to signing the agreement with the City, so that agreement will be ready to present in another two weeks.

Judge Arnold-Burger indicated that there is no budget impact to the City to provide the weekend intervention services. She explained that this program is completely user funded.

A motion was made by Mr. Hix to approve the Agreement with A Connecting Point for the Community Weekend Intervention Program Services for a three-year period of time at no cost to the City. Mr. Dave Janson seconded, and the motion passed by a vote of 11 to 0.

PUBLIC SAFETY

COMMITTEE REPORT – George Kandt, Chair

No report.

STAFF REPORT

No report.

COMMUNITY DEVELOPMENT

COMMITTEE REPORT – Terry Goodman, Chair

No report.

STAFF REPORT

No report.

OLD BUSINESS:

CONSIDERATION OF VARIOUS DOCUMENTS RELATED TO THE CONSENT TO SUBLEASE BY K CITY, L.L.C., TO U.S. BANK N.A. (CAPITAL ONE HOME LOANS PROJECT).

City Attorney Bob Watson suggested a motion to recess into executive session.

At 7:55 p.m., Mr. Spears moved to recess into executive session to discuss matters subject to the attorney-client privilege relating to U.S. Bank (Capital One Home Loans Project) for a period of 30 minutes, returning to regular session in the Council Chamber. Mrs. Happer Scheier seconded, and the motion passed by a vote of 11 to 0.

The meeting reconvened into regular session at 8:25 p.m.

Mayor Gerlach said he would like to put a hold on the item under “Old Business” at this time and move on to the Mid-America Regional Council Report under the category of “New Business.”

NEW BUSINESS:

MID-AMERICA REGIONAL COUNCIL REPORT.

Mr. Curt Skoog distributed a copy of the Mid-America Regional Council (MARC) Report, which describes the issues for 2010, as well as the federal legislative agenda.

Mayor Gerlach stated that staff is preparing a resolution for the Governing Body’s consideration regarding MARC’s Transportation Outlook 2040 Plan. He explained that the resolution will be presented to the Governing Body this week, and the resolution will be voted on next week.

Mr. Spears said that MARC has a lot of areas of interest and focus. He asked if there is a resource that the Councilmembers can go to or whether it is on MARC’s Web site.

Mr. Skoog replied that MARC has a very extensive Web site that has a lot of details and contacts. He suggested that the Councilmembers go through the MARC Web site, and as the representative for the City, he would be happy to facilitate any conversations regarding the issue.

Mayor Gerlach returned to the category of Old Business and asked Mr. Watson if he had written a motion regarding the consideration of various documents related to the consent to sublease by K City, L.L.C., to U.S. Bank N.A. (Capital One Home Loans Project).

Mr. Watson deferred to Councilmember Spears.

A motion was made by Mr. Spears to adopt Resolution No. 3805, subject to the City Manager approving the final form of the assignment, assumption and amendment of the Payment In Lieu of Taxes Agreement and the form of a Settlement and Escrow Agreement related to disputed ad valorem taxes subject to recapture and the City Manager approving the form of a Ground Lease with U.S. Bank regarding additional parking related to the project. If the City Manager determines that he cannot approve the form of the aforementioned documents, the matter shall be returned to the Governing Body for action as it deems appropriate and necessary. Mr. Goodman seconded, and the motion passed by a vote of 11 to 0.

Mayor Gerlach asked for a motion to add a nonagenda item in reference to a conflict of interest.

Mr. Goodman moved to add a nonagenda item in reference to a conflict of interest. A second was made by Mrs. Happer Scheier, and the motion passed unanimously.

Mr. Spears moved that the conflict of interest created by the Stinson Morrison Hecker, L.L.P., law firm providing legal counsel to U.S. Bank National Association in regard to the matter described in the letter from the law firm to the City of Overland Park dated January 22, 2010, be waived and the mayor be authorized to execute the acceptance and agreement with respect thereto at the end of said letter. Mr. Paul Lyons seconded, and the motion passed by a vote of 11 to 0.

ADJOURNMENT.

Mr. White moved to adjourn the meeting at 8:35 p.m., and Mr. Hix seconded. The motion passed unanimously.

Minutes transcribed by Barbara Potts.

Carl R. Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk