

OVERLAND PARK CITY COUNCIL MEETING

March 1, 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. George Kandt; Mrs. Terry Happer Scheier; Mr. Terry Goodman; Mr. David White; Mr. Jim Hix; Mr. Dave Janson; Mr. John Skubal; Mr. Curt Skoog; Mrs. Donna Owens; Mr. Dan Stock; and Mr. Paul Lyons.

Also present were: Mr. John M. Nachbar, City Manager; Mr. Mike Garcia, Acting Director of Human Resources; Mr. Bill Ebel, Director of Planning and Development Services; Mr. Doug Brown, Director of Public Works; Mr. John Douglass, Police Chief; Mr. Bryan Dehner, Fire Chief; Mr. Mike Casey, Deputy Fire Chief; Mrs. Kristy Stallings, Deputy City Manager; Mr. Dave Scott, Chief Financial Officer; Mrs. Vicki Irely, Director of Information Technology; Mr. Sean Reilly, Communications Manager; Mr. Bob Watson, City Attorney; Mrs. Tammy Owens, Senior Assistant City Attorney; Mr. Russ Dent, Facility Management Manager; Mr. Greg Ruether, Acting Director of Parks Services; Mr. Tony Cosby, Acting Director of Recreation Services; Mr. David Price, Senior PC Technician; and Mrs. Barbara Potts, Recording Secretary. Approximately 20 people were in the audience.

PLEDGE OF ALLEGIANCE

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

MAYOR CARL R. GERLACH

Mayor Gerlach recognized Boy Scout Troop No. 459 sponsored by Colonial Presbyterian Church and Boy Scout Troop No. 199 sponsored by St. Michael's Angels Church.

Mayor Gerlach acknowledged students who are studying Economics and Government with the Learning Exchange. He also acknowledged students from a social studies class at Antioch Middle School.

REAPPOINTMENTS TO THE LANDMARKS COMMISSION:

James Delaney – Term 2/20/10 to 2/20/13
Kevin Cowan – Term 2/20/10 to 2/20/13

Mr. Fred Spears moved to approve the preceding reappointments to the Landmarks Commission as listed. A second was made by Mrs. Terry Happer Scheier, and the motion passed by a vote of 12 to 0.

CITY MANAGER JOHN NACHBAR

No report.

CONSENT AGENDA:

PUBLIC WORKS

COMMITTEE ITEMS:

RESOLUTION NO. 3809 – Rescinding resolution relating to a voluntary program to protect water quality and natural streams by installing Best Management Practices on new development to control storm water runoff.

INFORMATION ITEM – Review of existing Governing Body Policy Resolutions:

- Earthen Storm Water Ditches
- Easement Acquisitions
- Storm Drainage Improvements
- Streambank Stabilization

WAIVE CONSULTANT SELECTION PROCESS AND AUTHORIZATION TO NEGOTIATE CONTRACT – Sys-Tek for design services for the Energy Efficient Building Upgrade Program.

REVISE 2011-2015 CAPITAL IMPROVEMENT PROGRAM – Advance the scheduling of the 143rd Street, Quivira to Switzer project, from 2011 to 2010.

STAFF ITEMS:

ORDINANCE NO. CON-2862 – Authorizing and providing for the acquisition of lands or interests therein by condemnation for the improvement of a main trafficway – 127th Street, Metcalf to Nall.

RESOLUTION NO. 3808 – Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for a flood control project along Indian Creek between Roe and Mission Road (Improvement District No. 07-193).

RESOLUTION NO. 3810 – Declaring 66th Street from Lowell to Santa Fe Drive, 66th Terrace from Lowell to Santa Fe Drive, Robinson Lane from 60th Terrace to 61st Street, Robinson Street from 60th Terrace to 61st Street, 60th Terrace from Robinson Lane to Robinson Street, Newton from north of 61st Street, Mackey from 75th Street to Shady Lane, Shady Lane from Mackey to Hadley, Hadley from 75th Street to Shady Lane and 74th Street from Metcalf to Glenwood to be residential streets; declaring the intention of the City to improve or reimprove such residential streets by the reconstruction and asphalt resurfacing of them, by the construction of curbs, gutters and storm drainage structures along them, by the construction of sidewalks along one side of them,

by the installation or modification of streetlighting in certain locations thereon, by the installation of traffic calming devices in certain locations thereon, and incidentals necessary for the improvement or reimprovement of them including all design and engineering fees and costs of project inspection and administration, and authorizing the issuance of General Obligation bonds to pay the costs thereof. (2010 Residential Street Program).

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE ITEMS:

ORDINANCE NO. CF-2863 – Relating to an increase in the Change Fund for the Deanna Rose Farmstead from \$3,175 to \$5,475.

ORDINANCE NO. CF-2865 – Establishing a Change Fund for the Overland Park Soccer Complex in the amount of \$3,000.

INFORMATIONAL ITEM – Annual review of memberships and dues in certain organizations.

STAFF ITEMS:

COUNCIL MINUTES – February 1, 2010.

EXPENDITURE ORDINANCE NO. 2B – Outlining the expenditures from the General Operating Fund for February 3 through February 16, 2010.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 2C – Outlining the expenditures from the Capital Projects Fund for February 11 through February 17, 2010.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 2D – Outlining the expenditures from Capital Projects Fund for February 18 through February 24, 2010.

APPLICATIONS FOR RENEWAL OF DRINKING ESTABLISHMENT LICENSES
CONTINGENT ON RECEIVING STATE LICENSES:

FCH Overland Park Restaurant Company, d/b/a Hilton Garden Inn
Great American Grill, 5800 College Boulevard, Walt Sewell, manager.

PB and J Robin, L.L.C., d/b/a Red Robin, 7111 W. 95th Street,
Patrick W. Khoury, manager.

Spin Concepts, Inc., d/b/a Spin Pizza No. 1, 6541 W. 119th Street,
Jeff Lee, manager.

APPLICATION FOR NEW CEREAL MALT BEVERAGE LICENSE - Rugova
Enterprises, Inc., d/b/a Santa Fe Cafe, 9946 W. 87th Street, Marilyn S.
Rugova, manager.

APPLICATION FOR RENEWAL OF CEREAL MALT BEVERAGE LICENSE -
Godfather's Pizza, Inc., d/b/a Godfather's Pizza, 12561 Antioch, Shari
Baptist, manager.

APPLICATION FOR TEMPORARY PERMIT TO SELL ALCOHOLIC LIQUOR -
Ducks Unlimited Johnson County Chapter, for an event to be held March 6,
2010, from 5 p.m. until 11 p.m., 6635 W. 151st Street, J.D. Martin, manager.

Mr. Spears moved to approve the preceding Consent Agenda items as presented. A second was made by Mrs. Happer Scheier, and the motion passed by a roll-call vote of 12 to 0.

REGULAR AGENDA:

PUBLIC SAFETY

COMMITTEE REPORT – Mr. George Kandt, Chair

Chair George Kandt thanked the Overland Park Fire Department staff for the CPR training given to the Governing Body prior to the City Council meeting. He believed this training provides valuable information that everyone should have. He encouraged the citizens of Overland Park to get CPR training in case they are in a setting where they can save someone's life.

STAFF REPORT:

No report.

COMMUNITY DEVELOPMENT

COMMITTEE REPORT – Mr. Terry Goodman, Chair

No report.

STAFF REPORT:

BID TABULATION – Pine Straw Mulch.

Acting Director of Recreation Services Tony Cosby said the City received bids for pine straw mulch to be used at the City's golf courses. The low bid was received from American Midwest Distributors, L.L.C., but their pine straw mulch did not meet bid specifications, because it was chopped pine straw, which will float and blow away. Therefore, staff recommended that the pine straw mulch as specified be purchased from Georgia's Pinestraw, Inc., for a total of \$14,796.

Mr. Terry Goodman moved to approve the bid from Georgia's Pinestraw, Inc., for a total amount of \$14,796. Mr. Dave Janson seconded the motion, which passed by a vote of 12 to 0.

ANNUAL MARILLAC CAMPUS SECURITY REVIEW REPORT.

Director of Planning and Development Services Bill Ebel referred to Section 3, Stipulation G, of Ordinance No. Z-3075 (Special Use Permit No. 2004-15), which requires an annual Security Review Report to be conducted by the Overland Park Police Department of the ongoing operations and security issues at the Marillac Center located at 8000 West 127th Street.

Mr. Ebel stated that the 2009 review showed that Marillac had successfully complied with all stipulations with the exception of one incident involving an elopement. He explained that a 15-year-old female ran from the facility and was followed by a staff member. He assured the Governing Body that the staff member never lost sight of the juvenile, who ran to the nearby CVS Pharmacy. The juvenile was apprehended by the staff member and returned to Marillac without incident. He commented that a Marillac supervisor contacted the Police Department; however, he did not notify the Blue Valley School District (BVSD) as specified in stipulation F.

According to Mr. Ebel, the operations administrator for Marillac, Mr. Kevin Choe, informed him that their interpretation of the elopement protocol led them not to make the notification to the school district. Since their staff member never lost sight of the client, they did not believe the call to BVSD was required.

Mr. Ebel explained that Police Sergeant Dan Carney reviewed the elopement protocol with Mr. Choe and summarized by advising Mr. Choe of the need to direct his staff to contact both the Police Department and BVSD in the event of any and all elopements.

Mr. Ebel said that Police Officer Mike Betten conducted a walk-through and found physical security and security procedures at Marillac to be acceptable. He noted that Mr. Choe assisted them in their review of the facility, as well as their compliance with the special use permit stipulations.

Mr. Ebel stated that this item is only for information purposes, so a motion is not necessary.

Mayor Gerlach thanked the representatives of Marillac for the valuable service they offer the community. He expressed the City's appreciation for going through the annual campus security review with the City and the Blue Valley School District.

PUBLIC WORKS

COMMITTEE REPORT – Mrs. Terry Happer Scheier, Chair

No report.

STAFF REPORT:

BID TABULATION – 2010 Sidewalk Repair, Curb Repair and New Sidewalk Construction.

Director of Public Works Doug Brown stated that staff combined the sidewalk repair, curb repair and new sidewalk construction into one project.

Staff recommends accepting the low bid from Miller Paving and Construction for a total contract amount of \$653,307.25.

Mr. Dan Stock referred to the engineer's estimate, which was \$999,405. He asked what happens to the remaining amount of \$350,000 in terms of the project.

Mr. Brown replied that although the engineer's estimate was \$999,405, the actual funding and budget of the 2010 Street Maintenance Repair Program was \$750,000. He explained that the difference between \$653,900 and \$750,000 is about \$90,000, and that could be used for additional sidewalk repair.

Mrs. Happer Scheier moved to accept the low bid in the amount of \$653,307.25 from Miller Paving and Construction, L.L.C., for the 2010 sidewalk repair, curb repair and new sidewalk construction. Mr. David White seconded the motion, which carried by a 12 to 0 vote.

SUPPLEMENTAL AGREEMENT NO. 2 - Kaw Valley Engineering, Inc., for additional testing services for College Boulevard, U.S. 69 to Pflumm, in the amount of \$15,000.

Mr. Brown presented Supplemental Agreement No. 2 with Kaw Valley Engineering, Inc., for additional testing services for College Boulevard, U.S. 69 to Pflumm, in the amount of \$15,000.

Mr. John Skubal said he would like to abstain from voting on Supplemental Agreement No. 2, as well as the following project with Kaw Valley Engineering because these two items involve his employer.

Mr. Paul Lyons noticed the reason for the supplemental agreement was due to the poor condition and deterioration of the pavement along the stretch of road. He asked the total cost of that project as a result of having to replace more of the surface.

As part of the execution of that contract, Mr. Brown explained that staff discovered the additional areas last summer that needed to be removed completely and replaced. The Governing Body approved the additional \$1,000 to be used for that project to cover the cost. However, at that time, staff did not transfer the \$1,000 to cover the additional testing services that were required when that was done.

Mrs. Happer Scheier moved to approve Supplemental Agreement No. 2 with Kaw Valley Engineering, Inc., for additional testing services to College Boulevard, U.S. 69 to Pflumm, in the amount of \$15,000. A second was made by Mr. White, and the motion passed by a vote of 11 to 0 to 1. Mr. Skubal abstained.

AGREEMENT - Kaw Valley Engineering, Inc., for testing services for Antioch, 119th Street to I-435 in an amount not to exceed \$71,740.

Mr. Brown said that proposals were mailed to nine testing laboratories and only three were submitted. He indicated that Kaw Valley Engineering was the lowest bid and the best proposal.

Mrs. Happer Scheier moved to approve the Agreement with Kaw Valley Engineering, Inc., for testing services for Antioch, 119th Street to I-435, in an amount not to exceed \$71,740. Mr. White seconded the motion, which passed by a vote of 11 to 0 to 1. Mr. Skubal abstained.

Mr. Brown referred to the following two agreements and indicated that he would present both agreements together. He requested that the Council make one motion to approve both agreements.

AGREEMENT – City of Leawood for the public improvement of Nall, from College Boulevard to 119th Street, part of the 2010 Micro-surfacing Program, in the estimated amount of \$178,400.

In terms of background, Mr. Brown said the City of Overland Park performs a Micro-surfacing Program each year as part of its Street Maintenance Repair Program. He explained that this project is located in both Overland Park and the City of Leawood. He explained that the total cost for the micro-surfacing on Nall is estimated to be \$178,400, which will be split 50/50 between the two cities. He indicated that sufficient funds are budgeted for the 2010 Street Maintenance Repair Program.

AGREEMENT NO. 20-10 – Kansas Department of Transportation (KDOT) for construction engineering inspection by City for Antioch, from I-435 to 119th Street (KDOT Project No. 46 N-0374-01).

Mr. Brown indicated that Agreement No. 20-10 with Kansas Department of Transportation (KDOT) allows the City to use its own construction inspectors to inspect the project. Without this agreement, KDOT would need to have their staff inspect the project, and the City would be required to reimburse KDOT for their inspection costs. He explained that there is no budget impact to the project budget.

A motion was made by Mrs. Happer Scheier and seconded by Mr. White to approve the Agreement with the City of Leawood, as presented, for an estimated amount of \$178,400, and Agreement No. 20-10 with KDOT, as presented, with no impact to the project budget. The motion passed by a 12 to 0 vote.

Mr. Brown stated that he would present the following two Supplemental Agreements together and requested that the Governing Body make one motion for both items.

SUPPLEMENTAL AGREEMENT NO. 1 TO AGREEMENT NO. 99-06 – Kansas Department of Transportation (KDOT) for the purchase of Alternative Fuel Vehicles (KDOT Project No. 46 N-0416-01).

SUPPLEMENTAL AGREEMENT NO. 1 TO AGREEMENT NO. 49-07 – Kansas Department of Transportation (KDOT) for the purchase of Alternative Fuel Vehicles (KDOT Project No. 46 N-0453-01).

Mr. Brown presented Supplemental Agreement No. 1 to Agreement No. 99-06 with Kansas Department of Transportation (KDOT) for the purchase of Alternative Fuel Vehicles (KDOT Project No. 46 N-0416-01) and Supplemental Agreement No. 1 to

Agreement No. 49-07 with KDOT for the purchase of Alternative Fuel Vehicles (KDOT Project No. 46 N-0453-01). As he explained, the City applied for Congestion Mitigation Air Quality (CMAQ) funding for the purchase of alternative fuel vehicles covering the years 2006-2008. The original KDOT Agreements specified that the City would receive a total amount of \$128,000 over the three-year period. Both Supplemental Agreements are to clarify the terms of the original grant, which stated that the City would be reimbursed \$8,000 per vehicle purchased. Because the City purchased 14 of the 16 vehicles originally requested, they are only entitled to \$112,000 in total for the 14 vehicles.

According to Mr. Brown, there is no budget impact to operating budgets for this year. He explained that the City will receive \$24,000 of the \$40,000 anticipated for the 2008 period.

Mrs. Happer Scheier moved to approve Supplemental Agreement No. 1 to Agreement No. 99-06, and Supplemental Agreement No. 1 to Agreement No. 49-07 as outlined and presented by staff. Mr. White seconded, and the motion passed by a 12 to 0 vote.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT – Mr. Jim Hix, Chair

REVIEW OF ANNUAL SALARY OF COUNCILMEMBERS, COUNCIL PRESIDENT AND MAYOR.

- Mayor and Councilmember Salaries, Benefits and Allowances – Provisions on the salaries of the Mayor and City Councilmembers; providing for Mayor and Councilmember benefits and allowances. (Current Charter Ordinance No. Eighty Eight)
- Governing Body Policy Resolution – Determining Salary for City Councilmembers, President of the Council, and Mayor. (Current Resolution No. 3230)

In accordance with the provisions of Charter Ordinance No. Eighty-Eight and Resolution No. 3230, Mr. Hix stated that the Finance, Administration and Economic Development Committee reviewed annual salaries of Governing Body members. After review, the Committee recommended that no changes be made.

STAFF REPORT:

No report.

RECOMMENDATIONS FROM THE PLANNING COMMISSION

PLANNING COMMISSION CONSENT AGENDA:

REVISED PRELIMINARY PLAN APPROVAL – Summerwood Estates, vicinity of the southwest corner of 159th Street and Quivira. Application made by Polsinelli Shughart, PC. The Planning Commission approved this item on February 8, 2010, by a vote of 11 to 0.

ACCEPTANCE OF RIGHT-OF-WAY – FINAL PLAT NO. 2010-1 – Meadows of Mills Farm, vicinity of the southeast corner of 165th Street and Quivira. Application made by Phelps Engineering, Inc. The Planning Commission approved this item on February 8, 2010, by a vote of 11 to 0.

Mayor Gerlach inquired if any Councilmember would like either item removed for discussion. There being no response, he referred the items for action.

Mr. Spears moved to approve Revised Preliminary Plan for Summerwood Estates, southwest corner of 159th Street and Quivira, subject to stipulations a through f, and Acceptance of Right-of-Way, Final Plat No. 2010-1 for Meadows of Mills Farm, southeast corner of 165th Street and Quivira, subject to stipulations a through d. A second was made by Mr. Kandt, and the motion passed by a roll-call vote of 12 to 0.

PLANNING COMMISSION REGULAR AGENDA

RESIDENTIAL DAY-CARE PERMIT NO. 2009-7 – 8515 Kessler. The applicant is requesting a residential day-care permit for a one-year period of time. Application made by Lilliana Mariaca. The Planning Commission approved this item for a one-year period of time on February 8, 2010, by a vote of 11 to 0.

Mr. Ebel indicated that the applicant requested a continuance of Residential Day-Care Permit No. 2009-7 to the April 5, 2010, City Council meeting.

Mr. Kandt moved to continue Residential Day-Care Permit No. 2009-7, 8515 Kessler, to the April 5, 2010, City Council meeting. Mr. Stock seconded, and the motion passed by a vote of 12 to 0.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

ADJOURNMENT:

Mr. Kandt moved to adjourn the meeting at 7:50 p.m. Mr. Stock seconded the motion, which passed unanimously. Minutes transcribed by Barbara Potts.

Carl R. Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk