

OVERLAND PARK CITY COUNCIL MEETING

March 8, 2010

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

Mr. Terry Goodman; Mr. George Kandt; Mrs. Terry Happer Scheier; 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. Mayor Carl R. Gerlach was absent.

Also present were: Mr. John M. Nachbar, City Manager; Mr. Bob Watson, City Attorney; Mr. Bill Ebel, Director of Planning and Development Services; Mr. Tony Cosby, Acting Director of Recreation Services; Mr. Greg Ruether, Acting Director of Parks Services; Mr. John Douglass, Police Chief; Mr. Bart Budetti, Senior Assistant City Attorney; Mr. Mike Santos, Deputy City Attorney; Mrs. Tammy Owens, Senior Assistant City Attorney; Mrs. Vicki Irely, Director of Information Technology; Mr. Doug Brown, Director of Public Works; Mr. Dave Scott, Chief Financial Officer; Mr. Sean Reilly, Communications Manager; Mr. Rob Welton, PC Technician; and Ms. Kathleen Behrens, Recording Secretary. Approximately 15 people were in the audience.

PLEDGE OF ALLEGIANCE

Acting Mayor Fred Spears led the audience in the Pledge of Allegiance.

MAYOR CARL R. GERLACH

Acting Mayor Spears recognized Boy Scout Troop No. 259 sponsored by Colonial Presbyterian Church.

CITY MANAGER JOHN NACHBAR

No report.

CONSENT AGENDA

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

STAFF ITEMS

CAPITAL PROJECT EXPENDITURE ORDINANCE NO. 3A—Outlining the expenditures from the Capital Projects Fund for February 25 through March 3, 2010.

APPLICATION FOR NEW DRINKING ESTABLISHMENT LICENSE CONTINGENT ON RECEIVING TEMPORARY CERTIFICATE OF OCCUPANCY AND STATE LICENSE - KC Smash 01, L.L.C., d/b/a KC Smash 01, L.L.C., 6551 W. 119th Street, Tim Roumas, manager.

APPLICATION FOR RENEWAL OF DRINKING ESTABLISHMENT LICENSE - The Athletic Club of Overland Park, d/b/a The Athletic Club of Overland Park, 10440 Marty, Holly Combest, manager.

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

CW and CH, Inc., d/b/a Andy's Wok, 6357 W. 119th Street, Carol Wu, manager.

Fronteras Mexican Restaurant and Cantina No. 2, d/b/a Fronteras Mexican Restaurant and Cantina No. 2, L.L.C., Salvador De LaTorre, manager.

Mi Ranchito No. 3, L.L.C., d/b/a Mi Ranchito No. 3, L.L.C., 7148 W. 80th Street, Armando Dela Torre, manager.

Torreon Restaurant Company, d/b/a Torreon Restaurant Company, 9129 Elmhurst, Denice L. Hamilton, manager.

APPLICATION FOR RENEWAL OF CLASS B PRIVATE CLUB LICENSE CONTINGENT ON RECEIVING STATE LICENSE - Indian Creek Racquet Club, Inc., d/b/a Midtown Tennis Club, 6700 W. 110th Street, Molly Markley, new manager.

APPLICATIONS FOR NEW CEREAL MALT BEVERAGE LICENSES:

Hayward's Pit BBQ Express, d/b/a Hayward's Pit BBQ Express, 9148 Santa Fe Drive, Nasrum Minallah, manager.

Walgreen Co., d/b/a Walgreens Store No. 11370, 9500 Antioch, Justin Padilla, manager.

APPLICATIONS FOR RENEWAL OF CEREAL MALT BEVERAGE LICENSES:

Metcalf 133, L.L.C., d/b/a PepperJax Grill, 13386 Metcalf, Jodi Jacobs, manager.

Queen-Morris Ventures, L.L.C., d/b/a Queen's Price Chopper Store No. 4, 8686 Antioch, Howard Smith, manager.

APPLICATION FOR TEMPORARY PERMIT TO SELL ALCOHOLIC LIQUOR - A Midwest Premiere, 10635 Floyd, for an event to be held March 20, 2010, from 12 p.m. (noon) until 12 a.m. (midnight), Sophia Chamberlain, manager.

COMMUNITY DEVELOPMENT

COMMITTEE ITEMS

RESOLUTION NO. 3804–Sewer District Enlargement located in the vicinity of 165th Street and Quivira.

AUTHORIZATION TO NEGOTIATE CONTRACT–Gatmaster Systems for the purchase of a point of sales system and gate control system for the Deanna Rose Children’s Farmstead in an amount not to exceed \$145,000.

Acting Mayor Spears presented the Consent Agenda and asked if there were any items to be removed for separate discussion.

With no further comment, Mr. Terry Goodman moved to approve the Consent Agenda as presented. Mr. Dave Janson seconded the motion, which carried by a roll-call vote of 12 to 0.

REGULAR AGENDA

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT Jim Hix, Chair

REPORT FROM FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT
COMMITTEE MEETING HELD MARCH 8, 2010.

2010-2011 PROPERTY AND LIABILITY INSURANCE–Travelers Insurance Company for approval of an insurance program for the term of April 1, 2010, to April 1, 2011, in an amount not to exceed \$425,000.

PROPERTY AND LIABILITY INSURANCE AGENT/BROKER SERVICES–CBIZ/Giddings Group for insurance agent/broker services for the City’s property and liability insurance program effective April 1, 2010, to April 1, 2011, in the amount of \$25,000.

AUTHORIZATION OF AN AGREEMENT FOR LIABILITY INSURANCE
THIRD PARTY ADMINISTRATION SERVICES–Thomas McGee, LC, for the term of April 1, 2010, to April 1, 2011.

AUTHORIZATION OF AGREEMENT FOR HEALTH BENEFITS
CONSULTING SERVICES–Mercer Health and Benefits for the term of June 1, 2010 to May 31, 2011.

Mr. Jim Hix presented a report from the Finance, Administration and Economic Development (FAED) Committee meeting held March 8, 2010. He explained that the FAED Committee unanimously recommended approval of the following items: A property and liability insurance program with Travelers Insurance Company for the term of April 1, 2010, to April 1, 2011, in an amount not to exceed \$425,000; Authorization of an agreement with CBIZ/Giddings Group to provide property and liability insurance agent/broker services for the term of April 1, 2010, to April 1, 2011, in the amount of \$25,000; Authorization of an agreement with Thomas McGee, LC., to function as the liability insurance third party administration services for the term of April 1, 2010, to April 1, 2011; and an extension of a custodian agreement with Mercer Health and Benefits to provide health benefits consulting services from June 1, 2010, to May 31, 2011, for a fee not to exceed \$79,500. That agreement is subject to staff successfully completing the ongoing negotiations for that contract.

Mr. Hix moved to approve the property and liability insurance program with Travelers Insurance Company; authorization of an agreement with CBIZ/Giddings Group to provide property and liability insurance agent/broker services; and authorization of an agreement with Thomas McGee, LC, for liability insurance third party administration services as previously presented. Mrs. Donna Owens seconded the motion, which carried by a vote of 12 to 0.

Mr. Hix moved to approve authorization of an agreement with Mercer Health and Benefits for health benefits consulting services as presented. Mr. Dave Janson seconded the motion, which carried by a vote of 12 to 0.

STAFF REPORT

DEVELOPMENT AGREEMENT–Shoppes at Deer Creek Woods II, L.L.C., related to Transportation Development District located in the vicinity of the northwest corner of 135th Street and Metcalf.

Senior Assistant City Attorney Tammy Owens presented a development agreement with the Shoppes at Deer Creek Woods II, L.L.C., related to Transportation Development District (TDD) located in the vicinity of the northwest corner of 135th Street and Metcalf. She explained that the Governing Body created and approved a TDD on the northwest corner of 135th Street and Metcalf in 2007. In 2008, the City began collecting the sales tax, and they are at a point where they need to execute a development agreement with the developer to contemplate paying out some of the costs for eligible expenses. This agreement with the developer is substantially in the same form as the agreement that the Governing Body reviewed and approved for Oak Park mall. She noted that Mr. John Petersen was available to answer questions on behalf of the developer.

Mr. Hix moved to approve the development agreement with Shoppes at Deer Creek Woods II, L.L.C., as outlined by staff. Mr. Dan Stock seconded the motion, which carried by a vote of 12 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.

PUBLIC WORKS

COMMITTEE REPORT Terry Happer Scheier, Chair

No report.

STAFF REPORT

SUPPLEMENTAL AGREEMENT NO. 3–Olsson Associates for additional design services for 143rd Street from Quivira to Switzer in an amount not to exceed \$32,975.

Director of Public Works Doug Brown presented Supplemental Agreement No. 3 with Olsson Associates for additional design services for 143rd Street from Quivira to Switzer in an amount not to exceed \$32,975.

Mrs. Terry Happer Scheier moved to approve Supplemental Agreement No. 3 with Olsson and Associates as outlined by staff. Mr. David White seconded the motion, which carried by a vote of 12 to 0.

AGREEMENT–City of Olathe for the public improvement of 159th Street from Pflumm to 1,680 feet east of Pflumm; Pflumm from 135th Street to 143rd Street; and Pflumm from College Boulevard to 119th Street, part of the 2010 Microsurfacing Program, for an estimated amount of \$254,000.

Mr. Brown presented an agreement with the City of Olathe for the public improvement of 159th Street from Pflumm to 1,680 feet east of Pflumm; Pflumm from 135th Street to 143rd Street; and Pflumm from College Boulevard to 119th Street, which are all included as part of the 2010 Microsurfacing Program. The estimated agreement amount is \$254,000.

Mrs. Happer Scheier moved to approve the agreement with the City of Olathe for improvements as outlined by staff. Mr. White seconded the motion, which carried by a vote of 12 to 0.

OLD BUSINESS

EXECUTIVE SESSION–For the purpose of discussing matters subject to the attorney-client privilege relating to the lawsuit pending in Johnson County District Court captioned Vance Brothers, Inc., v. City of Overland Park, Kansas, Case No. 07CV09554.

At 7:45 p.m. Mrs. Happer Scheier moved that the Governing Body recess into Executive Session for a period of five minutes for the purpose of discussing matters subject to the client-attorney privilege relating to the lawsuit entitled Vance Brothers, Inc., v. City of Overland Park, Kansas, Case No. 07CV09554 pending in the Johnson County District Court. Following the Executive Session, the Governing Body will reconvene into regular session. Mr. Hix seconded the motion, which carried by a unanimous vote.

Action Mayor Spears recused himself from considering the item discussed in the executive session, because one of the parties listed in the suit is his client.

Council President Spears reconvened the Council meeting into regular session at 7:50 p.m.

NEW BUSINESS

MID-AMERICA REGIONAL COUNCIL REPORT

Mr. Curt Skoog explained that he had sent out an e-mail the last week after the Mid-America Regional Council met regarding their discussion of the Transportation 2040 Plan. There was no vote made on the plan, but there was a good discussion on the matter. The majority position of the Mid-America Regional Council was that they would be willing to review the plan when the numbers are available. The vote will be delayed for two months, and the Technical Committee will put together the true forecast, which has not happened to this point. At that point, the expectation is that between now and the next two months, a report will be issued from the committee and a forecast will be presented regarding what they believe the natural growth of redevelopment will be and the available options to increase redevelopment over the course of the plan. After presentation of the plan, the governing bodies and the MARC Board will review the plan to determine what commitments they are willing to make.

Mr. Hix asked if there was any discussion of approaching the plan without a fixed sum. Instead of developing a plan that has two percentages that total 100 percent, he suggested having a plan that would allow green field development to happen naturally and work towards emphasizing an energized redevelopment. For example, when you have a 60/40 or a 70/30 plan, you are operating as if there is a loss every time there is a gain. Mr. Skoog stated that there was discussion about the need for percentages, and he felt that issue will be part of the discussion that takes place between now and the next two months. The belief of many members is that without putting percentages in the plan nothing is going to change. The objective of the percentages is to reflect what the market will be and what the communities are willing to do to increase redevelopment within existing infrastructure.

Mr. Hix found it difficult to accept the concept of zero sum development and redevelopment and the concept that if we increase redevelopment, we have to decrease green field development. Mr. Skoog felt that MARC's belief is that they are not limiting green field growth; they are asking communities to focus government resources where there is existing infrastructure.

Mrs. Owens commented that the goal of the Transportation 2040 plan is to determine how money is going to be distributed and identify the ideal scenario and develop a plan that gravitates toward a goal. She noted that the county is not harmonious on this issue. There are strong concerns that a part of the county does not receive their appropriate share right now because they are fully developed. There are strong opinions on this matter and the situation will be difficult however it settles.

ADJOURNMENT

Mr. White moved to adjourn the meeting at 7:55 p.m. Mrs. Happer Scheier seconded the motion, which carried by a unanimous vote.

Minutes transcribed by Kathleen Behrens.

Fred Spears, Acting Mayor

ATTEST:

Marian Cook, City Clerk