

OVERLAND PARK CITY COUNCIL MEETING

April 12, 2010

Mayor Carl R. Gerlach called the Overland Park City Council meeting to order at 7:35 p.m. The following members were present, constituting a quorum:

Mr. Dave Janson, Council President; Mr. Terry Goodman; Mr. George Kandt; Mrs. Terry Happer Scheier; Mr. David White; Mr. Jim Hix; Mr. Fred Spears; Mr. John Skubal; Mr. Curt Skoog; Mr. Dan Stock; and Mr. Paul Lyons. Mrs. Donna Owens 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. Bryan Dehner, Fire Chief; Mr. Bart Budetti, Senior Assistant City Attorney; Mrs. Tammy Owens, Senior Assistant City Attorney; Mrs. Vicki Irely, Director of Information Technology; Mrs. Kristy Stallings, Deputy City Manager; Mr. Doug Brown, Director of Public Works; Mr. Dave Scott, Chief Financial Officer; Ms. Gena McDonald, Assistant Chief Financial Officer; Mr. Mike Casey, Deputy Fire Chief; Mr. Sean Reilly, Communications Manager; Mr. David Price, Senior PC Technician; and Ms. Kathleen Behrens, Recording Secretary. Approximately 15 people were in the audience.

PLEDGE OF ALLEGIANCE

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

PUBLIC HEARING

2011 OPERATING BUDGET–Citizen Input.

Assistant Chief Financial Officer Gena McDonald presented the 2011 Operating Budget, stating although this preliminary public hearing is not required, staff conducts this hearing at the beginning of the budget process to gather public input to consider when developing the Operating Budget. The budget is currently under development. The Operating Budget funds the daily operations of the City, including personnel services, commodities, contractual services, and some minor equipment replacement.

The City Manager's proposed Operating Budget will be presented to the Governing Body in early June followed by Goal Area Committee review and recommendations in June and July. A second public hearing will be held for the budget in early August. The budget must be adopted and submitted to the County by August 25, 2010.

Upon receiving no comments from the Council, Mayor Gerlach opened the public hearing.

Mr. Mike Bensman, 10500 West 142nd Street, pointed out that Overland Park has traditionally been a best-in-class City and ranked in the 90th percentile for schools, as well as in the services the City offers. However, the Overland Park winter issue of the

Overview outlined some challenges for the City. Those challenges included a lack of distinctive identity, competition from nearby cities, and schools and safety. He requested that the Governing Body consider an increase in revenue and spending for the 2011 Budget. He asked that those funds be devoted on a primary basis as they are currently in the budget today to Public Safety, Police, Fire and Emergency Medical Services.

Mr. Bensman pointed out a great effort the Police Department made regarding organized retail crime that he thought was extraordinary. He felt the entire Council should be made aware of this effort, and that effort has not been able to continue primarily based on budget constraints. He felt this effort needed to be maintained on a year-around basis. The feedback received from the retail entities where this effort was made was phenomenal.

Secondly, Mr. Bensman asked that revenue be increased and devoted to Public Works to maintain the current infrastructure. Given those costs, he felt deferring that issue into the future will create a larger expense over a longer term basis. He felt increasing taxes at this time was the right choice. He has confidence this tax increase would pass due to the most recent elections held in the metro area last week where there were 15 tax or bond increase issues on the ballot ranging from public safety to schools. Interestingly, 67 percent of those issues passed, and eight of ten issues passed by a vote of 61 percent or greater; five of the ten that passed, passed by 73 percent or greater; and 63 percent of all ballots casts were in favor of increasing taxes. He felt the actual data from the Overland Park area indicated that 63 percent of voters agreed to increase their taxes because they felt investing was the right thing to do for their city or authority's betterment.

Mr. Bensman wanted to ensure that Overland Park continues to delight and impress not only citizens but visitors. He felt it was important that visitors who look for housing select Overland Park as their first choice to live for two reasons. First, maintaining or improving the City's status tends to contribute to property value over time, as well as create a safe City status. The other issue is that Overland Park surprisingly did not keep pace with residential property values in 2009 versus 2008. He pointed out that Overland Park was in the bottom third of the ten cities that he chose to measure in Johnson County. He also had a problem with more lost value where the City lost value while four cities gained value. For that loss in value, the home owner would have to fund a ten percent increase in property taxes for 20 years. For example, a \$250,000 home with two tenths of one percent is \$500. That \$500 would fund a 10 percent increase in taxes, which would amount to \$25 for 20 years. He felt the tax money should be spent now to drive retail value backup. He felt the best way to do that is through increased public safety on a primary basis and through public works on a secondary basis.

Mr. Bensman understood that a tax increase could be a real burden to some, but the reality is that a tax increase would be a cost they may already be paying through the crime they face now and in the future. He strongly advocated the Council consider the tax increase to keep Overland Park where it is and keep them moving forward in relationship to other cities in the metro area and on a nationwide basis.

Mr. Paul Lyons asked if there were any specifics in terms of providing additional police officers or money to be spent in safety programs. Mr. Bensman stated that according to the information provided on organized retail crime, one of the top retail stores at

Oak Park Mall was in the top ten “most stolen from” stores in the entire United States. Overland Park Police were able to turn those numbers around in one quarter through some dynamic efforts the Police Department made. Increased taxes will not only help businesses come to Overland Park, but there is also the issue of the Police officers engaging with law enforcement agencies as diverse as the Secret Service, State of Kansas, and other local cities to be best in class. He felt that now was the time to increase taxes and show law enforcement how much their efforts are valued for what they do for their businesses partners in the City by keeping them here and diminishing their losses due to shrinkage.

Mr. Earl Long, 7501 West 99th Street, stated that he has lived in Overland Park for almost 40 years, and he noticed over the years that there were serious budgetary constraints. He understood that the mill rate rarely rose and the tax revenues needed on a per capita basis never rose in the City. He did not agree with the suggestion to raise taxes, and he felt it would be irresponsible of the City to arbitrarily raise taxes at this time. He asked whether the larger businesses received special tax deferments or special tax compensation in 2000 in order to induce those businesses to stay or come into Overland Park. If that is the case, he questioned whether certain businesses have been singled out and given special compensation or benefits from the City. He wanted to know when that action took place and the reasons it was done.

Mayor Gerlach stated that very few businesses have received incentives, which is all made part of the public record. A few companies have received incentives to continue to grow and clawbacks are built into those incentives so that if they do not grow their jobs as promised to the City, the City takes that incentive money back. He pointed out that the complete budgetary process is available on the Overland Park Web site and laid out in detail. He also noted that the City receives awards for their budget process every year.

Mr. Terry Goodman did not favor a tax increase, but he felt it should be known that the City has benefited over a number of years by having a mill levy that has remained the same and at times a little less, but times have changed. He felt the reason they have been able to keep the mill levy the same or less is that they have always experienced a very consistent high level of growth in the City and assessed valuation, which is not the case currently. At this time, they are seeing a lessening of assessed valuation, lower property tax revenues, and sales tax revenues are suffering as a result of the recession. He felt they should recognize how the dynamic has changed as compared to prior years.

Mayor Gerlach referred to the word “arbitrary” that was mentioned by Mr. Long, and stated that the Council and past Councils have never arbitrarily raised any taxes in the City, which is the reason they have the lowest mill levy of any first-class city in the entire state of Kansas. He noted that every expense is detailed, which is shown in the budget process and where the revenues come from is outlined on the Web site. He also noted that the budget will be presented in June, which will then go before the Goal Area Committees. This budget process is open to the public to obtain any details of the budget planning process.

With no further comment, Mayor Gerlach closed the hearing.

PROPOSED ASSESSMENTS FOR IMPROVEMENT DISTRICT

NO. 08-196–Levying assessments on lots, pieces and parcels of ground for the purpose of paying the costs of the construction of a bank stabilization project within the Wycklow subdivision in the City. (Improvement District No. 08-196)

Director of Public Works Doug Brown presented proposed assessments for Improvement District No. 08-196. He explained that this improvement district was created by the public hearing process on January 14, 2008, by way of Governing Body Resolution No. 3649. Section 1 of that resolution set forth the scope of improvements, including the construction of a tangent pile wall in proximity of the stream bank, a line of riprap along the stream bank, and incidental grading and construction as needed to help stabilize the existing bank slope and minimize future bank erosion. Section 4 of the resolution sets forth the method of assessment of property in the district to be as follows: That the property within the improvement district, Tract A, shall pay one-third of the total project costs, including engineering, financing administration, construction and inspection; and the City at large shall pay the balance of all costs.

ORDINANCE NO. ASMT-2867–Levying assessments on lots, pieces and parcels of ground for the purpose of paying the cost of the construction of a bank stabilization project within the Wycklow subdivision in the City.

Mr. Brown presented Ordinance No. ASMT-2867, noting that Section 2 indicates that the assessments with accrued interest are levied concurrent with general property taxes and shall be payable in ten annual installments. The first installment shall be payable at the time of the first payment of general property taxes. Section 3 indicates that all assessments shall bear an interest rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto. Section 4 indicates that the owner of any property so assessed may, any time prior to May 21, 2010, pay the whole of the assessment against any lot or parcel to the City Clerk. Finally, Section 5 states the assessments not paid prior to that date shall herein be certified, together with the interest accrued or to accrue by the City Clerk to the County and collected in the same manner as other taxes.

Mayor Gerlach opened the public hearing. Upon receiving no comments, he closed the hearing.

Mr. Fred Spears moved to approve the proposed assessments for Improvement District No. 08-196 and Ordinance No. ASMT-2867 as outlined by staff. Mrs. Terry Happer Scheier seconded the motion, which carried by a roll call vote of 11 to 0.

MAYOR CARL R. GERLACH

Mayor Gerlach recognized a Girl Scout from Troop No. 1209, American Heritage Girl, sponsored by Indian Creek Community Church; and Boy Scout Troop No. 522, sponsored by Indian Creek Community Church; and Seniors from the Shawnee Mission West High School Government class.

PROCLAMATION–Proclaiming the month of April 2010 as Fair Housing Month in Overland Park.

Mayor Gerlach presented a proclamation to Director of Planning and Development Services Bill Ebel, proclaiming the month of April 2010 as Fair Housing Month in Overland Park.

REAPPOINTMENTS TO THE FAIR HOUSING COMMITTEE:

Dorene Manvitz–Term 3-3-10 to 3-3-12
Barbara Buehler–Term 3-3-10 to 3-3-12

NEW APPOINTMENTS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CITIZENS ADVISORY COMMITTEE–Term 4-1-10 to 4-1-11:

Patrick Davis
Theresa Jenkins
Martha Kidd
Tyler McLenon
Jane Zeller
Deana Zahnd

REAPPOINTMENTS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CITIZENS ADVISORY COMMITTEE–Term 4-1-10 to 4-1-11:

Mike Baker	Cydney Boler
Joseph Cox	Michael Diederich
Lynn Ferguson	Dina Fisk
Maureen Gallagher	Arnold Ginsberg
Debra McDaniel	Scott Moore
Barbara Olberding	Michael Ryan
Vincent Sabia	Kimberly Scott
Christian Smith	Bruce Southard
Megan Toal	Nicole Wilson
Robert J. Wolkowitz	Brooke Yoder

APPOINTMENT OF CHAIRMAN TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CITIZENS ADVISORY COMMITTEE–Term 4-1-10 to 4-1-11:

Brooke Yoder

REAPPOINTMENTS TO THE CIVIL SERVICE COMMISSION:

Gus Ramirez–Term 1-1-10 to 1-1-13
Janet S. Willits–Term 1-1-1- to 1-1-13

NEW APPOINTMENT TO THE CONVENTION AND TOURISM COMMITTEE:

Joe Andrick–Term 1-1-10 to 12-31-11

Mayor Gerlach presented reappointments to the Fair Housing Committee; new appointments to the Community Development Block Grant (CDBG) Citizens Advisory

Committee; reappointments to the CDBG Citizens Advisory Committee; appointment of Chairman to the CDBG Citizens Advisory Committee; reappointment to the Civil Service Commission; and a new appointment to the Convention and Tourism Committee.

Mr. Spears moved to approve the appointments and reappointments as outlined in the agenda. Mrs. Happer Scheier seconded the motion, which carried by a vote of 11 to 0.

CITY MANAGER JOHN NACHBAR

No report.

CONSENT AGENDA

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

STAFF ITEMS

EXPENDITURE ORDINANCE NO. 3C–Outlining the expenditures from the General Operating Fund for March 17 through March 30, 2010.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 4A–Outlining the expenditures from the Capital Projects Fund for April 1 through April 7, 2010.

APPLICATION FOR TEMPORARY PERMIT TO SELL ALCOHOLIC LIQUOR CONTINGENT ON RECEIVING STATE LICENSE–The Click, L.L.C., d/b/a The Click, L.L.C., for a two-day event to be held April 16, from 11 a.m. until 1:30 a.m.; and April 17, 2010, from 11 a.m. until 1:30 a.m., at 7240 Shawnee Mission Parkway, Cavazos Cummings, manager.

Mayor Gerlach presented the Consent Agenda for approval and asked if there were any items to remove for separate discussion.

With no further comment, Mr. Spears moved to approve the Consent Agenda as presented. Mrs. Happer Scheier seconded the motion, which carried by a vote of 11 to 0.

REGULAR AGENDA

COMMUNITY DEVELOPMENT

COMMITTEE REPORT Terry Goodman

No report.

STAFF REPORT

BID TABULATION–Pedestrian Bridge Installation–Nottingham South Park.

Acting Director of Parks Services Greg Ruether presented a bid tabulation from KLC, Inc., to install a pedestrian bridge at Nottingham South Park near 139th Street and

Lowell, in the amount of \$49,910. This bridge will be used to connect the neighborhoods from the south to the Tomahawk Creek Trail. The pedestrian bridge has already been purchased and is awaiting delivery, which will include a trail connection to the street. He noted that KLC has previously done work for the City and performed satisfactorily.

Mr. Goodman moved to approve the bid tabulation from KLC, Inc., for the pedestrian bridge installation near Nottingham South Park, in the amount of \$49,910. Mr. Dave Janson seconded the motion, which carried by a vote of 11 to 0.

PUBLIC WORKS

COMMITTEE REPORT Terry Happer Scheier

No report.

STAFF REPORT

BID TABULATION–Antioch, 119th Street to I-435 (KDOT Project No. 46N-0374-01; CARS Project No. 320000781).

Mr. Brown presented a bid tabulation from APAC-Kansas, Inc., for the project at 119th Street and Antioch, KDOT Project No. 46N-0374-01, CARS Project No. 320000781, in the amount of \$8,277,691.91.

Mrs. Happer Scheier moved to approve the bid tabulation from Apac-Kansas, Inc., for the project at 119th Street and Antioch, in the amount of \$8,277,691.91. Mr. David White seconded the motion, which carried by a vote of 11 to 0.

BID TABULATION–Asphaltic Concrete–2010.

Mr. Brown presented a bid tabulation from O'Donnell and Sons Construction Co., for asphaltic concrete in 2010, as the primary supplier, for the total cost of \$336,000, Item 1A, and \$83,500 for Item 1B; and Asphalt Sales Company as a secondary supplier, for a total cost of \$385,000 for Item 1A and \$98,000 for Item 1B. Adequate funds are included in the approved Street Maintenance Repair Program budget for this material.

Mrs. Happer Scheier moved to approve the bid tabulation from O'Donnell and Sons Construction, as the primary supplier, and Asphalt Sales Company, as the secondary supplier, for asphaltic concrete for 2010. Mr. White seconded the motion, which carried by a vote of 11 to 0.

BID TABULATION–Asphaltic Road Oils–2010.

Mr. Brown presented a bid tabulation for asphaltic road oils in 2010, from Vance Brothers, Inc., for CRS-1H or CRS-2 at \$2.40 per gallon; Maxwell Products Inc., for wide crack material at \$.486 per pound; Vance Brothers, Inc., for CSS-1H, for \$2.40 per gallon and no charge to the City for water (heated); and to Deery American Corporation for rubberized asphaltic crack sealer at \$0.34 per pound.

Given the City's recent experience with Vance Brothers, Inc., Mr. Goodman asked if staff should be considering continuing to do business with them. Mr. Brown stated that staff has never had any difficulty with these kinds of construction materials that Vance Brothers supplies. Over the last several years, staff has experienced trouble on the construction side, which for the current bid tabulation is unrelated.

Mrs. Happer Scheier moved to approve the bid tabulation for asphaltic road oils in 2010 as presented by staff. Mr. White seconded the motion, which carried by a vote of 10 to 0 to 1. Mr. Spears abstained.

AGREEMENT–Kranz of Kansas City for the completed assembly of two (2) single axle snowplow dump trucks and two (2) tandem axle snowplow dump trucks for a total cost of \$328,822.

Mr. Brown presented an agreement with Kranz of Kansas City for the completed assembly of two single axle snowplow dump trucks and two tandem axle snowplow dump trucks for a total cost of \$328,822.

Mrs. Happer Scheier moved to approve the agreement with Kranz of Kansas City for completed assembly of two single axle snowplow dump trucks and two tandem axle snowplow dump trucks in the amount of \$328,822. Mr. White seconded the motion, which carried by a vote of 11 to 0.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT Jim Hix, Chair

REPORT FROM SPECIAL FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT COMMITTEE MEETING HELD APRIL 12, 2010:

Mr. Jim Hix presented a report from the Special Finance, Administration and Economic Development Committee meeting held on April 12, 2010. He stated that the Committee received a briefing on activities expected to be occurring during the next week regarding the Transportation Development District (TDD) that was previously created for Oak Park Mall. Next week, the Council will be voting to approve a bond sale, assuming that sale goes as expected. There will be \$16,800,000 worth of bonds to be sold, which will be repaid by the one-half cent sales tax and transportation development district at Oak Park Mall.

In the briefing the Committee heard from CBL, who represents the owners of Oak Park Mall. They commented on a recent article in a local publication that indicated that Oak Park was experiencing financial trouble. CBL representatives indicated to the Committee that not only was the article in error to make those implications, but that Oak Park Mall is performing very well locally and nationally. CBL has now started two new malls within the country. There is no concern at this time about CBL or the sales at Oak Park Mall. He also pointed out that the bonds were submitted to Standard and Poor's for an evaluation and rating, and the bonds received an investment grade rating of Triple B, which is an excellent rating in the current environment. He also noted that CBL had indicated that they intend to spend the \$16,800,000 to complete their infrastructure improvements very quickly and hope to finish most of that work by the Christmas season.

Mayor Gerlach added that a new store will be added to the Oak Park Mall, which is the American Girl store. This is a very popular store in the country.

Deputy City Manager Kristy Stallings stated that final negotiations were under way, and staff is confident a completed deal will be worked out in time.

STAFF REPORT

No report.

PUBLIC SAFETY

COMMITTEE REPORT George Kandt, Chair

No report.

STAFF REPORT

AUTHORIZATION TO PURCHASE RADIO EQUIPMENT FOR THE 700 MHZ RADIO SYSTEM—Motorola, Inc., using cooperative bid prices received by the Johnson County Emergency Communications Center, for the purchase of portable radios and one repeater for the 700 MHz radio system in the estimated amount of \$179,910.69.

Fire Chief Bryan Dehner presented a request for authorization from the Council to purchase radio equipment for the 700 MHz Radio system, which is a Motorola radio system. Staff plans to use the cooperative bid process by Johnson County, Kansas, and are requesting authorization to spend up to \$179,910.69. Discussion on this project goes back a little over two years ago when the Fire Department was notified that the Federal Communication Commission (FCC) was going to drastically affect the Fire Department's VHF radio system that has served the department for all the Fire and Emergency Medical Services (EMS) operations in Johnson County. They also understood that technology is moving toward the digital world in conducting their operations in the future. The results of research staff conducted on the needed equipment would have yielded a price total close to \$450,000, which is the amount staff was requesting to be included in the Capital Improvements Program (CIP) budget. Since that time, staff has worked hard to obtain some grant funding to help them lower the costs. Johnson County also was in search of grant funding and were the sole source identifiers of radio equipment in relation to "interoperability." P25 compliance allows digital radios to talk to each other no matter what kind of manufacturer makes the radio. Johnson County sought those contracts and identified pricing that reduced the overall price to \$310,599.69 comparable to what they are using for portable radios and radios that are used in the trucks.

One important factor Johnson County identified that impacts the Fire Department's request is that all of the P25 radios that are available can be used on the system. The Johnson County Emergency Communication Center (ECC) uses a digital radio that can essentially be used as a handheld computer. The Johnson County ECC is only going to support software, upgrades and maintenance for the programming with the Motorola radios. They have chosen the Motorola radio that they will maintain for all County providers using the system.

Chief Dehner stated that the Fire Department received a \$130,599 federal grant that will be used to help fund the expense. Staff has requested the Public Safety Committee authorize acceptance of that grant, which will help toward the purchase of most of their portable radios. The department is awaiting the outcome of a countywide collective grant application for the purchase of mobile radios. If successful, this could defer an additional estimated \$92,616.71. With the one grant the department has secured, the cost to the City is \$179,910.69. If the department is successful with the second grant administered by the City of Olathe, the cost could be as low as \$87,293.98. These mobile radios will be installed in every fire truck, ambulance, and staff vehicle. A go-live date of mid-June has been set where they will need to have the new equipment situated, programmed and ready for use so that all fire and EMS agencies can be on the same system at the same time.

As soon as Fire Department staff receives confirmation they have received the grant funding, staff will request authorization to accept that grant. The amount of CIP funding requested could then be reduced as low as \$87,293.98. Chief Dehner also noted that the new system has been tested and staff feels confident they should not have any issues with the service regarding communications when they approach the go-live date.

Mayor Gerlach commended staff in their work in obtaining the grant funding to reduce the cost of the equipment needed by the Fire Department.

Mrs. Happer Scheier asked if the Overland Park Fire Department will be using the same system as the other cities in the area. Chief Dehner stated that Fire and EMS will be on the same system. The Sheriff's system will also use a P25 radio system, and they will be able to connect to other P25 compliant radio systems, such as with Kansas City and Independence, Missouri. The big question has been whether they will be able to communicate with the Police radios with the new system. He explained that he currently carries two radios in his car to talk with both parties, but once everyone is on the new system only one radio will be needed.

Mr. Kandt moved to grant authorization to purchase the Motorola radio equipment for the 700 MHz radio system as outlined by staff in an amount of \$179,910.69. Mrs. Happer Scheier seconded the motion, which carried by a vote of 11 to 0.

OLD BUSINESS

None.

NEW BUSINESS

MID-AMERICA REGIONAL REPORT

No report.

ADJOURNMENT:

Mr. White moved to adjourn the meeting at 8:20 p.m. Mrs. Happer Scheier seconded the motion, which carried by a unanimous vote.

Minutes transcribed by Kathleen Behrens.

Carl R. Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk