

## OVERLAND PARK CITY COUNCIL MEETING

May 3, 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. 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; Mrs. Donna Owens; Mr. Dan Stock; and Mr. Paul Lyons. Mr. Curt Skoog was absent (excused).

Also present were: Mr. John M. Nachbar, City Manager; Mr. Steve Smith and Mr. Jack Cauley, Police Lieutenant Colonels; Mr. Bryan Dehner, Fire Chief; Mr. Doug Brown, Director of Public Works; Mr. Dave Scott, Chief Financial Officer; Mrs. Kristy Stallings, Deputy City Manager; Mr. Bart Budetti, Senior Assistant City Attorney; Mrs. Vicki Irely, Director of Information Technology; 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. Bob Watson, City Attorney; Mr. Mike Santos, Deputy City Attorney; Mr. Rick Acord, Police Fiscal Management Administrator; Mr. Larry Blankenship, Assistant City Engineer; Mr. Sean Reilly, Communications Manager; Mr. Rob Welton, PC Technician; and Mrs. Barbara Potts, Recording Secretary. Approximately 40 people were in the audience.

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### PLEDGE OF ALLEGIANCE

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

Mayor Gerlach recognized the students from Government Classes of Shawnee Mission West and Shawnee Mission North who were in the audience.

### MAYOR CARL R. GERLACH

#### 2009 EXCELLENCE IN CONSTRUCTION AWARDS:

Mike O'Donnell and Dennis Cottrell on behalf of O'Donnell and Sons Construction – Antioch, 151st Street and 167th Street. (Large Project Category)

Assistant City Engineer Larry Blankenship presented Mr. Mike O'Donnell with the 2009 Excellence in Construction Award in the Large Project Category for the reconstruction of Antioch from 151st Street and 167th Street.

Mark Linaweaver on behalf of Linaweaver Construction, Inc. – 2009 Major Storm Sewer Repair Project. (Small Project Category)

Mr. Blankenship presented Mr. Mark Linaweaver with the 2009 Excellence in Construction Award in the Small Project Category for the 2009 Storm Sewer Repair Project.

PROCLAMATION – Proclaiming May 17-21, 2010, as Bike to Work Week in Overland Park.

Mayor Gerlach read the proclamation to proclaim May 17-21, 2010, as Bike to Work Week in Overland Park. He encouraged City employees and citizens to bike to work during that week.

NEW APPOINTMENT TO LEGACY OF GREENERY COMMITTEE:

Ron Fredman – Term 8/2/09 to 8/2/11

NEW APPOINTMENT TO CITIZENS ADVISORY COUNCIL ON PARKS AND RECREATION COMMITTEE:

Jennifer Mathes – Term 10/8/08 to 10/8/10

NEW APPOINTMENTS TO THE ENVIRONMENTAL ADVISORY COUNCIL:

Becky Ansley – Term 1/13/09 to 1/13/12  
Dena L. Campbell – Term 1/13/09 to 1/13/12

REAPPOINTMENTS TO THE ENVIRONMENTAL ADVISORY COUNCIL:

Brian T. Alferman – Term 1/13/10 to 1/13/13  
John Neuberger – Term 1/13/10 to 1/13/13  
Marilyn Lyons – Term 1/13/10 to 1/13/13  
Verna Crane – Term 1/13/10 to 1/13/13

Council President Dave Janson moved to approve the preceding appointments and reappointments as listed. Mrs. Terry Happer Scheier seconded, and the motion passed by an 11 to 0 vote.

CITY MANAGER JOHN NACHBAR

No report.

CONSENT AGENDA:

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE ITEMS:

WAIVE BID PROCESS AND AUTHORIZATION TO PURCHASE – Western States Contracting Alliance (WSCA) for the purchase of Dell storage equipment for the E-Discovery project implementation in an amount not to exceed \$304,430.

WAIVE BID PROCESS AND AUTHORIZATION TO PURCHASE – Western States Contracting Alliance (WSCA) for the purchase of 2010 replacement computers for police dispatch in an amount not to exceed \$12,000.

ORDINANCE NO. CF-2871 – Relating to an increase in the Change Fund for the Deanna Rose Farmstead from \$5,475 to \$7,000 and for the Overland Park Soccer Complex from \$3,000 to \$4,000.

RESOLUTION NO. 3812 – Establishing group health, dental and long-term care benefits for retired former employees and former Governing Body members and eligible dependents.

STAFF ITEMS:

COUNCIL MINUTES – February 15 and April 5, 2010.

EXPENDITURE ORDINANCE NO. 4A – Outlining the expenditures from the General Operating Fund for March 31 through April 13, 2010.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 4C – Outlining the expenditures from the Capital Projects Fund for April 15 through April 21, 2010.

CAPITAL PROJECTS EXPENDITURE ORDINANCE NO. 4D – Outlining the expenditures from the Capital Projects Fund for April 22 through April 28, 2010.

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

Kansas Hospitality Services, Inc., d/b/a Courtyard by Marriott, 11301 Metcalf, William Jeffery Miles, manager.

Jose Pepper's, Inc., d/b/a Jose Peppers, 10316 Metcalf, Kurt M. Torrez, manager.

Dragon Inn, Inc., d/b/a Dragon Inn, 7500 W. 80th Street, Thomas Tsui, manager.

APPLICATION FOR RENEWAL OF DRINKING ESTABLISHMENT LICENSE CONTINGENT ON RECEIVING FIRE CODE APPROVAL – SMT, Inc., d/b/a SMT, Inc., The Roxy, 7230 W. 75th Street, Mike Stolyar, manager.

APPLICATION FOR RENEWAL OF CATERERS LICENSE CONTINGENT ON RECEIVING STATE LICENSE AND FIRE CODE APPROVAL – Myron Green Corporation, d/b/a Treat America Bonterra Catering, 7612 Wedd, Edwin J. Holland, manager.

APPLICATION FOR TEMPORARY PERMIT TO SELL ALCOHOLIC LIQUOR  
Smoke N Fire for an event to be held May 7, 2010, from 6 a.m. until 12 p.m., 8030 W. 151st Street, James Cattey, manager.

PUBLIC WORKS

COMMITTEE ITEMS:

RESOLUTION NO. 3818 – Rescinding resolution relating to establishing the City’s commitment to join with other Johnson County cities and Johnson County in the development of a community infrastructure plan that provides for the maintenance and support of infrastructure in the developed, developing and rural areas within the County.

RESOLUTION NO. 3817 – Establishing policy on sidewalk construction and maintenance.

RESOLUTION NO. 3819 – Rescinding resolution relating to establishing policy on improving ditch type streets to curb and gutter streets.

RESOLUTION NO. 3814 – Establishing a policy for the standards on the Neighborhood Street Reconstruction Program.

RESOLUTION NO. 3815 – Establishing policy on changing private streets to public street classification.

RESOLUTION NO. 3820 – Rescinding resolution relating to improving ditch type streets with inadequate storm sewers within the original area of the City’s incorporation to curb and gutter streets and storm drainage systems associated therewith.

RESOLUTION NO. 3816 – Establishing policy on designating and improving thoroughfares.

RESOLUTION NO. 3822 – Establishing policy on snow plowing and ice control.

RESOLUTION NO. 3821 – Establishing policy on designing, modifying and maintaining public streets to facilitate bicycle usage.

INFORMATION ITEM – Review of existing Governing Body Policy Resolutions:

- Construction of New Sidewalks in Established Neighborhoods.
- Private Street Classification, Signage and Construction Standards.

AGREEMENT – City of Mission and Johnson County for cost-sharing for the Metcalf/Shawnee Mission Parkway Transit Planning Study (Bus Rapid Transit {BRT} system).

Mr. Janson 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 11 to 0.

REGULAR AGENDA

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT – Jim Hix, Chair

RESOLUTION NO. 3813 – Establishing the Council and Committee procedures as part of the Governing Body Policy Manual to provide for two Council meetings a month.

Mr. Jim Hix, chair of the Finance, Administration and Economic Development (FAED) Committee, reported that a discussion was held at the FAED Committee meeting in April with regard to reducing the number of City Council meetings each month. He explained that a recommendation was made because of the significant decrease in land use issues and reduced amount of work the Council has to do from the dais. Over the past 12 months, several of the Council meetings were less than a half hour. Thus, he asked the Law Department staff to propose a draft resolution (Resolution No. 3813) to amend the Governing Body Policy Manual to provide for two Council meetings, rather than the current three meetings, to be scheduled on the first and third Monday of each month. As he explained, it was felt that the work could be efficiently accomplished in two meetings, rather than requiring three meetings each month.

Mr. Hix explained that one of the positives considered was that senior staff would not have to be in attendance for a 15-minute meeting. While the senior staff is exempt personnel, and there is no direct dollar savings, it would give them a “quality of life” benefit by not having to give up an entire Monday evening for a 15-minute meeting.

Referring to a chart, Mr. Hix said each Council meeting requires support from Information Technology (IT) staff, facilities staff and security staff at a cost of approximately \$800 to \$1,000 per meeting. Therefore, there would be a savings in cost as well.

Mr. Hix also expressed concern that a 10- to 15-minute meeting with no significant activity taking place does not create a perception for people in the audience that accurately portrays the work that the Council does.

For the reasons as stated, the FAED Committee voted unanimously to approve Resolution No. 3813. If business increases and additional City Council meetings are needed, Mr. Hix stated that changes to the Governing Body Policy Manual can be made with a simple resolution, similar to what is being done tonight. These changes do not require an ordinance change.

Mr. Hix moved for approval of Resolution No. 3813, which establishes the Council and Committee procedures as part of the Governing Body Policy Manual to provide for two Council meetings to be held on the first and third Monday of each month. Mr. Dan Stock seconded the motion.

Mayor Gerlach said he was reminded by a former mayor of Overland Park that the City of Overland Park actually started with two Council meetings each month. After

development increased, the number of Council meetings was increased to three each month to handle the additional workload. Therefore, in his opinion, it makes sense to reduce the number of Council meetings because of the current situation.

The motion passed unanimously.

Mr. Hix informed the Council that the new schedule for the Council meetings will become effective in June.

STAFF REPORT:

REVISED 2010 ANNUAL CALENDAR OF MEETINGS.

In keeping with the theme of two City Council meetings each month, Deputy City Manager Kristy Stallings said a revision has been made to the 2010 Annual Calendar of Scheduled Meetings that is adopted by the Governing Body at the end of each year for the next year. In light of the recommendation from the FAED Committee pertaining to the preceding item, staff prepared a revised schedule of meetings that shows, in red line strikeout, the meetings that will be cancelled on the second Monday of the month. She pointed out that no changes will be made to the schedule in July and September, because there are no meetings on the first Monday of those months. She explained that the schedule shows the Council meetings scheduled for the second and third Mondays of July and September.

In October, the second Monday Council meeting has not been placed on the schedule, because that is the annual Kansas League of Municipalities meeting. Mrs. Stallings commented that the League meeting will be held in Overland Park this year. Based on the Council's prior actions to adopt Resolution No. 3813, the 2010 Annual Calendar of Meetings will be updated and distributed by the City Clerk to those who are recipients of the annual calendar.

Mayor Gerlach announced that the changes to the 2010 Annual Calendar of Meetings will remove four meetings for the remainder of the year.

A motion was made by Mr. Hix to approve the Revised 2010 Annual Calendar of Meetings. Mr. Stock seconded the motion, which carried unanimously.

PUBLIC SAFETY

COMMITTEE REPORT – George Kandt, Chair

No report.

STAFF REPORT:

REQUEST APPROVAL TO ACCEPT GRANT FUNDS – 2010 Kansas Congestion Mitigation/Air Quality (CMAQ) grant funds for the purchase of Hybrid Electric Vehicles in the amount of \$80,000 with a required \$20,000 City match.

In terms of background, Police Lieutenant Colonel Steve Smith said since 2006, the City has accepted Congestion Mitigation/Air Quality (CMAQ) grant funds to offset the purchase price of alternate fuel vehicles. The \$80,000 in current grant funding will allow the Overland Park Police Department to help offset some of the costs to purchase ten hybrid electric vehicles. He explained that after Form 1312 is returned to the Kansas Department of Transportation (KDOT), KDOT will provide the City with a Supplemental Agreement to these forms that will be presented to the Council for approval.

The budget impact to the City is the required \$20,000 match (\$2,000 per vehicle) to be funded from the Police Department's 2010 General Fund Operating Budget.

Police Lieutenant Colonel Smith said that staff recommends acceptance of the CMAQ grant funds in the amount of \$80,000 through the approval of the 2010 Kansas CMAQ grant award letter. He commented that KDOT will administer this grant on behalf of Mid-America Regional Council (MARC). Staff also requests approval of KDOT Form 1312 for the CMAQ Improvement Program Project as part of the CMAQ grant process. He explained that approval of KDOT Form 1312 will allow staff to contract with KDOT and move forward with the acceptance of the grant in the amount of \$80,000.

Mr. Kandt moved to approve the request to accept the 2010 Kansas Congestion Mitigation/Air Quality grant funds for the purchase of Hybrid Electric Vehicles as outlined by staff. Mr. Janson seconded, and the motion passed by an 11 to 0 vote.

STAFF REPORT:

No report.

COMMUNITY DEVELOPMENT

COMMITTEE REPORT – Terry Goodman, Chair

INFORMATION ITEM – Cancellation of the May 5, 2010, Community Development Committee meeting.

Mr. Terry Goodman stated that the May 5, 2010, Community Development Committee meeting has been cancelled due to the lack of agenda items.

STAFF REPORT:

No report.

PUBLIC WORKS

COMMITTEE REPORT – Mrs. Terry Happer Scheier, Chair

No report.

Mayor Gerlach announced that Councilmember Happer Scheier has served on the Council for 10 years. He thanked her for her service and presented her with a City pin and a gift to celebrate her 10-year anniversary.

Mrs. Happer Scheier thanked the Mayor for her recognition and gifts.

STAFF REPORT:

BID TABULATION – 2010 Major Storm Sewer Repairs.

Director of Public Works Doug Brown reported that VF Anderson Builders, L.L.C., is the low bidder for the 2010 Major Storm Sewer Repair (MS-0919). He noted that funding is available through the Storm Water Utility Fund for this project.

Staff recommends accepting the low bid from VF Anderson Builders, L.L.C., in the amount of \$662,674.

BID TABULATION – 2010 Residential Street Program.

Mr. Brown stated that Project SR-0841 will complete the Residential Street Program, which began in 1988. The project includes reconstructing existing ditched streets to include curb and gutter, storm sewers, new asphalt pavement, new street lighting, and sidewalks. He indicated that sufficient funds are budgeted in the Capital Improvement Program (CIP) for Project SR-0841. He explained that funding will come from the General Obligation Bonds, one-eighth of one percent sales tax, the Storm Water Utility Fund, and the Storm Water Management Advisory Council (SMAC).

Mayor Gerlach congratulated Mr. Brown and the Public Works Department staff for completing the Residential Street Program.

Mr. Brown indicated that the Public Works Department is planning to have a ribbon-cutting ceremony at the end of this program, which will complete over 46 miles of new residential streets.

Staff recommends accepting the bid from Miles Excavating, Inc., for a total bid of \$3,783,229.20.

A motion was made by Mrs. Happer Scheier to approve the low bid of \$662,674 from VF Anderson, L.L.C., for the 2010 Major Storm Sewer Repair Project, and the low bid of \$3,783,229.20 from Miles Excavating, Inc., for the 2010 Residential Street Program. Mr. Paul Lyons seconded, and the motion passed unanimously.

RECOMMENDATIONS FROM THE PLANNING COMMISSION

PLANNING COMMISSION CONSENT AGENDA:

SPECIAL EVENT PERMIT NO. 2010-173 – 7324 West 80th Street. A special event permit is requested to allow a “Bike Nite” promotion from May 5 to November 17, 2010, for The Other Place restaurant. Application made by Troy Stedman.

Mr. Janson moved to approve the Planning Commission Consent Agenda, consisting of Special Event Permit No. 2010-173, 7324 West 80th Street, to allow a "Bike Nite" promotion from May 5 to November 17, 2010, sponsored by the Other Place, subject to stipulations a through e. A second was made by Mrs. Happer Scheier, and the motion passed by an 11 to 0 roll-call vote.

PLANNING COMMISSION REGUAR AGENDA:

STREET RIGHT-OF-WAY VACATION NO. 2010-1 – Vicinity of 8910 Goddard.  
Application made by ACI Frangkiser Hutchens. Ordinance No. VAC-2873.

Director of Planning and Development Services Bill Ebel said the applicant is proposing to vacate existing street right-of-way that was never used for street construction. He explained that the streets were proposed in 1909 as part of the Sunset Heights single-family subdivision, but never built. The Apache Elementary School now sits on this 8.72-acre site. A new elementary school building is proposed to be built on the western half of the school site, and the existing building will subsequently be demolished.

Mr. Ebel indicated that a new parking area with longer queuing will be built in the location of the existing building. As part of the planning for the new school building, the school district will file a final plat application to clean up the property records for the school site. He explained that this street right-of-way vacation is one step in that process.

The utility companies were notified of the proposed street right-of-way vacation, and all indicated that the proposed vacation would not pose a problem with their facilities, since their existing easements are included on the proposed plat of the property.

Staff recommends approval of Street Right-of-Way Vacation No. 2010-1, vicinity of 8910 Goddard, with no stipulations.

Since his employer has worked on this project, Mr. John Skubal said he will recuse himself from voting on the referenced item.

Mr. Janson moved to approve Ordinance No. VAC-2873 (Street Right-of-Way Vacation No. 2010-1), vicinity of 8910 Goddard, with no stipulations. Mrs. Happer Scheier seconded, and the motion passed by a roll-call vote of 10 to 0 to 1. Mr. Skubal abstained from voting.

UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – ZRR-2836 –  
Amendments to Unified Development Ordinance Sections 18.160.020,  
18.160.060, 18.180.020, 18.180.070, 18.245.020, 18.245.050, 18.250.020,  
18.250.050, 18.275.020, 18.275.050, 18.300.020, 18.300.050, 18.370.020,  
18.370.040, and 18.390.140 and new Section 18.110.652, relating to wind  
turbines and solar collectors. Application made by the City of Overland Park.  
The Planning Commission approved this item on November 9, 2009, by a vote  
of 8 to 1. (Continued from the December 7, 2009, City Council meeting.)

Mr. Ebel indicated that staff recommends a continuance of the referenced item to the June 21, 2010, Council meeting. create a perception that accurately portrays the work

that the Council does. For those reasons, the FAED Committee voted unanimously to approve Resolution No. 3813.

Mr. Janson moved to continue to the June 21, 2010, Council meeting, Unified Development Ordinance Amendment – ZRR-2836 as outlined. Mrs. Happer Scheier seconded the motion, which passed by a vote of 11 to 0.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

ADJOURNMENT:

The motion by Mr. Janson to adjourn at 8 p.m. was seconded by Mr. Kandt, carrying unanimously. Minutes transcribed by Barbara Potts.

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Carl R. Gerlach, Mayor

ATTEST:

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Marian Cook, City Clerk