

**CITY COUNCIL MINUTES
CITY OF ROELAND PARK, KANSAS
ROELAND PARK
Roeland Park City Hall - 4600 W 51st Street
August 21, 2017 7:00 P.M.**

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| <ul style="list-style-type: none">○ Joel Marquardt, Mayor○ Becky Fast, Council Member○ Tim Janssen, Council Member○ Ryan Kellerman, Council Member | <ul style="list-style-type: none">○ Teresa Kelly, Council Member○ Sheri McNeil, Council Member○ Michael Poppa, Council Member○ Michael Rhoades, Council Member○ Erin Thompson, Council Member | <ul style="list-style-type: none">○ Keith Moody, City Administrator○ Jennifer Jones-Lacy, Asst. Admin.○ Kelley Bohon, City Clerk○ John Morris, Police Chief○ Jose Leon, Public Works Director |
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Admin

Poppa
Fast

Finance

Kelly
Janssen

Safety

Thompson
Rhoades

Public Works

Kellerman
McNeil

Pledge of Allegiance

Mayor Marquardt called the meeting to order and led everyone in the Pledge of Allegiance.

Roll Call

City Clerk Bohon called the roll noting CMBR Thompson and CMBR Kelly were absent.

Modification of Agenda

Workshop Agenda Items 3, 5, 6 and 7 will be moved to New Business.

Workshop Agenda Item 4 will be continued to the Workshop portion of the Council agenda.

I. CITIZENS' COMMENTS

There were no citizen comments.

II. CONSENT AGENDA

- A. Appropriation Ordinance #907**
- B. June 19, 2017 Council Minutes**
- C. June 27, 2017 Special Called Council Minutes**

MOTION: CMBR MCNEIL MOVED AND CMBR JANSSEN SECONDED TO APPROVE THE CONSENT AGENDA.
(MOTION CARRIED 6-0)

III. BUSINESS FROM THE FLOOR

A. Applications / Presentations

1. Public Works Recognition on Storm Debris Pickup

Public Works Director Leon wanted to recognize Greg Gathers and his company Custom Tree Care for their efforts to make the City look good again after the storm event on July 22nd. Custom Tree Care is a contractor for the City.

Mr. Leon read into the record the efforts Custom Tree Care put in to deal with the storm damage. "The significant storm on Saturday, July 22nd, in the City of Roeland Park had damage to trees. The fallen trees caused a large scale power outage in the city where over 60 percent of the city was without power. The loss of power delayed proper response from our emergency service operations by way of eliminating or slowing communication, significantly slowing on-call staff to report to work, and preventing our ability to use the power to quickly grab tools, materials, and items needed to close roads. Overall, this jeopardized the safety and security of our community. Our city suffered 19 road closures, over 20 percent of our street network due to fallen trees and power lines. Custom Tree

Care was called in to assist with tree removals around midnight on July 22nd. They tirelessly worked through the night and morning to have all but four roads open to traffic for traffic to continue by the following afternoon. The four remaining roads had power lines to be shut down before they could continue the efforts. Custom Tree Care's effort to open all roads was completed by the afternoon of Wednesday, July 26th. The same week Custom Tree Care worked with staff to develop the city-wide tree debris pickup program for fallen trees which heavily impacted private property. They began their efforts on July 29th and continued through August 1st. Overall, their efforts removed a total of over 4,000 cubic yards of tree debris in the City of Roeland Park. I would like to take a moment to share our appreciation to Greg Gathers and Custom Tree Care for their efforts in helping the City of Roeland Park to become one of the first, if not the first community in northeast Johnson County to have our city-wide debris pickup program completed."

(Applause)

Before presenting the plaque, Mayor Marquardt read the inscription, "With our greatest appreciation, we recognize the outstanding effort and response by Custom Tree Care on July 22, 2017, and thereafter to help clean up our City."

(Presentation of plaque and applause)

Public Works Director Leon said following the work done by Custom Care his staff jumped in and finished the work. He said it is difficult to change gears from doing street work to then stop and pick up limbs and branches from someone's yard. It took his team about a day and a half to clean up the city.

When Mr. Leon came to Roeland Park he implemented department values that include integrity, dedication, customer service, high expectations and adaptability. He also wanted to recognize his staff for really living their values in Public Works. Two Public Works employees, Donnie Scharff and Daniel Vandenbose, were present to receive certificates from Public Works Director Leon for living the values in Public Works for the July 2017 storm debris cleanup.

(Applause)

Mayor Marquardt thanked Mr. Leon and his staff. He said he receives compliments on how the City looks and how well things are done. He said a lot of times they're not directly involved in a lot of the things they receive compliments on, so Mayor Marquardt thanked them for "making us look good."

2. Committee Report Arts – Marek Gliniecki

Marek Gliniecki, Chair of the Arts Advisory Committee, presented the Council with some works of art that decisions need to be made with what to do with them. First, there is a need to move the Tetrahedron sculpture located at the corner of Johnson Drive and Roe where utility work is to begin. The City asked for a recommendation where to move the sculpture and the Arts Committee recommended the area by Aldi's. Mr. Gliniecki inquired who would be relocating the art.

City Administrator Moody said the anticipation is for the City to move it themselves. Mr. Gliniecki said he would like to work with the City in the next few days to select a position for it.

CMBR Fast said one of the things they had discussed previously was getting rid of some of the old art and looking to replace it with new fresh art, especially with the reconstruction of Roe 2020. She felt they should only keep the ones they prize the most.

Mr. Gliniecki said the Arts Committee does not disagree with that and that is what the committee has been working on as they are trying to develop a focus about what they want as public art for the City. He said most of the pieces

seem to belong to John Northington and they have had difficulty getting in contact with him. It does seem, however, that he has been putting the artwork up on an online gallery which indicates that he wants to sell them. The Arts Committee needs to clarify that as to their ownership and at some point they'll have to make a decision what to do with those pieces.

CMBR Fast is not supportive of moving it to a permanent home near Aldi's, but would support moving it to the Public Works building.

CMBR Poppa said the piece can be moved due to the utility work, but it cannot be decommissioned or taken out of rotation due to VARA (Visual Artists Rights Act).

Mr. Gliniecki said the Arts Committee has been asked to make a decision and they've made a recommendation and is for staff and/or Council to make a final decision.

CMBR Fast would like more legal interpretation on what it means to have public viewing.

Mayor Marquardt said he could not imagine that because they have a piece of art in their possession that means they have to show it. He doesn't believe they can destroy it, but doesn't feel it needs to be on display.

It was agreed to continue the discussion of handling the art to New Business, Disposition and Relocation of Public Art.

Mr. Gliniecki continued with his report. The committee would like to keep the bench on Roe. It is an untitled work on the median strip. The supports seem to have been hit or damaged in some way and it has shifted and the timber supports have deteriorated. He would like to get an estimate on what it would be to restore it and to leave it in its original position.

CMBR McNeil asked if the committee has discussed the "steel tree." Mr. Gliniecki said the City Administrator was looking into the cost of restoring the finish and stabilizing the base.

Mr. Gliniecki said the committee would like to remove the Tim Morales sculpture, which is the big white hoop with the balls on the end. They would like the City to start the process for the requisition disposal of City property. They have not received the paperwork back from the artist, but would like to start that as soon as possible to have the space for other art.

CMBR Rhoades said if possible he would like to see any monies from the sale of the art not be put in the General Fund, but held for the purchase of new art.

Mr. Gliniecki thanked CMBR Rhoades for that suggestion.

IV. MAYOR'S REPORT

A. Proclamation – Diaper Needs Awareness Week

CMBR Poppa read the proclamation for Diaper Needs Awareness Week into the record.

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO APPROVE THE PROCLAMATION FOR DIAPER NEEDS AWARENESS WEEK (MOTION CARRIED 6-0).

V. WORKSHOP AND COMMITTEE REPORTS

A. Workshop Summary

CMBR Fast provided the report from the August 7th Workshop where they discussed the logo design and theme. Verio presented their second draft and continue to define and refine the City's brand logo. Also discussed was the sale of Lot 6 at Bella Roe. CMBR Poppa said he would like to be a voting delegate at the League of Kansas Municipalities conference. The Boulevard Apartments have agreed to the permanent bike trail easement at Nall Park. City Administrator Moody presented an update on tennis court replacement and Council agreed to go for a bid to replace the tennis court at R Park. Currently staff is working on a grant for the tennis court. There was discussion of the Rocks retaining wall, the sanitary sewer realignment and stormwater detention, and will be discussed further under New Business. There was agreement to the extension of the cell phone tower lease agreement. There are three providers on that tower and they will continue to pay the same rate. This will be vote on in New Business.

VI. REPORTS OF CITY LIAISONS

There were no reports given.

VII. UNFINISHED BUSINESS

There was no unfinished business to discuss.

VIII. NEW BUSINESS

The Governing Body agreed to discuss Items D, C, and E in that order as there were guests to speak on these items.

A. Bike Trail Easement

City Administrator Moody presented the bike trail easement from the Boulevard Apartments for Nall Park. It is a permanent easement and has no cost to the City, and paves the way for them to move forward with completing the multi-use trail, an objective for 2017.

MOTION: CMBR POPPA MOVED AND CMBR JANSSEN SECONDED TO APPROVE THE BIKE TRAIL EASEMENT BETWEEN THE CITY OF ROELAND PARK AND THE BOULEVARD APARTMENT PROPERTY OWNERS. (MOTION CARRIED 6-0)

B. Grading, Retaining Wall and Sanitary Sewer Work at the Rocks

City Administrator Moody received cost estimates for the sanitary sewer work modifying the existing sewer in its current alignment. He would like approval from the Council to do the sanitary sewer work and the cost is well within the resources available in TIF-3. They will, however, continue to gather cost estimates on the stormwater detention and the sanitary sewer. After those estimates come back, Council will have discussion if they want to do any more work. The retaining wall and the regional detention are projects that can be changed to fit within the resources available.

When the Governing Body approved spending of up to \$1,150,000 on the Pyramid Construction contract it included the stabilization of the caves, anticipated retaining wall and potentially additional rock excavation. There has been no additional rock excavation, so it is still at the \$820,000 base price. The retaining wall is more than what was originally estimated because it is larger than they anticipated. Originally, they did not know the quantity, but they did get a fixed per unit price included in the original contract.

City Administrator Moody asked for clarification on the record to do the sanitary sewer work because up to this point the motion didn't anticipate sanitary sewer work.

MOTION: CMBR POPPA MOVED AND CMBR RHOADES SECONDED TO GIVE AUTHORIZATION TO PROCEED WITH SANITARY SEWER WORK WHICH IS WITHIN THE RESOURCES OF THE TIF. (MOTION CARRIED 6-0)

CMBR McNeil asked if they do the sanitary sewer work and then need to lower the electric conduit underground will it undo the sewer work.

City Administrator Moody said the electric conduit is already in the ground. They talked with KCP&L about lowering the conduit for the electric because that would have allowed them to have a more gradual ground level on that driveway connecting Lot 2 and Lot 3 together. The cost associated with doing that is beyond the resources available in the TIF, so that concept has been abandoned. All the work the City is anticipating is the sanitary sewer work, and possibly a retention wall and a regional detention facility. Sanitary sewer work is a requirement of Johnson County Wastewater because of the grading and additional dirt to be placed on top of their sewer system.

CMBR Poppa said that it was the consensus of the Ad Hoc Development Committee to recommend the authorization of the sanitary sewer work to the Council as well.

C. Approval of Easements – NE Johnson and Roe Property

City Administrator Moody said there are three easements related to utility extensions across the property the City owns at the northeast corner. One is for a permanent sanitary sewer easement, the second is for a permanent storm sewer easement, and then the third is a temporary construction easement. These are improvements that are being completed to serve the property at the northwest corner. The realignments were anticipated to occur and they have coordinated with the engineers for the northwest corner site to put in place the improvements, so that they are in the alignment that the City wants them to be in. For the sanitary sewer, they had stubs put into the new manholes that are being placed, so the structures won't have to be modified when the City's property is ready to be developed. The savings for doing this is \$50,000 and adds value to the lot they own.

CMBR McNeil asked if it would improve the land \$50,000. City Administrator Moody said he believed it would.

Mr. Brent Hall, representative from Commerce Bank, said they want to begin work as soon as they can.

MOTION: CMBR JANSSEN MOVED AND CMBR POPPA SECONDED TO APPROVE THE TEMPORARY CONSTRUCTION EASEMENT, SANITARY AND STORM EASEMENT AS PRESENTED. (MOTION CARRIED 6-0)

D. Larkin, Lamp, Rynearson Task Agreement 6 – Stormwater Repair, Design and Inspection

Public Works Director Leon addressed the failed corrugated metal pipe off Roeland Drive to 57th Street. He said staff has worked with Larkin to develop some alternatives. Specifically they are asking the Governing Body to approve Alternative #2, the task order which provides for a more permanent repair for the failed pipe sections directly behind the rear yards, and also a failed section further up the road. CMBR Kellerman questioned the cost of the design of the project.

Dan Miller with Larkin, Lamp Rynearson stated there is field work to be completed. There had been a field check in 2010 and the easements had not been completed and had not been signed off on. The original surveyors are not around any longer and they need to confirm the easements. There have also been some changes in the field. His \$18,800 design fee allows for enough field work to verify the easements and do a little bit of topographical work. He's hoping the previous survey work was good because he's relying on it.

Public Comment:

Tom Madigan (5316 W. 49th Terr.) Mr. Madigan said as a resident of Storm District RC-1214, he's very aware of storm sewers. He said he does not know why the City would want to take a band-aid approach to this project when it could fail again in a year. He supports the third option to replace the entire pipe and eliminate the problem.

CMBR Rhoades asked what the possibility is of having this approved for federal relief. City Administrator Moody said they have included the replacement cost of this segment in the FEMA reimbursement request that was submitted. They will not know for some time if FEMA approves the request because it is combined with the county request.

Public Works Director Leon said he has presented this project to SMAC and the earliest they would be able to get funding for this would be 2019, which is the primary reason for not doing the entire project now as they could get those funds later. Also SMAC as a rule does not reimburse for stormwater repairs already completed.

City Administrator Moody said the question tonight is how they want to address this project, but how it is funded can be addressed later. The City has the resources to pay for the project now to get it complete. It is estimated to be \$131,000 total to include engineering and construction. Mr. Moody said this is a maintenance problem and in his opinion should be paid for through the resources that are used to pay for other storm sewer maintenance which is through sales tax or property taxes.

CMBR Rhoades would like to have the full project discussed further at a future meeting.

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO AMEND THE ORIGINAL MOTION AS THIS IS A TIME SENSITIVE PROJECT TO INCLUDE THE MODIFIED BID PROCESS AS STATED BY THE CITY ADMINISTRATOR FOR THE PURPOSE OF SOLICITING CONSTRUCTION BIDS (MOTION CARRIED 6-0)

MOTION: CMBR FAST MOVED AND CMBR POPPA SECONDED TO CALL THE QUESTION. (MOTION CARRIED 4-2)

POLL THE COUNCIL

Fast - Y McNeil - Y Janssen - N Rhoades - N Kellerman - Y Poppa - Y

MOTION: CMBR FAST MOVED AND CMBR POPPA SECONDED TO APPROVE LARKIN, LAMP RYNEARSON TASK AGREEMENT 6 TO DESIGN AND INSPECT ALTERNATIVE #2 FOR THE REMOVAL AND REPLACEMENT OF THE FAILED CORRUGATED METAL PIPE IN THE REAR YARDS OF 5635 AND 5641 ROELAND DRIVE AT AN AMOUNT NOT TO EXCEED \$18,800. (MOTION CARRIED 6-0)

POLL THE COUNCIL

Fast - Y McNeil - Y Janssen - Y Rhoades - Y Kellerman - Y Poppa - Y

CMBR Rhoades said he is appalled that they are not allowing a resident to speak when basically this entire project is in his yard.

CMBR Janssen and CMBR McNeil said they completely agreed with Mr. Rhoades' comments.

Mayor Marquardt said if someone had wanted to make a motion to allow the resident to speak they could have done that, but otherwise he is following the rules that the Governing Body has all agreed to on how to conduct their meetings.

MOTION: CMBR MCNEIL MOVED AND CMBR JANSSEN SECONDED TO ALLOW THE RESIDENT TO SPEAK FOR TWO MINUTES. (MOTION CARRIED 6-0)

Public Comment:

Larry Schulte (5641 Roeland) Mr. Schulte said he appreciates Mr. Leon and the response the City has done so far in moving forward. He did say more rain is coming and the dirt is moving downstream, so he would appreciate the City moving as fast as they can. He said that fixing the problem permanently is the best way.

CMBR Kellerman asked how quickly they could move on this. City Administrator Moody said the Workshop will be delayed because of the holiday to September 11. If they can get prices back by then, they can have a special meeting just for this issue.

E. Disposition and Relocation of Public Art

City Administrator Moody said two items included on the agenda are the relocation place for the art currently located at the northeast corner of Johnson Drive and Roe (Tetrahedron), and their consent to sell the piece of art that's unnamed (Tim Morales' artwork) at the northeast corner of Roe Boulevard and 48th Street.

Marek Gliniecki, Chairman of the Arts Committee, would recommend moving the Tetrahedron to the green area peninsula between Roe Lane and County Line Road.

CMBR Fast reiterated her earlier comments that she is against moving it there as it is a great location for another piece of art and it is time to dispose of this one. She said this is a great entry-point into the City and doesn't want to see an old piece of art there. They should look at planning and budgeting for new pieces.

CMBR McNeil would like to keep the Tetrahedron because it's still nice and they do not have the budget to get new pieces.

City Administrator Moody said there is \$5,000 in the budget for 2017, which is all still available, and in 2018, the budget includes \$10,000 for art.

CMBR Poppa clarified that the \$5,000 was for maintenance and repair of art, not for new art. City Administrator Moody said the money for 2018 could be spent for new art. CMBR Poppa said he would not want to get rid of Tetrahedron, but recognized that it does need to move.

Mr. Gliniecki said he would like to see an estimate for moving it. It is constructed of solid concrete with steel and is not hollow.

Mr. Gliniecki also said it is important for the Arts Committee to have a timeline for when the Roe 2020 project will start since they need to know which pieces they need to move and focus on disposing of ones that they no longer want. He also supported Ms. Fast's position of not moving artwork only to find they no longer wanted it in the City.

There was discussion with the original agreements made with the artists that if they do not remove their artwork within a certain period of time it becomes the property of the City.

CMBR Fast said it was not the intended goal to have these pieces for life. She does hate to spend the money to move the items especially when they do not have the vision for their art plan.

Mayor Marquardt said at this point they really haven't thought this through, but does not believe they have a lot of places in Roeland Park for work this size. He personally likes the Tetrahedron. He thinks it's interesting and long-lasting. He also agrees with Ms. Fast in that they need to have new art and to keep it rotating. He acknowledged Mr. Northington (Tetrahedron artist) gave them a lot of stuff, which is a great for a time being, but he does not want to see Roeland Park become this artist's display space.

Mr. Gliniecki said that is the committee's opinion that they do not want to be his home gallery for much longer.

CMBR McNeil said if the City truly does own the art could they then auction it off to benefit the City for more art.

Mayor Marquardt said the art pieces have always been for sale in general, but no one knows it.

Mr. Gliniecki said he believes by now the City has certain rights to them, but he does not want to get into litigation with him over it and would like it clarified.

Mayor Marquardt asked if the agreements were somewhere on file. City Administrator Moody didn't know, but they would look for them.

CMBR McNeil said if it is true that it is now the City's property to maybe give Mr. Northington a notice to pick it up.

CMBR Poppa would like to get an opinion from counsel on VARA (Visual Artists Rights Act) for any upcoming discussions on this. Attorney Krstulic said she was not prepared to answer that tonight, but she will look into it. CMBR Poppa said they need to know what they can do with the pieces without infringing on the rights of the artist.

MOTION: CMBR RHOADES MOVED AND CMBR POPPA SECONDED TO USE THE ART COMMITTEE'S RECOMMENDATION TO RELOCATE THE PUBLIC ART TITLED "TETRAHEDRON" AT THE NORTHEAST CORNER OF JOHNSON AND ROE TO A NEW LOCATION ROUGHLY BETWEEN COUNTY LINE ROAD AND ROE LANE. (MOTION CARRIED 6-0)

With regard to Mr. Morales' piece, Mr. Gliniecki said they will put the item up for sale and if there is no interest they will sell it for scrap.

CMBR McNeil asked how soon the Tetrahedron needs to be moved. If they found out the City owned it could they put it up for sale and maybe not even have to move it.

MOTION: CMBR POPPA MOVED AND CMBR RHOADES SECONDED TO APPROVE THE DISPOSAL OF THE PUBLIC ART LOCATED AT THE NORTHEAST CORNER OF ROE AND WEST 47TH STREET AND ANY PROCEEDS FROM THE SALE OF THE UNTITLED ART PIECE BE PUT INTO A FUND FOR THE PURCHASE OF NEW ART FOR THE CITY. (MOTION CARRIED 5-1)

Mayor Marquardt thanked Mr. Gliniecki for all his work.

IX. ORDINANCES AND RESOLUTIONS

A. Resolution 654 – Expansion of the Boundaries of the Consolidated Main Sewer

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO APPROVE RESOLUTION 654, EXPANSION OF THE BOUNDARIES OF THE CONSOLIDATED MAIN SEWER AS SUBMITTED. (MOTION CARRIED 6-0)

B. Yearly Review of Uniform Standard Traffic Ordinance (STO) 954 and Uniform Public Offense Codes (UPOC) 955

Police Chief John Morris presented Ordinance 954 and Ordinance 955 to be incorporated by reference to the Uniform Public Offense Code. Ordinance 954 is Standard Traffic Ordinance for Kansas Cities. He asked that the Governing Body adopt their new traffic code and their new Uniform Public Offense Code Ordinance 945 and Ordinance 955.

MOTION: CMBR JANSSEN MOVED AND CMBR MCNEIL SECONDED TO APPROVE ORDINANCE 954 AND THE STATE TRAFFIC ORDINANCE AND ORDINANCE 955, UNIFORM PUBLIC OFFENSE CODE. (MOTION CARRIED 6-0)

X. WORKSHOP ITEMS

A. Agreement with Urban Bike Trail

City Administrator Moody presented a Memorandum of Understanding that provides for Urban Trail to complete the construction of the mixed use trail at Nall Park. It also provides compensation to Urban for \$12,000 and they will be responsible for the trail construction and removal of any materials associated with clearing the trail. They provide the manpower and the equipment.

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO APPROVE THE MEMORANDUM OF UNDERSTANDING WITH URBAN BIKE TRAIL AS PRESENTED. (MOTION CARRIED 6-0)

XI. REPORTS OF CITY OFFICIALS

A. Executive Session

MOTION: CMBR POPPA MOVED AND CMBR RHOADES SECONDED TO RECESS THE COUNCIL INTO EXECUTIVE SESSION PURSUANT TO THE REAL ESTATE EXCEPTION OF THE KANSAS OPEN MEETINGS ACT, K.S.A. 75-4319(B)(6) IN ORDER TO DISCUSS THE POTENTIAL ACQUISITION OF REAL ESTATE WITH THE OPEN MEETING TO RESUME AT 9:30 IN COUNCIL CHAMBERS. (MOTION CARRIED 6-0)

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO EXTEND THE EXECUTIVE SESSION TO 9:36. (MOTION CARRIED 6-0)

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO EXTEND THE EXECUTIVE SESSION TO 9:41. (MOTION CARRIED 6-0)

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO EXTEND THE EXECUTIVE SESSION TO 9:46. (MOTION CARRIED 6-0)

MOTION: CMBR POPPA MOVED AND CMBR MCNEIL SECONDED TO EXTEND THE EXECUTIVE SESSION FIVE MINUTES. (MOTION CARRIED 6-0)

Joel Marquardt, Mayor

Kelley Bohon, City Clerk