

**GOVERNING BODY WORKSHOP MINUTES**  
**Roeland Park City Hall**  
**4600 W 51st Street, Roeland Park, KS 66205**  
**Tuesday, July 5, 2016 6:00 P.M.**

- |                                  |                                   |                                     |
|----------------------------------|-----------------------------------|-------------------------------------|
| ○ Joel Marquardt, Mayor          | ○ Teresa Kelly, Council Member    | ○ Keith Moody, City Administrator   |
| ○ Becky Fast, Council Member     | ○ Sheri McNeil, Council Member    | ○ Jennifer Jones-Lacy, Asst. Admin. |
| ○ Tim Janssen, Council Member    | ○ Michael Poppa, Council Member   | ○ Kelley Bohon, City Clerk          |
| ○ Ryan Kellerman, Council Member | ○ Michael Rhoades, Council Member | ○ John Morris, Police Chief         |
|                                  | ○ Erin Thompson, Council Member   | ○ Jose Leon, Public Works Director  |

**Admin**

Poppa  
Fast

**Finance**

Kelly  
Janssen

**Safety**

Thompson  
Rhoades

**Public Works**

Kellerman  
McNeil

CMBR Thompson called the meeting to order noting that CMBRS Rhoades, Kellerman and Kelly were not present.

**I. MINUTES**

1. April 11, 2016
2. April 18, 2016
3. May 2, 2016
4. May 9, 2016

The minutes were approved as presented.

**II. DISCUSSION ITEMS:**

**1. Executive Session**

***PUBLIC COMMENT:***

**Tom Madigan (5316 W. 49th Terrace)** Mr. Madigan compiled a history of executive sessions going back to January 2013, noting that there have been 46 such sessions. He also noted that they were normally held at the end of a meeting and not the beginning stating he believed this was rude and disrespectful to the audience. He also questioned the criteria for having an executive session and did not feel a sign discussion warranted the attorney-client privilege.

CMBR Fast said she would like to move to waive the attorney-client privilege and have the sign discussion in an open meeting. She said executive sessions should be the exception, not the rule, and feels that Roeland Park has made it the rule.

City Attorney Shortlidge said he preferred going into executive session where after the Governing Body had received attorney advise and chose to waive the privilege that would be acceptable. He stated he was uncomfortable giving legal advice in an open session without the Council knowing ahead of time what the information was going to be.

CMBR Thompson said she would like to hear the advice before waiving it.

CMBR McNeil thought a future Workshop discussion might include when it is appropriate to use the attorney-client privilege and the executive session.

**MOTION:** CMBR FAST MOVED AND COUNCILMEMBER JANSSEN SECONDED TO WAIVE THE ATTORNEY-CLIENT PRIVILEGE WITH REGARD TO THE SIGN DISCUSSION. THE MOTION FAILED 2-3.

**MOTION:** CMBR POPPA MOVED AND MAYOR MARQUARDT SECONDED THAT THE GOVERNING BODY RECESS INTO EXECUTIVE SESSION UNDER THE ATTORNEY-CLIENT PRIVILEGE EXCEPTION TO THE OPEN MEETINGS ACT IN ORDER TO RECEIVE LEGAL ADVICE CONCERNING SIGN REGULATIONS, WITH THE OPEN MEETING TO RESUME IN THIS ROOM AT 6:15 P.M. THE MOTION PASSED 5-0.

(Roeland Park Workshop in Recess until 6:15 p.m.)

CMBR Thompson reconvened the Workshop meeting.

**MOTION:** CMBR FAST MOVED AND CMBR JANSSEN SECONDED TO WAIVE THE ATTORNEY-CLIENT EXCEPTION TO THE OPEN MEETINGS ACT REGARDING SIGN REGULATIONS. THE MOTION PASSED 5-0.

CMBR Thompson said that during the Executive Session the Governing Body received advice regarding the City's sign ordinance and how it is affected by the new Kansas law and the United States Supreme Court case Clyde Reed, et al. v. Town of Gilbert, Arizona, et al. Guidance is needed to give staff direction on whether to pull signs in the right-of-way to be in compliance with the state law and also to clean up the sign ordinance as written.

Mayor Marquardt believed there are two questions were facing the Governing Body: how do the City's ordinance enforced and whether the City Attorney should move forward to work on cleaning up the language.

City Attorney Shortlidge said the current City ordinance prohibits signs in the right-of-way. The state statute passed in 2015 directs an ordinance cannot do that. He said the state statute is also content based and likely unconstitutional.

CMBR Thompson recommended Mr. Shortlidge recommend revisions to the ordinance.

City Administrator Moody asked for clarification on the changes requested of Mr. Shortlidge and whether these would be amendments to comply with the federal court decision or to comply with the state statute, which allows political signs in the right-of-way and are content based. The federal law does not address permitting signs in the right-of-way.

City Attorney Shortlidge said the Constitution does not dictate the placement of a sign in the right-of-way, but does say there cannot be content-based regulations.

CMBR Fast recommended following the state statute.

Mayor Marquardt asked the City Attorney to clarify that the number of signs are not regulated by the Constitution and the City can still set those limits.

CMBR Thompson said she would prefer to be in compliance with the Constitution over state regulations.

Mayor Marquardt supported keeping the City's ordinance as advised by the City Attorney as it is in compliance with the Supreme Court case.

After discussion, it was agreed to direct staff to leave the City ordinance as written until they have further information, but City Attorney Shortlidge will present at the July 18 Workshop updates that need to be made to the ordinance.

City Attorney Shortlidge clarified that staff is to enforce the ordinance and pull signs from the right-of-way. He added that the temporary sign provisions in the ordinance are content neutral.

## 2. Discussion of Change in Election Dates

City Attorney Shortlidge addressed changes to Charter Ordinance 32 regarding city elections.

**SECTION 6(f).** Mr. Shortlidge said he spoke with an attorney at the county legal department who advises the Election Commissioner. The county attorney advised that after speaking to the deputy commissioner in regards to the City's draft ordinance changes in the terms of timing to hold a special election to fill a vacancy was found to be acceptable. The current state statute reads an election needs to be held within 45 days of declaring the vacancy and the county recognizes that it cannot reasonably meet that deadline. The language has been changed to an August 1st filing deadline, which gives a 30-day process to notify people within a ward, get their filings and to be able to notify the election commissioner as to the candidates and let them be able to complete their process.

**SECTION 3.** The recommended change was that positions will expire on the third Monday in January. A presentation made at the City Attorney's Association suggested stating January is when positions will expire.

**SECTION 5.** This section adds back provisions relating to primaries that are currently in place by charter ordinance, but the statute chartered has since been replaced by new legislation which would, in effect, negate the charter ordinance. The new language in §5 will put the primary rules back in place, to be held if there are more than two candidates for a position. Primary applies only to regular election, not the filling of vacancies.

**SECTION 6.** At the end of the section, it was recommended to strike the provision, and that has been removed.

CMBR Fast said §7(e), doesn't quite reflect the initial will. She believed it should read "In the event that the vacancy occurs less than 60 days prior to the filing deadline, adding that the intent that there would be a two-month period if someone resigned, new people could file for the position and then there would be an appointment during the election period. As it is written, there are only a few days prior to the filing deadline that people can file.

City Attorney Shortlidge responded that §7(e) is talking about a position that would otherwise be subject to election at the next election, and provides for a temporary appointment.

CMBR Fast questioned if someone should resign after the filing deadline. She questioned the possibility of a four-year appointment. City Attorney Shortlidge this could require a special election.

Mayor Marquardt suggested adding language that if no one files for the vacancy a special election will be called.

CMBR Thompson questioned the language in §5, "first Tuesday of August of each odd-numbered year." She felt the language should be the first Tuesday after the first Monday of August to avoid a Tuesday, August 1 election.

City Administrator Moody said it remains an option to the Council to choose whether they want to have primaries before regular elections.

City Attorney Shortlidge said the statute does dictate primaries, but state primaries are held if more than three candidates apply for one position. The Council wanted to charter it to read more than two candidates.

CMBR Fast asked for clarification on the new §7(a), which states if a vacancy occurs 180 or more days, and in (e), is a vacancy less than 180 days. City Attorney Shortlidge clarified that this is a change in process depending upon when the vacancy occurs. If more than 180 days, then there will be a special election. If less than 180 days, then the position will be filled by the Council President or the most senior Councilmember who has signed a non-candidacy statement.

The Governing Body discussed notification of vacancy positions. CMBR Thompson said she believed they could publish notices in the local paper and put the information on the City's website to notify residents of a vacancy, adding that this will save staff time and City dollars. CMBR Janssen supported CMBR Thompson's recommendation.

City Clerk Bohon said postcard mailings to each resident averages \$.40 apiece.

CMBR McNeil asked for a clarification on the mailings. CMBR Thompson said the mailing would only be to residents living in the ward where the vacancy is. In the event of a mayoral vacancy, then it would be a city-wide mailing.

Mayor Marquardt said there were approximately 3,000 households in the city. Staff clarified that a mailing city wide would be approximately \$1,200 plus staff time and approximately \$400 per ward.

CMBR Janssen also recommended using the NotifyJoCo system as well.

Mayor Marquardt said he still preferred mailing to residents as a way to reach them.

There was a majority consensus to do away with the mailings for both mayor and council vacancies.

This item will be moved to New Business at the July 18 City Council meeting for review of the discussed changes.

### **3. Parks Committee Bench Selection**

Public Works Director Leon reported that the Parks Committee created a subcommittee consisting of two Parks members and a Public Works staff member to research replacement benches that are needed throughout the City. Two parks they focused on were Carpenter Park with three benches, and Granada Park with four. The subcommittee focused on what type of benches would best fit the theme of the parks with Carpenter being a quiet park and Granada more rustic.

Mr. Leon provided pictures of the two parks' existing benches drawing attention to the warping of the ones in Granada Park and the fading, scratches and graffiti on the ones in Carpenter Park. Recommendations to the Council are for three eight-foot benches for Carpenter Park, and four benches in Granada, two with backs and two backless. Public Works will install the benches and install concrete pads for them in Granada. Carpenter Park benches will be installed into the existing brick.

Public Works Director Leon then asked for Council support so that staff and the Parks Committee can move forward with purchasing the benches. He said he was anticipating a fall installation.

CMBR McNeil inquired as to the reason for metal benches. Public Works Director Leon said they're a little more maintenance friendly noting that the current plastic benches can be carved into easily and the wood benches at R Park have had an issue with defacement. Steel metal benches can also be repainted if needed to make them look brand new again. He said he realized there's concern with heat, but no matter which option you choose you will be sacrificing something.

CMBR McNeil said she liked the current benches at Carpenter Park as they're very comfortable. She said the metal ones look uncomfortable and they're going to be hot. She recommended repainting the existing Carpenter Park benches which would certainly be a lot less money. Public Works Director Leon said they could be painted and it would make them look nicer, but felt this goes against what he has been hearing in past meetings in regards to taking care of the City's parks and keeping up with their amenities. CMBR McNeil said she didn't believe it was worth sacrificing comfort for something new and shiny.

CMBR Poppa asked about the shade in Carpenter Park. CMBR McNeil said they're shaded during different parts of the day depending on where you sit. CMBR Poppa said he was hoping the recommendation would be the wooden benches as in R Park. Public Works Director Leon said the wood on those benches has been splitting. They have had the manufacturer come back and see about replacing some of the slats. The manufacturer's comment is some of this is natural for the wood. Mr. Leon said a lot of work went into getting those benches and it's frustrating from

the fundraising group's end because of their effort. He did state that it's not an installation issue, but just how they've weathered.

Mayor Marquardt said he wants to honor the Parks Committee's recommendation, but feels the punched hole design in the benches makes them look very cheap. He asked if it was considered to repaint or save the existing benches. He also agreed with CMBR McNeil on the comfort issue adding that he would think they would have the capability of doing something pretty interesting with the existing ones for less price and better comfort in the end. He reiterated he hates to go against Parks, but felt the existing type of benches would look to be more comfortable.

Public Works Director Leon said that was not focused on and the amenities that were listed in his cost replacement analysis. They focused on what needed to be replaced which was more of the "sour-looking" amenities in the City.

CMBR Fast said the Parks Committee spent a lot of time looking at all the options and that the subcommittee met with different companies. She also went and looked at different parks noting that a majority of them already have the metal benches because they last a long time, the paint doesn't chip, they're hard to graffiti and have good warranties. Ms. Fast said she supports the Parks Committee's recommendation.

Public Works Director Leon said the benches chosen for Granada Park is because they match closer to the picnic tables and trash cans.

CMBR Thompson said she would echo CMBR Fast's comments and supports the Parks Committee's recommendation.

CMBR McNeil said she appreciates the works of the Parks Committee, but doesn't understand changing out something that works really well when it can be upgraded as opposed to something that's so uncomfortable.

CMBR Poppa thought they might not fit into Community for All Ages lens for the city, and asked if the Parks Committee or Mr. Leon looked into that viewpoint. Public Works Director Leon said their focus was to find a nice, quality bench that had low maintenance and that would fit within the theme of the parks.

CMBR Fast said at a Parks Committee meeting there was discussion to make sure the benches had side arms to help one get up.

Mayor Marquardt said he could endorse the Granada Park benches as he felt they fit in more with the park. The issue he has is they're very thin. As for Carpenter Park, he said the backdrop is a massive concrete back wall that's all and then with the placement of thing metal benches he didn't feel design-wise it would work very well. He said he would like to see the painted option for Carpenter Park and if it doesn't work, he may be able to endorse the recommendations then.

CMBR Poppa said the look of the Carpenter Park benches is more in the lens of Community for All Ages, the comfort level, when in direct sunlight it doesn't retain the heat. He noted that Carpenter Park is different than Granada, in that people go there to read and relax, but go to Granada to play.

CMBR Fast said she did not support the Mayor's recommendation. She would like to see new benches in Carpenter Park rather than throw on paint on them which will look low-grade, and won't look professional and the paint will chip. She said if the Council does not like the recommended selections, the item should be sent back to Parks for a different bench. She wants to make sure that the benches don't make the parks look as though they're half cared about.

CMBR Fast then invited CMBR McNeil to the next Parks Committee meeting to offer her input. CMBR Thompson said the next meeting would be July 13th at 6:00 p.m.

There was agreement to accept the bench recommendations for Granada Park.

Public Works Director Leon said he will be bringing the entire request back since the City would be getting a discount by purchasing all of them at the same time. He said he will probably not move forward with Granada Park at this time, but will advise the committee to research some different options for Carpenter and will bring the item back to a Workshop meeting.

CMBR Janssen asked where the old benches go. Public Works Director Leon said they would just dispose of them.

CMBR Fast said an option may be to place them along the bike trail at Nall Park.

#### **4. Ward 3 BZA Committee Appointment**

City Clerk Bohon said the recommendation to fill the Ward III BZA position is Mike Baugher.

There was Council agreement to move this forward to the July 18 Consent Agenda for approval.

#### **5. Leaf Pickup Contracts Westwood and Westwood Hills**

Public Works Director Leon put together the 2016 Leaf Pickup Contract for Westwood and Westwood Hills. The pickup date for Westwood Hills is December 3rd and Westwood is December 8th. For the City of Westwood, their overall total increase will be \$17 more an hour, while the increase to Westwood Hills is \$114. Both cities saved some money on fuel costs because fuel is lower this year than last year. He added the City has provided this service the last couple of years and that it has gone smoothly. He also said that Westwood Public Works is a big help. Both cities have their contracts and will be presented to their respective governing bodies. Mr. Leon would like to move this forward for Council approval at the July 18th meeting, and if there are any changes, he will bring them forward at that time.

CMBR Poppa asked about how a change in fuel costs would affect the contract and when the City receives payment for its services. Mr. Leon said the contract is based on current fuel costs and payment is received after the service is complete, usually in middle to late December. Mr. Leon also said there is room in the contract in the event fuel does increase.

There was agreement to move this forward to the July 18 Consent Agenda.

#### **6. Direction Needed on Citizen Survey Topics Unique to Roeland Park**

Ms. Jones-Lacy asked the Governing Body for their input on survey topics to propose to ETC, who will then put together the actual phrasing of the questions. Staff wants to know what the Governing Body is looking for and what their goal is in conducting the survey. They want input on the types of information they would need to feel as though this were a valuable effort on the City's part. Ms. Jones-Lacy said she has already received a few questions from the Mayor and City Administrator Moody has spoken with some Councilmembers with regards to what they would like to see.

City Administrator Moody did say space is limited on the survey and it is anonymous.

Entertain a stormwater fee used for ongoing maintenance of stormwater infrastructure.

CMBR Poppa said he would like to see a section for satisfaction with various aspects of city leadership, elected officials, appointed officials and staff. This would encompass overall effectiveness, quality of leadership, accessibility and responsiveness of City leaders. He would also like feedback on how the City ethically conducts its business, effectively manages city resources, and whether is the city prepared for an emergency, financial or otherwise.

CMBR Fast said she would like more detailed questions because she felt the last survey was limited and the questions were leading.

CMBR Janssen would like to add the Northeast Roe project to the development question.

City Administrator Moody said the survey is scheduled to be out in August with results anticipated in October.

CMBR Poppa would like to see if city services and facilities for all ages of the population are adequate with regards to accessibility, sustainability, walkability, bikeability, aging in place, et cetera.

City Administrator Moody some of the questions will be open-ended looking for ideas from the community.

There was discussion whether to place a stormwater fee question on the survey. After a brief discussion, the agreement was to strike that idea as it is too complicated. Public Works Director Leon commented that a stormwater fee would help the Public Works maintain the City's infrastructure.

### **7. Code Enforcement Update**

Ms. Jones-Lacy reported that the City Code Enforcement Officer has logged 249 specific incidents that included follow-up actions, city-wide inspections, and includes repeat offenses. Repeat offenses accounted for 6 percent of the items, but 90 percent of the cases are resolved. They have found that grass and weeds are the most common problem, followed by portable storage units placed longer than allowed and unlicensed rentals.

Ward I enforcement activity appears lower than the other due to the Boulevard Apartments being the largest section of the ward and grass and weeds being the major issue during this time period.

### **III. ADJOURN**

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(Roeland Park Workshop Adjourned)