

COMMITTEE OF THE WHOLE MEETING MINUTES

Roeland Park Community Center

4850 Rosewood Dr., Roeland Park, KS 66205

Monday, January 26, 2015, 6:00 P.M.

- Joel Marquardt, Mayor
- Megan England, Council Member
- Becky Fast, Council Member
- Marek Gliniecki, Council Member

- Jennifer Gunby, Council Member
- Ryan Kellerman, Council Member
- Teresa Kelly, Council Member
- Sheri McNeil, Council Member
- Michael Rhoades, Council Member

- Aaron Otto, City Administrator
- Jennifer Jones-Lacy, Asst. Admin.
- Kelley Bohon, City Clerk
- John Morris, Police Chief
- Jose Leon, Public Works Director

Admin

Chair, Kellerman
Co-Chair, Gunby

Finance

Chair, Gliniecki
Co-Chair, Rhoades

Safety

Chair, Kelly
Co-Chair, McNeil

Public Works

Chair, England
Co-Chair, Fast

CMBR Gliniecki asked for additions or corrections on the agenda.

CMBR Kellerman: So there should be a correction on (B)(1). It does say, "Consideration and Discussion of Request for Change of Chair of the City Admin Contract Negotiations. The original agenda that was e-mailed to me, what I added on there on Friday should say, "Consideration and Discussion of the Contract Negotiations Committee Ad Hoc Chair Position to Remain with the Chair of Admin." So, that's quite a difference, but that is what it should say.

CMBR Gliniecki asked the Committee if there were objections to changing the official record to show the change requested by CMBR Kellerman. No objections were heard.

CMBR Gliniecki stated the animal control ordinance was to be placed on the agenda, but was removed. He stated it was at the will and direction of the Council that it be considered at this meeting.

Mayor Marquardt noted up for discussion was the definition of a Pit Bull, the temporary allowance of one Pit Bull for three years and the administrative authorization to approve a third dog at a residence.

CMBR Gliniecki also noted that discussion of how the Committee of the Whole agenda is formed should be placed on the agenda.

CMBR McNeil stated she wanted a discussion about mandatory spay/neuter for cats and dogs, especially the Pit Bull.

CMBR Gliniecki listed the items to be included under Section II(B) Admin as follows:

- Discussion of the Pit Bull exemption and the administrative allowance of a third dog.
- Consideration and discussion of the chair of the Contract Negotiations Committee.
- Discussion about how the Committee of the Whole agenda is formed.

CMBR Rhoades: I would just like to make sure that we have enough time for Number 2, as that -- I think that is time sensitive and pressing.

CMBR Gliniecki: Of the Negotiations Committee?

CMBR Rhoades: Yes. I want to make sure we have enough time for that and we actually get to that, because --

CMBR Gliniecki: Well, we're going to be pretty pressed to get through this.

CMBR Rhoades: Okay. I just want to say that I think that's a time sensitive issue that needs to be addressed.

I. APPROVAL OF MINUTES

- A. December 8, 2015
- B. December 15, 2015

CMBR England: I seem to remember we had a long discussion that night and there's two members of the Governing Body that were transcribed in detail and the rest of everyone's was summarized. So, I was wondering if somebody could explain that and why not everyone was transcribed.

CMBR Gliniecki stated that Councilmembers requested their statements be for the record.

CMBR England: I'd like to be quoted for the record in that – in those minutes as well. Those previous minutes.

CMBR Gliniecki said Ms. England's comments will be added to the minutes.

CMBR England: My question is at what point do we get to – so, at any meeting or every meeting we could request for our statements to be transcribed? Okay. And so did that happen at the meeting? Or I know it didn't happen at the meeting. So, if we say, I would like this entire conversation, everything that I say to be transcribed, then it will be? Okay. Thanks. I would like my statements to be transcribed for those minutes.

CMBR Gliniecki noted the minutes would be approved at a later meeting.

II. REPORTS OF COMMITTEES:

A. Public Safety - Kelly / McNeil

1. Purchase of 2015 Police Vehicles

CMBR Kelly stated she and CMBR McNeil met with Police Chief Morris who is requesting to replace two vehicles from the fleet.

Police Chief Morris addressed the Committee asking for approval to purchase the new vehicles previously approved in the budget. He noted that currently there are five marked patrol units assigned to the Police Department and the department will be transitioning one of the older vehicles out and putting it back into the pool. . He added that it is important to maintain the integrity of the Police Department's fleet as the patrol vehicles run 24/7.

Chief Morris noted that he will report on crime statistics in the City at next month's meeting, but did add that overall crime is down in Roeland Park.

CMBR Fast stated she would like to see a list of vehicles in the department and a timeline of when the vehicles are to be transitioned out of the department.

It was recommended by the Committee to move this item to the Consent Agenda of the City Council meeting.

B. Admin - Kellerman / Gunby

CMBR Kellerman: Okay. So, we're going to start off with the – Number 1 is on our animal ordinance. And, Council President, as we stated earlier, the animal ordinance says – stated the topic of -- really should be a limit of one Pit Bull, correct?

Mayor Marquardt noted the revised ordinance definition would make it unlawful to keep or maintain more than one Pit Bull on any property in the City. This prohibition shall expire on January 1, 2018. The Mayor noted he had spoken with an animal rights group, but stated he would not share their statements directly and invited them to speak during Public Comment at the City Council meeting. He did note that one of the groups did endorse this

amendment as there is concern by some of the public lifting the Pit Bull ban and that having a transitional period with a sunset clause is a good thing.

CMBR Kellerman: Let's go up and open that up for discussion.

CMBR Gunby stated she was in favor of the updated animal control ordinance in the packet as was discussed at the last Committee of the Whole meeting. She added she is not in favor of the additional language extending the ban on Pit Bulls to just one animal through January 2018. She felt this goes against the best practices used to update the ordinance. Some problems she identified with the Pit Bull restrictions would be enforcement difficulties in identifying a pit bull and does the ordinance address Pit Bulls in the City that are not owned by a resident such as those visiting or walking in the park and on City streets. Mayor Marquardt noted that allowances have been made for Pit Bulls at special events and that the language refers to Pit Bulls on private property, not walking on City streets. The Mayor added that talking with people on both sides of the issue is important and while he may not necessarily agree with a viewpoint, it's a higher risk not to work with the citizens.

CMBR McNeil believes the Pit Bull compromise is fair. She stated she has been contacted by people who initiated the ban on pit bulls and the initiative they began needs to be respected rather than saying they were wrong. She added that it's too easy to have two dogs and fairly easy to have three and then to come before Council to get a fourth. If these were all pit bulls, then she could see that becoming a real problem.

CMBR Gunby reiterated the original animal control ordinance banned all Pit Bulls from the City meaning they could not be owned, walked, or ride in any car driven in Roeland Park. The updated ordinance has removed all breed specific language and it does not matter what type of dog it is as long as it is not a dangerous or vicious animal.

City Attorney Shortlidge stated the language refers to the element of ownership, keeping or maintaining and would not apply to animals walking or riding through the City.

CMBR Gliniecki initiated the discussion of determining the predominate breed of a Pit Bull terrier by a Kansas licensed veterinarian. The Mayor noted other cities used the written determination of a veterinarian and after discussions with staff, it was felt this was a reasonable way to address the issue as the City would not be liable for determining the predominate breed.

CMBR Kellerman: And if I recall too from the Committee of the Whole meeting from January 12th, we mentioned at the 11 o'clock hour the year of 2018, but I don't think we actually had a date. So, how was that date placed into the packet?

Mayor Marquardt stated he chose 2018 as the sunset date as it was not an election year and did not want this topic to become an issue.

CMBR Kelly had questions of what would happen after the sunset of Pit Bull exclusion and did not believe it needed to be a three-year exemption, but could be two years.

CMBR Gunby inquired as to who would pay for the written opinion of the Kansas licensed veterinarian would there need to be changes to the current documentation process when registering a dog in the City.

CMBR Rhoades: I think that probably would be an easy fix if we just said a licensed veterinarian. I don't know that -- since we are on the border with Missouri I could see someone going and having their dog looked at on the Missouri side. So, if it just said licensed veterinarian versus Kansas-licensed veterinarian that would be the proper way to go. And then also for the record, I'd like anything I state in this meeting for the record.

CMBR England: Okay. Just one more time. At what point does a licensed veterinarian come into the situation?

Mayor Marquardt responded that when a dog is to be registered, the vet must fill out the shot record paperwork.

Mayor Marquardt then requested to call the question to recommend the item to Council. CMBR Gliniecki asked the Council if they were ready to call the question. The motion failed 4-4; the discussion continued.

CMBR Kellerman: I see a total of four, so we'll continue to discuss. I saw a total of four so we will continue to discuss. Councilmember Rhoades?

CMBR Rhoades: I guess the question I have here is are we going to be able to vote on this without an ordinance? So, don't we need to decide this now so we can forward the entire ordinance to Council? Because if we're just going to say if we're going to vote on this at Council, we wouldn't have an ordinance to vote on during Council. I'm just trying to bring that up to you to -- and is that the proper way, Neil?

City Attorney Shortlidge stated the Committee has the language by way of the ordinance, but also has the language that would be in addition to the ordinance.

CMBR Kelly reiterated her desire to shorten the time for the Pit Bull exemption noting that it will sunset four months before the election. She stated she has received letters about other people walking dogs through the City and that with the language as written there will still be a risk. If the ordinance is adopted as written, will the language that speaks to not having breed specific language need to be changed.

CMBR Fast didn't see how a vote could be cast at the Council meeting as the Committee does not have the final written ordinance. She added that for transparency her constituents deserved to see the final ordinance changes before being forwarded to Council and this should not be forwarded piecemeal.

City Attorney Shortlidge stated the Committee does have the ordinance and can approve it with the language changes as has been done in the past with other ordinances.

CMBR Gunby stated that if the proposed ordinance is not moving forward to a vote on an item, then it should be addressed now. She agreed with CMBR Kelly on shortening the expiration dated noting that people who are already uncomfortable allowing Pit Bulls in the City will not be more comfortable over time.

CMBR England: Actually that's what I was going to do is to try to start building a consensus on how we can move it forward for the Council meeting. So, you know, I would concur with Jennifer, Ms. Gunby's efforts to try to take polls of the Council on how do we move forward.

After further discussion CMBR Gliniecki asked and received a majority recommendation (6-3) to move forward with the ordinance as written, adding the language changes and changing Section 2-101 to add a one Pit Bull restriction.

CMBR Kellerman: Yeah. And I'm actually okay. I'll hand it over to the Council President.

CMBR Gliniecki: You're chair of Admin. Well, I'm just asking as a member if there's consensus.

CMBR Kellerman: Okay. So, do we have a consensus on this?

CMBR Gunby: Are you asking for a showing of hands or the traditional thumbs up/thumbs down?

CMBR Kellerman: Let's do the thumbs up/thumbs down. This is to add an additional one dog restriction. Six. Did we get that? Yeah. For the record it was 6-2. Or I'm sorry. I forgot to count you, 6-3. Okay. Councilmember Rhoades?

CMBR Rhoades: I'd just call it as it is, we're actually voting on that, we're not taking a consensus. We are actually counting members.

Mayor Marquardt clarified the Committee was voting to recommend to move the item forward to Council.

CMBR Kellerman: Okay. I think we're ready to move on to Number 2 then.

City Administrator Otto directed everyone to page 71 of the Council packet to review the process of residents seeking exemptions to the two pet limits. It is proposed that residents seeking a third animal could be administratively approved and notification of surrounding neighbors. Those residents seeking a fourth pet would be presented to Council for approval.

CMBR Gunby stated her support for a continuation of the administrative approval of a third animal and Council approval for a fourth.

CMBR Rhoades: I would like a point of clarification on if the third animal, is the City Clerk or City Administrator, are they sending out a letter to the neighbors on that front?

City Administrator Otto responded that with regard to third and fourth animal requests the City will notify all surrounding neighbors. If there is an issue, this will be brought before Council for a final decision.

CMBR Gliniecki asked for and received a recommendation from the Committee to add a special permit for a third dog or third cat to be approved administratively by the City Clerk; a special permit for four or more dogs or four more cats may only be approved by the City Council.

CMBR Kellerman: Yeah. So, I'm sorry, guys. We need to take a consensus on that. We're doing thumbs up. Okay. For the record there was a consensus. Okay. Ready to move on to – Councilmember Rhoades?

CMBR Rhoades: Councilmember McNeil brought up a point when we were discussing this before, I just wanted to know if we were going to discuss that too, because it relates to our animal ordinance.

CMBR McNeil reiterated she would like discussion at another date as to a mandatory spay/neuter of all dogs and cats.

CMBR Kellerman: Yeah. Is there any more discussion on it because we're running behind here? All right. We're going to continue Number 2 and is Consideration and Discussion of the Contract Negotiations Committee Ad Hoc Chair Position to Remain with the Chair of Admin.

Consideration and Discussion of the Contract Negotiations Committee Ad Hoc Chair Position to Remain with the Chair of Admin."

CMBR Kellerman: I would like to open that up for myself for discussion. So, this is something that -- this position falls in line with the chair of Admin. It always has been since this position had opened up. And when I became a Councilmember, this is obviously part of my job. And I'm basically defending myself for this position. So, I would like to -- I would like to keep this position. I think there's been some discussion of myself not being able to keep this position. And I would like to hear from my Vice-Chair first, Ms. Gunby.

CMBR Gunby: Thank you. I would just like to clarify that I am currently the chair of the Contract Negotiations Committee. The way this committee works is it's unfortunately not spelled out anywhere who will serve on a committee or who will chair the committee. We've just traditionally had three members of the Governing Body, including both members of the Admin committee serve on this ad hoc committee. The process began last October when staff put together a tentative calendar for the process and I was the acting chair of the Admin committee at that time, so I became chair of the ad hoc committee. In November, we began the process. In early December,

when it still was early on I contacted Mr. Kellerman, newly elected, as he would be becoming the Admin chair and asked if he wanted to take over responsibilities for this ad hoc committee. Mr. Kellerman did not accept taking over responsibilities at that time. I then continued for the next two months as chair of this task force. We are now about 90 percent. We have I think one more scheduled meeting and then we come before the City Council with our recommendations. So, I am currently the chair and I see no reason to not continue serving as chair as we're 90 percent through the process.

CMBR Kellerman: Just for clarification. Ninety percent of process is for the evaluation that we did complete. I'm okay with that, you can have that. I'm asking to remain as chair for the negotiations contract committee. And just a brief timeline, on December 10th, Ms. Gunby sent out an e-mail to the Governing Body stated as City Admin Evaluation on 2015 Contract Calendar. I didn't see this because I hadn't been sworn in yet. I wasn't sworn in until December 15th. This was brought to my attention by a Councilmember after I was sworn in so there's no way I would have been able to know that. On December 22nd, Ms. Gunby mentions in an e-mail that the Admin chair is also the chair of the Negotiations Committee. On January 5th, my first Committee of the Whole meeting, Ms. Gunby asked just before the meeting if I wanted to be on the Negotiating Committee. And if not, she'll ask CMBR Gliniecki. But being my first meeting on January the 5th, even before the meeting started, it kind of caught me off guard because as that e-mail stated on December 22nd, I was already the chair. So, I caught myself then the following day on January 6th at another Committee of the Whole meeting, if you can recall that. And, in fact, I think that's as a recording as well, that I did indeed want to be on the Contract Negotiations committee. On Wednesday, January 14th, Ms. Gunby, Ms. Kelly and myself went for the first Negotiating committee meeting. No formal notes were taken, no introductions and I went in there as the chair as I should. Again, that is my job. And if you look back on July 7th, Ms. Kelly states, and this is at a Committee of the Whole meeting as well for the budget. Ms. Kelly states on the record that the Admin chair will head the Negotiating committee. Again, I don't know why I'm defending myself. I don't know if this is an initiation for first Councilmember, for somebody who is new. I don't approve hazing. So, I want to remain as the chair. I never once said that I did not want to take on the role of the chair of the Negotiating committee. Ms. Gunby said that in December. And I'm going to hand it over to the Mayor for –

Mayor Marquardt said experience and knowledge of the process was important to lead the committee and there was someone with three or four years of experience. He appreciated the fact that CMBR Kellerman was newly elected, but preferred experience when working with the City Administrator's evaluation and contract negotiations.

CMBR Rhoades: I'd just like to say that I would like transparency with the Governing Body. I mean, I don't know if -- if we are in executive session, I'm okay with us discussing amongst ourselves, but I don't think three members of the Council should make decisions that the rest of the Council are unaware of on this, which I deem to be important. And so I would like to be a part of -- one, I was never asked to be a part of this ad hoc committee. I would like to be a member of that. That being said, if we're going to reopen this up because one, we don't -- right now we don't even know who the chairperson is of this committee. So one, we probably need to make that decision so we don't have a member or two members continuing to proceed and act as, I mean, we're going to have two separate committees going on at the same time. So, we need to get clarification of one, who is in charge; two, I would like to be a part of that process. And I think the rest of the Council should be involved in that as well.

CMBR Gliniecki stated that CMBR Gunby has worked through all stages that have developed along the way and that it was the will and direction by the Committee for her to continue as chair. He added that at this late stage in the process she should consider herself as the chair until it is the will and direction of the Committee for that to change.

CMBR Kelly stated she believed the role of chair was carried out by CMBR Gunby and CMBR Kellerman did not come forth with materials needed or documentation needed for him to proceed as chair. She asked if there was a question as to who was the chair of the committee why was it not discussed earlier. She believed the Committee has been transparent in the process and the matter needs to move forward.

CMBR Kellerman: So, on page 4 of the minutes from July 7th, it states, and if you go back and listen to the recording, pretty much matches up. Councilmember Kelly stated that the Admin chair will head the Negotiating Committee.

So, at that time, for clarification, Councilmember Gliniecki, who was the Admin chair July 7th? And my recollection going back to the minutes was Councilmember Croston.

CMBR Kelly: Correct.

CMBR Kellerman: So, I think I just heard a correct. So, moving forward when a councilmember leaves, that councilmember takes over the jobs and responsibilities. Now, if you should chose to vote me off of this, you need to show me where in an ordinance, where does the ordinance state this?

Mayor Marquardt clarified that an ad hoc committee does not require an ordinance, but the will of the Council.

CMBR Gunby: To answer Mr. Kellerman's question, when this ad hoc committee began, I was chair of Admin. As the co-chair, when the chair resigned from Council until the new position was elected with you in December, I as co-chair became acting chair of the Admin committee. So, when this task force began that's how I got made chair of it. It was not in July, it was when it got started because I was acting Admin chair at that time.

CMBR Kellerman: I'm not disputing that. You were the acting chair, but once I became Councilmember, I took on the role of the Admin chair which is what I'm doing tonight. And part of the role of Admin chair once again is to chair that Contract Negotiations committee. Councilmember England, then Councilmember Rhoades.

CMBR England: I'm confused. I thought I remembered an e-mail from you, Mr. Kellerman, that said, it was early on, that said that you thought it was inappropriate for you to participate because you were so new and you thought that you were [inaudible], that you were taking yourself out of –

CMBR Kellerman: That was for evaluation, not for the contract negotiations. I can show you the e-mail if you want. But, yeah, that was for the evaluation.

CMBR England: Yeah. Because I don't have it in front of me. If you want to read the e-mail why don't you bring it?

CMBR Kellerman: I can show it to you, I don't have it right here. But that, yeah, I'm confident that was for the evaluation process, which makes sense because how can I evaluate our contractor when, you know, I wasn't here for that year. So, Councilmember Rhoades?

CMBR Rhoades: I guess I'm looking at this as two separate issues. One is the person who is the chair of the committee. The other one I'm looking at is the process and the timeline because there is one thing on the timeline that I looked at that I think there is two things on there that need to be switched, that it's out of order if we are truly negotiating and it is truly a negotiating committee. That it needs to be -- once again, it needs to go to us beforehand as a Council.

CMBR Kellerman: To follow up with what Councilmember Rhoades said, yeah, that is correct. I mean if we're going to follow – if we're going to be responsible with this, we need to be able to have a timeline of presenting the contract to the contractor as a whole, as a Governing Body whole.

City Attorney Shortlidge advised if the Committee was considering structure changes it should be added to an agenda.

Mayor Marquardt requested that committee structure discussion be added to the Council agenda and also to add the one item in process to have the Committee of the Whole review negotiations before discussion with the City Administrator to be done in executive session.

CMBR Kellerman: So, I agree with you on the second one, but on the first one, if you were to do that tonight, you would have to vote me out and vote whoever back in.

CMBR Gliniecki noted that the ad hoc committee chair of record is Councilmember Gunby.

CMBR Kellerman: Just to clarify once again, July 7th says the chair of the Negotiations Contract Committee is the chair of Admin. And to clarify on an e-mail from December 22nd Ms. Gunby once again mentions that the chair of the Negotiations committee is the chair of Admin.

CMBR Kelly stated the intent of the July meeting was for the Ms. Gunby to become chair to replace a resigning councilmember, and that discussion is not reflective of the issue at hand.

There was Council discussion as to who traditionally has been the chair of the contract negotiating committee with CMBR Fast stating in the past the chair has varied. She believed CMBR Kellerman is now the chairman of the committee and if a clarification in the process is needed, then the discussion should be tabled to the next Committee of the Whole meeting.

CMBR Rhoades: I would go along with what Ms. Fast, or Councilmember Fast just said, but I also would like to maybe ask our City Attorney if he has any -- wants to weigh in on this issue of -- because there seems to be an argument on both sides, both people -- there's two separate people claiming to be the chairperson. I would just like to know if our City Attorney would like to weigh in on that.

City Attorney Shortlidge said there is no ordinance relating to the chair. It is an ad hoc committee that is appointed by the Governing Body who will serve on it. He noted it is not always the same and has changed over the years, but lately it has been the custom that the two members of Admin and a third member serve. He added it is a Council decision, but if there is going to a debate to this degree, it should probably be put on an agenda for a vote.

CMBR Gliniecki asked for a recommendation to move this for consideration on the City Council agenda tonight. The recommendation failed 4-4.

CMBR Rhoades: Real quick. On clarification, are we moving one or two items? I mean, are we -- define what item we're moving.

CMBR Kellerman: Okay. We need to forward. It is that time, so we're going to go ahead and adjourn.

III. NON-ACTION ITEMS:

A. Committee Minutes

1. Sustainability (Pg. 17)
2. Parks (Pg. 19)

IV. ADJOURN

Without objections, CMBR Gliniecki adjourned the meeting.