

**CITY OF ROELAND PARK, KANSAS**  
**SPECIAL COUNCIL MEETING MINUTES**  
**Roeland Park City Hall**  
**4600 W 51st Street, Roeland Park, KS 66205**  
**Friday, March 20, 2020 6:00 P.M.**

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| <ul style="list-style-type: none"><li>○ Mike Kelly, Mayor</li><li>○ Trisha Brauer, Council Member</li><li>○ Benjamin Dickens, Council Member</li><li>○ Jan Faidley, Council Member</li><li>○ Jennifer Hill, Council Member</li></ul> | <ul style="list-style-type: none"><li>○ Jim Kelly, Council Member</li><li>○ Tom Madigan, Council Member</li><li>○ Claudia McCormack, Council Member</li><li>○ Michael Rebne, Council Member</li></ul> | <ul style="list-style-type: none"><li>○ Keith Moody, City Administrator</li><li>○ Jennifer Jones-Lacy, Asst. Admin.</li><li>○ Kelley Nielsen, City Clerk</li><li>○ John Morris, Police Chief</li><li>○ Donnie Scharff, Public Works Director</li></ul> |
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**Admin**

Madigan  
Brauer

**Finance**

Faidley  
McCormack

**Safety**

Dickens  
Rebne

**Public Works**

Hill  
Kelly

(Roeland Park Council Meeting Called to Order at 6:00 p.m.)

**PLEDGE OF ALLEGIANCE**

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

(Pledge of Allegiance)

**A. Instructions to Access Online Meeting**

Ms. Jones-Lacy reminded everyone to mute microphones when not speaking to control feedback. For members of the public that wanted to be recognized they could use the “chat” function to enter their request. The Mayor would make the decision on when to take citizen comment.

Mayor Kelly thanked everyone for their patience as they continue to work through holding their meetings electronically.

**ROLL CALL**

City Clerk Nielsen called the roll. All Governing Body members were present with CMBR McCormack calling in shortly after the start of the meeting. Staff members present were City Administrator Moody, Assistant City Administrator Jones-Lacy, Public Works Director Scharff, Police Chief Morris, City Clerk Nielsen, and City Attorney Mauer.

Mayor Kelly thanked everyone for giving up time on a Friday night to handle the pressing matters of the City. He recognized they are facing unique challenges that Roeland Park has not seen in its existence. He also stated he is thankful for the dedication of City staff as well as the Governing Body members.

He said the City is following the Johnson County Emergency Operations Plan as well as the National Incident Management System (NIMS) during this emergency. They have utilized this system in the past following severe storms that have hit the City.

**MODIFICATION TO THE AGENDA**

*There were no modifications to the agenda.*

**I. NEW BUSINESS**

**A. Discuss and Seek Direction on Sick Leave Use by Staff for Caregiving Arrangements, Provide Direction on Use of Sick Leave**

Mayor Kelly noted that schools will be closed for the remainder of the school year and students are requiring care during that time.

City Administrator Moody said the use of sick leave for providing care to children out of school or that do not have daycare is incorporated into page 6 of the Summary Question and Answer Personnel Policy Directives document. Initially the directive provided to staff was they could use vacation or compensatory time in the care for children or others that were no sick. Changes to this out denoted by redline and would provide employees the opportunity to use sick leave to provide care even if the person isn't necessarily sick.

CMBR Faidley asked if from March 20<sup>th</sup> through April 24<sup>th</sup> would be a temporary measure and whether it is a significant enough time, did it need to be pushed out further. City Administrator Moody said the language incorporated is intended to provide guidance. It is also not anticipated that sick leave would be used in a long-term approach. It is to provide employees an opportunity to make the transition to provide for arrangements long-term.

CMBR McCormack proposed to extend the time to the end of the school year around May 15<sup>th</sup>. She realized they are trying to slow the effects of COVID-19 but did not believe this virus will pass quickly.

CMBR Rebne said he had similar concerns to CMBR McCormack's. He recognized that there are options and one of them is for grandparents to watch the children, but that has been posed as a potentially dangerous option, in addition, there are also limits on how many can gather at one place. He asked what the scenario would look like for someone who does not have sick leave through April 24<sup>th</sup>.

Mayor Kelly said the Paid Leave legislation was signed by the President and goes into effect on April 2<sup>nd</sup>. This would provide some additional support moving forward for those who may need to care for their family members. He said they should also consider what additional aid will be given either at the federal or state level. The approach they could take where they provide this opportunity gives them flexibility, and if appropriate, they can extend it through May.

CMBR Rebne asked what an employee is to do if they do not have enough sick leave and is it possible for some employees to work at home.

Mayor Kelly said the intent of this is to provide them a bridge until the end of April so they can consider where things are from a national perspective and also at the state level to see how it has impacted staff and sick time of the City.

CMBR Hill said it is a good idea to extend this to the end of the school. She said it would help them not to have an extra meeting just to extend the date.

CMBR Kelly commented his understanding was that this is intended for the short term while arrangements are being secured for long-term care and felt that four weeks is sufficient to figure this out as this is not designed for them to take care of their kids, but for them to make arrangements for someone to take care of them.

CMBR Madigan noted that not all of the employees' children are in Johnson County schools and may live in other counties.

CMBR McCormack commented in response to CMBR Kelly that the arrangements for children may not exist as far as childcare in groups of ten which may be changing and reducing. She said that finding childcare last minute not during a pandemic is difficult for anyone. She questioned whether they strike the part to arrange childcare or to participate in childcare, she finds that to be more relevant.

Mayor Kelly asked staff how much sick leave an average Roeland Park staff member has accrued. City Clerk Nielsen said each staff member accrues eight hours of sick time on the first day of each month, so it varies. Some employees have 94 hours and there are some that have 960 hours.

CMBR Faidley said that everyone realizes that sending children to the grandparents is one of the worst decisions to make because that is the age group that's most at risk of the virus.

CMBR Rebne said that rather than make a demand that an employee find childcare that may or may not be safe at a certain point, is there a way as a City they can support folks as they work to locate childcare. He suggested that they may be able to find resource lists and work as a community to help people figure this out if they can. He also did not want them to make it an expectation because then he believes they would be pressuring people to put their kids in harm's way.

CMBR Kelly asked if by implementing this there would be any areas that might be short on staff or put the City in a position to not be able to provide the services needed for all departments.

City Administrator Moody said provided the summary of the number of staff that have school-aged children he believes there are 11 of 32. Of the 11, 7 employees would be categorized as essential in either the Police Department or department directors. There is the potential to impact how quickly they are able to deliver service as people take advantage of the leave that is available to them. He does not believe it will bring a halt to City services and noted that there are some opportunities to work from home. The police staff is not included in this category. He said there will be situations where the perception is it's not fair. Mr. Moody said there is no way around that and added that it weighs on him as they are trying to be accommodating and provide direction with the document and giving thought to reasonable scenarios, but acknowledged they do not know all that could come up.

Mayor Kelly said he would like to see them limit the motion through the end of April, but clarified that he agreed with the sentiment through the end of year because of the possibility they might have to claw some of this back should they become short staffed. He believed that through the second April Council meeting would be a sufficient time to test this.

CMBR Hill said they need to focus on the motion of allowing employees to use their sick leave and further discussion can be held for other options for them and other things that may be coming down from the government. She said there has been a lot of talk about fairness and they need to step aside and focus on what does each person really need. Someone who has young children needs something different from

someone who is older. She said now is not the time to be greedy with what they will allow people to do and not do. She added that they all need to stick together and help each other.

CMBR Rebne said that his earlier comment was based on what he saw a resident type into the chat box which was the H.R. 6201 bill which provides for what they're discussing. He believes this ordinance and that bill gives their employees the right to use leave in order to take care of children who are out of school.

**MOTION:** CMBR MADIGAN MOVED AND CMBR REBNE SECONDED TO AMEND THE MOTION TO EXTEND THE USE OF SICK LEAVE THROUGH MAY 22, 2020. (MOTION CARRIED 7-1 WITH CMBR KELLY VOTING NO.)

**MOTION:** CMBR HILL MOVED AND CMBR REBNE SECONDED TO PERMIT EMPLOYEES TO USE SICK LEAVE WHILE MAKING ARRANGEMENTS FOR CHILDCARE DUE TO SCHOOLS AND DAYCARES BEING CLOSED THROUGH MAY 22, 2020, AS AMENDED. (MOTION CARRIED 8-0.)

#### **B. Discuss and Seek Direction Related to Staff Compensations in Event of Closing Operations**

Mayor Kelly said in the event operations are closed they wanted to get the Governing Body's direction concerning compensation of those members who would be affected by a shut-down.

City Administrator Moody said they put this agenda together before they had knowledge of the Paid Leave Act that's been signed by the President. He has expectations they will need to have a meeting in the future to approve how to administer that should operations be closed altogether and not just to the public. They are also seeking Council's direction on how to handle compensation to those employees.

Mayor Kelly said there is potential federal action that can help beginning April 2<sup>nd</sup>. The next Council meeting is April 6<sup>th</sup>. He recommended that in the event they close operations they continue payment to staff through April 6<sup>th</sup> and reevaluate at that time.

CMBR McCormack said they are all facing very uncertain times and tensions are high. They do not know what kind of limitations will be made going forward. She would have preferred to see proposals for setting aside a certain amount of money for residents, whereas, the focus is on the City's employees. She also said they do not know the financial or medical impact this will have on the community. She stated is main concern is about their citizens.

CMBR Madigan said he agreed with the comments made by CMBR McCormack. He said they need to think about the sick leave and vacation time that staff has that they can use if they are sent home. He asked Mr. Moody what he saw as a reason that everyone would need to be sent home.

City Administrator Moody said there are other parts of the country where there has been an order by the state to cease all operations and self-quarantine at home.

Mayor Kelly said to look at what has happened in New York, California, and Illinois that have a quarantine order in place for all non-essential services and would, therefore, put some of their employees at home.

CMBR Faidley asked if this were to happen would those non-essential employees no longer be considered as employees of the City.

Mayor Kelly said that a declaration of emergency does not mean that employees are necessarily sent home. It has been on a case by case basis for different cities depending on what they do from an operational standpoint.

CMBR Rebne said due to the community center closure it is happening to staff now. If they fire employees, then they are sending someone out that cannot find another job and how are they to keep staff once this crisis passes.

Mayor Kelly said releasing people from their employment if they are sent home is not the direction they are proposing.

CMBR Kelly said in response to CMBR Madigan that if an employee came to work and felt fine in the morning, then became sick during the day, at that point they would need to close the building and sanitize it to safeguard everyone.

CMBR Hill said she received an e-mail from her school district. They are still continuing to pay teachers, paras and essential employees to running the business of the school. She said as a City if they quit paying people they are not going to come back once this is over. She added that people cannot survive without income and they need to take the lead and continue paying their employees.

CMBR Dickens said it is not uncommon if circumstances beyond their control affect their ability to continue to pay people. A reduction in pay is a hard place to be in and they need to talk about it very soon.

CMBR Brauer had audio issues so Mayor Kelly read her comment into the record. "I hear you, Ben. I don't have any work at all because I only work with large crowds. I don't want our workers to feel that way."

**MOTION:** CMBR MADIGAN MOVED AND CMBR REBNE SECONDED TO CALL THE QUESTION. (MOTION CARRIED 8-0)

**MOTION:** CMBR DICKENS MOVED AND CMBR FAIDLEY SECONDED IF CITY OF ROELAND PARK OPERATIONS WERE CLOSED THAT STAFF COMPENSATION WOULD CONTINUE THROUGH APRIL 6, 2020, AND REEVALUATED AT THE CITY COUNCIL MEETING ON THAT DATE. (MOTION CARRIED 8-0)

## **II. Ordinances and Resolutions**

### **A. Ordinance No. 993, an Ordinance Establishing a Procedure for an Emergency Proclamation as Chapter 1 Article 19 of the Municipal Code of the City of Roeland Park, Kansas**

City Attorney Mauer said the City passed an ordinance allowing meetings to be done remotely and it seems to be working well. The idea of this ordinance is to create the authority to take the action. Following this will be a resolution to approve the acts already taken by City staff and the Mayor, which were an emergency and needed to be done. Mr. Mauer said there are many things that could go into this and many other ideas that could be addressed. They wanted to keep this as simple and as focused on this particular COVID-19 emergency confronting them. There will be time in the future to address other potential crises and disasters, to compare their plan to others, to shore it up and make necessary changes.

CMBR Rebne asked for clarification on the ability to impose a curfew. He said he can see where it makes sense in the current situation to be able to close buildings and businesses.

Mayor Kelly said they hope and expect that to be something they would not exercise. However, it is standard throughout the cities in Northeast Johnson County and throughout the county in the event of an emergency.

CMBR Rebne said this seemed to be more general crisis language and he was expecting to see something more specific to the COVID-19 crisis.

CMBR Faidley said in looking at what is happening in other places having a curfew may be necessary to get through this crisis.

CMBR Brauer stated she agreed with CMBR Faidley.

CMBR Madigan read a statement into the record. "I am not against the City having an emergency preparedness ordinance. I believe it is something that is needed. I believe that we, as a Governing Body, must model legal, ethical, and procedurally in any and all process. It is the process I have an issue with and a bit of the wording. After consulting with the County Attorney Don Jarrett, I believe by voting and enacting this ordinance we would be in violation of our own charter ordinances. First, we should add a section to the charter giving the Mayor the authority under an emergency preparedness ordinance authority to call an emergency. Secondly, we have to follow the guidelines in Charter Sections 33, 34, and 35 that would entail publishing for two consecutive weeks, and subsequently, the ordinance would take effect 61 days after the second publication. Third, I, like Mr. Jarrett, feel the definition of "emergency" or "disaster" is too broad. What exactly is a riot under this definition? If a business is closed does that mean it's closed to everyone, i.e. public, employees, owners? Would owners be allowed in to do paperwork, necessary work, maintain stability and/or secure their business? This is not a simple ordinance when it clearly gives the Mayor authority not defined in our City Charter. Each instance where the Mayor is given authority, with or without a vote of the Governing Body, is well-documented in our charter ordinances either with the added ordinance or a repeal of a section of the charter ordinance. All I'm asking that we do is to follow our own laws, the ordinances of the City of Roeland Park. Frankly, I believe we'll be okay for now following and adhering to the county, state, and federal regulations and guidelines until our ordinance becomes effective. Thank you."

City Attorney Mauer stated if they had the time and the ability to go through the process to amend the charter, publish it, and make it go into effect as the charter and the statutes set forth he would agree with CMBR Madigan. The problem is they do not have the time to do that as they have a situation in front of them that requires emergency reaction which the City staff is being required to do anyway. The following resolution is a list of items the staff, by requirement, had to do, but there is nothing in the current City code that says they have the authority to do that. The Mayor was called upon to make decisions and take stances that were in line with other cities and in line with Johnson County and the state of Kansas, but there was nothing in the code that gave him the authority to do that. After the crisis is over, they can go back and work through the plan CMBR Madigan advised and they can amend the charter and put forward a more detailed thoughtful plan. Today the City Administrator, staff, and Mayor are being required to do things that they do not have the support in the code nor do they have the backing of the City Council that says they approve what they are doing and what has been done. The intent of this Special Call meeting was to advise the Council to make sure everyone knew what had happened and what might be coming and

to get their expressed support for the City Administrator, staff, and the Mayor to continue to take care of the City and its residents.

CMBR Rebne clarified that what Mr. Mauer said is that they're already being told as a City to issue an ordinance to establish an emergency procedure.

Mr. Mauer reiterated that the purpose of the ordinance is to adopt the Johnson County plan, which to date that they have done is what Johnson County and the state of Kansas has dictated and required of them to do. The ordinance also gives the authority to the City to implement the plan. They have had voluntary compliance from restaurants to shut down in-house facilities, but they do not have the authority to keep a restaurant from opening their facilities.

Mayor Kelly can look at what other cities have done who have specific emergency preparedness as it relates to a flood or storm and they could get into more detail, but at this point it is a good ordinance and provides the authority that is necessary to keep the City safe and it also helps to present a united front for the actions that the county and the state have taken to try to slow the spread of the virus. He said he appreciates the work that has been done and the hours the staff has put into this. He is proud of the efforts taken by City staff, the Governing Body, and their residents.

CMBR Madigan said he would be more comfortable passing something like this that would sunset so they can come back and discuss this.

Mayor Kelly said he wished he knew when the COVID-19 crisis would be over, but asked that they take him at his word and his trust as a fellow Governing Body member that when this COVID-19 outbreak is over and that when they have released Roeland Park from the declaration that this would be put on the agenda.

CMBR Faidley said she understands that what makes Roeland Park unique is that they do have a strong Council and weak Mayor set-up. Therefore, any additional powers given to the Mayor are given with great thought. This situation has put the City staff and the Mayor in an already stressful situation, but realizes there is no mechanism in currently place and she would recommend moving forward with this ordinance.

**MOTION:** CMBR HILL MOVED AND CMBR REBNE SECONDED TO AMEND THE APPROVAL OF ORDINANCE NO. 993 AND ADD A SUNSET DATE OF SEPTEMBER 25, 2020. (MOTION FAILED 4-5 WITH CMBRS FAIDLEY, DICKENS, HILL, AND KELLY VOTING NO AND MAYOR KELLY VOTING NO TO BREAK THE TIE.)

**MOTION:** CMBR HILL MOVED AND CMBR FAIDLEY SECONDED TO APPROVE ORDINANCE NO. 993, AN ORDINANCE ESTABLISHING A PROCEDURE FOR AN EMERGENCY PROCLAMATION AS CHAPTER 1 ARTICLE 19 OF THE MUNICIPAL CODE OF THE CITY OF ROELAND PARK, KANSAS. (MOTION CARRIED 7-1 WITH CMBR MADIGAN VOTING NO.)

After passing of the ordinance, Mayor Kelly thanked the Governing Body for their trust and said he appreciated it.

## **B. Resolution 674- Ratifying Emergency Actions Implemented in Response to COVID-19 Pandemic**

Mayor Kelly again thanked the staff for their long hours and the dedication of the Governing Body for their time on the actions that they have taken and will continue to take.

**MOTION:** CMBR KELLY MOVED AND CMBR HILL SECONDED TO APPROVE RESOLUTION 674 - RATIFYING EMERGENCY ACTIONS IMPLEMENTED IN RESPONSE TO COVID-19 PANDEMIC. (MOTION CARRIED 8-0.)

**III. Reports of City Officials**


*No reports were given.*

**IV. Adjourn**

Mayor Kelly again thanked everyone for their time, dedication to the City, and the robust, respectful conversation they have had.

**MOTION:** CMBR HILL MOVED AND CMBR MCCORMACK SECONDED TO ADJOURN. (MOTION CARRIED 8-0)

(Roeland Park City Council Meeting Adjourned at 7:21 p.m.)



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Kelley Nielsen, City Clerk



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Mike Kelly, Mayor