

CITY OF ROELAND PARK, KANSAS
CITY COUNCIL MEETING MINUTES
Roeland Park City Hall
4600 W 51st Street, Roeland Park, KS 66205
Monday, January 3, 2022, 6:00 P.M.

- Mike Kelly, Mayor
- Trisha Brauer, Council Member
- Benjamin Dickens, Council Member
- Jan Faidley, Council Member
- Jennifer Hill, Council Member

- Tom Madigan, Council Member
- Michael Poppa, Council Member
- Kate Raglow, Council Member
- Michael Rebne, Council Member

- Keith Moody, City Administrator
- Erin Winn, Asst. City Administrator
- Kelley Nielsen, City Clerk
- John Morris, Police Chief
- Donnie Scharff, Public Works Director

Admin
Hill
Raglow

Finance
Madigan
Rebne

Safety
Faidley
Poppa

Public Works
Dickens
Brauer

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

Pledge of Allegiance

Mayor Kelly called the City Council meeting to order and led everyone in the Pledge of Allegiance. The meeting was held virtually.

Roll Call

City Clerk Nielsen called the roll. All Governing Body members were present. Staff members present were City Administrator Moody, City Attorney Mauer, Assistant City Administrator Winn, Public Works Director Scharff, Police Chief Morris, City Clerk Nielsen, and Parks and Rec Superintendent Nichols.

Modification of Agenda

CMBR Poppa suggested they might need to strengthen the resolution that was passed at their last meeting. He said it was not entirely clear what was being voted on and would like for them to look at what the resolution requires versus what is strongly recommended.

Mayor Kelly said that no resolution was undertaken and to take it up again would require a special call. He also said he understands the desire of the Governing Body to do that, but they would need to allow the residents time to review the resolution and then take it up before the January 18th meeting.

City Attorney Mauer said if the Governing Body wants to modify the existing resolution, they need to do it at a special call meeting or the next scheduled meeting.

Mayor Kelly said they could discuss a special call meeting during the COVID report.

CMBR Madigan said he believed he was misquoted in the minutes on page 5 and asked someone to review the tape. The minutes were moved to Unfinished Business.

I. Citizen Comments

Tom Phillips (4400 W. 55th) Mr. Phillips said he wanted to clarify what it was he was asking for in a letter sent to the Governing Body. He asked them to reimplement the previous masking resolution. Mr. Phillips said he was under the impression that ordinance versus resolution was just semantics. He asked the Governing Body to clearly communicate the action issue and direction to require people wear masks while shopping, working, or in eating establishments within the City limits. He would like the language to compel people to do this rather than simply suggest it. He added that the Governing Body needs to clarify this and get it done. From the responses he has heard, people thought they were voting for stronger language than what was in resolution. He said they need a clear mandate to come quickly as they cannot afford to wait two more weeks as they are too far into this.

II. Consent Agenda

- A. Appropriations Ordinance #989**
- B. ~~Council Minutes December 20, 2021~~ (This item was moved to Unfinished Business)**

MOTION: CMBR DICKENS MOVED AND CMBR REBNE SECONDED TO APPROVE THE CONSENT AGENDA AS AMENDED. (THE MOTION CARRIED 8-0.)

III. Business from the Floor - Proclamations/Applications/Presentation

A. Continue Discussion of Tree Preservation Policy

Chris Brewster from Gould Evans updated the proposed tree preservation policy since the last meeting and went over some of the highlights. Included updates are a cap on the fee with no excessive penalties or fees on very large trees. Options for mitigation have been added. Lots with significant front trees can be individually evaluated. There is a clarification that a protected tree can be removed for disease or safety issues and a fee will not be charged. Also, a replacement of one to one for a tree has been added. The City Administrator's office will maintain a species list for what is appropriate to plant as a replacement.

City Administrator Moody said the policy is based on Fairway's program and with input from their own Sustainability Committee. He said their preference is for education over regulation. A decision will need to be made whether the policy will pertain to public right-of-way trees or those trees in addition to private frontage trees. Mr. Moody said that most trees of concern are on private property with one-third in the right-of-way and two-thirds on private property.

Mr. Brewster said the possible areas to protect along with the frontage and public right-of-way trees are also perimeter trees or all trees in the City. Trees that are older and more established have a greater impact than less established and they need to decide how to protect them if removed, removed with mitigation, or removed with payment. He suggested having a base of taking one out and planting three in its place. If the homeowner does not want to replace, they can pay a fee of \$1,000 maximum unless the tree is diseased or is creating a safety hazard. Mr. Brewster said the policy will help them target unnecessary tree removals.

Mayor Kelly said he appreciated the diligent work on this. He added that when they speak about a fee being waived for disease or public safety reasons that public safety can also be a nuisance such as tree roots growing into a water line, for example. Mr. Brewster said the ordinance is flexible in that regard and that a tree manager can make that decision. He also added that tree roots generally grow in search of water and do not break pipes to look for it. If there are tree roots in the pipes, then there was a problem not caused by the trees.

CMBR Hill said on page 5, regulating front yard trees, she would like the potential caliper size versus the actual size. City Administrator Moody said the approach wasn't anticipating that the ultimate girth would be replaced. Tree replacement would be to provide for a variety and provide guidance to get the right tree in the right place.

CMBR Faidley asked about the tree survey. Mr. Brewster said it will be good to know the number of frontage trees and right-of-way trees, as well as who the tree belongs to as some might assume a right-of-way tree is on their property. He added that MARC has been doing research on the tree canopy and studying the urban tree forest over the last ten years. CMBR Faidley said as a Tree City that is good to know.

CMBR Raglow asked about trees that are damaged by weather related incidents and the unsightly utility tree trimmings. Mr. Brewster said a tree expert can tell whether tree is diseased and dying. As for the utility companies, he said they are not concerned about the tree at all. They have a broad view of what they want to do and that their trimmings can expose the trees to disease.

CMBR Brauer said she is in support of protecting their trees, but she does have reservations about people on their property not being able to remove them or have an ability to add solar panels or a garden. She also asked about people looking to expand their home. She notes that homes in Roeland Park are smaller, and they are wanting to keep their residents in the City. She said it gives her pause fining people for cutting down a tree.

CMBR Rebne said he was raised and taught to honor private property and their right to say what happens with it. He noted that there is a significant degree of tension and noted that the ordinance does include education. He asked what commitment they are willing to make to help a homeowner maintain his trees.

Mr. Brewster said a lot of the fee cap was based on the private/public tension. He also noted that trees are often underappreciated in what they do for a property. Not only do they raise the property value of the lot they are, but they also add value to the properties around them.

CMBR Rebne asked if property owners will know up front which trees are protected. Mr. Brewster said as part of the public education piece of this will be explaining the benefits and what is protected. He also added that many times a tree canopy provides more benefits than solar, but people will be able to explore the cost and benefits of different options.

City Administrator Moody said the tree inventory would be available for public review and incorporated into their City website as well as the educational information. He said there needs to be an effort on behalf of the City to try to raise awareness. In creating these standards, they are also creating consistency among their neighborhoods and consistency of use. He added that a property owner has the right to use their land, but it is common for a city to develop regulations to guide the development and use of the land.

CMBR Madigan said he is having a hard time understanding why they are discussing this when two-thirds of the people are not supportive of City authorization or the preservation fund. He said that NextDoor has been very active on this topic, and he has reviewed the comments and people do not

support interference on their property. He said that people were surprised to find the fund went to help the City plant trees and not to help the residents plant trees.

CMBR Faidley asked what the rationale was to not include the perimeter trees. City Administrator Moody said it was a compromise.

CMBR Hill said the reason this all came about is when trees were cut down on Reinhart to allow for a sidewalk because they couldn't get an easement. She said there is a want and a need to continue this conversation.

There was majority consensus to continue the conversation at a future date.

Mayor Kelly said he sees the value of doing both types of trees, and also the need for education. He added that this would need to become a budget objective. His recommendation would be to begin with the public trees and look to include private front yard trees in the future.

CMBR Faidley said she agreed with the Mayor and that they need to do for both public and private trees. She agrees it is a big price tag, but first they need to do the education component.

IV. Mayor's Report

No report was given.

V. Reports of City Liaisons and Committees

A. Parks Committee

Laura Savidge from the Parks Committee provided the year-end report noting that the committee approached every single goal and accomplished them. Going into 2022, they are right on schedule with Phase 3 at R Park with new play structures and sidewalks. The traffic garden will be incorporated into the sidewalks which was proposed by Police Chief Morris and is a good solution for the park.

Ms. Savidge said the group brings solutions not problems to the table. The most exciting part is taking their hybrid knowledge with R Park and the Cooper Creek Restoration Project and using that as they put their sights towards the Nall Park Restoration and Improvement Plan. She noted that CMBR Faidley and CMBR Madigan have a vested interest in that park as it is in their ward.

Ms. Savidge said that after they are done with Nall Park, they will be done for decades, with the exception of maintenance.

Mayor Kelly expressed his gratitude to the Parks Committee and said it has been another banner year and he is grateful for the work and dedication they have given to the City's parks.

Ms. Savidge thanked the Mayor, Council, and staff for their support and said they are ecstatic about what is coming to be.

VI. Unfinished Business

A. Council Minutes December 21, 2021

CMBR Madigan said he believed he was misquoted regarding the ordinance and the resolution. CMBR Madigan said the ordinance is enforceable whereas the resolution is not. The minutes incorrectly stated CMBR Madigan said the ordinance is not enforceable when it should have said resolution. He suggested staff listen to the recording and table the minutes to the next meeting.

Staff will review the audio.

MOTION: CMBR POPPA MOVED AND CMBR DICKENS SECONDED TO APPROVE THE DECEMBER 20, 2021, COUNCIL MINUTES. (NO VOTE WAS TAKEN.)

MOTION: CMBR MADIGAN MOVED AND CMBR DICKENS SECONDED TO TABLE APPROVAL OF THE DECEMBER 20, 2021, COUNCIL MINUTES FOR FURTHER REVIEW. (MOTION CARRIED 8-0.)

VII. New Business

A. Approve Land Purchase Agreement with Sunflower Development - Lot 1

Mayor Kelly thanked Jason Swords from Sunflower Development Group for bringing the \$3.45 million project to Roeland Park. He noted the agreement does include clawback provisions and precludes sale of the property to a tax-exempt entity in the future. The City also retains the authority to approve the aesthetics of the buildings.

Jason Swords thanked the staff and City Administrator Moody for putting the agreements together. He said they will not begin working on a development agreement and further design and plan to break ground in 2022. They have also put together a timeline that works for the City and also from a development standpoint.

City Administrator Moody there will be more project detail in the development agreement. This agreement approval is the first in a series of steps for development and there will be much more for the Council to weigh in and act on as they move through the process.

CMBR Faidley said she was looking for clarification on closing dates. Lots 2, 3, and 4 need to be further along with the design and Mr. Sword's objective is to close on them when they have a building permit in hand so that they day they close they can begin construction immediately. They anticipate it will be six months to everything drawn up and 90 days to get the building permit.

Mr. Swords said they wanted to make sure they had the ability to purchase Lot 1 because it is the Public Works site, the building is occupied and vehicles are stored there, so it is better to purchase that at a later date. He is not certain what will go there, but he is obligated to purchase the site. He would like to pursue a possible hotel operation for that portion of the site at a later date.

City Administrator Moody said they have a vision for Lots 2, 3, and 4 and is where they anticipate it will start. Rezoning, platting, and development plan approvals need to come first and that will take some time.

CMBR Dickens asked what is included in a development agreement. City Administrator Moody said the specifics of size and type, use, square footages, and incentives are listed but details such as tenants are not identified.

CMBR Madigan asked about the change in price per square foot. Mayor Kelly said they included the initial offer before the negotiated price for transparency.

CMBR Rebne said in hearing the anticipated selling price and how much money it is has a sense of power swirling around it, noting it is more than 50 percent of the General Fund. He said this information needs to be given to the Racial Equity and Sustainability Committees and any other resident committee. He also said they have not talked about the environmental impact on the City of a development this large. CMBR Rebne also mentioned that there is an eminent hope of a racial equity assessment that he felt would be relevant in this decision and is, therefore, feeling hesitant about moving forward.

MOTION: CMBR HILL MOVED AND CMBR MADIGAN SECONDED TO APPROVE THE LAND PURCHASE AGREEMENT FOR LOT 1 OF THE ROCKS WITH SUNFLOWER DEVELOPMENT GROUP. (MOTION CARRIED 7-1 WITH CMBR REBNE VOTING NO.)

B. Approve Land Purchase Agreement with Sunflower Developer - Lot 2, 3, and 4

MOTION: CMBR HILL MOVED AND CMBR POPPA SECONDED TO APPROVE THE LAND PURCHASE AGREEMENT FOR LOTS 2, 3, AND 4 OF THE ROCKS WITH SUNFLOWER DEVELOPMENT GROUP. (MOTION CARRIED 7-1 WITH CMBR REBNE VOTING NO.)

C. Approve Task Order with SFS for Public Works Facility Assessment

City Administrator Moody said this is a cost not to exceed \$15,000 noting that the scope is different than the objective. This assessment will identify the needs of a building inside and outside, but not a location.

CMBR Rebne asked if they have identified any potential spots in the City. City Administrator Moody said they have not had any good prospects.

MOTION: CMBR DICKENS MOVED AND CMBR BRAUER SECONDED TO APPROVE THE TASK ORDER WITH SFS FOR A PUBLIC WORKS FACILITY ASSESSMENT AT A COST NOT TO EXCEED \$15,000. (MOTION CARRIED 8-0.)

D. Appointments to the Aquatics Advisory Committee

MOTION: CMBR MADIGAN MOVED AND CMBR BRAUER TO APPROVE THE APPOINTMENT OF HOLLIE SIEGEL, JASON WIENS, AND CHRIS BURT TO THE AQUATIC CENTER ADVISORY COMMITTEE. (MOTION CARRIED 8-0.)

E. Council President Election 1st Meeting in January

CMBR Hill nominated CMBR Dickens for Council President.

CMBR Dickens said he was happy to accept the nomination and to work to be able to bring people together, which starts with leadership. He will continue to look at infrastructure improvements and green energy items. He wants Roeland Park to continue to be a City in which people want to live,

which is due to the continued leadership done through their work through the pandemic. CMBR Dickens said he wants to have a hand on crafting agenda items for infrastructure, recreation, and modality projects. He noted the job isn't easy to balance the needs of everyone.

CMBR Faidley thanked everyone while she was Council President. She said it has been a challenge, but it was also an honor to get to know each of the Councilmembers.

Mayor Kelly said it has been a pleasure to work with her on the agenda and to is looking forward to continuing working with her on the Governing Body.

MOTION: CMBR HILL NOMINATED CMBR DICKENS AS COUNCIL PRESIDENT FOR 2022. (MOTION CARRIED 8-0.)

F. Appoint Committee Liaisons

MOTION: CMBR MADIGAN MOVED AND CMBR HILL SECONDED TO APPROVE THE FOLLOWING SLATE OF CANDIDATES. (MOTION CARRIED 8-0)

- Ad Hoc Historical Committee - Tom Madigan, Michael Rebne, Michael Poppa
- Arts Advisory Committee - Benjamin Dickens, Michael Poppa
- Community Engagement - Michael Rebne, Benjamin Dickens
- Community Foundation - Trisha Brauer
- Parks - Kate Raglow, Tom Madigan
- Sustainability - Jen Hill, Benjamin Dickens
- Aquatics - Trisha Brauer, Tom Madigan
- 47th and Mission - Michael Poppa
- MARC - Bike & Pedestrian - Jan Faidley
- MARC - First Tier Suburbs - Jan Faidley
- Racial Equity - Kate Raglow, Jen Hill

VIII. Ordinances and Resolutions

A.

IX. Reports of City Officials

A. COVID Report

Ms. Winn said that Chris Verbrugge had prepared the COVID report before he left. Since drafting the report, the positivity rate is now over 21 percent, and the metrics are changing rapidly. She said that the Shawnee Mission School District will be meeting to discuss their masking policy. Also, the Neighbors Helping Neighbors fund was fully utilized in 2021.

CMBR Dickens said that the CDC has approved a booster for children aged 12 and up. Ms. Winn added that the Pfizer booster has been approved.

CMBR Hill said she is concerned about not being able to talk about COVID. She said the numbers are out of control and they cannot wait another week or two weeks to discuss it.

Mayor Kelly said that vaccinations are crucial. They have kept the COVID report on the agenda and if the Governing Body would want to impose a new resolution or an ordinance then it should be placed on the agenda. If they want to fast track it, then they can do that.

CMBR Faidley said she appreciates CMBR Hill's comments, but it is difficult to vote on something that they have not been able to read. Last time it was tacked on to the agenda right before the meeting. She said she also understands the argument of this is a pandemic of the unvaccinated and stating the statistics, but this does not help their healthcare workers. She said the hope is to look at the larger picture of people not being able to get care if needed.

CMBR Rebne said they can take all the precautions and still get sick but the language of a pandemic of unvaccinated does not do them a lot of good. He asked for clarification on the discussion and voting of a resolution.

City Attorney Mauer said a motion to consider can be made one meeting after the past meeting and must be made by the party on the prevailing side, and then have a revote on what was discussed. CMBR Poppa's intent was not to change a no to a yes but to modify what was presented, which would require a new agenda item. He wanted to add enforcement provisions, and that should be done by ordinance not resolution. If they are creating a penalty for not wearing a mask, then creating a new sanctionable activity should be done by ordinance. He said a motion to reconsider would not fit the need of being discussed again.

CMBR Poppa said the intent was not a motion to reconsider but would be a motion to amend the resolution to include a mask recommendation or a motion to repeal and replace.

CMBR Madigan said they have a process for putting items on the agenda and he does not like the process. He agreed they need to have a special meeting and would be happy to be a signatory on that item. He asked staff to put out a poll to see when they would be available for a special call.

CMBR Rebne said they already have a COVID discussion on the agenda and asked if there is a difference between amending the agenda and revisiting a topic from the prior Council meeting.

Mayor Kelly said there is a difference between adding a specific resolution or ordinance as opposed to adding a discussion item. Mr. Mauer agreed.

CMBR Faidley said she would like to keep their meetings virtual for the month of January due to the statistics in the COVID report.

B. Report on COVID Mitigation Plan Implementation

Ms. Winn said \$1,700 bought at-home tests and masks. She is working with the PIO on getting the information out. They will be asking for proof of residency and will maintain a log to keep track.

She said staff is also looking for direction on business outreach on Friday.

Mayor Kelly asked the Governing Body members if they feel comfortable with in-person delivery to businesses of signs. If so, they should contact Ms. Winn.

Mayor Kelly asked about limits on test kits. Ms. Winn said the limit is five test kits and 25 masks per month.

CMBR Hill asked about the test kits. Ms. Winn said they are double tests, five kits with ten tests.

CMBR Faidley asked what they would discuss at their special call. Mayor Kelly said it would be determined based on the request from the Governing Body for a special call meeting.

City Administrator Moody said for an ordinance, it would need a person from the prevailing side to request to bring the ordinance back. Mr. Mauer said it would be a new agenda item and is not being brought back. They would be looking for both potential ordinance and resolution modifications as options.

Ms. Winn said she is talking to the county to ask about reopening a test site in Johnson County as it is becoming difficult to find testing sites.

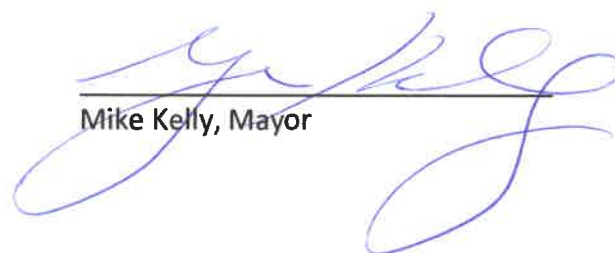
Adjourn:

MOTION: CMBR MADIGAN MOVED AND CMBR POPPA SECONDED TO ADJOURN. (MOTION CARRIED 8-0)

(Roeland Park City Council Meeting Adjourned at 8:00 p.m.)



Kelley Nielsen, City Clerk



Mike Kelly, Mayor