

**CITY OF ROELAND PARK, KANSAS**  
**GOVERNING BODY WORKSHOP MINUTES**  
**ROELAND PARK CITY HALL**  
**4600 WEST 51<sup>ST</sup> STREET, ROELAND PARK, KS 66205**  
**August 20, 2024, 6:00 P.M.**

- Michael Poppa, Mayor
- Benjamin Dickens, Council Member
- Jan Faidley, Council Member
- Emily Hage, Council Member
- Jennifer Hill, Council Member
- Matthew Lero, Council Member
- Tom Madigan, Council Member
- Kate Raglow, Council Member
- Jeffrey Stocks, Council Member
- Keith Moody, City Administrator
- Jennifer Jones-Lacy, Asst. City Admin.
- Kelley Nielsen, City Clerk
- John Morris, Police Chief
- Donnie Scharff, Public Works Director

(Roeland Park Governing Body Workshop Meeting Called to Order at 7:35 p.m.)

## **I. MINUTES**

There were no minutes to approve.

## **II. DISCUSSION ITEMS**

### **1. Chapter 5 Review - Articles 1-7**

Ms. Jones-Lacy said that she and City Clerk Nielsen as well as City Attorney Felzien reviewed Chapter 5. The DEI Committee also reviewed this chapter, and their comments have been included in the redline. The chapter is very dense and so they will be discussing it in sections. As with the other chapters, all pronouns are changed to gender neutral and any reference to citizen has been changed to resident.

#### Article 1: Occupational Fees

5-104. Occupation Fee Levied. The MXD zoning district has been added to require a business license for anyone operating a business in this district.

5-105. License Required. The references to fees will be removed and incorporated into the City's fee schedule.

5-110. City Shall Record Licenses. The requirement that the City Clerk is to make quarterly reports to the Council is not something they currently do and is recommended to remove this sentence.

#### Article 2: Solicitors and Transient Merchants

5-201. Legislative Findings. There are opinions of an outright ban of solicitors door to door. Prairie Village has had issues with such a ban and the courts have ruled this as non-constitutional and Prairie Village had to make those changes. The City recommends keeping it with a few modifications that can be made.

5 201(b). The DEI committee found this language to be problematic and suggested it be removed as being non-essential.

There was Governing Body agreement to remove this section.

5-202. Definitions. Mayor Poppa questioned whether *charitable* should include the definition as defined under Internal Revenue Code 501(c)(3). Ms. Jones-Lacy said they could add that to their existing definition. Mr. Felzien suggested language to include “any and all organizations recognized by the Internal Revenue Code Section 501.”

CMBR Faidley said that this would not exclude anything but just add to it.

There was Governing Body agreement to add that to the definition.

5-203. License Required. There was a recommendation that this shall not apply to mobile food vendors as that is handled in Article 14.

5-205. Prohibited Acts.

5-205(b) They removed the section where the City Clerk will hand out no solicitor signs as they do not do that.

5-205(m) Removed this section as it is regulated by another section.

5-205(p) Removed as it is regulated by another more detailed section.

5-207. Disturbing the Peace. At the recommendation of the City Attorney the definition was expanded to include more than just a noise disturbance.

5-208. Special Use Permit Required.

5-208(a)(6). The DEI Committee commented on the term “morals” as they did not know who was making that determination. Mr. Felzien stated a lot can be banned based on health, safety, and welfare of the community. But he did recommend leaving the morals standard in as something determined by a reasonable person. It gives the City more leverage of enforcement to maintain their standards.

Article 3: Massage Establishments

5-307. Massage Therapist License; License Required. Licenses on renewed November 30<sup>th</sup> of every year and not on an annual basis of when they were first issued.

5-312. Regulations and Conduct Requirements for Massage Therapists. The DEI Committee expressed concerns with the language. It is recommended that separate of sexes be changed to separation of customers to better reflect intent when they are strangers. A couples massage is exempt from this requirement. The amendment also states that customers who are fully dressed may use the same space.

CMBR Hage asked if a massage parlor would be able to do a couples massage. Ms. Jones-Lacy said yes, they could and is included in the language. The restrictions pertain to strangers who would not be wearing clothes during their massage from sharing the same space.

Article 4: Garage Sales

5-402. Garage Sale Permit. This section adds an exception for two permit-free weekends allowed by the City.

5-403. Same; Application. It is suggested to change the application from five days in advance to one day before the garage sale.

4-405. Number of Garage Sales. Recommend changing the language to two annual garage sales that require permits.

#### Article 5: Amusement Devices

Ms. Jones-Lacy said the DEI Committee wanted to understand why this is even a regulation. Ms. Jones-Lacy said they want to keep this article in but to incorporate some of the DEI suggested amendments. Mr. Felzien said these normally pertain to those devices in a business foyer such as those seen at Walmart. He said initially it referred to gambling machines such as those seen in rural gas stations. It is not truly gambling as there is a predetermined outcome. People feed money into the device hoping to hit one of the numbers that are preordained to win that day. They were not seen as good for society. They wanted to keep this language in case someone wanted to add one at a business.

Ms. Jones-Lacy said the DEI committee viewed claw machines and pinball machines as games. The comments were about how the use once caused a ruckus and so there was a desire to regulate pinball machines. She recommended removing pinball machines and grab machines from this section.

CMBR Hill asked how this might affect businesses such as the arcade at Ci-Ci's.

Ms. Jones-Lacy said they have a list of companies who have them. City Clerk Nielsen read the information, but her comments were not picked up on the recording.

Mayor Poppa said they are taking out language of items so as not to regulate them. The idea is they do not want to incentivize something that can be considered gambling.

CMBR Faidley asked what the recommendation of the DEI Committee was. Ms. Jones-Lacy said it was to take out pinball and grab machines.

CMBR Stocks said this language felt antiquated and was from a time when people were worried about the destruction of youth via pinball machines. There were a lot of questions how this is applicable in 2024 knowing what youths do with their time now.

Mr. Felzien said the idea is it needs to be permitted. If anyone is making money from machine in the City, they have the police power to require a permit much as they would in requiring a painter to get a business license.

CMBR Raglow asked to see the verbiage exactly.

Mayor Poppa asked for a redline, so they can see it before the next Council meeting in an agenda packet. Ms. Jones-Lacy will make sure to include that language in their review.

CMBR Lero asked for clarification if a business wanted to put in a claw machine or a gumball machine. Mr. Felzien said it would need a permit. If someone approaches a business owner to place those items

in the business, they get a percentage of sales, and the business owner also gets a percentage. In essence, money is being made in the city.

CMBR Hill said it has been taken out of ordinance, so they do not have to get a permit. Ms. Jones-Lacy said they eliminated pinball machines and the mechanical claw. She also reviewed what was included in the definitions.

There was agreement to leave the article as-is with the recommended changes.

5-504. Fees, License Term, Transferability, Renewal. It was recommended to remove this item as it is not in the fee schedule nor is it a practice.

Article 6: Home Occupations.

5-601. Definitions. This language was reviewed by Neighborhood Services and the Building Official and has modified to better articulate the definition.

5-602(c). Criteria. Ms. Jones-Lacy said they are not recommending any changes. A home occupation may be within the main dwelling unit and not in an accessory dwelling. The Governing Body recently passed accessory dwelling units by permit. Should the Governing Body wish to allow a home-based business in the accessory dwelling unit that is a larger conversation that they can have at a later date.

5-602(d) A home occupation should not comprise more than 25 percent of the floor area in the primary dwelling. If the property is a short-term rental, then 100 percent can be used. There can also be a future discussion if the Governing Body would wish to consider 100 percent of an accessory dwelling unit for a home-based business. This is a topic that would need additional research.

CMBR Madigan for a clarification between the 25 percent home-based business and the 100 percent short-term rental. Ms. Jones-Lacy said a short-term rental is for the entire use of the house.

CMBR Faidley believes that the 25 percent is in the IRS code. Mr. Felzien added the 25 percent is to retain the residential character of the home.

There was agreement to discuss the use of accessory dwelling units for business at a future Workshop and whether it could comprise 100 percent of the unit.

CMBR Hill said they should also include in that discussion the use of garage space for a home-based business.

5-603. Permitted Occupations. This section lists the allowed in home-based businesses. Counselor has been added to the list.

There was general discussion on the ability to regulate gun sales.

CMBR Hage asked about limiting the number of children in a home daycare to five. Ms. Jones-Lacy said if there is more than five, then they need an SUP. This aligns with state regulations for in-home daycares. The items should be 5-605(b) and not (d) and she will make that change.

CMBR Hill asked about why they list out businesses as they might want to consider more businesses. Ms. Jones-Lacy said if it is not listed, then it is not permitted. They try to control what businesses operate within the City. CMBR Hill questioned a dentist being able to operate out of a home but not allowing a psychic.

Mr. Felzien said that City Manager Moody pointed out 5-605 is Conditional Uses. If someone is not on that list or their occupation is not listed, then that business will come before the Governing Body to decide if they want to be in their community or not.

5-604(f). Prohibited Occupations. Added to this section is automotive sales.

CMBR Madigan said in his experience these ordinances appear to be toothless. Once someone gets a permit, they are never reinspected.

#### Article 7: Rental Housing

5-702. Same; Definition. A definition for accessory dwelling unit has been added.

5-703. Same; License Required; Application Dates and Expirations. Ms. Jones-Lacy said if they would like to discuss adding accessory dwelling units at a future date, they can add that to a future Workshop.

5-705. Same; Temporary Certificate. This was removed because they do not issue a temporary certificate for short-term rentals. Also removed were inspections beginning on January 1, 2016, as this is no longer relevant. The same applies to multi-family housing.

5-712. Penalty Section. The recommendation is to increase the fine amount for failure to obtain a permit. Currently it is \$350 and after speaking with Judge Torline, they would like to increase it to \$750 to be more of a deterrent. The judge was supportive of that increase.

Mayor Poppa asked if they could do a daily fine. Mr. Felzien has spoken with Judge Torline and there is some Kansas law that states that a daily fine is unfair. There was discussion of a fine higher than \$750. Mayor Poppa recommended it be \$1,000 a month. Ms. Jones-Lacy did say that in speaking with the judge, they got the impression that \$750 was not enough, but they did not ask what the ceiling would be.

CMBR Hage said there is a huge disparity in short-term rental rates and the fine could be assessed on room rate. Mr. Felzien said that would be extremely hard to enforce, especially noting the potential increase in rates for the FIFA Cup coming to the area. Having a flat rate makes it equally applicable and easier for the prosecutor.

CMBR Stocks asked if someone rents out their house three times in a month would they incur three different fines. Ms. Jones-Lacy said it would one fine for every 30 days they operate without a license. CMBR Stocks also asked about a tiered approach to the fines and Mr. Felzien said that is an option.

Ms. Jones-Lacy said that Neighborhood Services has discretion, and they are willing to work with the homeowner if they are willing to work with them. They are just seeking compliance.

CMBR Stocks said they should take into consideration those who do not know any better but would approve a higher fine.

CMBR Lero said they should consider at least a \$1,500 fine considering how much someone makes a night.

CMBR Faidley asked how much the cost of a permit is. City Clerk Nielsen said it is \$75.

Mayor Poppa asked if they can go back to judge to get a number that seems appropriate. Ms. Jones-Lacy said they can have a further conversation with Judge Torline.

CMBR Raglow recommended they start at \$5,000 and work their way back.

CMBR Faidley said many times it is not the primary owner. Ms. Jones-Lacy said it has become an LLC issue.

## **2. Discuss Tree Inventory Update**

City Manager Moody provided follow-up information from their last tree policy discussion. Included in the packet is information on what it would cost to update the tree inventory. There would be no savings for the company for repeating the survey and it will take the same amount of time, but the costs have increased. Davey Consulting estimated an update around \$20,000 using aerial photography. It is not as accurate but will identify what trees are missing. It also will cost \$40,000-50,000 to have a tree master plan done. Kansas Forestry may be able to offer some assistance, but they are not always timely. The City of Mission is working on a tree replanting assistance program. And the cities of KCMO and Merriam partner with Bridging the Gap for their program. City Manager Moody said he is trying to get a copy of the agreement from Mission. He said a program that they put together should encourage reforestation and planting the trees is the key components to keep the tree canopy full.

CMBR Raglow said this conversation is separate from the tree ordinance.

CMBR Faidley asked how important the accuracy of tree inventory is when the tree plan goes into effect. City Manager Moody said there are difficulties enforcing after the fact. They do require a permit to remove a tree as a way to keep track and it is entirely possible someone could remove a tree that they would not be aware of it. They do not want to be reactionary but want to prevent a tree from going down. Their best approach is to continue education efforts. He added that having an up-to-date inventory will not prevent someone from removing a tree.

CMBR Faidley asked if there is a benefit to having a regular inventory. City Manager Moody said from a canopy preservation perspective their tracking replacement effort is working.

CMBR Lero said it is a good idea to have a survey at regular intervals. He would like to see money for a master plan. With programs to provide and plant trees, what do they think that amount would be. City Manager Moody said they have not gotten that far. Ms. Jones-Lacy added that in Merriam it is the homeowner's choice to purchase the trees at a small fee. City Manager Moody said it also the residents' responsibility to protect the trees from the elements and wildlife.

CMBR Hage said it feels like the tree inventory is retroactive to figure out what the change has been. They understand the goal is to strengthen tree canopy and asked how much they could supplement with that \$30,000 to help residents plant trees. She felt like it would help them understand the impact of the dollars and did not know how critical a tree inventory is to their actual goal.

CMBR Madigan agreed with CMBR Hage. He would rather spend the money planting trees than determining who cut down what tree. They have lost numerous trees to storms recently and cannot justify spending \$20,000-30,000 to find out what trees are gone. He said that sounds like enforcement and would much rather help with subsidizing the plan.

CMBR Faidley said the tree inventory gave them a grasp of what they had. They discovered that about a quarter of their trees are in the right-of-way and the rest are on private property. She agreed that the money would be better spent underwriting a tree planting program.

CMBR Lero agreed with a tree planting program but an inventory does give them an idea of existing size and age to assist them in planning for replacement trees.

Mayor Poppa sees a tree master plan being a long lead time and is not budgeted for next year. He suggested this might be an objective for 2026.

CMBR Raglow recapped the conversation that a majority were not in favor of redoing the tree inventory and would prefer to hold funds to help residents purchase or replant trees or purchase trees for city property and create a tree master plan as an objective for 2026.

CMBR Hage noted that these funds are not currently budgeted.

CMBR Faidley asked for an update from City Manager Moody when he has more information on Bridging the Gap and the Tree Conservancy.

### **III. COMMITTEE MINUTES**

*Committee minutes attached to the agenda packet.*

### **IV. ADJOURN**

CMBR Raglow adjourned the meeting.

(Roeland Park Workshop Adjourned at 8:47 p.m.)