

**City of Westwood Hills  
City Council Meeting Minutes  
August 10, 2015  
Meeting #789**

A regular session of the city council was called to order in due form by Mayor Paula Schwach at 7:28 p.m.

Present: Mayor Schwach, Randy Brown, Rosemary Podrebarac, Karen Shelor Sexton, Ludwig Villasi, John Weedman and Beth O'Bryan. City Attorney Jim Orr was also present.

Citizens in attendance were Joletta Woolwine, Mike Coffman, Pauline Freeman and Dale Prout.

Mayor Schwach asked to revise the agenda and reverse the order of old and new business due to the length of the agenda. Also, she asked to add to old business, item 11e, the KDOT grant update.

**Motion by Brown to approve the agenda as modified. Second by Shelor. All aye. Motion approved.**

**Schwach asked to strike the building and ordinance report from the Consent Agenda and move the Public Safety committee report to item H under new business. Motion by Brown to adopt the Consent Agenda as revised. Second by Podrebarac. All aye. Consent agenda has been adopted as amended.**

**Issues from Citizens in Attendance:** No issues from Citizens in attendance.

**New Business:**

**Kansas Gas Service (KGS) Franchise renewal** – Orr reports that the Franchise Agreement ordinance he revised is roughly based on what the Cities of Leawood and Overland Park currently use. Orr will send the revised ordinance to KGS for review. Orr advises council that a decision needs to be made by the September 14, 2015, Council meeting. Council gives Orr authorization to move forward with negotiations concerning the ordinance. Orr advises he will make sure that the City receives adequate ROW permit fees and that the companies using the ROW have bonds to cover any damages.

**AT&T/Google reimbursement update** – Schwach reports that Shelor, the Historic Foundation, and Sullivan provided history on the damages incurred by these two utilities installing fiber in the City's ROW. These utility companies have

caused various damage to the City's landscaping, to private property and to our storm sewer pipes. The City is making claims against both utilities. The claims for damages will be presented to each carrier by the City as a unified claim on behalf of the City and the Foundation and some affected private property owners. Schwach reminded the Council and Foundation that the City has a contract with the Foundation with regard to the landscaping in the entryways. The contract calls for a set amount of work, who is contracted to do the work, and reimbursement for the work. Schwach believes there needs to be a discussion between the two entities regarding where, when and who will do the restoration work. Coffman states that the next Foundation meeting is September 3rd, at 3:30 pm, at Mike Coffman's home. Schwach and Villasi will attend the meeting at 4:30 pm. Shelor asked when the claims will be submitted. Schwach advised that the City needs to wait on Sullivan to provide bids for the pipe repairs. Weedman will follow up with Sullivan. Weedman reported that Sullivan is scheduling a meeting with the company hired to repair the storm sewer pipe. The Council approves Schwach and Weedman moving forward on the claim.

**Leaf Pick up contract with Roeland Park** – O'Bryan reported that the fee for leaf pick up has increased to \$3,114.00, and the City budgeted \$2400.00 for leaf pick up for 2015. O'Bryan reported that although this leaf pick up process is not in violation of the MS4 permit, The County believes there are better practices for leaf removal, as some leaves tend to end up in the storm drains. It was mentioned that the Homes Association is already paying for weekly yard waste pick up through Town and County. Councilmembers Villasi and Brown are in favor of leaf pickup. Podrebarac is ambivalent. Shelor feels the program is extremely successful and homeowners really want the leaf pick up. Weedman is in favor. Citizen Woolwine agrees that this program is helpful. **Brown moves that we enter into the leaf contract with Roeland Park as presented. Shelor seconds. All in favor. Motion is adopted.**

**Brief review of the Kansas Open Records Act** – Orr handed out a summary of the Kansas Open Records Act. The concept is that almost all public records are open to the public. Some exceptions include medical records and attorney client privileged information. The League of Kansas Municipalities (LKM) has a template on how people can take make request for public records. If an official, who is not a records custodian, is approached for records, that official should direct the requesting party to the records custodian. The Act establishes a 3-day deadline for responding to an open records request. The City may decline to search, copy and produce all records if the request is overly burdensome. Rather, the City may allow the requesting party to search the City's records. A new provision of the Act allows the Attorney General to seek a consent order or determine if a violation of the Act has occurred without the necessity of obtaining a Court determination. The Attorney General may also fine the City without a judge's review. Interim process for any KORA request is to call Attorney Orr for

guidance and direction. Schwach asks what constitutes a record. Orr responds that anything reduced to document form will qualify as a record. Personal notes may also be subject to production. Orr advises to be cautious about putting anything in digital format you do not want to the record to be public.

**2015 Standard Traffic Ordinance (STO) adoption and 2015 Uniform Public Offense Code adoption (UPOC)** - Shelor asks that the City adopt the 2015 revised STO and UPOC per Chief O'Halloran's request. Podrebarac drafted ordinances #248 for adoption of the revised UPOC and #249 for adoption of the revised STO. LKM puts out a new edition each year. **Shelor moves to adopt both the 2015 STO and 2015 UPOC, ordinance #248 and ordinance #249. Podrebarac seconds. All in favor. Ordinances are adopted.**

**Tree damage at 2206 West 48<sup>th</sup> Terrace** – Schwach reports that the Anfangs are requesting reimbursement for their insurance deductible sustained from the tree which fell into their backyard. Orr summarized the City's legal obligations. Without a survey, Orr cannot determine whether the tree is located within the City's ROW. The general rule is that if a tree limb hangs over a neighbor's property, the neighbor whose yard the tree overhangs is responsible for repairing any damage caused by that tree limb. The ordinances make it clear that trees located within the ROW are the property owner's responsibility. Orr does not see any liability on the part of the City to pay the claim. The City's insurance company took the same approach and has denied coverage. The City will draft a letter to KCP&L asking KCP&L to clean up the power lines within the tree and debris from the downed tree. The immediate question before the body is that even though the City has no legal liability, should the City pay the Anfangs' \$1,000 insurance deductible. **Podrebarac moves, not on the basis of legal liability, to reimburse the \$1,000 deductible to the Anfangs. Shelor seconds the motion. No Aye. All nay. Motion fails.**

The question remains whether the City will bear the cost for the removal of the tree, ask KCP&L to pay those costs, or have various homeowners pay for the removal. Jim will draft a letter, and the City will expedite the letter to KCP&L requesting removal of the tree as KCP&L has not trimmed the tree near the power lines over the years. **Shelor moves for the City to seek reimbursement for the tree removal if KCP&L will not accept responsibility for the tree. No second. Motion dies.**

**Public Safety** - Shelor reports that she and City Clerk O'Bryan met with Chief O'Halloran last week. Shelor and the Chief will meet quarterly to go over city issues.

Shelor reports there is a 4-5 month turnaround time to receive a new lamppost for the 50<sup>th</sup> Street and State Line location, once ordered. Shelor's biggest

concern is the placement of the stop sign at 50<sup>th</sup> Street and State Line. Shelor asks the Council to move forward and pour the required cement and properly position the stop sign where it should be located. **Shelor moves to encumber \$1,500.00 to pour an area of cement at 50<sup>th</sup> Street and State Line Road and install a stop sign in the proper spot at that the location. Weedman seconds. All aye. Motions carries.**

**Old Business:**

Constant Contact - O'Bryan was given an incorrect renewal amount for Constant Contact (email/newsletter software). She asks for an additional \$42.00, making the total cost for the year \$168.00, rather than \$126.00. **Podrebarac moves to encumber an additional \$42.00 for the cost of a license with Constant Contact for use by the City. Brown seconds. All aye. Motion carries.**

**Website update** - O'Bryan reported that the website is mostly complete. Once John Heeny sends the file to her, she will maintain the site including adding and rotating pictures on the various pages of the site.

**Stonework and Landscaping** – Villasi reports that as far as he is concerned, the project is complete. Villasi also reports that there is still mortar clean up that needs to be done at the entryways at 49<sup>th</sup> Street and Rainbow and 50<sup>th</sup> Street and Rainbow, as well as on the bridges at 50<sup>th</sup> Street and 49<sup>th</sup> Terrace. Villasi asks if the two "funded by" signs may be removed. Schwach reports that if the City has good pictures of the signs as posted, they may be removed.

**49<sup>th</sup> Terrace Pothole Patch** – Weedman read, to all in attendance, Sullivan's report on the status and cost of the patch to repair the potholes on 49<sup>th</sup> Terrace. The cost is \$5 per square foot, with a total cost of \$4,410.00 for a repair that would last approximately 5-7 years. Weedman has not had an opportunity to discuss the longevity and costs of a temporary patch. Weedman will reach out to Roeland Park and Fairway to determine if either city has equipment which could be used for the street repairs for Westwood Hills.

Weedman attended a meeting with other Northeast Johnson County cities and Overland Park (OP) to discuss joining together on street projects to save on costs. OP offered to oversee street repairs (milling) if all cities came together to create a single large bid package. OP charges a percentage fee to oversee the project. In order to participate, all participating cities will need to execute a legal agreement detailing the terms of this cooperative arrangement, which agreement will not be ready until September 1, 2015 at the earliest. Weedman believes the City of Westwood Hills can benefit from this, but the City is not ready to enter into a contract this year. Weedman suggests we wait to find out

what engineering firm OP hires to provide engineering services in connection with repair of their streets. The sense of the Council is that the consortium could be beneficial to the City of Westwood Hills. This matter will be discussed again in the September meeting if there is more information. The City will not likely undertake any street repairs until 2017.

**Items from the Floor:** There are no items from the floor.

Schwach asks that the stormwater plan and KDOT reports be held until next month.

**Motion to adjourn by Brown. Meeting adjourned at 9:39 pm.**