

**City of Westwood Hills
City Council Meeting Minutes
May 9, 2016
Meeting #798**

A regular session of the city council was called to order in due form by Mayor Paula Schwach at 7:05 p.m.

Present: Mayor Schwach, Randy Brown, Rosemary Podrebarac, Karen Shelor, Ludwig Villasi, John Weedman and Beth O'Bryan. City Attorney Jim Orr was present. City Treasurer John Martin was present for a portion of the meeting.

Citizen Nancy Ralston was in attendance.

Nicole Brown and Lougene Marsh with Johnson County were also present.

Mayor Schwach asked to add an agenda item “h” under new business for a discussion of the collection of sales and compensating tax on Internet sales. Motion by Brown to approve the agenda as amended. Second by Podrebarac. All aye. Motion approved.

Motion by Brown to adopt the Consent Agenda. Second by Shelor. All aye. Motion approved.

City Business:

Tobacco 21 (T21) ordinance regarding smoking—Lougene Marsh – Director, Johnson County Department of Health and Environment and Nicole Brown spoke in favor of raising the age for purchase of tobacco products to 21 years. Marsh and Brown mentioned the cities in Johnson County which have passed the Tobacco 21 ordinance. The goal of the Tobacco 21 initiative is to prevent youth smoking, including the use of electronic cigarettes. They estimate that the impact of T21 will reduce smoking 25% for 15-17 year olds, with a 15% reduction for 18-21 year olds. Podrebarac explained that proposed Westwood Hills Ordinance No. 253 makes several changes to our current ordinance. Currently, the City's no smoking ordinance is part of the Uniform Public Offense Code (UPOC) which the City adopts each year. UPOC tracks with the state smoking prohibition, meaning no tobacco sales to those under 18 years of age. One change to be made by the City's proposed ordinance is making 21 the age to purchase tobacco, but keeping the age at 18 for possession of tobacco.

The proposed ordinance also extends the no smoking area from 10 to 15 feet from the public entrance ways or access points of a building. Shelor asked why we don't include The Green in the smoking prohibition. Podrebarac said in her research she didn't find many municipalities which had included parks as no smoking areas. Nicole Brown said The City of Lenexa does not allow smoking within 15-25 feet outside pool or gazebo, bleacher, etc. Some cities have policies

(not ordinances) that prohibit smoking near their parks. Podrebarac moves to adopt proposed Ordinance No. 253. Brown seconds. **Shelor moves to amend the proposed ordinance to include a prohibition against use of tobacco products on The Green. Weedman seconds. All are in favor to amend the proposed ordinance. We will table the proposed ordinance until requested revisions are made.**

No issues from Citizens in Attendance:

Old Business:

Status of the Gas Lamp on The Green – Shelor reported the top is removed. Dan Blevins will prep and paint the pole.

New Business:

2101 W. 48th Terrace – Resident Nancy Ralston is appealing the SHPO decision that her window replacement project does not meet the Historic District guidelines. Nancy spoke to the council and submitted a written summary of her project and her efforts to minimize any negative impact on the Westwood Hills Historic District as a result of her proposed window replacement (a copy of which summary information is attached to these minutes).

Podrebarac shared that, as she understands, all exterior building permits need be submitted to The State Historic Preservation Office (SHPO) for approval. Under the building permit application submitted by Ms. Ralston, she requests permission to replace 16 windows on three sides of the house, which windows will match the replacement windows on the back side of her home. SHPO commented against the windows as they believe that if windows are in anyway repairable, they should be repaired. Ms. Ralston made her appeal to the council as council approval would now be required in order for the Building Official to issue the requested permit.

Ms. Ralston explained that the replacement windows (Pella Architectural Series) are a close facsimile of the current windows. All windows are non-standard sizes, and the replacement windows will be manufactured to fit the existing space. All original trim and moldings will remain, unless damage unable to be repaired is discovered. In addition to the documentation provided to the council at this meeting and the information submitted in connection with the building permit application, Ralston will provide the council with written confirmation of the opinion and bid estimate that she has received from one of the contractors she contacted concerning this window project. The council asked questions of Ms. Ralston concerning the window replacements and provided personal opinions and information about similar structures and windows. Discussion included the concerns about the ability to repair wood rot effectively and preventing its return, the possible loss of the historic appearance of the windows, and the very similar

appearance of the proposed replacement windows from the street view and neighbor views of the house.

Shelor moves to table any action to next month's meeting to allow for additional evidence to be gathered. Second by Podrebarac. Motion does not carry.

Weedman moves to override SHPO and approve the window replacement project as previously approved by the Planning Commission. Brown seconds. All in favor. Motion carries.

Stormwater Ordinance – Podrebarac needs to finish the portion regarding sediment control. Item will be taken up at June meeting.

Elections Ordinance – Orr, Podrebarac, and Schwach met in April to discuss this issue. Podrebarac explained that, due to the recent Kansas law change, we need to address a couple of issues in our ordinances. Proposed Ordinance No. 254 puts us in compliance with the state statute by moving city elections to November in odd numbered years. The council terms will now end in January of 2018, rather than May of 2017. Elections will continue to occur every two years, with the election date moving from April to November starting in November of 2017. The proposed ordinance also sets the number of voter signatures required on a candidate's nominating form at five. The proposed ordinance also clarifies that our elections are non-partisan.

Proposed Ordinance No. 255 corrects the language in various current ordinance sections relating to the actions to be taken at the first meeting of the governing body after elections, changing the language stating that actions will be taken in May. These changes include the appointment of standing committees, appointment of certain city officials, and the designation of the city newspaper.

Proposed Charter Ordinance #5 addresses the impact of a new Kansas statute regarding filling any vacancy of governing body. If a position is not filled in 60 days, the statute would require that we hold an election. Charter Ordinance No. 5 allows the City to charter out of that requirement and continue to allow the Mayor and council to fill any vacancy.

Podrebarac moves adoption of Ordinance No. 253 (numbered no. 254 on draft presented to council) which transitions city elections to the November election cycle and extends the terms of current elected officials to January of 2018. Brown seconds. All aye. Motion carries.

Podrebarac moves adoption of Ordinance No. 254 (numbered no. 255 on draft presented to council) which relates to actions to be taken at the first meeting of the governing body after elections. Brown seconds. All aye. Motion carries.

Podrebarac moves to adopt Charter Ordinance #5. Brown seconds. All aye. Motion carries.

Drum for Printer – O'Bryan reported that the old printer broke, and she purchased a new one. Rather than requesting the City to pay for half of the cost of the printer, O'Bryan asked the City to pay for half the cost of a new drum, which is quite a bit less expensive. Half the cost of a printer drum is \$80.00. **Podrebarac moves to encumber \$80.00 for one half the cost of a printer drum. Brown seconds. All aye. Motion carries.**

Water Reimbursement Encumbrance – O'Bryan reported that the City needs to reimburse citizens whose water Brian Ritter uses to water the entryway plantings. The total cost of water for 2014 and 2015 is \$169.80. **Podrebarac moves to encumber \$169.80 to reimburse residents for the cost of their water. Brown seconds. All aye. Motion carries.**

Storm inlet cleaning – Weedman contacted Stephen Perry to request him to clean and inspect the City's storm inlets. Perry will do the work for the same price as 2013, which is around \$385.00. **Weedman moves to encumber up to \$400.00 for the cost of cleaning the storm inlets. Brown seconds. All aye. Motion carries.**

Fireworks request from Fairway – The City of Fairway has asked Westwood Hills to contribute to the 4th of July Fireworks Display (on July 3rd), along with Roeland Park and Westwood. Fairway is requesting a minimum of \$500.00 contribution. The City of Westwood Hills contributed \$250.00 last year. Brown moves to encumber \$250.00 to participate with Fairway, Roeland Park and Westwood for the cost of fireworks. Villasi seconds. **Shelor moves to amend the motion to encumber \$300.00 for the fireworks display hosted by the cities of Fairway, Westwood, and Roeland Park, in addition to Westwood Hills and Mission Woods. Villasi seconds. Amendment accepted by Shelor and Villasi. All aye. Motion carries.**

Collection of sales and compensating use tax on internet usage – Schwach advised that Kansas Law requires a vendor to collect Kansas sales tax if that vendor has a physical presence in the state of Kansas. There is also the "Amazon law" which states that if a vendor has gross receipts in excess of \$10,000 in a twelve-month period, the seller needs to agree to pay the sales tax or the buyer will pay the tax. O'Bryan will request an internet sales tax report from the State of Kansas.

Budget workshop – May 15, 2016 – Schwach asks council to please come prepared to discuss needs for their areas of responsibility to include in the 2017 budget. The Property tax Lid law will impact and be addressed prior to finalizing the 2017 budget.

Items from the Floor:

Villasi reports that the doggie waste bags are exhausted on The Green. The cost to order 2,000 bags is \$93.00, including shipping. **Villasi moves to encumber \$93.00 to purchase doggy waste bags. Podrebarac seconds. All in favor. Motion carries.**

Villasi said we are still waiting for the landscape boulder for 49th Terrace. The encumbrance amount on the treasurer's report for this purchase should be \$240.00, not \$190.00.

Motion to adjourn by Brown. Meeting adjourned at 9:24 pm.