

**City of Westwood Hills  
City Council Meeting Minutes  
July 11, 2016  
Meeting #800**

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, John Weedman and Beth O'Bryan. City Attorney Jim Orr and City Treasurer John Martin were also present. Ludwig Villasi was not present. Chief O'Halloran was in attendance.

Margaret Steele and Judy Jenkins from Kansas Gas Service were in attendance.

No citizens were in attendance.

**Motion by Brown to approve the agenda. Second by Podrebarac. All aye. Motion approved.**

**Mayor Schwach asked to modify the consent agenda by removing the June Treasurer's report and by modifying the A-1 sewer bid from her Mayor's report to \$2.25 a linear foot. Brown moves to adopt the Consent Agenda as amended. Second by Shelor. All aye. Motion approved.**

**Kansas Gas Service (KGS) Ordinance** – City Attorney Orr reported that the two entities have not come to terms on one issue and that is the definition of gross receipts and the manner in which they are calculated. In the current Franchise Agreement "Gross receipts" includes all compensation received by KGS either directly or indirectly. KGS wants the wording "directly or indirectly" removed, and Orr wants to keep it in as other cities have that language in their agreements. Judy Jenkins with KGS reminded us that a Franchise fee is a rental for the use of the space to operate the service. Under the current Franchise Agreement, the city receives a 5% franchise fee on gross receipts. KGS calculates gross receipts on the following amounts: the customer service charge; the delivery charge; the Gas System Reliability Surcharge (GSRS); the weather normalization charge; the gas hedge charge; and the cost of gas. The 5% Franchise Fee is calculated on all the above charges.

In 2014, \$10,910.53 was collected by Westwood Hills in franchise fees from KGS, and in 2015, \$8,851.39 in franchise fees was collected from KGS. Jenkins suggested that a clause could be added to the agreement that should KGS change the manner in which it calculated the franchise fee the agreement would be subject to re-negotiation. Jenkins said it would be up to the City to request the re-negotiation, but she also said that KGS would have to notify the City if KGS changed the calculation. Schwach was concerned with the term

“delayed payment” in the agreement. Orr said the language may be ambiguous as to whether it refers to the collection of late fees or to the actual payment for gas owed to KGS. This new franchise agreement being discussed has a term of 10 years.

Orr spoke with attorneys for the cities of Leawood and Overland Park, and those cities still have the language “direct or indirect” in their KGS agreements. Steele said KGS recently renewed Leawood’s franchise agreement and does believe that the “direct or indirect” language was in that agreement.

The attorneys for the parties will address the open issues in the franchise agreement so that the new franchise agreement may be presented for consideration at a future Council meeting.

**Old Business:**

Stormwater Ordinance – Podrebarac sent a copy of the revised proposed ordinance to council. Our Stormwater Management Plan requires that we adopt a form of Stormwater Pollution Prevention ordinance this calendar year. The ordinance presented is based upon the suggested form provided by the Johnson County Health Department. Podrebarac had originally intended to incorporate the sediment and erosion control provisions in the attached ordinance, but the current draft of those provisions is approximately 20 pages in length – and still requires some revision. The sediment control provisions do not need to be adopted this calendar year, and so Podrebarac asked that we adopt those provisions sometime next year, possibly in connection with a recodification so that we can reduce publication costs. Orr suggests we might want to create a storm water book and refer to it in our ordinance as we do STO and UPOC.

**Shelor moved and Podrebarac seconded to adopt the stormwater pollution prevention ordinance. All in favor. Ordinance #257 is adopted. Clerk O’Bryan will supply the Planning Commission with the ordinance.**

**Storm sewer inlet clean out** – Weedman reported that Stephen Perry completed the clean out of the City’s storm inlets and took photos. Weedman has not received all the photos yet but reported that Perry removed a lot of debris from the inlets. Weedman will draft a letter to homeowners stating the inlet near their home was clogged and asking them to maintain and keep the inlet clear as a favor to the city.

Perry found Google pipes running through the storm sewer across the alley on the south side of 48<sup>th</sup> Terrace and Rainbow - 2205 W. 48<sup>th</sup> Terrace.

**Redbud tree removal on The Green** – The redbud tree was not completely removed as promised. Schwach requested that the Council not act on items the first time they are presented to council so as to allow time for the issue to be researched. Mayor proposed that when an item appears as new business,

council does not act until next meeting, except in case of an emergency. Shelor thought each item should be dealt case by case.

Shelor asked if residents could remove the tree. Schwach said she wasn't sure, and we would need a liability release.

**Budget** – Brown reported that we received the appraised valuation numbers from the county, and the city treasurer ran the budget numbers based on different mill rates. Brown said the council needs to decide which mill rate to take effect. Budget projections were run with a mill rate increase of 3.0 and 3.5 and 4.0. With a 3.0 mill increase, the budget barely broke even, and a 3.5 mill increase helps a little with a small reserve. A 4.0 mill increase would increase the City's levy to 25 mills. Brown proposed to raise the mill by 4.0. City Treasurer said a 4.0 mill increase would give the city a little more breathing room. With the impact of state law changes on future budgets, the limit on the CPI will not provide a lot of funds to the city, and we will not be able to raise the mill rate without a vote from the citizens. Mayor said an increase of 4 mills still does not give the city much cushion. The money in the Capital Improvement Plan fund is not a cushion but rather is money set aside in advance for required capital improvements. The City will likely use all of the money in that fund, if not more, to pay for the street repairs. Shelor asked about the option to raise the mill by 4.25 or 4.5 mills. Weedman thought the city should not exceed an increase of 4 mills. Podrebarac is hesitant to increase by 4.5 mills but understands the need for additional funding. It is the sense of the council that they are prepared to publish a maximum mill levy raise of 4.5 mills and have the option to reduce the increase to 4 mills when adopting the 2017 budget. Schwach also advised that the city needs to raise the amount for the 2017 leaf contract in the budget to allow for an increase in that cost.

The budget hearing will be at 7 pm on the 8<sup>th</sup> of August, and the August council meeting will follow immediately after the conclusion of the budget hearing.

### **New Business:**

**Green Lawn** – O'Bryan reported that Green Lawn contacted her with an estimate to repair and replace sprinkler heads on the Islands. One of the zones on each island was not activating, and Green Lawn reported that the current sprinkler heads are not sufficient enough to cover the flower plantings. Green Lawn raised the heads so they can water over the proper area. The estimate came in at \$221.60 with a caveat that additional parts may be needed to fix the valves once the problem is identified. The total cost for those repairs came to \$281.78. In addition, some repairs costing \$337.05 were required at the startup of the sprinkler system, which repair costs were just recently billed to the City. O'Bryan asked council to ratify the charges of \$281.78, and approve and additional \$337.05 for repairs, for a total of \$618.83 in excess of our monthly contract.

**Weedman moved and Shelor seconded to expend the amount of \$618.83 as payment to Green Lawn for these repairs. All in favor. Motion carries.**

**Leaf Contract** – Weedman reported that Roeland Park (RP) has set a date for leaf collection on Saturday, December 3, 2016, and the contract price has increased by \$114.00 for a total of \$3239.00. Weedman suggests requesting an earlier pickup date of Saturday, November 19, 2016 – the weekend before Thanksgiving. O'Bryan will check with Roeland Park officials. **Weedman moves to approve the contract with Roeland Park for leaf pickup and to encumber \$3239.00 for payment on the contract, with the request that the date for leaf pick-up be changed. If the November 19<sup>th</sup> date is not available, the city will still approve the contract with the December 3, 2016 date. Brown seconds. All in favor. Motion carries.**

**Reappointment of Planning Commission (PC) members** – Schwach reported that PC chair Lyle Miller and member Caroline Boyd's terms end at the end of the month. Schwach ask that council authorize her to reappoint both Lyle Miller and Caroline Boyd, each for a three-year term. **Brown moves that the council accept the reappointments. Podrebarac seconds. All in favor. Motion carries.**

#### **Other Business**

Shelor asks the City Council to consider adopting a proclamation in support of the ASK (Asking Saves Kids) program which encourages parents to ask whether all weapons are secured away from children. This matter will be included in the council packet in August.

Randy Brown announced that his house is under contract, and closing is scheduled prior to the next council meeting. Due to the move, Randy submitted his resignation, effective as of July 29, 2016, as council member. Schwach will come back to council with recommendations for a councilperson to replace Brown and asked council to bring any recommendations for replacements to her.

**Motion to adjourn by Brown. Meeting adjourned at 8:55 pm.**