

**MINUTES OF THE CITY COUNCIL MEETING
CITY OF MISSION HILLS, KANSAS**

August 8, 2022

The City Council of the City of Mission Hills, Kansas held a regular meeting on August 8, 2022, at 5:30 p.m.

PRESIDING: Mayor David W. Dickey

PRESENT: Councilpersons Barbara Nelson, Braden Perry, Eden Thorne (by phone), and Andy Weed

ABSENT: Bill Bruning

ALSO PRESENT: Jennifer Lee, City Administrator; Justin Carroll, Assistant City Administrator; Meghan Woolbright, City Clerk; Anna Krstulic, City Attorney; Police Captain Ivan Washington, Prairie Village Police Department (“PVPD”)

VISITORS: Debbie Coe, 1909 W. 70th Street; Dan Kerr, 2520 W. 63rd Street; Mike McQuaid, 5630 Belinder Avenue, Fairway, Kansas

Mayor Dickey called the meeting to order at 5:30 p.m.

GREETINGS AND INTRODUCTIONS

Following the pledge of allegiance, Mayor Dickey greeted visitors and noted that the order of the agenda could be adjusted to accommodate the interests of the visitors. Mayor Dickey noted that the meeting would be recorded for the purpose of meeting minutes.

APPROVAL OF MINUTES OF COUNCIL MEETING

Councilperson Nelson moved to approve the minutes of the July 11, 2022 meeting. Councilperson Weed seconded. All proposed edits were approved and accepted by Councilperson Nelson and Councilperson Weed. **Approved 4-0.**

OLD BUSINESS

C. Secondary Building Permit Request – 2520 W. 63rd Street Update

Ms. Lee stated that at the July City Council meeting the Council determined a secondary building permit could be issued to 2520 W. 63rd Street upon the property owners at 2520 W. 63rd Street securing a performance bond through January 31, 2023. She noted that after several efforts by the property owners, they were unable to secure a performance bond. Ms. Lee added the property owners have self-contracted this project and there is not a contractor of record on the permit to pursue the performance bond. Ms. Lee stated staff offered the suggestion of charging

the extension fee of approximately \$3,000 a month or \$18,000 for the duration of the secondary permit and then at the completion of the project the Council could refund a portion of this extension fee. She added that the property owner offered the suggestion of entering into a legally bonded promissory note of \$15,000 and if the project was not completed by January 31, 2023, the City would then be the beneficiary of the promissory note. Ms. Lee noted she briefly discussed the property owner's suggestion with the City's counsel, but more information would be needed.

Councilperson Perry noted an option could be holding a check from the property owner for the extension fees until the completion date. If the project was completed by January 31, 2023, the check would be returned to the property and if the project was not completed by January 31, 2023, the check would be cashed by the City. Councilperson Perry opined that a promissory note is an interesting concept to consider and asked the City's counsel if it would be enforceable and similar to a consent judgement. Ms. Krstulic stated that based upon the options provided in the City's Code she is more comfortable with collecting a building permit extension fee. She stated that the Code calls for an extension fee to be applied and suggested the Council could determine an amount to withhold or return to incentivize completion. She reiterated a preference for the Council to pursue a building permit fee extension concept. Councilperson Nelson stated typically building permit fees have required an extension fee. Ms. Lee added that in the past there has also been a contractor of record attached to the project, who can pursue the performance bond. She noted the property owner self-contacting makes this situation unique and she does not believe the City has previously encountered this situation.

Councilperson Perry stated in July that the Council determined to collect a performance bond as opposed to collecting additional building permit fees. He added the performance bond provided an incentive to complete the project by January 31, 2023. Ms. Lee stated in a typical extension process, the City requires prepayment of the total extension fee for the maximum time that can be issued. She noted for example, a six-month extension fee would be paid in full and then if the project was completed in four months, the City would refund two months of extension fees. Ms. Lee added that within the Council's discretion this formula could be adjusted. She noted for example the Council could determine to collect the full extension fees and then return all the extension fees except for one month if project were completed by January 31, 2023, which would have been the approximate cost to the property owners to secure a performance bond. Councilperson Perry noted the Council is familiar with the history of the project. He added that the property owners diligently sought to secure a performance bond and have communicated progress on the project, which provides confidence that the project will be completed. He opined against penalizing the property owner for the inability to secure a performance bond. Councilperson Perry suggested adjusting the permit extension formula to require an extension amount to be prepaid to ensure completion and then refunding all but one month of fees if the project was completed by January 31, 2023.

Mayor Dickey noted that typically the entire extension fee is due at the time an extension is granted. Ms. Lee agreed. Mayor Dickey noted that at the July meeting the Council had determined to waive the permit fee extension and require a performance bond, which would cost the property owner approximately \$3,000 to secure. He noted the performance bond provided an incentive to complete the project as it would have been collected if the project was not completed

by January 31, 2023. Mayor Dickey noted the goal of the secondary building permit process is to provide an incentive structure that encourages the project to reach completion. He suggested charging the building extension fees monthly as opposed to the full extension fee in advance, which would continue to encourage the project's progress. He noted that if the project were completed by January 31, 2023, the Council could retroactively waive extension fees and refund a determined portion of the extension fees. Councilperson Nelson asked the amount of fees that would be eligible for refund. Mayor Dickey suggested the City would maintain a month of extension fees, which is approximately \$3,000. He noted the approximate cost to secure a performance bond would have been \$3,000, so the cost to the property owner in this proposed extension fee structure would be the same as the performance bond, so long as the project is completed by January 31, 2023. He noted there are staff costs involved in managing the secondary permit process and opined the monthly extension fees would encourage progress.

Councilperson Nelson agreed and opined the Council's action on this matter set a precedent for future projects. Councilperson Weed asked if the Council had any concerns with the precedent this adjusted extension structure could create for the future. Mayor Dickey replied no and stated that the Code provides the Council with discretion to make decisions based on the individual case presented. He noted that this project has demonstrated good faith effort to complete the project, so the Council is acting in good faith. He noted other projects in the past have not demonstrated good faith effort in this process and the Council acted accordingly. Councilperson Perry noted that if the project is not completed by January 31, 2023, then the extension fees would not be waived, which provides an incentive for completion. He added that the Council's decision to proceed with this amended extension structure is based on the review of the specific facts for this project. Councilperson Thorne agreed and noted this project is a unique situation because of the limitations of supplies and labor during the pandemic. The Council issued the secondary building permit with the agreement that permit extension fees would be collected monthly for the duration of the project with all but one-month extension to be waived and refunded if the project is completed by January 31, 2023. If the project is not completed by January 31, 2023, then full permit extension fee would be retained by the City.

NEW BUSINESS

A. Home Tour Application – Renovation Sensation Homes Tour at 3205 Tomahawk Road

Ms. Lee stated that the City has not received any feedback from the adjacent neighborhood who received notice of the Renovation Sensation Home Tour application at 3205 Tomahawk Road. Councilperson Perry moved to approve the application for the Renovation Sensation Home Tour application at 3205 Tomahawk Road. Councilperson Nelson seconded. Councilperson Nelson noted the current construction on Tomahawk Road. Ms. Lee stated that the paving of the section of Tomahawk Road adjacent to this tour would be paved this week and most of the construction project should be complete by the date of the tour. **Approved 4-0.**

PUBLIC SAFETY

A. Police Report

Captain Washington referred to the narrative report and noted the trend of thefts from unlocked vehicles continued in July with four thefts from unlocked vehicles and two thefts of vehicles that were unlocked with keys inside. He added that the stolen U-Haul van with items for a wedding reception was abandoned and recovered within the City. He noted the other stolen vehicle has not been recovered but the investigation continues because the victim's credit card was used, and the stolen vehicle was captured on video during this incident. Captain Washington noted there were two thefts of unsecured items. The first incident was a package theft from a resident's front porch and the second was a check left on the front door for an employee. He added that when the suspect attempted to cash the check it was declined by the bank, but it was returned so someone is now making fake checks off the original and attempting to cash them. Captain Washington referred to the residential burglary report where a suspect entered the home from an unlocked second-story window. He noted a similar incident had occurred and there is an on-going investigation, which has high priority as there appears to be a pattern. Mayor Dickey asked if there was any video evidence in this case. Captain Washington replied no and added a neighbor observed two individuals walk to the rear of the home, but they did not report this to the police because they assumed the individuals were working at the residence. He added there was physical evidence collected by the crime lab supporting this investigation. Councilperson Nelson noted the stolen U-Haul and asked if the wedding reception items were recovered. Captain Washington replied yes, most of the wedding reception items were recovered and most likely the suspects were surprised by what was in the van.

i. Camera and License Plate Reader (LPR) Installation Update

Captain Washington reported that the first four intersections have been installed and these intersections now have individualized virtual private networks (VPN) and internet protocol (IP) addresses, which provide the secure connection required for their operation. He stated the first intersection will be fully integrated into the metropolitan network tomorrow and the remaining three intersections will be integrated this week. He added in the future that as upgrades occur the coding will be fully automatic. Mayor Dickey noted that the Council had approved the installation of two phases and asked when these systems would be fully operations. Captain Washington stated that installation would be completed by tomorrow and these intersections would be operational by the end of this week.

B. Fire District Report

Mayor Dickey referenced the Fire District report and noted if the Council had any questions that staff could relay them to Chief Chick. Councilperson Nelson referred to the Fire District report and noted six power lines down under the hazardous condition category compared to one power line down the previous year. She noted the City's continual maintenance of street trees and that there have not been extreme weather conditions. Councilperson Nelson requested that the City identify the cause of these downed power lines and how to manage this issue, as this is a safety issue and there are many residents who depend on electricity for medical devices. She suggested that the Crime Prevention and Safety Committee (CPSC) could lead this inquiry. Mayor Dickey noted there have been more than six power outages in the City this past year. Ms. Lee stated that the City was recently assigned a new governmental liaison with Evergy and she could inquire

with him about this matter and report back to Council. Mayor Dickey requested that an inquiry into the hazardous condition of down powerlines and electrical reliability be added to the CPSC agenda.

CONSENT AGENDA

A. Claims Ordinance No. 1619

Councilperson Nelson moved to approve Claims Ordinance No. 1619. Councilperson Perry seconded. **Approved 4-0.**

FINANCIAL REPORT

A. July Financial Report

Mr. Carroll referred to the July Financial report and noted that revenues continue to be strong, and that the City received a County Assistance Road System (CARS) reimbursement payment for the Tomahawk Road project and the second half of the American Rescue Plan Act (ARPA) funds. He noted in expenditures the new drinking fountain for City Hall Park has been installed and is operational. Mayor Dickey noted the new fountain includes a water bottle refilling station, which is great. Ms. Lee added that the water is filtered and refrigerated.

OLD BUSINESS (Continued)

A. Repeat Nuisance Properties

There were no comments on the repeat nuisance properties report.

B. Coyote Update

Mayor Dickey noted that he has received several phone calls and emails regarding this matter and the public continues to be largely in support of the City's aggressive coyote trapping strategy. He added he recently received a message opposing coyote trapping. Mayor Dickey noted he is in communication with a resident about a possible new location to place the traps. Councilperson Nelson asked if the previous trap was removed at the resident's request. Mayor Dickey noted the agreement with the resident was that the trap would not be permanent, and the trap was no longer attracting coyotes.

D. 2023 Budget

i. Review 2023 Requested Budget

Ms. Lee stated in the 2023 budget staff was showing the \$150,000 imbalance created by the larger than expected increase in the 2023 Police contract. She referred to the 2023 Requested Budget report that identified solutions for the Council's consideration to manage the imbalance including not making the annual \$100,000 transfer to the Capital Improvement Reserve fund, and reducing the parks operations and maintenance one-time capital budget from \$50,000 to

\$25,000 since there is not a special project scheduled for 2023, and reprogramming \$25,000 from the 2022 police budget for the purchase of cars to 2023 because the ordering window for 2022 vehicles has already closed. Ms. Lee noted that these adjustments would bring the 2023 budget into balance and added there were no other changes to the 2023 Requested Budget since the July meeting.

Ms. Lee noted the packet included a draft mailer of the first revenue neutral rate notices that the County will be mailing on August 10th. She noted that every taxpayer in Johnson County will receive this notice listing the taxing entities for their property with current, proposed and revenue neutral tax rates as well as revenue neutral rate hearing details so they can participate in that process. Ms. Lee stated that this is the first-year notices will be sent to taxpayers so there is anticipation that the Council and staff will receive inquiries from residents about them. Councilperson Nelson asked for the genesis of these taxpayer notices. Ms. Lee stated the notices are a requirement of State law and part of the revenue neutral rate hearing process. She added that if a taxing entity is seeking to adopt a budget that collects more revenue than the previous year budget then a revenue neutral rate hearing is required. Mayor Dickey reiterated that any taxing entity, such as school districts, libraries, community colleges, and fire districts are also subject to the revenue neutral rate requirements. Councilperson Nelson noted that the City is not seeking to increase the mill levy. Ms. Lee agreed and stated even though the 2023 Requested Budget holds the mill levy flat the projected revenues will exceed the revenue neutral rate.

ii. Review 0.25% Sales Tax Educational Material

Ms. Lee noted the packet also included a communicate schedule for education materials regarding the renewal of the 0.25% Sales Tax on the November 8th ballot. She noted that early voting will begin in late October so the communication strategy includes a Citywide newsletter, which would include the Mayor's letter and a brief educational article to be send to residents in mid-October. She noted the Council had previously discussed a separate Citywide mailer in late September, which models the educational materials sent to residents when the 0.25% sales tax was originally passed. Ms. Lee noted there is a draft mailer in the packet for Council review. She added that the City cannot advocate for a ballot position but can inform residents on the ballot issue. She noted the purpose of the mailer is to tell the story of what the City has accomplished with the revenues from the 0.25% sales tax over the past four years and recommitting to dedicating this fund source to capital improvements for the next five years if voters approve.

Councilperson Weed asked if it would be inappropriate for a letter from the City Council to go out to residents advocating for residents to support the 0.25% sales tax renewal. Ms. Lee stated she was not certain at this time. Ms. Krstulic stated that as elected officials, she believes that the Council can advocate for renewing the 0.25% sales tax but would verify and provide counsel to City staff. Councilperson Weed noted the renewal of the 0.25% sales tax is a critical piece of the City's budget forecast and the Council should be highlighting the accomplishments of this funding sources over the last four years. Councilperson Nelson agreed and the Council has been unified in the 0.25% sales tax renewal discussion. Mayor Dickey agreed and noted that it is important that residents are aware of the Council's unanimity in requesting the renewal of the 0.25% sales tax and its dedication to capital improvements. He encouraged the Council to share the City's capital accomplishments over the last four years.

Councilperson Nelson noted residents have expressed interested in improvements, such as dredging of Eisenhower Pond. She asked if the Parks Board was reduced in 2023 could this project be undertaken. Ms. Lee stated that if specific projects arise, such as dredging Eisenhower Pond then the Council would identify funds. She noted there is not a specific project identified for 2023, but a project of that magnitude would be reviewed and approved by the Council. Mayor Dickey noted that the Council has been supportive of Park Board requests of this type in the past.

Councilperson Weed noted that the Tomahawk Road project was nearing conclusion and asked if there could be unanticipated savings from this project. Ms. Lee noted billing is halfway complete and she anticipates some savings because there were items that the City was able to forego because alternative solutions were found. She noted she does not have a sense yet of the magnitude of savings. Ms. Lee stated the financial reports would reflect any cost savings at the conclusion of the billing process.

REPORTS OF CITY STAFF

City Clerk

Mayor Dickey referred to the City Events Calendar and noted Yoga in the Park on August 27th and Bulky Items pick-up on September 17th. Ms. Lee noted the shredding event would also take place on September 17th. She added that the resident invites to Diner a Verona would be mailed next week. Mr. Carroll added that last year's registration online was successful, so registration would continue to be online and noted there continued to be enthusiasm for the event.

City Administrator

Ms. Lee stated that the Tomahawk Road project will hopefully be completed by the September Council meeting. She added that sod restoration might continue later into September. Mayor Dickey noted he has received positive feedback from residents on the completed west end of Tomahawk Road, including the widening of the shoulder for walkers. Councilperson Weed noted the crosswalk markings were an important additional to the roadway. Councilperson Nelson agreed and added the roadway is much improved.

Ms. Lee added that a Prairie Village staff member might attend the September or October Council meeting to provide an update on their Mission Road elevation project. She noted the project has undergone several iterations and the current project calls plans to raise Mission Road from Tomahawk Road to the Village Presbyterian parking lot by four to five feet. Ms. Lee added an original design would have required Prairie Village to obtain permanent easements from Mission Hills property owners. She noted the new design would require temporary construction easements from five or six Mission Hills property owners along Cherokee Lane that back up to the creek. She added there are already significant drainage and sanitary easements along the creek to operate within. Ms. Lee stated that a request to Prairie Village, which they have been receptive to is being mindful of the vegetation and replanting the area along the creek, because the project will decimate some of the existing wooded areas. Councilperson Nelson asked who is

responsible for the vegetation along the creek. Ms. Lee stated it would be dependent on the property lines and noted there is a large sanitary sewer that runs at the bottom of the hill where the properties meet the creek. She added there is a large drainage easement with geogrid reinforcements that are functioning but not very visible due to the existing woods. She noted that Prairie Village has engaged a landscape architect group and has offered to plant trees and revegetate the area after the project is complete. Ms. Lee noted that Mission Hills residents benefit from the vegetation obscuring the view of Mission Road, but not all the plant material is desirable, and the appearance will be changed by this project. Mayor Dickey asked if Prairie Village has communicated with Mission Hills residents. Ms. Lee replied not yet, the stakeholder engagement process will occur after Prairie Village Council and Mission Hills Council review. Mayor Dickey asked if the Mission Hills Council would have a role in decision making. Ms. Lee stated the Council would have an opportunity to voice concerns or request a change during the review process. She added that Prairie Village is also working with the federal government on this project and is managing the process. Councilperson Weed asked if the pedestrian bridge would be replaced as part of this project. Ms. Lee replied yes. Councilperson Weed asked if the project would impact the velocity of the water. Ms. Lee stated that a condition of the federal permitting process is demonstrating the project will not cause a rise in the water level or impact the downstream area.

Ms. Lee noted that the League of Kansas Municipalities Annual Conference details were included in her report. She noted she would attend the business meeting on October 10 and anyone interested in attending is welcome.

Councilperson Nelson noted she voted in the primary at City Hall and noted the enormous voter turnout. Ms. Lee noted that when the City committed to being a polling location this year it was for both the primary and general elections. She noted that there has not been a debrief from the elections office who determined that City Hall would be a sufficient facility. Ms. Lee stated she would be curious to hear the elections office feedback. Councilperson Nelson opined that the voter turnout crowded City Hall. Ms. Lee noted there was a continual crowd of voters, who were very positive and happy to visit and cross paths with other residents. Mayor Dickey noted in the future Mission Drive would not be closed and that would help alleviate the limited parking. Ms. Lee stated from the staff perspective it was busy, but work was able to be conducted. She requested the Council to submit any feedback for the debrief with the election office.

Assistant City Administrator

Mr. Carroll reported that City has begun targeted herbicide to mitigate and contain the duckweed outbreak at Eisenhower Pond. He noted the herbicide application will continue for the next several weeks. Mr. Carroll added that longer-term solutions are still being identified.

City Planner

There were no comments on the City Planner report.

MAYOR'S COMMENTS

A. Liaison Reports

Councilperson Nelson reported the Board of Zoning Appeals did not meet.

Councilperson Weed reported the Planning Commission would meet Wednesday.

Councilperson Thorne reported the Architectural Review Board did not meet due to the election at City Hall.

Councilperson Perry reported the Crime Prevention and Safety Committee did not meet.

B. Appointments

Mayor Dickey stated that Kent Barnow is a long-time resident of Mission Hills, and he recommends his appointment to the Board of Zoning Appeals (BZA). He added that he has known Mr. Barnow for more than 20 years and Mr. Barnow has the mindset that the BZA should be firm but fair. Councilperson Perry moved to appoint Kent Barnow to the BZA. Councilperson Weed seconded. **Approved 4-0.**

Mayor Dickey noted he received a very upset email from a resident regarding Google, so there would be renewed meetings with their team. He added there was a request to add a crosswalk at State Line Road from the 63rd Street sidewalk in Kansas City, MO to City Hall. He noted the sidewalk terminates in Kansas City, so the City will not pursue this request. He noted there is a sidewalk on both sides of State Line Road at Tomahawk Road, so the City will pursue a painted crosswalk at that location.

NEW BUSINESS (Continued)

B. Executive Session – Attorney Client Privilege

Councilperson Perry stated I move that the City Council recess into executive session to obtain legal advice regarding the City's authority under Resolution No. 2022-N, pursuant to the attorney-client consultation exception in K.S.A. 75-4319(b)(2). The executive session will include the City Attorney, City Administrator, Assistant City Administrator and City Clerk. The open meeting will resume in the City Council chamber at 6:35 p.m. Councilperson Nelson seconded. **Approved 4-0.**

No binding action was taken in the executive session.

Meeting adjourned at 6:35 p.m.

/s/ Meghan Woolbright
City Clerk