

**MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF FAIRWAY, KANSAS**

The Council of the City of Fairway, Kansas, held their regular meeting at 6:30 P.M. at 5240 Belinder Road, Fairway, Kansas, on Monday, July 10, 2023.

Present: Council Members Jenna Brofsky, David Watkins, Jonalan Smith, Kelly-Ann Buszek, Jason Rogers, Dan Bailey, Joe Levin and Tanya Keys.

Absent: None.

Presiding: Mayor Melanie Hepperly.

Staff Present: Nathan Nogelmeier, City Administrator; Richard Cook, City Attorney; J.P. Thurlo, Police Chief; Bill Stogsdill, Director of Public Works; Brice Soeken, Director of Parks and Recreation; Rick Allen, Right of Way Specialist.

Visitors: Chief Steve Chick, Consolidated Fire District No. 2; Caleb George, Chris George Homes, 6830 Beverly Street, Overland Park, Kansas.

**CALL TO ORDER AND ANNOUNCEMENTS**

Mayor Hepperly called the meeting to order.

**PLEDGE OF ALLEGIANCE**

Mayor Hepperly led the Council in the Pledge of Allegiance.

**PROCLAMATION: PARKS AND RECREATION MONTH**

Mayor Hepperly read a Proclamation designating the month of July as Park and Recreation Month in the City of Fairway. She noted that parks and recreation programs are an integral part of communities throughout the country, including Fairway. The programs are vitally important to establishing and maintaining quality of life in communities. help to build healthy, active communities, and increase a community's economic prosperity.

**MONTHLY REPORTS OF STANDING COMMITTEES**

**CONSOLIDATED FIRE DISTRICT NO. 2, CHIEF CHICK**

Chief Chick reported that the Fire District conducted an analysis that shows there no marked difference in the types or volume of calls run from the halfway point of 2023 compared to the same time in 2022 in Fairway. He thanked Chief Thurlo and the Police Department for their partnership with the Fire District and the great job of responding in tandem to calls.

Chief Chick noted that the Fire Board will be approving the 2024 budget next week, which includes a mil levy on all residents within the District. The District works hard to do the most it can within the budget. This year they have seen an increase from the property tax increase. The District has given back that increase in mil levy over the last three or four years. This year there could be a reduction; however, the job market remains competitive and they will need to make some increases to stay competitive with other departments. In addition, the cost of personnel protective equipment (PPE) has increased 44 percent this year and the District needs to replace a significant amount over the next few years. He hopes that the final numbers will allow for a small decrease in the mil but they will continue to provide the same great service to the community.

Councilwoman Brofsky thanked Chief Chick and the Fire District for participating in Village Fest on July 4<sup>th</sup>.

Councilwoman Buszek also thanked the Chief and the Fire District for escorting the July 4<sup>th</sup> Parade.

#### ADMINISTRATION AND FINANCE COMMITTEE, MR. NOGELMEIER

##### Monthly Report

City Administrator Nogelmeier referred to the report in the packet, subject to questions. The Committee met on June 28, 2023 and the discussion focused on the budget. As summarized in the report, sales tax revenues continue to be strong and the City's finances are solid.

Councilwoman Brofsky noted that the Planning Commission had approved two solar panel applications last month, which she thinks is awesome. She asked for clarification of what the Council had decided as to the process moving forward for approval of solar panel applications.

City Administrator Nogelmeier responded that he would need to review the Planning Commission minutes to see what its recommendations were and would pass that information along to Councilmembers.

#### POLICE COMMITTEE, CHIEF THURLO

##### Monthly Report

Chief Thurlo referred to the report in the packet, subject to questions.

He thanked Chief Chick for his comments concerning collaboration between the Police and Fire Departments.

He discussed an incident where two individuals were able to escape from a fire thanks to a citizen's action. He hopes to have a presentation for that citizen at the next Council meeting; however, he understands that the citizen may not be

comfortable coming before the Council. Mayor Hepperly stated that even if the citizen is not comfortable coming before the Council, the situation is very noteworthy and the citizen will be appropriately recognized.

Chief Thurlo stated that the Department's numbers remain consistently high. He discussed an incident last week where the Fairway officers backed an outside agency and the individual tried to pull a handgun on the officers. They were able to get the individual under control and he was disarmed. He noted that they have been dealing people trying to pull handguns on officers with some frequency.

#### PUBLIC WORKS COMMITTEE, MR. STOGSDILL

##### Monthly Report

Director Stogsdill referred to the report in the packet, subject to questions. He reported that the Capital Improvement Project on 53<sup>rd</sup> Street and Sunrise Drive will begin on Monday, July 17, 2023, so the work can be completed prior to the beginning of school. He also announced that the 75<sup>th</sup> Anniversary banners have been received. The banners will be displayed on Shawnee Mission Parkway throughout 2024 and then will be offered for sale sometime in 2025.

#### PARKS AND RECREATION COMMITTEE, MR. SOEKEN

##### Monthly Report

Director Soeken referred the Council to the report in the packet, subject to questions. He reported that he expects to receive bids for the pool house restroom modifications prior to the next Council meeting. The pool is hopping busy and they are halfway through the summer camp session.

#### MONTHLY REPORTS OF SPECIAL COMMITTEES

##### Tree Board

Right of Way Specialist Rick Allen stated that the Tree Board is planning to meet in mid-August.

Responding to Councilman Levin's question concerning an article he read indicating that the Emerald Ash Borer is making an appearance again in Kansas; Mr. Allen stated that he would check with the Kansas Forester about the issue.

#### APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the four items on the Consent Agenda. The Consent Agenda items include the following: (A) Minutes of Previous Regular City Council Meeting; (B) Claims and Appropriations – Ordinance #1785 – June 2023; (C) KSHS MOA Extension Amendment; (D) SIMF MOU Extension Amendment.

Mayor Hepperly asked for public comment on the Consent Agenda items. Hearing none, she closed public comment on this item.

Mayor Hepperly asked for discussion from the Council. Hearing none, she asked for a motion.

Councilman Watkins moved that the Council approve Consent Agenda items A through D on the Consent Agenda. Councilman Bailey seconded the motion and the motion carried unanimously.

### NEW BUSINESS

- A. Ordinance #1786 – An Ordinance Approving a Special Use Permit for Location of a Sport Court Located at 4222 Brookridge Drive, Fairway, Kansas, as submitted by Krissie Spitcaufsky, Property Owner.

City Administrator Nogelmeier reported that the Planning Commission is recommending approval of the Special Use Permit. Notifications were sent to residents within 200 feet around the property and no comments were received.

Responding to Councilwoman Brofsky's question, City Administrator Nogelmeier confirmed that with the addition of the sports court, the property will still meet the greenspace requirements.

Responding to Councilman Bailey's question concerning why this matter came before the Council for approval, City Administrator Nogelmeier explained that Chapter 15 requires that sports courts have a Special Use Permit and Special Use Permits are required to be approved by the Council. This process gives the City more ability to control the functions and lighting, for example, of the sport court.

Responding to Councilman Bailey's question, City Administrator Nogelmeier confirmed that a pool does not require a Special Use Permit.

Councilman Smith thinks that the Planning Commission should review lighting and noise issues with sports courts, but he also thinks a pool could be potentially special and that the Planning Commission may want to consider requiring Special Use Permits for pools.

Mayor Hepperly asked for public comment. Hearing none, she closed public comment on this item.

Mayor Hepperly asked for further discussion from the Council. Hearing none, she asked for a motion.

Councilman Smith moved that the Council approve Ordinance #1786 – An Ordinance approving a Special Use Permit for location of a sport court located at 4222 Brookridge Drive, Fairway, Kansas, as submitted by Krissie Spitcaufsky,

property owner. Councilman Watkins seconded the motion and the motion carried unanimously.

B. Consider Appeal of Right-of-Way Tree Ordinance Violation at 5928 Alhambra, submitted by Caleb George Homes.

Right of Way Specialist Allen stated that on June 8, 2023, Director Alani was conducting an inspection at 5928 Alhambra, and noted there was concrete within the protected zone of a right-of-way tree. The next day, a letter was sent out to the contractor notifying them of the right-of-way tree violation. The tree is a 38-inch maple.

Mayor Hepperly asked for discussion from the Council.

Responding to Councilwoman Brofsky's question concerning potential or actual damage to the tree from the concrete, Right-of-Way Specialist Allen explained that the storing of materials on the root zone of any tree can compress the area so the roots cannot get oxygen. He explained that the Kansas Forester, Kim Bomberger, has been involved a few times in the past in ruling whether or not a tree was damaged from storage of materials. Ms. Bomberger actually believes that the tree protection should go even further than what the City requires.

Mayor Hepperly asked for public comment.

Caleb George of Chris George Homes, 6830 Beverly Street, Overland Park, Kansas, stated that he is the builder on this project. He thanked the Council for hearing the appeal. He explained that Chris George Homes does a lot of work in Fairway and they understand the importance that Fairway places on trees. They do their best in meeting the Tree Protection Ordinance and have worked hard in the past to maintain tree preservation areas. He explained that the material had already been removed when the violation was received. They had the area marked but had an inexperienced subcontractor who placed the material near the tree. He understands it is the contractor's responsibility to educate the subcontractor and they are working on ways to keep on top of that by sending out reminder emails to all subcontractors with each permit they pull. He is hopeful that the Council can grant them some leniency in this situation. While he is not an arborist, he doesn't think that anyone could determine if there was damage based on the short amount of time the material was near the tree. They do not want to lose trees because they know they are vital to neighborhoods but is hopeful that the Council can be lenient in this situation.

Mayor Hepperly asked for discussion from the Council.

Responding to Councilwoman Brofsky's question, Right-of-Way Specialist Allen stated that this is the first violation by this company.  
Responding to Councilman Bailey's question, Director Stogsdill confirmed that if the \$3,800 fee is paid, the tree will then belong to the homeowner.

Discussion followed concerning how the Council can proceed. City Administrator Nogelmeier explained that the appeal relates to whether or not the Public Tree Manager properly interpreted the Code. City Attorney Cook added that if there is not a motion, the decision is affirmed and the appeal does not move forward.

Councilman Bailey thanked Mr. George for coming before the Council. He stated that he does not see any way for the Council to overturn the violation because it would open a precedent for other builders to request the same leniency. He noted that the City has been paying to maintain trees for years, if not decades.

Responding to Councilwoman Brofsky's question, City Attorney Cook explained that the appeal is of the decision and not the fine, so reducing the fine is not an option.

Discussion followed as to whether the Tree Board should review the Code and allowing the Council the ability to adjust assessed fines for violation of the Tree Protection Ordinance.

Mayor Hepperly asked Right-of-Way Specialist Allen to add that item to the agenda for the next Tree Board meeting.

Mayor Hepperly asked for a motion. Hearing none, the Right-of-Way Specialist's Violation is affirmed.

C. Presentation: 2024 Budget Public Forum.

Mayor Hepperly announced that there are no members of the public in attendance or online so she suspended presentation of the 2024 Budget.

City Administrator Nogelmeier explained that if any members of the public would like to review the PowerPoint presentation, it was posted today on the website under 2024 Budget.

D. Consider Resolution 2023-C – A Resolution of the Governing Body of the City of Fairway, Kansas, of the City's Intent to Exceed its Revenue Neutral Rate, Establishing the Date and Time of a Public Hearing on Such Matter, and Providing for the Giving of Notice of Such Public Hearing.

City Administrator Nogelmeier reported that the Administration and Finance Committee discussed this Resolution at its June meeting. This is a procedural requirement required by the State and confirms that the City plans to exceed the Revenue Neutral Rate. The rate as calculated by the County would have been 18.122 mils. The City plans to hold the mil flat at 19.930 mils. The hearing is scheduled for September 11, 2023 at 6:30 P.M. at City Hall. Following the hearing, the Council will consider the 2024 budget.

Mayor Hepperly asked for public comment. Hearing none, she closed public comment on this item.

Mayor Hepperly asked for discussion from the Council.

Councilwoman Buszek explained that, as she stated last year, she remains very concerned about residents who may not have the means to continue to pay their property tax bills due to rising property values. She is certain that fellow Councilmembers, the Mayor, and staff also share her concerns. She understands that the City has a disciplined and cost-effective budget and there may not be areas to trim if services remain that are expected by residents and are in demand. She also understands that in order to maintain these services, the City must go above the Revenue Neutral Rate. She also pointed out that the US Census Bureau statistics for Fairway show that 10 percent of residents who are 65 or older live in poverty. This figure could represent about 100 people. About 23 percent of households in Fairway have an income under \$75,000 per year, which is about 300 households; and about 33 percent of households have an income under \$100,000, which is about 550 households. By contrast, households in Fairway headed by married couples have a median income of over \$240,000. Her concerns are that those on the lower end of the income ladder may not be able to afford to continue to live in the community. She was the lone dissenting vote last year and probably will be again this year. Respectfully, she needs her vote to reflect her concerns in a tangible way.

Mayor Hepperly asked for additional discussion from the Council. Hearing none, she asked for a motion.

Councilman Levin moved that the Council approve Resolution 2023-C – A Resolution of the Governing Body of the City of Fairway, Kansas, of the City’s intent to exceed its Revenue Neutral Rate, establishing the date and time of a Public Hearing on such matter, and providing for the giving of notice of such Public Hearing. Councilman Bailey seconded the motion and the motion carried 7 to 1.

#### COMMENTS BY GOVERNING BODY

Mayor Hepperly asked for comments by the Governing Body.

Councilwoman Brofsky announced that Fairway had received the 2022 Green Event Award for its participation in the Green Environmental Fair. She thanked everyone for their support. She added that the next event is coming up in September.

Councilwoman Brofsky next discussed an news article shared this evening concerning employee handbooks and definitions of biological sex. She understands this is in response to a state law. She doesn’t know what is included in the Fairway’s Employee Handbook currently, but in the interest of Fairway’s values of inclusivity, she thinks that Fairway should consider something similar

be added to Fairway's own policies. She is hopeful the issue can be added to next month's agenda.

Councilman Watkins thanked Chief Thurlo and the Police Department for leading the Reinhardt Estate's annual 4<sup>th</sup> of July parade.

Councilwoman Buszek also thanked Officer Bayless for being in the parade and stopping someone who was driving pretty fast down State Park Road.

Mayor Hepperly announced that the League of Municipalities' recent magazine discusses a number of laws that are scheduled to come before the State in the next session, several of which affect municipalities, including Fairway. She asked Councilmembers to review those and talk with representatives in Topeka concerning them.

Mayor Hepperly next discussed an invitation she and Kathy Gates, Chair of the Shawnee Indian Mission Foundation, received to the June ceremonial gathering of the Tribes held in Council Grove. She stated that the ceremony was moving and comprised of ceremonial and competitive dancing. Guests were dressed in the Tribes' regalia and the colors were terrific. The ceremonial dances were impressive and accompanied by music. She felt honored to represent the City of Fairway and the Tribes were very appreciative of what the City has done with the Shawnee Indian Mission. She and Ms. Gates were also asked to participate in the blanket dance and each of them were given a ceremonial blanket. She stated the Tribes have been a big supporter of Fairway and she looks forward to working with them in the future in growing the Shawnee Indian Mission.

#### PUBLIC COMMENT

Mayor Hepperly asked for public comment for items not listed on the agenda. Hearing none, she closed public comment.

#### ADJOURNMENT

Councilman Watkins moved to adjourn. Councilman Smith seconded the motion and the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 7:17 P.M.

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Mayor Melanie Hepperly

Attest:

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Barb Fox, Recording Secretary



