

**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, August 12, 2024.

Present: Council Members Jenna Brofsky (via Zoom), David Watkins, Jerry Williams (via Zoom); Kelly Ann Buszek, Lee Story, Joseph Levin and Tanya Keys.

Absent: Council Member Dan Bailey.

Presiding: Mayor Melanie Hepperly.

Staff Present: Nathan Nogelmeier, City Administrator; J.P. Thurlo, Police Chief; Brice Soeken, Director of Parks and Recreation.

Visitors: Pat Hotze, 6524 Overbrook, Mission Hills; Maria Holiday, 7647 Hemlock, Overland Park; Brian Robinson, 5301 Norwood Street; Loring Leifer, 5640 Cherokee Circle; Paul Temme, 5640 Cherokee Circle; Tim Boeshaar, 5310 Norwood; Jason Crackow, 5440 Belinder Road; Eric Smith, 5346 Belinder Road; Steve Stoskopf, 5311 Norwood; Fred Orem, 5528 Belinder; Phillip Herman, 5424 Belinder Road.

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.

REMEMBRANCE FOR POLICE OFFICER, JONAH OSWALD

Chief Thurlo presented Councilmembers with coins in memory of Officer Jonah Oswald. The coin was designed by Lieutenant Bayless and Community Service Officer Baum for the anniversary of Officer Oswald's death. One side of the coin has Officer Oswald's Police Department badge with the remembrance band, Chief Thurlo's last words to Officer Oswald, and includes the end of his watch, which was August 7, 2023. The reverse side of the coin has Officer Oswald's Police ID photo.

Mayor Hepperly thanked Chief Thurlo for the remembrance coins.

MONTHLY REPORTS OF STANDING COMMITTEES

CONSOLIDATED FIRE DISTRICT NO. 2, CHIEF CHICK

Chief Chick presented the quarterly report to the Council. The report shows that turnout times (the time it takes to get out the door when they are notified that there is an emergency) continue to improve. Response times have also gotten better even though there has been heavy road construction in the area. There has been a marked increase in total calls and a substantial amount of those are EMS calls. Chief Chick does not have a good explanation for the increase in EMS calls. District wide residents are staying in their homes longer and some of those people may be staying in their homes beyond what their personal abilities are. The Fire District is happy to help take care of those people but there has been an increase.

As for the renovations at the 63rd and Mission Road Fire Station, Chief Chick explained that they are working through the design and mechanical drawings and they hope to obtain permits and begin work after the first of the year.

Chief Chick also discussed the 2025 budget. He stated that employee turnover rate remains extremely low. He discussed training, the advanced life support first response program and the successful results of the firefighter intern program.

ADMINISTRATION AND FINANCE COMMITTEE, MR. NOGELMEIER

Monthly Report

City Administrator Nogelmeier reported that the Administration and Finance Committee did not meet in July. The Finance Report shows that the City received the sales tax disbursement of \$277,000 from the State to correct the error made last month. The public hearing and the Council's consideration of the 2025 budget will occur at the September 9, 2024 Council meeting at 6:30 P.M.

Councilwoman Brofsky noted the Code Violation Report shows there were a lot of solid waste storage violations and many of those were in Ward 4. She asked for specifics on the issue or whether residents were not understanding the Ordinance that was recently passed.

City Administrator Nogelmeier responded that the Code Enforcement Officer was specifically looking for violations and addressed the violations she saw at the time. Moving forward, staff will continue to try to educate residents on the changes that were made last year. Most of the violations given were initial violation letters, which allow residents an opportunity to correct the issue before the City takes further action.

POLICE COMMITTEE, CHIEF THURLO

Monthly Report

Chief Thurlo referred the Council to the report in the packet subject to questions. He highlighted several situations that occurred over the past month. He stated that the numbers remain consistent over last month.

Councilman Watkins thanked Chief Thurlo for the coin in remembrance of Officer Oswald. He stated it was heartwarming to drive around Fairway and see all the blue lights this week.

PUBLIC WORKS COMMITTEE, MR. STOGSDILL

Monthly Report

Mayor Hepperly referred Council to the report in the packet. She requested that if Council had questions about the report that they should direct those questions to Director Stogsdill.

PARKS AND RECREATION COMMITTEE, MR. SOEKEN

Monthly Report

Director Soeken discussed upcoming events related to Fairway's 75th Anniversary, including the outdoor movie on September 21, 2024 and the outdoor concert on October 12, 2024 at Peterson Park. He stated that pool hours will be reduced to weekends only through Labor Day because school is back in session.

Councilman Story thanked Director Soeken and Councilwoman Brofsky for putting together the flyers regarding the programming for the 75th Anniversary because not all residents receive information the same way so the more ways to get information out, the better.

Responding to Councilman Story's question, Director Soeken discussed the new Books and Babies program that Recreation Supervisor Reis put together. Because the pool is still functional with the reduced hours, the program will be conducted in the zero-depth area where the parent and child can come and have a book read to them and swim at the same time. The dates for the program have not been set but will be announced soon.

MONTHLY REPORTS OF SPECIAL COMMITTEES

Tree Board

No report.

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 #1819 – July 2024; (C) Letter of Understanding for 2025 Minor Home Repair Program; (D) Letter of Understanding with Envision Lawn and Tree.

Mayor Hepperly asked for discussion. Hearing none, she asked for public comment. Hearing none, she asked for a motion.

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

NEW BUSINESS

- A. Consider Resolution #2024-C – A Resolution of the City of Fairway, Kansas Establishing a 5-Year Funding Commitment to Support a Johnson County Homeless Services Center Managed by ReStart with United Community Services Acting as Fiscal Agent.

Mayor Hepperly asked for discussion from the Council.

Councilman Story explained that the request is for \$3,160 the first year and the funding commitment will continue for five years.

Councilwoman Keys stated that she appreciated the thorough presentation given at the work session. She is familiar with ReStart and the United Community Services. She appreciates that cities were asked to contribute for blended funding and the collective impact of the project.

Councilman Watkins stated that he also appreciated the presentation. Considering the first-year cost of \$3,160, it seems like a drop in the bucket. But it is also a drop in the bucket for the County to fund the project. He talked with a few residents who do not oppose the project, but do oppose the idea of residents paying twice because if the County supports the project, residents pay taxes to the County and then if the City supports the project, residents also pay taxes to the City. From a policy perspective, he thinks there are other ways that the City can show support for the project. For example, the City adopts resolutions all the time, acknowledging groups and supporting things and he thinks this would be a perfect opportunity where the City could adopt a Resolution supporting the project and then let the County fund what is a County project. ReStart could use the City's Resolution to leverage private donations and if Fairway residents feel strongly about the project, they can make a private donation and contribute twice. Councilman Watkins supports the project itself; however, he thinks the funding mechanism is not necessary at this time. And, if the City is going to get into shared funding between counties and cities, he would be more than thrilled to see the County commit to funding the Shawnee Indian Mission to help take some of the burden off of Fairway.

Councilman Levin thinks that the program is extremely well thought out and there is also a history behind the organization putting it together. He regrets that there are not more homeless services. He also regrets that everyone is attacking the symptoms and not the cause, which he knows may be a bigger universe than the City can handle.

Councilman Williams supports the program but he does understand Councilman Watkins' concern about funding as the County should fund and has the ability to fund the project. He added though that he does not mind paying twice. He thinks the numbers of homeless in the information presented is undercounted and understands that currently the County is shipping its homeless problems to other counties. He thinks the County needs to step up and support the problem and help to find a solution. Councilman Williams also stated that he would be abstaining from the vote because he is such a fan of Stephanie Boyer and he thinks ReStart would be a great program.

Councilwoman Buszek thinks it is extremely important that Fairway work together with Johnson County to help support people who are down on their luck and trying to get back on their feet to become responsible citizens for the State of Kansas. Although she has complained about taxes that residents pay, she feels like the request is a small drop in the bucket comparatively speaking. She supports the initiative for the homeless shelter.

Councilwoman Brofsky stated that she also appreciated the helpful presentation and in looking into ReStart, she found them to be a reputable organization. She is particularly excited about the transitional housing aspect which over the long term, will help people. She supports the program.

Councilman Story acknowledged that while the request for the City's participation was last minute and Councilmembers have not had the chance to get a lot of feedback, he does appreciate all the work that has gone into this project over the last several years. He thinks it is a program the community needs and he doesn't look at it as just a Johnson County issue but also as a local community issue. He thinks it is positive for Fairway to be a direct part of the program and is in favor of Fairway's participation.

Mayor Hepperly asked for additional discussion from the Council. Hearing none, she asked for public comment on this item.

Pat Hotze, 6524 Overbrook, Mission Hills, represents the Good Faith Network, a Johnson County Interfaith group composed of nearly 30 congregations across three faith traditions that advocates for solutions to the community's most pressing problems. She represents more than 1,500 people who gathered in person in support of ending homelessness and creating affordable housing at their May 7, 2024 assembly. This fall, hundreds more will gather again for the Good Faith Network small group listening sessions held across the County and in Fairway to hear about the community's hope for and commitment to ending homelessness. The opportunity presented this evening is for the City to make a financial investment in a center that will be permanently and centrally located, open year-round, professionally staffed, offering physical security and stability to a group of residents who are too often overlooked. The center has been a long time coming and is undeniably necessary as the community's time count continues to rise each year. The latest data shows that on any given night, there

are 250 people homeless in Johnson County. This is happening in the largest wealthiest county in Kansas. She knows there is a small number of highly vocal opponents of the Homeless Services Center and she is sure that Councilmembers have received calls, emails and comments from fellow residents, either against or in favor of Fairway contributing to funding the Center. She and others have chosen to be involved with the Good Faith Network to be a counter to the Not in My Backyard narrative, which exists in Johnson County. They have mobilized hundreds of people every year for issues such as ending homelessness and creating affordable housing and they represent a bigger, more unified voice that anyone with or without a home is still a neighbor who we are called to love. The Good Faith Network urges the Council to vote in support of contributing to the Homeless Services Center.

Maria Holiday, 7647 Hemlock, Overland Park, Kansas, stated that she was requested to come and speak before the Council. She stated that she is in no way opposed to helping the homeless; however, government is generally the least effective way to help people. She agrees with Councilwoman Buszek that the City wants to help people in Johnson County who are down on their luck; however, there is no way of knowing that the people being helped are actually from Johnson County or from Kansas. In addition, Councilmembers have talked about how this was a well-thought-out plan and she also heard discussions about affordable housing. She is a realtor, and asked that the Council consider how these types of projects affect affordable housing. She stated that residents are taxed for these types of projects and those taxes result in increased property taxes, which makes housing less affordable for many people. It takes about \$109,000 of average annual income in order to be able for afford to purchase a home. That is an incredible increase over 5 years ago. The cost estimated for the project is a best guess and those numbers have changed twice in the last several weeks. She would expect them to increase over time. It will be a well that they will come back to over and over and is a bit like being bamboozled. She knows there are a lot of good organizations in Johnson County, including the Good Faith Network, Jewish Family Services, Salvation Army and Hillcrest Traditional Housing Project. United Community Services already gets a good deal of money from Johnson County and each year they ask for a little bit more. They don't have to show any accountability. She has asked for a matrix of numbers to show that what they are doing is actually working and they don't have those numbers. The Request for Proposal (RFP) that went out on the project did not even go to the City Union Mission. Only four RFPs were returned and there was no nationwide search. There is also the question of whether Lenexa will approve the project and whether the project will satisfy the U.S. Department of Housing and Urban Development (HUD) guidelines. And, once HUD money is involved, the County has lost control because it becomes a Federal project. She is unsure what that means next year when they come back for something else because the project did not meet the HUD guidelines. She asked that Councilmembers visit the lenexashelter.com website and review the history of the developer and other shelters in other areas to see how they turned out to determine whether that is what Councilmembers want in the area.

Mayor Hepperly asked if there was additional public comment on this item. Hearing none, she closed public comment and asked for additional discussion from the Council. Hearing none, she asked for a motion.

Councilman Levin moved that the Council approve Resolution #2024-C – A Resolution of the City of Fairway, Kansas, Establishing a 5-Year Funding Commitment to Support a Johnson County Homeless Services Center Managed by ReStart with United Community Services Acting as Fiscal Agent. Councilwoman Buszek seconded the motion and the motion carried 5 to 1 with one abstention.

B. Consider Ordinance #1811 – Special Use Permit for Six Large Utility Structures at 4210 Shawnee Mission Parkway.

City Administrator Nogelmeier reported that the Planning Commission has recommended approval of this Special Use Permit, which will be for electrical structures that will support the project at 4210 Shawnee Mission Parkway. The site plan in the packet shows the location of the structures.

Responding to Councilman Story's question, City Administrator Nogelmeier explained that these structures were contemplated in the original plan, but the Special Use Permit is required because of the size of the structures. There will be adequate screening in terms of landscaping around the structures.

Mayor Hepperly asked for additional discussion on this item. Hearing none, she asked for public comment. Hearing none, she asked for a motion.

Councilman Watkins moved to approve Ordinance #1811 – Special Use Permit for Six Large Utility Structures at 4210 Shawnee Mission Parkway. Councilman Story seconded the motion and the motion carried unanimously.

C. Consider Planning Commission Recommendation for Approval of a New Monument Sign Face at 4500 Shawnee Mission Parkway.

City Administrator Nogelmeier reported that from time-to-time KCTV 5 has changed their logos on the monument sign and the Code requires that the Planning Commission and City Council approve changes to commercial signs. They will not be changing the size or any other aspects of the sign other than the sign face. The Planning Commission recommends approval of the new monument sign.

Mayor Hepperly asked for discussion from the Council. Hearing none, she asked for public comment on this item. Hearing none, she asked for a motion.

Councilman Story moved that the Council approve the Planning Commission recommendation for the new monument sign face at 4500 Shawnee Mission Parkway. Councilwoman Buszek seconded the motion and the motion carried unanimously.

COMMENTS BY GOVERNING BODY

Mayor Hepperly asked for comments by the Governing Body.

Councilman Watkins thanked Mayor Hepperly for her Master of Ceremonies work at the party at the Park last weekend and stated it was a fun event for the neighborhood.

PUBLIC COMMENT

Mayor Hepperly asked if there were members of the public who would like to comment.

Brian Robinson, 5301 Norwood Street, stated that he would like to talk about the tunnel that goes underneath Shawnee Mission Parkway at Belinder. He stated that the railings in the tunnel are deteriorating and it is disappointing to him that the tunnel has not been taken care of. It is the entrance to Fairway and he wondered if that is how the City wants to represent itself. The City has doubled its revenue in the last 10 years through the growth and value of homes through the sales tax generated and the tunnel generates a lot of sales taxes and a lot of people use the tunnel. One Saturday from his deck he saw at least 20 people using the tunnel in about half an hour. He has also seen a boy ride his bike and come back to his home with food from First Watch. It is good that his parents felt it was safe for him to ride his bike through the tunnel and to bring back food, which was such a convenience for his parents. As for safety at the crosswalk, Mr. Robinson stated that his driveway is on Shawnee Mission Parkway and there is a curve there with landscaping that prevents drivers from seeing well in the crosswalk. So, using the tunnel is much safer than using the crosswalk. The value of the homes near the tunnel continue to go up and those residents are supporting businesses in the Fairway Shops. He asked that the City maintain the tunnel and see if they can do that quickly.

Loring Leifer, 5640 Cherokee Circle, stated that she and her husband and her dog regularly use the tunnel to cross over to the Fairway Shops. She thinks that anything the City can do to encourage more pedestrians will have benefits, including encouraging people to walk that will take wear and tear off of the streets, maybe decrease the need for emergency services and give parents comfort that their children can cross the street safely. She and her husband also cross regularly at the intersection of Shawnee Mission Parkway and Mission Road and it is a perilous intersection because of how fast the traffic is and how you can't really see the cars coming. The lights also seem to be a contest because sometimes you have only 12 seconds to get across and then other times you can leisurely walk across. Having a safe tunnel will be instrumental in getting more people to use the tunnel and the Fairway Shops, which will help add to the coffers and pay for other necessary services.

Paul Temme, 5640 Cherokee Circle, stated that residents heard that the Kansas Department of Transportation has decided they are not going to maintain the tunnel. He thinks it is an important safety issue and it goes to the heart of walking and bicycling in the neighborhood, especially for those who walk with children and pets.

Tim Boeshaar, 5310 Norwood, strongly believes that the tunnel should be maintained in order to maintain a nice beautiful city and maintain the ability to walk across to the Fairway Shops. He sees many of his neighbors when he walks through the tunnel. If it were not for the tunnel and he had to jump in his car to drive to the grocery store, he isn't sure that he would choose the grocery store at Fairway Shops, which is right across the street, because there are many other options. He enjoys being able to walk to the grocery store, to pick up a book or have coffee or a drink in the Shops. He would appreciate it if the City would fund maintenance of the tunnel.

Jason Crackow, 5440 Belinder Road, stated that he and his wife have lived in Fairway for 28 years. He appreciates the Mayor and Council's good work to maintain this amazing community, and walkability is part of that. Being able to walk to a community of shops is a rare thing in Johnson County and is something he and his wife have cherished and is what drew them to the community. He thinks the tunnel is a true gem, well worth maintaining, and he urged the Council's support.

Eric Smith, 5346 Belinder Road, also voiced his support for maintenance of the tunnel. The key issue for residents is convenience and safety. It would be a great loss for the community given that the infrastructure exists not to continue to maintain it and invest in it in a way to preserve it for future generations. He added that when Councilman Story was running for office, he was pleased to see that one of the things Councilman Story was focused on was the maintenance and improvement of the tunnel and that was really important for residents in supporting him.

Mr. Smith added that he also has written comments from Matt Bowen and his family and Lucas Meek and his family, both of whom were not able to attend the meeting but wanted to share their support for maintenance of the tunnel. Matt Bowen's daughter, who is entering junior high school, also wrote a letter in support of the tunnel. He hopes that Fairway will continue to invest in and preserve the tunnel.

Steve Stoskopf, 5311 Norwood, stated that he has lived in Fairway for six years and the tunnel is a legacy to Fairway. While he prefers to drive rather than walk through the tunnel, he does use it sometimes. He agrees that the tunnel needs to be cleaned up and the rails are awful. He is not sure what the State will do but the tunnel is a legacy to Fairway so he asked that the Council consider maintaining it. He explained that it is a safety issue because he used to run across the street for a Sunday paper and has been nearly killed several times. He thinks that families

with young children need that tunnel and he asked that the Council do whatever it can to keep it.

Fred Orem, 5528 Belinder, stated that he has been in Fairway since 1980 and also supports the tunnel. To provide historical background, Mr. Orem explained that when he was a kid, he used to ride his bike over to the Fairway Theater every Saturday. The reason his parents allowed him to ride his bike that far was he was required to use the tunnel rather than trying to cross on the highway. There is a reason why the tunnel was built in the first place and traffic has only increased since then.

Phillip Herman, 5424 Belinder Road, stated that he has lived in Fairway for five years and similar to his neighbors, he supports the tunnel. He has a 6-year-old daughter and one of the reasons they liked the home on Belinder was access to the tunnel. Every time he walks down the ramp it makes him try to recall when the last time was that he got his tetanus shot. He hopes that the City can clean up the tunnel and make it nicer for residents.

Mayor Hepperly explained that she knows this subject is very serious and she walks through the tunnel every morning. She thanked residents for speaking on this issue as it is very important that the Council hear from residents. She asked City Administrator Nogelmeier to update residents on what the Council has done over the last year concerning maintenance of the tunnel.

City Administrator Nogelmeier stated that with any good government problem, it is always way more complicated than one might think. From their research, the tunnel was constructed in 1948, and the intersection was put in at that same time with a signal because of complaints of speeding. The ramp on the south side is an unplatted piece of land that is owned by the State of Kansas. The tunnel is also owned by the State of Kansas. The north side of Shawnee Mission Parkway was originally owned by JC Nichols and after Fairway became incorporated, JC Nichols deeded the land directly in front of the Shops out to Shawnee Mission Parkway to the City of Fairway and thus, Fairway owns the ramp on the north side of the Parkway. At the time that property was deeded by JC Nichols, there was a gentleman's agreement that JC Nichols would continue to maintain the railings and tunnel on both sides. As ownership of the Fairway Shops has changed over the years, that gentleman's agreement has not transferred to the new owners. Over the years, owners have done things to the tunnel in terms of maintaining the railings and Fairway has also snuck in some things. Fairway replaced the ramp on the south side several years ago and also updated the electrical inside the tunnel about a decade ago. Technically, Fairway owns only the ramp and railings on the north side of the tunnel.

Fairway has had conversations with KDOT about the possibility of refurbishing the tunnel. Initially KDOT sent out their structural engineer who did verify that the tunnel is still structurally sound. The tunnel initially had a 50-year life span and is now in year 76, but the structural engineer thinks there is another 30 or 40 years of life left in the tunnel structurally speaking. Most of the work needed is

cosmetic in terms of crumbling on the ramps and work that needs to be done in the tunnel itself. The City has commissioned work to have the tunnel sandblasted and repainted, but it has been several years since any significant work has been put toward the tunnel.

Last May, the City Council held a workshop on all outstanding capital projects – everything from storm water landscaping to streetlights to mill and overlay. The realities of that conversation were that the tunnel was, at that time, ranked the lowest priority, given the rest of the competing projects that were facing the City. Only one company was willing to give a bid to restore the tunnel, which would involve new railings, both ramps and the perimeter around the ramps, and stripping the tunnel interior back to concrete and trying smooth it out to get rid of the stalagmites that are on the floor. The cost for the work was estimated at \$85,000. The City went to KDOT with that number to see how much KDOT would be willing to fund. KDOT responded that if the tunnel needs work, they would just close it and indicated they had no interest in maintaining the tunnel or putting any more money into maintenance. KDOT took this position because there is a signaled intersection with crosswalks that people can use.

If the City wants to do anything with the tunnel, it will have to enter into a long-term maintenance agreement with KDOT, wherein the City would agree to maintain the tunnel for the rest of its life. Whether or not the tunnel would be replaced or removed at the end of its life would be a conversation that would happen at a later time. Unless KDOT changes its position, if the tunnel needs to be replaced, the City would need to fully fund that project (assuming that project was a priority established by the Governing Body).

City Administrator Nogelmeier explained that the City has requested that the same contractor who provided the earlier estimate provide an updated amount to move forward with the work. He hopes to have the revised numbers within the next week.

Should the Governing Body decide that it wants to move the project onto the 5-year capital improvement program (CIP), then it can be added to the CIP moving forward. It would come down to how does the tunnel project compete with other things needed, like mill and overlay of roads or new police cars or public works facilities. The Council could opt to add the tunnel project to the CIP in any given year and rank it in priority of 1, 2 or 3. That doesn't necessarily guarantee that the project will move forward but at least it puts it on the schedule. That is something that can be discussed at the next Administration and Finance Committee meeting.

Mayor Hepperly asked that the tunnel project discussion be added to the agenda for the Administration and Finance Committee meeting in September.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hepperly adjourned the meeting at 7:48 P.M.

Mayor Melanie Hepperly

Attest:

Barb Fox, Recording Secretary