

**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, March 13, 2023.

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

Absent: None.

Presiding: Mayor Melanie Hepperly.

Staff Present: Nathan Nogelmeier, City Administrator; Richard Cook, City Attorney (via Zoom); J.P. Thurlo, Police Chief; Bill Stogsdill, Director of Public Works.

Visitors: Joe Alburty, 5905 Fontana; Randy Johnson, 5450 Canterbury Road; Jim Poplinger, 5300 Aberdeen.

**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.

**MONTHLY REPORTS OF STANDING COMMITTEES**

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

Mayor Hepperly stated that Chief Chick was not in attendance at the meeting and referred the Council to his report in the packet.

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

**Monthly Report**

City Administrator Nogelmeier reported that the Committee discussed the proposed Ordinances for trash cans and long-term storage at its recent meeting and the proposed Ordinances are on the Agenda this evening. The Committee decided that there are many ways for residents to recycle glass so will not move forward at this time with a glass recycling program.

The Committee also discussed an anti-Semitism Resolution and a presentation is expected at the March 29, 2023 Administration and Finance Committee meeting.

POLICE COMMITTEE, CHIEF THURLO

Monthly Report

Chief Thurlo referred to the report in the packet, subject to questions. He discussed some media coverage in reference to recent burglaries related to garage door openers. Victims were advised to change their garage door codes. He also discussed a situation where an individual tried to avoid a traffic ticket by calling in a fake shooting in a different city. The individual received a ticket and was charged appropriately.

PUBLIC WORKS COMMITTEE, MR. STOGSDILL

Monthly Report

Director Stogsdill referred to the report in the packet, subject to questions. He reported that the Public Works Department achieved its first reaccreditation. A video presentation by Keith Pugh, President of the American Public Works Association, was presented to the Council.

PARKS AND RECREATION COMMITTEE, MR. SOEKEN

Monthly Report

Director Stogsdill reported that Director Soeken was not present at the meeting and referred the Council to the report in the packet, subject to questions.

MONTHLY REPORTS OF SPECIAL COMMITTEES

Tree Board

City Administrator Nogelmeier reported that a meeting of the Tree Board is scheduled for April 12, 2023.

APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the nine 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 #1778 – February 2023; (C) Johnson County Mental Health Co-responder Cooperative Memorandum of Understanding; (D) 2023 Law Enforcement Range Use Agreement with Mill Creek Rifle Club; (E) Agreement with Bridging the Gap for Managing the 2023 Best Management Practices Cost Sharing Program.

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

### NEW BUSINESS

#### A. Consider Bid for 2023 CIP Projects.

Director Stogsdill stated that he sent detailed bid information to the Council last Friday with his recommendation to accept the bid for CIP projects from McAnany Construction in the amount of \$870,000. He offered to answer questions.

Councilman Watkins explained that he exchanged emails with Director Stogsdill concerning the fact that the lowest bid was not recommended. This would have resulted in a cost savings of \$110,000. He understands that the City has worked with the lowest bidder on previous projects and there were concerns about the quality of work performed. He asked if the Council had concerns about accepting the second lowest bid.

Mayor Hepperly responded that she does not have concerns about selecting the second lowest bid due to the poor quality of previous work of the low bidder. She understands that there are still issues and the prior work may have to be redone, causing considerable disruption to residents. The City's policy is to accept the lowest responsible bid. She doesn't think that accepting the lowest bid based on prior work would be responsible.

Councilman Bailey indicated that because he works in the industry, he thinks that having to accept the lowest bid is one of the worst things you can do in business. He noticed that the other bid amounts received were close together, which means the lower bid was an outlier. He said it is hard to quantify what poor workmanship could cost.

Director Stogsdill explained that the prior work by the low bidder had several areas requiring patching after just one year. They have scheduled a meeting on site with the engineers who designed the work because several streets may need to be repaved completely.

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

Councilwoman Brofsky moved that the Council approve the bid for 2023 CIP projects. Councilwoman Buszek seconded the motion and the motion carried unanimously.

B. Ordinance #1779 – An Ordinance Amending the Fairway City Code Pertaining to Vehicle Storage and Amendment to Chapter 3 of the Property Maintenance Code as Published; Amending and Repealing Section 65-55(5) of the Fairway City Code.

City Administrator Nogelmeier stated that this item was discussed at the last two Administration and Finance Committee meetings. Currently, storage of recreational vehicles, trailers and other equipment that are less than 10 feet tall is allowed on residential property as long as the equipment is behind the front building line. The proposed changes will no longer allow permanent storage of recreational vehicles, trailers and other equipment on residential property. An exception is allowed for storage of this equipment for 48 consecutive hours for not more than 12 occurrences per year.

Responding to Councilman Watkins' question, City Administrator Nogelmeier confirmed that lawnmowers and other lawn equipment cannot be left out over the weekend if residents are working in their yard.

Responding to Councilman Bailey's question, City Administrator Nogelmeier explained that the proposed Ordinance would apply to properties zoned and used for residential purposes. The Old Mission Church is not used for residential purposes, so it would be excluded from the Ordinance requirements and allowed to store the bus and Boy Scout trailer currently stored on the lot. Residents running a business from their homes would be subject to the proposed Ordinance because the property is zoned and used for residential purposes.

Councilman Bailey proposed that the terms "personal watercraft" be added to the list of prohibited equipment so there is no question that storage of jet skis is prohibited.

City Attorney Cook agreed that personal watercraft should be added to the list of prohibited equipment.

Councilwoman Buszek noted that the Ordinance defines an oversized motor vehicle as any motor vehicle that exceeds 28 feet in length and has a licensed gross weight exceeding 12,000 pounds. She stated that in Ward 1 there are residents who own Class B vehicles that are used for work and recreation, but they are not more than 28 feet in length and do not weigh over 12,000 pounds. There are also residents who have work vans like those used by Amazon. She wanted to make sure that those types of vehicles would be allowed under the Ordinance.

City Administrator Nogelmeier confirmed that the vehicles referred to by Councilwoman Buszek would not be included in the prohibition outlined by the proposed Ordinance.

Councilwoman Brofsky explained that she received a comment from a resident who asked whether the Ordinance would allow lawnmowers to be stored in the backyard because garages are small.

City Administrator Nogelmeier responded that as written, the proposed Ordinance would not allow for outdoor storage of lawn equipment.

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

Councilman Watkins moved that the Council approve Ordinance #1779 – An Ordinance Amending the Fairway City Code Pertaining to Vehicle Storage and Amendment to Chapter 3 of the Property Maintenance Code as Published; Amending and Repealing Section 65-55(5) of the Fairway City Code.

Councilman Bailey suggested that the motion be amended to include personal watercraft in the list of prohibited items.

Councilman Watkins accepted that amendment to his motion.

Councilman Bailey seconded the motion.

Councilwoman Brofsky suggested that the Council make an exception to allow for storage of lawnmowers in the backyard.

Councilman Smith does not support an exception for lawnmowers to be stored in the backyard.

Joe Alburty, 5905 Fontana, asked to make a public comment. He stated that he was the resident who communicated with Councilwoman Brofsky about storage of lawn equipment in the backyard. He explained that didn't mean to indicate that he was worried about lawnmowers. His question was more directed to lawn carts, etc.

Following discussion, the motion carried unanimously.

C. Ordinance #1780 – An Ordinance Amending the Fairway City Code Pertaining to Solid Waste Storage Sites; Amending and Repealing Section 12-31 of the Fairway City Code.

City Administrator Nogelmeier explained that the current Code states that trash containers on residential property cannot be visible from the street. Residents are trying to meet the spirit of the Code by at least partially screening them or putting them in the backyard, but that does not meet the technical aspects of the Code. Staff routinely gets complaints about trash cans being visible and also gets complaints about the Ordinance being too strict.

The revised Ordinance states that trash container storage will be considered compliant if the containers cannot be seen when standing at the center point of the property at the street. This change relaxes the Code for storage of trash containers on residential property.

A second revision relates to how long the trash cans can be at the street prior to and after collection. The previous Code allowed trash cans to be set out 15 hours prior to collection and requires that they be stored post collection within 24 hours. This proposed new Ordinance will allow trash containers to be set out 24 hours prior to collection and they can remain until 24 hours after collection. Thus, assuming trash collection day is on Monday, trash containers can be put out anytime on Sunday and must be stored away anytime on Tuesday.

Mayor Hepperly asked for further discussion. Hearing none she asked for public comment on this item.

Randy Johnson, 5450 Canterbury Road, stated that when he sits at his dining room table there are two houses across the street where trash cans are very visible as they are stored at the edge of the garage doors. He asked if that storage location would be considered a violation.

City Administrator Nogelmeier responded that the location described by Mr. Johnson would likely constitute a violation.

Mr. Johnson also asked how enforcement would be handled for renters who do not own the homes they are living in.

City Administrator Nogelmeier responded that the goal is to educate residents before enforcement. If the Community Services Officer sees a violation, she will attach a door tag to the front door notifying the resident of the violation and asking them to correct the violation. There is a 10 day window for the violation to be corrected. If there are repeat offenses and the education piece isn't working, the City will move to enforcement where a citation will be issued that will involve a Municipal Court appearance.

Mr. Johnson also noted that according to the proposed Ordinance, trash cans can be placed at the curb as early as 7:00 A.M. on Sunday and not be removed until Tuesday evening. He disagrees with that as he is concerned about trash cans being out over the weekend.

Discussion followed regarding the trash cans stored on the side of homes that meet the proposed Ordinance if they would have to be screened. City Administrator Nogelmeier explained that if the trash cans cannot be seen from the center of the front property line as outlined in the proposed Ordinance, screening would not be required. However, if the property owner wants to keep their trash cans stored in an area that would be in violation of the proposed Ordinance, they do have the option of doing that but they would have to be screened. Under that

scenario, the fee for the permit required for the enclosure of the trash cans would be waived.

Responding to Councilwoman Brofsky's question, City Administrator Nogelmeier summarized the comments that he has received from property owners concerning the proposed Ordinance, as follows: (1) what types of screening would be allowed and if the screening needed to be solid; (2) the reasons why the City was making this change; (3) requests from residents that the City not make the changes; and (4) residents supportive of the changes. He added that he did not hear from anyone that was not supportive of the proposed Ordinance changes to the long-term storage of vehicles.

Jim Poplinger, 5300 Aberdeen, stated that he finds it odd that, on the one hand, the proposed Ordinances will not allow a garden cart to be stored in the backyard that can't even be seen from the street and then, on the other hand, will allow trash cans on a permanent basis where they can be seen from the street.

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

Councilwoman Keys moved that the Council approve Ordinance #1780 – An Ordinance Amending the Fairway City Code Pertaining to Solid Waste Storage Sites; Amending and Repealing Section 12-31 of the Fairway City Code. Councilman Rogers seconded the motion and the motion carried 6 to 2.

#### COMMENTS BY GOVERNING BODY

Councilwoman Brofsky reported that Ward 4 held a Ward meeting recently and 7 residents attended and they had a good discussion.

#### 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 Rogers seconded the motion and the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 7:15 P.M.

---

Mayor Melanie Hepperly

Attest:

---

Barb Fox, Recording Secretary