

**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, September 12, 2022.

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; Brice Soeken, Director of Parks and Recreation; Bill Stogsdill, Director of Public Works.

Visitors: Keith Buszek, 5607 Chadwick Road; Caleb George, 6830 Beverly Drive.

**CALL TO ORDER AND ANNOUNCEMENTS**

Mayor Hepperly called the meeting to order. She announced that the Executive Session has been removed from the Agenda as it will not be necessary. She also reminded Councilmembers to review the League of Kansas Municipalities letter that is in their mailboxes as it contains a great article concerning how Kansas cities are spending their ARPA dollars.

City Administrator Nogelmeier also noted two corrections in the packet related to the Tree Board appointee and invoices shown on Claims and Appropriations.

**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 explained that Fire Chief Chick was not present at the meeting and she referred the Council to the report in the packet, subject to questions.

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

**Monthly Report**

City Administrator Nogelmeier referred the Council to the report in the packet, subject to questions. At its meeting on August 31, 2022, the Committee reviewed the final draft of the 2023 budget. He explained that throughout the budget

process they look at the sources of revenue, especially sales tax. The sales tax come from brick-and-mortar stores and online sales. In January, the City received a record \$200,000 in monthly distribution of sales tax and since January that has occurred five times. The City budgeted sales tax revenue of \$153,000. Sales tax numbers have been trending very strong since the beginning of the pandemic.

#### POLICE COMMITTEE, CHIEF THURLO

##### Monthly Report

Chief Thurlo referred to the report in the packet, subject to questions. He again reminded residents to lock their doors. He discussed events that occurred over the weekend with an individual breaking into homes under construction. With video from residents and good hustle from the Police, the subject is in jail.

Responding to Mayor Hepperly's question, Chief Thurlo stated that they are looking to expand bike patrols; however, the Department does not currently own a bicycle so they have been borrowing one. There is a one year wait to receive a bike and one has been ordered.

Responding to Councilwoman Brofsky's question, Chief Thurlo stated the circumstances dictate what happens when a subject is picked up and in possession of marijuana or drug paraphernalia. Depending on if there are other charges involved or not, the subject could be arrested or issued a citation to appear in Court.

#### PUBLIC WORKS COMMITTEE, MR. STOGSDILL

##### Monthly Report

Director Stogsdill referred to the report as submitted, subject to questions. The Committee met in August and reviewed the results of the Pavement Condition Index (PCI) Report. The Report uses ratings from 0 to 100 and the results were at 60. The City strives to be around 65 or 70 and hopes to be able to reach that range in the next few years.

Responding to Councilman Watkins' question about flyers received by residents concerning the mill and overlay project, Director Stogsdill stated that the contract for the work expires on December 15, 2022; however, the contractor expects to have the work completed within the next two or three weeks.

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

##### Monthly Report

Director Soeken referred to the report in the packet, subject to questions. He stated that the 2022 pool season has come to a close and a full report will be

provided at the October meeting. The newsletter has been sent and includes a schedule of the upcoming fall activities.

Mayor Hepperly pointed out that while the revenue numbers are not final, they currently show that revenues year to date from the pool and program-related items exceeded budget by \$40,000. She thanked Director Soeken and his staff for their work.

### MONTHLY REPORTS OF SPECIAL COMMITTEES

#### Tree Board

City Administrator Nogelmeier reported that the Tree Board is scheduled to meet next week.

### APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the six items on the Consent Agenda. The Consent Agenda items include the following: (A) Minutes of Previous Regular and Special City Council Meetings; (B) Claims and Appropriations – Ordinance #1769 – August 2022; (C) Purchase of Police Vehicle; (D) Mayoral Appointment to Tree Board; (E) City-wide HVAC Maintenance Agreement with Santa Fe Heating and Cooling; (F) APWA Re-accreditation Agreement and Application.

Mayor Hepperly asked for public comment. 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 the items A through F on the Consent Agenda. Councilman Rogers seconded the motion and the motion carried unanimously.

### NEW BUSINESS

#### A. Public Hearing to Exceed the Revenue Neutral Rate and 2023 Budget Hearing.

Mayor Hepperly opened the Public Hearing. She explained that administratively and pursuant to instructions from the State, the Public Hearing will involve four items on the Agenda this evening: (1) to exceed the revenue neutral rate, (2) the 2023 Budget Hearing, (3) Resolution 2022-E, and (4) the 2023 Budget and 2023 through 2027 Capital Improvement Plan. Votes on each of these items must be by roll call.

Mayor Hepperly asked City Administrator Nogelmeier to present these items. City Administrator Nogelmeier stated that historically, cities in Kansas have been required to hold a budget Public Hearing annually. Last year, legislation was

passed wherein the State created the revenue neutral rate, which requires a separate hearing; however, the public hearings on the budget and the revenue neutral rate can be held at the same time. The law requires that roll call votes occur within the Public Hearing. Copies of the minutes which include the roll call vote will be submitted with the budget to the County who then submits it to the State.

City Administrator Nogelmeier presented a PowerPoint of the 2023 budget.

First, he explained how property taxes are calculated. In January 2022, the average appraised value in Fairway was \$546,000. The assessed valuation percentage is 11.5 percent and the assessed value is just over \$62,000. There are multiple taxing jurisdictions, including the County, the State, the Park district, the Community College, etc. All of them use the same process to get to the assessed valuation. Each taxing jurisdiction will have different mill levies, resulting in a different portion of a resident's tax bills going to those jurisdictions. In Fairway, the proposed budget has a mill rate of 19.928 mills per \$1,000 of assessed valuation. On average, the annual tax liability in Fairway is about \$1,250 with a monthly liability of \$104.

Next, he showed a chart with a property tax bill broken down and that only 16% of a resident's tax bill is allotted to Fairway while 47% goes to the School District, 1% to the State, 2% to the Park District, 3% to the Library, 7% to the Community College, 9% to the Fire District, and the remaining 15% goes to Johnson County.

Responding to Councilwoman Brofsky's question, City Administrator Nogelmeier explained that the Development Agreement for the new active adult facility officially begins January 1, 2024, so the facility has not yet affected property taxes in the City.

City Administrator Nogelmeier next reviewed the revenue neutral rate covered under Senate Bill 13 passed in 2021. The revenue neutral rate is defined as the property tax rate for the current year that would generate the same amount of property tax revenue as the previous year, using the current year's total assessed valuation. This means that the government levies the same exact amount of property tax that they collected the previous year. The rate does not account for inflation but relies on growth to generate additional revenue to offset inflationary increases. If a tax revenue philosophy is employed, no new property tax revenue will be available to offset increasing costs, which will necessitate either a reduction or elimination of services or an inability to maintain assets. The philosophy of the revenue neutral rate suggests that it is possible to buy today's goods at last year's prices. This year, from a budgeting perspective, that is very difficult.

City Administrator Nogelmeier explained that the current mill levy rate is 19.928 and that is what is proposed going forward. Applying the revenue neutral rate would result in the mill levy rate dropping to 18.281. The City proposes to

maintain the mill levy flat at 19.928 (which it has done for the seventh consecutive year). This allows for an increase of about \$200,000 to both the General Fund and Debt Service and results in an increase of the 2023 City portion of the property tax of about \$110 annually or \$9 per month for the average homeowner.

He next presented the 2023 budget calendar and the process leading to the budget hearing.

City Administrator Nogelmeier stated that if the mill levy remains the same in the proposed budget at 19.928, the General Fund budget (excluding reserves) will increase 4.41 percent from 2022. This increase is about one-half of the current inflation rate. He understands that other cities are increasing their budgets significantly more due to inflation. He outlined budget changes that include increases in health insurance costs, an additional Police officer, license readers and traffic cameras for the Police, a new salt dome door and liquid salt sprayer for Public Works, and new pool furniture and paint/tile work in the zero-depth area of the swimming pool for the Parks and Recreation.

City Administrator Nogelmeier next discussed that the General Obligation Bond debt service in 2023 totals \$746,495. Debt is funded through several different sources, including the 2014 Sales Tax Fund, the Stormwater Utility Fund, and the Debt Service Fund.

The five-year total cost of Capital Improvement Plan (CIP) projects is more than \$5 million. The only revenue stream to CIP projects is a half-cent sales tax approved by voters in 2012, which is split between the Capital Improvement Fund and the Debt Service Fund, with each receiving about \$150,000 per year in sales tax. Any remaining monies needed to cover the cost of the projects comes in the form of transfers from the General Fund. With the proposed transfers for 2023 and the sales tax, there will be enough monies to cover projects planned for 2023. If those revenues go away in the future, there will not be a funding source for major infrastructure work.

Finally, City Administrator Nogelmeier compared Fairway with other Kansas cities, stating that Fairway has the third lowest City mill levy rate for cities of the second class and the fifth lowest City mill levy rate for cities of the first and second class combined. Finally, Fairway has the fifth lowest overall mill levy rate for cities of the second class and has the seventh lowest overall mill levy rate for cities of the first and second class combined.

Mayor Hepperly asked if there were questions concerning the presentation. Hearing none, she asked for public comment on this item.

Keith Buszek, 5607 Chadwick Road, stated that his wife, Kelly Ann Buszek is a Councilmember from Ward 1. He said that in 1978, voters in California approved Proposition 13, which limited the collection of property taxes to 1% of the sales price of a home and annual increases to no more than 2%. He noted that

arguments were made that taxes in Orange County, Los Angeles County, and Contra Costa County were among the lowest and the continued property tax revenue was needed to maintain the services. Those counties claimed that if Proposition 13 passed, they were going to have to make cuts to schools, Fire and Police protection and streets maintenance. None of those predictions came to pass. Proposition 13 has been in effect for 45 years and at least 12 states have followed the same approach to property tax. The reason Proposition 13 works and is so appealing is that the taxing authorities know exactly how much money they have to spend and taxpayers have a predictable property tax.

Mr. Buszek understands that Kansas Senate Bill 13 was intended to reduce the tax burden on homeowners. He has heard that more than half of the counties in Kansas are sending out property tax bills that are either lower or have an increase of no more than 3 percent. Unfortunately, Johnson County is not one of them. According to the proposed tax bill he received from Johnson County, his property tax will increase about 5 percent.

He noted that Kansas has one of the highest property tax rates in the country – ranking 37 out of 50 states. He wonders why states like California and many others are able to maintain all their services without property tax increases. He does not understand how more than half of the counties in Kansas are limiting their property tax increases and he asked why Fairway was not able to do the same.

Responding to Mayor Hepperly's question, Mr. Buszek stated that he is aware that all of the other taxing authorities, like the State and School Districts, exempted themselves from Senate Bill 13.

Mr. Buszek also wondered how states like Washington, Texas, Alaska, Wyoming and Florida have no income tax and booming and thriving economies.

Mayor Hepperly stated that she could not answer Mr. Buszek's questions without delving into each individual state's process. She explained that when she came to the Council in 2009, the City implemented the zero-based budgeting process and is still follows that process. For example, they do not take 2022 numbers and increase them 4.4 percent and then that becomes the budget for 2023. They begin each year at zero and go from there. The process enables the City to keep the budget lean because they start over each year and build each department's budget based on the services the citizens want. This process is not easy for the department directors but enables the City to ensure there is nothing extra in the budget. This process is why the increase is only 4.1 percent versus neighboring cities that she understands have budget increases of nearly 10 percent.

Mr. Buszek explained that he appreciates everything the City does to keep a lean budget and also appreciates the Police Department and Public Works, especially when winter rolls around.

Mayor Hepperly asked Mr. Buszek what service he thinks the City should eliminate. She explained that decision packages are prepared at the Committee level are detailed and she suggested that Mr. Buszek review those packages to determine what service should be eliminated.

Mr. Buszek responded that he thinks Mayor Hepperly is missing the point. Proposition 13 was a citizen's initiative by overburdened taxpayers because hundreds of thousands of people in the state were on the verge of losing their homes to taxation. California and many other states are able to live within a 2 percent annual increase. He asked what Fairway, Johnson County and other cities and counties could do to get under the 3 percent increase. Many of those counties are very rural and they do not have a substantial commercial tax base.

Mayor Hepperly responded that Fairway is 95 percent residential and thus, tax dollars are limited.

Councilman Watkins thanked Mr. Buszek for his comments. Every year he questions how Fairway can limit tax increases. He pointed out that California has one of the highest state income tax rates in the country, which is where California gets its money. Texas has a severance tax for their oil and gas, which is where Texas gets its money. Finally, Mr. Buszek is comparing States to Cities, which is not a fair comparison.

Councilman Watkins explained that the budget increase will be \$200,000. When he looks at the budget, he does not see where cuts can be made. Fairway has one of the highest sales tax rates already so he does not think that is an option. Increasing fees is the only way to make up for the revenue difference and the City has already increased fees. The easiest place to cut costs would be to cut salaries or staff. However, the City is looking to hire an additional Police Officer because crime is rising and there will be an additional 400 residents once the active adult facility is completed. He noted that the Public Works, Administration and Parks and Recreation Departments are bursting at the seams with work. For the last eight years he has looked at the budget to see what could be cut that would allow the City to lower its tax rate but he has not been able to find it.

Mr. Buszek explained that if the proposed increase for Johnson County is 5.5 percent, and a homeowner does not get a corresponding pay increase, then some people are not going to be able to continue to live in Fairway.

Responding to Mr. Buszek's question if the City will be a \$200,000 budget increase next year, Mayor Hepperly stated that the City does not have a crystal ball to make that determination. She suggested that Mr. Buszek speak with the School District and the State and ask them why they exempted themselves. For example, 47% of the property taxes paid by residents goes to the School District; although she doesn't want to throw the School District under the bus because she believes the School District is excellent. She suggested that Mr. Buszek go to the School Board meetings and the State and discuss this with them.

Mr. Buszek asked what happens to residents who cannot pay higher taxes.

Mayor Hepperly responded that she understands there are individuals on a fixed income and how difficult that may be. She asked Mr. Buszek if he had a suggestion to help those residents.

Councilman Bailey does not disagree with anything Mr. Buszek is saying; however, it boils down to what the residents want. The City could cut \$200,000 from the budget, but it would mean no milling and overlaying streets or hiring an additional Police Officer.

Mayor Hepperly asked if there were others who wished to make public comment. Hearing none, she asked for discussion from the Council.

Councilwoman Buszek explained that she has been on the Council for almost five years. Throughout that time, dozens of her constituents have spoken to her about property taxes in Kansas and Fairway. While this is State issue, she understands that increased taxes affect good citizens who have lived in Fairway for decades and are now on a fixed income. She pointed out that since 2020, the City has raised its budget by \$1 million. She wondered what will happen if the City raises its budget over the next four years by another \$1 million. She thinks that the City needs to do something to help these people so they don't have to sell their homes.

Mayor Hepperly asked if there were additional questions or comments from the Council and there were none.

B. Resolution 2022-E – A Resolution of the City of Fairway, Kansas, to Levy a Property Tax Rate Exceeding the Revenue Neutral Rate.

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

Councilman Watkins moved that the Council approve Resolution 2022-E – A Resolution of the City of Fairway, Kansas, to Levy a Property Tax Rate Exceeding the Revenue Neutral Rate. Councilman Rogers seconded the motion.

City Administrator Nogelmeier requested a roll call vote.

Councilwoman Brofsky voted yes.

Councilman Watkins voted yes.

Councilman Smith voted yes.

Councilwoman Buszek voted no.

Councilman Rogers voted yes.

Councilman Bailey voted yes.

Councilman Levin voted yes.

Councilwoman Keys voted yes.

The motion carried 7 to 1.



C. 2023 Budget and 2023-2027 Capital Improvement Plan.

Mayor Hepperly asked for additional questions. Hearing none, she asked for a motion.

Councilman Smith moved that the Council approve the 2023 Budget and the 2023-2027 Capital Improvement Plan. Councilwoman Brofsky seconded the motion.

City Administrator Nogelmeier requested a roll call vote.

Councilwoman Brofsky voted yes.  
Councilman Watkins voted yes.  
Councilman Smith voted yes.  
Councilwoman Buszek voted no.  
Councilman Rogers voted yes.  
Councilman Bailey voted yes.  
Councilman Levin voted yes.  
Councilwoman Keys voted yes.

The motion carried 7 to 1.

Mayor Hepperly closed the Public Hearing.

D. Memorial and Donation Request for a Park Bench at Peterson Park.

Director Soeken explained that Tim Stark, a resident of Mission, submitted the application because he and his mother used to come to Peterson Park and they really enjoyed their time there. His mother has passed and Mr. Stark would like to honor her with a memorial plaque. There is already an updated bench where the plaque will be placed so the City will use the donation to update another bench at the Park that needs to be replaced.

Responding to Councilman Smith's question, Director Soeken explained that there is an application process for the memorial. The bench is made of recycled plastic that lasts quite a while and the memorial plaque is bronze. In the event the bench ever needs replaced in the future, it will remain a memorial bench.

City Administrator Nogelmeier added that the policy allows the City to relocate the bench if necessary due to expansion and staff will notify the family in the event the bench needs to be relocated.

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

Councilwoman Keys moved that the Council approve the memorial and donation request for a park bench at Peterson Park. Councilman Watkins seconded the motion. The motion carried unanimously.

E. Consider Feature Tree Removal Request by Chris George Homes for a Tree Located at 4218 W. 59<sup>th</sup> Street, Fairway, Kansas, 66205.

Director Stogsdill stated the tree that the applicant wants to remove is in decent shape but iron deficient and will require ongoing maintenance. Denying the request will result in significant redesign of the house. The tree is located in the center of the lot. The developer plans to put the driveway in the center of the lot, which encroaches on the root system and the tree will likely not survive. There is precedent for the Governing Body allowing the removal of a feature tree. He believes the request is reasonable as long as the applicant pays the appropriate fee into the Tree Fund.

Mayor Hepperly asked if there were questions for staff. Hearing none, she asked the applicant to address the Council.

Caleb George, 6830 Beverly Drive, Fairway, Kansas, stated that he represents Chris George Homes, the developer. He explained that they never want to remove any tree, especially a feature tree, because they understand trees are a significant part of Fairway's desirability. This is the sixth home they have built in Fairway and first request to remove a tree. On this lot, the tree is directly in the middle. The Code requires that the driveway be 20 feet from the tree to avoid disruption of the root system. Even with a significant redesign to create an accessible approach for the two-car garage would be difficult.

City Administrator Nogelmeier explained that the Planning Commission has approved the plans subject to the Governing Body's approval of the request to remove the tree. If the Governing Body does not grant the request, the Planning Commission site plan approval would be considered denied.

Councilwoman Brofsky explained that from reviewing the plans, it does not appear that the tree is directly in the center of the lot.

Mr. George responded that he believes the lot is 70 feet wide and the tree is 30 feet from the west side and 40 feet from the east side. He added that they could try to shift the garage over, but it would require a total redesign of the house to stay far enough away from the tree.

Responding to Councilwoman Brofsky's comment, Mr. George explained that they could build a one car garage but it would not be financially viable based on the cost of the lot and the top purchase price attainable for a home with a single car garage. He would estimate that 95 percent of the newly built homes have two or three car garages.

Responding to Councilman Smith's question, Mr. George stated that they would be planting a new tree to replace the removal.

Director Stogsdill stated that the policy allows the applicant to deduct the caliper size of the new tree off the amount the applicant would pay into the Tree Fund.

Responding to Councilwoman Brofsky's question, Director Stogsdill stated that if a 2-inch caliper tree were planted, it would take more than his lifetime for that tree to become 31.5 inches in diameter.

Mr. George stated that they could plant a larger caliper tree because it would provide some value to the home.

Director Stogsdill pointed out that there is a diminishing return once the caliper of the new tree is above 2 or 2.5 inches. The tree will cost more money and would have a lower survival rate.

Councilman Watkins indicated the plans show that the garage is not at the edge of the east side of the home and there is more house to the east and obviously more house on the west side. He wondered if the garage could be relocated farther in either direction, allowing the tree to be retained.

Mr. George responded that it would still be a problem because the driveway would be 10 feet away from the tree versus the 20 feet that is required.

Councilman Bailey asked if the applicant could install the driveway per the plans, pay into the Tree Fund, but retain the tree and hope it survives.

Director Stogsdill responded that the applicant could retain the tree; however, any future maintenance or removal would be the applicant's responsibility.

Councilman Bailey asked if the applicant could be granted a waiver from the Code requirement that the driveway be 20 feet away from the tree.

Director Stogsdill stated he would not be comfortable with granting a waiver because people are fined for getting inside the protected tree zone when they build a home. As indicated earlier, the applicant will pay into the Tree Fund and try to retain the tree but if removal is required then the applicant is responsible for removal and costs.

Mr. George stated that he would prefer to keep the tree as it is a selling point and there is a cost involved for removal. He will disclose to the buyer that future maintenance of the tree is the homeowner's responsibility. He thinks that most homeowners would take the chance on letting the tree remain and remove only if there are problems with it.

Councilman Watkins explained that he does not see this situation as an apples-to-apples comparison. While the City has issued fines for violations to the Tree Protection Ordinance, the applicant is stating he will attempt to save the tree. If

the developer pays into the Tree Fund, they can remove the tree but the City has lost a feature tree. He wondered if the Council could grant an exception to the 20-foot requirement in the Tree Protection Ordinance, not require the developer to pay into the Tree Fund, and take a chance that the tree is not damaged during construction.

Director Stogsdill responded that he does not think that granting an exception to the 20-foot requirement is an option and he recommends against it. He would consider that a huge conflict that the City cites people violating the protected zone and then exempt a builder from that requirement.

Responding to Councilwoman Brofsky's question as to process, City Administrator Nogelmeier explained that when an applicant submits an application, they are given all the information about the Tree Protection Ordinance. If the tree is less than 30 inches in diameter, the Tree Manager (Public Works Director), may approve the tree removal as long as payment is made into the Tree Fund. In this situation, the tree is over 30 inches in diameter and considered a feature tree. The Council must approve the removal of the tree.

Director Nogelmeier agreed that the City should be consistent and allowing the driveway within 20 feet of the tree should require payment into the Tree Fund to offset the City's expenses for the tree maintenance. There are times when someone will try to retain a tree and pay into the Tree Fund but later, the tree must be removed. Either way, after payment is made into the Tree Fund, the City is no longer responsible.

Responding to Councilwoman Brofsky's question, Mr. George acknowledged that there was some confusion concerning the tree at the time the application was submitted to the Planning Commission. He was told to avoid all right-of-way trees and that is what they aimed to do. When the plot plan was received, he was glad to see that the trees were retained. He was later alerted to the 20-foot Code requirement when the plans were reviewed by staff.

Director Stogsdill pointed out that the applicant has not had one tree violation on any of the homes they have built in Fairway.

Councilman Watkins explained that because this is a new home, the lot would be a blank canvas. He asked if it would be possible to design a home with a two-car garage that could fit on the lot without affecting the tree.

Mr. George stated it would be impossible to design a home on that lot with a traditional two car garage and a standard 16-foot approach. The driveway would need to be curvy and would not allow for a direct pull into the garage while keeping 20 feet from the tree.

Mayor Hepperly asked if there were additional questions for the applicant. Hearing none, she asked for discussion from the Council.

Mayor Hepperly suggested that since the applicant will try to keep the tree, that the motion be to consider the feature tree purchase request. Her only concern about not removing the tree is that the applicant will advise the buyer that they are responsible for maintenance and/or removal of the tree.

Councilwoman Brofsky stated that the default should be to protect feature trees. If someone wants to build a house and profit off of it, that is fine; however, she does not think that should trump the City's policies. Fairway is the City of Trees and allowing removal of the tree will set a dangerous precedent. The environmental benefits of the large tree is not going to be captured with a smaller tree.

Councilwoman Keys stated that the lot in question is at the end of her block so she is very familiar with the tree. She doesn't think that the tree is that great and limbs fall off of it all the time. She also thinks that the tree is way too big and makes the lot seem shallow.

Responding to Councilwoman Brofsky's question, Mayor Hepperly referred to the report in the packet, which indicates that the tree is in above average shape, only needs some minor maintenance, and appears to have iron deficiencies.

Mayor Hepperly asked for further 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.

Councilman Smith moved that the Council approve the feature tree purchase request by Chris George Homes for a tree located at 4218 W. 59<sup>th</sup> Street, Fairway, Kansas, with a requirement that the current owner disclose to the future property owners that the tree is the sole responsibility of the homeowner. Councilman Rogers seconded the motion. The motion carried 7 to 1 with Councilwoman Brofsky voting naye.

F. Final Plat for 4200 and 4210 Shawnee Mission Parkway.

City Administrator Nogelmeier explained that the Council previously reviewed a preliminary version and this is the Final Plat. He expects there will be an amended version when the utility locations are finalized. The Planning Commission has recommended approval to the Council.

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

Councilman Watkins moved that the Council approve the Final Plat for 4200 and 4210 Shawnee Mission Parkway. Councilman Levin seconded the motion. The motion carried unanimously.

Mayor Hepperly noted that the applications for the active adult project have been submitted and demolition is scheduled to begin on September 26, 2022.

City Administrator Nogelmeier informed that the developers indicated a large amount of the concrete will be recycled as part of the Green Globes sustainability certification. The concrete piles will be fenced and watered to minimize the dust.

#### COMMENTS BY GOVERNING BODY

Mayor Hepperly asked if there were comments from the Council on any item.

Councilwoman Buszek stated that the dog waste container that was near the north building at the Shawnee Indian Mission has been removed. She said that people are now leaving dog waste bags where the container was previously located.

Director Soeken responded that the container was installed by the Shawnee Indian Mission Foundation. The volunteer who maintained it has moved and no one has volunteered to take over so it was removed. He noted that there is a posted sign reminding dog owners to pick up after their pets and there is dumpster across the street in the parking lot.

Councilwoman Brofsky encouraged everyone to attend the Johnson County Sustainability Fair on Saturday, September 17, 2022 at Sylvester Powell Center from 9:00 A.M. to 12:00 P.M.

#### PUBLIC COMMENT

Mayor Hepperly noted that no public were present at the meeting so public comment was dispensed.

#### ADJOURNMENT

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

There being no further business to come before the Council, the meeting was adjourned at 8:32 P.M.

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Mayor Melanie Hepperly

Attest:

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Barb Fox, Recording Secretary