

**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 7:30 P.M. at 5240 Belinder Road, Fairway, Kansas, on Monday, November 8, 2021.

Present: Council Members Jenna Brofsky, David Watkins, Tom Cotter, 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.

Visitors: Bob Johnson, 5332 Falmouth Road; Austin Bradley, EPC Real Estate Group, 8001 Metcalf, Overland Park; Jim Poplinger, 5300 Aberdeen; Skip Hensler, 5657 State Park Road; Sally Nelson, 5516 Belinder.

CALL TO ORDER AND ANNOUNCEMENTS

Mayor Hepperly called the meeting to order.

City Administrator Nogelmeier announced that the swearing in ceremony for the newly re-elected officials will take place at the December 13, 2021 City Council meeting. The Council will then recess for 30 minutes for a short reception to recognize those officials. The reception will be combined with the annual appreciation for volunteers, including members of the Planning Commission and Board of Zoning Appeals, as well as past elected officials.

The Council will also return to its normal seating arrangements at the dais at the December meeting.

PLEDGE OF ALLEGIANCE

Mayor Hepperly led the Council in the Pledge of Allegiance.

PROCLAMATION: NATIVE AMERICAN HERITAGE MONTH

Mayor Hepperly read a proclamation designating the month of November as National American Indian Heritage Month in the City of Fairway.

MONTHLY REPORTS OF STANDING COMMITTEES

CONSOLIDATED FIRE DISTRICT NO. 2, CHIEF CHICK

Mayor Hepperly referred to the Consolidated Fire District report in the packet as submitted.

ADMINISTRATION COMMITTEE, MR. WATKINS

Monthly Report

Councilman Watkins reported that the Administration Committee did not meet in October.

City Administrator Nogelmeier referred the Council to the report in the packet, subject to questions.

POLICE COMMITTEE, MS. KEYS

Monthly Report

Councilwoman Keys reported that the Police Committee met on October 29, 2021.

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

PUBLIC WORKS COMMITTEE, MS. BUSZEK

Monthly Report

Councilwoman Buszek referred the Council to the report in the packet subject to questions. She thanked the Public Works and Parks and Recreation Departments for their assistance with the Driveway Trick or Treat Event and for helping with Santa's Workshop.

PARKS AND RECREATION COMMITTEE, MR. COTTER

Monthly Report

Councilman Cotter stated that the Parks and Recreation Committee did not meet in October but the department has been busy as indicated in the report. He thanked the other departments for their help with the Driveway Trick or Treat and Santa's Workshop events. He referred to the report in the packet, subject to questions.

FINANCE COMMITTEE, MR. LEVIN

Monthly Report

Councilman Levin reported that the Finance Committee met on October 27, 2021 during which City Administrator Nogelmeier presented the sales tax and cash flow numbers, which are running ahead of budget. The Committee also discussed moving the start time of City Council meetings and that item is on the New Business Agenda this evening.

City Administrator Nogelmeier referred the Council to the report in the packet subject to questions.

MONTHLY REPORTS OF SPECIAL COMMITTEES

Tree Board

No report.

APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the three 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 #1749 – October 2021; (C) Purchase of new Police Department Patrol vehicle.

Mayor Hepperly asked for public comment on the Consent Agenda items. Hearing none, she asked for discussion from the Council.

Councilwoman Brofsky thanked Chief Thurlo for looking into hybrid vehicles and for putting together the memo included in the report. While she understands it is not a feasible option at this time, she appreciates the fact that the hybrid vehicle option was considered.

Chief Thurlo responded that the Police Department is getting close to moving to hybrid vehicles, but it is not yet feasible for them to do so.

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

Councilman Cotter moved that the Council approve the items on the Consent Agenda. Councilman Watkins seconded the motion and the motion carried unanimously.

NEW BUSINESS

A. Public Hearing: TIF District.

Mayor Hepperly reopened the Public Hearing concerning the TIF District that was continued from the September and October Council Meetings.

City Administrator Nogelmeier reported that he received two emails from residents concerning the TIF District. One resident did not support establishment of a TIF District. The other email was more of an inquiry and the sender did not provide an opinion.

Bob Johnson, 5332 Falmouth Road, stated that he is from the Polsinelli Law Firm and is appearing on behalf of developer, Austin Bradley of EPC Real Estate

Group, who is also present at the meeting. Over the two previous Council meetings they have presented information concerning the project and they are available for questions from the Council.

Jim Poplinger, 5300 Aberdeen, stated that he opposes the creation of the TIF District. He considers it as corporate welfare because dollars that should be paid to support municipal, Fire District and County services are instead being redirected to improve private property and produce profits for the property owner.

Second, Mr. Poplinger stated the property owner and tenants will not be paying their fair share of the costs of the services and public infrastructure provided by the City. He understands that TIF Districts were originally developed to facilitate or encourage the redevelopment of run-down property that was undesirable. He finds it hard to believe that any property in the City of Fairway is undesirable.

Third, Mr. Poplinger believes that the only reason that this property would fall within the definition of a conservation area is that its owner has not maintained the property or taken actions to upgrade it over the course of many years. He does not think the owners wanted an office building from the very beginning but wanted something else and now they want the public to pay for it.

Finally, Mr. Poplinger does not think it would be fair to the adjacent property owners who have maintained, renovated and remodeled their properties with their own money. He asked why those adjacent property owners should have to pay for their improvements when their neighbor comes along and asks the City to finance the project for them.

Mr. Poplinger is also concerned about setting precedent because if this TIF District is allowed, other requests will soon follow. He urged the Council not to waste more time on this project and to put an end to it.

Skip Hensler, 5657 State Park Road, agreed with Mr. Poplinger's comments and is opposed to the approval of the TIF District. He thinks that the Council should consider the marketability of the property because it is great asset and has great potential. He has been driving through this property for the last 10 years. The property has not been well maintained and the property owners should be ashamed of the way they have let the property deteriorate. He requested that the Council deny the TIF District as he believes there is great potential for this property.

Mayor Hepperly asked for additional public comment. Hearing none, she closed the public hearing on the TIF District.

- B. Consider Ordinance #1745 – An Ordinance of the Governing Body of the City of Fairway, Kansas making findings and establishing a Redevelopment District pursuant to K.S.A. 12-1770 et seq., and amendments thereto.

Mayor Hepperly first wanted to clear up any misunderstandings about this Ordinance. She clarified that the Council's vote on this Ordinance creates the TIF District only and is not a vote to approve the TIF itself or a vote to approve the development plan. Approval of this Ordinance will allow the Council to review and consider those other items.

Mayor Hepperly asked for discussion from the Council.

Councilwoman Brofsky stated that she and Councilwoman Keys received an email from a Ward 4 resident who indicated they were not in favor of the creation of the TIF District.

Councilman Watkins reiterated that this Ordinance will only approve the creation of the TIF District and is not a TIF agreement with the developer. The approval is a procedural step that lays the groundwork for future discussions with the developer, which may or may not lead to a TIF agreement. If no TIF agreement is reached with the developer, the Council can reverse the TIF District designation of the property and it can revert back to a Planned Use District.

Councilwoman Buszek stated that over the past several months the Council has discussed the creation of the TIF District with the developer, including that the developer allowed the property to get run down. Many of her constituents have contacted her and indicated they are not in favor of the TIF District. She does not agree that her constituents misunderstand what a vote on the TIF District means and what can happen if the Council approves the Ordinance. Residents in her Ward are concerned that there are several vacant businesses in the City that are already affecting tax revenue. She is also concerned about City services. While increasing the City's population by 10 percent may not make a big difference always, she thinks that there will be times when it is going to make a difference. For those reasons, she thinks that the Council needs to make better choices and should not approve the TIF District.

Councilman Levin agreed there is no question that the property has been abused and ignored. However, he thinks that the Council should keep an open mind about what is best for Fairway and should not ignore the possibility of the TIF District (understanding that this Ordinance will only create the TIF District and not the TIF itself). While it may not be this particular project, eventually the property will need to be repaired and the creation of the TIF District facilitates that but does not guarantee it.

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

Jim Poplinger, 5300 Aberdeen, explained that he understands that this Ordinance will only create the TIF District; however, he does not agree that creating the TIF District is the right thing to do. His issue is not with the proposed project itself. If the developer believes the proposed project is viable, they should do it on their own dime. The City is not responsible for upgrading private property. The City

is the responsible for maintaining public property, public infrastructure and public services.

Sally Nelson, 5516 Belinder, stated that she agreed with Councilwoman Buszek's opinions on this matter.

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

Mayor Hepperly asked for a motion.

Councilwoman Keys moved that the Council approve Ordinance #1745 – An Ordinance of the Governing Body of the City of Fairway, Kansas making findings and establishing a Redevelopment District pursuant to K.S.A. 12-1770 et seq., and amendments thereto. Councilman Watkins seconded the motion and the motion carried six to two.

C. Consider Engagement Letter with Stifel, Nicolaus & Company, Inc. regarding redevelopment of 4210/4220 Shawnee Mission Parkway.

Mayor Hepperly stated that this engagement letter is with the City's financial advisor and relates to the redevelopment project. The services are covered under the Funding Agreement entered into with the developer and expenses will be paid by the developer and not by the City.

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

Mayor Hepperly asked for a motion.

Councilman Cotter moved that the Council approve the engagement letter with Stifel, Nicolaus & Company, Inc. regarding redevelopment of 4210/4220 Shawnee Mission Parkway. Councilman Bailey seconded the motion and the motion carried unanimously.

D. Consider Ordinance #1750 – An Ordinance repealing Chapter 2, Article 2, Section 2-22 of the Fairway Municipal Code regarding the start times of regular City Council Meetings.

Mayor Hepperly explained that this Ordinance would change the start time of the regular City Council Meetings from 7:30 P.M. to 6:30 P.M., effective December 1, 2021. The meetings will remain on the second Monday of each month.

Mayor Hepperly asked for discussion on this item.

Councilwoman Buszek explained that she was not present at the Finance Committee Meeting when this issue was discussed. She asked if constituents had requested this change.

Mayor Hepperly responded that constituents had not requested the time change. The time change was discussed during the Finance Committee meeting, which is a Committee of the whole. Several Councilmembers suggested changing the meeting time because some of the meetings were lasting late into the night and the consensus by the Council was to move the meeting time to 6:30 P.M.

Councilwoman Buszek agreed that some of the Council meetings have lasted late into the night; however, she noted that citizens who would like to speak at the public forums do not have jobs that end at 5:00 P.M. and they have children and dinner to take care of before they can attend the meeting. She suggested that perhaps the public comment portion of the meeting be held earlier or that Executive Sessions be scheduled in advance of the regular meeting. She requested that the start times of the Council Meetings remain at 7:30 P.M.

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

Councilman Watkins moved that the Council approve Ordinance #1750 – An Ordinance repealing Chapter 2, Article 2, Section 2-22 of the Fairway Municipal Code regarding the start times of regular City Council Meetings. Councilman Keys seconded the motion and the motion carried seven to one.

- E. Consider Ordinance #1751 – an Ordinance relating to the regulation of traffic within the corporate limits of the City of Fairway, Kansas, incorporating by reference the Standard Traffic Ordinance for Kansas cities, 48th edition, with certain additions; amending or readopting and repealing existing Sections 10-19 through 10-22, inclusive, and Sections 10-48 through 10-66, inclusive, of the Code of Ordinances, City of Fairway, Kansas; and repealing Ordinance No. 1729.

City Attorney Cook stated that the Council annually adopts the updated Standard Traffic Ordinance for Kansas Cities. The Ordinance that was passed last year is repealed and replaced with the new Ordinance.

Responding to Councilwoman Brofsky's question, City Attorney Cook confirmed that there were no substantive changes to the Ordinance from last year.

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

Councilman Bailey moved that the Council approve Ordinance #1751 – an Ordinance relating to the regulation of traffic within the corporate limits of the City of Fairway, Kansas, incorporating by reference the Standard Traffic Ordinance for Kansas cities, 48th edition, with certain additions; amending or readopting and repealing existing Sections 10-19 through 10-22, inclusive, and Sections 10-48 through 10-66, inclusive, of the Code of Ordinances, City of Fairway, Kansas; and repealing Ordinance No. 1729. Councilwoman Brofsky seconded the motion and the motion carried unanimously.

- F. Consider Ordinance #1752 – an Ordinance relating to the regulation of Public Offenses within the corporate limits of the City of Fairway, Kansas; incorporating by reference the Uniform Public Offense Code for Kansas cities, 37th edition, with certain changes; amending and repealing existing Section s8-25, 8-26, 8-27, 8-29, 8-30, and Sections 8-49 through 8-55, inclusive, of the Code of Ordinances, City of Fairway, Kansas; and repealing Ordinance No. 1726.

City Attorney Cook reported that this Ordinance will adopt the updated Uniform Public Offense Code for Kansas Cities and no substantive changes were made from last year.

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

Councilman Bailey moved that the Council approve Ordinance #1752 – an Ordinance relating to the regulation of Public Offenses within the corporate limits of the City of Fairway, Kansas; incorporating by reference the Uniform Public Offense Code for Kansas cities, 37th edition, with certain changes; amending and repealing existing Section s8-25, 8-26, 8-27, 8-29, 8-30, and Sections 8-49 through 8-55, inclusive, of the Code of Ordinances, City of Fairway, Kansas; and repealing Ordinance No. 1726. Councilman Cotter seconded the motion and the motion carried unanimously.

COMMENTS BY GOVERNING BODY

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

Councilman Rogers stated that he and Councilwoman Buszek received an email from a resident concerning parking on the street. He understands that vehicles may not be parked for longer than 24 hours on the street. The issue in Ward 1 is that people park directly across from each other making it difficult to travel through, especially for emergency vehicles. He wondered if there is anything that can be done from an Ordinance perspective or if a Constant Contact could be sent to residents reminding them not to park directly across from another vehicle.

City Administrator Nogelmeier responded that staff could conduct a public education campaign about street parking. Only residents that subscribe to Constant Contact would receive the email communication, but an announcement could also be put in the newsletter. He explained the City could regulate parking through an Ordinance, but he cautioned that such regulations would probably upset more people than not. He thinks the City should exhaust all other efforts before codifying regulations that would result in citations. He agreed to ask staff to publish information encouraging residents not to park directly across the street from another vehicle or across from driveway access. He suggested that if someone has a concern, that they should reach out to the Police Department.

Chief Thurlo stated that the street must remain passable for fire trucks, ambulances and vehicles and if it is not, that would be a violation. Residents should notify the Police Department if they think there is a violation and they will respond.

Councilman Rogers also asked if a communication could be sent to residents concerning not parking on streets for the upcoming snow season.

City Administrator Nogelmeier stated that the Administration Department typically sends out an email or post on Facebook reminding residents in advance of an anticipated snow event to move their vehicles from the street. The Mayor has the ability to declare a state of emergency, which would make it an enforceable offense if cars are left on the street.

Councilwoman Buszek thanked Chief Thurlo and City Administrator Nogelmeier for their comments on this issue. She said residents should also notify guests not to park on the street across from another car. She indicated that this is a daily problem especially on Mondays when trash and recycling is being collected.

Mayor Hepperly asked for additional comments from the Governing Body. Hearing none, she closed the Governing Body Comment portion of the meeting.

PUBLIC COMMENT

Mayor Hepperly asked if anyone in the audience would like to make public comment on any items not on the agenda.

Hearing none, she closed the public comment portion of the meeting.

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 8:17 P.M.

Mayor Melanie Hepperly

Attest:

Barb Fox, Recording Secretary