

The Regular Session was called to order at 6:37 p.m. by Mayor Copeland. Present were Councilmembers Montgomery, Bacon, Campbell, Vogt, Randall, and Huttman. Also present were City Manager Wilkes and City Attorney Glinstra.

1. CALL TO ORDER

2. EXECUTIVE SESSION

Motion by Randall, seconded by Bacon, to recess into an executive session for 20 minutes under the attorney-client, real property, and personnel exceptions to the Kansas Open Meetings Law to consider the following item. Passed 7-0

LAWSUITS

- A. Discuss matters which would be deemed privileged in an attorney-client relationship pertaining to *Pate-Campbell Properties, Inc. v. Board of County Commissioners & city of Olathe.*

The meeting recessed at 6:38 p.m.

3. RECONVENE FROM EXECUTIVE SESSION

The meeting reconvened at 7:00 p.m.

4. BEGIN TELEVISED SESSION

5. PLEDGE OF ALLEGIANCE

6. SPECIAL BUSINESS

AWARDS

- A. Olathe high school state champions were recognized.

Representatives from Olathe East High School were present to be honored by the Governing Body for recent win of the Kansas 6A Softball Championship; this win was the fourth consecutive win for Olathe East High School for this category.

BOARDS AND COMMITTEES

- B. Resolution No. 07-1089 appointing members to the Public Art and Culture Committee was considered.

Motion by Randall, seconded by Bacon, to approve appointing Carole Ladd and Shirley Grove. Passed 7-0.

- C. Resolution No. 07-1090 appointing a member to the Sister Cities Committee was considered.

Motion by Randall, seconded by Bacon, to approve appointing Rick Miller. Passed 7-0.

BOARDS AND COMMITTEES

- D. Resolution No. 07-1091 reappointing a member to the Board of Zoning Appeals was considered.

Motion by Randall, seconded by Bacon, to approve appointing Phyllis Pacheco. Passed 7-0.

The Parks and Recreation Director introduced Eric Herndon, coach for Special Olympics to make a brief presentation to the Council.

Mr. Herndon thanked the Council and city staff for the programs provided for the kids of the community. He stated the programs make a personal impact for the participants. Several participants thanked the Council verbally and with banners.

7. PUBLIC HEARINGS

ECONOMIC DEVELOPMENT

- A. A public hearing on a request by College West Business Park, LLC for issuance of industrial revenue bonds and tax abatement was opened.

No one appeared.

Motion by Randall, seconded by Bacon, to close hearing. Passed 7-0.

- B. Resolution No. 07-1092 expressing the intent to issue industrial revenue bonds and grant tax abatement for the College West Business Park, LLC project was considered.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

- C. Resolution No. 07-1093 assigning a portion of the interest in industrial revenue bonds from College West Business Park, LLC to U.S. Bank National Association was considered.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

8. CONSENT AGENDA

Councilmember Vogt asked that Item D be considered separately.

Councilmember Bacon requested that Items O and Q be considered separately.

Motion by Randall, seconded by Bacon, to approve the Consent Agenda with noted exceptions. Passed 7-0.

MINUTES

- A. Council meeting minutes of August 7, 2007 were considered and approved.

- B. The Consent Calendar was considered and approved.

PROJECTS

1. CHANGE ORDERS

- a. None

2. PROJECT COMPLETION CERTIFICATES

- a. Southpark Medical Plaza, Lot 7, Sanitary Sewers, Project No.13806D, was considered and approved.

3. FINAL PAYMENT TO CONTRACTORS

- a. 2006 Cedar Creek Concrete Repairs, Project No. 30106C, was considered and approved.

Final Payment -	\$	89,159.56
Original Contract Amount -	\$	83,279.00
Paid-To-Date -	\$	70,896.34
Change Orders -	\$	76,776.90
Final Contract Amount -	\$	160,055.90

Contractor - Miller Paving & Construction

4. FINAL PAYMENT TO CONSULTANTS

- a. None

PLATS

- C. Final plat, P-07-048, for Woodland Manor, Second Plat, on 23.58 ± acres; located in the vicinity of Woodland Road and College Boulevard was considered and approved. Owner/Applicant: Richard Hoelting, Woodland Developers
- D. Consideration of a final plat, P-07-050, for one lot and two tracts, 0.9016 ± acres of Ridgeview Falls, Sixth Plat; located in the northeast corner of 119th Street and Ridgeview Road **WAS REMOVED FOR SEPARATE CONSIDERATION**. Owner/Applicant: Robert Morrissey, RMPL Development Company.
- E. Final plat, P-07-051, for The Courts of Fairfield Village, Second Plat, on 9.55 acres; located in the vicinity of 167th Street and Mur-Len Road was considered and approved. Application: Gary Jones, Fairfield Courts LLC.
- F. Final plat, P-07-053, Park View Commercial, First Plat, on 14.10 ± acres; located at the northeast corner of K-7 Highway and Harold Street, was considered and approved. Owner/Applicant: Megan Tjernagel, Eller Development.
- G. Final plat, P-07-002, for 1 tract, 1.22± acres, of Woodland Acres, 2nd Plat; located at 122nd Street and Nelson Road, and a motion to waive the street and signal excise fees was considered and approved. Applicant: Bruce Hunt, In Land Construction Services

SEWER ENLARGEMENTS

- H. Resolution No. 07-1094 requesting the city's consent to the enlargement of Consolidated Main Sewer District (Corporate Ridge Eighth Plat) was considered and approved.

SPECIAL USE PERMIT

- I. Resolution No. 07-1095, SU-07-013, for a special use permit renewal for Sadler Indoor Racing, on 2.5 acres; located at 325 N. Mur-Len Road was considered and approved. Owner/Applicant: Phillip Sadler, Olathe Partners LLC.

LICENSES

- J. A pawnbroker license application was considered and approved.
- K. Massage therapy establishment license applications were considered and approved.
- L. A cereal malt beverage license application was considered and approved.

BONDS

- M. Resolution No. 07-1096 authorizing the sale of general obligation bond series 210 was considered and approved.

PROJECTS

- N. Resolution No. 07-1097 authorizing the creation of a benefit district to widen Woodland Road, Project No. 3-B-048-XX, was considered and approved.
- O. Offers made to Olathe Medical Center and Life Church, Inc. for street right-of-way and easements needed for the I-35 Highway and Lone Elm Road Interchange; PN 37197C, **WERE REMOVED FOR SEPARATE CONSIDERATION.**
- P. An offer made to Jerry and Carol Ottinger for street right-of-way and easements needed for the Dennis Avenue Bridge project; PN 33704 was considered and approved.
- Q. Supplemental Agreement No. 6 with HNTB for design services beyond the scope of previous agreements on the I-35 and Lone Elm Interchange, PN 37197C, **WAS REMOVED FOR SEPARATE CONSIDERATION.**
- R. Change Order No. 1 to Pyramid Contractors, Inc. for additional work to be done on the project of College Boulevard between Woodland and Ridgeview, PN 36600, was considered and approved.
- S. An Addendum to the agreement between the city of Olathe and the Mahaffie Stagecoach Stop and Farm Foundation for funding of the Heritage Center project, P.N. 40205, was considered and approved.
- T. Resolution No. 07-1098 authorizing additional funding for the Heritage Center project, P.N. 40205c, was considered and approved.
- U. Amendment No. 2 to the Agreement between the city of Olathe and Harmon Construction Incorporated for the design and construction of the Heritage Center, P.N. 40205, was considered and approved.
- V. Award of construction contract to Dobson-Davis Company for the 2007 Sanitary Sewer Manhole Rehabilitation, Project Number 1-C-002-07, was considered and approved.

PROJECTS

- W. Award of construction contract to Miles Excavating for the 2006-2007 Bootleg Sewer Replacement, Project No. 10206C, was considered and approved.

CONTRACTS

- X. Renewal of annual agreement with Intergraph Public Safety, Inc. for maintenance of Police Computer Aided Dispatch (CAD) and Records management software system was considered and approved.

GRANTS

- Y. The 2008 Community Program fund allocations were considered and approved.

CONTRACTS

- Z. Award of contract to Jay's Uniforms for the purchase of uniforms for the Fire Department was considered and approved.

APPOINTMENTS

- AA. Appointment to the Olathe Convention and Visitors Bureau Advisory Council was considered and approved.

TRAVEL

- BB. Authorization for Sister Cities Committee members Zeny Schmidt and Rick Miller to travel to Ocotlan, Jalisco, Mexico, September 28-October 3, 2007 was considered and approved.
- CC. Business expense statements for Zeny Schmidt and Phouvieng Saycocie for the 2007 Sister Cities International Conference in Ft. Lauderdale, Florida, July 18-22, 2007 were considered and approved.
- DD. Authorization for the city manager to attend the International City/County Management Association 2007 Annual Conference was considered and approved.
- EE. Authorization for City Manager, Michael Wilkes to attend the Greater Kansas City Chamber of Commerce Leadership Exchange in Seattle, Washington, September 16-18, 2007 was considered and approved.

ITEMS FOR SEPARATE CONSIDERATION:

PLATS

- D. Final plat, P-07-050, for one lot and two tracts, 0.9016 ± acres of Ridgeview Falls, Sixth Plat; located in the northeast corner of 119th Street and Ridgeview Road was considered. Owner/Applicant: Robert Morrisey, RMPL Development Company.

Councilmember Vogt asked about the location for this plat.
The Senior Planner addressed.

Ms. Vogt stated she has met with residents of the Aberdeen Village community. She indicated many would like to use the services of the new center, but it is not pedestrian friendly – she asked how this is addressed.

The Senior Planner stated the early developments along 119th Street are not pedestrian friendly, but more drive in friendly. He added the future sections will be more pedestrian friendly within the center, but not necessarily for Aberdeen Village. He added staff will look into ways to address pedestrian access.

Motion by Vogt, seconded by Bacon, to approve. Passed 7-0.

Items O and Q were considered together.

PROJECTS

- O. Offers made to Olathe Medical Center and Life Church, Inc. for street right-of-way and easements needed for the I-35 Highway and Lone Elm Road Interchange; PN 37197C were considered.
- Q. A Supplemental Agreement No. 6 with HNTB for design services beyond the scope of previous agreements on the I-35 and Lone Elm Interchange, PN 37197C was considered.

Councilmember Bacon stated he pulled these items due to the recent public comments regarding the Lone Elm Interchange. He noted it is likely the K-7 freeway will be constructed within 15 years and questioned if the two entities (city and KDOT) met to determine how this improvement would mesh with K-7.

The City Engineer addressed.

Councilmember Randall left at 7:46 p.m. and returned at 7:47 p.m.

Councilmember Campbell asked if there would be a problem with delaying the matter for two weeks.

The City Engineer stated there is a need to pay HNTB and without consideration tonight, that could not happen.

Mr. Campbell stated he desires a comprehensive overview of the project and costs. He stated there should be a hearing with the affected area residents.

The City Manager indicated a discussion for the project overall would be entertained at the August 28, 2007 meeting.

Councilmember Montgomery questioned the aesthetics and stated he was surprised with the HNTB study.

Councilmember Huttman asked if the results of this study would provide availability of more comprehensive information. She noted the desire for more detailed history.

Councilmember Randall asked if the system-to-system accesses are identified. He stated the need for an update before next week's meeting.

Motion by Bacon, seconded by Vogt, to approve both items. Passed 7-0.

9. NEW BUSINESS - PLANNING

REZONING

- A. Ordinance No. 07-79, RZ-07-024, to rezone 37.13± acres from County A/R-1A to BP and a preliminary development plan for US Bank Business Center; located on the south side of Valley Parkway, approximately one-half mile west of K-7 Highway was considered. Owner/Applicant: College West Business Park, LLC.

The Senior Planner addressed the rezoning request for the banking facility.

Councilmember Bacon questioned the visibility of the screen wall and the aesthetics of the facility and site elevation.

Councilmember Huttman talked about sidewalks at the location.

The Senior Planner stated under the Unified Development Ordinance (UDO), the sidewalk installation occurs as development proceeds.

Ms. Huttman stated the system isn't logical to build portions at a time and suggested this be part of the UDO discussion.

Councilmember Montgomery stated concern with the design based upon the abatement percentage. He stated there is a need to exceed requirements when abatement is offered.

John Snyder, Sonnenchein, Nath & Rosenthal, 14520 Main Street, Suite 1100, Kansas City, MO, overviewed the basics of this design and displayed proposed views of the facility. He thanked the Council and staff for assistance during this process.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

PLATS

- B. Final plat, P-07-049, for US Bank Business Center on 37.13± acres; located on the south side of Valley Parkway, approximately one-half mile west of K-7 Highway was considered. Owner/Applicant: US Bank National Association.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

PLANNING

- C. Ordinance No. 07-80, CPA-06-04, to amend the Comprehensive Plan, amending the revised Lone Elm vicinity plan into the City's Comprehensive Plan was considered. Applicant: Bryan Dyer, City of Olathe.

The Senior Planner indicated this is the final piece of the plan which took about 18 months to complete. He stated this combines residential/retail/commercial uses.

Mr. Montgomery added these are guidelines and asked if the property owners were mailed notice of the meetings (Planning Commission and Council). Staff indicated no notices were mailed.

Councilmember Montgomery stated he wants staff to contact property owners which are impacted by projects or matters.

Tim McKee, Olathe Area Chamber of Commerce, stated this is a slight change from the plan but added he met with Councilmember Montgomery and one of the residents to discuss.

Councilmember Vogt asked Mr. McKee as a member of the Lone Elm Vicinity Plan, if the plan was addressed by the Committee and property owners. Mr. McKee responded.

Mayor Copeland stated staff should notify stakeholders routinely.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

REZONING

- D. Ordinance No. 07-81, RZ-07-025, to rezone 39.99± acres from County RUR to City MP-2 for a distribution warehouse; located in the vicinity of 167th Street and Lone Elm Road was considered.

Councilmember Montgomery questioned what will happen with the abatement on a spec project.

The Director of Strategic Financial Services addressed the incentives to draw economic developments.

Motion by Randall, seconded by Bacon, to approve. Passed 7-0.

ANNEXATION

- E. Ordinance No. 07-82, ANX-07-006, requesting approval of a voluntary annexation of approximately 15.43± acres located at the southwest corner of 159th Street and Black Bob Road was considered.

Motion by Randall, seconded by Montgomery, to approve. Passed 7-0.

10. NEW BUSINESS - ADMINISTRATION

BUDGET

- A. Ordinance No. 07-83 adopting the 2008 Budget was considered.

The Budget Manager indicated this is the conclusion for the 2008 budget process. She noted staff would inform the Council of the budget information as the year progresses.

Councilmember Bacon asked about the bond attorney's opinion of the capitalization of the project managers and noted a citizen told him this could be in violation of the state's cash basis law.

The Director of Strategic Financial Services stated the bond attorney has reviewed and cannot find any statutes which would not allow this action. The City Attorney commented in much the same.

Motion by Randall, seconded by Bacon, to approve.

Councilmember Bacon stated he desired to amend the motion – adding he believes it is bad policy to capitalize the engineering managers within the project.

Motion by Bacon, seconded by Montgomery, to amend the motion to vote on that particular transfer from the debt service fund to the general fund of \$300,000.00 separately – to not make the transfer.

The meeting recessed at 8:59 p.m. for a video tape break.

The meeting reconvened at 9:11 p.m.

Councilmember Vogt questioned from where the funding would come if the amendment was approved.

The Director of Strategic Financial Services stated the some cash projects from the Capital Improvements Program would be cut.

Councilmember Montgomery stated overall there was a good job with the budget, he noted he had concern with the borrowing procedures.

The vote on the amendment: YEA: Huttmann, Montgomery, and Bacon.
NAY: Randall, Vogt, Copeland, and Campbell. Failed 3-4.

The vote on the original motion: YEA: Randall, Huttmann, Vogt, Copeland, Bacon, and Campbell. NAY: Montgomery. Passed 6-1.

MUNICIPAL CODES

- B. Ordinance No. 07-84 amending Olathe Municipal Code Chapter 3.50 pertaining to Procurement Policies was considered.

Councilmember Bacon stated at last week's Study Session, the Council asked staff for a report on the spending limits, adding he did not see it on the ordinance.

The Director of Strategic Financial Services stated the ordinance as presented could be amended by adding the following language: *Section 3.50.050: A report detailing purchases between \$25,000 and \$50,000 shall be submitted to the City Council on a quarterly basis, post award.*

Motion by Randall, seconded by Bacon, to approve ordinance with the amending language. YEA: Huttman, Vogt, Copeland, Bacon, Campbell, and Randall. NAY: Montgomery. Passed 6-1.

11. NEW CITY COUNCIL BUSINESS

Councilmember Randall stated the railroad crossing on Santa Fe, by the county jail, is very bad. He stated he wants to have a firm date from the railroad when this matter will be fixed. Public Works staff addressed.

12. EXECUTIVE SESSION

LAWSUITS

- A. Matters which would be deemed privileged in an attorney-client relationship pertaining to *Pate-Campbell Properties, Inc. v. Board of County Commissioners & city of Olathe* was considered.

Motion by Randall, seconded by Bacon, to accept report of staff. Passed 7-0.

13. ADJOURNMENT OF REGULAR SESSION

Motion by Randall, seconded by Bacon to adjourn. Passed 7-0.

The meeting adjourned at 9:23 p.m.

City Clerk