

The Olathe City Council met in regular session at 6:37 p.m. with Mayor Pro-Tem Randall presiding. Councilmembers Bacon, Campbell and Vogt were present. Mayor Copeland and Councilmembers Montgomery and Huttman were absent. Also present were City Manager Wilkes and City Attorney Glinstra.

1. CALL TO ORDER

2. EXECUTIVE SESSION – 6:38 P. M.

Motion by Bacon, seconded by Vogt, to recess into an executive session for 20 minutes under the attorney-client privilege exception to the Kansas Open Meetings Law to consider the following items: Passed 4-0.

- A. Matters which would be deemed privileged in an attorney-client relationship pertaining to sewer backup damage claims.
- B. Matters which would be deemed privileged in an attorney-client relationship and quasi-judicial decision pertaining to enclave annexations.

The meeting recessed at 6:38 p.m.

Councilmember Huttman arrived at 6:41 p.m.

Mayor Copeland arrived at 6:45 p.m.

3. RECONVENE FROM EXECUTIVE SESSION

The meeting reconvened at 7:00 p.m.

The executive session was continued to the end of the regular session.

4. BEGIN TELEVISED SESSION – 7:00 P. M.

5. PLEDGE OF ALLEGIANCE

Webelos from Pack 3250, Den 14, led the audience in the Pledge of Allegiance.

6. SPECIAL BUSINESS

PLANNING

- A. Update on the status of the hotel/conference center.

Dave Mashburn, representing John Q. Hammons, spoke about the proposed center. He displayed renderings of the proposed hotel and conference center. He stated an area under the conference center would be constructed for vehicle parking. He also noted this hotel/center will have three different configurations of suites. Opening of this facility is expected in 2010.

AWARDS

- B. Recognition of International Association of Crime Analysts (IACA) Award presented to Olathe Crime Analyst Dawn Clausius.

Crime Analyst Dawn Clausius was present to accept the award.

7. PUBLIC HEARINGS

WEEDS

- A. A public hearing to levy assessments to collect unpaid city expenditures for weed mowing and debris removal was opened.

No one appeared.

Motion by Randall, seconded by Bacon, to close the hearing. Passed 6-0.

- B. Ordinance No. 08-121 levying assessments to collect city expenditures for weed mowing and debris removal was considered.

The City Clerk informed the Council staff recommended removing Gary Hazeltine from the ordinance, advising staff would check into his weed mowing concerns. It was noted the assessment may be placed on a future ordinance.

Motion by Randall, seconded by Bacon, to approve the Ordinance with the removal of Gary Hazeltine. Passed 6-0.

BUDGET

- C. A Public Hearing increasing the 2008 budget expenditure authority for two funds: Central Garage and Solid Waste was opened.

No one appeared.

Motion by Randall, seconded by Bacon, to close the hearing. Passed 6-0.

- D. Ordinance 08-122 increasing the 2008 budget expenditure authority for two Funds: Central Garage and Solid Waste was considered.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

8. CONSENT AGENDA

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

MINUTES

- A. Council meeting minutes of November 18, 2008, were considered and approved.

PROJECTS

- B. Consent Calendar

1. Change Orders

None

PROJECTS

2. Project Completion Certificates
 - a. Brighton's Landing 3rd, Phase I, Street, Final, Project No. 3-D-078-08, was considered and approved.
 - b. Brighton's Landing 3rd, Phase I, Storm Sewer, Final, Project No. 3-D-078-08, was considered and approved.
 - c. Brighton's Landing 3rd, Phase II, Street, Final, Project No. 3-D-079-08, was considered and approved.
 - d. Brighton's Landing 3rd, Phase II, Storm Sewer, Final, Project No. 3-D-079-08, was considered and approved.
 - e. Greens @ Prairie Highlands 2, Sanitary Sewers, Final, Project No. 1-D-010-07, was considered and approved.
 - f. College Meadows 1st, Street, Final, Project No. 34106D, was considered and approved.
3. Final Payment to Contractors
None
4. Final Payment to Consultants
 - a. Aurora Street, North of Harold

Final Payment -	\$	12,472.51
Original Contract Amount -	\$	47,666.35
Paid-To-Date -	\$	35,193.84
Change Orders -	\$	0.00
Final Contract Amount -	\$	47,666.35
Contractor -		Payne & Brockway

SPECIAL USE PERMITS

- C. Resolution No. 08-1112, SU-08-008, requesting approval of a Special Use Permit renewal to allow the raising/breeding of rabbits in an R-1 district; located at 316 S. Mahaffie Street, was considered and approved. Owner/Applicant: Clarence and Geneice Linsey. Planning Commission recommends approval, 7-0.
- D. Resolution No. 08-1113, SU-08-009, requesting approval of a Special Use Permit renewal to allow goats in an R-1 district; located at 405 N. Iowa Street, was considered and approved. Owner/Applicant: Mary C. Morrison. Planning Commission recommends approval, 7-0.
- E. Resolution No. 08-1114, SU-08-010, requesting approval of a Special Use Permit renewal to allow the raising/breeding of rabbits in an R-1 district; located at 910 E. Elm, was considered and approved. Owner/Applicant: Kathleen Huntington. Planning Commission recommends approval, 7-0.

LICENSES

- F. Cereal malt beverage license applications for calendar year 2009 were considered and approved.

PROJECTS

- G. Interlocal agreement with Atmos Energy for the relocation of gas main on 127th Street Mur-Len to Black Bob Road and authorize the Mayor to sign the agreement, PN 30606, was considered and approved.
- H. Engineer's estimate, acceptance of bids, and consideration of award of contract to Midland Wrecking, Inc. for the removal of four (4) homes from the FEMA floodplain., PN 20999C, was considered and approved.
- I. Consideration of Resolution No. 08-1115 authorizing a survey and description of land or interest to be condemned for replacing, relocating, constructing and maintaining a waterline along Santa Fe Street; Project No. 5-C-053-08 – C.N. 1, was considered and approved.

BUDGET

- J. 2009 Drug and Alcohol Council's (DAC) Alcohol Tax Fund Allocations were considered and approved.

GRANTS

- K. 2009 Human Service Fund Grant Allocations were considered and approved.

CONTRACTS

- L. Renewal of a contract with Sun Life for specific reinsurance for the City's health plan was considered and approved.
- M. Renewal of a contract with Trident for liability coverage, and Safety National Casualty for workers' compensation excess coverage was considered and approved.

PROJECTS

- N. Resolution No. 08-1116 authorizing the improvement of Santa Fe Street from Kansas City Road to Kansas Avenue, PN 30804 and further restating Resolution Nos. 04-1031, 06-1114 and 08-1022, was considered and approved.
- O. Resolution No. 08-1117 authorizing the improvement of 127th Street from Black Bob Road to Mur-Len Road, PN 30606c and further restating Resolution Nos. 07-1114, 08-1005, and 08-1087, was considered and approved.
- P. Resolution No. 08-1118 authorizing the improvement of College Boulevard from Woodland Road to Ridgeview Road, PN 36600 and further restating Resolution Nos. 01-1027, 06-1012 and 07-11-2, was considered and approved.

PROJECTS

- Q. Resolution No. 08-1119 authorizing the improvement of certain main trafficways in the City as necessary to design, construct and install a city-wide traffic control system, PNs 33298 and 37000 and further restating Resolution Nos. 98-1159, 99-1128, 04-1097, 06-1098, and 06-1147, was considered and approved.
- R. Resolution No. 08-1120 authorizing the remodeling and expansion of the Police Building, PN 6-C-001-07 and further restating Resolution Nos. 08-1028 and 08-1075, was considered and approved.

CONTRACTS

- S. Acceptance of proposal and award of contract to Terracon Consults, Inc. for environmental assessment Services for Phase I and II Reports was considered and approved.
- T. Acceptance of proposal and awards of contract to Power Lift Foundations for repairs in the foundations at Fire Stations 4 and 5 were considered and approved.
- U. Acceptance of bids and award of contract to Champion Brands, Hampel Oil Company, Heathwood Oil Company, and Parker Oil Company, for annual requirements of antifreeze and lubricants for the Vehicle Maintenance Division of the Municipal Services Department was considered and approved.
- V. Renewal of contract for appraisal services with Shaner Appraisals was considered and approved.
- W. Renewal of contract for land acquisition services with The Land Company and Right-of-Way Management Consultant Groups was considered and approved.

EXPENSES

- X. A business expense statement for Councilmember Marge Vogt for expenses incurred to attend National League of Cities Congress of Cities and Exposition in Orlando, FL Nov. 11-15, 2008, was considered and approved.

9. NEW BUSINESS - PLANNING

REZONING

- A. Ordinance No. 08-123, RZ-08-027, requesting approval of a rezoning from CTY RUR (County Rural) to R-5 (High-Density Multifamily) and a preliminary site development plan for Hoeger House on 0.65779± acres; located south of 153rd Street and west of Interstate 35 was considered. Owner/Applicant: Greg Amble, Cedar Lake Village, Inc. Planning Commission recommends approval, 7-0.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

PLATS

- B. Final plat, P-08-054, requesting approval for Olathe Good Samaritan Center, 3rd Plat (Hoeger House) on 2.54736± acres; located south of 153rd Street and west of Interstate 35 was considered. Owner/Applicant: Greg Amble, Cedar Lake Village, Inc. Planning Commission recommends approval, 7-0.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

ANNEXATIONS

- C. Annexation agreement, ANX-08-005, with the Living Hope Church of the Nazarene for approximately 25.17± acres located at the northwest corner of 175th Street and Ridgeview Road was considered. Owner/Applicant: Living Hope Church of the Nazarene/Polsinelli Shalton Flanigan Suelthaus.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

- D. Ordinance No. 08-124, ANX-08-005, requesting approval of a voluntary annexation of approximately 25.17± acres located at the northwest corner of 175th Street and Ridgeview Road was considered. Owner/Applicant: Living Hope Church of the Nazarene/Polsinelli Shalton Flanigan Suelthaus.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

SPECIAL USE PERMITS

- E. Resolution No. 08-1121, SU-08-007, requesting approval of a special use permit for T-Mobile for a telecommunications facility on 0.01± acres; located at 1850 N. Ridgeview Road was considered. Applicant: Jerrod Foutes, SSC, Inc. Owner: KC Petroleum, LLC. Planning Commission recommends approval, 8-0.

The Senior Planner overviewed the request and noted staff recommendations. He informed the Council the protest petitions received represented less than 20%

Mayor Copeland asked about the parking lot for the applicant. Staff stated the area would be reviewed and brought up to code.

Councilmember Vogt asked about the footprint of the location of the tower. Staff indicated the parcel size would be 30 feet by 14 feet, with a two-foot diameter pole. Ms. Vogt asked if this pole would be considered stealth. Staff noted possibly, stating it will also have lighting and decorative features to match Hy-Vee's poles.

Councilmember Bacon asked if the City's water tower is full with no room for expansion. The Senior Planner stated he was unaware. Mr. Bacon asked if there is a need for the lighting feature. The Senior Planner indicated no, but stated it would add illumination to the area. Mr. Bacon stated he thought it would attract more attention to the pole.

Councilmember Randall asked if there was anything else in the area as tall. Staff stated possibly to the north with some 50' to 60' streetlight poles.

Councilmember Huttman stated the pole color should be as light as possible to offer detracting.

Trevor Wood, SSC, Inc., 8500 W. 110th Street, Suite 300, Overland Park, spoke about the process for the tower and also reviewed the public information meeting. He stated T-Mobile is in the process of switching to a new system which will require 40' to 50' use on the antennae. He also overviewed the communication issues within the Ridgeview valley area. He asked for Council support.

Mayor Copeland asked for a clarification for the purpose. Mr. Wood stated the purpose is to increase coverage for in-building residential and in-building commercial properties.

Councilmember Vogt inquired into the health concerns around residential properties. Mr. Wood stated the Federal Communication Commission addresses these concerns. He noted individuals can go to the American Cancer Society's website to review its comments about health risks and cellular phone towers. He also indicated many hospitals and medical centers support wireless antennas on their facilities.

Brenda Chettester, property owner within the area, stated she tried to address the concerns with her neighbors. She stated the most concern with the towers is the health aspects, whether known or unknown, and also with the valuations to nearby properties.

Motion by Randall, seconded by Bacon, to approve. YEA: Randall, Huttman, Copeland, Bacon, and Campbell. NAY: Vogt. Passed 5-1.

PLATS

- F. Final plat, P-08-052, with a motion to bring the matter off the table, requesting approval for Jensen Logistics Park containing one (1) lot on 82± acres; located south of 151st Street and west of Old U.S. Highway 56 was considered. Owner/Applicant: KH Jensen, Kessinger Hunter. Planning Commission recommends approval, 6-0.

Motion by Randal, seconded by Bacon, to take the matter off the table. Passed 6-0.

The Assistant Director of Development Services overviewed the plat and subdivision requirements as approved by the Planning Commission. He added this property has been zoned since 1988.

Councilmember Bacon spoke about traffic concerns expressed by the neighborhood to address the large tractor-trailer rigs. He added there may be a need to ask for County assistance for improvements to Old 56 Highway.

The Assistant Director of Public Works spoke about costs of improvements to 159th Street and the need to encourage truck traffic to other routes.

Councilmember Vogt asked if the improvements made by this proposed development would make the area safer. Staff indicated the required traffic modifications would make it safer.

Councilmember Campbell asked if the County would share in the design costs. Staff indicated the County has not been officially contacted; first Council comments are needed to carry forward to the County.

Eileen Merse, 26161 W. 150th, stated she understands the process. She noted the subdivision group (Prairie Highlands) does not oppose the project as a whole, but concerns go with the increased truck traffic and safety concerns of Old 56 Highway. She suggested options for the Council to consider: (1) complete development of 159th Street, Old 56 Highway to I-35 by time warehouse opens; (2) restrict truck movements to the use of 159th Street with island barriers to direct traffic to 159th or southbound on Old 56 Highway; (3) restrict truck traffic movements on Old 56 Highway by ordinance and weight; will help with routing traffic from Highway 7 to 159th; (4) lower speed limit on Old 56 Highway to 45 m.p.h., (5) improve Old 56 Highway comparable to 175th Street to allow safe patrol stops for violators; and (6) installation of traffic light at 151st/Old 56 Highway.

Bob Cusick, 14945 S. Oxford Street, spoke about safety concerns of Old 56 Highway, eastbound from 151st. He spoke about the problems with quarry traffic during the daylight hours, and other traffic at all hours. He stated nighttime and weather conditions offer more problems. He urged the Council to protect the citizens and homeowners.

Kathryn Reece, 14985 S. Roxburgh, spoke in support of the previous speakers. She stated truck traffic has increased significantly.

John Pullman, 15014 S. Turnberry, stated he is a supporter of the development and is excited about the warehouse, but noted concerns with the traffic on Old 56 Highway. He suggested a corridor study to look at the area in total.

The Assistant Director of Public Works indicated staff is looking at four of the six suggestions made by Ms. Merse.

Councilmember Randall indicated it is the City's responsibility to have adequate transportation facilities and stated the need for options, perhaps taxes or tolls to address the improvements.

The Assistant Director of Public Works spoke about street excise collections and the potential of a Tax Increment Financing district or benefit district. He stated as noted in the last week's Study Session, - can't stop the problem, but work to a solution.

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

The meeting reconvened at 9:08 p.m. with Councilmember Randall absent.

Councilmember Campbell asked about space and expense to restrict turns. The Assistant Director of Public Works stated the applicant is willing to address, but shouldn't add items which will cause traffic issues.

Councilmember Randall returned at 9:11 p.m.

Mayor Copeland stated there are concerns with the area, but noted the proposed efforts from this project appear to make the area safer.

Mr. Campbell asked about final plans for Council consideration. Staff noted the Planning Commission has final approval. The Council was informed staff will incorporate the Council's comments to the Planning Commission.

The City Attorney stated there could be a hold placed on the building permit until the transportation issues are addressed.

Dan Jensen, applicant, stated concern with holding up the building permit due to traffic improvements since he has no control over the process. He stated he will complete his project as stated, adding he will be a good corporate citizen.

Councilmember Campbell asked what could be done to make this area safer.

The Assistant Director of Public Works stated staff will reduce speeds, cannot commit to improvement without funding and design, but would push as hard as possible.

Councilmember Huttman asked if this project is the trigger for the conversation needed for the area, but noted the need to move forward, adding there are sacrifices needed on each side.

Councilmember Bacon stated the City should have tools to make improvements and stated this project could help.

Staff indicated the following items would be addressed: decrease speed on Old 56 Highway to 45 m.p.h., provide enhanced traffic enforcement; look at design and funding options for 159th Street, add weight limit restriction; and improve S-curve by widening and shoulders.

Motion by Campbell, seconded by Huttman, to approve. Passed 6-0.

10. NEW BUSINESS - ADMINISTRATION

BONDS

- A. Ordinance No. 08-125 authorizing issuance of industrial revenue bonds for the Anderson Pointe 4 LLC project was considered.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

FRANCHISES

- B. Ordinance No. 08-126 granting a franchise to MCImetro Access Transmission Services, LLC (Verizon), a telecommunications local exchange service provider providing local exchange service within the City of Olathe, Kansas was considered.

Motion by Randall, seconded by Bacon, to approve. Passed 6-0.

11. NEW CITY COUNCIL BUSINESS

Mayor Copeland announced the schedule for the lighting of the Mayor's Christmas Tree and Winterfest. He indicated funds are raised for local children's charities and initiatives. He stated the goal for this year is \$50,000.00 and at this time, 44% of the funds have been raised.

Councilmember Vogt announced the Mahaffie Farmstead Open House scheduled for Saturday, December 6, 2008.

12. EXECUTIVE SESSION

Motion by Randall, seconded by Bacon to reconvene back into executive session for 20 minutes. Passed 6-0.

The meeting recessed at 9:38 p.m.

The executive session reconvened at 10:08 p.m. with Councilmembers Vogt, Randall, Bacon and Mayor Copeland present.

Motion by Vogt, seconded by Bacon, to recess back into Executive Session for 15 minutes. Passed 4-0.

The meeting recessed at 10:09 p.m.

13. RECONVENE FROM EXECUTIVE SESSION

The meeting reconvened at 10:33 p.m.

LEGAL

- A. Matters which would be deemed privileged in an attorney-client relationship pertaining to sewer backup damage claims.

Motion by Randall, seconded by Bacon, to accept report of staff. Passed 6-0.

ANNEXATIONS

- B. Matters which would be deemed privileged in an attorney-client relationship and quasi-judicial decision pertaining to enclave annexations.

Motion by Randall, seconded by Campbell, to note no action tonight, but to direct staff to bring back more information and proceed as discussed in Executive Session.

After discussion by members the vote was called. YEA: Randall, Huttmann, and Copeland. NAY: Vogt, Bacon, and Campbell. Failed 3-3.

Motion by Copeland, seconded by Campbell, to follow the City Manager's direction that he presented and to bring back with additional information with regard to groupings of areas and communities. YEA: Huttmann, Copeland, and Campbell. NAY: Randall, Vogt, and Bacon. Failed 3-3.

Motion by Randall, seconded by Bacon, to recess back into Executive Session for 5 minutes. Passed 6-0.

The meeting recessed at 10:43 p.m.

Mayor Copeland left the meeting at 10:48 p.m.

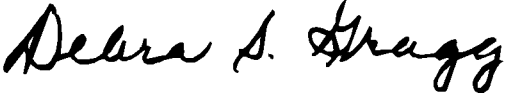
The meeting reconvened at 10:50 with Mayor Copeland absent.

Motion by Campbell, seconded by Bacon, to direct staff to prepare lifestyle ordinances; develop a proposal to prevent or limit the creation of enclave areas in future annexations; approach the County to extraterritorial zoning authority; encourage voluntary annexation into Olathe and the City would develop a plan; and bring back additional information as required by the City Council. YEA: Campbell, Randall, and Huttmann. NAY: Bacon and Vogt. Passed 3-2.

14. ADJOURNMENT

Motion by Randall, seconded by Bacon, to adjourn. Passed 5-0.

The meeting adjourned at 10:51 p.m.



City Clerk