

The Regular Session was called to order at 6:30 p.m. by Mayor Copeland. Present were Councilmembers Montgomery, Vogt, Huttman, Campbell, Randall, and Bacon. Also present were City Manager Wilkes and City Attorney Glinstra.

1. CALL TO ORDER

2. EXECUTIVE SESSION

Consideration of motion to recess into an executive session under the attorney-client privilege, real property acquisition, and personnel exceptions to the Kansas Open Meetings Law to consider the following items:

LAWSUITS

- A. Discussion of matters which would be deemed privileged in an attorney-client relationship pertaining to *City of Olathe and Huntford Development LLC v. Board of County Commissioners of Johnson County, Kansas*.
- B. Discussion of matters which would be considered as privileged in an attorney-client relationship pertaining to claims made by Ames Construction Company.

PROJECTS

- C. Discussion of acquisition of property for a 42" water transmission line from Water Plant No. 2 to 119th Street and Lone Elm Road; Project Number 51604C.

PERSONNEL

- D. Discussion of non-elected personnel.

Motion by Randall, seconded by Bacon, to recess into Executive Session for 20 minutes. Passed 7-0.

The meeting recessed at 6:36 p.m.

3. RECONVENE FROM EXECUTIVE SESSION

The meeting reconvened at 6:57 p.m. and recessed until 7:00 p.m.

4. BEGIN TELEVISED SESSION

5. PLEDGE OF ALLEGIANCE

Webelos and Bears from Cub Scout Pack 3138, Green Springs Elementary School, led the audience in the pledge of allegiance.

6. SPECIAL BUSINESS

RECOGNITION

- A. Gear for Sports was recognized for fundraising events benefiting Special Populations programs and Special Olympic activities.

The Director of Parks and Recreation overviewed the reason for the recognition.

Mary Mahoney, Gear for Sports, and Gary Green, Making Smiles Foundation, shared a slide show of fund raising events and presented the City with a check for \$21,000 which will be used for programs supporting the Special Populations programs and Special Olympics activities.

The Council presented framed photos, signed by members of the City's Special Populations group, to Ms. Mahoney and Mr. Green.

APPOINTMENTS

- B. Resolution No. 07-1152 reappointing members to the Board of Code Review was considered.

Motion by Randall, seconded by Bacon, to reappoint Brian Olsen and Larry Lisbona to the Board of Code Review. Passed 7-0.

- C. Resolution No. 07-1153 reappointing members to the Persons with Disabilities Advisory Board was considered.

Mark Gash, Chairman of the Persons with Disabilities Advisory Board (PDAB), overviewed the past and upcoming events associated with PDAB members.

Motion by Randall, seconded by Bacon, to reappoint Wes Albright and Nick King to the Persons with Disabilities Advisory Board. Passed 7-0.

7. PUBLIC HEARINGS

BUDGET

- A. A Public Hearing increasing the 2007 budget expenditure authority for three Funds: Central Garage, Special Tax Financing Fund, and Solid Waste was opened.

No one appeared.

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

- B. Ordinance 07-138 increasing the 2007 budget expenditure authority for three Funds: Central Garage, Special Tax Financing Fund, and Solid Waste was considered.

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

BONDS

- C. A public hearing on a request by Garmin International, Inc. for issuance of industrial revenue bonds and tax abatement for the build-out of four floors in the office tower was opened.

No one appeared.

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

- D. Ordinance No. 07-139 authorizing issuance of industrial revenue bonds for the Garmin International, Inc. office project was considered.

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

BONDS

- E. A Public Hearing on a request by Corporate Ridge, LLC, for issuance of industrial revenue bonds and tax abatement for an office building in the Corporate Ridge office park project was opened.

No one appeared.

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

- F. Resolution No. 07-1154 consenting to assignment of a portion of the interest in industrial revenue bonds and tax abatement from OPUS Northwest, L.L.C. to Corporate Ridge, L.L.C. for its project in the Corporate Ridge Business Park was considered.

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

PROJECTS

- G. A public hearing concerning the levying assessments to pay for the construction of a sanitary sewer to serve Lakeshore Meadows, Project Number 1-B-009-07 was opened.

No one appeared.

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

- H. Ordinance No. 07-140 levying assessments to pay for the construction of a sanitary sewer to serve Lakeshore Meadows, Project Number 1-B-009-07 was considered.

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

8. CONSENT AGENDA

Motion by Randall, seconded by Bacon, to approve the consent agenda as [presented]. Passed 7-0.

MINUTES

- A. Council meeting minutes of December 4 and 11, 2007 were considered and approved.

PROJECTS

B. The Consent Calendar was considered and approved.

1. CHANGE ORDERS

a. Indian Creek Channel Improvements, Project Number 20306C & 10207C, was considered and approved.

2. PROJECT COMPLETION CERTIFICATES

- a. Lakeshore Meadows 1, Waterlines, Project Number 50806D, was considered and approved.
- b. Prairie Farms 2, Street, Project Number 36805D, was considered and approved.
- c. Oak Run 4th Plat, Sanitary Sewers, Project Number 10805D, was considered and approved.
- d. Prairie Brook 3rd Plat, Storm Sewers, Project Number 32806D, was considered and approved.
- e. Prairie Brook 3rd Plat, Street, Project Number 32806D, was considered and approved.
- f. 15901 W 153rd St. Storm Drainage Improvements, Project Number 20205C, was considered and approved.

PROJECTS

3. FINAL PAYMENT TO CONTRACTORS

a. 15901 W 153rd St. Storm Drainage Improvements, Project Number 20205C, was considered and approved.

Final Payment -	\$	18,209.00
Original Contract Amount -	\$	15,875.00
Paid-To-Date -	\$	0.00
Change Orders -	\$	2,334.00
Final Contract Amount -	\$	18,209.00
Contractor -	Kansas Heavy Construction	

b. 2006-2007 Bootleg Sewer Replacement, Project Number 10206C, was considered and approved.

Final Payment -	\$140,056.65
Original Contract Amount -	\$115,822.40
Paid-To-Date -	\$0.00
Change Orders -	\$24,234.25
Final Contract Amount -	\$140,056.65
Contractor -	Miles Excavating

c. 127th Street Overpass, Project Number 30298C, was considered and approved.

Final Payment -	\$92,877.42
Original Contract Amount -	\$ 21,476,401.35
Paid-To-Date -	\$ 22,428,256.99
Change Orders -	\$1,044,733.06

Final Contract Amount - \$ 22,521,134.41
Contractor - Pyramid Contractors, Inc.

PROJECTS

4. FINAL PAYMENT TO CONSULTANTS

- a. Rolling Ridge Trail, Project Number 41200C, was considered and approved.

Final Payment - \$1,943.01

Original Contract Amount - \$77,800.00

Paid-To-Date - \$97,501.99

Change Orders - \$21,645.00

Final Contract Amount - \$99,445.00

Contractor - Patti Banks Associates

PLATS

- C. Plat, P-07-102, for Public Works Street Service Center, on 10.71± acres containing two (2) lots, located at 400 E. Harold Street was considered and approved. Applicant/Owner: Rick Biery, City of Olathe.

BOUNDARIES

- D. Resolution No. 07-1155 defining the boundary of the City of Olathe as of December 31, 2007 was considered and approved.

LICENSES

- E. Cereal malt beverage license applications for calendar year 2008 were considered and approved.
- F. A massage therapy establishment application was considered and approved.

PROJECTS

- G. An engineering services agreement with Olsson Associates for assistance in developing new and revising existing ordinances to stay in compliance with the *National Pollutant Discharge Elimination System* (NPDES) permit issued to the City in 2004, Project Number 2-C-002-07, was considered and approved.
- H. An agreement with WaterOne for the relocation of a water line on Lone Elm, 175th Street to 2000' south, Project Number 33505B was considered and approved.
- I. An Agreement with WaterOne for Utility Relocation Costs for the I-35 and Lone Elm Road Interchange, P.N. 37197 was considered and approved.

POLICIES

- J. Resolution No. 07-1156 regarding the City's benefit district policy was considered and approved.

BONDS

- K. Resolution No. 07-1157 consenting to the assignment of a lease agreement and related bond documents from Tomahawk Point, LLC to Optober Investments II, LLC in connection with the City's Industrial Revenue Bonds (Network Integration Services Project), Series 2006 was considered and approved.

GRANTS

- L. The 2008 Drug and Alcohol Council's (DAC) Alcohol Tax Fund Allocations was considered and approved.
- M. The 2008 Human Service Fund allocations was considered and approved.

AGREEMENTS

- N. An agreement with Software AG for software and services to upgrade the Utility Billing Software System was considered and approved.

CONTRACTS

- O. A contract to Key Equipment & Supply Company for the purchase of a TV sewer inspection truck for the Utilities Division was considered and approved.

CONTRACTS

- P. A contract to Stanger Industries for the installation of a boiler in City Hall was considered and approved.
- Q. A contract to Overhead Door Company of Kansas City for furnishing doors, installation and maintenance, as needed, for various City departments was considered and approved.
- R. A contract to Accela for furnishing on-line permit application software for the Development Services Department was considered and approved.
- S. A contract to American Equipment Company for the purchase of one (1) new elliptical dump bed, salt and sand spreader, and snowplows for the Utilities Division of Municipal Services Department was considered and approved.

TRAVEL

- T. Business expense statements for Councilmembers John Bacon and Marge Vogt and City Manager Michael Wilkes, for expenses incurred to attend the National League of Cities Conference and Exposition in New Orleans, LA, from November 14 - 17, 2007 were considered and approved.

PROJECTS

- U. Resolution No. 07-1140 (Exhibit A) authorizing the creation of a benefit district to serve the Kansas BioScience, Project Number 3-B-043 and 1-B-020 was considered and approved.

9. NEW BUSINESS - PLANNING

REZONING

- A. RZ-07-042, requesting approval of an amendment to the RP-1 zoning on 60.76± acres for Coffee Creek Meadows containing 232 lots; located west of 165th Street and Mur-Len, was considered. Owner: Rocky Rhodes, A&R Properties, LLC and Rhodes Acuff Land and Cattle LLC.

The Sr. Planner overviewed the location area, preliminary plat, and purpose for the rezoning request. He informed the Council the amendment request was to allow the installation of vertical vinyl siding, indicating horizontal vinyl siding is allowed. Slides showing pictures of vertical vinyl and smart panels were displayed.

He informed the Council the Planning Commission and staff both recommend denial of the request.

Richard Rhodes, 16221 Foster, Overland Park, KS, applicant, explained his reasoning for the request. He stated many of the interested homebuyers are requesting maintenance free siding. He noted his designs are prairie style which look better with vertical elements than the lapped style which are colonial in style. He added the smart paneling has a five-year warranty and require painting every three to five years. He stated the vinyl siding adds to the cost of the house, but saves owners time and dollars in future maintenance. He stated that, while not his preferred choice, he would make the horizontal vinyl siding work with the designs.

Motion by Randall, seconded by Bacon, to deny. YEA: Copeland, Montgomery, Bacon, Randall, and Vogt. NAY: Campbell and Huttman. Passed 5-2 to deny.

MUNICIPAL CODE

- B. Ordinance Nos. 07-120, 07-121, 07-122, 07-123, 07-124, 07-125, 07-126, 07-127, 07-128, 07-129, 07-130 and 07-131, requesting approval to amend sections of the Olathe Municipal Code Titles 14, 15, and 16 pertaining to updates of the International Building Codes relating to building, fire, residential, plumbing, mechanical, fuel gas, property maintenance, and electrical codes, were considered.

The Director of Development Services overviewed the codes adoption process, stating most of the codes would be updated to the 2006 editions, with an effective date of March 1, 2008.

Councilmembers Campbell and Montgomery stated concerns with increases of approximately 4% per house and noted concerns with market fluctuation.

The Chief Building Inspector noted the largest incremental costs were associated with foundation and energy.

Councilmember Bacon stated favor with delaying adoption for a year.

Councilmember Vogt stated she is supportive, adding the codes act as protection for the consumers.

Councilmember Bacon stated his not supportive of the ordinance language regarding the expiration of the permits. Staff addressed.

Bryan Rodrock, 13913 Westgate Street, Overland Park, KS, thanked the Council for addressing. He asked the Council to delay the implementation, but added he is not opposed to the changes. He suggested two options: 1) Table the matter until later; and 2) Adopt the code; move the implementation to a later date.

Mayor Copeland stated concern with the 90-day work cease language. He suggested taking this out and discussion at a Study Session.

City Manager Wilkes stated this could be discussed in conjunction with the sprinkler issue.

The Fire Division Chief addressed the sprinkler matter, noting it is really a fire flow issue; not sprinkler.

Councilmember Randall stated his desire to see a consensus at the conclusion of the Study Session discussing these matters.

Motion by Randall, seconded by Bacon, to table all the ordinances relating to Municipal Code Updates to Titles 14, 15, and 16. Passed 7-0.

10. NEW BUSINESS - ADMINISTRATION

CAPITAL IMPROVEMENTS PROGRAM

- A. Resolution No. 07-1158 approving the 2008-2012 Capital Improvements Program (CIP) was considered.

Councilmember Huttman noted concern with how the CIP is addressed. She stated additional concern with the size of the new Public Safety building and the condition of the current facility and investment in it. She stated she has concerns with retro-fitting HVAC systems. She also noted there are unknowns in regards to the Community Center and spoke of potential partnering or leasing of space. She stated favor with giving more attention to public safety and placing holds on the Community Center to do more research and design work.

The meeting recessed at 9:00 p.m. for a video tape break.

The meeting reconvened at 9:12 p.m.

Councilmember Huttman continued in discussion of CIP matters. She spoke about the proposed costs for the Public Safety Center with the proposed cost of \$15,000,000. She noted with the addition of 6.9 million from the Community Center, the Public Safety Center could be fully built. She indicated the \$6,000,000 (sales tax) for the Community Center could be placed on hold, adding this should be enough to get the Center started.

Councilmember Bacon stated he would vote against the CIP partly due to the Community Center because of competition with private businesses providing the identified needs. He also stated there are issues with the

Public Safety Center, adding he still desires a presentation by Haefer Wysocki. He noted Black Bob pool is not on the CIP.

Councilmember Campbell stated tonight's action is to move the process forward. He asked if he was correct that Council would have plenty of time to review and discuss individual projects. Staff noted this is correct.

Councilmember Montgomery noted that the CIP tonight is looking at Phase 1 of the Public Safety Center.

Councilmember Vogt asked for clarification of the square footage for the Public Safety Center. Staff indicated 32,000 square feet existing; proposed is 32,000 square feet for a total of 64,000 square feet when complete.

Councilmember Randall stated he is in support of the CIP.

Motion by Randall, seconded by Vogt, to approve. YEA: Vogt, Copeland, Montgomery, Randall, and Campbell. NAY: Bacon and Huttmann. Passed 5-2.

11. NEW CITY COUNCIL BUSINESS

Members of the Council wished the audience a Merry Christmas/Happy Holidays. Special wishes were extended to those in public services who give so much service to others during this time of year.

Mayor Copeland expressed appreciation to the neighboring law enforcement officials offering support during the recent memorial service for Officer Middleton.

12. EXECUTIVE SESSION

LAWSUITS

- A. Discussion of matters which would be deemed privileged in an attorney-client relationship pertaining to *City of Olathe and Huntford Development LLC v. Board of County Commissioners of Johnson County, Kansas*.

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

- B. Discussion of matters which would be considered as privileged in an attorney-client relationship pertaining to claims made by Ames Construction Company.

Motion by Randall, seconded by Campbell, to direct staff to continue negotiations. Passed 7-0.

PROJECTS

- C. Discussion of acquisition of property for a 42" water transmission line from Water Plant No. 2 to 119th Street and Lone Elm Road; PROJECT NUMBER 51604C.

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

PERSONNEL

- D. Discussion of non-elected personnel.

Motion by Randall, seconded by Bacon, to authorize the liaisons to the Municipal Judge to meet with him. Passed 7-0.

13. ADJOURNMENT

Motion by Montgomery, seconded by Campbell, to adjourn. Passed 5-0.

The meeting adjourned at 9:40 p.m.

City Clerk

14. GENERAL ISSUES AND CONCERNS OF CITIZENS

Norm Bowers, 733 Loula, informed the Council this year there have been fewer trucks and less noise along Parker Street (K-7 Highway). He stated the muffler ordinance did the job. He thanked the Council for supporting his community's concerns.