

**COUNCIL COMMITTEE OF THE WHOLE**

**July 5, 2011**

The Council Committee of the Whole met on Tuesday, July 5, 2011 at 6:00 p.m. The meeting was called to order by Council President Dale Beckerman with the following members present: Al Herrera, Dale Warman, Steve Noll, Michael Kelly, Charles Clark, David Morrison, Diana Ewy Sharp, David Belz and Mayor Shaffer. Andrew Wang arrived late. Staff Members present: Wes Jordan, Chief of Police; Captain Tim Schwartzkopf; Captain Wes Lovett; Bruce McNabb, Director of Public Works; Keith Bredehoeft, Project Manager; David Waters, representing the City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Chris Engel, Assistant to the City Administrator; Lisa Santa Maria, Finance Director, Joyce Hagen Mundy, City Clerk and Jeanne Koontz, Deputy City Clerk.

**COU2011-32 Consider amendments to the Liquor and Drinking Establishment Licensing Regulations**

Joyce Hagen Mundy noted under the 2010 amendment to the Kansas Liquor Laws adopted by SB 452, Liquor and Drinking Establishment Licenses are now issued for a two year period. Cities are required to also issue two year licenses. The regulations became effective last year for liquor stores and July 1, 2011 for drinking establishments. To bring the city's code into compliance with the new state regulations references to an "annual" license have been changed to "biannual". With the same intent, the fees are being doubled to correspond with the two year license.

Diana Ewy Sharp made the following motion, which was seconded by David Belz and passed unanimously:

**MOVE THE GOVERNING BODY ADOPT ORDINANCE 2236 AMENDING CHAPTER 3 OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "BEVERAGES" BY AMENDING ARTICLE 3 ENTITLED "ALCOHOLIC LIQUOR" SELECTIONS 3-302, 3-303, 3-304, 3-305 AND 3-307 AND APPROVE A TWO-YEAR LICENSE FEE OF \$600 FOR A LIQUOR LICENSE**

**COUNCIL ACTION TAKEN  
07/05/2011**

Diana Ewy Sharp made the following motion, which was seconded by David Belz and passed unanimously:

**MOVE THE GOVERNING ADOPT ORDINANCE 2237 AMENDING CHAPTER 3 OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "BEVERAGES" BY AMENDING ARTICLE 4 ENTITLED "DRINKING ESTABLISHMENTS AND CLUBS" SECTION 3-401 AND 3-402 AND APPROVE A TWO-YEAR LICENSE FEE OF \$500 FOR A DRINKING ESTABLISHMENT LICENSE**

**COUNCIL ACTION TAKEN  
07/05/2011**

**COU2011-35 Consider Final Change Orders for Project 190659: Franklin Park Improvements, Change Order #1 (Final)**

Keith Bredehoeft stated the final change orders for the Franklin Park Project reflect the final quantities for all bid items and all items have been completed. He noted that items #1 - #4 were not originally included in the bid. Item #5 - install LED lights - was not completed. Item #6 was for liquidated damages in the amount of \$12,000. The contractor should have completed the project last fall. Mr. Bredehoeft noted meeting the deadline was the issue not the quality of work. The final change orders result in a decrease of \$2,376.00 for a final project cost of \$858,224.00.

Diana Ewy Sharp asked if the continued problems with the stream are a responsibility of the city or the contractor. Keith Bredehoeft responded that the stream problems are a design flaw not a construction issue and it will be up to the city to correct the problems. He noted the trees, mulch, and sand in close proximity to the stream have caused problems with the drainage structure. Changes have been made and seem to be successful. Staff will continue to monitor and repair as needed.

Dale Beckerman asked if there is a warranty on the work that has been done. Keith Bredehoeft said there is a two year maintenance bond on the project but it does not include the design issues with the stream.

Charles Clark made the following motion which was seconded by Al Herrera and passed unanimously:

**MOVE THE GOVERNING BODY APPROVE CONSTRUCTION CHANGE ORDER #1 (FINAL) WITH VANUM CONSTRUCTION FOR PROJECT 190659: FRANKLIN PARK IMPROVEMENTS**

**COUNCIL ACTION REQUESTED  
07/18/2011**

**COU2011-31 Consider approving an Energy Performance Contract Agreement with Energy Solutions Professionals, LLC for the sum of \$1,290,924**

Dennis Enslinger noted that in May of 2010, the City Council approved an agreement with Energy Solutions Professionals (ESP) to conduct an Investment Grade Energy Audit for the sum of \$3,928. ESP was selected through a Request for Proposals process which secured services for both energy audit services and possible future contract services under an Energy Performance Contract Agreement. ESP completed the Investment Grade Energy Audit in February 2011, at which time they presented their findings to the City Council for consideration. At the February 22, 2011 City Council meeting, the City Council voted to pursue the completion of Option #4 of the recommendations which includes Energy Measures and a Geothermal System Project for the Municipal Complex. The energy measures include lighting retrofits, water efficiency improvements, vending machine controls, building infiltration improvements, and

energy management system improvements. The Geothermal System Project for the Municipal Complex provides for the replacement of the existing HVAC systems in the Municipal Complex with a Geothermal System.

Mr. Enslinger noted that over the past months, staff has been working with ESP to formalize the necessary improvements, and establish design build parameters of the installation of the geothermal system at the Municipal Complex. In addition, staff has been working with the appropriate state and federal agencies to secure grant approval of the project. The contract agreement is a fixed contract amount for \$1,290,294. This contract was awarded slightly differently than a standard construction contract. ESP was selected through a formal RFP review process. ESP will be acting as the general contractor under this agreement and will hire all sub-contractors related to the project.

Mr. Enslinger stated that as part of the agreement, ESP is guaranteeing energy savings as a result of the installation of at least \$46,118 per year. Should the energy cost savings not reach the agreed upon amount, ESP will reimburse the city the difference after getting a chance to remedy the discrepancy.

The city has secured two grant awards from the Kansas Corporation Commission in the amount of \$400,000. Mr. Enslinger stated staff is requesting temporary funding for the project from reserves until the grants, rebates and bond proceeds are secured.

Al Herrera asked if ESP will charge the city for the adjustments that might be needed. Dennis said the city will not be charged for any adjustments during the warranty period. Mr. Herrera also asked if they will use a one inch line. Mr. Enslinger confirmed they would. Mr. Herrera asked how long the energy savings are guaranteed. Mr. Enslinger stated roughly 10 years until the end of the payback period.

Diana Ewy Sharp expressed great concerns with taking on the expense of a \$1.3 million project based on previous budget discussions. She stated that she has not seen evidence that the city is having significant problems with the current system and believes the three HVAC units can be replaced for \$500,000. Mrs. Ewy Sharp also questioned the life expectancy of the buildings and expressed concern over the comfort of the employees.

Steve Noll said he was skeptical when the project was first broached but he believes electricity and natural gas costs are going to escalate. He said the project is a leap of faith but so was curbside recycling of which the city was at the forefront. He noted it is an opportunity to do "green" work that will bear fruit for a long time.

Dale Warman said in some of the previous buildings he has worked in space heaters were needed but the system paid off in the end. He noted that nobody knows where the energy crisis is going but prices will continue to go up. He believes the payback will come earlier than projected. He noted it is the way to go for clean air, energy and savings.

Charles Clark made the following motion which was seconded by Michael Kelly and passed by a vote of 7 to 2 with Ewy Sharp and Herrera voting in opposition:

**AUTHORIZE THE MAYOR TO EXECUTE AN ENERGY PERFORMANCE CONTRACT AGREEMENT WITH ENERGY SOLUTIONS PROFESSIONALS, LLC FOR THE SUM OF \$1,290,924, SUBJECT TO THE REVIEW BY LEGAL COUNSEL.**

**COUNCIL ACTION TAKEN  
07/05/2011**

Diana Ewy Sharp questioned whether the temporary financing would come from contingency or reserves and the current balance of the reserve fund. Quinn Bennion stated the reserve fund had roughly \$4 million at the beginning of the year and the money would be temporarily taken from contingency and reserves until the debt is issued or replenished from grants.

Charles Clark made the following motion which was seconded by David Morrison and passed by a vote of 7 to 2 with Ewy Sharp and Herrera voting in opposition:

**AUTHORIZE THE USE OF \$920,924 FROM THE GENERAL FUND RESERVES TO TEMPORARILY FUND THE ENERGY MEASURES AND GEOTHERMAL SYSTEM PROJECT UNTIL PERMANENT FUNDING HAS BEEN SECURED FROM THE IDENTIFIED SOURCES**

**COUNCIL ACTION TAKEN  
07/08/2011**

**COU2011-33 Consider approval of a resolution authorizing the offering for sale of general obligation refunding and improvement bonds, series 2011-A**

Quinn Bennion noted that at the June 20<sup>th</sup> Council Committee meeting, the committee approved proceeding with the preparations and necessary actions to refinance the 2009 bond issue for the purpose of accelerating additional capital investment for streets over the next three years for projects that would not otherwise be done. Refunding the bonds would extend the life of the bonds and the payments. The resolution before the Council would begin the preparation for the bond transaction. Staff wants to be assured that Council wants to move forward.

Gary Anderson with Gilmore & Bell said the proposed resolution includes part of the financing for the geothermal/energy project to reimburse the reserve fund and financing for street projects. The 2009 bonds were structured on a ten year maturity with the debt service front loaded in the first five years. The 2009 bonds are not prepayable. There is usually a negative savings with an advanced refunding transaction but the debt structure would be more level. Mr. Anderson noted that another approach would be to issue new bonds to pay for the street improvements. A third approach would be to pay for street improvements with cash. The resolution is currently set-up to issue refunding bonds but could be easily modified for a different approach.

Jeff White with Columbia Capital said the concept received from Council was to accelerate money for streets. The 2009 bond project debt schedule is currently front loaded with \$1.9

million per year through 2014 and \$230,000 per year after that. If the bonds are refunded, the new schedule would be for \$1.2 million per year over the next decade. Another option would be to issue new bonds which would be more economically efficient. Either option would essentially achieve the same result. If the Council wants to move ahead with the concept of accelerating money for street projects, a comparison of the two options could be brought back for Council to review. Refunding bonds has \$5,000 to \$10,000 more in transaction costs.

David Morrison asked how much more the city would pay in interest. Jeff White stated the city would have \$250,000 in negative savings in today's dollars for refunding and less than \$100,000 for a new bond issuance.

Diana Ewy Sharp asked about the cost of issuance. Mr. White responded the refunding transaction requires an additional \$2,000 for a verification report from an accountant and \$2,500 for a bank to hold the account. Transaction costs on the 2009 bonds were approximately \$110,000.

Dale Beckerman asked if the city is at any risk in light of the situation in Washington, D.C. Jeff White said there is some concern especially if the debt ceiling is not raised. However, the situation should be resolved or temporarily resolved before the city enters the market. Dale Beckerman asked how this would be incorporated in the 2012 budget. Quinn Bennion said it would be treated the same as the 2009 bond issue. The budget would be approved without the bonds and then adjusted in next year's budget. The first payments would come out of the capital fund. Charles Clark clarified that the total budget does not change so there is no real change to the county. The change occurs internally in how the budgeted money is spent.

Charles Clark noted in the staff report that staff does not recommend the issuance of bonds to fund street projects but instead prefers raising the mill levy. Mr. Clark agreed with staff stating issuing bonds is his second choice since there is not a majority of Council that will vote in favor of a mill levy increase for streets. He stated the \$14 million backlog in streets is a very significant problem that needs to be addressed.

Dale Beckerman noted that Council is not committing to refunding bonds or new bonds tonight. Gary Andersen said the resolution will direct staff to proceed with analyzing refunding bonds or the issuance of new bonds. Council will have another opportunity to approve the bonds.

Al Herrera questioned what the mill levy increase would need to be for street improvements. Dale Beckerman noted the mill levy would need to be increased by 5 or 6 mills and 5 mills did not get any support in committee.

Steve Noll made the following motion which was seconded by David Belz and passed by 6 to 3 with Kelly, Morrison and Ewy Sharp voting in opposition:

**APPROVE A RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2011-A**

**COUNCIL ACTION TAKEN**  
**07/08/2011**

**COU2011-34 Consider approval amending Ordinance No. 2153 establishing policies and procedures for spending economic development funds to specifically allow funding of park enhancements**

Quinn Bennion noted that at the June 20<sup>th</sup> committee meeting, Council Committee of the Whole was presented with and approved the use of economic development funds for park enhancement projects. The Council discussed the purposes of the economic development fund as provided in Ordinance No. 2153. Council members interpreted the ordinance differently as to whether the existing ordinance provided for the use of economic development funds to design and construct park enhancements. A majority of Council members determined park enhancements to be an appropriate use and approved the allocation as part of the 2012 budget. The City Attorney was asked by Council to research the existing ordinance and provide a determination if the Council followed the ordinance. The existing ordinance provides that the fund may be used “to engage in any projects, programs or improvements within the City of Prairie Village deemed by the Governing Body as appropriate and related to economic development within the city. Mr. Bennion stated the amended ordinance is provided to bring clarity and eliminate the question as to whether park enhancements are an allowable use.

David Belz stated he would not support the amendment of the ordinance because it was his understanding that it would be a one-time use of the economic development for parks funding and he is concerned that it would be used year after year to the point of depletion if the ordinance is amended. He emphasized that at some point the Parks Master Plan will need to be funded in another way. Dale Warman agreed with Mr. Belz and stated he does not see the parallel between parks and economic development.

David Morrison said he sees parks as an integral part of economic development. He quoted the City’s Village Vision pg 4.5 “In a study titled, ‘Valuing Open Space: Land Economics and Neighborhood Parks - MIT Thesis,’ Andrew Miller describes how, with case studies, the value of single-family residential properties surrounding parks increases over time, at a greater rate than properties not fronting open space. It concludes that the placement, design, and quality of the open space determine the amount and rate of appreciation.” Mr. Morrison went on to mention other sources that reference empirical evidence from the past two decades on the impact of parks on property values. He also referenced the proximity principle and that parks play other roles in economic development. Mr. Morrison stated that he believes parks play a key role in economic development and raise property values and that they are a legitimate use of economic development funds.

Michael Kelly noted the parks are in great condition and could be made better but are great compared to other parks available in the area. He stated he is not opposed to funding parks but believes there needs to be an alternative funding source going forward.

David Belz said the only way to fund the Parks Master Plan going forward is in the Capital Infrastructure Program. He agreed that parks make a difference and raise property values but the economic development fund will not be able to fund the entire Parks Master Plan.

Charles Clark noted the issue of timing with the possibility of two major development proposals before the end of the year. He wants to ensure the city has a voice in the development and that may cost some money. He noted it would be better to consider the issue at a later time.

Diana Ewy Sharp asked why an amendment to the ordinance is being considered if the current ordinance allows for expenditures on parks. David Waters stated that a few Council members thought it would be a good way to memorialize the idea. He stated that Council could do nothing, could pass amendments to the ordinance to give firm direction or move forward with the one-time expenditure of \$400,000. Diana Ewy Sharp questioned the necessity of the amendment if there is a catchall in the current ordinance. Dale Beckerman said the Ms. Logan was uncomfortable with the ordinance and thought it would be a good approach to be more specific.

Steve Noll noted that he is not in favor of changing the ordinance. He does not feel that the Park Master Plan is eminent or in peril.

Dale Warman responded to David Morrison's comment that the information he provided is very relevant when buying new park land but he does not feel that adding to existing parks is economic development.

The item died for lack of a motion.

### **Discussion and consideration regarding 2012 Operating and Capital Budgets**

Quinn Bennion stated he is looking for direction tonight on the 2012 budget in preparation for the July 18<sup>th</sup> meeting where the Council approves to publish the budget. The final budget approval is expected at the August 1<sup>st</sup> Council Meeting. He stated that he is pleased to present a 2012 base balanced budget that includes funding of all current city services, programs and personnel levels; includes an additional supplement of \$800,000 for street work and keeps the current mill levy rate. He noted that the city is in a fortunate situation to offer this option particularly in these economic times. Due to the city's strong financial condition, conservative budgeting and fiscal prudence, the base budget presented does not require a mill levy increase while maintaining all services. The base budget was included in the blue binders handed out to Council for the June 13<sup>th</sup> meeting.

Mr. Bennion requested Council consideration of three separate items.

1. Base Budget
2. Decision Package #1 - additional police officers
3. Decision Package #2 - additional street work

He noted that the budget process was department driven and fragmented and he would welcome reflections on the process at a future date.

Charles Clark made a motion to approve the 2012 base budget which was seconded by David Morrison.

Charles Clark stated the Council has had extensive discussion on alternative budget options but none of the changes to the base budget could get a majority vote. Dale Beckerman clarified that the three items for consideration will be considered separately. He asked if the refinancing of the existing bonds is a possible alternative funding source for the CIP in lieu of the mill increase. Quinn Bennion said it could replace the mill increase for streets or supplement it. David Belz clarified that if he votes yes on the base budget he is not precluding moving forward on the other two items. Charles Clark noted by passing the base budget Council would be eliminating all other options besides additional police officers or streets. Diana Ewy Sharp stated she is supportive of the balanced budget as presented but prefers a different funding source for the additional police officers. Council members expressed concerned with voting on the budget in steps. Steve Noll noted the base budget is what Council is prepared to accept and all other action will add or remove to the base package.

Mr. Noll moved the question which passed unanimously.

Charles Clark made the following motion which was seconded by David Morrison and passed 8 to 2 with Ewy Sharp and Kelly voting in opposition:

**APPROVE A BASE BALANCED 2012 BUDGET AS PREPARED AND PRESENTED BY CITY STAFF AT THE JUNE 13<sup>TH</sup> MEETING AND MAINTAINS CURRENT MILL LEVY RATE OF 18.877.**

Mr. Bennion asked Council to consider Decision Package #1 for an increase of 0.60 mills for two additional police officers which would result in an additional \$1.18 per month for the average home.

Dale Beckerman noted that Council has approved a balanced budget and any options added must have a funding source. Mr. Noll said given the recent rise in burglaries he would be comfortable explaining an additional 0.60 mills. He said it is important to provide additional resources to get out in front of the situation. Mrs. Ewy Sharp said she supports additional police officers but does not feel there is a need to increase the mill levy and the other funding sources she has suggested do not have a majority vote. Mr. Morrison expressed agreement with Mrs. Ewy Sharp.

Steve Noll made the following motion which was seconded by Charles Clark and passed 8 to 2 with Ewy Sharp and Morrison voting in opposition:



**APPROVE THE FUNDING FOR AN ADDITIONAL TWO POLICE OFFICERS TO THE ANNUAL BUDGET WITH THE CORRESPONDING MILL LEVY INCREASE OF 0.60 MILLS (FOR A TOTAL MILL LEVY RATE OF 19.477)**

Mr. Bennion asked Council to consider Decision Package #2 for additional funding to the Capital Infrastructure Program (CIP) for streets. Each additional mill would raise \$280,000 and would cost an additional \$1.97 per month for the average home. The additional funding could be in lieu of bonds or in addition to bonds.

Charles Clark suggested not increasing the mill levy for the CIP streets. Andrew Wang asked how much the refinancing would provide annually and when. Mr. Bennion noted the refinancing would provide \$1.2 million in 2012, 2013 and 2014 for streets projects. If the debt is not refinanced, the resources will come available in 2015 at \$1.7 million per year. Mr. Wang asked if the cash-financed capital is the entirety of the CIP fund. Mr. Bennion stated the cash-financed capital on debt financing handout is the cash available from the money that is currently dedicated to paying debt. He stated there is additional funding in the CIP fund. Mr. Kelly asked if it would be cheaper in the long run to raise the mill than to refinance the debt. Mr. Bennion said it depends on construction costs over the next few years. Mr. Kelly noted that we would be covering a hole. Mr. Beckerman stated by refinancing the money can be used while construction costs are low. He noted to replace the \$1.2 million from the refinancing the mill would have to be raised an additional 2 mills for a total of 5 mills. Mr. Kelly expressed support for decent roads but felt the revenue should be raised through mills and not bonds. Charles Clark said the bonds are a second choice since a majority of Council will not vote for 5 mills. Mr. Bennion noted refinancing enables cash over the next three years but does not create a new revenue source. Mr. Kelly expressed interest in raising the mill incrementally over the next few years.

Michael Kelly made the following motion which was seconded by Al Herrera and failed 8 to 2 with Herrera and Kelly voting in favor:

**APPROVE ADDITIONAL FUNDING TO THE CAPITAL PROJECTS FUND FOR STREET WORK WITH A CORRESPONDING MILL LEVY INCREASE OF 2.0 MILLS**

Council President Dale Beckerman adjourned the Council Committee Meeting at 7:29 p.m.

Dale Beckerman  
Council President