

**COUNCIL COMMITTEE OF THE WHOLE
November 5, 2012**

The Council Committee of the Whole met on Monday, November 5, 2012 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President David Morrison with the following members present: Mayor Ron Shaffer, Ashley Weaver, Dale Warman, Ruth Hopkins, Steve Noll, Michael Kelly, Laura Wassmer, Brooke Morehead, Charles Clark, Ted Odell and David Belz. Andrew Wang arrived at 6:43 pm. Staff Members present: Wes Jordan, Chief of Police; Captain Tim Schwartzkopf; Bruce McNabb, Director of Public Works; Keith Bredehoeft, Project Manager; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Chris Engel, Assistant to the City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk.

COU2012-49 Consider approval of request to KCP&L to install a new street light in the 5500-5600 block of 75th Terrace

Bruce McNabb reported the City has received a request to have a new street light installed on this block west of Nall Ave. There are no existing street lights on this block. He inspected this location at both daytime and nighttime hours and a new street light appears to be warranted based on the City's current standards for residential areas. Mr. McNabb noted the probable location for the new light is near the middle of the block with the pole and luminaire being similar to the existing in the neighborhood.

Public Works identified nine properties with possible impacts from a new street light at this location and a petition requesting the street light was sent to each of these property owners. Six of the nine (67%) of the property owners have signed a petition in favor of the proposed street light. The names of the approving property owners were verified by the City Clerk's Office. Since this appears to be a fairly straight forward petition a separate public information meeting was not scheduled with the property owners.

If the Committee and the Governing Body approve sending this request to KCP&L, the company will inspect the site and develop specific plans for the installation. In this case an easement may be necessary to provide power to the pole. If this is necessary, the company will contact the appropriate property owners. Presuming that all arrangements can be worked out, installation will typically be done in 4-6 weeks.

The costs for a new street light and pole including installation, operation and maintenance are paid by KCP&L. The City pays the company for this service through the City's monthly electrical bill. At this time, these costs are approximately \$ 300 per year per light.

Ruth Hopkins made the following motion, which was seconded by Ted O'Dell and passed unanimously:

**MOVE THE CITY COUNCIL APPROVE A REQUEST TO KCP&L
FOR THE INSTALLATION OF A NEW STREET LIGHT IN THE
5500-5600 BLOCK OF WEST 75TH TERRACE
COUNCIL ACTION TAKEN
11/05/2012**

COU2012-48 Consider the Emerald Ash Borer Tree Infestation issue and provide initial direction to City staff

Bruce McNabb noted the recent media coverage of the emerald ash borer, a small insect that kills ash trees, which has recently been identified in the KC metro area. It is difficult to detect the borer until it has attacked a tree and at that point it is too late to save the tree.

This issue was raised at the September City Tree Board meeting by member Greg Van Booven who is a Certified Arborist and the City's current contractor for tree trimming and removal. The Board asked that this issue be considered by the City Council.

The City's inventory of trees on City property and along City streets shows a total of 737 ash trees in the City's approximately 9400 trees. 77 of these trees are located in City parks, on City islands and on other City property. The City is responsible for these trees and options for handling these trees will be presented in the near future. Staff estimates the City costs to handle City owned trees range from \$ 42,500 to \$85,000 over the next 10 years.

The remaining 660 ash trees in the inventory are along City streets (street trees). They represent approximately 8.5% of all street trees in the City. The ash trees are located throughout the City but are concentrated in some areas. 413 (62.5%) of these street ash trees are located on 18 street segments.

Laura Wassmer asked where in the City is the highest concentration. Greg VanBooven responded in Ward 1 and Ward 3.

Greg VanBooven stated that if ash trees become infected with the emerald ash borer, they will die. He reviewed research and studies conducted by Ohio State, Michigan State and Purdue Universities on treatment and prevention. Mr. VanBooven reviewed options available for treatment and actions taken in other areas to address this issue. There is a preventative treatment that is injected into the bark of the trees that has been 99% effective; however, he noted that the injections currently need to be done every two years. As research continues the length of time between injections could be increased.

Steve Noll noted that these trees are located in the older sections of the City and therefore are older and more mature trees which may have a limited life span. Mr. VanBooven responded that there are some existing Ash trees in the City that he would not recommend treating due to their condition. Mr. Noll suggested if treatment is pursued that the trees be evaluated with the best trees being treated and others possibly being removed. Mr. VanBooven agreed that would be the process he would recommend but noted some of the difficulties in the selection process for those trees receiving treatment and addressing the questions from the public regarding why their trees were not treated.

Dale Warman noted the number of trees being discussed only include those on City property or City right-of-way, not trees that are located in residents' yards. He noted the question before the Council is whether the City wants to take preventative measures or

do nothing and let the trees dies. He does not feel doing nothing is an option. He also suggested that when trees are removed that they be replaced with a different species of tree. He agreed with Mr. VanBooven that the evaluation process will be difficult and potentially become political.

Greg VanBooven noted the City will be affected regardless of whether they take action or not as untreated trees will die and will need to be removed and replaced at a cost by the City. He also noted the intangible value these trees give to the City and its residents in higher property values.

Ted Odell expressed concern with the overall cost of the proposed program and questioned the cost for tree removal and disposal. Mr. VanBooven noted disposal costs will probably be increasing as cities are placing restrictions to prevent diseased trees from entering their municipalities. Mr. McNabb stated the current average cost for tree removal is approximately \$350 depending on the size of the tree and noted the city's discounted rated.

Laura Wassmer asked what the anticipated life span was for Green Ash Trees. Mr. VanBooven stated under ideal conditions, in a forest area, these trees would live for over 100 years. The trees in the northern area of Prairie Village are probably 50 to 60 years old being planted when the city was developed.

Ruth Hopkins stated that she is strongly opposed to moving forward with the proposed treatment program due to its excessive and with ongoing cost.

Brooke Morehead asked what actions Wyandotte County has taken. Mr. VanBooven noted that Wyandotte County does not have a high concentration of Ash Trees and the county is not taking any action. The City of Kansas City, Missouri is implementing a treatment program. He noted that fortunately Prairie Village has a relatively low percentage of Ash Trees, whereas 20 to 25% of the trees in Overland Park are Ash Trees. Mrs. Morehead stated she agreed with not pursuing a treatment program and feels that these trees are replaced with a diversity of trees. Mr. VanBooven responded the City currently under its tree planting program is planting a diversity of tree types.

Andrew Wang stated there will be a cost to the City regardless of the City's actions.

Bruce McNabb agreed and noted the City's response to the emerald ash borer will have a significant financial impact to City government. Rough estimates (conservative/low) of the City's 10 year costs for contractual services to deal with the effects of the emerald ash borer range from \$400,000 to more than \$ 720,000, based on assumptions about the general condition of these trees, average tree size, current contractual prices, etc. There will be additional costs for staff time to manage these programs and additional temporary resources may be needed. Laura Wassmer stated, based on her experiences with tree removal, that estimate is very low. Mr. McNabb noted the costs are based on the costs bid for the City's bid tree trimming which are probably significantly lower than the costs charged to a resident.

If no changes are made in City policy, the estimated 10 year costs for a private property owner to have one ash tree inspected and treated is approximately \$1000. It might be difficult to force private property owners to treat their ash trees.

According to current State law, City Code and City Council policy, the maintenance of trees, including any treatment for infestations, is the responsibility of the tree owner, which is the adjacent property owner. The City removes dead and dying trees, replants new trees, removes hazardous branches and has a periodic trimming program.

Mr. McNabb stated the threshold question at this point is whether the City Council wants to modify current City policy to provide treatment to these ash trees along City streets and possibly other problems with other trees in the future. He noted there are no specific funds budgeted for a response to this issue in the 2012 or 2013 City Budgets. Funding would have to come from the City's General Contingency Funds or could be budgeted in the 2014 City Budget.

Laura Wassmer stated she felt that taking no action would be very short sighted of the Council. The option of doing nothing will also be very expensive.

David Belz confirmed this is estimated to be a ten year cost. Mr. McNabb responded it will be an ongoing cost; however, as research develops he does not know what may be developed to address this issue in the future.

If it is determined that the City should take over responsibility for this aspect of maintaining the street ash trees, staff will present options to the Tree Board and City Council regarding the number of trees to be treated, possible schedules and associated costs.

The primary advantages of the City taking over this responsibility are the preservation of more of the existing ash trees, fewer and slower impacts to ash trees on private property and all of the associated benefits of more healthy trees including aesthetics, reduced soil erosion, and other environmental benefits. These benefits are shared among the adjacent property owner, the neighborhood and the entire City. The primary disadvantages of taking over this responsibility are the costs and possibly the expectation that the City will also respond in a similar manner to the next similar situation that arises in the future.

Charles Clark stated he would like to see specifics or a proposed plan with estimated costs and information on what other cities are doing or have done to address this issue. Mr. McNabb responded at this point the only known city in Johnson County that is embarking on a proactive ash tree preservation program for street trees is the City of Fairway.

If City Council takes no action, the responsibility for maintenance will remain with the private property owner. City staff can attempt to notify these residents to make sure that they know they own an ash tree along the street and point them toward additional information resources.

Laura Wassmer stated she would like to have addressed in the proposal the possible forming of a partnership with the residents for right-of-way trees with possible shared costs. Ted Odell stated at a minimum the City should take action to notify the residents of the potential threat to their trees and options. Steve Noll stated trees, particularly mature trees, are a value asset that the City cannot walk away from. The City should assist residents in how to identify green ash trees that are in danger and provided information regarding the options available. Greg VanBooven responded this could be done through an article in the Village Voice, a possible special seminar presented by the Tree Board to educate residents on this issue.

Charles Clark stated it appeared the Council was supportive of having staff do more research and prepare possible plans or options for consideration; however, he added this was not saying the Council would move forward with implementation of a treatment program.

David Morrison confirmed all but Mrs. Hopkins were supportive of staff researching this issue further and presenting more detailed information to the Council at a later meeting.

COU2012-50 Consider 2013 Joint City/County Legislative Agenda

Chris Engel noted each year the Council discusses and adopts a legislative program that establishes the City's legislative priorities for the upcoming session. The last few years the Council has adopted a joint City/County platform to assert our common positions with all of our state representatives. The County is requesting this practice continue and hosted a meeting in October with area managers. At that meeting the following changes to the 2012 Joint Platform were discussed and recommended:

KPERS Funding - same as 2012 but removed language referencing "additional retirement options" because the Legislature approved changes to KPERS in 2012 and added an additional Tier III retirement option for new employees.

Maintain Local Control of Revenue and Spending - same as 2012 - slight update of wording by replacing the word 'maximized' with "controlled by local voters and taxpayers."

Kansas Open Records and Open Meetings Act - same as 2012 - deleted sentence about the "disclosure of sensitive information."

Comprehensive Transportation Plan - same as 2012 - updated language on the benefits of investing transportation dollars in growth areas.

The items 'Official Publications on Internet' and 'Redistricting' were removed because they were successfully addressed during the 2012 legislative session.

Mr. Engel noted the general stance is for cities to come together to maintain the status quo and continue to receive the current pass-thru funding that is received from the State. Although the impact of tomorrow's elections is unknown, in the earlier primary

some strong supporters for municipal governments were defeated and there is a stronger need for local governments to become more involved in communicating with state representatives.

Charles Clark stated he felt a joint platform is more likely to be read and considered by representatives and a more powerful statement. Mayor Shaffer stressed the need for open communication with state representatives both to let them know what is desired by the city as well as to find out what actions are being considered at the state level. The Council confirmed their desire to hold the annual Legislative Breakfast.

Charles Clark made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**RECOMMEND THE GOVERNING BODY ADOPT THE 2013
JOINT CITY/COUNTY LEGISLATIVE PLATFORM
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2012-52 Consider City Hall and Public Works Entrance Signs

Keith Bredehoeft stated in the last several years new city entrance signs and park entrance signs have been installed around Prairie Village. It is proposed to update the entrance signs to City Hall and Public Works to similar style signs. By adding the two new signs at both City Hall and Public Works these facilities will have a much more visible and identifiable sign. The City Hall and Public Works signs are the only two that have not been upgraded. If this is completed now, the entrance, park, and building signs will all be new and similar in architectural style.

The City Hall sign will have two columns with the sign face attached as shown in the attachment. The Public Works sign will be constructed the same as the park entrance signs. The \$20,000.00 includes up to \$2,000.00 for electrical work to light the sign at City Hall and any possible changes that could take place. Funding for this project would come from the City General Contingency Fund.

Brook Morehead stated she felt the expenditure of \$20,000 to tell people where City buildings are located is a waste of money. She would prefer the money be saved for future replacement of the existing signage when it is required. She asked if the current signage was ineffective.

David Morrison confirmed there is nothing functionally wrong with the existing signage. Mr. Bredehoeft noted the proposed change more aesthetically driven than functionally driven; however, it is desired to have consistency in the city signage throughout the City and noted the existing signage is dated having been installed more than 15 years ago.

Ted Odell asked if the cost for the signage could be bid to get a better cost. Mr. Bredehoeft replied the cost was from the contractor who did the other city signs, but the work could be put out for bid.

Bruce McNabb stated he has received comments from residents and contractors that they were unable to locate City Hall or who drove by the existing signage and driveway to the public works facility. Mr. Morrison stated he would support replacing the signs when they needed to be replaced, not now for aesthetic reasons.

Laura Wassmer made the following motion, which was seconded by Ted Odell and passed by a vote of 9 to 3 with Weaver, Morehead and Morrison voting in opposition:

MOVE THE CITY COUNCIL APPROVE THE CONSTRUCTION OF NEW ENTRANCE SIGNS AT CITY HALL AND PUBLIC WORKS AND THE FUNDING OF \$20, 0000 FROM THE GENERAL CONTINGENCY FUND

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

David Morrison recused himself from the chair for the remainder of the committee meeting and former Council President Charles Clark assumed the chair.

Code of Ethics Complaint

City Attorney Katie Logan presented a code of ethics complaint against Councilman David Morrison for alleging providing an unauthorized person to use his security code to access secure areas of City Hall. The complaint included information about the individual, including a criminal and drug use history, having access during closed hours and spending three nights unattended in City Hall. The individual was discovered by city staff on the morning of October 31st in the employee lounge and Chief Jordan was notified. While the investigation is still underway, there is no evidence of any items being taken or access to confidential records.

Ms Logan stated by City Code the City Attorney is required to bring any alleged violation by a public official of the Code of Ethics to the attention of the Council Committee of the Whole by a written complaint. "The Council Committee of the Whole shall adopt its own rules for studying and investigating complaints. After investigating the complaint, the Council Committee of the Whole shall make recommendations in writing to the Mayor. The Mayor shall take whatever action they deem appropriate.... On the part of public officials, action, if any, shall either be public censor or ouster, provided that all action be in accordance with the applicable statutes of the State of Kansas."

Ms Logan distributed proposed rules for studying and investigating ethics complaints against public officials under Section 1-212 of the code of the City of Prairie Village, Kansas for consideration by the Council. She stated she does not feel there will be many of the facts claimed in the complaint disputed. She has requested input from the District Attorney whether deliberations may be taken in executive session, with action being taken in a public meeting at the conclusion of the executive session. She advised that a draft of the complaint received by members of the Council was presented to Mr. Morrison and his attorney on Friday, November 2nd during a meeting with herself, Quinn Bennion and Chief Jordan. At that time, his attorney requested four weeks to prepare for the hearing. The guidelines distributed call for a hearing to be held at least two weeks after the receipt of the complaint by the Council. She noted the hearing could be conducted at a special meeting of the Council Committee.

Michael Kelly asked if the facts are not in dispute why the committee can't move forward with action. Mrs. Logan responded they could do so only if Mr. Morrison waived his right to a hearing.

Laura Wassmer stated with the facts not being in dispute she does not see any reason for waiting four weeks to hold the hearing. Mrs. Logan stated she could not say all the facts are not in dispute, but many facts are not. Ms. Wassmer cannot see any advantage in waiting a month. Ms Logan responded that from the city's perspective two weeks is sufficient time.

Michael Kelly stated that under the circumstances he also feels the Council Presidency should revert back to the former Council President pending the results of the investigation.

Mrs. Logan stated the hearing could be set for two weeks and changed or continued if need be. She noted that she felt an entire Council Committee of the Whole meeting should be set aside for the hearing. Charles Clark asked Quinn Bennion if doing so would leave sufficient time for the committee to handle other matters in future meetings or should a special meeting be scheduled. Mr. Bennion responded committee agendas are usually set the week prior to the meeting and he knew of only a few items at this time.

Michael Kelly moved the Council Committee of the Whole schedule a public hearing on the alleged violation of the code of ethics as presented by the City Attorney for the Monday, November 19th meeting of the Council Committee of the Whole. The motion was seconded by Laura Wassmer and passed unanimously.

Ruth Hopkins moved the Council Committee of the Whole adopt the rules for studying and investigating ethics complaints against public officials under Section 1-212 of the Code of the City of Prairie Village, Kansas as presented. The motion was seconded by Steve Noll and passed unanimously.

Michael Kelly moved that pending the result of the investigation of the complaint against Council President David Morrison that the Council Presidency be returned to former Council President Charles Clark. The motion was seconded by Laura Wassmer and passed unanimously.

Adjournment

With no further business to come before the Council Committee of the Whole, Council President Charles Clark adjourned the meeting at 7:25 p.m.

Charles Clark
Council President