

**COUNCIL COMMITTEE OF THE WHOLE**  
**March 3, 2014**

The Council Committee of the Whole met on Monday, March 4, 2013 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Acting Council President Charles Clark with the following members present: Mayor Ron Shaffer, Ashley Weaver, Steve Noll, Ruth Hopkins, Andrew Wang, Laura Wassmer, Brooke Morehead, Courtney McFadden, Ted Odell and David Belz. Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Lisa Santa Maria, Finance Director; Nic Sanders, Human Resources Specialist, Danielle Dulin, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

**Presentation by Shawnee Mission School District Superintendent Jim Hinson**

Superintendent Hinson reported on the \$20M technology initiative in conjunction with Apple that will provide every teacher and student with a MacBook and/or iPad. The program will roll out this month with staff receiving their computers and training. The rollout for high school, middle school and 10 elementary schools will take place in August with the start of the new school year. Dr. Hinson noted the funding for this initiative will come from the District's Capital Outlay Budget.

Dr. Hinson noted the desire of the District to gather data to try to project trends over the next ten year relative to the changing demographics of the district. They received a report last week from a demographer conducting that study and will be reviewing the report over the next several months. He stressed the District would communicate with neighborhoods and the City prior to making any changes in school boundaries and that there are no plans to close schools, noting that some schools are at or over capacity. He stated the study will be used as a tool. The study is not comprehensive as it does not address such things as the Governor's push to have full-day kindergarten; specialized programs that operate within certain schools and neighborhood considerations. He did note, however, that the District is working toward consolidating Administrative Offices and functions from six sites to two.

Ted Odell stressed the need for the city to be involved in the discussion of any boundary changes as such action would have significant impact on the city and its residents. He expressed particular concern with the potential shift of boundaries that would move current Shawnee Mission East Students to Shawnee Mission North. Supt. Hinson responded that he does not anticipate any shifting of neither high school boundaries nor middle school boundaries. He acknowledged that some elementary school boundaries may need to be adjusted and stressed that the district would meet with the neighborhoods and city prior to taking any action.

Brooke Morehead asked if the school district would be open to having an official liaison from the City sit on the Board. Dr. Hinson responded the District has a Director of Communications that is responsible for communicating with the public. Mrs. Morehead

stated the City is looking for more open communication at meetings. Dr. Hinson stated the District would welcome the city's attendance of their meetings.

Courtney McFadden noted that currently a small portion of southern Prairie Village falls within the Shawnee Mission South High School boundaries and she would like to see the entire city attending Shawnee Mission East. Dr. Hinson responded that East is at capacity and it would be difficult to shift more students to East.

Superintendent reassured the Council that the demographic study would be used as a tool, not as the guiding force for actions taken by the District.

Laura Wassmer commended Superintendent on the improvements made in communication and the investment in technology since he became superintendent and suggested a stronger review of teaching staff based on the experiences of her children. Dr. Hinson stated there are currently some schools that do 360 evaluations on staff.

**COU2014-05 Consider approval of contract with Kansas Heavy Construction, LLC for the 2014 Concrete Repair Program**

Keith Bredehoeft reported that on February 7, 2014, the City Clerk opened bids for Project CONC2014: 2014 Concrete Repair Program. This program consists of repairs to deteriorated concrete sidewalk, curb and ADA ramps. Location of work includes streets in the City's yearly maintenance Districts. Not all streets in the following area will require work. The area this construction season is area 51, which covers the area south of 75<sup>th</sup> Street to 79<sup>th</sup> Street and west of Nall to Lamar, as well as being completing concrete repairs at approximately 15 miscellaneous locations throughout the City.

Seven bids were received in the following amounts:

Kansas Heavy Construction, LLC	\$619,667.50
McAnany Concrete, LLC	\$632,300.00
Wm. White and Sons	\$735,075.00
Miles Excavating, Inc.	\$794,183.00
Gunter Construction Co.	\$850,305.00
O'Donnell & Sons Construction	\$865,120.00
Freeman Concrete Construction	\$1,040,275.00

The engineer's estimate for the project was \$764,360. City staff has reviewed the bids for accuracy and found no errors. Mr. Bredehoeft noted that the contract is being let for \$700,000.

Ted Odell asked why the contract amount was \$700,000 and not \$619,667.50. Mr. Bredehoeft responded the bid established base prices for work to be completed and based on the bid; the City anticipates that it will be able to do additional work. Charles Clark clarified the concept of unit based bidding which has been used previously in City construction contracts.

Steve Noll made the following motion, which was seconded by Ruth Hopkins and passed unanimously:

**RECOMMEND THE CITY COUNCIL AUTHORIZE THE MAYOR  
TO EXECUTE THE CONSTRUCTION CONTRACT WITH KANSAS  
HEAVY CONSTRUCTION, LLC FOR PROJECT CONC2014: 2014  
CONCRETE REPAIR PROGRAM IN THE AMOUNT OF \$700,000.  
COUNCIL ACTION TAKEN  
03/04/2014**

**Presentation and discussion of Special Use Permits and Conditional Use Permits**

Ron Williamson stated staff had been requested by the Council to address uses permitted in R-1 and Special Use Permits permitted in R-1. He also suggested that the Council review the uses listed as Conditional Use Permits and determine if any of those should be moved to the Special Use Permit chapter.

Special Use Permits require a public hearing by the Planning Commission and a recommendation to the Governing Body. The Governing Body makes the final decision. Conditional Use Permits require a public hearing, but the final decision is made by the Planning Commission. When the Zoning Ordinance was revised in 1995, the Council determined that some uses needed to be reviewed by a public body, but they were considered to be minor uses and the decision was delegated to the Planning Commission. Another factor that concerned the Council at that time was that it was taking too long for applicants to get a decision and it was costing applicants too much for minor items.

Mr. Williamson reviewed the zoning ordinances for the cities of Leawood, Lenexa, Mission, Olathe, Overland Park, and Shawnee and summarized them as compared to Prairie Village. There are many similarities as the initial zoning regulations for most Johnson County cities were drafted by the same individual. However, the formats vary. Some use the traditional format similar to Prairie Village, while others use the Unified Development Code format. He also noted that the terminology for a specific use may vary from one city to another. Conditional Use Permits were added to the City's code in 1992; however, over time CUP case law has changed. Currently only Prairie Village and Olathe have Conditional Use Permits. He recommended the City review the current conditional use permit listing and determine which uses should be handled as a Special Use Permit, as a site plan review or administratively.

Laura Wassmer asked why there were so many uses listed in the Special Use Permit regulations rather than in zoning. Katie Logan responded the Special Use Permit process is the same as the Rezoning process. A Special Use Permit allows a specific use to be allowed in a zoning district that can be conditioned by the City to provide for a better fit of the use into the specific area. Ron Williamson added Zoning Districts establish general criteria and anything that falls within that criteria can be construction without further review or conditions added.

Ashley Weaver asked if Prairie Village was the only City to allow Special Use Permits in residential districts. Katie Logan responded - no, that most cities allow SUPs in residential districts.

Laura Wassmer noted the long list of allowable uses that are included as potential uses under a Special Use Permit and noted that many of them would not be uses that would be desired in residential neighborhoods. Ron Williamson responded the uses have to be identified and a clear process and criteria established for consideration of these uses. Ms. Wassmer asked what process gives the City the most control. Mr. Williamson responded the processes are the same; however, the City can condition the approval of a Special Use Permit. It cannot do so on a rezoning.

Ted Odell felt the problem with Conditional and Special Use Permits is that they push the envelope of what is appropriate in a residential area. The City needs to make sure it protects property values in residential areas.

Ashley Weaver stated she sees Special Use Permits as a way around rezoning. Mr. Williamson noted that the City of Mission has a zoning district for Senior Housing.

Committee members discussed the pros and cons of having a designated zoning district vs. a Special Use Permit noting that if a senior facility with a Special Use Permit failed the zoning for that property would return to residential under the current language; however, if the land was rezoned and the facility failed, the land would remain zoned for a senior living complex. Mr. Williamson added if the city were to adopt a zoning district for senior housing, all of the existing facilities operating under a Special Use Permit would need to be rezoned.

Laura Wassmer agreed that the City has less control with zoned property. However, she expressed concern with the current wording of the code that states “Any of the following uses may be located in any district by special use permit . . .” She feels this implies to the developer that it is a permitted use. She would like to see softer language such as “Any of the following uses may be considered by the Governing Body for location in any district by approval of a Special Use Permit . . .” Mr. Williamson responded that language could be changed.

Charles Clark noted that one of the issues is that Special Use Permits come before Council and he questioned if the current Conditional Use Permits needed to come before the Council. Mr. Williamson responded that some of them are minor and could be handled administratively by staff or by the Planning Commission as a site plan review. Mr. Williamson noted the time frame for processing a Special Use Permit is extended by a minimum of 30 days due to the protest petition period and review by the Council.

Ted Odell stated one of the other concerns expressed at the Council work session was whether the current code mirrors Village Vision; particularly as it related to mixed use districts. He would like to see the “MXD” regulations tightened up by perhaps adding a required percentage of residential uses vs. commercial uses.

Ron Williamson stated the definition of mixed use is clear in the current code and it requires vertical mixed uses with more than 50% of the floor area being above ground floor. He noted the initial plan for the Mission Valley site, did not meet the city’s mixed

use requirements. Mr. Odell stated he would like to see more balance in mixed use districts. Mr. Williamson responded there are not many parcels available in the city that are large enough to do a mixed use district. This is a planned district and must be constructed in compliance with an approved plan.

Kate Gunja reported that the Planning Commission is supportive of a joint meeting and has looked at two potential dates in May and July. The meeting would be held in place of a council committee meeting on a regular meeting date. The Council members felt that more time was needed than the 90 minutes allowed by a committee meeting and would like to see an alternative Monday date considered to allow sufficient time for a thorough discussion.

**COU2014-03 Consider adoption of a City Council Policy outlining the procedures for filling a vacancy in the Office of Mayor and selection of the President of the Council**

At the January 21<sup>st</sup> meeting the Council reviewed a draft policy for the procedure of filling the vacancy in the office of Mayor. Staff was directed to make some changes and get information how this was handled by surrounding cities. The investigation revealed that no other cities have written policies/procedures.

Danielle Dulin presented the revised policy which has a written ballot that is then read and recorded by the City Clerk. The request to allow the council seat of the Acting Mayor open was investigated and determined to not be possible. It was noted that the election office requires 120 days notice to hold a special election or to add an additional office position or question to a ballot.

Ted Odell asked how a tie vote would be handled and how it was handled by other cities. Mrs. Dulin stated she did not look at the issue of tie votes with other cities. Mr. Odell stated he would like to see all avenues explored before taking action on the policy.

Mayor Shaffer asked why the written ballot rather than a roll call vote. Mr. Odell responded that it would remove some of the pressure of voting, particularly for those who would be asked to cast their votes first. Ruth Hopkins stated she felt this was a good way to handle the voting.

Charles Clark directed staff bring the additional information requested back to the committee for action on the proposed policy.

**Selection of Council President**

Danielle Dulin stated at the direction of the Council staff has prepared a draft written policy for review, but stressed that this is not staff's recommendation to have a formal written policy. She presented her findings from other cities noting that none of the cities have their procedure in a formal written policy.

Mr. Odell expressed his support for Option B as it would more likely allow all Council members the opportunity to serve as Council President. Ruth Hopkins questioned why this needed to be in writing, noting that it has worked for years within being a written

document. Mr. Odell felt that as a new councilmember it would provide a clear understanding of the process.

Steve Noll stated that Option A has a very limited application. The current situation with his serving on the Council for a second time, it not a likely occurrence. He has served a Council President a long time ago. The experience is an important learning opportunity and he feels it bring value to the Council to have members who have had that experience. Mr. Noll volunteered to not accept a nomination to serve again as Council President under the existing practice.

David Belz asked why other cities have chosen not to have their policy in writing. Mrs. Dulin responded they felt an unwritten policy allowed them more flexibility for selection. Kate Gunja responded the issue of having a written policy was never raised at the City of Fairway. Quinn Bennion noted that some cities do not rotate the position, that it is an elected position.

Steve Noll felt that under a straight election process, it would be highly unlikely that a relatively new councilmember would be elected to the position of Council President. Laura Wassmer stated she liked how it has been done in the past as it allows everyone the opportunity to serve as Council President and feels that leads to a more cohesive Council. She doesn't care if the policy is written or unwritten.

Ted Odell moved the City Council adopt a written policy establishing the procedure for the selection of a Council President following Option B presented in the staff report. The motion was seconded by Andrew Wang and passed by a vote of 5 to 4.

#### **ADJOURNMENT**

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

Charles Clark  
Council President