



**MINUTES OF MISSION WOODS CITY COUNCIL
AUGUST 6, 2013
7:00 p.m.**

The City Council of Mission Woods, Kansas met in regular session on Tuesday, August 6, 2013 at the Westwood City Hall, 4700 Rainbow, Westwood, Kansas.

Council members present: Mayor Robert Tietze
Councilman Charles Bachand
Councilman John Baenisch
Councilman Bill Dunn
Councilman Bill Sanders

Council member present by phone: Cory Fisher

Visitors present: City Attorney Heather S. Esau Zerger
Chuck Haviland
Vern Schallehn
Various residents of Mission Woods

I. Call to Order

Mayor Robert Tietze called to order at 7:02 p.m. the meeting of the City Council to complete the business before it. A quorum was present.

II. Public Comment and Approval of 2014 Budget

Mayor Tietze invited public comment regarding the proposed 2014 budget. No comments were offered by the public. Council member Sanders moved to approve the 2014 budget and Council member Dunn seconded the motion. The motion carried upon the unanimous vote of the Council.

III. Approval of Meeting Minutes

The Council next turned to approval of the July minutes of the City Council, which were provided to the Mayor and Council members by Ms. Zerger in advance of the meeting. Upon motion by Council member Dunn and seconded by Council member Baenisch, the July minutes were unanimously approved as submitted.

IV. Approval of Warrants

The Council reviewed the materials provided. Mr. Haviland has arranged for Michael to attend the September Council meeting to discuss landscaping services. Council member Bachand moved and Council member Baenisch seconded the approval of the warrants. The motion carried by unanimous vote of the Council.

V. Police Reports

The Council turned its attention to a review of police reports. No comments or concerns were noted.

VI. Contract for Capital Improvement Plan

Mayor Tietze introduced the next item on the agenda, which was approval of the engagement of Phelps Engineering for preparation of a Capital Improvement Plan for the City. A small group had interviewed three firms and recommends the engagement of Phelps Engineering. Mayor Tietze reported that the small group thought this firm was the best fit for Mission Woods. Council member Sanders inquired as to where Phelps Engineering fell with respect to the projected costs of the project. Mayor Tietze reported they were in the middle range of the firms reviewed. Mayor Tietze reminded the Council that it will be allowed to add and subtract from the menu of services offered by Phelps Engineering. The engineering firm wants Council interaction through the process. Council member Dunn moved to approve the engagement of Phelps Engineering to prepare a Capital Improvement Plan for the City and Council member Baenisch seconded the motion. The motion was approved by the unanimous vote of the Council.

VII. Amendment to Noise Ordinance – Humans, Electronics

Mayor Tietze recapped proposed changes to noise ordinances related to this category of sounds. He then opened the floor to public comment.

Carol Thomas 2100 W. 51st Street, Mission Woods: Ms. Thomas stated that she thought in the meeting of a small group of citizens on this topic that the recommended end time during the week had been moved to 6:00 p.m.

David Sederholm 2105 W. 50th Terrace, Mission Woods: Mr. Sederholm also indicated that in the informal committee meetings, the residents had expressed that 8:00 p.m. was too late for practices to be taking place on the adjacent school property and that such noised until 8:00 p.m.

were disruptive. He indicated he believes that 8:00 p.m. seems unreasonable for soccer play to occur in backyards.

Mike Knierim 2120 W. 51st St. Mission Woods: Mr. Knierim inquired about the use of air horns and whistles during the excepted times.

Mayor Tietze provided background for the Council and citizens in attendance concerning the meetings of the small group of residents to discuss noise issues. Mayor Tietze stated that he proposed changes to Pembroke that reflected compromise on City's part and school's part. Pembroke's response to a 6:00 p.m. cut-off time is not workable for the school, particularly to the extent the programming is geared toward the existing ordinance.

Dr. Bellis, head master of Pembroke, was in attendance and addressed the group. He indicated the school has taken measures to stop the use of air horns. He also indicated there is an upcoming meeting of residents and the school to discuss installation of sound barriers. He briefly outlined a proposal he intends to give to the residents that includes a fence with a gate, and the potential for no activity on the "church property," which might be used by the residents. He also expects that the lowering of the fields to provide a natural sound barrier. The school needs the fields for the youth programs. Most nights these events are done by 7:00 p.m., at times 7:30 p.m. and on occasion, 8:00 p.m. The fields not used in summer. They are used after spring break until May and from the end of August until mid-October. He summarized that the fields are really used Monday through Thursday for 5 months per year. The school needs access for youth programs after the varsity practices are concluded. The school is a making good faith effort to reduce noise and would like to get a year in the books with the new fields in order to see how it goes.

Councilmember Baenisch inquired about setting limits on the use of the school property under the recreational zoning district rather than trying to address the issue through the noise ordinance.

Mayor Tietze reminded the Council that the noise ordinance applies to the entire City, not just the school.

Council member Sanders inquired of Dr. Bellis about how often the use of the facility goes beyond 7:30 p.m. Dr. Bellis indicated he isn't positive how often this is an issue but believes that with the new fields, the sound will be greatly reduced. Dr. Bellis does not want to be in violation if they happen to go past 7:30. Dr. Bellis indicated that the 8:00 cut-off gives some cushion for the usual 7:00 or 7:30 p.m. cut-off time.

Council member Sanders asked Council member Baenisch about the idea of the fence that the school planned to propose to the residents whose property abuts the school property. Dr. Bellis explained that there is concern about having people on the property who are not supposed to be there. Dr. Bellis proposes to extend the fence that stops at the corner of the Baenisch's house so

that no one can get on the property from the back side. The school would mow the area, but the “church property” would be sealed off and not accessible to anyone except the residents through their backyards. Dr. Bellis described the “church property” for those in attendance, which is a narrow strip of property that was formerly owned by the church.

Council member Baenisch indicated that he believes his neighbors feel that time constraints on the use of the property are really the issue of most concern.

Mayor Tietze asked that the Council look at the proposed changes to the noise ordinance and revisit the issue of limitations on the property zoned as part of the recreational district at a later time. Dr. Bellis indicated he needs to discuss the issue with his coaches in order to get a more definite picture of the ending times of their practices and programs. Council member Baenisch asked to look at postponing a vote on this portion of the ordinance until Dr. Bellis can work with us on the recreational district issues.

Council member Fisher agreed that it might make sense to approach this as a package deal and would prefer to temporarily refrain from going forward with this aspect of the noise ordinance. Council member Sanders asked Dr. Bellis if he could gather information for the meeting next month and Dr. Bellis believed he could.

Council member Sanders asked about progress on the construction project generally. Dr. Bellis indicated that because of the wet summer, the progress has slowed. They currently are 5 weeks behind schedule because of the rain. The project has been very clean otherwise. The only negative has been excess dirt, which has been the only unexpected issue.

Marguerite Thomas asked about when the tennis courts will be secured so that kids can no longer have parties on the tennis courts. Dr. Bellis indicated that the proposal he intends to make to the neighbors will hopefully address this issue.

Council member Sanders asked about the prevalence of kids partying compared to other years. Some residents seemed to think it had increased and others did not think so. The Council reminded the neighbors to call the police if such activity occurs.

Consensus was to table any vote on this section until next month so that Dr. Bellis can provide more information on scheduling. The residents seemed to think this was agreeable.

VIII. Amendment to Noise Ordinance – Bells and Gongs

The Council then turned its attention to the proposed changes in the noise ordinance related to bells and gongs. Mayor Tietze recapped the changes.

Mr. Knierim reported that very late one night, bells from the church rang for over four minutes. He also indicated the church bells are very loud (to the point he thought someone was playing a

joke on him because the noise was so loud). Numerous residents expressed their belief that the proposed 5-minute duration seemed long.

Council member Dunn explained how the ringing of the bells relates to the church service.

Council member Baenisch recapped for the audience the information learned from a representative of the church that attended a Council meeting a few months earlier regarding when the bells are rung. He suggested we put the actual parameters of how the church uses the bells into the ordinance.

Council member Sanders inquired about the ability to control the volume on the bells. The Council recalled that this was not discussed with the church representative who appeared at our meeting a few months ago.

City Attorney Zerger explained the five minute limit was proposed because this limitation is already established as a bright line prohibition in another section of the ordinance.

Mayor Tietze wants to verify with the church their understanding of exactly when they want to ring and get their commitment to staying within the limits we set.

Council agreed to table action on this section of the noise ordinance as well so that we can speak with the church representatives about the dates of ringing and about the volume. It was suggested that the Council ask Phelps Engineering to provide decibel reading at the property line so the Council can determine precisely the volume of the sound. There is no decibel limit in the ordinance as it is currently written or in the proposed changes.

IX. Amendment to Noise Ordinance – Penalty

Mayor Tietze then asked the Council to turn its attention to the proposed changes to the penalty provisions of the noise ordinance. Mayor Tietze outlined the proposed changes and asked for public comment regarding the changes. There was no public comment on this issue. Council member Baenisch moved to approve the proposed changes to the penalty provision of the noise ordinance and Council member Sanders seconded the motion. The motion passed by unanimous vote of the Council.

X. General Comments

The next item on the agenda included general comments from the Mayor and Council members. Mayor Tietze reported that he has been working with representatives of the homes association to establish an email distribution list so that residents can receive City and homes association updates electronically. A mailing also will be forthcoming for updates to the City Directory. Residents will be given the option to opt out of receiving electronic notices and to continue to receive paper mailings if they prefer. This will reduce mailing costs for the City as well as

improve efficiencies in disseminating information. Mr. Haviland offered thanks to Cory Fisher for his continued work in updating the City's website.

Council member Baenisch indicated that David Sederholm called the police early on a Saturday about three semis who had parked on his street to unload dirt. When contacted, the police indicated they did not have a copy of the City's noise ordinance. Mr. Sederholm reported that the police called back 30 minutes later and had indicated they had located a copy. However, by the time the police responded to the call, the unloading had been nearly completed.

Council member Sanders advised the residents about the upcoming work related to the Capital Improvement Plan. He asked the residents in attendance about issues related to infrastructure particularly north of Shawnee Mission Parkway. Mr. Knierim reported an on-going problem with drainage from the church property. He indicated he has tried to talk to the church but the church has taken no action to address the problem. Mr. Knierim advised the Council regarding his efforts to address the drainage issues himself and also informed the Council of an incident where a representative from the church was found to be digging on Mr. Knierim's property. Mr. Knierim also reported that the church had redirected run-off water onto his property, further exacerbating the problem. Council member Bachand indicated that the building inspector should be called because there were no permits for the digging done on the property. The digging reportedly took place right before the 4th of July and involved burying a drain from the house. Mayor Tietze indicated that he will ask Jim Sherman to visit the property.

Council member Sanders asked about the need to fix the sidewalk near Mr. Clemente's property. Mayor Tietze reported that Jim Sherman inquired last week and Mr. Clemente is aware that it needs to be done.

Council member Sanders also asked about Ruth Doherty's home and whether trash will be removed and weeds will be mowed. Mayor Tietze reported that the dumpsters have been unloaded and brought back empty many times.

Council member Dunn also addressed a home owned by the Immenschuh's daughter where the lawn has been allowed to go "native."

Marguerite Thomas also raised the issue of a home on 51st Street, on the north side of the street which has been allowed to fall into disrepair.

Residents then asked general questions about permits and renovation of homes in the area. Mayor Tietze provided an explanation regarding various items of inquiry. Residents expressed concern regarding the removal of ceiling tiles and insulation from Artis Glenn's old home.

Council member Bachand asked the City Attorney to look into the requirements associated with putting services out to bid. The City Attorney agreed to look into this issue and report back to the Council.

Carol Thomas asked about whether there is anything that can be done about the home next to them where she expects the current property owner who is renovating the property will seek to put a large deck on the side of the home. Mayor Tietze shared the ARB process and indicated that the ARB hearing is a public hearing at which she can be present to express any concerns she might have.

Mayor Tietze indicated that Joni Cobb has shared that the speed bumps have taken a beating on 50th Terrace and the engineering firm will look at this.

There was no further discussion. The meeting adjourned at 8:30 p.m.

Prepared by: _____
Heather S. Esau Zerger, City Attorney

Approved by: _____
Robert Tietze, Mayor