

## **MINUTES OF THE MISSION CITY COUNCIL MEETING, OCTOBER 21, 2015**

The Mission City Council met in regular session at the Sylvester Powell, Jr. Community Center on Wednesday, October 21, 2015. The meeting was called to order by Mayor Schowengerdt. The following councilmembers were present: Jennifer Cowdry, Suzie Gibbs, Debbie Kring, Pat Quinn, Arcie Rothrock, David Shepard, and Jason Vaughn. ABSENT: Amy Miller.

### **SPECIAL PRESENTATIONS**

#### **Recognition of Mission Farm and Flower Market Volunteers**

Emily Randel, Public Information Officer, recognized and thanked all the volunteers who served as ambassadors for the Mission Farm and Flower Market this past summer. She presented volunteers Kevin Fullerton and Sandi Russell with gifts to thank them both for going above and beyond in assisting with the first season of the market. She also stated that Mary Schowengerdt was instrumental in helping with the market, but she was unable to attend this evening. All were thanked for their hard work and dedication to the city.

#### **Police Department Presentations**

Chief Hadley introduced and recognized Officer Nick Canaan who recently completed motorcycle school and is receiving his motorcycle wings. Officer Canaan will patrol on the evening shift. Officer Canaan was congratulated on this achievement.

#### **Introduction of Boy Scouts, Troop 189, Countryside Christian Church**

Councilmember Kring recognized Boy Scouts from Troop 189, Countryside Christian Church, who were attending the meeting to work towards earning merit badges. Each scout introduced themselves and stated the merit badge they are working on. Family members of the scouts were also introduced.

### **CONSENT AGENDA**

**Moved by Gibbs, seconded by Kring** to approve the Consent Agenda, items 3a through 3f.

- 3a. Minutes of the September 16, 2015 City Council Meeting
- 3b. Ordinance Amending Home Occupation License Requirements
- 3c. Employee Benefit Renewals

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- 3d. Contract for Weekend Intervention Program for DUI Convictions
- 3e. Replacement of Conference Room Carpet at Community Center
- 3f. Traffic striping Contract

Voting AYE: Cowdry, Gibbs, Kring, Quinn, Rothrock, Shepard, Vaughn. **Motion carried.**

### **PUBLIC COMMENTS**

Gary Hassenflu, Garrison Companies, stated that he is interested in developing the property at 7080 Martway. He has spoken with staff, but was told his submittal did not meet the deadline for submission. He presented Council with a handout providing additional information on his proposal. Mayor Schowengerdt stated that he will review the information provided and will contact Mr. Hassenflu following the meeting.

### **ACTION ITEMS**

#### **PLANNING COMMISSION**

##### **Gateway Preliminary Site Plan**

Mayor Schowengerdt stated that there is one item coming forward from the Planning Commission, which is the Gateway Preliminary Site Plan. Ms. Murray will provide an overview, then Mr. Valenti, the project developer, and his team will have an opportunity to make a presentation. Following the developer's presentation, the floor will be opened to public comments. He asked that the public limit their comments to three minutes so that everyone wishing to speak will have an opportunity to do so.

Ms. Murray stated that the Planning Commission reviewed the Gateway Preliminary Site Plan at their September 28th meeting. The Planning Commission unanimously approved recommending approval by Council with a list of 27 stipulations, some of which are "carry-overs" from previous plans. She also noted that an additional 28th stipulation has been added regarding the phasing of this project.

Tom Valenti, Gateway Developers, provided background information on the project and discussed the current proposal. He introduced Matt Valenti, Korb Maxwell, Jesse Peckham and Josh Shelton who were also in attendance to provide additional information. Mr. Valenti stated that the current site plan meets the criteria of the MXD zoning for the area. He stated that it is a dense, multi-level project that includes retail, a hotel, residential and optional office space if a tenant is secured. He believes this project meets both the MXD and Johnson Drive Guidelines requirements. He also

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stated that he is comfortable with the additional stipulation regarding phasing of the project.

Matt Valenti, Gateway Developers, made a presentation describing the plan in detail. He stated that the plan includes a 200 room hotel with amenities, 182 unit apartment complex over retail, Walmart at 155,000 sq. ft., office, multi-level parking in the center of the project, pedestrian bridges, and discussed the shared amenities between the hotel and apartments. He stated that entrances have been discussed and that the service entrance to the project will be screened. It will also include two full service restaurants in the hotel and noted that the project is very pedestrian friendly.

Josh Shelton, El Dorado Architects, stated that this project incorporates best practices from both suburban and urban models of development, and discussed how the proposed superstore will relate to the hotel and apartments. The parking proposed for the project is a "Texas Wrap" with multi-level parking in the center so that it is concealed, but that public amenities and greenspace have also been incorporated into the plan. The mixed-use park will be for both apartment residents and the public, and the terrace level of the plan will connect the residential to the hotel and the office building.

Mr. Valenti discussed the differences in the current site plan from the previous project plan, noting that the previous plan had retail above Walmart, which he no longer has. The previous plan also had high-rise residential that was attached to the parking structure, but that this was too expensive. He praised Mr. Shelton for separating the parking from both the residential and superstore in the current plan. He stated that this will make his budget work.

Councilmember Kring requested clarification on the proposed square footage of the Walmart, which Matt Valenti stated was 155,000. Ms. Murray stated that this does meet the MXD requirements and Mr. Valenti stated that this is the same size proposed in the 2013 plan. Councilmember Vaughn asked what will take the place of the office building if it is not built. Mr. Valenti stated that this will be parking. Discussion continued on the probability of securing an office tenant, Kansas incentives, and the benefits of that location. Councilmember Vaughn also asked for additional information on the type of hotel planned and a similar example of the residential component. Mr. Valenti did not provide a hotel name, but referenced one similar to a boutique hotel in Leawood, and referenced Mission Farms as an example of housing (price point).

Korb Maxwell, Polsinelli, thanked the Planning Commission, Council and staff for their

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consideration and patience during this development process. He stated that the developer agrees with the stipulations (1-28) recommended with two caveats. He discussed the proposed Walmart and the stipulation for an entrance along Johnson Drive. He stated that Walmart uses only one entrance to funnel all traffic into their buildings for security purposes and this entrance would be from the parking area. They are willing to work with the City to provide a “sense of entrance and place” along Johnson Drive. He also stated that mechanical will be on top of Walmart but that it is not possible to fully screen this as the residential and hotel are taller buildings. A green roof is not possible due to the cost.

Mr. Valenti provided additional information on the square footage of the proposed Walmart (garden center makes up the additional square feet) and noted that they are being mindful of the views from the residential and hotel, screening the Walmart HVAC by a parapet. Councilmember Gibbs asked Mr. Valenti if he is comfortable and willing to agree to the additional (#28) stipulation regarding phasing of the project. He said that he is. He discussed public concern with the Walmart being built and not the rest of the project, and stated that this would not be possible for him to do.

Mayor Schowengerdt stated that prior to moving to public comments, Mr. Heaven will provide Council with information to clarify exactly what is being considered tonight. Mr. Heaven stated that the preliminary site plan is consideration of the land use and zoning pieces of the project. Council can not consider incentives tonight; the development agreement will be considered separately with additional public input. He also stated that a specific retailer has been mentioned, but it is not appropriate to consider this retailer. A discount superstore is the land use consideration to be considered. If the preliminary site plan is approved, the next step will be consideration of a development agreement that would include economic decisions. He also stated that we are willing to work with the developer on the two caveats mentioned by Mr. Maxwell.

Mayor Schowengerdt opened the floor to public comments.

Frank Bruce, Mission resident, expressed his concerns with fire apparatus being able to access the upper decks of the parking structure. Mr. Shelton stated that they have met with the Fire Marshall and through the building codes they are satisfied with the plan. Mr. Bruce also suggested that an entrance to Walmart from Johnson Drive could connect to the main entrance of the store via a corridor.

Aaron Deacon, Mission resident, stated that he has followed this project for a long time and that he is confused by the caveats mentioned. He asked for an example of a

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Walmart in a development with a boutique hotel, and he feels there are others developers who could complete a project at this site that are more in keeping with the original vision. He feels this is prime real estate, and Council should not waste the opportunity to develop this in line with the community's vision.

Chad Palmer, Mission resident, expressed his concerns with a "sit down restaurant" that looks out on Walmart, and stated that "no one wants Walmart here." He feels there is great potential for this site, and although Council can not vote on the Walmart, when the development agreement/incentives are considered he does not want tax dollars supporting Walmart.

Anne Pritchett, Overland Park resident, stated that she is adamantly opposed to Walmart, she liked the previous Mission Mall, encouraged the developer to be sure the "grass is cut" on the site, and feels this project will put Mission on the map in a bad way.

Brian Dooley, Mission resident, expressed his concerns with the project's ability to connect with bus transit, as well as its walkability and bicycle access. He feels it is very auto-centric and there is no connection to the city unless you are a resident. He does not feel there is a long-term vision for the project and questioned whether a bus would have access to the hotel. Mr. Shelton stated that busses would have access to Level 1 of the parking with an elevator directly to the hotel. Discussion also continued on nearby metro bus stops and bikers. Mr. Dooley stated that he believes we can do better.

Liz Craig, Mission resident, stated that she respects the prior work by all on the project, but that she agrees with the previous public comments. She does not see Walmart increasing values, is concerned with traffic congestion issues, and the impact this project will have on the sole proprietor businesses along Johnson Drive. She does not want to pay taxes to pay for this project, and feels we can do better.

Brian Downing, Mission resident, requested additional information on the size limitations of the superstore if it is a stand-alone as part of the MXD zoning, specifically if it can be larger. Mr. Heaven will follow up with additional information on why this is allowed.

Aaron Deacon, questioned the reality/possibility of requiring an entrance to Walmart on Johnson Drive if this is required. Councilmember Cowdry stated that this requirement is included in the stipulations and that the City is willing to work with the developer on this issue.

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There were no further public comments.

Councilmember Shepard thanked all for their comments. He stated that he has supported the Planning Commission's recommendations on previous plans, but that he does not at this time. He does not feel this is a furtherance of the vision of MXD zoning, specifically creating a distinctive sense of place with multi-story buildings. He feels this plan is dominated by a one-story superstore, and discussed his concerns with its square footage. He does not feel this project meets the overall intent of MXD zoning and he can not support the Planning Commission's recommendation.

Councilmember Kring discussed the differences between the Planning Commission's role and that of City Council, as well as her concerns with previous amenities/tenants that are not included in this plan. She feels that trust has been lost and there is a lack of credibility with the developer, so she does not feel she can support this plan.

Councilmember Cowdry, stated that Council is being asked to vote on whether they agree with the Planning Commission's recommendation that this meets the minimum requirements for MXD with the additional stipulations. This is the first step in the process and the development agreement will be considered separately. She noted that the Planning Commission's recommendation was unanimous, and that we are a long way from considering any incentives.

Mayor Schowengerdt stated that he feels there is some indecision on the part of Council and requested clarification on possible next steps, including continuing the item so that a worksession can be held to gain additional information. Mr. Heaven stated that this plan does meet the minimum threshold to qualify for MXD zoning, but that Council has some discretion with MXD. He outlined the possible action for Council at this time, including: approving the Planning Commission's recommendation, rejecting it which would require a  $\frac{2}{3}$  vote of the Governing Body, remanding it back to the Planning Commission with specific instructions, or to continue this to the next meeting to allow time for a worksession. Councilmember Gibbs stated that she echoes Councilmember Kring's concerns with credibility and wants to be sure stipulation #28 would stand. Councilmember Quinn feels that a worksession is needed to gain additional information.

**Moved by Quinn, seconded by Gibbs** to continue Case #15-10 Revised Preliminary Site Plan for The Gateway Project until the November 18, 2015 City Council Meeting prior to which time the City Council will hold a worksession with the developer. Councilmember Shepard stated he feels continuing this issue is unfair to the developer and the community. He stated that it is a vote of support or not, or to remand it back to

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the Planning Commission, but that a worksession is not a good idea. Discussion continued on who would attend the worksession (Council, Mayor, Land Use Attorney, Developer) with Mr. Heaven noting that this will be a public meeting, but not a “public hearing.” Voting AYE: Cowdry, Gibbs, Kring, Quinn, Vaughn. NAY: Rothrock, Shepard. **Motion carried.**

### **FINANCE & ADMINISTRATION COMMITTEE** **Charter Ordinances for Election Transition**

Councilmember Rothrock reported that earlier this year, the Kansas Legislature passed legislation that moves municipal elections to November of odd-numbered years. This legislation contained a number of contradictions and ambiguities which cities had to resolve. Staff has engaged in on-going conversations with the League, the Johnson County Election Office, the Secretary of State, and several other Johnson County cities to review and evaluate our options for this transition. Following discussion and direction to staff by the Finance & Administration Committee, two charter ordinances are proposed that will bring Mission’s elections into conformance with the new requirements, and include the following:

- Ability to hold the April 2016 election
- 4 year terms
- Maintain non-partisan elections
- Maintain current process for filling Council vacancies

The first proposed charter ordinance details the specific transition plan, and the second charter ordinance allows for Council to maintain the current process of filling Council vacancies.

**Moved by Rothrock, seconded by Kring** to approve a Charter Ordinance implementing provisions regulating municipal elections passed by the Kansas Legislature (HB 2014); amending Charter Ordinances relating to the election of officers, their terms of office, transitions to November elections and nomination petitions, and providing substitute and additional provisions on the same subject, and repealing Charter Ordinances 7A and 23. There was no discussion on this item. Voting AYE: Cowdry, Gibbs, Kring, Quinn, Rothrock, Shepard, Vaughn, Schowengerdt. **Motion carried.**

**Moved by Rothrock, seconded by Kring** to approve a Charter Ordinance exempting the City of Mission, Kansas from the provisions of L. 2015, Chapter 88, Section 71,

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relating to the filling of Governing Body vacancies. There was no discussion on this item. Voting AYE: Cowdry, Gibbs, Kring, Quinn, Rothrock, Shepard, Vaughn, Schowengerdt. **Motion carried.**

### **COMMUNITY DEVELOPMENT COMMITTEE**

Councilmember Quinn did not have a report.

### **NEW BUSINESS**

Councilmember Gibbs reported that the float trip on the Kaw River was a great success with 83 people participating (only 1 tipped canoe), and thanked Councilmember Cowdry and staff for all their help with this event.

Councilmember Gibbs reminded all that the holiday assistance programs will be underway soon, including the white sock collection for the homeless. St. Michael's Church is partnering with Mission on this and has already collected over 800 pairs of socks. The program includes Thanksgiving baskets and adoption of families for Christmas. All were encouraged to participate.

Councilmember Kring stated that she will be attending the National League of Cities Congress of Cities and would be happy to bring back information on specific issues/services.

Councilmember Quinn thanked Ms. Randel for her work in coordinating the Mission Farm and Flower Market.

### **MAYOR'S REPORT**

Mayor Schowengerdt placed before Council the name of Frank Bruce, Ward 3, for appointment to the Planning Commission with a term expiring December 31, 2016.

**Moved by Cowdry, seconded by Quinn** to uphold the appointment of Frank Bruce to the Planning Commission with a term expiring December 31, 2016. Voting AYE: Cowdry, Gibbs, Kring, Quinn, Rothrock, Shepard, Vaughn. **Motion carried.**

### **CITY ADMINISTRATOR'S REPORT**

Ms. Smith provided additional information on Mr. Hassenflu's contact with staff

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regarding his proposal for the property at 7080 Martway, noting that the deadline was September 14th to allow time to vet any submitted proposals and allow Brinshore time to react. Staff has met with Mr. Hassenflu and turned back his proposal.

Ms. Smith stated that flags will be up along Johnson Drive in honor of Veteran's Day. We are still accepting donations for our flag program.

Ms. Smith announced that Martha Sumrall, City Clerk, recently earned the designation of Master Municipal Clerk from the International Institute of Municipal Clerks.

### **EXECUTIVE SESSION**

**Moved by Cowdry, seconded by Rothrock** to adjourn to Executive Session for 10 minutes to discuss the status of current litigation. Also attending will be City Administrator Laura Smith and City Attorney David Martin. The Council will reconvene in the Conference Center at 8:40 p.m. All present voted AYE. **Motion carried.**

Council adjourned to Executive Session at 8:30 p.m.

Council reconvened in the Conference Center at 8:40 p.m.

### **ADJOURNMENT**

**Moved by Kring, seconded by Quinn** to adjourn the meeting at 8:40 p.m. All present voted AYE. **Motion carried.**

Respectfully submitted by Martha M. Sumrall, City Clerk.

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Steve Schowengerdt, Mayor

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Martha M. Sumrall, City Clerk