

**City of Westwood, Kansas  
City Council Work Session  
4700 Rainbow Boulevard  
June 13, 2024 – 6:00 PM**

Council Present: David E. Waters, Mayor  
Andrew Buckman, Councilmember  
Jeff Harris, Council President  
Jason Hannaman, Councilmember  
Laura Steele, Councilmember  
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator  
Curtis Mansell, Police Chief  
John Sullivan, Public Works Director  
Abby Schneewis, City Clerk

**Call to Order**

Mayor Waters called the meeting to order at 6:00 p.m. on June 13, 2024. The meeting was held in a hybrid manner with attendees being able to join in person and virtually via Zoom.

**FY 2025 Budget: Projects & Equipment**

Ms. Herring referred to a presentation in the meeting agenda packet and provided an overview of the planned projects and equipment purchases for fiscal year 2025.

**Adjournment to Regular Meeting**

The Work session adjourned at 6:51 p.m. to prepare for the regular City Council meeting.

**City of Westwood, Kansas  
City Council Meeting  
June 13, 2024 – 7:00 p.m.**

Council Present: David E. Waters, Mayor  
Andrew Buckman, Councilmember  
Jeff Harris, Council President  
Jason Hannaman, Councilmember  
Laura Steele, Councilmember  
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator  
Curtis Mansell, Police Chief  
John Sullivan, Public Works Director  
Ryan Denk, City Attorney  
Abby Schneweis, City Clerk

**Call to Order**

Mayor Waters called the meeting to order at 7:00 p.m. on June 13, 2024. Ms. Schneweis called the roll. A quorum was present. The evening's meeting was held in a hybrid manner, with attendees joining both in person and via Zoom.

**Approval of Agenda**

Mayor Waters noted that no Executive Session would be required tonight. Motion by Councilmember Harris to approve the June 13, 2024 City Council meeting agenda as modified to remove the Executive Session. Second by Councilmember Buckman. Motion carried by a 5-0 voice vote.

**Public Comment**

Steve Platt, 4910 Glendale in Westwood Hills, provided a handout to the Governing Body, a copy of this document is attached as Appendix A to these minutes. Mr. Platt said he believes the residents of Westwood have a right to counter action by the City by having an opportunity to vote on whether the City should sell Joe D. Dennis Park.

**Presentations and Proclamations**

**Introduce Public Works Maintenance Worker Jeffrey Mull**

Mr. Sullivan introduced Jeffrey Mull, the newest member of the Public Works Department. Mr. Mull started on May 22 and previously worked for the City of Mission.

**Presentation of Rainbow Boulevard Complete Streets Traffic Management Plan final report recommendations**

Ms. Herring provided an overview of the presentation included in the meeting agenda packet summarizing the findings from the Rainbow Boulevard Complete Streets Traffic Management Plan conducted by WSP and Vireo.

Councilmember Harris said he was impressed with the work that was done on the traffic management plan. Councilmember Harris referred to the proposed project timeline in the presentation and said the quick build option is a fantastic opportunity for members of the community and those that use Rainbow Boulevard to start thinking about the redesign.

Councilmember Hannaman said he was impressed with the volume of responses that were received from the community, as well as the final report that was produced.

### **Consent Agenda**

All items listed below are considered to be routine by the Governing Body and will be enacted in one motion. There will be no separate discussion of these items unless a member of the Governing Body so requests, in which event the item will be removed from the consent agenda and considered separately following approval of the consent agenda.

- A. Consider May 9, 2024, City Council Work Session & Meeting Minutes
- B. Consider Appropriations Ordinance 763

Motion by Councilmember Harris to approve the Consent Agenda as submitted. Second by Councilmember Steele. Ms. Schneeweis conducted a roll call vote. Motion carried by a 5-0 vote.

### **Mayor's Report**

Mayor Waters thanked Councilmember Wimer for her work on the 75<sup>th</sup> Anniversary celebration that was held on Saturday, June 8<sup>th</sup>. Mayor Waters noted the Westwood Community Survey has been mailed out and encouraged the community to complete the survey.

### **Councilmember Reports**

Councilmember Wimer thanked City staff members, GFL and Woodside for their involvement in the planning and event operations for the 75<sup>th</sup> anniversary celebration. Ms. Herring said resident Karen Johnson has been working on finalizing a Westwood history book to celebrate Westwood's 75<sup>th</sup> Anniversary, and more information about the book will be shared with the community once it has been finalized.

### **Staff Reports**

#### **Administrative Report**

Ms. Herring provided an overview of the June 2024 Administrative Report included in the agenda packet and offered to answer questions.

#### **Public Works Report**

Mr. Sullivan provided an overview of the May and June 2024 Public Works Report included in the agenda packet and offered to answer questions.

#### **Public Safety Report**

Chief Mansell provided an overview of the May 2024 Public Safety Report included in the agenda packet and offered to answer questions.

#### **Treasurer's Report**

The May 2024 Treasurer's Report was included in the agenda packet, no questions or comments were made about the report.

### **City Attorney's Report**

Mr. Denk did not have any items to report.

### **Old Business**

No Old Business items were considered.

### **New Business**

#### **Consider Second Amendment to Real Estate Purchase Agreement with Shawnee Mission School District for real property at 2511 W 50<sup>th</sup> St.**

On March 9, 2023, the City and Karbank Real Estate entered into a Funding and Exclusivity Agreement to explore Karbank's proposal to the Westwood City Council for redevelopment of the Rainbow Blvd. frontage between 50th and 51st Street, which property is owned by the City of Westwood. Following that initial presentation and Agreement execution, on June 8th, the Shawnee Mission School District and the City of Westwood entered into a Purchase Agreement to leverage its option to purchase the former Westwood View Elementary School located at 2511 W. 50th St. and, during the same meeting, the City of Westwood and Karbank entered into a Purchase Agreement for Karbank to acquire the City's Rainbow Blvd. frontage property parcels, subject to the terms of those agreements.

Thereafter, Karbank submitted an application for and received conditional approval in October 2023 from the Governing Body of the necessary associated rezoning, development plan, and platting to construct the mixed use redevelopment project. Commensurate with the Governing Body's approval of these land entitlements, the City Council approved several documents setting out terms and conditions for the agreement between the City of Westwood and Karbank. These agreements included:

1. Development Agreement;
2. Donation Agreement (Covenants & Restrictions are set out in an exhibit to this document); and
3. First Rights Agreement.

In December 2023, upon authority granted by the City Council at the November 9, 2023 regular City Council meeting, Mayor Waters executed amendments to such agreements to extend the contractual deadlines. Now again, extensions to such agreements are sought to lengthen the due diligence period prescribed for the City to convey to Karbank fee simple title to City-owned property located at 5000 Rainbow Blvd.

Staff recommends that the City Council consider [re]approving the following slate of documents:

1. Second Amendment to Real Estate Purchase Agreement with Shawnee Mission School District for real property at 2511 W. 50th St.
2. Second Real Estate Contract Modification Agreement with Karbank Holdings, LLC for real property at 5000 Rainbow Blvd. and 5050 Rainbow Blvd.
3. Amendment to Development Agreement with Karbank Holdings, LLC
4. Second Amendment to Funding and Exclusive Rights Agreement with Karbank Holdings, LLC
5. Donation Agreement for park creation costs (requesting approval as to form, execution to occur at later date)
  - a. Declaration of Covenants & Restrictions (exhibit) (requesting approval as to form, execution to occur at later date)
6. Consider First Rights Agreement with Karbank Holdings, LLC relating to redevelopment at 50th & Rainbow Blvd. (requesting approval as to form, execution to occur at later date)

A second Donation Agreement is also presented for consideration by the City Council. This donation relates to the City's consideration of acceptance of the privately-negotiated land acquisition between Karbank and The Joanne Maureen Gaar Trust for real property at 2322 W. 51st St. to be used for purposes of future City Park. (requesting approval as to form, execution to occur at later date)

All expenses incurred relating to these documents since the Governing Body's October 12th initial approvals have been borne by the City and funded from the General Overhead Department of the General Fund. These expenses are unbudgeted.

Motion by Councilmember Harris to authorize the Mayor to sign the Second Amendment to Real Estate Purchase Agreement with Shawnee Mission School District for real property at 2511 W 50<sup>th</sup> Street. Second by Councilmember Buckman. Motion carried by a 5-0 voice vote.

Motion by Councilmember Harris to authorize the Mayor to sign three items; the Second Real Estate Contract Modification Agreement with Karbank Holdings LLC for real property at 5000 Rainbow Boulevard; the Amendment to Development Agreement with Karbank Holdings LLC; and the Second Amendment to Funding and Exclusive Rights Agreement with Karbank Holdings LLC. Second by Councilmember Hannaman. Motion carried by a 5-0 voice vote.

Motion by Councilmember Harris to approve as to form for an execution at a later date the Donation Agreement for park creation costs that includes a covenant of restrictions as an exhibit; to also approve as to form for execution at a later date the First Rights Agreement with Karbank Holdings LLC relating to the development at 50<sup>th</sup> and Rainbow Boulevard; and to approve as to form for an execution at a later date the Donation Agreement between Karbank Holdings LLC and the Joanne Maureen Gaar Trust for 2322 W 51<sup>st</sup> Street to be used for the purposes of a city park. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

**Consider Professional Services Agreement with Port Architecture and Urbanism, LLC for park planning and design services**

During the January 11, 2024 City Council meeting, City staff presented a report detailing the history, current status, and future of creating a feature park in Westwood. Since that time, the process has run generally as detailed. Beginning in March 2024, the Park Planning Steering Committee worked to develop an RFQ for park design services and review the responses by design teams. The Steering Committee's work acting in the capacity of design team selection committee, they ultimately selected Port Urbanism through the competitive, open process as detailed in the RFQ document.

Given the City has not yet closed on its purchase of the future park site (former Westwood View Elementary School site), City staff recommends proceeding at this time only with Phase 1 and a limited Phase 2 scope of the park design process. This work is enumerated in the issued Request for Qualifications and interpreted in Port's scope of work and proposal included in the meeting packet. City staff has negotiated with Port to conduct this work for a sum of \$46,500.

The sum of \$75,000 was budgeted in fiscal year 2024 in the City's multi-year Capital Improvement Fund for this work. The work is scheduled to commence August 1st and run through October 18, 2024. Future phases of the park planning design process are recommended to be considered once there is greater clarity around the timeline and level of certainty for closing on the purchase of the future park site property.

Councilmember Steele, who served as the Park Planning Steering Committee Chair, said Port is bringing incredible talent to Westwood with their team.

Andrew Moddrell, Port Architecture and Urbanism Partner, offered to answer questions from the Governing Body. Mr. Moddrell shared that he is originally from Lawrence, KS and he currently resides in Westwood Hills. Mr. Moddrell has worked all over the country, and said he never thought he would be able to design a park in his own backyard.

Councilmember Hannaman said he was amazed by the amount of responses from design firms to the RFQ and it shows how excited the design professionals in the Kansas City community are to design a feature park in Westwood.

Motion by Councilmember Steele to authorize the Mayor to enter into a Professional Services Agreement with Port Architecture and Urbanism, LLC for an amount not to exceed \$46,500 for work as presented in the Proposal included in the meeting packet. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

**Consider Ordinance No. 1042 designating certain funds of the City of Westwood as multi-year capital improvement funds**

On May 9, 2024, the City Council authorized a Professional Services Agreement with Columbia Capital Management to provide financial advisory and investment services to the City. By way of implementing that Agreement and leveraging the services sought and provided by Columbia Capital, the City must designate certain funds as multi-year capital funds as prescribed by State law prior to investing the City's idle funds (reserves).

Columbia Capital staff prepared a draft Ordinance for consideration by the City Council. The recommended Ordinance has been reviewed by the City Treasurer, City Attorney, and City Administrator.

The City's current annual percentage yield using FNBO as its depository is 1.46%. In 2023, the City earned a total of \$44,015 in interest on the bank balance we carried. Columbia Capital is realizing north of 5% interest on even fairly short-term Treasury or Agency investments.

Jeff White, Columbia Capital, provided an overview of the firm's service and offered to answer any questions from the Governing Body.

Motion by Councilmember Hannaman to adopt Ordinance 1042 designating certain funds of the City of Westwood as multi-year capital improvement funds. Second by Councilmember Buckman. Ms. Schneweis performed a roll call vote. Motion carried by a 5-0 vote.

**Consider Resolution No. 128-2024 amending the City's financial and Purchasing Policy**

By way of further implementing that City's Agreement with Columbia Capital and leveraging the services sought and provided by them, the City must adopt an Investment Policy as prescribed by State law prior to investing the City's idle funds (reserves).

Columbia Capital staff prepared a draft Investment Policy, which is proposed for inclusion in the City's existing Financial and Purchasing Policy, adopted by Resolution of the City Council. The recommended

Investment Policy has been reviewed by the City Treasurer, City Attorney, and City Administrator and is included for consideration in a form agreeable to those officers. No other revisions to the Policy are recommended at this time.

Councilmember Hannaman suggested a change to the Bond and Interest/Debt Service Reserve Fund Revenue Sources section (on page 189 of the meeting agenda packet) to state “ad valorem taxes as may be determined by the Governing Body in setting the mill levy in the budget process”. Mr. White agreed with the suggested edit. Neither the City Administrator nor City Attorney advised against incorporating that edit.

Motion by Councilmember Hannaman to adopt Resolution No. 128-2024 adopting an amended Financial and Purchasing Policy for the City of Westwood with the edit he previously mentioned. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

**Consider Resolution No. 129-2024 Waiving the GAAP Requirement for Financial Reporting**

The State of Kansas requires audits for cities and their financial statements be based on Generally Accepted Accounting Principles (GAAP), which has proven to be a very cumbersome and expensive accounting standard to comply with for smaller municipalities.

The provisions of K.S.A. 75-1120A(A) do allow for cities to adopt the Cash Receipts and Disbursements method of accounting for the audit, where the audit testing procedures remain the same and it allows cities to report an audit based on the annual budget cycle.

As has been the past practice of the City of Westwood, waiving the requirements of GAAP principles during the annual financial audit is recommended to allow for a more straightforward auditing process. As this Resolution waiving GAAP was not presented simultaneously with the audit due to an oversight of City staff.

Motion by Councilmember Hannaman to approve Resolution No. 129-2024 waiving the requirements of K.S.A. 75-1120A(A) as they apply to the City of Westwood for the fiscal year that ended December 31, 2023. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

**Consider Resolution No. 130-2024 appointing Mary Bosco Heinrich to the Westwood Foundation Board**

The Westwood Foundation is a Kansas not-for-profit corporation organized and existing as an instrumentality of the City of Westwood, Kansas and is governed in the conduct of its affairs by its Board of Directors, its articles of incorporation, and its bylaws. The Westwood Foundation bylaws as amended state that residents of the City of Westwood, Kansas may be appointed by the Mayor and confirmed by a resolution adopted by a majority of the members of the Westwood City Council to serve terms of four (4) years on the Westwood Foundation Board of Directors. Pursuant to Section 3.2(b) of the Amended and Restated Bylaws of the Westwood Foundation, the Mayor transitioned to ex-officio membership resulting a vacancy on the Westwood Foundation Board of Directors with a term expiring May 31, 2025, which is to be filled.

Following adoption of the Amended and Restated Bylaws in July 2023, the Mayor issued an open call for candidates. Statements of interest from two (2) residents were received. Following review of those statements of interest, Mayor David Waters and Westwood Foundation President Justin Bridges conferred, and the Mayor is recommending the Governing Body consent to the appointment of Mary

Bosco Heinrich. Ms. Bosco Heinrich is a 9-year resident of Westwood. She holds a professional position as Philanthropic Director of Strategy & Communications at Children's Mercy and has served in a variety of board roles including most recently as President of the KC Healthy Kids Board. In Westwood, she has served on the Westwood View Educational Enrichment Fund (EEF).

Motion by Councilmember Buckman to adopt Resolution No. 130-2024 confirming the appointment of Mary Bosco Heinrich to the Westwood Foundation Board of Directors. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

**Consider Authorization of purchase of 2024 ¾ ton crew cab pickup truck**

In April 2024, the City's 2015 Ford Police Interceptor that was used by the Public Works Director experienced an engine failure and needs to be replaced.

Mr. Sullivan has found a Ford and a Chevrolet that will fit the Public Works Department's needs and would negotiate a purchase price for whichever vendor provides the best overall deal with the approval of the Council. The City had planned to replace a truck in the 2025 year. City Staff has checked with the City Treasurer, and it is acceptable to move this purchase up to 2024 since the Equipment Reserve Fund has sufficient budget authority.

Funds for the purchase have been allocated in the 2025 Equipment Replacement Plan in the amount of \$63,800. Public Works is requesting a budget of \$70,000 for the truck and equipment to allow some leeway. Both trucks Mr. Sullivan has identified are work trucks and are snowplow prep packaged and trailer towing equipped.

Councilmember Hannaman asked why a ¾ ton truck is being sought and why the Public Works Director is no longer interested in driving decommissioned Police fleet vehicles, since one is being decommissioned this year. Sullivan responded that a truck with a bed is preferable so that he can load items and have a way to transport debris found around the City as the Police SUVs don't have much room and are fully enclosed (no open bed). Councilmember Hannaman further asked why a less expensive lighter duty truck wouldn't suffice to meet those needs. Sullivan responded that a ¾ truck would be ready to cycle into the Public Works Department's main work fleet should need be. A smaller truck wouldn't have the utility to the Department should it need to be used for heavy operations work.

Motion by Councilmember Hannaman to authorize the purchase of a ¾ ton crew cab truck with equipment as specified from either Ford or Chevrolet dependent on the vehicle and terms of sale that provide the best value for the City in an amount not to exceed \$70,000 to be paid from the Equipment Reserve Fund in 2024. Second by Councilmember Steele. Motion carried by a 5-0 voice vote.

**Consider fence variance for 2330 Shawnee Mission Parkway (KU Health Systems)**

On June 3, 2024, City staff received an application for a fence variance for 2330 Shawnee Mission Parkway. Galyn Gorup, Director of Regional Facility Services for the University of Kansas Health System, has applied for a building permit for an 8' wood picket fence to replace the existing 6' wood picket fence that runs along the north side of the property separating the hospital from the residences on 51st Terrace. This application requires a variance for Westwood Zoning Ordinance 4.3.9.B.1./5.6.3.A.1 limiting fences to 6' in height. The City Council may approve fence variances pursuant to Westwood Zoning Ord. Section 4.3.9.F.

The applicant desires to replace the existing fence, part of which is already 8' tall and part which is 6' tall with a continuously 8' tall wooden picket fence. The new fence would be built in the exact same location as the existing fence providing more shielding from light and noise. A strict application of this Zoning Ordinance provision would require that the fence not exceed 6' in height.

Pursuant to previous City Council direction, City staff has evaluated the following factors:

- a. Neighbor acknowledgement/consent – Applicant has written letters notifying neighboring properties of this plan. Direct contact was made with three residents adjacent to the 6' portion of the fence who were in favor of increasing height to 8'.
- b. ROW impediment – No;
- c. Established tree impact/removal – Existing trees will be worked around and trimmed if necessary; and
- d. Resulting sight lines issues - No.

Motion by Councilmember Hannaman to approve the requested fence variance at 2330 Shawnee Mission Parkway to build an 8' wooden picket fence along the entire south side of the property as described in the application. Second by Councilmember Wimer. Ms. Schneweis performed a roll call vote. Motion carried with a 5-0 vote.

#### **Announcements/Governing Body Comments**

Councilmember Wimer noted that Woodside will be hosting happy hour at the pools for Westwood View teachers and the Westwood Women's Club from 5:00 p.m. to 7:00 p.m. on Thursday, June 20<sup>th</sup>.

#### **Executive Session**

None.

#### **Adjournment**

Motion by Councilmember Harris to adjourn the meeting. Second by Councilmember Buckman. Motion carried by a 5-0 voice vote. The meeting was adjourned at 8:42 p.m.

APPROVED: \_\_\_\_\_  
David E. Waters, Mayor

ATTEST: \_\_\_\_\_  
Abby Schneweis, City Clerk

## Appendix A

### Chapter V. Petitions

*Revised 7/17/19*

The right to circulate petitions can impact constitutional rights. The scope of the right to petition varies from state to state, depending on state constitutions and statutes. In Kansas, the right to petition is less expansive than in some other states and is statutory.

The processes of circulating and filing petitions, and election officers' review of petitions, can often become complicated. Although state statutes provide guidance in every situation, many additional rules for circulating petitions and for determining their sufficiency result from federal and state court cases.

Whether a person is a petition circulator filing a petition, an election officer receiving the petition, or a county attorney or counselor providing advice, it is important to know what type of petition one is dealing with to know the rules for answering the questions that inevitably arise. For instance, it is crucial to know whether a fundamental, constitutional right is involved in order to know how to legally make determinations regarding the petition. (See Section d in this chapter.)

#### a. Types of Petitions

Six major types of petitions are reviewed here.

##### 1. Protest petitions

These are petitions authorized by specific statute allowing citizens to protest, or question, the action of a governing body. Often the protested action is an ordinance or resolution passed and published by the governing body in the normal course of its business.

A successful protest petition stops the governing body from carrying out the action detailed in the ordinance or resolution unless a majority of voters approve the action at a special election held in the jurisdiction.

A protest petition has three possible results:

- (1) An election is held with a majority of voters voting *against* the proposed action by the governing body, meaning there were more No votes than Yes votes. The governing body may not proceed further unless the entire process is begun again at a later time.
- (2) An election is held with a majority of voters voting *in favor of* the proposed action by the governing body, meaning there were more Yes votes than No votes. The governing body may proceed as planned.
- (3) The governing body may abandon its ordinance/resolution, recognizing there is strong voter sentiment against the planned course of action.

Because there are dozens of statutes authorizing protest petitions, there is no set of petition forms easily obtainable for use in exercising this right. Petitioners are advised to retain

private legal counsel to assist in drafting the petition, or at least to study relevant statutes on their own to learn the requirements of the petition.

A protest petition must be submitted to the county or district attorney, or the county counselor in counties that have counselors, for an opinion as to the legality of the form of the petition. The attorney has three options: (1) issue an opinion within 5 days expressing approval of the form of the petition; (2) not issue any opinion and the form of the question shall be deemed in compliance with the requirements of the act; (3) issue an advisory opinion that states the form of the question does not comply with the requirements of the act and state the specific grounds why. [KSA 25-3601(a)]

Protest petitions always pertain to an action taken by a local governing body, not a state or federal agency. They are circulated, filed and reviewed at the local level of government.

## **2. Statutory initiative petitions**

These are petitions, with individual and specific statutory authorization, allowing citizens to initiate certain county or local government actions. They are different from protest petitions in that they are not circulated in protest of an action already taken by a governing body; rather, they seek to force a governing body to take action on an issue.

The statutory initiative petitions authorized in Kansas law should not be confused with general initiative petitions in other states. Some state constitutions grant broad authority to citizens to create new laws or submit constitutional amendments for statewide votes by petition. In Kansas, each initiative petition is grounded in statute, and these petitions do not create new laws or constitutional amendment elections. They merely force an existing governing body in a specific jurisdiction to take a desired action. Examples include petitions to establish corporate swine or dairy production or liquor by the drink, change the method of election of city council or local school board members, or to increase the number of members of a board of county commissioners.

As with protest petitions, statutory initiative petitions are required to be filed with the county or district attorney, or county counselor, for an opinion as to the legality of the form of the petition. The attorney has five business days to issue an opinion.

Most statutory initiative petitions deal with local governing bodies and are reviewed by county election officers or other local officers, although some are state-level petitions, such as a petition to change the method of selection of judges in a judicial district.

There is one type of petition authorized by law that can bring about new city ordinances, the subjects of which are not specifically outlined in law. The statute, KSA 12-3013, is titled "Petition for proposed ordinance." The electors in any city may propose the adoption of an ordinance by petition. If the petition is signed by the required number of voters, the city governing body may either (1) adopt the ordinance within 20 days without alteration, or (2) call a special election after 20 days, unless a regular city election is to be held within 90 days thereafter in which case the ordinance should be submitted at that election, to see if a majority of the voters in the city approve of the ordinance. If approved, the ordinance