

**MINUTES OF THE PUBLIC FORUM
OF THE CITY OF FAIRWAY, KANSAS
STORMWATER UTILITY AND STORMWATER PROJECTS**

The City of Fairway, Kansas, held a Public Forum at 7:00 P.M. in the City Council Chambers of Fairway City Hall, 5252 Belinder Road, Fairway, Kansas, on Tuesday, August 2, 2005.

Present: Mayor John W. St. Clair, Jr., Council Members Pete Barham, Dane Lee, Susan Smith and Ky Weekley.

Absent: Council Members Thurston Cromwell, J. Stuart Hoffman, Teresa Sullivan and Scott Mann.

Presenters: Council Member Pete Barham.

Staff Present: Steve Chinn, City Attorney and Kathi Robards, City Administrator/City Clerk.

Visitors: Phil Perry, Mission City Council Member; Thad and Jane Carver, 4316 Brookridge Drive; Tom Atkin, 4311 Brookridge Drive; Janice Brooks, 5410 Aberdeen; Frank Daschille, 5533 Aberdeen; Allan Bedora, 5943 Howe Drive; Tanya Keys, 5909 Delmar; Liz May, 5830 Fontana Drive; Tim Super, 5306 Mission Road; Larry Burks, 5415 Mission Road; Sara Singer, City of Mission Hills representative; Roger Blessing, Old Mission Methodist Church; Linda Cruse, Kansas City Star reporter; Tom Brill, 6552 Sagamore, Mission Hills, KS; Don Andrade, 5555 Suwanee; Linda Meserve, 5342 Fairway Road; Susan McAlister, 3601 Shawnee Mission Parkway; Ken Patrick and Vern Dufford, 5927 Cherokee Drive; Clayton Percy, 5820 Fontana Drive; Lilian Brown, 6030 Cherokee; Jay W. McConnell, 5523 Mission Road; Joyce Hirt and Bill Cooper, 5440 Windsor Lane; Mike Morton, 4109 Brookridge Drive; Marilyn Weber, 5407 Falmouth; Mary Ellen Winn, 5411 Falmouth; Joseph Levin, 5525 Mission Road; Bob Myers, 5415 Mission Road.

OPENING COMMENTS/STORMWATER REVIEW

Councilman Pete Barham, Chairman of the Stormwater Taskforce, introduced himself and commenced the meeting. He stated that the purpose of the meeting is to review the various proposed stormwater projects and to introduce the new Stormwater Utility.

Councilman Barham announced that last week the City was informed that it will receive \$1.2 million in federal funding to assist in paying for two stormwater projects. A project at Windsor Lane and Shawnee Mission Parkway will receive \$200,000. This project includes expanding box culverts under Shawnee Mission Parkway. The Mission Road Bridge project will receive \$1 million in federal funding. This project is the design and construction of a new bridge.

Councilman Barham stated that during the budget process, the Finance Committee determined that the current budget cannot fund the various stormwater projects needed within the City. As a result, they have recommended the establishment of a Stormwater Utility that will fund the various projects. The main revenue source of the Utility will come from a stormwater utility fee that will be levied on every property within the city. He explained that residential properties will be charged a user fee of \$5 per month, \$60 per year, which will generate approximately \$108,000 in revenue for stormwater projects. He stated that commercial properties will also be charged a fee that is based upon the residential fee rate, however, commercial properties will be charged based upon their actual impermeable area.

Councilman Barham stated that most Johnson County cities have a significant amount of commercial business collecting sales tax that is used to operate the city. The City of Fairway has very little commercial businesses and, therefore, has very little sales tax revenue. He added that many other cities, such as Shawnee, Mission and Lenexa, have also established a stormwater utility to fund their stormwater projects.

In response to Thad Carver's comments, Councilman Barham asked Mr. Carver if he was implying that if the City of Fairway had not distributed its portion of the new sales tax to the School district, it would have had the money to fund the stormwater projects and would not need to implement the utility. Mr. Carver stated that Mr. Barham was correct in his thought process.

Councilman Barham stated that all other Johnson County cities kept the school sales tax money and that many of them have also implemented a Stormwater Utility. He added that the City has numerous stormwater projects, which will need to be funded over the course of a few years.

Mr. Carver stated that he would like to know how the City Council is going to proceed if the new school sales tax vote is approved this fall. Councilman Barham stated that he cannot speak for the entire Council, but that he personally would vote to keep the sales tax.

In response to a resident's question, Councilman Barham stated that the City Council has the authority to establish a stormwater utility without a vote of the citizens. He added that the ordinance authorizing the stormwater utility will be considered at the August Council meeting.

In response to a resident's question, Councilman Barham stated that the charge to residences and commercial properties can be adjusted on an annual basis. He stated that once all the stormwater projects are completed, the fee will be reduced or may be eliminated. He added that the City determined the Equivalent Dwelling Unit (EDU), which is the rate by which properties are charged the utility fee, by calculating the impermeable square footage of an average residential lot in Fairway.

Councilman Weekley stated that because of the City's small staff size and small budget, Councilman Barham volunteered to do the work involved in determining the EDU. He stated that the work consisted of several hours of calculating impermeable area. He stated that he, along with the City Council and City staff, appreciate Councilman Barham's efforts to get the project completed. City Attorney Chinn added that other cities have paid thousands of dollars to consultants to do the work Councilman Barham did for the City.

Councilman Barham reviewed the process required to obtain funding through the Johnson County Stormwater Management Advisory Council (SMAC). When a City determines that it needs to initiate a stormwater project, the City submits the project to SMAC requesting funding from Johnson County. The downstream cities are notified of the project and must agree that the project will have no adverse impacts on the downstream city. If the downstream city does not agree that there will be no adverse impact, then the engineers of the two cities must meet to determine a way to complete the project while eliminating the adverse downstream impacts. Once the downstream city agrees to the project, then SMAC will agree to fund the project and it will move forward.

Jerry Johnson, Shafer, Kline and Warren reviewed the seven major stormwater projects in Fairway.

1. Brookridge Berm - The Brookridge Berm will be an earthen fill along the western portion of Brookridge in the vicinity where previous homes were purchased through FEMA/SMAC/City Funds. The purpose of the berming will be to maintain lower flows adjacent to the creek. Since this project will not provide protection for the 100-year (1%) storm event, it will not be eligible for SMAC funding.
2. Property Buyouts - Property Buyouts remain an acceptable alternative to floodplain management. Property owner and City determine buyout appropriate with funding from FEMA, SMAC and City availability.
3. RC-12-013-02 (approximately 4100 Brookridge) - This is the extension of the Roeland Park project with a box culvert from the existing box culvert to the discharge at Rock Creek in between the properties located at 4037 and 4045 Brookridge and 4022 and 4100 Brookridge. Drainage easements need to be acquired. It is anticipated that this project would be bid in calendar year 2005 with utility relocations occurring first, followed by construction of the box culvert. The project will be part of the Roeland Park bid package.
4. Neosho Lane Cul-de-Sac Flood Wall - A 100-year (1%) flood wall protection device added in the location, where two houses were previously removed, that would provide protection for the three houses at the south end of the cul-de-sac. This project would be eligible for SMAC funding. A preliminary engineering study is in process to obtain SMAC funding.
5. Mission Road Bridge - The Mission Road Bridge has been submitted as a County Assistance Road System (CARS) project. This is slated for 2007 CARS funding.

The City recently received a Federal grant of \$1,000,000 for replacement of this bridge. SMAC funds would also be available for this project. FEMA funds may also be available for property acquisition requirements.

6. RC-03-012 (5400 Mission Road) - The City has been funded from SMAC for reconstruction of an existing rock wall lined channel in the backs of the homes located at 5333, 5337 and 5401 Mission Road and 5402 Windsor Drive. This improvement would remove the houses at 5333 and 5337 from the 100-year (1%) flood plain. This project has been funded for the preliminary engineering study and will proceed into preliminary engineering design in calendar year 2005, with funding anticipated for construction in 2006.
7. Windsor Lane Box - This project would add additional capacity under Shawnee Mission Parkway and extending down to Rock Creek. This project would remove five homes/business from the 100-year (1%) flood plain from the north side of Shawnee Mission Parkway. This project has received a Federal grant of \$200,000. The project length (whether the box extends to Rock Creek) has not been determined. The preliminary engineering study is underway followed with preliminary engineering design.
8. State Park Road Flood Wall - A flood wall along State Park Road could protect several homes along this road. The impact to the residents and the Golf Course would be determined during the preliminary engineering study. The preliminary engineering study for this project has not been authorized.
9. BC-03-041 (Lockton to Windsor) - The City has received notification from SMAC that this is a funded project for design in 2005 with construction slated for 2006. This project will improve the conveyance system in the vicinity of Windsor Road and Cherokee Lane and would remove flooding damage reportedly at three properties along the improvement.
10. Mission PES Review - Shafer, Kline & Warren, Inc. has reviewed the PES by Black and Veatch for upstream improvements and has reached the conclusion that no negative impacts will be realized in Fairway. The City will continue to monitor the upstream condition in accordance with PES.

In response to a resident's question, Mr. Johnson stated that some of the projects have been submitted to SMAC for funding. He added that he has reviewed all the projects with SMAC representatives.

Councilman Barham stated that when a project receives federal funding, it moves to a priority position for funding in the SMAC program.

A resident requested that the residents living near the Brookridge Berm be included in the design of the berm. He stated that they would want to be well informed of what the berm will look like.

A resident expressed concern regarding the city's requirements for the Church to improve its steeple simply because the building is in the floodplain. Mr. Johnson stated that the Building Inspector, who serves as the City's Floodplain Administrator, is required to

obtain specific information on construction projects that are within the floodplain. He added that in order for the City to receive FEMA funds, the City must comply with the FEMA requirements.

City Attorney Chinn stated that the City is required to adopt an ordinance including FEMA's requirements in order to keep the City and its residences in FEMA's Flood Insurance Program.

Mike Morton, 4109 Brookridge Drive, stated that in the past, the City of Fairway has added requirements to the permitting process. Discussion followed.

In response to Councilman Barham's comment, City Administrator/City Clerk Robards stated that FEMA requires a floodplain development permit for any construction or repair work done on a property that is in the floodplain. She added that the City has to obtain the total cost of construction and make sure that it does not exceed 50 percent of the appraised value of the structure in order to approve the permit.

In response to Mr. Morton's comments, Councilman Barham stated that the Council has to approve the floodplain development permit and, at the most, an applicant would have to wait 30 days for the following Council meeting. City Administrator/City Clerk Robards stated that the only other issue that could hold up a project is if the applicant has failed to submit the information needed to make the determination for approval of the permit.

In response to a question from a resident, Mr. Johnson stated that the homes that may need to be removed to make way for the Mission Road Bridge are 5517, 5515, 5523 Mission Road and 5521 and 5529 Suwanee. He added that a preliminary design has not been completed for this project, the City is still unsure as to which homes need to be removed.

A resident asked when the new bridge would be constructed. Councilman Barham stated that the project is scheduled for 2007.

In response to Councilman Weekley's question, Mr. Johnson stated that the new bridge will be redesigned to account for the Rock Creek improvements in Mission.

In response to Joyce Hirt's question, 5440 Windsor Lane, Mr. Johnson stated that since the project has received federal funding, the engineering design will begin on that project very soon. He stated that the project will be engineered to remove the homes at that location from the 100-year floodplain. He added that some sort of channel armoring will be done to alleviate erosion.

Ms. Hirt expressed concern about the Windsor Lane project and indicated that she would like to be informed of the design process. Councilman Barham stated that the City will keep all concerned residents informed and asked Ms. Hirt to meet with Mr. Johnson after the meeting to further discuss the project.

Mr. Johnson stated that after the last Taskforce meeting he attempted to contact Ms. Hirt at her home to discuss the project, but she was not available. He added that he will be happy to meet with her.

In response to a resident's question, Councilman Barham reviewed the Mission Rock Creek project. Phil Perry, Mission Council Member, stated that currently stormwater runs from Cooper Creek in Roeland Park down Roeland Drive to Johnson Drive. The pipe at Johnson Drive is not large enough to accommodate the water and as a result additional box culverts are planned under the Mission Mall, which flows to Rock Creek in Fairway. He stated that the project will take \$50 million of property out of the floodplain.

Councilman Weekley stated that the residents on Neosho and Brookridge know that the stormwater flow is significantly more than it was before the work under the Mission Mall was done the last time. He stated that the engineers at the time told Fairway and its residents that there would be no increase in flow, which was incorrect. He expressed concern with the Rock Creek project and questioned whether the project will not create an adverse impact in Fairway.

Mr. Perry stated that the current engineering under the Mission Mall was built for a 50-year flood, which was the County's requirement at the time. He stated that this project will be built for the 100-year flood.

Councilman Weekley stated that the City of Mission and their engineers have been good neighbors with respect to this project. He stated that he must trust Fairway's engineer, Jerry Johnson, to provide the best engineering possible. He added that there are many assumptions that are made on an engineering project and he believes that inevitably some of the assumptions will be incorrect.

Councilman Barham cautioned that if the City gets a 150-year rain, there will likely be a flood since the project is built for a 100-year flood.

In response to a resident's question, Mr. Johnson stated that any development on the vacant parcels at Johnson Drive and Roe will be required to show that the development will not create any downstream impacts. He stated that the current flood model has taken these areas in to account. Mr. Perry stated that currently the two parcels are in the floodplain and they cannot be developed until they are removed from the floodplain.

Councilman Barham stated that Fairway resident Janice Brooks left the meeting, so he will address her concern for her. He stated that there is a small culvert tributary that runs behind the homes on Aberdeen and Chadwick. This area is private property and has eroded in areas. In addition, Ms. Brooks is worried about West Nile Virus. Councilman Barham stated that the City Council has determined that the area is private property and it has no liability for the property.

A resident stated that she has problems with her backflow valve in her basement failing. She stated that when it rains heavily, she gets water in her basement. Councilman Barham stated that the sanitary sewers are not the City's responsibility. He empathized with her and advised her to contact Johnson County Wastewater. Mr. Johnson stated that sanitary sewers and storm sewers follow the same path. He stated that whenever the City has a stormwater project, typically the sanitary sewers are upgraded as well.

In response to a resident's question, Councilman Barham stated that the residents in the area of the Sheridan Bridge do not want the bridge to be changed.

Councilman Barham stated that the Stormwater Taskforce typically meets the first Thursday of the month at 5:30 P.M. at City Hall. He stated that the August meeting has been cancelled and he welcomed the public to attend the future meetings.

ADJOURNMENT

Councilman Barham thanked everyone for attending and closed the Public Hearing at 8:35 P.M.

John W. St. Clair Jr., Mayor

Attest:

Kathi Robards, City Administrator/City Clerk