

City Commission of Arkansas City Meeting Minutes

The Arkansas City Board of City Commissioners met in regular session at 5:30 p.m. Monday, September 6, 2016, in the Commission Room at City Hall, 118 W. Central Ave., in Arkansas City.

Mayor Duane L. Oestmann called the meeting to order. Those also present at roll call were Commissioners Charles Tweedy III, Jay Warren and Karen Welch. Commissioner Dan Jurkovich was absent.

City employees present at roll call were City Manager Nick Hernandez, City Attorney Tamara Niles, Public Information Officer Andrew Lawson, City Clerk Lesley Shook, Finance Director Kathy Cornwell, Assistant Public Works Director Mike Crandall, Environmental Services Superintendent Rod Philo, Police Chief Dan Ward, ACPD Officer Matt Mayo and Human Resources Manager Marla McFarland.

Arkalalah Executive Committee members in attendance were chairman Michael Morgan and executive secretary Tasha Bucher. BroCorp was represented by chief executive officer Kevin Scruggs.

The Spring Hill Golf & Recreation Association was represented by clubhouse manager Cathy Vaughn, president Tim Orman, treasurer Dale Kuhn, secretary Roger Fox, board members Eric Puchalla and Al Kimsey, Jerri Achenbach, Sid Achenbach, Kim Hager, Richard Humphrey, Reatha Juden, Connie Kimsey, and many more. About 25 to 30 total Association members attended the meeting to show their support for the golf course.

Other citizens in attendance were Ken Harader, Vickie Jackson, Mell Kuhn, E.W. Shelton, CourierTraveler reporter Cody Griesel and Daily Bytes reporter Jeni McGee.

Commissioner Warren offered the opening prayer. Mayor Oestmann led the pledge of allegiance.

Agenda Changes and Approval

City Manager Hernandez asked to add a five-minute executive session to the end of the agenda, under New Business, and the swearing in of new officer Matt Mayo as the first item under Recognition of Visitors.

Commissioner Warren moved to amend the agenda as requested. Commissioner Tweedy seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the agenda amended and approved.

Recognition of Visitors

Chief Ward introduced the newest member of the Arkansas City Police Department, Officer Matt Mayo.

He will not have to attend the Kansas Law Enforcement Training Center because as a former sheriff's deputy from 2006 to 2010, he can test out of much of the training. He will have 14 weeks of field training with ACPD.

Officer Mayo was sworn in by City Clerk Shook. Chief Ward also said he was pleased to report at least four solid candidates as a result of board interviews that day, and he is optimistic that some eventually may be hired.

Michael Morgan, chair of the Arkalalah Committee, said the festival organizers would like to have a beer garden on Oct. 27 during a concert at Wilson Park, similar to how the annual PrairieFest concert is handled.

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Morgan said he already had talked to Parks and Facilities Director Tony Tapia about snow fencing requirements.

He added Arkalalah plans to outsource the beer sales to another entity, perhaps as a fundraiser. Commissioner Tweedy asked if they had looked into security yet. Morgan said that had been arranged.

Commissioner Welch asked what kind of concert it would be and Morgan told her the name of the cover band. He said they were targeting all age groups older than 21, but the main demographic would be 30 to 45 years old.

Hernandez said an ordinance would have to be approved at the next meeting to allow alcohol consumption in the park during the event. Commissioner Tweedy asked about the hours. Morgan said it would be 7 to 11 p.m.

BroCorp CEO Kevin Scruggs said that for the third year of Arktoberfest, he would like to hold the event on public property instead of private property. He said the first year had space limitations and the second was too remote.

He suggested some space on East Fifth Avenue, in front of the Arkansas City Public Library. He said the company had worked closely with ACPD the last two years and they have had no major problems at the event.

Mayor Oestmann asked where it was last year. Scruggs said the empty lot east of CornerBank, south of Chestnut.

He said the originally preferred location, on West Fifth Avenue, was given to two additional vendors this year.

Scruggs said the library site also lacks electric hookups and it is not level enough for them to bring in a Budweiser mobile beer garden setup. He said First Street between Fifth and Central avenues also was a possible location.

Commissioner Tweedy said that location might conflict with the carnival and travel routes. Mayor Oestmann said there was time to find an area, but Hernandez said Scruggs needed at least 30 days for license approval.

Commissioner Welch was concerned about the Fifth Avenue location because of the handicapped parking in front of the library. Hernandez asked how wide the Ark City Arts breezeway is. Scruggs said it is 17 feet wide.

Commissioner Warren said he would recuse himself from the discussion because he has sold wine at the event.

Commissioner Tweedy said he did not like the Fifth Avenue location, but he thought last year's location was the perfect location for Arktoberfest and he encouraged them to stay there, if possible, to reduce the City burden.

Arkalalah executive secretary Tasha Bucher ruled out the possibility of using any space on Central Avenue. The parking lot east of Niles Family Dentistry was ruled out because it is for Osage Apartments residents.

Scruggs said BroCorp could contact the property owner from last year and renew that arrangement. Hernandez and Mayor Oestmann said the alcohol license would not be an issue if the same location was used.

Spring Hill Golf Course clubhouse manager Cathy Vaughn, 1910 E. Chestnut Ave., and Spring Hill Golf & Recreation Association treasurer Dale Kuhn, 1727 N. Ninth St., gave their monthly report. With them were the Association's president, Tim Orman; secretary Roger Fox; Eric Puchalla; and Al Kimsey.

Mayor Oestmann asked for the total number of members. Kuhn said there were 97, 66 of whom live in the City. There are 11 from Winfield, seven from Cedar Vale, three from Newkirk and Tonkawa, and a few others.

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Vaughn said the golf course's financial situation in September was better than expected, thanks mostly to high turnout at the VFW Tournament at the end of August. Thus, Spring Hill did not need any financial assistance for September. She hopes the two tournaments this month also will bring in more income than previously thought.

But Vaughn said the board and membership were concerned about staying open long-term. Some members will not pay membership dues in case the golf course closes. She asked for a commitment from the commission.

Mayor Oestmann said the commission does not want to see the golf course close. His biggest concern is reducing expenses and raising income in November through February 2017. Vaughn said tournaments are done in October and there still will be a deficit in the winter months because there basically is no golf course income.

Hernandez asked how many members were needed for Spring Hill to break even. Kuhn said he had not calculated that, but guessed it would be around 150 to 200. Historically, the high water mark was 126 in the '90s.

Commissioner Tweedy said one of his ideas was to sell hole sponsorships, but that already has been done. He asked if the course had approached Creekstone, GE and other companies about selling corporate memberships.

Kuhn said he didn't think Spring Hill could put together an attractive enough package that also would be fair to the other members. He said similar attempts also have lost money and weren't worth the effort involved.

Hernandez suggested continuing to meet monthly and keep two-way communication going, with no immediate financial commitment. He said the course would not shut down as long as the board is doing what it needs to do. But if the membership drops to near zero, he said, it would show the members don't care about the golf course.

Hernandez said he and the commission are committed to Spring Hill Golf Course, as long as it is being used to its maximum potential and there is communication taking place. He said the course only needs to meet with the commission if there is another financial shortfall. He and one commissioner will meet with Kuhn and Vaughn.

He cited the City's ignorance about the situation with the golf course's unpaid taxes, penalties and interest, which could have been addressed earlier, as well as the loan taken out for new equipment at a high interest rate.

Commissioner Warren said he just heard about it at the last meeting. Hernandez said he knew about it several months prior, but didn't realize it had become so financially damaging so quickly. Kuhn said it was a huge issue.

Commissioner Tweedy asked Vaughn to explain that scenario again. She reiterated what she and Kuhn had said at the last meeting, but added an auditor in Ark City was working on the matter and had contacted the IRS. That auditor's claims that the IRS would waive the interest and penalties proved false, and he was fired, Kuhn said.

Commissioner Tweedy asked if the auditor still was working on it. Kuhn said he was not. Commissioner Welch asked if he had worked on it at all. Kuhn said he had no indications of that. Commissioner Tweedy asked if there was a contract and Kuhn said no. Commissioner Warren asked if he was a certified auditor. Kuhn said yes.

He said he had not looked at legal action against the auditor's insurance, but the golf course was able to shave off \$1,000 in what it owed due to the auditor's errors during a certain time period, after an appeal to the IRS.

Mayor Oestmann asked the members present to play the course this winter if the weather stays mild and Commissioner Tweedy challenged them to try to recruit one new member apiece. Both could help with income.

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E.W. Shelton, 1315 N. 11th St., asked about using the proceeds from the sale of property to the two hotels at the north end of Arkansas City to fund the course. Hernandez said that money had been placed into a trust fund and the interest was used for that purpose, but from 2006 on, the interest had fallen to just \$2 to \$3 a year. So the total amount left in the account in 2012 was given to the golf course in its entirety. All of that is gone now.

Shelton challenged the commissioners to continue the financial commitment to having a City-owned golf course.

Commissioner Warren said the City is trying to buy time until next June or July, when the Arkansas City Recreation Commission might be able to free up enough funding to take over some kind of management of it.

Vickie Jackson, 1201 N. First St., said this was a tough decision, but urged commissioners to remember all of the citizens of Arkansas City who do not golf or use the course. Only 66 of Ark City's more than 12,000 residents use the course regularly. She said the commission needed to be careful about using tax money for a recreation area.

Consent Agenda

Commissioner Warren made a motion to approve the consent agenda as presented, including the following:

1. Approving the August 10, 2016, special meeting and August 15, 2016, regular meeting minutes as written.
2. Ratifying Mayor Oestmann's appointments of Jean Snell to the Historic Preservation Board and Chris Tackett to the Public Building Commission.
3. Ratifying Oestmann's reappointments of Foss Farrar and Gordon Fry to the Historic Preservation Board.
4. Approving the City employee health insurance renewal for the 2017 plan year.
5. Approving the following personnel policy updates: Safety Culture, Reporting Safety Issues, Workers Compensation Injury/Illness Procedure, Job Fitness, Off-the-Job Illness or Injury and Fit for Duty Assessment.
6. Approving a new cereal malt beverage license for Billy Sims Barbecue, 2113 N. Summit St.
7. Approving Resolution No. 2016-09-3045, authorizing the City to accept a donation of property located at 1225 N. Second St. from Susan and Howard Bartlett.
8. Approving Resolution No. 2016-09-3046, authorizing City Manager Hernandez to execute and submit the Federal-Aid State-Wide Bridge Inspection Master Agreement to the Kansas Department of Transportation.
9. Accepting a grant awarded to the Arkansas City Fire-EMS Department through the U.S. Department of Homeland Security Assistance to Firefighters Grant Program's e-grant system.

Commissioner Tweedy seconded the motion. He asked Human Resources Manager McFarland about the insurance renewal. She said the City did not solicit bids because the renewal was less than what was budgeted. There are no alterations to the current plan and the City is paying the full amount of the 9.5-percent increase.

Commissioner Warren asked Hernandez for more details on the last three items. Hernandez said No. 7 was part of a cooperative agreement among the City, Cowley First, Community National Bank & Trust, Creekstone Farms Premium Beef and Skyline Homes to place infill homes on vacant lots, which Creekstone will finance for its employee on the mortgage through Community National, with 20-percent equity available through the process.

No. 8 is an 80-20 matching grant for inspection of the East Madison Avenue bridge, with the City paying 20 percent of the cost. No. 9 is a \$50,000 grant for diesel scrubbers and a washing machine for firefighting gear.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the consent agenda approved.

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New Business

Naming of Chestnut Park **Resolution No. 2016-09-3047**

City Clerk Shook presented for discussion a resolution designating property owned by the City, west of the Arkansas River levee and bisected by West Chestnut Avenue, as a public recreation area named “Chestnut Park.”

City Manager Hernandez said Kansas Wildscape Foundation is interested in upgrading the West Chestnut Avenue boat ramp as part of the National Water Trail designation for the Arkansas River.

The designated area, Access Area #21, is intended to become a destination waypoint at the end of the trail. The Beautification and Tree Advisory Board recommended that the commissioners support the renaming proposal.

Commissioner Tweedy asked if “West Chestnut Park” was considered. Hernandez said it was, but the board chose the simpler name. Mayor Oestmann said he attended the meeting and was impressed with the proposal.

Mayor Oestmann made a motion to approve the ordinance. Commissioner Warren seconded the motion.

Commissioner Tweedy asked if there would be City expense to develop the area. Hernandez said they mainly would be in-kind contributions, such as tree removal and moving dirt. Grants will be the main funding source.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-09-3047.

Uniform Public Offense Code **Ordinance No. 2016-09-4416**

City Clerk Shook presented for discussion a first reading of an ordinance adopting by reference the updated Uniform Public Offense Code, prepared annually by the League of Kansas Municipalities.

City Attorney Niles gave a PowerPoint presentation on this year’s changes to the state’s criminal laws. Four bills — HB 2501, SB 133, HB 2462 and HB 2436 — impacted the UPOC the most and she reviewed those alterations:

1. The charge of battery against a law enforcement officer has been expanded to include the city attorney, assistant city attorney, city prosecutor and assistant city prosecutor.
2. Now exempted from prosecution for breach of privacy are providers of interactive computer services, for content provided for another person, plus radio common and local exchange/telecommunications carriers.
3. The section criminalizing possession of alcohol by a minor now immunizes from prosecution up to two people younger than 21 who are providing support to another person who needs emergency medical and/or law enforcement assistance. They must cooperate with medical and law enforcement personnel.
4. The cutoff between misdemeanor and felony theft was raised from \$1,000 to \$1,500, expanding the jurisdiction of Arkansas City Municipal Court to include thefts of value ranging from \$1,001 to \$1,500.

Commissioner Warren made a motion to approve the ordinance. Commissioner Tweedy seconded the motion.

A roll call vote was unanimous in favor of the motion. Mayor Oestmann declared the ordinance approved and given Ordinance No. 2016-09-4416.

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Standard Traffic Ordinance **Ordinance No. 2016-09-4417**

City Clerk Shook presented for discussion a first reading of an ordinance adopting by reference the updated Standard Traffic Ordinance, prepared annually by the League of Kansas Municipalities.

City Attorney Niles gave another PowerPoint presentation, saying the majority of changes are due to a Kansas Supreme Court case, State v. Ryce, in which the criminal charge of refusal to submit to a preliminary breath test was found to be unconstitutional. Although legal challenges are ongoing, the STO needs to be amended for 2017.

The sections for DUI, commercial DUI, preliminary breath test and refusal to submit all are amended accordingly.

Commissioner Tweedy asked how DUI could be proven now. Niles said other methods of determining whether someone is under the influence, including field sobriety tests and visual observations, still are admissible.

Niles said an updated definition also is provided in the STO for a compression release engine braking system.

Commissioner Warren made a motion to approve the ordinance. Commissioner Tweedy seconded the motion.

A roll call vote was unanimous in favor of the motion. Mayor Oestmann declared the ordinance approved and given Ordinance No. 2016-09-4417.

Primary Softening Basin Repair **Resolution No. 2016-09-3048**

City Clerk Shook presented for discussion a resolution authorizing the City to contract with Kuhn Mechanical to repair the primary softening basin at the Water Treatment Facility, for an amount not to exceed \$32,000.00.

Assistant Public Works Director Crandall introduced Environmental Services Superintendent Philo to present the item. Philo said the repairs are for the same primary clarifier that has been having problems for quite some time.

City Manager Hernandez said the clarifier has been out of service for the better part of the last year.

Philo talked for a while about the technical nature of the repairs and what Kuhn was proposed to do. Kuhn's bid was much cheaper than Walters-Morgan's because Kuhn is willing to use after-market parts to effect repairs.

Philo said the repairs only need to last for the next year and a half to two years, until the new Water Treatment Facility comes online in 2018. The rollers will be replaced immediately and other repairs made later.

Commissioner Tweedy asked if Philo thought they could roll the dice and not make the repairs until the new plant comes online. Philo said that was not his opinion and the City needs to provide the best water possible.

Commissioner Warren made a motion to approve the ordinance. Mayor Oestmann seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the resolution approved and given Resolution No. 2016-09-3048.

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Selecting Voting Delegates for League of Kansas Municipalities

City Clerk Shook presented for discussion the selection of voting delegates to the League of Kansas Municipalities' annual business meeting, which will be October 8-10 in Overland Park.

The commissioners unanimously designated Mayor Oestmann, Commissioner Warren and Commissioner Welch to serve as voting delegates, with Commissioner Tweedy and City Manager Hernandez named as alternates.

Executive Session

City Manager Hernandez asked for a five-minute executive session for preliminary discussion relating to acquisition of real property, to include only the four commissioners, himself and City Attorney Niles.

Commissioner Tweedy made a motion to enter the executive session. Mayor Oestmann seconded the motion.

A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the executive session started at 7:02 p.m. The session ended at 7:07 p.m.

City Manager Updates

City Manager Hernandez said he wanted to look at holding a town hall meeting regarding code enforcement, beautification and neighborhood cleanup efforts. He said ticketing should be a last resort for the City.

He suggested that church or youth groups could mow or clean up junk in yards for elderly or disabled citizens, paint houses, or trim trees, while the City could provide mowers or mini-grants to pay for paint and supplies.

Hernandez also said the City could haul off any trash collected by the groups and deposited in a designated area.

He said local groups know who does — and who doesn't — need the help. He is hoping to attract interest from local nonprofit organizations as well. Mayor Oestmann said he thinks it is a good idea to involve neighborhoods.

Commissioner Warren asked Hernandez what dates he was looking at. He said the first part of October and mentioned Public Information Officer Lawson had a meeting with private citizens to brainstorm ideas.

Lawson said he would meet the next week with James Fry and Sue Lancaster about the idea. He said she was very active in taking charge of the concept and championing it, which is good because it shouldn't be City-driven.

Mayor Oestmann asked who is responsible for repairing alleys. Hernandez said when a utility company or its subcontractor tears up an alley, they are responsible for fixing it. He said the gas company has been a problem.

Hernandez said the company eventually will comply. Mayor Oestmann asked how citizens should report such a problem. He said they should call the Public Works Department and report it so the City can demand action.

Other than that, Hernandez said, homeowners are responsible for maintaining their halves of the City's alleys.

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Adjournment

Commissioner Tweedy moved to adjourn the meeting. Commissioner Welch seconded the motion. A voice vote was unanimous in favor of the motion. Mayor Oestmann declared the meeting adjourned at 7:17 p.m.

THE ARKANSAS CITY
BOARD OF CITY COMMISSIONERS

Duane L. Oestmann, Mayor

ATTEST:

Lesley Shook, City Clerk

Prepared by:

Andrew Lawson, Public Information Officer