



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
APRIL 3, 2023**

The City Council of Prairie Village, Kansas, met in regular session on Monday, April 3 at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Chad Herring, Cole Robinson, Inga Selders, Ron Nelson, Lauren Wolf (via Zoom), Bonnie Limbird, Dave Robinson, Piper Reimer, Greg Shelton, Courtney McFadden (via Zoom), Ian Graves and Terrence Gallagher (via Zoom). Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; City Attorney David Waters, attorney with Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Buum, Assistant City Administrator; Jason Hannaman, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Nelson made a motion to amend the agenda for April 3, 2023, by moving the two committee report items prior to public participation. Mr. Shelton seconded the motion, which passed unanimously.

INTRODUCTION OF STUDENTS AND SCOUTS

No students or scouts were present at the meeting.

PRESENTATIONS

- SevenDays proclamation - Molly Kerr, board member of the SevenDays Foundation, was present to receive a proclamation recognizing “Seven Days of Kindness” events, beginning April 5, 2023.
- Antisemitism presentation and resolution - Gavriella Geller, Executive Director of the American Jewish Coalition / Jewish Community Relations Board of Kansas City, gave a presentation on rising incidents of antisemitism nationally and in the region, and shared the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism.

Mr. Cole Robinson made a motion to approve Resolution 2023-01, recognizing the growing problem of antisemitism in the United States and calling for the adoption of



the International Holocaust Remembrance Alliance Working Definition of Antisemitism as an important tool to address the problem. Mr. Graves seconded the motion, which passed unanimously.

- Fentanyl presentation - Julinne Kemp, Forensic Scientist Supervisor with the Johnson County Sheriff's Office Criminalistics Laboratory, shared information about the increased prevalence on fentanyl and fentanyl-related overdoses in Johnson County.
- Teen Council members Abigail Swanson and Sneha Thomas gave a presentation on public transportation needs in Prairie Village.

COMMITTEE REPORTS

- Insurance Committee: Consider 2023-2024 insurance renewals

Mr. Hannaman stated that the Insurance Committee had met on January 12, 2023, to discuss the City's property, casualty, and workers' compensation insurance needs for the upcoming year. The committee discussed changes in City covered property with HUB, the City's insurance broker, and whether any modifications to relevant City processes were needed. City staff provided HUB with details of all buildings, vehicles, equipment, number of employees, and various other factors to determine what coverage was necessary.

Following the review, HUB requested quotes from several carriers. At the March 21, 2023, Insurance Committee meeting, HUB recommended remaining with Traveler's for all coverage, with the exception of cyber liability, which would continue to be provided by Lloyds. The committee discussed the renewal options and recommended approval to Council.

Mr. Hannaman noted that the renewal included an increase of \$27,904 or 6.4%. The proposed policy would be similar to the current plan, with all coverage levels remaining the same. He added that in 2022, HUB moved from a commission model to a flat fee, and that the renewal reflected the same flat fee of \$30,000.

The property and casualty coverage rate would increase by 7% due to increases in the value of property covered and higher rates for automobile coverage. Workers' compensation would increase by \$4,851 or 3.6% due to expected increases in total compensation.

The cyber liability rate would increase from \$25,970 to \$30,581 due to market price increases. The City and HUB worked through an extensive process reviewing and updating internal processes to receive the best prices. The City received two bids, with Lloyds offering the best price and coverage.



Mr. Dave Robinson made a motion to approve the renewal of the City's insurance coverage needs with Travelers and Lloyds for the coverage year May 2023 to May 2024. Ms. Selders seconded the motion, which passed unanimously.

- Planning Commission: PC2023-103 - Consider Ordinance 2481 to approve a renewal of a special use permit for the service station at 7720 State Line Road

Ms. Lee said that the original special use permit for the Hy-Vee service station at 7720 State Line Road was issued to Getty, Inc. in 1983 for a period of twenty years. It was transferred to new ownership in 1995 and amended to include a food mart. The permit was renewed in 2003 with no proposed changes to the site or operations. That permit expires in 2023, and the applicant is seeking renewal of the permit for an indefinite period. There are no physical or operational changes planned for the property.

The Planning Commission held a public hearing on March 7. No comments were received beforehand, and no one was present at the meeting to speak about the application. The Planning Commission voted unanimously to recommend approval of the special use permit renewal to the City Council subject to the following conditions:

1. A landscape plan shall be submitted and approved by staff that brings the site further into compliance with the landscape standards. The plan shall include:
 - a. At least 6 but no more than 12 street trees. The species and location shall be determined by the City's landscape architect and Public Works, with the range dependent on location of existing trees, configuration of landscape areas and other site considerations.
 - b. Low-level and ornamental landscape associated with the monument sign and compliant with any applicable sight distance requirements.
2. Staff recommends approval with no expiration date, but the permit is subject to revocation for non-compliance with any ordinance standards, other regulations, or special use permit conditions; or if unforeseen problems or significant changes in conditions in the area make the use and operation no longer consistent with the findings of the commission.
3. The application be subject to all other conditions of the original special use permit, which are listed as:



- a. The existing canopy lighting be retained, and no glare be visible on adjacent streets and properties. If the applicant desired to change the fixtures or light intensity in the future it must be approved first by the Planning Commission as a site plan modification.
- b. Since no changes are proposed to the service station, the site plan illustrating existing development is the approved site plan. Any changes in the signage, rebranding architectural style, or exterior materials of the buildings and structures shall be submitted to the Planning Commission for site plan approval.
- c. That future changes and improvements to the site be handled as a site plan approval rather than an amendment to the special use permit.
- d. That the special use permit “run with the land” and remain valid for a period of twenty years from the date of City Council approval. *(Staff now recommends no expiration, subject to on-going enforcement and/or revocation for non-compliance).*
- e. If the permit is found not to be in compliance with the terms of the approval of the special use permit, it will become null-and-void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
- f. That the applicant be responsible for the mitigation and cleanup of any environmental contamination as determined by the Kansas Department of Health and Environment.

Ms. Lee noted that special use permit applications required the City Council to act in its quasi-judicial role. When acting in this capacity, rather than a legislative capacity, the governing body must set aside personal opinions and, like a judge, apply the law to facts presented in the public record, taking into consideration the following criteria, commonly referred to as the “Golden” factors:

1. The character of the neighborhood.
2. The zoning and uses of property nearby.
3. The suitability of the property for the uses to which it has been restricted under its existing zoning.
4. The extent that a change will detrimentally affect neighboring property.
5. The length of time of any vacancy of the property.
6. The relative gain to public health, safety, and welfare by destruction of value of the applicant’s property as compared to the hardship on other individual landowners.
7. City staff recommendations.
8. Conformance with the comprehensive plan.

An analysis of these factors was provided in the Planning Commission staff report.



According to Section 19.52.040 of the Zoning Regulations, the Governing Body can take the following actions on a special use permit recommendation from the Planning Commission:

1. Adopt the Planning Commission's recommendation by a simple majority of members present.
2. Override the Planning Commission's recommendation by a 2/3 majority vote of the entire Governing Body (9 votes including the Mayor)
3. Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a simple majority. The Planning Commission can then submit the original recommendation or submit a new and amended recommendation. The Governing Body then can adopt or amend the recommendation by a simple majority (7 votes) or take no further action.

Mr. Herring, Ms. Reimer, and Mr. Gallagher shared concern about the lack of an expiration date, noting that the property might not be subject to future changes to regulations, such as landscaping standards. Mr. Geffert noted that several special use permits had no expiration date, including one for the service station at 9440 Mission Road that had been approved by Council in June 2022.

After further discussion, Mr. Dave Robinson made a motion to approve Ordinance #2481, approving the renewal of a special use permit for the service station at 7720 State Line Road. The motion was seconded by Mr. Cole Robinson. A roll call vote was taken with the following votes cast: "aye": C. Robinson, Selders, Nelson, Wolf, Limbird, D. Robinson, Shelton, McFadden, Graves; "nay": Herring, Reimer, Gallagher. The motion passed 9-3.

PUBLIC PARTICIPATION

- The following residents voiced concerns regarding certain proposals recommended by the Ad Hoc Housing Committee:
 - Marilyn Thomas, 7862 Howe Circle
 - Jan Lane, 4100 W. 63rd Street
 - Tom Ward, 22 Coventry Court
 - Leon Patton, no address provided
 - John Cantrell, 8236 Nall Avenue
 - Karen Gibbons, 2904 W. 71st Street
 - Chet Hanson, 4620 W. 72nd Street
 - Joan Ward, 22 Coventry Court
- Resident Jori Nelson, 4802 W. 69th Terrace, shared concerns over the proposed ward boundary changes.



CONSENT AGENDA

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion:

1. Consider approval of regular City Council meeting minutes - March 20, 2023

Mr. Nelson made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: “aye”: Herring, C. Robinson, Selders, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed unanimously.

COMMITTEE REPORTS

- Ms. Reimer said that Teen Council members would be participating in a court learning session later in the week, and that their graduation ceremony would be held at the April 17 Council meeting.

She also stated that representatives from Evergy attended the Environmental Committee meeting on March 25 to discuss programs available to Prairie Village residents to reduce their carbon emissions.

- Ms. Selders reported that she had attended the National League of Cities Conference in Washington, D.C. March 26-28, and that it had been a very rewarding and enjoyable experience. Mr. Cole Robinson and Mayor Mikkelson shared their thoughts on the conference as well.
- Mr. Gallagher said that pool memberships for the 2023 season had gone on sale earlier in the day.
- Mr. Dave Robinson stated that the Prairie Village Foundation had met the previous week to welcome new members, elect officers, and make committee assignments.

MAYOR'S REPORT

- The Mayor stated he had participated in the following events since the prior Council meeting:
 - Preliminary meetings with the YMCA and Johnson County Library based on community center survey results, which would be shared at the April 17 Council meeting.
 - Meetings with residents to discuss housing proposals.
 - A Prairie Hills Homes Association meeting.
 - A meeting with newly elected Johnson County Commission Chair Mike Kelly.
- The Mayor noted the following upcoming events:
 - The Johnson County “State of the County” luncheon on April 4.



- Ribbon-cutting events at Claridge Court, the Big Biscuit, and the Meadowbrook Park playground.
- The Mayor also reported the following:
 - The 2024 budget process was underway.
 - The Shawnee Mission East Academic World Quest team won the regional round of the competition, and would be traveling to Washington, D.C. to compete in the national round.

STAFF REPORTS

- Mr. Jordan said that the April plan of action was included in the meeting packet. He also invited Councilmembers to attend staff budget discussions.

OLD BUSINESS

None

NEW BUSINESS

COU2023-16 Consider additional funding for 2023 property tax rebate program

Mr. Geffert stated that in 2022, the City Council voted to allocate \$20,000 from the City's general fund to a property tax rebate program designed to alleviate some of the burden of home ownership due to rising property values. In 2022, rebates were issued to 28 households totaling \$14,015.94, with \$5,984.06 remaining unexpended. In order to increase participation in 2023, the City Council voted to raise the income limits of applicants at its December 5, 2022, meeting. The Council also approved the option to allocate additional funds if a significant number of applications were received in 2023.

As of March 29, 2023, 47 households had received refunds totaling \$25,589.41, with an average rebate of \$544.46. Mr. Geffert said that additional funds would be needed to provide rebates to two applications pending approval, as well as any additional applications received prior to the end of the year. He recommended allocating an additional \$5,000.00 to the program for 2023.

Ms. Limbird asked how the program was being funded. Ms. Lee stated that funding was being drawn from the economic development fund.

Ms. Limbird made a motion to approve an additional \$5,000.00 for the 2023 property tax rebate program. The motion was seconded by Mr. Nelson and passed unanimously.

COU2023-17 Consider Ordinance #2482 amending City ward boundaries



Ms. Lee said that changes to ward boundaries had initially been brought before the Council as a staff report in May 2022. City Staff has worked with the Johnson County Election Commissioner on the timing and process for adopting updated ward boundaries, as such changes would require revisions to voting precinct boundaries. Additionally, per state statute, boundary lines of wards can only be changed at a time which “does not interfere with any election procedure”. The Johnson County Election Office stated that it had a strong preference that ward boundaries be revised prior to local office filing deadlines to avoid interference with primary and general elections. She added that staff had not consulted with the Mayor or Council when considering the boundary changes.

Mr. Waters noted that, under Constitutional law, the City’s six wards must be divided nearly as equal in population as possible. Kansas courts have held that the population of each ward should ideally be within five percent (5%) of the average ward population, and that the total variation between the most and least populated wards should not exceed ten percent, except in extraordinary circumstances.

Because of recent growth patterns, populations within wards have shifted such that ward sizes and boundaries in the City need to be adjusted. Based on a population figure of 22,969 persons from the 2020 U.S. Census, the average ward size should be approximately 3,828 people. Current ward sizes, and their deviation from the average, are as follows:

- Ward 1: 4,024 5.1% above the desired average
- Ward 2: 3,436 10.2% below the desired average
- Ward 3: 3,702 3.3% below the desired average
- Ward 4: 3,521 8.0% below the desired average
- Ward 5: 4,376 14.3% above the desired average
- Ward 6: 3,910 2.1% above the desired average

City Staff worked with planning consultants to modify the boundaries, with consideration of the following factors:

- Constitutional requirements for ward sizes.
- Avoid splitting established neighborhoods, as much as possible.
- Keep boundaries simple so that the average citizen can recognize what ward they are in.
- Limit changes to existing ward boundaries as much as possible.

The proposed adjustments would yield the following population distribution:

- Ward 1: 3,610 5.7% below the desired average
- Ward 2: 3,850 2.2% below the desired average
- Ward 3: 3,702 3.3% below the desired average
- Ward 4: 4,018 5.0% above the desired average



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- Ward 5: 3,879 1.3% above the desired average
- Ward 6: 3,910 2.1% above the desired average

Mr. Waters noted that the last election in which Prairie Village residents participated was November 8, 2022, and therefore, in 2022, any changes to ward boundaries would have needed to be completed and published by October 9, 2022, assuming that doing so would not itself have been deemed an interference with an election procedure.

Further, state statute states that “no election precinct shall be created, divided, abolished or consolidated or the boundaries thereof changed during the period four months prior to each primary election and the succeeding general election or between January 1 of a year the last digit of which is 8 and December 1 of a year the last digit of which is 0, and from and after January 1, 1993, between January 1 of a year the last digit of which is 7 and the time when the legislature has been redistricted in a year the last digit of which is 2”. As a result, between 2017 and 2022, even if the City had adopted updated ward boundaries that would have required a change in precincts, the Johnson County Election Commissioner would have been prohibited by statute from making changes to such underlying election precincts.

Consideration was given to waiting until after the 2023 general election to redraw ward boundaries. However, staff and the Johnson County Election Commissioner expressed concern that doing so would result in residents not actually being represented by the persons for whom they voted. Similarly, residents living within a changed boundary would not have had an opportunity to cast their vote for or against the person that would then represent them. Another concern with establishing new wards closely after general elections is that an elected official could be “removed” from the ward he or she actually represents (that is, the official would be representing his or her “old” ward while now living in a “new” ward).

After discussion, Mr. Graves made a motion to approve Ordinance #2482, an ordinance amending City ward boundaries, amending Sections 6-202, 6-203, 6-204, 6-205, 6-206, and 6-207 of Article 2 (Wards), Chapter VI (Elections) of the Code of the City of Prairie Village. The motion was seconded by Mr. Shelton. A roll call vote was taken with the following votes cast: “aye”: Herring, C. Robinson, Selders, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, Graves, Gallagher.

Mrs. McFadden was absent for the vote, which passed 11-0.

COUNCIL COMMITTEE OF THE WHOLE

There was no business to come before the Council Committee of the Whole.

EXECUTIVE SESSION

At 9:05 p.m., Mr. Nelson made the following motion:



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I move that the Governing Body recess into Executive Session for 30 minutes for consultation with an attorney which would be deemed privileged in the attorney-client relationship pursuant to KSA 75-4319(b)(2). Present will be the members of the Governing Body, the City Administrator, Deputy City Administrator, Assistant City Administrators, and the City Attorney. The regular meeting will resume at 9:35.

The motion was seconded by Mr. Shelton and passed 11-0.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 9:36 p.m.

Adam Geffert
City Clerk