



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
FEBRUARY 5, 2024**

The City Council of Prairie Village, Kansas, met in regular session on Monday, February 5, at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Cole Robinson, Terry O'Toole, Inga Selders, Ron Nelson, Lori Sharp, Lauren Wolf, Dave Robinson, Tyler Agniel, Greg Shelton, Nick Reddell, Ian Graves, and Terrence Gallagher. Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Melissa Prenger, Public Works; City Attorney David Waters, Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Boom, Assistant City Administrator; Jason Hannaman, Finance Director; Deana Scott, Court Administrator; Cindy Volanti, Human Resources Director; Adam Geffert, City Clerk.

Youth Council members present: Brynn Bettenhausen and Robbie Lashmet.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Nelson made a motion to approve the agenda as presented. Mr. Graves seconded the motion, which passed unanimously.

INTRODUCTION OF STUDENTS AND SCOUTS

Three Boy Scouts and one Cub Scout were present to earn merit badges.

PRESENTATIONS

- Mayor Mikkelson recognized Councilmembers for their service and presented their annual ceremonial checks.
- Mr. Graves read a proclamation declaring February as Black History Month in Prairie Village.
- Mayor Mikkelson recognized Mr. Schwartzkopf's 30th anniversary with the City.



PUBLIC PARTICIPATION

- Tom Ward, 22 Coventry Court, commented on the hiring of a new city attorney and the proposed updates to the code of ethics.
- Pam Justus and Karen Gibbons shared their thoughts on the City budget.
- Janice Hamill, 47 Compton Court, expressed concern about the future use of the Corinth Library's land if it were to move to a new location.

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 - January 16, 2024
2. Consider approval of expenditure ordinance #3034
3. Consider amendment #2 renewing the agreement with Witt O'Brien's, LLC to provide consulting services to the City regarding the use of American Rescue Plan Act funds

Mr. Nelson made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: "aye": C. Robinson, O'Toole, Selders, Nelson, Sharp, Wolf, D. Robinson, Agniel, Shelton, Reddell, Graves, Gallagher. The motion passed unanimously.

COMMITTEE REPORTS

- Mr. Shelton noted that the Environmental Committee held a meeting the prior week, at which a guest speaker from the Johnson County Parks and Recreation Board spoke about sustainable plantings in the gardens at City parks. He also recognized resident Boy Scout Jackson Super and his mother Phaedra Svec for their work holding a nearly zero-waste pancake breakfast fundraiser.
- Mr. Graves said the Diversity Committee held its first meeting of the year on January 23. He stated that a group from the committee would be meeting with the Shawnee Mission School District to discuss DEI (Diversity, Equity, and Inclusion) initiatives being utilized by the district.
- Ms. Wolf shared that the Arts Council in conjunction with the Johnson County Art Therapy Team would be holding a card-making event on February 10 in the council chambers.

MAYOR'S REPORT

- The Mayor shared information about events that had taken place since the prior Council meeting:



PRAIRIE VILLAGE
KANSAS

- A Prairie Village Foundation meeting on January 29. He noted that the foundation had set a record by raising \$27,336 in 2023 for Prairie Village families in need
- A Northeast Johnson County Chamber of Commerce bus tour for its citizen leadership academy
- Final meetings with area legislators
- Interviews with candidates for various City positions
- A community center public meeting at the Meadowbrook Park clubhouse on January 25
- The Mayor noted the following upcoming events:
 - Approval of volunteer appointments to City committees at the February 20 Council meeting
 - The annual Mayor's Prayer Breakfast in Kansas City, MO, on February 13
 - A Johnson County / Wyandotte County Mayors meeting on February 7
 - A City Council work session on February 10
 - A special Parks and Recreation Committee meeting on February 7 to discuss pickleball courts at Windsor Park

STAFF REPORTS

- Chief Steve Chick gave a report for Consolidated Fire District #2, and provided the department's call response statistics for 2023.
- Chief Roberson shared details about the 2023 crime statistics that were included in the meeting packet. He also noted that he recently represented the Johnson County Police Chiefs Association at the 2024 joint legislative agenda meeting in Topeka. Lastly, he provided an update on department staffing.
- Mr. Jordan noted that the 2025 budget calendar would be presented to Council at its next meeting.

OLD BUSINESS

None.

NEW BUSINESS

COU2024-08 Consider approval of the appointment of the city attorney

Mayor Mikkelson stated that eight responses were received for the city attorney request for qualifications. After applications were received, the Mayor appointed a committee to assist in the review and interview process, which included Councilmembers Ron Nelson and Lauren Wolf, and staff members Mr. Jordan, Ms. Lee, Ms. Buum, Mr. Schwartzkopf, and Captain Ivan Washington.



Mr. Jordan said that the selection committee reviewed the applications, provided feedback to the Mayor, and interviewed five finalists. Hunter Law Group was the committee's first selection with Alex Aggen designated as the primary attorney along with Mandi Hunter and Stephanie Hammann in assisting roles. The following rates were agreed to as part of the Mayor's recommendation of appointment:

- Services at a rate of \$275.00 per hour for all attorneys
- Services at a rate of \$125.00 per hour for paralegal work
- Services at a rate of \$95.00 per hour for legal assistants
- A billing time cap of three hours for any Council meeting

Mr. Jordan noted that the city attorney was an appointed position as outlined by sections 1-301 and 1-310 in the municipal code.

Mr. Aggen introduced himself, along with Ms. Hunter and Ms. Hammann. He noted that Hunter Law Group was headquartered in Prairie Village, and that the firm looked forward to working with the City.

Mr. Nelson made a motion to approve the appointment of Alex Aggen, Hunter Law Group, as the city attorney. The motion was seconded by Ms. Wolf.

Mr. Reddell asked which items would continue to be handled by Mr. Waters and which would be addressed by the new attorney. Mr. Jordan stated that there would be a "clean break" between attorneys with the exception of on-going litigation, but that Mr. Waters had offered to assist Mr. Aggen if needed.

Mayor Mikkelson said that if approved, Mr. Aggen would officially begin serving as city attorney on February 6, 2024.

After further discussion, the motion passed unanimously.

After the vote, Mayor Mikkelson swore in Mr. Aggen as city attorney, and thanked Mr. Waters for his service.

COU2024-09 Consider agreement with Philip Stein for backup public defender services

Ms. Scott said that the public defender for the municipal court was responsible for representing defendants who had been found indigent by the court and had been charged with criminal actions in which a jail sentence could be imposed. If approved, Philip Stein would represent individuals that had a legal conflict of interest with the primary public defender, Robin Lewis.



Ms. Scott noted that in December, the current back-up public defender, Adam Peer, requested to step down due to his increasingly busy private practice. Staff interviewed Mr. Stein and felt he would be a good fit for the position due to his knowledge and experience with indigent individuals. The contract period of February 6, 2024, through December 31, 2024, would fulfill the remainder of the contract period the City held with Mr. Peer.

Ms. Scott said that staff also recommended an increase in the hourly rate from \$93.00 to \$150.00 per hour, after research indicated the current rate was well below comparable cities and had not increased in over thirteen years.

Mr. Nelson made a motion to approve the agreement with Philip Stein for backup public defender services. The motion was seconded by Ms. Wolf and passed unanimously.

COU2024-10 Consider approval of additional funding for property tax rebate program

Mr. Geffert stated that only \$9.65 of the funds approved by Council for the 2024 program remained. Along with \$1,798.47 in rollover funds from the 2023 budget allocation, the available funding for 2024 totaled \$26,798.47, and that rebates had been issued to 44 households for a total amount of \$26,788.82. He added that five applications were currently in “pending” status contingent on additional funding being approved.

Mr. Geffert noted that if \$5,000 in additional funds were approved, the five pending applications would be issued refunds totaling \$2,921, which would leave \$2,079 available.

Mr. O’Toole asked if funding of more than \$5,000 could be approved; Mayor Mikkelson indicated that it could be. Mr. Shelton recommended approving an additional \$5,000, and having staff return to request more at a future meeting, if needed.

Mr. Dave Robinson made a motion to allocate an additional \$5,000 for the 2024 property tax rebate program from the economic development fund. The motion was seconded by Mr. Shelton and passed unanimously.

COU2024-11 Consider change order for construction contract of Harmon Park restroom and pavilion (BG30005)

Ms. Prenger said that at the November 6, 2023, Council meeting, staff presented options for the construction of the Harmon Park restroom and pavilion, and noted that the contractor currently on-site for the construction of the all-inclusive play area was also the low bidder on the previous two park restroom projects. Staff anticipated getting a quote from this contractor allowing work to seamlessly begin on the pavilion and restroom while finishing up the parking lot and inclusive play areas. She stated that utilizing the same



contractor would reduce overall impacts to the park and park patrons, and decrease costs due to the contractor already being on-site.

In January, Combes Construction submitted a bid for the construction of the Harmon Park pavilion and restroom. The design consultant, BBN, evaluated the bid and found it to be competitive and well below their anticipated construction costs:

Architect's cost estimate	\$1,345,344.00
Combes Construction	\$1,061,691.48

Ms. Prenger stated that the contract would include change order authorization of up to an additional \$100,000. Pavilion amenities such as picnic tables and benches would be purchased by the City. She added that overall project costs, including the contract and other direct City expenses such as design, testing, permitting fees and pavilion amenities were anticipated to be within the CIP project funding budget of \$1,350,000.

Mr. Dave Robinson asked if there would be any issues utilizing the current contractor rather than putting the project out to bid. Ms. Prenger stated that Combes Construction had been the low bidder on the previous two park restroom projects and that their pricing remained consistent. He also asked when the project would be completed, and Ms. Prenger said that goal was to have both the pavilion and restroom done before June, but that the current restroom would still be operational if the restroom portion was not finished by that time.

Ms. Sharp shared concern that the project not being put out for public bid could give the impression of a lack of transparency. Ms. Prenger said that the change order would not have been pursued if Combes Construction had not been the low bidder on previous projects.

Mr. Dave Robinson made a motion to approve the change order for Project BG30005 - Harmon Park Restroom and Pavilion in the amount of \$1,061,691.48. Mr. Graves seconded the motion, which passed unanimously.

Mr. Nelson made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Cole Robinson and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE
COU2024-06 Consideration of updated code of ethics

Mr. Waters stated that the code of ethics, codified in Section 1-212 of the municipal code, had not been updated since 2008. Based on recent issues involving allegations raised under the code of ethics, City staff undertook a review of the code as well as those of neighboring municipalities in an effort to both clarify and strengthen it.



Mr. Waters provided a summary of the proposed changes to the code of ethics:

- The code would no longer apply to employees, but staff would incorporate similar provisions on conflicts and financial self-dealing in appropriate personnel manuals
- Clearer distinctions between expectations of conduct and guidelines for behavior and enforceable violations
- New language prohibiting discrimination on the basis of various protected classes of persons
- Conflict-of-interest sections revised to be consistent with Kansas state statutes
- Additional language regarding the disclosure of confidential information
- Revision of the “Gifts and Favors” portion to allow officials to attend public engagements with no substantial risk of undermining official impartiality
- Expansion of the “Misuse of City Property” subsection to apply to the misuse of City personnel and staff
- Addition of clearer provisions allowing for advisory opinions

Mr. Waters said that the code currently provided that allegations against individuals should be brought to the Council Committee of the Whole (CCoW) which would “adopt its own rules for studying and investigating complaints”. The draft revised code would establish the following specific procedures:

- An opportunity for officials to raise concerns informally with each other, acknowledging that certain ethical concerns might not constitute a legal violation, and allowing for a measure of self-enforcement
- Review by the city administrator and/or the city attorney, with the ability to engage outside independent counsel when appropriate
- The ability for certain complaints to be dismissed without full investigations or hearings where it was clear that an allegation, even if true, would not constitute a violation of the code or other law, or where the complaint is frivolous or made for campaign or political purposes
- Investigative findings would otherwise be provided to the CCoW and impacted persons would be expected to recuse themselves from discussion, deliberation, and debate on the matter, except to provide their own evidence in their defense
- Expansion of the range of punishment options to include no action, required ethics training, censure, removal from boards, or other lawful action (which could include ouster)

Mr. Waters said that on January 16, 2024, the CCoW raised concerns regarding the “Late Case Interest” subsection of the revised code, which, in its original form, stated:

No public officer or employee shall, after the termination of service or employment with the City, appear before any board, commission, committee, or agency of the City in relation to any case, proceeding or application in which he or she personally



participated during the period of his or her service or employment, or which was under his or her active consideration. This does not preclude ex-employees from testifying in court on city-related matters.

Mr. Waters noted that the provision was already in the code of ethics and was presented to the CCoW at its January meeting unchanged from its original form. Per the request of the CCoW, the section was revised so that it would only apply to former members of the governing body for a period of one year after termination of service. It was further revised to clarify that it did not apply to the exercise of free speech, but rather prohibited former members of the governing body from acting as principals or agents for other parties in proceedings, applications, contracts, cases, or controversies in which such former members already participated on behalf of the City.

Mr. Waters also stated that the “Penalties” subsection had been revised so that for the governing body itself to file a complaint or referral for ouster, a 2/3 vote would be required. He added that under K.S.A. 60-1206, the attorney general or county attorney could investigate complaints brought by any person, and ouster proceedings could be initiated without a complaint having been made. He added that ouster was available only in the following situations per state statute:

- Willful engagement in misconduct while in office
- Willful neglect to perform any duty enjoined upon a person by law
- The demonstration of mental impairment such that the person lacks the capacity to manage the office held
- The commission of any act constituting a violation of any penal statute involving moral turpitude

Ms. Sharp asked if a former City Council member who was also an attorney or real estate agent could potentially violate the late case interest guidelines if they were to represent a client that had done business with the City. Mr. Waters said that if a councilmember served when a decision was made, and then later represented a party that benefitted from that decision within one year, he would view it as a violation.

Mr. Graves made a motion to recommend approval of the updated Code of Ethics for final approval by the Council. Mr. Nelson seconded the motion.

Mr. Gallagher stated that he wanted to ensure that Mr. Aggen, as the new city attorney, would have an opportunity to review the proposed changes to the code. Mayor Mikkelson said that Mr. Aggen would review the document and discuss it with Council at the February 20 meeting.

After further discussion, the motion passed 11-1, with Ms. Sharp in opposition.



Council work session discussion

Mr. Dave Robinson added a discussion of the slated Council work session on February 10 to the agenda. He said that although the agenda for the meeting was light, it would still be valuable to meet. Mayor Mikkelson added that the main purpose of the meeting was to allow councilmembers to gather in a less formal setting to discuss items. Mr. Dave Robinson asked councilmembers to send thoughts and ideas for discussion topics to staff prior to the meeting.

Mr. Nelson moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Shelton and passed unanimously.

EXECUTIVE SESSION

At 8:15 p.m., Mr. Dave Robinson made the following motion:

I move that the Governing Body recess into Executive Session for 20 minutes [beginning at 8:20 p.m.] for the purpose of discussing personnel matters of nonelected personnel, pursuant to KSA 75-4319(b)(1). Present will be the Mayor, City Council, City Administrator and City Attorney. The regular meeting will resume at 8:40 p.m.”

The motion was seconded by Mr. O’Toole and passed unanimously.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 8:41 p.m.

Adam Geffert
City Clerk