

COUNCIL COMMITTEE  
July 18, 2011  
6:00 p.m.  
Council Chambers

AGENDA

DALE BECKERMAN, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

Introduction of partnership group for the potential purchase of Mission Valley site

COU2011-36      Discuss possible regulations for holiday displays  
Dennis Enslinger

Police Department Mapping Presentation  
Seth Meyer

\*Council Action Requested the same night

**COUNCIL COMMITTEE OF THE WHOLE**  
**July 18, 2011**

The Council Committee of the Whole met on Monday, July 18, 2011 at 6:00 p.m. The meeting was called to order by Council President Dale Beckerman with the following members present: Al Herrera, Ruth Hopkins, Steve Noll, Michael Kelly, Andrew Wang, Charles Clark, Diana Ewy Sharp and Mayor Shaffer. Dale Warman and David Morrison arrived late. Staff Members present: Wes Jordan, Chief of Police; Captain Tim Schwartzkopf; Captain Wes Lovett; Bruce McNabb, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Chris Engel, Assistant to the City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk.

**Introduction of partnership group for potential purchase of Mission Valley site**

Quinn Bennion noted that recently the school district had accepted an offer for the purchase of the Mission Valley Middle School property. This property is currently zoned R-1a (Single Family District) and for the development of the property other than single family homes, a church or school, the property would need to be rezoned or a special use permit approved. Mr. Bennion introduced Dan Lowe managing partner with RED Development, whose offer is being considered by the school district.

Dan Lowe stated they are venturing with the Tutera Group on the purchase of this property. He noted that they have met with the Mayor and city staff regarding their plans for the property. They have no immediate plans and stated it will take some time to determine the best use for this property. They recognize the sensitive nature of the development of this long-standing school property and plan to seek both city and public input on the development of the site. Over the next few weeks they will hold a series of focus groups with five to ten individuals to talk about how they would like to see the property developed. These groups will include Prairie Village residents as well as possibly some residents of the City of Leawood which is across from the property. It is their intent to make this a very public process. It is their hope that from the focus groups concepts for the development will arise.

Mr. Lowe stated he understands the city's current comprehensive plan does not specifically address this property and said that they are interested in working together with the city on a possible amendment to the comprehensive plan to specifically address this site. He noted there had been some preliminary discussion regarding placing a moratorium in place on rezoning applications and asked that it not be pursued as they feel it places a negative perception on the development.

Diana Ewy Sharp asked what attracted them to this property. Mr. Lowe stated it is very difficult to find infill projects that can be developed and they feel this site has significant potential for redevelopment.

Quinn Bennion noted that at the last committee meeting a possible moratorium on development applications was discussed. It was the consensus of that staff would meet with RED partnership and discuss the planning process and schedule before any action was taken on a moratorium. A few months ago staff also discussed with Council the possibility of securing a planning firm to prepare modifications to the City's comprehensive

plan. Mr. Bennion noted that RED development is open to making this a joint venture sharing the costs and working together on the process. There are still details to be worked out regarding the selection of a firm and the process to ensure wide public participation and input.

Andrew Wang stated he feels the relationship with RED is promising; however, he still supports the establishment of a moratorium because of the precedence it sets. David Morrison agreed with establishing a moratorium as a matter of practice.

Dan Lowe stated they would not like to proceed under the cloud of a moratorium. The placement of a moratorium gives the immediate perception that there are problems with the potential development and he feels would hinder getting the best possible use for this property.

Quinn Bennion stated at this time staff believes the development plan and schedule proposed by RED with their planned public participation and input for the process a moratorium is not needed at this time.

Steve Noll stated he did not support a moratorium during the discussion at the last meeting and still feels it is not necessary. Diana Ewy Sharp stated based on the information presented by Mr. Lowe, she agreed that a moratorium was not needed.

Michael Kelly asked why it was discussed previously. Mr. Bennion responded the initial discussion was to ensure that a very public process was followed for the development of this property and for amendments to the comprehensive plan prior to consideration of any zoning requests.

### **COU2011-36 Consider possible regulations for holiday displays**

Dennis Enslinger stated the City of Prairie Village has several holiday displays which generate a large number of visitors each year, including Candy Cane Lane (7900 Outlook), 7611 Falmouth, and more recently 7909 Fontana. The displays typically run from Thanksgiving weekend to just after the first of the year. The hours of operation of the display have varied over the years but typically are from 6 p.m. to 10 p.m. on weeknights and as late as 1 a.m. on weekends. Last December, after receiving a number of complaints from residents, staff was directed to research how other cities addressed holiday displays which generate a significant level of activity.

Many neighboring residents believe that the displays create a nuisance in their neighborhood during the months of operation. Some of the issues that have been cited are:

- Continuous traffic including tour buses
- Lack of availability of on-street parking for resident's guests
- Cars blocking driveways and double parking thus preventing residents from accessing or leaving their properties
- Trash and litter associated with visitors to the displays
- Individuals walking through adjacent property owner's yards
- Public urination

- Construction of structures in violation of current building codes

Over the years of the operation of the display at 7611 Falmouth, the City of Prairie Village has implemented several items to reduce the impact on adjacent properties. Currently, the City of Prairie Village erects no parking signs, converts Falmouth a one-way street, and provides enforcement of these provisions (as time allows) during the operation of the display.

Dennis Enslinger summarized the findings which were submitted to the committee in his staff report. He noted that both the City of Phoenix, Arizona in 1991 and the City of Claremont, California in 2007 explored various ordinance options, no regulations were adopted. Many communities regulate holiday displays through Homes Association Covenants. The most typical regulation is a limit on the length of time the holiday displays may be erected. For instance, the city of Aurora, IL (suburb of Chicago) limits outdoor seasonal displays to 60 days before and after the holidays. Pueblo, CO limits lighted seasonal decorations to 60 days a year. Many of these ordinances are tied to “dark sky” initiatives meant to reduce urban lighting.

The City of Monte Sereno, California does not regulate holiday displays per se, but regulates the impact special events can have on city streets and traffic safety. The City of Monte Sereno’s definition of an event states:

*For the purpose of this Article, a “special event” shall be defined as a parade, march procession, motorcade, footrace, fair exhibition, ceremony, art show, program, celebration or other public assemblage of people for the conduct of a festivity, involving the complete or partial use of any public highway, street, alley, sidewalk or other public property in the City to normal vehicular or pedestrian traffic. The term “special event” as used in this Article, does not include a funeral procession consisting of a single direct movement from a mortuary or church to a place of burial. No special event shall last longer than thirty (30) consecutive days. There shall be no more than one (1) special event on any property in the City in a six-month period.*

The City of Monte Sereno’s Special Event Ordinance outlines prohibited activity. One prohibition states that events must have a permit, if conducted on a local street lasting longer than twelve hours, in a seventy-two hour time period. In discussions with City of Monte Sereno staff, the use of right-of-way for parking of vehicles associated with the event constitutes the use of the right-of-way and requires an individual holding the event to secure a permit.

Mr. Enslinger noted the City of Prairie Village does have existing regulations associated with Short-Term Events, Section 19.34.040.C.; however, these provisions have not been applied to holiday displays. They have been applied to events such as 5-K runs, parades, etc. Staff believes that modifications to Section 19.34.040.C. would be necessary to apply this section of the code to holiday displays of the magnitude of those that currently occur. A possible change could include a definition as to what constitutes entertainment or the collection of donations associated with an event. In addition, the current provisions of the Short-Term Event provisions are limited to events which are 30 days or less.

Dennis Enslinger stated staff is presenting this as information requested and no action is being requested at this time. Should the City Council determine that it would like to pursue further action related to the topic, there are several possible actions:

- City Council could determine that it does not believe that additional regulation of holiday displays is necessary;
- The City Council could determine that it believes that additional regulation of holiday displays is necessary and direct staff appropriately. Staff will need additional guidance in determining under what parameters displays should be regulated; or
- Continue this item for further discussion or information.

Council President Dale Beckerman acknowledged resident presence at the meeting and noted that public comment is generally not taken at committee meetings. However, he stated he would allow brief comments and requested that all speakers identify themselves and their address.

Mike Babbick 7611 Falmouth, provided history on his holiday display that has been operating for 47 years. He stated his primary concern has been for public safety and noted there had not been any injuries or vehicle accidents related to the viewing of his display. Mr. Babbick acknowledged the complaints and apologized to the City for them. He feels they are primarily the result of a few instances with a few neighboring property owners.

Mr. Babbick noted the steps that have been taken by the City, particularly the police department, to address traffic complaints and other issues. He feels these steps have been successful. He noted an accident caused by a microburst several years ago resulting in a panel coming off and causing damage to his neighbor's property and his efforts to address that problem. Mr. Babbick stated the display is for the enjoyment of the public during the holiday season. He wants to continue to have his display under the guidelines currently in place.

Kathy Thompson, 7524 Falmouth, stated she has lived at this location for 22 years. The issues raised at the neighborhood meetings held by the police department exist. She experiences car doors closing, foot-traffic across her property and traffic noise every night during the two months of the display. She stated the display changes the nature of the street and neighborhood. Ms. Thompson stated she is not opposed to the spirit of Christmas, but feels something has to be done for the sake of the neighborhood.

James Isom, 7627 Falmouth, noted he sent the Council a letter last year enumerating several code violations caused by Mr. Babbick's holiday display. He expressed his frustration with codes being violated and no action being taken by the city. Mr. Isom stated that he and others in the neighborhood have had their property values negatively impact as well as the ability to sell their homes by the holiday display.

Dale Beckerman closed public comment.

Andrew Wang feels it is Mr. Babbick's intention to have an enjoyable holiday display for all to enjoy during the holiday. However, there are considerations outside of public safety

such as the volume of traffic on this residential street, the temporary change of the street from two-way to one-way during the time of the display and the additional police services needed to monitor the activity. Looking at the large scope, this is a residential street and what is happening is not a residential activity. This display has crossed the line of holiday decorations and he feels there is something that needs to be done.

Michael Kelly agreed with Mr. Wang, but noted this is not a display issue, this has become an event and should be considered as a special event with the provisions in place that are required for other special events in relation to safety, noise, traffic, etc. The city should be taking the same due diligence to monitor this special event as it does others in the City, especially with an event that covers such a long period of time. This definitely does have an impact on the neighborhood. Mr. Kelly stated this is not a police issue for them to solve, this is a political issue that needs to be addressed by the City Council.

Charles Clark stated he agreed, but noted he needed specific items to consider and suggested that Mr. Wang and Mr. Kelly work together with staff to draft provisions to address this issue.

Nancy Babbick, 7500 Falmouth, stated she felt the issue was addressed with the neighborhood meeting last winter and the actions taken at the request of the neighbors. Mr. Beckerman responded this is again before the Council because the issues continue with additional complaints received since the meetings last fall.

Ruth Hopkins stated it is time for Council to take action. The neighborhood has been inconvenience too long and their needs should be addressed.

Al Herrera noted the strain this activity puts on the police department. He noted when other events require additional patrols, those responsible for the event pay for the additional officers. He noted Mr. Babbick's comment to make the display bigger next year. It is time to take action. He agreed with Mrs. Thompson that the sound of traffic does permeate into houses.

David Morrison stated the city needs to be consistent with what is done with other issues. He noted that when sidewalks are considered, the action is based on a majority of the property owners desires, not the complaints of a few. He sees this as a positive attraction that brings people to Prairie Village. He feels that Mr. Babbick has a right to have a display and if prevented by the City could file a lawsuit that would take time and money to defend. He feels this is more of an inconvenience than a problem.

Diana Ewy Sharp stated that if the City moves forward it has to address the entire city. She stated that she has heard from hundreds of residents who enjoy the display and want it to be considered and urged to Council to consider the silent majority.

Michael Kelly stated this is not about a holiday display, this is about how the city deals with special events occurring in the city.

Charles Clark moved that Michael Kelly and Andrew Wang in conjunction with staff prepare a draft of possible regulations to address the issues raised. The motion was seconded by Ruth Hopkins and passed by a vote of 9 to 1 with David Morrison voting in opposition.

### **Police Department Mapping Presentation**

Chief Jordan stated the City has recognized the benefit technology can present to staff in serving the residents of the City. He noted that over the past year School Resource Officer Seth Meyer has prepared a virtual tour of Shawnee Mission East that can be used by officers in their patrol cars or at the mobile command center in the event of an incident at the school. The mapping project enables officers to prepare response plans without being familiar with the school. The mapping program is located on all mobile laptop units. The program allows a 360 view of the primary rooms, floor plans, exits and entrances to the building.

Officer Meyer displayed the mapping capabilities of the program and answered questions from the Council. He hopes that similar programs can be developed in the future for Indian Hills Middle School and other schools. Chief Jordan stated this is an excellent tool, but noted it took a significant amount of time for Officer Meyers to complete.

### **Adjournment**

With no further business to come before the Committee, Council President Dale Beckerman adjourned the meeting at 7:30 p.m.

Dale Beckerman  
Council President

**Staff Reports**

**ADJOURNMENT**

With no further business to come before the Committee, Council President Dale Beckerman adjourned the meeting at \_\_\_\_\_.

Dale Beckerman  
Council President