

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
November 5, 2012
7:30 p.m.**

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC PARTICIPATION
- V. CONSENT AGENDA

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (Roll Call Vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff:

- 1. Approve Regular Council Meeting Minutes - October 15, 2012
- 2. Ratify the Mayor's appointments of Art Weeks, Truss Tyson and Leslie Robbins to the Prairie village Arts Council with their terms expiring in April 2013, April 2014 and April 2015 respectively
- 3. Approve Construction Change Order #1 (Final) with Cohorst Enterprises, Inc. for Project 190725: 2011 Drainage Program
- 4. Approve the Supporting Organization Agreement with the Prairie Village Municipal Foundation (Council Committee of the Whole - October 15, 2012)
- 5. Approve an increase in the Right-of-Way Permit Application and Inspection Fee to \$175.00 effective January 1, 2013 (Council Committee of the Whole - October 15, 2012)
- 6. Approve an increase in the Drainage Permit Application and Inspection Fee to \$125.00 effective January 1, 2013 (Council Committee of the Whole - October 15, 2012)

- VI. MAYOR'S REPORT
- VII. COMMITTEE REPORTS

Council Committee of the Whole

COU2012-49 Consider approval of request to KCP&L to install a new street light in the 5500-5600 block of west 75th Terrace

- X. STAFF REPORTS

- XI. OLD BUSINESS

Consideration of Request by PV Retail Partners, LLC to amend the Village Community Improvement District Development Agreement (Prairie village Shops CID) - Second Amendment

XII. NEW BUSINESS

Presentation and Feedback on Phases 2-6 Mission Lane Improvements, Hen House Expansion and the Waid's Replacement Building (CID Projects) in the Prairie Village Shopping Center

XIV. ANNOUNCEMENTS

XV. ADJOURNMENT

If any individual requires special accommodations – for example, qualified interpreter, large print, reader, hearing assistance – in order to attend the meeting, please notify the City Clerk at 381-6464, Extension 4616, no later than 48 hours prior to the beginning of the meeting.

If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
November 5, 2012**

The City Council of Prairie Village, Kansas, met in regular session on Monday, November 5, 2012, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Dale Warman, Ruth Hopkins, Steve Noll, Michael Kelly, Andrew Wang, Laura Wassmer, Brooke Morehead, Charles Clark, David Morrison, Ted Odell and David Belz.

Also present were: Wes Jordan, Chief of Police; Bruce McNabb, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Chris Engel, Assistant to the City Administrator; Lisa Santa Maria, Finance Director; Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Steve Carman, 8521 Delmar, addressed the Council proposing the adoption of a change to the zoning regulations to allow for a protest petition to be filed on a special use permit application. Current code only allows protest petitions on rezoning applications. Mr. Carman stated the approval of a special use permit could have a major and lasting impact on the neighborhood similar to that of a rezoning. He noted a large percentage of Johnson County residents already have the ability to file a protest petition on special use permit applications with Prairie Village being in a distinct

minority. He does not feel it was the intent of the code when it was written to omit this process from the special use permit procedures. The implementation of a protest petition would allow for input from the adjacent property owners to requiring the action taken by the Governing Body to have the super majority support of the Governing Body for approval. He requests that the City Council take action to initiate this change to the City's zoning regulations and to do so promptly.

Chuck Dehner, 4201 West 68th Terrace, addressed the City Council in support of adding the protest petition on behalf of conditional use permits also noting in particular the requested drive-thru at the Prairie Village Shopping Center. He stated that the residents have had little opportunity for input on this project. Speaking on behalf of the surrounding neighborhood residents, he expressed their opposition to the construction of a drive-thru. They feel the drive-thru will change the character of the shopping center that currently has a lot of walkers. Mr. Dehner went on to express his dissatisfaction with the lack of communication between the developer and the adjacent property owners focusing on lack of notice for meetings and transparency. At the first meeting of the Planning Commission on this project, several residents spoke against the proposed drive-thru and new building. Mr. Dehner noted several misrepresentations made by the applicant including the tenants for the new building. They have indicated the drive-thru would be for Starbucks; however, he has talked with several of Starbucks management/sales personnel and been informed that they have not had any conversations regarding moving into the new proposed building. Mr. Dehner distributed a photo taken at Starbucks at 135th Street with 17 cars stacked in the drive-thru lanes and area parking depicting possible traffic issues which could occur with the proposed drive-thru.

Jennifer Kanan, 9317 Alhambra, addressed the Council expressing her support for the proposed ordinance amendment. She noted her experience with the process during the proposed redevelopment of the Meadowbrook Country Club provided a mechanism for the surrounding residents become actively involved. She believes active participation by residents builds better communities.

David Lillard, 7607 West 84th Terrace, has watched Prairie Village develop. The residents of Prairie Village care about what happens in their City. He encouraged the Council to adopt a provision for the special use permit process to include the provision for a protest petition. He believes residents need to have a say in what happens in their neighborhoods. He told of his involvement in the development of the Village Church Daycare and Food Shelter in Overland Park on Mission Road and how the input of neighboring residents created a better end project than initially proposed by the developer. He urged the Council to take action at the earliest possible meeting date.

Mayor Shaffer recognized three students from Rockhurst High School attending the meeting for their American Government class.

Quinn Bennion stated other cities do have the protest provisions available for both rezoning and special use permit applications. This would require a change in the zoning regulations which can be initiated by either the Governing Body or the Planning Commission. If Council wanted to pursue this it could be added to a future agenda.

Brooke Morehead stated citizens do need to have input and the Council needs to support them by taking the appropriate action to change the city's code. Katie Logan stated the City Council can direct staff to prepare an ordinance amendment for adoption.

Charles Clark noted that any change made would not have an effect on pending actions under consideration such as the Prairie Village Shopping Center Improvements and noted the Mission Valley property owners may file before the ordinance is adopted.

Laura Wassmer stated she was supportive of the proposed change as it formalizes what the City already tells its developers - that they have to have public input and participation.

David Morrison asked if there is not application on file at this time, can the City institute a moratorium on accepting applications in order to consider adoption of the proposed provision of a protest petition. Mrs. Logan responded that it could be done. Mayor Shaffer closed public participation at 8 p.m.

CONSENT AGENDA

Charles Clark moved the approval of the Consent Agenda for November 5, 2012:

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2. Ratify the Mayor's appointments of Art Weeks, Truss Tyson and Leslie Robbins to the Prairie Village Arts Council with their terms expiring in April 2013, April 2014 and April 2015 respectively.
3. Approve Construction Change Order #1 (Final) with Cohorst Enterprises, Inc. for Project 190725: 2011 Drainage Program
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6. Approve an increase in the Drainage Permit Application and Inspection fee to \$125 effective January 1, 2013

A roll call vote was taken with the following members voting "aye": Weaver, Warman, Hopkins, Noll, Kelly, Wang, Wassmer, Morehead, Clark, Morrison, Odell and Belz.

MAYOR'S REPORT

Mayor Shaffer reported attendance at the following events: retirement reception for Lenexa Chief of Police Ellen Hansen; Ribbon cutting, dedication and grand opening of the Corinth Square Shopping Center, Northeast Mayors luncheon; State Senate/House candidate debates at Village Presbyterian; MARC board meeting; BHC Rhodes Breakfast, KC Chamber trip wrap up; PV employee luncheon; Roeland Park City Hall rededication; retirement reception for Officer Daryl Thompson and KCADC annual luncheon. Mayor Shaffer announced that he was recently appointed to the Greater Kansas City Chamber of Commerce Board of Directors.

COMMITTEE REPORT

Council Committee of the Whole

COU2012-49 Consider approval of request to KCP&L to install a new street light in the 5500-5600 block of West 75th Terrace

On behalf of the Council Committee of the Whole, Charles Clark moved the Governing Body approve a request to KCP&L for the installation of a new street light in the 5500-5600 block of West 75th Terrace. The motion was seconded by Ruth Hopkins and passed unanimously.

STAFF REPORTS

Public Safety

- Chief Jordan reported there were no problems on Halloween evening.
- The 3rd quarter crime statistics were distributed in the Council packet and briefly reviewed by Chief noting the downward trend, particularly for residential burglaries, which decreased from 55 in 2011 to 33 in 2012.
- Prairie Village hosted the fifth annual dodge ball tournament to benefit Special Olympics.

Public Works

- Bruce McNabb reported that Somerset Drive is now open from Roe to Nall.

- The Sagamore Street Project (CDBG) is underway after a delay to allow WaterOne to complete their work in the area with projected completion the end of the month.
- Public Works staff is street sweeping the rapidly increasing leaves that have fallen over the past weeks as quickly as possible.

Administration

- Chris Engel announced that City Hall Day in Topeka will be on February 6th and those interested in attending should contact him.
- The Sister City Committee will be hosting a reception for Shawnee Mission East Foreign Exchange Students on November 19th. The students will be recognized at the City Council meeting.
- Lisa Santa Maria handed out the completed 2013 budget book to Council members and noted it was also available online. The third quarter financial statement was distributed and it was noted that sales tax revenue is expected to increase in the 4th quarter due to holiday sales.
- Mayor Shaffer noted the city's receipt of the Distinguished Budget Presentation Award.
- Ruth Hopkins commended the staff on the excellent budget summary/report published in the last issue of the Village Voice.
- The short term special use permit has been issued and the Dorr Holiday Light Display is up.
- Quinn Bennion announced that staff have spent several months reviewing the employee handbook and will be bringing it before the Council for review at the November 19th meeting. He will be meeting with employees to review the proposed changes next week.
- Election Day is tomorrow. Polls open at 6 a.m. in Johnson County.

OLD BUSINESS

Consider request from PV Retail Partners, LLC to amend the Village Community Improvement District Development Agreement for the Prairie Village Shopping Center

The City of Prairie Village and PV Retail Partners, LLC entered into a Development Agreement for the use of Community Improvement District Funds (CID) through a 1% CID sales tax established on September 20, 2010 (Ordinance 2228). The Development Agreement was approved with the adoption of Resolution No. R-2010-12 and formalized the implementation and financing of the CID projects contained within the Agreement.

Quinn Bennion stated PV Retail Partners, LLC requested two amendments to the Village Improvement District Development Agreement for the Prairie Village Shopping Center in a letter dated October 10, 2012. Both were discussed at the last City Council meeting with the First Amendment - a Modification of Exhibit F to move the commencement date for Project A (Mission Lane Improvement) from November 2, 2012 to May 2, 2013 being approved by the Governing Body. Action on the Second Amendment - a Modification of Section 2.02(A) to remove the requirement that the developer provide a pedestrian access along the east side of existing Mission Lane for trail purpose was continued and the developer requested to provide additional information regarding possible widths of a pedestrian easement for trail purposes along the east side of Mission Lane with the intention that the minimum width of six (6) feet be provided.

The Developer has conducted a study of the possible widths along the east side of Mission Lane, along with a summary of all sidewalks along Mission Lane. Quinn Bennion reviewed the sidewalk diagrams presented by the applicant showing a combination of widths along the east side of Mission Lane ranging from six (6) to ten (10) feet. Staff believes a minimum of eight (8) feet should be provided along the entire length of the east side of Mission Lane. Staff bases this recommendation on the fact that standard trail width is eight (8) feet and traditionally sidewalks in pedestrian-centered shopping centers are greater than six (6) feet.

The concept of a pedestrian access along the east side of Mission Lane being developed, was to provide a "wide sidewalk" to accommodate a multi-use path not a bike trail, as noted by the Developer in their request. This concept was actually implemented with the construction of the new UMB Bank facility in 2011. As part of the

site plan approval process, the bank was required to construct a ten (10) foot section of sidewalk along Mission Lane, Tomahawk and Mission Road.

Providing a continuous eight (8) foot pedestrian easement/trail would require additional modifications to the Mission Lane Improvements and associated site plans. The Developer could reduce the overall width of the street or make modifications to the parking areas. While the developer has indicated they could not lose any additional parking spaces, it should be noted the Developer reduced the number of spaces within the center by forty-five (45) with the Hen House expansion alone. Additional parking spaces in the center were removed to accommodate the new Waid's replacement building and associated drive-thru.

Staff estimates the possible elimination of ten (10) additional parking spaces if the pedestrian easement/trail was expanded to eight (8) feet along the entire section of Mission Lane. Charles Clark commented that it could be possible to reduce the number of spaces lost by making some of the spaces 8.5 feet wide rather than the traditional 9 feet. Staff does not believe this to be an unreasonable request.

Curt Petersen with Polsinelli Shughart stated the developer is pleased to be able to guarantee a minimum width of six feet throughout the sidewalk/trail with minimum widths between seven (7) and ten (10) feet when possible. He noted that although staff feels a continuous eight (8) foot sidewalk could be constructed, they do not want to narrow the road noting the difficulty it would cause for cars backing out of parking spaces. He noted expanding Hen House has already reduced the number of parking spaces. Availability of the front row parking spaces for its customers is very important to Hen House. Mr. Petersen is confident that residents would prefer additional parking spaces next to Hen House over an additional two feet of sidewalk.

Charles Clark noted the reduction of parking spaces from 8.5' to 8' will not have a material effect on the number of parking spaces. Ruth Hopkins suggested reducing the space on the west side and placing it on the other side. Mr. Petersen responded that Hen House needs the additional space for displays and grocery carts.

Michael Kelly asked why the bank sidewalk was constructed as it was. Mr. Bennion replied it was required by the City to allow for a continuous trail as referenced in the development agreement. The concept presented in the agreement is different from that being pursued. Mr. Kelly stated the original plan is clear and was followed by UMB Bank. He supports the staff recommendation to retain the language in the Development Agreement to provide a minimum of an eight (8) foot pedestrian access easement along the east side of existing Mission Lane for trail purposes. Ted Odell expressed concern with the varying trail widths proposed.

David Belz stated he does not see how an additional two feet would remove eight to nine parking spaces. Mr. Petersen responded there are also issues with grade and utility meters that impact the trail construction.

Laura Wassmer stated she doesn't understand the concern over the trail, noting this is a parking lot and that people need parking spaces in front of grocery stores. Michael Kelly stated he does not want to live with a view of a massive parking lot. Curtis Petersen noted the opposing forces that must be considered in redevelopment and the tension it creates - where the creation of one element may necessitate the removal or change of another. When UMB was developed they had a blank piece of land and were not faced with those challenges.

Ruth Hopkins noted the residents want the expansion of the Hen House and they are going to want parking. She is not willing to give up parking for sidewalks.

Laura Wassmer moved the Governing Body approve the requested amendment removing the requirement that the developer provide a pedestrian access along the east side of existing Mission Lane for trail purposes. The motion was seconded by Ruth Hopkins.

Andrew Wang noted his struggles with this request noting positives on both sides of the question. He is supportive of the amendment on the whole noting that a six-foot width is pedestrian friendly, although he does not like the varying widths proposed.

The motion was voted on and defeated by a vote of 5 (Warman, Hopkins, Noll, Wang, Wassmer) to 7 (Weaver, Kelly, Morehead, Clark, Morrison, Odell and Belz).

City Attorney Katie Logan stated the agreement remains as written that a pedestrian access along the east side of existing Mission Lane be provided for trail purposes.

NEW BUSINESS

Presentation and Feedback on Phases 2-6 Mission Lane Improvements, Hen House Expansion and the Waid's Replacement Building (CID Projects) in the Prairie Village Shopping Center

Chris Engel stated as part of the approval of the Community Improvement Districts, at the Corinth Shopping Center and the Prairie Village Shopping Center, City Council requested the ability to comment on proposed projects funded by the CIDs prior to Planning Commission review.

Lane4 has submitted plans for improvements to the Prairie Village Shopping Center which include: modifications to Mission Lane, construction of a replacement building for the Waid's building and an addition to the existing Hen House. The Planning Commission will be considering these modifications at their November 6th meeting. Mr. Engel briefly reviewed the plans and staff recommendations for these projects.

Mission Lane Improvements

Staff concerns include the access from Mission Road north of Mission Lane intersection be closed and the parking reconfigured for safety reasons. Staff continues to struggle with getting an accurate square footage count for the center as a basis for the parking requirements.

Charles Clark noted the staff recommendation is for a minimum six foot wide pedestrian walk and noted the Council just rejected that request and is requiring an eight-foot wide trail. Mr. Engel noted the Planning packet was prepared two weeks ago based on the then direction by Council to the applicant. He will make sure the Commission is aware of the Council's desire for the eight-foot width.

New Retail Building

On the Waid's replacement building, staff has encouraged the applicant to provide an all brick building and provide some detailing of the brick facades to break-up the blank-facades of the structure. This would be similar to the treatment of the UMB Bank building which was constructed to the north of the proposed building.

Council members had the following comments and concerns: There was mixed support for the drive-thru with some concern that preventing the drive-thru would decrease the attractiveness of the building forcing a potential tenant to go elsewhere similar to the city's experience with McDonalds at Corinth several years ago. Others felt the drive-thru would have a negative impact on the walk ability of the shopping center. Concern was voiced over the exhaust created by the drive-thru and the effect it would have on the patio seating.

The inclusion of a drive-thru was questioned when there was no identified tenant requesting one. It was noted the Council was led to believe that Starbucks would be

moving from its current location to the new building; however, resident Chuck Dehner has had contact with Starbucks executives who deny such discussions. Council members want to know who the tenant will be as it will impact the amount and frequency of drive-thru traffic.

Brooke Morehead asked what would separate the UMB Drive-thru from the proposed drive-thru such as retaining walls, landscaping, etc. The Council supported the staff request for there to be four-sided architecture replacing the stucco with brick on the north, east, and west sides. They noted similarly to the CVS building at Corinth the back faces the shopping center.

Hen House Expansion

Staff has concerns with the overall façade elements of the Hen House addition. Of particular concern are the new main tower element and its compatibility with the overall center. In addition, the north elevation needs additional detailing to break-up the massing of the elevation.

Council members agreed there should be architectural elements on the north façade that continue those found on the east. They were not supportive of the proposed entry and felt that the southeast corner of the building should be the entry point as it will shift the primary parking from the east (in front of US Bank) to the south or southeast where more parking is available. Staff thanked Council for their input and remarked that the items will be shared with the Planning Commission the next night.

Code of Ethics

Brooke Morehead asked if the Council could look more closely at the Code of Ethics and specifically if a provision could be added making it applicable to appointed

committee members. Katie Logan stated this could be done and noted that any changes would require an amendment to the city's municipal code.

David Morrison stated while looking at the Code of Ethics, he would like the Council to consider adding language that would prohibit members of the Governing Body from accepting any political contributions from anyone who holds a city contract or has an appointive or contractual relationship.

Pool

David Belz shared concerns from a resident regarding the Jacuzzi at the pool and requested that the Park & Recreation Committee discuss possible actions.

Moratorium

Michael Kelly asked that consideration of establishing the protest petition process for Special Use Permit applications be placed on the next agenda. Ted Odell suggested a moratorium be placed on special use permit applications to allow the Council time to consider this ordinance revision. Ruth Hopkins did not feel there was a need to rush into consideration of a protest petition process. Mr. Odell agreed and stated that is why he wants to establish a moratorium to provide Council time to consider the suggested process. Ruth Hopkins noted a moratorium would impact any potential special use applications in the City.

Quinn Bennion reported that he understand Tutera plans to file soon for consideration of a special use permit for senior living facilities on the Mission Valley site. Katie Logan stated the moratorium would allow for the consideration of adding the protest petition process to the City's code.

David Belz asked if staff was aware of any other pending applications. David Morrison confirmed the moratorium would be citywide. Katie Logan replied if it is important to implement the process the moratorium should apply citywide.

Michael Kelly asked if this could be done tonight. Ms Logan reviewed the process for both implementing a moratorium and for adopting a code change. Charles Clark stated he opposed taking any action this evening.

Ted Odell moved the City of Prairie Village establish a temporary moratorium on all Special Use Permits for the purpose of reviewing the implementation of the protest petition process for special use permits for a period of 90 days. The motion was seconded by David Morrison.

Charles Clark stated residents under the current code have the opportunity to have input both through informal meetings as well as through the formal public hearing on the application. The protest petition provides a means by which the residents can force a super majority vote of the Governing Body for the approval of a Special Use Permit.

Dale Warman stated he supports the moratorium to provide the Council time to think through its actions.

City Attorney Katie Logan read aloud draft ordinance language that would establish a temporary 90 day moratorium which would be effective immediately.

Brooke Morehead stated she supported the moratorium as it provided Council the time to clearly evaluate the proposed change.

David Belz asked if the 90 days was sufficient time. Joyce Hagen Mundy reviewed the timetable for consideration of an ordinance revision by the Planning

Commission and City Council. Katie Logan suggested 120 days to ensure completion of the process.

Andrew Wang stated he opposed the moratorium. Michael Kelly stated the moratorium provides a pause before action is taken that cannot be reversed. Laura Wassmer stated she does not want to hold up the Mission Valley application for 120 days. Steve Noll confirmed the moratorium would prohibit the City from accepting any applications. Ted Odell read from Chapter 19.28 “Special Use Permits” identifying what uses require a special use permit.

Charles Clark stated that until an applicant files an application there is no requirement that they speak with anyone - neighbors, city staff, etc. Once an application is filed, certain notification is required by state statutes to property owners within 200 feet of the property and the Planning Commission requires that the applicant notify and hold an informational meeting for residents within 200 feet and homes associations within 500 feet. Then the residents are able to address the Planning Commission with their comments/concerns at the scheduled public hearing on the application. Once again, when the Planning Commission recommendation comes to the Governing Body, residents have an opportunity to speak on the application.

The question was called by Andrew Wang and passed unanimously.

City Attorney Katie Logan confirmed with Mr. Odell the time period of 90 days and read the proposed ordinance:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS that the Governing Body of the City of Prairie Village hereby establishes a temporary moratorium on special use permits for a period of 90 days (“Temporary Moratorium Period”), unless earlier terminated by the Governing Body. No

special use permit shall be accepted and considered until the expiration of the Temporary Moratorium Period.

A roll call vote was taken with the following votes cast: “Aye” Weaver, Warman, Noll, Kelly, Morehead, Morrison, Odell and “Nay” Hopkins, Wang, Wassmer, Clark, Belz. Mayor Shaffer declared the ordinance adopted by a vote of 7 to 5.

ANNOUNCEMENTS

Board of Zoning Appeals	11/06/2012	6:30 p.m.
Planning Commission	11/06/2012	7:00 p.m.
JazzFest Committee	11/08/2012	7:00 p.m.
Sister City Committee	11/12/2012	7:00 p.m.
Park & Recreation Committee	11/14/2012	7:00 p.m.
Council Committee of the Whole	11/19/2012	6:00 p.m.
City Council	11/19/2012	7:30 p.m.

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The Prairie Village Arts Council is pleased to announce a mixed media exhibit by the Greater Kansas City Art Association in the R.G. Endres Gallery for the month of November. The reception will be held on Friday, November 9th from 6:30 to 8:30 p.m.

Save the Date for the Northeast Johnson County Chamber of Commerce 2012 Annual Gala on November 17, 2012 at the Overland Park Marriott.

The Mayor’s Holiday Tree lighting will be Thursday, November 29th from 5:00 to 7:00 p.m. at Corinth Square.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 9th at Brighton Gardens, 7105 Mission Road. There will be two sessions.

The employee holiday luncheon will be Wednesday, December 12th from 11:30 a.m. to 1:00 p.m. in the Council Chambers.

The Mayor’s Holiday Gala for Volunteers will be Friday, December 14th at Homestead Country Club.

ADJOURNMENT

With no further business to come before the City Council, the meeting was adjourned at 10:00 p.m.

Joyce Hagen Mundy
City Clerk