

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
May 20, 2013**

The City Council of Prairie Village, Kansas, met in regular session on Monday, May 20, 2013, 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, Steve Noll, Michael Kelly, Andrew Wang, Laura Wassmer, Brooke Morehead, Charles Clark, David Morrison, Ted Odell and David Belz.

Also present were: Captain Wes Lovett; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Lisa Santa Maria, Finance Director , Danielle Dulin, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

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

**PUBLIC HEARING**

Keith Bredehoeft explained the City is considering an application to Johnson County for Community Development Block Grant (CDBG) funds for Fiscal Year 2014. The Johnson County program allows cities to apply for funds every other year when applying for funding near the \$200,000 level. There is no match requirement by the applicant but matching funds do improve the proposed project score. Typical match amounts fall in the range of 20% - 30% depending on total project cost. The City's funding share will come from the 2014 CIP Program.

Part of the application process is holding a public hearing to obtain citizen input from the public on the possible uses of CDBG funds in resolving local community development and housing needs. CDBG grant funds may be used to carry out eligible activities including, but not limited to, housing rehabilitation, public improvements, economic development and public services. All CDBG projects must address one of three national objectives, benefit low and moderate income persons; aid in the prevention or elimination of slums or blight; or meet other community development needs having particular urgency.

Keith Bredehoeft presented the following two possible projects for consideration that meet at least one of the required criteria. Both projects would request grant funds in the amount of \$160,000 with the city covering the additional costs. Mr. Bredehoeft noted that staff recommends Project #1 be submitted as it has an immediate need; whereas Project #2 could be held off for a future project.

**Project #1 - Rainbow Drive- 75<sup>th</sup> Street to Booth Drive- \$200,000**

Rainbow Drive between 75<sup>th</sup> Street and Booth Drive is a 932 foot long residential street. The street has standing water in the gutter for long periods after wet periods. The pavement and concrete is deteriorating. The construction will replace all curb and gutter on both sides of the street and include 3 inch mill and overlay. Replacing the curb and gutter will necessitate the replacement of the driveway aprons to meet the new gutter profile. This project is recommended by staff to be the proposed CDBG project for 2014.

**Project #2 - Booth Drive- 75<sup>th</sup> Street to 78<sup>th</sup> Street - \$195,000**

Booth Drive between 75<sup>th</sup> Street and 78<sup>th</sup> Street is a 2,200 foot long collector street. The pavement is currently in bad condition. This project will require mill and overlay the existing deteriorated asphalt. No other work will be included in this project.

Mayor Shaffer opened the public hearing for comment. With no one present to speak on the proposed CDBG application, Mayor Shaffer closed the public hearing at 7:38 p.m.

David Belz noted he is aware of several areas within Project #2 that are also in need of immediate repair and feels it would also be an appropriate project for submittal.

Brooke Morehead asked when notice of this hearing was sent. Mr. Bredehoeft responded it was published in the Legal Record April 30, 2013.

Dale Warman moved the Governing Body authorize the submittal of an application for Johnson County Community Development Block Grant (CDBG) funds for Fiscal Year 2014 for identified Project #1 - Rainbow Drive - 75<sup>th</sup> Street to Booth Drive for \$200,000. The motion was seconded by David Belz and passed unanimously.

### **PUBLIC PARTICIPATION**

Mayor Shaffer announced that after a great deal of thought and research, he is imposing a five minute limitation on individual's comments during public participation. He noted individual's could distribute additional information to Council or communicate with them via e-mail. This time limit would be extended if Council members wished to ask questions of the speaker. A time limit for public participation is common practice in other cities. Mr. Kelly and Morrison spoke in opposition to the time limit, Mr. Odell expressed some concern, Mr. Warman, Mr. Wang and Ms Wassmer spoke in support of the time limit.

Chuck Dehner, 4201 West 68<sup>th</sup> Terrace, noted John Petersen's comments were longer than five minutes. Mayor Shaffer noted that was prior to the time limit established tonight. Mr. Dehner continued his comments against the Community Development Grants approved for the Corinth and Prairie Village Shops and questioned the legitimacy of their requested reimbursements from the City. He suggested an outside audit be conducted on the agreement and claimed reimbursements. Low and middle income residents are being hurt for the benefit of the wealthy developers and their lawyers. Mr. Dehner stated he felt these transactions are not being handled appropriately and staff should be removed if they cannot do their jobs. He requested that all CID transactions be made transparent and placed on the city's website for the public to view.

With no one else to address the Council Public Participation was closed at 7:45 p.m.

## **CONSENT AGENDA**

Dale Warman moved the approval of the Consent Agenda for May 20, 2013:

1. Approve the Regular Council Meeting Minutes - May 6, 2013
2. Approve agreement with the Red Cross for Aquatic Examiner Services for the 2013 Season.
3. Approve the allocation of \$15,000 and not-to-exceed \$8,000 in expenses to the Mercer Group, Inc. for the executive search for the Public Works Director position with funding from the General Fund Contingency.
4. Approve the following contracts for VillageFest 2013: Del Sawyer, Food Vendor (pays \$175); Captured Memories, LLC, Photo Booth (\$500); Susan Lee, Vocal Performance (\$100); Sister Act Face Painting, Face Painting & Wacky Hair (\$2240); Rex Nolen, Food Vendor (pays \$175); Clement McCrae Puppets, Puppet Show (\$875); HyVee, Food Vendor (pays \$175); Hiccup Productions, Jim Cosgrove, Funky Mama, Sound System (\$2300).
5. Ratify the appointment of Craig Stramel to the Prairie Village Sister City Committee to a three year term expiring in April, 2016.

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

## **MAYOR’S REPORT**

Mayor Shaffer stated he had attended several events over the past month and he would be glad to discuss any of them individually with anyone who was interested. No formal report was given.

## **Presentation of Planning/Zoning Considerations including “Golden Factors”**

City Planning Consultant Ron Williamson addressed the Council reviewing the “Golden Factors” that emerged from the 1978 Supreme Court of Kansas decision in the Golden vs. City of Overland Park case that have become institutionalized in the consideration of zoning changes in Kansas. Mr. Williamson noted that a more recent Kansas court case determined that Special Use Permits were, in reality, a land use change and should be considered by the

same factors by both the Planning Commission and Governing Body. He stressed it is not necessary that the findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case and person to person.

Mr. Williamson added that in addition to the Golden Factors, the City of Prairie Village Zoning Regulations also provides factors for consideration when considering Special Use Permits, which are similar in nature to the Golden Factors. He noted approval of a Special Use Permit for a private Montessori school will come before the Council at their next meeting. The Council's action on that application must be made on the evidence and facts submitted. The Planning Commission will make its findings based the information presented to them. The Council must also make its findings based on the same information; however, Mr. Williamson noted the Council's findings may vary from the Commission's.

City Attorney Katie Logan stressed the importance of "reasonableness" in their determinations and findings reviewing all of the eight factors.

Andrew Wang asked about receiving conflicting information. Mr. Enslinger responded there will be conflicting information presented and the Council must in its quasi-judicial position weigh the information given. The Planning Commission will give the basis for their findings in their recommendation to the Governing Body.

Charles Clark stated the official record comes from the hearings before the Planning Commission and noted what is said at the City Council meeting is not part of the record on which the Council's decision is to be made. Dennis Enslinger added that during comments made to the Council, staff will listen for new information that was not presented to the Planning Commission. It will advise the Council that the new information cannot be considered. The

Council's decisions must be based on the same information that was provided to the Planning Commission during the public hearing.

Laura Wassmer stated she felt that many residents think the Council will be making the decision and do not realize they should be addressing their concerns to the Planning Commission. She suggested that this information to placed boldly on the city's website. They need to be told that the public hearing before the Planning Commission is where they should be making their comments. Mr. Enslinger noted that the Council could choose not to take comments at its meeting and stressed staff will listen carefully and advise the Council of any new information that cannot be considered.

Mr. Enslinger stated the Council will receive copies of all the information presented to the Planning Commission: applications, exhibits, transcripts, correspondence, reports, minutes, etc.

Ron Williamson added that if Council members are getting individual e-mails these should be sent to the City Clerk or Mr. Enslinger to be forwarded on to the Planning Commission; otherwise the information cannot be considered. Ms Logan agreed that all documentation needs to come through staff to the Planning Commission for their consideration in making their recommendation.

Brooke Morehead stated one of the criteria listed is "staff recommendation" and asked who is considered "staff". Ron Williamson responded that he prepares the staff report; however, in doing so he gets information from the Public Works Director, Chief of Police, Fire Chief, City Engineers for traffic and drainage, building codes personnel.

Quinn Bennion asked to what extent can the City Council add conditions. Mr. Enslinger responded they could add or remove conditions; however, any change to the recommendation of the Planning Commission would require a two-thirds vote of the Governing Body or nine

votes. Katie Logan added if a protest petition is filed it will require a three-fourths vote of the Governing Body or 10 votes to approve the Special Use Permit regardless of the recommendation of the Planning Commission. She added that the protest petition, which must be filed within 14 days following the closure of the public hearing, is a protest against the proposed use, not the recommendation of the Planning Commission.

Andrew Wang asked if there were time limits on the public hearing comments. Mr. Williamson responded there are generally not. The Chair of Commission does ask that speakers keep their comments brief and not repeat comments that have already been made, but have not set time limits.

Mr. Williamson stated the Governing Body has the ability to return an application to the Planning Commission for further consideration, but if doing so, direction is given as to what should be reconsidered.

Dennis Enslinger asked that any correspondence received directly by Council members should be sent to Joyce to be forwarded to the Planning Commission and made part of the public record. He also stated he will put information out advising the public to make their comments to the Planning Commission.

## **COMMITTEE REPORT**

### **Council Committee of the Whole**

#### **COU2013-20 Consider Contract with Serenity Landscape Design, LLC for Weed Abatement Services**

On behalf of the Council Committee of the Whole, Dale Warman moved the City Council accept the low bid from Serenity Landscape Design, LLC and authorize the Mayor to execute an agreement for Weed Abatement Services with Serenity Landscape Design, LLC. The motion was seconded by Andrew Wang and passed unanimously.

COU2013-19 Consider Construction Contract for Project 2013 Paving, 2013 CARS and 2012/2013 Drainage Projects

On behalf of the Council Committee of the Whole, Dale Warman moved the City Council authorize the Mayor to execute the Construction Contract with O'Donnell and Son's Construction for Project 2013 Paving, 2013 CARS and 2012/2013 Drainage Repair in the amount of \$3,100,000. The motion was seconded by Brooke Morehead and passed unanimously.

COU2013-18 Consider Construction Administration Agreement with TranSystems for 2013 Construction Projects

On behalf of the Council Committee of the Whole, Dale Warman moved the City Council approve the Construction Administration Agreement with TranSystems for the 2013 construction projects at a cost not to exceed \$299,299.00. The motion was seconded by Andrew Wang and passed unanimously.

Brooke Morehead asked the status on the registration of guests at City Hall. Quinn Bennion noted that when this item was brought up at the last Council meeting, Chief Jordan stated that his department had created a security plan which had not been reviewed by management yet. Mr. Bennion stated he has reviewed the plan and it does not address the registration of all visitors. Mrs. Morehead asked that this item be added to a future Council Committee of the Whole agenda.

**STAFF REPORTS**

**Public Safety**

- Captain Wes Lovett announced the Tip-a-Cop fund raiser held last week at Johnny's was successful and recognized Officer Adam Taylor for his work on the event.
- The Special Olympics Torch Run will be on next Tuesday with several police officers participating.

## **Public Works**

- Four crew members came in and worked approximately four and a half hours to clear streets and storm drains following the recent storm.
- The next two meetings will focus on the public works operations and CIP budgets.

## **Administration**

- Dennis Enslinger reported the legislature is back in session and he will send out a final legislative update when the session concludes.
- There will be a breakfast held on June 7<sup>th</sup> hosted by the Northeast Johnson County Chamber & Kansas City Area Development Council
- Standees will open next weekend. They have been issued a temporary certificate of occupancy.
- Mr. Enslinger reported the city has issued building permits for \$1.5M in construction, most is residential construction (including four teardowns & rebuilds) but there are also two schools (St. Ann's & Indian Hills) as well as Spin Pizza, Office Remodels and the new retail building in the PV Shops. The Building Inspector will be working overtime hours to keep up with inspections.
- Danielle Dulin announced there will not be a Synchronized Swim program as no coach could be found, other team registrations are going well and the pool opens on Saturday.
- Lisa Santa Maria briefly reviewed the results of the on-line budget simulator and the remaining budget schedule.
- Katie Logan presented a recap of House Bill #2052 regarding concealed carry in public buildings and the requirements for municipalities to provide adequate security at public entrances. She reviewed the timetable and process for implementation of the required security measures.
- She noted there are no penalties for not enforcing the law or for carrying a concealed weapon in a building. The State can exempt themselves and school districts are exempt from the regulations.
- Quinn Bennion stated he is continuing to work with the Mercer Group on the Public Works Director Search.
- Mr. Bennion noted the most recent Kansas Government Journal contains an article on the foundation's "Brush with Kindness" program with Heartland Habitat for Humanity.

Ted Odell asked about the status with Google Fiber and Brooke Morehead asked the status with SureWest. Mr. Bennion responded that staff is pursuing Goggle Fiber and has not had any additional communication with SureWest since they announced they would not be expanding operations into Prairie Village in 2013.

## **OLD BUSINESS**

There was No Old Business to come before the City Council.

## **NEW BUSINESS**

Ashley Weaver asked if the information requested by Mr. Dehner could be placed on the City's website. Dennis Enslinger responded the requests could be placed on the website, but

noted the documentation presented would be unmanageable and very difficult to navigate. Staff desired to organize and summarize the information before placing on the web.

**ANNOUNCEMENTS**

Environment/Recycle Committee	05/22/2013	7:00 p.m.
VillageFest Committee	05/23/2013	7:00 p.m.
Council Committee of the Whole	06/03/2013	6:00 p.m.
City Council	06/03/2013	7:30 p.m.

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The Prairie Village Arts Council is pleased to announce a photography exhibit by Jacia Humiston in the R.G. Endres Gallery for the month of May.

Recreation memberships are on sale in the City Clerk’s Office. The pool opens on Saturday, May 25<sup>th</sup> at 11:00 a.m.

The City offices will be closed on Monday, May 27<sup>th</sup> in observance of the Memorial Day Holiday. Deffenbaugh also observes this holiday so trash pick-up will be delayed one day.

**ADJOURNMENT**

With no further business to come before the City Council, the meeting was adjourned at 9:00 p.m.

Joyce Hagen Mundy  
City Clerk