

**COUNCIL COMMITTEE OF THE WHOLE
November 4, 2013**

The Council Committee of the Whole met on Monday, November 4, 2013 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Dale Warman with the following members present: Mayor Shaffer, Ashley Weaver, Ruth Hopkins, Steve Noll, Andrew Wang (arrived late), Laura Wassmer, Brooke Morehead, Charles Clark, Ted Odell and David Belz. Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Lisa Santa Maria, Finance Director; Nic Sanders, Human Resources Specialist; and Danielle Dulin, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk. Also present was Ron Williamson, City Planning Consultant.

COU2013-49 Consider Requesting Planning Commission consider amending the zoning ordinance to include a reapplication waiting period for Rezoning and Special Use Permit applications

Ron Williamson stated he had received several inquiries from council members regarding a time limitation on filing successive rezoning and special use permit applications for the same property as well as questions on the special use and conditional use process. Due to current active applications, he recommends the discussion on process take place at a later date. The Prairie Village Zoning Ordinance does not have a time limitation; however, many of the Johnson County cities do and the following is a summary of their requirements:

<u>City</u>	<u>Zoning Reapplication Waiting Period</u>	<u>Special Use Permit Waiting Period</u>
Leawood	6 months	6 months
Olathe	1 year	1 year
Shawnee	none	none
Overland Park	6 months	none
Lenexa	1 year	none
Mission	6 months	none

Mr. Williamson asked if the City Council is interested in pursuing an amendment to the Zoning Ordinance to include a reapplication waiting period. The Governing Body or Planning Commission can authorize a Public Hearing on the matter. In the past, the Governing Body has sent a request to the Planning Commission requesting it to authorize a public hearing. The Planning Commission has studied the matter, held a public hearing and made a recommendation to the Governing Body. A possible timetable for the process would be as follows:

- November 4th Governing Body requests Planning Commission to hold a Public Hearing.
- December 3rd Planning Commission reviews Staff Memorandum and authorizes a Public Hearing.
- January 7th Planning Commission holds Public Hearing and makes recommendation to the Governing Body.
- January 20th Governing Body considers Planning Commission recommendation and considers approval of a zoning ordinance amendment.

Ruth Hopkins felt this is a reactionary response and although she does not oppose considering a change, she does not feel this is the right time.

Ted Odell noted the last special use permit application took significant staff time covering several months and that it would be good to have a break before any reapplication. David Belz asked what would be the benefit of such action. Mr. Williamson responded that it would allow time for the Commission to consider other items. Mr. Belz confirmed that this request is not coming from the Planning Commission.

Laura Wassmer noted the city has not had a project as big as the past application for some time she finds it disconcerting for the application to come back with a very similar project almost immediately. She would like to see the city require the plans to be significantly different for immediate reapplication. Ms Wassmer confirmed any Council action would not apply to any existing applications.

Quinn Bennion noted that in the past ten years the City has only denied three special use permit applications. He stated there is a significant amount of staff time and resources as well as Planning Commission and Council time that go into the consideration of a large project. He has found with a waiting period for reapplication, the applicant is more inclined to put forth the best project with the best chance for success.

Charles Clark raised the question that if you require applicants to wait to refile, how long do you want them to wait. He noted this will slow down development. There have been a very small number of these types of applications over the past 18 years he has served on the Commission and Council to merit a change.

Dale Warman stated he received two calls on this issue. The caller noted the negative impact such action would have on the applicant being able to retain its architects and engineers and other subcontractors necessary for the application to proceed. Mr. Warman stated that in his employment he had requested several special use permits both with cities that had waiting periods and did not and the idea of not being able to refile promptly was a concern. Mr. Warman noted the action before the Council is simply whether to ask the Planning Commission to consider such a change.

Laura Wassmer would like to think that Mr. Bennion's experience with applicants presenting their best projects the first time was accurate and would be willing to have a shorter waiting period of three to four months. She does not want to significantly delay development.

Dale Warman asked if the three applications that were denied refiled quickly. The City Clerk noted the T-Mobile cell tower application was refiled quickly. Mr. Bennion noted the latest application was resubmitted very quickly.

Andrew Wang stated that having attended most of the meetings regarding the last application he noted that the city has set very high hurdles for developers, especially with the allowance of protest petitions. We are seeking new development, yet making some wait to move forward. He feels application should be considered as they are submitted and that adding a waiting period is unreasonable.

Ted Odell noted the amount of Planning Commission and staff time committed to these applications and made the following motion, which was seconded by Ashley Weaver and passed by a vote of 6 to 4:

MOVE THE GOVERNING BODY REQUEST THE PLANNING COMMISSION CONSIDER AMENDING THE ZONING ORDINANCES TO INCLUDE A REAPPLICATION WAITING PERMIT FOR RESUBMITTALS OF REZONING AND SPECIAL USE PERMIT REQUESTS FOR THE SAME LOCATION AND AUTHORIZE A PUBLIC HEARING

**COUNCIL ACTION TAKEN
11/04/2013**

COU2013-47 Consider adoption of the 2013 Standard Traffic Ordinance for Kansas Cities and additional amendments to the 2012 Uniform Public Offense Code for Kansas Cities

City Attorney Katie Logan stated that on an annual basis, the City receives the latest edition of the UPOC and the STO from the League of Kansas Municipalities. The UPOC and STO were reviewed against current City ordinances for any discrepancies. Any deletions or additions were reviewed and approved by the City Attorney and City Prosecutor in consultation with the Police Department.

Katie Logan stated because of certain changes to the Kansas statutes effective July 1, 2013 relating to the ability of cities to regulate the carrying of certain knives and other weapons with blades, the current provisions of the 2012 UPOC, as amended by Ordinance No. 2263, must remain in place in order for possession or carrying of such weapons to remain a violation of city code. Also, because there were relatively few changes to the 2013 UPOC, it was determined that instead of adopting the 2013 UPOC, the City should retain the 2012 UPOC with additional amendments to reflect certain provisions in the 2013 UPOC.

Katie Logan reviewed the proposed changes to the Uniform Public Offense Code, edition 2012 as reflected in Ordinance 2295 and to the Standard Traffic Ordinance, edition 2013 as reflected in Ordinance 2296

UPOC - Ordinance 2295

Section One: Article 4 of the 2012 UPOC is amended to incorporate changes in the 2013 UPOC sections 4.3, 4.4 and 4.5. These sections are changes from former sections governing prostitution, now titled “Selling Sexual Relations” and “Buying Sexual Relations.” Summarized, the changes are to add a defense for persons subjected to human trafficking. There are also changes to the description of violations under the section titled “buying sexual relations”. Additionally, a provision is added that requires that in addition to any other sentence imposed, a person convicted under that section shall be fined \$2,500. All fines collected pursuant to this subsection shall be remitted to the State human trafficking victim assistance fund.

Section Two: Article 6 of the 2012 UPOC is amended to incorporate changes in the 2013 UPOC sections 6.1, 6.5 and 6.7. 6.1 Theft: changes the penalties for certain violations of that section. 6.5 Criminal Deprivation: excludes firearm from the Class A violation. 6.7 Criminal Trespass: adds a statutory reference to the provision which refers to trespass on property which is “posted” no trespass.

Section Three: Article 7 of the 2012 UPOC is amended to incorporate changes in the 2013 UPOC sections 7.2 and 7.5. 7.2 Interference With a Law Enforcement Officer: adds “law enforcement agency” to entities to whom a false report may be a violation of that section; adds to violations under that section for false report of a crime; deletes concealment or destruction of evidence as a violation; and provides that the offense is a violation if the underlying offense is a code violation or civil case.

Section Four: Article 10 of the 2012 UPOC is amended to redefine the provision 10.1.2 Concealed Carry; Where Prohibited By Employers which was added by Prairie Village Ordinance 2263. The change is required by state statute and provides that a person who violates an employer’s statutory right to prohibit conceal carry on the premises may be guilty of criminal trespass.

Except for the above changes, the 2012 UPOC, as incorporated and amended by City Ordinance No. 2263, remains in effect. The provisions prohibiting open carry are still in effect.

STO Ordinance No. 2296:

Section One: Incorporates 2013 Standard Traffic Ordinance for Kansas Cities

Section Two: Adds language from Prairie Village Municipal Code Ordinance 11-705, DEFINITIONS, PEDESTRIANS to the 2013 Standard Traffic Ordinance for Kansas Cities, Definition of Pedestrians. Carries over same provision from 2012.

Section Three: Establishes Prairie Village Municipal Code 11-602, SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES, which defines traffic offenses and infractions under the Prairie Village Municipal Code. Carries over same provision from 2012.

Section Four: Establishes Prairie Village Municipal Code 11-602, PENALTY FOR SCHEDULED FINES, which establishes fines for offenses or infractions which do not have a penalty section under the 2013 Standard Traffic Ordinance for Kansas Cities or the Prairie Village Municipal Code. Carries over same provision from 2012.

Section Five: Deletes Article 4, Section 13.1, Subsection (c) of the 2011 Standard Traffic Ordinance for Kansas Cities, Traffic Control Signal Preemption Devices, and replaces with Prairie Village Municipal Code Ordinance 11-604, TRAFFIC CONTROL SIGNAL PREEMPTION DEVICES, allowing Public Works vehicles during snow to possess a traffic control signal device. Carries over same provision from 2012.

Section Six: Adds to Article 13, of the 2013 Standard Traffic Ordinance for Kansas Cities, Prairie Village Municipal Code Ordinance 11-605, UNATTENDED MOTOR VEHICLE, adding language allowing for remote control starts of vehicles. Carries over same provision from 2012.

Section Seven: Adds to Article 19, Sec. 193 of the Standard Traffic Ordinance, Sec. 193(1) which requires driver's license holder to notify the Kansas Department of revenue- motor vehicles of a name or address change within 10 days of such change. Carries over same provision from 2012.

Section Eight: Repeals Ordinance No. 2264 (which adopted the 2012 STO)

Section Nine: Date changes take effect.

Other Changes to 2013 STO made by the League are summarized as follows:

- Definitions added or modified: Electronic Certificate of Title, Electric Vehicle, Highway, Owner, Pole Trailer and Trailer.
- Provisions added to allow evidence of insurance to be produced by displaying on a cellular phone or other type of election device.
- Provision added requiring prior conviction of aggravated battery be taken into account in sentencing for certain offences
- Changes relating to motorcycle head lamps and stop lamps

Brooke Morehead questioned the 10 day period in which to notify the Kansas Department of Revenue of an address changed. Chief Jordan replied that is a state regulation.

Charles Clark made the following motion, which was seconded by David Belz and passed unanimously:

Dale Warman moved on behalf of the Council Committee of the Whole that the Governing Body approve Ordinance 2296 amending Chapter XI of the Code of the City of Prairie Village, 2003, entitled "Public Offenses & Traffic " by repealing Chapter XI, Article 6 entitled "Standard Traffic Ordinance" and incorporating by reference the "Standard Traffic Ordinance for Kansas Cities, Edition 2013" with certain deletions and additions; and prescribing additional regulations.

MOVE THE GOVERNING BODY ADOPT ORDINANCE NO. 2295 FURTHER AMENDING THE UNIFORM PUBLIC OFFENSE CODE EDITION OF 2012 (UPOC) WHICH WAS INCORPORATED BY ORDINANCE 2263 ADOPTED OCTOBER 1, 2012 ENTITLED "PUBLIC OFFENSES & TRAFFIC" BY MAKING CERTAIN ADDITIONAL OMISSIONS, CHANGES AND ADDITIONS TO THE "UNIFORM Public Offense Code for Kansas Cities, Edition of 2012"
COUNCIL ACTION TAKEN
11/04/2013

Charles Clark made the following motion, which was seconded by David Belz and passed unanimously:

MOVE THE GOVERNING BODY ADOPT ORDINANCE NO. 2296 AMENDING CHAPTER XI OF THE CODE OF THE CITY OF PRAIREI VILLAGE, 2003, ENTITLED "PUBLIC OFFENSES & TRAFFIC" BY REPEALING CHAPTER XI, ARTICLE 6 ENTITLED "STANDARD TRAFFIC ORDINANCE" AND INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, EDITION, 2013" WITH CERTAIN DELETIONS AND ADDITIONS; AND PRESCRIBING ADDITIONAL REGULATIONS
COUNCIL ACTION TAKEN
11/04/2013

COU2013-48 Consider JazzFest Funding

From the first year, the JazzFest Committee has strived to fund the event expenses without budgeted funds through sponsorships and revenue raised. At the January 22nd City Council meeting the City Council approved a memorandum of understanding for professional fund raising services and a one-time \$10,000 loan to enable the Committee to enter into the agreement. The Committee sought outside services to secure a broader base of support for the funding of the jazz festival. With requests being made to Prairie Village residents and businesses to support several city sponsored events such as Villagefest and State of the Arts as well as other community program, felt it needed to broaden its base of support for the benefit of all the community programs seeking funds.

Jack Shearer, chairman of the JazzFest Committee stated he felt the 2013 Festival was great. He noted Brooke Morehead was able to secure a \$10,000 sponsorship from UMB, Dan Andersen provided a revised layout that was very well received, JD Kinney coordinated both the alcohol and merchandise sales, Kate Fields gathered 50+ great volunteers to work the event, Larry Knopkinik was able to put together a premier line-up of talent and Joyce Hagen Mundy kept everything running smoothly as city staff support.

Through early fund-raising the committee had the funds to secure an excellent talent line-up including Marilyn May and Bobby Watson and his All-Stars. The talent, which is the primary expense of the festival, is also a prime component in the procurement of sponsorships, as one begets the other. The Prairie Village Jazz Festival has become “the best outdoor Jazz Festival in the last five years”. The fabulous line-up drew a huge crowd; but the committee exceeded the proposed talent budget with two “headline” performers.

The committee went into the event having raised over \$55,000 (\$20,000 through the efforts of the fund-raiser) and had not accessed the loan funds committed to the committee. This is more than twice the amount available at the beginning of the 2012 festival. Following the lead of Jazz in the Woods, the committee offered corporate tables to high level qualifying sponsors and a VIP Tent. There were 20 companies/individuals sponsors contributing over \$500. For their contribution they were received tickets to the VIP Tent or were able to purchase a corporate table for 8. To accommodate this additional tents, tables and chairs were rented and catering was arranged.

Jack Shearer noted that at three o'clock, the opening of the festival, the temperature was 99 degrees impacting afternoon attendance and those attending were not eating and drinking. The hill was packed after the sun went down for the evening performances of Marilyn Maye and Bobby Watson, but funds raised at the event were less than anticipated resulting in the event expenditures being greater than event revenue.

Brooke Morehead thanked Jack for his leadership and noted the growth in the festivals reputation and credibility over the past four years. People want this festival to continue and she believes t the money spent on the festival is well spent.

Steve Noll stated that earlier when the committee requested \$10,000 for a fund-raiser he stated that fee was low. He noted the event has gained momentum.

Andrew Wang stated he thought the expectations for money raised by the fund-raiser were in excess of \$20,000. Mr. Shearer responded that committee expectations were higher, but she broke some ground and identified new sources for potential revenue. He felt the committee should not have committed to two headliners. Ted Odell stated he felt the talent was excellent, but felt the fund-raiser should have raised more funds than she did. Ruth Hopkins said she thought the fundraiser was being paid a commission.

Jack Shearer responded that in order for the Municipal Foundation to retain its non-profit status, it can not pay a commission to someone for fundraising; however, it can hire someone for a flat fee. This is what was done with the option for additional commission for funds raised in excess of a designated level.

Dale Warman stated committee needs to have funds in hand to cover all expenses prior to the event. Quinn Bennion noted that some of the expenses occurred the day of the event, such as payment for the electrician to set up the generator. Andrew Wang stated he was against the original motion for funding; however, to protect the City would support the payment of outstanding bills.

Steve Noll moved to authorize the JazzFest Committee to utilize the \$10,000 one-time loan approved January 22, 2013 to cover festival expenditures and use the remainder as seed funding for the 2014 festival. The motion was seconded by Laura Wassmer and passed by a vote of 9 to 1 with Andrew Wang voting in opposition.

Steve Noll made the following motion, which was seconded by Laura Wassmer and passed by a 9 to 1 vote with Andrew Wang voting in opposition:

**MOVE THE CITY COUNCIL AUTHORIZE THE JAZZFEST COMMITTEE
TO UTILIZE THE \$10,000 ONE-TIME LOAN APPROVED JANUARY 22,
2013 TO COVER FESTIVAL EXPENDITURES AND USE THE
REMAINDER AS SEED FUNDING FOR THE 2014 FESTIVAL.
COUNCIL ACTION TAKEN
November 4, 2013**

EXECUTIVE SESSION

Charles Clark moved pursuant to KSA 75-4319 (b) (1) that the Governing Body recess into Executive Session in the Multi-Purpose Room for a period not to exceed 15 minutes for the purpose of consulting with the City Attorney on matters of pending litigation. Present will be the Mayor, City Council, City Administrator, City Attorney, Chief of Police, Captain Tim Schwartzkopf and Sgt. Byron Roberson. The motion was seconded by Ruth Hopkins and passed unanimously.

The Council Committee of the Whole was reconvened by Council President Dale Warman at 7:00 p.m.

Charles Clark moved pursuant to KSA 75-4319 (b), (13) (C) that the Governing Body recess into Executive Session in the Multi-Purpose Room for a period not to exceed 30 minutes for discussion of matters relating to the security measures of a public body or agency, public building or facility or the information system of a public body or agency. Present will be the Mayor, City Council, City Administrator, City Attorney, Chief of Police, Captain Tim Schwartzkopf and Sgt. Byron Roberson. The motion was seconded by Ruth Hopkins and passed unanimously.

Council President Dale Warman reconvened the meeting at 7:28 p.m.

ADJOURNMENT

With no further information to come before the Council Committee of the Whole, Chairman Dale Warman adjourned the meeting at 7:30 p.m.

Dale Warman
Council President