

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
August 4, 2008
7:30 p.m.**

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- 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 - July 21, 2008
- 2. Approve disposal of asset 0613 trailer and asset 1308 water pump by auction
- 3. Adopt Resolution 2008-04 proclaiming the week of September 22-26, 2008 as Prairie Village Peanut Butter Week

By Committee:

- 4. Adopt an Ordinance granting a Telecommunications Franchise to Everest Midwest, Authorize the Mayor to send the proposed letter requesting video service fees, and Approve the video service provider ROW agreement (Council Committee of the Whole - July 21, 2008)
- 5. Approve the City's Participation in the Kansas City Power & Light M-Power Program at the Municipal Offices and Public Works Facility and Authorize the Mayor to execute the agreements (Council Committee of the Whole - July 21, 2008)
- 6. Adopt Ordinance 2170 Amending Chapter XI of the Prairie Village Municipal Code Entitled "Public Offense and Traffic" by adding a new Article 5 entitled "Criminal Littering" (Council Committee of the Whole - July 21, 2008)

- VI. 2009 BUDGET HEARING - 8 :00 PM

- VII. STAFF REPORTS

Semi-Annual ADA Report - Bob Pryzby

Stormwater Utility Ordinance - Second Reading - Bob Pryzby

First Half Crime Report - Chief Wes Jordan

- VIII. COMMITTEE REPORTS

- IX. OLD BUSINESS

Cell Tower Record of Denial - Dennis Enslinger

- X. NEW BUSINESS

Executive Session

Cell Tower Moratorium - Dennis Enslinger and Steve Horner

- XI. ANNOUNCEMENTS

XII. 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
August 4, 2008**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 4, 2008, 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: Al Herrera, Bill Griffith, Ruth Hopkins, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison and Diana Ewy Sharp.

Also present were: Dennis Enslinger, Assistant City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Bob Pryzby, Director of Public Works; Steve Horner, Assistant City Attorney; Karen Kindle, Finance Director; Chris Engle, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

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

PUBLIC PARTICIPATION

John Hayde, 5219 West 69th Terrace, addressed the Council requesting a remedy to an error made by the City during the construction of curbs in his neighborhood. Full curbing was poured in front of his driveway eliminating his existing drive-in access and causing damage to his vehicles in attempting to enter his driveway over the curbing. Mr. Hayde entered into the record a letter dated June 12, 2008 to Bob Pryzby, Director of Public Works, requesting action to correct this error. Mr. Hayde stated he is seeking a remedy to this error, not an improvement to be made at a later date.

Mayor Shaffer recognized five boy scouts from Troop 98 and their leaders in attendance at the meeting. The scouts were working on their Communications Merit Badge requirements.

Casey Housley, 4900 West 89th Street, urged the City Council to adopt a moratorium on consideration of cell tower applications which would allow the Planning Commission sufficient time to review existing regulations and make any desired changes. Mr. Housley encouraged the City to form a sub-committee, noting there have been several individuals interested in participating on such a committee, to research and evaluate cell tower regulations. He encouraged the City to take a pro-active rather than re-active stance. Mr. Housley suggested exploring with commercial and institutional property owners the possibility of housing towers.

Garth Adcock, with T-Mobile, advised the Council that both the cities of Olathe and Kansas City have recently revised their cell tower ordinance without putting into place a moratorium on applications. He stated moratoriums are highly irregular. He encouraged informed meetings and discussions with staff, providers and residents to develop appropriate regulations. Mr. Adcock stated if the Council felt it necessary to set a moratorium, he recommended the moratorium exclude applications for roof top applications or on existing structures.

CONSENT AGENDA

David Voysey moved the approval of the Consent Agenda for Monday, August 4, 2008:

1. Approve Regular Council Meeting Minutes - July 21, 2008
2. Approve disposal of asset 0613 trailer and asset 1308 water pump by auction.
3. Adopt Resolution 2008-04 proclaiming the week of September 22-26, 2008 as Prairie Village Peanut Butter Week.
4. Adopt Ordinance 2172 granting a Telecommunications Franchise to Everest Midwest and authorize the Mayor to send the proposed letter requesting video service fees, and approve the video service provider Right of Way Agreement.
5. Approve the City's participation in the Kansas City Power & Light M-Power Program at the Municipal Offices and Public Works Facility and authorize the Mayor to execute the necessary agreements.
6. Adopt Ordinance 2071 amending Chapter XI of the Prairie Village Municipal Code entitled "Public Offense and Traffic" by adding a new Article 5 entitled "Criminal Littering"

2009 BUDGET HEARING - 8:00 p.m.

Mayor Shaffer stated at 8 p.m. the Council would stop discussion of agenda items and hold the scheduled public hearing on the proposed 2009 budget.

STAFF REPORTS:

Public Works

- Bob Pryzby reviewed a report of his activities as ADA Coordinator for the City during the first half of 2008. The primary activities involved the replacement of ADA ramps, improvements to parks and sidewalks.
- 75th street intersection is going through the curing process and should be able to be blacktopped shortly. Crews will then begin work on the 77th and 79th Street intersections. This work should begin by the end of the week
- Public Works sent out 194 letters to property owners on the proposed stormwater utility fee. Mr. Pryzby has received 16 e-mail responses and 7 telephone calls in response. Most of the questions have been in regard to how the fee was computed. The first reading on the Stormwater Utility Fund Ordinance was held on July 21, 2008 and comments received. This is the second reading. No one was present to speak on the proposed ordinance.
- The entrances to Shawnee Mission East are nearly complete, pavement markings are completed and signage will be installed shortly.

Bill Griffith confirmed work on Mission Road was completed a relatively short time ago. Mr. Pryzby noted it was done about four to five years ago. They have done extensive testing to determine what has caused the roadway concrete problems. It has been identified as a problem with the sulfate that may have caused the early decay. He noted the City's settled law suit against the contractor prohibits the City from collecting any further damages.

Public Safety

- Chief Jordan briefly reviewed the City's crime report for the first six months of 2008. Overall crime is down or flat; however, there was a spike in residential burglaries as fuel prices increased.
- The crime lab was recently working on site at 8400 Roe assisting in the gathering of evidence on a robbery. With the evidence gathered and the testimony of a witness they were able to make an arrest and recover the stolen materials.
- Chief Jordan stated his staff will be assisting with traffic flow at Shawnee Mission East as school opens helping drivers with the new traffic patterns and flow. He noted the map sent out to parents was not very clear and he anticipated a lot of confusion initially. They will initially assist traffic, then issue warnings and at some point will begin to ticket violators.

City Attorney

- Nothing to report

Administration

- Dennis Enslinger announced the Planning Commission would be considering an amendment to the Special Use Permit for Kansas City Christian School and a revision to their site plan. This will probably come before the City Council on August 18th.

Laura Wassmer stated, due to past history on this permit and the emotional issues involved, she would like to see this come to the Council Committee of the Whole. She noted this has been a very big issue in Ward 4 for many years.

Ruth Hopkins asked for clarification on the routing of Planning Commission items to the City Council.

Katie Logan responded that on zoning matters the Council sits in a quasi-judicial position. There is nothing for the Council to do at the committee level. The staff recommendation is that items from the Planning Commission go directly to the City Council. Mrs. Hopkins expressed concern with getting the necessary information for her to make an informed decision as she does not attend the Planning Commission meetings. Ms Logan stated the Council has the ability to table action if they feel additional information is needed just as the Commission tables application when they do not feel they have sufficient information.

Dennis Enslinger stated by State Statute the Planning Commission makes the recommendation to the City Council. Ms Logan added the decision made by the Council must be based on the record. Bill Griffith noted the applicant needs to be made aware that just because an application is on the agenda, it does not guarantee Council action will be taken.

Dale Beckerman asked if the action on the Kansas City Christian application will impact the opening of school. Mr. Enslinger responded the sooner action can be taken the better; however, he noted that as the applicant is acting in good faith to address the issues, thusly operations can be allowed to continue.

PUBLIC HEARING

Mayor Shaffer, noting it was 8 p.m., recessed the Council meeting to hold the scheduled public hearing on the proposed 2009 budget for the City of Prairie Village. He called upon Finance Director, Karen Kindle to present the proposed budget.

Karen Kindle stated the notice of hearing for the City's proposed 2009 budget was published on July 22, 2008. The published budget amount is \$24,

192,860.00 with an estimated mill levy of 18.166, which is the same as the current rate. However, the total dollars levied in the General Fund are higher than allowed by the state's formula; therefore the adoption of an ordinance is required.

The primary goals and objectives on which the budget was based are as follows

- Maintain quality level of service
- Sustainable budget impact
- Expenditures less than or equal to revenues
- Identify and meet technology needs
- Attend to infrastructure needs
- Be mindful of tax burden
- Continue implementation of Village Vision

Ms Kindle noted, to present a balanced budget, staff had to close a gap of \$2.3 million and did so by taking the following actions:

Revenue Adjustments

- Accept an increase in assessed valuation
- Increased user/permit/license fees
- Include proposed public safety sales tax funds
- Implement a stormwater utility fee

Expenditure Adjustments

- Conducted a thorough review of operating expenditures
- Decreased CIP expenditures
- Used CIP reserve funds

The budget challenges faced by the City included flat revenues, high cost increases in the areas of fuel, pavement, ammunition, rock salt, etc. and large use tax refunds issued by the State of Kansas creating a loss of revenue of \$135,000.

Karen Kindle highlighted major changes found in the 2009 budget:

- Creation of Stormwater Utility Fund dedicated to the stormwater management program in the amount of \$1,443,413 through a fee of 3.7 cents per square foot of impervious area charged on all properties within the City.
- Inclusion of the 35% of the .25% proposed Public Safety Sales Tax that will be distributed to cities to pay for one-time technology/security upgrades. Ms Kindle noted if this tax does not get approved, adjustments will need to be made to the proposed budget.
- Cost of the large item pick-up moved to the solid waste management fund and included in the assessment amount for 2009 as an additional fee of \$5 per year/per household
- Court & Council Security expenditures (\$16,000) were included in the budget.
- Added only one new position - traffic officer with anticipated costs to be offset by increased ticket revenue
- Equipment replacement schedules were reviewed.
- Facility and park maintenance projected to be \$79,000

- Centralized the administration of some costs such as Legal services, IT, building maintenance and operations, pool and tennis maintenance and operations.
- Reviewed fee schedule and proposed increases to several fees
- The proposed CIP budget is \$5,609,000.

Karen Kindle noted the formal adoption of the budget will occur at the August 18, 2008 City Council meeting. The budget must be submitted to the County Clerk before August 25, 2008.

Mayor Shaffer acknowledged the work of Ms Kindle and City staff in the preparation of this budget. He thanked the Council members for the many hours spent reviewing and discussing the budget and stressed the importance of this role.

Mayor Shaffer opened the floor to public comment on the proposed budget. With no one present to speak, the public hearing was closed.

COMMITTEE REPORTS

75th Street Committee

Laura Wassmer reported that the committee met last Thursday and had an excellent brainstorming session. Mr. Bennion and Mr. Enslinger will meet with representatives of HNTB on Friday. The Steering Committee will meet again on August 11th to determine the next step in this process.

OLD BUSINESS

Resolution of Denial

Dennis Enslinger stated at the July 21st City Council meeting, the City Council directed staff to prepare written findings documenting the Council's acceptance of the Planning Commission recommendation to deny the requested Special Use Permit for the construction of a Communications Tower and related equipment at 4805 West 67th Street, for the record. These have been reviewed and approved by legal counsel.

Steve Horner, Assistant City Attorney, stated Scott Beeler, attorney for the applicant, asked to receive a copy of the findings and provide comments. He has requested the City Council continue this item to allow him time to review and comment on the findings. He noted the staff prepared the findings based on

comments made at the meeting and the record. The Council needs to review them and determine if they are accurate.

Bill Griffith asked if members not in attendance at that meeting can vote on the findings. City Attorney Katie Logan stated those members could vote but her recommendation would be for them to abstain due to their absence.

Dale Beckerman asked what Mr. Beeler's reasons were for wanting to comment. Mr. Horner responded the e-mail he received from Mr. Beeler indicated that he did not feel the findings were accurate in that they stated the application did not have staff support and the recommendation of the Planning Consultant was for approval. Mr. Beeler also noted the lack of opportunity to get answers to questions raised during the meeting. Mayor Shaffer stated he does not recall an applicant reviewing Council findings in the past.

Al Herrera moved the City Council adopt Resolution 2008-05 a written record of denial as the basis for denial of Special Use Permit application No. PC2008-05/COU2008-49 in accordance with the Telecommunications Act of 1996. The motion was seconded by Michael Kelly.

Ruth Hopkins stated she will be voting against the resolution because she does not agree with the findings of the Council.

Andrew Wang asked if it would be better to only state those findings the Council felt mostly strongly about, noting each Council member may have made their decision based on different factors. Bill Griffith stated he felt listing all the findings rather than limiting them to a few would be more effective if the decision is challenged. Michael Kelly stated it would be difficult to narrow the findings down and supported the way they were presented by staff.

Al Herrera stressed this is not a denial of all towers but only of this particular application for this specific area.

Dale Beckerman stated he would be supporting the resolution as he felt the findings were an accurate reflection of the Council's actions, although he did not support the decision made by Council.

Charles Clark stated the motion is a vote on whether the findings are an accurate representation of the meeting. City Attorney Katie Logan stated the findings are the minutes or record of the Council's discussion and decision. Mr.

Enslinger noted written findings are required by the Federal regulations when an application is denied.

Diana Ewy Sharp stated she does not remember doing this previously. Mr. Horner responded this is the first application that has been denied by the City. The earlier application at McCrum Park was withdrawn by the applicant before it reached the City Council. The application at Homestead Country Club died when the property owner withdrew their agreement to allow construction of the tower on their property.

The motion adopting by resolution the findings of the City Council on Special Use Permit Application PC2008-05 was voted on with the following votes cast: “aye” Herrera, Voysey, Kelly, Wang, Wassmer, Beckerman, Morrison and Clark; “nay” Hopkins; with Ewy Sharp and Griffith abstaining.

NEW BUSINESS

Executive Session.

David Voysey moved pursuant to KSA 74-4319(b)(2) that the Governing Body, recess into Executive Session for a period not to exceed ten minutes for the purpose of consulting with the City Attorney on a matter which could involve litigation and which is privileged in the attorney-client relationship.

Present will be the Mayor, City Council, Police Chief, Public Works Director, Assistant City Administrator, Finance Director, City Clerk, Asst. to the City Administrator and Assistant City Attorney. The motion was seconded by Michael Kelly and passed unanimously.

Mayor Shaffer reconvened the meeting at 8:55 p.m.

Consider Cell Tower Moratorium

Dennis Enslinger stated at the July 21, 2008, City Council meeting staff was directed to prepare an ordinance enacting a moratorium on applications for a Special Use Permit related to wireless communications towers and antennas. He noted the comment made by Mr. Adcock earlier in the meeting suggesting that applications on rooftops or existing structures be excluded from the moratorium.

Bill Griffith confirmed that staff has already begun work with the Planning Commission undertaking a review of the current policy. Mr. Enslinger responded

the Commission has already received copies of other city's regulations and have given Mr. Williamson some preliminary input. It is expected to be included on the Commission's September 9th agenda.

Laura Wassmer stated that given the Commission is already reviewing the existing policy she does not feel a moratorium is needed. Dale Beckerman agreed and also expressed some concern with the impact and ramifications of putting into place a moratorium. Diana Ewy Sharp agreed with Mr. Beckerman stating she felt moratoriums are to be used very sparingly. She does not support the proposed moratorium.

Al Herrera stated at this time he feels the City should step back and take a look where there are appropriate locations for cell towers as other cities have done and incorporate that into the Code. Michael Kelly stated he felt this could be done without enacting a moratorium.

Bill Griffith moved the City Council approve an ordinance declaring a moratorium on applications for a Special Use Permit related to wireless communications towers and antennas constructed or installed for use by commercial carriers. The motion was seconded by Al Herrera.

A roll call vote was taken with the following votes cast: "aye" Herrera, Griffith, Morrison; "nay" Hopkins, Voysey, Kelly, Wang, Wassmer, Beckerman, Clark and Ewy Sharp. Mayor Shaffer declared the motion failed by a vote of 3 to 8.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	08/05/2008	6:30 p.m.
Planning Commission	08/05/2008	7:00 p.m.
Sister City Committee	08/11/2008	7:00 p.m.
Council Committee of the Whole	08/18/2008	6:00 p.m.
City Council	08/18/2008	7:30 p.m.

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The Prairie Village Arts Council is pleased to announce an exhibit of Botanical Art by Venus Auxier during the month of August. The artist reception will be held from 6:30 - 7:30 p.m. on August 8, 2008.

Remember to vote in tomorrow's election!!!

Please RSVP to Jeanne Koontz by August 15th if you plan to attend the employee's appreciation event at the Royals game.

Reduced hours for the Prairie Village Pool begin on August 11th. The pool will open at 4:30 p.m. on weekdays. The pool closes for the season on September 1st at 6:00 p.m.

The City offices will be closed in observance of Labor Day on September 1st. Deffenbaugh also observes this holiday and trash pick-up will be delayed one day.

Prairie Village Gift Cards are on sale at the Municipal Building. This is a great way to encourage others to “Shop Prairie Village.”

The 50th Anniversary books, Prairie Village Our Story, are being sold to the public.

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned 9:10 p.m.

Joyce Hagen Mundy
City Clerk