

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Monday, December 4, 2006
7:30 p.m.**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC PARTICIPATION

V. PUBLIC HEARING

Unsafe Structure – 7618 Mohawk – Katie Logan

VI. 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 – November 20, 2006
2. Approve Construction Change Order #2 for a reduction of \$7,333.96 in the original contract amount and an addition of 15 calendar work days to Musselman & Hall Contractors.
3. Ratify the Mayor's appointment of Linda Bishop and Art Kennedy to the Tree Board with the terms expiring in April, 2007 and April, 2009.

By Committee:

4. Adopt Ordinance 2137 renewing the Special Use Permit for the installation of a wireless communication antenna and equipment at 7321 Mission Road subject to the conditions established by the Planning Commission. (Council Committee of the Whole Minutes – November 20, 2006)
5. Waive Council Policy CP204 entitled "sidewalks" and not construct a sidewalk on Briar Street from 75th Street north to Brush Creek as part of Project 190860: 2007 Street Resurfacing Program. (Council Committee of the Whole Minutes – November 20, 2006)
6. Accept as information the Compensation and Benefits Final Report of FBD Consulting, Inc. (Council Committee of the Whole Minutes – November 20, 2006)
7. Approve the School Resource Officer Agreement with the Shawnee Mission School District for the 2006-2007 school year. (Council Committee of the Whole Minutes – November 20, 2006)

VII. COMMITTEE REPORTS

VIII. OLD BUSINESS

Lease with Leawood on use of Island at Somerset and Lee – Charles Wetzler

IX. NEW BUSINESS

Consider Resolution on 7400 State Line Road – Gary Anderson

X. ANNOUNCEMENTS

XI. 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
DECEMBER 4, 2006**

The City Council of Prairie Village, Kansas, met in regular session on Monday, December 4, 2006, 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, Pat Daniels, Charles Clark, Wayne Vennard and David Belz.

Also present were: Barbara Vernon, City Administrator; Charles Grover, Chief of Police; Bob Pryzby, Public Works Director; Doug Luther, Assistant City Administrator; Karen Kindle, Finance Director and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Mayor Shaffer opened public participation by recognizing a Prairie Village resident and businessman recently featured on the cover of the Kansas City Small Business Monthly, Das Hardin, and asked him to come forward. Das Hardin stated he started his business in Prairie Village at 95th & Nall in 1980 and moved to his current location in the Prairie Village Shopping Center in 1993. The article addresses the challenges faced in developing a small business as well as some of the current challenges.

Mr. Hardin stated the City has been good to him and for his business. However, he noted in order to be allowed outside decorations at his location, he had a special provision added to his lease. Mr. Hardin also addressed the impact of 1-800-Flowers, taking business from him and sales tax from the City. He noted as these numbers are presented in the area telephone books, they appear to be local shops, but they are not. The Mayor and Council congratulated Mr. Hardin and "The Village Flower Company" on their success.

Eugene Mika, 7612 Mohawk, expressed his concern with the lack of repair to Stanley Siggs' house at 7618 Mohawk since its declaration as a unsafe structure. He stated that very little other than the outdoor clean-up that was done immediately following the last hearing has been completed. Mayor Shaffer announced the Council would be considering this item next on their agenda and invited Mr. Mika to remain.

PUBLIC HEARING

Catherine Logan, serving as the City's Public Officer, reported that Resolution 2006-09, adopted by the City on October 2, 2006, found the structure at 7618 Mohawk to be unsafe; directed that the repair or removal be commenced within 45 days from the date that a copy of the resolution is delivered to the owner (This was done on October 3, 2006); and resolved that the Governing Body will cause the unsafe structure to be razed and removed if such repair or removal is not commenced within the 45 day period. The 45 day period expired November 17, 2006.

It has been documented by the City's Building Official, Jim Brown, that repairs have not been commenced as of this date.

Ms Logan stated the City is authorized under both the City Code (Sections 4-506 and 4-508) and State Statute (12-1751 and 12-1753) to cause the unsafe structure to be raised and removed. The City Code does not authorize the City to undertake repair, although repair is an option in the state statute.

Ms Logan reviewed the options available to the City Council including an extension of time for the owner to take action and the steps to proceed with removal of the unsafe structure. Based on the report of the Building Official there is no evidence of any progress by Mr. Siggs to repair the property. Therefore, the City is authorized under statute to proceed according to city code to notify him to remove his personal property and to actually raise the structure. One of the items of concern is the handling of personal property, especially because of potentially valuable items in the home. Ms Logan researched what the City responsibility would be for that personal property and essentially the City has to give Mr. Siggs notice and a reasonable period of time to report his personal property. If he fails to do so or to the extent he fails to do so, she feels he would be deemed to have abandoned the property. Mr. Siggs would need to give the City permission to enter the house to

remove items and if he didn't the City would need to ask for an Administrative Warrant from the District Court to have access. She feels it would be important to inventory the property and make every effort to preserve his personal property.

Ms. Logan noted another option not included in her earlier memo would be for the City to bring a case in District Court and ask a judge for guidance as to what to do in this case, i.e. basically to agree that we do have authority to inventory his property and demolish the house if he doesn't begin repair activity.

Mayor Shaffer asked if indeed the City went forward who would be retained to go forward to inventory his personal belongings. Ms. Logan responded she thought City staff would perform that function. Charles Wetzler stated the City could hire someone to do it, the problem is first making sure Mr. Siggs has the opportunity to remove items. If we do it ourselves, there is a risk of being accused of losing or taking some property. He stated that was one of the reasons they thought of getting a court action where the judge would determine number one: that the ordinance was valid and number two: that you had so many days notice and this is what you do with the property, etc. The advantage being you've acted under a court order eliminating the possibility of suit against the City. Ms Logan stated she felt a court could appoint a receiver to be in charge of this property if Mr. Siggs doesn't take responsibility for it.

Al Herrera noted Mr. Siggs has a brother and asked if the court could appoint him. Ms. Logan stated if he is willing to serve in that capacity it would be suggested to the court. Mr. Wetzler noted when this is all over, the City doesn't want someone to say Mr. Siggs is incompetent and we razed his house and he didn't know what was going on.

Charles Clark asked what kind of timeframe is being considered? Mr. Wetzler responded there would be a 20 day answer period and he would hope the City could get a declaratory judgment. The purpose of the lawsuit would be to verify first that the council has appropriate action in finding this structure to be unsafe so we have that issue resolved. He would hope the court would provide answers to the number of days notice is appropriate, what do to with the personal property and when it should be razed. Mr. Wetzler stated the City has previously razed a house without going through the court system and it worked out, but he feels this is an unusual situation as he doesn't

know what Mr. Siggs' competency is. He feels the Council has clearly found the structure to be unsafe and the ordinance clearly gives the City the authority to raze the property, but the issue of how to handle personal property raises some questions.

Charles Clark sympathized with the neighbors who have had to endure this structure for a long time and would hope action could be taken without significant delay. Ms. Logan responded she did not think the City could get a court order for 30 to 60 days, probably closer to 60.

David Belz stated his concern that this gentleman might not really know what is going on and he supports going through the courts, even though it may take longer, that way Mr. Siggs' rights are protected and the City's rights are protected.

Darlene Shull, 7614 Mohawk, a neighbor present, stated Mr. Siggs' brother is older and they have not spoken in years. She noted even before the fire that the roof leaked. There is one path that goes through the house. You can not get through the front door. She feels Mr. Siggs is very aware of what is going on, he is simply a stubborn old man who considers all his property to be prized possessions which he will not part with. She does not see him cooperating or moving forward on the needed repairs.

Eugene Mika, 7612 Mohawk, stated he was in the house a few days ago and there was only a trail that you had to walk sideways to get through the house. There are boxes and cans piled from floor to ceiling throughout the house, including the porch area.

Pat Daniels stated he appreciates the third option as it provides a good buffer and asked looking at the worse case scenario, what if the judge said "no". Ms. Logan responded that is highly unlikely.

Jim Brown, City Building Official, has been working with Mr. Siggs for the past several years. He noted he is the same now as the first time he met him. If he disagrees with the decision, he can be difficult to deal with. This is a unique situation and the City needs to use caution, the bottom line is you're looking at an elderly man and this is his home, so it becomes a very delicate situation.

Wayne Vennard confirmed the purpose of going to a judge to get judicial support although the City could make the same decisions without going to the judge and will probably have the same result. Mr. Vennard asked if the City's insurance policy covered this situation. Charles Wetzler

responded that is why we would go to the judge, to be your insurance policy. The reason for doing that would be to have all the issues raised now, rather than later.

Ms. Logan stated another possibility would be to notify Mr. Siggs that we intend to proceed as stated in the resolution and he might file a lawsuit against the City asking for an injunction from taking such action. Mr. Vennard noted he could always sue. Mr. Wetzler responded "yes" the question is whether it is better for the City to raze the house or to have a judge give approval to raze the house.

Laura Wassmer stated she supported going forward to the judge if for no other reason than to have him/her determine who would go through all the property, as this is a huge responsibility. Ms Logan stated this also provides the advantage that the judge can order Mr. Siggs to allow someone in his house, and appoint someone to be responsible for the personal property.

Bill Griffith confirmed even if the structure was razed, the lot would still be owned by Mr. Siggs and would probably remain undeveloped with the City having responsibility for maintenance.

Ms Logan stated if the house is razed and the foundation filled in there isn't any other official action to be taken on the City's part. It is still Mr. Siggs property and he is obligated to maintain it.

Bill Griffith noted there have been many similar situations which have been resolved by a third party coming in and taking over the property, making improvements and in some cases selling the property. Is this possible in this situation? Jim Brown replied Mr. Fortner, who was present at the early hearing has tried to work with Mr. Siggs to do this, but pulled out of the picture failing to reach any agreement with Mr. Siggs. He does not feel it is likely that this would occur.

Darlene Shull, 7416 Mohawk, noted Mr. Siggs does not have any insurance on this property and has refused assistance from anyone. Eugene Mika, 7412 Mohawk, stated Mr. Siggs has stated for years, his objections to complying with City regulations.

With no one else wishing to address the Council, the Public Hearing was closed at 8:00 p.m.

Pat Daniels made the following motion, which was seconded by Andrew Wang and passed by a vote of 11 to 1 with Bill Griffith abstaining due to not being present at earlier discussions.

AUTHORIZE THE CITY ATTORNEY TO INITIATE AN ACTION IN DISTRICT COURT TO AFFIRM THE CITY'S AUTHORITY TO PROCEED TO ENFORCE

**CITY ORDINANCE, TO FIND THAT THE HOUSE IS INDEED AN UNSAFE
STRUCTURE AND AUTHORIZING THE CITY TO PROCEED TO RAZE
IT AND FURTHER ORDER MR. SIGGS TO REPAIR THE PROPERTY AND IF HE
FAILS TO DO SO TO PROCEED UNDER THE CITY'S CODE AND APPOINT
SOMEONE TO INVENTORY HIS PERSONAL PROPERTIES FOR HIS BENEFIT.
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Mayor Shaffer asked what happens if the judge decides this is already within the authority of the City. Mr. Wetzler stated that would be good and it would allow the City to move forward.

CONSENT AGENDA

David Belz moved the approval of the Consent Agenda for Monday, December 4, 2006:

1. Approve Regular Council Meeting Minutes - November 20, 2006
2. Approve Construction Change Order #2 for a reduction of \$7,333.96 in the original contract amount and an addition of 15 calendar work days to Musselman & Hall Contractors.
3. Ratify the Mayor's appointments of Linda Bishop and Art Kennedy to the Tree Board with the terms expiring in April, 2007 and April, 2009 respectively.
4. Adopt Ordinance 2137 renewing the Special Use Permit for the installation of a wireless communication antenna and equipment at 7321 Mission Road subject to the conditions established by the Planning Commission
5. Waive Council Policy CP204 entitled "sidewalks" and not construct a sidewalk on Briar Street from 75th Street north to Brush Creek as part of Project 190860: 2007 Street Resurfacing Program.
6. Accept as information the Compensation and Benefits Final Report of FBD Consulting, Inc.
7. Approve the School Resource Officer Agreement with the Shawnee Mission School District for the 2006-2007 school year.

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Voysey, Kelly, Wang, Wassmer, Daniels, Clark, Vennard and Belz.

COMMITTEE REPORTS

Council Committee of the Whole

Consider Revisions to PVMC Chapter 19.48 entitled "Signs"

On behalf of the Council Committee of the Whole, David Belz moved the City Council adopt Ordinance 2138 repealing the existing Chapter 19.48 entitled "Signs" and adopting a new Chapter 19.48 entitled "Signs". The motion was seconded by Wayne Vennard.

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Voysey, Kelly, Wang, Wassmer, Daniels, Clark, Vennard and Belz.

OLD BUSINESS

Consider Lease with Leawood for use of Island at Somerset and Lee Blvd.

Charles Wetzler reported on his recent conversations with Patty Bennett, City Attorney for Leawood, regarding the proposed use of the traffic island at Somerset & Lee Blvd. by Leawood for the placement of an art structure entitled "Porchlights". When Leawood selected this location for this piece of artwork, they felt it was located within the City of Leawood. A survey revealed the island is primarily in Prairie Village and Leawood's City Attorney was directed to negotiate a lease for the use of the land with Mr. Wetzler as city attorney for Prairie Village.

Initially, Leawood was seeking a 100 year lease while Prairie Village was considering a 10 year lease. Ms Bennett, City Attorney for Leawood has come down from 100 to 50-years and Prairie Village has gone from a 10 to 25-year lease. Mr. Wetzler contacted Ms Bennett requesting information of the city's investment into this project. Ms Bennett responded the estimated cost for design and construction of "Porchlights" is about \$90,000 to \$100,000. Leawood would also replace the street lighting on the island and run electricity to the island at a cost of \$180,000 for a total investment estimated to be between \$270,000 and \$280,000. Because of their significant financial investment, it was suggested Prairie Village consider a 50-year lease.

Ruth Hopkins asked during this entire discussion, has anyone from Leawood's Council or their Mayor spoken with the City. Mr. Wetzler responded Ms Bennett was directed by her Mayor to contact him on behalf of Leawood. Mayor Shaffer reported he and Mayor Dunn have had several discussions on this. Mayor Dunn looks upon this as a piece of artwork to be enjoyed by all. They readily admit they made a genuine, unintended error, in not determining true ownership earlier in the process. They strongly want this project to proceed. Mr. Wetzler stated the City has prepared a lease with input from Mayor Shaffer and Bob Pryzby and they have approved the language of the lease, the length of the lease is the issue.

Mayor Shaffer, in discussions with Mayor Dunn, has stated he did not feel the Council would agree to a 100-year lease and she responded that then it may not be done. He responded both cities have to come to terms or it won't be completed.

Al Herrera noted that once the structure is built, regardless of the length of the lease, Prairie Village is not going to tear it down. He feels it is a good use of this odd piece of land and supports its construction through a compromise in the length of the lease.

Bill Griffith stated he would argue that that intersection and piece of land has been reconfigured two or three times in his lifetime. What's to say that the City or County or someone else will want to change how that road runs and the structure needs to come out. Bob Pryzby stated the last improvement to the intersection was 1990-1991.

Charles Wetzler replied there is a provision for that kind of issue in the lease, saying that in the event Prairie Village wanted to change the configuration we could do that. To that Leawood responded, Prairie Village would need to pay them back the \$200,000 and he said "no".

Wayne Vennard does not see a 50-year lease for this significant of an expenditure as a problem and anything the City can do to improve that piece of land would be welcomed. Mr. Vennard confirmed the City of Leawood would be responsible for maintaining the structure and there will not be any signage on the structure. Mr. Wetzler also noted the lease calls for the approval of the City of Prairie Village for any changes to the structure.

Laura Wassmer felt the lease should correspond to the lifetime of the art and she does not feel this artwork will last 50 years and suggested 25 years. She felt the lease could be renegotiated at that point of time.

Mr. Wetzler stated from his discussions with Ms Bennett there seems to be a clear 25 year difference with Prairie Village at 25 years and Leawood at 75 years

Mayor Shaffer stated Leawood will be maintaining it. They generally believe this to be one of their prime pieces of art.

David Belz stated he would hate to see the City negotiate this to the point that nothing gets done. He doesn't know how long this would last, but if they're going to maintain it then whose to say

it won't look as good as it looks year one. He does not want to see this lost over a period of 25 years. He would support a 50-year lease. Pat Daniels stated he also supports a 50 year lease.

Andrew Wang agrees with Mr. Griffith and Ms Wassmer we do not know of what will become of the area around that property and would not be supportive of any lease beyond 20-25 years. If it happens or not is not Prairie Village's problem.

Al Herrera stated he can support a 50-year lease considering their expenditure of approximately \$300,000.

Michael Kelly stated he has not been pleased with the way this was initially presented and how it has gone forward. However, he believes this is a good opportunity for the city to have an excellent piece of artwork built and maintained and doesn't consider a difference of 25 years or 50 years to be significant on this matter.

David Belz made the following motion, which was seconded by Al Herrera and passed by a vote of 11 to 1 with Andrew Wang voting "nay":

**RECOMMEND THE CITY COUNCIL AUTHORIZE THE CITY ATTORNEY TO
NEGOTIATE A 50-LEASE WITH THE CITY OF LEAWOOD FOR THE USE OF THE
TRAFFIC ISLAND AT SOMERSET & LEE BLVD FOR THE PLACEMENT OF THE
ART SCULPTURE ENTITLED "PORCHLIGHTS" AS APPROVED BY THE CITY
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

NEW BUSINESS

Consider Resolution on 7400 State Line Road

John Cruz, attorney with Lewis, Rice & Fingersh, representing 7400 Place, LLC advised the City Council of the pending sale of the Lockton Building at 7400 State Line Road, which was initially acquired and constructed through Industrial Revenue Bonds issued by the City, to 7400 Place, LLC, a Missouri, limited liability.

In connection with the sale, the bonds will be paid in full and 7400 Place will provide for the payment of all rental payments and additional payments required under the Lease through the closing of the sale. 7400 Place has requested that the City convey title to 7400 Place pursuant to the provisions of the Lease. Mr. Anderson has prepared a resolution for adoption to convey the property to 7400 Place, LLC.

Barbara Vernon stated when Industrial Revenue Bonds are issued by the City for projects, the City retains ownership of the land and buildings until the bonds are repaid. With the sale of this property and repayment of all the bonds, the City will transfer ownership of the land to the purchaser. This is viewed as an administrative approval since the bonds will be paid off and all costs of the City will be covered by 7400 Place, LLC.

Pat Daniels moved the City Council adopt Resolution 2006-11 authorizing the City of Prairie Village, Kansas to convey certain real and personal property to 7400 Place, L.L.C.; and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith. The motion was seconded by Charles Clark and passed unanimously.

ANNOUNCEMENTS

Mayor Shaffer highlighted the upcoming Johnson/Wyandotte Mayors' Holiday gathering on Tuesday, December 12 encouraging Council members to attend if possible. He also noted the brochure included with the information items on the 2007 City Hall Day at the Capitol on January 25, 2007 and asked Council members to mark this on their calendar.

Committee meetings scheduled for the next two weeks include:

Planning Commission	12/05/2006	7:00 p.m.
Tree Board	12/06/2006	6:00 p.m.
Sister City	12/11/2006	7:00 p.m.
Council Committee of the Whole	12/18/2006	6:00 p.m.
City Council	12/18/2006	7:30 p.m.

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The Prairie Village Arts Council is pleased to feature a photography and ceramics exhibit by Marearl Denning in the R.G. Endres Gallery during the month of December. The opening reception will be held on December 8th from 6:30 to 7:30 p.m.

Donations to the Holiday Tree Fund are being accepted. The funds will be used to assist Prairie Village families and Senior Citizens needing help to pay their heating and electric bills during the cold winter months, as well as with home maintenance throughout the year. Your tax-deductible contributions are appreciated.

Barbara Vernon reported \$900 in contributions was collected during the Mayor's Holiday Tree Lighting and the Volunteer Appreciation Holiday Party this past week.

The City offices will be closed December 25th in observance of Christmas. Deffenbaugh will observe the holiday and trash pickup will be delayed.

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. Mayor Shaffer acknowledged the presence of former KC Star reporter Sara Sites.

ADJOURNMENT

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

Joyce Hagen Mundy
City Clerk