

# CITY OF PRAIRIE VILLAGE

**March 2, 2015**

**Council Committee Meeting 6:00 p.m.**

**City Council Meeting 7:30 p.m.**



**COUNCIL COMMITTEE OF THE WHOLE  
Council Chambers  
March 02, 2015  
6:00 PM**

**AGENDA**

**ASHLEY WEAVER, COUNCIL PRESIDENT**

**AGENDA ITEMS FOR DISCUSSION**

Discussion regarding traffic calming measures  
Keith Bredehoeft

\*COU2015-09 Consider purchase of a replacement wheel loader from Foley Equipment for \$181,932.28 and the disposal of Asset #1594 by auction.  
Keith Bredehoeft

\*COU2015-10 Consider site license agreement with KCP&L for electric vehicle charging stations  
Keith Bredehoeft

Consent Agenda process overview  
Quinn Bennion

**\*Council Action Requested the same night**



## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: March 2, 2015

### DISCUSSION OF THE TRAFFIC CALMING PROGRAM

#### RECOMMENDATION

No recommendations at this time.

#### BACKGROUND

Traffic calming measures have been installed in several locations in the city since the program was adopted in 2006. To date speed tables have been installed on nine streets. The program was not funded for several years due to budget cuts but the program is funded in 2015. Before new projects are started a review of the program by Council is prudent. Overall the program works very well and has been successful in minimizing complaints in areas that had been historically challenging. While not all cut through traffic and speeding vehicles have been eliminated the traffic calming measures (speed tables) have been very effective according to many residents where they have been installed. The after studies completed have generally shown reductions in speeds and cut-through traffic.

#### Points of discussion related to the program are listed below-

- 1- Speed Tables-** Residents were choosing speed tables as the traffic calming measure for nearly all applications as they are effective and relatively inexpensive. Residents selected speed tables because they are physical measures that do affect traffic and are viewed as the best traffic calming measure. Speed Tables are not allowed on emergency routes (most of our higher volume streets). Should speed tables continue to be a part of the tool box?
- 2- Current Ranking Criteria-** Some discussion has taken place as to whether the existing ranking criteria make it too difficult for streets to qualify for traffic calming. TranSystems was consulted related to the criteria and we felt that existing criteria does a good job of differentiating streets that have real speeding and cut through traffic problems. The criterion needs to be stringent enough to ensure that the streets that qualify do indeed have a problem with speeding and cut through traffic.
- 3- Definition of cut-through traffic-** It has been discussed in the past that this needs to be more clearly defined as how it applies to different streets. After discussing with TranSystems we feel the program's existing criteria takes care of this by not allowing traffic calming on arterial streets and by not allowing speed tables on emergency routes. Some streets more clearly have cut through traffic while some collector level streets carry traffic across town which might not be considered cut through traffic. In these situations speed tables are not allowed which minimizes the concern of whether or not the traffic on that street is truly cut through traffic. If these collector streets met the requirements of the traffic calming program then an appropriate measure for that street would have to be selected.
- 4- Notification-** Emphasis will be placed on making sure public notification and proper process is followed as required by the policy.
- 5- Complex Traffic Calming-** While we have not had a complex traffic calming project as described in the policy we do feel the policy should keep this as an option to utilize if conditions warrant.

## **6- Past thoughts/concerns with the program-**

**-“If one street gets traffic calming then the next street will want the same”** From experience this had not been the case. Streets have to stand on their own merits and if a neighborhood has significant problems it would be looked at as a “Complex” traffic calming project and all streets would be considered.

**-“Could traffic be unintentionally pushed to another street or part of the city”** Some vehicles will be diverted to other streets but to date we have not seen this be significant enough that it has caused problems. The policy does take into account this situation and if the criteria in the policy are met then mitigation by the city is required. This would be a much bigger issue if the traffic calming solution was to make a street “one-way” or somehow change how the streets operate.

**-“Snow plows will not want to plow my street if speed tables are installed”** The speed tables are designed to have a smoother transition than traditional speed bumps. Public Works does not have any problems snow plowing these streets.

## **7- Other thoughts related to the program?**

### **FUNDING SOURCE**

N/A

### **ATTACHMENTS**

1. Traffic Calming Program
2. Traffic Calming Tool Kit

### **PREPARED BY**

Keith Bredehoeft, Public Works Director

February 25, 2015

**City of Prairie Village**

**NEIGHBORHOOD  
TRAFFIC  
CALMING  
PROGRAM**

## I. INTRODUCTION

### **What is neighborhood traffic calming?**

Neighborhood traffic is a general term referring to any traffic on local residential streets. As population and neighborhood changes over the years, streets experienced increases in traffic, and neighborhood groups and residents have become increasingly concerned about the effects of traffic. As a result calming or managing traffic in residential areas has become a common goal of many residents.

On local residential streets, a vision is now being promoted that motorists should be guests and that they should behave accordingly. These streets are not intended to carry large amounts of non-residential traffic. Adverse traffic conditions on these streets can greatly affect neighborhood livability. If traffic impacts occur on a regular basis, the quality of life in the neighborhood can deteriorate. To maintain a high quality of life, local residential streets should be protected from the negative impacts of traffic.

Neighborhood traffic calming is the development of an approach to calm and manage traffic and improve neighborhood safety and livability for neighborhoods experiencing traffic impacts. To be successful, approaches will differ for each neighborhood, in order to solve the particular traffic impacts in that area.

Any approach to neighborhood traffic calming must involve the public in the planning and design of the project. This allows residents to evaluate the options available to them, to discuss the benefits and trade-offs of project proposals in their neighborhood, and to be actively involved in the decision-making process.

In addition to local residential streets, collector streets in some neighborhoods may experience traffic impacts that can also be mitigated through neighborhood traffic calming techniques.

### **The Three “E”s in Dealing with Neighborhood Traffic**

Dealing comprehensively with neighborhood traffic issues requires the use of various techniques, which generally fall under the categories of **Education, Engineering and Planning**, and **Enforcement**.

**Education** provides information to people about how they as motorists can help to ease traffic impacts through changes in behavior and attitudes, and informs them about neighborhood traffic management activities and opportunities.

**Engineering and planning** encompasses both traditional traffic management measures as well as newer approaches, such as traffic calming, which, according to the Institute of Transportation Engineers, is the “combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users”.

**Enforcement** enlists the assistance of the Police Department to focus enforcement efforts in project areas.

- **Targeted enforcement** is used to address recurring traffic violations at specific locations on in specific neighborhoods. Targeted enforcement is useful when traffic studies or citizen observations indicate that there are recurring violations at certain times. These often include speeding, failure to stop at stop signs, and turn restriction violations.
- **Photo radar** uses a combination of speed detecting radar equipment and photography to identify speeders and generate citations, which are mailed to violators. This is not permitted in the State of Kansas at this time.
- **Neighborhood speed watch programs** are where neighborhood residents are trained to use radar guns to monitor and record vehicle speed on the neighborhood streets. These programs provide residents an opportunity to observe actual speeds on their streets at times they feel are most problematic.

All three are important components in dealing effectively with neighborhood and community-wide traffic issues.

### **How is a Traffic Calming Program established?**

A Traffic Calming Program supports the city’s efforts to develop traffic calming standards, and to discourage speeding and cut-through traffic through neighborhoods by installing appropriate traffic control and calming measures. There is recognition that traffic was negatively impacting both safety and quality-of-life in the neighborhoods. Residents are requesting that the city use traffic calming measures to slow speeding traffic and divert non-local traffic from neighborhood streets in order to make the neighborhoods more livable, quieter, and pedestrian-oriented.

### **Who is the City staff?**

“City staff” participating in the Traffic Calming Program will be members of the City Public Safety Department and the City Public Works Department.

### **Who is the Neighborhood Planning Committee?**

The “Neighborhood Traffic Calming Committee” will be a committee of property owners representing the neighborhood requesting traffic calming from the City.

**How does the Traffic Calming Program work?**

The Traffic Calming Program provides tools that can deal with traffic that negatively impacts neighborhood livability. At the neighborhood’s initiative, a Neighborhood Traffic Calming Committee is formed. The Neighborhood Traffic Calming Committee meets with the City staff to discuss the nature of the traffic concern in the proposed area and assesses the eligibility of the proposed project for the Traffic Calming Program. If the project is eligible, it is ranked with other eligible projects according to specific ranking criteria.

For projects that are prioritized, residents and City staff then become involved in developing a neighborhood traffic calming plan that will address the traffic problems specific to the project street or area. The Traffic Calming Program provides a framework for residents of a neighborhood to examine traffic patterns in their area and choose alternatives that can achieve community acceptance. The Traffic Calming Program attempts to find a balance between the many uses and needs of the residential neighborhood and helping residents to feel safe and secure in their neighborhood.

This program does not necessarily provide a simple solution for every neighborhood traffic concern. In some cases the traffic concerns are complicated and may have developed over a long period of time.

**What projects are covered by the Traffic Calming Program?**

There are two types of projects in the Traffic Calming Program:

- Local Street projects
- Complex Traffic Calming projects

Local Street projects deal with traffic problems on residential streets classified as “local” streets. These small-scale projects cover an area limited to the properties adjacent to the targeted street. The planning and cost involved in a Local Street project is usually less than what is required for more complex projects. These projects can be funded through the recurring traffic calming budget of the City’s Public Works Capital Infrastructure Program.



Complex Traffic Calming projects are projects dealing with traffic impacts on several residential streets that may be classified as “collector” streets. These projects may deal with one or more streets, or, as treatment of these streets may cause diversion of traffic, an entire neighborhood. They may include emergency response routes or priority snow removal roads, and may look at other issues such as access points, enhancement of pedestrian facilities, and installation of more extensive physical modifications than those used in a Local Street project.

In developing effective approaches to managing neighborhood traffic within the resources that are available, neighborhood involvement is a key component in all aspects of the Traffic Calming Program.

**How does a neighborhood start a Traffic Calming Program project?**

Anyone residing or owning property within a neighborhood is eligible to apply for a Traffic Calming Program project for a local, or collector street(s) within that area.

The first step is to schedule a pre-application meeting with a City staff member to discuss the area in question and the Traffic Calming Program process. City staff provides a packet of Traffic Calming Program information, including application and including the initial petition process that the applicant must complete.

The applicant circulates a petition in the identified project area to demonstrate that at least **30%** of property-owners support initiation of a traffic calming project. The applicant must obtain the necessary signatures, complete the application materials, and return everything to the City staff member. Signature must be of the property owner currently on the County register of deeds. If multiple persons own the same property only one signature will be accepted for that property.

The eligibility and ranking of the project is then studied by City staff. Traffic studies are done to determine if the street or project area meet the minimum eligibility requirements for inclusion in the Traffic Calming Program. If a project is eligible, further studies are done to determine the priority ranking of the project in relation to other eligible projects that have been submitted to the Traffic Calming Program. City staff notifies the applicant about the status of the proposed project. If the project is ranked as a priority it moves into the plan development phase, which is outlined in the Procedures section of this document.

## II. PROGRAM GOAL, OBJECTIVES AND POLICIES

**Program Goal:** The goal of the Traffic Calming Program is to establish procedures and techniques to promote community and neighborhood livability by mitigating the negative aspects of automobile traffic in the city's neighborhoods.

**Objectives:** The overall objectives for the Traffic Calming Program are derived from existing city policy. They are:

1. To improve neighborhood livability by mitigating the impact of vehicular traffic on residential neighborhoods;
2. To promote safe and pleasant conditions for residents, motorists, bicyclists, and pedestrians on residential streets;
3. To manage vehicular traffic on neighborhood streets;
4. To reduce the average speed of traffic on residential streets;
5. To solicit citizen participation in all phases of the program and in all traffic calming activities; and
6. To provide a process that will address neighborhood traffic calming requests and make efficient use of City resources by prioritizing projects.

**Policies:** The following policies are established as part of the Traffic Calming Program:

1. Streets eligible for the City's Traffic Calming Program must be publicly dedicated and maintained streets located within the City.
2. Arterials as designated are not eligible for the Traffic Calming Program. Roads classified as locals or collectors are eligible for the program.
3. Through traffic shall be routed to major roadways such as arterials.
4. Some traffic may be rerouted from one local residential street to another as a result of a Traffic Calming Program project. Traffic rerouting can occur due to the implementation of such devices as diverters, or partial road closures. The amount of rerouted traffic that is acceptable will be defined on a project-by-project basis by the NTCP for that project and City staff. Generally, adjacent local streets should not receive an increase of more than **250** vehicles per day or an increase in traffic greater than **50%**, whichever is less. If adjacent streets receive higher than acceptable levels of rerouted traffic, additional studies will be undertaken by City staff in order to consider possible mitigation of those impacts.

5. To ensure that essential City services are not compromised, the following guidelines will be followed.
- a. Reasonable emergency vehicle access will be preserved, and the appropriate agencies will be asked to review proposed traffic calming plans and to comment in writing. The Neighborhood Traffic Calming Committee may invite a Fire Department staff member to explain the Department's criteria for access to the neighborhood. All Traffic Calming Program projects must meet the approval of the Fire Department.
  - b. Traffic calming devices shall not block access to a fire hydrant as determined by the Fire Department.
  - c. On emergency response routes speed humps or bumps shall not be used as a matter of public safety.
  - d. The city and the Neighborhood Traffic Calming Committee shall work to find other devices or techniques that can achieve the desired level of traffic management.
  - e. If a roadway segment is narrowed by a traffic calming device, it must leave travel width adequate for Fire and Solid Waste vehicle access.
  - f. A diverter at an intersection must allow for a forty foot turning radius.
  - g. If a road is closed and the resulting dead-end segment is more than **150** feet long, the closure must include a Fire Department approved turn-around.
  - h. If a project includes a street that is part of an operating regular service transit route, the use of traffic calming devices will be reviewed with the School District Transit Department and/or the service transit authority prior to approval.
  - i. All streets selected for traffic calming need to be evaluated to determine drainage impacts. If a street is a major conduit of storm water and its slope is steep enough that a traffic calming device would deflect storm water out of the public right of way, device(s) will be selected to minimize or eliminate this problem.
  - j. Consideration shall also be given to streets designated on the City Priority Snow Removal Roads Map. These concerns will be reviewed with City staff prior to approval.
  - k. The variety of traffic calming devices that shall be employed shall meet objectives in accordance with sound engineering practices. The City directs the installation of all traffic control devices in compliance with applicable laws and the Manual on Uniform Traffic Control Devices.
  - l. Speed humps shall not be used on any street with more than one travel lane in each direction.

- m.** Reasonable automobile access will be maintained. Pedestrian, bicycle, and transit access will be enhanced where possible and practical.
  - n.** Parking removal shall be considered on a project by project basis. It shall be balanced with other needs.
- 6.** The program shall be implemented according to city codes and related policies within applicable resources. The procedures outlined in this document shall be used.
- 7.** A survey of the residents and property-owners in the project area may be conducted by City staff after the evaluation period to determine if some aspect of the installation no longer meets the needs of a neighborhood. If **75%** of the people surveyed agree that a device or devices no longer meet the needs of the neighborhood, staff will review the performance of these devices and will estimate the cost of mitigating, revising or removing these devices. If the City requests to remove the traffic calming device, the City will pay for the cost of removal. If the neighborhood requests the removal of the traffic calming device and the City agrees on the removal, the neighborhood will reimburse the City for the cost of removing the traffic calming device.
- 8.** If a project meets criteria to be considered for traffic calming and is ranked on the priority list, but is unfunded, a neighborhood association may elect to provide funds for the design and construction of such devices upon approval of the staff in accordance with city policies and these procedures.
- 9.** Special events are not eligible for the funding and installation of traffic calming devices via this program.
- 10.** After a project is implemented, if tests indicate hazards, which had not been foreseen, the installation may be revised or removed at any time at the discretion of the City staff. The City will not forward a survey in this situation, although notice will be provided to residents in the project area.

### **III. APPLICATION PROCESS**

Anyone residing or owning property within a neighborhood is eligible to apply for a Traffic Calming Program project for a street within that area. This section describes the steps involved in the application process.

**Attend a pre-application meeting with a staff member from the City staff.**

The prospective applicant should call the City staff to set up an appointment. City staff and the applicant will review the street or area in question and discuss the Traffic Calming Program process, including the initial petition process and application forms that the applicant must complete. City staff and the applicant will discuss the type, location and degree of the applicant's traffic concerns and discuss possible solutions. If a preliminary review indicates a potential hazard to the public exists or the issue is not related to speeding or cut-through traffic, City staff may address the issue separately as it may not fall under the umbrella of the Traffic Calming Program. However, if the situation could fall under the Traffic Calming Program, the City staff member will determine whether the potential project would be a Local Street project or Complex Traffic Calming project, and will identify a formal project, which shall serve as the petition area. City staff will then provide the applicant with a packet of Traffic Calming Program information, including application and petition forms.

**Circulate the petition in the project area. Submit completed application.**

It is the responsibility of the applicant to circulate a petition to demonstrate that at least 30% of residents and property-owners in the identified petition area are in favor of initiating a traffic calming study. The petition signatures must be obtained within a **three** month period. Having this level of support is necessary for further study of neighborhood traffic calming in the area. The applicant is also responsible for notifying the contact persons of the registered residential association<sup>1</sup> in their area that they are preparing an application for a Traffic Calming Program project. The applicant must obtain the necessary petition signatures, complete the application materials, and return them to the staff. If the material is incomplete or an insufficient number of signatures are submitted the materials will be returned to the applicant for revision. The date a complete package is submitted will be considered as the date of application for the program and the time when the project is carried to the next step.

**City staff evaluates the application for the eligibility and ranking of the potential project in the Traffic Calming Program.**

City staff will evaluate the potential eligibility and ranking of the project according to the procedures outlined in this document. Preliminary traffic studies are done to determine if the street or project area meet the minimum eligibility requirements for inclusion in the Traffic Calming Program. If a project is eligible, further studies are done to determine the priority ranking of the project in relation to other eligible projects that have been submitted to the Traffic Calming Program.

#### **IV. PROCEDURES**

The procedures for the Traffic Calming Program include four components: Eligibility and Ranking, Plan Development, Plan Approval and Implementation, and Project Evaluation. These components are outlined below.

**Eligibility and Ranking**

Upon receiving a complete application package including the required petition of support, City staff evaluates the eligibility of the proposed project. The eligibility is determined according to the following point system.

- **Eligibility Criteria - Local Street Projects**

The first type of Traffic Calming Program project is the Local Street Project. This type of project focuses on the treatment of a neighborhood street that is experiencing traffic problems. The street must be designated as a **local street**. Generally a Local Street Project should consist of treatment of a single local street. If the basic criteria discussed above are met then the proposed street is studied and scored based on the criteria described in Table.

**Eligibility Criteria for Local Street Projects**

<b>Eligibility Criteria</b>	<b>Points</b>	<b>Basis for Point Assignment</b>
<b>Volumes</b>	0 to 30	Measure of Vehicles per Day (vpd): 0-500 vpd = 0 pts. 501-750 vpd = 10 pts. 751-1000 vpd = 20 pts. Over 1001 vpd = 30 pts.
<b>Cut-through traffic</b>	0 to 25	Measure of Percent by which cut-through traffic exceeds local traffic (%): 0-25% = 0 26-50% = 5 pts. 51%-100% = 15 pts. Above 100% = 25 pts.
<b>Speeds</b>	0 to 45	Measure of Miles per Hour by which the 85th percentile speed exceeds the posted speed limit (mph): 0-5 mph = 0 pts. 6-10 mph = 15 pts. 11-15 mph = 30 pts. Over 15 mph = 45 pts

**Total Eligibility**

**Points Possible**            100

The street must receive a minimum score of **40 points** in order to be eligible for a Local Street Project.

- **Eligibility Criteria - Complex Traffic Calming Projects**

The second type of Traffic Calming Program project is the Complex Traffic Calming project. These projects consist of traffic management on multiple streets that because of other factors are placed into the complex street category. For example, the study and treatment of several local streets that form a neighborhood street system would be categorized as a complex project. Complex Traffic Calming projects may consider streets that are emergency response routes or priority snow removal roads (as designated on the city’s Emergency Response Route and Snow Removal Roads Maps contained in the appendices of this document), or which result in a significant diversion of traffic, and will look at a variety of possible treatments for the street. Because treatment of the street may cause diversion of traffic onto surrounding streets, the project will entail a more detailed study of the street network throughout the neighborhood. The complex project may look at other issues along the street such as access points, enhancement of pedestrian facilities, median treatments, and others.

Following are the basic criteria for a Complex Traffic Calming project:

- The street must be designated as a collector street, or, if classified as a local street, it must meet the special conditions described above, such as designation as an emergency response route or priority snow removal road.
- Local streets moved into the Complex Traffic Calming project track will be treated as collector streets in the scoring and ranking process.

If these basic criteria are met, then the proposed street is studied and scored according to the following criteria.

**Eligibility Criteria for Complex Traffic Calming Projects**

<b>Eligibility Criteria</b>	<b>Points</b>	<b>Basis for Point Assignment</b>
<b>Volumes</b>	0 to 40	Measure of Vehicles per Day (vpd):

		0-1,000 vpd = 0 pts. 1,001-2,000 vpd = 10 pts. 2,001-3,000 vpd = 20 pts. 3,001-5,000 = 30 pts. Over 5,000 vpd = 40 pts.
<b>Speeds</b>	0 to 40	Measure of Miles per Hour by which the 85th percentile speed exceeds the posted speed limit (mph): 0-5 mph = 0 pts. 6-10 mph = 20 pts. 11-15 mph = 30 pts. Over 15 mph = 40 pts
<b>Adjacent Residential Zoning</b>	0 to 20	Percentage of land adjacent to the street, which is residentially zoned (%)? 0-50% = 0 pts. 51%-75% = 10 pts. Above 75% = 20 pts.
<b>Total Eligibility Points Possible</b>	100	

A street must receive a minimum score of **60 points** in order to be eligible for a Complex Traffic Calming Project.

**Ranking Criteria for All Traffic Calming Program Projects**

Once a street is determined to be eligible for the Traffic Calming Program, it is ranked along with other eligible projects of its same type to determine the priority ranking of projects for the funding that is available. In addition to the points awarded to each project in the determination of eligibility, all projects can be awarded additional points in any of the categories listed

**Ranking Criteria for All Traffic Calming Program Projects**

<b>Ranking Criteria</b>	<b>Points</b>	<b>Basis for Point Assignment</b>
<b>Sidewalks</b>	0 to 15	Points assigned for lack of existing continuous sidewalk along street: Existing on both sides = 0 pts. Existing on one side = 5 pts. Existing on no sides = 10 pts. No sidewalks and no shoulder = 15 pts.
<b>Pedestrian Facilities</b>	0 to 15	5 points are assigned for each existing pedestrian facility along street, including designated bike routes, designated elementary school crossings



and/or areas with observed pedestrian usage  
 Maximum 15 points.

<b>Density of Adjacent Residential Zoning</b>	0 to 10	Points assigned for density of adjacent residential zoning as follows: Majority of units less than R = 0 points; Majority of units at R = 10 points; Tie of 2 categories results in 5 points.
<b>Total Ranking Points Possible</b>	40	

A project is able to receive a maximum of 100 points in the eligibility phase and a maximum of 40 points in the ranking phase for a possible total of 140 points. Based upon the points assigned to each project through these two phases, the projects are ranked.

If more than one project of the same type receives the same number of eligibility and ranking points, those projects shall be prioritized according to the date that they were deemed eligible for the Traffic Calming Program.

If an eligible project is not sufficiently prioritized to receive funding in the year in which it is determined eligible, then ten additional points are added to its overall score in each subsequent year until it is prioritized for funding. A project can remain on the eligibility list for a maximum of four years awaiting prioritization for funding. After that it would be dropped from the Traffic Calming Program.

**Plan Development**

Local Street Projects that are prioritized move directly into the plan development process. Complex Traffic Calming Projects, however, often require identification of additional resources for their planning and implementation. When resources are identified for a priority Complex Traffic Calming Project, that project moves into the plan development process.

A Neighborhood Traffic Calming Plan for both types of projects consists of the following components:

- The assessment of the traffic-related problems and needs in the project area
- The identification of the goals and objectives of the community in solving those problems
- The development of alternative plans and solutions to be considered
- The selection of the preferred plan solution

If a project includes significant diversion of traffic because of the construction of physical barriers, the project area will be expanded to include a larger “affected area” for the project. What is considered a significant volume of traffic will be decided by the NTCP with City staff assistance. The affected area is also defined by the NTCP and City staff.

**Plan Development - Local Street Projects**

- An initial open house is held in the neighborhood to discuss traffic-related concerns in the project area and possible solutions. Notice is given to property-owners and residents in the project area; to residents and businesses throughout the larger neighborhood; and to any other groups or institutions in the immediate area, including schools, churches and neighborhood associations.
- At this time, a Neighborhood Traffic Calming Committee is formed for the project that will work with City staff throughout the planning and implementation of the project.
- Next, City staff and the Neighborhood Traffic Calming Committee develop plan alternatives based on the studies that have been completed, the information that has been gathered from the neighborhood, and on sound engineering practices. The plan alternatives undergo review by several city departments.
- When the plan alternatives have been reviewed by the city, and revised as appropriate by the NTCP and City staff, a second community meeting is held for the community to review the alternatives and to decide upon a preferred plan.

**Plan Development - Complex Traffic Calming Projects**

- Because of the complex nature of the project, City staff completes a series of traffic studies and analyses in the project area that goes beyond the studies done in the eligibility and ranking phase.
- An open house is then held in the neighborhood to present the information gathered and to discuss traffic-related concerns in the project area and possible solutions. Notice is given to property-owners and residents in the project area; to residents and businesses throughout the larger neighborhood; and to any other groups or institutions in the immediate area, including schools, churches, and neighborhood associations.
- At this time, a Neighborhood Traffic Calming Committee is formed for the project that will work with City staff throughout the planning and implementation of the project.

- City staff and the Neighborhood Traffic Calming Committee then develop plan alternatives based on the studies that have been completed, the information that has been gathered from the neighborhood, and on sound engineering practices. The plan alternatives undergo review by several city departments.
- When the plan alternatives have been reviewed by the city, and revised as appropriate by the Neighborhood Traffic Calming Committee and City staff, a second community meeting is held for review and comment on the proposed alternatives.
- City staff and the Neighborhood Traffic Calming Committee further refine the plan alternatives. The revised plan alternatives may undergo additional review by various city departments depending on the nature of any changes to the plan alternatives.
- When the plan alternatives have been reviewed by the city, and revised as appropriate by the Neighborhood Traffic Calming Committee and City staff, a third public meeting is held for the community to review the alternatives and to decide upon a preferred plan.

The development of a plan for a Complex Traffic Calming project may require hiring a consultant to assist with planning, design and implementation of the project. The complex project may require additional activities to involve the public throughout the larger area, additional traffic measurement and analyses, the development of iterative conceptual plans, the surveying of residents and businesses in the project area to measure support, and other activities related to the development of final plans and implementation.

## **V. Plan Approval & Implementation**

### **Plan Approval for All Traffic Calming Program Projects**

A survey process is used as part of all Traffic Calming Program projects to measure the support of the traffic calming plan by project area property owners. A description of the preferred traffic calming plan alternative and a survey are mailed to all residents and property owners in the project area.

The project area is defined by City staff at the initiation of each project. For Local Street Projects the project area usually contains those properties along the subject street. For Complex Traffic Calming Projects the project area may include properties along the subject street(s) and along adjacent streets impacted by the project.

Each property owner is allowed one response to the survey. A response time for the surveys to be returned is determined by City staff and the Neighborhood Traffic Calming Committee. The response time shall be within **60** days from the date the survey is mailed by City staff. Final plan approval is contingent upon the City Staff receiving back at least **60%** of all of the surveys distributed showing support for the preferred plan alternative. This is required for the City staff to move ahead to plan implementation. If the survey results do not meet **60%**, a new survey can not be conducted until six months have elapsed from the last survey.

Although they do not receive a survey, the residential associations and City Council members in the area are notified about the preferred traffic calming plan alternative.

**Implementation - Local Street Projects**

- If the survey process demonstrates adequate support for the preferred plan alternative, City staff will proceed with implementation of the traffic calming plan.
- Plan approval by the city governing body is not required for implementation of Local Street Projects. However, all applicable policies and rules of the city must be followed in implementing the preferred plan.
- Implementation of a Local Street Project consists of installation of permanent devices on the subject street. Temporary installation of devices will not be permitted.
- Prior to installation, traffic studies will occur on streets in and around the project area to determine “before” conditions in the area, which will be compared to studies taken later in the evaluation phase.

**Implementation - Complex Traffic Calming Projects**

- If the survey process demonstrates adequate support for the preferred plan alternative for a Complex Traffic Calming project, approval of the project by the city governing body may still be required to secure funding needed for implementation of the project. In addition, all applicable policies and rules of the city must be followed in implementing the solution.
- Approval is for final installation (permanent devices) in the project area depending on the process outlined in the traffic calming plan.
- Prior to installation, traffic studies will occur on streets in and around the project area to determine “before” conditions in the area, which will be compared to studies taken later in the evaluation phase.

## **Project Evaluation**

For all projects, an evaluation of the traffic devices is to be performed six months to twelve months after installation. This evaluation will include appropriate studies, such as volume, speed, etc., on the subject street(s) to determine the effectiveness of the devices.

An important aspect of the evaluation of all Traffic Calming Program projects is related to the impact of unintended, rerouted traffic onto other neighborhood streets. It is important not to divert traffic from one local street to another. Traffic Calming Program states, “the amount of rerouted traffic that is acceptable will be defined on a project-by-project basis by the Neighborhood Traffic Calming Committee for that project and City staff. Generally, adjacent local streets should not receive an increase of more than **250** vehicles per day or an increase in traffic greater than **50%**, whichever is less”.

For all Traffic Calming Program projects, studies will be undertaken in and around the project area in the Project Evaluation phase to measure any impacts on the surrounding area. If staff determines that “after” conditions on other streets in the area show a high level of traffic diversion as a result of the traffic calming project, the city will explore methods for addressing those diversion problems. Traffic Calming Program states that “If adjacent streets receive higher than acceptable levels of rerouted traffic, additional studies will be undertaken by staff in order to consider possible mitigation of those impacts”.

### **Project Evaluation - Local Street Projects**

- A survey of the residents and property-owners in the project area may be conducted by City staff after the evaluation period to determine if some aspect of the installation no longer meets the needs of a neighborhood. If **75%** of the people surveyed agree that a device or devices no longer meet the needs of the neighborhood, City staff will review the performance of these devices and will estimate the cost of mitigating, revising or removing these devices.

### **Project Evaluation - Complex Traffic Calming Projects**

- Temporary traffic calming devices may be used to determine if permanent installation is warranted or if some adjustment to the temporary devices is needed.
- A public meeting may be held to discuss the effectiveness of the temporary devices with local citizens in order to determine public response to the devices. If this seems to indicate that the

devices are meeting the goals of the neighborhood, as outlined in the traffic calming plan, some or all of the devices may be installed permanently.

- However, if this seems to indicate that the devices installed no longer meet the needs of the neighborhood, an additional survey process may occur. As above, this survey will be of property owners that were surveyed for initial approval of the traffic calming plan. If **75%** of the people surveyed agree that a device or devices no longer meet the needs of the neighborhood, City staff will review the performance of these devices and will estimate the cost of mitigating, revising or removing these devices.

## VI. TECHNIQUES

This section provides a .tool box. of traffic management and traffic calming techniques that are available for consideration and use.

### **Choose the Right Tools**

Any job is made easier by using the right tools. In the management and calming of traffic, strategies and solutions are based on two fundamental ideas:

- Identification of the nature and extent of the traffic-related issues. This is important whether the situation is on a single street (comprising a Local Street project) or relates to a larger neighborhood area (comprising a Complex Traffic Calming project).
- Selection and implementation of cost-effective measures to solve the identified concerns utilizing input from the affected neighborhood. This should be done based on the use of sound engineering principles and the consideration of aesthetics.

Experience from other communities around the country has indicated that it is important to use a variety of traffic management techniques, and that the tools selected should be tailored to fit each situation.

### **Aesthetics**

Aesthetics should be considered in the process of developing traffic management solutions. To be successful, traffic management and calming measures should achieve a balance between aesthetics and the objective of calming traffic as no program will succeed if it is not based on community support. It is the intent of this program to develop solutions where safety, speed control and aesthetics are mutually supportive.

**Selection of Tools**

Almost all traffic management techniques (tools) have some effect on both traffic volume and speed. However, it is evident that some tools used to calm traffic can have a greater or lesser effect than others in controlling either volume or speed. Also, some tools are more effective and desirable on local neighborhood streets and less desirable for complex traffic management applications on collectors or emergency response routes.

Emphasis in this program will be given to the selection of tools, which are self-enforcing, that is, those, which are physical traffic management measures. These tools are designed to affect driver perception of the street or neighborhood and are designed to influence directly motorist behavior. Unlike traditional methods of traffic management, such as the use of stop signs or speed limit signs, physical traffic calming measures rely on physically modifying driver behavior in a neighborhood.

**Diverting Traffic Intentionally to Other Streets**

In selecting tools to be used on streets it is important to limit the potential detrimental effects of diverting excessive volumes of traffic from one local street to another, or from collector or from arterial streets to local streets. The potential for the diversion of traffic is considered in the selection of tools for all neighborhood traffic calming projects.

Since neighborhood collectors are meant to serve as through streets, traffic calming projects for these situations are not primarily designed to decrease traffic volumes. Instead, emphasis is on reducing traffic speeds, enhancing pedestrian usage, and associated concerns.

**Tools not Recommended for Traffic Calming**

Some of the more commonly efforts to calm or control traffic are not recognized as traffic calming. They are:

*Stop signs*, though on of the most commonly requested devices by neighborhood residents, are not considered traffic calming devices. Stop signs are used to assign right of way at intersections. Although many citizens believe that stop signs help reduce speeds on their street, studies have shown that by mid-block, speed are as high or higher than those locations without stop signs. Unwarranted stop signs delay all motorists, whether they are traveling the speed limit or exceeding it. This delay penalizes all drivers

rather than targeting violators. Additionally, they can create noise and emissions impacts to the adjacent residents.

*Children at Play* signs are also commonly requested by citizens concerned with traffic safety in their neighborhoods. These signs have not been found to be effective.

*Speed dips*, though not commonly recognized as a traffic calming tool, are sometimes requested by citizens who observe the effects of drainage cross pans on traffic speed. The installation of dips for speed control is generally not effective for most general purpose vehicles and has been found to have significant negative impacts on emergency response vehicles.

*Speed bumps* have a similar effect as speed dips. These short, round bumps in the road can be negotiated at high speeds by many general purpose vehicles, but result in significant problems for emergency response vehicles. They have been found to have a number of safety and liability limitations.

*Roundabouts* are not considered to be traffic calming devices. Modern roundabouts are installed at intersections in lieu of signals to accommodate high volumes of traffic. Modern roundabouts are intended to increase the capacity of intersections rather than calm traffic.

## **Techniques for Local Street Projects**

### **Traffic Enforcement Measures**

Traffic enforcement measures are typically signs that specific vehicle movement restrictions and provide information on traffic movement. Typical measures are police presence, speed monitoring trailer, speed limit signs, all-way stop signs and restricted movement signs. All, but the first two, measures mandate compliance with the Manual of Uniform Traffic Control Devices.

### **Speed Control Measures**

Speed control measures are of three types: vertical measures, which use the forces of vertical acceleration to discourage speeding; horizontal measures, which use the forces of lateral acceleration to discourage speeding; and narrowing measure, which use a psycho-perceptive sense of enclosure to discourage speeding. Typical vertical measures are speed humps (not speed bumps), raised crosswalks, and raised intersections. A typical horizontal measure is a traffic circle (not roundabout). Typical narrowing measures are neck-downs or chokers.



### **Techniques for Complex Traffic Calming Projects**

The traffic calming tools described for Local Street Projects were, for the most part, intended for local neighborhood streets that have primarily residential frontage and that are not designated as Emergency Response Routes. This section addresses all other streets that might be eligible for consideration as a Traffic Calming Project. This includes projects that might deal with complex traffic calming issues, such as treatment of a system of streets, emergency response routes, areas with complex access and pedestrian issues, or instances where significant diversion of traffic may occur.

Neighborhood collectors are intended to distribute traffic between more principal streets and local streets in the neighborhood. In other words, they are commonly called “through streets” at least for a limited distance of generally at least ½ mile to no more than **one** mile in length. The streets may also serve multiple purposes, including carrying emergency response routes, buses, bicycles, and possibly trucks.

Whether by design or as a result of growth, some collectors may carry a large number of vehicles through residential areas. When this occurs, the result can be a call by residents for traffic management or traffic calming to restore or improve their quality of life and mitigate the effects of unreasonable through traffic. These situations are more difficult to resolve and are typically controversial in nature.

As indicated above, devices selected cannot intentionally divert traffic away from project streets into inappropriate areas. For example, a complex street project should not divert traffic to an adjacent local neighborhood street, placing an unacceptable burden on that street. For Complex Traffic Calming Projects, while it is not the expected that the primary result will be to intentionally divert traffic away from the project street, some decrease in traffic volumes will likely occur as a result of the project. For example, some drivers may prefer not to use the traffic calmed street after the devices are installed since higher speeds will not be possible.

### **Selection of Appropriate Measures**

Selection of traffic calming measures for complex street projects will be based on the type of street and its functional class. The consideration of functional class in selecting measures attempts to strike a balance between mobility and other objectives such as compatibility with land use, and pedestrian/bicycle friendliness. For local streets, mobility (the design speed of the street) may not be as crucial as other

objectives. For streets, which are designated emergency response routes, providing for mobility is a concern that needs to be addressed.

**General Considerations**

The Traffic Calming Program objective of reducing the average speeds of traffic on neighborhood streets will also be of major importance. The primary measure used to determine the type of control and the spacing of devices will be the selection of an appropriate design speed. For purposes of traffic calming, the design speed should be the same as the posted speed limit as this is what is appropriate based on the conditions of the street and environment.

**Speed/Priority of Classification of Roads for Traffic Calming**

<b>Class</b>	<b>Design Speed</b>
<b>Mixed Priority</b> - Priority is shared between living and traffic functions	25 mph
<b>Traffic Street</b> - Access and through routes, traffic function takes priority but vulnerable road users must be protected	30 mph

**Selection of Measures and Spacing**

Once the design speed and the class of road are selected, traffic calming measures (sometimes called slow points) and the spacing of devices can be selected. The following table shows guidelines for the spacing of slow points.

**Spacing of Traffic Calming Devices (Slow Points) for Different Speeds**

<b>Desired Speed</b>	<b>Distance between Slow Points</b>
30 mph	450 ft
25 mph	300 ft
20 mph	225 ft

Pre-warning techniques include the use of traffic circles at intersections, and the use of appropriate street edge treatments. Table 10, entitled Traffic Calming Tools of Complex Street Projects, Pre-Warning Devices, summarizes the measures and under what circumstances they should be utilized.

**Traffic Calming Tools for Complex Street Projects**

**Pre-Warning Devices**

<b>Traffic Calming Device</b>	<b>Design Speed</b>
<b>Traffic Circles</b>	25 mph

**Speed Tables and Lateral Shifts**

<b>Traffic Calming Device</b>	<b>Design Speed</b>
<b>Raised Intersection</b>	25 mph
<b>Raised Islands</b>	25 mph

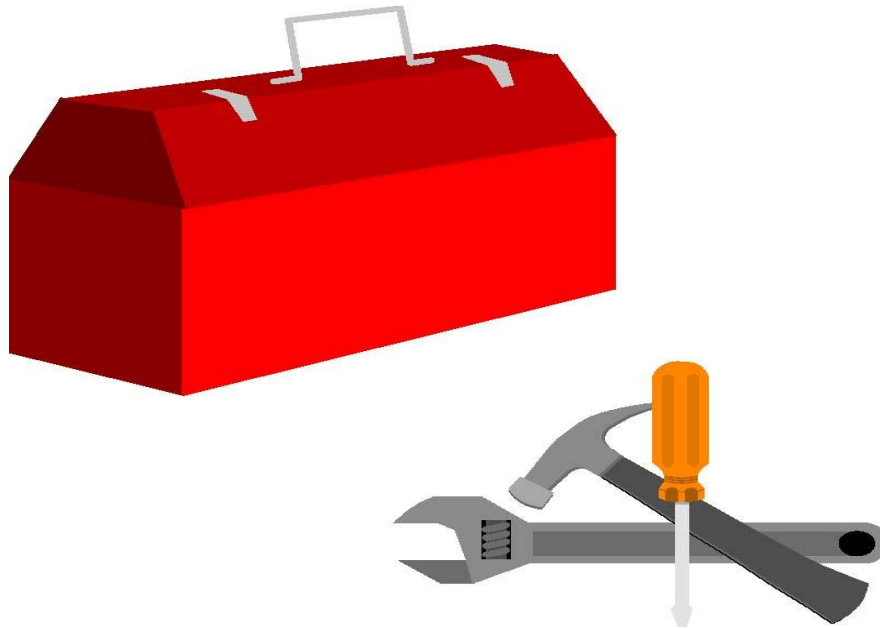
Street edge treatments can be particularly important where other treatments might not be appropriate. These treatments are intended to provide a safe and pleasant environment for pedestrians and can provide a calmer environment for drivers. This includes the use of trees, which change the character of a street, reduce noise, provide shade, and reduce the optical width of a street.

**Traffic Calming Devices for Complex Street Projects**

**Reallocation of Right of Way**

<b>Traffic Calming Device</b>	<b>Design Speed</b>
<b>Neck-downs</b>	25 mph
<b>Center Island</b>	25 mph
<b>Reduction Lane Width</b>	25 mph
<b>Street Edge Treatments</b>	25 mph

# Traffic Calming Toolbox



# Traditional Police Enforcement

**Description:**

- Police presence to monitor speeds and issue citations.

**Application:**

- Streets with documented speeding problem and need for quick mitigation
- Locations where restrictions are being violated

**Advantages:**

- Effective while officer is actually monitoring speeds
- Flexible measure that can be implemented in almost any location at short notice

**Disadvantages:**

- Not self enforcing; temporary measure
- Fines do not typically cover cost of enforcement
- Disrupts efficient traffic flow on high volume streets
- Short “memory effect” on motorists when enforcement officer no longer present

**Special Considerations:**

- Often helpful in school zones
- May be used during “learning period” when new devices or restrictions first implemented

**Cost:**

- High cost primarily due to the staffing requirements



## Speed Monitoring Trailer

### Description:

- Mobile trailer mounted radar display that informs drivers of their speed.

### Application:

- Any street where speeding is a problem

### Advantages:

- Educational tool
- Good public relations
- Effective for temporary speed reduction needs

### Disadvantages:

- Some motorists may speed up to try to register a high speed
- Duration of effectiveness may be limited
- Not self enforcing

### Special Considerations:

- Should not be used in remote areas

### Cost:

- Moderate cost to use due to staffing requirements
- Expensive to enforce



## Speed Limit Sign

### Description:

- Signs that define the legal driving speed under normal conditions.

### Application:

- Streets where speeding is a problem

### Advantages:

- Provides clear definition of legal speed limit
- Provides context for enforcement efforts
- Provides goal for traffic calming efforts

### Disadvantages:

- Typically not effective in and of itself
- Not self enforcing
- Requires on-going police enforcement
- Unrealistically low speed limits are difficult to enforce and tend to be disregarded
- More visual pollution from signs in the neighborhood

### Special Considerations:

- Speed limits set by an engineering analysis tend to be higher than limits set by political pressures

### Cost:

- Low; inexpensive to install
- High; expensive to enforce



## All-Way Stop Signs

### Description:

- Stop signs on the “main street” at an intersection where typically only the “side street” would be required to stop.

### Application:

- Non-arterial street intersections

### Advantages:

- Require through traffic to stop at an intersection
- Increase opportunities for pedestrians to cross the roadway
- May discourage cut-through traffic

### Disadvantages:

- Penalize all motorists on the main street even if they were obeying the speed limit
- May create compliance problems if motorists do not acknowledge the need to stop
- Safety issues for pedestrians when compliance is poor
- Mid-block speeds may increase as motorists try to make up for lost time
- Noise and air pollution increased
- Unwarranted stop signs not supported by traffic engineers
- May increase traffic accident frequency
- May increase emergency response times

### Special Considerations:

- Should not be used on critical emergency response routes

### Cost:

- Low cost to install. Cost increases if enforcement is required.





## Restricted Movement Signing

### Description:

- Sign that prohibits certain movements at an intersection.

### Application:

- Streets where reducing cut-through traffic is desired

### Advantages:

- Redirects traffic to main streets
- Reduces cut-through traffic
- Addresses time-of-day problems

### Disadvantages:

- Not self enforcing
- May increase trip length for some drivers
- More visual pollution from signs in the neighborhood

### Special Considerations:

- Can be used on a trial basis
- Has little or no effect on speeds for through vehicles

### Cost:

- Low - high: inexpensive to install, expensive to enforce



## Median Barriers

### Description:

- *Median barriers* are raised islands located along the centerline of a street and may continue through an intersection so as to block through movements and left-hand turns at a cross street.

### Application:

- Used on wide streets to narrow each direction of travel and to interrupt sight distances down the center of the roadway

### Advantages:

- Narrowed travel lanes provide “friction” and can slow vehicle speeds
- Significant opportunity for landscaping and visual enhancement of the neighborhood
- Can utilize space which otherwise would be “unused” pavement
- Can be used to control traffic access to adjacent properties if desired

### Disadvantages:

- Long medians may impact emergency access and operations
- May interrupt driveway access and result in U-turns
- May require removal of parking

### Variations:

- Medians of various lengths can be constructed
- Can be constructed mid-block only to allow all turning movements at intersection
- Can be extended through intersections to preclude left turns or side street through cuts

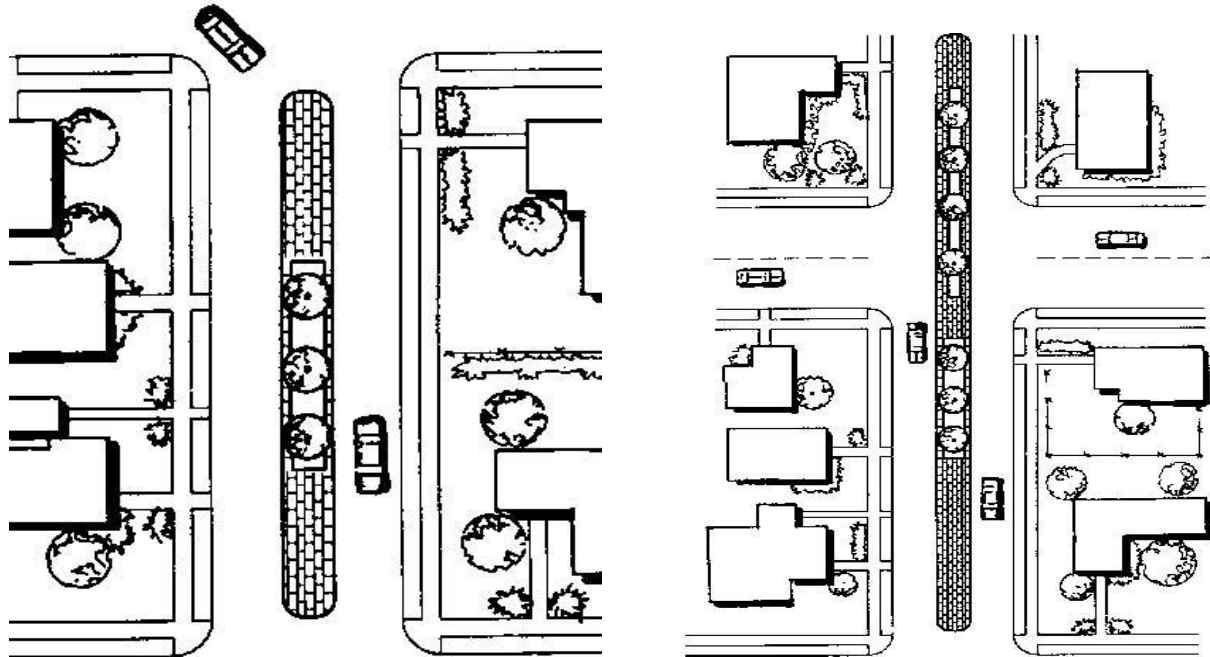
### Special Considerations:

- Vegetation should be carefully designed not to obscure visibility between motorists, bicyclists and pedestrians at intersection and pedestrian crossing areas
- Maintain 12 foot wide lane minimum on each side
- Maximum length between access points should be 200' to accommodate emergency response - turning radii for a fire truck should be maintained at these breaks

### Cost:

- High cost to construct, landscape and maintain

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
Median Barriers	None	Yes	Decrease	Minor limitation	None	Right turn only	Improved



# Entry Island

## Description:

- A raised island in the center of a two-way street that identifies the entrance to a neighborhood.

## Application:

- Placed in a roadway to define the entry to a residential area and/or to narrow each direction of travel and interrupt sight distance along the center of the roadway

## Advantages:

- Notifies motorists of change in roadway character
- Helps slow traffic
- Opportunity for landscaping and/or monumentation for aesthetic improvements
- May discourage cut-through traffic

## Disadvantages:

- Need for maintenance (and irrigation)
- May necessitate removal of parking

## Variations:

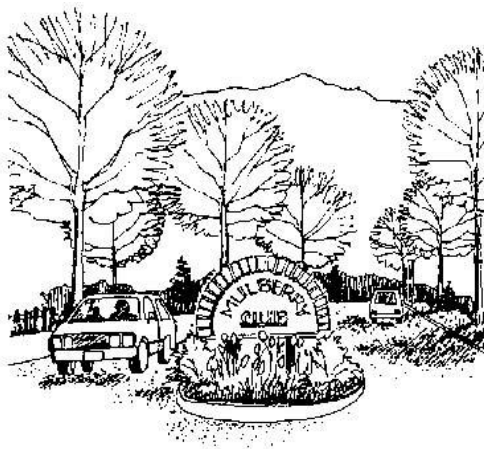
- Can incorporate neighborhood identification signing and monumentation

## Special Considerations:

- Care should be taken not to restrict pedestrian visibility at adjacent crosswalk

## Cost:

- Low to medium cost to install, landscape and maintain



# Neck-down

**Description:**

- *Neck-downs* are segments of roadway narrowing where curbs are extended toward the center of the roadway that reduce the roadway width. If coupled with crosswalks they are called *safe crosses*. The main objective of this device is to “pedestrian-ize” intersections by shortening the crossing distance and reducing the speed of turning vehicles.

**Application:**

- Typically used adjacent to intersections where parking is restricted
- Can be used to narrow roadway and shorten pedestrian crossings

**Advantages:**

- Pedestrian visibility increased and crossing distance reduced
- Narrowed roadway section may contribute to vehicular speed reduction
- Can “reclaim” pavement for pedestrian and streetscape amenities
- Breaks up drivers’ line-of-sight

**Disadvantages:**

- Creates drainage issues where curb and gutter exist
- May create a hazard for bicyclists

**Variations:**

- Mid-block neck-downs often used in conjunction with pedestrian crossing treatments

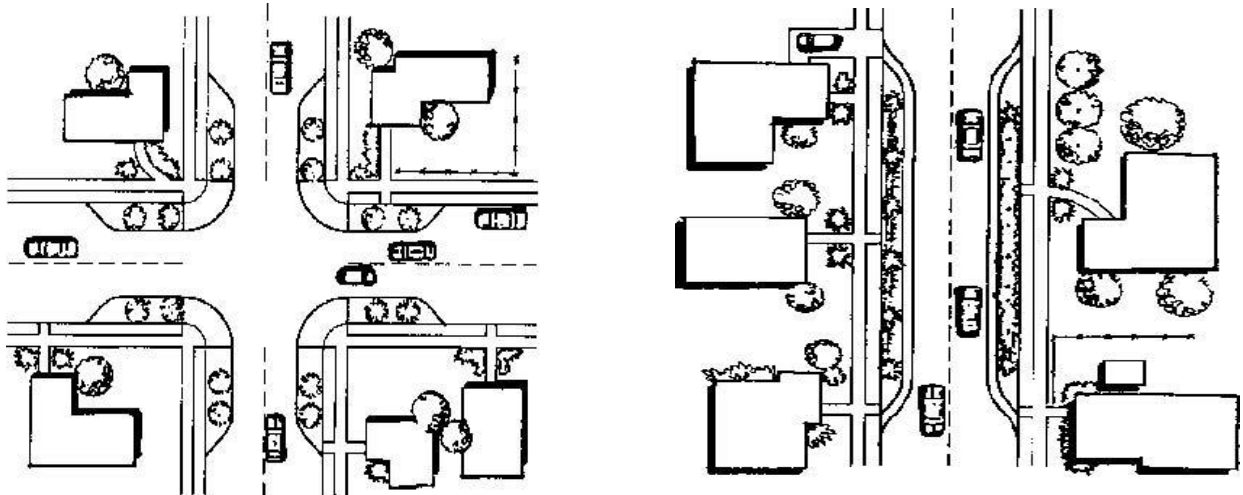
**Special Considerations:**

- Curb extensions should not extend into bicycle lanes where present

**Cost:**

- Medium to high cost depending on landscaping, pavement treatments and storm drainage considerations

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
Neck-downs	Yes, turning speeds reduced	No effect	No effect	Some limitations	None	None	Improved Ped Safety



# Raised Islands

**Description:**

- *Raised islands* are built to narrow the roadway. The islands curb are extensions at mid-block that narrow a street by widening the sidewalk or planting strip detached from the curb-line, allowing drainage or bike lanes to continue behind the choker. Raised islands should generally be placed to provide a minimum of two traffic lanes, since if only one lane is provided opposing traffic will compete for space or right of way.

**Application:**

- Typically used adjacent to intersections where parking is restricted
- Can be used to narrow roadway and shorten pedestrian crossings

**Advantages:**

- Pedestrian crossing distance reduced
- Narrowed roadway section may contribute to vehicular speed reduction
- Breaks up drivers’ line-of-sight

**Disadvantages:**

- May create hazard for bicyclists who are less visible to cross street and turning traffic

**Variations:**

- Mid-block chokers
- One-lane chokers that narrow the street to create a short one-lane, one-way section

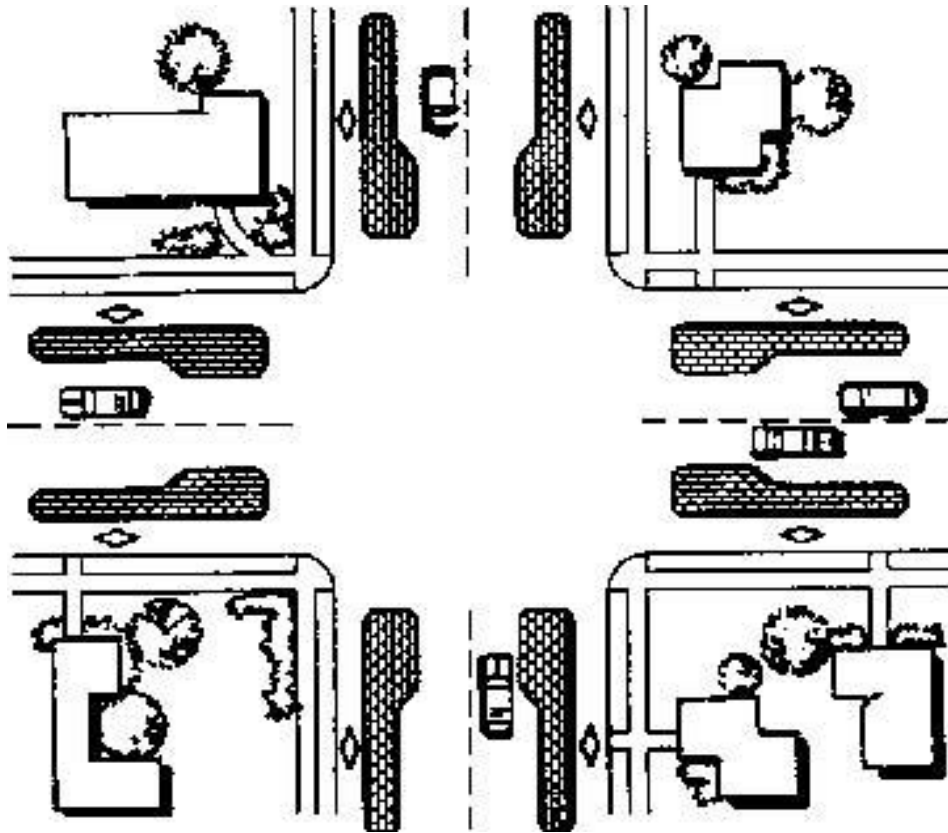
**Special Considerations:**

- Significant problems with maintenance and snow removal
- Debris builds in bike lane between the choker and the curb line, creating hazard for bicyclists

**Cost:**

- Moderate

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
Raised Islands	Possible	Possible	No effect	No effect	Trucks hit curbs	None	Improved Ped Safety





# Speed Hump

**Description:**

- *Speed humps* are rounded raised areas placed across the road. The standard speed hump used is 14 feet long (minimum of eight feet) and 3 inches (maximum of six inches) high. Its design speed (speed at which the 85th percentile is estimated to be) is 18 to 23 mph. Usually these humps are constructed with a taper on each side to provide for drainage. In some locations it may be desirable to provide a space wide enough to accommodate bicycles but this may also encourage motorists to cross the hump with one wheel in the gutter and the other on the hump. Speed humps may be located on streets where gutters exist, but considerations must be given to pedestrians if sidewalks are not in place. If no curb and gutter is in place, then devices such as bollards may be placed on each side of the humps to discourage motorists from driving on the shoulders. They are marked with signs and pavement markings.

**Application:**

- Local streets where speed control is desired
- Local streets where cut-through traffic is to be discouraged

**Advantages:**

- Slows traffic
- Self enforcing
- Requires minimum maintenance; pavement markings must be maintained
- Minimal impact on snow removal

**Disadvantages:**

- Increases emergency response times
- May damage emergency response vehicles if not carefully designed
- May increase traffic noise in vicinity of hump

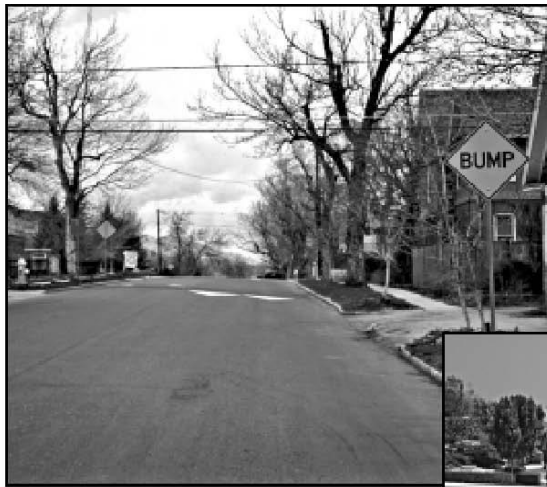
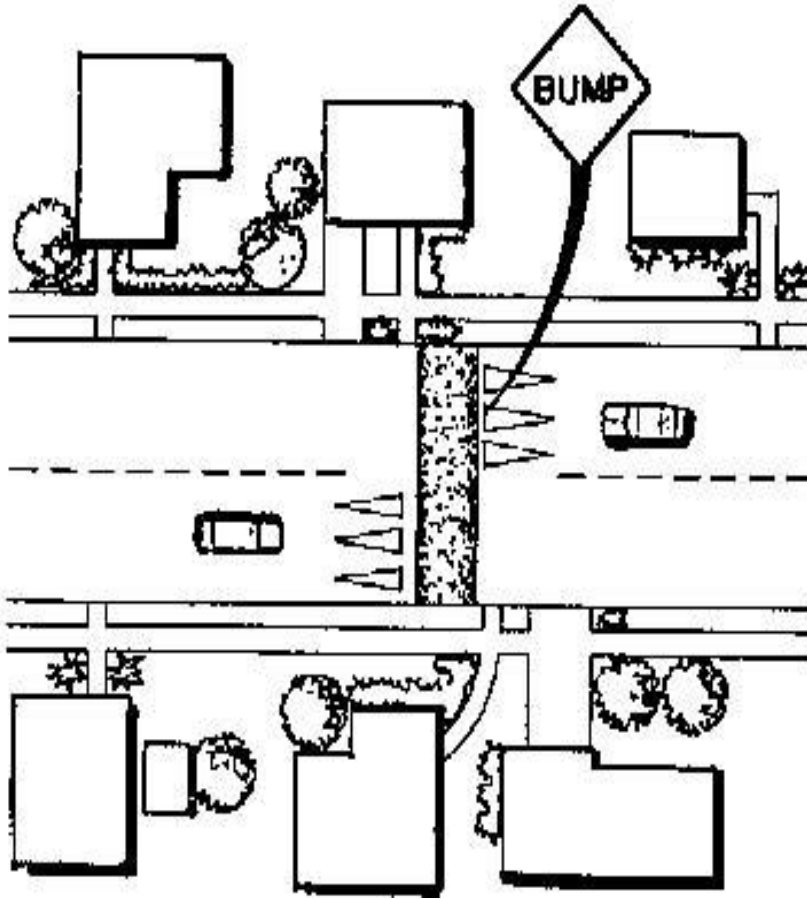
**Special Considerations:**

- Should not be used on critical emergency response routes
- Needs to be used in series or in conjunction with other traffic calming devices to control speeds
- Longer designs can minimize impact on long wheelbase vehicles

**Cost:**

- Low to moderate

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
Speed Humps	Yes	Traffic diversion possible	Increase	Some problems	Street cleaning difficulty	None	Unclear



## Raised Crosswalk

### Description:

- *Raised Crosswalks* are flat-topped speed humps and can be constructed with brick or other textured materials on the flat section. These devices have the advantage of possibly being used to provide a pedestrian crossing and can be marked and placed at intersections or other pedestrian crossing locations. These devices are long enough for the entire wheelbase of a passenger car to rest on the top. The use of brick or other textured materials improves the appearance and tends to draw attention to them and may enhance safety and speed reductions. The standard speed table used is 22 feet long and 3 inches high. Its design speed is 25 to 30 mph.

### Application:

- Local streets where speed control and pedestrian crossing designation are desired
- Local streets where cut-through traffic is to be discouraged

### Advantages:

- Slows traffic
- Increases pedestrian visibility in the crosswalk
- Clearly designates the crosswalks
- Requires minimum maintenance; pavement markings must be maintained
- Minimal impact on snow removal

### Disadvantages:

- Increases emergency response times
- May damage emergency response vehicles if not carefully designed
- May increase traffic noise in vicinity of crosswalk
- May create drainage issues where raised crossing extends from curb to curb

### Variations:

- Pavement treatment without the raised hump to create a pedestrian crossing focal point

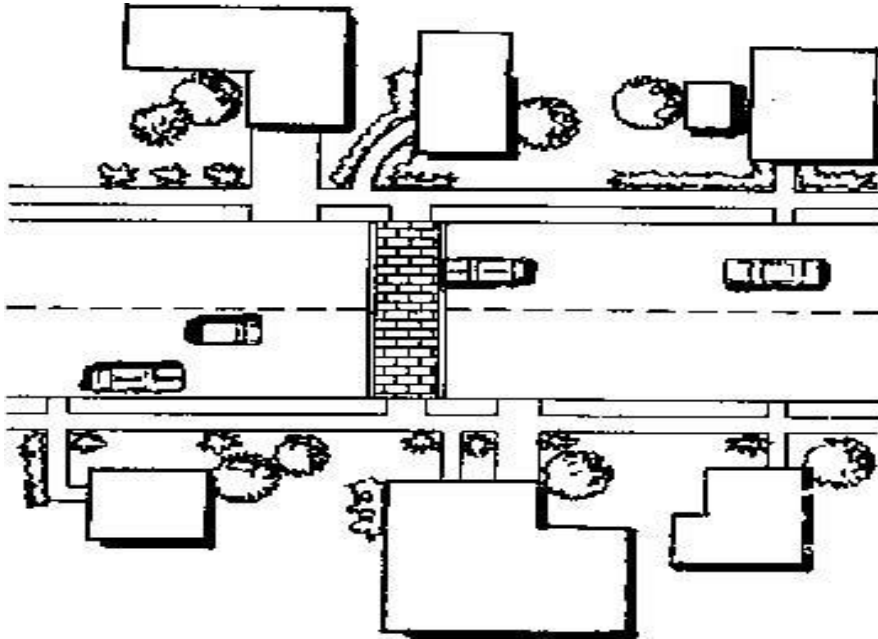
### Special Considerations:

- Appropriate near schools and recreation facilities
- Should not be used on critical emergency response routes
- Needs to be used in conjunction with other traffic calming devices to control speeds
- If a new crosswalk location, may reduce available on-street parking
- May require extensive signing

### Cost:

- Moderate

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
Raised Crosswalk	Yes	Possible	Some increase	Acceptable	Street cleaning difficulty	None	Improved Ped safety



# Raised Intersection

**Description:**

- *Raised intersections* are an alternate version of a speed hump that may be used to calm traffic at an entire intersection. These are flat, raised areas covering entire section of roadway at an intersection where the pavement is elevated to be flush with the top of the curbing and the approaches are ramped like speed humps. These act similarly to speed humps, and can provide aesthetic values. In effect the device is less jarring than a speed hump and reduces higher operating speeds with out affecting the average driver.

**Application:**

- Streets where speed reduction is desired
- Streets where discouragement of cut-through traffic is desired

**Advantages:**

- Effective speed mitigation
- Opportunity for attractive pavement treatments
- Improved pedestrian safety at intersection

**Disadvantages:**

- Requires storm drainage
- May require bollards to define the corners of the intersection
- May reduce emergency response time

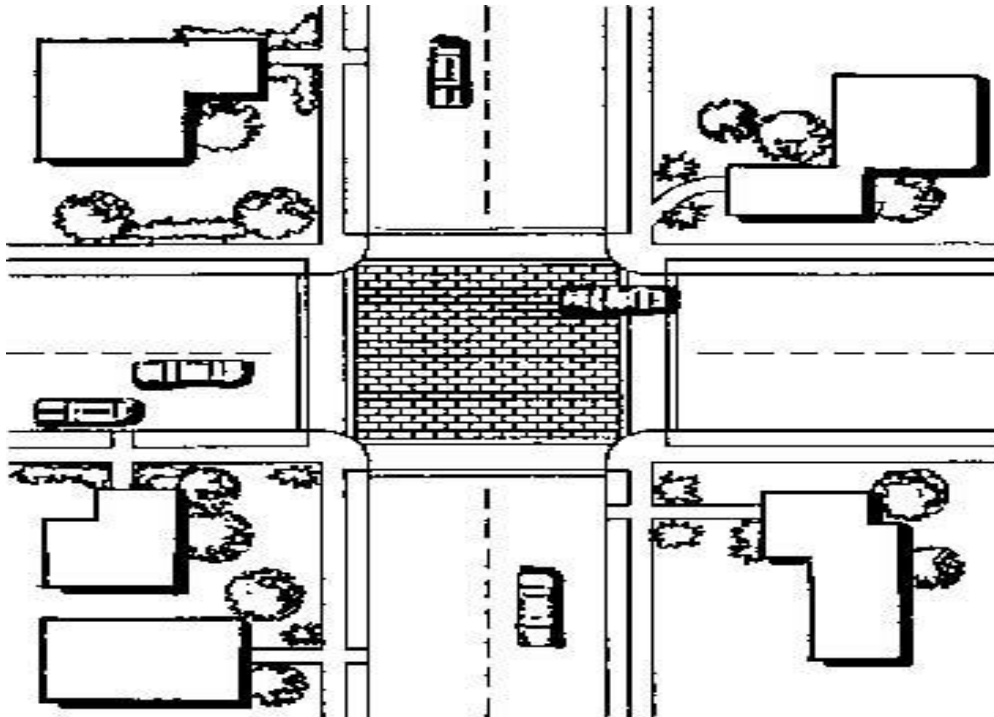
**Special Considerations:**

- Special signing required
- Should not be used on critical emergency response routes

**Cost:**

- High cost of construction and storm drainage

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
<b>Raised Intersection</b>	Yes	Possible	Small increase	Acceptable	Street cleaning difficulty	None	Improved Ped safety



# Traffic Circle

## Description:

- *Traffic circles* are raised medians in an intersection with counterclockwise traffic flow. Vehicles must change their travel path to maneuver around the circle and are controlled typically by “Yield on Entry” on all approaches. They are usually, though not always, circular in shape. A circle prevents drivers from speeding through an intersection by eliminating the straight through movement and forcing drivers to slow down to yield. Drivers must first turn to the right, then to the left as they pass the circle, and then back to the right again after clearing the circle. Large trucks can be accommodated by design modifications to the circle. Traffic circles are very effective in controlling vehicle speeds at an intersection, generally the design speed is 15 to 20 mph for passenger cars. At mid-block locations vehicles can speed up. The safety record is excellent as they generally reduce intersection-related accidents by up to 90 percent.

## Application:

- Streets where speed control is desired
- Intersections where improved side-street access is desired

## Advantages:

- Provides increased access to street from side street
- Slows traffic as it drives around circle
- Breaks up sight-lines on straight streets
- Opportunity for landscaping in the intersection

## Disadvantages:

- Definition of right-of-way is contrary to the “yield to the vehicle on the right” rule
- May impede emergency response
- Relatively expensive if curb extensions are required
- May impede left turns by large vehicles
- On streets with bicycle facilities, bikes must merge with traffic around circle

## Variations:

- With or without neck-downs
- With or without diverter islands
- Different sizes and dimensions
- Barrier curb and gutter face or tapered/mountable face

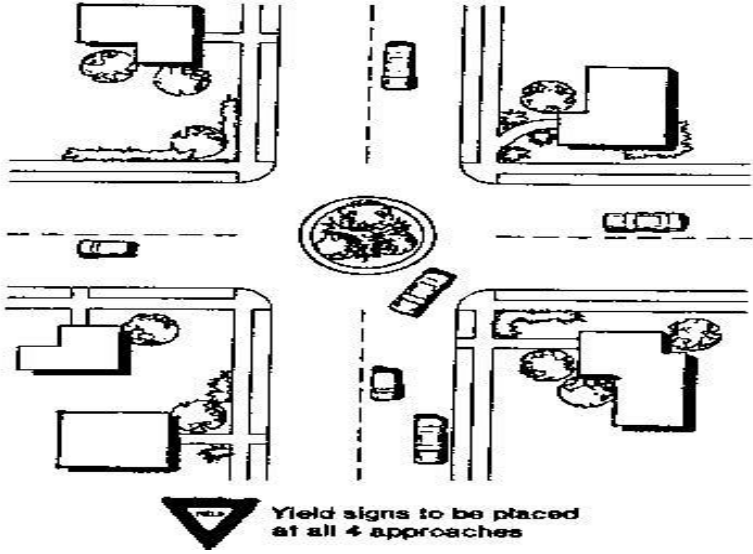
## Special Considerations:

- Need to be used in series or in conjunction with other traffic calming devices
- Should not be used on critical emergency response routes
- May require extensive signing
- Maintenance concerns associated with plowing, sweeping and asphalt maintenance around circle
- May require educational campaign and learning period

**Cost:**

- High

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
<b>Traffic Circles</b>	Yes, within intersection	Possible	Some increase	Some limitations	Vandalism	None	Improved



**Cost:**

- High





# Forced Turn Islands

**Description:**

- *Forced turn islands* are raised islands that block certain movements on approaches to an intersection. These volume control devices should be used with caution and only after the situation has have been thoroughly studied. In almost all cases, it is necessary to test these devices on a temporary basis in the field before final implementation. This is because of concerns with traffic being diverted from streets that are calmed to parallel streets that are not.

**Application:**

- Streets where reducing cut-through traffic is desired

**Advantages:**

- Redirects traffic to main streets
- Reduces cut-through traffic
- Increases opportunity for landscaping in the roadway

**Disadvantages:**

- May negatively affect emergency response
- May increase trip length for some drivers

**Variations:**

- Medians on main street that allow left and right turns in but restrict left turns out or straight across movement from side street

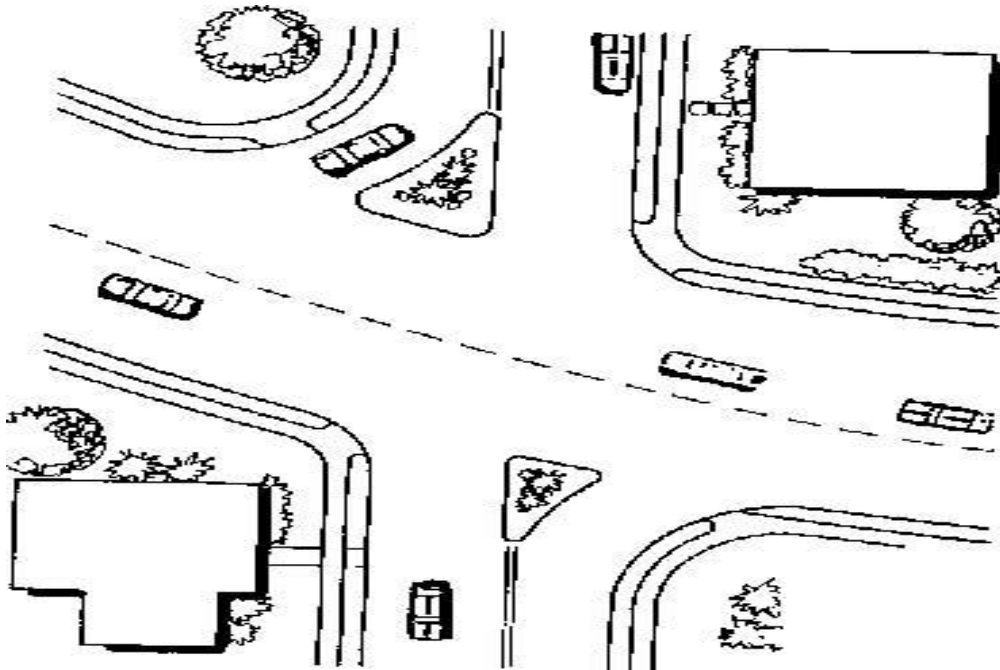
**Special Considerations:**

- Should not be used on critical emergency response routes
- Has little or no affect on speeds for through vehicles

**Cost:**

- Moderate

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
<b>Forced Turn Islands</b>	Possible	Yes	Decrease	Possible limitation	Vandalism	Right turn only	Improved



# Entrance Barrier

**Description:**

- *Entrance barriers* are physical barriers that restricts turns into a street. They create a one-way segment at the intersection while maintaining two-way traffic for the rest of the block.

**Application:**

- Local streets where cut-through traffic is a concern
- Local streets where vehicles from nearby facility circulate looking for parking

**Advantages:**

- Restricts movements into a street while maintaining full access and movement within the street block for residents
- Reduces cut-through traffic
- Opportunity for increased landscaping
- More self enforcing and aesthetically pleasing than turn restriction signing

**Disadvantages:**

- May redirect traffic to other local streets
- May increase trip length for some drivers
- In effect at all times; even if cut-through problem exists only at certain times of day

**Variations:**

- Can be used in pairs to create a semi-diverter, restricting turns onto the street and movements across the intersection

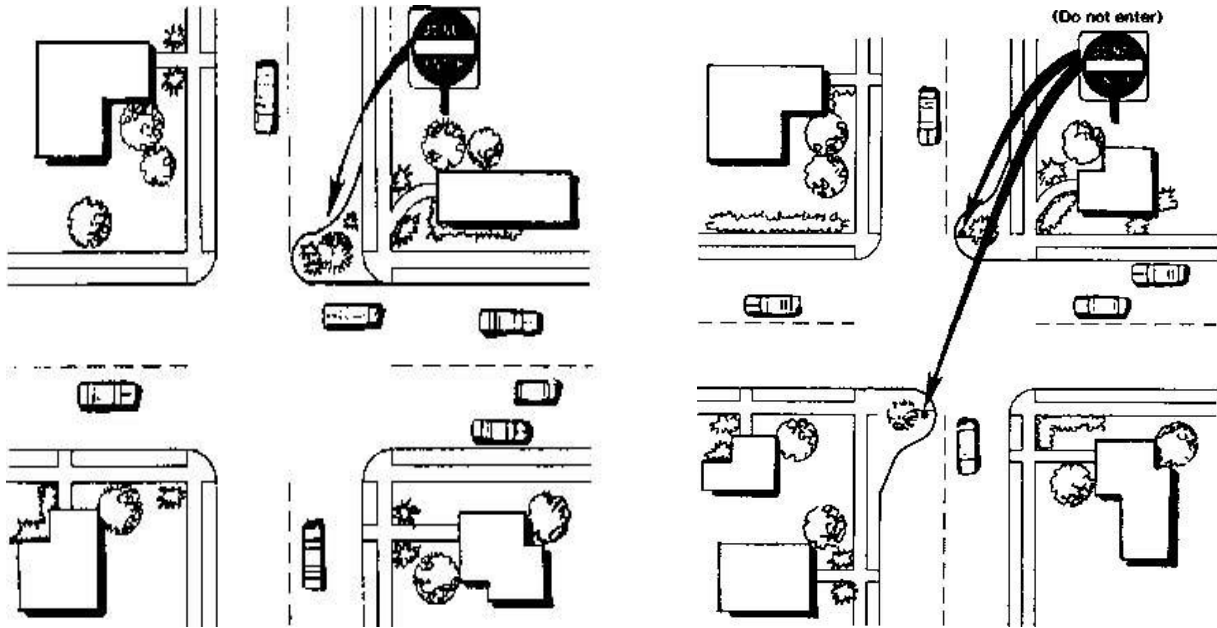
**Special Considerations:**

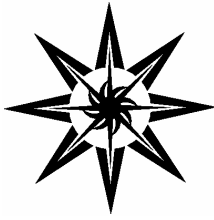
- Should not be used on critical emergency routes
- Has little or no effect on speeds for local traffic
- Consider how residents will gain access to street

**Cost:**

- Moderate to high

Traffic Calming Device	Speed Reduction	Volume Reduction	Noise and Pollution	Emergency Vehicle Access	Maintenance	Access Restrictions	Safety
<b>Entrance Barrier</b>	Possible	Yes	Small increase	No effect	None	One direction, left/right turn only	Improved Ped Safety, may shift accidents





## PUBLIC WORKS DEPARTMENT

Committee Meeting Date: March 2, 2015  
Council Meeting Date: March 2, 2015

### CONSIDER PURCHASE OF REPLACEMENT WHEEL LOADER AND DISPOSAL OF ASSET #1594 BY AUCTION.

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#### RECOMMENDATION

Staff recommends the City Council approve the purchase of a replacement wheel loader from Foley Equipment for \$181,932.28 and the disposal of Asset #1594 by auction.

#### BACKGROUND

With the 2014 and 2015 budgets funds were added to the Equipment Reserve Fund for the replacement of Asset #1594, a 1999 John Deere 544H Wheel Loader. Staff proposes to purchase the replacement wheel loader, a Caterpillar 924KHL, using the National Joint Power Alliance (NJPA), a national purchasing cooperative regularly used for this type of purchase. We also looked at the purchasing cooperative through MARC but the NJPA had the best price. Attachments included in this purchase include a material lift arm, 60" forks, and a grapple bucket.

The wheel loader is an essential piece of equipment for public works and is used year around on almost a daily basis. It is used to load and move materials daily and is essential to tree debris removal and snow plow operations. For Prairie Village this is an essential piece of equipment and it needs to be very dependable when needed. Given that our current loader is 16 years old and does have some maintenance concerns going forward it is time to replace with a new wheel loader.

Public Works did consider Case, John Deere, and Caterpillar wheel loaders. All three were delivered to public works and were used by our crews. Detailed pricing for both the John Deere and the Caterpillar were obtained and after the analysis they were within \$1,000.00 of each other. Our crews unanimously preferred the Caterpillar to the other two manufacturers.

Pricing was obtained on leasing a wheel loader. The pricing was over \$5000.00 per month to lease and therefore purchasing pays for itself in about three years. Typically leasing this type of equipment is for shorter durations and not for a situation like ours where we need a wheel loader year around.

#### FUNDING SOURCE

Funds were placed in the Equipment Reserve Fund in 2014 and 2015 for this item.

#### RELATION TO VILLAGE VISION

*TR3a. Ensure the quality of the transportation network with regular maintenance as well as efficient responses to seasonal issues such as snow removal.*

#### ATTACHMENTS

None

#### PREPARED BY

Keith Bredehoeft, Director of Public Works

February 25, 2015



**Committee of the Whole: March 2, 2015**  
**City Council Meeting: March 2, 2015**

**Consider Site License Agreement with KCP&L for Electric Vehicle Charging Stations**

**RECOMMENDED MOTION:**

Move that the City Council approve the Site License Agreement with KCP&L to install three Electric Vehicle Charging Stations at City Hall.

**BACKGROUND:**

Tom Robinson, Community Business Manager with KCP&L, recently contacted the City regarding the possible installation of three electric vehicle charging stations at the City Hall complex. KCP&L has announced a program to install 1001 charging stations across their service territory. The plan is to install them at host businesses to spur electric vehicle adoption and create a wide network of charging stations to overcome the barrier of where owners can charge away from home.

Mr. Robinson has shared the following information with the City, in addition to the attached information:

- KCP&L is wrapping up the first part of the project to install 15 Level 1 Fast Charge stations. They are starting on the second phase, the installation of Level 2 stations.
- The Level 2 stations will be more numerous than the fast charge stations, and they are trying to identify locations and hosts for the stations. The strategy is to install the infrastructure and have a host pay for the electricity for the first two years while they work on a payment mechanism for electric vehicle users.
- KCP&L believes the cost to the host for electricity usage will be nominal, somewhere from \$50 to \$100 per charging station per month. There are no additional charges to host.
- KCP&L has proposed to install three charging stations at the city hall/community center/pool complex.

If Council chooses to move forward with the Agreement, staff proposes that the stalls be located in the lower end of the City Hall parking lot. Based on the estimate provided by KCP&L, the annual cost to the City for electricity would be between \$1,800 and \$3,600. If approved, installation could occur as soon as the end of the month (March 2015).

KCP&L initially asked to be notified by February 27 if the City would like to participate in this program. Staff requested an extension until March 3 to allow this item to be presented to the City Council.

**ATTACHMENTS:**

- Site License Agreement
- KCP&L Electric Vehicle Charging Station Project Presentation

**PREPARED BY:**

Keith Bredehoeft, Director of Public Works

Date: February 27, 2015

## SITE LICENSE AGREEMENT

THIS SITE LICENSE AGREEMENT (“*Agreement*”) is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ (“*Effective Date*”) between Kansas City Power & Light Company (“*KCP&L*”), a Missouri Corporation, with a mailing address at 1200 Main Street, Kansas City, Missouri 64105 and \_\_\_\_\_, a Missouri limited liability company, with a mailing address at \_\_\_\_\_ (“*Host*”).

WHEREAS, Host is the owner of that certain property legally described and depicted on Exhibit A (the “*Site*”);

WHEREAS, KCP&L desires to install and operate \_\_\_\_ Level two Electric Vehicle Supply Equipment station(s) (together with all related utilities and accessories, the “*EVSE*”) in the location(s) shown on the Site Plan on Exhibit B pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions and agreements set forth herein, KCP&L and Host agree as follows:

1. License. Host hereby grants to KCP&L a license to install and operate the EVSE station in the location(s) within the Site shown on Exhibit B in accordance with and subject to the terms and conditions of this Agreement. The EVSE shall include a vehicle charging station and related signage. KCP&L (or its affiliates) shall (a) at no cost to Host, install all necessary electrical service, connections and equipment to serve the EVSE, and (b) provide all necessary electric utility services to Host at the EVSE. Host agrees to take reasonable actions to assist KCP&L with the installation of the EVSE. Upon completion of installation of the EVSE, Host understands and acknowledges that ownership of the EVSE shall remain with KCP&L.

2.

Consumption Costs (Check the box that applies; if no box is checked, it is Host Responsibility).

A. Host Responsibility (check here): \_\_\_\_\_. Host shall be responsible for all kilowatt usage costs of the EVSE for the first two years of the Term (as defined in Section 9 below). . After the first two years of the Term, KCP&L will deploy .a payment platform at the EVSE station(s) that will facilitate payment by the end user and Host shall have no further responsibility for the payment of usage costs. Host represents and warrants that it will not charge any third party for the consumption or usage of said power, electrical and/or usage costs at any time during the Term of this Agreement.

B. Account Holder Responsibility (check here): \_\_\_\_\_. An “Account Holder” is a tenant of the Host that is currently a KCP&L customer and that pays the KCP&L electric bill at the Site(s) where the EVSE will be located. If this box is checked, the Account Holder shall be responsible for all kilowatt usage costs of the EVSE for the first two years of the Term (as defined in Section 8 below). After the first two years of the Term, KCP&L will deploy .a payment platform at the EVSE station(s) that will facilitate payment by the end user and Host shall have no further responsibility for the payment of usage costs. Account Holder represents and warrants that it will not charge any third party for the consumption or usage of said power, electrical and/or usage costs at any time during the Term of this Agreement.

3. Access. Host shall provide KCP&L access to and sufficient space for locating the EVSE at the locations shown on the Site Plan, and also agrees to provide governmental authorities access to the EVSE for any inspections and installation of monitoring hardware and/or software on the EVSE as

necessary for KCP&L to fulfill its reporting requirements to regulatory entities. Host will allow potential end users access to the area where the EVSE is located in the same manner that it grants non-end users access to the area.

4. Operation. KCP&L shall operate the EVSE in accordance with commercially reasonable practices. However, uninterrupted service is not guaranteed, and KCP&L may interrupt service when necessary to ensure safety or to perform maintenance. If any governmental license or permit shall be required for the proper and lawful use of the EVSE, KCP&L, at its sole cost and expense, shall obtain and thereafter maintain the same and shall comply with all of the terms and conditions thereof. KCP&L shall promptly deliver copies of all such licenses and permits to Host..

Hours of Operation; Demand Response Procedures. Except as otherwise provided herein, the EVSE shall be operated by KCP&L for up to 24 hours each day and made available to the general public. Further, Host acknowledges and agrees that KCP&L will be utilizing “Demand Response” (“**DR**”) procedures. The EVSE will display a message notifying the consumer of the various DR application scenarios. Host acknowledges and understands that KCP&L utilizes such Demand Response options to optimize usage at peak times, which could result in temporarily disabling the EVSE from electrical output or consumption during the Term of this Agreement. Host shall not charge KCP&L or any other party rent or any other fees to use the Site during the Term of this Agreement.

5. Consent; Permits. KCP&L shall not install the EVSE, including any utility service, equipment or accessories or, after the installation thereof, alter the EVSE or any of its components in any manner that requires architectural or engineering plans without first obtaining Host’s prior written approval (which shall not be unreasonably withheld, conditioned or delayed) of the architectural and engineering plans and specifications therefore. KCP&L shall not install the EVSE or any utility service, equipment or accessories until all required municipal and other governmental permits and authorizations have been obtained by KCP&L.

6. Marketing. The parties understand and agree that the EVSE will be KCP&L-branded. KCP&L may publish and promote the locations of the Sites throughout the Term of the Agreement. Host’s name may also be used in the initial launch of the program. Thereafter, neither party will make any press release or otherwise formally publicize the EVSE on the Site without first obtaining formal written approval from the other party. With respect to any marketing efforts including but not limited to logos, stickers, decals or signage made a part of equipment purchased or infrastructure established; or any printed materials or other marketing and/or outreach materials, activities, or websites created by Host under this Agreement, Host agrees to submit in advance any such marketing effort to review and approval by KCP&L, which approval shall not be unreasonably withheld, conditioned or delayed.

7. Maintenance and Repair. KCP&L shall maintain the EVSE in good working condition ordinary wear and tear excepted during the Term of this Agreement. Host shall maintain the common area improvements immediately surrounding the EVSE in good condition ordinary wear and tear excepted and will promptly notify KCP&L of any problems it is aware of related to the EVSE. Such maintenance by Host of the immediately surrounding common areas shall include, but not be limited to, pavement maintenance and snow removal services.

8. Term and Termination. This Agreement shall commence on the Effective Date and continue in effect through \_\_\_\_\_ December \_\_\_\_\_, 2024 (“**Term**”); provided, however, KCP&L has the right to terminate this Agreement at any time by delivering written notice of such election to Host, in which case the Agreement shall terminate on the date that is 10 days after the Host’s receipt of the termination notice. If KCP&L fails to perform any of its obligations or comply with any of the other terms and conditions of this Agreement and such failure continues for a period of 15 days after receipt of



written notice from Host, Host may immediately terminate the Agreement by delivering written notice to KCP&L. Upon the expiration or termination of this Agreement, KCP&L will remove the EVSE at KCP&L's cost and expense and restore the portions of the Site on which the EVSE was installed to a condition similar to the Site on which the same was installed prior to installation of the EVSE ordinary wear and tear accepted.

9. Liens. Host represents and warrants that (a) Host is the fee simple owner of the Site and has good and marketable title to the Site and (b) the contents and terms of this Agreement are not in violation of any other agreement entered into by Host with any other party. Neither party will allow any liens or encumbrances to be placed on the EVSE or the Site. If any liens are placed on or filed against the EVSE, or the Site as a result of any work or materials contracted by or on behalf of either party hereto, said party shall cause the lien to be released of record within 15 days after the filing thereof. Nothing in this Agreement shall be construed as empowering either party to encumber or cause to be encumbered the title or interest of Host to the Site nor KCP&L to the EVSE in any manner. Each party shall indemnify the other party against, and hold the other party harmless from, any and all loss, damage, claims, liabilities, judgments, interest, costs, expenses, and attorney fees arising out of the filing of any such lien that is in violation of this section.

10. Insurance. Each party agrees that it will at all times during the term hereof, at its own expense, procure, maintain and keep in force insurance with an insurance company authorized to transact business in the State of Missouri, a commercial general liability insurance policy covering: (a) the operation and use of the EVSE (in the case of KCP&L) and (b) the operation and use of the Site (in the case of Host), in each case affording protection in an amount of not less than One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for injury to or death of one or more persons. The policy must include customary coverages for liability arising from premises, operations, independent contractors and liability assumed under an insured contract. The policy shall name the other party hereto (including said party's parent, affiliates, subsidiaries, officers, directors, employees, agents and assigns) as additional insureds whereby neither party may cancel or reduce the insurance without first giving the other party hereto at least 30 days prior written notice. Each party further covenants to deposit with the other party a certificate of such insurance and the certificate of each such renewal policy complying with the terms of this Agreement.

Further, unless third-party insurance coverage is required by applicable law, both parties shall have the right to self-insure against perils and liabilities for which it would otherwise be required to obtain insurance under the terms of this Agreement. If a party elects to self-insure against certain perils and/or liabilities against which it would otherwise be required to obtain a policy of insurance under this Agreement, then for purposes of this Agreement, such party shall be deemed to hold insurance against such perils and/or liabilities in the minimum amounts of insurance which such party is otherwise required to maintain under the terms of this Agreement. By so electing, such party shall be deemed to be self-insuring against the perils and/or liabilities that are the subject of such claims.

11. Waiver. Host and KCP&L each hereby waive (to the extent of insurance proceeds collected) any and all rights of recovery, claim, action or cause of action against the other, its agents, officers, or employees for any damage that may occur to the Site, including but not limited to the EVSE, and/or any personal property of such party therein by reason of any cause which is insured against under the terms of any insurance policies referred to herein or self-insured, regardless of cause or origin, including negligence.

12. Indemnification. KCP&L shall be liable for, and shall indemnify, defend and hold Host harmless from, any and all liabilities, claims, demands, administrative proceedings, orders, judgments,

assessments, fines, penalties, costs and lawsuits, of whatever nature (collectively, “*Liabilities*”), arising out of the negligent, willful or intentional acts or omissions of KCP&L, its express agents, contractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement. Host shall be liable for, and shall indemnify, defend and hold KCP&L harmless from any and all Liabilities arising out of the negligent, willful or intentional acts or omissions of Host, its agents, contractors, subcontractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement. Notwithstanding the foregoing, neither party shall be liable for or be required to indemnify, defend or hold the other party harmless to the extent of any Liabilities that are caused by the negligent, willful or intentional acts or omissions of the other party hereto.

13. No Consequential Damages. Except for indemnification obligations to third parties as set forth in Section 14 of this Agreement, neither party shall be liable to the other party for any special, incidental, consequential, punitive or indirect damages or loss of profit or business interruption damages whatsoever.

14. Performance. Performance under this Agreement is subject to all valid laws, rules and regulations of courts or regulatory bodies having jurisdiction.

15. Casualty. If all or any portion of the EVSE on the Site are damaged or destroyed by fire or other casualty which materially and adversely affects the operation of the EVSE (any, a “*Casualty*”), Host shall have the right to terminate the Agreement by written notice to KCP&L in which event the Agreement shall terminate on the date that is 10 days after the date of Host’s termination notice and KCP&L may elect to remove the EVSE from the Site. In the event of any Casualty which materially and adversely affects the operation of the EVSE, KCP&L shall have the right to terminate the Agreement by written notice to Host within 14 days after the Casualty, in which event the Agreement shall terminate on the date that is 10 days after the date of KCP&L’s termination notice and KCP&L may elect to remove the EVSE from the Site.

16. Assignment. This Agreement and the rights conferred hereunder shall not be assigned by either party except with the prior written consent of the other party in each instance, and such consent shall not be unreasonably withheld, conditioned or delayed.

17. Entire Agreement. This Agreement and the exhibits attached hereto contains the entire agreement of the parties. No term or provision of this Agreement may be modified, amended, changed, or waived, temporarily or permanently, except, in the case of modifications, changes and amendments, pursuant to the written consent of both parties to this Agreement, and in the case of waivers, pursuant to the written consent of the waiving party.

18. No Partnership. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, franchise or association, nor shall this Agreement render KCP&L and Host liable as partners, co-venturers or principals.

19. Governing Law. This Agreement shall be governed by the laws of the State of [\*NOTE: insert Kansas or Missouri, depending on the location of the installation\*].

20. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument. Facsimile and digital electronic signatures shall constitute original signatures for purposes of this Agreement.

21. Notice. Any and all notices shall be in writing and addressed to the parties at the addresses specified below or such other addresses as either party may direct by notice given in accordance with this section, and shall be delivered in one of the following manners: (i) by personal delivery, in which case notice shall be deemed to have been duly given when delivered; (ii) by certified mail, return receipt requested, with postage prepaid, in which case notice shall be deemed to have been duly given on the date indicated on the return receipt; or (iii) by reputable delivery service (including by way of example and not limitation Federal Express, UPS and DHL) which makes a record of the date and time of delivery, in which case notice shall be deemed to have been duly given on the date indicated on the delivery service's record of delivery.

If to KCP&L:

Kansas City Power & Light Company  
Attn: \_\_\_\_\_  
One Kansas City Place  
1200 Main Street  
Kansas City, Missouri 64105  
Email Address: \_\_\_\_\_

If to Host:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Headings. Section headings herein have been inserted for reference only and shall not be deemed to limit or otherwise affect, in any manner, or be deemed to interpret in whole or in part any of the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement agreeing to be bound by the terms herein as of the date first above written.

**KCP&L**  
Kansas City Power & Light Company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HOST:**

\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACCOUNT HOLDER (both Host and Account  
Holder Must Sign if the box in Section 2.B is checked):**

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of Site**

**[Insert here]**

**EXHIBIT B**

**Site Plan where EVSE(s) will be located within the Site**

# ***KCP&L Electric Vehicle Charging Station Network***

**January 2015**



***Confidential and proprietary. Not for distribution without specific written authority from KCP&L.***

# KCP&L's Clean Charge Network



- KCP&L will design and install a network of more than 1,100 EV charging stations (2,200 plus charging ports)
- Infrastructure sufficient to charge 10,000+ EV's
- The vast majority will be Level 2 charging stations with some Level 3 (DC fast charge) stations
- Installed in groups of 3-5 stations with ports for up to 10 vehicles
- Designed as utility infrastructure
- Focus on publicly accessible, high population density / long dwell time areas, workplaces and geographic dispersion
- Completely free to host companies except for first two years electricity use
- One standard communications and payment platform
- Time of use rates, demand management programs and vehicle to grid distributed electric discharge



# High-level Situation Analysis

## **Electric vehicle sales mirror the adoption of hybrid vehicles:**

- 17 models currently available; 18 more expected within 18 months
- Annual EV growth is better than 100% (ranges from 103% - 525%)
- There are 260,000 EV's currently the road in the U.S.
- 1,600 in Missouri (107% annual growth); 692 in Kansas (153% annual growth)
- Considerable cost savings for EV drivers (fuel and maintenance)

## **Readily available electric vehicle charging stations are necessary for EV adoption:**

- Average EV driver has a commute of 40 miles a day or less
- Range anxiety is a major barrier to purchasing an EV; the ability to charge outside the home is critical to eliminating this barrier
- Where there is EV infrastructure, EV's are selling at a robust pace

## **Electric utilities are uniquely positioned to build out EV charging station networks:**

- EV charging stations are electrical infrastructure and necessarily impact the design, operation and cost of the electric grid
- Utilities are infrastructure companies with customer touch points throughout the region and electric grid expertise
- Where EV's sales are high, existing third party charging infrastructure is quickly outpaced and no one is stepping forward to address this issue
- Policy implications are numerous and are likely to be handled in a variety of disparate forums that will optimize to specific variable stakeholder variables
- Customers want EV's and the resulting load is beneficial

# KCP&L's Clean Charge Network



*Confidential and proprietary. Not for distribution without specific written authority from KCP&L.*

# Aligning Charging Solution to Driver Activity

	Driver Activity	Parking Duration	Activity Examples
DC Fast Chargers	Road Trip	<30 minutes	+ Planned stop en route to a long distance destination: Weekend Travel, Intercity or Long Haul
	Errands	<30 minutes	+ Short stops while out and about town to top-off battery: - Single shops, coffee shops, fast food
Level II Charging	Shop	30 minutes to 2 hours	+ Replenish energy used to top-off batteries during longer stops around the town : - Shopping malls, etc.
	Dine	1-4 hours	+ Sit-in Restaurants
	Play	2-6 hours	+ Sports grounds, Golf clubs, Theater
	Work	4-8 hours	+ Commuting to workplace
	Sleep	>8 hours	+ Overnight charging while at home or at a hotel

# Host & KCP&L Responsibilities

Host Site	KCP&L
6-10 mutually agreeable parking spaces reserved for EV's	Install and maintain EV charging stations at no charge to host site
Parking spaces must have reasonable access to electrical infrastructure	Establish and maintain a charging payment system within two years of June 2015
Access for KCP&L and/or its contractor to survey, design, construct and maintain EV charging stations	Establish rates, demand side programs and V to G programs within regulatory guidelines and approvals
10 year term for host agreement	Replace parking lot to substantially same condition
Agreement to pay first 2 years of electrical usage (usually \$50-\$100 per charging station)	Establish mutually agreeable customized parking / charging rules and programs
Mutually agreeable EV charging station signage	24-7 monitoring of EV charging stations
Public access to charging stations (within existing host limitations)	Usage reports and information for host sites
Standard commercial terms and conditions	Create and maintain an EVCS location map on mobile optimized website

# Customer and Community Benefits

- Reduces cost for EV infrastructure through economies of scale and central design
- Affordable access to EV's for more people
- Lower costs of ownership, maintenance and fuel for EV drivers
- Cleaner air and cleaner environment
- Improved and more efficient grid planning and reliability
- Standardized communication and payment platforms
- Robust stakeholder process on policy issues
- Expansion of smart-grid technology
- Additional customer programs for energy efficiency, demand response, distributed generation and renewables
- Enhanced regional economic development

# Other Aspects of the Project

- Development of a regional EV owner affinity group with access to value-added programs from manufacturers, dealers and KCP&L
- Create a social media platform focusing EVs, EV charging and EV drivers and the EV lifestyle
- EV charging network website and mobile app
- Integration with other smart grid technology currently deployed on the KCP&L electrical grid
- Integration in high profile areas with solar installations and other distributed generation
- Special events in partnership with manufacturers, dealers and other technology companies focused
- Introduce legislation for state tax incentives



## Review of the Use of the Consent Agenda

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### PURPOSE

Staff seeks direction from Council regarding the desired changes, if any, to the approach of compiling the Consent Agenda.

### BACKGROUND

At the Council work session on Feb. 20<sup>th</sup>, there was discussion about the use of the Consent Agenda. How it is developed? What items are on Consent? Are there better ways to utilize the Consent Agenda?

The Consent Agenda is for items considered routine in nature, not significant in scope or controversial.

A council policy outlines the primary uses of the consent agenda and is attached and included below.

---

Council Policy : AP002b  
"Consent Agenda Items"  
Adopted in January, 2000

- A. If an item to be considered by the Governing Body is of a routine nature and/or involves expenditures of less than \$20,000, it may be added to the Council Consent Agenda.
  - B. The item must be prepared in the same format as other agenda items. The background section will state that the routine nature of the item makes it appropriate for inclusion on the Consent Agenda. The recommendation section will be prepared in the form of a motion.
  - C. Submit to City Administrator before the Wednesday prior to the Council meeting in which it is to be considered.
- 

Staff team meets on Tuesday morning prior to the Council meetings and compiles and discusses the next meetings' agenda. Ultimately, the City Administrator, in consultation with the Mayor, determines what items are placed on the Consent Agenda. Controversial items are not typically placed on the Consent Agenda. Items listed on the

consent agenda can be removed for discussion. Council members can during the roll call vote abstain or vote differently on an individual item.

The Consent Agenda usually includes the following types of items:

- Council minutes for approval
- Claims ordinances (summary of expenditures the prior month)
- Ratification of Mayoral appointments and reappointments
- Approval of Proclamations
- Adoption of Resolution
- Permission to bid a professional service
- Standard agreements for professional services authorized through the budget process, with the funding available in established budgets and after review of the agreement by the City Attorney
- Authorization for purchase of vehicles and equipment authorized through the budget process
- Authorization to dispose of fixed assets
- Items being recommended from an earlier Council Committee can be placed on the Consent Agenda for Council action, rather than being reported out and voted on separately.
- Actions required on behalf of volunteer committees, i.e. approval of contracts for VillageFest and JazzFest
- Construction and Engineering Change Orders
- Acceptance of bids/contract awards (under \$20,000)
- Adoption of fees

Over the years, Consent Agenda items have also included the following:

- Council and Personnel Policy changes
- Ordinance revisions
- Acceptance of easements and rights-of-way (final plat)
- Denial of insurance claims

## **ATTACHMENTS**

Attached are examples of minutes from 1993, 1997, 2002, & 2008 reflecting the use of the Consent Agenda.

## **PREPARED BY**

Joyce Hagen Mundy  
City Clerk

Date: February 25, 2015





City Council Policy: AP002b - Consent Agenda Items

Effective Date: January 2000

Amends:

Approved By: City Council

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I. PROCEDURES

- A. If an item to be considered by the Governing Body is of a routine nature and/or involves expenditures of less than \$20,000, it may be added to the Council Consent Agenda.
- B. The item must be prepared in the same format as other agenda items. Background section will state that the routine nature of the item makes it appropriate for inclusion on the Consent Agenda. The recommendation section will be prepared in the form of a motion, with bold type and capital letters.
- C. Submit to City Administrator before the Wednesday prior to the Council meeting in which it is to be considered.

CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
September 7, 1993

- Minutes -

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, September 7, 1993 at 7:30 p.m. in the Municipal Building.

ROLL CALL

Mayor Monroe Taliaferro called the meeting to order with the following council members responding to roll call: Ron Shaffer, Steve Carman, Steve Noll, Jay Donohue, Ruth Hopkins, Ed Stevens, John Kemp, Wayne Vennard, Carol Pendleton, Nancy Wallerstein and Frank Bysfield.

Also present were: Barbara Vernon, City Administrator, Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Jerald Robnett, Director of Public Works and Sheila Shockey, Assistant City Administrator/City Clerk.

PUBLIC PARTICIPATION

Eugene Rue, President of Somerset Courts West Homes Association, requested the City take over maintenance of their streets. Sheila Shockey said the Policy/Services Committee discussed this item earlier this evening and will recommend the request be denied at the Council meeting on September 20 at 7:30 p.m. Mayor Taliaferro invited Mr. Rue to attend the meeting to make his case.

CONSENT AGENDA

Jay Donohue moved the approval of the Consent Agenda for Tuesday, September 7, 1993.

1. Regular Council Meeting Minutes - August 16, 1993
2. Denial of workers compensation claim of Police Dept. employee, Cpl Hudson and authorization to submit to city's insurance carrier.
3. Denial of claim against the city by Steven D. Philips for damage caused by flooding and authorization to submit to city's insurance carrier.
4. Ratification of the appointment of Joyce Hagen Mundy to serve as Deputy City Clerk.
5. Adoption of Resolution 93-5 establishing the week of September 27th - October 3rd, 1993 as Prairie Village Peanut Butter Week.
6. Authorization to dispose of one "wave slide" removed from Meadowlake Park.
7. Adoption of Council Policy #132 entitled "Transfer Checking Account"
8. Authorization for the Mayor to execute the agreement for surveying services with Bucher, Willis & Ratliff to

- perform a topographic survey of Meadowlake Park as previously approved.
9. Authorization for the Mayor to execute a Letter of Agreement and the Amendment to the Enrollment Agreement between Blue Cross and Blue Shield of Kansas City and the City of Prairie Village.
  10. Acceptance of the proposal by Anthony Mechanical Contractors, Inc. to provide services necessary to winterize the swimming pool complex in 1993 and reopen in 1994 in the amount of \$5,842 and authorization for the Mayor to execute agreement for these services.
  11. Approval and authorization for the Mayor to execute Engineering Change Order No. 3 to O'Donnell & Sons Construction Co. increasing the contract time by 4 calendar days with no change in the contract amount and corresponding Engineering Change Order No. 2 to Larkin Associates increasing the contract amount by \$1,893 bringing the new contract amount to \$214,785 for the 1993 Street Rehabilitation Project.
  12. Approval and authorization for the Mayor to execute Construction Change Order No. 4 to O'Donnell & Sons Construction Co. decreasing the contract amount by \$9,740.00, bringing the new contract amount to \$1,078,695.00 for the 1993 Street Rehabilitation Project.
  13. Approval and authorization for the Mayor to execute Engineering Change Order No. 3 to Larkin Associates, increasing the contract amount by \$1,500.00, bringing the new contract amount to \$216,285.00 for the 1993 Street Rehabilitation Project.
  14. Approval and authorization for the Mayor to execute Engineering Change Order No. 4 to Larkin Associates, increasing the contract amount by \$4,500.00, bringing the new contract amount to \$220,785.00 for the 1993 Street Rehabilitation Project.
  15. Approval of Personnel Policy #214 entitled, "Disability Leave" as amended by eliminating the augmentation of workers compensation pay.
  16. Approval of Personnel Policy #214 entitled, "Disability Leave" as amended by eliminating 60% supplement for off-duty injury or illness and approval of Personnel Policy #213 entitled, "Sick Leave" as amended by enacting a sick leave donation program.

The following Councilmembers voted "aye" on a roll call vote:  
 Ron Shaffer, Steve Carman, Steve Noll, Jay Donohue, Ruth Hopkins,  
 Ed Stevens, John Kemp, Wayne Vennard, Carol Pendleton, Nancy  
 Wallerstein and Frank Bysfield.

#### COMMITTEE REPORTS

##### Council Committee of the Whole - Jay Donohue

##### Consider Abend-Singleton Architectural Agreement for Police Facility

Jay Donohue moved the Council approve the standard form of agreement with Abend-Singleton Associates, Inc. for construction of the Police facility including site work for a fixed fee of \$126,890 to be transferred from contingency fund. Nancy Wallerstein seconded the motion which was voted on and passed. Steve Carman asked whether the bond offering needs to be completed before the end of the year because contingency funds will be used. Barbara Vernon said there are adequate funds available in the 1993 contingency fund.

POL-32 Consider traffic signal/intersection upgrades - 79th St. &

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
March 17, 1997  
-Minutes-**

The City Council of Prairie Village, Kansas, met in regular session on Monday, March 17, 1997 at 7:50 p.m. in the Municipal Building.

**ROLL CALL**

Mayor Monroe Taliaferro called the meeting to order with the following Council members responding to roll call: Ron Shaffer, Tom Hocker, Steve Noll, Ruth Hopkins, Clarence Munsch, Ed Stevens, Peggy Couch, John Kemp, Nancy Vennard, and Bill Randle.

Also present were: Barbara Vernon, City Administrator; Steve Horner for Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Robert Pryzby, Public Works Director; and Jan Westmoreland, Acting City Clerk.

**PUBLIC PARTICIPATION**

There was no public participation.

**CONSENT AGENDA**

Steve Noll moved to approve the Consent Agenda for Monday, March 17, 1997:

1. Approve Regular Council Meeting Minutes - March 3, 1997
2. Approve Claims ordinance #1937 through #1940
3. Approve the disposal of surplus materials by Public Works at a Tag Sale and Auction on April 19, 1997 at the Public Works facility
4. Authorization to enter into an agreement with Allied Exterminators for Rodent Control in 1997
5. Approve annual HVAC maintenance agreement for 1997 with Industrial Piping and Sheet Metal, Inc.
6. Approve a \$1,000 scholarship to be awarded through the Johnson County Arts and Humanities Shooting Stars Program and \$500 for the Arts Award Program being sponsored by Shawnee Mission East High School financed with funds allocated for Municipal Arts in the Municipal Foundation
7. Approve the engineering services agreement for Project 9779: 1997 Pavement Marking Program with Larkin Associates in the amount of \$4,500 using funds in the 1997 Capital Expenditure Program
8. Approve the interlocal agreement with Johnson County for construction and construction administration services for the 1997 CARS Project; State Line Road from 71st Street to South City limits with funding available in the 1997 Capital Expenditure Program
9. Approve the list of streets for Project 9777: 1997 Street Resurfacing Program
10. Approve an agreement with Johnson County for Minor Home Repair Program to be fully funded by CDGB funds
11. Approve an agreement with Johnson County for the HOME Program in an amount not to exceed \$10,000 from the 1997 General Operating Account

A roll call vote was taken with the following members voting "aye": Shaffer, Hocker, Noll, Hopkins, Munsch, Stevens, Kemp, Vennard, Randle, and Couch, with Couch abstaining from voting on item #6.

## PRESENTATION OF FIRST QUARTER FINANCIAL REPORT

Ed Stevens presented the first quarter financial report for 1997. He noted that the reported was as anticipated. The first quarter revenue figures are slightly ahead of projected revenue by 1% at \$4,056,428. First quarter expenditure figures were 6% to 7% below the projected amount at \$2,553,804. The report on investments reflected that all city investments are covered with at least 100% collateral. The contingency fund balance as of April 4, 1997 is \$605,008.

## CONSENT AGENDA

Ruth Hopkins asked that item #14 "Ordinance amending Title 5 of the Prairie Village Municipal Code by repealing the existing Chapter 5.24, entitled "Solicitors-Door-to-Door" and adopting a new Chapter 5.24 entitled. "Solicitors" be removed from the Consent Agenda.

Steve Noll moved to approve the Consent Agenda for Monday, May 5, 1997 as amended with the addition of #12 & 13 and deletion of #14:

1. Approve Regular Council Meeting Minutes - April 21, 1997
2. Approve Claims Ordinance #1947 through #1949
3. Approve annual contract for the Mobilfone pagers
4. Ratify appointment of Clarence Munsch to the Citizens Advisory Committee on Community Standards for a three year term to expire in April, 2000
5. Ratify reappointment of Fielding Norton, Jr. as City Treasurer for a two year term
6. Authorize Mayor to execute agreement for room reservations for the Tops and Blues Band at the Fairfield Inn for July 13, 1997
7. Authorize Mayor to execute agreement for the appearance of Sluggerrr on July 4, 1997
8. Approve agreement between Total Entertainment and the City of Prairie Village to provide sound systems and five bands for entertainment during the Villagefest '97 Celebration on July 4, 1997, at a cost of \$4,000
9. Approve American Red Cross Aquatic Examiner Program Participation Agreement at a cost of \$1,725
10. Approve the School Resource Officer Agreement with the Shawnee Mission School District for the 1997 - 1998 school year
11. Approve the Subgrantee Agreement between Johnson County and the City for Project 9762: ADA Sidewalk Ramps and Project 9768: YMCA Scholarship Program, with funding from the 1997 Capital Expenditure Program
12. Authorize payment of \$1000 to the Prairie Village Merchants Association for entertainment at the Prairie Village Art Fair
13. Approve lease agreement with Pitney Bowes for the lease of a postage meter for use by Public Works at a quarterly cost of \$32.00
15. Approve Change Order #8 to D.M. Ward Construction for the Public Safety Center Project for a deduction of \$3,515.20 from the project, bringing the contract total to \$1,928,537.56

A roll call vote was taken with the following members voting "aye": Shaffer, Hocker, Noll, Hopkins, Munsch, Stevens, Couch, Kemp, Vennard, Carman and Randle.

Ruth Hopkins noting the concerns expressed by several residents and by the Kansas City STAR moved to return the proposed ordinance revision on Solicitation to the

**COUNCIL  
CITY OF PRAIRIE VILLAGE  
December 2, 2002  
Minutes**

The City Council of Prairie Village, Kansas, met in regular session on Monday, December 2, 2002, at 7:30 p.m. in the Council Chambers of the Municipal Building.

**ROLL CALL**

Mayor Ron Shaffer called the meeting to order with the following Council members responding to roll call: Al Herrera, Bill Griffith, Steve Noll, Bob Pierson, Roy True, Laura Wassmer, Jerry Kelso, Jeff Anthony, Kay Wolf, Diana Ewy Lamberson and Patty Markley.

Also present were: Barbara Vernon, City Administrator; Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Bob Pryzby, Director of Public Works and Joyce Hagen Mundy, City Clerk.

**PUBLIC PARTICIPATION**

Doug Sharp, 8040 Pawnee Lane, asked the following question of Councilwoman Diana Ewy Lamberson, "Diana, will you marry me?" Ms. Ewy Lamberson responded that she would be honored to marry him and Doug placed an engagement ring on her finger. Mayor Shaffer and Council members extended their congratulations and best wishes to Doug and Diana.

**CONSENT AGENDA**

Laura Wassmer moved the approval of the Consent Agenda for Monday, December 2, 2002:

1. Approve Regular Council Meeting Minutes – November 18, 2002
2. Approve Claims Ordinances #2379 and #2380
3. Approve continuation of rental agreement with Multiple Services Equipment for the rental of a postage meter and scale for 2003 at a cost of \$140 quarterly with funding from the City Clerk's Operating budget
4. Approve continuation of the existing lease agreement with Clune Equipment Leasing for the lease of a high-volume Sharp SD-2275 copier at a cost of \$310.28 per month with funding from the City Clerk's Operating budget
5. Approve continuation of the maintenance agreement for the Sharp SD-2275 copier with Ladicom, Inc. for 2003 at an estimated cost of \$3,600 with funding from the City Clerk's operating budget
6. Approve renewal of the annual software maintenance agreement for Laserfiche with R&D Computer Systems at a cost of \$3,580 with funding from the 2003 City Clerk's operating budget
7. Approve the annual Maintenance and Software Support renewal agreement with Vanasse, Hagen Brustlin, Inc., for \$2,978.78 with payment for Public Works operating budget
8. Approve the renewal of the Standard Software Maintenance Agreement with New World Systems

9. Approve the 2003 agreement between the City of Prairie Village and Allied Exterminators for rodent control
10. Approve the 2003 agreement between the City of Prairie Village and Mobilefone/Mobile Radio Communications Inc. for City pagers
11. Approve 2003 maintenance agreement between the City of Prairie Village and Midwest Powerfiles
12. Approve 2003 maintenance agreement between the City of Prairie Village and Blue Valley Public Safety for outdoor warning sirens
13. Approve the extension of the agreement for 2003 between the City of Prairie Village and Otis Elevator Company
14. Approve the 2003 agreement between the City of Prairie Village and Midwest Radar
15. Authorize the Mayor to execute the lease agreement with Mission Road Bible Church for the use of land by the City for a Tree Nursery in 2003
16. Approve the disposal of Asset #456: Arrow Board/Traffic Controller as scrap metal
17. Approve disposal of the following items:

Type	Asset Number	Serial No.
1 Compaq	1907	6543hph2d340
2 Compaq	1922	3452hgy26007
3 Compaq	1941	6617htb2f853
4 Compaq	1942	A620htb2e277
5 Compaq	1943	A620htb2d071
6 Compaq	1944	A620htb2d306
7 Compaq	1945	6617htb2f848
8 Compaq	1946	6617htb2f859
9 Compaq	1947	6617htb2f858
10 Compaq	1948	6617htb2f850
11 Compaq	1996	6720hvt3w344
12 Compaq	2000	0720hvt3v049
13 Compaq	n/a	6837cdz2j364
14 Compaq	n/a	W042fi32a167
15 Compaq	n/a	6837cdz2j866
16 Compaq	1183	23-C2223
1 Manasync-Reel Type	01661	unavailable

18. Ratify the appointment of James Reimer to the Skate Park Committee
  19. Ratify the appointment of Michael Alley to the Prairie Village Arts Sister City Committee as a Student Representative for a one-year term expiring in April, 2003
- By Change Order:
20. Approve Construction Change Order #1 to the contract with T.S.C. Inc. for Project 190825: 2002 Street Resurfacing Program for a decrease of \$55,345.30
  21. Approve Construction Change Order #1 to the contract with T.S.C. Inc. for Project 190831: Somerset Drive – Delmar to Roe Avenue for a decrease of \$39,394.50
  22. Approve Construction Change Order #1 to the contract with T.S.C. Inc. for Project 190827: 79<sup>th</sup> Street – Mission Road to Aberdeen for a decrease of \$35,098.50
  23. Approve Construction Change Order #1 to the contract with Musselman & Hall for Project 190824: 2002 Crack/Slurry seal Program for a decrease of \$9,385.56
  24. Approve Construction Change Order #1 to the construction contract with Banderas Construction for Project 191008: 2002 concrete Repair Program for an increase of \$3,427.92 with funding from the Capital Infrastructure Program
  25. Approve Engineering Change Order #4 to the agreement with The Larkin Group Inc. for Project 190811: Mission Road and Tomahawk Road for an increase of \$10,690.00 with funding from the Capital Infrastructure Program
  26. Approve Engineering Change Order #1 to the agreement with The Larkin Group Inc. for Project 190830: 74<sup>th</sup> Street Low Water Crossing for a reduction of \$2,009.82

A roll call vote was taken with the following members voting “aye”: Herrera, Griffith, Noll, Pierson, True, Wassmer, Kelso, Anthony, Wolf, Ewy Lamberson and Markley.

### COMMITTEE REPORTS

#### POL2002-26 Consider Purchase of new Dump/Plow Truck

Steve Noll reported that when public works staff was checking on specifications to bid for a dump/plow truck that is included in their 2003 budget, the dealer who submitted the low bid last March on a similar truck purchased by the City offered to

2. Approve Claims Ordinances #2325 through #2327
3. Approve a short-term special use permit to the Shawnee Mission East Students Against Drunk Driving (SADD) organization for the display of a wrecked car on the southwest corner of 75<sup>th</sup> Street and Mission Road from April 26 through May 3, 2002 and authorize that the application fee be waived
4. Approve a short-term special use permit to Briarwood Elementary School for their annual school carnival on Friday, May 3<sup>rd</sup> between the hours of 6 p.m. and 9 p.m. with a certificate of insurance being provided for the event
5. Approve a short-term special use permit for Mission Valley Middle School for a controlled burning of the school's prairie area between 9 a.m. and noon on a date to be determined in cooperation with Fire District #2 between April 15<sup>th</sup> and April 25<sup>th</sup>
6. Ratify the Mayors reappointment of the following committee members:
 

Jim Galle	Animal Control Board	04/2004
Charles Clark	Board of Zoning Appeals	04/2005
Charles Clark	Planning Commission	04/2005
Christine Adams	Communications Committee	04/2005
Shelley Barrett	Communications Committee	04/2005
Karen Chapman	Communications Committee	04/2005
Jeannie Firth	Environment/Recycle Committee	04/2003
Jared Cole	Environment/Recycle Committee	04/2003
Diane Mares	Park & Recreation Committee	04/2005
Jim Galle	Park & Recreation Committee	04/2005
Mary Beth Smith	Park & Recreation Committee	04/2005
Susan Green	Park & Recreation Committee	04/2005
Randall Kronblad	Park & Recreation Committee	04/2005
Don Church	Prairie Village Arts Council	04/2005
Cliff Middleton	Tree Board	04/2005
7. Approve the payment of \$6,326.78 to Kansas Department of Transportation with the transfer of \$6,327 from the Capital Improvement Program contingency to Project 191004: Federal Aid Sign Replacement Program
8. Approve the award of the 2002 Highway Salt contract to Independent Salt Company for 1,000 tons at \$26.98 per ton
9. Approve a lease with Midwest Office Technology, Inc. for a Cannon 5000 digital copier for the Public Safety with funding from the 2002 Public Safety Budget
10. Ratify the appointment of Ann Lilak to serve as Chairman of the Villagefest 2002 Committee
11. Authorize the Mayor to execute a Proclamation for Arbor Day – April 26, 2002
12. Approve Engineering Change Order #1 to the engineering agreement with The Larkin Group for Project 190811: Mission Road and Tomahawk Road with fountain for an increase of \$53,900 with Prairie Village paying \$40,900 and Johnson County paying \$13,000 with fund from the Capital Expenditure Program
13. Approve Engineering Change Order #1 to the engineering agreement with The Larkin Group Consulting Engineers for Project 190824: 2002 Crack/Slurry Seal Program for \$32,900 with funding from the Capital Expenditure Program
14. Approve Engineering Change Order #2 to the engineering agreement with The Larkin Group Consulting Engineers for Project 190825: 2002 Street Resurfacing Program for \$86,300 with funding from the Capital Expenditure Program
15. Approve Engineering Change Order #1 to the engineering agreement with The Larkin Group Consulting Engineers for Project 190827: 79<sup>th</sup> Street – Mission Road to Aberdeen for an increase of \$36,300 with a City share of \$20,765.49 with funding from the Capital Expenditure Program and \$15,534.51 from Johnson County CARS funds.
16. Approve Engineering Change Order #1 to the engineering agreement with The Larkin Group Consulting Engineers for Project 191008: 2002 Concrete Repair Program for \$34,700 with funding from the Capital Expenditure Program
17. Approve Engineering Change Order #1 for \$14,000 for The Larkin Group and the transfer of \$14,000 from the Capital Improvement Program Park Unallocated to Project 190611: Prairie Park Fountain Design
18. Approve the 2002 Action Plan for the City's Comprehensive Plan
19. Approve an endorsement of the Regional Coalition for the purpose of expending Federal Juvenile Accountability Incentive Block Grant Funds, including matching funds of \$1,246.89 with funding from the 2002 Public Safety Budget
20. Approve a memorandum of renewal extending the temporary right-of-way agreement with E-spire through June 30, 2003 upon receipt of the signed agreement and check in the amount of \$59,721 from the company
21. Approve Project 190831: Somerset Drive – Delmar to Roe by transferring \$1,150.00 to street unallocated from contract administration, transferring \$9,026.30 to street unallocated from construction and awarding the construction contract to TSC, Inc. in the amount of \$96,347.40
22. Approve Project 190824: Crack/Slurry Seal program by transferring \$41,788.36 to street unallocated from contract administration, transferring \$203,311.64 to



- construction from contract administration and awarding the construction contract to Musselman & Hall Contractors in the amount of \$193,611.64
23. Approve Project 190825: 2002 Street Resurfacing Program by transferring \$3,875.00 to street unallocated from contract administration, transferring \$113,513.95 to street unallocated from construction and awarding the construction contract to TSC, Inc. in the amount of \$1,078,586.05
  24. Approve Project 191008: 2002 Concrete Repair Program by transferring \$300.00 to contract administration from capital expenditure program contingency, transferring \$2,240.90 to construction from capital expenditure program contingency and awarding the construction contract to Banderas Concrete in the amount of \$495,540.90
  25. Approve Project 190827: 79<sup>th</sup> Street – Mission Road to Aberdeen Street (CARS) by transferring \$2,265.49 to contract administration from street unallocated, transferring \$47,830.49 to construction from street unallocated and awarding the construction contract to TSC, Inc. in the amount of \$453,730.98
  26. Rescind its previous approval of construction change order #1 with TSC, Inc. and approve construction change order #1: for Project 190815: 71<sup>st</sup> Street & Mission Road, approve an increase of \$27,475.62 with Johnson County paying \$13,737.81 and Prairie Village paying \$13,737.81; approve a transfer of \$3,165 from contract administration to street unallocated approve a transfer of \$32,925.99 from construction to street unallocated for Project 190820: Belinder Avenue – North City limits to Somerset Drive approving a decrease of \$17,202.68 and approve a transfer of \$15,373.25 from street unallocated to construction
  27. Approve Project 190811: Mission Road and Tomahawk Road including by transferring \$18,000 from Project 190611: Prairie Park Fountain to Project 190811 for contract administration; transferring \$162,000 from Project 190611: Prairie Park Fountain construction to Project 190811 construction; transferring \$2,590 from engineering design to contract administration; transferring \$12,310 from street unallocated to contract administration; transferring \$88,622.87 from street unallocated to construction and awarding the construction contract to TSC, Inc. in the amount of \$674,122.87
  28. Accept the recommendation to replace the Mission Lane Bridge with a triple cell concrete box bridge and authorize a design agreement be prepared

A roll call vote was taken with the following members voting “aye”: Herrera, Griffith, Noll, Hopkins, Pierson, True, Wassmer, Kelso, Anthony, Wolf, Ewy Lamberson and Markley.

## **COMMITTEE REPORTS**

### **Legislative/Finance Committee**

#### **LEG2002-06 Consider Architectural Review Boards**

Ruth Hopkins reported that the Planning Commission had recently reviewed the question of whether the City of Prairie Village should implement Architectural Review Boards as suggested during the 2000 Strategic Planning process. In their review, the Planning Commission found several reasons against the implementation of an Architectural Review Board for the City.

Ruth Hopkins moved the Council not implement an Architectural Review Board for the City of Prairie Village. The motion was seconded by Steve Noll and passed unanimously.

### **Planning Commission**

Kay Wolf reported that at their April 2<sup>nd</sup> meeting, the Planning Commission gave approval for a Conditional Use Permit to Southwestern Bell for a DSL utility box to be

Mayor Shaffer acknowledged three boy scouts attending the meeting to earn their Citizenship in the Community and communications badges.

### CONSENT AGENDA

Nancy Wallerstein announced that she would recuse herself from voting on item #15 due to a conflict of interest. Andrew Wang moved the approval of the Consent Agenda for Tuesday, February 19, 2008:

1. Approve Regular Council Meeting Minutes – February 4, 2008
2. Approve the purchase of three fuel dispensers from P.B. Hoidale Co. Inc., for \$19,545.20 and the trade-in of the used three fuel dispensers.
3. Approve the purchase of a 2008 Scag Mower with grass catcher for \$11,732.00 from Bledsoe's Rental and the disposal of Asset 1124, 1127, and 1129, by auction.
4. Approve the purchase of a replacement pickup truck from Shawnee Mission Ford for \$22,596.00 and the disposal of Asset #1581 by auction.
5. Approve the purchase of a car wash machine from Kim Supply, Inc., for \$7,897.58 and disposal of Asset #0826 by trade-in.
6. Approve the purchase of a walk behind aerator from Bledsoe's Rental, Inc., for \$2,500.00.
7. Approve the purchase of an 18-foot trailer from Croft Trailer Supply for \$4,845.00 and disposal of Asset #1427 by auction.
8. Approve Construction Change Order #2 with Linaweaver Construction for a time extension until February 29, 2008.
9. Approve the purchase of a replacement spreader attachment from Coleman Equipment for \$685.00 and dispose of Asset #1515 by junk disposal.
10. Adopt Ordinance 2166 amending Chapter 1 of the Prairie Village Municipal Code, 2003; entitled "Administration" by amending Article 2, Section 212 entitled "Code of Ethics" paragraph H "Applicability of Code" and paragraph J "Enforcement of Code".
11. Adopt Ordinance 2164 amending Chapter 1 of the Prairie Village Municipal Code, 2003, entitled "Administration" by repealing the existing Article 8 entitled "Committees" and adopting a new Article 8 entitled "Committees" in its place.
12. Approve the participating membership agreement for the National Joint Powers.
13. Approve revisions to Council Policies 010, 056, 058, 250, and 301 and Personnel Policies 1100, 1125 and 1150 inserting "Council Committee of the Whole" in place of "Policy/Services Committee" and/or "Legislative/Finance Committee."
14. Direct Staff to prepare an amendment to Council Policy 058 entitled "Industrial Revenue Bonds" to allow tax abatements as a possible economic development tool and bring to the Council for review.
15. Approve all three Johnson County Park and Recreation District Contracts as written.
16. Amend Council Policy CP001 entitled "Public Committees" Section 5 "Prairie Village Sister City Committee.

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Voysey, Kelly, Wang, Wassmer, Daniels, Clark, Wallerstein (except #15), Ewy Sharp and Belz.

### STAFF REPORTS

Public Safety - Chief Wes Jordan

- Stated he covered his items in the earlier Council Committee meeting.

**COUNCIL MEETING AGENDA  
CITY OF PRAIRIE VILLAGE  
Council Chambers  
March 02, 2015  
7:30 PM**

**\*\*\*\*AMENDED AGENDA\*\*\*\***

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. PLEDGE OF ALLEGIANCE**

**IV. INTRODUCTION OF STUDENTS & SCOUTS**

**V. PUBLIC PARTICIPATION**

5 minute time limit for items not otherwise listed on the agenda

**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 City Council minutes - February 17, 2015

**VII. COMMITTEE REPORTS**

**Council Committee of the Whole**

COU2015-09 Consider purchase of a replacement wheel loader from Foley Equipment for \$181,932.28 and the disposal of Asset #1594 by auction.

COU2015-10 Consider site license agreement with KCP&L for electric vehicle charging stations

**Planning Commission**

PC2015-01 Consider request for renewal of Special Use Permit for the operation of a service station at 3901 Tomahawk Road

PC2015-02 Consider request for renewal of Special Use Permit for the operation of a service station and car wash at 8201 Mission Road

PC2013-11 Consider request for extension to SUP for Mission Chateau (motion will be entertained to table this item until the April 6, 2015 meeting)

VIII. MAYOR'S REPORT

IX. STAFF REPORTS

X. OLD BUSINESS

XI. NEW BUSINESS

1. Confirmation of appointment of Wes Jordan as Assistant City Administrator

XII. ANNOUNCEMENTS

XIII. 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 385-4616, 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](mailto:cityclerk@pvkansas.com)**

**CONSENT AGENDA**

**CITY OF PRAIRIE VILLAGE, KS**

**March 2, 2015**

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
February 17, 2015**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, February 17, 2015 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

**ROLL CALL**

Mayor Laura Wassmer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Jori Nelson, Ruth Hopkins, Steve Noll, Eric Mikkelson, Andrew Wang, Brooke Morehead, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; David Waters, Representing the City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator; Lisa Santa Maria, Finance Director; and Joyce Hagen Mundy, City Clerk. Also attending was Teen Council member Max Keeter.

Mayor Laura Wassmer led all present in the Pledge of Allegiance.

**PUBLIC PARTICIPATION**

No one was present to address the City Council.

**CONSENT AGENDA**

Council President Ashley Weaver moved the approval of the Consent Agenda for Tuesday, February 17, 2015:

1. Approve Regular City Council Minutes - February 2, 2015
2. Approve the issuance of a Cereal Malt Beverage License for 2015 to Twin Star Energy, LLC (Phillips 66) at 9440 Mission Road
3. Approve an advertising agreement with the Prairie Village Post for promotional and advertising services for the Prairie Village Jazz Festival

A roll call vote was taken with the following members voting “aye”: Weaver, Nelson, Hopkins, Noll, Mikkelson, Wang, Morehead, Runion, Morrison, Odell and Gallagher.

### **MAYOR'S REPORT**

Mayor Wassmer reported she represented the City at several events including participation in City Hall Day in Topeka along with Ruth Hopkins, Ashley Weaver, Nolan Sunderman and Quinn Bennion; DARE Program graduations at Belinder Elementary and Briarwood Elementary; she and Kate Gunja met with Shawnee Mission School Board member Donna Bysfield and Superintendent Dr. Jim Hinson regarding proposed changes to Briarwood Elementary School and she and Ted Odell met with representatives of MVS, LLC and the Mission Valley Neighborhood Association regarding possible changes to the development of the Mission Valley property.

Mayor Wassmer announced that she is accepting applications for her vacant council seat and will be interviewing candidates in March with appointment in April. She will also be interviewing candidates with Quinn Bennion, Kate Gunja and Terrence Gallagher to serve as Interim Planning Advisor on the Meadowbrook Project. She reminded the Council their assignments for the Council work session on February 21<sup>st</sup> and thanked them for their telephone conversations with the work session facilitator.

## **COMMITTEE REPORTS**

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

#### **COU2015-08 Consider approval of services agreement for textile recycling program**

On behalf of the Council Committee of the Whole, Council President Ashley Weaver moved the City Council approve the agreement with Team Thrift for the operation of a City Textile Recycling Program benefitting The Prairie Village Municipal Foundation. The motion was seconded by Ruth Hopkins and passed unanimously.

### **Planning Commission**

Kate Gunja noted the Planning Commission held a special meeting earlier in the evening to address the Final Plat for Homestead Estates. There were only four Planning Commission members at the February 3<sup>rd</sup> Commission meeting where this application was considered. The motion approving the plat and forwarding it to the Governing Body for acceptance of rights-of-way and easements and passed by a 3 to 0 vote with one abstention, representing a majority of those present. However, the city's subdivision regulations require that a final plat be approved by a majority of the Planning Commission or by four votes. At the Planning Commission meeting held earlier, the Commission voted 5 to 0 to approve the final plat and forward it to the Governing Body. A draft of the minutes of that meeting was distributed to the Council.

David Waters, representing the City Attorney reminded the Governing Body that by State Statute the approval of a plat rests with the Planning Commission. The Governing Body actions are only relative to the acceptance of rights-of-way and easements.



PC2014-123 Consider the Final Plat of Homestead Estates

Ron Williamson stated the preliminary plat was presented to the Planning Commission on December 2, 2014 and approved subject to several conditions to be met on the presentation of the Final Plat. The Final Plat for Homestead Estates, having met the conditions required by the Commission in approval of the preliminary plat was presented, to the Planning Commission on February 3, 2015. The Planning Commission approved the Final Plat of Homestead Estates forwarding it on to the Governing Body for its acceptance of rights-of-way and easements, subject to 11 conditions.

Mr. Williamson noted Conditions 3, 4, 6 and 10 have been completed. The covenants and agreement will need final review and approval of the City Attorney.

In accordance with Chapter 18.14 "Improvement Procedures" of the Subdivision Regulations, the applicant is required to complete all public improvements prior to the City signing and releasing the Final Plat for recording. The applicant agrees to the standard procedures of Chapter 18.14 that all public improvements to be dedicated on the Final Plat will be completed by applicant prior to the City signing and releasing the Final Plat for recording.

The Subdivision Regulations require the following additional information to be submitted with the Final Plat:

- A. Covenants - submitted, need review and approval by City Attorney
- B. Proof of Ownership - submitted
- C. Review by County Surveyor - submitted for information (The County Engineer will not review the Final Plat until it is approved by the City.)
- D. A Certificate showing all taxes and assessments have been paid - submitted, but will need to submit a new statement prior to execution of the plat.
- E. Construction Documents for streets, sidewalks and storm drainage - submitted.

The Final Plat has a Certificate of Property Owner, Certification of Surveyor, Planning Commission approval and Governing Body acceptance of easements and rights-of-way.

Mr. Williamson noted one of the conditions of approval was that the required landscaped island in the turnaround area of the cul-de-sac not be constructed. In staff review of the application, the Police Department felt the island would create potential traffic and safety problem with traffic.

Jori Nelson asked if there would be “no parking” or “emergency parking only” signs posted on the cul-de-sac. Chief Jordan stated the fire department in their review of the plans felt the width of the roadway was sufficient for their emergency equipment without requiring no parking signs. The Police Department follows their recommendation, but noted that this can be re-evaluated after the roadway is in place. Ms. Nelson stated she has concerns with cars from a country club event parking on both sides of the street.

Ms. Nelson also noted the length of the cul-de-sac exceeds city code. Mr. Williamson responded the code is written to address a cul-de-sac generally 500’ but provides for the process to exceed that as development necessitates. It is not a required length requirement.

Eric Mikkelson noted that he is a member of the Homestead Country Club and although that does not create a conflict of interest, he will be abstaining from discussion and not voting on this item.

Ted Odell moved the Governing Body accept the dedications of the land for public purposes and authorize the Mayor and City Clerk to execute the Final Plat for “Homestead Estates” for recording upon satisfaction of the requirements of Chapter

18.14 of the Subdivision Regulations and the conditions of approval of the Final Plat imposed by the Planning Commission. The motion was seconded by Terrence Gallagher and passed by a vote of 11 to 0 with Eric Mikkelson abstaining.

PC2014-122 Consider the Final Plat for "Mission Chateau"

Jori Nelson asked with discussions still underway on a possible revised project why action was being taken on this item. David Waters responded that the State Statutes require "The Governing Body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the submission of the Plat to the Governing Body from the Planning Commission. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body." The City has already deferred action the maximum amount allowed.

Mr. Williamson stated the Preliminary Plat for Mission Chateau was approved by the Planning Commission on February 10, 2014 subject to 14 conditions which have all been addressed in the presentation of the Final Plan. Conditions 1, 2, 3 and 5 of the preliminary plat will be addressed as a part of Condition 13. Conditions 6, 8 and 11 are shown on the Final Plat. The applicant has submitted covenants as required in Condition 7. Conditions 9, 10 and 12 will be attached to the Final Plat.

The Subdivision Regulations require the following additional information to be submitted with the Final Plat:

- A. Covenants - submitted condition 7, some minor revisions are needed.
- B. Proof of Ownership - submitted
- C. Review by County Surveyor - submitted for information (The County Engineer will not review the Final Plat until it is approved by the City.)
- D. A Certificate showing all taxes and assessments have been paid - submitted
- E. Construction Documents for streets, sidewalks and storm drainage - submitted

The Final Plat has the Certificate of Property Owner, Certification of Surveyor, Planning Commission approval and Governing Body acceptance of easements and rights-of-way.

Mr. Williamson noted the City does not want the liability or responsibility for maintaining the storm drains within pipes, the detention pond and the Dykes Branch drainage way across the north end of Lot 10. However, it is critical that this storm drainage system not be impaired. Therefore, the following text will be added to the Final Plat:

*Property Owner Maintenance of Drainage Easements and Improvements*

*The Owner of Lot 10 shall construct, install and maintain all drainage improvements (pipes, conduit, open drainage and detention areas) located in easements on Lot 10 and shall keep said improvements in good repair and fully functional.*

*If the City reasonably determines that the drainage improvements require repair or maintenance, including the removal of debris, the City shall provide written notice to such owner indicating the repair or maintenance needed. If said owner does not repair or perform such maintenance within a reasonable period of time, the City may perform the required maintenance or repair and said owner shall reimburse the City for the cost of such work. In undertaking any such repairs or maintenance, the City shall not disturb any improvements or Lot 10 unless necessary to perform such work. The City shall have no liability associated with the repair and maintenance.*

The Planning Commission approved the Final Plat for Mission Chateau on December 2, 2014 recommending the Governing Body's acceptance of the rights-of-way and easements subject to the following conditions:

1. That the applicant protects and preserves as much existing vegetation as possible along the property lines.
2. That all existing improvements be removed from the 85<sup>th</sup> Circle right-of-way and the nine single-family lots prior to recording the Final Plat.
3. That the west driveway connection and the loop drive to Mission Road from the Senior Housing Community to 85<sup>th</sup> Circle be constructed at the same time as 85<sup>th</sup> Circle.
4. That the applicant submits the Final Plat to the County Engineer after approval by the City.
5. Add Property Owner Maintenance of Drainage Easements and Improvements to text of Plat prior to submission to the Governing Body.
6. That the applicant makes revisions to the proposed covenants as requested by Staff prior to submitting the Final Plat to the Governing Body.

Ms. Nelson noted that the cul-de-sac for this development is also approximately double the 500' length referenced by the City's code. Mr. Williamson responded that the cul-de-sac is less than 500' in length with the private access roads.

Ted Odell moved the Governing Body accept the dedications of the land for public purposes and authorize the Mayor and City Clerk to execute the Final Plat for "Mission Chateau" for recording upon satisfaction of the requirements of Chapter 18.14 of the Subdivision Regulations and the conditions of approval of the Final Plat imposed by the Planning Commission. The motion was seconded by Ruth Hopkins and passed by a vote of 9 to 3 with Jori Nelson, Dan Runion and David Morrison voting in opposition.

PC2013-11 Consider Request for extension to Special Use Permit for Mission Chateau

Ted Odell moved the City Council continue consideration of the request for an extension to the Special Use Permit for Mission Chateau to March 2<sup>nd</sup> City Council meeting. The motion was seconded by Jori Nelson and passed unanimously.

**STAFF REPORTS**

**Public Safety**

- Chief Jordan provided a positive update on the medical condition of the accident victim from the 79<sup>th</sup> & Roe accident earlier in the year. He noted the driver of the other vehicle has been charged through Municipal Court
- There has been considerable press on vehicles being stolen while left running to warm up by other cities. Prairie Village has been educating its residents on this since the ordinance prohibiting leaving unattended vehicles running several years ago and has had only two vehicles stolen and three attempted thefts since the first of the year.

**Public Works**

- Keith Bredehoeft reported he is in the process of interviewing an inspector for the city's construction projects.

- He has met with KDOT and the contractor on the 75<sup>th</sup> Street Project. The projected start date for the project is March 9<sup>th</sup>. A public information meeting will be held the first week of March.
- John Nunnamaker, the city's right-of-way inspector has announced his retirement this summer after 32 years with the City.

Jori Nelson asked for recycle bins in McCrum Park. Mr. Bredehoeft responded that staff is looking at putting recycle bins in all of the city's parks.

Brooke Morehead commented on holes on 83<sup>rd</sup> Street from KCP&L work. Mr. Bredehoeft noted he has talked with KCP&L and will follow-up again.

David Morrison commended the street crews for their efforts during the recent snow events and requested an update on snow supplies that have been used. Mr. Bredehoeft replied that the highway salt purchased this year has not been used. He will provide additional reports throughout the season.

### **Administration**

- Nolan Sunderman presented the following update of Legislative Update:
  - Senate Bill 171 would move local elections to the fall of even numbered years and would make city elections partisan elections. The initial hearing was dominated by proponents of the bill. Proposed amendments are expected as this bill moves forward. The Kansas League of Municipalities is opposing this bill.

Mayor Wassmer noted our local legislators support the city's stance against the bill. Keeping local election non-partisan keeps the focus on issues and not politics.

Jori Nelson stated she could send information out to Ward 1 residents via an e-mail blast and suggested using the Village Voice and website to get information out. Mayor Wassmer noted this bill is moving too quickly for the Village Voice to be effective. The information will be added to the website and staff will send out contact information to council members to distribute and use to contact other representatives. Resident contact with legislators does make a difference in how they view issues.

- Senate Bill 65 allows for concealed weapons to be carried by public employees while working. Chief Jordan noted the Johnson County legislators are opposed to this.

Dan Runion asked if this applied to teachers. Chief Jordan responded that he believes the local school boards would still control that. Chief added that he has contacted the city's insurance carrier as to the potential liability the city would incur. They feel the employee would be liable; however, he feels there is a potential liability for the city.

- Senate Bill 45 allows for concealed carry by private citizens without permitting.

Eric Mikkelson asked what the Police Chiefs' position was. Chief Jordan replied they are not taking a position of SB45. He noted with so many legislative issues, they are attempting to prioritize their time and efforts.

- House Bill 2206 addresses Gun Violence Restraining Order Act and would be helpful in Johnson County particularly as it relates to those with mental illness.
- House Bill 2007 - Metro Law Enforcement Mutual Aid Region would allow of cooperation among different law enforcement agencies and is limited to critical incidents.
- Senate Bill 98 - addressing KORA/KOMA
- Senate Bill 171 - addressing elections
- House Bill 2138 - addressing municipal bonds

Mayor Wassmer acknowledged the extra work staff has done in addressing these legislative issues and keeping the Council informed.

- Nolan Sunderman noted upcoming Legislative Forums and meetings.
- The City Council Work session will be held Saturday, February 21<sup>st</sup> from 8:30 to 1:30 p.m. at Village Presbyterian Church.
- Kate Gunja announced that applications for the 2015 Exterior Grant Program will be accepted beginning March 2.
- The next City Council meeting will include the renewals of Special Use Permits from the Planning Commission for the service stations at 3901 Tomahawk and 8201 Mission Road. There are no physical changes being made to either site.
- The next Environment/Recycle Committee meeting will be held on Wednesday, March 26<sup>th</sup> and will feature presentations by the Sierra Club.
- Lisa Santa Maria distributed the updated Johnson County Sales Tax rate sheet noting that it has grown considerably with a number of cities issuing CID's and TDD's for projects.
- Mrs. Santa Maria noted that she distributed earlier a user fee cost recovery report covering fees charged by the city and also including information of fees charged by other cities. She will discuss this further during the 2015 budget process. The 2015 budget calendar will be distributed at the next Council meeting.
- Quinn Bennion announced that the next City Council meeting will fall during Spring Break and noted he would be seeking input from Council members on their availability for that meeting.
- The Prairie Village Municipal Foundation met recently and voted to change its name to "The Prairie Village Foundation -- Helping our neighbors, enhancing our community".
- Quinn stated that he attended the public meeting on the KCP&L rate request on February 5<sup>th</sup>. They are requesting a 12% increase and although he does not anticipate they will get the full amount, the increase will have an impact on the city's budget. Mayor Wassmer added the proposed increase is a fixed amount and not based on usage. The proposed amount would result in a \$11 increase per month per household. We will be notifying our residents of this proposed increase in our March Village Voice and on our website.

## OLD BUSINESS

Andrew Wang stated he would like the Council to have a full discussion on the structure in the Oxford/Prairie Island after the Homes Association has met on the issue. He would request that staff spend minimal additional time on this until after it is discussed further by the Council.

Eric Mikkelson noted that the Overland Park Planning Commission recently approved 150 miles of new bike lanes. When this was discussed by the City last year a map created by the Mid America Regional Council of area bike lanes and trails showed Prairie Village surrounded by cities with extensive trails and lanes and Prairie Village having minimal trails. He would like to resurrect the discussion on this issue to provide connectivity through Prairie Village to these other cities.

Brooke Morehead asked staff to set a meeting of the Committee on Committees in the near future.

### **NEW BUSINESS**

Jori Nelson stated that the sale of the shopping centers to First Washington has closed and she accessed a preliminary report from the County reflecting the following:

Corinth Square Shopping Center purchased 5/21/2009 for \$22,200,000.  
Corinth Square Shopping Center purchased 1/30/2015 for \$42,140,000.

Prairie Village Shopping Center purchased 5/21/2009 for \$27,800,000.  
Prairie Village Shopping Center purchased 1/20.2015 for \$54,915,000.

This reflects an increase in sale value of \$47,055,000 over five plus years.

### **ANNOUNCEMENTS**

#### **Committee meetings scheduled for the next two weeks:**

Arts Council	02/18/2015	7:00 p.m.
Environment/Recycle Committee	02/25/2015	7:00 p.m.
VillageFest Committee	02/26/2015	7:00 p.m.
Council Committee of the Whole	03/02/2015	6:00 p.m.



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The Prairie Village Arts Council is pleased to present an exhibit by Kermit Dyer & Ed Harper in the R. G. Endres Gallery during the month of February.

Deffenbaugh does not observe the President’s Day Holiday. Trash pick-up will follow its regular schedule.

The Council Work Session will be held on Saturday, February 21<sup>st</sup> at Village Presbyterian Church beginning at 8:30 a.m.

The 2015 annual large item pick up has been scheduled. Items from homes on 75<sup>th</sup> Street and north of 75<sup>th</sup> Street will be collected on Saturday, April 11<sup>th</sup>. Items from homes south of 75<sup>th</sup> Street will be collected on Saturday, April 18<sup>th</sup>.

**Executive Session**

David Morrison moved pursuant to KSA 75-4319 (b) (6) that the Governing Body, recess into Executive Session in the Multi-Purpose Room for a period not to exceed 30 minutes for the purpose of discussing possible acquisition of property. Present will be the Mayor, City Council, City Administrator, Assistant City Administrator, Jeff White with Columbia Capital Management and the City Attorney. The motion was seconded by Andrew Wang and passed unanimously.

The meeting was reconvened at 9:20 p.m.

**ADJOURNMENT**

With no further business to come before the City Council the meeting was adjourned at 9:20 p.m.

Joyce Hagen Mundy  
City Clerk



## PUBLIC WORKS DEPARTMENT

Committee Meeting Date: March 2, 2015  
Council Meeting Date: March 2, 2015

### CONSIDER PURCHASE OF REPLACEMENT WHEEL LOADER AND DISPOSAL OF ASSET #1594 BY AUCTION.

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#### RECOMMENDATION

Staff recommends the City Council approve the purchase of a replacement wheel loader from Foley Equipment for \$181,932.28 and the disposal of Asset #1594 by auction.

#### BACKGROUND

With the 2014 and 2015 budgets funds were added to the Equipment Reserve Fund for the replacement of Asset #1594, a 1999 John Deere 544H Wheel Loader. Staff proposes to purchase the replacement wheel loader, a Caterpillar 924KHL, using the National Joint Power Alliance (NJPA), a national purchasing cooperative regularly used for this type of purchase. We also looked at the purchasing cooperative through MARC but the NJPA had the best price. Attachments included in this purchase include a material lift arm, 60" forks, and a grapple bucket.

The wheel loader is an essential piece of equipment for public works and is used year around on almost a daily basis. It is used to load and move materials daily and is essential to tree debris removal and snow plow operations. For Prairie Village this is an essential piece of equipment and it needs to be very dependable when needed. Given that our current loader is 16 years old and does have some maintenance concerns going forward it is time to replace with a new wheel loader.

Public Works did consider Case, John Deere, and Caterpillar wheel loaders. All three were delivered to public works and were used by our crews. Detailed pricing for both the John Deere and the Caterpillar were obtained and after the analysis they were within \$1,000.00 of each other. Our crews unanimously preferred the Caterpillar to the other two manufacturers.

Pricing was obtained on leasing a wheel loader. The pricing was over \$5000.00 per month to lease and therefore purchasing pays for itself in about three years. Typically leasing this type of equipment is for shorter durations and not for a situation like ours where we need a wheel loader year around.

#### FUNDING SOURCE

Funds were placed in the Equipment Reserve Fund in 2014 and 2015 for this item.

#### RELATION TO VILLAGE VISION

*TR3a. Ensure the quality of the transportation network with regular maintenance as well as efficient responses to seasonal issues such as snow removal.*

#### ATTACHMENTS

None

#### PREPARED BY

Keith Bredehoeft, Director of Public Works

February 25, 2015



**Consider Site License Agreement with KCP&L for Electric Vehicle Charging Stations**

**RECOMMENDED MOTION:**

Move that the City Council approve the Site License Agreement with KCP&L to install three Electric Vehicle Charging Stations at City Hall.

**BACKGROUND:**

Tom Robinson, Community Business Manager with KCP&L, recently contacted the City regarding the possible installation of three electric vehicle charging stations at the City Hall complex. KCP&L has announced a program to install 1001 charging stations across their service territory. The plan is to install them at host businesses to spur electric vehicle adoption and create a wide network of charging stations to overcome the barrier of where owners can charge away from home.

Mr. Robinson has shared the following information with the City, in addition to the attached information:

- KCP&L is wrapping up the first part of the project to install 15 Level 1 Fast Charge stations. They are starting on the second phase, the installation of Level 2 stations.
- The Level 2 stations will be more numerous than the fast charge stations, and they are trying to identify locations and hosts for the stations. The strategy is to install the infrastructure and have a host pay for the electricity for the first two years while they work on a payment mechanism for electric vehicle users.
- KCP&L believes the cost to the host for electricity usage will be nominal, somewhere from \$50 to \$100 per charging station per month. There are no additional charges to host.
- KCP&L has proposed to install three charging stations at the city hall/community center/pool complex.

If Council chooses to move forward with the Agreement, staff proposes that the stalls be located in the lower end of the City Hall parking lot. Based on the estimate provided by KCP&L, the annual cost to the City for electricity would be between \$1,800 and \$3,600. If approved, installation could occur as soon as the end of the month (March 2015).

KCP&L initially asked to be notified by February 27 if the City would like to participate in this program. Staff requested an extension until March 3 to allow this item to be presented to the City Council.

**ATTACHMENTS:**

- Site License Agreement
- KCP&L Electric Vehicle Charging Station Project Presentation

**PREPARED BY:**

Keith Bredehoeft, Director of Public Works

Date: February 27, 2015

## SITE LICENSE AGREEMENT

THIS SITE LICENSE AGREEMENT (“*Agreement*”) is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ (“*Effective Date*”) between Kansas City Power & Light Company (“*KCP&L*”), a Missouri Corporation, with a mailing address at 1200 Main Street, Kansas City, Missouri 64105 and \_\_\_\_\_, a Missouri limited liability company, with a mailing address at \_\_\_\_\_ (“*Host*”).

WHEREAS, Host is the owner of that certain property legally described and depicted on Exhibit A (the “*Site*”);

WHEREAS, KCP&L desires to install and operate \_\_\_\_ Level two Electric Vehicle Supply Equipment station(s) (together with all related utilities and accessories, the “*EVSE*”) in the location(s) shown on the Site Plan on Exhibit B pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions and agreements set forth herein, KCP&L and Host agree as follows:

1. License. Host hereby grants to KCP&L a license to install and operate the EVSE station in the location(s) within the Site shown on Exhibit B in accordance with and subject to the terms and conditions of this Agreement. The EVSE shall include a vehicle charging station and related signage. KCP&L (or its affiliates) shall (a) at no cost to Host, install all necessary electrical service, connections and equipment to serve the EVSE, and (b) provide all necessary electric utility services to Host at the EVSE. Host agrees to take reasonable actions to assist KCP&L with the installation of the EVSE. Upon completion of installation of the EVSE, Host understands and acknowledges that ownership of the EVSE shall remain with KCP&L.

2.

Consumption Costs (Check the box that applies; if no box is checked, it is Host Responsibility).

A. Host Responsibility (check here): \_\_\_\_\_. Host shall be responsible for all kilowatt usage costs of the EVSE for the first two years of the Term (as defined in Section 9 below). . After the first two years of the Term, KCP&L will deploy .a payment platform at the EVSE station(s) that will facilitate payment by the end user and Host shall have no further responsibility for the payment of usage costs. Host represents and warrants that it will not charge any third party for the consumption or usage of said power, electrical and/or usage costs at any time during the Term of this Agreement.

B. Account Holder Responsibility (check here): \_\_\_\_\_.An “Account Holder” is a tenant of the Host that is currently a KCP&L customer and that pays the KCP&L electric bill at the Site(s) where the EVSE will be located. If this box is checked, the Account Holder shall be responsible for all kilowatt usage costs of the EVSE for the first two years of the Term (as defined in Section 8 below). After the first two years of the Term, KCP&L will deploy .a payment platform at the EVSE station(s) that will facilitate payment by the end user and Host shall have no further responsibility for the payment of usage costs. Account Holder represents and warrants that it will not charge any third party for the consumption or usage of said power, electrical and/or usage costs at any time during the Term of this Agreement.

3. Access. Host shall provide KCP&L access to and sufficient space for locating the EVSE at the locations shown on the Site Plan, and also agrees to provide governmental authorities access to the EVSE for any inspections and installation of monitoring hardware and/or software on the EVSE as

necessary for KCP&L to fulfill its reporting requirements to regulatory entities. Host will allow potential end users access to the area where the EVSE is located in the same manner that it grants non-end users access to the area.

4. Operation. KCP&L shall operate the EVSE in accordance with commercially reasonable practices. However, uninterrupted service is not guaranteed, and KCP&L may interrupt service when necessary to ensure safety or to perform maintenance. If any governmental license or permit shall be required for the proper and lawful use of the EVSE, KCP&L, at its sole cost and expense, shall obtain and thereafter maintain the same and shall comply with all of the terms and conditions thereof. KCP&L shall promptly deliver copies of all such licenses and permits to Host..

Hours of Operation; Demand Response Procedures. Except as otherwise provided herein, the EVSE shall be operated by KCP&L for up to 24 hours each day and made available to the general public. Further, Host acknowledges and agrees that KCP&L will be utilizing “Demand Response” (“**DR**”) procedures. The EVSE will display a message notifying the consumer of the various DR application scenarios. Host acknowledges and understands that KCP&L utilizes such Demand Response options to optimize usage at peak times, which could result in temporarily disabling the EVSE from electrical output or consumption during the Term of this Agreement. Host shall not charge KCP&L or any other party rent or any other fees to use the Site during the Term of this Agreement.

5. Consent; Permits. KCP&L shall not install the EVSE, including any utility service, equipment or accessories or, after the installation thereof, alter the EVSE or any of its components in any manner that requires architectural or engineering plans without first obtaining Host’s prior written approval (which shall not be unreasonably withheld, conditioned or delayed) of the architectural and engineering plans and specifications therefore. KCP&L shall not install the EVSE or any utility service, equipment or accessories until all required municipal and other governmental permits and authorizations have been obtained by KCP&L.

6. Marketing. The parties understand and agree that the EVSE will be KCP&L-branded. KCP&L may publish and promote the locations of the Sites throughout the Term of the Agreement. Host’s name may also be used in the initial launch of the program. Thereafter, neither party will make any press release or otherwise formally publicize the EVSE on the Site without first obtaining formal written approval from the other party. With respect to any marketing efforts including but not limited to logos, stickers, decals or signage made a part of equipment purchased or infrastructure established; or any printed materials or other marketing and/or outreach materials, activities, or websites created by Host under this Agreement, Host agrees to submit in advance any such marketing effort to review and approval by KCP&L, which approval shall not be unreasonably withheld, conditioned or delayed.

7. Maintenance and Repair. KCP&L shall maintain the EVSE in good working condition ordinary wear and tear excepted during the Term of this Agreement. Host shall maintain the common area improvements immediately surrounding the EVSE in good condition ordinary wear and tear excepted and will promptly notify KCP&L of any problems it is aware of related to the EVSE. Such maintenance by Host of the immediately surrounding common areas shall include, but not be limited to, pavement maintenance and snow removal services.

8. Term and Termination. This Agreement shall commence on the Effective Date and continue in effect through \_\_\_\_\_ December \_\_\_\_\_, 2024 (“**Term**”); provided, however, KCP&L has the right to terminate this Agreement at any time by delivering written notice of such election to Host, in which case the Agreement shall terminate on the date that is 10 days after the Host’s receipt of the termination notice. If KCP&L fails to perform any of its obligations or comply with any of the other terms and conditions of this Agreement and such failure continues for a period of 15 days after receipt of

written notice from Host, Host may immediately terminate the Agreement by delivering written notice to KCP&L. Upon the expiration or termination of this Agreement, KCP&L will remove the EVSE at KCP&L's cost and expense and restore the portions of the Site on which the EVSE was installed to a condition similar to the Site on which the same was installed prior to installation of the EVSE ordinary wear and tear accepted.

9. Liens. Host represents and warrants that (a) Host is the fee simple owner of the Site and has good and marketable title to the Site and (b) the contents and terms of this Agreement are not in violation of any other agreement entered into by Host with any other party. Neither party will allow any liens or encumbrances to be placed on the EVSE or the Site. If any liens are placed on or filed against the EVSE, or the Site as a result of any work or materials contracted by or on behalf of either party hereto, said party shall cause the lien to be released of record within 15 days after the filing thereof. Nothing in this Agreement shall be construed as empowering either party to encumber or cause to be encumbered the title or interest of Host to the Site nor KCP&L to the EVSE in any manner. Each party shall indemnify the other party against, and hold the other party harmless from, any and all loss, damage, claims, liabilities, judgments, interest, costs, expenses, and attorney fees arising out of the filing of any such lien that is in violation of this section.

10. Insurance. Each party agrees that it will at all times during the term hereof, at its own expense, procure, maintain and keep in force insurance with an insurance company authorized to transact business in the State of Missouri, a commercial general liability insurance policy covering: (a) the operation and use of the EVSE (in the case of KCP&L) and (b) the operation and use of the Site (in the case of Host), in each case affording protection in an amount of not less than One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for injury to or death of one or more persons. The policy must include customary coverages for liability arising from premises, operations, independent contractors and liability assumed under an insured contract. The policy shall name the other party hereto (including said party's parent, affiliates, subsidiaries, officers, directors, employees, agents and assigns) as additional insureds whereby neither party may cancel or reduce the insurance without first giving the other party hereto at least 30 days prior written notice. Each party further covenants to deposit with the other party a certificate of such insurance and the certificate of each such renewal policy complying with the terms of this Agreement.

Further, unless third-party insurance coverage is required by applicable law, both parties shall have the right to self-insure against perils and liabilities for which it would otherwise be required to obtain insurance under the terms of this Agreement. If a party elects to self-insure against certain perils and/or liabilities against which it would otherwise be required to obtain a policy of insurance under this Agreement, then for purposes of this Agreement, such party shall be deemed to hold insurance against such perils and/or liabilities in the minimum amounts of insurance which such party is otherwise required to maintain under the terms of this Agreement. By so electing, such party shall be deemed to be self-insuring against the perils and/or liabilities that are the subject of such claims.

11. Waiver. Host and KCP&L each hereby waive (to the extent of insurance proceeds collected) any and all rights of recovery, claim, action or cause of action against the other, its agents, officers, or employees for any damage that may occur to the Site, including but not limited to the EVSE, and/or any personal property of such party therein by reason of any cause which is insured against under the terms of any insurance policies referred to herein or self-insured, regardless of cause or origin, including negligence.

12. Indemnification. KCP&L shall be liable for, and shall indemnify, defend and hold Host harmless from, any and all liabilities, claims, demands, administrative proceedings, orders, judgments,

assessments, fines, penalties, costs and lawsuits, of whatever nature (collectively, “*Liabilities*”), arising out of the negligent, willful or intentional acts or omissions of KCP&L, its express agents, contractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement. Host shall be liable for, and shall indemnify, defend and hold KCP&L harmless from any and all Liabilities arising out of the negligent, willful or intentional acts or omissions of Host, its agents, contractors, subcontractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement. Notwithstanding the foregoing, neither party shall be liable for or be required to indemnify, defend or hold the other party harmless to the extent of any Liabilities that are caused by the negligent, willful or intentional acts or omissions of the other party hereto.

13. No Consequential Damages. Except for indemnification obligations to third parties as set forth in Section 14 of this Agreement, neither party shall be liable to the other party for any special, incidental, consequential, punitive or indirect damages or loss of profit or business interruption damages whatsoever.

14. Performance. Performance under this Agreement is subject to all valid laws, rules and regulations of courts or regulatory bodies having jurisdiction.

15. Casualty. If all or any portion of the EVSE on the Site are damaged or destroyed by fire or other casualty which materially and adversely affects the operation of the EVSE (any, a “*Casualty*”), Host shall have the right to terminate the Agreement by written notice to KCP&L in which event the Agreement shall terminate on the date that is 10 days after the date of Host’s termination notice and KCP&L may elect to remove the EVSE from the Site. In the event of any Casualty which materially and adversely affects the operation of the EVSE, KCP&L shall have the right to terminate the Agreement by written notice to Host within 14 days after the Casualty, in which event the Agreement shall terminate on the date that is 10 days after the date of KCP&L’s termination notice and KCP&L may elect to remove the EVSE from the Site.

16. Assignment. This Agreement and the rights conferred hereunder shall not be assigned by either party except with the prior written consent of the other party in each instance, and such consent shall not be unreasonably withheld, conditioned or delayed.

17. Entire Agreement. This Agreement and the exhibits attached hereto contains the entire agreement of the parties. No term or provision of this Agreement may be modified, amended, changed, or waived, temporarily or permanently, except, in the case of modifications, changes and amendments, pursuant to the written consent of both parties to this Agreement, and in the case of waivers, pursuant to the written consent of the waiving party.

18. No Partnership. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, franchise or association, nor shall this Agreement render KCP&L and Host liable as partners, co-venturers or principals.

19. Governing Law. This Agreement shall be governed by the laws of the State of [\*NOTE: insert Kansas or Missouri, depending on the location of the installation\*].

20. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument. Facsimile and digital electronic signatures shall constitute original signatures for purposes of this Agreement.

21. Notice. Any and all notices shall be in writing and addressed to the parties at the addresses specified below or such other addresses as either party may direct by notice given in accordance with this section, and shall be delivered in one of the following manners: (i) by personal delivery, in which case notice shall be deemed to have been duly given when delivered; (ii) by certified mail, return receipt requested, with postage prepaid, in which case notice shall be deemed to have been duly given on the date indicated on the return receipt; or (iii) by reputable delivery service (including by way of example and not limitation Federal Express, UPS and DHL) which makes a record of the date and time of delivery, in which case notice shall be deemed to have been duly given on the date indicated on the delivery service's record of delivery.

If to KCP&L:

Kansas City Power & Light Company  
Attn: \_\_\_\_\_  
One Kansas City Place  
1200 Main Street  
Kansas City, Missouri 64105  
Email Address: \_\_\_\_\_

If to Host:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Headings. Section headings herein have been inserted for reference only and shall not be deemed to limit or otherwise affect, in any manner, or be deemed to interpret in whole or in part any of the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement agreeing to be bound by the terms herein as of the date first above written.

**KCP&L**  
Kansas City Power & Light Company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HOST:**

\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_



Title: \_\_\_\_\_

**ACCOUNT HOLDER (both Host and Account  
Holder Must Sign if the box in Section 2.B is checked):**

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of Site**

**[Insert here]**

**EXHIBIT B**

**Site Plan where EVSE(s) will be located within the Site**

# ***KCP&L Electric Vehicle Charging Station Network***

**January 2015**



***Confidential and proprietary. Not for distribution without specific written authority from KCP&L.***

# KCP&L's Clean Charge Network



- KCP&L will design and install a network of more than 1,100 EV charging stations (2,200 plus charging ports)
- Infrastructure sufficient to charge 10,000+ EV's
- The vast majority will be Level 2 charging stations with some Level 3 (DC fast charge) stations
- Installed in groups of 3-5 stations with ports for up to 10 vehicles
- Designed as utility infrastructure
- Focus on publicly accessible, high population density / long dwell time areas, workplaces and geographic dispersion
- Completely free to host companies except for first two years electricity use
- One standard communications and payment platform
- Time of use rates, demand management programs and vehicle to grid distributed electric discharge

# High-level Situation Analysis

## **Electric vehicle sales mirror the adoption of hybrid vehicles:**

- 17 models currently available; 18 more expected within 18 months
- Annual EV growth is better than 100% (ranges from 103% - 525%)
- There are 260,000 EV's currently the road in the U.S.
- 1,600 in Missouri (107% annual growth); 692 in Kansas (153% annual growth)
- Considerable cost savings for EV drivers (fuel and maintenance)

## **Readily available electric vehicle charging stations are necessary for EV adoption:**

- Average EV driver has a commute of 40 miles a day or less
- Range anxiety is a major barrier to purchasing an EV; the ability to charge outside the home is critical to eliminating this barrier
- Where there is EV infrastructure, EV's are selling at a robust pace

## **Electric utilities are uniquely positioned to build out EV charging station networks:**

- EV charging stations are electrical infrastructure and necessarily impact the design, operation and cost of the electric grid
- Utilities are infrastructure companies with customer touch points throughout the region and electric grid expertise
- Where EV's sales are high, existing third party charging infrastructure is quickly outpaced and no one is stepping forward to address this issue
- Policy implications are numerous and are likely to be handled in a variety of disparate forums that will optimize to specific variable stakeholder variables
- Customers want EV's and the resulting load is beneficial

# KCP&L's Clean Charge Network



*Confidential and proprietary. Not for distribution without specific written authority from KCP&L.*

# Aligning Charging Solution to Driver Activity

	Driver Activity	Parking Duration	Activity Examples
DC Fast Chargers	Road Trip	<30 minutes	+ Planned stop en route to a long distance destination: Weekend Travel, Intercity or Long Haul
	Errands	<30 minutes	+ Short stops while out and about town to top-off battery: - Single shops, coffee shops, fast food
Level II Charging	Shop	30 minutes to 2 hours	+ Replenish energy used to top-off batteries during longer stops around the town : - Shopping malls, etc.
	Dine	1-4 hours	+ Sit-in Restaurants
	Play	2-6 hours	+ Sports grounds, Golf clubs, Theater
	Work	4-8 hours	+ Commuting to workplace
	Sleep	>8 hours	+ Overnight charging while at home or at a hotel



# Host & KCP&L Responsibilities

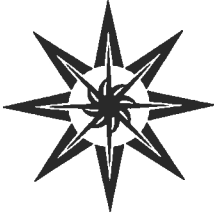
Host Site	KCP&L
6-10 mutually agreeable parking spaces reserved for EV's	Install and maintain EV charging stations at no charge to host site
Parking spaces must have reasonable access to electrical infrastructure	Establish and maintain a charging payment system within two years of June 2015
Access for KCP&L and/or its contractor to survey, design, construct and maintain EV charging stations	Establish rates, demand side programs and V to G programs within regulatory guidelines and approvals
10 year term for host agreement	Replace parking lot to substantially same condition
Agreement to pay first 2 years of electrical usage (usually \$50-\$100 per charging station)	Establish mutually agreeable customized parking / charging rules and programs
Mutually agreeable EV charging station signage	24-7 monitoring of EV charging stations
Public access to charging stations (within existing host limitations)	Usage reports and information for host sites
Standard commercial terms and conditions	Create and maintain an EVCS location map on mobile optimized website

# Customer and Community Benefits

- Reduces cost for EV infrastructure through economies of scale and central design
- Affordable access to EV's for more people
- Lower costs of ownership, maintenance and fuel for EV drivers
- Cleaner air and cleaner environment
- Improved and more efficient grid planning and reliability
- Standardized communication and payment platforms
- Robust stakeholder process on policy issues
- Expansion of smart-grid technology
- Additional customer programs for energy efficiency, demand response, distributed generation and renewables
- Enhanced regional economic development

# Other Aspects of the Project

- Development of a regional EV owner affinity group with access to value-added programs from manufacturers, dealers and KCP&L
- Create a social media platform focusing EVs, EV charging and EV drivers and the EV lifestyle
- EV charging network website and mobile app
- Integration with other smart grid technology currently deployed on the KCP&L electrical grid
- Integration in high profile areas with solar installations and other distributed generation
- Special events in partnership with manufacturers, dealers and other technology companies focused
- Introduce legislation for state tax incentives



## PLANNING COMMISSION

Council Meeting Date: March 2, 2015

**PC2015-01: Consider Request for Renewal of Special Use Permit for the operation of a Service Station at 3901 Tomahawk Road**

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### RECOMMENDATION

Recommend the Governing Body adopt Ordinance 2325 approving the Renewal of a Special Use Permit for the operation of a Service Station at 3901 Tomahawk Road confirming the Findings of Fact as adopted by the Planning Commission and subject to the conditions recommended by the Planning Commission.

### BACKGROUND

In 1991, the Governing Body approved a Special Use Permit for a self-service gas station with a canopy and food mart. The Special Use Permit was approved for a period of 10 years and it was renewed in 2002 for a period of 10 more years. The ten-year period expired in 2012 and the applicant is requesting renewal of the Special Use Permit. In 1997, the Planning Commission approved a Site Plan for rebranding the service station. There are no changes to the site plan or building proposed.

The applicant held a neighborhood meeting on December 23<sup>rd</sup> and no one attended. Also no one was present to speak on the application at the public hearing held before the Planning Commission on Tuesday, February 3, 2015 (minutes attached).

The Planning Commission reviewed the criteria for approval of the Special Use Permit and the "Golden Factors" and found favorably on the criteria recommending the recommend the Governing Body approve the renewal of the Special Use Permit for the operation of a Service Station at 3901 Tomahawk Road subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all lighting on the property be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. If it is determined that a groundwater remediation or monitoring system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. Since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements, including architectural style or exterior materials, to this site be submitted to the Planning Commission for Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout

the life of the project. The applicant shall replace dead plants and plants in poor condition this spring.

The Governing Body (which includes the Mayor and City Council) shall make its findings of fact based on the following "Golden Factors" and the criteria for approval of a Special Use Permit which are reflected in the February 3, 2015 minutes of the Planning Commission regarding this application.

Since no protest petitions were filed, the Governing Body has the following options:

- A. Adopt the recommendation of the Planning Commission and approve the Special Use Permit which requires a majority of the Governing Body (7 votes), or
- B. Override the recommendation of the Planning Commission by a 2/3 vote of the Governing Body (9 votes), and deny the Special Use Permit or change the conditions of approval, or
- C. Return the recommendation to the Planning Commission by a simple majority vote of the quorum present with a statement specifying the basis for the Governing Body's failure to approve or disapprove the recommendation.
- D. Continue the item to a designated meeting by a simple majority of the quorum present.

#### **ATTACHMENTS**

Planning Commission minutes of February 3, 2015  
Staff Report & Application for PC2015-01  
Proposed Ordinance 2325

#### **PREPARED BY:**

Joyce Hagen Mundy, City Clerk/Planning Commission Secretary  
Date: February 9, 2015

**PLANNING COMMISSION MINUTES**  
**February 3, 2015**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, February 3, 2015, in the Municipal Building Council Chambers at 7700 Mission Road. Secretary Joyce Hagen Mundy called the meeting to order at 7:00 p.m. with the following members present: Nancy Wallerstein, Larry Levy, James Breneman, and Randy Kronblad.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Kate Gunja, Assistant City Administrator; Keith Bredehoeft, Director of Public Works; Terrence Gallagher, Council Liaison; Mitch Dringman, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

**Election of Acting Chairman**

In the absence of the chairman and vice-chairman, Commission Secretary Joyce Hagen Mundy called for nominations for the position of acting chairman for the meeting. Nancy Wallerstein nominated Randy Kronblad. The nomination was seconded by James Breneman and passed unanimously.

**APPROVAL OF MINUTES**

James Breneman noted the first line in paragraph four on page five should read "Jim Breneman questioned how the proposed changes could *increase* the foundation capacity by more than 30 percent." Nancy Wallerstein moved for the approval of the minutes of January 6, 2015 as corrected. The motion was seconded by Jim Breneman and passed by a vote of 4 to 0.

**PUBLIC HEARINGS**

**PC2015-01            Request for Renewal of Special Use Permit for Service Station  
3901 Tomahawk Road  
Zoning: C-2  
Applicant: Jeff Greene, Sunshine Fuel, LLC**

In 1991, the Governing Body approved a Special Use Permit for a self-service gas station with a canopy and food mart. The Special Use Permit was approved for a period of 10 years and it was renewed in 2002 for a period of 10 more years. The ten-year period expired in 2012 and the applicant is requesting renewal of the Special Use Permit. In 1997, the Planning Commission approved a Site Plan for rebranding the service station.

The Site Plan has not changed from the Plan that was approved in 1991 and reapproval in 2002. No changes are proposed in the operation at this time.

Mr. Williamson noted that apparently KDHE required the remediation and monitoring system to be installed when the tanks were replaced in 1991, which was a common practice at that time. KDHE closed the environmental monitoring in 2011 and monitoring is no longer required. If a situation occurs in the future that requires environmental monitoring, it will be the responsibility of KDHE. Since the environmental concerns have been abated, and use has been in place for 23 years, staff recommends that the Special Use Permit be approved for an indefinite time.

The conditions of approval of the Special Use Permit in 2002 are as follows:

1. That canopy lighting be directed as closely as possible toward the work surface and that no glare be visible on adjacent streets and properties.
2. That the applicant shall continue the groundwater monitoring requirements as specified by KDHE and if it is determined that a groundwater remediation system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan. Any changes in the architectural style or exterior materials of the buildings and structures shall be submitted to the Planning Commission for Site Plan approval.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit be valid for a period of ten years.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null-and-void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.

The applicant held a neighborhood meeting on December 23, 2014, in accordance with the Planning Commission Citizen Participation Policy and no neighbors attended.

Acting Chairman Randy Kronblad opened the public hearing to comments. With no one present to address the Commission, the public hearing was closed at 7:07.

Acting Chairman Randy Kronblad then led the Commission in review of the following criteria for Special Use Permits and Golden Factors:

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The applicant has submitted a Site Plan that includes the layout and design that was approved at the initial application and no changes are proposed at this time. Therefore, the existing building and its accessory facilities do meet the requirements of the Zoning Regulations.

- 2. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

The use has been at this location for 23 years and it does not appear that there is evidence to indicate that reapproval of this Special Use Permit would adversely affect the welfare or convenience of the public.

- 3. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

It should be noted that this is the renewal of an existing Special Use Permit and not the approval of a new use. The applicant does not propose to change the operation of the use and therefore it should not cause any additional injury to the value of the adjacent property.

Canopy lighting is an element that can have an adverse effect on neighboring property. Glare needs to be controlled so that it does not affect the neighbors or traveling public.

- 4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.**

The service station is in place and it is not proposed to change its operation. The area is completely developed around this property and it is abutted on two sides by commercial development. This is one use in a larger complex and it will not have a dominating effect on immediate neighborhood. The applicant has installed landscaping and screening on the site to help make it more compatible with the neighborhood.

- 5. Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.**

The applicant has provided three regular off-street parking spaces and one handicap space. The areas have been landscaped along Tomahawk Road to help screen the parking spaces from adjacent residences.

- 6. Adequate utility, drainage and other necessary utilities have been or will be provided.**

There will not be a need for any additional utilities because the site is already totally developed and adequately served.

- 7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The site has two accesses; one off Mission Lane and the other off Tomahawk Road. The curb cuts are close to the intersection; however, the speeds are very low in this



area and it appears that public travels cautiously so traffic hazards are minimized. The site is very small and there does not appear to be any alternative ways to change the access so that it would reduce the traffic hazards or congestion adjacent to it.

**8. Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

In 1992, a groundwater remediation and monitoring system was installed. In mid-2000s, the Kansas Department of Health and Environment (KDHE) requested that the remediation system be removed from service and dismantled. Subsequent to the dismantling, the service station has been using the room at the west end of the service station that was built to house a treatment system, for storage for the station and convenience store. According to KDHE, the service station was in a monitoring program, which was closed in 2011. KDHE does not anticipate that a groundwater remediation system will need to be reinstalled in the future. But if it does, they would request permission to do so at that time. If through its monitoring KDHE determines that the installation of a groundwater remediation system is necessary, it is suggested that it be handled as a Site Plan approval application rather than a Special Use Permit requirement. Since no auto repair work or servicing are conducted on this site, it appears that future environmental pollution will be minimized.

**9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

This is a totally built site and materials that have been used blend with the materials used in the shopping center. The applicant does not plan to change any of the architectural features of the buildings or canopy at this point in time.

If the applicant does change the architectural style or exterior materials, a Site Plan should be submitted for approval to the Planning Commission.

**GOLDEN FACTORS FOR CONSIDERATION:**

**1. The character of the neighborhood;**

The service station is located on the north edge of the Village Center on the south side of Tomahawk Road. The development on the south side of Tomahawk is a bank and shopping center, while on the north side of Tomahawk Road the development is single-family residential.

**2. The zoning and uses of property nearby;**

North: R-1B Single-Family Residential - Single Family Dwellings  
East: C-2 General Business District - Bank  
South: C-2 General Business District - Village Center  
West: R-1B Single-Family Residential - Single Family Dwellings

**3. The suitability of the property for the uses to which it has been restricted under its existing zoning;**

The C-2 General Commercial District allows a wide variety of permitted uses plus several allowed by Special Use Permit. The property is a small pad site, but has functioned effectively at this site for more than 23 years.

**4. The extent that a change will detrimentally affect neighboring property;**

This is the renewal of an existing Special Use Permit for a service station and no changes in its operation have been proposed.

**5. The length of time of any vacancy of the property;**

The property has not been vacant since it was developed as a service station in 1991.

**6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;**

The service station has been on the site since 1991 and is the only service station available in northern Prairie Village. It serves an important purpose in the area and does not create a hardship on the landowners in the area.

**7. City staff recommendations;**

The service station has operated at this location for 23 years and no change is proposed in the operation. The environmental issues have been resolved; therefore, Staff recommends the renewal of the Special Use Permit be approved.

**8. Conformance with the Comprehensive Plan.**

One of the recommendations of Village Vision is that a healthy mix of uses be established and maintained. This is the only service station in this part of the City and it provides an important service to area residents. It also complements the uses provided in the Village Center.

Nancy Wallerstein confirmed that the proposed special use permit run with the land and not have a termination or expiration time established for it. Mrs. Wallerstein noted the condition of current landscaping is poor and should be replaced. The Commission directed staff to inform the applicant that they need to replace the existing plants and maintain the new plant materials.

Nancy Wallerstein asked if the sale of the shopping center and possible changes made by the new owner would impact this Special Use Permit. Mr. Williamson responded this property is under separate ownership and would not be impacted.

Larry Levy moved that the Planning Commission find favorably on the criteria for Special Use Permits and Golden Factors and recommend the Governing Body approve the renewal of the Special Use Permit for the operation of a Service Station at 3901 Tomahawk Road subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all lighting on the property be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.

2. If it is determined that a groundwater remediation or monitoring system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. Since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements, including architectural style or exterior materials, to this site be submitted to the Planning Commission for Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project. The applicant shall replace dead plants and plants in poor condition this spring.

The motion was seconded by James Breneman and passed unanimously.

## STAFF REPORT

**TO:** Prairie Village Planning Commission  
**FROM:** Ron Williamson, FAICP, Lochner, Planning Consultant  
**DATE:** January 6, 2015, Planning Commission Meeting

Project # 000009686

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**Application:** PC 2015-01

**Request:** Renewal of SUP for a Service Station

**Property Address:** 3901 Tomahawk Road

**Applicant:** Sunshine Fuel, LLC

**Current Zoning and Land Use:** C-2 General Business District – Service Station

**Surrounding Zoning and Land Use:** North: R-1B Single-Family Residential – Single Family Dwellings  
East: C-2 General Business District – Bank  
South: C-2 General Business District – Village Center  
West: R-1B Single-Family Residential – Single Family Dwellings

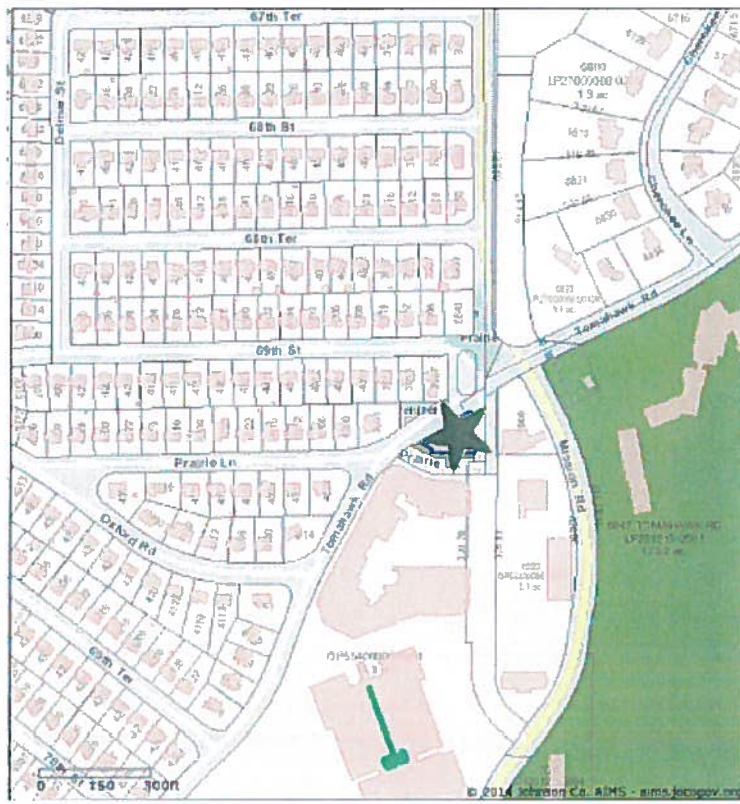
**Legal Description:** Metes and Bounds

**Property Area:** 0.24 acres

**Related Case Files:** PC 2002-13 SUP Renewal Service Station  
PC 1997-103 Site Plan Approval  
PC 1992-01 Groundwater Remediation  
PC 1991-03 SUP Service Station

**Attachments:** Photos, Application, Site Plan

**General Location Map**



**Aerial Map**



**COMMENTS:**

In 1991, the Governing Body approved a Special Use Permit for a self-service gas station with a canopy and food mart. The Special Use Permit was approved for a period of 10 years and it was renewed in 2002 for a period of 10 more years. The ten-year period expired in 2012 and the applicant is requesting renewal of the Special Use Permit. In 1997 the Planning Commission approved a Site Plan for rebranding the service station.

The Site Plan has not changed from the Plan that was approved in 1991 and reapproval in 2002. No changes are proposed in the operation at this time.

The records are not clear, but apparently KDHE required the remediation and monitoring system to be installed when the tanks were replaced in 1991, which was a common practice at that time. KDHE closed the environmental monitoring in 2011 and monitoring is no longer required. If a situation occurs in the future that requires environmental monitoring, it will be the responsibility of KDHE. Since the environmental concerns have been abated, and use has been in place for 23 years, it is recommended that the Special Use Permit be approved for an indefinite time.

The conditions of approval of the Special Use Permit in 2002 are as follows:

1. That canopy lighting be directed as closely as possible toward the work surface and that no glare be visible on adjacent streets and properties.
2. That the applicant shall continue the groundwater monitoring requirements as specified by KDHE and if it is determined that a groundwater remediation system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan. Any changes in the architectural style or exterior materials of the buildings and structures shall be submitted to the Planning Commission for Site Plan approval.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null-and-void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.

The applicant held a neighborhood meeting on December 23, 2014, in accordance with the Planning Commission Citizen Participation Policy and no neighbors attended.

There has been a court decision that Special Use Permits are in reality a change in use and should be considered in the same manner as a zoning change is considered using the "Golden Factors". The Special Use Permit ordinance has factors for consideration similar but not identical to the "Golden Factors" and therefore, both sets of factors will be presented.

The Planning Commission shall make findings of fact to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. In making its decision, consideration should be given to any of the following factors that are relevant to the request:

**FACTORS FOR CONSIDERATION SPECIFIC TO SPECIAL USE PERMITS:**

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The applicant has submitted a Site Plan that includes the layout and design that was approved at the initial application and no changes are proposed at this time. Therefore, the existing building and its accessory facilities do meet the requirements of the Zoning Regulations.

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2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

The use has been at this location for 23 years and it does not appear that there is evidence to indicate that reapproval of this Special Use Permit would adversely affect the welfare or convenience of the public.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

It should be noted that this is the renewal of an existing Special Use Permit and not the approval of a new use. The applicant does not propose to change the operation of the use and therefore it should not cause any additional injury to the value of the adjacent property.

Canopy lighting is an element that can have an adverse effect on neighboring property. Glare needs to be controlled so that it does not affect the neighbors or traveling public.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.**

The service station is in place and it is not proposed to change its operation. The area is completely developed around this property and it is abutted on two sides by commercial development. This is one use in a larger complex and it will not have a dominating effect on immediate neighborhood. The applicant has installed landscaping and screening on the site to help make it more compatible with the neighborhood.

5. **Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.**

The applicant has provided three regular off-street parking spaces and one handicap space. The areas have been landscaped along Tomahawk Road to help screen the parking spaces from adjacent residences.

6. **Adequate utility, drainage and other necessary utilities have been or will be provided.**

There will not be a need for any additional utilities because the site is already totally developed and adequately served.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The site has two accesses; one off Mission Lane and the other off Tomahawk Road. The curb cuts are close to the intersection; however, the speeds are very low in this area and it appears that public travels cautiously so traffic hazards are minimized. The site is very small and there does not appear to be any alternative ways to change the access so that it would reduce the traffic hazards or congestion adjacent to it.

8. **Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

In 1992, a groundwater remediation and monitoring system was installed. In mid-2000s, the Kansas Department of Health and Environment (KDHE) requested that the remediation system be removed from service and dismantled. Subsequent to the dismantling, the service station has been using the room at the west end of the service station, that was built to house a treatment system, for storage for the station and convenience store. According to KDHE, the service station was in a monitoring program, which was closed in 2011. KDHE does not anticipate that a groundwater remediation system will need to be reinstalled in the future. But if it does, they would request permission to do

so at that time. If through its monitoring KDHE determines that the installation of a groundwater remediation system is necessary, it is suggested that it be handled as a Site Plan approval application rather than a Special Use Permit requirement. Since no auto repair work or servicing are conducted on this site, it appears that future environmental pollution will be minimized.

**9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

This is a totally built site and materials that have been used blend with the materials used in the shopping center. The applicant does not plan to change any of the architectural features of the buildings or canopy at this point in time.

If the applicant does change the architectural style or exterior materials, a Site Plan should be submitted for approval to the Planning Commission.

**GOLDEN FACTORS FOR CONSIDERATION:**

**1. The character of the neighborhood;**

The service station is located on the north edge of the Village Center on the south side of Tomahawk Road. The development on the south side of Tomahawk is a bank and shopping center, while on the north side of Tomahawk Road the development is single-family residential

**2. The zoning and uses of property nearby;**

**North:** R-1B Single-Family Residential – Single Family Dwellings

**East:** C-2 General Business District – Bank

**South:** C-2 General Business District – Village Center

**West:** R-1B Single-Family Residential – Single Family Dwellings

**3. The suitability of the property for the uses to which it has been restricted under its existing zoning;**

The C-2 General Commercial District allows a wide variety of permitted uses plus several allowed by Special Use Permit. The property is a small pad site, but has functioned effectively at this site for more than 23 years.

**4. The extent that a change will detrimentally affect neighboring property;**

This is the renewal of an existing Special Use Permit for a service station and no changes in its operation have been proposed.

**5. The length of time of any vacancy of the property;**

The property has not been vacant since it was developed as a service station in 1991.

**6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;**

The service station has been on the site since 1991 and is the only service station available in northern Prairie Village. It serves an important purpose in the area and does not create a hardship on the landowners in the area.

**7. City staff recommendations;**

The service station has operated at this location for 23 years and no change is proposed in the operation. The environmental issues have been resolved; therefore, Staff recommends the renewal of the Special Use Permit be approved.

**8. Conformance with the Comprehensive Plan.**

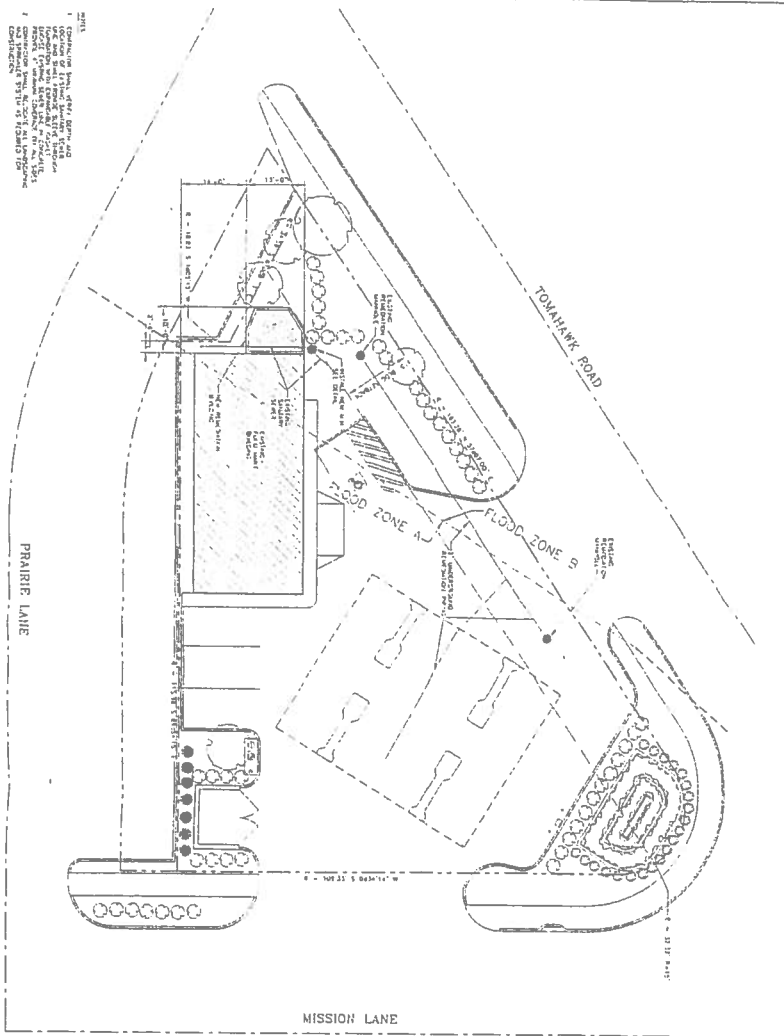
One of the recommendations of Village Vision is that a healthy mix of uses be established and maintained. This is the only service station in this part of the City and it provides an important service to area residents. It also complements the uses provided in the Village Center.



**RECOMMENDATIONS:**

It is the recommendation of Staff that the Planning Commission find favorably on both sets of factors and recommend renewal of the Special Use Permit for a service station to the Governing Body subject to the following conditions:

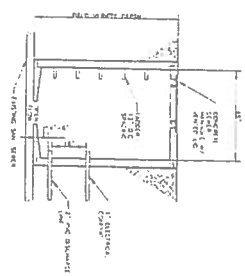
1. That canopy lighting be directed as closely as possible toward the work surface and that all lighting on the property be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. If it is determined that a groundwater remediation or monitoring system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. Since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements, including architectural style or exterior materials, to this site be submitted to the Planning Commission for Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.



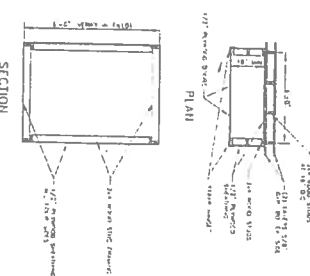
NOTES:  
 1. All building materials shall conform to the requirements of the International Building Code, 1997 Edition, as amended, and the Kansas Building Code, 1997 Edition, as amended.  
 2. All construction shall be in accordance with the Kansas Building Code, 1997 Edition, as amended.  
 3. All construction shall be in accordance with the Kansas Building Code, 1997 Edition, as amended.  
 4. All construction shall be in accordance with the Kansas Building Code, 1997 Edition, as amended.

SITE PLAN  
 Scale 1" = 40'-0"

DISCHARGE MANHOLE DETAIL  
 Scale 1/2" = 1'-0"



CONTROL PANEL CABINET  
 Scale 1/2" = 1'-0"



NO.	REVISIONS	DATE
1	REVISED FOR CONSTRUCTION	8-3-92
2	ADDED PANEL SEALS ENCLOSURE	8-5-92
3	ADDED DETAIL DISCHARGE	8-29-92
4	REVISED PER ENCLOSURE MEASUREMENT	10-9-92

**TEXAGO**  
 3901 TOMAHAWK  
 PRAIRIE VILLAGE, KANSAS

warman  
 ARCHITECTS  
 design group  
 1828 South • Suite 333 • North Kansas City, MO 64116  
 816-474-2233 • www.warmanarch.com • 816-474-1051 fax

SHEET  
 1 of 3  
 JOB NO.  
 1957-92



## ORDINANCE 2325

### AN ORDINANCE APPROVING THE RENEWAL OF A SPECIAL USE PERMIT FOR THE OPERATION OF A SERVICE STATION AT 3901 TOMAHAWK ROAD, PRAIRIE VILLAGE, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE:

**Section I.** **Planning Commission Recommendation.** At its regular meeting on February 3, 2015, the Prairie Village Planning Commission held a public hearing, found the findings of fact to be favorable and recommended that the Governing Body approve the renewal of a Special Use Permit for the operation of a Service Station at 3901 Tomahawk Road, Prairie Village, Kansas subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all lighting on the property be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. If it is determined that a groundwater remediation or monitoring system needs to be reinstalled, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. Since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements, including architectural style or exterior materials, to this site be submitted to the Planning Commission for Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project. The applicant shall replace dead plants and plants in poor condition this spring.

**Section II.** **Findings of the Governing Body.** At its meeting on March 2, 2015 the Governing Body adopted by specific reference the findings as contained in the minutes of the Planning Commission meeting of February 3, 2015, and the recommendations of the Planning Commission and approved the Special Use Permit as docketed PC2015-01.

**Section III. Granting of the Special Use Permit.** Be it therefore ordained that the City of Prairie Village grant a Special Use Permit for the operation of a service station at 3901 Tomahawk Road, Prairie Village, Kansas subject to the seven specific conditions listed above.

**Section IV. Take Effect.** That this ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper as provided by law.

**PASSED AND ADOPTED THIS 2nd DAY OF MARCH, 2015.**

**CITY OF PRAIRIE VILLAGE, KANSAS**

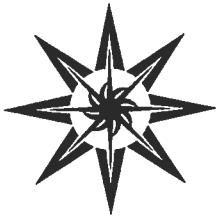
**By: \_\_\_\_\_  
Laura Wassmer, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Joyce Hagen Mundy, City Clerk**

\_\_\_\_\_  
**Catherine P. Logan, City Attorney**



## PLANNING COMMISSION

Council Meeting Date: March 2, 2015

**PC2015-02: Consider Request for Renewal of Special Use Permit for the operation of a Service Station and Car Wash at 8201 Mission Road**

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### RECOMMENDATION

Recommend the Governing Body adopt Ordinance 2326 approving the Renewal of a Special Use Permit for the operation of a Service Station and Car Wash at 8201 Mission Road confirming the Findings of Fact as adopted by the Planning Commission and subject to the conditions recommended by the Planning Commission.

### BACKGROUND

In 1991 the City Council approved a Special Use Permit for a self-service gas station with a canopy, an automatic carwash and a food mart at 8120 Mission Road. The Special Use Permit was granted for a period of 10 years and had an automatic expiration of June 3, 2001. In 1992, the City approved a Special Use Permit to allow the installation of a temporary groundwater remediation system, also for a period of 10 years, which expired on July 19, 2002. In 2002, rather than have two Special Use Permits for the site, they were combined into one; which included the approval of the service station and carwash, as well as, the groundwater remediation system. According to the KDHE records, gas odors were detected at the library and it was found that fuel apparently leaked into the stormwater system. This resulted in the installation of the remediation and monitoring system.

KDHE closed the remediation and monitoring in 2005 and it is no longer required. Therefore, the environmental monitoring portion of the Special Use Permit is no longer needed. There are no changes to the site plan or buildings proposed.

The applicant held a neighborhood meeting on December 23<sup>rd</sup> and no one attended. Also, no one was present to speak on the application at the public hearing held before the Planning Commission on Tuesday, February 3, 2015 (minutes attached).

The Planning Commission reviewed the criteria for approval of the Special Use Permit and the "Golden Factors" and found favorably on the criteria recommending the recommend the Governing Body approve the renewal of the Special Use Permit for the operation of a Service Station and Car Wash at 8201 Mission Road subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all outdoor lighting be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. That if it is determined by KDHE that a remediation or monitoring system needs to be installed, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.

5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.

The Governing Body (which includes the Mayor and City Council) shall make its findings of fact based on the following "Golden Factors" and the criteria for approval of a Special Use Permit which are reflected in the February 3, 2015 minutes of the Planning Commission regarding this application.

Since no protest petitions were filed, the Governing Body has the following options:

- A. Adopt the recommendation of the Planning Commission and approve the Special Use Permit which requires a majority of the Governing Body (7 votes), or
- B. Override the recommendation of the Planning Commission by a 2/3 vote of the Governing Body (9 votes), and deny the Special Use Permit or change the conditions of approval, or
- C. Return the recommendation to the Planning Commission by a simple majority vote of the quorum present with a statement specifying the basis for the Governing Body's failure to approve or disapprove the recommendation.
- D. Continue the item to a designated meeting by a simple majority of the quorum present.

## **ATTACHMENTS**

Planning Commission minutes of February 3, 2015  
Staff Report & Application for PC2015-02  
Proposed Ordinance 2326

## **PREPARED BY:**

Joyce Hagen Mundy, City Clerk/Planning Commission Secretary  
Date: February 9, 2015

**PLANNING COMMISSION MINUTES**  
**February 3, 2015**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, February 3, 2015, in the Municipal Building Council Chambers at 7700 Mission Road. Secretary Joyce Hagen Mundy called the meeting to order at 7:00 p.m. with the following members present: Nancy Wallerstein, Larry Levy, James Breneman, and Randy Kronblad.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Kate Gunja, Assistant City Administrator; Keith Bredehoeft, Director of Public Works; Terrence Gallagher, Council Liaison; Mitch Dringman, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

**Election of Acting Chairman**

In the absence of the chairman and vice-chairman, Commission Secretary Joyce Hagen Mundy called for nominations for the position of acting chairman for the meeting. Nancy Wallerstein nominated Randy Kronblad. The nomination was seconded by James Breneman and passed unanimously.

**PUBLIC HEARINGS**

**PC2015-02            Request for Renewal of Special Use Permit for Service Station &  
Car Wash at 8120 Mission Road  
Zoning: C-2  
Applicant: Jeff Greene, Sunshine Fuel, LLC**

In 1991 the City Council approved a Special Use Permit for a self-service gas station with a canopy, an automatic carwash and a food mart at 8120 Mission Road. The Special Use Permit was granted for a period of 10 years and had an automatic expiration of June 3, 2001. In 1992, the City approved a Special Use Permit to allow the installation of a temporary groundwater remediation system, also for a period of 10 years, which expired on July 19, 2002. In 2002, rather than have two Special Use Permits for the site, they were combined into one; which included the approval of the service station and carwash, as well as, the groundwater remediation system. According to the KDHE records, gas odors were detected at the library and it was found that fuel apparently leaked into the stormwater system. This resulted in the installation of the remediation and monitoring system.

KDHE closed the remediation and monitoring in 2005 and it is no longer required. Therefore, the environmental monitoring portion of the Special Use Permit is no longer needed.

The conditions of approval of the 2002 Special Use Permit renewal were as follows:



1. That canopy lighting be directed as closely as possible toward the work surface and that no glare be visible on adjacent streets and properties.
2. The applicant shall keep the remediation system active as requested by KDHE subject to the following conditions:
  - a. The groundwater remediation system and building shall be maintained in accordance with the plans approved in Special Use Permit Case No. 92-02.
  - b. As a condition of this Special Use Permit, the City may ask the Kansas Department of Health and Environment to determine that the clean-up process has been completed. The decision of said department shall be binding on Texaco as to whether or the clean-up process is completed. Texaco may, at its option, remove the structure at the cost to applicant. The building may be used for storage of products used in connection with the operation of the business conducted at 8120 Mission Road as authorized by the ordinances of the City of Prairie Village. The removal of structure shall also terminate this permit.
  - c. The holder of this permit will clean-up its own contamination. "Clean-up" is defined as the remediation effort by Texaco which will continue until contamination levels are at or below the action levels as prescribed by KDHE. The purpose of the structure which is authorized by this Special Use Permit is to provide housing for the equipment that is being used to clean-up present contamination.
  - d. Texaco will make reasonable efforts to obtain an annual progress report from KDHE which shall be submitted to the City Codes Administrator for the City of Prairie Village, Kansas. In the event that KDHE cannot or will not provide a timely annual progress report on the remediation of this site to the City, then this condition may be satisfied by the submission of an annual report to the City from Texaco's environmental consultant. The purpose of the report is to show what progress is being made in the clean-up process and to determine whether or not the level of contamination is above the action level as prescribed by KDHE. Annual progress reports shall be due on July 1 of each year until the remediation of this site is complete. Once remediation has been completed, there should be no further obligation on Texaco to submit annual progress reports to the City.
  - e. The City of Prairie Village, Kansas, at its option, may hire its own environmental consultant to review the annual report. Additionally, if Texaco fails or refuses to provide annual progress reports from either KDHE or its own environmental consultant as prescribed by this Special Use Permit, the City may, at its option, hire its own environmental consultant to conduct whatever tests are necessary to determine the extent of the contamination. The City shall select an environmental consultant from a list of "approved" consultants that is agreed upon by the City and Texaco. Texaco shall reimburse the City for whatever costs it may incur in hiring environmental consultants for the purposes described herein. The identity of the environmental engineer and reasonable engineer's fees for services shall be

submitted to Texaco for approval but such approval will not be unreasonably withheld.

3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan. Any changes in the architectural style or exterior materials of the buildings and structures shall be submitted to the Planning Commission for Site Plan approval.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit be valid for a period of ten years.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null-and-void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of a landscape screen is maintained throughout the life of the project.

The applicant held a neighborhood meeting on December 23, 2014, in accordance with the Planning Commission Citizen Participation Policy and no neighbors attended.

Acting Chairman Randy Kronblad opened the public hearing. With no one present to address the Commission, the public hearing was closed at 7:15 p.m.

Acting Chairman Randy Kronblad led the Commission in review of the following criteria for Special Use Permits and the Golden Factors:

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The applicant has submitted a Site Plan that includes the layout and design that was approved and constructed based on initial application and the applicant does not propose to change any of the features. Therefore, the existing buildings and its accessory facilities do meet the requirements of the zoning regulations.

2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

The use has been at this location for approximately 23 years and it does not appear that there is evidence to indicate that reapproval of this Special Use Permit would adversely affect the welfare or convenience of the public.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

It should be noted that this is a renewal of an existing Special Use Permit and not an approval of a new use. The applicant does not propose to change the operation of the use and therefore it should not cause any additional injury to the value of the adjacent property. It should also be noted that this site is located within a business area and that there is a bank to the west, a shopping center to the south, and multi-family residences

to the east. The site is not located in an area that would affect single family residential development.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.**

The service station is in place and the applicant does not propose to change its operation. The area is completely developed around this property with commercial on the south and west and multi-family residences on the east. The Johnson County Library is adjacent to the north side. This use is part of a larger complex and it will not have a dominating affect on immediate neighborhood. The applicant has installed landscaping and screening on the perimeter site to help make it more compatible with the neighborhood.

5. **Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.**

The applicant has provided four regular off-street parking spaces and one handicap space. The parking area is located on the west side of the site, away from the residential property. There is a significant amount of distance between the parking and residential development on the east side of Mission Road.

6. **Adequate utility, drainage and other necessary utilities have been or will be provided.**

There will not be a need for any additional utilities because the site is already developed and adequately served.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The site has two accesses from Somerset Drive and one from Mission Road. The pumps, the car wash and the store are set back from the streets so that there is adequate room for traffic to pull off and get onto the site. Even though it is a congested area, it appears that the site is designed in such a manner that it accommodates the traffic with a minimal amount of conflict.

8. **Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

A groundwater remediation and monitoring system was installed in 1992 to eliminate the gasoline contamination at the facility. KDHE has reported that the levels of contamination have decreased and closed the monitoring in 2005. When the Special Use Permit was originally approved for the remediation system, there were 10 conditions and none of those are needed now.

9. **Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

This is a totally built site and the materials that have been used on the buildings are similar to those that have been used in the other buildings in the shopping center and in the nearby area. The applicant does not plan to change any of the architectural features of the buildings or canopy at this point in time, but in the event that the applicant does make changes in the future it should be submitted to the Planning Commission for Site Plan approval.

#### **GOLDEN FACTORS FOR CONSIDERATION:**

1. **The character of the neighborhood;**  
The neighborhood has a large amount of retail, office and other commercial uses primarily on the west side of Mission Road. There are senior multi-family residences to the east and single-family residences to the far northwest. The immediate area is a very intensely developed business area.
2. **The zoning and uses of property nearby;**  
North: R-1A Single-Family Residential - Library  
East: C-2 General Business District - Claridge Court  
South: C-2 General Business District - Corinth Square Center  
West: C-1 Restricted Business District - Bank
3. **The suitability of the property for the uses to which it has been restricted under its existing zoning;**  
The C-2 General Business District permits a wide variety of uses plus several Special Use Permits. The property has been developed as a service station/carwash for over 20 years. There are many uses that could be developed on this site under its existing zoning.
4. **The extent that a change will detrimentally affect neighboring property;**  
This use has been at this location for more than 20 years and has not had a detrimental effect on neighboring properties. This is a highly developed commercial area and the service station fits well in this environment.
5. **The length of time of any vacancy of the property;**  
This property has not been vacant since it was originally approved for a service station in 1983.
6. **The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;**

This is an existing development in a totally developed area and does not create a hardship on the individual owners. This is a needed use in this area and provides a service to the local residents.

**7. City staff recommendations;**

The applicant proposes no changes to the existing service station/carwash, it has functioned well at this location, no significant issues have been created by the use and it provides a needed service for the area; therefore, Staff recommends the Special Use Permit for the service station/carwash be renewed.

**8. Conformance with the Comprehensive Plan.**

One of the recommendations of Village Vision is that a healthy mix of uses be established and maintained. This is the only service station in this part of the City and it provides an important service to area residents. It also complements the uses provided in Corinth Square Center.

Larry Levy moved that the Planning Commission find favorably on the criteria for Special Use Permits and Golden Factors and recommend the Governing Body approve the renewal of the Special Use Permit for the operation of a Service Station at 8201 Mission Road subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all outdoor lighting be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. That if it is determined by KDHE that a remediation or monitoring system needs to be installed, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.

The motion was seconded by James Breneman and passed unanimously.

## STAFF REPORT

**TO:** Prairie Village Planning Commission  
**FROM:** Ron Williamson, FAICP, Lochner, Planning Consultant  
**DATE:** January 6, 2015, Planning Commission Meeting

Project # 000009686

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**Application:** PC 2015-02

**Request:** Renewal of SUP for a Service Station and Carwash

**Property Address:** 8120 Mission Road

**Applicant:** Sunshine Fuel, LLC

**Current Zoning and Land Use:** C-2 General Business District – Service Station and Carwash

**Surrounding Zoning and Land Use:** North: R-1A Single-Family Residential - Library  
East: C-2 General Business District – Claridge Court  
South: C-2 General Business District – Corinth Square Center  
West: C-1 Restricted Business District – Bank

**Legal Description:** Metes and Bounds

**Property Area:** 0.85 acres

**Related Case Files:** PC 2002-12 Special Use Permit Renewal  
PC 1992-02 Special Use Permit Environmental Remediation  
PC 1991-02 Special Use Permit Renewal  
PC 1983-108 Special Use Permit for Service Station

**Attachments:** Application, Site Plan, Photos

**General Location Map**



**Aerial Map**



**COMMENTS:**

In 1991 the City Council approved a Special Use Permit for a self-service gas station with a canopy, an automatic carwash and a food mart at 8120 Mission Road. The Special Use Permit was granted for a period of 10 years and had an automatic expiration of June 3, 2001. In 1992, the City approved a Special Use Permit to allow the installation of a temporary groundwater remediation system, also for a period of 10 years, which expired on July 19, 2002. In 2002, rather than have two Special Use Permits for the site, they were combined into one; which included the approval of the service station and carwash, as well as, the groundwater remediation system. According to the KDHE records, gas odors were detected at the library and it was found that fuel apparently leaked into the stormwater system. This resulted in the installation of the remediation and monitoring system.

KDHE closed the remediation and monitoring in 2005 and it is no longer required. Therefore, the environmental monitoring portion of the Special Use Permit is no longer needed.

The conditions of approval of the 2002 Special Use Permit renewal were as follows:

1. That canopy lighting be directed as closely as possible toward the work surface and that no glare be visible on adjacent streets and properties.
2. The applicant shall keep the remediation system active as requested by KDHE subject to the following conditions:
  - a. The groundwater remediation system and building shall be maintained in accordance with the plans approved in Special Use Permit Case No. 92-02.
  - b. As a condition of this Special Use Permit, the City may ask the Kansas Department of Health and Environment to determine that the clean-up process has been completed. The decision of said department shall be binding on Texaco as to whether or the clean-up process is completed. Texaco may, at its option, remove the structure at the cost to applicant. The building may be used for storage of products used in connection with the operation of the business conducted at 8120 Mission Road as authorized by the ordinances of the City of Prairie Village. The removal of structure shall also terminate this permit.
  - c. The holder of this permit will clean-up its own contamination. "Clean-up" is defined as the remediation effort by Texaco which will continue until contamination levels are at or below the action levels as prescribed by KDHE. The purpose of the structure which is authorized by this Special Use Permit is to provide housing for the equipment that is being used to clean-up present contamination.
  - d. Texaco will make reasonable efforts to obtain an annual progress report from KDHE which shall be submitted to the City Codes Administrator for the City of Prairie Village, Kansas. In the event that KDHE cannot or will not provide a timely annual progress report on the remediation of this site to the City, then this condition may be satisfied by the submission of an annual report to the City from Texaco's environmental consultant. The purpose of the report is to show what progress is being made in the clean-up process and to determine whether or not the level of contamination is above the action level as prescribed by KDHE. Annual progress reports shall be due on July 1 of each year until the remediation of this site is complete. Once remediation has been completed, there should be no further obligation on Texaco to submit annual progress reports to the City.
  - e. The City of Prairie Village, Kansas, at its option, may hire its own environmental consultant to review the annual report. Additionally, if Texaco fails or refuses to provide annual progress reports from either KDHE or its own environmental consultant as prescribed by this Special Use Permit, the City may, at its option, hire its own environmental consultant to conduct whatever tests are necessary to determine the extent of the contamination. The City shall select an environmental consultant from a list of "approved" consultants that is agreed upon by the City and Texaco. Texaco shall reimburse the City for whatever costs it may incur in hiring environmental consultants for the purposes described herein. The identity of the environmental engineer and reasonable engineer's fees for services shall be submitted to Texaco for approval but such approval will not be unreasonably withheld.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan. Any changes in the architectural style or exterior



materials of the buildings and structures shall be submitted to the Planning Commission for Site Plan approval.

4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit be valid for a period of ten years.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null-and-void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of a landscape screen is maintained throughout the life of the project.

The applicant held a neighborhood meeting on December 23, 2014, in accordance with the Planning Commission Citizen Participation Policy and no neighbors attended.

There has been a court decision that Special Use Permits are in reality a change in use and should be considered in the same manner as a zoning change is considered using the "Golden Factors". The Special Use Permit ordinance has factors for consideration similar but not identical to the "Golden Factors" and therefore, both sets of factors will be presented.

The Planning Commission shall make findings of fact to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. In making its decision, consideration should be given to any of the following factors that are relevant to the request:

**FACTORS FOR CONSIDERATION SPECIFIC TO SPECIAL USE PERMITS:**

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The applicant has submitted a Site Plan that includes the layout and design that was approved and constructed based on initial application and the applicant does not propose to change any of the features. Therefore, the existing buildings and its accessory facilities do meet the requirements of the zoning regulations.

2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

The use has been at this location for approximately 23 years and it does not appear that there is evidence to indicate that reapproval of this Special Use Permit would adversely affect the welfare or convenience of the public.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

It should be noted that this is a renewal of an existing Special Use Permit and not an approval of a new use. The applicant does not propose to change the operation of the use and therefore it should not cause any additional injury to the value of the adjacent property. It should also be noted that this site is located within a business area and that there is a bank to the west, a shopping center to the south, and multi-family residences to the east. The site is not located in an area that would affect single family residential development.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.**

The service station is in place and the applicant does not propose to change its operation. The area is completely developed around this property with commercial on the south and west and multi-family residences on the east. The Johnson County Library is adjacent to the north side. This use is

part of a larger complex and it will not have a dominating affect on immediate neighborhood. The applicant has installed landscaping and screening on the perimeter site to help make it more compatible with the neighborhood.

- 5. Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.**

The applicant has provided four regular off-street parking spaces and one handicap space. The parking area is located on the west side of the site, away from the residential property. There is a significant amount of distance between the parking and residential development on the east side of Mission Road.

- 6. Adequate utility, drainage and other necessary utilities have been or will be provided.**

There will not be a need for any additional utilities because the site is already developed and adequately served.

- 7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The site has two accesses from Somerset Drive and one from Mission Road. The pumps, the car wash and the store are set back from the streets so that there is adequate room for traffic to pull off and get onto the site. Even though it is a congested area, it appears that the site is designed in such a manner that it accommodates the traffic with a minimal amount of conflict.

- 8. Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

A groundwater remediation and monitoring system was installed in 1992 to eliminate the gasoline contamination at the facility. KDHE has reported that the levels of contamination have decreased and closed the monitoring in 2005. When the Special Use Permit was originally approved for the remediation system, there were 10 conditions and none of those are needed now.

- 9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

This is a totally built site and the materials that have been used on the buildings are similar to those that have been used in the other buildings in the shopping center and in the nearby area. The applicant does not plan to change any of the architectural features of the buildings or canopy at this point in time, but in the event that the applicant does make changes in the future it should be submitted to the Planning Commission for Site Plan approval.

#### **GOLDEN FACTORS FOR CONSIDERATION:**

- 1. The character of the neighborhood;**

The neighborhood has a large amount of retail, office and other commercial uses primarily on the west side of Mission Road. There are senior multi-family residences to the east and single-family residences to the far northwest. The immediate area is a very intensely developed business area.

- 2. The zoning and uses of property nearby;**

**North:** R-1A Single-Family Residential - Library

**East:** C-2 General Business District – Claridge Court

**South:** C-2 General Business District – Corinth Square Center

**West:** C-1 Restricted Business District – Bank

- 3. The suitability of the property for the uses to which it has been restricted under its existing zoning;**

The C-2 General Business District permits a wide variety of uses plus several Special Use Permits. The property has been developed as a service station/carwash for over 20 years. There are many uses that could be developed on this site under its existing zoning.

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**4. The extent that a change will detrimentally affect neighboring property;**

This use has been at this location for more than 20 years and has not had a detrimental affect on neighboring properties. This is a highly developed commercial area and the service station fits well in this environment.

**5. The length of time of any vacancy of the property;**

This property has not been vacant since it was originally approved for a service station in 1983.

**6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;**

This is an existing development in a totally developed area and does not create a hardship on the individual owners. This is a needed use in this area and provides a service to the local residents.

**7. City staff recommendations;**

The applicant proposes no changes to the existing service station/carwash, it has functioned well at this location, no significant issues have been created by the use and it provides a needed service for the area; therefore, Staff recommends the Special Use Permit for the service station/carwash be renewed.

**8. Conformance with the Comprehensive Plan.**

One of the recommendations of Village Vision is that a healthy mix of uses be established and maintained. This is the only service station in this part of the City and it provides an important service to area residents. It also complements the uses provided in Corinth Square Center.

**RECOMMENDATIONS:**

It is the recommendation of Staff that the Planning Commission find favorably on both sets of factors and recommend renewal of the Special Use Permit for the service station/carwash to the Governing Body subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all outdoor lighting be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. That if it is determined by KDHE that a remediation or monitoring system needs to be installed, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.





Lot # 000790  
Cust # 16930

SPECIAL USE PERMIT APPLICATION

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: PC 2015-02  
Filing Fees: 700  
Deposit: 7500



Date Advertised: \_\_\_\_\_  
Date Notices Sent: \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_

APPLICANT: Sunshine Fuel, LLC PHONE: C/O 305-722-8903  
ADDRESS: 95 N. COUNTY Rd., Palm Beach, FL 33480 E-MAIL: C/O bdl5@krisg.com; sig@krisg.com  
OWNER: Station Acquisition, LLC PHONE: C/O 816-753-6000  
ADDRESS: C/O 605 W. 47th Street, Suite 200, ZIP: 64112  
Kansas City, MO  
LOCATION OF PROPERTY: 8120 Mission Road, Prairie Village, KS 66208  
LEGAL DESCRIPTION: On file.

ADJACENT LAND USE AND ZONING:

	Land Use	Zoning
North	<u>Res</u>	<u>R-1</u>
South	<u>Comm</u>	<u>C-2</u>
East	<u>Comm</u>	<u>C-2</u>
West	<u>Comm</u>	<u>C-1</u>

Present Use of Property: Fuel Station and convenience store

Please complete both pages of the form and return to:  
Planning Commission Secretary  
City of Prairie Village  
7700 Mission Road  
Prairie Village, KS 66208

check # 170566

Does the proposed special use meet the following standards? If yes, attach a separate Sheet explaining why.

- |   | Yes          | No    |
|---|--------------|-------|
| 1. Is deemed necessary for the public convenience at that location.   | <u>  X  </u> | _____ |
| 2. Is so designed, located and proposed to be operated that the public health, safety, and welfare will be protected.   | <u>  X  </u> | _____ |
| 3. Is found to be generally compatible with the neighborhood in which it is proposed.   | <u>  X  </u> | _____ |
| 4. Will comply with the height and area regulations of the district in which it is proposed.  | <u>  X  </u> | _____ |
| 5. Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential use from any injurious effect. | <u>  X  </u> | _____ |
| 6. Adequate utility, drainage, and other such necessary facilities have been or will be provided.   | <u>  X  </u> | _____ |

Should this special use be valid only for a specific time period? Yes \_\_\_\_\_ No   X  

If Yes, what length of time? \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: 12/21/14

BY: Jeff Greene

TITLE: member

**Attachments Required:**

- Site plan showing existing and proposed structures on the property in questions, and adjacent property, off-street parking, driveways, and other information.
- Certified list of property owners

## ORDINANCE 2326

**AN ORDINANCE APPROVING THE RENEWAL OF A SPECIAL USE PERMIT FOR THE OPERATION OF A SERVICE STATION AND CAR WASH AT 8201 MISSION ROAD, PRAIRIE VILLAGE, KANSAS**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE:**

**Section I. Planning Commission Recommendation.** At its regular meeting on February 3, 2015, the Prairie Village Planning Commission held a public hearing, found the findings of fact to be favorable and recommended that the Governing Body approve the renewal of a Special Use Permit for the operation of a Service Station and Car Wash at 8201 Mission Road, Prairie Village, Kansas subject to the following conditions:

1. That canopy lighting be directed as closely as possible toward the work surface and that all outdoor lighting be in conformance with Section 19.34.50 Outdoor Lighting in the Zoning Ordinance.
2. That if it is determined by KDHE that a remediation or monitoring system needs to be installed, the applicant shall apply for an amendment to the Site Plan through the Planning Commission.
3. That since no changes are proposed to the service station, the Site Plan illustrating the existing development be approved as the Site Plan.
4. That future changes and improvements to this site be handled as a Site Plan approval rather than an amendment to the Special Use Permit.
5. That the Special Use Permit run with the land and not have a termination or expiration time established for it.
6. If the permit is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance, unless the noncompliance is corrected.
7. That the applicant shall maintain the landscaping and replace any plant materials as needed so that the integrity of the landscape screen is maintained throughout the life of the project.

**Section II. Findings of the Governing Body.** At its meeting on March 2, 2015 the Governing Body adopted by specific reference the findings as contained in the minutes of the Planning Commission meeting of February 3, 2015, and the recommendations of the Planning Commission and approved the Special Use Permit as docketed PC2015-02.

**Section III. Granting of the Special Use Permit.** Be it therefore ordained that the City of Prairie Village grant a Special Use Permit for the operation of a Service Station and Car Wash at 8201 Mission Road, Prairie Village, Kansas subject to the seven specific conditions listed above.



**Section IV. Take Effect.** That this ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper as provided by law.

**PASSED AND ADOPTED THIS 2nd DAY OF MARCH, 2015.**

**CITY OF PRAIRIE VILLAGE, KANSAS**

By: \_\_\_\_\_  
Laura Wassmer, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Joyce Hagen Mundy, City Clerk

\_\_\_\_\_  
Catherine P. Logan, City Attorney



## PLANNING COMMISSION

Council Meeting Date: December 15, 2014

PC2013-11 Request for extension to SUP for Mission Chateau

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### RECOMMENDATION OF PLANNING COMMISSION

The Governing Body accept the recommendation of the Planning Commission that the 24 month deadline in the SUP shall be extended to 14 months after the termination of the pending litigation involving Mission Valley Chateau project. Termination means dismissal with prejudice or the issuance of a final judgment and all appeal and/or motion to reconsider deadlines/rights expire. Applicant shall notify the City of PV within three business days of the termination as defined herein that the termination has occurred and the 14 months have commenced.

### BACKGROUND

On January 6, 2014 the City granted a Special Use Permit for Mission Chateau subject to 14 conditions. Condition #4 provides that "if construction has not begun within twenty-four (24) months of the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration."

On November 14, 2014, the City Clerk received a letter from MVS, LLC requesting the Planning Commission consider an Extension of the Special Use Permit granted by Ordinance 2301 for the operation of a Senior Living Community at 8500 Mission Road.

The Planning Commission considered this request at their December 2, 2014 meeting recommending the Governing Body extend the 24 month deadline to commence construction found in condition #4 of the Special Use Permit to 14 months after the termination of the pending litigation involving the Special Use Permit for Mission Chateau (see recommendation). The minutes of the December 2<sup>nd</sup> meeting relative to this item are attached.

To assist the Commission in their consideration, they received a memorandum from the City Attorney dated November 26, 2014 applicant's request for an extension. This memo is also attached.

The Governing Body (which includes the Mayor and City Council) has the following options:

- A. Adopt the recommendation of the Planning Commission and approve the extension;
- B. Deny the requested extension;
- C. Change the recommendation of the Planning Commission

Any of these actions require a simple majority vote.

**ATTACHMENTS**

Letter Requesting Extension

Memo from the City Attorney on the request for an extension

Related Planning Commission Minutes December 2, 2014 (Draft)

Letter dated December 10, 2014 in response to Memo from City Attorney

**PREPARED BY**

Joyce Hagen Mundy

City Clerk

DATE: December 11, 2014



6201 College Boulevard, Suite 500, Overland Park, KS 66211-2435 • 913.451.8788

November 14, 2014

Timothy J. Sear  
(913) 234-7402  
(913) 451-6205 Fax  
tsear@polsinelli.com

**BY HAND DELIVERY AND E-MAIL TO [jhmundy@pvkansas.com](mailto:jhmundy@pvkansas.com)**

Joyce Hagen Mundy  
City Clerk  
City of Prairie Village, Kansas  
7700 Mission Road  
Prairie Village, KS 66208

**Re: MVS LLC Special Use Permit/Prairie Village Ordinance 2301  
Request to City Planning Commission for Extension of Special Use Permit**

Dear Madam Clerk:

As you are aware, on January 6, 2014, a Special Use Permit was approved by enactment of Prairie Village Ordinance 2301, pursuant to which MVS LLC (“MVS”) intends to build an approximate \$55 million senior living facility to be known as Mission Chateau in compliance with the Special Use Permit.

However, within 30 days of enactment of Ordinance 2301, a group of Plaintiffs filed suit in the District Court of Johnson County, Kansas challenging the legality of the grant of the Special Use Permit (Marsh, et al v. City of Prairie Village, Kansas and MVS LLC, Case No. 13CV-08544). Although the District Court on October 30, 2014 affirmed the legality of the grant of the Special Use Permit, the Plaintiffs have appealed that decision to the Kansas Court of Appeals.

Ordinance 2301 states, in part:

4. That the Special Use Permit not have a termination or expiration time established for it; however, if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to the expiration.

There is no reasonable likelihood that the appeal of the District Court judgment will be fully and finally resolved (i.e. a ruling by the Kansas Court of Appeals, which will likely be followed by the filing of a Petition for Transfer to Kansas Supreme Court) prior to January 6, 2016, which is the twenty-four (24) month anniversary of the approval of the Special Use Permit.

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Polsinelli PC, Polsinelli LLP in California

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When faced with similar circumstances, numerous state courts have unanimously held that where the validity of a permit for construction was the subject of pending litigation, the local ordinance providing for the expiration of such permit was stayed or tolled by operation of law until the pending litigation had been fully and finally resolved.

For example, in *Belfer v. Building Commissioner of Boston*, 294 N.E.2d 857, 363 Mass. 439 (1973), there was an appeal from the grant of zoning variances to allow the building of a 33-story building. The ordinance required construction to begin within two years or the variances would expire. The Massachusetts Supreme Court stayed the expiration of the variances pending the conclusion of the appeal, stating: **“We conclude that the relief from time limitations... where a legal impediment exists to the use of a benefit, should also be given where an appeal from the granting of the variance creates equally real practical impediments to the use of a benefit. Otherwise a variance which was lawfully awarded can be frustrated by the delay inherent in an appeal. Unless an appeal tolls the time period, many variances would be meaningless.”** 294 N.E.2d at 859 (emphasis added).

In *Tantimonaco v. Zoning Board of Review of Town of Johnston*, 232 A.2d 385, 102 R.I. 594 (R.I. 1967), there was an appeal challenging the legality of the grant of a building permit for a gasoline service station. The ordinance required that construction start within six months or the permit would expire. The Supreme Court of Rhode Island stayed the expiration of the permit pending the conclusion of the appeal, stating: **“As heretofore noted, petitioners challenged the validity of that permit by seeking a review of the board’s decision . . . Although the filing of such a petition does not act as a stay . . . common prudence understandably acts as a brake against incurring obligations, the benefits of which would be cancelled by an adverse decision of this court. Apart from the question as it may be affected by a change in the zoning regulations, we think it clear that the requirement of activating a permit set forth in an ordinance does not apply during such time as the legality of a permit is open to question by reason of litigation amounting to an appeal from the issuance thereof.”** 232 A.2d at 388 (emphasis added).

In *Gala Homes v. Board of Adjustment of City of Killeen*, 405 S.W.2d 165 (Tex.Civ.App. 1966), there was an appeal challenging the legality of building permits to construct apartments. The ordinance required construction to start within 90 days or the permits would expire. The Texas Court of Civil Appeals stayed the expiration of the permits pending the conclusion of the appeal, stating: **“Further, we hold that the two year period within which the city ordinance requires that construction be completed should be tolled, commencing with the filing of intervenor’s appeal with the Board and continuing until final judgment herein.”** 405 S.W.2d at 167.

In *Homeowners Organized to Protect the Environment v. First National Bank of Barrington*, 521 N.E.2d 1202 (Ill.App. 2 Dist. 1988) there was an appeal challenging the validity of the grant of a special use permit. The ordinance required commencement of substantial

construction within one year or the permit would lapse. The Illinois Court of Appeals stayed the expiration of the permit pending the conclusion of the appeal, stating: **“However, to allow plaintiffs here or in any other case to exhaust an ordinance’s time limitation by simply litigating the ordinance would be, as the trial court observed, inequitable. We believe judicial review should be afforded parties to resolve legitimate legal questions and not as a bar to the full enjoyment of the zoning relief granted.”** 521 N.E.2d at 1207.

In *National Waste Managers, Inc. v. Anne Arundel County*, 763 A.2d 264 (Ct. Special Appeals Md. 2000) there was a claim that the special exception and variance to operate a rubble landfill had expired while various legal challenges to the landfill proceeded. The ordinance required that action to implement the use must begin within two years of the grant of the special exception. The Maryland Court of Special Appeals rejected a claim that the special exception and variance had expired, stating: **“To be sure, we do not fault the parties for exercising their legal rights. At the same time, we cannot disregard that delay is an inherent consequence of litigation, and the County’s repeated attempt to litigate National’s right to proceed with the Landfill ultimately made it impossible for National to comply with [the regulation]. If the County were correct in its analysis as to tolling, it would mean that a developer facing a time-related condition could almost always be thwarted in its efforts by the inevitable delay resulting from litigation, regardless of the merits; the right to proceed would necessarily expire before a court could rule otherwise. We cannot accept that logic, which elevates legal gamesmanship to new heights. Here, National did not comply with [the regulation] because the County’s exercise of its rights made it impossible for National to do so. We have not uncovered any Maryland cases discussing the concept of tolling in the context of this case. Nor have we been referred to any applicable Maryland cases. Nevertheless, other authorities suggest, by analogy, that the tolling principle ought to apply to the circumstances of this case.”** 763 A.2d at 276-277 (emphasis added).

In *Fromer v. Two Hundred Post Associates*, 631 A.2d 347 (Conn.App. 1993), there was a claim that a wetlands permit expired when the developer did not commence significant activity within one year of issuance of the permit. Litigation challenging the permit went on for six years. The Appellate Court of Connecticut rejected claims that the permit expired, stating: **“The regulatory process is not designed to be a spider’s web, snaring one who follows all the regulations and statutes, obtains all the necessary permits, and successfully defends a series of appeals, but then loses his right to proceed because the passage of time has caused the permits to expire.”** 631 A.2d at 353.

Because we find no reported court decisions that are in conflict with this line of cases, we are confident that Kansas courts would follow this line of cases and determine that the twenty-four (24) month time period in which MVS was given to commence construction in accordance with Ordinance 2301 is currently stayed or tolled by operation of law pending the full and final resolution of the pending appeal consistent with the cases discussed above.

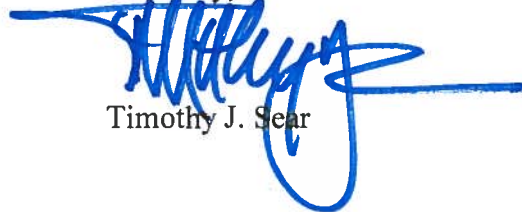
Joyce Hagen Mundy  
November 14, 2014  
Page 4

However, in lieu of filing yet another lawsuit dealing with Mission Chateau which would request the District Court to enter a judgment confirming that the twenty-four (24) month time period in which MVS was given to commence construction in accordance with Ordinance 2301 is currently stayed or tolled by operation of law pending the full and final resolution of the pending appeal, MVS respectfully requests the City extend the current expiration date of January 6, 2016 contained in Ordinance 2301 to provide that MVS shall have twenty-four (24) months to commence construction beginning from the date upon which a final non-appealable judgment is entered in connection with the Marsh litigation.

Granting such an extension is not only warranted under the circumstances, but also supported by applicable case law, and will put to rest any issues with respect to the date by which MVS has or must commence construction on the project while affording all of the interested parties the opportunity for a judicial review to resolve the legal questions surrounding the issuance of the Special Use Permit.

MVS asks that this Application for Extension of Special Use Permit be placed on the December 2, 2014 Planning Commission Agenda.

Sincerely,



Timothy J. Sear

TJS:mgs  
Enclosure

cc: Joseph Tutera  
Michael F. Flanagan, Esq.  
John D. Petersen, Esq.  
Catherine P. Logan, Esq., (by e-mail to [Logan@Lathropgage.com](mailto:Logan@Lathropgage.com))  
Ron Williamson (by e-mail to [rwilliamson@hwlochner.com](mailto:rwilliamson@hwlochner.com))

## MEMORANDUM

**To:** Governing Body and Planning Commission  
City of Prairie Village, Kansas

**From:** Catherine P. Logan, City Attorney

**Date:** November 26, 2014

**Subject:** **Mission Chateau Special Use Permit  
Ordinance No. 2301  
MVS LLC Request for Extension**

Ordinance No. 2301, adopted January 6, 2014, grants a Special Use Permit (“Mission Chateau SUP”) subject to fourteen conditions, including condition #4 which provides, in pertinent part, that “if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration.” By its terms, the Mission Chateau SUP will expire on January 6, 2016, unless construction begins prior to that date, or the time period is extended by the Governing Body.

Prior to the adoption of Ordinance No. 2301, and on December 11, 2013, a number of neighboring property owners filed an action in the District Court of Johnson County, Kansas styled *Gary W. Marsh et al. v. City of Prairie Village, Kansas*, Case No. 13CV08544, seeking to enjoin the City from considering the Mission Chateau SUP at the January 6, 2014 meeting of the Governing Body. For reasons unknown, the plaintiffs changed their minds, and did not pursue a temporary injunction. Thus, the Governing Body approved the Mission Chateau SUP at that meeting.

On February 3, 2014, the original plaintiffs, joined by additional plaintiffs, filed a First Amended Verified Petition against the City challenging the lawfulness of Ordinance No. 2301. MVS LLC (“MVS”) intervened as a party defendant. Subsequently, the parties filed extensive and lengthy cross-motions for summary judgment, seeking a comprehensive ruling and determination of all legal questions that gave rise to this lawsuit. These issues included numerous challenges to the actions of the City, from both the plaintiffs and MVS. On September 12, 2014, the District Court issued an order finding that the Governing Body acted lawfully in passing Ordinance No. 2301, thus fully satisfying, and fully complying with, all aspects of Kansas law in its actions leading up to, and throughout, its passage of Ordinance No. 2301.



On October 20, 2014, MVS filed a motion to stay expiration of the Mission Chateau SUP during the pendency of the lawsuit and any appeal therefrom. On October 30, 2014, the District Court denied MVS's motion, while simultaneously denying the plaintiffs' request to alter or amend its original order regarding the cross-motions for summary judgment.

Subsequently, on October 30, 2014, the plaintiffs filed an appeal of the District Court's summary judgment rulings in the Kansas Court of Appeals, which is presently pending and in its early stages. This appeal is styled Case No. 112706. On November 6, 2014, MVS filed a cross-appeal, seeking review of the District Court's decision which overruled MVS's motion for a stay of the expiration of the Mission Chateau SUP during the pendency of the action, once again including all proceedings in the trial and appellate courts. Lastly, just earlier today, MVS filed a motion with the Kansas Court of Appeals to transfer the appeal to the Supreme Court for review.

An appeal of this type typically takes approximately eight to twelve months before a decision is issued. If a party seeks further review in the Kansas Supreme Court, the Court of Appeals decision does not become final until the Supreme Court either accepts or denies review. This can take an additional twelve months or more. If the Supreme Court denies review, the Court of Appeals decision becomes final essentially immediately. If the Kansas Supreme Court accepts review, the appeal does not become final until the Kansas Supreme Court rules. Based upon these timelines, it is highly unlikely that the *Marsh* case will be finally decided prior to January 6, 2016. However, if the Supreme Court were to grant MVS's motion for transfer, and thus accept review, the appeal would then bypass any consideration or ruling from the Court of Appeals, thus expediting the appeal process substantially. If this were to occur, it is quite possible that a final decision would be rendered in advance of January 6, 2016. As MVS's motion to transfer was just filed earlier today, it is presently unknown what position, if any, the plaintiffs will take in response to the motion. At this time, the City has also yet to take a position on MVS's motion to transfer, if any.

Turning to MVS's request for "staying" or "tolling" the expiration of the Mission Chateau SUP, counsel for MVS, in its letter to the City Clerk dated November 16, 2014, cites case law in which courts in other states have applied an equitable doctrine that time periods similar to the time period in condition No. 4 are automatically "stayed" or "tolled" in certain situations involving litigation. Counsel for MVS admits that there is no controlling case law in Kansas.

Counsel for MVS states that based on this case law in other states, the Planning Commission and Governing Body should grant an extension of the 24 month period to begin construction, and that if the extension is not granted, MVS will file a lawsuit against the City requesting that the District Court enter a judgment that the 24 month period is stayed or tolled pending the final resolution of the *Marsh* case.

The purpose of this Memorandum is to briefly respond to the legal issue raised in the letter from MVS's legal counsel in order to assist the Planning Commission and the Governing Body in considering the request for extension. Nothing contained herein will constitute a waiver of matters not addressed in this Memorandum.

1. I agree with counsel for MVS that there are no reported Kansas cases which have considered whether equity requires that conditions similar to condition #4 are automatically tolled or stayed if opponents to a special use permit appeal to the District Court. Kansas courts are not bound by case law from other states, and in any event the determination of whether such an equitable remedy should apply depends on the facts and circumstances in each case.

2. There are no Kansas statutes or provisions in the Prairie Village City Code which impose an automatic stay when zoning matters are appealed, by either automatically staying the right of the successful applicant to build, or automatically staying any time period in which the successful applicant is required to build.

3. MVS wants the right, but not the obligation, to build within the 24 month period. This is contrary to what was approved in Ordinance 2301 and for the following reasons I believe that it would not be unreasonable for the Planning Commission or Governing Body to deny an extension under the circumstances.

When Ordinance No. 2301 was considered by the Governing Body on January 6, 2014, MVS stated that it accepted all the conditions. It did not ask for the period to begin construction to exceed 24 months. It also did not suggest or ask that the condition state that the period be tolled until completion of any appeal, even though some of the opposing neighboring property owners had already filed a lawsuit against the City to challenge the Mission Chateau SUP. Although Ordinance No. 2301 gives MVS the right to *request* an extension, there is no right to *obtain* an extension.

The *Marsh* plaintiffs asked the District Court to enjoin the right of MVS to begin construction. MVS successfully opposed the injunction request in the District Court. In doing so, MVS argued that the construction of senior living structures approved by the Mission Chateau SUP should not be enjoined because it should be up to MVS to take the risk that such structures must be removed if the case is ultimately decided in favor of the *Marsh* plaintiffs.<sup>1</sup>

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<sup>1</sup> "That is, we need the SUP only to build those structures and use it as a senior living community. So should MVS decide that they want to take the risk while this litigation is pending of going ahead and beginning construction, whether they ultimately would use the construction as a senior living community under an SUP, or as another allowed use without a permit under R-1A zoning, is completely up to MVS." Transcript of Hearing on TRO 4-18-14. Pp 14-15, Mr. Sear.

"They say that if we build and lose the lawsuit, we have to tear it down and that we are at risk. Well, let us take the risk if we choose to do that." Transcript of Hearing on TRO 4-18-14. Pp 123, Mr. Sear.

Belatedly in the *Marsh* case<sup>2</sup>, MVS asked the District Court for the relief its counsel now states that it may seek in a new lawsuit. The District Court ruled that it was not certain that the matter was properly before the Court, but even if it was, it was not ripe as the period of time had not yet expired, nor had MVS sought and been denied an extension.

In a decision not mentioned by MVS's legal counsel, a Maine court took a view that an applicant also assumed the risk that a construction deadline would expire. The applicant, which had been granted a conditional use permit, had not commenced construction within a required time period, and argued that the time to commence construction was automatically tolled while two appeals that questioned the legality of the conditional use permit were pending. A Maine statute provided that an appeal of the zoning decision did not automatically stay the grant of the conditional use permit, and that a stay could be requested from the court. Although Kansas does not have a similar statute, the law in Kansas is the same. Stays in zoning appeals are not automatic but may be requested by a party, as was done by the *Marsh* plaintiffs in the pending case.

The Maine court found that because construction was not commenced within the required time period, the conditional use permit expired. The Maine court ruled that appeals by opponents to the grant of a conditional use permit did not result an automatic stay of the construction period, noting that the applicant did not ask for a stay at the local town level, or in either of two appeals challenging the conditional use permit. *Cobbossee Development Group v. Town of Winthrop*, 585 A.2d 190, 194 (Me. 1991).

Similarly, although MVS is now asking for an extension, it accepted a 24-month construction period when the Mission Chateau SUP was granted, even though a lawsuit was already pending challenging the City's authority to grant the Mission Chateau SUP. It further opposed a motion to enjoin construction sought by the *Marsh* plaintiffs, expressly assuming the "risk" that it might begin construction of the assisted living facility and then be required to remove improvements if the *Marsh* plaintiffs were ultimately successful in their challenge. Since Ordinance No. 2301 does not grant a right to an extension, only the right to seek an extension, MVS also assumed the risk that the Planning Commission and Governing Body might not grant an extension, causing the Mission Chateau SUP to expire if MVS choses not to begin construction.

One of the primary reasons for condition #4 is that the use approved by the Mission Chateau SUP is dissimilar to the normal uses found in R-1A districts. The bodies considering the Mission Chateau SUP took into consideration numerous factors, including then-existing conditions and surrounding uses. Those conditions and surrounding uses change over time. If the special use is not required to commence within a reasonable time after approval, the factors relied upon may become less relevant, and

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<sup>2</sup> MVS LLC filed a motion with the District Court seeking this relief after the entry of Judgment on September 12, 2014, and prior to the hearing on the *Marsh* Plaintiffs' motion to reconsider.

new relevant factors may arise. The use proposed by the Mission Chateau SUP involves a complex project and therefore a majority of the Planning Commission and Governing Body considered a period of 24 months to commence construction to be a reasonable period. MVS agreed to the condition which included the right to return and request an extension of time.

Finally, it should be noted that MVS is not without a remedy. The zoning regulations do not prohibit a reapplication for a special use permit, other than Section 19.28.075, which imposes a reapplication waiting period of 6 months if an application is denied. If the Mission Chateau SUP expires, MVS may reapply for a special use permit, at which point the current factors and conditions could be weighed by the Planning Commission and Governing Body.

In conclusion, under the above circumstances, a Kansas court could very well refuse to apply the equitable doctrine that an appeal “stays” a mandatory construction period followed by courts in some other states because: (a) in opposing the injunctive relief in the *Marsh* case, MVS willingly assumed the risks that an extension may not be granted, and that it would have to begin construction prior to a final decision in the *Marsh* case; (b) MVS can prevent the SUP from expiring by beginning construction before January 6, 2016; and (c) if the Mission Chateau SUP expires because MVS elects not to begin construction, then it may reapply for a special use permit.

**DRAFT**  
**PLANNING COMMISSION MINUTES**  
**December 2, 2014**

**PC2013-11 Request for extension to SUP for Mission Chateau  
8500 Mission Road**

David Waters, representing the City Attorney, stated on January 6, 2014 the City granted a Special Use Permit for Mission Chateau subject to 14 conditions. Condition #4 provides that “if construction has not begun within twenty-four (24) months of the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration.” This is the request before the Planning Commission.

Mr. Waters reviewed the following history of litigation that has taken place on this project:

- December 11, 2013 - neighboring property owners filed an action in the District Court of Johnson County against the City seeking to enjoin the City from considering the Mission Chateau SUP at the January 6, 2014 meeting. The plaintiffs did not pursue the temporary injunction and the application was considered.
- February 3, 2014 - neighboring property owners filed a First Amended Verified Petition against the City challenging the lawfulness of the adopting Ordinance on a number of issues.
- On September 12, 2014, the District Court issued an order finding that the Governing Body acted lawfully in passing Ordinance #2301 fully satisfying and fully complying with all aspects of Kansas law in its actions leading up to and throughout the passage of Ordinance 2301.
- On October 20, 2014 - MVS filed a motion to stay the expiration of the Mission Chateau SUP during the dependency of the lawsuit and any appeal therefrom.
- On October 30, 2014, the District Court denied MVS’s motion, while simultaneously denying the plaintiffs’ request to alter or amend its original order regarding the cross-motions for summary judgment.
- On October 30, 2014 - the plaintiffs filed an appeal of the District Court’s summary judgment rulings in the Kansas Court of Appeals, which is presently pending and in its early stages.
- On November 6, 2014 - MVS filed a cross-appeal, seeking review of the District Court’s decision which overruled MVS’s motion for a stay of the expiration during the pendency of action.
- On November 26, 2014 - MVS filed a motion with the Kansas Court of Appeals to transfer the appeal to the Supreme Court for review.

Mr. Waters noted the potential timeframe for these actions to move through the court system causing the applicant to be concerned that final action will not be taken until after the expiration of the SUP per condition #4. Therefore, they are requesting an extension.

In the applicant's request to the City they contend that as a matter of law the City should rule that the 24 month period of construction be stayed pending the resolution of the appeals. However, they have formally requested an extension of the 24 month time period listed in condition four from the date that all appeals are final. In support of the request several case law references were presented.

The City Attorney has advised that there are no Kansas cases which have considered whether equity requires that conditions similar to condition #4 are automatically tolled or stayed if opponents to a special use permit appeal to the District Court. Kansas courts are not bound by case law from other states, and in any event the determination of whether such an equitable remedy should apply depends on the facts and circumstances of each case.

There are no Kansas statutes or provisions in the Prairie Village City Code which impose an automatic stay when zoning matters are appealed, by either automatically staying the right of the successful applicant to build, or automatically staying any time period in which the successful applicant is required to build.

Mr. Waters noted there is case law from other jurisdictions ruling in support of stays during litigation as well as some opposing it. It is not the Planning Commission decision to determine what the case law should be, but simply to consider a request for an extension.

In her memo to the Planning Commission the City Attorney stated that she believed it would not be unreasonable for the Planning Commission or Governing Body to deny an extension based on the following circumstances:

- MVS accepted the conditions of approval for the SUP including condition #4
- MVS opposed the injunction request in the District Court stating it should be up to MVS to take the risk that such structures must be removed if the case is ultimately decided in favor of the Marsh plaintiffs.
- Stays in zoning appeals in Kansas are not automatic, but may be requested by a party.
- The applicant could prevent the expiration of the SUP by beginning construction
- MVS is not without a remedy. The zoning regulations do not prohibit a reapplication for a special use permit should the permit expire.

Mr. Waters noted this is not a public hearing, although the Commission can chose to take comment, there are no criteria, standards or Golden Factors that must be met. The Commission should make a good faith consideration of the request. The Commission serves as a recommending body. The final decision will be made by the Governing Body. There is no protest petition or required vote to override the Commission's recommendation. The Planning Commission may recommend granting the request, recommend denying the request, recommend granting the request for a shorter time frame or send it forward with no recommendation.

Gregory Wolf asked if the requested extension was for a specific period of time. Mr. Waters stated the request was for a 24 month period beginning after the final judgment of any appeals.

Bob Lindeblad asked what would constitute commencement of construction. Mr. Waters stated there is no definition for "commencement of construction" in the SUP. He feels it would be a determination of the Governing Body.

Timothy Sear, with Polsinelli representing MVS, LLC, reviewed again with the Commission the series of legal challenges that have been filed against this SUP noting the amount of time it has taken for resolution, although positive, of these challenges. Now an appeal of the ruling has been filed which will further delay final judgment until quite possibly beyond the established termination or expiration of the time period given in the Special Use Permit for Mission Chateau approved by the City on January 6, 2014 for the commencement of construction of the project. Mr. Sear reviewed the possible timetable for possible court appeals that will take well beyond the January 6, 2016 deadline.

MVS filed a motion to stay the expiration of the Mission Chateau SUP during the dependency of the lawsuit and any appeal therefrom to prevent the MVNA appeal of the court's judgment in support of the SUP from essentially keeping the SUP in pending litigation until the expiration of the SUP per condition #4. On October 30, 2014, the District Court did deny MVS's motion; however, not because there was no merit to the motion, but because there had not been an application made to the City for an extension and the judge felt he did not have jurisdiction to decide.

MVS is committed to this project and it is their sincere intention to proceed with it; however, as pointed out if the Courts determine there was a mistake made in the granting of the SUP any improvements made pursuant to the SUP would have to be removed and destroyed.

Mr. Sear stated that land use appeals in the state of Kansas are relatively rare, resulting in not a lot of case law rulings. However, numerous state courts have unanimously held that where the validity of a permit for construction was the subject of pending litigation, the local ordinance providing for the expiration of such permit was stayed or tolled by operation of law until the pending litigation had been fully and finally resolved.

They have found that courts that have dealt with this issue when there is not a statute that deals with this situation, with neither Kansas nor Prairie Village has, they have determined that it would be unreasonable to allow a permit to be lost simply by the delay of litigation as to the legality of the permit. No one has cited any contrary case law. Although it is all from outside Kansas, all courts that they have found that have dealt with this issue have determined that if there is not a statute dealing with the issue already to provide for a tolling of the expiration during the pendency of the legal challenge to the permit that equitably the expiration of the permit is to be tolled during the pendency of it.

Mr. Sear noted the memo from your city attorney regarding a case in Maine that opposed the extension, the judge's ruling found that because there was already a Maine statute that provided for the permit to be saved that tolling was not necessary.

All of the cases cited in their request unanimously stated that the mere specter of litigation regarding the legality of the permit makes it unreasonable to proceed with construction, especially when the stance of the City is that any improvements made would be required to be removed and destroyed if the legality of the permit was upheld. Mr. Sear asked if it would be responsible for the City would undertake a \$55M project under such terms.

Mr. Sear stated that MVS is doing everything possible to expedite this appeal process requesting the Kansas Supreme Court take an immediate transfer of this case from the Appeals Court to shorten the timetable for this process. However, he noted those motions are very seldom granted.

Mr. Sear stated in reference to the City Attorney's memo to the Planning Commission stating reasons why she feels it would not be unreasonable to deny this extension, they believe under the facts of this situation it would be unreasonable for the city to require what all these other states have refused to require - that is to go forward and expend this kind of money while there is litigation pending. The City Attorney points out in opposing the MVNA attempt to enjoin this project in the past that MVS has opposed those requests for injunction. He does not feel that should weigh against MVS getting the full right to exercise it right under the SUP permit. When the lawsuit was first filed and the plaintiff asked that the City and MVS be enjoined by the court from any activities related to the entire 18 acre tract, both the City and MVS opposed that injunction. No one contended that if the injunction was granted that additional time would be given to MVS at the tail end to cover the period of time for the injunction. The mere fact that MVS like the city opposed this effort to shut down this project through an injunction that that we told the court that risk if we started construction was on MVS is not an unusual position to take and should not weigh against the approval of an extension of time relative to the SUP permit.

They contend that although there is no Kansas case law on the tolling argument that if the Kansas Court were given this issue, that the Kansas court would likely follow these other states. However, that would only be determined if MVS is denied an extension and has to file a declaratory judgment against the City. They are not interested in more litigation and more delays, although they feel the Kansas Court would find the permit should be tolled, that is why they are requesting grant an extension beyond the date when all of the appeals end. There would be no harm to anyone in extending this permit for a period of time beyond the time period appeals process ends. The City has already determined that this project should be built in the City of Prairie Village. He stated the SUP should not be defeated by the mere filing of continuous legal appeals regardless of the outcome of the appeal. The SUP should only be defeated by the Court deciding the legality of the SUP based on the process followed by the City which has already been found to be valid.



In summing up the City Attorney presents in her memo of last week three statements a) In opposing the injunctive relief in the *Marsh* case, MVS willingly assumed the risks that an extension may not be granted.; b) MVS can prevent the SUP from expiring by beginning construction before January 6, 2016 and c) if the Mission Chateau SUP expires because MVS elects not to begin construction, then it may reapply for a special use permit.

Mr. Sear responded to (a) that MVS is at risk to construct before the appeal is over; however, that does not weigh against the City granting the extension. In fact it weighs in favor of the extension as it would be unreasonable to put at risk that kind of money when the City is saying if you build it and the City loses, as it is the City that is being challenged on the legality of the SUP, that it must be removed.

Mr. Sear responded to (b) it is the same argument worded differently. If the City would require us to remove improvements, if the City loses the appeal, it is unreasonable to require MVS to expend that kind of money during dependency of the appeal.

Finally (c) seems nonsensical in that this process has already gone on for two years. Why would anyone want to let the SUP expire due to pending litigation and require a new application to be filed to begin the entire process again.

MVS wants to proceed, they want the litigation to end; however, there is only so much they can do under the situation where the city is going to insist that improvements be torn out if the City loses the appeal by the MVNA.

Gregory Wolf asked if all the appeals were to end tomorrow, how long would it take to commence construction. Mr. Sear replied 10 to 14 months to get the contracts let and the demolition done, noting the abatement work that has been completed at the school. He noted it is in their benefit to begin as quickly as possible. Current interest rates are at their lowest and in financing \$40M even a change of 1% in the interest rate impacts the financing by \$400,000 per year. It is in their best interest to proceed as quickly as possible after appeals are completed.

Mr. Wolf asked for clarification on what is being requested. Mr. Sear responded they are seeking an extension in time. He noted "tolling" is court language. They are asking that pursuant to condition #4 of the SUP that it be extended for a period of two years beyond the end of the appeal process. He noted that is beyond the time that is needed. Mr. Wolf asked why they were then asking for two years. Mr. Sear replied the court decisions on tolling have determined in those states that if you have 24 months in the permit that you get 24 months after the legal challenge is over. So they are simply mirroring what has been done. He is quite certain that 12 or 14 months beyond the end of the appeals process would be acceptable to them.

Mr. Wolf asked why the issue was not addressed when the initial litigation was filed. Mr. Sear noted that any SUP application can result in litigation, however they rarely do and with filed rarely goes on the extent that the litigation has in this case.

He does not feel it was the City's intent by Condition #4 which is standard language in Special Use Permits issued by the City was meant to kill a project just by legal delay and not by delay of the developer. That is what the cases that they have cited stand for - developers are not going to forward in all likelihood in this situation and that is why even in the absence of a regulation or statute or a condition, the state courts that have heard this issue have said that it must be "tolled" otherwise the permit becomes meaningless even by a losing lawsuit being filed.

Mr. Wolf stated he is trying to understand why 24 months. Mr. Sear responded that as soon as the appeal was filed it became clear that the request for extension would need to be filed as the process would not end prior to January 6, 2016. Mr. Sear noted the similar situation faced by the City of Prairie Village in the length of time taken for the appeal of Councilman David Morrison and now subsequent appeal by the County to the Kansas Supreme Court.

Nancy Vennard stated the City has had to spend an enormous amount of money with meetings at offsite locations and now ongoing legal fees. She would not want to see the City go through this process again if the extension is not granted.

Gregory Wolf does not see the need for a 24 month extension. He feels they should be ready to begin once the litigation ends. Based on their comments, he could support a 14 month extension. Nancy Vennard noted she understand the rationale behind the 24 month request. Bob Lindeblad reminded the Commission that their action is only a recommendation to the Governing Body.

Nancy Wallerstein asked if the extension was not granted by the Governing Body, they could still start construction under the current SUP. What would constitute commencement of construction. Mr. Lindeblad responded that would be the decision of the Governing Body.

Nancy Wallerstein noted there is not a precedence either for or against extending an SUP. She stated they owned the land regardless of the outcome of the litigation.

Nancy Vennard acknowledged the extensive and costly preparation work that needed to be done prior to commencing construction in design, construction documents, etc. She also added that if they had to refile for the SUP there is no guarantee the current plans would be accepted by the Planning Commission and/or Governing Body at that time, noting the several changes that have taken place for the Mission Mall property.

Gregory Wolf stated in reality, if the extension is not granted, a lawsuit will be filed against the City for declarative judgment on the failure to grant the extension.

Mike Flanagan, General Counsel for the Tutera Group, stated that last week they met with Prairie Village staff to discuss the issue of what is "commencement of construction" which staff believed would be a decision of the Governing Body, but were checking with the City Attorney. The building permit process was discussed and expectations for and timetable for plan reviews. The possibility of a phased building permit was discussed.

They would need to seek a full building permit. He would expect the cost of full construction documents to be as Mrs. Vennard indicated several thousands of dollars. The lead time needed by public works, the building official and fire department for review of plans of this size is significant. He does believe the 14 month period of time would work for MVS to get the building permit approved. If the definition of commencement of construction was less, they could begin sooner. This needs to be determined. Mr. Flanagan noted that in regard to "tolling" you generally are either granted 24 months or nothing.

They feel it is appropriate to grant the extension as it is of no harm to anyone, it does not cost anything of the city and it allows the court, who is the appropriate party, to make its determination on whether the Special Use Permit is valid or if it should be revoked.

Chairman Bob Lindeblad opened the floor for comments from the public.

Andrew Spitsnogle, attorney speaking on behalf of the Mission Valley Neighborhood Association, noted that Mr. Sear made several comments regarding legal interpretations; however, Mr. Waters direction to the Commission was that it was not your job to make a legal determination. It is the job of your city attorney and her analysis is clear. "MVS wants the right, but not the obligation, to build within the 24 month period. This is contrary to what was approved in Ordinance 2301 and that she feels it would not be unreasonable for the Governing Body to deny an extension under the circumstances". They concur with her assessment.

Mr. Spitsnogle made the following additional comments:

- MVS request for an extension is premature - noting that the deadline does not expire until January 6, 2016 and that this was one of the reasons for the denial of their motion on October 30<sup>th</sup>.
- If the Governing Body intended for the SUP to be "stayed or tolled" it is their view that they would have included that language in the SUP
- The Ordinance was approved with full knowledge that a lawsuit would be filed challenging the validity of the Special Use Permit
- Concur that it would not be unreasonable to deny the two year extension as factors for approval change over time.

They do not feel the applicant should have another two years after the final judgment in which to begin construction on one of the most valuable pieces of land in the City.

Gregory Wolf asked Mr. Spitsnogle that their position was that it was reasonable to force the applicant to spend hundreds if not millions of dollars to begin construction that if you win will have to be removed and destroyed. This is what he is struggling with.

Mr. Spitsnogle responded that that point has not been reached yet and this request is premature. Mr. Wolf asked when would it be appropriate. Mr. Spitsnogle responded it is currently in the court of appeals and MVS has filed for an immediate transfer to the Supreme Court and they do not intend to oppose that filing. It is their intention to get

this resolved as quickly as possible. It is more than a year to the deadline and things change. He cannot say when it would be appropriate to make the request.

Nancy Wallerstein asked Mr. Sear to confirm that he stated it would be 12 months before the case was even heard before the Supreme Court. Mr. Sear replied there is no timetable and the motions are rarely granted. For example in the Morrison case, there was a motion to transfer that case to the Supreme Court and it was denied. If denied, then the Kansas Court of Appeals will continue to proceed until the Kansas Supreme Court says it is not theirs to decide. They believe they are looking at a period of time of at least a year to get a decision on whether to even hear the case.

Mr. Wolf asked Mr. Spitsnogle for his prediction as to how it will take for the appeal. He responded that he has no idea, but doesn't feel that is the issue before the Commission. The issue is whether it would be unreasonable to deny the request.

Mr. Wolf noted the legal costs the city has already incurred thousands of dollars of legal expense on this application and asked Mr. Spitsnogle if he felt that was in the best interest of the city to put itself in the position for yet another lawsuit with the filing a declaratory judgment if the extension is denied.

Mr. Spitsnogle stated he does not feel zoning decisions should be made on the basis of fear of legal costs and secondly he does not know that a separate law suit would be filed.

Bob Lindeblad closed the public comment at 10:00 p.m.

James Breneman believes the request for the extension is justified. He would not want to commit the amount of money that will need to be committed to commence construction with the potential that it may need to be eventually torn down. January 6, 2016 is 13 months away, they would have to begin preparation of construction documents now to meet that deadline. It would be unreasonable for the city not to approve the extension.

Larry Levy stated more harm is being done to the landowners in going through the court system to determine the validity prior to construction in the increased costs that they will occur. He does not see the request for the extension as unreasonable.

Greg Wolf moved the Planning Commission recommend that the 24 month deadline in the SUP shall be extended to 14 months after the termination of the pending litigation involving Mission Valley Chateau project. Termination means dismissal with prejudice or the issuance of a final judgment and all appeal and/or motion to reconsider deadlines/rights expire. Applicant shall notify the City of PV within three business days of the termination as defined herein that the termination has occurred and the 14 months have commenced. The motion was seconded by Larry Levy.

Nancy Wallerstein questioned if 14 months was sufficient time when under normal conditions they would have been given 24 months.

Bob Lindeblad stated he would support 14 months as the applicant has stated they can work within that timeframe. He feels it would be reasonable to grant the extension.

Larry Levy noted this could take 3 years. Mr. Wolf states the applicant knows the risk.

The motion was voted on and passed unanimously.

**Next Meeting**

At this time the Planning Commission has two Special Use Permit applications filed for the service stations at Mission Road and Tomahawk. The filing deadline is this Friday, so more items could be submitted.

**ADJOURNMENT**

With no further business to come before the Commission, Chairman Bob Lindeblad adjourned the meeting at 10:10 p.m.

Bob Lindeblad  
Chairman

Nancy Vennard  
Vice Chairman

DRAFT



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December 10, 2014

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Catherine P. Logan, Esq.  
Lathrop & Gage LLP  
10851 Mastin Boulevard  
Building 82, Suite 1000  
Overland Park, KS 66210-1669

**Re: MVS LLC Application for Extension of Special Use Permit**

Dear Ms. Logan:

This letter is a response to your Memorandum of November 26, 2014 to the Governing Body and Planning Commission of Prairie Village setting forth your analysis as to why it would not be “unreasonable” to deny MVS’s Request for an extension of the Special Use Permit (the “Extension”).

As you are aware, on December 2, 2014, the Planning Commission unanimously recommended that the Extension be granted for a period of 14 months from the conclusion of the litigation/appeal challenging the legality of the SUP. To a member, the Planning Commission agreed that it would be “unreasonable” for the City to deny the Extension because it would be “unreasonable” for the City to require MVS to spend hundreds of thousands of dollars to prepare construction plans, and millions of dollars more in construction costs should the City lose the pending appeal and the SUP be set aside by the Kansas Appellate Courts, the City would require any improvements previously constructed by MVS to be immediately removed.

The statements made by the Planning Commission members were remarkably similar to the analysis contained in the line of cases cited by MVS from non-Kansas courts unanimously holding that the expiration of a permit is stayed by operation of law during the pendency of legal proceedings challenging the legality of the grant of such permit. We explained that even the *Cobbossee Development Group* case cited in your Memorandum is not contrary to the holdings in the other cases cited by MVS, as the Maine court noted that it did not have to undertake the “tolling” analysis because there was a Maine court rule expressly providing for such the granting of a stay upon application to the court, and the applicant in *Cobbossee Development Group* had failed to make a timely request for such stay in accordance with that Maine court rule. Obviously, Kansas has no such court rule and the analysis undertaken by the Maine court in *Cobbossee Development Group* as to why there was no tolling therefore has no application to this matter.

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The language contained in Condition 4 of the MVS SUP (relating to expiration of the SUP if construction is not commenced within two years of the date of the SUP) is consistently and routinely required by the City of Prairie Village as a condition of granting Special Use Permits and was not carefully tailored solely for the MVS SUP. By way of illustration, on December 2, 2014, the Planning Commission recommended approval of a Special Use Permit for Highlawn Montessori to add a second story to one of its buildings with that identical condition. Yet, no one could ever seriously expect that Highlawn Montessori should have to commence adding a new second story to its existing building if an opponent to the Special Use Permit were to file a legal challenge to the issuance of that Special Use Permit. If that were indeed the case, a single disgruntled neighbor could simply file appeals that would cause that Special Use Permit to expire by its own terms in 2 years.

We also pointed out to the Planning Commission that it would be unfair to deny MVS the Extension based on the fact that MVS previously opposed the injunction sought by the Plaintiffs in the District Court. As you will recall, both MVS and the City jointly opposed the injunction sought by the Plaintiffs, which sought to not only enjoin any construction pursuant to the SUP, but also any activities on the entire 18-acre parcel owned by MVS, and to enjoin the construction of single family homes on the 6-acre portion not the subject of the SUP and/or the demolition of the existing middle school. Entry of such a broad injunction was simply unacceptable to MVS for a variety of legitimate business reasons, not the least of which is that demolishing the Mission Valley Middle School will substantially reduce the real property taxes which are currently being assessed against the property.

The Planning Commission also rejected the suggestion that if MVS is unwilling to risk hundreds of thousands of dollars preparing for construction, or risk millions of dollars constructing improvements during the pendency of the appeal, MVS can choose to simply allow the SUP to expire and thereafter file an application for a new SUP. Members of the Planning Commission recognized that this would make no business sense whatsoever as this purported remedy would only likely result in the City facing new litigation over the issuance or non-issuance of a new SUP a year or two from now and that any benefit of having gotten the existing dispute before the Kansas Court of Appeals would be lost. Given that the City has incurred in excess of \$333,000 during 2013-14 in legal fees alone for services that relate to the issuance and appeal of the existing SUP, it is not "reasonable" or practical to suggest that the entire SUP process be started anew when the Kansas Court of Appeals is now in a position to resolve all issues pertaining to the existing SUP.

As you are now likely aware, counsel for Plaintiffs appeared at the Planning Commission to oppose the Extension. Counsel for Plaintiffs argued that it was "premature" for MVS to seek the Extension, although counsel for Plaintiffs stated that he could not dispute that the appeal would likely continue past the January 6, 2016 expiration date. The Planning Commission asked counsel for Plaintiffs when would be the appropriate time for MVS to ask for the Extension if not now—to which counsel for Plaintiffs had no meaningful response.

Based on all of the foregoing, the Planning Commission unanimously agreed that it was in the best interests of the City to approve the Extension rather than force MVS to file a Declaratory Judgment action to determine whether Kansas courts would follow the unanimous line of case law mentioned above. At the request of the Planning Commission, MVS voluntarily agreed to reduce the time period in which to commence construction to 14 months after the SUP is determined to be a final and non-appealable SUP.

No party is more interested in commencing the immediate construction of Mission Chateau once all pending legal issues have been resolved than MVS. In fact, as stated in our presentation to the Planning Commission, MVS is most anxious to complete construction and obtain permanent financing during the current low-interest environment, for even a one percent increase in interest rates would equate to \$400,000 per year in additional interest expense on a \$40,000,000 permanent loan. However, it would be “unreasonable” to require MVS to proceed forward until the legal validity of the SUP has been fully and finally resolved.

The issue of whether to grant MVS a Special Use Permit is no longer before the City. The issue of whether the City followed the proper procedure in granting the Special Use Permit is currently pending before the Kansas Court of Appeals. The sole issue now before the City is whether the Special Use Permit should be extended to allow all parties to find out whether the prior grant of the Special Use Permit was indeed valid, and then allow MVS with a reasonable period of time in which to proceed with construction if the SUP is upheld.

Your Memorandum focused only on factors and arguments as to why a court might determine why it was not “unreasonable” for the Planning Commission and Governing Body to deny the request for the Extension. However, your Memorandum failed to discuss any of the numerous and compelling factors and arguments as to why it would not only be “reasonable” to grant the Extension, and perhaps more importantly, why a court might determine why it would be “unreasonable” for the Governing Body to deny the Extension. Those factors and arguments include the following:

- The Planning Commission unanimously recommended that MVS be granted a 14 month extension and the Governing Body cannot ignore the various reasons stated on the record which supported that recommendation.
- Granting the Extension does not prejudice any party. The validity of the SUP will be determined by a Kansas appellate court in due course and none of the parties to that litigation have any control over when that decision will be rendered.
- Granting the Extension allows the City to avoid the legal fees that will be required to defend a Declaratory Judgment action with respect to the tolling issue. All of the relevant case law which has examined the tolling issue has unanimously held that tolling occurs by operation of law upon the filing of an appeal with regard to a permit that has a



Catherine P. Logan Esq.  
December 10, 2014  
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performance deadline. There can and should be little doubt that a Kansas court would issue a ruling consistent with the cases we have cited. The City has spent more than \$333,000 on Mission Chateau related legal issues, and there is absolutely no tangible benefit to be obtained by the City in engaging in unnecessary and expensive litigation over the tolling issue.

- A vote to grant the Extension is not an endorsement of the SUP, but rather a recognition that the Kansas appellate courts are in the process of determining the validity of the SUP.

- The last thing that any opponent of Mission Chateau really wants is for MVS to actually proceed with demolishing the school. One additional benefit to granting the Extension is that Mission Valley Middle School can remain in place and available for a possible future user in the event that the pending appeal overturns the SUP.

MVS looks forward to appearing before the Governing Body on December 15 to seek the Extension.

Sincerely,



Timothy J. Sear

TJS:mgs

cc: Joyce Hagen Mundy, City Clerk  
Joseph Tutera  
Michael F. Flanagan, Esq.  
John D. Petersen, Esq.



6201 College Boulevard, Suite 500, Overland Park, KS 66211-2435 • 913.451.8788

January 2, 2015

Timothy J. Sear  
(913) 234-7402  
(913) 451-6205 Fax  
tsear@polsinelli.com

Joyce Hagen Mundy  
City Clerk  
City of Prairie Village, Kansas  
7700 Mission Road  
Prairie Village, KS 66208

**Re: MVS LLC Application for Extension of Special Use Permit**

Dear Ms. Mundy:

The Governing Body has on its Agenda for Monday, January 5, 2015, the recommendation of the Planning Commission to extend the MVS Special Use Permit for a period of 14 months beyond the end of all litigation challenging the legality of the Special Use Permit. MVS believes that the Governing Body should adopt the Planning Commission recommendation for all the reasons stated by MVS and stated by the Planning Commission. Extensions of this sort are routinely granted and the City Attorney has not advised that an extension of the Special Use Permit would be unreasonable.

MVS has also presented interested parties with a revised conceptual plan for the MVS development. MVS is hopeful that this revised plan can serve as the basis for a resolution of the disputes surrounding the Special Use Permit.

There has been a suggestion that in order to allow interested parties an opportunity to fully explore the resolution of this matter that the Special Use Permit be extended, or the expiration of the Special Use Permit be stayed, pending these discussions. MVS supports these efforts.

If the Governing Body is unwilling to adopt the recommendation of the Planning Commission at this time, MVS would suggest that the Governing Body consider extending the Special Use Permit for such time as negotiations continue. At the same time, MVS recommends that the City and MVS seek a judicial declaration as to whether Kansas courts adopt the position



Joyce Hagen Mundy  
January 2, 2015  
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of other state courts holding that Special Use Permits do not expire pending a challenge to the legality of the grant of the permit.

Under this proposal, and without regard to whether the expiration of the Special Use Permit has been tolled by the filing of litigation challenging the legality of the Special Use Permit, there is one year remaining to begin construction under the Special Use Permit. Further running of time under the Special Use Permit would be stayed until such time as MVS Counsel or Plaintiffs Counsel advise the City Clerk, in writing, that negotiations have ended. Upon such notice being given, time would again begin to run on the remaining twelve months remaining on the Special Use Permit.

If such notice is given, MVS would retain its right to have the Governing Body immediately take up the recommendation of the Planning Commission—without further hearings before the Planning Commission. MVS also does not waive its claim that the expiration of the Special Use Permit has been “tolled” by the filing of the litigation challenging the legality of the Special Use Permit.

I would be pleased to address any of these issues prior to or at the Governing Body meeting.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Sear".

Timothy J. Sear

TJS;jlh

## MAYOR'S ANNOUNCEMENTS

March 2, 2015

**Committee meetings scheduled for the next two weeks include:**

Planning Commission	03/03/2015	7:00 p.m.
Tree Board	03/04/2015	6:00 p.m.
JazzFest Committee	03/10/2015	7:00 p.m.
Council Committee of the Whole	03/16/2015	6:00 p.m.
City Council	03/16/2015	7:30 p.m.

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The Prairie Village Arts Council is pleased to present an exhibit by the Mid America Pastel Society in the R. G. Endres Gallery during the month of February. The artist reception will be Friday, March 13, from 6:00 - 7:30 p.m.

Recreation sales begin Wednesday, April 1<sup>st</sup>. Pool memberships purchased in April will be discounted by \$10.

The 2015 annual large item pick up has been scheduled. Items from homes on 75<sup>th</sup> Street and north of 75<sup>th</sup> Street will be collected on Saturday, April 11<sup>th</sup>. Items from homes south of 75<sup>th</sup> Street will be collected on Saturday, April 18<sup>th</sup>.

**INFORMATIONAL ITEMS**  
**March 2, 2015**

1. Arts Council Minutes - January 21, 2015
2. Environment/Recycle Committee Minutes - January 28, 2015
3. Council Committee of the Whole Minutes - February 17, 2015
4. Planning Commission Agenda - March 3, 2015
5. Mark Your Calendar

Prairie Village Arts Council  
Wednesday, January 21, 2015  
7:00 p.m.  
City Hall Multi-Purpose Room

## Meeting Minutes

The Prairie Village Arts Council met at 7:00 p.m. in the Multi-Purpose Room. Members present: Truss Tyson, chaired the meeting in place of Shelly Trewolla who participated via phone, Julie Flanagan, Wayne Wilkes, and Shervin Razavian. Art Weeks arrived at 7:30 pm. Staff: Kate Gunja

### **Minutes**

The minutes from the September 17, 2014 meeting were approved.

### **Financial Reports**

No Finance Report was provided.

### **City Council Report**

Kate Gunja updated the Council on the concept of a citywide Textile Recycling Program that would begin on April 1, 2015 pending Council approval.

### **Exhibit/Receptions**

Shelly, Art and Truss attended the January reception and said that it was well attended.

Shelly, Wayne, Julie and Truss said that they had the February reception on their calendars to attend.

### **Old Business**

#### Finalize 2015 Gallery Exhibit List - Review applications for April Exhibit

The Committee reviewed a new submission for possible exhibition in April 2015. After review, the Committee requested that Leigh Coffman and Marcia Streepy be asked to exhibit in April. If they are not available in April, the Council requested that the Saturday Group be contacted.

### **New Business**

#### Discuss Shooting Stars Sponsorship

Shelly provided a brief overview of the event. The Arts Council approved a \$1,000 sponsorship for Shooting Stars which was the same sponsorship amount in 2014.

#### Discuss Arts Council attendance at Receptions

Kate said that a calendar of the art receptions had been created and a column added to indicate the staff person that would be attendance at the reception. She said that another column had been added so that Arts Council members could sign-up to attend. Kate continued that there are more group exhibitions this year than in previous years which typically require more assistance at the receptions. It was suggested that Arts

Council members sign up for a minimum of 3 receptions. Kate said to email reception preferences to her and she would compile the schedule for the next meeting.

#### Discuss time of Arts Council Meetings

Kate reported that in the past few months the Arts Council has had a difficult time getting a quorum for meetings. She inquired if a different meeting time would work better for members. Members were to email any different meeting time preferences to her.

Julie reported at the next meeting that she would like to touch base on the Children's Show for State of the Arts.

#### **Adjournment**

The meeting was adjourned at 7:40 pm. The next meeting will be held on February 18 at 7:00 pm.

## PRAIRIE VILLAGE ENVIRONMENT AND RECYCLE COMMITTEE

Minutes, January 28, 3015

Pete Jarchow, for the steering committee, opened the meeting at 7:00. Attending were Pete, Thomas O'Brien, Karin McAdams, Margaret Goldstein, Kate Gunja, Polly Swafford, Ben Claypool, Penny Mahon, Ruth Hopkins, Jori Nelson, Kyle Baker, the guest speakers and interested visitors.

The minutes from the December meeting were approved as written.

### **Reports and business:**

- **Community Gardens:**

- In their fourth year, the two gardens are at 75<sup>th</sup> and Belinder and 77<sup>th</sup> and Delmar. The Belinder garden may be in its last year, however, due to the needs of the Montessori school now owning that property.
- Only two slots are available for next summer, with 32 people on the waiting list. The gardeners are searching for additional locations.

- **Education Committee: Ben Claypool:**

- This is the committee spearheading the plastic bag ban initiative. Committee members met with all the major Prairie Village retailers this month, with largely positive results.
- Tonight we will be hearing about plastic bags from people in the bag industry; next month there will be speakers from the Sierra Club.

- **Earth Fair:**

- The fair will be on March 28 this year. Most exhibits will be in the main gym, including a series of presenters. This is a new feature this year and will include talks on xeriscaping, gardening for pollinators, fair trade commerce, the Green Pocketbook and one more presenter yet to be confirmed.
- Echo Elvis will be there, as will the electric car exhibit and the SME library book sale. A new feature will be the SHARE 3-R sale (a rummage sale), in the auxiliary gym.

- **Village Fest:**

- The Village Fest committee will be open to new members; it hasn't met yet.
- Belinder School has asked to borrow our fishpond for their science fair; we will loan that and have offered our bicycle.

- **Community Forum** – the committee hasn't met, but we might look into the effect that the Village Church renovation might have on this event.

**Guest speakers: Philip Rosenski, Hilex Poly Co., and Jonathan Perman, Managing Director, The Perman Group.** Most remarks were from Mr. Rozenski.

- The plastic bag issue is complex, with many myths and misconceptions.
- One myth is that few plastic bags are recycled. In fact his company, which takes care of recycling for Ball Foods, recycles 120 million pounds of plastic bags per year.



- Most people assume that plastic bags are made in China, but in fact 70% are made in the United States.
- It is also assumed that the bags are made from oil. while they're actually made from natural gas.
- Plastic bags are 100% recyclable. One thing they're used for is very sturdy building boards. They're also used to make more bags, which are just as good as new ones.
- When plastic bags end up in the landfill, they only take up about .5% of the space.
- Most people reuse their plastic bags at least once. They may not take them to be recycled because they don't have very many left over. Only "full-time" recyclers tend to use them many times.
- Plastic bags are more practical than paper or reusable bags, because they're so light and easy to ship. When they are picked up from a store's recycling bin, they go to the recycler in the same truck that delivered the new bags.
- Areas with plastic bag bans have seen up to 20% of customers taking their business elsewhere.

Some questions and answers:

- Q – Whom do you represent? A – Several brands.
- Q – How long does it take for a plastic bag to degrade? A – Since they're made of polyethylene, they don't leach harmful toxins.
- Q - How much do retailers pay for plastic and paper bags? A One-half cent for plastic; about 5 cents for paper.
- Q - Would your company contribute to Prairie Village to finance a campaign to promote recycling plastic bags? A - We have done that.
- Q - Do you make compostable bags? A – The problem is that they are compostable! They can't be interchanged with ordinary bags.
- Q - What percent of plastic bags eventually reach the landfill? A – About 60%-70%.
- Q – What about reusable bags? A – Most of those come from China. [That's assuming the typical \$.99 bags]

The meeting adjourned at 8:40 pm.

The next meeting will be held on February 25 at 7:00 p.m.

Respectfully submitted,

Karin McAdams

**COUNCIL COMMITTEE OF THE WHOLE**  
**February 17, 2015**

The Council Committee of the Whole met on Tuesday, February 17, 2015 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Ashley Weaver with the following members present: Mayor Laura Wassmer, Ashley Weaver, Jori Nelson, Ruth Hopkins, Steve Noll, Eric Mikkelson, Andrew Wang, Brooke Morehead, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; David Waters representing the City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

**Executive Session**

David Morrison moved pursuant to KSA 75-4319 (b) (6) that the Governing Body, recess into Executive Session in the Multi-Purpose Room for a period not to exceed 80 minutes for the purpose of discussing possible acquisition of property. Present will be the Mayor, City Council, City Administrator, Assistant City Administrator, Jeff White with Columbia Capital Management and the City Attorney. The motion was seconded by Jori Nelson and passed unanimously.

Council President Ashley Weaver reconvened the meeting at 7:25 p.m.

**ADJOURNMENT**

With no further business to come before the Council Committee of the Whole, Council President Ashley Weaver adjourned the meeting at 7:25 p.m.

Ashley Weaver  
Council President

**PLANNING COMMISSION AGENDA  
CITY OF PRAIRIE VILLAGE  
TUESDAY, MARCH 3, 2015  
7700 MISSION ROAD  
7:00 P.M.**

**I. ROLL CALL**

**II. APPROVAL OF PC MINUTES - FEBRUARY 3, 2015 & FEBRUARY 17, 2015**

**III. PUBLIC HEARINGS**

**PC2015-03 Request for Rezoning from RP-1b to RP-1a and  
Development Plan  
3101 West 75<sup>th</sup> Street  
Zoning: RP-1b  
Applicant: Robert Royer**

**IV. NON-PUBLIC HEARINGS**

**PC2015-104 Preliminary and Final Plat Approval - Chadwick Court  
3101 West 75<sup>th</sup> Street  
Zoning: RP-1a  
Applicant: Robert Royer**

**PC 2015-101 Request for Building Line Modification for front yard  
From 75 feet to 65 feet  
4021 West 86<sup>th</sup> Street  
Zoning: R-1a  
Applicant: Sohail and Ivett Shah  
(applicant has submitted revised plans to their Homes Assn  
and asks this  
Item be continued to June.)**

**PC2015-102 Request for Sign Standard Approval  
2400 West 75<sup>th</sup> Street  
Zoning: C-0  
Applicant: RMTA**

**PC2015-103 Request for Site Plan Approval for Building Height Elevation  
4236 West 73<sup>rd</sup> Terrace  
Zoning: R-1a  
Applicant: Lambie Custom Homes**

**V. OTHER BUSINESS**

Discuss interpretation of Chapter 19.44 - Height and Area Exceptions, Section 19.44.020, Yard Exceptions, C."

**VI. ADJOURNMENT**

Plans available at City Hall if applicable

If you cannot be present, comments can be made by e-mail to

[Cityclerk@Pvkansas.com](mailto:Cityclerk@Pvkansas.com)

**\*Any Commission members having a conflict of interest, shall acknowledge that conflict prior to the hearing of an application, shall not participate in the hearing or discussion, shall not vote on the issue and shall vacate their position at the table until the conclusion of the hearing**

**Council Members**  
**Mark Your Calendars**  
**March 2, 2015**

<b>March 2015</b>	Mid America Pastel Society exhibit in the R.G. Endres Gallery
March 2	City Council Meeting
March 13	Artist reception in the R. G. Endres Gallery 6:30 - 8:00 p.m.
March 16	City Council Meeting
March 28	2015 Earth Fair 10 a.m. to 3 p.m. at Shawnee Mission East
<b>April 2015</b>	
April 6	City Council Meeting
April 7	General Election
April 10	Artist reception in the R.G. Endres Gallery 6:30 - 7:30 p.m.
April 11	Large Item Pick-up residents on 75 <sup>th</sup> Street and North
April 18	Large Item Pick-up residents south of 75 <sup>th</sup> Street
April 20	City Council Meeting
<b>May 2015</b>	Stacy Krieg exhibit in the R.G. Endres Gallery
May 4	City Council Meeting
May 8	Artist reception in the R. G. Endres Gallery 6:30 - 8:00 p.m.Art
May 18	City Council Meeting
May 23	Prairie Village Pool Opens
May 25	City offices closed in observance of Memorial Day
<b>June 2015</b>	Shawnee Mission East Co-Lab exhibit in the R.G. Endres Gallery
June 1	City Council Meeting
June 12	Artist reception in the R. G. Endres Gallery 6:30 - 8:00 p.m.
June 15	City Council Meeting
<b>July 2015</b>	Senior Arts Council exhibit in the R.G. Endres Gallery
July 3	City Offices closed in observance of July 4 <sup>th</sup> Holiday
July 4	VillageFest Celebration
July 6	City Council Meeting
July 10	Artist reception in the R. G. Endres Gallery 6:30 - 8:00 p.m.
July 20	City Council Meeting