

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
June 1, 2015**

The City Council of Prairie Village, Kansas, met in regular session on Monday, June 1, 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, Sheila Myers, Brooke Morehead, Dan Runion, David Morrison and Ted Odell.

Staff present was: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator and Meghan Buum, Deputy City Clerk.

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

**INTRODUCTION OF STUDENTS & SCOUTS**

Mayor Wassmer welcomed Boy Scouts from Troop 395 and Troop 98 who were present.

**PUBLIC PARTICIPATION**

No one was present to address the City Council on issues not listed on the Council Agenda.

## CONSENT AGENDA

Council President Brooke Morehead moved for the approval of the Consent Agenda for June 1, 2015 :

1. Approve regular City Council Minutes - May 18, 2015.
2. Ratify the Mayor's appointment of Jeffrey Valentino to the Planning Commission to a term expiring in April, 2018.
3. Approve an amendment to the Cooperation Agreement with Johnson County for participation in the Johnson County Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) programs.
4. Authorize the current part-time Code Enforcement Officer position to become a full-time position effectively immediately.

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

Mayor Wassmer introduced new Planning Commissioner Jeffrey Valentino. Mr. Valentino stated that he was looking forward to serving on the Planning Commission.

## COMMITTEE REPORTS

### Council Committee of the Whole

COU2015-24 Consider the Design Agreement with Affinis Corporation for the design of the 2016 Mission Road rehabilitation project from 71<sup>st</sup> Street to 75<sup>th</sup> Street

On behalf of the Council Committee of the Whole, Council President Brooke Morehead moved the City Council approve the Design Agreement with Affinis Corporation for the design of the 2016 Mission Road Rehabilitation Project from 71<sup>st</sup> Street to 75<sup>th</sup> Street at a cost of \$157,528. The motion was seconded by Ashley Weaver and passed unanimously.

COU2015-25 Consider Construction Contract for the 2015 Paving and CARS Program

On behalf of the Council Committee of the Whole, Council President Brooke Morehead moved the City Council approve the Construction Contract with J. M. Fahey

Construction Company for the 2015 Paving and CARS Programs in the amount of \$2,335,000. The motion was seconded by Ted Odell and passed unanimously.

## **OLD BUSINESS**

### **Consider Request for Extension to the Special Use Permit for Mission Chateau**

Katie Logan introduced the item. MVS LLC and the neighborhood group opposing the development of Mission Chateau have entered into a mutually agreeable settlement. The new project requires MVS to file an application for a new Special Use Permit (SUP) before September 5, 2015. It is anticipated that the Planning Commission will schedule a public hearing following the filing. The Planning Commission will make a recommendation to the governing body on the new SUP. A condition of the agreement is the granting of an extension to the existing SUP by the governing body. The language in the resolution has been agreed upon by the neighbors and MVS. Ms. Logan noted a typo in the last whereas clause; the effective date of the settlement agreement should read June 1, 2015 rather than May 20, 2015. Representatives of both the neighbors and MVS were available for comment.

Brian Doerr, 4000 W. 86<sup>th</sup> Street, stated that he was speaking as a representative of the neighborhood group. He stated that 44 of the required 47 signatures for the settlement have been acquired, with two additional to be acquired this week. One resident has not been able to be reached as of the time of the meeting. The neighborhood believes they have an effective settlement agreement.

Mike Flanagan, general counsel for Tutera Group and MVS LLC, stated that Mr. Doerr has accurately described the agreement to move forward with a new plan without a skilled nursing component. The continuance with respect to the existing SUP as

outlined by Ms. Logan is an integral component to the settlement agreement. The extension allows the new SUP to be prepared without having to worry about keeping the old project in balance as well. He believes that the new application will be on file significantly before September with the proposal before council in early to mid fall.

Jori Nelson asked for clarification on a skilled nursing facility on the property in the future. Mr. Flanagan stated that while the former plan had that component, the new plan does not. The agreement anticipates a covenant prohibiting a skilled nursing facility on the property and would close that as a possibility once they break escrow. Mayor Wassmer clarified that the covenant runs with the land; even if the Tutera Group sells the property, a skilled nursing facility couldn't be built there. Mr. Flanagan stated that a process needs to be followed before that takes place, and is contingent on the existing SUP being continued, and the new SUP being approved by the City Council and becoming final and non-appealable and not subject to any pending litigation.

Ms. Nelson asked how the outstanding lawsuit with the Kansas Supreme Court would impact this process. Mr. Flanagan stated that all pending litigation in respect to the existing SUP would be resolved by coming to terms on a new SUP. Sheila Myers asked for clarification that the pending case would be dropped should the new SUP be approved. Mr. Flanagan stated that yes, all issues would be resolved and a joint motion will be made to the court. Within the settlement agreement, the parties have agreed to notify the Kansas Supreme Court that the issues have been settled by all parties. Ms. Myers asked what would happen should the Supreme Court rule before the new SUP is agreed upon. Mr. Flanagan stated that the parties have agreed that the decision would not provide an exit for either party to leave the settlement agreement; however, he does

not believe the parties will have an opportunity to present oral arguments before the Kansas Supreme Court prior to the SUP being agreed upon.

Eric Mikkelson asked if this is still a binding agreement in the unlikely event that the final signature doesn't come forward. Mr. Doerr stated it is a condo owner and they don't anticipate any issues obtaining his signature. He believes it is an effective, enforceable agreement right now. Mr. Flanagan stated that he believes it is a binding agreement as it currently stands. Mr. Flanagan stated that all those who signed the settlement agreement have waived their right to sign a protest petition. Mr. Flanagan stated that, in addition, if the Council approves the new SUP, the existing SUP would be terminated by ordinance so in theory, he believes the appeal would be deemed moot.

Ted Odell thanked both sides for working through these details. He appreciates all the hard work that went into this agreement.

Jori Nelson asked if Tutera Group had considered purchasing nearby property to build a skilled nursing facility. Mr. Flanagan responded that they had not.

David Morrison stated that he is not willing to settle for this settlement agreement. His ward is tired of fighting this lengthy legal battle. He believes this is not an optimal use of a prime location, and his ward is settling when they truly need a school.

Ashley Weaver thanked both sides for their diligent hard work and significant time put towards reaching an agreement.

Ted Odell moved the City Council adopt Resolution 2015-01 conditionally approving an extension to the period to commence construction under Ordinance No. 2301. The motion was seconded by Andrew Wang. The motion was voted on and passed by an 11 to 1 vote with Morrison voting in opposition.

Mayor Wassmer thanked both sides for their time and effort in this project.

**New Business**

Jori Nelson, Shawnee Mission School District liaison to the City Council, provided an update to the Council. The School Board approved a \$615,800 contract to JE Dunn for upgrades to the Broadmoor building for the relocation of students from Briarwood including additional classrooms, office area renovations, and a secure entrance along with other miscellaneous improvements. Mayor Wassmer asked about the status of the Briarwood gym. Ms. Nelson stated that she wasn't aware of any developments to report.

Ms. Nelson shared that Clara Ma, a recent SME graduate is a 2015 Presidential scholar. Akshay Dinakar (SME) and Zachary Nason (Homeschooled) were also named as candidates. Fewer than 4,000 students are named for the program and 53 students in the state of Kansas made the list. The award is based on SAT and ACT scores.

Ms. Nelson shared that Ali Dastjerdi and Henry Walter won a national debate title at the National Catholic Forensic League's Grand National Tournament in Florida. Their national championship in policy debate is a first for Shawnee Mission East and a first for Kansas.

Ms. Nelson reported that two synthetic turf fields are ready to be installed at Shawnee Mission East.

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

Planning Commission	06/02/2015	7:00 p.m.
Tree Board	06/03/2015	6:00 p.m.
JazzFest Committee	06/10/2015	5:30 p.m.
Council Committee of the Whole	0615/2015	6:00 p.m.
City Council	0615/2015	7:30 p.m.

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The Prairie Village Arts Council is pleased to present an exhibit by the Shawnee Mission East Co-Lab in the R. G. Endres Gallery during the month of June. The artist reception will be Friday, June 12<sup>th</sup>, from 6:30 - 8:00 p.m.

Recreation sales have begun. The pool diving well and slides will close at 5 p.m. on June 9<sup>th</sup> for a Dive Meet.

The first Moonlight Swim will be held on Friday, June 12<sup>th</sup> with the pool remaining open until 10 p.m.

The MARC 19<sup>th</sup> Annual Regional Assembly Luncheon will take place on Friday, June 5<sup>th</sup>.

### ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 8:00 p.m.

Meghan Buum  
Deputy City Clerk