

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Monday, June 6, 2005
7:30 p.m.**

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC PARTICIPATION

IV. CONSENT AGENDA

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (Roll Call Vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff:

1. Approve Regular Council Meeting Minutes – May 16, 2005
2. Approve Claims Ordinances #2606 through #2609
3. Approve a short-term special use permit for the 3rd Annual JakeFest Celebration and Skate Park Dedication on Tuesday, June 7th authorizing participation by Escapist Skateboarding
4. Approve Food Services Agreements for the JakeFest '05 celebration on June 7, 2005 with Johnny's and Culvers of Kansas City and authorize the waiver of fees
5. Approve a Food Services Agreement with Ultimate Fun Foods, Inc. for Villagefest 2005
6. Approve a reduction of the Tennis Tournament Fee to \$200 for the USTA Tournament held May 14th at the Harmon Park Tennis Courts
7. Establish a fee of \$4 for the sale of Prairie Village ceramic mugs
8. Approval the disposal of Public Works Trucks #1259 and #1302 by public auction.
9. Approve Construction Change Order #8 to Radmacher Brothers Excavating for Project 190714: 2004 Drainage Repair Program for an increase of \$2,062.95 bringing the contact total to \$969,570.47
10. Adopt Council Policy #612 entitled "Pool Closing" as written (Park & Recreation Committee Minutes – May 11, 2005)

V. COMMITTEE REPORTS

Policy/Services Committee – Steve Noll

POL2005-13 Consider Project 191012: 2005 Concrete Repair Program

POL2005-14 Consider Project 190852: 2005 Crack/Slurry Seal Program

VI. OLD BUSINESS

VII. NEW BUSINESS

VIII. ANNOUNCEMENTS

IX. ADJOURNMENT

If any individual requires special accommodations -- for example, qualified interpreter, large print, reader, hearing assistance -- in order to attend the meeting, please notify the City Clerk at 381-6464, Extension 4616, no later than 48 hours prior to the beginning of the meeting.

If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@PVKANSAS.COM

**COUNCIL
CITY OF PRAIRIE VILLAGE
June 6, 2005
-Minutes-**

The City Council of Prairie Village, Kansas, met in regular session on Monday, June 6, 2005, 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, Ruth Hopkins, Steve Noll, Greg Colston, Andrew Wang, Laura Wassmer, Jeff Anthony, Kay Wolf, Diana Ewy Sharp and David Belz.

Also present were: Barbara Vernon, City Administrator; Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Bob Pryzby, Director of Public Works; Doug Luther, Assistant City Administrator; Jamie Shell, Finance Director; Tom Trienens, Manager of Engineering Services; Josh Farrar, Assistant to City Administrator and Joyce Hagen Mundy, City Clerk.

PUBLIC PARTICIPATION

Charles Rocklage, 6910 West 101st Street, addressed the Council as Chairman of the Building Committee for Nall Avenue Baptist Church in response to comments made at the May 3rd City Council meeting and published in the May 4th Kansas City Star regarding their building improvements. He expressed disappointment with the remarks made by some Council members without verifying the information presented at that meeting.

Mr. Rocklage stated the neighboring residents were invited to two informational meetings. Those attending the meeting did not express any negative comments regarding the proposed improvements. They were given Mr. Rocklage's telephone number and directed to contact him at any time with any questions or concerns. He has never been contacted by any of the neighbors.

In the review of their application by the Planning Commission, the Commission responded professionally to Mr. Patterson's concerns and asked the church to meet again with the neighboring property owners. Another meeting was held at the Patterson home.

Mr. Rocklage noted several inaccuracies in Mr. Patterson's comments. He stated the requirements for approval set by the Planning Commission have been met. The Storm Drainage Plan submitted meets a 25-year flood criteria, whereas the City requires a 10-year criteria. The Tree Board has approved the proposed landscape plans. Mr. Rocklage noted the lighting on the east and west will remain as exists due to additional costs incurred for additional landscaping and repainting the building. Mr. Rocklage thanked the Council for the opportunity to address earlier comments and commended the City's Planning Commission for its professional handling of their application.

Kathy Peterson encouraged all present to attend the opening/dedication of the Prairie Village Skate Park on Tuesday, June 7th at 4 p.m.

CONSENT AGENDA

Kay Wolf moved approval of the Consent Agenda for Monday, June 6, 2005:

1. Approve Regular Council Meeting Minutes – May 16, 2005
2. Approve Claims Ordinances #2606 through #2609
3. Approve a short-term special use permit for the 3rd Annual JakeFest Celebration and Skate Park Dedication on Tuesday, June 7th authorizing participation by Escapist Skateboarding
4. Approve Food Services Agreements for the JakeFest '05 celebration on June 7, 2005 with Johnny's and Culvers of Kansas City and authorize the waiver of fees
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6. Approve a reduction of the Tennis Tournament Fee to \$200 for the USTA Tournament held May 14th at the Harmon Park Tennis Courts
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8. Approve the disposal of Public Works Trucks #1259 and #1302 by public auction.
9. Approve Construction Change Order #8 to Radmacher Brothers Excavating for Project 190714: 2004 Drainage Repair Program for an increase of \$2,062.95 bringing the contact total to \$969,570.47
10. Adopt Council Policy #612 entitled "Pool Closing" as written

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Noll, Colston, Wang, Wassmer, Anthony, Wolf, Ewy Sharp and Belz.

COMMITTEE REPORTS

Policy/Services Committee – Steve Noll

POL2005-13 Consider Project 191012: 2005 Concrete Repair Program

On behalf of the Policy/Services Committee, Steve Noll moved the City Council approve the construction contract with McAnany Construction for Project 191012: 2005 Concrete Repair Program in the amount of \$471,036.00 with funding from the Capital Infrastructure Program and a transfer of \$50,000 from concrete unallocated and a transfer

of \$21,436 from Project 191001: ADA Improvements for sidewalk ramps to Project 191012. The motion was seconded by Greg Colston.

Bill Griffith asked if the work would be done at specific locations or throughout the City. Bob Pryzby responded the work will be done in the north quadrant of the City north of 67th Street and east of Mission Road, as well as specific areas identified by resident complaints. Steve Noll noted a different area of the City is selected each year for the program and combined with specific complaints received from residents.

The motion was voted on and passed unanimously.

POL2005-14 Consider Project 190852: 2005 Crack/Slurry Seal Program

On behalf of the Policy/Services Committee, Steve Noll moved the City Council approve the construction contract with Musselman & Hall Contractors for Project 190852: 2005 Crack/Slurry Seal Program for a total contract amount of \$148,379.16 with funding from the 2005 Public Works Operating Budget. The motion was seconded by Greg Colston and passed unanimously.

POL2005-11 Consider Project 190715: 2005 Storm Drainage Repair Program

On behalf of the Policy/Services Committee, Steve Noll moved the City Council reject all bids received for Project 190715: 2005 Storm Drainage Repair Program as they exceed the engineer's estimate and offer the four bidding contractors the opportunity to resubmit a revised bid lower than the established engineer's estimate. The motion was seconded by Al Herrera.

Steve Noll stated this will give the contractors an opportunity to adjust unit prices to come in under the engineer's estimate. Bill Griffith asked why it was felt they would do so. Mr. Noll responded it is not known if they will, but noted to rebid the project would delay the award of any contract for 45 to 60 days resulting in insufficient time to complete the program. The bottom line is, if the City wants the program done this year, action needs to be taken in the next few weeks.

Diana Ewy Sharp asked if the engineer's estimate was done recently. Mr. Noll responded it was done at the time the bids were received. The increasing fuel costs are now impacting the cost of raw materials and are reflected in the contractor's bids. These costs were not factored into the engineer's estimate.

Andrew Wang asked if this could be seen in a comparison between the bids and the engineer's estimate. Mr. Pryzby responded the engineer's estimate was lower across the board. He stated in talking with other Public Works Directors the bids for this season are coming in high throughout the area. The City of Overland Park's bids are coming in 18-20% higher. Mr. Pryzby stated the low bidder for this project generally comes in at the high end of bids and is only over the engineer's estimated by 2.9%. The difference between the low and high bid for the program is \$129,000. In addition to the time constraints with re-bidding the project, Mr. Pryzby advised that historically, re-bids have been higher than the original bid.

Ruth Hopkins noted the engineer's estimate is just an estimate and questioned its importance. Mr. Pryzby responded the City has adopted a Charter Ordinance that states if bids are higher than the engineer's estimate they must be rejected.

City Attorney Charles Wetzler clarified the purpose of the estimate is to give Councilmembers an idea of what an appropriate cost would be for a project. The City's ordinance has always stated that if the bid exceeds the engineer's estimate all bids must be rejected. Mr. Wetzler questioned whether the Council should change the ordinance for a situation that seldom occurs. He noted the action proposed expands the process by giving the previous bidders an opportunity to resubmit their bid in an effort to get a bid below the engineer's estimate.

Steve Noll noted to formally rebid the project would result in bids not being opened until the middle of the summer. He noted the bid was formally advertised and public notice requirements have been fulfilled and all contractor's are being given equal opportunity.

Ruth Hopkins questioned if the engineer's estimate will be changed. Mr. Pryzby stated it would not, noting the difference is less than 3%. He feels the best option for the City is to attempt to get the low bidder to reduce their bid.

Kay Wolf stressed this action would allow the City to move forward with the project during 2005.

Bill Griffith expressed concern with the low bid being the best bid and feared having another situation similar to that experienced with Mission Road last summer. Mr.

Pryzby responded the Wiedenmann & Godfrey Construction is a well-known contractor who does quality work and has done work for the City in the past.

Steve Noll stated there is an active construction market in the metropolitan area with plenty of work available resulting in cities paying a premium for work.

Ruth Hopkins confirmed the City cannot accept the bid based on our ordinance. Mr. Wetzler stated all bids must be rejected and then all contractors be given the opportunity to resubmit bids.

Diana Ewy Sharp questioned if it would be smarter to revisit the ordinance. Mr. Wetzler responded the review and change of a charter ordinance would take three months. He noted in the past, engineer's estimates were significantly higher than the bids received.

Steve Noll stated the City got caught in the situation where it did not recognize the high degree of inflation in the cost of raw materials and adjust for increased market prices and the tight construction market in the computation of the engineer's estimate.

Diana Ewy Sharp asked if the proposed motion was following the City's ordinance. Mr. Wetzler responded "not to the letter". He stated the Policy/Services Committee is taking action in the best interest of the City to attempt to ensure the completion of the proposed project while maintaining the integrity of the bidding process by giving all bidders an opportunity to submit revised bids.

Laura Wassmer moved to call the question. The motion was seconded by Bill Griffith and passed by a vote of 6 to 5.

The motion for the City Council to reject all bids received for Project 190715: 2005 Storm Drainage Repair Program as they exceed the engineer's estimate and offer the four bidding contractors the opportunity to resubmit a revised bid lower than the established engineer's estimate was voted on and passed by a vote of 7 to 4 with Griffith, Hopkins, Anthony & Ewy Sharp voting "nay".

POL2004-11 Consider Project 190841: Mission Road – 71st Street to 75th Street; Project 190847: 2005 Paving Program and Project 190848: Mission Road – Somerset Drive to 83rd Street.

On behalf of the Policy/Services Committee, Steve Noll moved the City Council accept the revised bid, below the engineer's estimate, of McAnany Construction as follows: Project 190841: Mission Road – 71st Street to 75th Street in the amount of

\$582,195.50; Project 190847: 2005 Paving Program in the amount of \$982,750.40 and Project 190848: Mission Road – Somerset Drive to 83rd Street in the amount of \$230,117.46. The motion was seconded by Kay Wolf.

Steve Noll stated McAnany was the only bidder for this project. They have revised unit prices and submitted a revised bid that is below the engineer's estimate.

Charles Wetzler stated in this situation where there was only one bidder who voluntarily revises their pricing to come in below the engineer's estimate, although it does not follow the City's ordinance to the letter, he sees very little risk in accepting the revised bid. The action does not negatively impact the rights of any other contractors and the City is acting in its residents' best interest to get the proposed work completed.

Ruth Hopkins expressed frustration because the recommendation made being considered is different than that submitted in the committee packet. Mr. Pryzby responded the contractor voluntarily came forward with the offer after the staff recommendation was prepared.

Bill Griffith expressed concerns with cost overruns and change orders increasing the total project costs. Mr. Pryzby stated it will be the responsibility of the staff to monitor the project, but noted McAnany is a very reputable contractor who has done quality work for the City in the past. He also added the scope of the project has been reduced.

Bill Griffith questioned the change in the scope of the project. Mr. Pryzby responded the scope of projects is often changed after the receipt of the official bid. In the past, the scope has been increased to use all the budgeted funds for the project. He noted those areas cut from the project would be added to the 2006 project.

Diana Ewy Sharp expressed concern with the setting of a precedent and not following the city's ordinance.

Laura Wassmer reminded the Council to keep the goal in mind of providing services to our residents while following the intent of the ordinance. Andrew Wang agreed stating the action maintains the integrity of the bidding process and is not inherently unfair or inappropriate causing damage to any party.

Al Herrera stated the City has a good working relationship with McAnany. He acknowledged the tight construction market and stated it would be unfair to residents to not move forward with proposed projects when the opportunity to do so is available.

Ruth Hopkins questioned why only one bid was received. Mr. Pryzby responded the construction marketplace is extremely busy in the metropolitan area and noted the bids went out late after many firms had already committed to other projects.

Steve Noll stressed the Policy/Services committee discussed in length many of the concerns and questions being raised. It is not the committee's intent to undermine or circumvent the rules, but to find a way to get the work done for the residents this year. He noted the City may want to reconsider the ordinance at some time. Mr. Noll stated if the bids were opened in March, it would be possible to follow the ordinance to the letter and formally rebid the projects and still be able to have them completed this season. If the projects were formally rebid at this point in time, the construction would not be able to be completed in 2005 and would cost more.

The motion was voted on and passed by a vote of 7 to 4 with Griffith, Hopkins, Anthony & Ewy Sharp voting "nay".

Villagefest 2005

Diana Ewy Sharp reported plans are moving ahead smoothly. She stated the banners and flags advertising the event will go up shortly and advised any Councilmembers who wished to purchase Villagefest polo shirts to contact her.

OLD BUSINESS

There was no Old Business to come before the City Council.

NEW BUSINESS

There was no New Business to come before the City Council.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	06/07/2005	6:30 p.m.
Planning Commission	06/07/2005	7:00 p.m.
Park and Recreation Committee	06/08/2005	7:00 p.m.
Budget Worksession, if needed	06/13/2005	6:00 p.m.
Sister City	06/13/2005	7:00 p.m.

Prairie Village Arts Council	06/15/2005	7:00 p.m.
Council Committee of the Whole	06/20/2005	6:00 p.m.
City Council	06/20/2005	7:30 p.m.

The Prairie Village Arts Council is pleased to feature an exhibit of Regina Hellebuyck, Tina Wilke & Mary Mayfield's Pastels photography in the R.G. Endres Gallery during the month of June. The opening reception will be held on June 10th, from 6:30 – 7:30 p.m.

Remember the dedication of the Prairie Village Skate Park is this Tuesday, June 7th at 4 p.m. Plan to attend this special event.

The Prairie Village Pool is open for its 2005 season. Swimming Pool and other recreational program memberships are on sale in the Municipal Building. Information and applications for all recreational programs can be found on the City's website.

Don't forget the Sister Cities Cinema in the Chamber starting at 7:30

June 10th The Gods Must Be Crazy
July 8th Crouching Tiger, Hidden Dragon
August 12th Chocolat

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

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned at 8:35 p.m.

Joyce Hagen Mundy
City Clerk