

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
October 5, 2015**

The City Council of Prairie Village, Kansas, met in regular session on Monday, October 5, 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, Sheila Myers, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff present was: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk.

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

**INTRODUCTION OF STUDENTS & SCOUTS**

No scouts or students were in attendance.

**PUBLIC PARTICIPATION**

Kathy Peterson, 10804 Horton, Overland Park, formerly of Prairie Village, was present with several others to show their support of the Prairie Village Skate Park. Mrs. Peterson presented the history of the three and a half year campaign to raise funds for

the construction of the skate park in the early 2000's during which more than \$65,000 was raised. She noted the project partnered with the Arts Council on the project which was designed to allow for outside activities to be held with a stage placed over the skate park as it is done for the Prairie Village Jazz Festival. The committee consisted primarily of 12 year olds, some of whom are present this evening as adults. Mrs. Petersen called upon Sean Stenger, a former committee member to speak.

Sean Stenger, 4617 West 72<sup>nd</sup> Street, addressed the Council regarding the value of the skate park to the community. He acknowledged the cost to the city to maintain the facility suggesting that \$20,000 be placed in reserves annually for this expense. The Tony Hawk Foundation recently surveyed police officers from over 37 states regarding the impact of skate parks on their community. The responses of the officers were very positive. Mr. Stenger noted that he was pleased to be able to be involved in the skate park process as a student and have the opportunity for civic engagement. He urged the City Council to continue the openness and engagement with the community that made the skate park possible.

Ted Odell expressed his support and noted that earlier discussion was solely the issue of budgeting for the funds that will be needed in the near future for the reconstruction of the skate park. Terrence Gallagher clarified his earlier comments regarding the possible impact of the fire station locating on the municipal campus and the need to consider the possible relocation of the skate park to create the best plan for the station. He is supportive of the skate park and had no intention of removing the skate park acknowledging its value to the community for residents and non-residents alike.

Steve Reardon and Kate Danner, 7426 Rosewood Circle, addressed the Council regarding the unsafe situation in their area. Mr. Reardon distributed photos and information to further demonstrate their concerns. Mr. Reardon is concerned with the eleven foot drop in elevation from the street level to their property and noted a similar situation for the adjacent Ashbury Church property. The church has constructed a double chain-link fence around their play area to provide some protection if a vehicle went off the road onto their property. Mr. Reardon would like to see a concrete retaining wall constructed with a metal railing on top to provide greater protection. Ms Danner noted a similar retaining wall two feet off the sidewalk is currently being constructed further to the east in conjunction with the 75<sup>th</sup> Street project.

Terrence Gallagher asked if this was being considered as part of the 75<sup>th</sup> Street improvements. Keith Bredehoeft responded that there is no 75<sup>th</sup> Street project planned yet for the area to the west of Mission Road. Mr. Bredehoeft noted he is aware of the significant elevation change at that location.

Ruth Hopkins asked if something particular brought about this request. Mr. Reardon replied the runoff and erosion problems over the past year. Ms. Danner noted that this past year their neighbor across the street had a car go off the road into his back yard. This is a fairly high volume roadway.

Brooke Morehead asked how far this was from the Asbury playground area. Ms. Danner responded 400'. Mayor Wassmer asked if the wall was installed on public property by the City. Mr. Bredehoeft replied he believed that it is and at some time the city installed the wall and fence. He stated he is aware of the situation and they can certainly look into it further and determine where it would fit in the CIP program.

With no further comments, public participation was closed at 7:48 p.m.

## CONSENT AGENDA

Mayor Wassmer asked if there were any items on the Consent Agenda that a Council member wanted removed. Terrence Gallagher requested item number 2 be removed as he has several questions that he would like answered. He referenced comments made at the last Council Committee Meeting opposing the removal of the traffic signal. He asked Mr. Bredehoeft what triggered the need for this traffic signal to be removed. Mr. Bredehoeft responded that Public Works had first started looking into whether the traffic light was a good fit for the intersection several years ago when Somerset Elementary closed. The department collaborated on a traffic study which found that the intersection no longer met any of the criteria for a traffic signal.

Mr. Gallagher noted that Mr. Bredehoeft had stated that traffic signals are unsafe and asked if he agreed and how many accidents had occurred at this intersection. Chief Schwartzkopf replied that over the past three years there have been four accidents at that location, three occurring on the Leawood side and one in Prairie Village. All were rear-end accidents. Mr. Gallagher responded that they were not caused by the traffic light but by drivers not paying attention. Chief Schwartzkopf replied the vehicles were slowing down because of the traffic light when hit by the cars behind them.

Mr. Gallagher asked if Chief agreed with Mr. Bredehoeft that traffic lights are unsafe. Mr. Bredehoeft replied that he did not state that they were unsafe but noted that they can create conflict points at intersections. Mr. Gallagher noted the minutes of the meeting stated Mr. Bredehoeft said they were unsafe. Mr. Gallagher asked Chief Schwartzkopf if he agreed that traffic signals are unsafe. Chief replied he does not believe in general that traffic signals are unsafe, but noted that he is not a traffic

engineer and that the study conducted by traffic engineers concluded that at this intersection they were not warranted.

Mr. Gallagher asked if Mr. Bredehoeft had reached out to the neighborhood. He responded that at this point in time he hasn't. Mr. Gallagher stated that he had and forwarded some of the responses he received to Council members to make them aware of the neighbor's opposition to the proposed action. He does not feel the removal of the traffic signal will create a cost savings for the city, particularly in view of having to add a crossing light at this intersection. He feels the traffic signal is effective and needed reminding the Council of the cyclist that was hit by a vehicle at that intersection.

Mr. Gallagher moved the City Council not authorize the removal of the traffic signal located at Somerset Drive and Belinder Avenue. The motion was seconded by David Morrison.

Sheila Myers asked if there was a period of protest. Mr. Bredehoeft reviewed the steps that would be taken prior to the removal of the traffic signal. Mrs. Myers asked if during that period of time, action could be taken to stop the removal of the traffic signal if merited. Mr. Bredehoeft replied the traffic study conducted by the city's traffic engineer evaluated the intersection and traffic signal based on established criteria and clearly found that the signal was not warranted. It is not a decision to be based on whether it is liked or not.

Ted Odell expressed concern with the removal of the traffic signal. He asked what could be done to ensure pedestrian safety. Mr. Bredehoeft responded that a crossing signal could be installed similar to the one installed by Weltner Park.

Mayor Wassmer called upon the city's consulting engineer.

Jeff Wilke, with TranSystems 2400 Pershing, reviewed the process for the evaluation of the traffic signal including a review of traffic counts and turning movements. The traffic volume at the intersection did not meet the criteria warranting a traffic signal. Jori Nelson asked when the study was conducted. Mr. Wilke responded traffic counts were taken on May 2 and May 13, 2014 over a 24 hour period. Ms. Nelson noted that was 18 months ago. Mr. Wilke responded that traffic volumes remain fairly consistent over the years in this location. Ms. Nelson asked staff why if they have been looking at this for over a year and a half it is just now coming to the Council.

Keith Bredehoeft replied that the Police Department and Public Works Department conducted the study last summer. The results of the study were shared with the City of Leawood, who shares in the cost of the traffic signal. Leawood wanted to wait a year before removing signal and it took a couple of months to get agreement from KCP&L for the removal creating the delay in bringing it forth to Council.

Ms. Nelson asked if notification of neighbors would be to property owners within 200' feet of the intersection. Mr. Bredehoeft noted no letters were sent at this point in time. Notification of the process that was going on was posted on the City's website.

Dan Runion feels the cost savings was minimal. He asked if the number of accidents at this intersection was higher than other intersections. Jeff Wilke replied that this is a low frequency area, rear-end accidents are higher at intersections.

Andrew Wang stated that he cannot support the motion noting that an engineering study that has been done determining that the intersection does not satisfy the criteria for a traffic signal. He doesn't feel that leaving the signal in is increasing public safety.

Terrence Gallagher noted that there is a low volume of accidents, no new cycling incidents have been recorded because of the safety device. Traffic and safety are not based on raw numbers of how many vehicles are going through the intersection, but on the driving habits and what is happening. He feels that removing the traffic signal would be opening the door to future accidents. He added that this City Council voted to narrow Mission Road because of safety concerns without conducting a traffic study.

Eric Mikkelson noted that the residents in this area have not had public input on this and they are the ones that will be most impacted by the change. He would like to see them have input.

David Morrison noted that lower speed traffic results in less injury if an accident occurs and traffic signals lower traffic speed. Without the traffic signal the potential for higher speed and greater injury would increase.

Mayor Wassmer called for a vote on the motion with the following votes cast: “aye” Weaver, Nelson, Mikkelson, Runion, Morrison, Odell and Gallagher; “nay” Hopkins, Noll, Wang, Myers and Morehead. The motion passed by a vote of 7 to 5.

Council President Brooke Morehead moved for the approval of the Consent Agenda for October 10, 2015 as amended:

1. Approve City Council Minutes - September 21, 2015
2. Removed.

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

## **COMMITTEE REPORTS**

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

COU2015-34 Consider purchase of two Ford F-550's to replace two dump trucks and disposal of asset #1111 and #1134 by auction

On behalf of the Council Committee of the Whole, Council President Brooke Morehead moved the City Council approve the purchase of two Ford F-550's from Shawnee Mission Ford in the amount of \$101,093.12 and the disposal of Asset #1111 and #1134 by auction. The motion was seconded by Andrew Wang and passed unanimously.

COU2015-35 Consider Resolution determining the intent of the Governing Body regarding certain provisions in the Meadowbrook Park and Village area project plan and proposed redevelopment district.

On behalf of the Council Committee of the Whole, Council President Brooke Morehead moved the City Council adopt Resolution 2015-04 determining the intent of the Governing Body regarding certain provisions in the Meadowbrook Park and Village area project plan and proposed redevelopment district pursuant to K.S.A. 12-1770, etc. seq. The motion was seconded by Ted Odell and passed unanimously.

**Mayor's Report**

Mayor Wassmer reported she gave her report at the earlier Council Committee Meeting with much of her focus the past two weeks on the Meadowbrook Project.

**STAFF REPORTS**

Mayor Wassmer reported that Staff Reports were presented at the earlier Council Committee of the Whole Meeting.

**OLD BUSINESS**



**Consider pleadings for dismissal and agreed journal entry in pending lawsuits related to city's denial and approval of SUPs on the former Mission Valley School site.**

City Attorney Katie Logan stated two lawsuits were filed against the City related to the issuance of Special Use Permits for an adult senior community at 8500 Mission Road. The first lawsuit was MVS, LLC, Plaintiff v. City of Prairie Village, KS, Defendant, 13CV06998 pending in the District Court of Johnson, KS challenging the denial by the City of the "first" application for Special Use Permit application by MVS, LLC for the Mission Valley site. The second lawsuit was Marsh, et. Al., Plaintiffs v. City of Prairie Village, KS Defendant, District Court of Johnson County, KS Case No. 13CV08544 challenging the granting by the City of the "second" application for a Special Use Permit for the Mission Valley Site. She noted that an appeal by the Plaintiffs of the Second Lawsuit is pending before the Kansas Supreme Court in Case No. 14-112706-AS.

Mrs. Logan stated that pursuant to a Settlement Agreement, the parties of the two lawsuits (excluding the City) agreed that upon an Ordinance approving a "third" application for a Special Use Permit on the Mission Valley Site becoming final without appeal, the lawsuits would be dismissed. This agreement specified certain provisions required in the "third" application, including conditions and a prohibition against a skilled nursing facility on the site.

The Governing Body adopted Ordinance No. 2336, approving the "third" application on August 17 and a summary was published on August 25, 2015. The thirty day statutory period for a lawsuit to challenge Ordinance No. 2336 expired on September 24, 2015. MVS, LLC has provided the City with a search of county records confirming that as of September 30, 2015, no lawsuit has been filed related to Ordinance 2336.

The Settlement Agreement contemplates that upon the expiration of the appeal period, by agreement of the parties, the First Lawsuit will be dismissed, the Second Lawsuit will be remanded to the District Court and the District Court will enter an agreed upon Entry of Judgment which prohibits a skilled nursing facility on the Mission Valley site.

For the above noted actions to be finalized, Counsel for MVS, LLC and the Marsh Plaintiff's have presented several documents for execution by the City. City Attorney Katie Logan requested Council authorization for Lathrop & Gage to execute these documents on behalf of the City.

Steve Noll moved the City Council authorize Lathrop & Gage to execute the following documents on behalf of the City of Prairie Village:

“Joint Stipulation of Dismissal” to be filed in District Court of Johnson County Case Number 13CV06998

“Joint Motion to Remand to District Court for Entry of Agreed Journal Entry of Judgment” to be filed in Kansas Supreme Court Case No. 14-112706-AS

“Agreed Journal Entry of Judgment” to be filed in District Court of Johnson County Case No. 13CV08544

The motion was seconded by Ted Odell and passed unanimously.

## **NEW BUSINESS**

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

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

Planning Commission	10/06/2015	7:00 p.m.
Prairie Village Tree Board Fall Seminar	10/07/2015	7:00 p.m.
Jazz Fest Committee	10/08 /2015	5:30 p.m.
Special Planning Commission @ Meadowbrook	10/12/2015	5:00 p.m.
Special City Council Meeting @ Meadowbrook	10/12/2015	5:30 p.m.
Council Worksession @ Meadowbrook	10/12/2015	6:00 p.m.
Park & Recreation Committee	10/14/2015	6:30 p.m.
Council Committee of the Whole	10/19/2015	6:00 p.m.
City Council	10/19/2015	7:30 p.m.

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The Prairie Village Arts Council is pleased to present the 2015 State of the Arts Exhibit featuring selective artists using multi-media in the R. G. Endres Gallery during the month of October. The artist reception will be Friday, October 9<sup>th</sup>, from 6:00 - 8:00 p.m. with awards announced at 7:30 p.m.

Remember this is Peanut Butter Week. Bring your donation to City Hall or area schools or churches.

The Annual Tree Board Seminar will be held on Wednesday, October 7<sup>th</sup> in the Council Chambers of City Hall from 7 to 8 p.m.

The Annual League of Kansas Municipalities will be held October 10 - 12, 2015 in Topeka.

Save the Date - The Northeast Johnson County Chamber of Commerce Annual Gala will be held on Saturday, November 21<sup>st</sup>.

#### **ADJOURNMENT**

With no further business to come before the City Council the meeting was adjourned at 8:40 p.m.

Joyce Hagen Mundy  
City Clerk