

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Tuesday, February 18, 2003
7:30 p.m.**

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC HEARING – 7124 Cherokee Drive

IV. PUBLIC PARTICIPATION

V. 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 – February 3, 2003
2. Approve Claims Ordinances #2395 through #2398
3. Approve an agreement with Barnds Brothers Lawn & Garden to provide weed abatement services during 2003.
4. Approve a short-term special use permit to the Somerset PTA for their annual Carnival on March 7, 2003 at 2700 Somerset with authorization for banners & flamingos on the grounds and for the waiver of the permit application fee.
5. Ratify appointment of Cheryl Landes to the Environmental/Recycle Committee with term expiring in April 2004.
6. Ratify appointment of Linda Davis to the Prairie Village Arts Council for a three-year term expiring in April 2006.

By Committee:

7. Approve Affinis Corporation as the City Consultant for street design and street construction administration for the years 2003 through 2005 and enter into an individual consulting services agreement for each project. (Policy/Services Committee Minutes – February 3, 2003)
8. Approve to delete from the Policy/Services Agenda the following items:
 - POL2001-95 Consider Project 190824: 2002 Crack/Slurry Program
 - POL2001-14 Consider Project 190814: 2001 Street Resurfacing Program
 - POL2001-33 Consider Report on 90th street pond and POL2002-09 Consider Project 190832: Mission Lane Bridge Alternative Report (Policy/Services Committee Minutes – February 3, 2003)
9. Approve The 2003 Aquatic Examiner Program contract between the American Red Cross and the City of Prairie Village (Park and Recreation Minutes – February 12, 2003)
10. Approve the 2003 KC Comets Soccer Camp contract between the Kansas City Comets Organization and the City of Prairie Village. (Park and Recreation Minutes – February 12, 2003)
11. Approve the consulting agreement for Project 190627: Homesteader Statue Restoration for \$2,200 with funding from the Park Capital Improvement Program. (Park and Recreation Minutes – February 12, 2003)

VI. COMMITTEE REPORTS

Council Committee of the Whole – Laura Wassmer
COU2003-07 Consider NPDES Phase II Notice of Intent

COU2003-09 Consider 2003 CARS application

VII. OLD BUSINESS

VIII. NEW BUSINESS

IX. ANNOUNCEMENTS

X. 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
February 18, 2003
-Minutes-**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, February 18, 2003, 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, Bob Pierson, Roy True, Laura Wassmer, Jerry Kelso, Jeff Anthony and Kay Wolf.

Also present were: Barbara Vernon, City Administrator; Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Robert Pryzby, Director of Public Works; Doug Luther, Assistant City Administrator; Steve Horner, Assistant City Attorney; Jim Brown, Building Official and Joyce Hagen Mundy, City Clerk.

PUBLIC HEARING

Mayor Shaffer recessed the City Council meeting at 7:35 to hold the “show cause” public hearing on the property located at 7124 Cherokee to determine if the structure is unsafe or dangerous. This procedure is in accordance with Resolution 2003-01 approved by the City Council on January 6, 2003 and published in the Johnson County SUN on January 9 and January 16, 2003. Mayor Shaffer reviewed the rules of procedure for the Public Hearing and called upon the City’s Public Officer Steve Horner.

Assistant City Attorney Steve Horner reviewed the history of this property, which includes numerous property maintenance violations. A complaint was made on September 25, 2002, for exterior property violations. After an exterior inspection, staff issued citations for exterior property violations. By certified mail and by personal service, staff also requested an interior inspection, based upon structural issues discovered during the exterior inspection. The property owner did not respond to the request, and City Staff secured an administrative search warrant from the District Court on December 12, 2002 to inspect the property. The inspection was performed by the City’s Building Official, Jim Brown; the City’s Code Enforcement Officer, Marcia Gradinger and Daryn York, City Building Inspector on December 13, 2002. In conjunction with the statement of the Public Officer filed with Governing Body on December 24, 2002, the Building Official presented pictures taken during that inspection

to the City Council on January 6th. Thereafter by resolution the Governing Body made the determination that a “show cause” hearing on the property was justified.

Steve Horner reported to the Council that the City has been advised by Bill Riddle that the original owner of the property, James Solem, had sold the property to Mr. Riddle. Mr. Riddle, who was present, also advised that the documentation of the sale is in the process of being filed with the County and would be provided to the City later. This evening City staff was also advised by Jasper White and Joel Davis that they are in the process of negotiating with Mr. Solem for the purchase of the property. Mr. Horner stated that the issue of ownership of the property, does not impact the Council’s determination as to the condition of the property as an unsafe or dangerous structure; and that he recommended that the show case hearing proceed. If the Council chooses to proceed, the City’s Building Official will present evidence as to the condition of the structure. Then the owner or any other party of interest, including Mr. Riddle, Mr. White and Mr. Davis will be given the opportunity to respond and/or to present their own evidence. After the presentations of evidence by all parties, the Governing Body will be asked to deliberate and to determine whether the structure is unsafe or dangerous, and if so, what course of action should be taken to resolve the matter. This will be done in the form of the adoption of a resolution, which will include findings of fact and establish a timetable for action.

Jim Brown, City Building Official, reviewed the city code definition of an unsafe structure. He then presented photographs taken of the structure during the December 13, 2002 inspection of the property. The photographs documented serious damage to the foundation of the home in several locations, including the protrusion of the house’s main support beam. They also presented evidence of severe cracks within the structure at several locations large enough to allow animals and insects to enter the structure. Pictures showed primary supports in the structure leaning, the electrical boxes protruding about 5 inches from the wall, significant water leaks caused by damaged plumbing and termite infestation and damage. Mr. Brown noted that he was unable to determine the full extent of floor damage due to extensive trash covering the floor. Severe Cracks in the ceiling showing separation were evident. The stairwell was significantly damaged and unstable. A fireplace provides the main source of heat. Currently the residents place 5 -6 foot logs sticking out of the fireplace, and push the logs in as they burn toward the

carpet. Additionally, space heaters plugged into extension cords and buried by trash use also on.

Al Herrera asked Jim. Brown if he feels the structure needs to be demolished. Mr. Brown stated that the house cannot continue in its present condition. It will collapse. Staff feels that the house is damaged and unsafe in its current condition. He noted that any structure can be repaired with a significant investment. He does not feel repair of this structure is economically feasible and recommends that it be demolished.

Bob Pierson asked what utility service is being provided to the house. Mr. Brown responded that electricity and water are being provided, and confirmed that there are currently three occupants residing in the house.

Steve Horner emphasized that the Governing Body's task is to determine if the structure is in fact unsafe or dangerous. It is not the Council's place to determine if the structure should be repaired or demolished by the owner, as long as sufficient action is taken to bring the property into compliance with City code. The Kansas State Supreme Court has ruled that it is the property owner's right to repair the property, if he chooses. The Council can set a timetable within which action must be taken, but should not direct whether the property owner should repair or demolish the structure. However, if the owner fails to act, the City may demolish the structure in accordance with staff's recommendation.

Mr. Horner stated the proposed resolution establishes a timetable requiring the property owner to commence demolition or repair within 30 days of date of publication of the Resolution, but no later than March 31, 2003, and to have repairs completed within 120 days of the date of commencement, but no later than June 30, 2003. If demolition is chosen, it is to be completed no later than April 30, 2003.

If the property owner fails to meet the conditions stipulated in the resolution, the City is authorized to take action pursuant to demolish the structure with the property owner being assessed for the costs incurred by the City.

Al Herrera asked if the City could specify that no one be allowed to reside in the structure. Mr. Horner responded that occupancy will be addressed by the City's posting of the property as uninhabitable by the Building Official.

Jeff Anthony asked if any security is required of the property owner. Mr. Horner responded that none is required by state statute or the City and if the property owner

defaults, there is no guarantee that the City would be reimbursed for costs incurred to remove the structure.

Roy True asked what the estimated cost of demolition would be. Mr. Brown responded that he has received a quote of \$6,400.

Steve Noll confirmed that the owners have been notified of the proposed timetable for action.

Al Herrera asked if the City were to demolish the structure would it work with the bank holding the mortgage. Mr. Horner responded that if the structure were to be demolished, the property would still have value as a vacant lot and would continue to be the owner's property. The City could place an assessment lien against the property. Roy True verified that if a lien were placed against the property, the City would be paid before the mortgage company, if the property were sold.

Mayor Shaffer opened the hearing to the audience for comments and questions.

Loring Leifer, 7301 Booth, asked for the remaining amount of the mortgage and the mortgage holder. Mr. Horner responded that he did not have that information, but noted that the mortgage is 20 to 25 years old. Marcia Gradinger, City Code Enforcement Officer, stated that the occupants had told her that the remaining mortgage was \$5,000.

Joel Davis, 2326 Charlotte, Kansas City, Missouri, stated that he is in the process of purchasing the home and already has estimates on the projected costs to repair the home, which is his plan. Mayor Shaffer confirmed that Mr. Davis was aware of the proposed timetable.

Bill Riddle, 10888 West 177th Terrace, Olathe, stated that he is working with the owner for the purchase of the home and will meet the proposed timetable for the repair of the home. He asked that the Council consider giving the current occupants time to relocate.

Ruth Hopkins asked why he felt the structure was repairable. Mr. Riddle responded that the foundation once repaired would support the structure. The primary exterior of the building is acceptable and the roof is in good condition. The interior problems can be corrected. He confirmed that he would hire a professional foundation firm to repair the foundation.

Al Herrera asked how much time he felt the current occupants should be given to move out. Mr. Riddle suggested February 28th.

Loring Leifer, 7301 Booth, asked how the potential owners became aware of the house being for sale. Mayor Shaffer noted that the notice of this hearing was published and stated that the requested information was not pertinent to the Council's determination on the condition of the structure.

Laura Wassmer expressed concern with remodel vs. demolition of the structure. She does not want the problems merely covered up and feels the house should be gutted.

Bill Griffith stated that the issue of repair vs. demolition is outside the scope of the Council's action.

Jasper White, 421 West 87th Street, stated that he has been inside the structure. He stated that a fire several years ago caused much of the interior damage shown. There are very few gaps between the flooring and noted the separations of the wall from the floor are one inch or less. There are very few cracks on interior walls.

Ruth Hopkins asked if the City could require demolition. Mr. Horner responded that the Supreme Court has ruled that is the decision of the property owner. If the property owner defaults, the City has the right to choose to demolish the structure.

Jeff Anthony asked what the City's legal exposure is if the structure is not demolished over the course of the next 120 days. Mr. Horner stated that the City will post the structure as "unsafe for human occupancy" and he does not feel the City incurs any liability after the structure has been posted and declared as unsafe by the City.

Al Herrera stated that he is still concerned with having the structure occupied. Mr. Brown stated that he can post the structure as unsafe, but cannot force the occupants to leave. The declaration of an unsafe structure is different than the eviction process.

Laura Wassmer moved the City adopt a resolution finding that the structure commonly known as and referred to as 7124 Cherokee Drive, Prairie Village, Kansas, and legally described as Prairie Hills, Block 2, Lot 11 is unsafe or dangerous, and directing that said structure be repaired or removed and the premises made safe and secure; and further moves that the occupants be directed to vacate the premises by February 28, 2003. Steve Noll seconded the motion.

Bill Griffith stated he opposed the motion with the inclusion of the February 28th date. Ruth Hopkins also expressed opposition noting that once the structure is declared dangerous and unsafe, no occupancy should be allowed.

Steve Horner advised the Council that the notice could be posted the day of publication of the resolution.

Chief Grover was asked what action could be taken to remove occupants from a structure that has been posted as unsafe. He stated that he would have to meet with the City's Building Official and City Attorney to determine the appropriate action.

Laura Wassmer moved to amend the motion with the removal of the February 28th date. Steve Noll seconded the amendment.

Jerry Kelso asked if it would be possible for the occupants to sign a waiver of liability if they chose not to move out of the structure.

The Council voted on the amendment to the motion removing the February 28th date. The motion was passed unanimously.

Mayor called for the restating of the motion as amended prior to the vote. The motion was reread as follows: The City adopt Resolution 2003-02 finding that the structure commonly known as and referred to as 7124 Cherokee Drive, Prairie Village, Kansas, and legally described as Prairie Hills, Block 2, Lot 11 is unsafe or dangerous, and directing that said structure be repaired or removed and the premises made safe and secure.

The motion was voted on and passed unanimously.

Mayor Shaffer noted that the timetable for action is established in the resolution. Steve Horner advised that the resolution would be published and all interested parties would receive a copy of the approved resolution.

Al Herrera noted that the resolution calls for the immediate posting of the property. Steve Horner noted that at the direction of the Council, staff will post the structure as "deemed unsafe for human occupancy" on the day of publication of the Resolution, and once posted as "unsafe" the occupancy of the structure would be in violation of City ordinances.

Mayor Shaffer closed the public hearing and resumed the City Council meeting at 8:35 p.m.

PUBLIC PARTICIPATION

Mayor Shaffer acknowledged the presence of several students in the audience including Boy Scouts from Troop 199 and Troop 282 attending for merit badge requirements, students from Shawnee Mission East High School attending for American Government class and students from the University of Kansas working on their Master's degree in social work. There was no one present to address the Council.

CONSENT AGENDA

Laura Wassmer moved the approval of the Consent Agenda for Tuesday, February 18, 2003:

1. Approve Regular Council Meeting Minutes – February 3, 2003
2. Approve Claims Ordinances #2395 through #2398
3. Approve an agreement with Barnds Brothers Lawn & Garden to provide weed abatement services during 2003.
4. Approve a short-term special use permit to the Somerset PTA for their annual School Carnival on Friday, March 7th from 5 p.m. to 9 p.m. at Somerset Elementary School, 2700 Somerset, with approval for banners and flamingos on the school grounds and for the waiver of the permit application fee
5. Ratify the appointment of Cheryl Landes to the Environmental/Recycle Committee with a term expiring in April, 2004
6. Ratify the appointment of Linda Davis to the Prairie Village Arts Council for a three-year term expiring in April, 2006.
7. Approve Affinis Corporation as the City Consultant for street design and street construction administration for the years 2003 through 2005 with the City entering into individual consulting services agreements for each project.
8. Approve the deletion from the Policy/Services agenda the following items:
POL2001-95 Consider Project 190824: 2002 Crack/Slurry Seal Program
POL2001-14 Consider Project 190814: 2001 Street Resurfacing Program
POL2001-33 Consider Report on 90th Street Pond
POL2002-09 Consider Project 190832: Mission Lane Bridge Alternative Report
9. Approve the 2003 Aquatic Examiner Program contract between the American Red Cross and the City of Prairie Village
10. Approve the 2003 KC Comets Soccer Camp contract between the Kansas City Comets organization and the City of Prairie Village
11. Approve the consulting agreement for Project 190627: Homesteader Statue Restoration in the amount of \$2,200 with funding from the Park Capital Improvement Program

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

COMMITTEE REPORTS

Council Committee of the Whole

COU 2003-07 Consider NPDES Phase II Notice of Intent

The City is required to obtain a NPDES permit from the Kansas Department of Health and Environment (KDHE) by March 10, 2003. The first two control measures required under the National Pollutants Discharge Elimination System (NPDES) will be handled by Johnson County SMAC on behalf of the City at no cost. The City will handle the remaining four control measures. However, the KDHE has not submitted the requirements of the Kansas General Permit to USEPA as of this date. Therefore, the costs associated with the KDHE permit cannot be determined at this time, but funds have been budgeted in the 2003 Public Works operating budget. The City will sign the draft Notice of Intent as listed on the USEPA website, submit the Notice of Intent before March 10 and wait for KDHE to send the City an approval of what was submitted or a KDHE modified permit.

Laura Wassmer moved the Council authorize the Mayor to sign the NPDES Notice of Intent, and approve Johnson County SMAC program to provide the first two minimum control measures (Public Education/Outreach and Public Participation/Involvement) at no cost to the City. The motion was seconded by Roy True and passed unanimously.

COU2003-09 Consider Project 190826: 2004-2008 CARS Application Report

The City must annually submit a five-year CARS application report to the County to be considered for CARS grant funds. Staff worked with The Larkin Group on the preparation of a listing of proposed projects/streets for CARS funding. The proposed streets and program years are as follows:

<u>Program Year</u>	<u>Street Segment</u>
2004	71 st Street-Nall Avenue to Roe Avenue
2004	Mission Road-75 th Street to 79 th Street
2005	Mission Road-71 st Street to 75 th Street
2005	Mission Road-79 th Street Somerset Drive
2005	Mission Road-Somerset Drive to 83 rd Street
2006	Roe Avenue-Somerset Drive to 95 th Street
2007	71 st Street-Mission Road to Tomahawk
2007	83 rd Street-Roe Avenue to Nall Avenue
2007	Cambridge Street-Somerset Drive to State Line Road
2007	79 th Street-Mission Road to Roe Avenue
2008	Concrete Inlay Program
	-75 th Street & Roe Avenue
	-75 th Street & Nall Avenue
	-75 th Street & Lamar Avenue
	-79 th Street & Nall Avenue
	-83 rd Street & Roe Avenue

Laura Wassmer moved the City Council approve the 2004-2008 CARS application report. The motion was seconded by Roy True and passed unanimously.

Prairie Village Arts Council

Doug Luther reported on the successful concert given on Saturday, February 15th at the Village Presbyterian Church by the Kansas City Civic Orchestra with the Village Church Chamber Choir. The concert, which was co-sponsored by the Prairie Village Arts Council, was attended by 400-500 persons and featured a variety of music, including selections from the Titanic & West Side Story.

OLD BUSINESS

There was no Old Business to come before the Council.

NEW BUSINESS

There was no New Business to come before the Council.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Prairie Village Arts Council	2/19/2003	7:00 p.m.
Skate Park Committee	2/24/2003	6:00 p.m.
Villagefest 2003	2/27/2003	7:00 p.m.
Policy Services Committee	3/03/2003	6:00 p.m.
Legislative/Finance Committee	3/03/2003	6:00 p.m.
City Council	3/03/2003	7:30 p.m.

The Prairie Village Arts Council is pleased to feature an exhibit of Watercolors of Richard Fanolio in the month of February. In March Johnson County Developmental Services will have an exhibit of Abstracts. The reception date will be March 7th, 2003 from 6:30 – 7:30 p.m.

Reminder that the Primary Election is February 25, 2003

The date has been set for the City’s Annual Large Item Pick-up. Mark your calendars for Saturday, March 29th.

The National League of Cities Congressional Conference will be held March 7th – 11th in Washington, D.C.

Re/Max at 3515 West 75th Street will host an open house on Thursday, February 20th from 5 – 8 p.m. Council members are invited to attend.

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 8:42 p.m.

Joyce Hagen Mundy
City Clerk