

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
November 16, 2015**

The City Council of Prairie Village, Kansas, met in regular session on Monday, November 16, 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, Brooke Morehead, Sheila Myers, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff present was: Tim Schwartzkopf, Chief of Police; Melissa Prenger, Public Works Project Manager; 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.

Also present was Teen Council member Dennis Rice.

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

INTRODUCTION OF STUDENTS & SCOUTS

Two students from Shawnee Mission South were in attendance for their government class and recognized.

PUBLIC HEARING

Adoption of the Redevelopment Project Plan for the Park & Village Project area of the Meadowbrook Redevelopment District.

Mayor Wassmer noted that on October 12, 2015, the City Council adopted a resolution setting a public hearing for the adoption of the redevelopment project plan for the Park and Village area in the Meadowbrook Redevelopment District for Monday, November 16, 2015 at 7:30 p.m. Mayor Wassmer opened the public hearing and announced that it would be continued to Monday, December 7, 2015 at 7:30 p.m.

PUBLIC PARTICIPATION

No one addressed the City Council.

CONSENT AGENDA

Dan Runion noted a correction to the Council Committee of the Whole minutes on page where the word "abdicating" should be "advocating". The City Clerk noted the change would be made. Mr. Runion also requested a change to the proposed 50+ Facility Use agreement with Johnson County Park & Recreation District On the top of page 3 first line adding the word "defend" to read as follows: the JCPRD shall **defend**, indemnify and save harmless the . . ."

Council President Brooke Morehead moved for the approval of the Consent Agenda for November 16, 2015 with the changes noted:

1. Approve Regular City Council Minutes - November 2, 2015
2. Approve renewal of Blue Valley Public Safety contract for the City's outdoor warning siren system maintenance for 2016
3. Approve the Johnson County Park & Recreation District 50+ Program Facility Use Agreement for 2016 as amended
4. Ratify the Mayor's appointment of Catherine Sinclair to the Environment/Recycle Committee completing the unexpired term of Ben Claypool expiring April, 2017
5. Approve the issuance of Cereal Malt Beverage Licenses for 2016 to the following businesses:
 - Four B Corp - Hen House 22 located at 4050 West 83rd Street
 - Four B Corp - Hen House 28 located at 6950 Mission Road
 - Hy-Vee Inc - located at 7620 State Line Road

- Walgreen Company - Store #13032 located at 4016 West 95th Street
 - Rimann Liquors of Prairie Village - located at 3917 Prairie Lane
 - Minit Mart - located at 9440 Mission Road
6. Ratify the Mayor's appointment of Keith Novorr and Carey Bickford to the Prairie Village Parks & Recreation Committee completing expired terms ending in April, 2017 and April, 2016 respectively.

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

COMMITTEE REPORTS

Council Committee of the Whole

COU2015-41 Consider Charter Ordinance No. 27 creating a Transient Guest Tax

Katie Logan noted the proposed charter ordinance is required for the proposed TIF for the Meadowbrook Redevelopment District and is the same as presented at the Council Committee of the Whole meeting on November 2nd.

Eric Mikkelson asked about the clarification requested to address whether or not this applies to Airbnb. Mrs. Logan responded she had contacted other area city attorneys and none apply transient guest tax to Airbnb. Nolan Sunderman reported that he had talked with representatives of the Kansas Department of Revenue and they question whether a home would be considered as 1 rental unit or if it had three bedrooms, it would be three rental units. There are differing opinions within the department of revenue on the applicability of this.

Mr. Mikkelson stated he agrees with the ordinance's intent; however, he feels it needs to be made clear in the ordinance whether it covers Airbnb or not. He questioned the definition of hotel referenced in the ordinance. He feels a simple change to this definition increasing the number of bedrooms referenced to five or six could more clearly

identify the intent of the ordinance. Mrs. Logan replied the definition from the Kansas Statutes is customarily used in other cities ordinances and they are not collecting transient guest tax from Airbnb type entities. Mr. Mikkelson stated he feels strongly that the ordinance should be crystal clear as to its intent and not able to be misinterpreted.

Mayor Wassmer stated she tends to agree with Mr. Mikkelson due to the growth of the “Airbnb” type industry. She does not feel the definition is clear. Mrs. Logan responded the definition is from the Kansas Statutes and cannot be simply changed by the city.

Jori Nelson noted this is a growing industry with several similar type entities to “Airbnb”.

Ted Odell felt the proposed ordinance should be adopted now and the situation addressed when and if it becomes an issue.

Dan Runion stated he does not want someone to read in the minutes that the city is choosing not to enforce a tax. He clarified that it is the intent of the ordinance that “Airbnb” type establishments are not included.

Sheila Myers noted that is the interpretation that other cities with similar ordinances have made and are not applying the tax to “Airbnb” type industries. Mr. Mikkelson felt that selectively enforcing the ordinance could put the ordinance in jeopardy.

Katie Logan stated that she can revise the ordinance although she does not feel the proposed ordinance clearly picks up these types of establishments. She noted the change would need to be made by a charter ordinance and asked Council for direction.

Dan Runion stated he is concerned with the risk of possible lost revenue. Mrs. Logan replied she did not feel this was a risk. Mr. Runion replied he did.

Sheila Myers questioned if the council was overcomplicating this and questioned the level of concern. Eric Mikkelson replied these are new issues that other cities have not addressed. Cities are spending thousands of dollars to defend their failure to address this issue. This is an opportunity for the city to be proactive and prevent future problems.

Ashley Weaver suggested the city wait and sees how other cities are addressing this as it is not a significant issue now.

Quinn Bennion stated the ordinance needs to be adopted now to be in place when action is taken on the TIF plan as it contemplates the use of a Transient Guest Tax to repay part of the bonds. He is not concerned with the ordinance as proposed that is in place in other Kansas cities without issue.

Katie Logan stated that she is not aware of any case law that would affect back taxes.

Ruth Hopkins moved the Governing Body adopt Charter Ordinance #276 exempting the City of Prairie Village, Kansas, from the provisions of Subparagraph (a) K.S.A. 12-1697 and from the provisions of subparagraph (e) of K.S.A. 12-1698, which relate to the levy of a transient guest tax, to the maximum rate thereof, and to the purposes for which transient guest tax revenues may be spent; and providing substitute and additional provisions on the same subjects. The motion was seconded by Ashley Weaver.

A roll call vote was taken with the following members voting "aye": Weaver, Nelson, Hopkins, Noll, Myers, Odell, Gallagher and Wassmer; voting "nay" Mikkelson Runion and Morrison. City Attorney Katie Logan noted the charter ordinance needs to

be approved by a two-thirds vote requiring nine affirmative votes. Mayor Wassmer declared the motion failed.

Eric Mikkelson offered a motion to approve the ordinance with a change to the definition. Katie Logan stated that because of the reference to state statutes she will have to draft a new charter ordinance.

Mayor Wassmer asked if this issue could be addressed specifically in another ordinance. Mrs. Logan replied the separate ordinance would have to be done as a charter ordinance. Sheila Myers suggested using “commercial” vs. “residential” zoning. Mrs. Logan replied that are several ways that it could be done and provided some options.

Eric Mikkelson stated the felt the designation of number of bedrooms is the simplest and cleanest way to proceed and moved the City Council direct the City Attorney to prepare a new charter ordinance which changes the definition of hotel to reference more than five bedrooms. The motion was seconded by Ashley Weaver and passed by a vote of 9 to 1 with Ted Odell voting in opposition.

Mayor’s Report

Mayor Wassmer reported on her attendance of the National League of Cities conference with several other Council members and noted some of the many topics discussed. She also attended the League of Kansas Municipalities Regional Supper where there was discussion on the issues facing the upcoming legislative session. It is anticipated to be another difficult session. She and staff have been meeting individually with the city’s legislative representatives. Last week she was privileged to participate on a Mayor’s panel at the Urban League Institute. Mayor Wassmer reminded Council of

upcoming holiday events including the Mayor's Holiday Tree Lighting and Holiday Volunteer Party as well as the Northeast Johnson County Chamber Gala.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf reported that the incident reported on Channel 5 did not occur in Prairie Village but at the 7500 block of State Line Road in Kansas City Missouri.
- The next "Coffee with a Cop" will be on December 11th at Einstein Bagel.

Public Works

- Melissa Prenger reported that infrastructure construction projects in Prairie Village will be completed by the end of November.
- AT&T crews have suspended their work until next March. Google crews will continue working through the winter as possible.

Ted Odell commented that the Google crews working in his neighborhood have been very professional.

Administration

- Quinn Bennion reported that he distributed to Council the sign-up information for participation in the ID Shield program.

OLD BUSINESS

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

NEW BUSINESS

Ted Odell announced that Ward 6 would be hosting a Ward meeting on Tuesday, December 1st at the Community Center from 6 to 8 p.m.

Committee meetings scheduled for the next two weeks include:

Planning Commission	12/01/2015	7:00 p.m.
Environment/Recycle Committee	12/02/2015	5:30 p.m.
Council Committee of the Whole	12/07/2015	6:00 p.m.
City Council	12/07/2015	7:30 p.m.

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The Prairie Village Arts Council is pleased to present the paintings of Chun Wang in the R. G. Endres Gallery during the month of November.

City Offices will be closed on Thursday, November 26th & Friday, November 27th in observance of the Thanksgiving Holiday. Deffenbaugh will also celebrate the holiday with Thursday's service being provided on Friday and Friday's service provided on Saturday.

Save the Date - The Northeast Johnson County Chamber of Commerce Annual Gala will be held on Saturday, November 21st at Overland Park Convention Center at 5:30 p.m.

Save the Date - Johnson & Wyandotte Counties Council of Mayors Holiday Social on Wednesday, December 2nd at 5:30 p.m. at Sporting KC Stadium.

Save the Date for the Mayor's Holiday Tree Lighting on Thursday, December 3rd from 6 p.m. to 7 p.m.

Save the Date for the Annual Volunteer Appreciation Event on Friday, December 4th at 6:30 p.m. at Milburn Country Club.

Save the Date for the annual Gingerbread House decorating parties on Sunday, December 6th at 1:30 p.m. or 3:00 p.m. at Brighton Gardens.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 8:15 p.m.

Joyce Hagen Mundy
City Clerk