

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
April 4, 2016**

The City Council of Prairie Village, Kansas, met in regular session on Monday, April 4, 2016 at 7:45 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 (in attendance via telephone).

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; Zach Bauer, Management Intern; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk. Also present was teen council member Dennis Rice and Police Department personnel Captain Byron Roberson, Sgt. Ivan Washington, Animal Control Officers Roger Blanchard and Allie Jasminski.

INTRODUCTION OF STUDENTS & SCOUTS

Mayor Wassmer welcomed a boy scout attending for his "Citizenship and the Community" badge and four high school students from Rockhurst attending for their American government class.

PUBLIC PARTICIPATION

Lynneah Gregory addressed the Council in regard to the proposed residential design standards. She noted the comments received from the public included letters from several architects offering to assist the committee and encouraged the city to draw on that experience and add them to the committee to further review the proposed guidelines.

CONSENT AGENDA

Dan Runion asked for item #4 to be removed. Council President Brooke Morehead moved for the approval of the Consent Agenda for April 4, 2016 as amended:

1. Approve Regular City Council Minutes - March 21, 2016.
2. Authorize the Mayor to execute a proclamation for the Annual "Start By Believing Day" on the first Wednesday of April.
3. Authorize the Mayor to execute a proclamation recognizing the "Week of the Young Child" - April 10 - 16, 2016.
4. Removed
5. Approve Council Policy #620 entitled "Access Control"

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

Mr. Runion noted the contract did not include limitations on the costs for airfare and hotel accommodations. He felt that these should be capped. Ted Odell confirmed the contract would be paid through JazzFest funds in the municipal foundation, not city funds.

Joyce Hagen Mundy stated the talent coordinator for the JazzFest Committee discussed that issue with the performer's agent and was advised that this is their standard performance contract. She was assured that the expenditures would be

reasonable and based on previous experience with this performer in 2013 the committee is comfortable with the contract which is the same as the one approved in 2013.

Dan Runion moved the approval of the headliner performance contract for the 2016 Jazz Festival with Double M Productions for Marilyn Maye with language added limiting the scope of the related costs to “not exceed reasonable costs”. The motion was seconded by Ted Odell and passed unanimously.

COMMITTEE REPORTS

Council Committee of the Whole

COU2016-13 Consider Revised Public Infrastructure Improvement Agreement with MB18 for Meadowbrook Project.

City Attorney Katie Logan reviewed the changes to the proposed agreement based on discussion by the Council at the March 21st meeting including limiting reimbursement from TIF Bond Proceeds for a developer selected contractor to exceed the amount of the lowest bid for mass grading work received by the City and Developer from all three of the Infrastructure Contractors. Section 4.4 was also revised to address reimbursable expenses.

Mrs. Logan responded to Mr. Morrison’s question regarding representation by Lathrope & Gage for any of the proposed contractor’s noting that the firm does provide legal counsel for Superior Bowen. She noted the city uses a standard form for construction services and that she would not be involved in any modifications to that contract on behalf of the City or Superior Bowen should they be awarded the contract.

Ted Odell moved the Public Infrastructure Improvement Agreement between the City of Prairie Village and MB-18 providing for the implementation of a redevelopment

project plan for the Meadowbrook Project. The motion was seconded by Sheila Myers and passed unanimously.

COU2016-15 Consider Memorandum of Understanding for the sale of City-owned property to Consolidated Fire District #2

On behalf of the Council Committee of the Whole, Council President Brooke Morehead moved the Governing Body approve the Memorandum of Understanding between the City of Prairie Village and Consolidated Fire District #2 for the sale/purchase of city-owned property for the appraised value of \$275,000 to facilitate the construction of Fire Station #3. The motion was seconded by Andrew Wang and passed by a vote of 10 to 2 with Runion and Morrison voting in opposition.

NEW BUSINESS

Due to the number of people present for the scheduled Dangerous Animal Appeal, Mayor Wassmer amended the agenda calling for the consideration of the Dangerous Animal Appeal. She reviewed the process to be followed in the appeal and called upon Chief of Police Tim Schwartzkopf.

Chief Schwartzkopf stated the city's code authorized the Chief of Police or Animal Control Officer to declare an animal to be dangerous based on stated consideration and read the applicable code to the Council. He noted the euthanization of this animal is not being considered. If the declaration is upheld by the Governing Body the animal must meet the conditions required to secure a dangerous animal permit or the animal must be relocated outside of Prairie Village.

NEW BUSINESS

Appeal of Animal Control determination regarding Dangerous Animal Designation

The city's municipal code Section 2-103 states: "Where City records indicate a dog or cat has attacked or bitten any person and/or domestic animal without provocation, all known facts shall be considered in determining whether the dog or cat is a "dangerous animal". The Animal Control Officer or Chief of Police of the City shall have the authority to determine whether or not any animal in the City should be classified as a "dangerous animal".

On March 12, 2016, Officer Blanchard sent written notification to Bernard Cline that his brown lab/boxer mix had been determined to be a "dangerous animal". On March 22, 2016, Mr. Cline filed an appeal of the action. The Code states appeals shall be heard by the Governing Body.

Robert Cline, 7649 High Drive, stated he has owned Rocky for 22 months. The lab/boxer mix has become part of his family and has never had any previous difficulties with Rocky interacting with other animals or children either in his home or outside of the home. He believes the incident of February 28th was the result of natural animal instincts kicking in with Rocky thinking the small dog, the size of a typical rabbit, next door was a rabbit. He is not sure if Rocky dug under the fence as reported or jumped over the fence where it was partially down.

Mr. Cline stated he has made restitution to Miss Moore, complied with the requirements of the city regarding licensing and the placement of the animal in quarantine for ten days for observation. He has paid the citation from the city. This is a first, and he believes, isolated offense.

Mr. Cline stated he was planning to move out of the city and that it would be cost prohibitive for him to meet the criteria for a dangerous animal permit. He needs more than five days allowed to relocate Rocky as he wants to find the right home for him. Miss Moore has told him that she does not feel Rocky should be declared a dangerous animal. He asked the Council to consider the animal's past history, which is clear of any other incidents.

Animal Control Officer Roger Blanchard reported that on February 28, 2016, he was dispatched to 7644 Rainbow Drive on a reported animal bite. Upon arriving on the scene he was informed that the resident's four month old white male Papillon had been attacked by the back yard neighbor's brown Lab/boxer mix. The animal was running along the four foot chain link fence that separates the resident's yard from the neighbor's. The neighbor's black lab mix and brown Lab/boxer mix were running along the fence on the neighbor's side. All of the sudden the brown Lab/boxer mix went into the Papillion's back yard by going under the bottom of the chain link fence. The dog then bit the Papillion on the abdomen and the back leaving bite wounds that broke the skin. The bite resulted in a broken spine and punctured lung resulting in the animal's death. Mr. Andrew Smith was also bit on the left thumb when he separated the two dogs. The Papillon was taken to VCA Mission Animal Referral and Emergency Center. The brown lab/boxer mix, that didn't have city tags or current rabies shot was placed in a veterinary facility for rabies observation.

Shelia Myers asked Officer Blanchard if he had interacted with Rocky and how he found him to be. Officer Blanchard responded he had and the animal was not aggressive towards him. Mrs. Myers asked about his interactions with the veterinary staff. Officer Blanchard replied that they did not have any problems with the dog.

Jori Nelson asked Chief Schwartzkopf if all conditions need to be found to declare an animal dangerous. Chief Schwartzkopf replied the code lists factors to be considered looking at the totality of the incident. It does not require that all factors be found.

Terrence Gallagher asked if the dog was licensed in the city and if it had current rabies vaccinations. Mr. Cline responded he thought that both Rocky and his other dog had been given two year rabies vaccinations, but learned later that since Rocky was less than one year of age, he was only given a one year vaccination.

Andrew Wang asked if there was any history of calls or complaints regarding this animal. Officer Blanchard replied no complaints had been received.

Ted Odell asked what costs are associated with the requirements for a dangerous animal permit. Officer Blanchard stated the permit cost is \$100, the animal has to be taken for training, a secure fence constructed, signage, muzzle, etc. The major issue is that the animal has to be added to the owner's property liability insurance for \$5000 in coverage which is costly. Mrs. Myers confirmed the animal was neutered. Mrs. Myers confirmed that Officer Blanchard declared the dog to be a "dangerous animal". Officer Blanchard replied the animal went under the fence into another dog's yard and attacked him resulting in death. After discussion with his supervisor, he declared the animal to be dangerous. Eric Mikkelson asked if the dog bit a human. Officer Blanchard replied that he bit Mr. Smith when he separated the animals. The bite did break skin, but did not required medical attention.

Sheila Myers asked if the animal was unattended while outside. Mr. Cline replied he was not outside with the animals that were in a fenced yard; however, when he heard the animals barking he went outside arriving just after the incident. He does not agree

with the report that the animal went under the fence but felt he jumped over a section of the fence that was partially down. Mr. Mikkelson stated he felt it was the owner's responsibility to contain their animals. Mr. Cline replied that he takes responsibility for Rocky's actions and that he has resolved issues with Miss Moore.

Mayor Wassmer asked if Miss Moore would be getting another dog. Officer Blanchard responded that Miss Moore had told him that she will wait a while before getting another dog.

Andrew Wang asked if neighborhood notice was required for this hearing and how an animal is determined to be dangerous. Chief Schwartzkopf replied the city's code allows for the Chief of Police or Animal Control Officer to make the determination based on factors listed in the code. Neighborhood notification is not required for this hearing. Brooke Morehead noted that if a child had been with that dog, the situation would have been far worse. Mr. Cline responded that Rocky has been very gentle with children. He added that they are looking for an animal training program for Rocky.

Dan Runion asked where it states that the Council hears appeals. Chief Schwartzkopf replied it is stated in Section 2-127. Ted Odell asked what expenses he had reimbursed Miss Moore for. Mr. Cline replied he paid \$1900 (the cost of her animal from Petland) and veterinary bills for a total of \$2500. He has also paid the vet fees for boarding Rocky, examination & rabies fee, license and citation fees.

Mayor Wassmer noted this was a grey area and asked if the council could determine the animal to not be dangerous however, wanted to place conditions on the animal in doing so. Chief Schwartzkopf responded the ordinance states the Governing Body shall find the animal to be dangerous or not dangerous. The code can be changed by the Council in the future.

City Attorney Katie Logan noted the code allowed for a temporary permit or that the council could continue action on the appeal to a later date.

Ashley Weaver felt the current time frame was unreasonable and would like to see action deferred.

Jori Nelson asked Officer Blanchard if he felt the animal was aggressive. Officer Blanchard responded that he had not spent enough time with the animal to make that determination and his action was taken based on the incident that occurred with the concern that the incident could happen again if no action was taken. His goal for this incident is for it not to happen again.

Ruth Hopkins stated she would be willing to extend consideration; however, she is not comfortable overruling the action of staff.

Steve Noll noted that hunting dogs do have a natural instinct. He suggested that the council continue deliberation for six months requiring the fence to be secured to prevent potential reoccurrences while Mr. Cline seeks to relocate the animal outside of the city. Mr. Cline responded that he would be happy to secure the fence and are seeking animal training for Rocky. He stated the cost of the additional liability insurance is prohibitive.

Mr. Mikkelson noted that if the animal was not declared dangerous and a similar incident occurred there would be zero tolerance for action to be taken by the city. He felt that of the four factors listed in the code, three were not present and he has trouble agreeing with the dangerous animal classification.

Mr. Wang stated he would support extending the time period for a ruling. There is no history or propensity shown for the dog to be vicious. He does not feel the animal is a risk to residents or the neighbors.

Chief Schwartzkopf noted the dangerous animal declaration is not forever and noted there are provisions for its removal which are currently being considered on a declaration issued in 2014.

Ted Odell confirmed that if action was tabled it would need to be continued to a specific date and for a specific purpose.

Chief Schwartzkopf stated the animal has been declared dangerous. This is an appeal of that ruling. The action of the Governing Body is to either uphold that ruling or overturn the ruling. If the Governing Body does not feel the animal is dangerous, that is ok. Changing the rules mid-stream is not recommended.

Sheila Myers asked for clarification on the "temporary" permit. Chief Schwartzkopf replied the temporary permit is issued to someone in the process of moving toward meeting the conditions of the final permit. He noted that the insurance is the most difficult requirement and that Mr. Cline is already doing or stated he will be meeting the other requirements.

Eric Mikkelson moved the Governing Body overrule the determination by the Animal Control Officer and that Rocky not be declared to be a dangerous animal. The motion was seconded by Andrew Wang. The motion passed by a vote of 10 to 2 with Hopkins and Morehead voting in opposition.

Andrew Wang noted he felt the staff made a good faith decision with excellent judgment reacting to error on the side of resident safety. He and Mr. Mikkelson commended Animal Control Officer Roger Blanchard for doing his job well and agreed that he made the right call in protecting the city and allowing the Governing Body to consider all the facts in the appeal.

Mr. Cline thanked the city staff for their efforts and the City Council for their determination.

Councilmember Ashley Weaver left.

Economic Development Fund Ad-Hoc Committee

Jori Nelson stated in 2003 Johnson County began collecting Sales Tax for economic development which was used to augment funds schools received from the State. A portion of the revenue from this new tax was distributed to cities. The Prairie Village Governing Body placed the funds from this revenue source in a special reserve fund to be used only for economic development purposes.

In 2005 the City embarked on development of a new Comprehensive Strategic Financing Plan. Elected officials invested part of the Economic Development Reserve Fund in a Plan that would guide further development in such a way that fiscal stability, viability and vitality of the community would continue into the future.

In October 2007 the Governing Body approved Ordinance #2153 establishing policies and procedures for spending the fund. There are no restrictions on the fund other than this ordinance which can be changed by the Council. The current balance in the fund is \$1,887,943.26.

After the 2016 Council Worksession an Ad Hoc committee consisting of Sheila Myers, Jori Nelson, Eric Mikkelson, Andrew Wang and Ted Odell was formed to discuss and recommend potential uses for these funds. There recommendation is as follows:

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| Park Land Acquisition and Improvements | \$1,200,000 |
| Emergency Fund | \$ 400,000 |
| Exterior Grant Program (3 years) | \$ 150,000 |
| Mission Road 71 st to 75 th Street quality of life items | \$ 100,000 |
| Village Square Concept Study (Harmon) | \$ 50,000 |
| | <u>\$1,900,000</u> |

Mayor Wassmer advised this report is for information only. Council action will be taken in conjunction with the 2017 budget process under the Economic Development Fund discussion. Mayor Wassmer called upon Brooke Morehead for further information on the Village Square Concept. Brooke introduced Kerry Newman with SFS Architecture whose company has designed four amphitheatre projects. He reviewed the recently completed Lincoln Square project in Gladstone, Missouri. This project has become a community gathering space. It has provided the opportunity for more than 70 performances per year drawing 300 to 400 spectators per performance.

Brooke reviewed a possible site plan for a similar project (Village Square) on the city's municipal campus combining existing amenities with new. The project would offer connectivity, enhance city owned property, have intergenerational appeal, provide a site for a variety of attractions and a possible revenue source. Mr. Newman noted the proposed amphitheatre could be constructed without major impact on the existing Frisbee Golf course.

Sheila Myers asked what the Lincoln Square project cost. Mr. Newman replied under one million dollars. Mrs. Myers asked the seating capacity of the amphitheatre. Mr. Newman responded there is 11,000 square feet in seating area. Mrs. Morehead noted that there is a formal manicured seating area surrounded by a grassy area that can be used for overflow seating. Ted Odell stated he likes the concept and feels it would be a good amenity providing a site for local school productions, Friday night movies, etc. Jori Nelson stated this is a golden opportunity for the city to enhance city owned property.

Mayor Wassmer stated this would be discussed during the 2017 budget discussion of the Economic Development Fund.

Mayor's Report

Mayor Wassmer announced her support of the Mayors' Monarch Pledge through the National Wildlife Federation as requested by the Environment/Recycle Committee. The Monarch population has been rapidly declining over the past twenty years. She encouraged council members and residents to plant milkweed, the breeding ground for Monarchs, in their yards and indicated that Public Works is looking at planting some in Bennett Park. Mayor Wassmer announced that the City has once again been designated as a Tree City for 2016. She referenced recent issues of the Kansas City Business Journal noting an award given to VanTrust for its 51st & Main Project and acknowledging the anticipated growth of Prairie Village in their listing of Kansas City area's fastest growing cities.

The last issue of the Kansas Government Journal contained a listing of all Kansas City mill levies and once again Prairie Village has the second lowest mil levy of all first class cities second only to Overland Park. She and staff recently participated in a bond rating call with Moody's in preparation for the potential issuance of bonds for Meadowbrook and the call went very well. Mayor Wassmer congratulated David Morrison on his recent graduation at Level 1 from the Municipal Training Institute with the League of Kansas Municipalities.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf reported on the recent approval of Bi-State Legislation on Mutual Aid which has been signed off by the Governor. This is very helpful to cities adjacent to state lines.

Public Works

- Mr. Bredehoeft noted he has spent significant time over the past week on Meadowbrook Project Planning.

- He announced the recent personnel changes with the hiring of James Carney as Field Superintendent and resignation of Field Inspector Debra Templeton who moved to Washington.

Administration

- Lisa Santa Maria reported the Auditor’s completed their on-site visit and will present their formal report on the 2015 Audit to the Council May 16th.
- Consideration of the 2017 budget will begin this evening with consideration of the 2017 Capital Improvement Program.
- The 2015 fourth quarter financial report was distributed to the City Council.
- Quinn Bennion noted that a number of Meadowbrook Project items will come before the City Council on April 18th for approval referencing the revised Meadowbrook calendar distributed by the city attorney earlier in the meeting.
- Mr. Bennion agreed with Mayor Wassmer’s assessment of the telephone bond rating call and commended the current and past council for their sound fiscal management over the past years which is expected to yield a very good bond rating.
- The 2017 budget process continues. Department Heads will present their budgets to the City Administrator and Finance Director next week.

OLD BUSINESS

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

EXECUTIVE SESSION

Mayor Wassmer announced the Executive Session listed on the agenda will be held at the conclusion of the reconvened Council Committee of the Whole meeting.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

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| Planning Commission | 04/05/2016 | 7:00 p.m. |
| Prairie Village Arts Council Committee | 04/06/2016 | 5:30 p.m. |
| Tree Board Committee | 04/06/2016 | 6:00 p.m. |
| JazzFest Committee | 04/12/2016 | 5:30 p.m. |
| Council Committee of the Whole | 04/18/2016 | 6:00 p.m. |
| City Council | 04/18/2016 | 7:30 p.m. |

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The Prairie Village Arts Council is pleased to present the "Future of the Arts" exhibit in the R. G. Endres Gallery during the month of April. The artists' reception will be Friday, April 8, from 6:30 to 8:00 p.m.

Congressional Art Reception, April 25, 4:30 - 6 p.m.

The 2016 annual Large Item Pick up has been scheduled. Items from homes on 75th Street and north of 75th Street will be collected on Saturday, April 9th. Items from homes south of 75th Street will be collected on Saturday, April 16th.

Recreation sales have begun. Pool memberships purchased in April will be discounted by \$5 for each pass.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 9:25 p.m.

Joyce Hagen Mundy
City Clerk