

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
June 20, 2016**

The City Council of Prairie Village, Kansas, met in regular session on Monday, June 20, 2016 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, Serena Schermoly, Steve Noll, Eric Mikkelson, Andrew Wang, Brooke Morehead, Sheila Myers, Dan Runion, Courtney McFadden and Terrence Gallagher.

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

INTRODUCTION OF STUDENTS & SCOUTS

Mayor Wassmer welcomed Boy Scouts in attendance from Troop 283 for their merit badge and three students from Shawnee Mission East attending for their summer course in American Government.

PUBLIC PARTICIPATION

Ashley Silent, 7610 Russell Lane, addressed the Council regarding the existing animal ordinances asking for a repeal of the prohibition of pit bulls residing in the City.

She opposes breed specific bans, noting that any breed may demonstrate aggressive behaviors. Mrs. Stark noted that as a local animal rescue group volunteer she is unable to foster or adopt pit bulls due to the city's ban. She was not aware of the pit bull ban when she moved into Prairie Village and wants to continue to live in Prairie Village; however if the ban is not repealed, they will move elsewhere. She does not feel it is appropriate for the City to tell its residents what type of dog it can own.

Public Participation was closed at 7:50 p.m.

CONSENT AGENDA

Eric Mikkelson asked for the removal of the City Council Minutes of June 6th from the Consent Agenda for clarification. He requested his comments on page 9 relative to the discussion on council priorities be amended to clarify that his comments were relative to "commercial" zoning code review and read "questioned the review of the commercial zoning code as a high priority." With that change being made Mr. Mikkelson moved for the approval of the City Council minutes of June 6, 2016. The motion was seconded by Andrew Wang and passed unanimously.

Brooke Morehead moved the approval of the remaining Consent Agenda items for June 20, 2016:

1. Removed
2. Approve an agreement with the Kansas City Crime Commission for the TIPS Hotline Crime Stoppers Program
3. Approve the 2016-2017 School Resource Officer agreement with the Shawnee Mission School District
4. Approve an Interlocal Agreement with Johnson County, Kansas for Public Improvement of Mission Road from 71st Street to 75th Street

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

COMMITTEE REPORTS

Council Committee of the Whole

COU2016-38 Consider approval of Agreement with Primetime Contracting for the 2016 Parks Improvement Program

Eric Mikkelson moved the City Council authorize the Mayor to sign the Construction Contract with Primetime Contracting Corporation for the 2016 Parks Projects in the amount of \$222,755.75 and approve the transfer of \$31,755.75 from the Parks Infrastructure Reserve Fund to the Project. The motion was seconded by Terrance Gallagher and passed unanimously.

COU2016-39 Consider changes to the employee handbook regarding conceal carry policy for employees

City Attorney Katie Logan read a recent statute the states municipalities allowing concealed carry of weapons are to be held harmless.

Andrew Wang noted that the proposed change in the city’s employee handbook to allow conceal carry of weapons by employees is being mandated by state legislation that becomes effective July 1st. The proposed revisions will bring the city into compliance with the legislation. Although he and most of the city council are not supportive of the legislation, he moved the City Council approve the proposed amendments to Employee Personnel Policy 5.10 entitled “Carrying of Weapons” to be in compliance with Kansas State Law (House Bill 2502). The motion was seconded by Sheila Myers.

Eric Mikkelson stated he would be voting for the ordinance only because it is required to be in compliance with state law.

Jori Nelson stated that she cannot support this change as she does not feel it makes employees, the workplace or the city any safer and requested that a roll call vote be taken.

A roll call vote was taken with the following votes cast: “aye” Weaver, Schermoly, Noll, Mikkelson, Wang, Myers and Morehead; “nay” Nelson, Runion, McFadden and Gallagher.

Planning Commission

PC2016-04 Consider amendments to Zoning Ordinances in R-1a and R-1b regarding

Mayor Wassmer acknowledged the presence of several residents in attendance and asked for a show of hands of those present for the discussion of this item. Several residents raised their hands, she then asked for a show of hands of those in support of the proposed ordinance and of those opposed. The majority of the individual residents present were in support of the proposed ordinance revisions.

Graham Smith with Gould Evans gave a brief presentation and overview of the proposed changes which address the following there main areas:

1. *Height:* Reducing the overall building height by (a) altering how building height is measured; and (b) changing the maximum height in R-1b from 35 feet to 29 feet.
2. *First Floor Elevation:* Amending sections of the code that apply to the first floor elevations new residential buildings, so that a generally applicable standard for building placement based on the site and grade can apply regardless of where the elevation of the prior existing home is.
3. *Side Setbacks:* Amending the side setbacks from the existing 4 feet (R-1b) and 5 feet (R-1a), with additional building separation requirements dependent on adjacent buildings, to 10% of the lot width on each side regardless of where adjacent structures may be.

The proposed changes are the result of several meetings, work sessions and focus groups over the past eight months to address concerns expressed by residents regarding the growth in tear-downs/rebuilds taking place within the city. Since 2010, 65

new homes were constructed with 58 being tear-down/rebuilds. Through these discussions, consensus on some of the concepts considered was not evident and a clear direction could not be determined. These items continue to be discussed and investigated specific to architectural design elements.

On Tuesday, June 7th, the Planning Commission held a public hearing on the proposed ordinance revisions. Public comment was taken and the Planning Commission voted to recommend approval of the proposed revisions as presented.

Mr. Smith noted the Governing Body can 1) adopt the ordinance as recommended by the Planning Commission by a majority vote, 2) revise and adopt the ordinance by a 2/3 majority vote, 3) return the item to the Planning Commission with direction for further study or 4) continue the item.

1. Height:

Currently height on pitched roofs is measured to the mean height of a pitched roof structure. This is typically done in zoning ordinances to accommodate the different scale and mass that results from different pitches of roofs. However, it can result in buildings being significantly out of scale with existing development. The maximum height measured from the grade to the mean of pitched roofs can be up to 35 feet, and consequently the overall height of some buildings could be significantly higher than 35 feet, possibly upwards of 42 to 45 feet. Many of the homes that have caused concern in neighborhoods are well within what is allowed by current standards. The proposed change to address this situation is to change how height is measured in R-1a and R-1b so that it is measured from the top of foundation to the highest point (or “peak”) of the roof structure (instead of from grade to the mean of pitched roof).

Mr. Smith noted that currently the height limit in R-1a and R-1b is 35 feet. The R-1B lots are the smallest residential lots, allowing lots as small as 60 feet by 100 feet, with most typically 65 feet by 120 feet. Existing homes originally built on these lots are typically 1-story, 1.5-story, or 2-story with the appearance of 1.5-story elements on the front elevations. It has been determined that most new homes built, including the rebuilds done in 2015, are within (or could be easily modified to be within) 29 feet from top of foundation to the high point on the roof structure. The proposed ordinance reduces building height in R-1b to 29 feet with R-1a remaining at 35 feet.

To build in some flexibility on height the proposed code allows the Building Official to accept up to a 3% tolerance from the height on any approved site plan or building elevation to account for field conditions or normal construction practices.

2. Building Elevations:

Currently new residential structures are required to be set at the same first floor elevation or lower than the original structure. This appears to be an attempt to reduce the scale of new homes in relation to the existing and adjacent homes. However, in addressing only the first floor elevation, these standards do not adequately address this issue. With the noted issues on overall building height, a new structure built at the elevation of a current home could still be substantially higher and out of scale with existing homes while meeting this standard.

Mr. Smith noted that since many existing homes are built at grade (some “slab on grade”), which produces drainage problems. Often the appropriate design from a building code or drainage and site design process is forced to get an exception. This, combined with the fact that the standards and exceptions do not seem to adequately address the reason for these standards to begin with (deal with building scale), caused staff to revisit

these standards. The goal was to allow all lots a reasonable foundation elevation based on the site grade and lot, and not necessarily tie it to where an existing structure's first floor elevation happens to be. Further, since the proposed draft addresses some of the overall height concerns on the upper end, a more reasonable allowance for foundation elevations based on typical building practices seems appropriate. The response to this situation is to allow all residential lots a top of foundation that is 6 inches to 24 inches above grade along the front façade, and to improve the current exception process for greater elevations with more specific criteria.

3. Side Setbacks:

The relationship and the scale and mass of structures adjacent to each other have been a big part of this discussion. The current side setbacks - 4 feet (R-1b) and 5 feet (R-1a) allow structures in close proximity. Therefore the current standards also have a minimum separation requirement from existing structures (12 feet in R-1b and 14 feet in R-1a). Since this pins a standard to what a neighbor may or may not do, and is subject to change as different property owners build at different times, these types of standards can become difficult to administer. Standards roughly similar to the current standards and keyed to the lot are being recommended. The response to this situation is to set the setback at 10% of the lot width resulting in a setback for a minimum size R-1b lot of 6 feet on each side (10% of the required 60 foot lot width) and a setback for a minimum size R-1a lot of 8 feet on each side (10% of the required 80 foot lot width). This would result in approximately the same scale, massing and dimensions of the current building separation standards (12 feet and 14 feet, respectively) if each lot were built to the extent of the setback, yet is independent of what has been construction on the neighboring

property. The setback would also scale to the size of the lot, requiring a slightly greater setback the wider the lot is.

Eric Mikkelson confirmed that the current side yard setback in R-1a is five feet and that those lots generally have a wider dimension, thus the proposed change to 10% could result in a significant change, possibly doubling the required setback on a 100' wide lot. He would like to see more flexibility in the regulations that would maintain the overall desired 20% side yard setback, but not require it to be evenly distributed on each side. Mr. Smith confirmed the R-1a lots are typically 125' in width and the proposed change would have the greatest impact on them.

Mr. Jordan noted that most homes association covenants are written as a percentage setback, rather than a stated number. The flexibility proposed by Mr. Mikkelson would allow one home's placement to directly impact the placement of the neighbor's home. He noted the proposed code has a variance process that provides flexibility.

Mr. Jordan noted the requirement for the additional side yard setback is to protect the neighboring property from damage and trespassing during construction on the adjacent lot. Mitch Dringman noted that a home constructed within the existing 4 feet of the property line in R-1b has a foundation being dug approximately at the property line undermining decks, fences on the adjacent property and requiring contractors to trespass on the adjacent property with equipment. This is the number 1 complaint received from neighboring property owners.

Mr. Gallagher agreed with Mr. Mikkelson that the 20% total side yard setback would provide more flexibility. He also questioned the impact of raising first floor elevations above the existing elevation on water flow onto neighboring properties.

Jori Nelson questioned the domino effect if the setback is to the property line and not to the structure on the adjacent property. She would like to see some flexibility with perhaps a minimum identified setback with an overall side setback percentage being met.

Mayor Wassmer reminded the Council that this issue has been vetted at several meetings by the public, by architects and the Planning Commission. She does not feel the Council should throw out random numbers changing the recommendation.

Jori Nelson noted the overall purpose is to maintain the character of neighborhoods and to be respectful of adjacent properties. This has been extensively studied and has had significant resident input. She urged the Council to move forward with the Planning Commission recommendation.

Serena Schermoly noted at the Planning Commission meeting there was significant discussion on increasing the height in R-1b from 29 feet to 30 feet, noting that with that increase only one of the homes built in 2015 would not be in compliance with the new regulations. Jori Nelson stated that the comments at the Planning Commission meeting supporting the increase to 30 feet were primarily from architects and builders. The residents in attendance strongly supported the proposed 29 feet.

Dan Runion asked for clarification on the proposed first floor elevation increase, confirming a possible increase of 6" to 24". He asked if this addressed the issue of disproportionate houses next to each other. Graham Smith replied the changes in the measurement of height from the midpoint to the highest point on the structure. This together with the greater side yards creates a smaller building envelope. He noted this would be further addressed in the phase II discussions on mass and scale.

Eric Mikkelson noted the amount of impervious surface would be the same with 10% setbacks on each side and a 20% setback overall. Ms. Nelson noted the closer the structure is to the neighboring structure the greater the impact would be. Mr. Gallagher stated he likes the flexibility achieved with a 20% overall side yard setback opposed to a required 10% on each side.

Terrence Gallagher moved the Governing Body adopt Ordinance 2350 amending the Prairie Village Zoning Ordinance by amending Chapter 19.02, entitled "Definitions: by Amending Section 19.02.100 "Building Height"; amending Chapter 19.06 , entitled "District R-1a Single Family Residential District," by amending Sections 19.06.020 "Height R-1a" and 19.06.030 "Side Yard (R-1a)"; amending Chapter 19.08, entitled "District R-1b Single Family Residential District," by amending Sections 19.08.015 "Height (R-1b) and 19.08.025 "Side Yard (R-1b)"; and amending Chapter 19.44, entitled "Height and Area Exceptions," by amending Sections 19.44.015 "Height" and 19.44.030 "Building Elevations". The motion was seconded by Brooke Morehead.

Eric Mikkelson noted the Planning Commission voted on each code revision separately and stated he would like to vote on the changes individually. He moved to amend the motion by requiring a minimum five foot side yard setback in R-1b within a 20% overall side yard setback and a minimum six foot side yard setback in R-1a within a 20% overall side yard setback. The amendment was seconded by Jori Nelson.

Katie Logan advised the vote on the amendment would require a simple majority. If adopted, the vote on the ordinance as amended would require a two-thirds majority vote.

Jori Nelson asked if what Mr. Mikkelson was attempting to achieve by his amendment could be achieved through the variance process. Mr. Smith stated it would be possible if the requested variance met the five criteria required by state statutes.

Mayor Wassmer noted a 10% setback on a 60' R-1b lot would be 6 feet. The proposed change would allow a lesser setback. Sheila Myers noted this amendment fits the R-1a zoning district which has the wider lots resulting in a greater impact and questioned why it was being proposed for R-1b.

Wes Jordan noted the proposed ordinance removes the current requirement for 14 feet between homes in R-1a and 12 feet between homes in R-1b. Under the amendment being proposed, homes could not be within 10 feet of each other. He advised that this could be sent back to the Planning Commission. Jori Nelson responded this has been discussed for over a year. Serena Schermoly replied that the proposed amendment has not been discussed previously. Mr. Mikkelson suggested that the other Sections of the code could be acted upon and this section continued.

Mayor Wassmer noted that the minimum requirements should be 6 feet in R-1b and 7 feet in R-1a to maintain the separation between homes.

Based on the discussion, City Attorney Katie Logan, presented possible revisions to the proposed ordinance.

The Council discussed whether the measurement was taken from the building foundation or from the building façade and the impact of cantilevers and appurtenances. Building Official Mitch Dringman noted they would be addressed in the design standards. He stated the concern he has seen from his inspections is from the location and excavation of the foundation. Cantilevers are currently limited by code to 50% of the side yard.

Katie Logan presented the following new language relative to side yard setbacks in R-1a District and R-1b District respectively:

- A. A side yard shall be provided on each side of the lot. Such side yard on interior lots shall not be less than 20% in total of the lot width, but not less than seven (7) feet on each side, and there shall not be less than fourteen (14) feet between a dwelling on said lot and the dwelling located on adjacent property.
- A. A side yard shall be provided on each side of the lot. Such side yard on interior lots shall not be less than 20% in total of the lot width, but not less than six (6) feet on each side, and there shall not be less than twelve (12) feet between a dwelling on said lot and the dwelling located on adjacent property.

Terrence Gallagher amended his motion to approve Sections 19.06.030 Side Yard (R-1a) and 19.08.025 Side Yard (R-1b) as revised. Brooke Morehead seconded the amendment.

Eric Mikkelson withdrew his amendment.

The amended motion was voted on by a roll call vote with the following votes cast: “aye” Weaver, Nelson, Schermoly, Noll, Mikkelson, Wang, Myers, Morehead, McFadden, Gallagher and Wassmer; voting “nay” Runion. Mayor Wassmer declared the ordinance adopted. She thanked the residents for their input and the committee and staff for the hours of work that went into this zoning change. She particularly acknowledge to leadership and work of Assistant City Administrator Wes Jordan.

Mayor’s Report

Mayor Wassmer expressed the city’s support and sympathies to the victims of Orlando and to Council members dealing with serious family issues. Over the past weeks she represented the City at the MARC Regional Leadership Awards Luncheon, The First Suburbs Coalition Awards Ceremony honoring the cities of Mission and Roeland Park. Mr.

Bennion and Mr. Mikkelson accepted an award from Tobacco 21/KC for the city's leadership and participation in this initiative. She attended going away functions for city staff Nolan Sunderman and Donna Blake. She and Mr. Bennion met with Public Works Field Superintendent James Carney. Mayor Wassmer distributed to Council a survey completed by Cerner on desired housing, transportation, services and community amenities being sought by young adults in the next ten years. She reported on recent Johnson/Wyandotte Mayors Meeting and noted that she and Wes Jordan would be participating in a Kansas City Area Council panel on local teardowns/rebuilds. Mayor Wassmer encouraged those Council members that are able to attend the ground breaking for the Mission Chateau project on Wednesday morning at 9 a.m.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf noted the court date for the individual recently removed from the pool complex is September 8th
- The fatality accident at 75th and Belinder is still under investigation
- Corporal Adam Taylor recently was inducted into the Special Olympics Hall of Fame for his work and support of Special Olympics.

Public Works

- Mr. Bredehoeft provided an update on Mission Road 71st to 75th Street. All sidewalk easements on the east have been acquired.
- Work is continuing in conjunction with the City of Overland Park on 75th Street west of Mission Road to Metcalf.
- Meadowbrook Project is on-going. The city inspector for the project is monitoring the removal of trees.
- Public Works crews are planting flowers.

Sheila Myers noted the traffic backup on Mission Road due to the construction and asked if that should be anticipated after completion of the project. Mr. Bredehoeft replied it is primarily due to the construction and he does not anticipate it to continue after the project is complete. Jori Nelson asked when the project would be completed. Mr. Bredehoeft replied street work would be completed by late July/early August in time for school openings.

Jori Nelson thanked Chief Schwartzkopf on the placement of "No Truck Traffic" signs on 63rd Street. She asked if staff had gotten cost estimates for railings to be placed along

75th Street in front of the preschool. Mr. Bredehoeft noted he was gathering data as requested and has not received cost estimates. Andrew Wang did not see how the properties at 75th and Rosewood were in any greater danger from traffic going off the roadway onto their property than any other properties along 75th Street.

ADMINISTRATION

- Lisa Santa Maria stated the CAFR was complete and has been placed on the city’s website. She expects to receive the printed documents shortly.
- Wes Jordan stated the RFP for Solid Waste Services will be published on Tuesday with proposals due July 21 and the recommendation coming to City Council at the first meeting in August.
- Quinn Bennion reported that he had followed up with VanTrust regarding the senior living component of the Meadowbrook Project. Legends is not pursuing the site, but they are in final negotiations with another provider. When selected, they will be introduced to the City Council.
- Mr. Bennion has begun the search for a new Assistant to the City Administrator.

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:

VillageFest Committee	06/23/2016	5:30 p.m.
Council Committee of the Whole	07/05/2016	6:00 p.m.
City Council (Tuesday)	07/05/2016	7:30 p.m.

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The Prairie Village Arts Council is pleased to present the works of Jean Cook, Luke Severson and Sara Nguyen in the R.G. Endres Gallery in the R. G. Endres Gallery during the month of June.

Plan to attend the Ground Breaking ceremonies for Mission Chateau on Wednesday, June 22nd at 8:30 a.m.

July 4th free swim for all Prairie Village residents at the pool.

Plan to attend the 20th annual VillageFest celebration. The committee would welcome additional volunteers. Contact Meghan if you can help out.

City offices will be closed on Monday, July 4th. Trash services will be delayed one day that week as Waste Management also observes the Monday holiday.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 9:35 p.m.

Joyce Hagen Mundy
City Clerk