

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
April 5, 2010
7:30 p.m.**

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- 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 - March 22, 2010
- 2. Approve the contract with The New Theatre Restaurant for the Annual Employee Appreciation Event.
- 3. Approve an Annual Agreement for Weed Abatement Services with Big Green, Inc. for 2010.

VI. **MAYOR'S REPORT**

Authorize the Mayor to execute a proclamation recognizing April as Fair Housing Month;
Crime Victim's Rights Week - April 18-24; April 30th as Arbor Day 2010 and Benton T. Munday as the 2010 Arbor Day Honoree.

VII. **COMMITTEE REPORT**

COU2010-18 Consider Interlocal Agreement with Kansas City, Missouri for Project 190895: State Line Road Resurfacing and Approve Project Funding in the amount of \$125,000.00 from 71st Street to Somerset - Michael Kelly

VIII. **STAFF REPORTS**

IX. **OLD BUSINESS**

X. **NEW BUSINESS**

Consider appeal of the denial of a massage therapy license for Thomas Wolford at 7509 Nall Ave.

XI. **ANNOUNCEMENTS**

XII. **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

CITY COUNCIL
CITY OF PRAIRIE VILLAGE
April 5, 2010

The City Council of Prairie Village, Kansas, met in regular session on Monday, April 5, 2010, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Al Herrera, Dale Warman, Ruth Hopkins, Steve Noll, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz.

Also present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance. Mayor Shaffer stated with the Council's approval he would move the appeal listed under New Business to follow Committee Reports for the benefit of the applicant.

PUBLIC PARTICIPATION

No one was present to address the Council.

CONSENT AGENDA

Michael Kelly moved the approval of the Consent Agenda for April 5, 2010:

1. Approve Regular Council Meeting Minutes - March 22, 2010
2. Approve the contract with The New Theatre Restaurant for the Annual Employee Appreciation Event
3. Approve an Annual Agreement for Weed Abatement Services with Big Green, Inc. for 2010

A roll call vote was taken with the following members voting “aye”: Herrera, Warman, Hopkins, Noll, Kelly, Wang, Wassmer, Beckerman, Clark, Morrison, Ewy Sharp, and Belz.

MAYOR’S REPORT

Mayor Shaffer stated he had been requested to issue several proclamations in April. Michael Kelly moved the Governing Body authorize the Mayor to execute proclamations recognizing April as Fair Housing Month; Crime Victim’s Rights Week - April 18-24; April 20th as Arbor Day 2010 and Benton T. Munday as the 2010 Arbor Day Honoree. The motion was seconded by Laura Wassmer and passed unanimously.

Mayor Shaffer noted on March 30th, he and several Council members attended the Johnson County State of the County Address. He announced the Mayor of Dolyna will be arriving on April 7th and the reception for the Dolyna Art Exhibit in the Endres Gallery will be this Friday, April 9th from 6:30 to 8 p.m. There will be a dinner for the Dolyna representatives on Monday, April 12th.

COMMITTEE REPORTS

Council Committee of the Whole

COU2010-18 Consider Interlocal Agreement with Kansas City, Missouri for Project 190895: State Line Resurfacing - 71st Street to Somerset with funding in the amount of \$125,000.00

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve an interlocal agreement with Kansas City, Missouri for Project

190895: State Line Resurfacing from 71st Street to Somerset with funding in the amount of \$125,000.00. The motion was seconded by Laura Wassmer and passed unanimously.

Community Center Sub Committee

David Belz reported 17 proposals were received in response to the City's request for proposal to conduct a community center/natatorium feasibility study. The committee reviewed 11 proposals and selected four firms to interview. Representatives from Johnson County Park & Recreation District participated in the selection process. Representatives of the school district had sent the committee written comments voicing their opinions. The interviews will be conducted on April 29th. The Committee plans to bring a recommendation to the Council at its May 3rd meeting.

Michael Kelly asked what firms were selected for interviews. Mr. Belz responded the four firms to be interviewed are BWR, 360 Architecture, Hollis + Miller Architecture, & WNB (Warner, Nease Bost Architects).

NEW BUSINESS

Consider Appeal of the denial of a massage therapy license

City Attorney Katie Logan reported that on February 12, 2010, Mr. Thomas Wolford submitted an application for a massage therapy business and a massage therapist license. Upon conducting the background investigation, the Prairie Village Police Department record check showed that Mr. Wolford had a criminal conviction in Kansas City, Missouri. The City Clerk's staff confirmed the conviction with the Kansas City Municipal Court. The initial charge was amended with a conviction for disorderly

conduct. Mr. Wolford was denied the massage business license and massage therapy licenses per city ordinance for failure to disclose a criminal conviction.

Mr. Wolford is requesting that the City Council either reverse the City Clerk's denial or allow him to reapply. In the new application he would disclose the disorderly conduct conviction. Ms. Logan noted that under the city's code a conviction for disorderly conduct in Missouri would not be grounds for denial of a license.

Thomas Wolford, 7728 Rosewood Drive, stated he was confused by the wording on the application and did not intentionally fail to disclose the conviction. He did not think his conviction in Kansas City, Missouri was applicable.

Ruth Hopkins asked if Mr. Wolford previously had a home occupation licensed and operated out of his home. Mr. Wolford responded he would not be operating out of his home. His business would be located in a commercial building at 7509 Nall Avenue.

Charles Clark asked if Mr. Wolford could reapply. Ms Logan stated the statute and code is silent on the issue of reapplication.

Dale Beckerman noted Mr. Wolford's "llc" was registered at his home and not his place of business. Ms. Logan stated it is not unusual to register an "llc" at a home address.

Diana Ewy Sharp moved, based on the comments of the city attorney, that the City Council allow Thomas Wolford to make reapplication for a massage therapy business license and massage therapy license. The motion was seconded by Laura Wassmer.

Michael Kelly asked Mr. Wolford if he questioned the staff for clarification on the question. He stated he was told by staff that minor traffic violations did not need to be listed.

Ruth Hopkins stated she did not agree with the motion. The City has set a system in place and it should be followed. At a minimum, she feels there should be a period of time before Mr. Wolford is allowed to reapply. Mr. Kelly agreed with Mrs. Hopkins.

Diana Ewy Sharp confirmed that massage therapy is Mr. Wolford's livelihood and noted that had he disclosed the conviction it would not have prevented him from getting a license.

David Belz stated he is not comfortable with allowing an immediate reapplication. He feels the question is clear and he was told that minor traffic violations did not need to be reported. He feels there should be a period of time before reapplication is allowed.

Dale Beckerman noted he is generally prepared to support the motion noting that he has seen lawyers who are confused as to what constitutes a criminal action. These questions do not mean the same to everyone depending on their background. He noted perhaps there should be a delay; however, he feels Mr. Wolford should be allowed to reapply.

Diana Ewy Sharp stated that after reading the information in the packet she understands Mr. Wolford's confusion.

Shazzie Naseem, attorney for Mr. Wolford with Berkowitz Oliver Williams Shaw & Eisenbrandt, noted the confusion is not regarding the conviction, but if it is a criminal conviction. He stated Missouri courts over the years have declared that municipal ordinance violations are akin to civil penalties. The Missouri Supreme Court has held that the "prosecution for violation of a municipal ordinance is a civil proceeding with quasi-criminal aspects".

Katie Logan responded Mr. Naseem's comments are based on Missouri law, not the ruling Kansas law.

Andrew Wang asked what effect the Council's denial of the appeal would have. Ms Logan responded a denial would be a sanction and Council would need to determine what period of time it would cover.

Thomas Wolford stated any additional time lost from his ability to operate his business may result in him not having a business.

Michael Kelly acknowledged that there is a fine line, but feels there must be some accountability. Mr. Naseem responded fine line interpretations are what attorneys deal with; they are not common knowledge to Mr. Wolford whose livelihood depends on his being able to conduct his business.

Laura Wassmer stated that given the ordinance does not set guidelines on reapplication, Mr. Wolford does meet the criteria for a business license and she supports Prairie Village businesses. She, therefore, is supportive of allowing immediate reapplication.

Mr. Wolford noted the process for the City of Leawood is very complicated and as a Prairie Village resident he would like to conduct his business in Prairie Village.

Andrew Wang asked for a review of the City's process, Katie Logan stated once an application is filed with the City Clerk, the Police Department is notified to do the required record check. Mr. Wang asked if there was a clear list of items that would result in disqualification. Ms. Logan responded criminal convictions are specifically listed in the code.

Dale Warman stated he does not want to minimize the false application noting he has terminated employees and denied applicants based on falsified applications.

Mr. Wang confirmed the disorderly conduct conviction occurred on Mr. Wolford's personal time and not business related.

Mayor Shaffer called for a vote on the motion with the motion passing by a majority vote. Mayor Shaffer then directed the City Attorney to review this and other applications and the City code to address possible future parallel problems. Chief Jordan noted that the code should also address plea bargaining in relation to background checks.

STAFF REPORTS

Public Safety

- Chief Jordan reported another lightning strike this morning at City Hall damaged communications equipment. Phone lines and other equipment at City Hall was also impacted.
- Chief Jordan summarized the events of the police involved shooting last Wednesday and follow-up actions being taken
- The Department does not have any suspects on the robbery at Mely's Tuesday evening

Public Works

- Keith Bredehoeft distributed an invitation to the ground breaking on Friday, April 16th at 11 a.m. for the Roe Avenue Project at 63rd Street
- May 1st the City will hold an Arbor Day celebration honoring former Councilman and Park & Recreation Chairman Ben Munday with the Planting of a tree in his honor.
- Staff continues to investigate ways to address the leak at the pool, they are hoping to be able to isolate the leaks.
- Last weekend Boy Scouts constructed a brick walkway by the skate park as an Eagle scout project.
- This coming weekend 100 boy scouts will be working on landscaping improvements in Porter and Harmon Park. .

Administration

- Dennis Enslinger reported the City received an application for a 150' cellular tower at the Fire District Offices at 63rd and Mission. The application will go before the Planning Commission May 4th.
- Also on the May agenda for the Planning Commission is a 30' wind turbine by Shawnee Mission East to be placed on the island closest to City Hall and

Mission Road. The turbine is more of an educational tool than energy source. All wiring will be underground.

- 80-90 people attended the final Solid Waste Meeting. The deadline for requesting smaller containers was last Friday. The new service will begin May 3rd.
- The Art Reception for the Dolyna Exhibit will be Friday, April 9th from 6:30 to 8 p.m.
- Dennis Enslinger stated he had been contacted by a potential developer regarding the possibility of City assistance in funding improvements to the building on the northeast corner of 95th & Nall. This property is in foreclosure and has been vacant for more than two years. They are proposing \$450,000 worth of improvements to be funded by the tenants, developer and City. He is seeking \$100,000 possibly from the Economic Development Fund through low interest loans, grants, etc. Mr. Enslinger showed a proposed rendering of the site and asked for direction from the Council on how he should respond.

Laura Wassmer stated she is not supportive of using Economic Development Funds to assist yet another developer.

Diana Ewy Sharp agreed and noted that access to this location is very difficult.

David Belz asked what has been requested. Mr. Enslinger noted nothing at this time. The developer was simply exploring options. Mr. Enslinger stated there are commercial grant programs similar to the City's Residential Exterior Grant Program. He does not feel a CID is viable for a project of this size.

Dale Beckerman stated the only use of Economic Development Funds he feels would be appropriate would be a loan that would enable to City to replenish the fund.

Laura Wassmer does not feel it would be a good investment to invest in a location that has not proven to be a successful site for other businesses. She would rather see a restaurant serving alcoholic beverages than a "lunch & breakfast" establishment.

David Scott Morrison spoke in opposition to any financial support of a private special interest using public funds.

Charles Clark stated the Finance Committee could look at possible loan and/or grant programs for possible use of the Economic Development Funds in the future.

- Quinn Bennion stated the CID application process would work through a small group of individuals for negotiating the terms of the agreements. To date him, Mayor Shaffer, Dennis Enslinger, Charles Clark and Katie Logan have been involved.
- Mr. Bennion expressed thanks to Representative Kay Wolf for her efforts in getting the proposed KORA bill passed. The bill includes more than the City had requested and will become law once signed by the Governor and effective July 1, 2010.
- Tomorrow is Election Day - Council members up for re-election were wished well and all were encouraged to vote.
- On Monday, he, Mayor and Charles Clark met with representatives of the Meadowbrook Country Club. They met with the Board President and Manager for some very positive open dialog. The Country Club would like to become more community orientated and are proposing the following three items:
 - Sponsorship of the Prairie Village Open Golf tournament on May 19th. The City will be supplying advertising through the Village Voice and volunteer assistance.
 - Partnership on July 4th fireworks with the City, the RLDS church on the corner. They are seeking financial assistance from the city to cover the costs.
 - They would like to host the chamber golf tournament in 2011

Charles Clark stated they do not want to sell their property and are looking for an “Opus” type redevelopment that would allow them to continue to operate.

NEW BUSINESS

CID Process

Dennis Enslinger reported the Mayor would be selecting a subcommittee of the Finance Committee and staff to represent the City in the CID negotiations with the recommendation coming back to the Governing Body through the Finance Committee, rather than going through the Council Committee of the Whole. He noted the recommendation would not need to be voted on the evening presented if council

members wanted more time. However, he noted Lane4 has requested an accelerated timeframe for processing the applications.

It is planned to bring the Resolution setting the required public hearing before the Governing Body on April 19th with the public hearing being held on May 7th. He noted there would be separate resolutions and public hearings for each application. The City Attorney will be preparing the funding agreement for Council approval on April 19th as well.

Dale Beckerman confirmed the development agreement does not need to be in place prior to the public hearing. Dennis Enslinger stated that the CID could be approved contingent on the approval of the development agreement with the ordinance approving the CID not published until the agreement has been executed.

David Morrison asked if 22 years was the normal length of funding for CID projects. Mr. Enslinger stated there has only been one CID approved in the state of Kansas in Junction City and that one was approved for 22 years. Dale Beckerman responded the length of time is based more on the rate of return on the money.

OLD BUSINESS

Ruth Hopkins discussed the "City Magazines" being published by Sun Publications for several area cities. The magazines for Mission Hills and the City of Mission were distributed. These are produced by Sun Publications with the City paying for the cost of printing and mailing. Mrs. Hopkins noted the cost is similar to what is currently being spent on the Village Voice. Mike Scanlon, Mission City Administrator, stated their businesses have had a very positive response to ads placed in the publication. Mrs. Hopkins would like to have the Communications Committee consider

using the magazine in place of the Village Voice. She noted the cities of Mission, Mission Hills, Lenexa and Shawnee all use this service.

Laura Wassmer noted she does not like the large number of ads in the publication vs. community news.

The Council directed that consideration of the use of this service be assigned to the Communications Committee.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Special Sister City Committee Meeting	04/05/2010	7:00 p.m.
Board of Zoning Appeals	04/06/2010	6:30 p.m.
Planning Commission	04/06/2010	7:00 p.m.
Sister City Committee	04/12/2010	7:00 p.m.
Communications Committee	04/13/2010	5:30 p.m.
Park & Recreation Committee	04/14/2010	7:00 p.m.
Council Committee of the Whole	04/19/2010	6:00 p.m.
City Council	04/19/2010	7:30 p.m.

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The Prairie Village Arts Council is pleased to announce a mixed media exhibit from Dolyana, Ukraine. The reception will be held on April 9th from 6:30 - 8:00 p.m.

The general election is Tuesday, April 6th.

Deffenbaugh will begin delivering the new trash and recycling bins this month and residents will begin using them the week of May 3rd.

The annual large item pick-up is scheduled for April 24th.

A Special Council Committee of the Whole meeting will be held on Monday, April 26th at 6 p.m. to discuss unfinished items from the February work session.

An Arbor Day event will be held at Franklin Park on Saturday, May 1st at 10 a.m. to honor Ben Munday.

Earth Day will be celebrated April 17th at Shawnee Mission East.

Recreation memberships are now on sale in the City Clerk's office on April 1st. The pool will open on May 29th.

The City Clerk's office has a new style of ceramic coffee mug for sale. They are \$5.00 each.

The 50th Anniversary books, Prairie Village Our Story, are being sold to the public.

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