

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
October 19, 2009
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 - October 5, 2009
- 2. Approve Claims Ordinance 2864

By Committee:

- 3. Adopt Ordinance 2213 Amending Chapter 2 of the Prairie Village Municipal Code, 2003, Entitled "Animal Control and Regulation" by Amending Section 2-101 Entitled "Definitions" by Adopting a new Section 2-107 Entitled "Public Nuisance" by Amending Section 2-109 Entitled "Registration-Tags" Section 2-110 Entitled "License Fee-Designated" and Section 2-111 Entitled "License Fee-Overdue" and by Renumbering Certain Sections (Council Committee of the Whole Minutes - October 5, 2009)
- 4. Revise the Fee Schedule for Animal Licensing to include 2-year and 3-year licenses and a monthly late fee (Council Committee of the Whole Minutes - October 5, 2009)

VI. MAYOR'S REPORT

Ratify the Mayor's appointment of Nancy Wallerstein to the Prairie Village Planning Commission to complete an unexpired term ending April, 2011.

VII. COMMITTEE REPORTS

Council Committee of the Whole - Michael Kelly

COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program Construction Change Order #1 (Final)

COU2009-100 Consider Project 190728: Prairie Lane Drainage Project-Design Agreement

COU2009-96 Consider Approval of Project 190652 Park Identification Signs

COU2009-98 Consider Project 190656 Community Center Study

COU2009-97 Consider Project 190653 El Monte Fountain Improvements

Planning Commission - Dennis Enslinger

PC2009-13: Consider Amendments to Chapter 19.34 "Accessory Uses"

PC2009-18: Consider Renewal of Special Use Permit for wireless communication antenna at 7801 Delmar by Sprint/Nextel

PC2009-14: Consider Renewal of Special Use Permit for wireless communication antenna at 7801 Delmar by T-Mobile

PC2009-15: Consider Request for Special Use Permit for wireless communication antenna at 7801 Delmar by Clearwire Wireless

PC2009-16: Consider Request for Special Use Permit for wireless communication antenna at 9011 Roe Avenue by Clearwire Wireless

PC2009-17: Consider Renewal for Special Use Permit for wireless communication antenna at 7700 Mission Road by Sprint/Nextel

Parks and Recreation

2010 Parks Projects Prioritization Discussion - Diana Ewy Sharp

VIII. STAFF REPORTS

IX. OLD BUSINESS

X. NEW BUSINESS

COU2009-103 - Consider Resolution No. #2009-19 declaring that a Nuisance, pursuant to K.S.A. 12-1617e and Sections 4-503 of the Prairie Village Municipal Code, exists at 7578 High Drive and ordering the nuisance be abated by the property owner of record, Mark Birnbaum.

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
OCTOBER 19, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, October 19, 2009, 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, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz.

Also present were: Quinn Bennion, City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Captain Tim Schwartzkopf; Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator; Jim Brown, Building Official; and Joyce Hagen Mundy, City Clerk.

Cub Scouts from Troop 3291 presented the flag ceremony and Mayor Shaffer led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Mayor Shaffer acknowledged the presence of Cub Scouts from Troop 3291 at Village Presbyterian Church who were working on their "Citizenship" badge.

Mayor Shaffer welcomed Deb Settle, the new President and CEO of the Northeast Johnson County Chamber of Commerce. Ms Settle thanked the City for their support of the chamber and encouraged council members to contact her at any time with questions or concerns.

Mary Morgan, 2400 West 75th Place, addressed the City Council with her concerns related to the activities at a home in their neighborhood. She noted several calls have been made to the Police Department for noise, code violations, etc. She is concerned with the welfare of the child residing in the home, noting excessive absences from school. She also noted two unlicensed dogs at the residence. They have been running at large on many occasions and were simply returned to the home by the Animal Control Officer. The landlord for the property has not been responsive to phone calls

and the neighbors do not feel the police department has been responsive to their calls and concerns. The residents in the adjacent home are afraid to get involved. She wants the City's assistance in making their neighborhood a safe place.

Lai Yi Lee, 2405 West 75th Place, stated he moved into the neighborhood two years ago and is pleased to see the neighborhood coming together and stepping up to speak out for others. He asked what the next step should be to proactively address their concerns. He wants to know that everything possible has been done to resolve these problems.

Bob Tyner, 2401 West 75th Place, stated he was responsible for getting the "crime watch" program established in this neighborhood several years ago. He noted he has filed a protection order after being threatened by this resident. He noted these issues have been going on for 60 days and preventing him from being able to sleep. The normal activity at this house takes place between the hours of midnight and 4 a.m. He noted residents not just adjacent residents are fearful - the entire neighborhood is feeling threatened. He has spent \$1300 in the past two weeks to protect himself. Mr. Tyner noted the police did make an arrest for violation of the protection order.

Mayor Shaffer asked if the protection order was against an individual or against entry on property. Chief Jordan replied they can be written either way, he is not certain how this one is written.

Jane Kapleau, 2600 West 75th Place, asked about the rules for required record checks for Section 8 housing and how they can prevent this from happening with other rental properties. Captain Schwartzkopf responded the City does not have any control over HUD. HUD does the background checks. It is the decision of the landlord as to whether or not they will accept a Section 8 voucher. Ms Kapleau stated she does not think a background check was done. She asked why the animals have not been taken to a shelter for their protection.

Mayor Shaffer stated the City takes every telephone call seriously and responds within the limitations of the law and the City. Chief Jordan stated Captain Schwartzkopf is doing the best he can. He noted there are differences between annoyances and violations of law. The department is very careful to do a full investigation prior to making any arrest. It is essential to protect everyone's rights. The department works within the

guidelines established by policy and law. Every call received has been documented and follow-up action taken.

CONSENT AGENDA

Michael Kelly moved the approval of the Consent Agenda for Monday, October 19, 2009.

1. Approve Regular Council Meeting Minutes - October 5, 2009
2. Approve Claims Ordinance 2864
3. Adopt Ordinance 2213 amending Chapter 2 of the Prairie Village Municipal Code, 2003, entitled "Animal Control and Regulation" by amending Section 2-101 entitled "Definitions" by adopting a new Section 2-107 entitled "Public Nuisance" by amending Section 2-109 entitled "Registration-Tags" Section 2-110 entitled "License Fee-Designated" and Section 2-111 entitled "License Fee-Overdue" and by renumbering certain Sections
4. Approve revisions to Fee Schedule for Animal Licensing as follows:
Animal Fees - per animal

Initial or renewal for one year	
Neutered	\$6
Not Neutered	\$25
Initial or renewal for two years	
Neutered	\$10
Not Neutered	\$45
Initial or renewal for three years	
Neutered	\$15
Not Neutered	\$70
Late Fee - applied after 60 days	\$3 per month

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

Mayor's Report

Michael Kelly moved the Governing Body ratify the appointment of Nancy Wallerstein to the Prairie Village Planning Commission to complete an unexpired term ending April, 2011. The motion was seconded by Dale Beckerman and passed unanimously.

- Mayor Shaffer congratulated Dennis Enslinger on his appointment to the MARC Total Transportation Policy Committee (TTPC)
- He also acknowledged the appointment of Christine Evans Hands, Merriam City Council member, to the Johnson County Solid Waste Committee.

COMMITTEE REPORTS

Council Committee of the Whole

COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve Construction Change Order #1 with WCI, Inc. for Project 190721: 2009 Storm Drainage Repair Program for an increase of \$27,282.53 bringing the final contract price to \$404,705.73. The motion was seconded by Dale Beckerman and passed unanimously.

COU2009-100 Consider Project 190728: Prairie Lane Drainage Project - Design Agreement

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the design agreement with George Butler Associates for Project 190728: 2009 Prairie Lane Drainage Improvements in the amount of \$47,586. The motion was seconded by Dale Warman and passed unanimously.

COU2009-96 Consider Project 190652: Park Identification Signs

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the purchase of seventeen park identification signs from ICS of Kansas City, Missouri, for \$85,000; the transfer of \$34,000 from Capital Improvement Program Parks Unallocated to Project 190652 and authorize the City to waive bidding on this sole vendor item.. The motion was seconded by Dale Warman and passed unanimously.

COU2009-98 Consider Project 190656: Community Center Study

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the transfer of \$50,000 from Capital Improvement Program Parks Unallocated to Project 190656. The motion was seconded by Dale Warman and passed unanimously.

COU2009-97 Consider Project 190653: El Monte Fountain Improvements

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the Construction Contract award to MEGA Industries for Project 190653: El Monte Fountain for \$51,009.00 with the commitment from the Prairie Village Homes Association of \$19,005 and a transfer of \$36,000 from either the Capital

Improvement Program Streets Unallocated to Project 190653. The motion was seconded by Warman and passed unanimously.

Planning Commission

PC2009-13 Consider Amendments to Chapter 19.34 “Accessory Uses”

Dennis Enslinger stated Chapter 19.34 addresses Accessory Uses including such items as permanent emergency standby generators. The current ordinance allows the Planning Commission to approve these in the side yard of residences if certain criteria are met. Over the past few months, the Planning Commission has heard several applications and felt that staff could grant approval based on the criteria established by zoning regulations with the option to bring the application before the Commission for review if not approved by the building official.

Dale Beckerman moved the Governing Body adopt Ordinance 2214 amending Chapter 19.34 of the Prairie Village Municipal Code, entitled “Accessory Uses” by amending Section 19.34.040 entitled “Accessory Uses - Miscellaneous Provisions” paragraph (F)(i). The motion was seconded by Andrew Wang.

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

PC2009-18 Consider Renewal of Special Use Permit for Wireless Communication Antenna and related equipment at 7801 Delmar by Sprint/Nextel

Dennis Enslinger stated T-Mobile, Sprint and Cricket are the current carriers on the water tower and are requesting renewal of a Special Use Permit that allowed the installation of antennas and the associated equipment cabinets on the water tower at 7801 Delmar. The initial application was approved for three carriers in 1997 and renewed in 2003. The carriers in 2003 were T-Mobile, Nextel and AT&T. Since that time, Nextel changed to Sprint and AT&T has transferred its facilities to Cricket. T-Mobile is still operating as T-Mobile. The Special Use Permit renewal that was approved September 3, 2003 for three carriers and subject to 15 conditions.

The Sprint antennas will be modified to allow the installation of a new provider, Clearwire. This request for renewal is past the six year approval period; however, it

could not be considered earlier due to the moratorium on Wireless Communications Facilities applications.

The equipment cabinet's location was approved for the west side of the water tower and fencing and landscaping were installed to screen them. The fence and landscaping appear to be in good shape and have accomplished their purpose. There is a large tree in the north compound that the applicant has requested to trim. The branches are hanging low and touching some of the equipment boxes. The tree does a great job in the overall screening of the installation so trimming should be limited to the minimum necessary for the installation.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Dale Beckerman moved the Governing Body adopt Ordinance 2215 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Sprint/Nextel on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by Charles Clark.

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

PC2009-14 Consider Renewal of Special Use Permit for the installation of Wireless Communication Antenna and related equipment at 7801 Delmar by T-Mobile.

Dennis Enslinger noted this application for renewal is similar to PC2009-18. There are no changes being made by T-Mobile to their existing antenna or equipment.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of

Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Charles Clark moved the Governing Body adopt Ordinance 2216 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by T-Mobile on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by Dale Beckerman.

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

PC2009-15 Consider Request for a Special Use Permit for the installation of Wireless Communication antenna and related equipment at 7801 Delmar by Clearwire Wireless

Dennis Enslinger stated Clearwire is an additional carrier seeking to place antenna on the water tower, although it has a relationship with Sprint. Clearwire Representatives are present and available to answer any questions. Sprint owns a controlling interest in Clearwire and shares sites when it is practical. The specific request by Clearwire is to install six antennas, three of which are small microwave dish antenna (approximately 26 inches in diameter) on the water tower walkway and a small equipment box in the north compound. The equipment box is approximately 3 feet x 6 feet x 4 feet in height according to the plans. Therefore, it will be shorter than the fence and will be screened. However, the tree north of the compound will need to be trimmed to protect the equipment and prevent interference.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on

October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Dale Beckerman moved the Governing Body adopt Ordinance 2217 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Clearwire Wireless on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by David Belz.

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

PC2009-16 Consider Request for a Special Use Permit for Wireless Antenna and related equipment at 9011 Roe Avenue by Clearwire Wireless

Dennis Enslinger noted this tower was originally approved in 1996 and it was the first tower installation approved by the City. The tower was approved for a height of 100 feet plus eight feet for lightening arrestors. Sprint was the original occupant of the tower. In 2004, Cingular Wireless requested approval to co-locate on the tower and it was approved. Cingular has since merged with AT&T so the current two carriers on the tower are Sprint and AT&T.

The original application for Sprint was approved in 1996 as a Conditional Use Permit. In 2004 Cingular was given a Special Use Permit for co-location on this tower.

Clearwire is requesting approval to install antennas and an equipment cabinet at the existing Cellular Tower located at the Fire Station at 9011 Roe Avenue. Sprint is a majority owner of Clearwire and will sublease space on the Tower. The Sprint installation includes three two-panel antennas. The proposal is to change out three existing Sprint panels to Clearwire panels. Sprint will remove a panel from each of the three sheaths and they will be replaced with Clearwire panels. In addition, Clearwire will add two small microwave dish antennas (26 inches in diameter) at the top of the tower initially and a possible third microwave dish antenna in the northwest sector if needed at a future time. The equipment cabinet for Clearwire will be placed in the existing fenced compound which will not be enlarged or increased in size.

An engineering study was conducted on the tower to document the structural integrity of the structure to accommodate the additional antenna.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 21st attended only by the Fire District Chief. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

David Belz moved the Governing Body adopt Ordinance 2218 approving a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Clearwire Wireless on the property described as 9011 Roe Avenue, Prairie Village, Kansas. The motion was seconded by Dale Beckerman.

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

PC2009-17 Consider Renewal of Special Use Permit for Wireless Communication Antenna and related equipment at 7700 Mission Road by Sprint/Nextel

Dennis Enslinger noted Sprint is requesting renewal of its Special Use Permit that was originally approved in 2004 for a period of five years. This renewal request is past the five year approval time, but it could not be considered earlier because of the moratorium on Wireless Communications Facilities applications. The City tower is 150 feet tall and accommodates several carriers including AT&T, Verizon, the City and Sprint. This is the tallest tower in Prairie Village and it was designed to accommodate multiple carriers.

Sprint was the last carrier approved which was in 2004 and a new equipment compound was added in order to accommodate its equipment cabinets. The original application was approved in September, 2004. Sprint continues to need this location to provide service to its customers, but has not proposed any changes to its existing installation. The applicant held a neighborhood meeting on September 21, 2009, and no one attended.

Mr. Enslinger noted the new Wireless Communication Facilities ordinance requires that equipment compounds meet the minimum setbacks for principal structures in the district in which it is located and that towers setback from all property lines a distance equal to the tower height.

The side yard setback in the R-1A District is five feet and it appears that the compounds meet that requirement. The tower sets back more than 150 feet from the west, south and east property lines but is only about 22 feet from the north property line. The Planning Commission reviewed the following criteria in consideration of granting a waiver from the north property line setback.

1. That there are special circumstances or conditions affecting the proposed cell tower installation;

This cell tower was constructed in 1991 prior to any cell tower standards and it is nonconforming and cannot be increased or enlarged without approval of a waiver. This means that no new carriers and no additional equipment can be put on the tower and therefore technical modifications could be a problem.

This is a large public use area and is the type of location that the Planning Commission and City Council would prefer towers to locate.

2. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;

Because the cell tower facility and equipment compounds have already been developed, this is the best location for a tower that would not interfere with the other uses of the site.

3. That the granting of the setback waiver will not be detrimental to the public welfare or cause substantial injury to the value of the adjacent property or other property in the vicinity in which the particular property is situated.

This waiver is for an existing facility in a large public use area and the City has received no complaints since it was built in 1991. Also no neighbors appeared at the neighborhood meeting. The use to the north is a parking lot for Shawnee Mission East High School.

The Planning Commission found the application meets the requirements for a setback waiver and granted a waiver for the setback on the east and north side of the tower. It also recommended approval of the renewal subject to 19 conditions.

Dale Beckerman moved the Governing Body adopt Ordinance 2219 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Sprint/Nextel on the property described as 7700 Mission Road, Prairie Village, Kansas. The motion was seconded by David Belz.

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

Parks & Recreation - Diana Ewy Sharp
Consider 2010 Parks Projects Prioritization

Diana Ewy Sharp stated after the City's adoption of the Parks Master Plan, the Parks & Recreation Committee has been discussing how to proceed with implementation of the recommendations found in the plan. The Committee was excited to learn of the potential of having \$2 million dollars to jump start the implementation through bond funding. In response to that news, they have established the following priorities for 2010 park improvements subject to funding availability to Franklin Park, Weltner Park and Schliffke Park.

Franklin Park \$1,510,600 to add parking to the existing lot, reconfigure parking along Roe by possibly installing pipe, new shelter, interpretive park history signs, new patio area with Gazebo, new grill, widen walking paths to 8 feet, new nature play area play stream, naturalize creek along Roe, spray area, develop tree replacement plan, more lighting, tuck point stone around rose garden, new restrooms, nature play area, field irrigation and art work.

Weltner Park - \$350,500 contingent upon the completion of the Cambridge Street realignment; new perimeter trail, relocate shelter, new play area, interpretive park history sign, develop tree replacement plan, more lighting, new party entry, more benches and trash receptacles and art work.

Schliffke Park - \$212,500 remove parking area, add 10 feet trail with benches, new cantilevered outlook over bank at north end of Brush Creek, interpretive park history signs, develop tree replacement plan, more lighting and art work.

Diana Ewy Sharp noted the priority rating given in the Master Plan listed Franklin and Porter as the top priorities. However, based on the limited availability of funds it would not be possible to do both. The committee moved Weltner Park as their second priority to coordinate with the proposed realignment of Cambridge Street. This change also left funding to add improvements to Schliffke Park. The total estimated cost to complete these three projects is \$2,073,600, which is \$73,600 over budget. The committee recognizes this estimate may change as projects go into design and bid and some items may need to be removed to bring the project total within budget.

The selection of these three parks provides improvement in three different geographic areas of the City. Mrs. Ewy Sharp stated that by beginning with Franklin

Park, which is heavily utilized and visible, starting with this type of project was recommended by the Park Consultant to garner support for future park improvements.

Mayor Shaffer asked for clarification on the \$2 million in funding. Quinn Bennion responded the Park Funding previously came from the alcohol tax fund, which was approximately \$86,000 per year. In developing the CIP for the next four years, \$500,000 was placed in each year. As the idea of a bond developed, the project during the next four years would be accelerated to 2010 and 2011 with bond funding. The Charter Ordinance was adopted to allow for inclusion of park improvements for bond funding. With the challenge to that ordinance, there has been some confusion on how these projects would be funded. The \$2 million will be available with or without the ability to bond the projects. The bond has been set to include \$2 million for parks projects, \$4 million for Streets, \$3 million for storm drainage and \$300,000 for building improvements. If the City has to fund the park projects on a cash basis, an additional \$2 million would be added to the streets projects with the cash designated for those projects being redesignated to the park projects. Mr. Bennion noted in reality accomplishing the entire park improvements in 2010 will be a challenge, so some of this funding will be in 2011.

Diana Ewy Sharp noted the master park plan recommended additional parking along Somerset, however, the committee is modifying the existing parking to create additional parking spaces and not doing the suggested lot. She noted that this project will put at least part of the park out of commission next summer and communication will be essential. She wants to have this completed to showcase to the public, if and when the City goes out for additional funding, such as a sales tax.

Ruth Hopkins confirmed there was a private funding source set up through the Municipal Foundation for the construction of a Gazebo. She also asked if there was not opposition in the past to the establishment of permanent restrooms in City parks and asked how they would be maintained and how security issues would be put in place.

Bob Pryzby stated the maintenance would be done under the City's custodial services contract as it currently is handled with Harmon Park. He is not aware of opposition to permanent restrooms. Mrs. Ewy Sharp noted during the park surveys conducted by the park planner, there was a desire expressed for permanent restrooms.

Chief Jordan noted the portable toilets are more likely to be vandalized. Dale Beckerman confirmed these would be year-round restrooms.

Al Herrera asked why there would be opposition to parking on Somerset, but not to additional parking on Roe. Mrs. Ewy Sharp noted the construction of a new parking area would remove more green space by adding an existing lot.

Andrew Wang asked if the proposed changes would result in the loss of any existing trees. Mrs. Ewy Sharp replied, it would not and the Tree Board is working on a tree replacement schedule for the park.

David Morrison asked if there had been any consideration to using a softer surface for the walking trails as they are used extensively by senior citizens. Mr. Pryzby stated ADA will be coming out with new surface requirements and he will check them. Quinn Bennion added the trail loop is scheduled for a complete rebuild going from 4-foot to an 8-foot width. He is not aware of any trail in the area constructed of a rubberized surface, which would have significant maintenance cost. He added the cost to alter the parking configuration on Roe will be considerably less than the cost to construct a new parking area. Laura Wassmer added she does not consider the land adjacent to the Roe parking as usable land, where the land adjacent to Somerset is usable.

Bob Pryzby stated there will be irrigation work done on the ball fields that is not listed on the Park Master plan as it is included by the Parks and Recreation Committee. Also, the drainage bond fund includes the replacement of galvanized pipe in the drainage system on Somerset Drive from 87th to Roe.

Mayor Shaffer asked why the majority of the money is being spent on this one location. Mrs. Ewy Sharp stated it is because of the visibility and usage of this jewel of the City. Laura Wassmer questioned if this is already a jewel, why is the City investing so much money at this location when there are needs elsewhere.

Diana Ewy Sharp stated the committee is responding to the other needs in its improvements to a highly underutilized Weltner Park and Schliffke Park.

Michael Kelly recognized the value as a marketing tool.

Mrs. Ewy Sharp noted the improvements to Weltner will be significant for this area and entry to the City. Additional green space will be added, a trail will be created and improvements that will bring the community out to use this park.

Mayor Shaffer asked for the cost breakdown between the street work and the park work. Mrs. Ewy Sharp stated the total cost is \$950,000 with \$350,000 for the park improvements and \$600,00 for the street portion.

Diana Ewy Sharp noted the proposed changes at Schliffke could be controversial as it removes a parking area that is currently being used by Village Shopping Center employees for parking. This area will be converted into green space, a look out will be constructed over Brush Creek with the focus being an environmentally friendly park.

Mayor Shaffer confirmed that Prairie Park is not included in the plans for Schliffke Park.

In response to why the City is not doing trails, the committee felt the expansion of the paths in three parks is a more productive way to address the beginning of a trail system. It was noted that the Franklin Park trail is one-half mile.

Charles Clark noted that with the decision to accelerate the funding once the \$2 million is spent there will be no available funding for the next four years for additional work. The Council needs to address what it will do to fund further improvements once this money is spent. One of the suggestions has been the implementation of a dedicated sales tax. Mr. Clark noted if the Council wants to proceed with a sales tax vote, it should take place at the November election a year from now, with a heavy voter turnout. Therefore, this needs to be discussed soon.

Diana Ewy Sharp stated she has asked the Finance Committee to consider a ½ cent sales tax which would raise approximately \$1 million per year. She would like to see the Parks Master Plan funded at a level of \$1.5 million per year.

Andrew Wang asked if some money would be available for maintenance such as resurfacing of tennis courts. Mr. Pryzby responded there will be some money, but he does not know how much.

Charles Clark stated when the size of the bond issue was selected it was done so that there would be some remaining money to cover ordinary expenses, but not money for any projects beyond 2010.

Mayor Shaffer asked what was the next step and timeline. Diana Ewy Sharp stated work could begin work on the RFQ. Chris Engel will be the lead on this together with Bob Pryzby, Jim Bernard, Kathy Peterson, Al Herrera and herself. Once money

becomes available, the requests for qualifications would go out. There is not an established timeline; however, she would like to get Franklin Park done next year.

Ruth Hopkins expressed her concern with beginning a project of this magnitude during these uncertain economic times. It is very likely the State will continue to withhold money from the City. She was comfortable with the funding coming from bonds, but is not sure she is ready to commit to cash funding a \$2 million project that is not an essential service for the residents of Prairie Village.

Al Herrera noted this was started in 2000 and he would like to see it finished. Residents have had a positive response to the master plan and he feels it is time to move forward noting the plan was being broken into pieces for implementation,

David Belz stated he is not sure that parks are not a #1 priority for the residents of Prairie Village. As stated in Village Vision, parks draw this community together and are a vital part of Prairie Village.

Dale Beckerman stated one of the expectations of residents is their parks. He supports accelerating the process and securing additional funding if necessary. However, he noted having Franklin Park out of commission an entire summer is not going to be well received.

Diana Ewy Sharp stated the committee has gone through the process, had the master plan created and adopted by the City and she believes it is now time to begin.

Dale Beckerman moved the Governing Body approve the Parks & Recreation Committee proposed priorities for 2010 park improvement as follows: Franklin Park, Weltner Park and Schliffke Park. The motion was seconded by David Morrison and passed unanimously.

Dale Beckerman confirmed the changes at Weltner Park will address the current need to cross the intersection to get to the park.

Communications Committee

Michael Kelly reported the Communications Committee met and has sent out requests for qualification for the redesign of the City's website. The process will include both a needs assessment and the building of the website. Staff will review the proposals and select two to three firms to interview with the Committee. He is looking to bring a recommendation to the City Council the second meeting in December.

STAFF REPORTS

PUBLIC SAFETY

- Chief Jordan reported there will be a street race on Halloween morning from 8300 Mission Road to 91st Street closing one lane of traffic. Three off-duty officers will be working the event sponsored by Lane4.
- Friday, October 23rd the Johnson County agencies will hold a press conference to address the growing use of heroin in local high schools endorsing a major education effort. There have been over 20 overdoses and three deaths in Johnson County.
- Public Safety staff has been invited to Claridge Court on October 22.
- Chief recently spoke at an NAACP forum in Leawood

PUBLIC WORKS

- Mike Helms recently completed a Hazardous Materials Program with FEMA and noted Prairie Village is one of very few cities with an approved plan.
- The 2009 Street Project is closed and most of the remaining projects are nearing completion.
- Bob Pryzby announced he has received an appeal from Meadowbrook Country Club on their Storm water assessment that will be brought before the Council at its next meeting.

ADMINISTRATION

- Dennis Enslinger complimented the Prairie Village Arts Council on the excellent 2009 State of the Arts Exhibit noting several hundred people attending the reception earlier this month. He also complimented the Environment/Recycle Committee on its successful Environmental Forum held on October 8th.
- Glass Recycling will begin at the Corinth Square Hen House. There is no sorting required of the materials.

Council members urged that the location of the drop-off box be carefully considered because of the loud noise created by the glass. Mr. Enslinger noted the location has not been determined but will be selected by Lane4

- Prairie Village will be participating in an e-recycle event on November 4th with the Cities of Overland Park and Leawood. The event will be held at the Church of the Resurrection at 135th & Nall.
- City Attorney Katie Logan announced that a protest petition had been filed against Charter Ordinance #25 and it appears to be in proper format with 157 signatures. 118 signatures are required. The petition will be verified by the Johnson County Election Office. If it is valid, the City Council can within 30 days schedule a special election on the ordinance or take no action and the ordinance dies.

Al Herrera asked if the individuals signing the petition changed their minds and wanted to remove their signatures how that would be done. Ms Logan stated under KSA 25-3602(c) individuals can withdraw their signatures by written notification within three days of the filing of the petition.

Ms Logan asked Mr. Morrison the status of the approval of the format of the petition by the District Attorney. Mr. Morrison stated the petition had been sent to the District Attorney.

Mayor Shaffer stated he has asked staff to get the costs for holding a special election and the costs spent on this issue to date. Ms. Logan stated the status of the petition would be known by the special council meeting next Monday.

Quinn Bennion stated Mayor Shaffer has called a Special Council Meeting for Monday, October 26th at 6 p.m. There will be two items on the agenda - 1) the City's response to the petition and 2) readoption of the ordinance for the storm drainage projects with more specific locations for the pipe that is being replaced.

Michael Kelly stated he felt for one councilman to hold the entire council hostage is the equivalent of the recent balloon hoax.

Andrew Wang stated he thought Mr. Morrison had stated he would not file the petition unless there was overwhelming opposition against the ordinance. He does not feel 157 residents out of over 20,000 is overwhelming opposition.

David Morrison responded his original hope was that the City Council would alter the ordinance adding a sunset clause. He does not oppose the proposed bonding; however, he does not feel it is appropriate for future Council's to have such power into perpetuity. He felt strongly that the residents should have the right to determine such expenditures.

Laura Wassmer stated this is a complicated issue to explain and questioned if the people signing the petition truly understood what the charter ordinance meant and the ramifications of their action on the City. She stated when a fellow councilmember goes door to door and creates the level of mistrust against the City Council it is difficult not to take it personally. She noted that twice Mr. Morrison has created situations that heighten mistrust of local government and that is not in the best interest of this community.

Mr. Morrison replied he told people he did not have any problems with the current Council and this action but he was concerned with the door this opened and what could happen in the future. He does not see this action as an attack on the Council, but as a statement on the role of government.

- Quinn Bennion noted a listing of City Contracts for professional services has been distributed in response to questions raised at the last committee meeting. Also being distributed is a homes association map.

OLD BUSINESS

There was no Old Business to come before the Governing Body.

NEW BUSINESS

COU2009-103 Consider Declaration of Nuisance, pursuant to K.S.A. 12-1617e and Sections 4-503 of the Prairie Village Municipal Code, at 7578 High Drive

Dennis Enslinger reported in May of 2003 the property owner, Mark Birnbaum, began collecting large quantities of miscellaneous items. These items were placed all around the front and back of his property. A Violation Notice was issued followed by two tickets for Debris and Storage in May 2003 with subsequent Court Proceedings through October of 2005. The items were placed in an inadequately constructed screening enclosure within the back yard.

The owner vacated the property in approximately October of 2005. The City staff has been in contact with him via e-mail, regular mail and telephone since 2006 with regards to subsequent violations on his property. Violation Notices and tickets along with pictures of the violations have been sent to the owner and delivery confirmed.

May of 2009 the Codes Department received complaints about the property due to the continued deterioration of conditions at the property. Tickets were again issued to the owner. Subsequent conversations took place between Mr. Birnbaum and Code

Enforcement Officer Marcia Gradinger on July 17th, 24th, 28th, and August 17, 2009 regarding all violation issues at the property. On July 28, 2009 a certified letter was sent to Mr. Birnbaum outlining all violations and possible abatement proceedings.

The items left in the yard area, and the screening enclosure, have continued to deteriorate, in addition to the uncontrolled vegetation on the property. Such conditions are conducive to blight, rodent and insect infestation, and are a menace and dangerous to the health of the inhabitants of the surrounding properties within the neighborhood.

Mr. Enslinger stated Prairie Village Municipal Code 4-503, as defined in 4-502 (g) ‘nuisance’ allows the City to abate such violations with all costs assessed to the property owner and against the property as a lien if not paid by the owner. Such violations include but are not limited to; rank vegetation, unkempt trash, refuse, brush and limbs, debris or building material, and any other condition which is determined to present a dangerous or harmful condition to the public.

It is therefore recommended by the Codes Department that the property be declared a Nuisance pursuant to PVMC Chapter 4 Article 5. Mr. Enslinger presented photographs of the numerous violations taken earlier in the day confirming the violations to still exist. He then reviewed the process to resolve the nuisance issues on the property should the Governing Body decide to move forward.

Mr. Enslinger presented the following historical timeline of events on contacts made on this property:

04/25/03

Violation Notice issued by personal service for Debris and Storage of items

05/14/03

Two tickets issued for Debris and Storage of items on the property.

06/03/03

PV Court appearance - Plead No Guilty

09/11/03

Prairie Village Court Trial found Guilty \$500 Fine/ \$250 each count

Compliance Action - All items were placed within an enclosure built by Mr. Birnbaum and approved under conditions existing at that time/date.

09/29/03

Appeal Filed with County Court

03/08/04

District Appeal Court

Disposition

Guilty \$1000 Fine/ \$500 each count

- From the time of the original Violation Notice being issued on 04/25/03 to the final District Court disposition on 03/08/04 numerous, detailed conversations took place between Mr. Birnbaum, Code Officer Marcia Grading, and Doug Luther regarding the details of the violations, and correction requirements. Mr. Birnbaum also received copies of all applicable City ordinances.

09/19/05

Ticket posted at property / Storage

Additional miscellaneous items had been added into the enclosure and to the top of items already within the enclosure making them visible to adjacent properties and in violation of City Storage Ordinance.

10/04/05

PV Court—Guilty \$250 Fine

Compliance Action - Items relocated within structure to not be visible from the top.

10/2005

At approximately the end of October, 2005, Mr. Birnbaum vacated the property spending the majority of his time out of state and returning on occasion for short periods.

06/06/06

Unauthorized Storage ticket issued via certified mail

- During the period from 10/2005 to 06/06/06, the original items stored and the original screening structure deteriorated. At some point in this time period more items were added to be stored on the property and screening materials were added to the original screening structure.

On 06/16/06 an e-mail was received from Mr. Birnbaum confirming receipt of the Court Citation, and indicating he had at some point been at the property but departed on 05/04/06.

07/2006

Failed to Appear in Prairie Village Municipal Court - a Warrant was issued

- Between 06/06/06 and 07/25/06 there were 14 e-mails between myself, Doug Luther and Mr. Birnbaum regarding, violations, correction requirements and court appearances.
- On 1/25/07 an e-mail was sent to Mr. Birnbaum inquiring of his intent to return and take care of violations. No response.

07/08/09

Complaint filed with the Codes Department regarding conditions at 7578 High Dr.

07/10/09

3 Tickets issued via certified mail

- Inoperable Vehicle. Flat tire and expired 03/07 tag.
- Deteriorated Roof
- Trash & Debris (Items in back yard and in “storage” area.)

07/17/09

Mr. Birnbaum contacted me by phone regarding the 3 tickets he received. I explained the conditions of the property, related violations and correction requirements. He requested I meet with his lawn person at the property to review what needed to be done with the overgrown vegetation.

07/23/09

Property perimeter vegetation cut to code and some vegetation within the screening enclosure, however, most vegetation within the screening enclosure was unable to be cut due to the amount of deteriorated items stored within which impeded mowing.

07/24/09

Codes Officer s/w Mr. Birnbaum by phone and discussed the remaining vegetation violation and the nature of the items preventing the removal of the vegetation. Violations

of Trash & Debris of all deteriorated items in back yard and within the enclosure, the condition of the roof and the inoperable vehicle in the driveway as well as the tickets/warrant pending in Municipal Court were once again discussed with Mr. Birnbaum. Mr. Birnbaum stated he did not know when he could make arraignments to return and take care of but he might be back in October.

Between 07/17/09 and 08/17/09 Codes Officer had 5 phone conversations with Mr. Birnbaum regarding the conditions at his property in violations of City Codes, and all correction requirements and possible City action. Pictures of the property were also sent to him by the codes Department.

07/28/09

A letter was sent to Mr. Birnbaum by certified mail and e-mail (enclosed) outlining the discussion with him on 7/24/09 regarding the violations at his property and possible City action to be taken.

08/18/09

Fail to Appear Warrants issued for tickets issued on 07/10/09

Charles Clark stated he agreed with the staff recommendation to move forward.

David Belz moved the Governing Body adopt Resolution 2009-19 declaring that a Nuisance, pursuant to K.S.A. 12-1617e and Sections 4-503 of the Prairie Village Municipal Code, exists at 7678 High Drive and ordering the nuisance be abated by the property owner of record, Mark Birnbaum. The motion was seconded by Diana Ewy Sharp and passed unanimously.

Prosecutor Office Bid

Bob Pryzby announced only one bid was received for the construction of a Prosecutor's Office. Staff reviewed the bid and recommends the City Council reject the bid and direct staff to redraft the scope and rebid the project.

Andrew Wang moved the Governing Body reject all bids received for Project 190923: Prosecutor Office Construction. The motion was seconded by Michael Kelly and passed unanimously.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Arts Council	10/21/2009	7:00 p.m.
Environment/Recycle Committee	10/28/2009	7:00 p.m.
Council Committee of the Whole	11/02/2009	6:00 p.m.
City Council	11/02/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce the annual State of the Arts exhibit in the R. G. Endres Gallery for the month of October.

Flu shots have been rescheduled for **November 18, 2009** from 7:30 - 9:00 am at Public Works or 2:00 - 4:00 pm at City Hall. Flu Shots are available to Council Members for \$10.

The National League of Cities conference is November 10-14 in San Antonio, TX.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 21st at 6:00 pm.

The Municipal Foundation will be hosting the annual Mayor's Holiday Tree Lighting on Monday, November 30th at Corinth Square from 6:00 - 7:30 pm.

The Johnson and Wyandotte Counties Council of Mayor Annual Holiday Social Dinner is December 2, 2009 at 5:30 pm at The Lodge at Ironwoods Park.

The Mayor's Holiday Volunteer Party is December 4, 2009 at 6:30 pm at Homestead Country Club.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 13th at the Community Center at 2:00pm and 4:00 pm.

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 8:55 p.m.

Joyce Hagen Mundy
City Clerk