

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
July 20, 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 - July 6, 2009
- 2. Approve Claims Ordinance 2861
- 3. Approve revised Council Policy CP204 entitled "Sidewalks."

By Committee:

- 4. Approve Construction Change Order #3 to McAnany Construction for Project 191023: 2009 Concrete Repair Program in the amount of \$6,360.00 increasing the project cost to \$591,360.00. (Council Committee of the Whole Minutes - July 6, 2009)
- 5. Approve Council Policy CP257 entitled Stormwater Utility Fee Credit. (Council Committee of the Whole Minutes - July 6, 2009)
- 6. Approve Phone Maintenance Agreements (COU2009-73 - Council Committee of the Whole Consent Agenda - July 20, 2009)

VI. MAYOR'S REPORT

VII. COMMITTEE REPORTS

Council Committee of the Whole

COU2009-72 Consider approval of Solid Waste Assessment Fees for 2010 (Council Committee of the Whole - July 20, 2009) - David Voysey

Consider Authorization to Publish 2010 Budget - David Voysey

COU2009-74 Consider Approval of Amendment to the City Code permitting an organized cycling race within the City (Council Committee of the Whole - July 20, 2009) David Voysey

COU2009-75 Consider Approval of 2010 Mission Hills Contract and 2010 Mission Hills Budget (Council Committee of the Whole - July 20, 2009) David Voysey

Planning Commission

COU2009-25 Consider Amendment to Zoning Ordinance Chapter 19.52 - Dennis Enslinger

COU2009-75 Consideration of an Amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan 2009 (Planning Commission Item PC2009-10) - Dennis Enslinger

COU2009-35 Consider New Zoning Chapter 19.33 entitled Wireless Communications Facilities, deleting Section 19.28.070(s) and amending Section 19.02.449 entitled "Utility Box" (Planning Commission Item PC2009-03) - Dennis Enslinger

COU2009-59 Consideration of An Ordinance Repealing Ordinance No. 2195, A Moratorium on applications for a Special Use Permit related to Wireless Communications Towers and Antennas constructed or installed for use by commercial carriers - Dennis Enslinger

- VIII. STAFF REPORTS**
- IX. OLD BUSINESS**
- X. NEW BUSINESS**
- 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
July 20, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, July 20, 2009, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Council President Michael Kelly 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 and David Belz.

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

Council President Michael Kelly led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

No one was present to address the Council.

CONSENT AGENDA

Andrew Wang moved the approval of the Consent Agenda for Monday, July 6, 2009.

1. Approve Regular Council Meeting Minutes - July 6, 2009
2. Approve Claims Ordinance 2861
3. Approve revised Council Policy CP204 entitled "Sidewalks"
4. Approve Construction Change Order #3 to McAnany Construction for Project 191023: 2009 Concrete Repair Program in the amount of \$6,360.00 increasing the project cost to \$591,360.00.

5. Approve Council Policy CP257 entitled "Stormwater Utility Fee Credit"
6. Approve Phone Maintenance Agreements with Embarq for telephone systems at 7700 Mission Road and 3535 Somerset Drive.

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

COMMITTEE REPORTS

Council Committee of the Whole

COU2009-72 Consider approval of Solid Waste Assessment Fees for 2010

On behalf of the Council Committee of the Whole, Andrew Wang moved the Governing Body approve a fee of \$177.62 per year or \$14.80 per month per household for recyclable material, yard waste and bulky item pick-up and an exemption fee of \$6.43 per year/per household for those subdivisions/homes associations which have been granted from the city's solid waste management program. The motion was seconded by Ruth Hopkins and passed unanimously.

Consider authorization to publish the 2010 proposed budget

Andrew Wang moved the Governing Body authorize staff to publish the 2010 proposed budget and notice of hearing as required by State statutes. The motion was seconded by David Beckerman and passed unanimously.

COU2009-74 Consider amendment to City Code to all organized cycling races within the City.

On behalf of the Council Committee of the Whole, Andrew Wang moved the Governing Body adopt Ordinance 2201 amending Chapter XI of the Prairie Village Municipal Code entitled "Public Offenses and Traffic" by amending Article 11 entitled "Street Race Contests" by amending Section 110-1105 entitled "Permit Issue Standards" and Section 11-1106 entitled "Permit Issuance". The motion was seconded by Laura Wassmer.

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

COU2009-75 Consider 2010 Mission Hills Contract & 2010 Budget

On behalf of the Council Committee of the Whole, Andrew Wang moved the Governing Body approve the proposed 2010 agreement with the City of Mission Hills for Law Enforcement and Municipal Court Services and the related 2010 Mission Hills budget. The motion was seconded by Laura Wassmer and passed unanimously.

Planning Commission

COU2009-25 Consider amendment to Zoning Ordinance Chapters 19.52 & 19.28

Dennis Enslinger noted the City’s zoning ordinance is inconsistent with the City Code and State Statutes regarding action by the Governing Body. Since the Zoning Ordinance was adopted, the City has adopted a definition of Governing Body that includes the Mayor and City Council. The current Zoning Ordinance specifies City Council rather than Governing Body, therefore, ordinance revisions were prepared to bring the Zoning Ordinance into compliance with City Code and State Statutes.

Mr. Enslinger added the Kansas Planning Laws are specific about zoning change requests, but leave the procedure for consideration of Special Use Permits to the discretion of the City. Changes have been made to Chapter 19.28 “Special Use Permits” making the procedures consistent with those of zoning changes or amendments. On July 7, after a public hearing was held, the Planning Commission recommended adoption of these changes.

Charles Clark moved the Governing Body adopt Ordinance 2199 amending Chapter 19.52 of the Prairie Village Zoning Ordinance entitled “Procedural Provisions” by adding Section 19.52.000 entitled “Governing Body” and by amending Section 19.52.005 entitled “Applicant”, Section 19.52.015 entitled “Public Hearing”, Section 19.52.035 entitled “Planning Commission Action”, Section 19.52.040 entitled “City

Council Action” and Section 19.52.045 entitled “Protest”, and amending Chapter 19.28 of the Prairie Village Zoning Ordinance entitled “special Use Permits” by adding Section 19.28.000 entitled “Governing Body”, and amending Section 19.28.010 entitled “Applicant”, Section 19.28.020 entitled “Public Hearing Notice”, Section 19.28.035 entitled “Factors for Consideration”, Section 19.28.045 entitled “City Council Action”, Section 19.28.050 entitled “Conditions of Approval”, and Section 19.28.065 entitled “Revocation of Special Use Permits”. The motion was seconded by Ruth Hopkins.

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

COU2009-76 Consider amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan

The City Council adopted Resolution 2009-04 adopting the Prairie Village Parks & Recreation Master Plan 2009 on June 1, 2009. In accordance with K.S.A. 12-747 and Section 16 of the Prairie Village Municipal Code, the Planning Commission was directed to consider an amendment to the City’s Comprehensive Plan, Village Vision, to include the Village Parks & Recreation Master Plan 2009.

The Planning Commission held a public hearing on July 7, 2009, and after due consideration of the proposed amendments and public testimony, the Planning Commission has recommended the adoption of the proposed amendments and adopted Resolution PC2009-01 by a unanimous vote.

Andrew Wang moved the Governing Body adopt Ordinance 2200 approving an amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan 2009. 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 and Belz.

COU2009-35 Consider New Zoning Chapter 19.33 entitled Wireless Communications Facilities:” deleting Section 19.28.070(s) and amending Section 19.02.449 entitled “Utility Box”

On May 18, 2009, the City Council returned the proposed ordinance to the Planning Commission to look at specific areas identified by the City Council and the residents’ proposed revisions. The Planning Commission consider those items at their June and July meetings. Ron Williamson reviewed the four primary changes recommended by the Planning Commission.

- In Section 19.33.025 Factors For Consideration the word “dominate” has been changed to “cause substantial injury to the value of other properties in”
- In Section 19.33.030 Application Information three additional items were added
 - **“The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.”**
 - **“The Planning Commission or City Council at its discretion may require a third party analysis, at the applicant’s expense, to confirm the need for the facility.”**
 - The layout of the site shall include the proposed facility, the fall radius of any proposed monopole, . . .

Ron Williamson stated the Governing Body may adopt, revise or amend and adopt the recommendations of the Planning Commission by ordinance with a simple majority vote. The Governing Body could table the item to a future date by a majority vote of those present.

Council President Michael Kelly opened the meeting to comments from the public.

Mary Cordill, 4904 West 68th Street, distributed proposed revisions created and supported by a large number of the neighboring residents. The proposed revisions do not change any of the proposed language, but sets the items listed in the “Purpose” and “Factors for Consideration” in a priority order.

Mrs. Cordill stated the Planning Commission only considered those specific items identified by the City Council and noted their suggestion was to replace the word “dominate” with “affect”. The residents’ primary objective is to find a way for the

ordinance to protect neighborhoods. In their ranking of priorities, they have placed aesthetics of the neighborhood as a high priority. She stated that although the ordinance encourages the construction of “stealth applications”, they did not feel it went far enough. They felt an order of importance would express the City’s desire to protect the character of Prairie Village.

Mrs. Cordill noted that many of the residents are not comfortable with tall cell towers. She has learned that the school district is open to having cell tower applications on their properties and they are currently talking with the water district board. These public properties have more open space to accommodate such applications.

Harold Neptune, 4722 West 68th Street, stated they know that cell towers are necessary, but they do not want 140 foot towers. He feels the proposed priority ranking expresses the City’s concern for neighborhoods and asked for the Council’s support of the proposed revisions

Pat Kaufman, 4307 West 63rd Terrace, stated that co-location is ideal in larger cities that have open spaces, but Prairie Village does not have the large open spaces that can accommodate such installations. Large towers do not fit in Prairie Village. She noted the school district with most of the City’s open spaces have not been approached by providers.

Laura Wassmer stated she felt the proposed language by the residents makes sense and felt it would be helpful to the City Council in reviewing applications.

Ruth Hopkins expressed concern that co-location has been placed with the lowest priority. She prefers co-location and fewer towers over multiple towers throughout the City.

Al Herrera agreed with Ms. Wassmer and supports the proposed changes.

City Attorney Katie Logan stated the proposed changes will not affect the implementation of the ordinance. She does not have a problem with the proposed

ranking in Section 19.33.10 Purpose. However, the “Factors for Consideration” are the “Golden Factors” and have been mandated by the “Golden vs. City of Overland Park” court ruling. She feels placing a priority ranking on them would be going beyond the authority granted the city.

Andrew Wang stated he was not supportive of attaching ordinal significance to factors. Charles Clark urged the Council to listen to the City Attorney and stressed the need to adopt an ordinance that can be enforced.

Laura Wassmer stated she felt the language was helpful for discussion noting the concern that installations work within existing neighborhoods. She does see co-location as a priority when it can be done while maintaining the character of the neighborhood. She likes having the narrative identify the City’s goals.

Dale Beckerman stated he opposes the changes in both locations. He sees them as weighing factors in advance of a specific location. In abstract, he feels the factors deserve equal weight and feels any attempt to weight them in advance is ill advised.

David Morrison disagreed stating he felt aesthetics was the most important consideration. He felt the City should write an ordinance that says what it wants and not merely write something that can be defended in court if challenged.

Katie Logan noted that if the purpose is changed it should be related to the rest of the ordinance and therefore feels it would be better not to change any of the language. Ms Logan stated if the ordinance does not follow statutory mandates, it will be challenged.

David Belz stated he does not support setting a priority and supports adopting the ordinance as recommended by the Planning Commission.

Ruth Hopkins moved the Governing Body adopt Ordinance 2189 creating a new Chapter 19.33 entitled “Wireless Communication Facilities” to the Prairie Village Municipal Code, 2003 and adopt Ordinance 2190 amending Chapter 19.02 of the Prairie

Village Municipal Code entitled “Definitions” by amending Section 19.02.499 entitled “Utility Box” and deleting 19.28.070(S) entitled “Wireless Communications Towers”. The motion was seconded by Andrew Wang.

Dennis Enslinger stated the residents are concerned with the word “Encourage” co-location and suggested it be changed to “Consider” co-location. Laura Wassmer suggested the word “Examine”. Ruth Hopkins stated she would accept the amendment changing the word to “Examine”. Andrew Wang stated he would rather not. The motion with the proposed amendment was then seconded by Charles Clark.

A roll call vote was taken with the following votes cast: “aye” Herrera, Warman, Hopkins, Kelly, Wang, Wassmer, Beckerman, Clark and Belz and “nay” Morrison.

COU2009-59 Consider Ordinance Repealing Ordinance 2195, A Moratorium on applications for a Special Use Permit related to Wireless Communications Towers and Antennas constructed or installed for use by commercial carriers.

Dennis Enslinger stated that on June 1, 2009, the Governing Body adopted an ordinance establishing a moratorium on applications for Special Use Permits related to wireless communications towers and antennas constructed or installed for use by commercial carrier. The moratorium was established to allow the City time to adopt a new wireless communication facilities ordinance. With the adoption of Ordinance 2198, staff recommends the repealing of ordinance 2195 effective August 1, 2009.

Ruth Hopkins moved the Governing Body adopt Ordinance 2198 repealing Ordinance 2195, a moratorium on applications for a Special Use Permit related to wireless communications towers and antennas constructed or installed for use by commercial carriers. The motion was seconded by Laura Wassmer.

A roll call vote was taken with the following votes cast: “aye” Herrera, Warman, Hopkins, Kelly, Wang, Wassmer, Beckerman, Clark and Belz and “nay” Morrison.

OLD BUSINESS

Tour de Prairie Village

Michael Kelly reported that Lane4 is very supportive of the proposed cycling race. However, the USA Cycling Organization is not supportive of the proposed route and unwilling at this time to certify the race. They are continuing discussions with them, but he noted if agreement could not be reached the race may be delayed until next year.

NEW BUSINESS

Kansas City Star Article

Al Herrera pointed out the article in the Kansas City STAR Magazine on the benefits of living in Prairie Village noting its close-in location, safe neighborhoods and beautiful yards.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Environment/Recycle Committee	07/22/2009	7:00 p.m.
Villagefest Committee	07/23/2009	7:00 p.m.
Council Committee of the Whole Meeting	08/03/2009	6:30 p.m.
City Council	08/03/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a photography exhibit by Mark Raynes for the month of July. The reception will be held on July 10th from 6:30 p.m. to 7:30 p.m.

The 50th Annual Water Show will be held on Sunday, July 26th at 8:30 p.m.

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 8:15 p.m.

Joyce Hagen Mundy
City Clerk