

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE**

**September 19, 2016**

The City Council of Prairie Village, Kansas, met in regular session on Monday, September 19, 2016 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

**ROLL CALL**

Mayor Laura Wassmer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Jori Nelson, Serena Schermoly, Steve Noll, Eric Mikkelson, Andrew Wang, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terrence Gallagher.

Teen Council members present: Zoe Renee Nason, Ainsley Scout Rice, Tyler Ruzich, and Helen Sun.

Staff present was: Tim Schwartzkopf, Chief of Police; Melissa Prenger, Project Manager; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Alley Williams, Assistant to the City Administrator, and Meghan Boom, Deputy City Clerk.

**INTRODUCTION OF STUDENTS & SCOUTS**

No scouts or students were present.

**INTRODUCTION OF TEEN COUNCIL**

Members of the 2016-2017 Teen Council introduced themselves to the City Council: Zoe Renee Nason (home school), Helen Sun (Kansas City Christian School), Luke Hafner (St. James Academy), Scout Rice (Shawnee Mission East), and Tyler Ruzich (Shawnee Mission North).

## **PUBLIC PARTICIPATION**

Nancy Davis, 4800 W. 65<sup>th</sup> Street - She has been a member of Prairie Baptist church for 16 years, on staff at the church for 11 years, and a Prairie Village resident for 18 years. Prairie Baptist Church has been located in Prairie Village for over 60 years and the congregation includes 18 Prairie Village families. They serve many residents in Prairie Village and Johnson County, including food drives, helping the homeless, Easter egg hunts, Halloween events, etc. The parking lot is used by many groups including the Prairie Village Police as they enforce traffic laws, neighbors for additional parking, construction trucks as a staging area, and charities for special events. They strive to be a good neighbor. The erosion of the parking lot and hillside has become a safety concern over the years and the church is seeking to partner with the city to make improvements.

Beverly Cosby, Overland Park - She has been a member of Prairie Baptist for 32 years and is a staff member. Since 1999, the church has had concerns about the deterioration of their parking lot following the reconstruction of the adjacent creek bed. Church staff has attempted to work with the City to rectify the situation. The church has sealed and resurfaced the lot, added additional curbing, and removed a storage shed in hopes of stopping the erosion. The hill collapsed in 2013 causing the parking lot to slide. Church staff attempted to meet with city staff following that, but city staff did not attend

the meeting. The church desires to work in partnership with the city to solve drainage issues.

Brian Smith, 4409 W. 93<sup>rd</sup> Street - He has lived in Prairie Village and been a member at Prairie Baptist for 11 years. He spends a significant amount of time at the church and as witnessed the deterioration of the parking lot. Upon his own investigation, he determined the cause to be from tree roots and erosion from water flow running off 75<sup>th</sup> Street. There are no storm drains on 75<sup>th</sup> Street and the related runoff is eroding the hillside. The church placed rock on the hill to eliminate erosion but the City required the removal of the rock. Fencing has been secured to provide additional safety. The church has unsuccessfully tried to meet with the City.

Kathy Pickett, Kansas City, MO - She has been the senior pastor at Prairie Baptist since 2013. Since she started at the church, she has been working to rectify the erosion issues. She is both the spiritual leader of the congregation and the operational business leader. She wanted to share her response to accusations that Prairie Baptist threatened to file a lawsuit against the committee. After meeting with the city, they were given suggestions to improve the hillside and the city offered assistance with the 75<sup>th</sup> Street driveway. She wanted the City to recognize their responsibility in the drainage issues. The church did have a lawyer present at the meetings, her father and a member of the congregation. She was upfront that he was a lawyer at the initial meeting. When the City offered no acceptable measures for improvement, he asked "short of litigation" what the church's next steps were. The City representatives interpreted the comment as the church of threatening a lawsuit, and withdrew their offer to help rectify the issues. Serena Schermoly, the representative for their area, recommended they come before the governing body to share information and to ask them to reconsider assisting the church.

Mark Zacharias, Leawood, KS - He is actively involved in the church and has participated in several meetings related to the erosion of the church's parking lot. The Church has worked with Phelps Engineering, George Baum and Associates, and TerraCon for professional recommendations to remediate the issues which were then provided to the City for review. It is estimated that the site improvements will cost between \$100,000 - \$150,000. He asked that the city join with the church to rectify this ongoing issue. The city has not worked in good faith on this shared responsibility.

Quinn Bennion shared his appreciation to the congregation for sharing their viewpoints. He has participated in several conversations related to this item, and has been involved in many circumstances where it must be determined if responsibility for an item falls to the private property owner or the City of Prairie Village. He identified that the driveway on 75<sup>th</sup> Street would have been completed by a private developer, not the City. The driveway would not be allowed today and the church could have added curbing at any point in time since the drainage issues began. The City did offer to do that at the City's expense however that offer was withdrawn when the topic of litigation was mentioned by the church. Only 20% of water runoff comes from 75<sup>th</sup> Street with the remaining amount coming from the church property. Staff recommended securing a drainage permit to make improvements to the hillside. To this point, staff has treated this as a private property issue and has moved forward accordingly. Staff will seek the direction of the governing body.

Mayor Wassmer thanked the congregation for attending and stated that the request would be addressed at a future meeting. Serena Schermoly stated that she would bring the item forward during New Business.

## CONSENT AGENDA

Ted Odell moved to removed item three from the consent agenda to recuse himself from voting.

Serena Schermoly noted corrections to the minutes of September 6, 2016 related to the breed specific ban discussion. She referenced eight veterinarians rather than five. She clarified that discussion and comments were made about the members of the public were her priority, not referring to the majority.

Eric Mikkelson noted corrections to the minutes in reference to comments he made during Old Business. The correct statement should read: "Eric Mikkelson stated that the Mission Road reconfiguration is both beautiful and safe, and was an evidence-based change. Given our City's limited resources, he thinks breed specific bans make our City less safe. If the Police Department isn't out chasing down well-behaved dogs that may look like pit bulls, we can instead allocate those resources to reducing risk from dangerous dogs of any breed."

Dan Runion specified that he did not vote in favor for the sale of liquor at the State of the Arts event.

Ted Odell moved the approval of the Consent Agenda items for September 19, 2016 with the noted corrections:

1. Approve the regular City Council meeting minutes of September 6, 2016
2. Approve the inter-local agreement with Johnson County for the final construction of the 2016 Stormwater Management Advisory Council (SMAC) Meadowbrook Regional Detention Project

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

Steve Noll moved the approval of Consent Agenda item number 3:

3. Approve a bond sale resolution for streetlight purchases

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

## **MAYOR’S REPORT**

Mayor Wassmer thanked the Jazz Fest Committee, city staff, volunteers, and the Arts Council for their contributions to the 2016 Jazz Festival. It was another hugely successful event. She shared that she and Council Member McFadden visited Corinth and Briarwood Elementary Schools to read to the students and share information about local government. She attended the Mission Hills Public Safety luncheon. She and Quinn Bennion met with the Johnson County Library related to future improvements to Corinth Library. She hosted the North East Johnson County Mayors for their monthly luncheon. The luncheon was at Posh Party, a new business in Prairie Village located at 89<sup>th</sup> and Roe. During the luncheon, the Shawnee Mission School District filmed a segment to air at their annual breakfast later in the week. Mayor reported that the Village Square committee will be comprised of Shelia Myers and Terrence Gallagher as chairs of the Parks and Recreation Committee, Courtney McFadden, and citizen representatives Jon Birkel and Randy Knight. Staff support will be Quinn Bennion, Alley Williams, and Keith Bredehoeft. The committee will begin meeting soon.

## **STAFF REPORTS**

### **Public Safety**

- Chief Schwartzkopf reported that more than a dozen officers attended the services for the Johnson County Deputy who was killed in service last week.

- The Department, at the direction of Captain Lovett, has started a new “Lunch with Law Enforcement” program at local elementary schools. Officers visited Belinder Elementary at lunch time, and will continue to visit all the area schools.

### **Public Works**

- Melissa Prenger reported that many construction projects are wrapping up. Sod will be placed on Mission Road and in the parks next week when the heat breaks.
- The 82<sup>nd</sup> Street drainage project will be complete soon. There were delays due to the recent rainfall.
- The courtyard project demolition is finished with grading and filling to start this week.

### **Administration**

- Wes Jordan reported that he and Quinn Bennion attended a session on the new law related to small cell towers in the right of way. The law takes effect on October 1. Staff is working with David Waters to develop an ordinance related to this item. It will be considered at the October 3 Council meeting.
- Quinn Bennion reported that a bond rating call with Moody’s will take place next week.
- Quinn Bennion will be at a conference in Kansas City at the beginning of next week but will be available via phone and email.

### **OLD BUSINESS**

Jori Nelson addressed the recent report of a pit bill bite that took place in Prairie Village prior to the last City Council meeting. She was displeased by the week delay in notification to council that the incident happened. She stated that it was imperative to know who gave this information to the media. She had been denied access to the report 12 hours prior to the media publication.

She stated this was the perfect example of the current ordinance not working. The dog was under-socialized due to being hidden away because of the City ordinance. On the same day the media reported the Prairie Village incident, there were several dog bites in surrounding cities by a Labrador, Yorkie, and other dog breeds. Because the pit

bull did not maim or significantly harm the victim, it proves that they bite like any other dog.

Nelson asked if Police Officers are sent to training specifically related to interacting dangerous animals, similar to the training they receive on interacting with the mentally ill. Chief Schwartzkopf stated Police Officers do not receive special training to deal with dangerous animals. Nelson shared several future opportunities that she would like for Officers to attend including one in Salina.

Nelson stated that she would like to be on the committee tasked with updating the dangerous dog ordinance. Quinn Bennion stated that this is not a Council committee; it will be led by staff. Nelson stated that she would like Council and veterinarian presence on the committee. Mayor Wassmer stated that would be up to Chief Schwartzkopf. Chief Schwartzkopf stated that he was confident that staff could present an acceptable ordinance to City Council for review. He has received a significant amount of input that staff will take into consideration as they draft the ordinance. Mayor Wassmer believes that it is best if this issue comes to the entire City Council at the same time. Terrence Gallagher suggested sending additional input to Chief directly.

## **NEW BUSINESS**

Serena Schermoly asked Council to consider directing Public Works to resume conversations with Prairie Baptist and to make a recommendation for additional action to City Council.

Quinn Bennion reviewed the TerraCon report provided to Council. He made note that the photos included in the report are from similar cases, not specifically from the Prairie Baptist location. The report has very limited reference to 75<sup>th</sup> Street related



issues. Ultimately, the decision will be whether the private property owner or the city is responsible for private driveway repairs. Historically, the City only makes repairs to private driveway aprons as part of larger street improvements. Similar items where public versus private responsibility need to be determined, such as tree trimming, come forward almost daily.

Eric Mikkelson believes the issue is slightly more complicated than just a private driveway issue if the work on 75<sup>th</sup> Street was not done as it should have been. He is troubled that the City withdrew from a proposed partnership when the conversation was perceived to be litigious, when it was likely unintentional or a misunderstanding. He would like to see the City reengage with the church. He would also like to hear Keith Bredehoeft's perspective. Mikkelson asked that if it were as simple as a private property issue, why the City offered to shoulder a portion of the cost. Quinn Bennion responded that they offered to assist due to the small percentage of run-off from 75<sup>th</sup> Street and because eventually the City will reconstruct 75<sup>th</sup> Street's concrete work and the church entrance will be reconfigured at that time.

Serena Schermoly asked why the curb and gutter improvements weren't made during recent improvements to that portion of 75<sup>th</sup> Street. Melissa Prenger stated that only a fine mill was completed on 75<sup>th</sup> Street with only spot curb and gutter repair. The project didn't include driveway aprons like a full mill and overlay would require.

Dan Runion asked if only a small portion of runoff is coming off 75<sup>th</sup> Street, where is the remaining water coming from. Quinn Bennion stated that the majority is coming from the Prairie Baptist parking lot.

Terrence Gallagher asked why the City didn't allow the church to make improvements to the drainage themselves. Quinn Bennion stated that the City would

have allowed improvements with the proper drainage permit. The church attempted to rectify issues by dumping concrete over the edge of the parking lot which was not a workable solution.

Mayor Wassmer entertained a motion. Serena Schermoly moved to have Public Works work with Prairie Baptist church, review provided information, and make a recommendation to City Council. Jori Nelson seconded the motion.

Andrew Wang commented that while he is generally supportive of the motion, he would like to determine City responsibility prior to agreeing to work with Prairie Baptist church to find a solution. After reviewing the facts from Public Works, if the city is deemed responsible, he would be comfortable working with the church.

Serena Schermoly made a motion to direct Public Works to evaluate all information provided by Prairie Baptist and come back to the Council with a recommendation. Jori Nelson seconded the motion and it passed unanimously.

**Committee meetings scheduled for the next two weeks include:**

Environment/Recycle	09/28/2016	5:30 p.m.
Council Committee of the Whole	10/03/2016	6:00 p.m.
City Council	10/03/2016	7:30 p.m.

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The Prairie Village Arts Council is pleased to present the works of Gary Cadwallader & Jodi Harsch in the R.G. Endres Gallery during the month of September.

The League of Kansas Municipalities Conference will be held Saturday, October 8<sup>th</sup> through Monday, October 10<sup>th</sup> at the Overland Park Convention Center. If you are interested in attending, please contact Meghan Buom by September 23<sup>rd</sup>.

**EXECUTIVE SESSION**

Ted Odell moved pursuant to KSA 75-4319 (b) (2) that the Governing Body recess into Executive Session in the Multi-Purpose Room for a period not to exceed 15 minutes

for the purpose of consulting with the City Attorney on matters of pending litigation. Present will be the Mayor, City Council, City Administrator, Chief of Police, City Attorney and outside counsel. The motion was seconded by Ashley Weaver and passed unanimously.

Mayor Wassmer reconvened the meeting at 9:00 p.m.

Ted Odell moved pursuant to KSA 75-4319 (b) (2) that the Governing Body recess into Executive Session in the Multi-Purpose Room for a period not to exceed 20 minutes for the purpose of consulting with the City Attorney on matters of pending litigation. Present will be the Mayor, City Council, City Administrator, Chief of Police, City Attorney and outside counsel. The motion was seconded by Steve Noll and passed unanimously.

Mayor Wassmer reconvened the meeting at 9:20 p.m.

## **ADJOURNMENT**

With no further business to come before the City Council the meeting was adjourned at 9:20 p.m.

Meghan Buom  
Deputy City Clerk