

**COUNCIL COMMITTEE OF THE WHOLE  
Council Chambers  
Monday, August 21, 2017  
6:00 PM**

**AGENDA**

**JORI NELSON, COUNCIL PRESIDENT**

**AGENDA ITEMS FOR DISCUSSION**

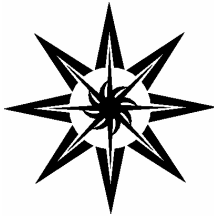
Presentation and Discussion related to the future of KCI Airport - "A Better KCI."  
Scott Hall & Joe Reardon

COU2017-35 Consider approval of the construction contract for the police records window bullet resistant glass project  
Captain Myron Ward

Discuss proposed amendments and changes to the animal control and regulation ordinance  
Chief Tim Schwartzkopf

Review of the Council Priority List  
Wes Jordan

**\*Council Action Requested the same night**



## ADMINISTRATION

Council Meeting Date: August 7, 2017

Presentation and Discussion related to the future of KCI Airport - "A Better KCI."

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### DISCUSSION

Representatives from the Greater Kansas City Chamber have asked for the opportunity to present to the Governing Body the consideration and possible endorsement of a new single terminal for the airport. In their own words, they have "launched an informational campaign designed to dispel the myths surrounding a new single terminal and to make the business case for *A Better KCI.*"

While residents of Kansas will not have an opportunity to vote, the economic impact and conveniences do affect Johnson County businesses, residents, and visitors. The KC Chamber & partners feel that elected officials in Kansas and citizens deserve to have a platform for their voices to be part of the dialogue since they will not be able to vote - only Kansas City, Missouri, voters will be asked to cast their ballots this November. The proposed funding plan will be paid for by users of the airport through concessions, parking, and ticketing. It is estimated that more than 80% of these fees are paid by non-KCMO residents with Johnson County, Kansas, as the largest user.

Attachments: A Better KCI Fact Sheet

### PREPARED BY

Wes Jordan  
City Administrator  
Date: August 15, 2017

“A Better KCI” is crucial for a better KC region. A new single terminal approach for Kansas City International Airport ensures maximum efficiency, capacity, expanded air service and future economic growth of our region.

## 1. Increased access and destinations.

- a. Certain airlines want to expand service but are physically limited by our current terminal layout; KC is losing new non-stop flights to other airports.
- b. Today’s commercial airplanes are larger and carry more passengers which have a tendency to overwhelm the geometrically constrained gate areas.
- c. The KCI terminals have plenty of square footage, but it is in the wrong place and with the wrong layout. It cannot accommodate the regulatory requirements or the increasing size of planes or the efficiency necessary for carriers to choose KCI as an expansion site over other airports. In other words, the geometry of the three terminal layout does not meet contemporary, regulatory or industry demands.

## 2. Economic driver for regional growth and jobs.

- a. We know we have lost corporate headquarters, top job recruits and potential new employers due to the inadequacies of our current airport terminals.
- b. We expect that an improved terminal would mean more connecting flights through Kansas City, which will mean more direct flights for Kansas Citians, a critical measure of a first-class city in the 21st century.
- c. Construction of a new terminal will result in new jobs and tax revenue: Based on estimated construction cost of \$1 billion - a one-time total economic impact of up to 17,604 jobs (employment) earning \$759 million in household income (earnings) and \$2.18 billion in business revenues (output) within the airport’s 17-county primary service area.
- d. The economic impact of capital outlays for the new terminal development will generate local tax revenues up to approximately \$6.4 million—approximately \$2.8 million in sales tax revenues to the 17 counties and approximately \$3.6 million in various tax revenues to the city of Kansas City, Missouri.

## 3. Improved conveniences and amenities.

- a. Dedicated lanes for pick up, drop off and commercial traffic.  
*(KCI is currently the largest U.S. airport that does NOT have separate lanes for arrivals and departures.)*
- b. New 6,500 space parking structure and new 1,940 space surface parking lot.
- c. New parking structures will be closer to the terminal than they are currently, and Terminal B garage will continue to be used. The closest lot will be reached through a covered walkway.
- d. Military traveler amenities we don’t currently have will be possible in a single, modern terminal.  
*(Fort Leavenworth is one of the heaviest users of KCI, yet it is one of the only major airports in America that does not have a USO.)*
- e. Amenities important to families and business connecting passenger like play areas, post-security shopping, larger restrooms, more self-ticketing kiosks, charging stations, dining options and passenger lounges.
- f. Space to accommodate the number of passengers that today’s airplanes are carrying.
- g. Redundant baggage systems to expedite baggage claim process.

#### 4. Stronger security and technology

- a. Since opening in 1972, passenger travel out of KCI has nearly tripled. In 1972 3.8 million passengers used KCI (in/out). In 2016 11.0 million passengers used KCI. Since 1972, 378 million total people have flown in and out of KCI.
- b. Kansas City's new terminal will have a maximum of 42 gates and would be built within the footprint of the existing Terminal A.
- c. While our new configuration may be similar to other single terminal airports, it won't compare in volume.
- d. The TSA stated in July 2016, that ***"a new checkpoint and baggage screening layout using current design standards would result in an estimated 20% increase in efficiency at KCI."***
- e. TSA is currently relying on short-term modifications to security check points and baggage screening enhancements to better serve the airlines at KCI, stating "Many of our current systems [at KCI] are inadequate to support the growth our industry is experiencing nationwide."
- f. By consolidating the security, more officers can be assigned, more screening devices will be available to passengers, there will be less down-time due to broken machinery and security personnel can be flexed during peak demand times.

#### 5. Maintains KC as a major-league city.

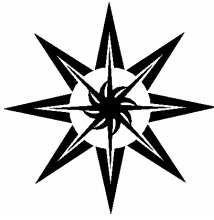
- a. An airport terminal is, in many ways, a front door to a community. A modern terminal will be a welcoming front door that ensures we keep our status as a major-league city.
- b. KC must maintain its status as a top destination for business, travel and people.
- c. KC's peer cities, and other airports around the four-state region, are investing in better terminals and competing with KC for business, travelers and job candidates.
- d. We already have a better Union Station, downtown KC, sports stadiums, KC Streetcar, performing arts center, museums, and we've committed to better streets, sidewalks and sewer systems - now it's time for a Better KCI.

#### 6. Paid for by the users of the airport.

- a. Under each proposed funding plan, users of the airport pay through concessions, parking, and ticketing fees. ***"If you don't use the airport, you don't pay."***
- b. More than 80% of these fees are paid by non-KCMO residents.
- c. A smaller portion of project expenses could also be paid for by the federal government. Our federal tax dollars are already being used to fund improvements at airports across the country, so we should feel good that some of that money is coming back to our community.
- d. The airlines have made a strong financial commitment toward the cost of building a single terminal - nearly twice the industry standard of 5 years.

We ♥ KCI





## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: August 21, 2017

Council Meeting Date: August 21, 2017

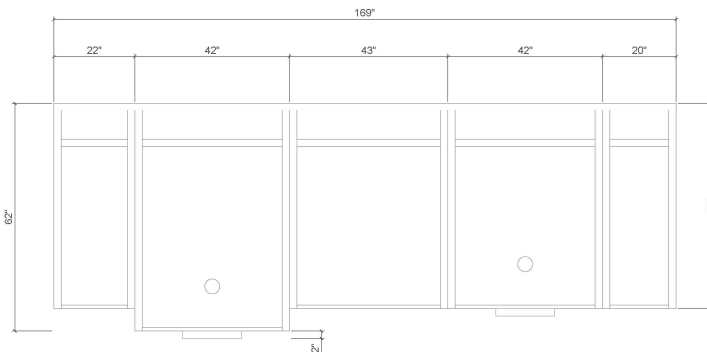
### CONSIDER CONSTRUCTION CONTRACT FOR THE POLICE RECORDS WINDOW BULLET RESISTANT GLASS PROJECT

#### RECOMMENDATION

Move to authorize the Mayor to sign the construction contract with Lawrence Glass & Mirror, Inc. for the Police Records Window Bullet Resistant Glass Project for \$41,437.00.

#### BACKGROUND

This project includes installation of bullet resistant glass and bullet protection below the window at the Police Department Records Window. The records window will be reconfigured to include an ADA accessible counter as shown:



The City requested quotes for this specialty work from three contractors and received two responses:

Lawrence Glass & Mirror, Inc.	\$41,437.00
Brown Midwest	\$41,900.00

Contractors were to provide value engineering to the scope provided. Both responding contractors achieved similar end results. Staff recommends award to the low bidder, Lawrence Glass & Mirror, Inc.

#### FUNDING SOURCES

Funding is available from the Police Department Building Improvement Funds for a total of \$42,000.

#### ATTACHMENTS

1. Agreement with Lawrence Glass & Mirror, Inc.

#### PREPARED BY

Capt. Myron Ward  
Melissa Prenger, Senior Project Manager

August 16, 2017

# PROPOSAL

## LAWRENCE GLASS & MIRROR, INC.

12215 Johnson Drive Shawnee, Kansas 66216-1909

Phone: (913) 631-5533 Fax: (913) 631-0462

Proposal Submitted To:	City of Prairie Village	Date:	August 2, 2017
Attention:	Melissa Prenger	Job Name:	Prairie Village Police Department
Street:		Job Location:	7700 Mission Rd.
City, State & Zip Code:			Prairie Village, KS 66208

Architectural Drawings, Dated: e-mail photos 05-23-17

Specifications:

Addendums:

LGM will furnish and install the following Scope of Work:

Bullet Resistant Window and Armor Wall Installation at Record's Window.

Window system manufacturer by Action Bullet Resistant – see attached scope proposal

ArmorCore Panels and modifications to existing countertop by Carlsen Contracting – see attached proposal.

Installed price: **\$41,437.00**

### NOTES:

-Existing shutter head member to remain, and LGM to block and clad to match BR window.

-Shutter to be disconnected from electric power.

-Tax Exemption

### OPTIONS:

#01 – To revise ADA counter to a hard surface counter in black color

#02 – To omit the intermediate horizontal frame member within the window assembly, \$ Add/Deduct TBD.

**EXCLUDE:** barricades, partitions, flooring, electrical work, plumbing, cabinets, painting, permits, bonds, taxes

This quotation based only on material as listed: please review. Additions or deletions will be charged accordingly. All work to be performed during normal work week, Mon. - Fri. 8:00 a.m. to 4:30 p.m

**Warranty: Labor for installation of Storefront Aluminum, Glass and Glazing will be warranted, by Lawrence Glass & Mirror Company. Warranty is in effect for 1 year from the date of completion.**

**The Storefront Aluminum is warranted by the manufacturer.**

**There is no warranty on glass other than glass which is warranted by the manufacturer for seal failure.**

**All manufacturer's warranties shall commence on the date of completion of the work. LGM shall secure any extended warranties or special riders to standard warranties that are required to comply with these requirements. LGM shall assign or otherwise ensure that all manufacturer or other third-party warranties extend to the City.**

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All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimated. Lawrence Glass reserves the right to correct all typographical or clerical errors in the prices or specifications. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner is to carry fire, tornado and other necessary insurance. Additional terms and conditions apply.

Authorized Signature \_\_\_\_\_

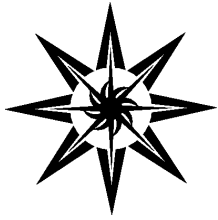
Tom Walker

Note: This proposal may be withdrawn by us if not accepted within 30 days.

**Acceptance of proposal** - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Final payment will be due upon completion of work unless otherwise agreed to in writing. Late payments shall bear interest at the rate of 18% per annum until paid in full. In the event, the account is not paid, in 30 days, and is turned over for collection; the undersigned agrees to pay all collection costs including reasonable attorney fees.

Date of Acceptance \_\_\_\_\_

Signature \_\_\_\_\_



## POLICE DEPARTMENT

Committee Meeting Date: August 21<sup>st</sup>, 2017

Consider and discuss proposed amendments and changes to Chapter II. Animal Control and Regulation - Article 1.

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### DISCUSSION ITEM:

The Police Department, in collaboration with the City Council, decided to amend and change portions of the animal control and regulation ordinance. In addition to general language clean up and reorganization as recommended by the City Attorney and City Prosecutor, two substantive changes were added; a new classification for potentially dangerous and vicious animals and the mechanism for an animal to be declared potentially dangerous, dangerous, or vicious is now being recommended to be handled through Municipal Court. The Department feels the changes will not only improve the ordinance, but also be more operationally effective for animal control personnel. The following is a list of notable changes to the ordinance:

- 2-102: New definitions of potentially, dangerous, and vicious dog/cat.  
New language for the word “unprovoked.”
- 2-106: New procedure for declaration of potentially dangerous, dangerous, or vicious dog/cat.
- 2-117: Minor changes to provisions for applying for a potentially dangerous or dangerous dog/cat permit.
- 2-118: Minor changes for requirements to keep a potentially dangerous or dangerous dog/cat.

The intent of the discussion before the City Council is to gain further feedback on the proposed changes so an ordinance can be brought forward for adoption at a future Council meeting.

### PREPARED BY

Tim M. Schwartzkopf  
Chief of Police  
Date: August 15, 2017

### Attachments

## CHAPTER II. ANIMAL CONTROL AND REGULATION

### ARTICLE 1. GENERAL PROVISIONS

#### 2-101 PURPOSE

The purpose of this ~~chapter~~ Chapter is to promote harmonious relationships in the interaction between ~~man~~ humans and ~~animal~~ animals by:

- a) ~~(a)~~ Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) ~~(b)~~ Delineating the responsibility of ~~the animal's owner, keeper, or harbinger~~ persons for the acts and behavior of ~~his or her animal~~ such persons' animals at all times;
- c) ~~(c)~~ Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) ~~(d)~~ Encouraging responsible pet ownership.

#### 2-102 DEFINITIONS

- a) ~~(a)~~ Abandon includes the leaving of an animal by ~~its owner or other~~ the person responsible ~~for its care or custody therefor~~ without making effective provisions for its proper care.
- b) ~~(b)~~ Animal is any living creature, other than humans.
- c) ~~(c)~~ Animal Bite ~~bite~~ is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch ~~or~~ break or abrasion to the skin.
- d) ~~(d)~~ Animal Control Officer ~~control officer~~ is a duly authorized person employed by the City who is charged with the duties of enforcing this ~~chapter~~ Chapter and/or related ordinances.
- e) ~~(e)~~ At-large is to be off the ~~owner's~~ property of the person responsible for an animal, except when the animal is taken off ~~the owner's~~ such person's property on a leash, in a cage, or other conveyance.
- f) ~~(f)~~ City ~~or "The City"~~ is a reference to the City of Prairie Village, Kansas and its corporate limits.
- g) ~~(g)~~ Confined to the Premises ~~applies to Chapter II regarding Dangerous Animals; Permits, Provisions and/or Requirements to Keep Dangerous Animal(s); Animal Bite Procedures; and/or Disease Control. When used in Chapter II, "Confined to the Premises"~~ Confined to the premises means confined or restricted either inside the residential structure of the ~~owner, keeper or harbinger~~ person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash ~~or within a suitable fence~~ or other proper method of physical restraint from which the animal cannot escape.
- ~~(h)~~ Dangerous Animal shall include:
  - h) ~~(1)~~ Any Dangerous wild animal means any animal, which is wild by nature and ~~/or~~ of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and ~~snakes~~ animals which are venomous and/or poisonous ~~or, and any~~



animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors;

i) Dangerous cat or dog means a cat or dog which:

1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;  
~~(2) Any other animal that is determined to be a dangerous animal by the Animal Control Officer or the Chief of Police. Factors to be considered in this determination are: At the time of any bite or attack, did the person or domestic animal so bitten have permission to be on the property of the person who owns or harbors such animal? Does the animal have~~ 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals? Has the animal aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property? Does the animal have any prior history of bites or attacks?; or

3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the cat or dog is potentially dangerous, the cat or dog aggressively bites, attacks or endangers the safety of humans or domestic animals; or

~~(3) Any animal owned or harbored~~ 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting, or any animal or is trained for fighting.

h) (i) Domesticated Cat or Dog cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.

~~(j) Harborer is any person who provides food and shelter for any domesticated animal.~~

i) (k) Impound means taking any animal into the confinement, care, or custody of the City.

j) Municipal Court means the Municipal Court of the City.

k) Person is any natural person, association, firm, partnership, organization, or corporation.

l) (l) Owner is the keeping or harboring of any animal referred to in this chapter Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the owner of person responsible for such animal.

m) (m) Potentially dangerous cat or dog means any cat or dog which, when unprovoked:

~~1) Inflicts bites on a human or domestic animal either Person is any natural person, association, firm, partnership, organization, or corporation on public or private property; or~~ 1) Inflicts bites on a human or domestic animal either

2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

3) any cat or dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.

n) (n) Service / Work Dog work animal is any guide dog animal, signal dog animal or other dog animal that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability, or a dog that is utilized by law enforcement personnel.

- o) ~~(e) Vicious Bite is any unprovoked~~ Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:

  - 1) Did not mischievously or carelessly provoke or aggravate the cat or dog;
  - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the cat or dog;
  - 3) Was not tormenting, abusing, assaulting or attacking the cat or dog;
  - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the cat or dog; or
  - 5) Was not committing or attempting to commit a crime.
- p) Vicious cat or dog means a cat or dog which has:

  - 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
  - 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious cat or dog; or
  - 3) Been declared to be dangerous and after the person responsible therefor has notice that the cat or dog has been declared dangerous, the cat or dog aggressively bites, attacks or endangers the safety of humans or domestic animals.
- q) Vicious bite is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

**~~2-103~~ AUTHORITY TO DETERMINE AN ANIMAL TO BE DEEMED DANGEROUS**

- ~~(a) Where City records indicate a dog or cat has attacked or bitten any person and/or domestic animal without provocation, all known facts shall be considered in determining whether the dog or cat is a “dangerous animal”. The Animal Control Officer or the Chief of Police of the City shall have the authority to determine whether or not any animal in the City should be classified as a “dangerous animal.” Factors to consider in making this determination are: At the time of the bite or attack, did the person or domestic animal so bitten have permission to be on the property of the person who owns or harbors such dog or cat? Does the cat or dog have a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals? Has the cat or dog aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property? Does the cat or dog have any prior history of bites or attacks?~~
- ~~(b) A dog or cat that has been adjudicated by another governmental jurisdiction based on its behavior to be dangerous, vicious or a comparable designation shall not be relocated to Prairie Village. Animal Control will evaluate pending requests to ensure the designation was based on equivalent factors by definition.~~
- ~~(c) The Animal Control Officer or the Chief of Police is authorized to permanently remove or euthanize animal(s) in cases of severe injury and/or viciousness. This measure is only allowed when the risk factors associated to unpredictability and aggressive behavior necessitates this decision to ensure public welfare is not endangered.~~

**~~2-1042-103~~ KEEPING OF LIVESTOCK, POULTRY, AND FOWL PROHIBITED**

- a) ~~(a)~~ It shall be unlawful for any person to own, ~~keep or harbor,~~ shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) ~~(b)~~ The following persons or organization shall be allowed to own, harbor, ~~or have charge~~ shelter, custody, keep, control ~~or possession of,~~ manage, or possess any livestock, poultry and fowl:
1. ~~(1)~~ The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
  2. ~~(2)~~ The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
  3. ~~(3)~~ The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
  4. ~~(4)~~ Commercial establishments processing such animals for the purpose of sale or display.

**2-105 HARBORING OR 2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED**

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational or medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

~~(a) — No person shall keep, harbor or allow to be kept without a permit, as described in this chapter, any dangerous animal(s) or any safe animal. The following animals are the only animals allowed without a permit with the exception of cat(s) and dog(s), which if deemed as a dangerous animal, then a permit is required for said cat or dog:~~

- ~~(1) — Domestic dog (Canis familiaris);~~
- ~~(2) — Domestic cat (Felis domesticus);~~
- ~~(3) — Gerbils (Tateriltus gracillio);~~
- ~~(4) — Hamsters (Critocus critocus);~~
- ~~(5) — Rabbits (Lopus Cunicullus);~~
- ~~(6) — Domestic Mice (Mus musculus);~~
- ~~(7) — Domestic Rat (Rattus norvegicus);~~

~~(8) Any animal, usually tame and commonly sold at pet stores, including: Ferrets (Mustela furo), Chinchillas (Chinchillidae), Canaries (Serinus canaria), Cockatoos, Macaws, Parakeets, and Parrots (Psittacines), and~~

~~(9) Bees, subject to Section 2-145.~~

~~(b) Any person who harbors any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-146.~~

### **2-1062-105 PIT BULL DOG – KEEPING PROHIBITED**

It shall be unlawful to keepown, harbor, own or in any way shelter, keep, control, manage, or possess within the corporate limits of the City of Prairie Village, Kansas, any pit bull dog. Pit bull dog for the purposes of this chapter Chapter shall include:

- a) ~~(a)~~ The Staffordshire Bull Terrier breed of dog;
- b) ~~(b)~~ The American Pit Bull Terrier breed of dog;
- c) ~~(c)~~ The American Staffordshire Terrier breed of dog, or
- d) ~~(d)~~ Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

### ~~2-107 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS~~

- ~~(a) Any person who owns, harbors, or keeps any animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal to the owner's property and prevent injury to other humans, domestic animals and/or damage to property.~~
- ~~(b) It is unlawful for the owner or harborer of any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.~~
- ~~(c) No owner, keeper or harborer of an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner or harborer must offer some freedom from continuous chaining and tethering.~~

### ~~2-108 PUBLIC NUISANCE~~

- ~~(a) A Public Nuisance is any animal that:~~
  - ~~(1) Molests or chases vehicles or persons;~~
  - ~~(2) Damages private or public property;~~
  - ~~(3) Scatters refuse that is bagged or otherwise contained, or~~

- ~~(4) Excessively barks, whines, howls, or creates any other disturbance which is continuous or untimely (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the Animal Control Officer and/or Law Enforcement Officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.~~
- ~~(b) It is unlawful for the owner or harbinger of any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.~~
- ~~(c) Anyone having the authority of an Animal Control Officer, including but not limited to Law Enforcement Officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.~~

## ~~2-109 CRUELTY TO ANIMALS~~

Shall be defined as:

- ~~(a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;~~
- ~~(b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;~~
- ~~(c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;~~
- ~~(d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or~~
- ~~(e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.~~

~~The provisions of this section shall not apply to:~~

- ~~(1) Normal or accepted veterinary practices;~~
- ~~(2) Bona fide experiments carried on by recognized research facilities;~~
- ~~(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;~~
- ~~(4) Redee practices accepted by the Redee Cowboys' Association;~~
- ~~(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a City or the~~

~~owner thereof within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;~~

- ~~(6) With respect to farm animals, normal or accepted practices of animal husbandry;~~
- ~~(7) The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or~~
- ~~(8) An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods.~~

#### ~~2-110 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL~~

- ~~(a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the Animal Control Officer or Law Enforcement Officer, the Animal Control Officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.~~
- ~~(b) Nothing in this section shall be deemed to prevent the Animal Control Officer or Law Enforcement Officer from entering upon property without consent when the condition of animal is found in plain sight and not within a private structure or under conditions constituting an emergency.~~
- ~~(c) No Animal Control Officer or Law Enforcement Officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.~~

#### 2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS CATS OR DOGS

##### a) Determination.

1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that a cat or dog is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the cat or dog in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which

serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the cat or dog, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the cat or dog should not be declared potentially dangerous, dangerous or vicious.

2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the cat or dog is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
  3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the cat or dog is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the cat or dog contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
  4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the cat or dog in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the cat or dog pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded cat or dog is potentially dangerous, dangerous or vicious, the person responsible for the cat or dog shall be liable to the City for the costs and expenses of impounding such cat or dog.
- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that a cat or dog is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
  - c) Disposition of Vicious Cat or Dogs. If the Municipal Court determines that a cat or dog is vicious, the Municipal Court shall order that the cat or dog be euthanized or that the person responsible for such cat or dog remove the cat or dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the cat or dog has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious cat or dog. The cat or dog shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious cat or dog to maintain such animal in violation of the Municipal Court's order and this section.
  - d) Dangerous and Potentially Dangerous Cat or Dog Designation Review. Beginning one (1) year after a cat or dog is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the



designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the cat or dog, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the cat or dog is no longer potentially dangerous or dangerous due to the cat or dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the cat or dog's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous cat or dog designation.

## **2-107 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG PERMIT REQUIRED**

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any cat or dog which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and a renew an annual potentially dangerous or dangerous cat or dog permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous cat or dog permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

## **2-108 EXEMPTIONS**

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

## **2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS**

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous cat or dog, or any safe animal including the domestic cat or dog (canis familiaris) and the domestic cat (felis domesticus), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
  - 1. Gerbils (Tateriltus gracillio);
  - 2. Hamsters (Critecus critecus);
  - 3. Rabbits (Lepus Cunicullus);
  - 4. Domestic Mice (Mus musculus);
  - 5. Domestic Rat (Rattus norvegicus);
  - 6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (Mustela furo), Chinchillas (Chinchillidae), Canaries (Serinus canaria), Cockatoos, Macaws, Parakeets, and Parrots (Psittacines), and
  - 7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-141. This shall include instances where any person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.



**2-1112-110 REGISTRATION – TAGS**

~~The owner of any dog and/or cat, which is harbored or kept within the City,~~ The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the ~~animal's owner~~ person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-1152-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-1122-111, issue a permanent tag, bearing a number and Prairie Village, KS.

**2-1122-111 LICENSE FEE – DESIGNATED**

- a) ~~(a)~~ In addition to any permit fees required by this ~~chapter~~ Chapter, there is ~~a~~ levied and imposed an annual license fee upon the ~~owner of person responsible for~~ each cat or dog and cat of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) ~~(b)~~ The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

**2-1132-112 LICENSE FEE – OVERDUE**

- a) ~~(a)~~ If the license fee required in section 2-112-2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- b) ~~(b)~~ After 60 days after the due date, if the fee imposed and required to be paid by section 2-112-2-111 remains unpaid, the City ~~Clerk shall~~ Prosecutor may issue a complaint against the ~~owner, keeper or harbored~~ person responsible for violation of section 2-111.

**2-1142-113 LICENSE FEE – EXEMPTIONS**

Any person ~~owning who owns, keeping harbors, or harboring shelters, keeps, controls, manages, or possesses, within the City,~~ a service/work ~~dog animal~~ shall be exempt from the license fee payment upon submittal of adequate proof that the ~~dog animal~~ is fully trained as a service/work ~~dog animal~~ and is current for the year on its rabies vaccination.

**2-1152-114 INOCULATION AGAINST RABIES REQUIRED**

- a) ~~(a)~~ No City license tag required by this section shall be issued until the ~~owner or harbored of a dog or cat~~ person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the ~~cat or dog or cat~~ has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the ~~owner or harbored~~ person responsible submits it to the City along with the application for license.
- b) ~~(b)~~ It shall be the responsibility of the ~~owner or harbored of the dog or cat~~ person responsible for the cat or dog to ensure that the animal's inoculation against rabies is maintained throughout the license period.

**2-116 COLLAR OR HARNESS REQUIRED**

The owner of any dog or cat shall cause the same to wear a collar or harness outside the dwelling of the owner or harborer. The tag required in section 2-111 shall be securely affixed to the collar or harness of each dog and cat registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to Law Enforcement Officers or Animal Control Officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

**2-117 PERMIT REQUIRED FOR DANGEROUS 2-115 ENUMERATION OF ANIMALS**

- (a) Permits allowing persons to own, harbor or have possession of a dangerous animal shall be issued only for domestic cats and domestic dogs, subject to the provisions of this chapter.
- (b) No person owning, harboring or having charge, custody, control or possession of any dangerous animal shall allow such animal to remain within the City unless and until he/she has first secured and renewed a permit in accordance with this chapter to do so and complies with all terms and conditions of such permit; and, in addition thereto, such animal shall at all times be so confined, controlled and restrained in such a manner so the life, limb or property of any person lawfully entering into premises shall not be endangered.
- (c) Failure to obtain a permit as required by subsection (b), after written notification by any Animal Control Officer or Law Enforcement Officer, shall be adequate grounds for the officer to impound the animal until a permit is obtained. If no permit is obtained within five days of receipt of such notice and no appeal is pending, the animal will be subject to destruction or removal from the City in the manner provided in section 2-133.
- (d) The following persons or organization shall be allowed to own, harbor, or have charge, custody, control or possession of any dangerous animal without securing permit as required by this chapter:
  - (1) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
  - (2) The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
  - (3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;
  - (4) Commercial establishments processing such animals for the purpose of sale or display.

**2-118 EXEMPTIONS**

The provisions of this section shall not apply to the transportation of dangerous animals through this City when such transport has taken adequate safeguards to protect the public and has

~~notified the local law enforcement agency of the proposed route of transportation and the time thereof.~~

~~**2-119**~~ ~~ISSUANCE OF PERMIT~~

~~No person shall have, keep, maintain or have in his/her possession or his/her control within the City any dangerous animal without first applying to and receiving a permit from the City Clerk as hereinafter provided. No permit shall be granted except with such conditions attached as shall, in the opinion of the person or agency approving such permit, reasonably ensure the public health, safety and general welfare, and in any event no permit shall be granted for any animal at any particular location except upon an explicit finding by an Animal Control Officer or a Law Enforcement Officer that the issuance thereof will not be contrary to the public health, safety and general welfare.~~

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

**2-116 LIMITATIONS ON NUMBER OF ANIMALS**

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

**2-1202-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS CAT OR DOG PERMIT**

An application for any permit required pursuant to ~~this chapter~~ Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) ~~(a) Name~~ The name, address and telephone number of the applicant.
- b) ~~(b)~~ The applicant's interest in such animal;
- c) ~~(c)~~ The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any;
- d) ~~(d)~~ The number and general disposition of all animals for which the permit is being sought;
- e) ~~(e)~~ Any information known to the applicant concerning ~~vicious or~~ dangerous propensities of said animals;
- f) ~~(f)~~ Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) ~~(g)~~ Safety precautions proposed to be taken;
- h) ~~(h)~~ Noises or odors anticipated in the keeping of such animals;
- i) ~~(i) Prior~~ The prior history of incidents involving the public health or safety involving any of said animals;
- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.

~~k) (j)~~ Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a "dangerous cat" or "dangerous dog", in the minimum amount of ~~\$500,000-300,000~~ per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The owner person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the owner person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous ~~animal~~cat or dog.

~~l) (k)~~ A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal;

~~l) (j)~~ Any additional information required by the ~~Animal Control Officer or Law Enforcement Officer~~animal control officer or law enforcement officer authorized by the ~~Governing Body Chief or Police or his or her designee~~ to enforce the provisions of this ~~chapter~~Chapter at the time of filing such application or thereafter.

~~(m) When a permit is issued in accordance with this chapter and it is for a cat, the requirement(s) will include, but not be limited to such cat being confined within the residential structure at all times, except when secured on a leash or in a carrier and while on the cat owner's property or for transport to the veterinarian.~~

## **2-1212-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING A POTENTIALLY DANGEROUS ANIMAL AND DANGEROUS CATS OR DOGS**

The keeping of potentially dangerous animals and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

~~(a) Leash and muzzle. A dog that is a dangerous animal and is kept in this City will be required to be securely leashed with a leash no longer than four feet in length and be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals when it is taken outside of its area of confinement.~~

a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous cat or dog and is kept in this City will be required to be securely leashed and, in the case of dogs, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal

b) Confinement.

1. (b) Confinement. All dangerous animals. An animal that has been declared to be a potentially dangerous or dangerous cat or dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced yard in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous animals for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

2. ~~(c)~~ An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) ~~Confinement indoors. No Indoors.~~ No animal that has been declared to be a potentially dangerous ~~animal or dangerous cat or dog~~ may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d. ~~(d) Signs. All owners, keepers or harborers of a dog that is a dangerous animal Signs.~~ All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous dog must display in a prominent place on their premises a sign easily readable by the public which shall be at least 10 inches by 14 inches using the words "Beware of Dog." in at least two-inch block letters. In addition, a similar sign is required to be posted on the kennel or pen of such animal, and on ~~the fence gates each~~ entry point of fences that will be used to confine the dog.
- e. ~~(e) Identification Photographs.~~ All ~~owners, keepers, or harborers of a dangerous animal~~ persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f. ~~(f) Microchip Identification.~~ The ~~owner, keeper or harborer of a person responsible for any animal that has been declared to be a potentially~~ dangerous or dangerous cat or dog must have a microchip implanted in the cat or dog for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g. ~~(g) Mandatory Spay and Neuter.~~ All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered.
- h) ~~(h) Training.~~ All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a licensed animal behaviorist Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- ~~(i) Reporting requirements. All owners, keepers or harborers of dangerous animals must within ten days of the incident, report the following information in writing to the Prairie Village City Clerk as required hereinafter:~~
- i. Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog must provide written notification to the City Clerk at least ten days prior to any of the following situations:
1. (1) The removal from the City or death of such animal. If the animal is removed from, and provide the City, Clerk with the new owner contact information must be provided of the new person responsible for such animal.
  2. (2) The birth of offspring of such animal.
  3. (3) The new address of the person responsible for such animal's owner, should the owner person responsible move within the corporate City limits.
  4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.

- i) ~~(j)~~ Sale or Transfer of Ownership Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous animal or dangerous cat or dog to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of person responsible for such animal; provided that the registered owner of person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

#### **2-1222-119 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG PERMIT FEE**

The fee for a potentially dangerous or dangerous cat or dog permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous animals and dangerous cat and dog permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

#### **2-1232-120 TERM OF AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS CAT OR DOG PERMIT**

No potentially dangerous or dangerous cat or dog permit required by this ~~chapter~~ Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

#### **2-1242-121 INSPECTIONS FOR RENEWAL**

Prior to the annual renewal of any permit issued hereunder, an Animal Control Officer or Law Enforcement Officer potentially dangerous or dangerous cat or dog permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this ~~chapter and also reassess the animal that is subject to the permit. If the Animal Control Officer or Law Enforcement Officer~~ Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. ~~Additionally, if the Animal Control Officer or Law Enforcement Officer determines that the animal subject to the permit should no longer be deemed a dangerous animal, it shall be documented in a written report, which shall be reviewed by the Chief of Police. The owner of such animal will be notified if and when their animal is no longer deemed a dangerous animal. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous cat or dog permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous cat or dog. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The~~



hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

**2-122 COLLAR OR HARNESS REQUIRED**

~~The Governing Body may require the annual enumeration of all dogs and cats owned within the City. The enumeration shall account for the number and ownership of all dogs and cats. For purposes of determining whether or not a person owns, keeps or harbors any animal referred to in this chapter, it shall be conclusively presumed that any person keeping any animal in the City for three consecutive days shall be conclusively presumed to be the owner of such animal.~~

**2-129 LIMITATIONS ON NUMBER OF ANIMALS**

~~No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this chapter.~~

**2-125 TEMPORARY PERMITS FOR DANGEROUS ANIMALS — POWERS OF ANIMAL CONTROL OFFICER OR CHIEF OF POLICE**

~~An Animal Control Officer or Chief of Police may, following application for a permit and pending final disposition of the same, grant a temporary permit for the maintenance within the City of any such animal upon such conditions as he or she shall, in his or her sole discretion, require when, in his or her opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare, that no such animal shall be otherwise kept or maintained within the City or permitted to occupy any premises within the City, except while such a regular or temporary permit is in full force and effect; provided, however, that any Law Enforcement Officer or Animal Control Officer shall take possession of any dangerous animal for which a permit has not been issued and keep the same until the proper permit has been secured by the owner or keeper thereof and shall release the same to the owner or keeper when all fees and costs have been paid and all laws and permit conditions complied with.~~

**2-126 REVOCATION OF PERMITS**

~~The City Clerk, upon recommendation of an Animal Control Officer or any Law Enforcement Officer, may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing, for a period not to exceed thirty days. Failure to comply with any of the provisions of this chapter shall be sufficient grounds for revocation.~~

**2-127 APPEALS — FEES**

- (a) ~~Any person aggrieved by or dissatisfied with any of the following decisions, rulings, actions or findings may, within ten days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Governing Body.~~
- (1) ~~The determination by the Animal Control Officer or the Chief of Police that an animal is a "dangerous animal" under section 2-102;~~
  - (2) ~~The denial of a permit required under sections 2-117 and 2-119;~~
  - (3) ~~The denial of a renewal of a previously issued permit required under section 2-123;~~
  - (4) ~~The revocation of a previously issued permit under section 2-126, and~~
  - (5) ~~The temporary suspension of any permit or portion thereof under section 2-125; provided, however, that the filing of an appeal under this subsection shall not stay such order or temporary suspension.~~
- (b) ~~In exercising the appeal function, the Governing Body shall have the authority to grant or deny said appeals and also include but not be limited to matters of animal welfare and control.~~
- (c) ~~An administrative fee shall be adopted by the Governing Body and be on record in the office of the City Clerk. The administrative fee shall be paid to the City Clerk and is required for each appeal to the Governing Body, and no appeal shall be placed on the agenda of any meeting of the Governing Body until such fee has been paid.~~

## ~~2-128~~ **ENUMERATION OF ANIMALS**

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

## ~~2-130~~ **DOG AND CAT 2-123 CAT AND DOG CONTROL**

- a) (a) All cats must be under the control of their owner, keeper or harbinger the person responsible therefor at all times. For the purpose of this Section section, a cat shall be considered not under control and in violation of this Section-section in the following situations:
1. (1) If a neighbor complains orally or in writing to the owner, keeper or harbinger of person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this Section-section;



2. ~~(2)~~If a cat causes injury to persons or animals.
3. ~~(3)~~If a cat causes damage to property off ~~its owner's, keeper's or harborer's~~ the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) ~~(b)~~It is unlawful for the ~~owner, keeper or harborer of~~ person responsible for any dog to permit such dog to run at large within the City. For the purpose of this ~~Section~~section, a dog shall be considered running at large and in violation of this ~~Section~~section in the following situations:
  1. ~~(1)~~If a dog is off the ~~owner's, keepers or harborers~~ property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of ~~its owner, keeper or harborer~~ the person responsible. Electronic collars may not be used to control a dog when ~~it is off its owner's, keepers or harborers property~~ off the property of the person responsible for such dog.
  2. ~~(2)~~If a dog is off the ~~owner's, keepers or harborers~~ property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or ~~others~~ other animals. This includes a situation when a dog is secured on a leash.
- c) ~~(c)~~It is lawful for any ~~Law Enforcement Officer~~ animal control officer or law enforcement officer or other person designated by the Governing Body to pursue and capture ~~same~~ a dog running at large; provided, further, however, that no such dog shall be held to be running at large when said dog is merely passing along or through such property while in a cage or other conveyance.

## **2-1342-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS**

Dogs may be confined to the residential property of ~~their owner~~ the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of ~~the owner's~~ such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All ~~owners~~ persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off ~~its owner's~~ the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

## **2-125 PUBLIC NUISANCE**

- a) A Public Nuisance is any animal that:
  1. Damages private or public property;
  2. Scatters refuse that is bagged or otherwise contained, or
  3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.

- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

## **2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS**

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal to such person's property and prevent injury to other humans, domestic animals and/or damage to property.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.
- c) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

## **2-132-127 TETHERING**

- a) ~~(a)~~ It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) ~~(b)~~ It is unlawful for any person to:
  - 1. ~~(1)~~ Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
  - 2. ~~(2)~~ Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one-eighth of the animal's body weight).
  - 3. ~~(3)~~ Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
  - 4. ~~(4)~~ Tethered for any length of time anywhere in the City when they are off the ~~owners, keepers or harborer's~~ property of the person responsible for such animal.
  - 5. ~~(5)~~ Tether without providing adequate care, food, shelter, and water as outlined in sections ~~2-107 and 2-109~~ 2-126 and 2-128.

## **2-128 CRUELTY TO ANIMALS**

Cruelty to Animals shall be defined as:

### **2-133 SEIZURE**

- ~~(a) Any Animal Control Officer, Law Enforcement Officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-130 and any cat which is not under control as defined in section 2-130 and place them in a shelter house designated by the Governing Body for that purpose. If the owner or harborer of any such dog or cat does not redeem the same within five days after such impounding by the payment to the City Clerk then such dog or cat shall be disposed of in some humane manner as provided in section 2-135. If such animal is to be redeemed, the owner or harborer must make payment to the animal~~

~~shelter prior to receiving their pet. In addition to or in lieu of seizing the dog or cat, an Animal Control Officer or Law Enforcement Officer of the City may charge said owner or harbinger for being in violation of section 2-130.~~

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;
- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.  
The provisions of this section shall not apply to:
  1. Normal or accepted veterinary practices;
  2. Bona fide experiments carried on by recognized research facilities;
  3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
  4. Rodeo practices accepted by the Rodeo Cowboys' Association;
  5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
  6. With respect to farm animals, normal or accepted practices of animal husbandry;
  7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
  8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

## **2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL**

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in

the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.

- b) Nothing in this section shall be deemed to prevent the animal control officer or law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

## **2-130 SEIZURE PROHIBITED ANIMALS**

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- b) ~~(b) An Animal Control Officer or Law Enforcement Officer~~ The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any ~~dangerous animal, prohibited by this Chapter~~ where the person ~~owning, keeping or harboring any such animal responsible therefor~~ has failed to comply with the notice sent pursuant to section 2-134. Upon a seizure and impoundment, ~~said animal shall be delivered to a place of confinement, which may be with any organization, which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.~~
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

## **2-131 SEIZURE PERMITTED ANIMALS**

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.

- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. ~~In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.~~
- c) ~~(c)An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous cat or dog, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a dangerous animal by the Animal Control Officer or any Law Enforcement Officer, they threat to public safety by the animal control officer or any law enforcement officer, such officer~~ may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- ~~(d) Any reasonable costs incurred by an Animal Control Officer or Law Enforcement Officer in seizing, impounding, confining or disposing of any dangerous or wild animal, pursuant to the provisions of this section, shall be charged against the owner, keeper or harborer of such animal and shall be collected by the City Clerk.~~
- ~~(e) Whenever an Animal Control Officer or Law Enforcement Officer seizes and impounds any such animal under the provisions of this section, the officer shall attempt to notify the owner of such animal of the seizure, however, such notice attempt shall be required only if the animal is wearing a valid and updated registration tag or, in the case of a dangerous animal, the animal is seized on the owner's property. Such notice should be in writing and should be delivered to the owner's residence within three days of seizure of the animal. The notice shall state the reasons for seizure and impoundment. Notice attempt may also include the leaving of voice message(s) on the listed phone of the animal's owner, keeper or harborer.~~
- ~~(f) After receipt of such notice as described in subsection (e) of this section, the owner of any animal, which has been seized and impounded, is entitled to request a hearing before the Governing Body by filing written request for hearing with the City Clerk. The purpose of this hearing shall be to determine whether probable cause existed to seize and impound the animal. Request for this hearing must be made within five days of receipt of the notice of seizure and impoundment, or the hearing shall be waived. If a hearing is requested, it shall be held within ten days from the filing of the request. If, at such hearing, the Governing Body finds that no probable cause existed for such seizure and impoundment, the animal shall be released, no fees or costs for care of the animal shall be assessed against its owner, and the City shall pay the costs accrued in boarding the animal.~~
- ~~(g) The owner, keeper or harborer of any animal who has been found to have violated this section or section 2-129 of this chapter, which animal is not properly licensed by the~~



City, may be assessed an additional penalty the amount of which shall be determined by resolution by the Governing Body on file with the City Clerk.

**2-134** ~~NOTICE OF KEEPING DANGEROUS ANIMALS~~

~~Upon the written or verbal complaint of any person that a person owns or is keeping or harboring a dangerous animal in violation of this chapter in the City, an Animal Control Officer or Law Enforcement Officer shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such "dangerous animal" in the City as finally determined by the Animal Control Officer or the Chief of Police without a proper permit, the officer shall forthwith notify such owner, keeper or harbinger in writing requiring such person to safely remove said animal from the City within three days of the date of the notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or who has escaped and is at large, in which case the Animal Control Officer or Law Enforcement Officer shall cause said animal to be immediately seized and impounded, or destroyed if seizure or impoundment are not possible without risk of serious physical harm or death to any person. The Animal Control Officer may exercise discretion by allowing such person up to ten days to safely remove said animal, provided no urgency is apparent.~~

**2-135** ~~DESTRUCTION OR REMOVAL FROM CITY OF CERTAIN ANIMALS~~

(a) ~~When City records indicate that a particular dog or cat has committed two or more vicious bites, as defined in section 2-102, the dog or cat shall be deemed a threat to public safety, except that it shall be a defense to such a finding that the person or domestic animal so bitten was on the property of the person who owns or harbors said dog or cat at the time of the bite or attack and did not have consent to be on the owner's property. Any Animal Control Officer or Law Enforcement Officer shall upon notification of a dog or cats second vicious bite, cause the animal to be seized. If no post-seizure hearing has been requested, the animal shall be destroyed or permanently removed from the City. The decision of whether to destroy said animal or remove it from the City shall be in the sole discretion of the Animal Control Officer or the Chief of Police.~~

(b) ~~Law Enforcement Officers or Animal Control Officers of the City or anyone having the authority of an Animal Control Officer, as designated by the Mayor or Chief of Police, may kill any animal without notice to the owner thereof whether it bears the tag provided for in this chapter or not if such animal is deemed by said officer to pose a risk of serious physical harm or death to persons or is injured severely with no apparent chance of survival, or is in such pain as to warrant humane destruction. When it is known that such animal has bitten or scratched a person or domestic animal, then the remains of that animal so destroyed shall be preserved by officers, to permit a test to be conducted for rabies.~~

d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

**2-1362-132 PROCEDURE FOR FAILURE TO REDEEM**

Any animal captured or apprehended under the terms and conditions of this ~~chapter and for which no appeal under section 2-127 is pending shall be held for a period of five days and disposed of in a humane manner as shall from time to time be determined by the Governing Body of the City.~~ Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period, then the animal shelter may offer the animal for adoption or destroy the animal in a humane manner.

**2-1372-133 PRESENTATION OF ANIMAL**

The ~~owner, keeper or harbinger of any dog or cat person responsible for any cat or dog~~ shall physically produce the animal for observation, identification or inspection when requested to do so by an ~~Animal Control Officer or Law Enforcement Officer~~ animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

**2-1382-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES**

When any animal, while within the boundaries of the ~~City limits of Prairie Village,~~ has bitten or attacked-inflicts an animal bite on any person or domestic animal ~~and has caused a break to the skin,~~ or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the ~~Animal Control Officer~~ animal control officer.

**2-1392-135 ANIMAL BITE PROCEDURE**

- a) ~~(a)~~ Except as provided in subsection (e) of this section, an animal which ~~bites or otherwise so injures a person as to cause an abrasion of the skin-inflicts an animal bite on any person or domestic animal~~ shall immediately, or as soon as practicable, be quarantined at the ~~owner's~~ expense of the person responsible for such animal with a licensed veterinarian of ~~the owner's-such person's~~ choice or with the City-City's impounding agent's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) ~~(b)~~ If the ~~owner, keeper or harbinger of person responsible for~~ the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City ~~authorized impounding agent, at the owner's expense~~ approved shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the ~~owner of person responsible for~~ the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify ~~the owner-such person~~ that said animal is impounded under the provisions of this section and ~~the owner-that such person~~ has the right to redeem the animal at the expiration of confinement upon the payment of ~~pound-impoundment~~ fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
- c) ~~(c)~~ In the event the original place of impoundment is not the choice of the ~~owner-person responsible for such animal,~~ the owner-such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of ~~the owner's-such person's~~ choice; provided all other provisions of this ~~chapter-Chapter~~ are complied with. The total

period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve days. ~~Credit for any period the animal remains at large after the bite shall not be given.~~ (12) days.

d) ~~(d)~~ The veterinarian or City ~~authorized impounding agent~~ approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City ~~impounding agency~~ approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.

e) ~~(e)~~ In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this ~~chapter~~ Chapter at the time of the injury, ~~and the animal was not running at large at the time of the bite, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree,~~ then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:

1. ~~(1)~~ If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this ~~chapter~~ Chapter.

2. ~~(2)~~ If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of ~~its owner or keeper~~ the person responsible; provided no animal shall be allowed to remain on the property of ~~its owner or keeper~~ the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the ~~Animal Control Officer~~ animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the ~~Animal Control Officer~~ animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the ~~owner, keeper or harborer.~~ If the owner or keeper person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

~~(f) If convicted of a violation of this chapter, the owner, keeper or harborer of any dangerous animal that bites or otherwise so injures a person causing an abrasion of the skin, shall be punished by a fine of not less than \$100 but not more than \$500.~~

## **2-136 ANIMAL BITE VIOLATION**

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.



**2-140.2-137 DISEASE CONTROL**

- a) ~~(a)~~ When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the ~~owner of~~ person responsible for such animal to keep such animal confined to the premises of ~~such owner or keeper~~ the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property ~~of their owner, keeper or harbinger~~ the person responsible therefor if the only restraining device is an invisible electric fence.
- b) ~~(b)~~ It shall be the duty of all ~~Animal Control Officers or Law Enforcement Officers~~ animal control officers or law enforcement officers, or those having the authority of ~~Law Enforcement Officers~~ law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize school guards and other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the ~~owner~~ person responsible to the end that warrants of arrest can be issued against violating ~~owners~~ persons responsible.

**2-1412-138 REMOVAL OF ANIMAL FECES**

- a) ~~(a)~~ Any person in charge of an animal, when such animal is off the ~~owner, keeper or harbinger's~~ property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) ~~(b)~~ It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

**2-1422-139 REMOVAL OF DEAD ANIMAL**

It shall be the responsibility of the ~~owner of~~ person responsible for a deceased animal to provide for its removal from private property.

**2-1432-140 FEES TO GENERAL FUND**

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this ~~chapter~~ Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

**2-1442-141 ENFORCEMENT**

It is the duty of the ~~Animal Control Officer~~ animal control officer or anyone having the authority of an ~~Animal Control Officer~~ animal control officer, including but not limited to ~~Law Enforcement Officers~~ law enforcement officers, to enforce the terms and provisions of this ~~chapter~~ Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an ~~Animal Control Officer~~ animal control officer whose duties it shall be to assist in the enforcement of this ~~chapter~~ Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an ~~Animal Control Officer~~ animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this ~~chapter~~ Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon

signed complaint, bring charges against any ~~owner of person responsible for~~ an animal for the violation of any of the provisions of this ~~chapter~~Chapter.

### **2-1452-142 BEEKEEPING**

Any person keeping bees shall comply with the following:

- a) ~~(a)~~ Minimize swarming of bees;
- b) ~~(b)~~ Provide and maintain a source of water located on the premises;
- c) ~~(c)~~ Maintain no more than two (2) hives per property/lot;
- d) ~~(d)~~ Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) ~~(e)~~ Hives will be maintained at least ten (10) feet from all property lines; and
- f) ~~(f)~~ Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.
- g) ~~(g)~~ Remove hives if established guidelines are not maintained as determined by Codes or ~~Animal Control Officers~~animal control officers.

### **2-1462-143 VIOLATION – PENALTY**

- a) ~~(a) Any person who fails to do anything required by this chapter or who does anything prohibited by this chapter is guilty of a violation thereof. It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this chapter-Chapter where a specific penalty is not otherwise prescribed shall be fined not more than five hundred dollars, or imprisoned for more than thirty days, or be both so fined and imprisoned up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.~~
- b) ~~(b)~~ Each day any violation of this ~~chapter-Chapter~~ to which this penalty applies continues constitutes a separate offense.

### **2-144 NUISANCE, INJUNCTION**

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relieve may include the seeking of temporary and permanent injunctive relief.

### **2-1472-145 SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ~~chapter~~Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ~~chapter-Chapter~~ or any part thereof.

## CHAPTER II. ANIMAL CONTROL AND REGULATION

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### ARTICLE 1. GENERAL PROVISIONS

#### 2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership.

#### 2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Animal is any living creature, other than humans.
- c) Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, break or abrasion to the skin.
- d) Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- e) At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- f) City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- g) Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- h) Dangerous wild animal means any animal, which is wild by nature and/or of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.
- i) Dangerous cat or dog means a cat or dog which:
  - 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
  - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
  - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the cat or dog is potentially dangerous, the cat or dog

aggressively bites, attacks or endangers the safety of humans or domestic animals; or

- 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- h) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- i) Impound means taking any animal into the confinement, care, or custody of the City.
- j) Municipal Court means the Municipal Court of the City.
- k) Person is any natural person, association, firm, partnership, organization, or corporation.
- l) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- m) Potentially dangerous cat or dog means any cat or dog which, when unprovoked:
  - 1) Inflicts bites on a human or domestic animal either on public or private property; or
  - 2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
  - 3) any cat or dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- n) Service / work animal is any guide animal, signal animal or other animal that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability, or a dog that is utilized by law enforcement personnel.
- o) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:
  - 1) Did not mischievously or carelessly provoke or aggravate the cat or dog;
  - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the cat or dog;
  - 3) Was not tormenting, abusing, assaulting or attacking the cat or dog;
  - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the cat or dog; or
  - 5) Was not committing or attempting to commit a crime.
- p) Vicious cat or dog means a cat or dog which has:
  - 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
  - 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious cat or dog; or
  - 3) Been declared to be dangerous and after the person responsible therefor has notice that the cat or dog has been declared dangerous, the cat or dog aggressively bites, attacks or endangers the safety of humans or domestic animals.
- q) Vicious bite is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

**2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED**

- a) It shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organization shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
  - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
  - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
  - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
  - 4. Commercial establishments processing such animals for the purpose of sale or display.

**2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED**

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational o medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

**2-105 PIT BULL DOG – KEEPING PROHIBITED**

It shall be unlawful to own, harbor, shelter, keep, control, manage, or possess within the corporate limits of the City, any pit bull dog. Pit bull dog for the purposes of this Chapter shall include:

- a) The Staffordshire Bull Terrier breed of dog;
- b) The American Pit Bull Terrier breed of dog;
- c) The American Staffordshire Terrier breed of dog, or
- d) Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

**2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS CATS OR DOGS**

- a) Determination.
  - 1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that a cat or dog is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the cat or dog in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal

Court, upon the finding of probable cause, shall notify the person responsible for the cat or dog, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the cat or dog should not be declared potentially dangerous, dangerous or vicious.

2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the cat or dog is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
  3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the cat or dog is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the cat or dog contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
  4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the cat or dog in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the cat or dog pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded cat or dog is potentially dangerous, dangerous or vicious, the person responsible for the cat or dog shall be liable to the City for the costs and expenses of impounding such cat or dog.
- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that a cat or dog is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
- c) Disposition of Vicious Cat or Dogs. If the Municipal Court determines that a cat or dog is vicious, the Municipal Court shall order that the cat or dog be euthanized or that the person responsible for such cat or dog remove the cat or dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the cat or dog has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious cat or dog. The cat or dog shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious cat or dog to maintain such animal in violation of the Municipal Court's order and this section.
- d) Dangerous and Potentially Dangerous Cat or Dog Designation Review. Beginning one (1) year after a cat or dog is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the cat or dog, personally or by certified mail, and the animal control officer or law enforcement

officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the cat or dog is no longer potentially dangerous or dangerous due to the cat or dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the cat or dog's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous cat or dog designation.

## **2-107 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG PERMIT REQUIRED**

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any cat or dog which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and a renew an annual potentially dangerous or dangerous cat or dog permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous cat or dog permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

## **2-108 EXEMPTIONS**

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

## **2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS**

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous cat or dog, or any safe animal including the domestic cat or dog (*canis familiaris*) and the domestic cat (*felis domesticus*), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
  1. Gerbils (*Tateriltus gracillio*);
  2. Hamsters (*Critecus critecus*);
  3. Rabbits (*Lepus Cunicullus*);
  4. Domestic Mice (*Mus musculus*);
  5. Domestic Rat (*Rattus norvegicus*),
  6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (*Mustela furo*), Chinchillas (*Chinchillidae*), Canaries (*Serinus canaria*), Cockatoos, Macaws, Parakeets, and Parrots (*Psittacines*), and
  7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-141. This shall include instances where any person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.

## **2-110 REGISTRATION – TAGS**

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

**2-111 LICENSE FEE – DESIGNATED**

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

**2-112 LICENSE FEE – OVERDUE**

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

**2-113 LICENSE FEE – EXEMPTIONS**

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a service/work animal shall be exempt from the license fee payment upon submittal of adequate proof that the animal is fully trained as a service/work animal and is current for the year on its rabies vaccination.

**2-114 INOCULATION AGAINST RABIES REQUIRED**

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal's inoculation against rabies is maintained throughout the license period.

**2-115 ENUMERATION OF ANIMALS**

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

**2-116 LIMITATIONS ON NUMBER OF ANIMALS**



No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

## **2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS CAT OR DOG PERMIT**

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant's interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.
- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a "dangerous cat" or "dangerous dog", in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous cat or dog.
- l) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter.

## **2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS**

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous cat or dog and is kept in this City will be required to be securely leashed and, in the case of dogs, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the

dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal

- b) Confinement.
  - 1. An animal that has been declared to be a potentially dangerous or dangerous cat or dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
  - 2. An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous cat or dog may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words "Beware of Dog" in at least two-inch block letters. In addition, a similar sign is required to be posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.
- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog must have a microchip implanted in the cat or dog for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog must provide written notification to the City Clerk at least ten days prior to any of the following situations:
  - 1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
  - 2. The birth of offspring of such animal.
  - 3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.

4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
  - j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous cat or dog to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

#### **2-119 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG PERMIT FEE**

The fee for a potentially dangerous or dangerous cat or dog permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous cat and dog permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

#### **2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS CAT OR DOG PERMIT**

No potentially dangerous or dangerous cat or dog permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

#### **2-121 INSPECTIONS FOR RENEWAL**

Prior to the annual renewal of any potentially dangerous or dangerous cat or dog permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous cat or dog permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous cat or dog. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

#### **2-122 COLLAR OR HARNESS REQUIRED**

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110

shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

### **2-123 CAT AND DOG CONTROL**

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
  1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
  2. If a cat causes injury to persons or animals.
  3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:
  1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
  2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.
- c) It is lawful for any animal control officer or law enforcement officer or other person designated by the Governing Body to pursue and capture a dog running at large; provided, further, however, that no such dog shall be held to be running at large when said dog is merely passing along or through such property while in a cage or other conveyance.

### **2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS**

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

### **2-125 PUBLIC NUISANCE**

- a) A Public Nuisance is any animal that:
  1. Damages private or public property;
  2. Scatters refuse that is bagged or otherwise contained, or

3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.
- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

### **2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS**

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal to such person's property and prevent injury to other humans, domestic animals and/or damage to property.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.
- c) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

### **2-127 TETHERING**

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
  1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
  2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one eighth of the animal's body weight).
  3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
  4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
  5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

### **2-128 CRUELTY TO ANIMALS**

Cruelty to Animals shall be defined as:

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;
- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

*The provisions of this section shall not apply to:*

- 1. Normal or accepted veterinary practices;
- 2. Bona fide experiments carried on by recognized research facilities;
- 3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- 4. Rodeo practices accepted by the Rodeo Cowboys' Association;
- 5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- 6. With respect to farm animals, normal or accepted practices of animal husbandry;
- 7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
- 8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

## **2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL**

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been

removed under authority of this section and the location where the animal has been impounded.

- b) Nothing in this section shall be deemed to prevent the animal control officer or law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

### **2-130 SEIZURE PROHIBITED ANIMALS**

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

### **2-131 SEIZURE PERMITTED ANIMALS**

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the

animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.

- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous cat or dog, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

#### **2-132 PROCEDURE FOR FAILURE TO REDEEM**

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period, then the animal shelter may offer the animal for adoption or destroy the animal in a humane manner.

#### **2-133 PRESENTATION OF ANIMAL**

The person responsible for any cat or dog shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

#### **2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES**

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

#### **2-135 ANIMAL BITE PROCEDURE**

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed



- veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
  - c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
  - d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.
  - e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
    - 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
    - 2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

### **2-136 ANIMAL BITE VIOLATION**

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

### **2-137 DISEASE CONTROL**

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize school guards and other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

### **2-138 REMOVAL OF ANIMAL FECES**

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

### **2-139 REMOVAL OF DEAD ANIMAL**

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property.

### **2-140 FEES TO GENERAL FUND**

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

### **2-141 ENFORCEMENT**

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which

is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

#### **2-142 BEEKEEPING**

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubby or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.
- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

#### **2-143 VIOLATION – PENALTY**

- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

#### **2-144 NUISANCE, INJUNCTION**

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include the seeking of temporary and permanent injunctive relief.

#### **2-145 SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

**Project / Initiative List**

#	Project/Initiative	Status	Staff Support	Scope
<b>In Progress</b>				
1	Village Square Concept Study	Concept Draft has been completed and presented to the Tree Board and Parks on August 2nd. The Master Draft will be presented to City Council prior to public input.	Alley/Keith/Wes	Lg
2	Park Purchase from Faith Lutheran	Purchase agreement approved. Closing for end of Oct. Environ. assessment ongoing. Demolition and park planning process later in 2017.	Alley/Keith	Lg
3	Review of animal ordinance / procedure	Draft of proposed amendments expected to be discussed at the August 21st Council meeting.	Tim	Med
4	Bike/ped master plan	Project is progressing. Initial public meeting and public outreach effort are completed. Will propose improvements to committee and make final recommendations to Council. Will take back to public before final adoption of plan.	Keith	Med
5	Statuary donation - along Mission Rd	Staff is working with the artist, donor, and City Attorney to finalize process to accept donation and start the project. Donor has now tentatively agree to fund the entire purchase.	Alley/Keith/Wes	Sm
6	Revisit the effectiveness and need for the Countryside East zoning overlay	The P/C passed the repeal on August 1st and will be presented to Council on August 21st.	Brewster/Wes	Sm
7	Review and update AV system in the Council Chambers	Agreement with CTI approved by Council. Work is slated to take place Oct 20-Nov 1. This project will close the use of chamber room during that time.	Alley	Sm
8	Live stream / recording / audio stream Council meetings	Council approved \$3,500.00 for equipment - project may coincide with AV system repairs/upgrades.	Alley	Med
9	Review and update zoning code (allowable uses, SUP process)	Initiating Process	Brewster	Lg
	Building code guidelines - Phase 2			Lg
10	Discussions with First Washington about future plans for the two shopping centers	First Washington will be addressing the Council on August 7th concerning redevelopment plans for Corinth South.	Wes	Med
<b>Next Up</b>				
11	Research and discuss drone ordinance		Intern	Med
12	Restructure of the Prairie Village Foundation	Discussion about City / Foundation funded PT position	Meghan	Med
<b>Potential Initiatives (not currently addressed with staff resources)</b>				
13	Review and update the City Code book			Lg
14	Review and update City policies			Lg

**Project / Initiative List**

#	Project/Initiative	Status	Staff Support	Scope
15	Determine and develop economic development strategies and incentives			Med
16	Consider developing small business program: business incubator. Look into JCCC programs	Depends on scope. Use Econ Dev funds.		Med
17	Establish or reenergize dormant homes associations where they do not currently exist			Med
18	Develop form based codes and comprehensive plan amendments	Planning & attorney costs for review		Med
19	Research the possibility of initiating a transportation program for seniors and special needs residents	Based on other cities' experience - \$40k annual		Med
20	Proactive approach for regional transit related topics			Med
21	Explore a more proactive approach to the location and size of wireless tower facilities. Compliance with FCC updates.	May include a consultant		Med
22	Review of Code of Ethics			Med
23	Initiate a resident welcome packet			Med
24	Change zoning code for public facilities such as city, county and CFD2 owned property	<b>May consider combining with #9</b>		Med
25	Explore transition of Village Voice to magazine style with ads offsetting cost			Med
26	Research and review KP&F plan for new hires in PD			Sm
27	Political sign regulations - as reqd by changes in state statute	Supreme Court decision also impacts.		Sm
28	Pedestrian crossings - education/enforcement/evaluation of signage for optimum compliance	Cost associated with new signage / equip.		Sm
29	Revisit use of the Consent Agenda			Sm
30	Explore the use of alternative fuel vehicles			Sm
31	Determine level of involvement in Community of All Ages/residents aging in place			Sm
32	Review of smoking ordinance and e-cigarettes	Review distance smoking is allowed from a doorway		Sm
33	Program to encourage neighborhood block parties	Estimate of \$2k annual		Sm
34	Cultivate an environment that celebrates diversity			Sm
35	MARC solar initiative - involvement level of the City TBD			Sm
36	Installation of KCPL electric charging station at City Hall complex - second round	Electricity cost for stations up to \$2k per year		Sm
37	Review of zoning ordinances related to number of individuals living in a household	<b>May consider combining with #9 - no more than 3 unrelated individuals per residence by zoning code.</b>		Sm

**Project / Initiative List**

#	Project/Initiative	Status	Staff Support	Scope
38	Explore the addition of a parks manager / programmer on city staff to increase parks programming			Sm
39	Explore the addition of a grant writer / researcher on city staff			Sm
40	Research policy for 1% of budget or CIP for Arts Council and projects			Sm
41	Citizen Survey	Council allocated \$15,000 in the 2018 Budget for this project	Alley	Med
<b>Ongoing</b>				

	Coordination of installation of ATT GigaPower product	Completion expected by the end 2017 with restoration in 2018	Melissa	Med
	Reestablish / strengthen the Island Committee & develop plan for island statuary maintenance.	Inventory audit conducted. Maintenance plan started.	Alley	Med
	Desire for more maintenance code inspections. Promote homeownership, review rental licensing program and property maintenance ordinance	Added Full FTE starting in 2015. Staff is reviewing recent legislative changes that limit interior inspections.	Wes	Med
	More effective / proactive communication with residents		Meghan	Med

**Completed 2016 / 2017**

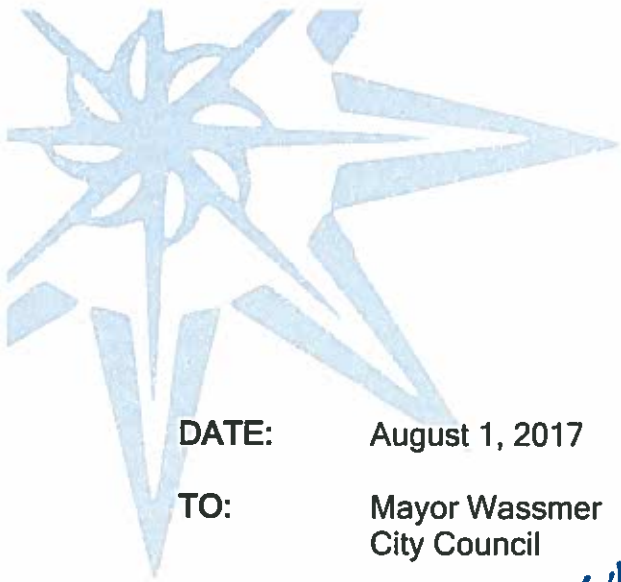
	PV building guidelines	Expanded to City-wide ordinance. Presentation to Council in 2016. Phase One includes height, setback and elevation. Hearing on June 7th.	Wes	Lg
	Zika outreach, response and education	PW has plan to monitor and address ponding water in channels. Code Enforcement is also treating standing water pools.	Keith	Sm

**Discussed and not being pursued further**

	Review breed specific dog ban ordinance	Public comments in Aug. Council discussion and vote on Sept. 6, 2016		Med
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Aug-17

Prepared by: Wes Jordan



# THE CITY OF PRAIRIE VILLAGE

STAR OF KANSAS

**DATE:** August 1, 2017  
**TO:** Mayor Wassmer  
City Council  
**FROM:** Wes Jordan *WJ*  
**SUBJECT:** AUGUST PLAN OF ACTION

The following projects will be initiated during the month of August:

- Amusement Ride Permitting Process - Alley (08/17)
- Council Priority List Presentation - Wes (08/17)
- Art Council Applicants for Vacancies - Eric/Dan/Wes (08/17)
- First Washington Proposed Expansion - Wes (08/17)
- Meeting With SME Concerning Baseball Field - Staff (08/17)
- JazzFest Alcohol Permit -- Joyce (08/17)
- Storm Debris Removal Project - Staff (08/17)
- Overlay Repeal Presentation/Ordinance - Brewster (08/17)
- Community Forum Planning - Alley (08/17)
- New Intern Orientation - Alley (08/17)
- Animal Ordinance Presentation - Tim (08/17)
- 2018 Budget - Public Hearing - Lisa
- 2018 Health Insurance Renewal - Amy/Wes (08/17)

## In Progress

- Skate Park Usage Project - Gabe/Alley (07/17)
- Tyler/Encode Upgrade - Deana/IT Staff (07/17)
- UCS Proclamation - Joyce/Wes (07/17)
- National Fitness Campaign Equipment/Grant - Keith/Wes (07/17)
- Server Infrastructure Evaluation - IT Staff (07/17)
- Meadowbrook Transit Stop - Keith/Wes (07/17)
- KC Christian Expansion - Chris/Wes (07/17)
- Meadowbrook Design Book Amendment - Wes (07/17)
- Annual Report - Meghan (07/17)
- KC Chamber Presentation/KCI - Wes (07/17)



- Council Chamber AV Equipment Project - Alley (07/17)
- Statuary Maintenance - Alley (07/17)
- Statuary Donation - Alley/Keith/Wes (07/17)
- Park Acquisition - Alley/Wes (07/17)
- Village Square Design Concept(s) - Alley/Keith/Wes (06/17)
- Handbook Benefit Update - Amy (06/17)
- Small Cell Franchise Fees - David Waters/Wes (06/17)
- Trash Cart Screening Flyer - Codes Staff/Wes (06/17)
- Rental License Form Revision - City Clerks/Wes (04/17)
- City Hall Roof Replacement - PW/Mitch (04/15)
- Update and amend Job Description(s) - Amy/Wes (02/17)
- Countryside East Overlay Repeal Process - Wes (02/17)
- Franchise Agreements for Small Cells - David W./Quinn/Wes (02/17)
- Cell Tower SUP's - Shannon/Wes (11/16)
- Revise Cell Tower Contracts - Shannon/Wes (10/16)
- Zoning Ordinance Update on SUP's/CUP's - Chris (10/16)
- Amend Wireless Facilities Zoning - David Waters/Wes (10/16)

#### Completed

- Fire Department Presentation to Council - Wes (07/17)
- Paris Climate Accord Review - Gabe/Alley (07/17)
- Amusement Ride Inspection(s) - Alley/James/Keith/Wes (07/17)
- Solid Waste Bid Inquiry - Katie/Wes (07/17)
- First Suburbs Coalition Panel - Wes (07/17)
- Council Chamber AV Equipment Presentation - Alley (07/17)
- Global Ties Tour - Alley/Wes (07/17)
- Council Priority List Update - Wes (07/17)
- Council Priority List Update - Wes (07/17)
- Art Liability Form Revision - Wes (04/17)
- New Court Clerk Training - Deana (04/17)

#### Tabled

- MARC Solar Initiative - Wes (05/15)
- Site Plan Audit/Reinspection Process (Per Mayor) - Wes (09/15)
- Abatement limitations on Private Property - Wes/Katie (06/16)
- ADP Replacement Presentation - Amy (03/17)
- Art Council Reappointments - Joyce/Wes (03/17)
- Planning Commission Reappointments - Joyce/Wes (03/17)

#### Ongoing Long-Term

- Meadowbrook
- Mission Chateau

**COUNCIL MEETING AGENDA  
CITY OF PRAIRIE VILLAGE  
Council Chambers  
Monday, August 21, 2017  
7:30 PM**

I. **CALL TO ORDER**

II. **ROLL CALL**

III. **PLEDGE OF ALLEGIANCE**

IV. **INTRODUCTION OF STUDENTS & SCOUTS**

V. **PRESENTATIONS**

**Appointment of Chad Herring to the Ward I Council Seat**

VI. **PUBLIC PARTICIPATION**

(5 minute time limit for items not otherwise listed on the agenda)

VII. **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 the regular City Council meeting minutes - August 7, 2017
2. Approve the School Resource Officer agreement with the Shawnee Mission School District

**By Committee**

3. Approval the Prairie Village Tree Board's Annual Street Tree Planting Events

VIII. **COMMITTEE REPORTS**

**Planning Commission**

PC2017-01 Consider repeal of Countryside East Homes Association Overlay District

IX. **MAYOR'S REPORT**

X. **STAFF REPORTS**

- XI. OLD BUSINESS
- XII. NEW BUSINESS
- XIII. ANNOUNCEMENTS
- XIV. 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 385-4616, 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](mailto:cityclerk@pvkansas.com)

# CHAD ANDREW HERRING

## CONTACT

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**Home Address**

4812 West 66<sup>th</sup> Terrace  
Prairie Village, Kansas 66208

**Phone**

[Redacted]

**Email**

[Redacted]

**Via Electronic Mail**

The Honorable Laura Wassmer  
Mayor of Prairie Village  
7700 Mission Road  
Prairie Village, Kansas 66208

06 / 15 / 2017

Dear Mayor Wassmer:

In response to the request for applications upon the resignation of Ward I Council Member Ashley Weaver, thank you for the opportunity to submit my name for appointment to the remainder of her term.

My wife and I moved to Prairie Village in early 2011, with our then four-year-old twin daughters, wanting to settle in a more vibrant, neighborhood community than the Overland Park street we left. Six years in the village confirm what we felt then to be true: this is a uniquely wonderful place to live and nurture a family.

From 2005 to 2013 I was the Associate Pastor at Southminster Presbyterian Church in Prairie Village, and after taking a position as Pastor of The John Knox Kirk in south Kansas City, we decided that we wanted to stay here and deepen our ties to this community. This is our home. Our kids attend Highlands Elementary School, where Brook and I are active in classroom activities and the PTA.


I am interested in serving on Council as a way to give back to my community, to contribute to the common good through public service. At a time where trust in politicians is at an all-time low, I seek to reestablish trust in leadership by being the sort of leader that listens well and promotes goodwill, even when people disagree. I have thought about running for a council seat if one were to come open in the future, now that my kids are a bit older and more self-sufficient. Perhaps this is the opportunity for me to get involved more immediately.

My work as a Presbyterian pastor perhaps makes me particularly well-qualified for service on Council. This vocation requires communication and organizational skills to listen and serve a diverse community of stakeholders and volunteers. I serve as a director on non-profit boards of various sizes, including one (the Presbyterian Mission Agency) with several hundred employees and an annual budget of more than \$70 million. I am particularly committed to nurturing strong and healthy communities, and seek to encourage others to engage issues of public importance with fairness, empathy, and respect. While I am a pastor by vocation and training, I am also committed to the separation of church and state, keeping religious affairs private, and respecting people of every religious perspective (and those with none) in the public realm.

Prairie Village has made many noteworthy and important advances under your leadership, in particular the creative and cost-effective expansion of green space through the Meadowbrook project and the new park under development at 67th and Roe. Our reputation as a safe, beautiful place to live, good fiscal discipline, and accessible and attractive housing for a diverse, inclusive community, are each worthy of great admiration. I hope to support the continuation of these strengths if I were to serve with you on the Prairie Village Council.

Thank you for considering my name for appointment to this position. If I meet with your expectations and vision for a capable Council member, I would appreciate the opportunity to explore this possibility further.

Sincerely,

A handwritten signature in black ink, reading "Chad Andrew Herring". The signature is written in a cursive style with a large, stylized initial "C".

Chad Andrew Herring  
4812 West 66<sup>th</sup> Terrace  
Prairie Village, Kansas 66208

# CHAD ANDREW HERRING

## INFO

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**Home Address**

4812 West 66<sup>th</sup> Terrace  
Prairie Village, Kansas 66208

**Phone**

[REDACTED]

**Email**

[REDACTED]

**LinkedIn**

[www.linkedin.com/in/chadherring/](http://www.linkedin.com/in/chadherring/)

## EDUCATION AND CREDENTIALS

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**Master of Divinity**

*University of Chicago Divinity School  
Chicago, Illinois  
1997 - 2000*

**Bachelor of Arts**

*Religious Studies  
Grinnell College / Grinnell, Iowa  
1993 - 1997*

**Teaching Elder and  
Minister of Word and Sacrament**

*Ordained 2005  
In good standing, Heartland Presbytery  
Presbyterian Church (U.S.A.)*

## APPLICABLE SKILLS

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- Communication
- Strategic Thinking
- Listening and Community Engagement
- Committee Leadership and Parliamentary Process

## PROFILE

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Pastor and community facilitator, connecting people together for serving the world, learning love, and giving generously as an audacious act of hope.

## EXPERIENCE

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**Pastor**

*John Knox Kirk / Kansas City, Missouri / 2013 - Present*

Spiritual and community leader. Director of community service projects to provide volunteer support for Center School District, Harvesters Food Bank, Jewish Vocational Services refugee assistance, and several other community agencies. Interpreter of an ancient religious tradition for a modern age. Work, using skills of persuasion and negotiation, to encourage groups of diverse people to collaborate together for the common good.

**Director**

*Presbyterian Mission Agency Board / 2012 - Present*

The Presbyterian Mission Agency coordinates the national education, service, and leadership programs for the Presbyterian Church (U.S.A.)

- Finance Committee 2012-Present  
(Chair 2014-2016 / Oversight of \$70MM annual budget)
- Executive Committee 2014-2017
- Chair for three task force projects (including real estate transfers, internal review, and strategic planning)

**Director**

*Presbyterian Investment and Loan Program Board / 2016 - 2017*

PILP provides competitive loan products for church building, redevelopment and green energy projects.

**Associate Pastor**

*Southminster Presbyterian Church / Prairie Village, Kansas / 2005 - 2013*

Provided pastoral support to a diverse community with leadership and staffing focus in the areas of Christian Education and Congregational Nurture.

**Moderator**

*Heartland Presbytery / 2010 - 2011*

The Moderator of Heartland Presbytery convenes and chairs meetings of this regional judicatory of the Presbyterian Church (U.S.A.), serves as spokesperson, ordains and installs clergy for 100 churches in the Kansas City metropolitan area.

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE**

**August 7, 2017**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 7, 2017 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: Jori Nelson, Steve Noll, Andrew Wang, Sheila Myers, Dan Runion, Courtney McFadden and Terrence Gallagher.

Staff present: Tim Schwartzkopf, Chief of Police; Suzanne Lownes, Public Works Office Manager; Katie Logan, City Attorney; Wes Jordan, Interim City Administrator; Lisa Santa Maria, Finance Director, Alley Williams, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

**INTRODUCTION OF STUDENTS & SCOUTS**

No students or scouts were in attendance.

**PRESENTATIONS**

Mayor Wassmer welcomed Julie Brewer and Brian Brown with United Community Services and presented them with a proclamation recognizing UCS's 50<sup>th</sup> Anniversary.

Mayor Wassmer stated she was amending the agenda, moving to public participation to allow residents who were in attendance to speak to the City Council on



flooding concerns prior to the public hearing on the 2018 budget and for the presentation by the Tree Board that was on the earlier Council Committee of the Whole agenda.

## **PUBLIC PARTICIPATION**

Merrill Myers, 3906 West 68<sup>th</sup> Terrace, addressed the Council with her public safety concerns during the recent heavy rains. In addition to the widespread flooding of homes in her neighborhood, the flash flooding of Mission Road created a dangerous situation for both the travelling public who errantly attempted to drive through the water and the residential properties. She would like to see the city be proactive and develop and implement a plan to address this issue before the next incident. Mrs. Myers shared pictures of the damage to her property and pictures of the damage done to the property of each of the following speakers addressing the Council.

Tony Lew, a resident of Fairway and member of Village Presbyterian Church, spoke on the damage to the church from the July 26<sup>th</sup> storm in their basement and pre-school. The church isolated this area and hired professionals to address the remediation and repair of the area.

He would like to see the city create action items in regard to its remediation plan. First, the city should engage a professional to study this area to better understand the causes and effects of the flooding of Brush Creek and to create a report with recommendations on how to address the issue. Second, Prairie Village Public Works should work with Johnson County Public Works and the Johnson County Stormwater Management Advisory Committee to align any plans in accordance with the Johnson County Stormwater Management Plan and SMAC guidelines and ensure that whatever

action is taken does not negatively impact properties upstream or downstream from this location.

Martha Mann, 3907 West 68<sup>th</sup> Street, reported that she had two inches of sludge and 13 inches of water in her basement creating significant damage from the initial storm. Fortunately, since some of it was caused by sewer backup, her insurance coverage will apply. Last Saturday, she once again, had another twelve inches of water in her basement. She expressed concern with this occurring again and urged the City to investigate the cause for this and develop a solution.

Shelby Austin, 6734 Mission Road, stated that the flooding problems they experienced the past week are not the first. Mrs. Austin noted that in this storm she lost her car, hot water heater, washer & dryer, air conditioner, Christmas decorations and 17 years of memorabilia from their basement along with a lawn mower and other items from the garage. Of special significance were items from her husband's two tours of duty in Iraq - letters, photos, awards, uniforms and documents. Mrs. Austin reported that they had over five feet of water in their basement from the July 26<sup>th</sup> event and another three feet on Saturday.

Mrs. Austin's husband Don had to rescue three individuals from cars that got caught in the rising waters on Mission Road outside their home. This is a public safety issue that needs to be addressed now. Her husband should not have to put his life on the line again rescuing individuals from rising flood waters outside his home.

Irene Thomas, 6800 Mission Road, is a 41 year resident of Prairie Village and has been through the 1977 and 1998 floods. It took four hours for workers to remove the 12 inch deep mud from her basement. Each flood had individual's attempting to drive through the water and floating into neighboring yards. Previously, she only had flooding

in her yard; however, the latest July 26<sup>th</sup> & August 5<sup>th</sup> events caused flooding in her home. She would appreciate the City's efforts to address this ongoing problem.

Pat Roberts, 3912 West 68<sup>th</sup> Street, stated that Mission Road is a primary thoroughfare through the City and this problem must be addressed. She noted that the City was receiving SMAC funds to address flooding issues near Corinth Elementary and feels that SMAC funds should be able to be used to address this problem. She has watched drivers float down the road (photo shown) and need to be rescued from their floating vehicles on Mission Road when drivers do not realize the depth and strength of the water.

Mayor Wassmer thanked the residents for attending the meeting and sharing their stories. She stated the city would definitely look into this problem and keep them advised on future discussions on this issue.

With no one else wishing to address the City Council, Public Participation was closed.

### **Tree Board Presentation**

Frank Riott, member of the Prairie Village Tree Board, appeared before the City Council to present the Board's proposed street tree planting event that will be held in conjunction with its 2017 Fall Seminar. As a "Tree City USA" this event promotes the value of trees in the community. The concept for the event is to identify a street that would benefit from the planting of 20 to 30 additional trees in the city right-of-way. This could be a street that needs help, one that is ok but could be improved or a street that has high visibility. The proposed street for the 2017 program is 79<sup>th</sup> Street from Mission Road to Booth. This location could benefit from additional trees and is a good location to help promote this new program and event.

Mr. Riott explained that the committee will utilize Heartland Tree Alliance, a professional and experienced non-profit organization and their volunteer resources to manage the event, including resident notifications and information, utility locates, tree purchases and tree planting. The event costs of \$5,500 will be covered in 2017 and 2018 from the public works operating budget for trees. The committee hopes to make this an annual event and request funding in the 2019 budget.

The Tree Board believes that the right tree in the right location can help make our air healthier and our city more verdant and livable.

Mayor Wassmer confirmed the funds for the 2017 event are available in the existing public works budget. Suzanne Lownes stated the funding will come from the remaining funds in the tree planting program.

Sheila Myers noted that she drove this street and there are several existing right-of-way trees. She asked if they were looking to create a canopy over the roadway. Mr. Riott replied the exact location of the trees has not yet been determined. Mrs. Myers asked what type of trees would be planted. Mr. Riott responded they would select trees from the city's approved tree list. Mrs. Myers confirmed that the neighbors would be given the option of not having a tree planted on their property. Mr. Riott stated they would give residents the option of not having a tree noting that residents would be asked to water and maintain the tree planted on their property for two years.

Terrence Gallagher, who serves as Council liaison to the Tree Board, stated the City is losing many of its right-of-way trees and he feels this is a great project to proactively address this issue. Mr. Riott stated that originally the committee talked about doing trees throughout the city, but decided selecting a specific area each year would have a greater impact. He also felt that having this done in conjunction with the annual

fall seminar would promote the seminar and educate the public on the importance of, and how to maintain, existing trees on their property.

Terrence Gallagher moved the City Council approve the Prairie Village Tree Board's annual street tree planting events using approximately \$5,500 in city operating funds annually. The motion was seconded by Steve Noll and passed unanimously.

Suzanne Lownes introduced Bridget Tolle, the city's new Urban Forestry Specialist.

### **PUBLIC HEARING - 2018 Budget**

#### **Adoption of the 2018 Budget for the City of Prairie Village**

Finance Director Lisa Santa Maria reviewed the process followed in the preparation of the City's 2018 budget. The proposed budget of \$35,230,770 reflects the following goals: 1) maintain high quality services and programs, 2) maintain quality streets, parks and infrastructure, 3) continue strong financial condition, 4) maintain AAA bond rating, 5) increase financial transparency and 6) Increase citizen participation in budget issues.

The 2018 budget is balanced with the existing mill levy rate of 19.471 and maintains the same level of services. Significant changes from the 2017 budget are: 1) fuel lowered to \$2.5/gallon from \$3.25/gallon; 2) added full time IT staff member (converted from contract services); 3) implementation of compensation & benefits study; 4) increased police pension to \$620,000 from \$550,000 (12.7% increase); 5) health care covered increased 12.8% (10% plus change in family coverage) with overall personnel services increased 5.9% over 2017 budget. The General Fund budget expenditures, not including transfers, decreased 0.6% from the 2017 budget.

Mrs. Santa Maria noted that debt services is now included in the General Fund. The 2018 budget includes a transfer of \$5.2 million from the General Fund to the Capital Improvement Program (CIP). The total CIP budget for 2018 has increased significantly due to participation in multiple county-funded SMAC and CARS projects.

Ms. Santa Maria reviewed a chart reflecting the taxes paid by the average Prairie Village household in 2017 of \$614 on an assessed valuation of \$274,082 (11.5%).

A comparison of the city's mill levy with other Johnson County cities was also presented. The 2018 budget needs to be approved and submitted to the County Clerk by August 25<sup>th</sup>.

Lisa Santa Maria noted that the tax lid is now in effect and was considered in the preparation of the 2018 budget. Once submitted to the County Clerk the budget sets the budget authority for each fund. She added that the City is authorized by K.S.A. 79-2929a to amend the budget before December 31<sup>st</sup> to spend money not in the original budget; however, the additional expenditures have to be made from existing revenue and cannot require additional tax levies.

Mayor Wassmer opened the public hearing to comments from those present. With no one wishing to speak on the proposed budget, the public hearing was closed at 7:45 p.m.

Steve Noll moved the City Council adopt the 2018 budget as certified in the amount of \$35,230,770 with ad valorem tax in the amount of \$7,055,343. The motion was seconded by Sheila Myers.

Dan Runion stated that he felt action on the budget should be tabled until the next meeting due the large number of Council members not in attendance. He noted that the budget reflects an increase in expenditures in excess of 25%. He questioned the

rationale for the proposed 6% increase in compensation noting there is no causal link that increased compensation will impact employee turnover although he does support the increased compensation for employees. He questioned the need for the large increase in CIP funding and opposed the transfer of unused streetlight bond funds for the purchase of park land. He felt that these funds should be used for payment of debt on the streetlight purchase. He feels this \$400,000 transfer is unethical, if not illegal, as the bonds were designated for the street light purchase, not for park land purchase.

Mayor Wassmer respectfully disagreed noting that Prairie Village is 67 years old and the capital improvement program for the maintenance of city infrastructure has been underfunded for many of those years. The Council has seen the analysis of the condition of city infrastructure presented by public works showing continued decline in the condition of city streets and increased cost for reconstruction of streets vs. maintenance. It would cost \$6M per year to maintain streets at an acceptable level. Mayor Wassmer noted that during her almost 20 years on the Council, there have been many years where funds were taken out of the CIP to cover other expenditures. She believes it is more than appropriate that the city place the additional revenue it is now receiving into capital projects to repair and maintain city infrastructure.

Mayor Wassmer stated she believes the residents of Prairie Village would rather see parks or improved city infrastructure than to receive a token \$3 decrease in their taxes. She commended city staff on their management of city funds.

Mr. Runion replied that he has a different view on the value of keeping the city's mill levy rate constant. He believes the use of funds received from issued bonds for street light purchase for a park purchase is wrong and the rationale of addressing employee turnover by increased compensation is unsubstantiated.



Andrew Wang agreed with Mr. Runion that increased employee compensation has not been proven to successfully address employee turnover issues although he does support the increase in employee compensation. He feels further discussion is needed on the issue of employee retention. Mr. Wang also agreed with Mr. Runion that the use of street light bond funds for park land purchase was inappropriate.

Mayor Wassmer called the question on the vote to approve the 2018 budget for the City of Prairie Village as presented. The motion was voted on and passed by a vote of 6 to 1 with Mr. Runion voting in opposition.

### **CONSENT AGENDA**

Jori Nelson asked for clarification on the alcohol waiver that had been continued from the previous meeting. The City Clerk responded that an insurance certificate had been received from Texaz Restaurants of KC, LLC, who will be securing the alcohol permit for the event in addition to coverage by the city. She added that these are not required by code, but have been requested and provided.

Terrence Gallagher moved approval of the Consent Agenda for August 7, 2018 as presented:

1. Approval of the regular City Council meeting minutes - July 17, 2017
2. Approval of alcoholic beverage waiver for Harmon Park for the Prairie Village Jazz Festival

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

### **CONSIDER EMPLOYMENT AGREEMENT AND APPOINTMENT OF CITY ADMINISTRATOR**

Jori Nelson moved the City Council ratify the Mayor's appointment of Wes Jordan as City Administrator for the City of Prairie Village and approval of the Employment Agreement for the position of City Administrator. The motion was seconded by Steve Noll and passed unanimously. Mayor Wassmer administered the Oath of Office to Mr. Jordan.

Mr. Jordan noted that on August 22, he will celebrate his 29<sup>th</sup> year with the City and could not have imagined the paths that journey would take from being a police officer to becoming City Administrator. He is humbled and proud to accept this position. He recognized the support he has received from the Governing Body, city staff and his family, particularly his wife Patty who was in attendance and has allowed him to keep things in balance. There are many positive things about Prairie Village and he is anxious to do his part in capitalizing on its strengths and persevering through challenges as we face them. When faced with challenges, such as the past week, people step up to make things better. He understands the high expectations of Prairie Village residents and considers it a privilege to continue serving in this new role.

## **COMMITTEE REPORTS**

### **Council Committee of the Whole**

#### COU2017-32 Approve Contract with Vance Brothers for the 2017 Crack Seal/Micro Surfacing Program

On July 28, 2017, the City Clerk opened bids for Project P5000/P5038: 2017 Crack Seal/Micro Surfacing Program. Vance Brothers, Inc. submitted the only bid in the amount of \$292,396.00. This contract consists of two separate maintenance programs at various locations throughout the City. The Micro Surfacing program is a maintenance tool used to assist in preserving the existing asphalt pavement, thus extending the pavements life cycle.

The Crack Seal program seals existing cracks in the asphalt pavement. Sealing cracks and joints helps to prevent water from entering the base of the pavement and extends the life of the street.

Suzanne Lownes stated there is \$312,000.00 budgeted for these projects and the contract will be awarded for that amount. Locations of work will be increased to utilize the \$312,000 budget.

City staff has reviewed the bids for accuracy and found no errors. Since only one bid was received, staff also compared the bid with past bids to ensure fair pricing. The unit bid prices for crack seal and micro surfacing were comparable to previous bids going back to 2013 and below the engineer's estimate of \$310,740. Funding is available in the 2017 Capital Infrastructure Program Projects P5000 and P5038.

Jori Nelson moved the City Council authorize the Mayor to sign the construction contract with Vance Brothers, Inc. for Project P5000/P5038: 2017 Crack Seal/Micro Surfacing Program in the amount of \$312,000. The motion was seconded by Sheila Myers and passed unanimously.

#### COU2017-33 Approve purchase of DATTO Cloud Storage Device

Captain Myron Ward stated that in July the city complex was hit with a severe storm resulting in a massive power outage. As a result, a Police Department server was damaged beyond repair. Staff was unable to use other servers to manage the data and it took over a week for IT staff to return systems to some working order. This incident presented the need for consideration of a new system that would allow the management of all servers and an off-site Cloud Security back-up system.

It was discovered during this incident that the current backup system does not provide for off-site storage and is, in fact, located in the same room. There is no technology on hand that will allow the use of available servers to share storage space or move data between servers. The proposed DATTO system will allow our IT staff to quickly recover and repair systems, share storage space, and allow for off-site storage.

Staff researched pricing with three companies. Bids were received from i.t. NOW Inc. and BNB Technology. Steve Scott, the city's Senior IT Specialist, has worked with i.t. NOW, Inc. who submitted the low bid of \$27,000 and recommends their work. The proposed system will provide the ability to rebuild its IT systems within fifteen to thirty minutes. As funds have not been budgeted for this, funding for this purchase would come from the city's Equipment Reserve Fund.

Terrence Gallagher asked if this was a separation from Johnson County IT services. Captain Ward replied the city is still under contract with Johnson County. This action will provide for off-site storage of back-up which is currently not occurring.

Courtney McFadden confirmed this agreement would be valid through the 2018 budget year.

Dan Runion noted that the contract has Utah law provisions as opposed to Kansas. Katie Logan responded that she did ask for that to be changed, but that request could be made. Mr. Runion asked how the contract worked with respect to the city's insurance coverage in regard to data breeches. Lisa Santa Maria responded that the city does have cyber coverage but she was not sure now that worked with cloud services. He suggested that this possibly be submitted to the city's insurance provider for review and make a recommendation on coverage. Steve Noll stated the city's cyber coverage

focused on external threats, not failure of our system. Captain Ward noted that i.t. NOW was chosen because of their retention history.

Andrew Wang moved the City Council authorize the use of Equipment Reserve Funds to purchase a DATTO Cloud Security appliance from i.t. NOW, Inc. with funds not to exceed \$27,000. The motion was seconded by Jori Nelson and passed by a vote of 6 to 1 with Dan Runion voting in opposition.

### **Review of Council Priority List**

With a significant number of Council members not in attendance, it was decided to continue this item to the August 21<sup>st</sup> agenda. Sheila Myers and Courtney McFadden, who would not be in attendance at that meeting , were asked to send their comments to Mr. Jordan prior to the meeting.

### **MAYOR'S REPORT**

Mayor Laura Wassmer reported on the successful Prairie Village Foundation supported “Back to School with Firefighters” event held last week and recognized Foundation President Ann Lilak for her work on this event which she anticipates will become an annual event. Mayor Wassmer thanked all city staff, the police department and public works staff on their extra efforts in addressing the 1-2-3 punch storms of the past weeks. Everyone has gone above and beyond to help residents, including KCP&L who maintained regular contact with the city. This has been a challenging time and the city has acted proactively and responsively to its residents. She thanked Wes Jordan and staff for coordinating the curbside pickup for this storm.

Jori Nelson noted that she was in City Hall the Monday after the weekend storm and commended the City Clerk’s staff on their professional cool and calm response to

the hundreds of residents calling in. Although the city did a great job of communicating with residents and relaying information electronically; she noted there are a number of residents who do not use electronic and social media. Also this was not accessible if you were without power. She suggested exploring the concept of creating a block captain format that could be implemented to communicate with these residents.

Mayor Wassmer acknowledged that communication was a challenge and thanked Ms. Nelson for her suggestion.

Steve Noll thanked the city staff for the curb side pick-up rather than creating a drop site in Porter Park which has been done in the past, damaging the park. He noted the signs in the park were great. Several council members stated they had received positive comments on the curbside pickup provided by the City.

Courtney McFadden urged the city get information out to residents on how to care for their trees through Village Voice or other sources. Terrence Gallagher noted that the fall Tree Board seminar this year will focus on that topic.

Mayor Wassmer announced that Kansas City Christian School will be doing an expansion and will hold a public meeting with residents on Tuesday, August 7<sup>th</sup> at 7 p.m. at the school. They have met with staff and council members of Ward 4 to review the proposed plans which will be presented to the Planning Commission in September.

## **STAFF REPORTS**

### **Public Safety**

- Chief Tim Schwartzkopf announced that “Tip a Cop” will be held at Johnny’s on Thursday, August 9<sup>10th</sup> from 4:30 to 9 p.m. with funds going toward Special Olympics.

### **Public Works**

- Suzanne Lownes provided an update on the storm debris pickup noting the main residential streets have been completed and crews will now go back over routes to

pick up missed or remaining items. They anticipating completing the pickup by the end of the week.

- Paving has been completed on the Mission Road section in front of City Hall, crews are working on the concrete on the west side and on the intersection and pavement markings will be done tomorrow. The contractor will then move to residential streets while Water One completes their work on Mission Road which is estimated to take four to five weeks.
- The trail from Franklin Park to Meadowbrook is complete.

#### **Administration**

- Alley Williams replied that the sculptor has agreed to pay in full for the sculpture proposed for The Village Shops.
- Lisa Santa Maria distributed the Second Quarter Financial Report with revenues at 60.5% and expenditures at 50.2%
- Mrs. Santa Maria announced that the city had received its first distribution from the jail sales tax that went into effect April 1<sup>st</sup> in the amount of \$76,210.80.
- Wes Jordan stated that in discussions with Public Works Director Keith Bredehoeft they are proposing to engage Don Baker who has done previous work on Brush Creek to do an analysis of the 68<sup>th</sup> Terrace area. He noted that any work on Brush Creek 71<sup>st</sup> Street to the north would have to be done in conjunction with the City of Mission Hills which abuts the creek in that area.

Steve Noll noted in past combined stormwater projects with Mission Hills they have had clear defined thoughts on aesthetics of channel projects. Mayor Wassmer stated she would contact Mission Hills regarding this as soon as possible. She noted that Overland Park has done work upstream and that any actions need to take a look at the big picture and impacts both upstream and downstream.

Jori Nelson noted that she could tell the difference in Ward II where previous work had been done. She noted the gates were closed at the low water crossing. By 3:30 the water was coming over the curbs; however, it was more controlled where the city had done work.

Mayor Wassmer stated she would like to see streets blocked if this situation occurs again. Chief Schwartzkopf noted the challenge is that the water flow increases so quickly. He only has three officers on the street and one in Mission Hills. It is difficult for the officers to close gates and block streets while being dispatched for regular duties.

Mayor Wassmer stated if 5" of rain is forecast the city should be blocking off streets as a preventive measure. Chief replied they could discuss it but noted problems created if the forecast is wrong and the time spent putting out and picking up barricades. He stated that they will continue to work with public works, possibly dropping off barricades in identified areas as a precaution. Jori Nelson suggested putting gates at low water crossings

- Wes Jordan reported that City has received its permit for amusement devices for the water slide.
- City Prosecutor Deb Vermillion has accepted a full-time position with the City of Shawnee. That is an appointed position that will need to be filled.
- Kansas City Christian School's expansion will come before the Planning Commission on September 12<sup>th</sup>. The changes are minimal and improve the aesthetics of the building.

Terrance Gallagher expressed frustration in that Ward 6 was shut down for a long time during the last storm. He noted that he was without power for five days. When residents contact KPC&L they are told they are at the end of the line. They are told dry ice is available and when they go to the location there is no dry ice available. He feels the city needs to be cognizant of where it has outages and where upgrades need to be done and get those done. He also expressed concern that homes with medical/health risks are not addressed as priorities.

Mayor Wassmer responded that they have spoken with KCP&L regarding this and KCP&L recognizes that their systems are in dire need of upgrading. They have been assessing where the weak links of their system are in Prairie Village. Those results have been analyzed and KCP&L plans to begin designing an updated power infrastructure system with construction tentatively to begin the end of this year with the installation of the entire new system completed mid-summer of 2018. Those areas that have been identified as weak links will be addressed first. She asked Mr. Gallagher to send her a



list of areas and she would forward them to KCP&L. Jori Nelson stated that there are areas in Ward 1 that are frequently experience power losses. Mayor Wassmer asked Ms Nelson to also send her those areas and she would forward the information.

**OLD BUSINESS**

Terrence Gallagher reported that he held a joint meeting of the Park & Recreation Committee and the Tree Board to review the Strategic Direction for the Development of Village Square on August 2<sup>nd</sup>. It was a very positive meeting the both boards endorsing the plan that will be presented to the Governing Body in September.

**NEW BUSINESS**

There was no New Business to come before the City Council.

**ANNOUNCEMENTS**

Prairie Village Arts Council	08/09/2017	5:30 p.m.
Environment/Recycle committee on Education	08/10/2017	5:30 p.m.
JazzFest Committee	08/15/2017	5:30 p.m.
Environment/Recycle Community Forum Com.	08/17/2017	5:30 p.m.
Council Committee of the Whole	08/21/2017	6:00 p.m.
City Council	08/21/2017	7:30 p.m.

=====  
The Prairie Village Arts Council is pleased to feature the work of Greg Schieszer and Annette Hadley in the R.G. Endres Gallery during the month of August The artist reception will be held on Friday, August 11th.

2017 Recreation Memberships are now on sale at half price.

The pool will begin reduced hours beginning Monday, August 7<sup>th</sup> opening at 4:30 p.m. on weekdays.

Mark your Calendar for the Kansas League of Municipalities Conference in Wichita on September 16-18, 2017. RSVP to Meghan Boom.

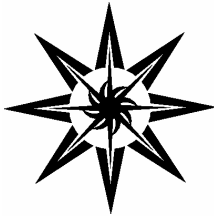
Mark your Calendars for the Shawnee Mission Education Foundation 25th Annual Fall Breakfast on October 10. RSVP to Meghan Boom.

Save the Date for the Annual National League of Cities Conference in Charlotte, November 15-18, 2017. RSVP to Meghan Boom.

**ADJOURNMENT**

With no further business to come before the City Council the meeting was adjourned at 9:15 p.m.

Joyce Hagen Mundy  
City Clerk



## POLICE DEPARTMENT

Council Meeting Date: August 21, 2017

**CONSENT AGENDA:** Consider the School Resource Officer Agreement with the Shawnee Mission School District

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### RECOMMENDATION

Staff recommends approval of the contract with the Shawnee Mission School District for the 2017-2018 school year.

**COUNCIL ACTION REQUESTED ON:** August 21, 2017

### BACKGROUND

Since the inception of the School Resource Officer Program, the City and the District have entered into a contract regarding the relationship of the parties, costs, and responsibilities.

The included contract is the standard contract between the District and municipalities that provide these services. The portions of the agreement that pertain to officer responsibilities, school responsibilities, agency responsibilities, length of contract have not changed. The reimbursement from the District did increase from \$23.12/hr (\$185/day) to \$26.83/hr.

The City Attorney has previously reviewed and approved this document.

### ATTACHMENT

**2017-18 School Resource Officer Agreement with Shawnee Mission Unified School District No. 512**

### PREPARED BY

Tim M. Schwartzkopf  
Chief of Police  
August 9, 2017

## AGREEMENT

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **City of Prairie Village, Kansas**, a municipal corporation, hereinafter referred to as "**City**", and the **Shawnee Mission Unified School District No. 512**, located at 8200 W. 71<sup>st</sup> Street, a political subdivision of the State of Kansas, hereinafter referred to as "**District**".

### WITNESSETH

For and in consideration of the mutual promises, terms, covenants, and conditions set forth herein, the parties agree as follows:

1. Purpose of Agreement. The purpose of this Agreement is for the City to assign uniformed law enforcement officers, vehicles, radios and all necessary equipment for the School Resource Officer Program, hereinafter referred to as "SRO". The SRO will work with school personnel in providing alcohol and other drug education, maintaining a safe campus environment, serving as law enforcement problem-solving resource person, and providing the appropriate response during on-campus or school related criminal activity.
2. Term. The term of this agreement shall be from the first day of school in August 2017 thru the last day of school in May 2018, provided the term may be mutually extended by the parties as they deem necessary to satisfy attendance requirements that may have been affected by weather or other factors. During days that schools are not in session, the SRO shall perform regular police duties at a duty station as determined by the Chief of Police.
3. Termination. This Agreement may be terminated without cause by either party upon 30 days prior written notice.
4. Relationship of Parties. The City and the assigned SRO shall have the status of an independent contractor for purposes of this Agreement. The SRO assigned to the District shall be considered to be an employee of the City and shall be subject to its control and supervision. The assigned SRO will be subject to current procedures in effect for the City police officers, including attendance at all mandated training and testing to maintain state law enforcement officer certification. The District agrees to cooperate with the City in any administrative investigation regarding violations of such procedures by officer assigned to the District as an SRO. This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between the parties, and the rights and obligations of the parties shall be only those expressly set forth in this Agreement. The parties agree that no person supplied by the District to accomplish the goals of this Agreement is a City employee and that no rights under City civil service, retirement, or personnel rules accrue to such person.

5. Consideration. In consideration of the assignment of police officers to work with the District as provided herein, the District agrees to pay the City for each hour each SRO works for the District at the rate of \$26.83 per hour. The District will not be responsible for payment of overtime, unless it is requested by the District. The SRO's weekly District schedule will be mutually agreed upon in consultation with the Executive Director of Emergency Services or his/her designee. The SRO may be asked to attend afternoon or evening events in lieu of regular day duty. Each party will maintain a budget for expenditures under this Agreement. Payment from the District to the City will be made monthly.
6. SRO Responsibilities. The SRO assigned to the District shall:
  - 6.1 Provide a program of law and education-related issues to the school community, including parents, on such topics as: tobacco, alcohol, and other drug issues, addressing violence diffusion, violence prevention, and other safety issues in the school community.
  - 6.2 Act as a communication liaison with law enforcement agencies; providing basic information concerning students on campuses served by the SRO.
  - 6.3 Provide informational in-services and be a general resource for the staff on issues related to alcohol, and other drugs, violence prevention, gangs, safety and security.
  - 6.4 Gather information regarding potential problems such as criminal activity, gang activity and student unrest, and attempt to identify particular individuals who may be a disruptive influence to the school and/or students.
  - 6.5 Take the appropriate steps consistent with a Kansas law enforcement officer's duties when a crime occurs.
  - 6.6 Present educational programs to students and school staff on topics agreed upon by both parties.
  - 6.7 Refer students and/or their families to the appropriate agencies for assistance when a need is determined.
  - 6.8 Attempt to advise the school principal prior to taking legal action, subject to the SRO's duties under the law (unless in the SRO's opinion circumstances prevent it),
  - 6.9 Shall not act as a school disciplinarian, nor make recommendations regarding school discipline. The SRO is not to be used for regularly

assigned lunchroom duties, as a regular hall monitor, bus duties or other monitoring duties. If there is an unusual/temporary problem in one of these areas, the SRO may assist District employees until the problem is solved.

Provided further that nothing required herein is intended to nor will it constitute a relationship or duty between the assigned SRO or the City beyond the general duties that exist for law enforcement officers within the state.

7. Time and Place of Performance. The City will make all reasonable efforts to have an SRO available for duty at his or her assigned school each day that school is in session during the regular school year. The City is not required to furnish a substitute SRO on days when the regular SRO is absent due to illness or law enforcement department requirements. The SRO shall be and remain a full-time uniformed law enforcement officer of and for the City, shall remain duly licensed and qualified to carry/use firearms and operate patrol cars, and shall otherwise be able to meet the physical demands of the services described herein. Notwithstanding anything herein to the contrary, in the event an officer should, for any reason, fail to remain so qualified, the City shall provide a substitute officer to perform the services until such time as the unqualified SRO is able to resume his or her regular duties. The SRO's activities will be restricted to their assigned school grounds except for:
  - 7.1 Follow up home visits when needed as a result of school related student problems.
  - 7.2 School related off-campus activities when SRO participation is requested by the principal and approved by the City.
  - 7.3 Responding to off-campus, but school related, criminal activity.
  - 7.4 Responding to emergency Law enforcement activities.
8. District Responsibilities. The District will provide the SRO an on-site office and such supplies and equipment as are necessary at his or her assigned school. This equipment shall include a telephone, filing space capable of being secured, and access to a computer.

**SHAWNEE MISSION UNIFIED SCHOOL DISTRICT NO. 512**

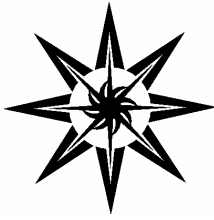
By:

\_\_\_\_\_  
President, Board of Education

**City of Prairie Village, Kansas**

By:

\_\_\_\_\_  
Mayor, City of Prairie Village, Kansas



## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: August 7, 2017

### CONSIDER APPROVAL OF ANNUAL TREE BOARD STREET TREE PLANTING EVENTS

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#### RECOMMENDATION

Staff recommends a motion to approve the Prairie Village Tree Board's Annual Street Tree Planting Events using approximately \$5,500 in City operating funds annually.

#### BACKGROUND

The Prairie Village Tree Board is planning a 2017 "Street Tree Planting Event" in October to coincide with their 2017 Fall Seminar and to continue to promote the value of trees in the community. The expectation is to make this an annual event. The plan is to plant 20 to 30 street trees annually on a street that would benefit from the addition of new street trees. The Tree Board will review options for the potential streets annually. For 2017 the plan is to utilize the professional services of the Heartland Tree Alliance (HTA), an experienced non-profit organization, and their volunteer resources to manage the event, including; resident notifications and information, utility locates, tree purchases and tree planting. The event is proposed to occur on 79th St between Belinder and Mission Road. They determined that the location could greatly benefit from additional street trees and would also be a good location to help promote the new Tree Board annual event.

#### FUNDING SOURCE

In 2017 and 2018 funding will be based on available tree operating funds to cover the estimated \$5,500 cost. The hope is to budget for this event in the 2019 tree planting budget.

#### PREPARED BY

Suzanne Lownes, Public Works Office Manager

August 1, 2017



## STAFF MEMO

**TO:** Mayor and City Council  
**FROM:** Chris Brewster, AICP, Gould Evans, Planning Consultant  
**DATE:** August 21, 2017, City Council Meeting

**RE:** Ordinance to Repeal Countryside East Overlay District and Design Guidelines.

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### SUGGESTED MOTION

Move the Governing Body adopt Ordinance 2366 amending Chapter 19.25 entitled "Overlay Zoning Districts" to the Prairie Village Kansas Zoning Ordinance, by amending Sections 19.25.050 entitled "NC Districts Established", 19.25.055 entitled "NC District Development/Design Standards Established, and deleting Section 19.25.060 "Incorporation by Reference of "Design Guidelines Countryside East Homes Association 1021 Edition."

### RECOMMEDATION

The Planning Commission, at its August 1, 2017 meeting, recommended that the Council repeal the Countryside East Overlay District and Design Guidelines, with a publication date for the ordinance after January 1, 2018. Staff concurs with this recommendation

### BACKGROUND

In 2013, the Prairie Village City Council approved the establishment of the Countryside East Neighborhood Overlay District and adopted the associated Design Guidelines to address remodeling or re-building for homes within the Countryside East HOA. This effort was in partnership between residents and City Staff. The area of the overlay district follows the Countryside East Homes Association boundaries, and is roughly 63<sup>rd</sup> Street (city limits) on the north, Roe Avenue on the east, 67<sup>th</sup> Street on the south, and Nall Avenue on the west.

The property is all zoned R-1A, and the Overlay and Design Guidelines alter the general R-1A standards in the following ways:

1. The side setback is 12.5% of the lot width on each side, (the City's recent R-1A amendments have a minimum side setback of 7' with a minimum of 20% between both sides.
2. Upper-story limits requiring 1.5 story homes (The City's recent R-1A amendments retained a 35' height limit, but clarified that this is measure from the top of foundation to the peak of a roof, as opposed to the mid-point of the roof)
3. It includes several design standards regarding the facade design, eave line relationships between adjacent homes, roof slopes, minimum square footage, and massing dealing with how the 1.5 story height will be interpreted.

4. Establishes and appeal process to involve the HOA, requiring two members of the HOA and one from the Planning Commission to review appeals, with some provisions that attempt to coordinate this with the Board of Adjustments role in appeals.

Since the adoption of the ordinance, City Staff has encountered some difficulties with the standards and guidelines. There have been five appeals for application of the standards (primarily for setbacks to allow for garage expansions) and all appeals have been approved by the HOA review board. Additionally, City Staff has had some difficulties in interpreting and applying some of the design guidelines due to potential conflicts or application to specific situations.

Overall, City Staff's concerns with the Countryside East Overlay and Design Guidelines are:

1. The appeals process does not work well. It is Section 19.25.045 of the zoning ordinance is not explicit on the makeup, role or process/criteria for the appeals board, and this process is not well integrated with Planning Commission site plan review and/or Board of Zoning Appeals review. (the official review and appeals boards of the City.)
2. Some of the design standards are difficult to interpret, making the likelihood that City Staff, an applicant, the overlay appeals board, or the Planning Commission or Board of Zoning appeals will need to reconcile interpretations.
3. All of the appeals to the date of the hearings were approved by the overlay appeals board, indicating that there may be a disjoint between the standards and what the neighborhood is comfortable accepting. All of these appeals have dealt with side setback issues.
4. City Staff does not want to encourage future overlay districts based on current staffing and case load, particularly to the extent that the overlay districts would strictly follow HOA district boundaries, rather than broader neighborhood patterns and development characteristics within the City.

In late 2016, after Planning Commission members had sat on the board for appeal applications as is required by the ordinance, the Commission asked City Staff to contact the HOA and explore their interest in dissolving the overlay. Staff was invited to attend the annual Countryside East HOA meeting to discuss the overlay district. On November 14<sup>th</sup>, 2016, Wes Jordan, Assistant City Administrator and Chris Brewster, Contract City Planner attended the meeting and presented issues relating to the overlay district, as well as the City's recent efforts with regard to residential zoning districts and neighborhood design. At that time, and following the meeting there were indications that the HOA and its Board were in favor of a repeal of the overlay, in part due to some of the same issues City Staff was having with implementation.

City Staff initiated notice and a public hearing to repeal the Countryside East Overlay and Design Guidelines. On March 7<sup>th</sup>, 2017 the Planning Commission held a public hearing to consider repeal of the overlay district. At this time, there was substantial discussion from many stakeholders in the area, and concern about repeal of the overlay district. The Planning Commission continued this hearing to the May 2, 2017 meeting to

allow further discussion among the stakeholders and with the direction that the HOA attempt to develop a consensus position on the overlay district and design guidelines.

City Staff attended and assisted with two HOA meetings hosted at City Hall - March 29, 2017 and March 30, 2017. At these meetings staff presented more material on the issues and implementation of the overlay district and design guidelines, as well as the recent amendments to the City's residential zoning categories. Stakeholders for the HOA presented background on the development of the HOA and discussed current positions with respect to regulations for the district. The HOA also held another meeting at City Hall on this issue on April 18, 2017 (staff did not attend this meeting).

During this time, different options for potential amendments to the overlay district were considered. These amendments were to address staff concerns with implementation of the overlay district as well as residents evolving positions on development in their neighborhood. It was determined that some of these options would require new notice to be sent out, due to the original hearing being advertised to "repeal" the overlay district.

At the May 2, 2017 continued public hearing, Planning Commission again discussed this issue. At this time the HOA summarized the steps that had occurred since the initial hearing, and indicated that a survey had been distributed among its residents. Additional options were under consideration by the HOA, such as implementing an HOA-lead architectural review board, strengthening their own private covenants, or otherwise taking on a greater role in the design review. The HOA indicated that it needed more time to try to develop further consensus on these items as well as consider what costs and obligations they would be taking on with a greater HOA role in design review. The Planning Commission approved another 90-day continuance to the August 1, 2017 meeting to allow further work by the HOA and residents.

Prior to the August 1, 2017 hearing the HOA submitted a position on streamlined options for the overlay district standards - specifically simplifying the current regulations in the following ways:

- Clarifying how 1.5 stories is measured, using one or both of the following methodologies:
  - Allowing a second story only up to 60% of the ground floor if the height is between 25 feet and 35 feet, and requiring it to be off-set 8 feet or more from the side building line; OR
  - Allowing a second story, provided the overall height remains under 25 feet.
  - Plus, removing some of the design guidelines that address different techniques for a building or facade to appear as 1.5 stories,
- Adjusting the side setback measurement to be similar to the appeals approved by the HOA appeals board, and that anticipates the types of home improvements they expect in the neighborhood. Specifically this would be a flat 10% side setback, but identifying an exception for single-car garages being expanded to as close to 7 feet from the side lot to accommodate a 2-car garage. This is similar to the City's recent city-wide side setback amendment (20% of lot width between both sides, but 7' minimum), other than it eliminates the sliding footprint with one exception.

- Removing some of the more subjective aesthetic or “character” guidelines and leaving simple mass or form standards.

The HOA indicated that it preferred that the City retain this streamlined approach in its regulations, but that it was exploring other options to incorporate these approaches into private covenants in the event that the City repeals the overlay district.

Following testimony, consideration of the hearing record, and discussion on the options, the Planning Commission recommended that the Governing Body repeal the overlay district. However to allow the HOA to fully incorporate the new direction and new position on development in the Countryside East neighborhood, they recommended that the ordinance repealing the district not be published until after January 1, 2018 to delay its effective date.

**Attachments:**

Planning Commission Minutes March, May and August  
Draft Ordinance

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal  
of Design Guidelines and Overlay of Countryside East Homes Association

**PLANNING COMMISSION MINUTES**  
**March 7, 2017**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, March 7, 2017 in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:00 p.m. with the following members present: Melissa Brown, Patrick Lenahan, Gregory Wolf, Jeffrey Valentino and Jonathan Birkel.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator; Serena Schermoly, Council liaison and Joyce Hagen Mundy, Commission Secretary.

**APPROVAL OF MINUTES**

Mr. Birkel noted his comments on page 7 of the minutes referenced 71<sup>st</sup> Terrace, not 71<sup>st</sup> Street as recorded. Gregory Wolf moved for the approval of the minutes of the February 7, 2017 regular Planning Commission meeting with the corrected noted by Mr. Birkel. The motion was seconded by Patrick Lenahan and passed by a majority with Mrs. Brown abstaining.

**PUBLIC HEARINGS**

**PC2017-01     Amendment to Prairie Village Zoning Regulations repealing  
                  Design Guidelines for Countryside East Homes Association  
                  PVMC 19.25.010**

Chairman Nancy Wallerstein announced that this is a public hearing on a proposed ordinance revision which will begin with a presentation by city staff of the proposed changes. This will be followed with questions from the Commission. Then the public hearing will be opened with individuals coming to the podium and providing their name and address for the record.

Wes Jordan, Assistant City Administrator, stated that in 2013 the Prairie Village City Council approved the establishment of the Countryside East Neighborhood Overlay District and adopted the associated Design Guidelines to address remodeling and/or rebuilding of homes within the Countryside East Homes Association. This effort was a partnership between residents and City Staff to focus on "big ticket" items affecting the character of the neighborhood such as overall height of structures, side yard setbacks, etc.

Since the enactment of the Overlay District in 2013, there have been challenges administering the Overlay which will be addressed at the Public Hearing. And, with the successful adoption of the new city-wide building height and side set back zoning

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

restrictions that went into effect in July 2016, City Staff and the Countryside East HOA Board recommend the Overlay be discontinued.

City Staff and the Planning Commission have engaged in ongoing discussions about the mechanics of the Overlay that led to the Planning Commission suggesting that City Staff reach out to the HOA Board to discuss the current challenges and recommendation of the Commission to have a unified acceptance of the new building standards. In discussion with the HOA President, Leslie Darrington, we believed that it was important to communicate with the residents and also explain the challenges of the Overlay District.

On November 14<sup>th</sup>, 2016, Wes Jordan (Assistant City Administrator) and Chris Brewster (contracted City Planner) attended the annual Countryside East HOA meeting and discussed the following challenges with the enforcement of the Overlay District. :

Mr. Jordan stated that since the presentation on November 14<sup>th</sup>, 2016, the HOA Board has formally voted to discontinue the Overlay. Mr. Jordan acknowledged the considerable work that went into the development of the Overlay by residents and City Staff. Those efforts were not in vain; rather, are a part of the foundation of the new building standard restrictions that were recently enacted city-wide by the City Council.

Chris Brewster with Gould Evans, contracted City Planning Consultant, stated a "Neighborhood Conservation Overlay District" is defined as a carved out area for distinct treatment. This was done in 2013 for the Countryside East Homes Association with specific guidelines that are only applied to this area. This is the only Neighborhood Conservation Overlay in Prairie Village.

Mr. Brewster reviewed the following challenges with the district as presented to the homes association in November:  
Overlay

1. Four appeals of City Staff findings to date - all overturned by the appeals board.
2. Struggles with the structure of the appeals board and being placed in a quasi-judicial role with neighbors.
3. Appeals have no outline for process or decision criteria.
4. Two sets of zoning standards are confusing to residents and more difficult to administrator.
5. Concerns over vagueness and legal enforcement of some guidelines.
6. Inconsistency.....
  - a. Between the Overlay and Private Covenants
  - b. Between Overlay and Design Guidelines
  - c. Between Overlay and City-wide Zoning (some duplication/some conflicts)
  - d. Some Overlay Design Guidelines illustrations/comments are confusing.

The Countryside East Neighborhood Conservation Overlay District establishes the following additional standards and guidelines:

1. Upper story limits of 1 ½ story

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

2. Eave line relationships of the existing home to the adjacent property
3. Façade design - windows, dormers/roof slopes, garage off-sets, porch/stoop encroachment
4. Accessory unit prohibition; outbuilding limits
5. Side setbacks of 12.5% of lot width on each side
6. Minimum square footage

Mr. Brewster reviewed the following zoning changes that were adopted by the City in June, 2016:

1. Change in height interpretation reducing height limit
  - a. Change from measurement at mid-point to measurement at highest point
  - b. R-1a maximum height is 35 feet
  - c. R-1b maximum height is 29 feet
2. Change in side setbacks
  - a. 4' minimum to 6' minimum in R-1b
  - b. 5' minimum to 7' minimum in R-1a
  - c. At least 20% of lot width (can be allocated between both sides)
3. Addresses first-floor elevation problems with top of foundation allowances
4. Retained maximum lot coverage restriction of 30%

Mr. Brewster reviewed graphic representations of the impact of the adopted revisions to code.

Gregory Wolf asked if the overlay was repealed would restrictions be addressed through the covenants. Mr. Brewster replied if they are stated in the covenants they would be enforceable that way. If they are not currently included in the covenants, they would be difficult to add at this point.

Mr. Brewster noted as an ordinance change the Planning Commission will be making a recommendation to the Governing Body who will take the final action. The options before the Planning Commission are to recommend to the Governing Body

- That the Overlay District be repealed
- That no action be taken
- That the Overlay District be modified. Mr. Brewster noted that this action would require the direction of the Council for staff to spend the additional time required to amend the overlay guidelines.

Wes Jordan added that when the Overlay District was enacted there was no indication of the city revising its zoning regulations to address the issues addressed by the Overlay District. He believes the enactment of the Overlay District served as a catalyst to the City Council to proceed with amendments to the zoning regulations to restrict the size of buildings. The formation of the Overlay District was an important first step in addressing residents' concerns with overbuilding. Mr. Jordan added that on March 20<sup>th</sup> staff will make a presentation to the City Council on potential additional revisions to the city's zoning regulations.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

Mr. Jordan noted that the building official has been working with an individual who is caught between the inconsistencies between the overlay district and city code that may be bringing legal action against the city.

Nancy Wallerstein asked Mr. Jordan to explain how the city came from the enactment of the overlay to its position today.

Mr. Jordan replied that the Planning Commission directed staff to reach out to the Homes Association Board regarding the challenges it was experiencing enforcing the overlay district guidelines and to present the new zoning guidelines that were adopted and how they address the concerns with building height and setbacks. Staff talked with members of the Board and discovered that the Board was also experiencing challenges with the overlay guidelines. Staff was invited by the Board to speak at the annual meeting of the homes association and did so in November. At that meeting the challenges were presented. No action was taken at the meeting. Its purpose was to educate the residents. Following the meeting, staff stayed in contact with the Board. In January, the Homes Association Board voted to support the repeal of the overlay district. Staff prepared the letter to announce the public hearing on the proposed repeal, which was reviewed by the Board. Per statute, this notification was sent to all residents of the Countryside East Homes Association and all property owners within 200' by certified mail. The Board sent out the same notification through their e-mail listing to ensure members that may not pick up their certified letter received notice of the hearing.

Gregory Wolf confirmed that no legal action has been filed at this point in time.

Leslie Darrington, 5120 West 66<sup>th</sup> Terrace, is the current Vice President of the Countryside East HOA Board and has also served previously as the President of the Board. Mrs. Darrington verified the accuracy of Mr. Jordan's statement of actions. She noted that there has been significant communication between the Board and city staff. She stated that Board has also experienced problems with the appeal process and that the Homes Association does not have the resources to uphold the Overlay Design Guidelines on its own.

Chairman Nancy Wallerstein opened the public hearing on PC2017-01.

Melissa Rawe, 4816 West 65<sup>th</sup> Terrace, stated that at the November 14<sup>th</sup> annual meeting of the Homes Association the members agreed that they did not have enough information to take action and felt that others not in attendance needed to receive the information as well. Then she received a letter from the Board stating that they had voted to support the repeal of the Overlay Guidelines. She asked what happened between that meeting and the Board's vote. Mr. Jordan stated city staff remained in contact with the Board and noted that this public hearing is the formal opportunity for the members to make comments, ask questions and voice concerns and/or support. There was no second public information meeting of the homes association held.

Dan Blom, 5408 West 64<sup>th</sup> Terrace, noted the annual meeting notice did not indicate any discussion of "repealing" the overlay district. As a member of the initial committee



Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

working on the Overlay Guidelines and former board member, Mr. Blom provided background on the formation of the Overlay Guidelines and District. He stated the concept originated with the City. At a meeting of area homes association presidents, concern was expressed with deed restrictions being challenged and not enforced. The particular challenge was in the Prairie Village Homes Association to their one and a half story regulations.

One year later, with the support and encouragement of city staff, Countryside East entered into a partnership with the city to become a beta test of Overlay Design Guidelines. The guidelines/district was discussed over a three year period at annual meetings and in neighborhood meetings. In 2010, the entire association was surveyed by mail regarding the initiation of the Overlay District with 92% of the residents in support. There were at least three different presentations made by then Assistant City Administrator Dennis Enslinger on the formation of the Overlay District. Both the Planning Commission and the City Council voted unanimously in support of the Overlay District. This document was not cast in stone and they were advised adjustments could be made and even that other neighborhoods may adopt similar guidelines using theirs as a template. For that reason the appeals process was designed to be universal in nature.

Mr. Blom asked for respect for the intense participation that went into the creation of the Overlay District. He noted it is possible in the past four years, individuals may have changed their opinion on the value and need for the Overlay District, however, it is critical that be confirmed before any action is taken to repeal the District. Before that decision is made he believes the following should occur. The residents need to also be informed of the consequences of the repeal, of the objectives of the Overlay District and of alternative plans to enforce the restrictions. What are the consequences of the city and staff backing away from a substantial commitment made to the homes association to implement and enforce these guidelines? What attempts have been made to modify the guidelines to address the challenges. Mr. Blom stated the ramifications of the repeal are consequential. He added that a public hearing is not good public engagement. A vote by the City to repeal the Overlay District would be an extreme disservice to its creation.

Mr. Blom stated he does not believe this recommendation has been completely thought through in terms of the neighborhood and the residents. Statements were made about the difficulty interpreting the drawings in the guidelines; however, the architect who drew the drawings has never been asked for clarification. This action is a complete reversal of the commitment made by the city in 2013 to the Countryside East Homes Association.

Nancy Wallerstein responded that in 2013 when the Planning Commission was asked to approve the Overlay District to restrict rebuilding size, the city's zoning regulations did not appropriately address this concern. Since that time, new zoning regulations have been adopted citywide that do address building height, mass and setback.

Mr. Blom noted the appeal process was created because Board members did not want to put in an adversarial position with its members.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

Melissa Brown questioned how the neighbors could not be aware of the new guidelines. Mr. Jordan replied he could not speak for the Board, but noted the city attempted to do its due diligence in attending the homes association meeting.

Jim Nass, 5101 West 64<sup>th</sup> Terrace, asked for clarification of his deed restrictions and if the City could issue a building permit that violated those deed restrictions. Chris Brewster replied that if the plans meet city codes a building permit can be issued. Deed restrictions are a private contract between the home owner and association that are not enforceable by the City. The city can only enforce its regulations. Jeffrey Valentino added that deed restrictions are enforceable, but by private entity, not the city. Mr. Brewster added that the City does not have copies of all the deed restrictions within the City.

Councilmember Jori Nelson wanted to address the Commission. Chairman Nancy Wallerstein advised Ms Nelson that as a member of the Governing Body which would be taking final action on this application, she should not speak at this time. By doing so, she would need to recuse herself from taking action when the item came before the Governing Body. Ms. Nelson advised those present that she was their representative and encouraged them to contact her.

Todd Wetherilt, 6344 Ash, stated he came prepared to discuss the consequences of the repeal. However, there appears to be a much bigger issue. He was part of the committee creating the overlay design guidelines and architect who drew the illustrations. He feels the larger issue is the partnership that was formed between the City and the homes association to develop design standards that would be enforceable, recognizing that the city cannot enforce deed restrictions and covenants and homes associations often do not have the resources to enforce them. With the city now saying that it is not willing to enforce the design guideline it now falls back on the homes association to enforce their deed restrictions and covenants. With the city unwilling to enforce them, the only enforceable regulations are the city's zoning regulations.

Wes Jordan responded that the City does want to work with the community. He stated that after this Overlay District was enacted, the Prairie Village Homes Association approached the city for assistance in creating an overlay. Staff believes that the city cannot become a city of multiple overlay districts. At this same time residents were expressing concern with the growing number of larger homes being rebuilt on existing lots starting the city on the path towards stronger zoning regulations regarding height, mass and setbacks. Discussed at the same time was the creation of design standards. There was significant pushback. Focus was placed on zoning regulation to create guidelines that could be enforced throughout the city. Mr. Jordan added that already in the city's code is a restriction that the footprint of a home cannot exceed 30% of the lot. This together with the new regulations has placed the city in a much better position to regulate new construction and remodel construction.

Nancy Wallerstein responded to the question regarding the enforcement of covenants and deed restriction stating that this is the responsibility of the Homes Association. She

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noted that some homes associations require all building plans to be reviewed and approved by them before they are submitted to the city for a building permit.

Mr. Nass expressed concern that if the city would not enforce covenants and deeds restrictions that homes associations did not have the resources to do so that nothing would be done.

Jeffrey Valentino noted the Overlay District applies to a specific area of the city. The City is trying to address these concerns throughout the city with revisions to zoning regulations that apply to all properties. There may be a gap between the Overlay District Guidelines and the new zoning regulations; however, he feels it has gotten smaller on major items.

Jim Nass questioned how a single guideline or regulation can be applied effectively to all homes within the City. He does not feel the same standards can be applied to vastly different neighborhoods. He would like to see the current Overlay Design Guidelines amended to preserve the integrity of his neighborhood.

David Davis, 4800 West 65<sup>th</sup> Street, lives in a 1200 square foot home with a single garage and was one of the appeals to the Overlay District Board to expand his home. He came to speak in support of the repeal; however, noted that maybe there were ways to make changes that would give property owners the ability to grow into their homes and still maintain the character of the neighborhood. He feels options must be available to residents. He noted there is variety within the association and feels this conversation is an opportunity to think about how to address the challenges being faced both by the city and by residents of Countryside East. People are concerned that they have not been heard and it makes sense to stop and talk more.

Michael Pate, 5006 West 63<sup>rd</sup> Terrace, stated deed restrictions and covenants can only be enforced by the homes association. The city's enforcement capability applies only to its zoning and building codes. The City can backup its requirements, as a legal document deed restrictions must be backed up by the courts.

Peter Gogol, 5019 West 65<sup>th</sup> Terrace, has spent 9 years on the homes association board and was president in 2013 when the Overlay District was enacted. The first two years the Board was pleased with how it was functioning and several building permits were issued. He thanked the current board for their service and city staff. He understands the challenges. The first notice he received on this was the certified letter from the city. There was no mention of a possible repeal of the Overlay District in the annual meeting notice. There was also nothing on the homes association website hosted by the City.

Mr. Gogol noted that although the new city guidelines may address some of the issues addressed by the Overlay District, it does not address them all. The Overlay District specifically addresses front porch dimensions, which are not addressed by code, as well as other issues. The results of the survey (92%) overwhelmingly endorsed the Overlay District. Opinions may have changed, but before action is taken, it needs to be

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presented to the Homes Association. At this point in time, he recommends that no action be taken or a recommendation to Council for modification of the document. He stated that from its creation, it was anticipated that at some point in time the guidelines would need to be modified.

Greg Wolf asked what the consequence would be of continuing this application. At this point in time, it is clear that some residents have not had the opportunity to discuss this amongst themselves and with the Board. Mr. Jordan replied "none". He added that one of the things that have yet to be revisited is Phase II of the recently adopted code revisions. The City Council decided to wait to see the impact on the Phase I on building before proceeding with any further restrictions. Mr. Jordan stressed the City cannot become a city of multiple overlay districts. He feels the challenges with the existing Overlay District will continue to be discussed. The responsibility for the discussion between the Board and its members rests with the Board. He noted that at the homes association meeting several in attendance indicated that they were not aware of the Overlay District Design Guidelines. Mr. Jordan confirmed with the Secretary that no new notice would be required if the public hearing were to be continued. He noted that the city sent out over 500 certified letters of notification for this hearing. Mr. Wolf stated that he is not comfortable with the Commission moving forward until the residents have had an opportunity to talk with their Homes Association Board and suggested that the application be continued. Mr. Valentino agreed with Mr. Wolf, however, he felt there needed to be specific information to be brought back to the Commission when the hearing was reconvened.

Mr. Wolf asked what type of notification was given by the Board. Leslie Darrington replied that e-mails and a post card were mailed to all residents prior to the annual meeting. Mrs. Darrington noted that she had two calls since the annual meeting regarding the Overlay District. She acknowledged that the post card stated there would be "discussion of the Overlay District, not Repeal", since the Board had not made any decision at that point. She agrees that many of the residents have no knowledge of the Overlay District Design Guidelines. She acknowledged there are inconsistencies and problems with the covenants vs. the design guidelines vs. city code. Mr. Wolf confirmed that the homes association could hold a special meeting.

Mrs. Darrington asked if the city has the resources to back the Overlay District and work to make modifications and if it was worth going down that path. She feels there needs to be more than conversation. There needs to be a solution. Mr. Wolf responded that his concern at this time is the process. The Commission will be in a better position to take up the merits of the application, after everyone has had due process regarding the application.

Nancy Wallerstein asked how many of the individuals present were at the annual meeting and had heard the presentation by city staff. Approximately half of those in attendance indicated they attended the annual meeting.

Leslie Darrington asked if it would be possible for the City to notify the Homes Association if a building permit request came in for a large home.

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Jonathan Birkel noted that some of the Phase II design guidelines take the same ideas that are expressed in the Countryside East Design Guidelines and asked if it would be helpful to discuss those. Mr. Jordan replied that staff would need the City Council to weigh in. He would have a better idea of Council's position after March 20<sup>th</sup>. Mr. Birkel felt that Phase II covered 90-95% of the items in the Overlay District and he feels these residents would be supportive of those actions. Mr. Jordan stressed that the direction for Phase II must come from the City Council and there is no push for immediate action. He would anticipate this process would take several months to complete and would be an even longer process than Phase I.

Gregory Wolf stated that he voted in support of the Overlay District in 2013 because there was an obvious consensus between the homes association board and the residents. He does not see that consensus existing at this time and moved the Planning Commission continue PC2017-01 to its May 2<sup>nd</sup> meeting to allow for continued discussion between the Board and the residents with the goal being consensus on the action to be taken. The motion was seconded by Jeffrey Valentino.

Nancy Wallerstein noted that this would provide sufficient time for additional meetings. Also, the city staff will have more direction from the City Council after their March 20<sup>th</sup> meeting on how to proceed with Phase II. However, she agreed with Mr. Jordan that the development and approval of Phase II will take significant time.

Wes Jordan asked what the Commission's expectations were for the continuation.

Jeffrey Valentino stated he saw the continuance as an opportunity for the homes association board and the residents to engage in dialogue regarding the proposed repeal, to define the differences between what is addressed by their overlay design guidelines and the newly adopted city code and to determine what restrictions from the established overlay design guidelines they feel must remain in place. They need to come to a better understanding of what the Overlay District provides and what the city regulations provide. This communication needs to be driven by the homes association board.

Melissa Brown encouraged the residents to evaluate the recently adopted city regulations and to look at what they have in the overlay district guidelines. She does not feel that there are a lot of issues uncovered when you look at the overlay district guidelines and the city regulations side by side. The City is seeking to retain and allow beautiful homes with the potential for growth to meet the needs of its owners.

Patrick Lenahan echoed Mr. Birkel's thoughts that a consensus could be influenced by what direction changes to the zoning code takes. He would suggest that the approach should be for the Commission to take no action at this time. Continuing for 60 days may not result in a solution. Mrs. Brown agreed, but feels the first step is to get the residents engaged. Mr. Wolf replied that the Commission may after 60 days decide to take no action, but he wants to ensure that the residents have the opportunity to fully engage prior to the Commission taking any action.

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Jonathan Birkel asked if the draft documents regarding potential design standards could be given to the homes association. Mr. Jordan replied that they are public documents; however, noted that when presented to the City Council, the Council's direction was not to approve them at that time because of the strong pushback. He felt he would have a better idea of the direction of the Council after the meeting on March 20<sup>th</sup>.

Chairman Nancy Wallerstein stated she would take comments from the gentleman who was at the podium and the woman who at the beginning of the meeting wanted to address the Commission.

Chris Lipp, 4805 West 66<sup>th</sup> Street and current President of the Homes Association stated that he gets calls from residents frequently. He has received one call regarding the proposed repeal of the Overlay District and has received several from residents questioning the restrictions in place by the Overlay District from members who want to make changes to their homes. He requested direction from the Commission on its expectations of the Homes Association Board when it returned in May. He noted that as a Board they are concerned with potential litigation and are sometimes unable to give complete feedback because of potential litigation. While he has only been president for two months, he has served on the Board for 3 years and stated that the Overlay District has been a constant challenge for them.

Jeffrey Valentino summarized his expectations for the Board as follows:

- To Engage residents
- To define the differences between what is provided by the Overlay District and what is provided by the City code
- Determination of what restrictions, not provided by city code, must be retained.

Gregory Wolf stated what he wants during this time is for education to take place and for residents to be heard. He does not feel this has occurred and is not comfortable taking any action until it does.

Jeannine Mattoon, 4801 West 65<sup>th</sup> Terrace, thanked Mr. Wolf for his comments. She stated that when she arrived at the meeting, she felt she had been duped and had not been given enough information. Residents did not understand the implications of the letter and the proposed action. People do not understand what the Overlay District is. She wants time to learn more and to react to the information acquired. She asked how residents will be notified of the new meeting date. Chairman Nancy Wallerstein stated no new notices will be sent by the City. The meeting will be Tuesday, May 2<sup>nd</sup> at 7 p.m. It will be reflected on the city's website and she would anticipate that the homes association would ensure that its members get word of the continued meeting. It is their responsibility to communicate with their members.

The motion to continue the public hearing for PC2017-01 to the May 2<sup>nd</sup> meeting of the Planning Commission was voted on and passed by a vote of 6 to 0.

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of Design Guidelines and Overlay of Countryside East Homes Association

**PLANNING COMMISSION MINUTES**  
**May 2, 2017**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, May 2, 2017 in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:15 p.m. with the following members present: Melissa Brown, Patrick Lenahan, James Breneman, Gregory Wolf, Jeffrey Valentino and Jonathan Birkel.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator and Joyce Hagen Mundy, Commission Secretary.

**APPROVAL OF MINUTES**

James Breneman moved for the approval of the minutes of the April 4, 2017 regular Planning Commission meeting as submitted. The motion was seconded by Patrick Lenahan and passed by unanimously.

**PUBLIC HEARINGS**

**PC2017-01     Amendment to Prairie Village Zoning Regulations repealing  
                  Design Guidelines for Countryside East Homes Association  
                  PVMC 19.25.010**

Chairman Nancy Wallerstein announced that this is a continuation of the public hearing first held on Tuesday, March 7, 2017. Since that meeting the following actions have been taken:

- Public Meetings were held for members of the homes association on March 29<sup>th</sup> and 30<sup>th</sup> at City Hall with City Staff present (Mr. Brewster, Mr. Jordan & Mr. Dringman)
- Three staff options were sent to the Homes Association Board for further consideration and discussion:
  - Option 1 - Repeal the Overlay and the Homes Association could enforce its current covenants.
  - Option 2 - Repeal the Overlay and modify the overlay as an addendum to current covenants with staff assistance.
  - Option 3 - Modify the current Overlay to focus on key elements or restrictions with the appeal process going through the City process.
- Homes Association meeting was held on April 18<sup>th</sup> at City Hall.
- The Homes Association completed and distributed a survey to its residents.
- The Homes Association sent two additional options to the City staff for consideration:
  - Option 4 - Revise the Overlay with an ARB assisting in the review and approval process.

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- Option 5 - Similar to Option 3 with the Planning Commission granting an extension of time to modify the current Overlay, then the existing Overlay would be repealed at the end of the time extension if the Overlay revision was unsuccessful.

Wes Jordan stated it is obvious that residents are concerned about the possibility of "over building" occurring in their community. They also seem to understand the unintended challenges the Overlay has presented for Staff. The difficulty is the elusive solution that can be reached that would be an acceptable outcome. And, in the midst of this deliberation a 5<sup>th</sup> appeal of the Overlay is pending pertaining to the side set back and a garage expansion.

Staff is certainly open to finding a compromise, and in that vein, believes there is merit to exploring the possibility of crafting a modified version of the Overlay into a simplified document of building standards that focuses on acceptable height, setbacks, and possible front porch extensions. Mr. Jordan noted that this type of process seems to have worked well in two other Homes Associations in Prairie Village and would require a more active role of the homes association and likely some legal costs.

Staff would support a 90-day extension of the Public Hearing to allow time to determine if the HOA Board and/or residents would be open to exploring the possibility of building standards as an addendum to existing Countryside East Covenants or even another similar mechanism. The addendum could also specify a process of review by an independent entity (much like an architectural review board) to minimize the burden of review by the HOA Board. In process, once that review was completed, city staff would then be responsible for compliance with City Zoning prior to permitting.

Gregory Wolf asked how many households were in the homes association. Mr. Jordan replied approximately 300. Mr. Wolf noted that 118 households responded to the survey. Chairman Nancy Wallerstein asked for a show of hands from those in attendance to reflect the number of households present. Twenty-one households were represented or less than 10% of its membership.

Leslie Darrington noted the Board met on April 18<sup>th</sup> and went over the three options provided by city staff and brainstormed possible actions resulting in options 4 and 5. At this time there is not a clear consensus. From the responses to their survey they were able to identify the "must haves" of the residents which included height and setbacks as they define the integrity of the neighborhood. She noted that no one on the current board is familiar with building codes; therefore, at this time the board would like to request a 90 day extension before the Commission takes any action on the proposed repeal.

Mrs. Wallerstein agreed that height and the space between homes does impact the integrity of the established neighborhood. Jonathan Birkel confirmed that the building height is restricted to one and a half stories. Mr. Birkel asked how many of the appeals to the setback restrictions had been denied. Mr. Jordan responded that none were denied.



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Gregory Wolf asked if there was any objection to the 90 day continuance. Jeffrey Valentino noted the 90 days would provide them time to put something in place if the Overlay was repealed.

Wes Jordan stated that as long as the Commission follows the action being considered; i.e., the repeal of the overlay, the public hearing can be continued. If the Commission changes direction to consideration of a modification of the Overlay, the public hearing cannot be continued. This would require new notification as the action being considered is different from what was published and the notice that was previously sent. This would require the re-notification of all homes association members and the surrounding property owners. Mr. Jordan noted the initial mailing for this hearing cost approximately \$3,000. The primary purpose of option #2 is to repeal the overlay and continuing the application would provide the homes association with time to put another process in place to address their concerns if they felt that was necessary. Mr. Breneman confirmed a continuance could only be done if the Commission were considering action on Options 1 or 2 without republishing and renotification.

Nancy Wallerstein asked what option the homes association board preferred. Mrs. Darrington replied that the board meets next week and has not made that determination. Mr. Wolf asked if the application was continued for 90 days if the Board would come back with a plan of action and what the Board hoped to accomplish in 90 days.

Ms. Darrington replied with the following items that she feels needs to be done:

- Get quotes from 3 attorneys
- Select an attorney
- Have them review all of the covenants
- Make decision on how to proceed
- Create an addendum focusing on the "must haves" i.e., setbacks and as the board moves further along add other items

Patrick Lenahan asked whether the goal of their actions would be to establish and develop an amendment to the covenants of the homes association that would allow for the Overlay to be repealed with the homes association being able to retain its restrictions under the structure of its covenants.

Gregory Wolf asked if the Commission had to take action or if it could give them 90 more days. Mr. Lenahan stated that he felt a continuance of 90 days would give the homes association time to determine the appropriate mechanism and develop a process to implement it. He suspects that once that is done, the homes association would be supportive of the recommended repeal. He would be supportive of a continuance.

Wes Jordan stated that the homes association board is looking for direction from the Commission. Ms. Darrington stated that homes association would be willing to pursue Options 3 or 4 if that was the direction of the Commission.

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Nancy Wallerstein asked if the city has received a lot of building requests that are being held up. Mr. Jordan stated they have not, but part of that problem is that when builders call to question what they can and cannot do staff doesn't know what to say. Yes, the Overlay restricts the setback, but all four appeals to the setback have been granted.

Mr. Jordan noted that the City of Leawood is doing something similar. They have a 30-day holding period during which homes associations reviews plans and once approved the plans are submitted to the city for a building permit based on city code. The Town & Country and Corinth Downs homes association operate in a similar manner in that they require plans to be reviewed by the homes association prior to submitting for a building permit.

Nancy Wallerstein asked if the Board has discussed this option. Ms Darrington the Board is exploring options and determining what the residents really want the Overlay to address. Their task thus far in the process has been to notify and educate. She noted that in the process they have discovered other underlying issues. She does not have a personnel preference on what direction is taken.

Wes Jordan reminded the Commission that discussion cannot be had on modifying the Overlay District as it currently exists in city code without a complete new process with publication of a new notice of mailing and certified letters being resent. However, if the Overlay process was revised and place in the hands of the homes association is a modified format allowing the City to repeal it, no new application or notification would be required.

James Breneman suggested a combination of options 2 and 4 which would repeal the Overlay as a city code and connect it to the homes association covenant, but require any appeal to be heard by the City. Mr. Breneman stated that having an Overlay District in place that contradicts city regulations makes no sense to him. Mr. Wolf questioned if there was a legal mechanism to do this. Melissa Brown stated the city cannot enforce covenants.

Mr. Jordan noted the city was not completely severing ties with the homes association. Jeffrey Valentino confirmed that the city would not have to follow up on the covenants but only be enforcing its code and not independent covenants.

Chris Brewster stated that all homes association who register with the city receive notification whenever a building permit that creates a new living space or adds square footage is submitted. Under the proposed process, that information would first be submitted to the homes association. Once approved by the homes association, the applicant would submit verification of that approval and building documents for review. He stressed that the city cannot enforce independent homes association's deed restrictions or covenants.

Nancy Wallerstein noted that not all households in Prairie Village are part of a home's association. Town & Country applications are reviewed by the homes association board before being submitted for permitting to the City. The establishment of an architectural review board or similar entity would be the responsibility of the homes association. Mr.

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Jordan stated staff felt the options presented were a fair compromise. How the processes are going to work is still unknown.

Mr. Birkel noted that the city could provide assistance to the homes association in the drafting of criteria for the review process.

Patrick Lenahan noted the agenda item for Commission action deals only with the repeal of the existing Overlay District. If the Commission took that action this evening, the homes association would be left without anything in place to address the requirements of their Overlay. However, if the Commission granted a continuance, the existing Overlay District would remain in place while the homes association does their due diligence in developing a process to address their concerns themselves reducing the involvement of the city through more active involvement of the homes association understanding that the Commission is seeking to eventually repeal the Overlay.

Nancy Wallerstein clarified that action of the Commission would need to address the repeal of the Overlay District. The public hearing was reopened for public comment at 8 p.m.

Gregory Wolf stated that what he would like to hear from the public is if the homes association members were in support of having applications go before the association for review and approval based the restrictions set by the homes association before submitting an application for a building permit that would be reviewed solely on the city's zoning regulations.

Ms Darrington confirmed that the Board would have the ability to enforce or waive their requirements under the covenants and deed restrictions. Mr. Breneman added, however, they would not be able to grant a variance to any of the city's zoning requirements.

John Matthews, 4916 West 68<sup>th</sup> Street, stated he was unclear how elected officials can hand off the responsibility to the homes association to make these decisions, he felt this was the responsibility of the City noting that such decisions are above the scope and ability of the homes association board and city officials have the knowledge and expertise to make these decisions on an impartial basis.

Nancy Wallerstein responded that the Commission members are not elected, but appointed to make recommendations to the City Council who may or may not adopt the recommendations. She added that the Countryside East Overlay was used by the city as a prototype for the creation of new city zoning guidelines now in place throughout the city. She stated there are some differences between those city regulations, which are enforced by the Building Official, and those of the Overlay District. The Building Officials have to follow city regulations. The City cannot oversee or enforce covenants and deed restrictions. The Commission believes it would be in the best interest to repeal the Overlay and have the entire city under the new regulations which can be enforced. There has been misunderstanding of the repeal and the homes associations' role in continuing to enforce its restrictions. The Commission appreciates the concerns

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expressed and wants to help the Board put into place a mechanism that would replace those “must haves” of the overlay that would be enforced by the homes association prior to applications being submitted for a building permit.

Mr. Matthews noted that the homes association does not have the expertise and manpower to make decisions and arrive at consensus or to provide the services of an architectural review board. Such action would place more responsibility on the board. He noted that homes association board members are volunteers and do not want to take on that additional responsibility. Mrs. Wallerstein stated the City is trying to assist the homes association in determining what issues addressed by the Overlay are “must haves”, what have been addressed by the revised building codes and what process or mechanism is the best way for both to be enforced. It is the decision of the homes association how to proceed. She noted that most homes association boards are volunteers and they do not want the additional responsibility of reviewing plans for compliance with their covenants and deed restrictions.

Patrick Lenahan stated that the city does not have the authority to enforce private homes association covenants or deed restrictions. The reason the Overlay exists is that your homes association determined that there was a building problem that was not being addressed by covenants, so they sought city assistance with the placement of an Overlay District through the city’s code that could be enforced by city building staff. He noted that the granting of all appeals to the Overlay District has invalidated the restrictions and that the new city regulations address many of the issues addressed in the Overlay District, reducing the usefulness of this document. The city is not trying to force additional burdens on the association; but feels that the Overlay District has declined in its usefulness and feels that it should be repealed. Recognizing that some of the elements of the Overlay are still important to the homes association, it supports a process being implemented and overseen by the homes association to administer those elements.

Peter Gogol, 5019 West 65<sup>th</sup> Terrace, noted he previously served on the homes association board both prior to and after the implementation of the overlay district. He answered earlier questions raised by the Commission regarding the building height restriction of one and a half stories. This is found in the deed restrictions with the overlay providing criteria for defining what one and a half story is. The element of a five foot kneewall height on any floor above the first floor is a key element in the definition of one and a half stories in the Overlay District guidelines. He noted there are other elements in the definition that should be removed or revised. However, the results of the survey clearly indicated that residents want to retain the one and a half story restriction.

Addressing Mr. Wolf’s question of whether residents are comfortable with the HOA sign-off on building plans prior to submittal for a building permit. His personal opinion is based on his experiences being on the board. He has some reservations with requiring the HOA approval prior to submittal. He suggested a better scenario may be that if a set of plans are submitted with proof of the HOA approval they are reviewed by the City. If plans are submitted without HOA, they be held for 30 to 60 days or until approved. He

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is concerned with the liability if the HOA board is unable to meet within that timeframe, noting the difficulty in getting the board together.

Patrick Lenahan clarified that Mr. Gogol was suggesting that the city and the homes association could do concurrent reviews with the city not issuing the permit until reviewed by both entities. Mr. Gogol responded that the city could sign off on plans without the HOA approval if they had not been able to meet not holding up the building process.

Mr. Gogol stated that he supported the creation of the Overlay District but feels that it would work better with some radical simplification of requirements. He noted that they have approved four appeals to the setback requirements so obviously that can be removed. The appeals process is too subjective currently. Mr. Wolf requested a specific proposal, not just direction to simplify the overlay. Mr. Gogol stated the association is unable to do that at this point, but would be supportive of a resolution to continue the repeal action for a 90 day period to allow the homes association to develop a plan. Mr. Wolf replied that he does not feel the city should need to track or hold an application for "x" number of days.

Wes Jordan stated that the City of Leawood uses a 30 day clock for submittal of a home's association. He noted that people are anxious to start their building process.

Melissa Brown noted that once a building permit is issued the contractor has legal authority to begin. She feels the City approval has to be the final step. Mr. Breneman would not support city staff spending time reviewing plans that have not been approved by the HOA. Mrs. Brown noted that if the HOA required modifications, the city would need to then review a second set of plans. Jonathan Birkel noted the time and expense required for the submittal of final drawings.

Mrs. Brown asked if the homes association had considered a zoning change to R-1b using the mechanisms that the City has in place. Mrs. Wallerstein stated looking at the conditions of the Overlay and the city code there are not many differences. The limitation of height to one and a half stories is already in place in the deed restrictions. Mrs. Brown asked if the setback has been the main appeal. Mr. Jordan replied at this time all of the appeals have been to setback. He is not aware of any teardown rebuild applications, primarily expansions, room additions, roofing, etc. type of applications.

Todd Wetherilt, 6344 Ash, wanted to address the proposed repeal. He noted the city came to them for a partnership to create a document that the city could enforce. Whatever generated the legal notice has given this question a life of its own where now different options are being suggested. It seems to him to be an all or nothing process. The dialogue has been good, but they are faced with the repeal of the Overlay and everything going back to the HOA and the HOA does not have the processes or resources to fashion a replacement mechanism for the Overlay and there is motivation to do so.

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In the interim he does not want to see the Overlay repealed at this time as it would expose the neighborhood. He requests no action be taken until the HOA is ready to take it over. Mr. Wolf asked how much time was needed. Mr. Wetherilt noted that it took four years to draft the Overlay. He does not know if 90 days is sufficient time to create a new process. He does not understand why options #3, #4 and #5 would require renotification and a new process. Mrs. Wallerstein replied the action residents were notified of was the proposed repeal, not a modification of the Overlay. Therefore, under this application only action on the repeal can be taken. Mr. Wetherilt asked how the original notice came about.

Mrs. Wallerstein stated in November, 2016, City Administrator Wes Jordan and City Planning Consultant Chris Brewster attended the annual Countryside East HOA meeting and discussed the city's challenges with the enforcement of the Overlay District and recommend the HOA repeal the Overlay District in view of the new strengthened building guidelines adopted by the City. In January, 2017, the HOA Board informed the City that it had voted to support the repeal of the Overlay District. Based on that application, staff filed the necessary application to accomplish the repeal. This action is similar to the rezoning of a property and the code requires notification of all the property owners of the impacted property and properties within 200' of that property to be notified by a certified return receipt letter notifying them of the public hearing to be held on this request.

Gregory Wolf stated the HOA needs to determine what action, if any, they will take to keep the restrictions established in the Overlay in place after the formal repeal of the Overlay District. The Commission does not want to take action on that repeal until the HOA is ready, but not indefinitely.

Mr. Jordan reminded the Board that their action this evening needs to specifically address the repeal of the Overlay District, whether that is to repeal, not to repeal or to continue. Any action dealing with a modification would have to take place as a separate application. The HOA needs guidance from the Commission.

Patrick Lenahan noted he can see the following scenario: 1) the application is continued for 90 days; 2) during that time the HOA meets and decides what to do and begins to put that process in place; 3) after action is determined and taken by the HOA, the Commission/City Council votes on the repeal of the Overlay District.

Jonathan Birkel confirmed that if they want to retain parts of the Overlay a process and mechanism needs to be put in place by the HOA for them to enforce/administer those requirements.

Nancy Wallerstein clarified that if the City repeals the Overlay District, the HOA can take over administering the requirements under a process established by the HOA with the City only enforcing its building and zoning regulations.

Jeffrey Valentino stated he is hearing that there is a general consensus that a modification of the Overlay District is necessary. The City believes that this would be

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

better handled through a process administered through the homes association than the city as an Overlay District. He stated city staff has demonstrated how difficult it is for the city to administer this Overlay with contracting guidelines from city code and consistent approvals of appeals to the Overlay.

Todd Wetherilt stated that he believes the HOA has come to that understanding. His concern is that under options 1 or 2 is that they now have some groundwork to do figuring out how to create their own safety net to protect the integrity of their neighborhood. They had been under the assumption for the past four years that had been taken on by the city through a partnership and is now resolving with the repeal of the Overlay District.

Among the things yet to be determined by the HOA are the following: Are they going to assess their homeowners additional fees to create a legal defense fund? Are they going to formulate an architectural review board? Are they going to hire outside consultants? Are they going to get legal counsel involved? These are things they now need to pursue. They understand that the Overlay District is going to be repealed at some time and they need to make decisions and take actions.

Melissa Brown stated the Overlay District was a great pilot project and greatly assisted the city in the development of its revised building regulations. It is not the intent of the City to abandon the homes association. Jeffrey Valentino acknowledged the statement that the city was transferring the burden of administration to the HOA. He noted the easiest solution to this would be the buy-in and commitment of the HOA to the city's revised building regulations enforced throughout the entire city. This would place no additional burdens on the HOA, on its Board or on the City. The other options have been presented as alternatives to allow the HOA to keep some additional restrictions that appear to be desired by your residents to protect the integrity of your existing neighborhood, that are not required throughout the entire city.

Todd Wetherilt stated that they would like to see what develops from the Phase II study of potential city design guidelines acknowledging that these may or may not address the concerns of their neighborhood.

Connie Mattoon, 4801 West 65th Terrace, supports the existing Overlay and noted that the HOA does not have the legal resources to enforce its covenants. She does not feel that overlays are uncommon and that if someone wants to renovate or rebuild in Countryside East they know the specific guidelines that are in place without having to take plans to a review board for review. The Board is not burdened with additional work, additional fees are not required to be paid to a consultant for review, you are not placing neighbors in the position of having to approve or reject a neighbor's plan and plans can be submitted directly to the City. She does not feel 90 days is sufficient time for the HOA to put in place a new process and mechanism to address what would be lost with the repeal of the Overlay District. She feels that 180 days would be a more appropriate time frame, noting this action needs to be done during on a volunteer's free time.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

Dennis O'Roark, 5007 West 63<sup>rd</sup> Terrace, stated that he was a member of the Board for four years and currently sits on the appeals board. He is not supportive of the Overlay District and feels that it is too restrictive holding back development and improvements to property within Countryside East. He said it needs to be simplified to allow investment in the community. He added that vacant or unmaintained homes also impact the integrity of the neighborhood. He feels the common thread is to simplify and wants a time period implemented to phase out the Overlay District.

Mr. O'Roark questioned how not giving a permit for a plan that did not received approval from an HOA isn't enforcing covenants and deed restrictions. The main goal should be to see investment occur within the City. He does not want to see investment held up. He believes that there is sufficient experience and expertise within the HOA to form an architectural review board, but that it would be in the Board's best interest to contract with an independent party.

Jonathan Birkel noted that the criteria are clearly stated in the design guidelines and feels that a review checklist could be created from these without much difficulty or a major time commitment. He supported the 90 day continuance.

Melissa Brown asked if the ordinance repealing the Overlay District could have a specific date or would it become effective immediately upon adoption. The Commission Secretary replied that the ordinance could be drafted with an effective date as was done when the city repealed its recreational vehicle regulations.

Gregory Wolf moved the Planning Commission continue PC2017-01 consideration of the repeal of the Countryside East Overlay District for 90 days (August 1, 2017) to allow the HOA to determine and plan action prior to the Commission taking action on the proposed repeal. The motion was seconded by James Breneman and passed unanimously.



Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal  
of Design Guidelines and Overlay of Countryside East Homes Association

**PLANNING COMMISSION MINUTES  
AUGUST 1, 2017**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, August 1, 2017 in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:10 p.m. with the following members present: Melissa Brown, James Breneman, Patrick Lenahan, Jeffrey Valentino and Jonathan Birkel.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator; Serena Schermoly, Council Liaison, Mitch Dringman, Building Official; Keith Bredehoeft, Public Works Director; and Joyce Hagen Mundy, Commission Secretary. Chris Shires with Confluence was present via phone during the consideration of PC2016-112.

**PUBLIC HEARINGS**

**PC2017-01 Amendment to Prairie Village Zoning Regulations repealing  
Design Guidelines for Countryside East Homes Association  
PVMC 19.25.010**

Chairman Nancy announced that this is a continuation of the public hearing on the proposed ordinance revision to repeal the Design Guidelines for Countryside East Homes Association. She reopened the public hearing for comments.

Chris Lipp, 4805 West 66<sup>th</sup> Street and current President of the Homes Association, reviewed the actions of the Homes Association since the May Planning Commission meeting. They have met with their homes association membership on multiple occasions to reconcile some of the issues and address their concerns that the base R-1A zoning standards would expose their neighborhood to out-of-scale or over-building.

Wes Jordan advised the Commission that the question before the Commission is only the repeal of the overlay district. The Commission cannot discuss the options or changes proposed as appropriate notification has not been given to the residents. The discussion and action to be taken on this application is whether or not to recommend repeal the existing overlay district. He asked Chris Brewster to review the history of the application and the actions available to the Commission.

On March 7, 2017, the Planning Commission held a public hearing to consider the repeal of the Country Side East Overlay District and Design Guidelines. The Commission heard testimony from City Staff, members of the Countryside East Homes Association, and residents of the neighborhood. The Planning Commission continued the March 7, 2017 hearing until the May 2, 2017 to allow more discussion on the issues among the residents and the HOA. Additionally City Staff attended two meetings held at

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

City Hall for the HOA. At the May 2, 2017 meeting the Planning Commission extended the hearing until the August 1st meeting to allow time for the HOA and residents to explore more options.

Chris Brewster reviewed the following history of this application:

- The Overlay was adopted in 2013, adding additional standards to this area.
- The area follows the Countryside East Homes Association boundaries, and is roughly 63rd Street (city limits) on the north, Roe Ave. on the east, 67th Street on the south, Nall Ave on the west.
- The Overlay was initiated through considerable efforts from some residents.
- The property is zoned R-1A, and the Overlay differs from the basic R-1A zoning district standards in the following ways:
  - The side setback is 12.5% of the lot width on each side, instead of 7' with a minimum of 20% between both sides.
  - Upper-story limits requiring 1.5 story homes instead of a 35' / 2.5 story limit.
- The overlay district also includes several design standards regarding the facade design, eave line relationships between adjacent homes, roof slopes, minimum square footage, and massing dealing with how the 1.5 story height will be interpreted.
- There is an appeal process set up to involve the HOA, requiring two members of the HOA and one from the Planning Commission to review appeals.
- There have been 4 appeals of the City Staff application of the overlay standards - all dealing with the side setback requirements - and all were approved.
- Staff attended the following HOA meetings at the invitation of the HOA Board to discuss issues with the Overlay District:
  - November 14, 2016 (annual HOA meeting)
  - March 29, 2017 (upon direction of the Planning Commission after the first hearing)
  - March 30, 2017 (upon direction of the Planning Commission after the first hearing)
- The HOA held another meeting at City Hall without City Staff present on April 18, 2017.

Mr. Brewster stated that throughout the hearings and testimony, City Staff has noted the following issues with regard to the current overlay:

1. The appeals process does not work well as established by Section 19.25.045 of the zoning ordinance is not explicit on the makeup, role or process/criteria for the appeals board, and this process is not well integrated with Planning Commission site plan review and/or Board of Zoning Appeals review. (the official review and appeals boards of the City.)

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

2. Some of the design standards are difficult to interpret, making the likelihood that City Staff, an applicant, the overlay appeals board, or the Planning Commission or Board of Zoning appeals will need to reconcile interpretations.
3. All 4 of the appeals to the date of the hearings were approved by the Overlay Appeals board, indicating that there may be a disjoint between the standards and what the neighborhood is comfortable accepting. All of these appeals have dealt with side setback issues.
4. City Staff does not want to encourage future overlay districts based on current staffing and case load, particularly to the extent that the overlay districts would strictly follow HOA district boundaries, rather than broader neighborhood patterns and development characteristics within the City.

Mr. Brewster stressed that due to the notice that was provided at the original meeting, (to "repeal the Overlay District,") the Commission cannot take action on any of the proposed adjustments to the overlay district without sending out new notice indicating those possible actions. Although the options presented by the Homes Association cannot be acted upon, Mr. Brewster noted that some of the suggestions included in the stakeholders' proposal could help address the staff concerns. Their suggestions generally provide the following:

- Clarifying how 1.5 stories is measured, using one or both of the following methodologies:
  - Allowing a second story only up to 60% of the ground floor if the height is between 25 feet and 35 feet, and requiring it to be off-set 8 feet or more from the side building line; OR
  - Allowing a second story, provided the overall height remains under 25 feet.
  - Plus, removing some of the design guidelines that address different techniques for a building or facade to appear as 1.5 stories,
- Adjusting the side setback measurement to something most like what has been approved by the overlay appeal board, and that anticipates the types of home improvements they expect in the neighborhood. Specifically this would be a flat 10% side setback, but identifying an exception for single-car garages being expanded to as close to 7 feet from the side lot to accommodate a 2-car garage. This is similar to the City's recent city-wide side setback amendment (20% of lot width between both sides, but 7' minimum), other than it eliminates the sliding footprint with one exception.
- Removing some of the more subjective aesthetic or "character" guidelines and leaving simple mass or form standards.

Under the restrictions of the notification sent, the Commission may take either of the following actions:

1. If the position of the Commission is that the overlay issues should be best addressed by the HOA through their own mechanisms and procedures, the Planning Commission should recommend to the City Council that they repeal the Countryside East Overlay District and Design Guidelines, and that an ordinance be adopted to repeal that district and design guidelines.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

2. If the position of the Commission is that the City should address these issues, it should recommend to the City Council that they not repeal the Countryside East Overlay District and that the City Council direct staff to do the following:
  - a. Correct the current overlay appeal process in Section 19.25.045, and better integrate the City's statutorily required review and appeal processes.
  - b. Revise the overlay to include the simplified setback and building height / story limit provisions, similar to what has been proposed by the stakeholders for this August 1, 2017 hearing.
  - c. Repeal the Countryside East Design Guidelines.
  - d. Re-advertise for a public hearing on these specific options at a later date, upon completion of ordinances to this affect.

Nancy Wallerstein asked what progress had been made by the homes association since the May 1<sup>st</sup> Planning Commission meeting. Dennis O'Rourke, 5007 West 63<sup>rd</sup> Terrace, replied that the Board convened a committee to review the overlay guidelines as they felt regardless of any action taken by the City the guidelines needed to be reviewed. Three or four meetings were held with the association membership with approximately 36 people attending. Changes were proposed from the feedback received. They met with a real estate attorney who advised them on the necessary steps for the guidelines to be added to their covenants and the process required; discussed options for enforcement of the guidelines and will probably go with an outside contractor so as not to put association members in a potentially adversarial position against other association members. Mr. O'Rourke noted the homes association has not taken any formal votes on items discussed.

James Breneman confirmed that if the overlay district were repealed, it would appear that the association would add them to their deed restrictions and continue to enforce them.

Patrick Lenahan stated that this action began last March as the result of a Homes Association Board vote supporting the repeal of the overlay district. He asked if the Board has taken a new vote on their position. Mr. Lipp responded that they had not. Mr. O'Rourke added, that based on what he has heard, there are different thoughts regarding the appeal and further exploration of options.

Chairman Nancy Wallerstein opened the meeting to public comment.

Todd Wetherilt, 6344 Ash, felt there has been a lot of constructive discussion among the board, the residents and the City leading them to a much simplified version of the overlay design guidelines. He felt the original notice that went out was premature; limiting the options to repeal or not repeal. He feels there have been several good options provided to allow their neighborhood to be what it wants to be and how the guidelines could be defined so they are enforceable by the city. He appreciates everyone's effort.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

Mr. Wetherilt requested that if it is the decision of the Commission to repeal the overlay district that they defer action to allow the homes association to put in place the strategies, processes and mechanisms necessary to move forward, these have been discussed, but are not in place. The association needs time to develop the framework and processes for the administration and modification of the overlay district guidelines for their neighborhood.

With no one else wishing to address the Commission, the public hearing was closed at 7:35 p.m.

Patrick Lenahan noted that when this process started the Commission had a clear vote from the homes association board supporting the repeal. No new vote has been taken, amendments have been proposed. He does not feel the Commission has received clear direction from the homes association on its current position.

Jeffrey Valentino responded that he felt through the discussion a new path forward has been set and that the initial vote of the board is null and void. He feels that if the action taken by the Commission is to repeal the overlay, that time needs to be given for them to implement a plan for the transition of enforcement from the City to the homes association.

Jonathan Birkel noted there has been a lot of discussion in the past year on the City addressing some of the elements addressed in the overlay district. If the district is repealed, there is still that option to address those elements.

Wes Jordan complimented Mr. O'Rourke and the association on their work and feels that a lot of progress has been made. He reviewed the process and costs that would be required to continue and make the proposed amendments to the overlay design standards. He is optimistic for the phase II design guidelines, noting the progress that has been made with the phase I changes. However, he noted that if Phase II design guidelines are adopted, the homes association may then decide that it wants to come under the city's code and this entire process would need to happen again.

James Breneman stated he does not see the need for both the overlay district and the city's revised code especially as phase II is developed that will further address many of the items in the existing overlay district resolving current issues. He does not see anything being gained by retaining the Overlay District at this point in time.

Jim Breneman moved the Planning Commission recommend to the City Council that they repeal the Countryside East Overlay District and Design Guidelines, and that an ordinance be adopted to repeal the district and design guidelines. The motion was seconded by Jeffrey Valentino. However, Mr. Valentino noted he would like to give the homes association some time before the repeal becomes effective, possibly six months

Chris Brewster noted that there is not a timeline for the implementation of phase II discussions and he cannot guarantee what revisions will come out of those discussions and if they will be accepted.

Excerpts from Planning Commission Minutes on discussion of PC2017-01 Repeal of Design Guidelines and Overlay of Countryside East Homes Association

Mrs. Wallerstein asked if there has been a date set to start the phase II discussions. Mr. Brewster replied they are in the process of assembling individuals and no start date has been determined.

Mrs. Wallerstein asked if any homeowners' permits were being held up by this discussion. Building Official Mitch Dringman responded there were not.

Mr. Valentino asked if six months or end of the year would be a reasonable period of time to delay the effective date of the repeal.

Board Secretary advised that this has been done in similar situations in the past where action was taken but the implementation delayed. This can be done one of two ways. An ordinance is not effective until publication, so publication can be delayed or a specific effective date can be written into the ordinance.

Mr. Breneman amended his motion to add an effective date of January 1, 2018. Mr. Valentino seconded the amended motion. The motion was voted on and passed by a vote of five to one with Mr. Lenahan voting in opposition.

Chairman Nancy Wallerstein noted that this item will go before the City Council on August 21<sup>st</sup>. With the delayed effective date the homes association will have time to implement their new processes, the phase II discussion may have begun, which is anticipated to bring city regulations and the overlay district guidelines closer together. The residents will have the ability to address the City Council prior to their taking action.

**ORDINANCE 2366**

**AN ORDINANCE AMENDING CHAPTER 19.25 ENTITLED "OVERLAY ZONING DISTRICTS" TO THE PRAIRIE VILLAGE, KANSAS ZONING ORDINANCE, BY AMENDING SECTIONS 19.25.050 ENTITLED "NC DISTRICTS ESTABLISHED"; 19.25.055 ENTITLED "NC DISTRICT DEVELOPMENT/DESIGN STANDARDS ESTABLISHED" AND DELETING SECTION 19.25.060 "INCORPORATION BY REFERENCE OF "DESIGN GUIDELINES COUNTRYSIDE EAST HOMES ASSOCIATION 2012 EDITION".**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:**

**Section I. Planning Commission Recommendation.**

After having received a recommendation from the Planning Commission and proper notice having been published and hearing held on March 7, 2017; May 2, 2017 and August 1, 2017, as provided by law and under the authority of and subject to the provisions of the Prairie Village, Kansas Zoning Ordinance, the Zoning Ordinance is amended as set forth in Section II.

**Section II. Amending Chapter 19.25**

Chapter 19.25 of the Prairie Village, Kansas Zoning Ordinance, entitled "Overlay Zoning Districts" is hereby amended by repealing the reference to the Neighborhood Conservation Overlay District for Countryside East Homes Association and amending 19.25.050 to read as follows:

**19.25.050 NC Districts Established**

As NC Districts are established by Ordinance, this section will be updated by reference to such NC Districts in the following table:

<b>Neighborhood Conservation District Name</b>	<b>General Boundaries</b>	<b>Ordinance No.</b>

**Section III. Amending Chapter 19.25**

Chapter 19.25 of the Prairie Village, Kansas Zoning Ordinance, entitled "Overlay Zoning Districts" is hereby amended by repealing the reference to the Neighborhood Conservation Overlay District for Countryside East Homes Association and amending Section 19.25.055 to read as follows:

**19.25.055 NC District Development/Design Standards Established**

As NC District Development/Design Standards and Administrative Policies are established by Ordinance, this section will be updated by reference to such standards and policies in the following table:

Neighborhood Conservation District Name	Design Standards and Administrative Policies	Ordinance No.

**Section III. Deleting Section 19.25.060**

Chapter 19.25 of the Prairie Village, Kansas Zoning Ordinance, entitled "Overlay Zoning Districts" is hereby amended by repealing the reference to the Neighborhood Conservation Overlay District for Countryside East Homes Association and by deleting Section 19.25.060 entitled "Incorporation by Reference of "Design Guidelines Countryside East Homes Association 2012 Edition" in its entirety.

**Section IV**

This ordinance shall take effect and be in force effective as of the later of (a) its passage by the City Council and its publication in the official City newspaper, and (b) January 1, 2018.

**PASSED AND APPROVED THIS 21<sup>st</sup> DAY OF AUGUST, 2017.**

\_\_\_\_\_  
 Laura Wassmer, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
 Joyce Hagen Mundy  
 City Clerk

\_\_\_\_\_  
 Catherine P. Logan  
 City Attorney



## MAYOR'S ANNOUNCEMENTS

Monday, August 21, 2017

### Committee meetings scheduled for the next two weeks:

JazzFest Committee	08/30/2017	5:30 p.m.
Council Committee of the Whole	09/05/2017	6:00 p.m.
City Council	09/05/2017	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to feature the work of Greg Schieszer and Annette Hadley in the R.G. Endres Gallery during the month of August

The pool will close for the season on Monday, September 4<sup>th</sup> at 6 p.m. Mark your calendars for the annual "Puppy Pool-Ooza" Dog Swim at the pool on Tuesday, September 5<sup>th</sup> from 5 to 7 p.m.

Plan to attend the 8<sup>th</sup> Annual Prairie Village Jazz Festival on Saturday, September 9<sup>th</sup> from 3 to 10:30 p.m. Volunteer opportunities are still available. Let Joyce know if you plan to attend.

Mark your Calendar for the Kansas League of Municipalities Conference in Wichita on September 16-18, 2017. RSVP to Meghan Boom.

Mark your Calendars for the Shawnee Mission Education Foundation 25th Annual Fall Breakfast on October 10. RSVP to Meghan Boom.

Save the Date for the Annual National League of Cities Conference in Charlotte, November 15-18, 2017. RSVP to Meghan Boom.

**INFORMATIONAL ITEMS**  
**August 21, 2017**

1. Council Committee of the Whole Minutes - August 7, 2017
2. Prairie Village Arts Council Minutes - May 10, 2017
3. JazzFest Committee Minutes - July 13, 2017
4. Mark Your Calendar

**COUNCIL COMMITTEE OF THE WHOLE**  
**August 7, 2017**

The Council Committee of the Whole met on Monday, August 7, 2017 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Jori Nelson with the following members present: Steve Noll, Andrew Wang, Sheila Myers, Dan Runion, Courtney McFadden and Terence Gallagher.

Staff Members present: Tim Schwartzkopf, Chief of Police; Suzanne Lownes; Public Works Office Manager; Katie Logan, City Attorney; Wes Jordan, Interim City Administrator; Lisa Santa Maria, Finance Director; Alley Williams, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk. Also present was City Financial Advisor Jeff White with Columbia Capital.

**Presentation and Discussion Related to Proposed Redevelopment of the Corinth Square South Shopping Center**

Wes Jordan provided background on staff discussions with First Washington noting that First Washington has been talking about redevelopment plans since they purchased the shopping centers indicating that Corinth South was the most likely area that could be redeveloped. Mr. Jordan noted that First Washington does try to stop by whenever in town to check in with staff regarding what is going on at the shopping centers. These meetings were coordinated through Quinn with he and the Mayor occasionally attending. The Council priority list contains an item about future plans for the two shopping centers. The Corinth South dialogue never really gained serious momentum because of the projected cost to redevelop.

A few months ago, on June 12<sup>th</sup>, First Washington met with staff and explained that they had a new vision for Corinth South. They had met with marketing/leasing professionals in the area and thought a mixed use development consisting on office and restaurants could be viable. However, in their preliminary planning they said the project may be cost prohibitive, due to the cost of the parking garage, without some component of a public finance piece. They asked Quinn to educate them on what was possible in Kansas. Quinn told them that in Kansas projects such as this could receive public finance through a CID, TIF, TDD, or a sales tax rebate. Alex and Gregg indicated at the June 12 meeting they still had number crunching to do but they thought they would need to ask for some assistance. Quinn told them that any financing request would need to be vetted through Jeff White (the City's financial advisor) and that would be at their expense. And, most importantly, if they decided to go down that path it would be brought forward to the City Council.

The week of July 24<sup>th</sup> Jeff White advised staff that through his discussions with First Washington they would like to further explore the possibility of seeking funding for a portion of the project with the Council. First Washington was advised to come before the Council to introduce them to the project and further gauge interest in pursuing public funding. During that call they asked to be placed on this agenda. They did ask what the next step would be if they were successful in moving forward. We thought the next step would be Jeff White's review of the request and evaluation of their numbers and then taken to the Finance Committee should the proposed project move forward.

Greg Zike addressed the Council noting that also in attendance from First Washington were Michelle Pitsenberger and Alex Nyhan along with design team member Dallas Branch. He stated that they have been analyzing various options for the redevelopment of this site as good stewards. Mr. Zike reviewed the current site that is surrounded by office and/or multi-family structures. The area they are looking at redeveloping is the southwest corner that currently houses the Antique Mall, First Watch and Lillian's.

Mr. Zike reviewed the design and land use team members that they have been working with on the proposed project. The lease and merchandising approach for this area will be similar to the mix for The Village Shops and Corinth Square North. The tenancy mix for the centers is largely unchanged since their purchase with approximately 40% of the tenants at The Village Shops being local or local franchisee, 8% being regional and 52% being national. The Corinth Square mix is similar with 57% local, 33% regional and 10% national. Mr. Zike stated that retail is much more successful whenever you have it across the street from one another.

Dallas Branch of CallisonRTKL, the design firm hired by First Washington to lead the conceptual phase of the project, walked the council through a series of renderings that showed the company's ideas for the center. First Washington's concept would see the Mission Road Antique Mall building demolished to make way for a multi-story structure with ground level retail, 38,000 – 40,000 square feet of office space located in two stories above the retail. The design is very pedestrian friendly with open corridors between buildings and leading to a multi-level parking structure at the back of the site

The concept would also bring another new retail building to the space between the existing First Watch building and the Tide Dry Cleaners building, which would have space for retail tenants and a restaurant. The existing First Watch building would remain in place, and extended to the south with a substantial facelift similar to that given to the Hattie's building at Corinth Square North last year.

To its east would be a new retail building that would likely have a higher-end restaurant as its main tenant. To the south of both those buildings would be a complex with office space, ground-level retail and a multi-level parking garage. The Mission Road Antique Road building would be demolished to make way for the First Watch building expansion and the construction of the new parking garage and retail building.

Mr. Branch said the concept connects the southern portion of the shopping center, which is largely isolated at this point, to the northern part with more pedestrian access and more communal gathering areas.

Sheila Myers asked about the scale of the proposed buildings in relation to the existing buildings. Mr. Zike replied the new buildings will be lower than existing buildings. Mrs. Myers asked why a multi-level parking structure is being proposed. Mr. Zike replied it is necessary to provide the required parking by code. They are proposing 38,000 to 40,000 square feet of office space. Mrs. Myers noted there are currently at least three office buildings in the immediate area. Mr. Zike replied their research has shown a desire, particularly by medical, financial and real estate offices, to locate in a mixed use

area including retail. Mrs. Myers noted the turnover in the current shopping centers and expressed concern with loss of small local businesses with restaurants moving in. Mr. Zike replied that the only new restaurant tenant under their ownership has been the "Eat, Fit Go" which is more of a carryout establishment than restaurant.

Jori Nelson asked how the local and local franchisee category was determined in their analysis. Mr. Zike replied an example would be the TCBY at The Village is a national chain but is owned and operated by a local owner and would be counted as a local business. He stated that he would send Ms. Nelson more specific detailed information on the breakdown.

Dan Runion asked if they would be requesting financial assistance from the city. Mr. Zike replied that at this point in time, they are still doing a financial analysis; however, because of the high cost of the parking structure, they are anticipating a request for financial assistance. He noted that most projects with a parking structure are done as a private/public partnership.

Mr. Runion asked what benefit Prairie Village residents would receive. Mr. Zike replied they would have an additional place to gather, shop and eat; the city would receive increased sales tax revenue and increased property tax revenue; helping to keep residents' taxes lower. Alex Nyhan added the development would create more soft spaces that currently do not exist.

Terrence Gallagher noted recent reports on the impact of on-line shopping on brick & mortar retail businesses with 70% of shoppers now shopping on-line, with the small box stores being the hardest hit by this action. He also noted the recent business closings at Mission Farms in Leawood, a development following the same concept as being proposed. He questioned how this would work and why is it appropriate for Prairie Village residents.

Alex Nyhan responded that he is aware of the reports and noted that nationally there are certain categories of business that have not been impacted by on-line shopping, particularly services and necessities. Their centers have focused on those categories and have been able to maintain their high occupancy.

In respect specifically to Corinth South, they have had a lot of interest from local community businesses in the plan, particularly from the service industry. There would be a few restaurants and First Watch would be enhanced. There would be businesses meeting daily needs and there is a huge demand for medical users in the neighbor for the proposed office spaces.

Dan Runion confirmed that the existing CID in place for part of Corinth South would help pay for some of the costs and asked why they were asking for more assistance. Gregory Zike replied that based on the financial data those funds would not be enough for the parking facility. Mr. Runion noted that taxpayers want answers as to why a private company would need financial assistance from the city. Mr. Zike replied that the city's financial advisor has all their financial data and that when analyzed will demonstrate the need for financial assistance. Mr. Runion asked when the property

was purchased three years ago and if they had plans to redevelop it at that time, why those funds were not factored into the purchase price.

Jori Nelson read a prepared statement addressing the proposed redevelopment and request for financial assistance noting that she was surprised to first learn of this request on the Committee's agenda Thursday evening as this has clearly been in the works for many months without her knowledge. Ms. Nelson provided background on the CID agreement covering 22 years entered into by the City in 2010 which includes an additional 1% sales tax for the shopping centers that will total an estimated \$22 million for use by the owners to fund redevelopment and maintenance of the centers. Ms. Nelson noted that First Washington is a national firm operating over 90 shopping centers nationwide with an estimated worth of more than \$3.5 billion.

On October 19, 2015, Ms. Nelson expressed her concerns regarding the concerns and fears of tenants in the two Prairie Village Shopping Centers and the need for more open communication between First Washington and the tenants. She feels that there is still a disconnect with the tenants noting several long-time tenants that have closed or moved out of the centers in the past year stating difficulty in negotiating new leases, rental increases and increases in communal area maintenance fees. She noted that property maintenance fees have increased from \$25,000 to approximately \$153,000 an increase of 512%.

Ms. Nelson stated the current location of the Mission Road Antique Mall is not only home to more than 300 resale vendors, it is a historic building built in 1938. Ms. Nelson shared the history of the Woolford Farms Stables.

Ms. Nelson noted that since information on the proposed redevelopment of Corinth South and potential request for financial assistance from the City was posted on the Shawnee Mission Post the following comments were posted:

- The reasons why this area is attractive to home owners and buyers, in addition to the schools, are because of the charm and character of the area.
- Tearing this down for greedy purposes will have a negative impact on the neighborhood.
- Renovate the areas to the north but keep the history. It's possible. A fantastic job was done at Ranchmart South without tearing any town.
- It is very sad what First Washington is doing to these small neighborhood shopping centers in our area. They are ruining them!!!
- I think what First Washington has done and continues to aggressively do to the neighborhood shopping centers in our area is horrible. They clearly have no sense at all of the neighborhoods or the customers.
- I flat-out hate this idea. I agree with all of the other commenters. These absentee landlords are ruining out independent shops.

Ms. Nelson concluded her comments asking First Washington to work with the mom and pop shops in the centers and find a way to keep them here. Our centers will never be the same without the long-standing businesses that have already left. She reminded

them that changes made from their offices in Maryland, effect the everyday life of Prairie Village residents and that they and the city deserve better.

Gregory Zike responded that First Washington offered to meet individually with Council members last May to discuss their vision for Corinth South and no one from the council was interested.

Mayor Wassmer stated one month ago was the first time she saw these renderings and when they mentioned possible financial assistance, she told them that they needed to appear before the Council. There has not been nor is anything going on behind the scenes.

Sheila Myers asked where the entrances to the parking structure would be located. Mr. Zike replied that parking structure is at the south end of the project and would be accessed from 83<sup>rd</sup> Street or from the office building parking lot on the left. Mrs. Myers noted she is concerned with increased traffic on 83<sup>rd</sup> Street. He noted the amount of proposed retail space is less than the existing retail space and that the traffic for the offices would be once in once out.

Dan Runion thanked them again for their presentation but he felt that the information presented was too limited for him to make any decision.

Mayor Wassmer stated that the purpose of tonight's presentation is to share concepts for the redevelopment of this site. If there was enough interest by the Council to see more, Jeff White would review the financial information presented and analyze the numbers. The recommendation given to First Washington was to present the concept to get input from the Council and community, if there was sufficient interest staff felt the next step would be for Mr. White to analyze the financial data and meet with the Finance Committee for them to review and discuss the numbers. After the Finance Committee met the information would be brought to the City Council with their recommendation. It did not make sense to present all the financial data without knowing whether there was any support for the proposed redevelopment.

Mayor Wassmer restated that the question before the Council tonight is after looking at the conceptual renderings are you interested in seeing numbers. If you don't like what you see and it's a thumbs down, they need to know that as well. The purpose of tonight is to get Council direction on whether to proceed with getting more information including a financial review.

Terrence Gallagher agreed with some of Ms. Nelson's comments and shared his concerns with the proposed redevelopment. He felt First Washington needed to make changes to make the plan for viable for Prairie Village.

Gregory Zike reviewed again the proposed access points on the plan in relation to the parking structure and office and retail space. He noted the available first floor parking is equivalent to surface parking and they consider it to be retail parking. The additional floors would be for office users parking. They believe the small bar shaped buildings

provide better circulation and visibility. He noted that this is a conceptual plan only and that there are still details that need to be worked out.

Mr. Gallagher asked if First Washington would be willing to back out of one of the CID's currently in place. Alex Nyhan replied there would not.

Mayor Wassmer noted the proposed parking structure is similar to the one at the Kansas City Public Library. Mr. Gallagher noted the complaints received from residents not being able to park near Hen House. He does not feel this type of structure is what Prairie Village residents want. Mr. Zike replied that the parking ratio at Corinth Square is four spaces per 1000 square feet. Finding a parking space in either of the centers is a challenge.

Sheila Myers disagreed with Mr. Gallagher noting that one thing she doesn't like about Corinth Square is that it is not pedestrian friendly with cars driving around a bunch of stores. She reminded the City Council that Village Vision called for the redevelopment of Corinth South with a mixed use development. She stated that she was disappointed in the lack of creativity in the design and encouraged them to find a creative way to use the existing historic building. She is supportive of moving forward and having Mr. White review the financial data and present it to the Finance Committee. Mr. Zike stressed that these are conceptual design renderings, not site plans.

Dan Runion stated he does not feel anyone is opposed to redevelopment. The questions is how much the city is willing to participate financially in return for the benefits of growth and redevelopment. Until more information is known, particularly in regard to the financial implications, he is open, but cannot say he would be supportive.

Jori Nelson opened the meeting to comments from the residents.

John Joyce, 4201 Delmar Drive, asked the following questions: 1) Has an independent market study of demographics been completed; 2) Has a Performa been presented to the City; 3) Will the parking structure be free public parking or will there be a charge.

Mayor Wassmer advised Mr. Joyce that all the financial data has been presented to the City Financial Advisor for analysis and review.

Another unidentified resident asked how they were going to fill the building, noting the several new mixed use developments being constructed in Overland Park. He feels the market is saturated. Gregory Zike responded that they have done market studies that have shown people are interested in this location. They currently have no available space in either Corinth Square or The Village Shops.

Jori Nelson noted that five council members were absent and asked if the committee wanted to take action without them present. Alex Nyhan stated that First Washington loves being part of Prairie Village and respects the community. If the city does not want them to invest further on this property, they will move on. They are not at the stage where they can share their Performa.



Andrew Wang stated that he opposed the initial CID in 2010 and his feelings remain similar to what they were at that time. It is based on the principle that First Washington is a private business and he does not support public funding of private businesses. He is extremely interested in First Washington continuing to develop and make investments in their properties.

Courtney McFadden stated that she feels it is important to work together. She encouraged First Washington to continue conversations with their tenants to repair relationships. She would like to see something done with the property at Corinth South and supports further exploration of this proposal.

Dan Runion expressed concern in responding when it is not clear what he is responding to. However, he is interested in receiving more information.

Mayor Wassmer stated what she heard from First Washington is that they would like to pursue this because it would be good for Corinth South and for the City. They cannot successfully develop the property without additional parking and that there is not enough parking on their current sites hurting the current retailers. The only feasible way to get the more parking is through the construction of a parking structure. Parking garages are very expensive. They are asking for city help with the costs for the parking structure. She feels the site can benefit from a parking structure. They are saying they cannot do the project without assistance for the garage. It is either going to remain as it is now or if the council wants something better that will increase property taxes and revenue in the long term, that this is something that will benefit Prairie Village in the long term, you look at it further.

She personally feels it is something that will benefit the City. If it is decided that the council cannot support financial assistance, then it says no to the request, but she encouraged the Council to look at it further.

Sheila Myers noted several council members were not in attendance and that she would like to see something more concrete in the proposal. She cannot say at this time if she would support public financing.

Jori Nelson stated the question that she is hearing is would the council support public financing, not would the council support redevelopment, because they are saying that it will not be redeveloped without public financing.

Alex Nyhan stated that Jeff White has the financial data and the ability to run the necessary analysis and various financial models and suggested that the Council let him do that and provide them answers to the questions they have.

Jori Nelson asked why a \$3.5 billion company needs financial assistance. Mr. Nyhan replied because the income from the redevelopment does not support cost of the parking structure. Mayor Wassmer stated that staff recommendation was that Jeff White be directed to conduct the analysis and present his analysis and recommendation to the finance committee who would make a recommendation to the city council. Ms. Nelson stated she does not support public financing for a private development. Steve Noll

suggested that the information be reviewed by the city's financial advisor and presented to the Finance Committee. Mr. Runion agreed with Mr. Noll.

Jeff White, city financial advisor with Columbia Capital, stated that the City is his client. It is his responsibility to conduct an analysis of the financial information given to him on this project and to provide a recommendation to the City. It was confirmed that the cost of his services in conducting this analysis would be paid for by First Washington.

Terrence Gallagher moved the Council direct the city's financial advisor to conduct an analysis of the financial information provided by First Washington for the proposed project and report the results of that analysis and his recommendation to the Finance Committee for review. The motion was seconded by Dan Runion and passed by a vote of 6 to 1 with Jori Nelson voting in opposition

### **Executive Session**

Terrence Gallagher moved that the Governing Body, recess into Executive Session in the Multi-Purpose Room for 15minutes to discuss appointment and employment agreement for City Administrator pursuant to KSA 75-4319 (b) (1) for the purpose of consulting with the City Attorney on personnel matters of nonelected personnel. Present will be the Mayor, City Council and City Attorney. The motion was seconded by Steve Noll and passed unanimously. The open meeting will resume in the City Council Chambers at 7:30 p.m.

Council President Jori Nelson stated it is 7:30 and the Committee of the Whole is reconvened in open session from executive session where no binding action was taken

### **ADJOURNMENT**

Council President Jori Nelson adjourned the Council Committee of the Whole meeting at 7:30 p.m.

Jori Nelson  
Council President

Prairie Village Arts Council  
Wednesday, May 10, 2017  
5:30 p.m.  
Prairie Village City Hall - 7700 Mission Road  
Multi-Purpose Room

## Meeting Minutes

The Prairie Village Arts Council met at 5:30 p.m. in the Multi-Purpose Room. Members present: Dan Andersen (chair), Shelly Trewolla, Betsy Holiday, Art Weeks, Stephen LeCerf, Annette Hadley, Julie Hassel, Al Guarino, Art Weeks, Julie Flanagan, and Ada Koch. Also present was Eric Mikkelson (Council Liaison), Wes Jordan (Assistant City Administrator), and Barb Fisher (Administrative Assistant).

**Minutes** - were approved as presented.

**Senior Arts Council** - Bryce Moore and Herman Gerber of the Senior Arts Council were present to discuss the possibility of a new program, a juried exhibit featuring senior artists. The Arts Council will continue to explore the possibility of introducing this as a new event to showcase artists who are senior citizens.

### Council Update

Prairie Village Mall Art Sculpture - Councilman Mikkelson informed the members that there were no new updates and believes the CID funded art piece is still proceeding as planned.

Bicycle Sculpture - Councilman Mikkelson reported that work is continuing toward a donated art sculpture near W. 71<sup>st</sup> and Mission Road. He explained there is currently a funding gap in the project and remains optimistic that the City Budget would not be impacted if fundraising from private donors support the project. He also asked for the Arts Council's conceptual approval that can be shared with the Governing Body. The Arts Council passed a resolution to be included in the Council Packet for budgetary support.

**Financial Report** - No report.

### Exhibits/Receptions

March Exhibit - Stephen LeCerf reported the exhibit went very well with two of the three artists attending.

Future of the Arts Exhibit (FOTA) - Julie Flanagan reported overall the FOTA exhibit went very well and wants to explore how the art event can be better in the future to include a simpler process for submission. She also is working with parents/students how their award will be donated to improving the arts.

May Exhibit - Julie and Al reported that both artists plan on attending the reception on Friday, May 12<sup>th</sup>. Barb Fisher will be the staff member supporting the event.

June Exhibit - Art Weeks gave an update on the June exhibit as well as a postcard promoting the event.

September Exhibit - Ada Koch reported the artist on display is interested in promoting a creativity workshop during the time her art would be displayed. Ada will follow up to discuss parameters.

### **New Business**

Prairie Village Art Fair - The Arts Council approved the allocation of \$2,000.00 towards the Prairie Village Arts Fair and \$150.00 for a joint raffle with the merchants association. Dan Andersen also discussed coordination of promotional items and a signup sheet for members to staff the booth that will be completed by Barb Fisher. The Arts Council also allocated up to an amount to not exceed \$300.00 for postcards, tri-folds, and generic business cards as a marketing expense. Total expense authorization - \$2,450.00.

### **Gallery Changes**

New Hanging System - Dan Andersen discussed the new hanging system that was recently installed and how the exposed wires can be modified.

Additional Track Lighting - The Arts Council approved the allocation of \$800.00 from the Gallery fund for new track lighting for the new hanging system.

### **New Business**

Art Liability - A piece of art was recently damaged (likely in shipment) and the Art and Exhibition Loan Agreement specifies a claim process pursuant to the terms of current insurance policies. When staff reviewed the expense for the damaged art claim, they discovered a \$1,000.00 deductible. Staff informed the Arts Council they would be taking steps with the City Attorney to reduce future liability.

Arts Council Volunteer Opportunities - Dan Andersen announced that Wayne Wilkes had resigned from the Arts Council and he was in the process of reviewing applications for current openings. Dan suggested that current members reach out to people they know who may be interested in serving and complete an application.

National Photo Competition - Shelly Trewolla gave an update and overview on the process for consideration of sponsoring a national juried photo competition. Discussion to continue.

**Next Meeting** - The next meeting will be at 5:30 p.m. on June 7, 2017.

**Adjournment** - The meeting was adjourned at 7:51 p.m.

JazzFest Committee Minutes  
July 13, 2017

Present: JD Kinney, John Wilinski, Meghan Boom, Dan Andersen, Kyle Kristofer, Donelea Hesse, Brian Peters, Brooke Morehead and Joyce Hagen Mundy.

**Budget**

JD reported that as of today, estimated expenditures are under budget. Brian Peters confirmed that US Bank will not be a sponsor this year. No significant donations have been received since the last meeting.

**Marketing**

JD shared the back cover ad that will be submitted to JAM Magazine and noted a smaller version will also be in the Pitch with the same basic ad in the Village Voice insert. PV Post continues to scroll the "Save the Date" through this month. Closer to the festival they will feature each artist. The yard signs have been ordered and will feature the three primary sponsors. Michael Schermoly will have the T-shirt design for the next meeting.

The 2017 line-up is as follows: SME Blue Knights; Project H; Bram Wijnands Swingtet; Gerald Strait; Eddie Moore and Oleta Adams. Scheduled performance times were discussed and the committee felt there was sufficient time between acts.

**Event**

JD announced that the Dave & Amanda Hassett may have a conflict the day of the festival with KU Parents weekend. The leftover wine and alcohol has been purchased from Jazz in the Woods leaving very little additional alcohol needing to be purchased.

Anticipated vendor tents/tables were discussed. Joyce will confirm with Tutera and Meadowbrook if they will be having a vendor tent. A new vendor will be Hunter Family Vision.

**PV Arts Council Participation**

JD reported that he and Dan have discussed the Arts Council participation at JazzFest. They will have six tents. They will again display city art, there will be a kid make and take tent featuring the "future of the arts" event. Free face painting will be offered for a few hours during the festival. They will not be having a raffle.

**Merchandise Tent**

The merchandise tent will be at the same location. It will have blankets and t-shirts for sale. JD still wants to get participation from Vinyl Renaissance. Jane Andrews stated she had different contact that could participate if agreement couldn't be reached with Vinyl Renaissance. Kyle noted his mother may be able

to help out in the merchandise tent. The committee discussed the use of PayPal for processing payments. The difficulty last year was not being able to separate payment for arts merchandise vs. JazzFest merchandise. This will not be an issue this year; however, it was noted that the application needs to be downloaded on a worker's phone. The committee decided to use credit card machines. Joyce will contact UMB regarding getting three machines. Brian Peters confirmed that the ATM would again be available. Mike Schermoly will be ordering 100 blankets for sale.

Brooke Morehead asked about getting a large video screen. JD responded that there is not a long distance to the stage. It was suggested that perhaps monitors could be placed in different locations, i.e. food court, VIP area. Dan Andersen stated he will investigate this option further. He anticipates the cost to be approximately \$5,000.

### **New VIP area**

Jane Andrews noted that musicians like to be backstage with other musicians and expressed concerns with the addition of VIPs. John Wilinski explained the concept was to provide a special experience for VIPs with food and drink available along with the opportunity to talk with the performers. He anticipated the number of people to be small and noted that they can be accommodated in shifts. Brooke noted that the VIPs are not necessarily jazz fans.

JD noted this came out of discussion of concerns that the committee was not doing enough for its major sponsors. The committee discussed the lack of past major sponsors returning. It was noted some of the existing major sponsors have made commitments to support Prairie Village community events. With the limited participation by VIPs in the past, some committee members felt they were comfortable with the publicity received by their sponsorship and the community goodwill. Brian Peters felt the committee should make the offer and see how it is received. Brooke Morehead stated it is important for them to feel appreciated and special.

### **Event Miscellaneous**

Joyce noted the flags need to be updated with the new date. They are generally hung a month before the event. Dan will take them to be updated. JD stated that there needs to be at least two portable toilets at the bottom of the hill with one being ADA accessible.

### **Volunteers**

Meghan stated that she is ready to put out a call for volunteers and confirmed with the committee the volunteer needs for each area and the times and lengths of shifts.

- Event Set up (4 people) 12 p.m. to 2 p.m.
- Ticket Sales Front Gate (4 people) Shifts noted below
- Ticket Sales Pool Gate (4 people) Shifts noted below
- Ticket Sales Back Gate (2 people) Shifts noted below

- Merchandise Tent (2 people)                      Shifts noted below
- ADA Parking Attendant (2 people)              Shifts noted below
- Event Breakdown (10 people)                    11:00 a.m. to 1 p.m. (SUNDAY)
  - First Shift                      2:30 - 5 p.m.
  - Second Shift                    5 p.m. to 7:30
  - Third Shift                      7:30 to 10 p.m.

There will not be a special volunteer training session. Training will take place when volunteers arrive on Saturday.

### **Scouts**

At the last meeting, Alex indicated that he would contact possible scout leaders/troops to handle trash as Quinn's troop had done previously. Other suggestions were to contact Terrence Gallagher who is also involved with scouts or Ann Lilak whose husband is a troop leader.

### **Announcements**

Kyle asked committee members to provide him sponsor and vendor information at the next meeting for his between performance announcements.

**Next Meetings:** The next meetings will be Tuesday, August 15<sup>th</sup> and Wednesday, August 30<sup>th</sup> at 5:30 p.m. in the MPR at City Hall.

**Adjournment:** The meeting was adjourned at 7:05 p.m.

**Council Members  
Mark Your Calendars  
August 7, 2017**

**August 2017**      **Greg Schieszer and Annette Hadley in the R.G. Endres Gallery**

**September 2017**      **Nanci Stoeffler and Rachel Williams in the R.G. Endres Gallery**

September 4      Labor Day Holiday - Pool closes for the season at 6:00 p.m.

September 5      Puppy Pool-Ooza (Dog Swim) 5:00 p.m. to 7 p.m.

September 5      City Council Meeting

September 8      Artist Reception in the R.G. Endres Gallery

September 9      Prairie Village Jazz Festival - 3:00 p.m. to 10:30 p.m.

September 16-18      Kansas League of Municipalities Conference in Wichita

September 18      City Council Meeting

**October 2017**      **State of the Arts in the R.G. Endres Gallery**

October 2      City Council Meeting

October 10      Shawnee Mission Education Foundation 25th Annual Fall Breakfast

October 10      Environmental Community Forum at Johnson County Heritage

Center 5:30 - 8:30 p.m.

October 13      State of the Arts Reception in the R.G. Endres Gallery

October 16      City Council Meeting

**November 2017**      \_\_\_\_\_ in the R.G. Endres Gallery

November 6      City Council Meeting

November 7      General Election

November 15-18      National League of Cities Conference in Charlotte, NC

November 20      City Council Meeting

November 23 & 24      City Offices closed for Thanksgiving Holiday.

November 30      Mayor's Holiday Tree Lighting

**December 2017**      \_\_\_\_\_ in the R.G. Endres Gallery

December 3      Gingerbread House event

December 4      City Council Meeting

December 8      Mayor's Holiday Volunteer Party

December 18      City Council Meeting

December 25      City Offices closed for Christmas Holiday