

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
MAY 3, 2021**

The City Council of Prairie Village, Kansas, met in regular session on Monday, May 3, 2021, at 6:00 p.m. Due to the COVID-19 pandemic, Councilmembers attended a virtual meeting via the Zoom software platform. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance remotely via Zoom: Chad Herring, Jori Nelson, Inga Selders, Ron Nelson, Tucker Poling, Bonnie Limbird, Sheila Myers, Piper Reimer, Dan Runion, Courtney McFadden, Ian Graves and Terrence Gallagher. Staff present via Zoom: Byron Roberson, Chief of Police; Keith Bredehoeft, Public Works Director; Melissa Prenger, Public Works; City Attorney David Waters, attorney with Lathrop & Gage; Graham Smith, Gould Evans; Wes Jordan, City Administrator; Jamie Robichaud, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Boom, Assistant City Administrator; Nickie Lee, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Nelson made a motion to approve the agenda for May 3, 2021. Ms. Reimer seconded the motion, which passed unanimously.

PRESENTATIONS

- **End of session update** - Stuart Little of Little Government Services provided updates on the current legislative session.
- **National Police Week proclamation** - Mayor Mikkelson read a proclamation designating the week of May 9 through 15, 2021 as National Police Week.

PUBLIC PARTICIPATION

No requests to address the Council were received.

CONSENT AGENDA

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion.



1. Approval of regular City Council meeting minutes - April 19, 2021
2. Consider appointment to the Insurance Committee
3. Purchaser request for police vehicle

Mr. Runion asked to remove item #1 for further discussion.

Mrs. McFadden made a motion to approve consent agenda items #2 and #3. A roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Myers, Reimer, Runion, McFadden, Graves, Gallagher. The motion passed unanimously.

Mr. Runion asked that the words “and interest” be added to the following sentence of his Pension Committee Report:

“Mr. Runion said that Jeff White of Columbia Capital gave a presentation on pension obligation bonds and interest at the Police Pension Committee meeting the prior week.”

Mr. Runion made a motion to approve item #1 as amended. Mrs. Myers seconded the motion, which passed unanimously.

COMMITTEE REPORTS

- Planning Commission
 - **PC2021-106: Consider Ordinance 2448 to approve a revised special use permit for a senior living facility at 7105 Mission Road**

Graham Smith stated that the Brighton Gardens senior living facility had originally been built in 1997 in accordance with a special use permit approved by the City. The facility was constructed with 164 beds and 134 living units for both assisted living and skilled nursing care. The existing structure is a combination of one-story and three-story construction, with a three-story central mass facing Mission Road.

Mr. Smith said that the applicant was proposing an addition and remodel to reconfigure interior spaces. The changes would not add capacity, but instead bring the amenities, care facilities and living units more into compliance with typical industry offerings for care services. He added that the changes would not bring the use beyond the current licensed bed count.

The addition would include an expansion of the building footprint in two locations: a one-story extension to the rear of the south wing, and a one-story expansion that would connect the rear of the north wing to the side of the south wing. There would also be a second story added to the central



portion of the structure connecting to the three-story portion at the front of the structure.

The building and site meet both height and setback standards for the R-1B zoning district, which allows senior care facilities with a special use permit.

Mr. Smith stated that the Planning Commission recommended approval of the revised special use permit at its April 6, 2021 meeting, subject to the following conditions:

1. The changes are limited to those shown on the proposed site plan associated with the application, or any additional conditions implemented by Planning Commission.
2. The proposal assumes no increase in facility capacity, which was previously approved with 164 beds and approximately 30 staff members at maximum shift. Any change in interior operations that increase beyond this anticipated capacity, licensed bed count, or other unanticipated activity, may require additional parking improvements.
3. The application will need to demonstrate adequate on-site detention and have a drainage study approved by Public Works prior to issuing building permits.
4. The landscape plan should be revised to reflect the following:
 - a. The grouping of three new evergreen trees on the northwest edge be increased to seven.
 - b. The grouping of six new evergreen trees on the northeast edge be increased to between 11 and 15.
 - c. The species of these trees should be Green Giant Arborvitae, or similar species to be approved by staff based on availability.
 - d. Prior to issuance of permits, final plans should include the species and size of plants.
5. The applicant acknowledges the City's interest in making a trail connection to the park at some point in the future, and should the City advance further than conceptual design or funding, the City and the applicant will work together to determine if a connection can be made in each party's mutual interests.
6. All other conditions of the original special use permit (#97-02, Ordinance 1917) remain in effect, primarily that the permit can be revoked for any violations of the permit, approved site plan, or other city ordinance.

Mrs. McFadden made a motion to approve the revised special use permit as presented. Ms. Limbird seconded the motion.



Ms. Nelson asked if skilled nursing care would be added as part of the project. Applicants Dominic Tuter, Asset Manager for the Tuter Group, 7611 State Line Rd., Kansas City, MO, and Jason Toye, Senior Project Manager with NSPJ Architects, 3515 W. 75th Street, said that skilled nursing care was already offered at the facility.

After further discussion, a roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Myers, Reimer, McFadden, Graves, Gallagher, Mikkelsen; “nay”: Runion. The motion passed 12-1.

- **PC2021-107: Consider Ordinance 2449 to approve a special use permit for an animal care and boarding facility at Suite 210 of 7600 State Line Road**

Mr. Smith said that the applicant was requesting approval of a special use permit for an animal care facility that would provide non-medical boarding services. The proposed facility would be located in an existing 10,500 square foot space in the State Line Shopping Center on the northeast corner (formerly the Reece Nichols real estate offices). The use would include veterinary care, pet daycare and overnight boarding services. The application also included a site plan to convert five existing parking spaces into a 720 square foot fenced outdoor area for animals.

Mr. Smith added that the property was zoned C-2, and that pet daycare, veterinary care and animal hospitals were all permitted uses in the zoning district, including accessory medical-related boarding. However, general commercial overnight boarding for non-medical purposes required a special use permit in both the C-1 and the C-2 zoning districts.

At its April 6, 2021 meeting, the Planning Commission recommended approval of the special use permit, subject to the following conditions:

1. The applicant shall comply with the Prairie Village noise ordinance with regard to internal and external activities, and in particular limit the time and intensity of pets in the exterior yard to ensure compliance. In furtherance of this goal, the time of outdoor use for multiple animals shall be limited to between 7AM and 10PM (per Chapter 8-503 of the Prairie Village Municipal Code).
2. The K-9 turf application shall be installed and maintained according to manufacturers' specifications, and at all times function to permit appropriate drainage and cleaning of pet waste.



3. All signs shall first receive a sign permit from staff, and comply with the Prairie Village sign standards, and specific standards and guidelines applicable to the State Line Shopping Center.
4. No animals shall be taken off-site to relieve themselves.

Mrs. McFadden made a motion to approve the special use permit as presented. Mr. Nelson seconded the motion.

Applicants Buddy Lanham, Construction Manager with Destination Pet, 8822 S. Ridgeline Blvd., Suite 260, Highlands Ranch, CO, and Franklin Ng, project architect with AWI Architectural Werks, Inc., 11416 98th Ave. NE, Suite 200, Kirkland, WA, were present.

A roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Reimer, McFadden, Graves, Gallagher, Mikkelsen; “nay”: Myers, Runion. The motion passed 11-2.

- Mrs. McFadden said that the VillageFest Committee met on April 29, and decided to move forward with a “drive-through” event similar to the one held in 2020. She also stated that a ribbon cutting was held for the opening of “Stretch Zone”, a new business in the Corinth Shops.
- Mr. Herring reported that the Finance Committee met on April 22 to review the proposed 2022 budget and decision packages. The committee would next meet on May 4 to develop final recommendations for Council. Mr. Herring also said that the Tree Board would meet on May 5.
- Ms. Selders stated that the Diversity Committee would begin working to create a memorial plaque highlighting the J.C. Nichols Company’s history of racial restrictions and segregation. Additionally, a series of town hall events focusing on diversity issues would begin in the summer. Lastly, research on affordable housing and planning of a proposed “Juneteenth” event were underway.
- Ms. Limbird noted that the first Prairie Village Art Walk would take place on June 11, and would include a ribbon cutting ceremony for the “Fifties Freedom in the Village” sculpture at 71st Street and Mission Road. Mr. Nelson added that he was a member of the Meadowbrook Park Art Committee, which met recently to discuss the type of art that would be installed and the locations at which it would be placed.

MAYOR’S REPORT

- The Mayor provided an update on the COVID-19 pandemic, noting that vaccinations were now available for everyone 16 and older. He added that 45% of Johnson County residents 16 and older had received at least one dose, and 31% were fully vaccinated.



The county mask mandate expired on April 30, and was replaced by recommendations to reduce the spread of the virus.

- The Mayor noted that the economy appeared to be on the rebound, with the unemployment rate in Johnson County falling to approximately 3%.
- The Mayor recently signed the National Mayors' Monarch Butterfly Pledge.
- The Mayor recognized Tim Schwartzkopf for receiving the Clarence Kelly Meritorious Service in Law Enforcement Award for his work as police chief.
- The Mayor spoke to residents of Claridge Court the prior week.
- The Mayor noted that the City's first quarter 2021 financial report was included in the meeting packet.

STAFF REPORTS

- Mr. Jordan stated that the May Plan of Action was included in the meeting packet, along with a summary of current activities.
- Chief Roberson shared information about a homicide that occurred in the City on May 2, 2021, noting that a suspect had been arrested. The Chief also said that members of the Police Department had participated in "Coffee with a Crossing Guard" the prior week.
- Mr. Schwartzkopf reported that the City had signed an MOU with United Community Services of Johnson County for the Racial Equity in Cities program. Three other Johnson County cities also signed the agreement.
- Ms. Robichaud said the application period for the sustainability grant program opened on May 3 to an enthusiastic response from residents.
- Consolidated Fire District #2 Chief Steve Chick reviewed the department's first quarter report. He noted that four staff members with over 100 years of combined experience, including former Chief Tony Lopez, had recently retired.

OLD BUSINESS

There was no old business to come before the Council.

NEW BUSINESS

COU2021-39 Consider amending animal ordinance

Mr. Schwartzkopf stated that at its April 19, 2021 meeting, the Council Committee of the Whole recommended the removal of Municipal Code section 2-123 (a)(1), regarding cat and dog control:



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;~~

Mr. Herring made a motion to approve Ordinance 2450, removing Section 2-123 (a)(1) from the Municipal Code. A roll call vote was taken with the following votes cast: "aye": Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Myers, Reimer, Runion, McFadden, Graves; "nay": Gallagher. The motion passed 11-1.

COU2021-40 Consider approval of a contract with Pavement Management, LLC for the 2021 crack seal/micro surfacing program

Ms. Prenger stated that on April 9, 2021, bids were opening for the 2021 Crack Seal/Micro Surfacing Program. Two bids were received:

Pavement Management	\$304,500.00
Vance Brothers, Inc.	\$310,963.00
Engineer's Estimate	\$306,500.00

The project would include two separate maintenance programs at various locations throughout the City: a micro surfacing program that preserves the existing asphalt pavement, and a crack seal program that seals existing cracks in the pavement.

Ms. Prenger added that \$312,000 had been budgeted for the projects and that the contract would be awarded for that amount. Locations of work would be adjusted during implementation to utilize the full budget amount.

Mr. Herring made a motion to approve the contract as presented. The motion was seconded by Mr. Nelson, and passed unanimously.

COU2021-41 Consider 2022-26 County Assistance Road System (CARS) program

Ms. Prenger said that in order to receive CARS funding, the City must annually submit an application containing a list of streets and an estimated cost of repairs. The Public Works Department compiled a list of possible projects including full depth pavement repair, curb



and gutter replacement, sidewalk repair, new sidewalks, new ADA ramps, milling/overlaying pavement, and UBAS. For 2022, the City submitted a project to repair Nall Avenue from 79th Street to 83rd Street. Ms. Prenger noted that cities were generally guaranteed to have their first priority project funded but could have multiple projects approved if funds were available.

Mr. Herring made a motion to approve the proposed CARS funding as presented. Ms. Reimer seconded the motion, which passed unanimously.

Ms. Limbird made a motion that the City Council move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mrs. Myers and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

2022 Capital infrastructure program budget presentation

Ms. Prenger and Mr. Bredehoeft gave a presentation on the program budget, focusing on the following categories:

- Infrastructure condition
- Park funding
- Drainage funding
- Street funding
- Building funding
- Sidewalk and curb funding

Ms. Prenger noted that the overall condition of streets in the City was better than a year ago, and that the current budget allotment of \$3,000,000 per year for residential street rehabilitation remained adequate.

Mr. Gallagher asked if more money should be contributed to the street rehabilitation program due to inflation, since the requested amount had not changed in several years. Mr. Bredehoeft noted that an additional \$400,000 was also allocated to street repairs using the UBAS process, but added that the budgeted amount could be increased if Council felt it should be higher.

Mr. Gallagher made a motion to have the Finance Committee consider increasing the CIP budget by \$250,000 for road repair in 2022. Mrs. Myers seconded the motion. After further discussion, the motion tied 6-6, with Mr. Herring, Mr. Nelson, Ms. Selders, Mr. Poling, Ms. Limbird and Mr. Graves in opposition. Mayor Mikkelsen cast the tie-breaking vote in opposition to the motion, which failed 7-6.

Mr. Herring made a motion to add as a decision package a proposal to increase the CIP budget by \$250,000 for consideration by the Finance Committee. The motion was seconded by Mr. Poling, and passed unanimously.

COU2021-42 Consider traffic calming on 82nd Street from Somerset Drive to Roe Avenue

Mr. Bredehoeft stated that residents on 82nd Street had requested traffic-calming measures and that the volume of traffic on the street met the requirements of the traffic calming program. As a result, two speed tables would be installed in the late spring or early summer of 2021. The cost of the speed tables totaled approximately \$10,000, with funds coming from the traffic calming CIP project.

Mrs. Myers made a motion to approve the traffic calming plan as presented. Ms. Nelson seconded the motion, which passed unanimously.

Update on marijuana ordinance research

Mr. Schwartzkopf said that the Council had authorized staff to review the following items at its January 19, 2021 meeting:

1. Removing municipal violations from the Prairie Village ordinance and exempting out of the Uniform Public Offense Code regarding the same misdemeanor violations.
2. Modeling the City's ordinance after the one used in Lawrence, KS, where the penalties for possession of small amounts of marijuana are very minor.
3. To look at any other similar solutions that present themselves.

Mr. Schwartzkopf stated that if approved by Council, the City could exempt itself from marijuana-related offenses found in the Uniform Public Offense Code. However, police officers could still continue to make arrests for these offenses and send them to District Court due to their obligation to follow state law. Furthermore, reducing fines for possession of small amounts of marijuana could actually negatively affect defendants, as they might be less likely to choose a diversion program as first-time offenders. Mr. Schwartzkopf noted that defendants who completed a diversion program through the Prairie Village Municipal Court generally had their charges dismissed.

Ms. Selders stated her preference to have a legal expert research options for the City, and made a motion to direct City Attorney David Waters to review the Columbia, MO marijuana ordinance as well as home rule and state statute, particularly as they pertain to directing police officers not to pursue marijuana charges. Mr. Graves seconded the motion.

Johnson County District Attorney Steve Howe was present to discuss the topic. He stated that cities could not decriminalize marijuana because of its illegality at the state level. He added that although both Wichita and Lawrence had decided to reduce penalties for marijuana offenses, neither had attempted to opt out of the law.

After further discussion, the motion was voted upon and tied 6-6, with Mr. Nelson, Mrs. Myers, Ms. Reimer, Mr. Runion, Mrs. McFadden and Mr. Gallagher in opposition. Mayor Mikkelson cast the tie-breaking vote in favor of the motion, which passed 7-6.

Mrs. Myers moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Nelson and passed unanimously.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mr. Herring made a motion to adjourn the meeting. The motion was seconded by Mrs. McFadden, and passed unanimously.

Mayor Mikkelson declared the meeting adjourned at 9:59 p.m.

Adam Geffert
City Clerk