



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
JANUARY 16, 2024**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, January 16, at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Cole Robinson, Terry O'Toole, Inga Selders, Ron Nelson, Lori Sharp, Lauren Wolf, Dave Robinson, Tyler Agniel, Nick Reddell, Ian Graves, and Terrence Gallagher. Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Melissa Prenger, Public Works; Cliff Speegle, Public Works; City Attorney David Waters, Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Buom, Assistant City Administrator; Jason Hannaman, Finance Director; Adam Geffert, City Clerk.

Youth Council members present: Brynn Bettenhausen, John Gagen, Isabelle Zschoche.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Nelson made a motion to approve the agenda as presented. Mr. Dave Robinson seconded the motion, which passed 11-0.

INTRODUCTION OF STUDENTS AND SCOUTS

Three Boy Scouts were present to earn their citizenship and communications badges.

PRESENTATIONS

- Chief Roberson presented Corporal Patrick Mahoney with a Lifesaving Award for his efforts to help a resident who was unable to breathe until paramedics arrived. He also gave a Distinguished Service Award to Detective Jeremy Shull and Meritorious Service Awards to Detective Steven Whitham and Officer Mark Brown for their work in apprehending a suspect involved in an armed robbery at Great Southern Bank.
- County Commissioner Becky Fast gave a presentation on several topics, including capital projects for wastewater treatment, the construction of a new household hazardous waste facility, road improvements partially funded by the County's CARS program, stormwater management and sustainability efforts.



PUBLIC PARTICIPATION

- Pam Justus, Ward 6, shared her thoughts on the hiring of a new city attorney.
- Julianne Lagerstrom, Ward 1, spoke in opposition to the proposed community center project.

CONSENT AGENDA

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

1. Consider approval of regular City Council meeting minutes - December 18, 2023
2. Consider agreement with the Kansas City Crime Commission for the 2024 TIPS Hotline Crime Stoppers Program
3. Consider approval of 2024 agreements with Johnson County Park and Recreation District

Mr. Gallagher made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: “aye”: C. Robinson, O’Toole, Selders, Nelson, Sharp, Wolf, D. Robinson, Agniel, Reddell, Graves, Gallagher. The motion passed 11-0.

COMMITTEE REPORTS

Planning Commission

- **PC2023-114 Consider Ordinance #2492 to approve an amendment to the special use permit for Kansas City Christian School at 4801 W. 79th Street**

Mr. Brewster stated that Kansas City Christian School was requesting to convert the current grass field on the west side of its property to a turf field, with accessory structures including a 6’ perimeter black chain link fence, ball nets behind soccer goals, bleachers, a press box, and a scoreboard at the northeast corner by 79th Street. He stated that the proposal was considered an expansion or amendment of previously approved site plans, and based on prior permit conditions required an amendment to the special use permit.

Mr. Brewster noted that the permit was initially approved by the City Council in January 1999 for the reuse of an elementary school building built in 1954, and had been amended several times to support expansion of the school and construction of new classrooms and facilities. The original special use permit did not have an expiration date but was subject to four conditions relative to the design, construction, and operation of the school, as presented in an approved site plan. One of the conditions stated that expansion of the school or changes to the approved site plan would require an amendment to the special use permit.



Mr. Brewster said the Planning Commission initially held a public hearing on November 14 and continued the hearing to December 5. Comments were submitted from residents sharing concerns about water runoff and environmental impact from the proposed synthetic turf, as well as fencing and a potential new playground. Several residents also shared support for the investment into the neighborhood.

The Planning Commission voted 6-1 to recommend approval of the amended special use permit to the City Council, subject to the conditions outlined in the staff report.

Mr. Brewster stated that a special use permit application required the City Council to act in its quasi-judicial role. When acting in this capacity, rather than a legislative capacity, the governing body must set aside personal opinions and, like a judge, apply the law to facts presented in the public record, taking into consideration the following criteria, commonly referred to as the “Golden” factors:

1. The character of the neighborhood
2. The zoning and uses of property nearby
3. The suitability of the property for the uses to which it has been restricted under its existing zoning
4. The extent that a change will detrimentally affect neighboring property
5. The length of time of any vacancy of the property
6. The relative gain to public health, safety, and welfare by destruction of value of the applicant’s property as compared to the hardship on other individual landowners
7. City staff recommendations
8. Conformance with the comprehensive plan

He added that according to Section 19.52.040 of the zoning regulations, the Governing Body could take the following actions on a special use permit recommendation from the Planning Commission:

1. Adopt the Planning Commission’s recommendation by a simple majority of members present.
2. Override the Planning Commission’s recommendation by a 2/3 majority vote of the entire Governing Body (9 votes including the Mayor)
3. Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body’s failure to approve or disapprove by a simple majority. The Planning Commission could then resubmit the original recommendation or submit a new and amended recommendation. The Governing Body then can adopt or amend the recommendation by a simple majority (7 votes) or take no further action.

Mr. Gallagher asked whether the scoreboard would include a sound system. Mr. Brewster stated that the scoreboard would feature game-related sounds, such as a



horn to signify the beginning and end of a game but would not include a public address system. He added that the school had a portable sound system that it used for public address functions.

Mr. Cole Robinson made a motion to approve the amendment to the existing special use permit as presented. Mr. Reddell seconded the motion.

Mr. Dave Robinson asked why the scoreboard would be located on the 79th Street side of the property. Mr. Brewster said that the location was selected because access to power was already available there. He added that trees would be planted to help screen the scoreboard, and that its construction met all zoning regulations for accessory structures.

After further discussion, A roll call vote was taken with the following votes cast: “aye”: C. Robinson, O’Toole, Selders, Nelson, Sharp, Wolf, D. Robinson, Agniel, Reddell, Graves, Gallagher, Mikkelsen. The motion passed 12-0.

- Ms. Wolf stated that the Parks and Recreation Committee had met the prior week, and that the pool was seeking lifeguards for the 2024 season. She also noted that an Arts Council reception was held on January 10.

MAYOR’S REPORT

- The Mayor shared information about events that had taken place since the prior Council meeting:
 - Two Public Works retirement lunches for Dan Inffen and Steve Mills
 - A retirement celebration for Sgt. Luke Roth of the Police Department
 - Meetings with area legislators
 - The Northeast Johnson County Chamber of Commerce’s annual State of the Cities meeting
 - MARC and UCS Board meetings
 - A Johnson County / Wyandotte County Mayors dinner
 - The Diversity Committee’s third-annual Martin Luther King, Jr. celebration at Village Church
 - A meeting with the Youth Council to discuss the Mayor’s role with the City
- The Mayor noted the following upcoming events:
 - The appointment of volunteers to City committees
 - A Northeast Johnson County Chamber Leadership Academy bus tour on January 24
 - A public meeting for the proposed community center on January 25
 - A Prairie Village Foundation meeting on January 29
- The Mayor also shared the following:
 - Mr. Graves’s appointment as co-chair of the First Suburbs Coalition in the Kansas City region



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- WaterOne receiving an award for having the “Best Tasting Water in Kansas” for the sixth time

STAFF REPORTS

- Chief Roberson said that new enhancements to the Police Department website would go live on Monday, January 22.
- Mr. Bredehoeft shared information about the upcoming public meeting for the proposed community center project on January 25 at the Meadowbrook Park clubhouse. He noted that additional meetings would be held in April and June.
- Mr. Schwartzkopf provided an update on FEMA reimbursement funds for the powerful storms that affected the City in July 2023 and caused significant damage. He noted that work was continuing to collect partial reimbursement for the over \$600,000 spent by the City on storm cleanup and storm channel repair.

Mr. Schwartzkopf also noted that he and James Carney would be attending an integrated emergency management course in Maryland later in the year.

- Mr. Jordan provided information on the process of appointing a new city attorney, noting that a recommendation would be brought to the Council at its February 5 meeting.

OLD BUSINESS

None.

NEW BUSINESS

COU2024-01

Consider construction administration agreement amendment #1 with Trekk Design Group for MIRD0007: Mission Road near 68th Street flood control project construction

Mr. Speegle said that the City supplemented its own construction inspection staff with consultant inspectors each year. The proposed contract included construction administration services in 2024 specifically for the Mission Road flood control project, allowing City staff to continue inspections for other projects during the construction season. He noted that TREKK Design Group had been inspecting the project since construction began in the summer of 2023. The amendment would be a continuation of those inspection services based on remaining project work.

Mr. Speegle said that inspection costs were budgeted as part of the MIRD0007 project, and that construction inspection was a reimbursable expense funded at 50% with county SMAC project funding.



Mr. Nelson made a motion to approve amendment #1 for the construction administration agreement with Trekk Design Group for MIRD0007: Mission Road near 68th Street flood control project for \$46,843.20. The motion was seconded by Mr. O'Toole and passed 11-0.

COU2024-02 Consider pickleball noise mitigation options

Ms. Prenger stated that after the completion of the six pickleball courts at Windsor Park in 2023, Council and staff received comments from some surrounding residents indicating that the noise from pickleball play was bothersome. Staff engaged a company known as Pickleball Sound Mitigation to complete a report and make recommendations for solutions to bring the pickleball sound levels within ANSI guidelines for residential areas of 55 dBA. The recommendation was to install some form of acoustic fencing around the courts to reduce noise.

Staff received quotes from four manufacturers:

- Acoustiblok - \$23,760
- eNoise Control - \$27,684
- Insul-Quilts - \$39,862
- SLN/CR - \$23,331

Ms. Prenger noted that performance ratings indicated that the SLN/CR product provided the best noise reduction for the price of the four options. She added that the material would not only function as a barrier, but also provide sound absorption of approximately 70%. She added that another option was to repaint the courts to allow for two pickleball courts and one tennis court, rather than six pickleball courts.

Mr. Dave Robinson asked why there had not been complaints from neighbors near the pickleball courts at Harmon Park. Ms. Prenger said that the courts there were striped over the existing tennis courts, and as a result, pickleball play on those courts was of a more recreational nature and less intense than at Windsor Park. Mr. Robinson suggested an additional option would be to removal pickleball courts from Windsor Park completely and repaint them for tennis only.

Ms. Sharp said that she had received comments from Ward 3 residents both in favor and in opposition to the courts at Windsor Park. Many were concerned with a significant increase in parked cars along both sides of Windsor Street near the park. She suggested making the courts more accessible to Prairie Village residents by charging non-residents fees to use them.



Mayor Mikkelson stated that he had heard concerns from residents about blind spots that would be created by putting the acoustical fencing up, which would make it difficult for parents to keep track of children in the park.

Mr. Gallagher made a motion to send the issue back to the Parks and Recreation Committee to evaluate reducing the number of pickleball courts at Windsor Park and return to Council with a recommendation. The motion was seconded by Mr. Reddell.

Mr. O'Toole asked what the cost would be to repaint the courts to include one tennis court and two pickleball courts. Ms. Prenger said the cost would be similar to installing noise-reduction materials.

Mr. Dave Robinson asked whether the noise-reduction materials would be placed on all four sides of the courts. Ms. Prenger said that based on the recommendation from the sound study, it would only be placed on the north and east sides, which faced surrounding homes.

Ms. Selders made a motion to amend the motion and order the SLN/CR noise-reduction product right away, but also ask the Parks and Recreation Committee to consider changing the number of courts. Ms. Sharp seconded the motion. After further discussion, a roll call vote was taken with the following votes cast: "aye": C. Robinson, Selders, Sharp, Graves; "nay": O'Toole, Nelson, Wolf, D. Robinson, Agniel, Reddell, Gallagher. The motion failed 7-4.

A roll call vote on the original motion was taken with the following votes cast: "aye": O'Toole, Selders, Nelson, Sharp, Wolf, D. Robinson, Agniel, Reddell, Gallagher; "nay": C. Robinson, Graves. The motion passed 9-2.

COU2024-03 Consider approval of the 2024 SuperPass interlocal agreement and swim meet letter of understanding

Ms. Buum said that the SuperPass program allowed residents of partner cities to pay a fee in addition to their regular pool membership to gain access to the other cities' pools during the summer season. She noted that the program was in its eleventh year and considered a success by all participating municipalities.

Ms. Buum stated that the proposed program for 2024 included a change in the pricing structure to an individual pass system to mirror the pool pass structure of the other participating cities. She added that the City of Leawood voluntarily opted not to participate in the program, and the City of Roeland Park would not participate in the program in 2024 but could be invited to return in future years should its aquatics facility be open seven days per week.



In addition to the SuperPass agreement, the partnering cities also annually approved a letter of understanding to allow all residents with a regular pool membership to attend each other's pools on dates the host pools are closed for swim/dive meets. Ms. Buum said that occurred approximately four days per summer and provided resident pool members with an alternative option when the pool is closed for meets at no additional cost.

Ms. Wolf made a motion to approve the agreements by and among the City of Prairie Village, the City of Mission, and the City of Fairway for use of swimming pool facilities. The motion was seconded by Mr. Agniel and passed 11-0.

COU2024-04 Consider changes to CP527 - Tennis Court Rental / Reservation Policy

Ms. Buum shared that at the January 10, 2024, Parks and Recreation Committee meeting, the committee recommended amending Council Policy 527 as it related to private (non-school) tennis tournaments. She noted that there had been a growing interest in reserving the Harmon Park tennis complex for private events that utilize the entire complex and impede citizen use of the facilities. The proposed changes to the policy would allow for only two tournaments per month, available on a first come, first served basis after the school-related tournaments have been scheduled.

Mr. Agniel made a motion to approve changes to Council Policy 527 - Tennis Court Rental / Reservation Policy as presented. Ms. Wolf seconded the motion, which passed 11-0.

COU2024-07 Consider 2024 recreation fee schedule

Ms. Buum stated that per Council direction, staff reviewed recreation fees annually to ensure they are reasonable and keep pace with any operational increases with a goal of evaluating every five years. Fees were increased broadly in 2023, with only one change recommended for 2024.

At the January 10, 2024, Parks and Recreation Committee meeting, the committee recommended increasing the fees for private (non-school) tennis tournaments. Ms. Buum noted that the City had seen a growing interest in utilizing the Harmon Park tennis complex for private events that utilized the entire complex, which impeded citizen use of the facilities.

The committee approved a new rate of \$60 per court per day for non-school tournament use. While a substantial increase from the previous tournament fee, it still represented a discounted price from the hourly rental rate when rented for the entire weekend.

Mr. Reddell made a motion to approve the 2024 recreation fee schedule as presented. Ms. Wolf seconded the motion, which passed 11-0.



COU2024-05 Consider changes to CP001 - City Committees

Ms. Lee said on January 10, 2024, the Arts Council recommended a change to its leadership structure by selecting a member of the Arts Council to serve as an additional Vice-Chair. The following changes are recommended in bold:

Council Policy 001 - City Committees (Section VII "Policy", Subsection 9 "Prairie Village Arts Council"):

- a. The Prairie Village Arts Council will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Twelve additional voting members appointed by the Mayor, with consent of the City Council, will also serve on the Committee. **In addition, the Chair may select a second Vice-Chair. The second Vice-Chair will be confirmed by the Committee and will serve a one-year term.** There may be two non-voting youth representatives.

Additionally, the Parks and Recreation Committee proposed a meeting time change, moving the start time from 5:30 p.m. to 4:00 p.m. The change is recommended in bold:

Council Policy 001 - City Committees (Section VII "Policy", Subsection 5 "Parks and Recreation Committee"):

- b. The Parks & Recreation Committee will normally meet at **4:00 p.m.** six times per year.

Ms. Wolf made a motion to approve revisions to Council Policy 001 - City Committees. Mr. Nelson seconded the motion, which passed 11-0.

Mr. Reddell made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. O'Toole and passed 11-0.

COUNCIL COMMITTEE OF THE WHOLE

Discuss requested City Hall improvement options

Ms. Prenger said that at its November 6, 2023, meeting, the Council selected a concept for the City Hall improvement project and requested that the design team review two requests:

- 1) Maintaining the existing council chambers space to use for municipal court



2) Inclusion of underground parking in the new facility

Ms. Prenger noted the following negative aspects of maintaining the existing council chambers:

- Requires larger footprint
- Sightlines from lobby to courtroom entry are not desirable
- Significant envelope improvements would be required
- Reduces level of LEED certification that is achievable
- Higher cost, by approximately \$1M (\$29.5 million vs. \$28.6 million)

She also stated that adding a parking garage was not desirable, for the following reasons:

- Garage replaces a gated employee surface parking
- Only 20 parking stalls total
- Existing site elevations dictate that access is off of the driveway to the south which is not on City property
- LEED implications include potential energy credit penalties for use of forced air exhaust and heating of the garage and underside of the floor above (though there would be a potential benefit for credit due to heat island reduction)
- Higher cost, by approximately \$6M (\$34.5 million vs. \$28.6 million)

Ms. Prenger stated that staff did not recommend inclusion of either proposal due to the cost/benefit of each item.

Mr. Graves made a motion to proceed with the option approved at the November 6, 2023, City Council meeting without inclusion of the two proposals considered. Mr. Cole Robinson seconded the motion, which passed 11-0.

COU2024-06 Consider updated Code of Ethics

Mr. Waters stated that the City's Code of Ethics, codified in Section 1-212 of the City Code, had not been updated since 2008. Based on recent issues involving allegations raised under the Code of Ethics, City staff undertook a review of the Code as well as those of neighboring municipalities in an effort to both clarify and strengthen the Code.

Mr. Waters said that the Code consisted of two themes: general expectations of behavior and conduct from public officials (which are not necessarily "law" or legally-binding but are intended to recognize goals which officials should strive to achieve), and enforceable provisions on conflicts of interest and self-dealing, particularly for financial or business gain. The following is a summary of the proposed changes in the draft revised Code of Ethics:

- Following the approach utilized by most municipalities reviewed by staff, the Code of Ethics itself would not apply to employees, as the roles of elected and



appointed officials differ from those of employees. However, staff intends to incorporate similar provisions on conflicts and financial self-dealing in appropriate personnel manuals. Members of boards, committees, or commissions are governed by a separate code of conduct included among the City Council policies.

- Clearer distinctions have been drawn between expectations of conduct and guidelines for behavior and enforceable violations of the Code of Ethics. As an example, new language has been added regarding expectations of civility. Given that “violations” of certain behaviors may be subjective, these standards are not intended to be legally enforceable, but instead serve as a reminder that members of the governing body are expected to comport themselves in appropriate ways.
- New language has been added prohibiting discrimination on the basis of various protected classes of persons.
- The conflict-of-interest sections have been revised to be consistent with Kansas state statutes on the issue. New language has also been added regarding acquisition of financial interests and the representation of private interests before the body.
- Additional language has been added regarding the disclosure of confidential information.
- In recognition that officials are often invited to represent the City at official functions or events, at which meals may be served, the “gifts and favors” portion of the Code has been revised to allow officials to attend such engagements so long as there is no substantial risk of undermining official impartiality.
- The “Misuse of City Property” subsection has been expanded to apply to the misuse of City personnel and staff.
- Clearer provisions allowing for advisory opinions have been added.
- Currently, the Code provides that allegations against individuals are brought to the Council Committee of the Whole which will (perhaps on an ad hoc basis) “adopt its own rules for studying and investigating complaints”. The draft revised Code establishes the following specific procedures so that allegations can be considered appropriately and uniformly:
 - An opportunity for officials to raise concerns informally with each other, acknowledging that certain ethical concerns may not constitute any legal violation, and allowing for a measure of self-enforcement. This is important so that City staff is not regularly in the position of mediating or judging mere political or personality disputes;
 - Review by the city administrator and/or the city attorney, with the ability to engage outside independent counsel where appropriate;
 - The ability for certain complaints to be dismissed without full investigations or hearings where it is clear that an allegation, even if true, would not constitute a violation of the Code or other law, or where the complaint is frivolous or made for campaign or political purposes;



- Investigative findings will otherwise be provided to the Council Committee of the Whole. Impacted persons will be expected to recuse themselves from discussion, deliberation, and debate on the matter, except to provide their own evidence in their defense.
- Currently, the Code of Ethics only provides for “censor” (which should be “censure”) or ouster as possible punishments. The range of options has been expanded to include no action, required ethics training, censure, removal from boards, or other lawful action (which could include ouster). The ability to refer violations of state or other local law to other enforcing officials has also been added.

Mr. O’Toole asked for more information about the proposed “Late Case Interest” section, and whether it would prevent former Councilmembers from speaking in front of the Council. Mr. Waters noted that the section was not a new revision to the Code and added that it was primarily referring to former Councilmembers speaking to the Council about a case, proceeding or application on which they might have worked as a member of the governing body. He added that other area cities had similar provisions, but how they were enforced was unclear.

Mr. O’Toole also asked whether the ouster of a Councilmember could be done with a simple majority of the Council. Mr. Waters said that ouster proceedings were ultimately handled by the attorney general or district attorney, so a vote by the Council on an ouster would simply result in a complaint being filed. He added that the Code language could be changed so that a supermajority was required to file a complaint.

Mr. Reddell made a motion to have staff review the sections that Mr. O’Toole referenced, specifically striking the section on late case interest and requiring more than a simple majority to institute ouster proceedings. Mr. O’Toole seconded the motion.

Mr. Waters stated that it would be helpful if all suggestions or recommended changes to the Code were included in one motion.

Mr. Reddell rescinded the motion.

Mayor Mikkelson suggested a time limit be added to the late case interest section, and to specify that ouster proceedings were simply a referral to the attorney general or district attorney.

Ms. Sharp noted that a new city attorney would be appointed in February, and that it would be appropriate to have that person review the proposed changes before any decisions were made. She added that she felt the late case interest section limited the first amendment right to free speech.

After further discussion, Mr. O’Toole made a motion to allow Council to place a time limit of 12 months for the late case interest section and that bringing ouster proceedings against



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a Councilmember require a 2/3 majority vote of the Council. Mr. O'Toole added that after making the changes, the draft should be brought back to the next Council Committee of the Whole meeting for review. The motion was seconded by Mr. Reddell, and passed 9-2, with Mr. Nelson and Ms. Sharp in opposition.

Mr. Dave Robinson moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Agniel and passed 11-0.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelsen declared the meeting adjourned at 9:45 p.m.

Adam Geffert
City Clerk