

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Tuesday, September 03, 2019
6:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE AGENDA

V. INTRODUCTION OF STUDENTS & SCOUTS

VI. PRESENTATIONS

Glass and food composting presentation

VII. PUBLIC PARTICIPATION

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

VIII. 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. Approval of regular City Council meeting minutes - August 19, 2019
2. Approval of expenditure Ordinance #2981
3. Approval of sidewalk installation on Belinder Road from 73rd Street to 75th Street

IX. COMMITTEE REPORTS

X. MAYOR'S REPORT

XI. STAFF REPORTS

XII. OLD BUSINESS

XIII. **NEW BUSINESS**

COU2019-40 Approval of updated terms of office for elected officials
David Waters

COU2019-41 Approval of Ordinance 2406 regulating the use of Unmanned Aerial
Vehicles (UAVs)
David Waters

XIV. **COUNCIL COMMITTEE OF THE WHOLE** (Council President presiding)

XV. **ANNOUNCEMENTS**

XVI. **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



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
AUGUST 19, 2019**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 19, 2019, at 6:00 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Council Members in attendance: Chad Herring, Jori Nelson, Serena Schermoly, Ron Nelson, Tucker Poling, Andrew Wang, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terrence Gallagher. Staff present: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Public Works; City Attorney David Waters, attorney with Lathrop & Gage; Wes Jordan, City Administrator; Jamie Robichaud, Deputy City Administrator; Alley Porter, Assistant City Administrator; Lisa Santa Maria, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Poling made a motion to approve the agenda for August 19, 2019. Mrs. Myers seconded the motion, which passed unanimously.

INTRODUCTION OF STUDENTS & SCOUTS

No students or scouts were in attendance.

PRESENTATIONS

Jeff Stewart from the Johnson County Parks and Recreation District (JCPRD) provided updates on the state of Meadowbrook Park and future plans as part of the Meadowbrook Park Master Plan.

Mayor Mikkelson recognized outgoing Executive Director Jill Geller, who will be leaving JCPRD in September to take a position in California.

PUBLIC PARTICIPATION

- Pat McAnulty, 7405 Belinder, shared his objection to the proposed sidewalk on Belinder Road between 73rd Street and 75th Street.
- Laura Speicher, 7323 Belinder, stated that she supported the construction of the sidewalk.



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 - August 5, 2019
2. Appointment of Shannon Marcano as Assistant City Attorney

Mr. Runion asked to removed item #2 for discussion.

Mr. Herring moved to approve item #1. A roll call vote was taken with the following votes cast: "aye": Herring, J. Nelson, Schermoly, R. Nelson, Poling, Wang, Myers, Morehead, Runion, McFadden, Odell and Gallagher.

Mr. Runion stated that he supported the reappointment of Ms. Marcano but was concerned that the agreement terms specifically mentioned providing services for a potential civic center. He noted that media might make the assumption that the City had committed to proceeding with the project even though that decision has not yet been made. Ms. Nelson shared Mr. Runion's concerns, and asked why the City would work with an attorney even though there had not yet been discussions with residents.

Mayor Mikkelson said that Ms. Marcano had been made aware that the civic center project might not happen at all, adding that the City needed legal representation because both the Johnson County Library and YMCA had hired attorneys. He reminded Councilmembers that the City's attorney, David Waters, would not be able to represent the City because the firm for which he works, Lathrop and Gage, had been retained by the YMCA.

Mr. Odell made a motion to approve item #2 from the consent agenda, approving the appointment. The motion was seconded by Mr. Poling and passed 10-2, with Ms. Nelson and Mr. Runion in opposition.

COMMITTEE REPORTS

- Mrs. Myers stated that an RFP was published on August 9th to consider firms to help develop questions for the civic center survey. Three responses had been received, with approximately one week left before the deadline. A selection will be made in September.

Mrs. Myers added that the annual Fall Tree Seminar would be held on October 2nd at 7:00 p.m. in the Council chambers. Discussion will focus on native plantings.

- Mr. Odell noted that the Arts Council discussed installing a storage unit behind City Hall because it had run out of space inside the building.



- Mr. Gallagher said that he had attended the Governors Summit on Regional Collaboration on Tuesday, August 13th. The Governors of both Kansas and Missouri agreed to end the economic “border war” in the Kansas City region, and a speaker from the Brookings Institute discussed the value of economic competitiveness.
- Ms. Nelson stated that the Teen Council application form had been placed on the City’s website, and that the deadline to apply was September 13th.

MAYOR’S REPORT

Mayor Mikkelson reported the following:

- The Mayor, Chief Schwartzkopf and Major Roberson attended the NAACP of Johnson County monthly meeting on August 10th. Discussion focused on diversity and racial justice.
- The Mayor, Mr. Jordan and other staff met with the Northeast Johnson County Chamber of Commerce and Kelsey Potts with the Prairie Village Merchants Association to identify strategies to support local businesses in the City.
- The Mayor attended a meeting with the Greater Kansas City Chamber of Commerce and Metropolitan Climate Action Coalition.
- The City participated in National Night Out for the first time on August 6th. Turnout was good, and it is anticipated that the event will be held annually going forward.
- The Mayor and staff met with private entities interested in partnering with the City on the proposed civic center.
- City staff met with the Kansas City Area Transportation Authority (KCATA) to discuss micro transit options on August 14th. A pilot project has begun in a limited area of Johnson County, offering services similar to Uber or Lyft for \$1.50 per ride within a specified area.
- The Shawnee Mission School District annual luncheon was hosted by the Northeast Johnson County Chamber of Commerce on August 15th. A presentation describing the district’s long-term strategic plan and mission statement was given by Superintendent Mike Fulton.
- The Mayor recognized four Prairie Village-area schools that earned the National PTA School of Excellence designation for 2019-2021: Belinder Elementary, Tomahawk Elementary, Indian Hills Middle School, and Shawnee Mission East High School. A total of five Shawnee Mission schools were among only seven in the state to earn this national recognition.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf reiterated that the National Night Out event was successful.

Public Works



- Keith Bredehoeft stated that the road reconstruction project on Roe Avenue between 63rd Street and 67th Street was on-going. The poor condition of the roadway necessitated the installation of a cement treated base, adding approximately two weeks to the project.

Mr. Bredehoeft noted that the stormwater project at 68th and Mission Road had not been awarded funding by the County for 2020. The project will be resubmitted for consideration in January for the 2021 year. He added that flood warning lights will be installed at the location to help drivers recognize when water is present on the street. The lights will also be installed at other low-water crossing areas in the City.

A public meeting about skate park improvements will be held on September 19th at Meadowbrook clubhouse.

Administration

- Lisa Santa Maria provided information on the financial impact of the “dark store theory”. In a worst-case scenario, the City would potentially need to pay back \$90,000 to retailers.
- Jamie Robichaud stated that the annual Johnson County Municipal Court amnesty event would take place between September 10th and 25th. During this time, defendants can come to court to have their warrants cancelled and warrant fees waived and will be granted a new court date to resolve their case.

Village Vision public participation sessions will be held on September 9th and 12th at the Meadowbrook clubhouse.

- Wes Jordan shared a flier providing more information about the micro transit pilot program, noting that Prairie Village would be included in the pilot project area on Saturdays. This information will be shared via City social media accounts. The program will run through December.
- Adam Geffert said that the annual animal enumeration project began on August 19th, and would continue through the month of September. Enumerators will be working in sections of Wards 2, 4 and 5.

OLD BUSINESS

There was no old business to come before the Council.

NEW BUSINESS

COU2019-39 Consider Approval of DELN0001 - Delmar and Fontana low water crossing removal and drainage project - amendment to design engineering contract with Water Resources Solutions, LLC



Mr. Bredehoeft reported that Delmar-Fontana project was proceeding as planned, adding that easements had to be obtained from nearly all residents in the project area. Obtaining the easements was made easier by providing residents visual renderings of the channel and culvert improvements, and to assure them that landscaping would be fully restored. Additional funding of up to \$21,622 is needed for the landscape architecture firm to complete the project.

Mr. Odell asked if any additional funding would be needed for landscaping if the amendment were approved, and Mr. Bredehoeft stated that he did not believe there would be a need.

Mr. Odell moved the City Council approve the amendment as presented. The motion was seconded by Mr. Poling, and passed unanimously.

Mrs. Morehead made a motion that the City Council move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Nelson and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

Discuss terms of office for elected officials

David Waters provided background, noting that after the Kansas Legislature moved elections from the spring to the fall in 2015, it established that newly-elected officials would take office on the second Monday in January. That decision created problems for some cities, such as Prairie Village, that do not formally meet on that date. Senate Bill 105, passed in 2019, rectified the problem by allowing cities to establish a term of office on or after December 1st, following the certification of an election. Mr. Waters stated that Council had the option to move the date or to leave it at the second Monday in January.

Mr. Odell shared his concerns, stating that Councilmembers not running for re-election had already had their terms cut short when elections were moved. He recommended setting the term of office to begin at the first meeting in January. This sentiment was echoed by Mr. Wang and Mrs. Morehead. Mr. Poling stated that it would be best to get newly elected officials on to the Council as soon as possible.

Mr. Poling made a motion to direct staff to change the term of office to begin at the first Council meeting in December. Mr. Nelson seconded the motion.

Ms. Nelson asked how other cities were handling the issue, and Mr. Waters stated that many had chosen to move to December.



Mr. Herring made a motion to amend the motion to begin the 2020 term at the first meeting in January 2020, and the first meeting in December in subsequent years. The motion was seconded by Mrs. Schermoly. The motion to amend-passed 11-1, with Mr. Nelson in opposition.

The amended motion passed 11-1, with Mrs. Myers in opposition.

Consider approval of an Ordinance (Chapter 11, Article 16) regulating the use of Unmanned Aerial Vehicles (UAVs)

Mr. Waters stated that a second draft of the proposed Ordinance was presented to Councilmembers at the April 15th meeting. At that time, Council voted to move forward with the direction to bring a finalized draft back after consultation with the City Prosecutor. Minor language changes were made by the Prosecutor, and violations were determined to be class “C” misdemeanors.

Mr. Odell moved to approve the Ordinance as presented, and Mr. Poling seconded.

Mr. Nelson stated that he did not believe the Ordinance was necessary since there were already state statutes that address stalking, harassment and UAVs. He added that the Police Department had existing options and didn’t need anything additional. Mr. Herring said that the Ordinance would provide the Police Department additional tools to address inappropriate use of UAVs.

Mr. Odell called the question, and Mr. Poling seconded. All were in favor except Mrs. Schermoly and Mr. Nelson.

The original motion tied 6-6, with Mrs. Schermoly, Mr. Nelson, Mrs. Myers, Mr. Wang, Mrs. McFadden and Mrs. Morehead in opposition. Mayor Mikkelson provided a tie-breaking vote resulting in the motion passing 7-6.

Consider approval of sidewalk installation on Belinder Road from 73rd Street to 75th Street

Melissa Prenger noted that currently, a sidewalk existed on both sides of Belinder Road from the northern City boundary with Mission Hills to 79th Street, with the exception of the east side of the road from 73rd Street to 75th Street, and the west side from 75th Street to 75th Place. Although City policy only requires the street to have a sidewalk on one side, this area of Belinder Road has a high volume of daily traffic, and is located near Belinder elementary school, which draws students from south of 75th Street.

Mr. Gallagher opened public participation at 8:39 p.m. Tony Biagioli, 7329 Belinder, stated that he was in favor of the sidewalk, sharing safety concerns when children



attempt to cross the street to reach the sidewalk on the west side. With no other individuals present to address the Council, public participation closed at 8:42 p.m.

Mr. Herring asked about the proposed retaining wall that would need to be installed at several properties along with the sidewalk. Mrs. Prenger stated it would be approximately two feet tall, and would be maintained by the City, not property owners. She added that Public Works would consult with homeowners to determine how best to handle trees in the path of the sidewalk.

Mr. Herring made a motion to approve the sidewalk installation on the east side of Belinder Avenue from 73rd Street to 75th Street. The motion was seconded by Mr. Poling, and passed unanimously.

New Business

There was no new business to come before the Council Committee of the Whole.

Mr. Nelson moved that the City Council end the Council Committee of the Whole portion of the meeting. Mrs. Schermoly seconded the motion which passed unanimously.

ANNOUNCEMENTS

Announcements were included in the Council packet.

ADJOURNMENT

With no further business to come before the City Council, Mayor Mikkelson declared the meeting adjourned at 8:55 p.m.

Adam Geffert
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

August 12, 2019

Copy of Ordinance
2981

Ordinance Page No. _____

An Ordinance Making Appropriate for the Payment of Certain Claims.

Be it ordained by the governing body of the City of Prairie Village, Kansas.

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of funds in the City treasury the sum required for each claim.

NAME	DATE	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
19896	7/2/2019	302.90	
19897-19973	7/12/2019	487,332.71	
19974-19987	7/22/2019	115,777.08	
19988-20085	7/26/2019	2,587,587.01	
Payroll Expenditures			
7/5/2019		355,406.51	
7/19/2019		357,325.93	
Electronic Payments			
Electronic Pmnts	7/3/2019	20,661.75	
	7/9/2019	15,221.81	
	7/10/2019	10,362.66	
	7/12/2019	1,058.79	
	7/17/2019	3,370.16	
	7/22/2019	5,038.68	
	7/23/2019	4,759.89	
	7/26/2019	32,148.95	
	7/29/2019	38.53	
TOTAL EXPENDITURES:			3,996,393.36
Voided Checks	Check #	(Amount)	
TOTAL VOIDED CHECKS:			
GRAND TOTAL CLAIMS ORDINANCE			3,996,393.36

Section 2 That this ordinance shall take effect and be in force from and after its passage.

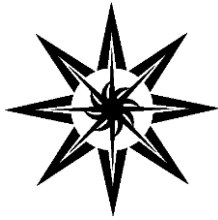
Passed this 12th day of August 2019.

Signed or Approved this 12th day of August 2019

(SEAL)

ATTEST: *Tracy A. Norton*
City Treasurer

ATTEST: *[Signature]* 8.9.19
Finance Director



PUBLIC WORKS DEPARTMENT

City Council Committee Date: August 19, 2019
City Council Meeting Date: September 3, 2019
CONSENT AGENDA

Consider approval of sidewalk installation on Belinder from 73rd Street to 75th Street

RECOMMENDATION

Move to develop plans and construct sidewalk on the east side of Belinder Avenue, from 73rd Street to 75th Street.

BACKGROUND

Belinder Avenue, from 71st Terrace to 75th Street, has been identified for our 2019 Paving Program. The contractor will be performing sidewalk and curb repairs in addition to stormwater repairs in the area just south of 73rd Street.

When preparing the paving program, one item that is reviewed is our sidewalk connectivity. Currently there is sidewalk on both sides of Belinder Avenue for a majority of its length through the City from the north city limit, just north of 71st Street, to 79th Street. There are two missing links, one from 73rd Street to 75th Street and one from 75th Street to 75th Place. Physical conditions from 75th Street to 75th Place prohibit placing the sidewalk.

CONNECTIVITY

Prior to 2004, Belinder and Somerset Elementary shared a boundary line of 75th Street. Students for each school were walking within a boundary of arterial roadways. Upon the closing in 2004, the school boundary for Belinder Elementary expanded to include students as far south as 79th Street. A single path on the east side for students who have access south of 75th Street is good connectivity and creates a more walkable path to school.

Since this section is in close proximity to the school and Belinder has over 3600 vehicles per day, staff views this as a “missing link” of sidewalk and would like to move forward with construction as part of our Residential Street Program.

IMPACTS

The sidewalk can be constructed in the City right of way. There are four trees in the right of way; two are on a property that has agreed to work with the City on their landscaping, one is dead/dying and the remaining tree would be a discussion item with the homeowner after we proceed with design. There are approximately two properties where a small retaining wall may be needed behind the sidewalk. The impacts will be determined upon completed of plans after staff receives direction for construction of the sidewalk.

Staff had a public meeting with residents on July 17, 2019 and gathered comments from cards distributed that week. Comments are attached.

FUNDING SOURCE

Funding for this project is available in the annual Residential Street Program.

PREPARED BY

Melissa Prenger, Senior Project Manager

August 13, 2019





ADMINISTRATION

City Council Committee Date: August 19, 2019

City Council Meeting Date: September 3, 2019

COU2019-40: Terms of Office for Elected Officials

RECOMMENDATION

Staff recommends approval of the updated terms of office for elected officials as presented.

MOTION

Move to approve updating the terms of office for elected officials to begin the 2020 term at the first meeting in January and, in subsequent years, the first meeting in December.

BACKGROUND

In 2015, the Kansas Legislature amended certain statutes relating to city elections, including requiring that elected officials take office on the second Monday in January following the city general election. This caused issues for many cities that did not have a regularly scheduled meeting on that second Monday. In the last legislative session, the 2019 Kansas Legislature enacted Senate Bill 105 to allow a city to establish a term of office on or after December 1 following certification of the election, giving cities more flexibility for when elected officials could be sworn in.

Staff proposes aligning the swearing in with one of the following regularly scheduled meeting of the City Council:

- The first meeting in December
- The second meeting in December
- The first meeting in January

UPDATE

During the August 19, 2019 Committee of the Whole meeting, Council weighed various options and decided to direct staff to begin the 2020 term at the first meeting in January and the first meeting in December in subsequent years.

ATTACHMENTS

Ordinance 2405 to Set Terms of Office Redline Version

Ordinance 2405 to Set Terms of Office

Resolution 2019-13 to Set Terms of Office

PREPARED BY

Alley Porter

Assistant City Administrator

Date: August 29, 2019

(Summary Published in the Legal Record on _____, 2019)

ORDINANCE NO. 2405

AN ORDINANCE AMENDING SECTION 1-203 (SAME; MEETINGS), SEC. 6-105 (COUNCILMEMBERS ELECTIONS; MAYOR ELECTIONS; TERMS), AND SEC. 6-106 (COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE) OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AND PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTIONS AMENDED.

WHEREAS, in the 2019 Legislative Session, the Kansas Legislature passed Senate Bill 105 which allows a city to determine the start date of a regular term of office following a city election provided such date is not earlier than December 1 following certification of the election and not later than the second Monday in January following certification of the election; and

WHEREAS, the City of Prairie Village, Kansas (the "City"), and pursuant to such Senate Bill 105 (amending K.S.A. 25-313 and K.S.A. 25-2120) has passed Resolution No. 2019-13, which established the first Monday in December following the certification of election results as the date on which the regular term of office for all elected city officials shall commence; and

WHEREAS, pursuant to Charter Ordinance No. 20 (2001), Charter Ordinance No. 13 (1990) pertaining to elections, dates of city elections, terms of office, and matters related thereto was repealed, and pursuant to Charter Ordinance No. 26 (2015), said Charter Ordinance No. 20 was itself repealed, along with Charter Ordinance Nos. 14 (1990) and 24 (2009), and substitute and additional provisions on the subjects addressed by K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies and K.S.A. 25-2108a relating to primary elections are and will be contained in one or more ordinary ordinances

WHEREAS, the City desires to amend the Prairie Village Municipal Code to conform such commencement date with the provisions of Resolution No. 2019-13.

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

Section 1. Section 1-203 of Article 2, Chapter I of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

1-203. SAME; MEETINGS.

(a) On the first Monday in January following certification of the results of the City election held in November 2019, as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business. Thereafter, on the first Monday in December following certification of the results of the City election held the previous November as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business.

~~(a)~~(b) Regular meetings of the governing body shall ordinarily be held on the 1st and 3rd Mondays of each month at 6:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices,

the governing body shall ordinarily fix the succeeding day not observed as a holiday as a meeting day.

- (bc) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
- (ed) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
- (de) The governing body may cancel or modify any ordinarily-established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the president of the council), after consulting with the city administrator, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and council members.

Section 2. Section 6-105 of Article 1, Chapter VI of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

6-105. COUNCILMEMBERS ELECTIONS; MAYOR ELECTIONS; TERMS.

- (a) **November Elections.** ~~Commencing in 2017, the~~ The general election of city officers, when required, will be held on the Tuesday succeeding the first Monday in November.
- (b) **Council Member Terms of Office Shortened.** ~~The~~ As provided in City Resolution No. 2019-13, the terms of council members elected in the April, ~~2014~~ 2016 election shall expire on the ~~second~~ first Monday in January, ~~2018~~ 2020 when the council members elected in the November, ~~2017~~ 2019 general city election take office. The terms of the council members elected in the ~~April, 2016~~ November 2017 election shall expire on the ~~second~~ first Monday in ~~January, 2020~~ December 2021, when the council members elected in the November ~~2019~~ 2021, general city election take office. The terms of the council members elected in the November 2019 election shall expire on the first Monday in December 2023, when the council members elected in the November 2023, general city election take office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (c) **Mayor Term of Office Shortened.** ~~The~~ As provided in City Resolution No. 2019-13, the term of mayor elected in the ~~April, 2015~~ November 2018 election shall expire on the ~~second~~ first Monday in ~~January, 2019~~ December 2022, when the mayor elected in the November, ~~2018~~ 2022 general election takes office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (d) **Council Member Elections in Odd-Numbered Years.** Each ward of the city shall have two council members with staggered terms so that one council member from each ward shall be elected at each odd-numbered year election by qualified voters within such ward. ~~Commencing with the general election on the Tuesday succeeding the first Monday in November of 2017, there shall be a general election for the offices of all council members completing their current terms of office in January of 2018. All elected city officers not then completing their current terms, shall continue to hold their respective offices until said terms are completed or said offices are otherwise vacated. Thereafter, there~~ There shall be elected one council

member from each ward at the general election on the Tuesday succeeding the first Monday in November of every odd-numbered year. Terms of office shall commence as set forth in Section 6-106 below.

- (e) **Mayor Election in Even-Numbered Years.** The office of mayor shall be elected in even-numbered years by qualified voters from the city at large. There shall be a general election on the Tuesday succeeding the first Monday in November of 2018 for the office of mayor completing the current term of office in January of 2019. Thereafter, the general election of mayor shall be held on the Tuesday succeeding the first Monday in November of every fourth year. Terms of office shall commence as set forth in Section 6-106 below.
- (f) **Vacancies.** Vacancies in the office of council member or mayor shall be filled in accordance with Section 1-208 of the Code of the City of Prairie Village.

Section 3. Section 6-106 of Article 1, Chapter VI of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

6-106. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.

- (a) ~~The~~ As provided in City Resolution No. 2019-13, the terms of office for all city officials elected after ~~January 1 November 6, 2017- 2019~~ shall commence on the ~~second-first~~ Monday in ~~January-December~~ following certification of the election and shall be for four years, and until a successor is elected and qualified, with their terms expiring on the first Monday in December four years thereafter, when the city officials elected in the previous November general city election take office. No person shall be eligible to the office of the council member who is not at the time of his or her election an actual resident of the ward for which he or she was elected. All elected officers shall be qualified electors of the City under the constitution of the State of Kansas.
- (b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.

Section 4. Sec. 1-203, Sec. 6-105, and Sec. 6-106 of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 5. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2019.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

(Summary Published in the Legal Record on _____, 2019)

ORDINANCE NO. 2405

AN ORDINANCE AMENDING SECTION 1-203 (SAME; MEETINGS), SEC. 6-105 (COUNCILMEMBERS ELECTIONS; MAYOR ELECTIONS; TERMS), AND SEC. 6-106 (COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE) OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AND PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTIONS AMENDED.

WHEREAS, in the 2019 Legislative Session, the Kansas Legislature passed Senate Bill 105 which allows a city to determine the start date of a regular term of office following a city election provided such date is not earlier than December 1 following certification of the election and not later than the second Monday in January following certification of the election; and

WHEREAS, the City of Prairie Village, Kansas (the "City"), and pursuant to such Senate Bill 105 (amending K.S.A. 25-313 and K.S.A. 25-2120) has passed Resolution No. 2019-13, which established the first Monday in December following the certification of election results as the date on which the regular term of office for all elected city officials shall commence; and

WHEREAS, pursuant to Charter Ordinance No. 20 (2001), Charter Ordinance No. 13 (1990) pertaining to elections, dates of city elections, terms of office, and matters related thereto was repealed, and pursuant to Charter Ordinance No. 26 (2015), said Charter Ordinance No. 20 was itself repealed, along with Charter Ordinance Nos. 14 (1990) and 24 (2009), and substitute and additional provisions on the subjects addressed by K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies and K.S.A. 25-2108a relating to primary elections are and will be contained in one or more ordinary ordinances

WHEREAS, the City desires to amend the Prairie Village Municipal Code to conform such commencement date with the provisions of Resolution No. 2019-13.

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

Section 1. Section 1-203 of Article 2, Chapter I of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

1-203. SAME; MEETINGS.

- (a) On the first Monday in January following certification of the results of the City election held in November 2019, as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business. Thereafter, on the first Monday in December following certification of the results of the City election held the previous November as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business.
- (b) Regular meetings of the governing body shall ordinarily be held on the 1st and 3rd Mondays of each month at 6:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the

governing body shall ordinarily fix the succeeding day not observed as a holiday as a meeting day.

- (c) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
- (d) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
- (e) The governing body may cancel or modify any ordinarily-established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the president of the council), after consulting with the city administrator, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and council members.

Section 2. Section 6-105 of Article 1, Chapter VI of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

6-105. COUNCILMEMBERS ELECTIONS; MAYOR ELECTIONS; TERMS.

- (a) **November Elections.** The general election of city officers, when required, will be held on the Tuesday succeeding the first Monday in November.
- (b) **Council Member Terms of Office Shortened.** As provided in City Resolution No. 2019-13, the terms of council members elected in the April 2016 election shall expire on the first Monday in January 2020 when the council members elected in the November 2019 general city election take office. The terms of the council members elected in the November 2017 election shall expire on the first Monday in December 2021, when the council members elected in the November 2021, general city election take office. The terms of the council members elected in the November 2019 election shall expire on the first Monday in December 2023, when the council members elected in the November 2023, general city election take office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (c) **Mayor Term of Office Shortened.** As provided in City Resolution No. 2019-13, the term of mayor elected in the November 2018 election shall expire on the first Monday in December 2022, when the mayor elected in the November 2022 general election takes office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (d) **Council Member Elections in Odd-Numbered Years.** Each ward of the city shall have two council members with staggered terms so that one council member from each ward shall be elected at each odd-numbered year election by qualified voters within such ward. There shall be elected one council member from each ward at the general election on the Tuesday succeeding the first Monday in November of every odd-numbered year. Terms of office shall commence as set forth in Section 6-106 below.
- (e) **Mayor Election in Even-Numbered Years.** The office of mayor shall be elected in even-numbered years by qualified voters from the city at large. There shall be a general election on the Tuesday succeeding the first Monday in November of

2018 for the office of mayor completing the current term of office in January of 2019. Thereafter, the general election of mayor shall be held on the Tuesday succeeding the first Monday in November of every fourth year. Terms of office shall commence as set forth in Section 6-106 below.

- (f) **Vacancies.** Vacancies in the office of council member or mayor shall be filled in accordance with Section 1-208 of the Code of the City of Prairie Village.

Section 3. Section 6-106 of Article 1, Chapter VI of the Code of the City of Prairie Village, Kansas is hereby amended to read as follows:

6-106. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.

- (a) As provided in City Resolution No. 2019-13, the terms of office for all city officials elected after November 6, 2019 shall commence on the first Monday in December following certification of the election and shall be for four years, and until a successor is elected and qualified, with their terms expiring on the first Monday in December four years thereafter, when the city officials elected in the previous November general city election take office. No person shall be eligible to the office of the council member who is not at the time of his or her election an actual resident of the ward for which he or she was elected. All elected officers shall be qualified electors of the City under the constitution of the State of Kansas.
- (b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.

Section 4. Sec. 1-203, Sec. 6-105, and Sec. 6-106 of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 5. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2019.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

RESOLUTION NO. 2019-13

A RESOLUTION ESTABLISHING THE REGULAR TERMS OF OFFICE FOR ELECTED OFFICIALS, PURSUANT TO K.S.A. 25-313 AND K.S.A. 25-2120, SUCH TERMS TO BE FURTHER INCORPORATED IN A REGULAR ORDINANCE OF THE CITY.

WHEREAS, K.S.A. 25-313 and K.S.A. 25-2120, as amended by Kansas Senate Bill No. 105 (2019), provides that the regular term of office for elected city officers shall begin on a date established by resolution of the City on or after December 1 following the certification of election results, and no later than the second Monday in January following certification of the election; and

WHEREAS, the change will shorten the term of office the terms of the members of the City of Prairie Village Governing Body with terms that would have expired January 2020, January 2022, and January 2023 to allow for the transition to the new date.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

Section 1. That, as to council members elected in the April 2016 general city election, the City shall establish that their terms shall expire on the first Monday in January 2020.

Section 2. That, as to council members elected in the November 2017 general city election, the City shall establish that their terms shall expire on the first Monday in December 2021.

Section 3. That, as to the mayor elected in the November 2018 general city election, the City shall establish that his term shall expire on the first Monday in December 2022.

Section 4. That, as to council members elected in the November 2019 general city election, the City shall establish the first Monday in January following the certification of election results as the date on which the regular terms of office for such elected city officials shall commence.

Section 5. That, as to council members or the mayor elected in any general city election held after November 6, 2019, the City shall establish the first Monday in December following the certification of election results as the date on which the regular terms of office for such elected city officials shall commence, with their terms expiring on the first Monday in December four years thereafter.

Section 6. Substitute and additional provisions on the subjects addressed by K.S.A. 25-313 and K.S.A. 25-2120 relating to the terms of office of members of the Governing Body are and will be contained in one or more ordinary ordinances.

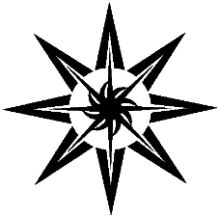
Section 6. This Resolution Shall be effective upon its adoption by the City Council of the City of Prairie Village, Kansas.

ADOPTED this 3rd day of September, 2019.

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk



COUNCIL COMMITTEE

City Council Committee Date: August 19, 2019

City Council Meeting Date: September 3, 2019

COU2019-41 Approval of Ordinance 2406 (Chapter 11, Article 16) regulating the use of Unmanned Aerial Vehicles (UAVs)

BACKGROUND

As part of the Council Initiative List, the Governing Body asked the City Attorney and Staff to draft an ordinance regulating unmanned aerial vehicles (aka “drones”) that may potentially pose a threat to the public safety as well as welfare concerns such as privacy, nuisance, and trespass concerns.

Draft 2 of the proposed ordinance was discussed at the April 15, 2019, City Council meeting. Council voted 7-5 to move consideration forward with direction to bring a finalized draft back to Council after consultation with the City Prosecutor.

COUNCIL DIRECTION/OPTIONS

The Council Committee of the Whole reviewed Draft 3 of the ordinance at its August 19th meeting, and moved to bring the draft before the full Council at its September 3rd meeting.

ATTACHMENTS

- Ordinance 2406 regulating the use of UAVs
- Letter from Consumer Technology Association
- Email from Academy of Model Aeronautics

Prepared By:

Wes Jordan

City Administrator

Date: August 13, 2019

ORDINANCE NO. 2406

AN ORDINANCE RELATED TO THE REGULATION OF UNMANNED AERIAL VEHICLES (UAVs/DRONES), ESTABLISHING NEW ARTICLE 16 ENTITLED "UNMANNED AERIAL VEHICLES" TO CHAPTER XI, PUBLIC OFFENSES & TRAFFIC, TO THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS.

WHEREAS, the Governing Body of and for the City of Prairie Village, Kansas, finds that unregulated use of unmanned aerial vehicles (UAVs) throughout the City has the potential to pose a threat to the public health, safety and welfare and may create public health, safety and welfare concerns, including, but not limited to, privacy, nuisance and trespass concerns.

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

Section 1. A new Article 16 entitled "Unmanned Aerial Vehicles" is hereby established in Chapter XI (Public Offenses & Traffic) of the Code of the City of Prairie Village, Kansas, as follows:

ARTICLE 16. UNMANNED AERIAL VEHICLES

11-1601

DEFINITIONS. For purposes of this Article, the following terms and phrases shall have the meaning set forth below:

- A. "City airspace" means the airspace above the land and waterways within the jurisdiction of the City.
- B. "Recreational purposes" means any purposes governed or regulated pursuant to 49 U.S.C. 44809 (Section 349) of the FAA Reauthorization Act of 2018. "Recreational purposes" may include, but are not limited to, enjoyment, educational, or hobby purposes not otherwise governed or regulated as provided in Section 11-1603 of this Article.
- C. "Operate" means to pilot, steer, direct, fly or manage a UAV through the air. The term "operate" includes managing or initiating a computer system that pilots, steers, directs, flies or manages a UAV.
- D. "Surveillance" means the gathering, without permission and in a manner that is offensive to a reasonable expectation of privacy, of visual images, physical impressions, sound recordings, data, or other information involving the private, personal, business, or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy, solitude, or seclusion of another person, business or entity, regardless of whether a physical trespass on to real property owned, leased, or otherwise lawfully occupied by such other person, business or entity, or into the city airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business or entity occurs in connection with such surveillance.
- E. "Unmanned aerial vehicle" or "UAV" means an aircraft that (1) is operated without the possibility of direct human

intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of operation, including the weight of any payload or fuel.

- F. "Weapon" means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

11-1602

OPERATING REGULATIONS. All UAVs shall be operated in accordance with the Academy of Model Aeronautics Safety Code or such other community-based safety guidelines as the City may approve from time to time. Except as otherwise provided in Section 11-1603, and unless any of the following prohibitions are superseded by applicable state or Federal law, no person shall operate any UAV for recreational purposes in city airspace:

- A. intentionally or negligently, and in such proximity to any person who is not involved in the operation of the UAV that is offensive to a reasonable expectation of safety from bodily harm, without such person's consent;
- B. intentionally or negligently, over an individual or over an open-air event venue wherein more than one hundred (100) individuals are gathered for such event, without the consent of both the venue owner or operator and the event sponsor or organizer;
- C. intentionally or negligently, over property that the operator does not own, without the consent of the property owner or such other person lawfully occupying the property; and subject to any restrictions that may be placed on the operation by the property owner or such other person lawfully occupying the property; provided, that the foregoing shall not prohibit operation of a UAV for recreational or hobby purposes in a city-owned park so long as the operator and UAV comply with all other requirements and restrictions of this Article;
- D. for the purposes of conducting surveillance;
- E. while under the influence of alcohol, or other drug or drugs, that renders the operator incapable of operating the UAV;
- F. that is equipped with a firearm or other weapon; or
- G. otherwise in a reckless or careless manner.

11-1603

LIMITATIONS ON OPERATING REGULATIONS.

- A. Commercial operations Authorized by the FAA. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit, limit or otherwise restrict any person who is authorized to fly a UAV as a commercial pilot pursuant to 14 CFR Part 107 (drones under 55 pounds) or under the *Special Authority for Certain Unmanned Aircraft Systems* at 49 USC § 44807 (drones over 55 pounds) by or other Federal Aviation

Administration grant of authority for a specific flight operation(s), from conducting such operations(s) in accordance with authority granted by the Federal Aviation Administration.

B. Operations Prohibited by FAA—Clarification. Nothing in this Article shall be construed to authorize the operation of UAVs in city airspace in violation of any Federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.

C. Operations by City for Law Enforcement Purposes. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit or restrict the use of a UAV by a law enforcement agency or for emergency response operations in accordance with applicable law.

11-1604 SEVERABILITY. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase, or portion of this Article is held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article.

11-1605 PENALTY. Violation of this article is a Class C misdemeanor.

Section 2. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2019.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

August 27, 2019

Mayor Eric Mikkelson
City of Prairie Village
7700 Mission Road
Prairie Village, KS 66208

Mr. Wes Jordan
City Administrator
7700 Mission Road
Prairie Village, KS 66208

Re: Ordinance (Chapter 11, Article 16) Regulating the Use of Unmanned Aerial Vehicles

Dear Mayor Mikkelson and Mr. Jordan:

The Consumer Technology Association (“CTA”) urges the City Council for the City of Prairie Village to reject the proposed ordinance (Chapter 11, Article 16) regulating the use of unmanned aircraft systems (“UAS” or drones). Although well-intentioned, CTA cautions against adoption of laws specifically targeted at unmanned aircraft systems (“UAS” or drones).

CTA is the trade association representing the \$398 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. More than 2,400 companies – 80 percent are small businesses and startups; others are among the world’s best known brands – enjoy the benefits of CTA membership including policy advocacy, market research, technical education, industry promotion, standards development and the fostering of business and strategic relationships. As a champion of innovation, CTA is a long-time advocate of clear rules authorizing UAS in a safe manner within the national airspace. CTA has been continually involved in the Federal Aviation Administration (“FAA”) rulemaking activities concerning the operation and certification of small UAS. We also are a partner with several other organizations and the FAA in the *Know Before You Fly* campaign, which educates prospective drone users about the safe and responsible operation of UAS.

The explosive growth of the UAS industry has prompted legislators in many states and localities to propose legislation regulating the industry or otherwise trying to address potential concerns related to UAS. Before considering new legislation, however, lawmakers should evaluate whether (i) proposed regulations are preempted, (ii) the conduct at issue already is addressed by existing state laws, and (iii) UAS-specific legislation is warranted. In this case, the

proposed Ordinance is preempted because it attempts to establish no-fly zones for drones within the City.

The Supremacy Clause of the U.S. Constitution states that “the Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land.”¹ This gives Congress the power to preempt state and local law.² There are three types of preemption: express preemption (when Congress specifically preempts a state or local law);³ field preemption (when a federal framework of regulation is “so pervasive . . . that Congress left no room for the States to supplement it” or where a “federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject”);⁴ and conflict preemption (when state or local laws “conflict with federal law, including when they stand ‘as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress’”).⁵ Congress has occupied the field with regard to air navigation⁶ and the FAA has exclusive authority to establish drone no-fly zones.

The FAA has issued numerous letters to localities cautioning against the adoption of no-fly zones.⁷ Additionally, the FAA has released a UAS Fact Sheet reminding state and local jurisdictions that they lack authority to regulate airspace.⁸ Through these letters and the UAS Fact Sheet, the FAA has made clear that regulations imposing operational bans or otherwise regulating navigable airspace are problematic.⁹ It notes that “[s]ubstantial air safety issues are raised when state and local governments attempt to regulate the operation or flight of aircraft” and “[a] navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system.”¹⁰ The proposed Ordinance would intrude into this purely federal regulatory system with an unnecessary layer of state regulation –

¹ U.S. Const., Art. VI, Cl 2.

² See, e.g., *Arizona v. United States*, 132 S. Ct. 2492 (2012).

³ *Id.*

⁴ *Id.* (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947)).

⁵ *Id.* (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

⁶ See *Burbank v. Lockheed Air Terminal*, 411 U.S. 624, 633-34 (1973).

⁷ See, e.g., Letter from Christopher R. Stevenson, FAA Office of the Chief Counsel, Enforcement Division, to Mark A. Winn, Assistant City Attorney, City of Petersburg (Sept. 16, 2016); Letter from Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to Alexander Karden, City Prosecutor, City of Orlando, Florida (Jan. 21, 2016); Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to Austin D. Roberson, Cobb County Attorney’s Office (Jun. 9, 2016); Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to David Wolpin, Esq., Counsel for the City of Aventura, Florida (May 26, 2016).

⁸ State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet, Federal Aviation Administration Office of the Chief Counsel (Dec. 17, 2015) (“UAS Fact Sheet”) https://www.faa.gov/uas/resources/uas_regulations_policy/media/UAS_Fact_Sheet_Final.pdf.

⁹ *Id.* at 3.

¹⁰ *Id.* at 2; accord Letter from Reginald C. Govan, Chief Counsel, FAA, to Victoria Mendez, Esq., City Attorney, City of Miami (Dec. 9, 2015).

potentially significantly increasing the regulatory burdens and compliance costs to UAS operators.

Finally, the proposed Ordinance attempts to create a drone-specific offense for “intentionally or negligently” acting in a way (by operating a drone) that “is offensive to a [person’s] reasonable expectation of safety from bodily harm.” Putting aside the extremely vague nature of this offense,¹¹ existing Kansas laws and regulations already may address the concerns underlying this proposed provision. For example, under Kansas law, the crime of battery has occurred if someone “knowingly or recklessly” causes bodily harm to another person.¹² This provision certainly would apply to someone operating a drone. CTA thus urges the City Council to determine whether the concerns at issue here may already be addressed by existing state laws. If a new ordinance is adopted, it should prohibit actions that infringe upon a person’s reasonable expectation of safety *regardless* of the technology used. Adoption of technology-neutral laws also will eliminate the need to adopt new laws each time a new technology is developed.

For these reasons, CTA opposes adoption of the proposed Ordinance.

Sincerely,



Douglas K. Johnson
Vice President, Technology Policy
djohnson@cta.tech

¹¹ Under the void for vagueness doctrine, a penal statute must define the criminal offense “[1] with sufficient definiteness that ordinary people can understand what conduct is prohibited and [2] in a manner that does not encourage arbitrary and discriminatory enforcement.” *See, e.g., Skilling v. US*, 561 U.S. 358, 364 (2010) (internal quotation omitted).

¹² K.S.A. § 21-5413.

From: Chrystal Pearson <chrystal@modelaircraft.org>
Sent: Wednesday, August 28, 2019 9:57 AM
To: drunion@pvkansas.com
Cc: Tyler Dobbs <tylerd@modelaircraft.org>; Hannah Giese <hannahg@modelaircraft.org>
Subject: Proposed Ordinance- Chapter 11, Article 16

This is an EXTERNAL email. Please use caution. DO NOT open attachments or click links in unexpected emails or from unknown senders.

Dear Mr. Runion,

As a representative for the Academy of Model Aeronautics (AMA) I wanted to reach out to you in regards to the proposed Unmanned Aircraft Systems (UAS) ordinance found in Chapter 11, Article 16 recently discussed in Prairie Village at the City Council meeting on August 19, 2019. AMA is a nationwide, community-based organization of nearly 200,000 model aviation enthusiasts. For more than eight decades, AMA has successfully managed the recreational UAS community by providing robust safety guidelines and training programs. AMA members know where and how to fly responsibly and have a strong safety record.

In seeking to restrict where and how drones and UAS can fly, the proposed ordinance attempts to regulate airspace and aircraft operations, which is the sovereign authority of the U.S. government. This proposal is similar to an ordinance in Newton, Massachusetts which specifically dealt with a city's attempt to regulate airspace and UAS operations. The ordinance was pre-empted by US District Court. I have included a copy of the ruling.

We share Prairie Village's goal to keep our skies safe, yet we believe the proposed UAS ordinance runs afoul of federal authority. AMA would be more than happy to continue this conversation in the future, and encourage you to reach out with any questions you may have.

Respectfully,

Chrystal Pearson | *Government Affairs Representative*
Academy of Model Aeronautics
5161 E Memorial Dr | Muncie IN 47302
765.287.1256 ext 236 | chrystal@modelaircraft.org

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
MICHAEL S. SINGER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	No. 17-10071-WGY
)	
CITY OF NEWTON,)	
)	
Defendant.)	
_____)	

YOUNG, D.J.

September 21, 2017

FINDINGS OF FACT, RULINGS OF LAW, & ORDER

I. INTRODUCTION

The crux of this dispute is whether portions of a certain ordinance (the "Ordinance") passed by the City of Newton ("Newton") on December 19, 2016 are preempted. First Am. Compl. Declaratory and Injunctive Relief, ECF No. 12. Michael S. Singer ("Singer") challenges portions of the Ordinance which require that all owners of pilotless aircraft (commonly referred to as "drones" or "UAS") register their pilotless aircraft with Newton, and also prohibit operation of pilotless aircraft out of the operator's line of sight or in certain areas without permit or express permission. Id.; Def. City Newton's Mem. Law Supp. Cross Mot. Summ. J. and Opp'n Pl.'s Mot. Summ. J., Ex. 2, Newton Ordinances § 20-64, ECF No. 40-3.

In early March, Newton answered Singer's complaint, Answer Def. City of Newton First Am. Compl., ECF No. 17, and both parties appeared before the Court soon after, when they agreed to cross-file motions for summary judgment and proceed on a case stated basis,¹ Electronic Clerk's Notes, ECF No. 21. Both parties subsequently filed motions for summary judgment, Pl.'s Corrected Mot. Summ. J., ECF No. 34; Def. City of Newton's Cross Mot. Summ. J., ECF No. 39, and fully briefed the issues, Pl.'s Corrected Mem. Supp. Mot. Summ. J. ("Pl.'s Mem."), ECF No. 35; Pl.'s Resp. Def.'s Cross-Mot. Summ. J. ("Pl.'s Resp."), ECF No. 50; Pl.'s Resp. City's Statement Undisputed Facts ("Pl.'s Resp. Facts"), ECF No. 51; Def. City Newton's Mem. Law Supp. Cross Mot. Summ. J. and Opp'n Pl.'s Mot. Summ. J. ("Def.'s Mem."), ECF No. 40; Def. City of Newton's Statement Undisputed Facts Supp. Cross Mot. Summ. J. and Resps. Pl.'s Statement Undisputed Material Facts Supp. Mot. Summ. J. ("Def.'s Facts"), ECF No. 41;

¹ The case stated procedure allows the Court, with the parties' agreement, to render a judgment based on the largely undisputed record in cases where there are minimal factual disputes. TLT Constr. Corp. v. RI, Inc., 484 F.3d 130, 135 n.6 (1st Cir. 2007). In its review of the record, "[t]he [C]ourt is . . . entitled to 'engage in a certain amount of factfinding, including the drawing of inferences.'" Id. (quoting United Paperworkers Int'l Union Local 14 v. International Paper Co., 64 F.3d 28, 31 (1st Cir. 1995)).

see also Amici Curiae Br. ("Amicus Br."), ECF No. 57.² After oral argument on June 13, 2017, this Court took the matter under advisement. Electronic Clerk's Notes, ECF No. 59.

II. FINDINGS OF FACT

Newton is a municipality in the Commonwealth of Massachusetts and is organized under a charter pursuant to the Home Rule Amendment of the Massachusetts Constitution. Pl.'s Resp. Facts ¶ 1; Def.'s Facts ¶ 1. Singer resides in Newton. Am. Compl. ¶ 22. He is a Federal Aviation Administration ("FAA")-certified small unmanned aircraft pilot and owns and operates multiple drones in Newton. Id. ¶¶ 22, 25. Singer does not operate or register his drones as a hobbyist. Tr. Case-Stated Hearing ("Tr.") 20:15-18, ECF No. 60.

In August 2015, members of Newton's City Council proposed discussing the possibility of regulating drones for the principal purpose of protecting the privacy interests of Newton's residents. Pl.'s Resp. Facts ¶ 3; Def.'s Facts ¶ 3. On March 23, 2016, an initial draft of the Ordinance was presented for discussion. See Def.'s Mem., Ex. 3, Public Safety & Transportation Committee Report dated Mar. 23, 2016 1, ECF No. 40-4. Following further inquiry and amendment, see, e.g.,

² The Court gratefully acknowledges the helpful brief amicus curiae filed by the Consumer Technology Association and the Association for Unmanned Vehicle Systems International.

Def.'s Mem., Ex. 7, Public Safety & Transportation Committee Report dated May 5, 2016 1, ECF No. 40-8; Def.'s Mem., Ex. 9, Public Safety & Transportation Committee Report dated Sept. 7, 2016 6-7, ECF No. 40-10, but without FAA approval, Def.'s Mem., Ex. 16, Def. City of Newton's Answers Pl.'s First Set Interrogs. ("Def.'s Answers Interrogs.") 3, ECF No. 40-17, Newton's City Council approved the final Ordinance on December 19, 2016, Def.'s Mem., Ex. 12, Public Safety & Transportation Committee Report dated Dec. 19, 2016 1, ECF No. 40-13.

The Ordinance states in part:

Purpose: The use of pilotless aircraft is an increasingly popular pastime as well as learning tool. It is important to allow beneficial uses of these devices while also protecting the privacy of residents throughout the City. In order to prevent nuisances and other disturbances of the enjoyment of both public and private space, regulation of pilotless aircraft is required. The following section is intended to promote the public safety and welfare of the City and its residents. In furtherance of its stated purpose, this section is intended to be read and interpreted in harmony with all relevant rules and regulations of the Federal Aviation Administration, and any other federal, state and local laws and regulations.

Def.'s Mem., Ex. 2, Newton Ordinances § 20-64, ECF No. 40-3.

"Pilotless aircraft" is defined as "an unmanned, powered aerial vehicle, weighing less than 55 pounds, that is operated without direct human contact from within or on the aircraft." Id. § 20-64(a). In section (b), the Ordinance imposes certain registration requirements upon owners of all pilotless aircraft. Id. § 20-64(b). Section (c) sets forth operating prohibitions,

including, inter alia, a ban on the use of a pilotless aircraft below an altitude of 400 feet over private property without the express permission of the owner of the private property, id. § 20-64(c)(1)(a), "beyond the visual line of sight of the Operator," id. § 20-64(c)(1)(b), "in a manner that interferes with any manned aircraft," id. § 20-64(c)(1)(c), over Newton city property without prior permission, id. § 20-64(c)(1)(e), or to conduct surveillance or invade any place where a person has a reasonable expectation of privacy, id. § 20-64(c)(1)(f)-(g). Violations of the Ordinance are punishable by a \$50 fine following a one-time warning. Id. § 20-64(f).

III. RULINGS OF LAW

Specifically, Singer challenges four subsections of the Ordinance: the registration requirements of section (b) and the operation limits of subsections (c)(1)(a), (c)(1)(b), and (c)(1)(e). Pl.'s Mem 3-4; Pl.'s Resp. i. Singer argues that the Ordinance is preempted by federal law because it attempts to regulate an almost exclusively federal area of law, Pl.'s Mem. 6-15, in a way that conflicts with Congress's purpose, id. at 14-15. In turn, Newton posits that the Ordinance is not preempted by federal law because it falls within an area of law that the FAA expressly carved out for local governments to regulate, Def.'s Mem. 8-10, and thus can be read in harmony with federal aviation laws and regulations, id. at 10-11.

A. Preemption Standards

The Supremacy Clause of the United States Constitution provides that federal laws are supreme, U.S. Const. art. VI, cl. 2, thus requiring that federal laws preempt any conflicting state or local regulations, see Maryland v. Louisiana, 451 U.S. 725, 746 (1981) (citing McCulloch v. Maryland, 4 Wheat. 316, 427 (1819)). Under our federalist system, however, a court must be wary of invalidating laws in areas traditionally left to the states unless the court is entirely convinced that Congress intended to override state regulation. See, e.g., Gregory v. Ashcroft, 501 U.S. 452, 460 (1991) (citing Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 243 (1985)). In contrast, if a state government attempts to regulate an area traditionally occupied by the federal government, a court need not seek to avoid preemption. See United States v. Locke, 529 U.S. 89, 108 (2000). Neither of these circumstances requires that Congress explicitly have stated its purpose; “[t]he question, at bottom, is one of statutory intent.” Morales v. Trans World Airlines, Inc., 504 U.S. 374, 383 (1992).

If Congress has not expressly preempted an area of law, then a court must determine whether field or conflict preemption is evident. See French v. Pan Am Express, Inc., 869 F.2d 1, 2 (1st Cir. 1989). Field preemption occurs where federal regulation is so pervasive and dominant that one can infer

Congressional intent to occupy the field. See Massachusetts Ass'n of Health Maint. Orgs. v. Ruthardt, 194 F.3d 176, 179 (1st Cir. 1999) (citing Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947); French, 869 F.2d at 2). Conflict preemption arises when compliance with both state and federal regulations is impossible or if state law obstructs the objectives of the federal regulation. See Grant's Dairy - Me., LLC v. Commissioner of Me. Dept. of Agric., Food & Rural Res., 232 F.3d 8, 15 (1st Cir. 2000) (citing Gade v. National Solid Wastes Mgmt. Ass'n, 505 U.S. 88, 98 (1992)).

B. The Federal Aviation Administration

Congress has stated that "[t]he United States Government has exclusive sovereignty of airspace of the United States." 49 U.S.C. § 40103(a)(1). This declaration does not preclude states or municipalities from passing any valid aviation regulations, see Braniff Airways v. Nebraska State Bd. of Equalization & Assessment, 347 U.S. 590, 595 (1954), but courts generally recognize that Congress extensively controls much of the field, see, e.g., Chicago & S. Air Lines, Inc. v. Waterman Steamship Corp., 333 U.S. 103, 105, 107 (1948); United Parcel Serv., Inc. v. Flores-Galarza, 318 F.3d 323, 336 (1st Cir. 2003).

Accordingly, where a state's exercise of police power infringes upon the federal government's regulation of aviation, state law

is preempted. See City of Burbank v. Lockheed Air Terminal Inc., 411 U.S. 624, 638-39 (1973).

In the FAA Modernization and Reform Act of 2012, Congress directed the FAA to “develop a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system,” FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95 § 332, 126 Stat. 11, 73 (2012) (codified at 49 U.S.C. § 40101 note), while limiting the FAA from “promulgat[ing] any rule or regulation regarding a model aircraft,” id. § 336(a). Under this directive, the FAA promulgated 14 C.F.R. part 107, which declares that it “applies to the registration, airman certification, and operation of civil small unmanned aircraft systems⁽³⁾ within the United States.” 14 C.F.R. § 107.1(a). The rule requires, inter alia, that anyone controlling a small unmanned aircraft system register with the FAA, id. §§ 91.203, 107.13; and keep the aircraft within the visual line of sight of the operator or a designated visual observer, id. §§ 107.3, 107.31, and below an altitude of 400 feet above ground level or within a 400 foot radius of a structure, id. § 107.51(b).

³ The FAA defines “small unmanned aircraft” as “an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft,” and “small unmanned aircraft system” as “a small unmanned aircraft and its associated elements.” 14 C.F.R. § 107.3.

C. Field Preemption

Singer argues that because the federal government regulates unmanned aircraft and local aircraft operations, there is federal intent to occupy the field. Pl.'s Mem. 6-11; Pl.'s Resp. 3; see also Amicus Br. 7-29. Newton does not challenge that aviation is a traditionally federal field, but counters that federal regulations explicitly grant local authorities the power to co-regulate unmanned aircraft. Def.'s Mem. 8-11.

The FAA has stated:

[C]ertain legal aspects concerning small UAS use may be best addressed at the State or local level. For example, State law and other legal protections for individual privacy may provide recourse for a person whose privacy may be affected through another person's use of a UAS.

. . . The Fact Sheet also summarizes the Federal responsibility for ensuring the safety of flight as well as the safety of people and property on the ground as a result of the operation of aircraft. Substantial air safety issues are implicated when State or local governments attempt to regulate the operation of aircraft in the national airspace. The Fact Sheet provides examples of State and local laws affecting UAS for which consultation with the FAA is recommended and those that are likely to fall within State and local government authority. For example, consultation with FAA is recommended when State or local governments enact operation UAS restrictions on flight altitude, flight paths; operational bans; or any regulation of the navigable airspace. The Fact Sheet also notes that laws traditionally related to State and local police power -- including land use, zoning, privacy, trespass, and law enforcement operations -- generally are not subject to Federal regulation.

81 Fed. Reg. 42063 § (III)(K)(6). Thus, the FAA explicitly contemplates state or local regulation of pilotless aircraft, defeating Singer's argument that the whole field is exclusive to

the federal government. The FAA's guidance, however, does not go quite as far as Newton argues -- rather than an express carve-out for state and localities to regulate, the guidance hints that whether parallel regulations are enforceable depends on the principles of conflict preemption.⁴

D. Conflict Preemption

Singer argues that the challenged sections of the Ordinance obstruct federal objectives and directly conflict with federal regulations. Pl.'s Mem. 11-17. Newton fails to respond specifically to these arguments, again asserting that the FAA has granted states and localities the power to co-regulate pilotless aircraft. Def.'s Mem. 8-11. The Court addresses each challenged subsection of the Ordinance in turn.

1. Section (b)

Singer argues that section (b) of the Ordinance infringes upon and impermissibly exceeds the FAA's exclusive registration requirements. Pl.'s Mem. 11-15; Pl.'s Resp. 6-7. Section (b) states: "Owners of all pilotless aircraft shall register their pilotless aircraft with the City Clerk's Office, either individually or as a member of a club" Newton Ordinances § 20-64(b). The Ordinance defines "pilotless

⁴ In fact, Newton has acknowledged that "[c]ommercial drone use is heavily regulated by the FAA [and] pre-empted from municipal regulations." Public Safety & Transportation Committee Report dated Mar. 23, 2016 3.

aircraft” as “an unmanned, powered aerial vehicle, weighing less than 55 pounds, that is operated without direct human contact from within or on the aircraft.” Id. § 20-64(a).

The FAA has also implemented mandatory registration of certain drones. See 14 C.F.R. §§ 48.1-48.205. Although such registration initially applied both to model and commercial drones, the FAA may not require registration of model aircraft, because doing so would directly conflict with the Congressional mandate in the FAA Modernization and Reform Act. See Taylor v. Huerta, 856 F.3d 1089, 1092, 1094 (D.C. Cir. 2017). Newton argues that this space creates a void in which the city may regulate drones. Tr. 9:5-10:1. The FAA, however, explicitly has indicated its intent to be the exclusive regulatory authority for registration of pilotless aircraft: “Because Federal registration is the exclusive means for registering UAS for purposes of operating an aircraft in navigable airspace, no state or local government may impose an additional registration requirement on the operation of UAS in navigable airspace without first obtaining FAA approval.” Def.’s Mem., Ex. 14, State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet⁵ (“FAA UAS Fact Sheet”) 2, ECF No. 40-15. Newton did

⁵ Although the FAA UAS Fact Sheet is not a formal rule, it is the FAA’s interpretation of its own rule, which this Court accords deference under Bowles v. Seminole Rock & Sand Co., 325 U.S. 410, 413-14 (1945).

not obtain FAA approval before enacting the Ordinance. Def.'s Answers Interrogs. 3. Further, regardless of whether there is some space that would allow Newton to require registration of model drones, here Newton seeks to register all drones, Tr. 10:3-14, without limit as to the at which altitude they operate, in clear derogation of the FAA's intended authority. Accordingly, the Ordinance's registration requirements are preempted.

2. Subsections (c) (1) (a) and (c) (1) (e)

Singer argues that subsections (c) (1) (a) and (c) (1) (e) conflict with FAA-permitted flight, Pl.'s Mem. 11, and restrict flight within the navigable airspace, id. at 12-14. Subsection (c) (1) (a) prohibits pilotless aircraft flight below an altitude of 400 feet over any private property without the express permission of the property owner. Newton Ordinances § 20-64(c) (1) (a). Subsection (c) (1) (e) prohibits pilotless aircraft flight over public property without prior permission from Newton. Id. § 20-64(c) (1) (e). Notably, subsection (c) (1) (e) does not limit its reach to any altitude. See id. This alone is a ground for preemption of the subsection because it certainly reaches into navigable airspace, see 49 U.S.C. § 40102(a) (32); 14 C.F.R. § 91.119. Subsections (c) (1) (a) and (c) (1) (e) work in tandem, however, to create an essential ban on drone use within the limits of Newton. Nowhere in the city may

an individual operate a drone without first having permission from the owner of the land below, be that Newton or a private landowner.

The FAA is charged with "prescrib[ing] air traffic regulations on the flight of aircraft . . . for --

- (A) navigating, protecting, and identifying aircraft;
- (B) protecting individuals and property on the ground; [and]
- (C) using the navigable airspace efficiently." 49 U.S.C. § 40103(b)(2). In 2012, Congress tasked the FAA with "develop[ing] a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system." Pub. L. No. 112-95 § 332. In so doing, the FAA mandated that drone operators keep drones below an altitude of 400 feet from the ground or a structure. 14 C.F.R. § 107.51(b). Newton's choice to restrict any drone use below this altitude thus works to eliminate any drone use in the confines of the city, absent prior permission. This thwarts not only the FAA's objectives, but also those of Congress for the FAA to integrate drones into the national airspace. Although Congress and the FAA may have contemplated co-regulation of drones to a certain extent, see 81 Fed. Reg. 42063 § (III)(K)(6), this hardly permits an interpretation that essentially constitutes a wholesale ban on drone use in Newton. Accordingly, subsections (c)(1)(a) and (c)(1)(e) are preempted.

3. Subsection (c) (1) (b)

Singer argues that subsection (c) (1) (b) conflicts with the FAA's visual observer rule and related waiver process, which only the FAA can modify. Pl.'s Mem. 13 (citing 49 U.S.C. § 106(f) (2), (g) (1); 14 C.F.R. §§ 107.31, 107.205). Subsection (c) (1) (b) states that no pilotless aircraft may be operated "at a distance beyond the visual line of sight of the Operator." Newton Ordinances § 20-64(c) (1) (b). The Ordinance neither defines the term "Operator," nor sets an altitude limit.

The FAA "requires a delicate balance between safety and efficiency, and the protection of persons on the ground The interdependence of these factors requires a uniform and exclusive system of federal regulation." City of Burbank, 411 U.S. at 638-39 (internal citations omitted). The Ordinance seeks to regulate the method of operating of drones, necessarily implicating the safe operation of aircraft. Courts have recognized that aviation safety is an area of exclusive federal regulation. See, e.g., Goodspeed Airport LLC v. East Haddam Inland Wetlands & Watercourses Comm'n, 634 F.3d 206, 208 (2d Cir. 2011) ("Congress has established its intent to occupy the entire field of air safety, thereby preempting state regulation of that field."); US Airways, Inc. v. O'Donnell, 627 F.3d 1318, 1326 (10th Cir. 2010) ("[F]ederal regulation occupies the field of aviation safety to the exclusion of state regulations.");

Montalvo v. Spirit Airlines, 508 F.3d 464, 470 (9th Cir. 2007) (“Congress has indicated its intent to occupy the field of aviation safety.”). The First Circuit, in fact, has ruled “that Congress intended to occupy the field of pilot regulation related to air safety.” French, 869 F.2d at 4. In French, the First Circuit took note of Congress’s delegation of authority to the FAA to issue the certificate -- and the terms for obtaining it -- required for any person to pilot a commercial aircraft. See id. at 3. Concluding that this grant of authority and the FAA’s subsequent regulations expressed Congress’s intent to preempt any state law in the area, id. at 4, the First Circuit struck down Rhode Island’s statute requiring airline pilots to submit to drug testing, see id. at 7.

The circumstances are not so different here. Congress has given the FAA the responsibility of regulating the use of airspace for aircraft navigation and to protect individuals and property on the ground, 49 U.S.C. § 40103(b)(2), and has specifically directed the FAA to integrate drones into the national airspace system, Pub. L. No. 112-95 § 332. In furtherance of this duty, the FAA has designated specific rules regarding the visual line of sight for pilotless aircraft operation. See 14 C.F.R. §§ 107.31-35, 107.205. First, the FAA requires either that (1) a remote pilot both command and manipulate the flight controls or (2) a visual observer be able

to see the drone throughout its flight. Id. § 107.31. The regulations define “visual observer” as “a person who is designated by the remote pilot in command to assist the remote pilot in command and the person manipulating the flight controls of the small UAS to see and avoid other air traffic or objects aloft or on the ground.” Id. § 107.3. Second, the FAA allows waiver of the visual observer rule. Id. §§ 107.200, 205.

The Ordinance limits the methods of piloting a drone beyond that which the FAA has already designated, while also reaching into navigable space. See Newton Ordinances § 20-64(c)(1)(b). Intervening in the FAA’s careful regulation of aircraft safety cannot stand; thus subsection (c)(1)(b) is preempted.

IV. CONCLUSION

For the foregoing reasons, this Court holds that Ordinance sections (b), (c)(1)(a), (c)(1)(b), and (c)(1)(e) are preempted and judgment will enter so declaring. As it is unchallenged, the remainder of Newton’s Ordinance stands. Of course, nothing prevents Newton from re-drafting the Ordinance to avoid conflict preemption.

SO ORDERED.

/s/ William G. Young
WILLIAM G. YOUNG
DISTRICT JUDGE

MAYOR'S ANNOUNCEMENTS
Tuesday, September 3, 2019

Committee meetings scheduled:

JazzFest Committee	09/04/2019	5:30 p.m.
Tree Board (Public Works Facility)	09/04/2019	6:00 p.m.
Community Visioning Workshop (Meadowbrook Clubhouse)	09/09/2019	5:30 p.m.
Planning Commission	09/10/2019	7:00 p.m.
Arts Council	09/11/2019	5:30 p.m.
Parks and Recreation Committee	09/11/2019	6:30 p.m.
Community Visioning Workshop (Meadowbrook Clubhouse)	09/12/2019	5:30 p.m.
City Council	09/16/2019	6:00 p.m.
Skate Park Public Meeting (Meadowbrook Clubhouse)	09/19/2019	6:30 p.m.

The Prairie Village Arts Council is pleased to feature artists Genevieve Flynn and Valerie Doran Bradshaw during the month of September. The artist reception will be held from 6:00 p.m. to 7:00 p.m. on Friday, September 13th.

INFORMATIONAL ITEMS
September 3, 2019

1. Diaper Need Awareness Week Proclamation
2. Environmental Committee Meeting Minutes - June 12, 2019
3. JazzFest Committee Meeting Minutes - August 6, 2019
4. September Plan of Action
5. Mark Your Calendars

CITY OF PRAIRIE VILLAGE

PROCLAMATION

Whereas, Diaper Need, the condition of not having a sufficient supply of clean diapers to ensure that infants and toddlers are clean, healthy and dry, can adversely affect the health and welfare of infants, toddlers and their families; and

Whereas, national surveys report that one in three mothers experience diaper need at some time while their children are less than three years of age, and forty-eight percent of families delay changing a diaper to extend their supply; and

Whereas, the average infant or toddler requires an average of 50 diaper changes per week over three years; and

Whereas, diapers cannot be bought with food stamps or WIC vouchers, and a monthly supply of diapers can cost as much as six percent of a full-time minimum wage worker's salary, therefore obtaining a sufficient supply of diapers can cause economic hardship to families; and

Whereas, a supply of diapers is generally an eligibility requirement for infant and toddlers to participate in childcare programs and quality early education programs; and

Whereas, the people of Prairie Village recognize that addressing Diaper Need can lead to economic opportunity for the state's low-income families and can lead to improved health for families and their communities; and

Whereas, Prairie Village is proud to support community organizations that recognize the importance of diapers in helping provide economic stability for families and distribute diapers to poor families through various channels; now

Therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, do hereby proclaim the week of September 23rd – 29th, 2019 as

DIAPER NEED AWARENESS WEEK

in the City of Prairie Village and encourage the citizens of Prairie Village to donate generously to diaper banks, diaper drives, and those organizations that distribute diapers to families in need to help alleviate diaper need in Prairie Village and its environs.

Mayor Eric Mikkelson

City Clerk

Date

Minutes of Environmental Committee

Wednesday, June 12, 2019 held in City Hall

Present: SueAnn Heim, Beth Herd, Penny Mahon, Dave Wise, Sarah Bradley, Richard Dalton, Nancy Robinson, Stephanie Alger, Fred Grunwald, Tucker Poling, Jori Nelson. Guests include: Thomas O'Brien, Whitney Wilson, Isabelle Cunningham and her Dad

1. Approval of Agenda: approved
2. Approval of Minutes from April 24th meeting: approved
3. Public Participation – none spoke
4. Villagefest finalized – to make 100 copies of each handout
 - Alley: Banner for event will be able to be changed (Beth and Nathan will be setting up that morning. Please connect.
 - Jori: To invite Glass Bandit and Compost Collection to our table
5. Approved funds for Community Garden event on the summer solstice
6. Solar ordinance discussed and two issues Committee is recommending to change: (*This was voted and approved unanimously)

Current proposed ordinance:

19.50.010

C. Compatibility. The design of any solar energy system shall generally be compatible with the character of the neighborhood or district, the architectural design of the buildings, and situated on a site in a manner that minimizes potential negative impacts on adjacent property or public streetscapes. Compatibility shall be evaluated as follows:

1. Systems mounted on pitched roof structures or vertical walls shall not project more than 5 inches off the surface of the roof or wall and be generally parallel to the roof pitch or vertical wall.
2. Systems mounted on flat roofs shall be setback from the roof edge a

distance equal to the amount they project off the roof deck, or be concealed from street level or ground level of adjacent property by a parapet. Any panels or accessory equipment that projects more than 2 feet off the roof deck shall be screened in the same manner as other rooftop accessory building equipment.

Environmental Committee Recommendation:

System's mounted on pitched roof structures or vertical walls shall not Project more than 2 feet off the roof or wall.

**Remove the 5" requirement so it is equivalent to #2 requirement for a flat roof.*

**Remove "generally parallel to the roof pitch or vertical wall"*

7. Old Business – Plastic Bag Discussion – vote taken and approved to move forward with research. The goal is to bring research to our next meeting Wednesday, August 28th at 5:30 p.m.

State Laws: Stephanie, Nathan, and Sarah will be researching and will decide which states each will be doing including California, Hawaii, New York, or District of Columbia using the key points provided in the agenda.

Municipal Ordinances: Fred, Nancy, and Nathan will be researching municipal ordinances using the key points provided in the agenda.

Tucker to research single use plastics of all kinds including straws.

8. New Business – Lawn Chemical Usage in Prairie Village. It was voted and approved to begin to research the effects chemicals are having on the bee and insect population in Prairie Village including parks and lawns.
 - a. Nathan, Sarah, Rich, Dave, SueAnn will be researching this issue and deciding who will contact the experts below.
 - b. Contacting experts from Powell Gardens, JOCO Extension, Master Gardners, JCCC beekeeping teachers, local PV bee experts
 - c. Contacting other municipalities for organic options for herbicides/pesticides that would be effective for our 69 acres of parkland

9. Next meeting set for Wednesday, August 28th at 5:30 p.m. at City Hall

JazzFest Committee
Meeting Minutes – August 6, 2019

Attendance

JD Kinney, Serena Schermoly, Joyce Hagen Mundy, Amanda Hassett, Dave Hassett, Mike Polich, Brian Peters, Kyle Van Landuyt, Maura Coleman, Jim Barnes, Elissa Andre, Meghan Boom

Budget

JD Kinney presented updated budget information to the committee.

Sponsorships

Joyce will follow up with Gilmore Bell, Tutera, and O'Donnell. Serena will follow up with the Home Builders Association.

Infrastructure

Mike Polich will follow up with Accent to confirm the start date for tent set up so Public Works can have the grounds prepared in advance of that time. The number of vendor tents were still being finalized.

Meghan is coordinating backstage furniture.

Jim will follow up with SECT to confirm all stage and sound details. JD asked Jim to get a quote to have SECT run the spotlights rather than volunteers.

Following the meeting, JD asked those involved with the infrastructure to participate in a site walk through.

Talent

Jim asked for rider and equipment lists to be provided by the bands.

John will coordinate sound check times directly with the bands.

Meghan will send a confirmation letter to each band on behalf of the City.

Marketing

Elissa stated the swing dance troop would be willing to participate at a \$200 level. JD asked that he have time to review the space needs before making a decision. She reported the t-shirt design is being finalized and will be a slate gray. Yard signs have been ordered. Elissa volunteered to spread the word about the festival at the KU kickoff and press releases have been sent. Radio and digital ads are starting to run. Meghan will coordinate the purchase of new banners to be displayed in the parks.

JD shared that rather than place a banner in front of the stage speakers to recognize sponsors, a large banner will be placed to the right of the stage. The speaker banners are too complicated and dangerous to hang and negatively impact sound.

Kyle will be advance recording stage announcements to play in during the festival. He asked that information on sponsors, vendors, and merchandise be sent to him to include in the announcements. He is planning to do Facebook Live interviews with the bands on event day as in previous years.

Food & Drink

The liquor permit has been secured through Urban Table. Dave will take inventory of the wine and sangria supplies and coordinate a purchase through Rimann Liquors. He is replacing a food truck and will let everyone know when it is finalized.

Volunteers

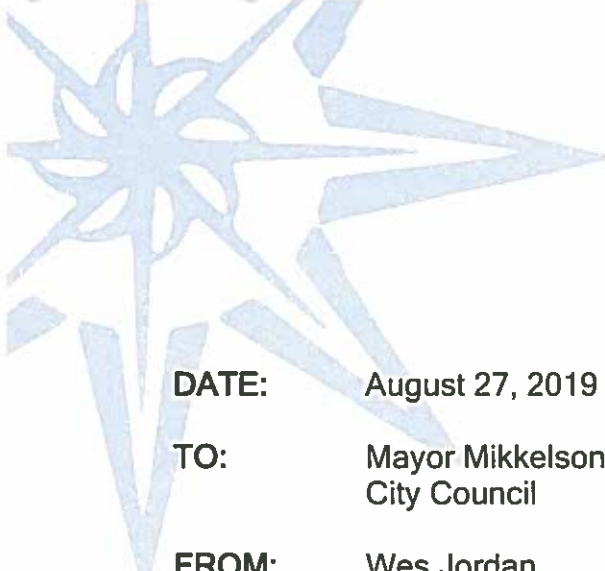
Maura has started working on volunteer recruitment and will send the signup link around to the committee to share.

Other

Brian will get the ATM ordered. Meghan will provide change and zipper bags.

Serena suggested multiple colors of raffle tickets.

Next meetings: August 27, 2019 at 5:30 p.m. / September 4, 2019 at 5:30 p.m. (site walk thru)



THE CITY OF PRAIRIE VILLAGE

STAR OF KANSAS

DATE: August 27, 2019
TO: Mayor Mikkelson
City Council
FROM: Wes Jordan
SUBJECT: SEPTEMBER PLAN OF ACTION

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

- WaterOne Event - Alley (09/19)
- Community Input Forum - Zoning Regulations Update - Jamie (09/19)
- AT&T Phone Contract - Jake (09/19)
- Diversity Training For Non-PD Personnel - Byron/Amy (09/19)
- Wassmer Park Dedication Event - Staff (09/19)
- Community Input Forum - New Skate Park - Keith (09/19)
- PW New Facility Consideration - Keith (09/19)
- Area Community Center/Library Tours - Jamie (09/19)
- Civic Center
 - Vendor Selection - Market Feasibility Study - Staff (09/19)

In Progress

- Civic Center
 - Survey Questions - Staff/Committee (08/19)
- Memorial Plaques in Parks Criteria Review - Staff (08/19)
- Shaffer Park Dedication Event - Ashley/PW (08/19)
- Animal Enumeration - Adam (08/19)
- Fee Schedule Review - Adam (08/19)
- ROW Ordinance Updates Wireless Facilities - David/Staff (08/19)
- STO/UPOC Update - Deana/Jamie/PD/Prosecutor (08/19)
- 63rd Street Speed Limit Review - PW/PD (08/19)
- Local Elections/Taking Office - Adam (08/19)
- Community Input Forums - Village Vision 2.0 - Jamie (08/19)
- City Treasurer Recruitment - Lisa (07/19)
- JOCO Municipalities Housing Study Task Force - Jamie (07/19)
- Insurance Committee Vacancy - Lisa (06/19)
- Master Personnel Spreadsheet Updates - Staff (06/19)
- JazzFest

- Event Planning & Contracts - Meghan (06/19)
- Solicitor Ordinance Updates - Adam/Alley/Wes (06/19)
- Research Viability of Interior Rental Inspections - Jamie (06/19)
- Statuary Maintenance Plan - Alley (05/19)
- Longevity Award Update - Amy/Wes (05/19)
- Property Maintenance Code Revisions - Jamie (03/19)
- Contractor's License Requirements/Revisions - Jamie (03/19)
- Census 2020 - Alley (02/19)
- New Statue Location/Foundation/Easement - Alley/Keith (07/18)
- Personnel Policy Updates - Amy/Jamie (07/18)
- Village Voice Format Update - Ashley (02/18)
- Organization of City Records/Contracts - Adam (05/19)
- Village Vision/Comp Plan Update - Chris/Jamie/Wes (11/17)
- Drone Ordinance - David Waters (10/17)
- Zoning Ordinance Update on SUP's/CUP's - Chris (10/16)

Completed

- Civic Center
 - RFP for Market Feasibility Study - Staff (08/19)
 - Village Voice Article - Ashley/Alley (08/19)
- MH 2020 Budget & Contract - Chief (08/19)
- NAACP Presentation - Mayor/Chief (08/19)
- National Night Out - Chief (08/19)
- Crossing Guard Contract - PD (08/19)
- Kansas Housing Assistance Program Marketing - Jamie (08/19)
- Back to School w/Fire Dept. - Meghan (08/19)
- Meeting Coordination w/Merchants Assoc. and NE Chamber - Jamie (07/19)
- KCP&L Presentation - Wes (06/19)
- JCPRD Updates to Council - Wes (06/19)
- Assistant City Attorney Appointment - Jamie (08/19)
- Belinder Sidewalk Presentation - Melissa (08/19)
- 2020 Budget Process - Staff (08/19)
 - Public Hearing

Tabled Initiatives

- Review & update the City Code/Ordinances
- Review & Update City Policies
- Review of Smoking Ordinance/e-cigs
- 2020 Initiative(s)
 - Website Re-design - Ashley/Alley - (03/19)
 - Municipal Code Software Research - Adam/Alley (03/19)
 - Annual Report Format Update - Staff (03/19)
 - Council Policy Website Update - Staff (11/17)

**Council Members
Mark Your Calendars
September 3, 2019**

September 5	Shawnee Mission Education Foundation Fall Breakfast (O.P. Convention Center)
September 7	10 th Annual Jazz Festival 3:00 p.m. - 10:30 p.m. (Harmon Park)
September 9	Community Visioning Workshop 5:30 p.m. (Meadowbrook Clubhouse)
September 12	Community Visioning Workshop 5:30 p.m. (Meadowbrook Clubhouse)
September 13	Artist Reception in the R.G. Endres Gallery
September 16	City Council Meeting
September 19	Harmon Park Skate Park Public Meeting 6:30 p.m. (Meadowbrook Clubhouse)