

Members of the Governing Body will participate by video call-in only due to the COVID-19 pandemic. The public will be able to view the meeting at:

<https://www.facebook.com/CityofPrairieVillage>

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, August 16, 2021
6:00 PM**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF THE AGENDA**
- V. **PRESENTATIONS**
- VI. **PUBLIC PARTICIPATION**

If you would like to speak live during the public participation portion of the meeting, please notify City Clerk Adam Geffert at cityclerk@pvkansas.com, and provide your name, address, and email address prior to 3 p.m. on August 16. The City will provide you with a link to join the meeting and will call on those who signed up to speak for up to 3 minutes once public participation begins.

To submit written comment to Council, please email cityclerk@pvkansas.com prior to 3 p.m. on August 16 to be shared with Councilmembers prior to the meeting.

VII. **CONSENT AGENDA**

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (Roll Call Vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff

- 1. Approval of regular City Council meeting minutes - August 16, 2021
- 2. Approval of expenditure ordinance #3005
- 3. Consider request for alcoholic beverage waiver for Harmon Park for the Prairie Village Jazz Festival
- 4. Approval of change to animal enumeration process

VIII. **COMMITTEE REPORTS**

Consider approval of funds for Diversity Committee
Inga Selders

IX. **MAYOR'S REPORT**

X. **STAFF REPORTS**

XI. **OLD BUSINESS**

XII. **NEW BUSINESS**

COU2021-59 Consider an ordinance regulating public offenses within the City of Prairie Village, Kansas, amending Chapter 11 (Public Offenses and Traffic), Article 2 (Local Regulations) of the Code of the City of Prairie Village to require the wearing of face coverings or masks during the COVID-19 public health emergency and recovery
David Waters

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

COU2021-60 Consider memorandum of understanding with Bird Rides, Inc., for a one year pilot program
Mike Butler / Keith Bredehoeft

XIV. **ANNOUNCEMENTS**

XV. **ADJOURNMENT**

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, etc., please notify the City Clerk at 913-385-4616, 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 2, 2021**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 2, 2021, at 6:00 p.m. Due to the COVID-19 pandemic, Councilmembers attended a virtual meeting via the Zoom software platform. Mayor Mikkelson presided.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mrs. Myers made a motion to approve the agenda for August 2, 2021. Mr. Nelson seconded the motion, which passed unanimously.

PRESENTATIONS

PUBLIC PARTICIPATION

No requests to address the Council were received.

CONSENT AGENDA

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

1. Approval of regular City Council meeting minutes - July 19, 2021
2. Consider approval of 2022 Mission Hills contact and 2022 Mission Hills budget
3. Consider approval of purchase of winter covers for city statuary



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

COMMITTEE REPORTS

- Ms. Selders stated that planning for the annual JazzFest event continued.
- Ms. Nelson said that the Shawnee Mission School District School Board had approved a masking requirement for all elementary schools, and a recommendation to wear masks in both middle and high schools.

MAYOR'S REPORT

- The Mayor provided an update on the COVID-19 pandemic, stating that the vaccination rate in Johnson County had increased to 56.6% of those aged 12 and older, per the County Health Department. The Centers for Disease Control (CDC) indicated that the number of vaccinated residents in the county was actually closer to 70%. New cases in the county were spiking as a result of the Delta-variant of the virus.
- The Mayor noted the passing of Pastor Dr. Robert Meneilly, founder of the Village Presbyterian Church.
- The Mayor reported that grant funding had been received for the pool mural project, which was a joint project sponsored by the Arts Council, Parks and Recreation Committee and Diversity Committee.
- A tour of the new Public Works facility for Councilmembers was scheduled for August 9. Public Works staff will move into the building in late August.
- The Mayor attended a webinar on LEED building certification hosted by the Green Building Council.
- The Mayor reported that Scratch Gourmet Express had opened in the Prairie Village Shops, and that a ribbon-cutting event would be held on August 26. Additionally, Glitters Fine Jewelry was planning to open a storefront at the Somerset Plaza Shopping Center, and Sopra Salon had moved to its new location in Corinth Quarter.
- A Corinth Quarter ribbon-cutting ceremony will be held on September 16.
- The Mayor reported that an ad-hoc housing committee was being formed, and will be co-chaired by Mr. Graves and Planning Commission member Jon Birkel. Ms. Limbird and Mr. Nelson also volunteered to serve on the committee.
- The Mayor stated that the City's net financial position was very good. At the end of 2020, assets over liabilities increased to \$97 million.
- The Planning Commission will meet on August 3 to discuss proposed redevelopment plans for the Meadowbrook Shopping Center at 95th and Nall.
- The next Johnson County Charter Commission meeting will be held on August 25.
- The Mayor will attend the Prairie Ridge Homes Association “FunFest” on August 21 at Bennett Park.



- The final “Clocktower Concert” of the season will be held at the Village Shops on August 5.
- The Village at Mission Senior Living facility will hold its grand opening on August 17.

STAFF REPORTS

- Mr. Jordan noted that the August Plan of Action was included in the agenda packet.
- Chief Roberson said the Police Department’s “National Night Out” will be held at Weltner Park on August 3. Free food and beverages will be provided by Hy-Vee.
- Mr. Bredehoeft reported that Johnson County Wastewater was in the process of repairing a sewer blockage underground at Wassmer Park, forcing the temporary closure of the zip line. He added that a public open house for the new Public Works facility would likely be held in November.

OLD BUSINESS

Ms. Nelson shared concern over the rising number of COVID infections due to the Delta-variant, and made a motion directing staff to draft a local mask ordinance similar to the state mandate that was in place in 2020, limited to indoor public spaces. Council will consider the ordinance at its next meeting on August 16. Ms. Reimer seconded the motion.

After further discussion, a roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Reimer, Runion, Graves, Gallagher; “nay”: Myers, McFadden. The motion passed 8-2.

Mr. Herring moved to declare the position of the Prairie Village City Council that Prairie Village is currently in an area of high transmission, and therefore urges that individuals and businesses follow recent CDC guidance as of July 27, 2021, regarding masking indoors for both vaccinated and unvaccinated people. The motion was seconded by Ms. Nelson and passed 9-1, with Mrs. Myers in opposition.

NEW BUSINESS

COU2021-57 Consider approval of a contract with Superior Bowen for the 2021 concrete repair program

Mr. Bredehoeft stated that two bids were received for the 2021 program:

- Superior Bowen \$518,856.30
- Kansas Heavy Construction \$544,509.00
- Engineers Estimate \$599,030.00



He noted that the locations of repairs would be increased to utilize \$595,000 of the budgeted total for the project, and that the remaining funds would be used for testing. The program would include repairs to deteriorated concrete sidewalks, curbs and ADA ramps.

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

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

COUNCIL COMMITTEE OF THE WHOLE

COU2021-58 Consider change to animal enumeration process

Mr. Geffert reported that City Clerk staff coordinated a yearly animal enumeration project in an effort to ensure all pets in the City were licensed and current on rabies vaccinations (per Municipal Code Section 2-115, "Enumeration of Animals"). Historically, a certain area of the City was selected for enumeration each year, and temporary employees were hired to walk the neighborhood and knock on doors of homes at which pets were not currently licensed.

Mr. Geffert added that in 2020, the City Council voted to have staff send a postcard reminder to residents rather than perform a door-to-door survey, due to the COVID-19 pandemic. In January 2021, 1,900 postcards were mailed out to residents that did not currently have pets registered with the City. As of July 27, 2021, 458 new animals have been licensed, which is higher than in past years. Additionally, the total cost of the project was reduced, and staff time has decreased significantly.

Due to the successful results achieved in 2021, the reduction in staff time, and the ongoing COVID-19 pandemic, staff recommends shifting the animal enumeration project to a postcard-based system going forward, rather than sending temporary employees door-to-door each year.

Mr. Gallagher moved to approve the change to the animal enumeration process as presented. The motion was seconded by Ms. Reimer and passed unanimously.

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



PRAIRIE VILLAGE
KANSAS

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mr. Herring made a motion to adjourn the meeting. Ms. Nelson seconded the motion, which passed unanimously.

Mayor Mikkelson declared the meeting adjourned at 7:22 p.m.

Adam Geffert
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

August 16, 2021

Copy of Ordinance

Ordinance Page No. _____

3005

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.

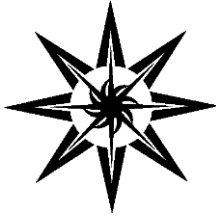
NAME	DATE	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
24341-24342	7/2/2021	16,511.43	✓
24343-24427	7/9/2021	814,141.09	✓
24428-24430	7/19/2021	11,344.01	✓
24431-24520	7/23/2021	1,058,508.74	✓
24521-24520	7/30/2021	15,826.93	✓
Payroll Expenditures			
7/2/2021		365,870.22	✓
7/16/2021		365,472.85	✓
7/30/2021		367,288.19	✓
Electronic Payments			
Electronic Pmnts	7/1/2021	1,160.56	✓
	7/2/2021	18,287.64	✓
	7/13/2021	11,582.62	✓
	7/14/2021	3,625.02	✓
	7/15/2021	100.00	✓
TOTAL EXPENDITURES:			3,049,719.30
Voided Checks	Check #	(Amount)	
Lightning Grand Services	24396	(710.00)	✓
TOTAL VOIDED CHECKS:			(710.00)
GRAND TOTAL CLAIMS ORDINANCE			3,049,009.30 ✓

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

Passed this 16th day of August 2021.

Signed or Approved this 16th day of August 2021.

ATTEST: Anthony James 8/15/2021 City Treasurer ATTEST: Wade Meyer 8/16/2021 Finance Director



Consent Agenda: Consider request for Alcoholic Beverage Waiver for Harmon Park for the Prairie Village Jazz Festival

RECOMMENDATION

Recommend the City Council approve an Application for Alcoholic Beverage Waiver to allow the serving of alcoholic beverages at Harmon Park on Saturday, September 11, 2021 in conjunction with the Prairie Village Jazz Festival contingent upon receipt of Temporary Permit for this event issued by the State Alcoholic Beverage Control Division to the Alcoholic Beverage Provider designated in the Application.

BACKGROUND

Section 12-110 of the City Code generally prohibits the consumption of alcoholic liquor or cereal malt beverages in City parks. By Ordinance 2011, adopted in 2001, the City allows the sale and consumption of alcoholic liquor and/or cereal malt beverages in Harmon Park, for certain City approved functions which are sponsored by the City, as long as the “applicant” obtains prior approval by the governing body, and the State required permit allowing alcoholic beverages to be served at the special event has been obtained. The applicant is required to provide appropriate security measures and comply with local and state laws governing sale and consumption of alcoholic beverages.

The Prairie Village Jazz Festival is scheduled for Saturday, September 11, 2021 on the Municipal Campus and Harmon Park. Food and alcohol will be sold during the hours of the event. The area will be secured. Police will be on the grounds during the event. All persons drinking alcohol will be required to wear a wrist band they will receive after showing the necessary documentation that they are of age to drink. The alcoholic beverages will be served under a permit issued by the State Alcoholic Beverage Control Division to the City of Prairie Village.

The JazzFest Committee, on behalf of the City, is the “applicant” requesting the waiver from the City Council. The Waiver is also conditioned upon the issuance of the Temporary Permit by the State Alcoholic Beverage Control Division.

ATTACHMENTS

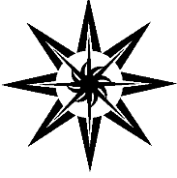
Application for Alcoholic Beverage Waiver

PREPARED BY

Meghan Buum
Assistant City Administrator

DATE

July 13, 2021



**APPLICATION FOR ALCOHOLIC BEVERAGE
WAIVER FOR HARMON PARK
City of Prairie Village, Kansas**

1. Date/Time Application Filed 07/27/2021

2. Name/Date/Time of the Event PV Jazz Festival, 9/11/2021, 3-10:30 p.m.

Section 12-110 of the City Code provides for an exemption to allow the sale and consumption of alcoholic liquor and cereal malt beverage at Harmon Park in conjunction with an approved City function upon approval of the Governing Body.

3. Alcoholic Beverage Provider The City of Prairie Village

Address 7700 Mission Road, Prairie Village, KS 66208

Daytime Phone 913-385-4662

Does the Alcoholic Beverage Provider have a License from the State of Kansas to serve alcoholic beverage? Yes No

License Number:

Registered to do business in the State of Kansas? Yes No

4. Name of Sponsoring Organization/Applicant: Prairie Village JazzFest Committee

Address: 7700 Mission Road, Prairie Village, KS 66208

Phone: 913-381-6464

What measures will be taken to provide security to insure health & safety during the event?

The grounds will be secured. All persons drinking alcohol will have identification checked and be given a wristband to be worn. Police Department staff will be on site throughout the event and Med-Act will be on site.

5. Event Coordinator J.D. Kinney

6. Service Location Harmon Park

7. Total Number of Persons Estimated 3,000

8. Liability Insurance Information – The Alcoholic Beverage Provider and the Applicant shall provide evidence of general liability insurance naming the City as an additional insured as a condition to approval of this Alcoholic Beverage Waiver.
9. Applicant agrees to release, indemnify, hold harmless and defend the City of Prairie Village, Kansas and its’ officials and representatives from any claims arising out of the above stated event.



Signature of applicant

JazzFest Committee Chairman

Title

10. The Applicant or the Alcoholic Beverage Provider shall provide evidence of the issuance of a Temporary Permit by the Kansas Department of Revenue, Alcoholic Beverage Control Division, for the event described in this Application as a condition to approval of the Alcoholic Beverage Waiver.

Application for this Alcoholic Beverage Waiver is:

Approved ____ Disapproved ____

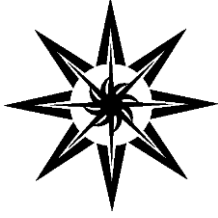
Mayor Eric Mikkelson

City Clerk – Adam Geffert

Date

Date

Additional information or requirements set forth by Governing Body as a provision for approval of this permit.



COU2021-58: Consider change to animal enumeration process

RECOMMENDATION

Recommend City Council approve changing the yearly animal enumeration process from a door-to-door survey to a postcard-based reminder system.

BACKGROUND

City Clerk staff coordinate a yearly animal enumeration project in an effort to ensure all pets in the City are licensed and current on rabies vaccinations (per Municipal Code Section 2-115, “Enumeration of Animals”). Historically, a certain area of the City is selected for enumeration each year, and temporary employees are hired to walk the neighborhood and knock on doors of homes at which pets are not currently licensed.

In 2020, the City Council voted to have staff send a postcard reminder to residents rather than performing a door-to-door survey, due to the COVID-19 pandemic. In January 2021, 1,900 postcards were mailed out to residents that did not currently have pets registered with the City. As of July 27, 458 new animals have been licensed. While it is not possible to determine the percentage of pets that were licensed as a direct result of the postcard, the total number is still greater than in previous years, and the project was completed at a much lower cost. Additionally, staff time spent on the project was significantly reduced. The chart below provides a comparison of 2021 to previous years:

Year	Number of Homes Visited	Number of New Pets Licensed	Est. Yearly Revenue*	Est. Lifetime Revenue**	Project Cost***
2016	1018	332	\$1,992.00	\$15,936.00	\$1,462.00
2017	987	363	\$2,178.00	\$17,424.00	\$2,783.00
2018	924	273	\$1,638.00	\$13,104.00	\$1,231.00
2019	1519	334	\$2,004.00	\$16,032.00	\$1,692.50
2021	1900 via postcard	458	\$2,748.00	\$21,984.00	\$993.00

* Yearly revenue based on single-year license fee of \$6.00

** Lifetime revenue based on average pet lifetime of eight years

*** Project cost including wages paid to enumerators but NOT City Clerk staff time spent on project

Due to the successful results achieved in 2021, the reduction in staff time, and the ongoing COVID-19 pandemic, staff recommends shifting the animal enumeration project to a postcard-based system going forward, rather than sending temporary employees door-to-door each year.

PREPARED BY

Adam Geffert

City Clerk

Date: July 28, 2021



Consider approval of funds for Diversity Committee

BACKGROUND

The Diversity Committee has collaborated with the American Jazz Museum to have a tent at the 2021 Jazz Fest event. The American Jazz Museum will be providing information about the 18th and Vine District, history of jazz in Kansas City and other related topics.

The Diversity Committee is requesting funds to cover rental costs for the tent, tables, chairs, and purchase a banner, signs, and other miscellaneous items.

Tent (20'x20') = \$350.00

Tables, tablecloths, chairs = \$100.00

Banners / Signs = \$350.00

Misc. (brochures, goodie bags) = \$200.00

Total: \$1000.00

Councilmember Inga Selders will be able to provide additional details or answer further questions.

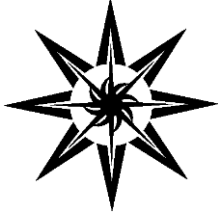
ATTACHMENTS - None

PREPARED BY

Tim Schwartzkopf

Assistant City Administrator

Date: August 10, 2021



ADMINISTRATION

City Council Date: August 16, 2021

COU2021-59 Consider an ordinance regulating public offenses within the City of Prairie Village, Kansas, amending Chapter 11 (Public Offenses & Traffic), Article 2 (Local Regulations) of the Code of the City of Prairie Village to require the wearing of face coverings or masks during the COVID-19 public health emergency and recovery.

SUMMARY:

At its August 2, 2021, meeting, the City Council directed the city attorney to create an ordinance requiring masks or other face coverings in businesses where the public is invited, such ordinance to be generally in line with the most recent order of the Kansas Governor (Executive Order No. 20-68) that had been in effect as to the City.¹

The ordinance presented for consideration generally follows the requirements of Executive Order No. 20-68, but with a few differences:

- Per the direction of the City Council, the draft ordinance does not apply to outdoor activities or places (Executive Order No. 20-68 required the wearing of masks while outdoors in public places and unable to maintain a 6-foot distance between individuals—not including individual who reside together) with only infrequent or incidental moments of closer proximity).
- For the reasons presented below, the draft ordinance does not apply to public or private schools. It further does not apply to other public spaces owned or operated by other units of local government, such as the Federal government, the State, the County, or the School District.
- The draft ordinance provides an exemption for "[p]ersons engaged in religious services, ceremonies or activities." Although a religious exception was not contained in the Governor's orders, staff notes that, in the previous mask ordinance draft considered by the City Council in March 2020, an exception for places of religious worship was included. Even though that ordinance was not passed, such an exception appeared to be the will of the City Council at the time. The religious exception language contained in this draft is taken from the language used by the County in its recent Johnson County Board of Health Order No. 001-21 (discussed further below).

¹ The City was not previously subject to Executive Order No. 20-68. Rather, the City was governed by the previous order on masks, Executive Order No. 20-52, which was not opted out of by Johnson County. See Executive Order No. 20-68, stating that the substantive mask-related provisions thereof did not apply to "counties in which Executive Order 20-52 is in effect, meaning that the county commission has not exercised its authority under K.S.A. 48-925(h) to 'opt out' of Executive Order No. 20-52 ...".

- A previous order of the Kansas Governor regarding masks (Executive Order No. 20-52, which applied to the City) contained an exception for persons who are seated a restaurant while they are eating or drinking, provided they maintain a 6-foot distance between individuals, but "not including individuals who reside together or are seated together". However, in Executive Order No. 20-68, that exception was revised such that the exception only applied to "individuals who reside together". This draft ordinance uses the language of the Governor's previous Executive Order No. 20-52, which was the one that was in effect as to Prairie Village.
- Mayor Mikkelson noted that some other cities had considered a vaccination exemption when considering mask mandates. Staff did include language for consideration by the Council as an option in the draft ordinance that contains an exception for public spaces, businesses, and organizations which, as a condition of entry, require proof that all persons entering have been fully-vaccinated. Staff notes that not all persons are eligible to be vaccinated, and that some persons are not able to be vaccinated (even if eligible) due to other health matters.

Staff recognizes that an ordinance may not be able to encapsulate every hypothetical situation that may arise. As with most if not all laws governing infractions, discretion will most certainly be required as to any given situation: police officer discretion; prosecutorial discretion; and judicial discretion.

The following are additional comments from staff and the city attorney:

City Authority to Mandate the Wearing of Face Masks.

Subject to risks and limitations discussed below, as a general rule, the City Council does have authority to establish a face mask requirement for the health, safety, and general welfare of residents. Under the Kansas principle of "Home Rule", cities are generally able to determine their own affairs. See Kansas Constitution, Article 12, Sec. 5(b):

Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: ... Cities shall exercise such determination by ordinance passed by the governing body ..., subject only to enactments of the legislature of statewide concern applicable uniformly to all cities, to other enactments of the legislature applicable uniformly to all cities ...

Of course, the City's powers are not absolute. For example, the Kansas Governor has certain powers under Kansas law to issue lawful orders, as does Johnson County, Kansas, and, to the extent the Governor's or the County's orders actually conflict with any local order, the Governor's or the County's orders would control. The draft ordinance accounts for the impact of such orders, if and when issued.

Mask Mandates as to the School District.

At the August 2, 2021, City Council meeting, a couple of members of the City Council requested information on the extent to which the City could impose its own mask mandate on the Shawnee Mission Public School District. (Staff notes that the School District itself has discussed its own

policies for masks at several meetings, and established its own requirements.) Although the answer is not completely certain, recent developments suggest that a court would hold that the City cannot do this.

Article 6 of the Kansas Constitution covers the topic of education. Section 5 of that article states, "Local public schools under the supervision of the state board of education shall be maintained, developed and operated by locally elected boards." As a general proposition, then, local school boards are the governing authority for public school districts.

In a recent case decided before Judge David Hauber in the Johnson County District Court, the Court examined the authority of the Kansas Legislature (arguably a higher level of government than either the City or the School District) to impose mandatory procedures upon school districts pertaining to district patrons aggrieved by decisions of the Board of Education relating to COVID-19 policy. *Butler v. USD 512*, case # 21CV02385. At issue were certain requirements placed on school districts by 2021 Kansas Senate Bill No. 40 (SB 40), which, among other things, established (in the part relevant to face masks):

During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48- 924b, and amendments thereto, only the board of education responsible for the maintenance, development and operation of a school district shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of any school or attendance center of such school district, including, but not limited to, any action, order or policy that:

(C) mandates any action by any students or employees of a school district while on school district property

Kansas Senate Bill No. 40 at New Section 1(a)(1) (2021).² Senate Bill No. 40 also established an expedited grievance procedure, with hearings, before both school districts and the applicable district court.

In a briefing Senate Bill No. 40, the Shawnee Mission School District cited Article 6, Section 5, and argued as follows:

Kansas school districts have a protectible interest in maintaining the local control granted to school boards under the Constitution. See, e.g., *Gannon*, 298 Kan. 1127-31 (holding that plaintiff school districts had demonstrated for standing purposes that they suffered a cognizable injury when the State significantly undermined their ability to perform their constitutional duties under Article 6, Section 5). SB 40 takes away local school boards' broad constitutional right to operate their district, including the right to approve operational plans in response to health and safety risks, and allows such response plans to be voided by judicial order of default judgment, without appropriate procedural due process.

² Staff notes that, at this time, the state-level state of disaster emergency related to COVID-19 is no longer in effect, and the Johnson County District Court has found SB 40 to be unconstitutional. That decision is being appealed to the Kansas Supreme Court.

USD 512's Response to AG's Brief on the Constitutionality of SB 40, p.6.

In a series of orders filed by Judge Hauber, the District Court struck down SB 40 as unconstitutional. In doing so, the District Court addressed the constitutional authority of school boards acknowledging that both the Legislature and local school boards have constitutional powers and duties with respect to public schools. Even though the Legislature has some constitutional authority over schools under Article 6, the District Court nevertheless concluded that the Legislature does not have "carte blanche" authority over school districts but that both bodies have "duties which must be harmonized." Specifically addressing SB 40, the Court said, "Eliminating school districts' authority to enact measures to protect health and safety would be a remarkable and substantive change." Order dated June 8, 2021, p.13. The Court ultimately found SB 40 unconstitutional because, among other reasons, it "unconstitutionally deprives relevant governmental units of due process," presumably referring to local school boards. Order dated July 15, 2021, pp. 2-3.

In making this ruling, the District Court acknowledged (1) that local school boards are clothed in some level of constitutional authority to "protect health and safety" in their school districts, and (2) even though the Legislature also has some constitutional authority for schools under Article 6, local school board authority could not be curtailed without due process. By contrast, cities have no authority to regulate education under Article 6.

While it seems quite unlikely that Judge Haber would permit Prairie Village to override "health and safety" regulations in local school districts, it should be pointed out that the Kansas Attorney General is appealing the *Butler* decision to the Kansas Supreme Court. Accordingly, the District Court's opinion is not the final word. The Kansas Supreme Court might reverse the District Court's decision in *Butler*. However, even if the Supreme Court does reverse the decision, reinstating Senate Bill No. 40, that would result in the reinstatement of the language in Senate Bill No. 40 that "only the board of education ... shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency ...".

The *Butler* opinion is instructive, however, in at least two ways: (1) it illustrates the arguments likely to be raised by USD 512 in response to any attempt to enforce a city mask mandate in Shawnee Mission schools, and (2) that at least one local district judge would receive those arguments favorably. Furthermore, whereas the Legislature has some claim to constitutional authority over public schools, cities have none.

Certainly, there are situations where the interests of a city and a school district may intersect or conflict, and it would incorrect to say that cities are prohibited from exercising any control over a public school district. Examples of these situations could include zoning and subdivision matters, or compliance with building codes. Judge Hauber's comments regarding how there may be overlapping levels of authority, and the need to find harmonious balance between duties and rights, appears to be consistent with some of this case law. As examples:

- In *Brown v. Kansas Forestry, Fish and Game Commission*, 2 Kan.App.2d 102 (1978), the Kansas Court of Appeals adopted a balancing test to determine whether a state agency was immune from zoning requirements, or whether a state agency must apply to the local government for zoning approvals or variances. The balancing test included the following factors: (1) the nature and scope of the instrumentality seeking immunity; (2) the kind of function or land use involved; (3) the extent of the public interest to be served thereby; (4) the effect local land use regulation would have upon the enterprise concerned; and (5) the impact upon legitimate local interests. In that case, the Court held that the state's Forestry,

Fish and Game Commission (now the Department of Wildlife and Parks) was required to obtain zoning approval from the city for its plan to put a parking lot in the middle of a residential subdivision.

- In *Herrmann v. Board of County Com'rs of Butler County*, 246 Kan. 152 (1990), the Kansas Supreme Court adopted the balancing test in a case involving the construction of a state prison. There, the Court determined that the state interests outweighed the local concerns, and held that the state was immune from local zoning regulations.
- In *Schneider v. City of Kansas City*, 228 Kan. 25 (1980), the Kansas Supreme Court addressed the issue of whether a state agency is subject to local building code ordinances. In *Schneider*, the Kansas Board of Regents began construction on an addition to the University of Kansas Medical Center without obtaining building permits from the City of Kansas City. While the state raised the *Brown* balancing test as being the proper test to determine the issue, the Court did not decide the issue using this test. Rather, the Court held that where the state had adopted a comprehensive building code applicable to state construction projects, these regulations preempted local building ordinances.

Ultimately, given the most recent decisions in this area, staff is of the opinion that including public schools in the City's mask ordinance could likely be challenged, and there is a risk of it being held unconstitutional as applied to the School District. The City Council should consider whether it wishes to entertain that issue, especially in light both the School District's own adopted policies, and recent action taken by the Johnson County Board of County Commissioners.

Staff also notes that there was a previous Governor's Executive Order (Order No. 20-59) that required the wearing of face masks in public and private schools. The later statewide order (Order No. 20-68) specifically stated that, notwithstanding the state-wide face mask order, "the provisions of Executive Order No. 20-59 continue to control COVID-19 mitigation procedures, including the wearing of masks or other face coverings, in K-12 public and private school buildings and facilities."

County Action as to School Districts.

The draft ordinance also excludes both private and public schools given that, on August 5, 2021, the Board of County Commissioners (sitting as the County Board of Health) approved its own mask mandate for public and private schools for students up to and including 6th Grade (and, to the extent that higher grades are located with grades 6 or lower, then such higher grades as well). Johnson County Board of Health Order No. 001-21 generally requires that masks or other face coverings are required for all children while inside a school building where any students through and including 6th grade attend class. Masks are also required for all faculty, staff, and visitors. The order remains in effect through May 31, 2022.³

Under the public health codes that give counties the ability to issue health orders, there is no express preemption that would prohibit cities from acting in addition to action by the County (subject to the above comments regarding recent District Court decisions). Indeed, under Home Rule, the City likely has the ability to make more restrictive rules provided they are not in conflict

³ Staff has not explored in detail whether the County's actions may themselves be subject to challenge by public school districts, under the same rationales adopted by Judge Hauber in declaring Senate Bill No. 40 to be unconstitutional. The Shawnee Mission School District, for example, appears to have adopted policies that are more stringent than those of the County.

with the County rules (conversely, a City order that directly conflicts with a County order, when the state has granted that authority to the County, would not be permitted under Home Rule). As an example, although this draft ordinance does not apply to private schools (in light of the County's order, which does), as such order does not appear to cover grades 7 and higher (unless such grades are located with lower grades), the City could arguably pass an ordinance under its Home Rule powers to cover that currently-unregulated area.

However, staff does not recommend that the City adopt a mask ordinance as to public or private schools that may cause confusion within the community.

Staff also notes that the County's order is based on advice from the Johnson County Health Officer, and City staff does not have its own health department to make recommendations on the appropriateness of all health initiatives.

Liability as to Mask Mandates under new Kansas Legislation.

2021 Senate Bill No. 40.

Following the passage of Senate Bill No. 40 (which, again, has been declared unconstitutional by one district court, but appeals are pending), several cities rolled-back certain of their COVID-related restrictions, likely as a result of provisions of SB 40 allowing expedited consideration of civil lawsuits (and concerns over the costs that would be associated therewith, plus potential liability for damages). Per Senate Bill No. 40, Sec. 8 (amending K.S.A. 48-932(e)):

- (e) (1) Any party aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken within 30 days after such action is taken. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such action is narrowly tailored to respond to the state of local disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

Senate Bill No. 40 does not state that such relief is only limited to injunctive or equitable relief, such that municipalities may have to face claims—on an expedited basis—for monetary damages.

However, the Kansas League of Municipalities has taken the position that K.S.A. 48-932, even as amended by Senate Bill No. 40, does not actually apply to most (if any) cities. It is the League's position that K.S.A. 48-932 (part of the Kansas Emergency Management Act, or KEMA) only applies to cities that are required to have a disaster plan. Under KEMA, K.S.A. 48-904(g) defines "local and interjurisdictional disaster emergency plans" as "all disaster emergency plans developed and promulgated by county, city and interjurisdictional disaster agencies pursuant to K.S.A. 48-929, and amendments thereto". Generally speaking, K.S.A. 48-929 provides for the

governor to determine which cities are required to have such plans. As of this writing, there are no cities that meet this classification.

That being said, this argument has not been significantly tested. However, the city attorney is aware of one district court decision arising out of Saline County, Kansas, that approved this argument. Accordingly, there is a risk that adoption by the City of a mask mandate could be challenged under this provision of Senate Bill No. 40, leading to possible claims and appeals. This risk may be tempered by the fact that Senate Bill No. 40 has been declared by one judge to be unconstitutional. Moreover, a plaintiff would have to show that the wearing of masks "has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit."

2021 Senate Substitute for House Bill No. 2313.

Another possible liability/monetary risk to adopting a face mask ordinance may come by way of 2021 Senate Substitute for House Bill No. 2313, which was enacted this past summer. Beginning January 2022, the legislation provides for reimbursements of tax dollars from the County general fund to the owner of any building maintaining a business on the property that was either shut down or "restricted" by the state, county, city, or other political subdivision pursuant to a declared disaster emergency. The term "restricted" means:

Any occupancy limitation, limitation on periods of operation or the exertion by any governmental entity of other significant control on business resources or functionality.

If the City of Prairie Village was the governmental entity that shut down or "restricted" the business resulting in a reimbursement to an owner or operator of property, then the City of Prairie Village must reimburse the County for the cost of any reimbursement. Reimbursement is, per day, 1/365 of the total amount of taxes levied (regardless of source—state, county, city, and all other taxing jurisdictions—meaning Prairie Village could have to reimburse the County as to taxes levied by others), multiplied by "the percentage of the ordered restrictions" (that would seem to require an analysis of what "percentage" impact the mask mandate had in "restricting" operations).

There remain arguments that the City would have that its mask mandate should not trigger liability under Senate Sub. for HB 2313.

- First and foremost, the provisions of this section of Senate Sub. for HB 2313 "shall be applicable on and after January 1, 2022" (though, the legislation is not clear as to whether that means it applies to restrictions imposed during the 2022 calendar year, or whether that means applicants may not assert their claims until January 1, 2022, even for restrictions enacted during previous years).
- The applicant (not plaintiff initially—the legislation allows for application to be made to the county treasurer) would have to show that the mask mandate constituted a "significant control on business resources or functionality". It may be difficult for an applicant to meet that threshold test just as to face masks.

However, the city attorney notes that both of the Governor's face mask orders (Order Nos. 20-52 and 20-68, which were used as the bases for the draft ordinance) may contain

implied "occupancy limitations" for purposes of Senate Sub. for HB 2313. For example, Order No. 20-52 exempted:

Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity[.]⁴

To the extent that food establishments would need to close seating to accommodate that spacing, or remove and relocate tables, that could be considered an "occupancy limitation" which itself could entitle a property owner to see a tax rebate (when the legislation becomes effective).

- The legislation first applies to a restriction "by the state, county, city or other political subdivision of the state pursuant to an executive order issued by the governor pursuant to K.S.A. 48-925". In the case of this draft ordinance, the City would argue that it is not taken "pursuant" to any executive order of the governor, but rather pursuant to the City's Home Rule Powers. That being said, the City should consider its decisions (or perhaps future decisions) in light of the previous statewide face mask mandate. For example, Executive Order No. 20-68 (the most recent statewide mask mandate) stated:

Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders as necessary to respond to escalating or worsening conditions in any local jurisdiction. ...

Whether a court would find (in such a situation, if that order was in effect today) that this is merely a restatement of existing Home Rule power, or that Home Rule action would be taken "pursuant" to this provision of such an executive order, is not known, as this legislation has not been tested. A judge would likely have to rule on what the term "pursuant" means in that context. That is, a court might need to consider whether action is taken "pursuant" to the Governor's permissive language, or whether "pursuant" means and includes merely the motives of the City Council (that is, was the action taken in response to the state of disaster emergency, and is that sufficient for liability).

- This legislation may also pose a risk in the future to the extent the Mayor "incorporates" by reference a governor's executive order, as contemplated by City Code Sec. 1-1311(e) (updated in 2020, prior to the enactment of Senate Sub. for HB 2313). There, if the Mayor determines an emergency exists, the Mayor has the power to:

To impose such other regulations as are necessary or appropriate, consistent with applicable law, to preserve the health, safety, peace, or order of the city; provided, that such other regulations are for the purpose of adopting or incorporating by reference requirements or recommendations, or portions thereof, contained in health or emergency orders issued by applicable Federal, State, or County officials related to the same emergency or disaster that is the basis for the mayor's proclamation,

⁴ Executive Order No. 20-68 contained similar wording, but said the 6-foot distance standard would not include "individuals who reside together".

whether the same are imposed as to the city or not; and further provided that, and notwithstanding the foregoing, such regulations may be equally or more restrictive than such Federal, State, or County orders.

That action—incorporating by reference a Governor's order—may be more likely to be found to be action taken "pursuant" to the Governor's order.

- The legislation also applies to "any action taken by a county, city or other political subdivision of the state related to a state of disaster emergency declared pursuant to K.S.A. 48-924". There currently is no state of disaster emergency pursuant to K.S.A. 48-924 in effect (but, the legislation is not clear as to whether an applicant could rely on the previous state of disaster emergency declaration). However, as opposed to using the term "pursuant" (as discussed above), this portion of the legislation uses the term "related" to a state of disaster emergency. Even though the City may argue that K.S.A. 48-924 is a part of KEMA, and that city actions specifically authorized under KEMA may only apply as to actions taken by cities that fall under the requirements of KEMA (cities that are required under KEMA to have disaster emergency plans, of which there are currently none), the use of the word "related" rather than "pursuant" would seem to increase the risk that any action by the City of Prairie Village (even under Home Rule authority) could implicate the tax repayment provisions of Senate Sub. for HB 2313.
- The legislation also applies to "any action by a county, city or other political subdivision of the state related to a ... state of local disaster emergency declared pursuant to K.S.A. 48-932". Indeed, on March 19, 2020, the Board of County Commissioners of Johnson County issued a state of local disaster emergency pursuant to this statute, which remains in effect. This language again presents two issues:
 - (1) Whether K.S.A. 48-932 actually applies to the City of Prairie Village (or any city, for that matter, if the League's interpretation is correct) and, therefore any Home Rule action taken by the City; and
 - (2) Whether, regardless, adoption of a face mask mandate would be "related" to the County's own existing state of local disaster emergency declaration for purposes of subjecting the City to potential liability under Senate Sub. for HB 2313. (For this reason, the ordinance does not reference the County's declaration.)

Again, these arguments as to Senate Sub. for HB 2313 have not been tested in court.

Additional Comments:

For informational purposes only, on August 5, 2021, the Board of Commissioners of the Unified Government of Wyandotte County/Kansas City, Kansas adopted a face mask requirement (Resolution No. R-47-21, LHO 8/05/21). Certain aspects of that order include:

- Similar to the draft presented to the Prairie Village City Council, it exempts persons under five (5) years of age, but it does recommend mask-wearing for children ages 2+ (and states that the risk of suffocation applies to children under the age of 2);
- The order exempts all schools, and "any activities held under the authority of the school boards for those schools while located on school property";

- As to restaurants, the order also more closely tracks the first version of the Governor's statewide mandate (Order No. 20-52), exempting "[p]ersons who are seated at a restaurant or other establishment that offers food or beverage service, while they are seated and eating or drinking". That is, it does not require that such persons maintain 6-feet of distance unless they "reside together", as stated in the later Executive Order No. 20-68; and
- The order does not contain any religious exemption, and specifically includes "places of worship" in its coverage.

Staff notes that the Wyandotte County/KCK order was issued under separate statutory authority, including provisions of KEMA, and not purely as a matter of Home Rule.

Finally, this draft ordinance has been shared with the City Prosecutor. Although the City Prosecutor did not have any recommended language changes to the ordinance, she did raise the following enforcement and practical concerns:

- The willingness of residents to accept the legitimacy of any order, especially given avenues and willingness for challenge (notwithstanding arguments raised above as to whether such arguments may withstand scrutiny), and especially given national movements of attorneys general and other elected officials to sue over such mandates;
- Potential for strain on law enforcement, and the potential of putting police officers in harm's way enforcing a volatile issue, where the remedy (outside of a trespass or similar situation) may be the equivalent of a parking ticket (that is, an officer cannot force a mask on a person). If penalties are at a low level, the City Prosecutor is of the opinion that courts may not permit physical arrest or mandatory court appearances.
- Potential for over-burdening the municipal court system, including potential for bench warrants for failure to appear.
- Difficulty in actual prosecution (*e.g.*, time, resources, proofs and evidences available as to exemptions for health or other reasons).

ATTACHMENTS:

Draft Ordinance No. 2454

PREPARED BY:

David E. Waters
City Attorney

Date: August 16, 2021

ORDINANCE NO. 2454

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING CHAPTER 11 (PUBLIC OFFENSES & TRAFFIC), ARTICLE 2 (LOCAL REGULATIONS) OF THE CODE OF THE CITY OF PRAIRIE VILLAGE TO REQUIRE THE WEARING OF MASKS OR OTHER FACE COVERINGS DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY.

WHEREAS, the governing body of the City of Prairie Village, Kansas, prioritizes the protection of the health, safety, welfare and economic well-being of residents and visitors of the City of Prairie Village;

WHEREAS, COVID-19 is a disease caused by a novel coronavirus, previously unknown in humans, and is presently understood to cause, among other things, upper-respiratory tract illnesses that can range from mild to severe, spread quickly, and may cause death, particularly in older adults and persons with chronic medical conditions;

WHEREAS, on July 19, 2021, the United States Department of Health and Human Services issued a "Renewal of Determination that a Public Health Emergency Exists" related to COVID-19, such public health emergency having been initially declared January 27, 2020;

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation;

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), Johnson County, Kansas, is currently an area where there is a "high" level of community transmission of COVID-19;

WHEREAS, this worrying trend of increased COVID-19 spread is a danger to the health and safety of residents and visitors to the City of Prairie Village, and also presents a serious threat to reopening and reviving the City's economy;

WHEREAS, on July 27, 2021, the CDC issued updated certain recommendations related to the COVID-19 pandemic, such that in addition to recommending the wearing of masks for unvaccinated persons, the CDC now recommends that even fully-vaccinated people wear a mask in public indoor settings in areas of substantial or high transmission, such as in Johnson County, Kansas;

WHEREAS, the City of Prairie Village must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally facilitating economic recovery and revitalization; and,

WHEREAS, for the aforementioned and other reasons, the governing body of the City of Prairie Village is acting pursuant to its constitutional home rule authority to provide for the health, safety, welfare and economic well-being of residents and visitors of the City of Prairie Village, by requiring that masks or other face coverings be worn as described in this ordinance.

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

Section 1. A new Section 11-222 is hereby established in Chapter 11 (Public Offenses & Traffic), Article 2 (Local Regulations) in the Code of the City of Prairie Village, Kansas, as follows:

11-222 WEARING MASKS IN PUBLIC PLACES OF BUSINESS DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY.

A. Mask or other face coverings; definitions.

(1) "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen, and may include a plastic face shield. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.

(2) "Public space" means:

(a) any indoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

(b) The term "public space" shall not include (i) churches, synagogues, mosques, or other places of religious worship, (ii) public or private schools, or (iii) public buildings or facilities owned or operated by any unit of government or political subdivision other than the city itself, including but not limited to those buildings or facilities owned or operated by the county, the school district, the state, or the federal government, or any agency or division thereof.

(c) **[Option]** Notwithstanding anything in this Section 11-222 to the contrary, this Section 11-222 shall not apply to any public space or any other business or organization covered by this Section 11-222 which, as a condition of entry into such public space, business, or organization, requires reasonable proof that every person (regardless of age) entering such public space has received all doses of the then-available COVID-19 vaccines, per the minimum requirements for full vaccination established by such vaccine maker or applicable governing authority.

B. Mask or other face coverings; when required; exemptions.

(1) All persons in the city shall cover their mouths and noses with masks or other face coverings when they are in the following situations:

- (a) Inside any indoor public space; or
 - (b) Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee thereof or a health care provider.
- (2) The persons responsible for all businesses or organizations in the city must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering as follows:
- (a) Employees, when working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - (b) Employees, when working in any space where food is prepared or packaged for sale or distribution to others;
 - (c) Employees, when working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - (d) Customers, members, visitors, or members of the public, when in a facility managed by the business or organization; or
 - (e) Employees, when in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
- (3) The following individuals are exempt from wearing masks or other face coverings in the situations described in subsections B(1) and B(2):
- (a) Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - (b) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - (c) Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;

- (d) Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
 - (e) Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - (f) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
 - (g) Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - (h) Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
 - (i) Persons engaged in religious services, ceremonies or activities;
 - (j) Persons engaged in an activity or event held or managed by the Kansas Legislature;
 - (k) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
 - (l) Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- (4) It shall be an affirmative defense to any prosecution under subsection B(1) or B(2) that the person in violation is an individual listed under subsection B(3).

C. Mask or other face coverings; penalties; enforcement.

- (1) **[Option]** The knowing and willful failure or refusal to comply with the requirements of this Section 11-222 shall be an unclassified violation. Any fine imposed for a violation of this section shall not exceed \$25.00.

[Option] The knowing and willful failure or refusal to comply with the requirements of this Section 11-222 shall be an unclassified violation, punishable as provided in Section 1-116 of the Prairie Village Municipal Code (a fine of not more than \$1,000.00, or imprisonment in jail for not more than 179 days, or both such fine and imprisonment). Violation of this Section 11-222 shall require a mandatory appearance in the municipal court.

- (2) The person responsible for any business or organization that does not comply with Section 11-222 includes a sole proprietor, or any officer, partner, member, manager, director, or other supervisor for the business or organization, who may be held jointly and severally responsible for such violation with respect to any enforcement of the violation.
- (3) This Section 11-222 may be enforced by the police department, with appropriate proceedings following citation in municipal court.

D. Mask or other face coverings; Federal/state/county orders.

The provisions of this Section 11-222 shall not apply to the extent such provisions directly conflict with any current or subsequent orders issued by the United States Federal government (or agency thereof), the State of Kansas (or agency thereof), the Governor of the State of Kansas, Johnson County, Kansas, the Local Health Officer of Johnson County, Kansas, or other applicable authorities, including but not limited to Johnson County Board of Health Order No. 001-21 dated August 5, 2021.

E. Mask or other face coverings; effective term. The provisions of this Section 11-222 shall be in effect until 11:59 p.m. on September 30, 2021, unless further extended by ordinance of the governing body.

F. Mask or other face coverings; severability. Severability is intended throughout and within the provisions of this section. If any subsection, sentence, clause, phrase, or portion of this section 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 section.

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 _____, 2021.

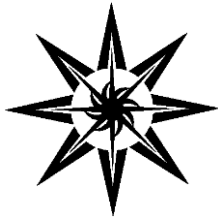
APPROVED by the Mayor on _____, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk



PUBLIC WORKS DEPARTMENT

Council Committee Date: August 16, 2021
Council Meeting Date: September 7, 2021

COU2021-60 CONSIDER MEMORANDUM OF UNDERSTANDING WITH BIRD RIDES, INC FOR A ONE YEAR PILOT PROGRAM.

RECOMMENDATION

Move to authorize the Mayor to sign the Memorandum of Understanding with Bird Rides, Inc. for a one year pilot program.

BACKGROUND

Bird Rides, Inc. approached the City with the desire to deploy electric assisted scooters in Prairie Village. These scooters will serve as an alternative transportation means for residents. It is anticipated that the scooters will be used for both transportation and recreational purposes. Mike Butler, with Bird Rides, Inc. presented his thoughts on deployment to the city council on June 21, 2021. After that meeting council directed staff to develop a pilot program for the deployment of Bird scooters.

A common way that Bird Rides, Inc. develops a pilot program is via a one year memorandum of understanding (MOU). The attached MOU was developed and documents details of the one year pilot program.

Mike Butler with Bird Rides, Inc. will be available to discuss details and answer questions.

If approved, the City and Bird Rides, Inc. will launch a public outreach effort notifying residents of the pilot project. Input from the community will be obtained throughout the pilot project and will help the City determine if a longer term agreement with Bird Rides, Inc. is desired.

This MOU can be terminated at any time by either party with a 30 day notice.

FUNDING SOURCE

N/A

ATTACHMENTS

MOU with Bird Rides, Inc.

PREPARED BY

Keith Bredehoeft, Public Works Director

August 12, 2021

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "Agreement") is made effective as of the last date of signature below (the "Effective Date") by and between the **City of Prairie Village, Kansas** (the "City") and **Bird Rides, Inc.** ("Bird"), so as to permit Bird to provide services under the following terms and limitations. This Agreement shall remain in effect until and through July 31, 2022 unless terminated as set forth below.

AGREEMENT

- 1) **Scope:** This Agreement and its terms apply to any proposed deployment of stand-up electric scooter sharing systems that meet the definition of an "electric-assisted scooter" as set forth in K.S.A. 8-1498 (collectively, "Scooters") within the jurisdictional boundaries of the City, but excluding any private property not owned by the City, which may retain their own rules or policies regarding the use of Scooters, to the extent provided by applicable law. Bird shall not deploy Scooters in the City and, to the extent of Bird's requirements as described in this Agreement, allow persons to use Scooters in the City in violation of this Agreement.
- 2) Scooters and the use thereof shall be governed by and operated in accordance with such statutes, rules, and regulations as may exist under the laws of the State of Kansas applicable thereto, including but not limited to K.S.A. 8-15,113, and in accordance with the terms of this Agreement. By way of example only, the City and Bird understand that, as of the Effective Date, the rules applying to bicycles apply to Scooters such that Scooters are to be ridden on streets, and where available, in bike lanes and bike paths. Scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Scooters shall be 18 or older, and have a valid drivers license. Additional terms are set forth on Exhibit A which is attached hereto and incorporated herein by this reference. Users of Scooters who violate these provisions may be fined by the City consistent with applicable law. Nothing in this Agreement shall be deemed to interpret, waive, or amend any Kansas requirements regarding the use of Scooters.
- 3) Bird shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Scooter for members of the public to make relocation requests or to report other issues with devices.
- 4) **Hours of operation:** Scooters will be made available to rent from 4:00 am to midnight (local time).
- 5) Bird shall provide a minimum of 50 Scooters at launch.
- 6) **Safety Education:** Bird will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 7) **Data sharing:** Bird will provide data to the City as necessary to assist with monitoring program usage.
- 8) **Indemnification:** Bird agrees to indemnify, defend and hold harmless the City, its affiliates, agents, employees, and governing body members from and against all actions, damages or claims brought against City arising out of Bird's negligence or willful misconduct or Bird's breach of this Agreement, except that Bird's indemnification obligation shall not extend to claims of City's employees', agents' or affiliates' negligence or willful misconduct. To the extent permitted by law, the City expressly acknowledges that in no event shall Bird be liable for any special, indirect, consequential or punitive damages. Bird shall have sole control of any defense; the City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird.
- 9) **Insurance:** Bird shall provide the City with proof of insurance coverage exclusively for the operation of Scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.
- 10) **Notices:** All notices and communications to the City from Bird shall be made in writing (includes electronic communications) and sent to the address below.

City of Prairie Village, Kansas
Attn. Keith Bredehoeft
kbredehoeft@pvkansas.com
7700 Mission Road
Prairie Village, Kansas 66208

Bird Rides, Inc.
Attn. Austin Marshburn
amarshburn@bird.co
406 Broadway #369
Santa Monica, California 90401

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice. In the event of termination, Bird shall promptly remove any and all Scooters from within the City, and take such other steps as may be necessary to reasonably prevent operation of Bird Scooters within the City.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of Kansas.

CITY OF PRAIRIE VILLAGE, KANSAS

BIRD RIDES, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

[Additional Operating Requirements]

See attached

EXHIBIT A

Devices shall meet below specifications for all the Bird Zero vehicle models to be deployed:

	Bird Zero
Vehicle Size (L x W x H)	44" x 19" x 46"
Baseboard Dimensions (L x W)	23.0" x 4.75"
Tire type and wheel size	8" x 2" solid
Brake Tech	Drum (rear), electric regenerative brake
Lights and Reflectors	High efficiency LED front and rear lights, and high conspicuity front, rear and side reflectors.
Kickstand	Single, side
Maximum Device Speed	Top motor-powered speed of less than 15 miles per hour. Bird scooters are equipped with electronic speed governing systems, limiting power at a prescribed speed—even while riding downhill—according to local road rules. Additional restrictions may be defined where lower speed limits are advisable, for example 12 mph in Historic Aurora.
Battery Capacity	12.8 Ah (40-cell)
Drive Wheel	FWD

EXHIBIT A

Wattage	350W
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BirdZero	
Braking	Drum Brake + Regenerative Brake
Lights	Front/Rear LEDs



UNIQUE ID



SAFETY DECAL

Ride Safely

Helmet Required
License Required
No Riding on Sidewalks
No Double Riding
18+ Years Old

HELLO@BIRD.CO
1-866-205-2442

Due to restricted access to City Hall, most meetings will be held virtually. Please continue to check <http://pvkansas.com> for access details.

MAYOR'S ANNOUNCEMENTS

Monday, August 16, 2021

Diversity Committee	08/18/2021	5:30 p.m.
Finance Committee	08/19/2021	4:00 p.m.
Environmental Committee	08/25/2021	5:30 p.m.
Tree Board	09/01/2021	6:00 p.m.
Labor Day – City offices closed	09/06/2021	
City Council	09/07/2021	6:00 p.m.

INFORMATIONAL ITEMS
August 16, 2021

1. Planning Commission minutes - July 13, 2021
2. JazzFest minutes - July 28, 2021
3. 2021 first half crime statistics

**PLANNING COMMISSION MINUTES
JULY 13, 2021**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, July 13, 2021 at 7:00 p.m. Due to the COVID-19 pandemic, Commission members attended a virtual meeting via the Zoom software platform. Chair Greg Wolf called the meeting to order at 7:00 p.m. with the following members present: James Breneman, Patrick Lenahan, Melissa Brown, Nancy Wallerstein and Jeffrey Valentino.

The following individuals were present via Zoom in their advisory capacity to the Planning Commission: Graham Smith, Gould Evans; Jamie Robichaud, Deputy City Administrator; Mitch Dringman, City Building Official; Adam Geffert, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Mrs. Wallerstein moved for the approval of the minutes of the June 1, 2021 regular Planning Commission meeting. Mr. Breneman seconded the motion, which passed 5-0, with Mr. Lenahan in abstention.

PUBLIC HEARINGS

None

NON-PUBLIC HEARINGS

PC2021-114 Site Plan Approval for Fence Exception
7900 Reeds Road
Zoning: R-1A
Applicant: Trevor Clark

Mr. Smith stated that the applicant was requesting to replace an existing non-conforming fence. Specifically, the request was for an exception to the required setback on 79th Street, allowing replacement of a 4' chain-link fence with a 6' wood fence located 2.5' from the property line, rather than 5'.

The property is a corner lot on the southwest corner of 79th Street and Reeds Road. The lot has an "intersection orientation", in which the house faces the corner of 79th and Reeds and both adjacent lot lines function as side lot lines. Houses to the south front on Reeds Road, and the house to the west has a side lot line on 79th Street.

In this situation, the zoning ordinance requires the fence to be set back from the lot line on 79th Street by at least 5'. The proposed location aligns with the existing chain link fence on the property to the west (rear), reflecting an existing continuous fence line along 79th Street. The fence would be approximately 10' to 12' from the curb of 79th Street, with a landscape area between the fence and the curb and a 2.5' landscape area between the fence and sidewalk.

Mr. Smith said that staff recommended approval of the fence site plan with the exception given the following considerations:

1. This is a replacement of an existing non-conforming fence, and it aligns with a similar fence on the property to the west
2. Although the conversion of a 4' chain-link fence to a 6' privacy fence does increase barriers, similar fences could only be possible on a limited stretch of 79th Street due to the pattern of lots and buildings. In all cases, they are typically more than 10' from the curb with detached sidewalks and landscape areas. Further, the side or intersection orientation of most of the houses (i.e. all fenced behind the front building line extended) would result in only limited stretches of the streetscape subject to this condition
3. Both lots on this side of the 79th Street have a similar side yard configuration
4. The proposed fence is located in the rear yard of the lot and entirely behind the front building line on this side
5. The proposed fence will meet all other standards other than the required setback along 79th Street

Mrs. Wallerstein asked about the appearance of the fence in the front yard. Ms. Robichaud stated that the staff report only focused on the side yard because it was the only area that required an exception from the Planning Commission.

Applicant and property owner Trevor Clark was present to discuss the project. He stated that only the fence areas that were not shared with neighboring yards would be replaced. He said that he agreed with the staff considerations.

Mr. Lenahan noted that Mr. Clark had indicated in his application that he believed the new fence would need to be placed 15' farther back in the yard in his application proposal, when in actuality, it would only need to be moved approximately 2.5'. He asked if Mr. Clark would be willing to place the fence at this distance, which would not require an exception. Mr. Clark stated that he would still prefer to install the new fence in the same location as the existing fence since it would align with the neighboring fence to the west.

Mr. Breneman made a motion to approve the site plan as presented. Mr. Valentino seconded the motion, which passed 4-2, with Mr. Lenahan and Ms. Brown in opposition.

PC2021-115 Site Plan Approval for Meadowbrook Park - Phase II Development
9101 Nall Avenue
Zoning: R-1A
Applicant: Brian Garvey, SFS Architecture

Mr. Smith said the applicant was requesting site plan approval for a new playground, shelter, parking area and bathrooms as part of phase II of the overall Meadowbrook redevelopment plan. This improvements would be located in the northwest portion of the park, near Meadowbrook Parkway and Roe Avenue.

The proposed development includes the following specific amenities:

- A picnic shelter matching the design of other shelters located throughout the park
- Accessible restrooms with similar architecture to existing restrooms
- A fenced inclusive playground designed for users of all abilities
- Connections to the existing trail system for the park

The applicant conducted the following meetings as part of the design process for the project (in addition to other meetings as part of the design of Meadowbrook Park and the overall Meadowbrook redevelopment plan):

- Preliminary neighborhood meeting on April 26, 2021
- Conceptual design meeting with design committee (including city staff)
- Design review meeting with JCPRD Board, VanTrust, and immediate neighbors
- Neighborhood open house on May 24, 2021
- City Council presentation on June 7, 2021
- Final neighborhood meeting June 28, 2021

Mr. Smith said that staff recommended approval of the site plan for a playground and associated accessory structures, with a suggestion to consider additional trees near Meadowbrook Parkway.

Mrs. Wallerstein asked for more information about the restroom layout. Mr. Smith noted that the restrooms were single-occupant, and designed to be wheelchair-accessible.

Jim Wilson, Planning and Development Project Manager with the Johnson County Parks and Recreation District, 7900 Renner Road, and Brian Garvey, SFS Architecture, 2100 Central St., Kansas City, MO, were present to discuss the project. Mr. Garvey stated that shade stations would be installed with misters to help keep users cool, in response to concerns shared by Mr. Breneman and Mr. Valentino. Mr. Wilson added that one or two trees could likely be added as part of the project.

Mrs. Wallerstein made a motion to approve the site plan as presented, with the condition that one to two trees be planted near Meadowbrook Parkway if feasible Mr. Breneman seconded the motion, which passed 6-0.

PC2020-119 Revised Site Plan - Homestead Country Club
4100 Homestead Court
Zoning: R-1A
Applicant: Jeff Pflughoft / Dennis Hulsing

Mr. Smith said that the application was a continuation of an application originally submitted and discussed at the November 2020 Planning Commission meeting. At that time, the Commission deferred action on the application until concerns from surrounding neighbors associated with lighting and landscape related to previous plans were addressed. The most recent site plan for the Homestead Country Club was approved in May 2019. The current application proposes making the following changes to that plan:

1. Two new pickleball courts between the clubhouse and the permanent tennis structure
2. Extending the parking area in place of one of the tennis courts on the northwest, leaving one tennis court in the northwest corner
3. Restriping tennis courts on the east end of the courts (closest to the clubhouse and other small courts) for the potential of four portable (removable) pickleball courts

These changes would result in a total of 10 pickleball courts (instead of 4) and 13 tennis courts (instead of 15).

Mr. Smith stated that there had been concerns expressed by surrounding residents regarding the landscape plan, specifically related to buffers and lighting, in the previous submittal. He added that staff felt the applicant had since addressed those concerns, and that approval of the revised site plan was recommended, subject to the following conditions:

1. All conditions of the special use permit approved by the City in 2018 remain in effect, with a particular emphasis on using state of the art sport court lighting to limit glare and prevent spill over light, and a continuing obligation to use lighting fixtures, technology and settings that reduce light impacts on surrounding properties
2. A new drainage permit be reviewed and issued by Public Works for the additional work on the new platform tennis courts
3. The construction details of the added parking area (surface, curbs, drainage, etc.) meet City specifications or occur according to plans otherwise authorized by Public Works
4. The applicant and the City (via Public Works) explore prohibiting parking on one side of Homestead Court, and the applicant specifically implements parking management processes and policies that reduce the practice of parking on

Homestead Court to overflow situations only, and that no members or employees routinely park on the street when other available parking exists

5. The revised court configuration (13 tennis courts and 10 pickleball courts) is approved, provided that pickleball is located in the central-most portions of the court areas near the clubhouse. This is intended to place the more intense activity and potential noise increases that result from pickleball furthest from adjacent residential areas
6. Landscape for the increased 50' of parking lot perimeter on the north boundary be added to meet the ordinance requirement (5 shrubs for 25' of perimeter), or if grade or existing plantings make this impractical, the applicant work with staff to plant additional evergreens or other type of barrier that meets the intent of the standard
7. No other changes to the site are authorized, and any new configuration of the site, to include courts, lighting, traffic and parking control, or other facilities shall require staff review and a revised site plan or amended special use permit

Mrs. Wallerstein asked whether the tennis court at the northwest corner of the site would remain or be converted to a parking lot. Mr. Smith stated that it would remain, and Ms. Robichaud added that the neighbors near that part of the property preferred for it to remain a tennis court rather than a parking lot. Ms. Robichaud also stated that residents had requested a sound test with pickleball players, which was initially performed by the club. She added that City staff had tried to schedule a second sound test but were unable to do so due to scheduling conflicts with residents. She said that there was not a specific decibel limit required for approval during the club's operating hours.

Mr. Valentino asked for more details on how lighting issues were addressed. Ms. Robichaud stated that City staff had gone on-site several times late in the evening to measure light disturbance. She said that the country club had replaced shielding on all exterior lights to ensure they did not shine directly on neighboring homes, and were now in compliance. No additional complaints about lighting had been received from neighbors since the shields were installed.

Dennis Hulsing, owner of Homestead Country Club, 5009 W. 68th St., and Jeff Pflughoft, Purchasing Manager at Homestead Country Club, 117 S.E. Somerset Drive, Lee's Summit, MO, were present to discuss the project and answer questions.

Mr. Breneman asked if the Planning Commission had approved a covered pickleball court on the previous site plan. Ms. Robichaud stated that it had not, and that the club would need to submit a separate application for the structure with elevations in order for them to be considered.

Mr. Lenahan made a motion to approve the revised site plan, with the exception of the proposed covered pickleball structure, which would need to be presented at a future meeting. Mr. Valentino seconded the motion, which passed 5-1, with Mr. Breneman in opposition.

OTHER BUSINESS

Kansas Open Meetings Act (KOMA) Training Video

ADJOURNMENT

Prior to beginning the training video for commission members, the live broadcast was ended at 8:23.

Adam Geffert
City Clerk/Planning Commission Secretary

Prairie Village Jazz Fest 2021
Committee Meeting
Wednesday July 28, 2021, 5:30 p.m.
City Council Chambers, Prairie Village City Hall

Attendees

Jim Barnes	Stage and Technical Chair
Elissa Andre	Marketing Chair
J.D. Kinney	Special Events Coordinator, Committee Chair
Inga Selders	Prairie Village City Council, Council Liaison
John Wilinski	Backstage and Artist Hospitality Chair
Al Guarino	PV Arts Council Liaison

Committee Chair's Report

The minutes for the Jazz Fest Committee Meeting on July 14 were approved by the Committee. The amplified sound permit for 10:00 am – 10:00 pm has been submitted and approved. JD spoke via Zoom at the Olathe Rotary Club meeting July 22. Approximately 15 attendees.

Fundraising and Sponsorships

JD met with the Inn at Meadowbrook on July 20. The Inn will be the featured sponsor on the back of the lineup fan. They will also appear on the entrance vinyls and be added to the Village Voice insert identified as a presenting sponsor. They will determine soon if they want a sponsor tent. They seemed interested to contribute something branded to the Festival Kit.

Republic Services confirmed their \$5,000 presenting sponsorship. They do not need a sponsor tent but plan to use all 6 of their VIP seats.

Payment of \$1,500 was received from Lathrop.

Talent

Deposit of \$2,500 has been paid to The Adam Larson Band

F&B

The Salty Iguana Prairie Village has agreed to provide the special use permit liquor license. JD and Sue Hamilton will meet with them July 29 to finalize the paperwork. JD would like to create vinyls for the beer tent to bring attention to both Salty Iguana and Crawford Sales who make the beer tent possible with their donations in kind.

Need update soon regarding contracts received and contracts pending in case we need to add a food truck.

Dave is meeting with Crawford soon to determine varieties and quantities for adult beverages

VIP Services

JD will take over sourcing of items for the VIP and sponsor food bags

Stage, Lighting and Technical Services

The contracts for SECT for stage, sound, light and technical support have been signed. Deposits are due and will be cut as soon as Meghan returns from vacation.

Public Works has determined that since the area around the skate park will be newly sodded just before Jazz Fest that no trucks will be allowed in the grass in the area around the stage

JD confirmed with James Carney of Public Works that a hydrant and hoses can be used to fill the two water-filled plastic "Jersey" barriers to secure the canopy of the stage.

Jim confirmed that Jones Piano is on board.

Aching Backline technical/sound support is also booked for the event

Rented Infrastructure

No update

Marketing

The full lineup of acts and times should be given to SM Post who traditionally breaks the lineup first.

Can we highlight presenting sponsors the way we highlight acts as we roll them out via SM Post?

Would like a write-up of the Arts Council and Diversity Committee's plans for Jazz Fest for PV Village Voice Jazz Fest insert.

Yard signs will be scheduled to arrive by August 24 so they can be distributed by the weekend of August 27-29.

JD met with James Carney to locate other Jazz Fest signs in storage. Sponsor entrance vinyls, the horizontal stage sign and multiple parking and directional signs were found. Some signs may be missing. Meghan to advise when she returns from vacation.

Updated park signs will be put up by PW the week of August 16.

Lightpole signs will be up by the week of August 8.

Sign highlighting Prairie Village committees that members of the public may volunteer for will be created and placed on Sponsors row needs to be designed and appropriate logos/inclusions determined.

Old Lodge Mason's sign to be located and scheduled for display.

Backstage/Artist Hospitality

Accommodations for Jaleel Shaw and Fabian Almazan have been requested from the Inn at Meadowbrook. Air travel for Jaleel Shaw is booked.

With the involvement of Salty Iguana, they should be considered for one of the meals for stage crew/PD/PW

Budget and schedule for backstage meals are due by the first Jazz Fest meeting in August.

Diversity Committee

Inga and JD met with James McGee from American Jazz Museum on July 22 to walk the Fest site and discuss American Jazz Museum's participation as a content/exhibit provider for the PV Diversity Committee's 20' tent. The Diversity Committee will submit a layout and list of specifications as early in August as possible so that required items can be ordered from Marquee.

Arts Council

No update

The next Jazz Fest Committee meeting was scheduled for Wednesday August 11, 2021, at 5:30 pm. **Due to COVID mitigation efforts, the meeting will once again be virtual. Links to the Zoom will be sent.**

The meeting concluded at 6:30 p.m.

Respectfully submitted: JD Kinney

**PRAIRIE VILLAGE
FIRST HALF CRIME REPORT - 2021**

CRIME	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Homicide	0	0	0	1	1	0.40	0.60
Rape	1	1	0	1	2	1.00	1.00
Robbery	2	0	1	1	1	1.00	0.00
Assault/Battery	33	33	29	24	44	32.60	11.40
Burglary	36	22	24	16	16	22.80	-6.80
Residence	29	17	15	9	15	17.00	-2.00
Business/ Miscellaneous	7	5	9	7	1	5.80	-4.80
Theft	86	129	111	95	103	104.80	-1.80
Auto Theft	8	10	13	10	21	12.40	8.60
Arson	1	2	0	0	0	0.60	-0.60
Forgery	13	11	0	3	6	6.60	-0.60
Fraud	22	0	0	1	33	11.20	21.80
Criminal Damage	28	17	19	23	15	20.40	-5.40
Sexual Offenses	5	11	4	4	5	5.80	-0.80
TOTAL	235	236	201	179	247	219.60	27.40

ACCIDENTS	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Fatal	0	1	0	0	0	0.20	-0.20
On-Street - injury	24	23	25	25	30	25.40	4.60
On-Street +\$1,000 - no injury	140	123	106	72	80	104.20	-24.20
On-Street -\$1,000 - no injury	22	19	33	9	5	17.60	-12.60
Private Property - injury	1	2	2	1	0	1.20	-1.20
Private Property - no injury	29	27	21	17	1	19.00	-18.00
Walk-In - no injury	6	5	4	4	0	3.80	-3.80
TOTAL	222	200	191	128	116	171.40	-55.40

MENTAL HEALTH	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Suicide	0	1	1	0	1	0.60	0.40
All Other Mental Health	55	72	29	67	149	74.40	74.60
TOTAL	55	73	30	67	150	75.00	75.00

TOTAL CALLS	3,624	4,118	3,804	4,312	3,605	3,892.60	-287.60
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MISSION HILLS FIRST HALF CRIME REPORT - 2021

CRIME	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Homicide	0	0	0	0	0	0.00	0.00
Rape	0	0	0	0	0	0.00	0.00
Robbery	0	0	0	0	0	0.00	0.00
Assault/Battery	2	2	0	0	3	1.40	1.60
Burglary	4	7	4	1	13	5.80	7.20
Residence	4	6	4	1	13	5.60	7.40
Business	0	1	0	0	0	0.20	-0.20
Theft	13	21	11	15	19	15.80	3.20
Auto Theft	2	3	3	2	6	3.20	2.80
Arson	0	0	0	0	0	0.00	0.00
Forgery	1	1	0	0	1	0.60	0.40
Fraud	5	0	0	0	1	1.20	-0.20
Criminal Damage	9	0	0	4	2	3.00	-1.00
Sexual Offenses	0	0	0	0	0	0.00	0.00
TOTAL	36	34	18	22	45	31.00	14.00

ACCIDENTS	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Fatal	0	0	0	0	0	0.00	0.00
On-Street - injury	2	1	1	0	3	1.40	1.60
On-Street +\$1,000 - no injury	8	11	11	8	5	8.60	-3.60
On-Street -\$1,000 - no injury	4	1	3	0	0	1.60	-1.60
Private Property - injury	0	0	0	0	0	0.00	0.00
Private Property - no injury	3	2	1	1	0	1.40	-1.40
Walk-In - no injury	1	0	1	1	0	0.60	-0.60
TOTAL	18	15	17	10	8	13.60	-5.60

MENTAL HEALTH	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Suicide	0	1	0	0	0	0.20	-0.20
All Other Mental Health	1	2	4	3	14	4.80	9.20
TOTAL	1	3	4	3	14	5.0	9.0

TOTAL CALLS	751	663	682	841	605	708.40	-103.40
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**PRAIRIE VILLAGE and MISSION HILLS COMBINED
FIRST HALF CRIME REPORT - 2021**

CRIME	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Homicide	0	0	0	1	1	0.40	0.60
Rape	1	1	0	1	2	1.00	1.00
Robbery	2	0	1	1	1	1.00	0.00
Assault/Battery	35	35	29	24	47	34.00	13.00
Burglary	40	29	28	17	29	28.60	0.40
Residence	33	23	19	10	28	22.60	5.40
Business/ Miscellaneous	7	6	9	7	1	6.00	-5.00
Theft	99	150	122	110	122	120.60	1.40
Auto Theft	10	13	16	12	27	15.60	11.40
Arson	1	2	0	0	0	0.60	-0.60
Forgery	14	12	0	3	7	7.20	-0.20
Fraud	27	0	0	1	34	12.40	21.60
Criminal Damage	37	17	19	27	17	23.40	-6.40
Sexual Offenses	5	11	4	4	5	5.80	-0.80
TOTAL	271	270	219	201	292	250.60	41.40

ACCIDENTS	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Fatal	0	1	0	0	0	0.20	-0.20
On-Street - injury	26	24	26	25	33	26.80	6.20
On-Street +\$1,000 - no injury	148	134	117	80	85	112.80	-27.80
On-Street -\$1,000 - no injury	26	20	36	9	5	19.20	-14.20
Private Property - injury	1	2	2	1	0	1.20	-1.20
Private Property - no injury	32	29	22	18	1	20.40	-19.40
Walk-In - no injury	7	5	5	5	0	4.40	-4.40
TOTAL	240	215	208	138	124	185.00	-61.00

MENTAL HEALTH	2017	2018	2019	2020	2021	AVERAGE	2021 +/- AVG
Suicide	0	2	1	0	1	0.80	0.20
All Other Mental Health	56	74	33	70	163	79.20	83.80
TOTAL	56	76	34	70	164	80.00	84.00

TOTAL CALLS	4,375	4,781	4,486	5,153	4,210	4,601.00	-391.00
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