

City Council Meeting

September 19, 2005



Dinner will be provided by:

Dragon Inn

*Chicken with Cashew Nuts
Shrimp & Seasonal Vegetables
Spicy Shredded Beef, Szechuan Style
Sweet & Sour Pork
Steamed Vegetables*

POLICY/SERVICES COMMITTEE
-AGENDA-
Monday, September 19, 2005

Policy/Services Committee Interview Schedule

Drainage Consultants

3:00 p.m.	URS
4:00 p.m.	Burns & McDonald
5:00 p.m.	The Larkin Group

**COUNCIL COMMITTEE MEETING
September 19, 2005**

Council Chamber

AGENDA

		<u>Page #</u>
COU2005 -33	Discuss County's School Sales Tax Ballot Issue Josh Farrar	1 - 6
LEG2005-19	Consider Harmon Park & Pool Renovation Bond Refinancing David Arteberry representing George K. Baum Co. (Written information will be available at the meeting)	
COU2005-12	Consider Proposed Mission Hills 2006 Public Safety Budget Chief Charles Grover	7 - 35
LEG2005-16	Consider Open Ignition Ordinance Chief Charles Grover	36 - 37
*COU2005-34	Consider Tree Trimming Bid Bob Pryzby	38
COU2005-35	Consider Third Amendment to the Prairie Village Police Pension Plan Jamie Shell	39 - 42
COU2005-37	Consider Flu Shot Program Barbara Vernon	43
COU2005-36	Consider 2006 Budget Process and 2007 Plan Barbara Vernon	44 - 45

***Council Action Requested Same Evening**

COUNCIL COMMITTEE

- COU99-13 Consider Property Audits (assigned 4/12/99)
- COU2000-42 Consider a proactive plan to address the reuse of school sites that may become available (assigned Strategic Plan for 4th Quarter 2001)
- COU2000-44 Provide direction to PVDC regarding its function / duties (assigned 2000 Strategic Plan)
- COU2000-45 Review current City definition for blight and redefine it where appropriate (assigned 2000 Strategic Plan)
- COU2004-10 Develop programs to promote and encourage owner occupied housing (transferred from PVDC on 3/15/2004)
- COU2004-11 Identify potential redevelopment areas and encourage redevelopment proposals (transferred from PVDC on 3/15/2004)
- COU2004-12 Pursue development of higher value single-family housing (transferred from PVDC on 3/15/2004)
- COU2004-13 Proactively encourage redevelopment to increase property values (transferred from PVDC on 3/15/2004)
- COU2004-14 Meet with the Homes Association of the Country Club District (HACCD) to obtain their input regarding deed restrictions (transferred from PVDC on 3/15/2004)
- COU2004-20 Consider No Smoking Ordinance (assigned 9/28/2004)
- COU2004-22 Consider School Zone Policy (assigned 10/15/2004)

- COU2005-08 Consider Request for Proposal for Compensation/Benefits Consulting Services (assigned 6/15/2005) Moved to Legislative/Finance Committee
- COU2005-12 Consider proposed Mission Hills Public Safety Budget for 2006 (assigned 8/3/2005)
- COU2005-15 **Consider planning meetings for the Governing Body (assigned 9/6/2005)**
- COU2005-16 **Consider how to improve the Council's effectiveness as a team (assigned 9/6/2005)**
- COU2005-17 **Consider how to expand leadership opportunities for Council members (assigned 9/6/2005)**
- COU2005-18 **Develop a school zone policy (assigned 9/6/2005)**
- COU2005-19 **Consider committee term limits for elected officials and residents (assigned 9/6/2005)**
- COU2005-20 **Develop a sidewalk policy (assigned 9/6/2005)**
- COU2005-21 **Develop a policy for use of Fund Balance (assigned 9/6/2005)**
- COU2005-22 **Consider Council mentoring program (assigned 9/6/2005)**
- COU2005-23 **Consider sponsoring social events with other jurisdictions (assigned 9/6/2005)**
- COU2005-24 **Develop and improve parliamentary procedures (assigned 9/6/2005)**
- COU2005-25 **Consider changing procedure for selecting Council President (assigned 9/6/2005)**
- COU2005-26 **Consider automated Council packets (assigned 9/6/2005)**
- COU2005-27 **Consider concept of Outcomes Measurement or Quantifying Objectives (assigned 9/6/2005)**
- COU2005-28 **Consider more effective public notice of Council and Committee vacancies (assigned 9/6/2005)**
- COU2005-29 **Consider City service to remove oak pollen in gutters and curbs (assigned 9/6/2005)**
- COU2005-30 **Consider \$500 deposit from landlords for remediation of code violations (assigned 9/6/2005)**
- COU2005-31 **Consider amending weed ordinance (assigned 9/6/2005)**
- COU2005-32 **Consider City service to eliminate weeds in the street (assigned 9/6/2005)**
- COU2005-33 **Discuss County's School Sales Tax Ballot Issue (assigned 9/14/2005)**
- COU2005-34 **Consider Tree Trimming Bid (assigned 9/14/2005)**
- COU2005-35 **Consider Third Amendment to PV Police Pension Plan (assigned 9/14/2005)**
- COU2005-36 **Consider 2006 Budget Process and 2007 Plan (assigned 9/14/2005)**
- COU2005-37 **Consider Flu Shot Program (assigned 9/15/2005)**

Memo

To: Mayor Shaffer, Barbara Vernon
From: Joshua Farrar
Date: September 15, 2005
Re: County Sales Tax

Later this month a special election will be held in Johnson County to allow a vote on a ¼ cent sales tax for schools and economic development for the next three years. This sales tax is a continuation of a three year tax set to expire in February of 2006.

Current Sales Tax

Sales and Use Tax Collections	2003 Actual	2004 Actual	2005 Estimate
Collected in Prairie Village	\$351,770.16	\$486,433.24	\$492,877.00
Economic Development Sales and Use Tax Grant to Schools	\$12,218,697	\$17,332,015	\$17,778,557
All Municipalities	\$6,950,614	\$9,932,851	\$10,000,438
Total of All Municipalities and Schools	\$19,169,311	\$27,264,866	\$27,778,995

As of August 31, 2005 the current ¼ cent county sales tax has generated \$1,171,679.67 for Prairie Village and is expected to bring in another \$250,000 before it expires.

Sales Tax Under Consideration

The tax which will be on the ballot will be administered in the exact same manner as the current tax, except for one difference. The amount distributed to the schools by the County will be capped at the amount collected and distributed in 2005. Over its three year duration any amount above what was distributed in 2005 will be kept by the County and used *"for public safety purposes and for capital projects of the county, including the acquisition, construction and/or improvement of real and personal property, roads, bridges, and other buildings or structures necessary for county government purposes."* This tax is expected to generate approximately 1.5 million dollars for Prairie Village, 53 million dollars for County school districts, and 2 million for the County over three years.

Sales and Use Tax Collections	2006 Estimate	2007 Estimate	2008 Estimate
Collected in Prairie Village	\$512,789.00	\$523,045.00	\$533,506.00
Grants to Schools	\$17,778,557	\$17,778,557	\$17,778,557
County	\$392,946	\$756,376	\$1,127,075
All Municipalities	\$10,221,470	\$10,425,900	\$10,634,418
Total (Cities, Schools, County)	\$28,392,973	\$28,960,833	\$29,540,050

Ballot Language

Shall the Board of County Commissioners of Johnson County, Kansas, renew and continue to impose, for an additional period of three (3) years, ending on December 31, 2008, a one fourth (1/4) of one cent countywide retailers' sales tax in Johnson County, Kansas, with the revenue from the tax to be distributed as required by law to the county and to the cities in Johnson County, and the county share to be used as follows: first, to annually fund and award economic development and public benefit grants to public school districts located in Johnson County, Kansas, up to a total annual amount equal to the amount of grants funds, including supplemental grants, awarded for calendar year 2005, to be used to maintain educational opportunities, for technology, for special education needs and for other purposes authorized by state law, and second, the remainder, if any, to be used for public safety purposes and for capital projects of the county, including the acquisition, construction and/or improvement of real and personal property, roads, bridges, and other buildings or structures necessary for county government purposes?

Expenditures

As of August 31, 2005 the City has spent \$385,895 of the sales tax funds generated through the first sales tax. Expenditures were:

Skate Park Construction (2004)	\$200,000
Village Vision Comprehensive Plan (2004)	\$185,895
Total Expenditures	\$385,895
Balance as of 8/31/05	\$785,784.67

If nothing more is spent from this revenue source the final balance would be approximately \$2,514,525 on December 31, 2008.

COUNCIL COMMITTEE OF THE WHOLE
April 19, 2004

The Council Committee of the Whole met on Monday, April 19, 2004 at 6 p.m. in the Council Chamber. The meeting was called to order by Council President Bill Griffith with the following members present: Al Herrera, Ruth Hopkins, Steve Noll, Greg Colston, Laura Wassmer, Kay Wolf, Jeff Anthony, Diana Ewy Sharp and David Belz. Staff members present: Barbara Vernon, Bob Pryzby, Lt. Gary Pruitt, Lt. Wes Jordan, Jamie Shell, Josh Farrar, Doug Luther and Joyce Hagen Mundy.

COU2003-17 Consider County Sales Tax Revenue

City Administrator Barbara Vernon reviewed the history of the quarter cent sales tax that was approved by Johnson County voters “to raise economic development funds” in August of 2002. The ballot question stated that the County would receive 64% of the revenue from this tax and would use that share “to fund and award economic development and public benefit grants to public school districts located within Johnson County Kansas...” Thirty-six percent of the quarter cent sales tax, by state statute, is allocated to cities within the County.

The sales tax has been challenged with the court upholding the sales tax, but the decision of the court is being appealed. The money has been collected and distributed throughout the process and Mrs. Vernon stated that most cities are spending their portion of the revenue as it is received. She noted that Prairie Village has not spent any of the funds received.

In November of 2003, the Legislative/Finance Committee agreed to recommend the City Council use this sales tax revenue for economic development, infrastructure or capital improvement projects. Committee members also recommended that the City move forward with identifying projects/initiatives to be funded through this tax source.

On March 1, 2004, Dr. Kaplan, Superintendent of the Shawnee Mission School District, advised the Council that the District respects the City’s right to use additional sales tax money and supports the City’s use of those funds to improve infrastructure and enhance the community for families.

At their last meeting, the Legislative/Finance Committee identified two projects for the use of these funds. They recommended the City Council establish a redevelopment reserve fund, to be funded with proceeds from the quarter cent special sales tax, less \$200,000 and that the City Council allocate \$200,000 from the proceeds of the quarter cent special sales tax for the construction of a skate park.

Council President Bill Griffith opened the meeting to participation by the public.

Shirley Waring, 4726 West 78th Terrace, stated that she does not feel these funds should be used for a skate park. She feels the public should have more input into how the funds are spent and suggested possible projects that would benefit the entire community such as a fall leaf pick-up throughout the City.

Mary Engelken, 4514 West 74th Place, does not oppose the skate park, but she feels that when the public passed the resolution approving the quarter cent sales tax they felt that all of the funds would be going toward the schools.

Pat Kaufman, 4307 West 63rd Street, feels the skate park is critical to attract young families. She noted that not all children use the basketball courts or tennis courts provided by the City. She does not feel this is a special interest project. She noted that the skate park has both the support of the schools and the business community. Skate boarding has become a recognized sport and will be done, it is best done at a facility designed for skateboarding.

Bill Jewett, 4206 West 73rd Street, sees these funds as a windfall and encouraged the Council to consider saving the funds and to get more resident input before spending the funds.

The public portion of the meeting was closed at 6:20 p.m.

Bill Griffith stated that after several meetings discussing how and when and in what form redevelopment will take place in Prairie Village, he feels it is vital for the City to move forward with economic development. The infrastructure, housing stock, and community must be made desirable to young families. The school statistics clearly show a significant drop in school enrollment. He noted that over the years, there have been a number of elementary schools within the City closed for declining enrollment. He feels the long term goal for redevelopment is to make the City more attractive to families. Mr. Griffith stated that these are short-term funds ending in 2005 and he does not support starting new on-going programs with these funds that will later need to be supported by the city's budget.

Greg Colston agreed that these are windfall funds and supports their use for an update of the Comprehensive Plan and redevelopment efforts within the City. He noted that with the recent approval of the school district bond issue, the district is doing their part to improve the schools. Mr. Colston noted the updating of the City's Comprehensive Plan will include citizen input in the process.

Steve Noll, an advocate for the skate park, said while driving to this meeting he passed four high school students skate boarding in the street and across city islands. He reminded those present of the damage done by skate boarders to school and other property not designed for skateboarding.

Mr. Noll supports the use of these funds for redevelopment. He noted the high initial costs in creating a redevelopment plan or strategy. Prairie Village is 50 years old and action needs to be taken to keep it a desirable community for families.

Kay Wolf voiced her support of the two recommendations of the legislative/finance committee.

Diana Ewy Sharp, acknowledged those present and those who have expressed themselves through e-mail and other communication on this important issue. She feels it is critical that the City Council look forward to address the needs and wants of young families to keep them in our community. The City must partner with the school district to keep and attract families and she feels the skate park is one way to do this.

Ruth Hopkins made the following motion, which was seconded by Al Herrera and passed unanimously:

**RECOMMEND THE COUNCIL ESTABLISH A REDEVELOPMENT
RESERVE FUND TO BE FUNDED WITH PROCEEDS FROM THE
QUARTER CENT SPECIAL SALES TAX, LESS \$200,000
COUNCIL ACTION REQUIRED**

Ruth Hopkins made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**RECOMMEND THE CITY COUNCIL ALLOCATE \$200,000
FROM THE PROCEEDS OF THE QUARTER CENT SPECIAL
SALES TAX FOR THE CONSTRUCTION OF A SKATE PARK
COUNCIL ACTION REQUIRED
TAKEN 5/3/2004**

COU2003-30 Consider Request for No Parking Signage

Lt. Gary Pruitt reported the Public Safety and Public Works Departments have been working toward reconfiguring traffic signage to be consistent within the City and comply with the Manual of Uniform Traffic Control Devices (MUTCD) manual. In early 2003, an inspection of signs in the 4100 block of West 74th Terrace revealed that signs referred to both “week days” and “school days” with several different combinations of times where parking was restricted. Some signs in place failed to meet the required MUTCD standard and city employees attempted to correct these situations.

After receiving complaints regarding the location of the new signs, research into City Council minutes indicated that on February 2, 1976, sign placement was to be 600 feet west of Mission Road on the north side of the street. The Council amended that instruction on January 3, 1989, as the placement of the last sign was reconfigured east on the north side of West 74th Terrace. Public Works staff were directed to remove the signs that had a different intent than the Council directed in 1989.

Lt. Pruitt distributed to the Council a survey and map of “No Parking Signs” in the area surrounding Shawnee Mission East High School. The survey showed the location of the signs and the wording of the parking restrictions.

The City Attorney has prepared an ordinance setting the parking restrictions for this area. Terry Frederick, representing the neighbors in the area, has requested two changes to the ordinance. Lt. Pruitt indicated that the requested change to the location of the sign is acceptable to the City; however, the requested change in times from “8 a.m. to 3 p.m.” to “9 a.m. to 3 p.m.” is inconsistent with the existing signage surrounding the high school. Lt. Pruitt noted that the signage on the east side of Mission Road is for “9 a.m. to 3 p.m.”

Diana Ewy Sharp asked if all signage would eventually be changed to the “8 a.m. to 3 p.m.” hours. Lt. Pruitt stated this is the intention of the Department as signs are replaced.

Greg Colston confirmed the location of the sign proposed by Mr. Frederick is in the same general location as originally proposed.

Diana Ewy Sharp made the following motion, which was seconded by Ruth Hopkins and passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT AN ORDINANCE
AMENDING TITLE 11 OF THE PRAIRIE VILLAGE MUNICIPAL
CODE, 1973, ENTITLED “VEHICLES AND TRAFFIC” BY ADDING
A NEW SECTION 11.08.190 ENTITLED “PARKING RESTRICTIONS
IN DESIGNATED AREA” AS WRITTEN BY THE CITY ATTORNEY
WITH THE RESTRICTED HOURS BEING “8 A.M TO 3 P.M.”
COUNCIL ACTION REQUIRED
ROLL CALL VOTE**

Joint Council/Planning Commission Meeting

Diana Ewy Sharp asked if others had conflicts for the May 4th scheduled meeting. Mr. Noll and Mr. Colston will not be able to attend, but all other Council members can attend. The meeting date remained as originally scheduled.

With no further business to come before the Council Committee, Council President Bill Griffith adjourned the meeting at 6:45 p.m.

Bill Griffith
Council President

CONSIDER MISSION HILLS 2006 PUBLIC SAFETY BUDGET

COUNCIL COMMITTEE

COU 2005-12

Issue:

Should the City of Prairie Village approve the Public Safety budget proposal to the City of Mission Hills for the 2006 calendar year?

Background:

Each year, the City of Prairie Village determines a proposed Public Safety budget for the City of Mission Hills.

The 2006 budget for the City of Mission Hills will be \$1,056,733, which is a 6.1 percent increase over the 2005 budget. The increase takes into account the approved 2006 Public Safety Budget established by the Prairie Village City Council. This is the second year of the new formula to determine Mission Hills public safety costs. Attached you will find summary documentation of the 2006 budget by program for your review.

Recommendation:

Staff recommends the Council Committee approve the 2006 Public Safety Budget for the City of Mission Hills and forward the approved budget to the Prairie Village City Council for their consideration.

MISSION HILLS, KANSAS

2006

PUBLIC SAFETY BUDGET

FINAL	ADMIN.	STAFF	CSO	CRIME	PATROL	INVEST.	SIU	DARE	PRO. ST.	OFF DTY.	TRAFFIC	TOTAL	05 BUDGET	GAIN/LOSS	%
	4201	\$224,868	\$477,854	\$107,430	\$42,051	\$1,428,198	\$276,954	\$101,654	\$51,296	\$67,955	\$130,647	\$2,908,907	\$2,684,044	\$224,863	8.38%
SALARY	4202	\$1,000	\$14,500	\$500	\$1,050	\$118,000	\$14,000	\$6,500	\$1,000	\$45,000	\$4,500	\$207,150	\$187,550	\$19,600	10.45%
OVERTIME	4300	\$13,609	\$74,859	\$4,749	\$4,314	\$252,688	\$30,786	\$12,814	\$4,572	\$25,764	\$25,764	\$364,931	\$364,544	\$70,387	19.31%
HEALTH	4400	\$15,846	\$37,665	\$8,257	\$3,297	\$122,951	\$22,258	\$8,274	\$4,008	\$5,275	\$10,339	\$241,612	\$207,126	\$34,486	16.65%
ICA	4501	\$2,276	\$20,384	\$3,073								\$25,733	\$19,890	\$5,843	29.38%
RSERS	4502	\$7,832	\$20,253	\$3,169								\$31,254	\$29,957	\$1,297	4.33%
UP. PEN.	4503	\$9,574	\$3,862	\$2,428	\$83,492	\$15,691	\$5,787	\$2,919	\$3,803	\$7,570	\$7,570	\$135,126	\$108,751	\$26,375	24.25%
OL. PEN.				\$53,140	\$2,005,329	\$359,689	\$135,029	\$70,099	\$82,605	\$48,442	\$178,820	\$3,984,713	\$3,700,862	\$283,851	7.67%
TOTAL	\$275,005	\$649,377	\$127,178	\$53,140	\$2,005,329	\$359,689	\$135,029	\$70,099	\$82,605	\$48,442	\$178,820	\$3,984,713	\$3,700,862	\$283,851	7.67%
UTILITIES	5100	\$52,500										\$52,500	\$51,130	\$1,370	2.68%
COMM.	5110	\$500	\$54,000									\$54,500	\$49,370	\$5,130	10.39%
INSUR.	5120	\$53,400	\$8,900	\$5,600	\$3,500	\$22,200	\$7,700	\$4,600	\$3,500	\$700	\$100	\$201,400	\$207,334	(\$5,934)	-2.86%
AX	5140	\$400										\$400	\$350	\$50	14.29%
PRINTING	5150	\$3,400	\$3,400	\$700		\$200						\$4,300	\$4,300		
CONTRACT	5160	\$69,203	\$5,900	\$25,400	\$300	\$12,700	\$25,500	\$300	\$300	\$1,100	\$1,100	\$141,903	\$183,890	(\$41,987)	-22.83%
RAINING	5170	\$5,000							\$45,100			\$50,100	\$55,100	(\$5,000)	-9.07%
QUES/PUB.	5180	\$3,100	\$1,000	\$200	\$400	\$400	\$400	\$100	\$300	\$200	\$200	\$7,300	\$7,250	\$50	0.69%
EH. MT	5190	\$500		\$1,500	\$900	\$4,500	\$1,000	\$400		\$5,900	\$5,900	\$44,200	\$62,950	(\$18,750)	-29.79%
QUIP MT.	5200		\$500									\$500	\$400	\$100	25.00%
BLDG. MT.	5210	\$51,500										\$51,500	\$32,130	\$19,370	60.29%
RENTAL	5230		\$400									\$400	\$400		
QUIP. MT.	5240	\$3,000	\$101,000	\$300		\$8,000	\$600	\$5,400	\$1,500	\$700	\$700	\$115,200	\$99,370	\$15,830	15.93%
TOTAL	\$258,603	\$175,100	\$35,000	\$5,800	\$143,000	\$52,900	\$11,000	\$5,400	\$50,700	\$700	\$8,000	\$724,203	\$753,974	(\$29,771)	-3.95%
OFF. SUP.	6300	\$700	\$10,000	\$100	\$1,100	\$400	\$200	\$100	\$100			\$13,400	\$12,200	\$1,200	9.84%
CLOTHING	6310	\$900	\$5,000	\$2,700	\$500	\$3,300	\$800	\$500	\$500	\$2,100	\$2,100	\$47,300	\$46,950	\$350	0.75%
EH. SUP.	6320			\$3,900	\$500	\$35,500	\$1,000	\$300		\$3,000	\$3,000	\$47,200	\$47,856	(\$656)	-1.37%
QUIP. SUP.	6330		\$400	\$1,000	\$700	\$1,700	\$800	\$2,600		\$1,000	\$1,000	\$19,200	\$25,780	(\$6,580)	-25.52%
BLDG. SUP.	6340	\$4,200										\$4,200	\$2,700	\$1,500	55.56%
COMM. MOD.	6350	\$4,000	\$1,400	\$200								\$5,600	\$5,000	\$600	12.00%
TOTAL	\$9,800	\$16,800	\$7,700	\$3,000	\$78,200	\$8,400	\$2,800	\$3,500	\$600	\$6,100	\$6,100	\$136,900	\$140,486	(\$3,586)	-2.55%
OFF. CAP.	7430		\$20,800									\$20,800	\$23,800	(\$3,000)	-12.61%
EH. CAP.	7440				\$44,100	\$21,000				\$22,100	\$22,100	\$65,100	\$120,890	(\$55,790)	-46.15%
QUIP. CAP.	7450				\$18,100					\$3,500	\$3,500	\$18,100	\$90,180	(\$72,080)	-79.93%
TOTAL	\$30,800	\$30,800	\$62,200	\$62,200	\$21,000					\$25,600	\$25,600	\$129,600	\$234,870	(\$105,270)	-44.82%
TATE FEE															
OND. RED.	8500	\$190,000										\$190,000	\$185,000	\$5,000	2.70%
OND. INT.	8510	\$37,810										\$37,810	\$44,840	(\$7,030)	-15.68%
TOTAL	\$227,810	\$862,077	\$167,878	\$61,940	\$2,288,729	\$441,989	\$148,829	\$78,999	\$133,905	\$49,142	\$218,520	\$5,203,226	\$5,060,032	\$143,194	2.83%
005BUDGET	\$686,017	\$812,074	\$211,849	\$57,272	\$2,212,978	\$470,221	\$140,476	\$65,546	\$146,484	\$38,405	\$218,710	\$5,060,032			
GAIN/LOSS	\$65,201	\$50,003	(\$43,971)	\$4,668	\$75,751	(\$28,232)	\$8,353	\$13,453	(\$12,579)	\$10,737	(\$190)				
%	9.50%	6.16%	-20.76%	8.15%	3.42%	-6.00%	5.95%	20.52%	-8.59%	27.96%	-0.09%				

		ADMIN.	STAFF	PATROL	INVEST.	OFF DUTY
SALARY	4201	\$224,868	\$653,239	\$1,558,845	\$471,955	
OVERTIME	4202	\$1,000	\$16,000	\$122,500	\$22,650	\$45,000
HEALTH	4300	\$13,609	\$84,180	\$278,452	\$58,690	
WICA	4400	\$15,846	\$51,197	\$133,290	\$37,837	\$3,442
WPKERS	4501	\$2,276	\$23,457			
SUP. PEN.	4502	\$7,832	\$23,422			
POL. PEN.	4503	\$9,574	\$7,665	\$91,062	\$26,825	
TOTAL		\$275,005	\$859,160	\$2,184,149	\$617,957	\$48,442
UTILITIES	5100	\$52,500				
COMM.	5110	\$500	\$54,000			
INSURANCE	5120	\$53,400	\$18,000	\$91,300	\$38,000	\$700
TAX	5140	\$400				
PRINTING	5150		\$3,400		\$900	
CONTRACT	5160	\$69,203	\$31,600	\$13,800	\$27,300	
TRAINING	5170	\$5,000	\$45,100			
DUES/PUB.	5180	\$3,100	\$1,500	\$1,300	\$1,400	
VEH. MT.	5190		\$1,500	\$35,900	\$6,800	
EQUIP. MT.	5200		\$500			
BLDG. MT.	5210	\$51,500				
RENTAL	5230		\$400			
EQUIP. MT.	5240	\$3,000	\$102,800	\$8,700	\$700	
TOTAL		\$238,603	\$258,800	\$151,000	\$75,100	\$700
OFF. SUP.	6300	\$700	\$10,200	\$700	\$1,800	
CLOTHING	6310	\$900	\$8,200	\$33,100	\$5,100	
VEH. SUP.	6320		\$3,900	\$38,500	\$4,800	
EQUIP. SUP.	6330		\$1,400	\$12,000	\$5,800	
BLDG. SUP.	6340	\$4,200				
COMM. SUP.	6350	\$4,000	\$1,400		\$200	
TOTAL		\$9,800	\$25,100	\$84,300	\$17,700	
OFF. CAP.	7430		\$20,800			
VEH. CAP.	7440			\$66,200	\$21,000	
EQUIP. CAP.	7450			\$21,600		
TOTAL			\$20,800	\$87,800	\$21,000	
BOND FEE						
BOND RET.	8500	\$190,000				
BOND INT.	8510	\$37,810				
TOTAL		\$751,218	\$1,163,860	\$2,507,249	\$731,757	\$49,142
005BUDGET		\$686,017	\$1,170,407	\$2,431,688	\$733,515	\$38,405
GAIN/LOSS		\$65,201	(\$6,547)	\$75,561	(\$1,758)	\$10,737
%		5.30%	-0.56%	3.11%	-0.24%	27.96%

PRAIRIE VILLAGE POLICE DEPARTMENT

PERSONNEL DISTRIBUTION

8/3/2005	Authorized	Actual	Admin.	Staff Serv.	Comm. Serv.	Crime Prev.	Patrol	Invest.	SIU	DARE	Prof. Stand.	TOTAL
Chief of Police	1	1	1									1
Captains	3	3		1			1	1				3
Sergeants	6	6	1				4				1	6
Corporals	5	5					4		1			5
Officers	31	28				1	21	4	1	1		28
SWORN	46	43	2	1	0	1	30	5	2	1	1	43
Office Manager	1	1	1									1
Commication Sup.	1	1		1								1
Dispatchers	6	5		5								5
Community Service	2	2			2							2
Records - Clerical	3	3		3								3
NON-SWORN	13	12	1	9	2	0	0	0	0	0	0	12
TOTAL	59	55	3	10	2	1	30	5	2	1	1	55
perdis												

MISSION HILLS FORMULA

YEAR	PRAIRIE VILLAGE	MISSION HILLS	PERCENT
1995	915	83	8.32%
1996	939	134	12.49%
1997	802	82	9.28%
1998	812	100	10.96%
1999	601	114	15.94%
2000	636	161	20.20%
2001	666	112	14.40%
2002	691	120	14.80%
2003	557	60	9.72%
2004	478	41	7.90%

TOTAL	7,097	1,007	12.43%
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PERSONNEL ALLOCATIONS

Expenditure Program	Dept. Employees	Div. Employees	Div. %	Dept. %
Police Administration	3			4.92%
Staff Services	11			18.03%
Command		2	18.18%	
Communications		6	54.55%	
Records		3	27.27%	
Community Services	4			6.56%
Crime Prevention	1			1.64%
Patrol	30			49.18%
Command/Supervision		5	16.67%	
Prairie Village		16.8	56.00%	
Mission Hills		8.2	27.33%	
Investigations	5			8.20%
Special Investigations	2			3.28%
D.A.R.E.	1			1.64%
Professional Standards	1			1.64%
Traffic Unit *	3			4.92%
* New 2005 Budget				
TOTAL	61			100.00%

MISSION HILLS BUDGET FOR 2006

PROGRAM	2004	2005	2006	05-06 COMPARISON	%
Administration	\$55,443	\$56,942	\$69,210	\$12,268	21.5%
Staff Services	\$120,670	\$125,485	\$136,142	\$10,657	8.5%
Community Services	\$0	\$0	\$0	\$0	0.0%
Crime Prevention	\$7,614	\$6,986	\$7,659	\$673	9.6%
Patrol	\$590,947	\$651,618	\$687,805	\$36,187	5.6%
Investigations	\$53,695	\$57,764	\$54,921	(\$2,843)	-4.9%
Special Investigation	\$0	\$0	\$0	\$0	0.0%
D.A.R.E.	\$6,607	\$6,555	\$7,900	\$1,345	20.5%
Professional Standards	\$18,515	\$19,268	\$18,000	(\$1,268)	-6.6%
Traffic *	\$0	\$0	\$0	\$0	0.0%
Court	\$60,887	\$71,399	\$75,095	\$3,696	5.2%
School Crossing	\$0	\$0	\$0	\$0	0.0%
Accounting	\$0	\$0	\$0	\$0	0.0%
TOTAL	\$914,378	\$996,017	\$1,056,733	\$60,716	

* New unit in 2005

% OF INCREASE	6.10%
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PUBLIC SAFETY

The Public Safety Department provides emergency dispatch services, police patrol, investigations, animal control and educational programs for the cities of Prairie Village and Mission Hills. Goals for the Department in 2006 will accomplish the Council's goals for the year:

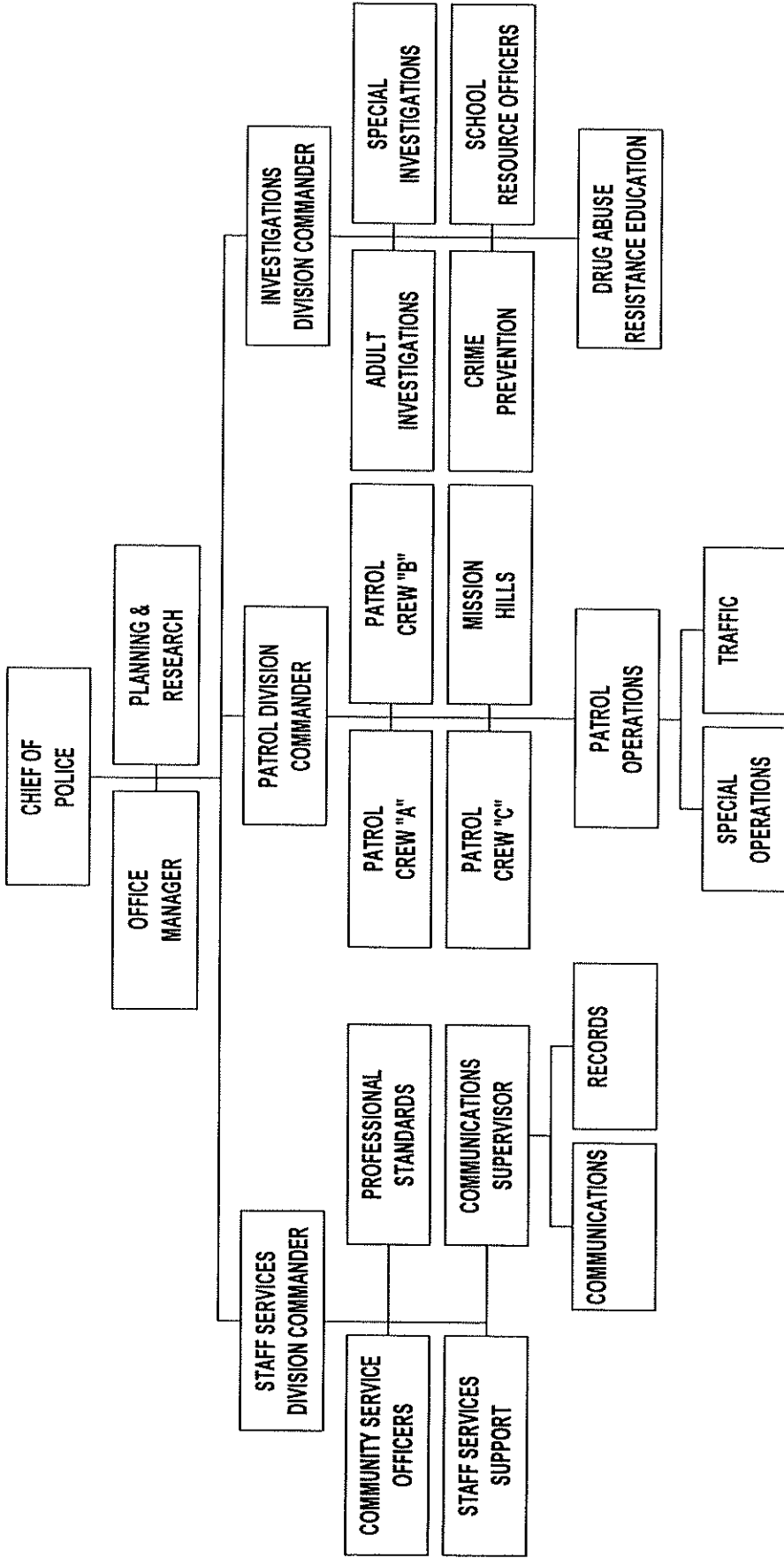
Maintain a high level of City services by:

- Providing maximum degree of safety for Prairie Village and Mission Hills residents.
- Improving emergency management procedures for a City-wide response.
- Protecting the community from the dangers of illegal drugs.
- Increasing interaction between police employees and the community.
- Increasing community awareness of crime prevention.
- Ensuring a safe school environment for all students.

	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Inc./Dec. 05-06 Budget
Programs						
Administration	\$ 613,506	\$ 636,667	\$ 686,017	\$ 676,405	\$ 751,217	10%
Staff Services	1,053,579	1,085,035	1,225,754	1,117,222	1,163,859	-5%
Patrol	2,022,515	2,068,526	2,212,978	2,584,751	2,507,251	13%
Investigations	619,966	646,777	667,968	739,600	731,756	10%
Off-Duty Contractual Services	48,999	51,120	38,405	49,188	49,143	28%
Total Public Safety	\$ 4,358,565	\$ 4,488,125	\$ 4,831,122	\$ 5,167,166	\$ 5,203,226	8%
Classification						
Personnel	3,247,918	3,381,649	3,601,863	3,842,248	3,984,713	11%
Contractual Services	622,838	659,066	727,334	720,456	724,203	0%
Commodities	101,020	121,452	125,885	140,750	136,900	9%
Total Operating Cost	\$ 3,971,776	\$ 4,162,167	\$ 4,455,082	\$ 4,703,454	\$ 4,845,816	9%
Capital Expenditure	\$ 158,908	\$ 94,367	\$ 146,200	\$ 233,872	\$ 129,600	-11%
Debt Service	227,880	231,590	229,840	229,840	227,810	-1%
Capital/Debt Expenditures	\$ 386,788	\$ 325,957	\$ 376,040	\$ 463,712	\$ 357,410	-5%
Total Public Safety	\$ 4,358,564	\$ 4,488,124	\$ 4,831,122	\$ 5,167,166	\$ 5,203,226	8%
Related Revenue	\$ 964,708	\$ 1,017,006	* \$ 1,757,696	\$ 1,733,827	\$ 2,299,708	

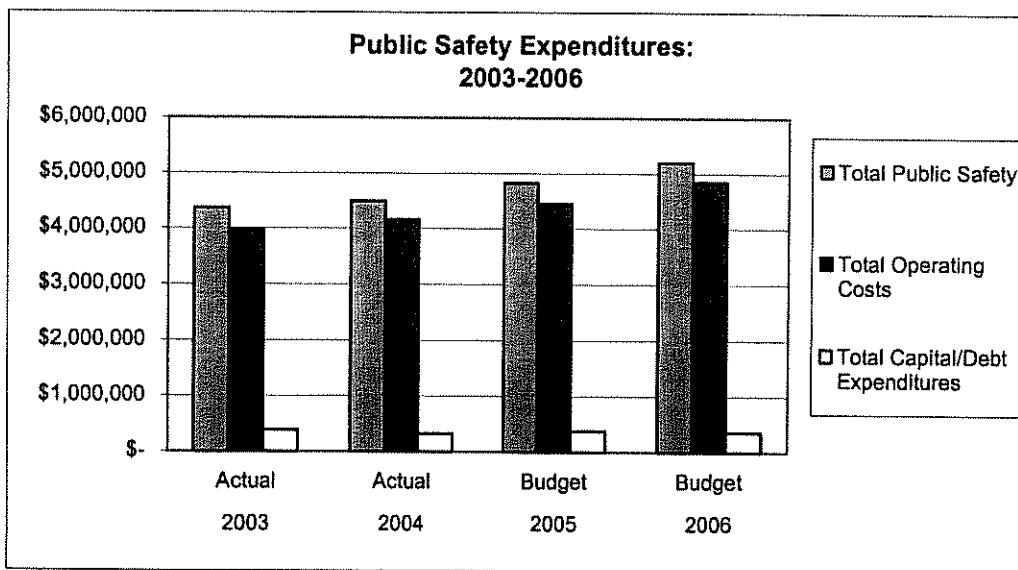
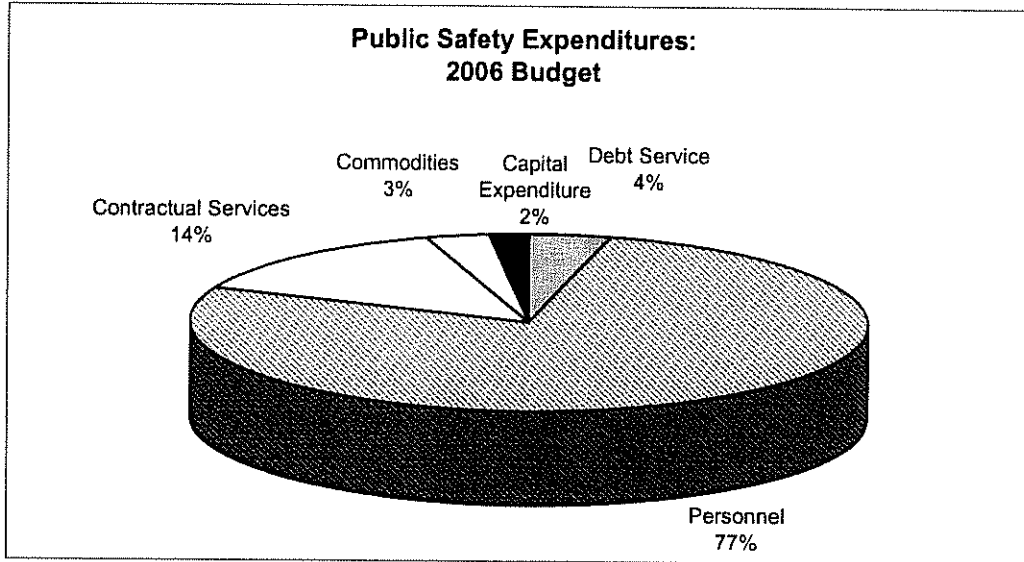
*Change in accounting system requires revenue from traffic violations to be listed as related revenue to Public Safety rather than Municipal Court as it was in the past.

PRAIRIE VILLAGE POLICE DEPARTMENT





**PUBLIC SAFETY
2006 AT A GLANCE**





**Department: Public Safety
Division: Administration**

Police administration is responsible for carrying out the directives, policies and procedures established by the City Council for operations of the Police Department. Responsibilities of this program include development of programs and procedures for emergency response, procedures to control or reduce crime and traffic accidents, and the establishment of programs to increase the quality of life in the cities of Prairie Village and Mission Hills.

Program Resources:

Expenditures	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Change 05-06 Budget
Personnel	\$ 173,888	\$ 181,412	\$ 187,186	\$ 184,552	\$ 275,004	47%
Contractual Services	205,139	215,021	261,521	254,743	238,603	-9%
Commodities	6,599	8,644	7,470	7,270	9,800	31%
Total Operating Cost	<u>\$ 385,626</u>	<u>\$ 405,077</u>	<u>\$ 456,177</u>	<u>\$ 446,565</u>	<u>\$ 523,407</u>	15%
Capital Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	
Debt Service	227,880	231,590	229,840	229,840	227,810	-1%
Total Capital Cost	<u>\$ 227,880</u>	<u>\$ 231,590</u>	<u>\$ 229,840</u>	<u>\$ 229,840</u>	<u>\$ 227,810</u>	-1%
Total	<u>\$ 613,506</u>	<u>\$ 636,667</u>	<u>\$ 686,017</u>	<u>\$ 676,405</u>	<u>\$ 751,217</u>	10%
Related Revenue	\$ 56,688	\$ 55,443	\$ 50,000	\$ 56,942	\$ 60,170	

10% Budget Increase

Program Notes:

Personnel

- Police Chief
 - Office Manager
 - Sergeant
- Planning and Research Sergeant transferred from Investigations

Contractual Services

- Consultant, tax and legal fees
- Maintenance and utilities for the Public Safety Center
- CALEA annual payment
- Insurance
- Administrative training

Commodities

- Citizens Academy supplies
- Building operating supplies
- Uniform allowance

Debt Service

- Debt service payment covers principal and interest on Public Safety Center

Related Revenue

- Contract with the City of Mission Hills for law enforcement services \$60,170

Previous Program Accomplishments:

- Department nationally reaccredited by CALEA in March, 2002
- Comprehensive racial profiling program developed and awarded Exemplary Project by CALEA



**Department: Public Safety
Division: Administration**

2006 Goals, Objectives, and Performance Indicators:

Mission: Manage the Department to meet its goals for the year.

- Short Term Goal:** Provide effective Police protection, education and information.
Objective: Completion of the Professional Development series of Department members to include a Leadership Forum and emotional-survival education.
Objective: Manage Department resources so the crime rate does not exceed the ten-year average.
Objective: Manage Department resources so the accident rate does not exceed the ten-year average.
Objective: Complete 2006 Bias-Based Policing Study.
Objective: Plan 2006 CALEA reaccreditation by training a new Accreditation Manager.
Objective: Manage the Department's resources to ensure the long-term goal of continued "Livability of neighborhoods."
- Short Term Goal:** Continue effective communication with constituents.
Objective: Conduct a Citizens Academy to provide residents with information regarding the operations of the Police Department.
- Short Term Goal:** Increase City-controlled revenue through analysis of cost/revenue.
Objective: Develop and submit budget to Mission Hills that fully covers cost of services provided.

Performance Indicators:

Indicator	2003 Actual	2004 Actual	2005 Budget	2006 Budget
Citizen Police Academy sessions	1	1	1	1

Outcome/Effectiveness:

Major crimes*	617	522	825	717
Ten-year average crime rate*	868.9	716	825	717
Accidents reported*	589	650	668	668
Ten-year average accident rate*	668.7	668	668	668
Major crimes per 1,000 persons*	24.04	20.00	30	27.5
Survey respondents/approval rating	91%	92%	90%	90%
Citizens identifying with a safe community	92%	92%	90%	90%
CALEA standards met	100%	99.9%	100%	100%

*Prairie Village and Mission Hills combined totals.

POLICE ADMINISTRATION

PROGRAM BUDGET	\$751,218
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REMOVAL OF:			
Civil Defense Maintenance	1-3-21-5240	\$3,000	
Kansas City Crime Commission	1-3-21-5160	\$2,500	
Utilities for C.D. Siren	1-3-21-5100	\$1,620	
Public Safety Building Bond	1-3-21-8500	\$190,000	
Public Safety Building Interest	1-3-22-8510	\$37,800	
Bucher-Willis Engineering Service	1-3-21-5160	\$1,440	
TOTAL UNSHARED		\$236,360	

TOTAL PROGRAM COST	\$514,858
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PERSONNEL ALLOCATION - MISSION HILLS OFFICERS	13.44%
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MISSION HILLS COST	\$69,210
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**Department: Public Safety
Division: Staff Services**

The Staff Services division is responsible for the "911" emergency communication system and other calls for service within Prairie Village and Mission Hills. Community Service provides animal control services and school crossing guards. Professional Standards Officer develops and implements the training program for all personnel and is responsible for hiring and recruitment.

Program Resources:

Expenditures	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Change 05-06 Budget
Personnel	\$ 772,776	\$ 796,883	\$ 903,107	\$ 788,354	\$ 859,159	-5%
Contractual Services	218,090	253,180	241,034	250,068	258,800	7%
Commodities	25,053	25,606	27,813	25,000	25,100	-10%
Total Operating Cost	<u>\$ 1,015,919</u>	<u>\$ 1,075,669</u>	<u>\$ 1,171,954</u>	<u>\$ 1,063,422</u>	<u>\$ 1,143,059</u>	-2%
Capital Expenditures	\$ 37,659	\$ 9,365	\$ 53,800	\$ 53,800	\$ 20,800	-61%
Debt Service	-	-	-	-	-	
Total Capital Cost	<u>\$ 37,659</u>	<u>\$ 9,365</u>	<u>\$ 53,800</u>	<u>\$ 53,800</u>	<u>\$ 20,800</u>	-61%
Total	<u>\$ 1,053,578</u>	<u>\$ 1,085,034</u>	<u>\$ 1,225,754</u>	<u>\$ 1,117,222</u>	<u>\$ 1,163,859</u>	-5%
Related Revenue	\$ 192,627	\$ 216,661	\$ 237,796	\$ 151,985	\$ 222,260	

5% Budget Decrease

Program Note:

- Staff Services \$862,076
- Professional Standards \$133,905
- Community Services \$167,878

Personnel

- One Captain
- One Communications Supervisor
- Two Community Service Officers
- Ten School Crossing Guards (2 FTE)
- One Sergeant
- Three Records Clerks
- Six Dispatchers

Contractual Service

- Contract to continue microfilming records
- Hardware and software maintenance for CAD/Records and radio system
- Costs to board and treat animals held in custody
- Training for Department employees
- Uniform cleaning

Commodities

- Uniform allowance
- Supplies for animal control and vehicle maintenance

Capital Expenditures

- Replacement of eight computers in Public Safety programs
- Upgrade to Office 2003 software for entire Department.

Related Revenue

- Contract with City of Mission Hills - \$196,360
- Contract for animal control services - \$15,000
- Fines from leash law violation - \$3,900
- Police reports (\$7,000)

Previous Program Accomplishments:

- Replacement of voice logging system with new digital system.
- Replacement of AS/400 server and upgrade of the operating system for records management.



**Department: Public Safety
Division: Staff Services**

2006 Goals, Objectives and Performance Indicators:

MISSION: Provide quality services for residents of Mission Hills and Prairie Village.

Short Term Goal: Provide effective Police protection, education and information.

- Objective:** Streamline warrant duties for Communications personnel.
- Objective:** Develop a more efficient and reliable monthly statistical document.
- Objective:** See laptop project fully functional with 100 percent usage by Patrol.
- Objective:** Become fully functional in electronic reporting to the KBI.
- Objective:** Complete the upgrade of New World software to Version 7.0.

Performance Indicators:

Indicator	2003 Actual	2004 Actual	2005 Budget	2006 Budget
Workload:				
Inquiries	293,022	12,855	290,000	290,000
911 calls	9,042	8,658	10,000	10,000
Alarms dispatched*	2,589	2,742	2,800	2,900
Reverse 911 users*	1	2	5	3
Animals returned to owner	124	113	175	175
Animal impound violations	179	172	220	225
Vehicles unlocked	87	80	125	100
Abuse/neglect investigations	41	35	35	40
Number of certified trainers	20	20	20	20
Average hours of Patrol Officer training	133	118	90	120
Average hours of Supervisory training	130	190	90	150
Average hours of Investigator training	199	96	90	100
Average hours of Command Staff training	57	86	70	80
Hiring processes conducted*	4	1	40	2
Number of applicants processed*	176	86	200	150
Effectiveness:				
Training hours over state requirement (40 hrs)	91	82	50	75

STAFF SERVICES

PROGRAM BUDGET	\$862,077
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REMOVAL OF:	
Communicator Maintenance 1-3-22-5240 MH billed 50%	\$3,000
TOTAL UNSHARED	\$3,000
TOTAL SHARED	\$859,077

COMMUNICATIONS												
Personnel Allocation												54.55%
Calls for Service	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total	%
Prairie Village	10,295	10,638	10,636	10,689	9,984	11,029	10,018	9,861	10,792	9,625	103,567	79.56%
Mission Hills	2,580	2,768	2,524	2,572	2,474	2,860	2,619	2,487	2,558	3,160	26,602	20.44%
Cost												\$95,763

RECORDS												
Personnel Allocation												27.27%
Major Crimes	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total	
Prairie Village	915	943	802	812	601	632	666	691	557	478	7,097	87.57%
Mission Hills	83	134	82	100	114	161	112	120	60	41	1,007	12.43%
Accidents	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total	
Prairie Village	644	662	591	632	627	634	648	582	564	597	6,181	92.47%
Mission Hills	53	46	65	49	55	42	54	55	31	53	503	7.53%
P.V. Total	1,559	1,605	1,393	1,444	1,228	1,266	1,314	1,273	1,121	1,075	13,278	89.79%
M.H. Total	136	180	147	149	169	203	166	175	91	94	1,510	10.21%
Cost												\$23,924

STAFF SERVICES

<u>COMMAND</u>		
Personnel Allocation		18.18%
Staff Services Division Employees	16	
Staff Services Budget Program Employees	11	
Staff Services Unit Allocation		68.75%
Mission Hills Total Calls for Service, Crimes, and Accidents		15.32%
Cost		\$16,455

MISSION HILLS COST **\$136,142**

PROFESSIONAL STANDARDS

PROGRAM BUDGET	\$133,905
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REMOVAL OF:		
No Items		\$0
TOTAL UNSHARED		\$0
TOTAL SHARED		\$133,905

Total Employees	61	
Mission Hills Officers	8.2	13.44%

MISSION HILLS COST	\$18,000
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**Department: Public Safety
Division: Patrol**

The Patrol Division is responsible for initial response to calls for service and provides services through the district patrol concept. The basic emphasis of officers assigned to this Division is the protection of life and property, the detection and arrest of criminal violators of the law, recovery of stolen property and maintenance of a "police presence" throughout the cities of Prairie Village and Mission Hills.

Program Resources:

Expenditures	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Change 05-06 Budget
Personnel	\$ 1,716,301	\$ 1,794,819	\$ 1,888,500	\$ 2,159,566	\$ 2,184,151	16%
Contractual Services	144,787	133,059	153,848	153,113	151,000	-2%
Commodities	58,991	75,308	78,230	92,000	84,300	8%
Total Operating Cost	<u>\$ 1,920,079</u>	<u>\$ 2,003,186</u>	<u>\$ 2,120,578</u>	<u>\$ 2,404,679</u>	<u>\$ 2,419,451</u>	14%
Capital Expenditures	\$ 102,436	\$ 65,340	\$ 92,400	\$ 180,072	\$ 87,800	-5%
Debt Service	-	-	-	-	-	
Total Capital Cost	<u>\$ 102,436</u>	<u>\$ 65,340</u>	<u>\$ 92,400</u>	<u>\$ 180,072</u>	<u>\$ 87,800</u>	-5%
Total	<u>\$ 2,022,515</u>	<u>\$ 2,068,526</u>	<u>\$ 2,212,978</u>	<u>\$ 2,584,751</u>	<u>\$ 2,507,251</u>	13%
Related Revenue	\$ 558,774	\$ 590,947	\$ 1,324,000	\$ 1,324,000	\$ 1,763,660	

13% Budget Increase

Program Notes:

Personnel

- One Captain
- Four Sergeants
- Three Traffic Officers
- Four Corporals
- Twenty One Patrol Officers

Contractual Services

- Maintenance for 12 vehicles, two motorcycles, and office equipment
- Equipment changeover of three new patrol vehicles
- Insurance costs for Patrol operations
- Maintenance contract with Medtronic to service AEDs
- Maintenance contract with Midwest Radar for certification/repair

Commodities

- Uniforms and maintenance
- Vehicular operating supplies

Capital Expenditures

- Replace three vehicles
- Purchase two new motorcycles

Related Revenue

- Contract with Mission Hills for police services - \$649,260
- Sale of three used patrol vehicles - \$13,500
- Revenue from fines - \$740,900
- Revenue from Traffic Unit - \$360,000



Department: Public Safety
Division: Patrol

2006 Goals, Objectives, and Performance Indicators:

Mission: Provide constant and effective police presence in the cities of Prairie Village and Mission Hills.

Short Term Goal: Provide effective Police protection, education, and information.
Objective: Provide a traffic enforcement unit to enhance police traffic services through increased education, deterrence, accident prevention, and enforcement.
Objective: Provide, purchase, and maintain equipment that is recognized as state of the art by law enforcement standards.

Short Term Goal: Continue effective communication with constituents.
Objective: Respond to citizen concerns of traffic complaints by initiating selective enforcement assignments and providing feedback.
Objective: Train and certify each patrol officer in accordance with the National Highway Traffic Safety Administration's Field Sobriety Testing Standards.
Objective: Establish an ordinance to regulate motorized scooters, motorized skateboards, "pocket rockets," etc which addresses the increased safety concerns of these types of toys on City streets and sidewalks.
Objective: Participate in local, state, and national campaigns concerning seatbelt safety, DUI prevention, and underage drinking deterrence.
Objective: Respond and handle emergency/routine calls for service.

Performance Indicators:

Indicator	2003 Actual	2004 Actual	2005 Budget	2006 Budget
Workload:				
Calls answered	13,350	12,855	13,500	13,000
Accidents	670	720	675	675
Patrol - Traffic/parking complaints	9,012	9,292	8,000	8,500
*Traffic Unit – Traffic/parking complaints	N/A	N/A	N/A	3,600
DUI arrests	344	448	275	350
**Response to Priority 1-type calls	762	2,829	800	3,000
Selective traffic enforcement	63	71	65	65
Speed/traffic flow surveys	12	11	15	10

*new performance indicator

**figure amended due to new query methods

PATROL

PROGRAM BUDGET	\$2,288,729
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REMOVAL OF:			
	Vehicle Maintenance	1-3-25-5190	\$30,000
	Repair/ In Car Video	1-3-25-5240	\$2,500
	Veh. Ops (-car wash/regs)	1-3-25-6320	\$34,625
	Vehicle Supplies	1-3-25-6330	\$11,000
	Vehicle Acquisitions	1-3-25-7440	\$44,100
	Equipment Acquisitions	1-3-25-7450	\$12,600
TOTAL UNSHARED			\$134,825
TOTAL SHARED			\$2,153,904

ADDITION OF:			
	Vehicle Insurance		\$2,976
TOTAL ADDITIONAL			\$2,976
BUDGET SUBTOTAL			\$2,156,880

PERSONNEL ALLOCATION	30			
Prairie Village	16.8	56.00%		
Mission Hills	8.2	27.33%		\$589,547
Command/Supervision	5	16.67%		
Mission Hills Supervision		27.33%		\$98,258

MISSION HILLS COST	\$687,805
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**Department: Public Safety
Division: Investigations**

Investigators provide criminal investigations into all Part I and Part II crimes within the community. Personnel in this program also provide juvenile investigations, services for children in need of care, D.A.R.E. education in the public elementary schools and School Resource Officers in the City's one public high school and two public middle schools.

The Special Investigations Unit conducts investigations of individuals suspected of selling, distributing or possessing controlled substances.

Crime Prevention is responsible for the education of community members and business owners on subjects pertinent to public safety.

Program Resources:

Expenditures	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Change 05-06 Budget
Personnel	\$ 536,829	\$ 558,280	\$ 585,393	\$ 661,333	\$ 617,956	6%
Contractual Services	53,947	56,940	70,203	61,787	75,100	7%
Commodities	10,377	11,895	12,372	16,480	17,700	43%
Total Operating Cost	<u>\$ 601,153</u>	<u>\$ 627,115</u>	<u>\$ 667,968</u>	<u>\$ 739,600</u>	<u>\$ 710,756</u>	6%
Capital Expenditures	\$ 18,813	\$ 19,662	\$ -	\$ -	\$ 21,000	
Debt Service	-	-	-	-	-	
Total Capital Cost	<u>\$ 18,813</u>	<u>\$ 19,662</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 21,000</u>	
Total	<u>\$ 619,966</u>	<u>\$ 646,777</u>	<u>\$ 667,968</u>	<u>\$ 739,600</u>	<u>\$ 731,756</u>	10%
Related Revenue	\$ 103,007	\$ 105,712	\$ 105,900	\$ 150,900	\$ 193,618	

10% Budget Increase

Program Notes:

- Investigations \$441,989
- SIU \$148,829
- Crime Prevention \$61,940
- D.A.R.E. \$78,998

Personnel

- One Captain
- One Corporal
- One officer transferred to Administration for 2006
- Three Investigators
- Two School Resource Officers
- One Crime Prevention Officer
- One D.A.R.E. Officer

Contractual Services

- Vehicle maintenance for eight cars
- JIAC Security for juveniles
- Lab fees and other costs for investigations
- Uniform cleaning

Commodities

- Crime scene collection supplies
- Crime Prevention materials and promotional items
- Vehicular supplies
- Uniform allowance

Related Revenue

- Contract with School District for Resource Officer - \$45,000
- Contract with the City of Mission Hills for investigative services, crime prevention and DARE - \$76,010
- Alcohol tax funds - \$71,608
- Sale of used vehicle - \$1,000

Previous Program Accomplishments

- Initiated Infant/Child Safety Seat Program in 2004-2005
- Concluded investigation and obtained conviction in Liz Wilson homicide case
- Set records for: drug buys, informant recruitment, fingerprints taken, new residents contacted
- Completed Risk Analysis of Special Investigations Unit



Department: Public Safety
Division: Investigations

2006 Goals, Objectives and Performance Indicators:

Mission: Preserve the “village” ambiance and livability of neighborhoods and maintain a sense of place and community.

Short Term Goal: Provide effective Police protection, education and information.
Objective: Improve the service provided to residents by Divisional personnel.
Objective: Maintain focus on recruitment and management of confidential informants.

Short Term Goal: Provide effective communication with residents and business owners.
Objective: Improve the quantity and quality of citizen and business contacts by the Crime Prevention Officer.

Performance Indicators:

Indicator	2003 Actual	2004 Actual	2005 Budget	2006 Budget
Workload:				
Adult Cases	475	345	570	400
Juvenile Cases	40	49	55	50
SRO Hours Dedicated in Schools	2,159	2,298	2,150	2,175
SRO Home Visits – Operation Nightlight	102	53	90	60
K-5 th grade presentations – D.A.R.E.	253	294	300	300
6 th grade core presentations – D.A.R.E.	191	112	225	150
Total students taught – D.A.R.E.	1,869	1,667	1,800	1,700
Background Investigations	8	11	10	10
Courtesy Fingerprinting – Individuals	292		225	250
Courtesy Fingerprinting – Cards	544		400	425
*Child Fingerprinting				300
Business Contacts	292	383	500	450
Residential Crime Prevention Surveys	15	3	30	15
**Infant/Child Safety Seats Installed	27	2	20	45
New Residents Contracted	75	469	100	400
Drug Complaints Investigated	8	12	10	10
Joint Investigations	3	7	3	4
**Cases Filed / Arrests – SIU	15		15	20
Confidential Informants	20	22	15	18
Outcome/Effectiveness:				
Clearance Rates	36%	32%	25%	25%
Seizures Filed	3	6	3	4
Number of Search Warrants	4	9	4	4
Number of Drug Buys	47	65	40	40

*new performance indicator

**modified performance indicator

INVESTIGATION

PROGRAM BUDGET	\$441,989
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REMOVAL OF:	
No Items	\$0
TOTAL UNSHARED	\$0
TOTAL SHARED	\$441,989

MISSION HILLS FORMULA	12.43%
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MISSION HILLS COST	\$54,921
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CRIME PREVENTION

PROGRAM BUDGET	\$61,940
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REMOVAL OF:	
Villagefest Video Tapes	\$200
Multi-Housing Sign Replacement	\$100
TOTAL UNSHARED	\$300
TOTAL SHARED	\$61,640

Major Crimes	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total	Percent
Prairie Village	915	943	802	812	601	632	666	691	557	478	7,097	87.57%
Mission Hills	83	134	82	100	114	161	112	120	60	41	1,007	12.43%

MISSION HILLS COST	\$7,659
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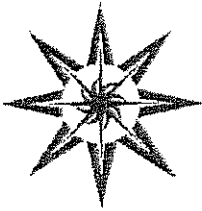
DARE

PROGRAM BUDGET	\$78,999
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REMOVAL OF:		
	No Items	\$0
TOTAL UNSHARED		\$0
TOTAL SHARED		\$78,999

ESTIMATE OF MISSION HILLS STUDENTS	10.00%
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MISSION HILLS COST	\$7,900
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MUNICIPAL JUSTICE

Municipal Justice provides the City's court system. Council goals are fulfilled in the unit by programs which will achieve the following in 2006:

Maintain a high level of service.

- Ensure fair and impartial process to persons charged with a crime in the City.
- Provide timely and efficient adjudication of all cases.

	2003 Actual	2004 Actual	2005 Budget	2005 Estimate	2006 Budget	% Inc./Dec. 05-06 Budget
Programs						
Judicial	\$ 43,773	\$ 48,290	\$ 50,328	\$ 54,003	\$ 67,786	35%
Court Administration	195,196	207,703	239,540	239,708	309,598	29%
Total Municipal Justice	\$ 238,969	\$ 255,993	\$ 289,868	\$ 293,711	\$ 377,384	30%
Classification						
Personnel	192,291	202,512	232,206	228,605	297,149	28%
Contractual Services	41,104	47,169	52,462	58,206	64,485	23%
Commodities	3,712	5,398	4,000	6,000	10,250	156%
Total Operating Cost	\$ 237,107	\$ 255,079	\$ 288,668	\$ 292,811	\$ 371,884	29%
Capital Expenditure	\$ 1,862	\$ 914	\$ 1,200	\$ 900	\$ 5,500	358%
Debt Service	-	-	-	-	-	
Capital/Debt Expenditures	\$ 1,862	\$ 914	\$ 1,200	\$ 900	\$ 5,500	358%
Total Municipal Justice	\$ 238,969	\$ 255,993	\$ 289,868	\$ 293,711	\$ 377,384	30%
Related Revenue	\$ 60,093	\$ 62,000	\$ 108,000	\$ 121,000	\$ 141,700	

Court cost revenue and fees for providing Mission Hills court services are listed as related revenue.

COURT

PROGRAM BUDGET	\$259,898
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REMOVAL OF:	
No Items Removed	\$0
TOTAL UNSHARED	\$0
SHARED TOTAL	\$259,898

CASES FILED	1994	1995	1996	1997	1998	1999	2000	2002	2003	2004	Total	%
Prairie Village	4,377	4,828	5,653	4,963	5,672	4,439	5,500	4,386	7,405	7,545	54,768	71.11%
Mission Hills	1,720	1,443	2,866	2,114	2,475	2,270	2,126	2,322	2,576	2,343	22,255	28.89%

MISSION HILLS COST	\$75,095
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**LEG/FIN 2005-16 TO APPROVE AN ORDINANCE THAT PROHIBITS
A VEHICLE HAVING AN OPEN IGNITION**

Legislative/Finance Committee

Issue:

Should the City of Prairie Village approve an ordinance that prohibits vehicles parked in the City from having an open ignition while not under the control of an owner/operator?

Background:

Auto theft is one of a series of crimes the Uniform Crime Control report, gathered by the Kansas Bureau of Investigation (KBI) and Federal Bureau of Investigation (FBI), tracks every year to determine a city's crime rate. In Prairie Village, our ten-year average of such crimes are 23.8 auto thefts per year, with the high being 38 in 1996, and the low being 9 in 2003.

One of the factors the Department has known for some time is that during the winter months, when vehicles are allowed to run in people's driveways to warm up, the number of auto thefts surges. It is very clear that perpetrators of such crimes are aware of this particular habit and take advantage of the "crime of opportunity." The table below demonstrates the number of auto thefts in a calendar year compared with the number taken with open ignitions.

YEAR	2001	2002	2003	2004	2005
THEFTS	29	27	9	13	16
OPEN IGNITION	7	6	0	4	11

Another factor that is clear when analyzing the problem is the vast majority of cars recovered from open ignition thefts are recovered in either Kansas City, Missouri or Kansas City, Kansas. In the five years represented above, 75 percent of the open ignition vehicle thefts were recovered in a core city. Using this fact in combination with the means of how these vehicles are stolen leads us to believe most of these thefts may be gang related.

The winter of 2005 brought the issue of open ignition thefts to the forefront for several reasons:

- During the first three months of the year we had 12 auto thefts with 11 involving open ignitions.
- The Department's perception that gang members were using these vehicles was solidified when a Prairie Village vehicle recovered in Kansas City had several bullet holes in it and .223 cartridges were found inside the vehicle giving the impression of an exchange of gunfire.

- The Department used extra personnel during the morning hours to patrol designated areas, observe vehicles that were running and warn residents of the danger. Unfortunately, we were met in some instances with apathy from the general public. The seriousness of the issue as we saw it was less important than driving to work in a warm vehicle.
- When the above technique was not effective, officers were put into problem areas with unmarked vehicles to observe vehicles that were running in driveways in attempt to watch for and arrest perpetrators.

The use of extra personnel, as described above, both in a prevention and detection mode was an effort to gain some type of control over the problem in the short term. It was not, however, an effective or efficient use of manpower and funds.

I believe the proposal before you is a better solution. I make this judgment as the city where I spent my early career, in the cold of Minnesota, had a very similar ordinance in an effort to provide an early means of preventing auto thefts from open ignitions. I asked Sgt. Winn to research municipalities in cold climates in major metropolitan areas for examples of such ordinances. The ordinance being proposed is a combination of those ordinances recommended by the Department and approved by the City Attorney.

The City Council may have concern regarding the operational methods in which this ordinance is to be used. This proposed ordinance would only be widely used during a period of time when the City experiences a number of auto thefts due to open ignitions. In late 2005, the Department will make sure the community is aware of the proposed ordinance through the use of the media, the Prairie Village Voice, City website and letters to Homes Association Presidents that have experienced such thefts in the past. Initially, as the ordinance is new, officers will place warning slips on windshields and turn off vehicles to remove the tell tale signs of vehicle exhaust. A second trip to a residence will warrant a citation. Vehicles left running in commercial areas could be cited immediately.

Recommendation:

STAFF RECOMMENDS THAT THE CITY OF PRAIRIE VILLAGE APPROVE THE ATTACHED ORDINANCE, WHICH PROHIBITS OPEN IGNITIONS AS DEFINED BY ORDINANCE ANYWHERE IN THE CITY WHERE A VEHICLE IS LEFT UNATTENDED.

COU2005-34 CONSIDER TREE TRIMMING AREA 33

Background:

On September 9, the City Clerk received three bids for tree trimming in area 33. The bids received:

VanBooven Landscape and Tree Care	\$24,208.00
Shawnee Mission Tree	\$36,490.00
Davey Tree Service	\$55,180.00

Financial Impact:

Funds are available in the 2005 Public Works Operating Budget.

Recommendation:

Staff recommends awarding the bid to VanBooven Landscape and Tree Care for \$24,208.00 using funds in the 2005 Public Works Operating Budget.

COUNCIL ACTION REQUESTED SAME EVENING

CONSIDER AN AMENDMENT TO THE PRAIRIE VILLAGE POLICE DEPARTMENT RETIREMENT PLAN TO COMPLY WITH "CASH OUT" DISTRIBUTION REGULATIONS REQUIRED BY THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 (EGTRRA)

Issue: Should the Council approve a plan amendment to comply with federal law?

Background:

Last year, the Department of Labor (DOL) issued regulations necessary for most qualified retirement plans to comply with the Economic Growth and Tax Relief Reconciliation act of 2001 (EGTRRA).

Those regulations directly impact "cash out" distributions of a terminated employee's vested benefit. In order for the Police Pension Plan to comply with those regulations, the Board of Trustees approved the attached plan amendment, eliminating automatic "cash out" distributions from the plan.

Financial Impact:

None.

Recommendation:

APPROVE THIRD AMENDMENT TO THE POLICE PENSION PLAN, ELIMINATING AUTOMATIC CASH OUT DISTRIBUTIONS

**THIRD AMENDMENT
TO THE
PRAIRIE VILLAGE, KANSAS POLICE DEPARTMENT
RETIREMENT PLAN
(as amended and restated effective January 1, 2002)**

Section 18.02 of the Prairie Village, Kansas Police Department Retirement Plan (the "Plan") maintained by the City of Prairie Village, Kansas (the "City"), provides that the City may amend the Plan at any time and from time to time. In accordance with the provisions of that Section, the Plan is amended as follows:

1. Section 6.02(A), is amended to read as follows:

In no event may the distribution of a Deferred Vested Pension occur later than the 60th day following the close of the Plan Year in which the Participant attains Normal Retirement Age.

2. Section 6.02(B), is amended to read as follows:

The Trustee will pay the deferred vested pension in the form elected by the Participant under the optional forms of benefits available under this Plan. Notwithstanding the above, if the Participant was or became a Participant in the Prior Plan as of November 1, 1972, in no event shall the Actuarial Value of benefits to which he is entitled be less than his Cash Values (as defined in Article I)

3. Section 9.01(A), "Consent", is amended to read as follows:

Consent. A Participant must consent, in writing, to any distribution described in this Article IX. Furthermore, the Participant's spouse also must consent, in writing, to any distribution for which Section 9.02 requires the spouse's consent.

4. Section 9.02(B), "Present Value Not Greater than \$3,500", is deleted in its entirety and the subsequent subsections of Section 9.02 shall be relettered.

5. Section 9.04(B), "Distribution to a Participant Who Separates from Service After Normal Retirement Date," is amended to read as follows:

Distribution to a Participant Who Separates from Service After Normal Retirement Date. The Board of Trustees will direct the Trustee to commence distribution to the Participant in the form and at the time elected by a Participant, as permitted under this Article IX. The Participant may elect to commence distribution as soon as administratively practicable following Separation from Service or as of the first day of any subsequent month.

6. Section 9.06, "Distributions Under Domestic Relations Orders", is amended to read as follows:

Nothing contained in this Plan will prevent the Trustee, in accordance with the direction of the Board of Trustees, from complying with the provisions of a qualified domestic relations order (as defined in Code section 414(p)). The Board of Trustees may adopt any written procedures relating to a qualified domestic relations order which the Board of Trustees deems necessary for proper administration of the Plan. This Plan specifically permits distribution to an alternate payee under a qualified domestic relations order at any time, irrespective of whether the Participant has attained his earliest retirement age (as defined under Code section 414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the order specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 9.06 permits a Participant a right to receive distribution at a time otherwise not permitted under the Plan nor does it permit the alternate payee to receive a form of payment not permitted under the Plan.

7. Section 18.05(A), "Termination", is amended to read as follows:

(A) Procedure. Upon termination of the Plan, the distribution provisions of the Plan remain operative, with the following exception: The Participant or the Beneficiary, in addition to the distribution events permitted under the Plan, may elect to have the Trustee commence distribution of his Nonforfeitable Accrued Benefit as soon as administratively practicable after the Plan terminates.

To liquidate the Trust, the Board of Trustees will purchase a deferred annuity contract for each Participant which protects the Participant's distribution rights under the Plan, if the Participant does not elect an

immediate distribution. The Trust will continue until the Trustee, in accordance with the direction of the Board of Trustees, has distributed all of the benefits under the Plan.

IN WITNESS WHEREOF, the City of Prairie Village, Kansas has adopted this Amendment to the Prairie Village, Kansas Police Department Retirement Plan this _____ day of _____, 2005.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____

Ronald L. Shaffer, Mayor

Issue: Should the City sponsor the flu shot program again this year?

Background:

Two years ago the City sponsored a flu shot program for City employees and elected officials. The organization that provided the service in 2003, Corporate Care, was not able to provide that service last year. In 2003 the cost was \$17, the City paid \$10, employees paid \$7. Several employees took advantage of the service.

The Department Managers would like to make this service available again this year, they believe it reduces overtime costs that exceed the City's cost for the program. Budget is available in each department to cover the City's cost. The cost this year will be \$18.

Recommendation:

Approve a contract with Corporate Care to provide flu shots to employees and elected officials at a cost of \$18 per injection. Authorize a fee of \$8 for employees and elected officials who participate.

COU2005-36 CONSIDER 2006 BUDGET PROCESS AND 2007 PLAN

Issue: Schedule for preparation of 2007 Budget

Background:

Discussion and consideration of the 2006 Budget began late last year as noted in the attached schedule. Most of the budget review and discussion was scheduled for a Council meeting evening at the regular committee time. Two special budget work sessions were held on other Monday nights in May.

If Council members were satisfied with the schedule and amount of time spent on elements of the budget, we can follow a similar schedule next year.

Calendar for the 2006 Budget

November, 2004	General instructions to budget preparers
December, 2004	Council approval for budget schedule
December, 2004 – January, 2005	Department managers prepare capital equipment budgets
February, 2005	Department managers prepare operating budgets Presentation to Council of capital equipment budget Capital equipment budget approved
March, 2005	Finance Director submit budget worksheets to department managers Department managers prepare operating budgets
April, 2005	Department managers submit budgets to City Administrator Presentation to Council of capital project budget Capital project budget approved Budget workbook presented to Council
May, 2005	Presentation of preliminary budget to Council Presentation of Public Works and Public Safety operating budgets to Council Presentation of Governance, Municipal Court, Administration and Community/Parks and Recreation budgets to Council Discussion of budget overview, compensation plan, VillageFest, and Drug and Alcohol Program
June, 2005	Discussion of 2006 VillageFest and Compensation plan
July, 2005	Council authorization for publication of Public Hearing Notice publication
August, 2005	Public Hearing and adoption

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Monday, September 19, 2005
7:30 p.m.**

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC PARTICIPATION

IV. CONSENT AGENDA

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

By Staff:

1. Approve Regular Council Meeting Minutes – September 6, 2005
2. Approve the attached Resolution to authorize the City's participation in the 2005 United Way Campaign
3. Adopt Resolution 2005-02 proclaiming the week of October 3-7, 2005 as Peanut Butter Week.
4. Approve the new Plat for the Prairie Village Municipal Office Complex.
5. Approve the transfer of \$4,700.00 from Capital Infrastructure Program Project 190908 to a new Project 190913: Public Works Lighting Improvement.
6. Approve Online Banking Services Agreement with Intrust Bank

By Committee:

7. Adopt the proposed amendments to Personnel Policy #241 entitled "Workers' Compensation" and repeal Personnel Policies #262 entitled "Workers' Compensation" and #214 entitled "Disability Leave" (Policy/Services Committee Minutes, September 6, 2005)
8. Adopt an Ordinance adopting the 2005 editions of the Uniform Public Offense Code and Standard Traffic Ordinance for Kansas Cities with certain deletions and additions, and prescribing additional regulations (Legislative/Finance Committee Minutes, September 6, 2005)
9. Approve the Facility Usage Agreement with Johnson County to provide a nutrition program at the Prairie Village Community Center at a cost of \$136/month (Legislative/Finance Committee Minutes – September 6, 2005)

V. COMMITTEE REPORTS

Legislative/Finance Committee – Ruth Hopkins & Bill Griffith

LEG2005-29 Consider proposed outdoor lighting regulations

LEG2005-32 Consider Sprint Franchise and Settlement Agreement

LEG2005-33 Consider Ordinance Granting to TELECOVE INVESTMENT a contract franchise to construct, operate and maintain a telecommunications system

LEG2005-31 Consider amendments to Animal Control Ordinances

LEG2005-30 Consider proposal from Cingular to install a telecommunication equipment building in McCrum Park

Council Committee of the Whole – Kay Wolf
COU2005-34 Consider Tree Trimming Bid

VI. OLD BUSINESS

VII. NEW BUSINESS

VIII. ANNOUNCEMENTS

IX. ADJOURNMENT

If any individual requires special accommodations -- for example, qualified interpreter, large print, reader, hearing assistance -- in order to attend the meeting, please notify the City Clerk at 381-6464, Extension 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

INFORMATION TRANSFER REPORTING SERVICES

(Book Transfer, Stop Payments and Information Reporting)



Account Selection:

Checking Accounts:

(applies to Book Transfer)

City of Prairie Village	0040686418	__to	__from	<input checked="" type="checkbox"/> both	__none
City of Prairie Village	0008290539	__to	__from	<input checked="" type="checkbox"/> both	__none
City of Prairie Village	0008290547	__to	__from	<input checked="" type="checkbox"/> both	__none
City of Prairie Village	0008290520	__to	__from	<input checked="" type="checkbox"/> both	__none
City of Prairie Village	0008290555	__to	__from	<input checked="" type="checkbox"/> both	__none
City of Prairie Village	0008290512	__to	__from	<input checked="" type="checkbox"/> both	__none

(One signer MUST be the same on each of the accounts listed above.)

By signing below, I certify I have reviewed the Treasury Online User Agreement and agree to be bound by all provisions therein.

Dated _____, 20____

City of Prairie Village

Title:

Authorized Agent of Account Holders:

Title:

(Must be authorized on all Account Holder Corporate Authorizations)

CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

Monday, September 19, 2005

**COUNCIL
CITY OF PRAIRIE VILLAGE
September 6, 2005
-Minutes-**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, September 6, 2005, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Mayor Ron Shaffer called the meeting to order with the following Council members responding to roll call: Al Herrera, Bill Griffith, Ruth Hopkins, Steve Noll, Andrew Wang, Laura Wassmer, Jeff Anthony, Kay Wolf, Diana Ewy Sharp and David Belz.

Also present were: Barbara Vernon, City Administrator; Charles Wetzler, City Attorney; Captain Wes Jordan; Robert Pryzby, Director of Public Works; Jamie Shell, Finance Director; Doug Luther, Assistant City Administrator; and Lori Franke, Administrative Assistant.

PUBLIC PARTICIPATION

No one was present to address the Council.

CONSENT AGENDA

Kay Wolf moved the approval of the Consent Agenda for Tuesday, September 6, 2005:

1. Approve Regular Council Meeting Minutes – August 15, 2005
2. Approve Claims Ordinance 2618
3. Authorize the Mayor to execute Proclamation - Constitution Week – September 17 - 23, 2005
4. Approve Construction Change Order #2 to Project 190847: 2005 Paving Program with McAnany Construction, Inc. for an increase of \$18,000.00 bringing the new contract total to \$1,014,670.40 using available project funds.
5. Approve Construction Change Order #1 to Project 190847: 2005 Paving Program with McAnany Construction, Inc. for an increase of for \$13,920.00 bringing the new contract total to \$996,670.40 using existing project funds.
6. Approve Construction Change Order #2 to Project 190841: Mission Road – 71st Street to 75th Street with McAnany Construction, Inc. for an increase of \$9,944.00 bringing the new contract total to \$629,089.00 and authorize the transfer of \$10,000.00 from Capital Infrastructure Program Unallocated Street to Project 190841.
7. Approve Agreement with the Johnson County Airport Commission for use of the New Century Airport for snowplow training by Public Works employees at a fee of \$50.00 per day.
8. Ratify the Mayor's appointment of Thomas H. Brill to the Prairie Village Civil Service Commission to complete an unexpired term ending January, 2006.
9. Approve Construction Change Order to Grindline Skateparks, Inc. for Project 190616: Harmon Park Skate Park for a decrease of \$2,500.00

By Committee:

10. Approve the bid of BECI, Inc. in the amount of \$37,500 for Project 190906: Public Works Generator Replacement and authorize the transfer of \$1,500 from the Capital Infrastructure Program Building Unallocated to Project 190906 (Council Committee of the Whole Minutes – August 15, 2005)

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Noll, Wang, Wassmer, Anthony, Wolf, Ewy Sharp and Belz.

COMMITTEE REPORTS

Insurance Committee

Consider Workers Compensation Coverage Renewal with Continental Western

Steve Noll reported that at the August 22, 2005 meeting, the City's Insurance Committee made a recommendation to the City Council to renew the City's Worker's Compensation insurance policy with Continental Western Insurance for 2005-06. The City remains in the state assigned risk pool. One bid was received through the current carrier.

Steve Noll moved the City Council approve the proposal by Continental Western Insurance to provide workers compensation coverage for the City for the twelve month period beginning October, 2005 and approve payment of the premium which is estimated at \$200,114 and is subject to change by audit and/or modification rate change. The motion was seconded by Al Herrera and passed unanimously.

Communications Committee

Andrew Wang reported that the Communications Committee met recently to discuss the City's website. No decisions were made on the content of the website. It was decided that the website will be updated over the next couple of months.

Park & Recreation Committee

Kay Wolf reported that the Park & Recreation Committee had a retreat recently with Marty Stanley from Dynamic Dialogue. The retreat went very well.

OLD BUSINESS

David Belz asked about the progress on Canterbury Street. Bob Pryzby stated that the concrete curbing was completed today and the paving should be completed by the end of the week.

Ruth Hopkins inquired if there had been more vandalism at the Skate Park. Mr. Pryzby stated that it had been fairly quiet. Captain Wes Jordan added that school starting has helped the issue.

Mayor Shaffer asked for a status report on the completion of Mission Road. Mr. Pryzby reported that the section from 71st to 75th Street was completed. The section from Somerset to 83rd Street will be completed by the end of the week.

Jeff Anthony asked for an update on the new school zones. Mr. Pryzby stated that the contractor had not yet received the school zone signs. Once received, it will take two days to assemble and one day to install them.

NEW BUSINESS

Hurricane Katrina Relief

Captain Wes Jordan reported that the Police Department had been asked to develop a strike force to help the agencies in the Gulf Coast Region with law enforcement duties. All states are part of the Interstate Emergency Management Compact Agreement which states that in the event of a natural disaster, mutual basic aid will be dispensed. There are five counties that make up the northeast region of Kansas for emergency management. They are Johnson, Wyandotte, Shawnee, Douglas, and Leavenworth. Their mission will be to respond with a government deployment to protect government resources, including personnel and equipment. It is scheduled to run a term of a minimum of 90 days with officers rotating every 14 days. Prairie Village will be sending two officers and a vehicle. All costs will be reimbursed through FEMA. The Department is on standby until given exact instructions on where they will be needed.

Ruth Hopkins asked if upfront funding would be needed to purchase supplies. Captain Jordan stated that the state will provide some resources. Officers will need to purchase personal items and will need cash to take with them as bank ATM's will not be working.

Diana Ewy Sharp asked if the City will be impacted with fewer officers on staff. Captain Jordan stated a supervisor and an operational officer would be sent together, having no significant impact on City basic patrol services.

Laura Wassmer and Diana Ewy Sharp expressed their interest in the City helping with relief efforts. Barbara Vernon stated that Johnson County is coordinating relief efforts.

Ms. Wassmer stated that residents are looking for ways to help and information needs to be sent to them on how they can help in the relief effort.

Ms. Ewy Sharp suggested that a committee be established to explore ways the City could be of assistance to the relief efforts.

Ms. Hopkins added that Village Presbyterian Church is sponsoring groups of people and supplies are needed there.

Captain Jordan added that at this point no one knows what is going to be asked from area communities.

Bill Griffith stated that it is best to wait for direction.

Ms. Wassmer and Ms. Ewy Sharp agreed to consult with each other regarding potential relief efforts.

Ms. Wassmer left at 7:59p.m.

Mayor Shaffer asked Captain Jordan to keep the Council informed through Ms. Vernon.

Al Herrera asked if officers sent to the Gulf Coast will have the jurisdiction to protect themselves while they are not in the State of Kansas. Captain Jordan stated that there will be a command structure in place for their safety.

David Belz inquired if the Police Department assisted residents with installing infant/child car seats. Captain Jordan stated that the Department has one certified officer who can help residents.

Mrs. Ewy Sharp asked what could be done to take care of the Highland Cemetery. Bill Griffith stated that Asher Langworthy maintains the cemetery and would know who the owner is.

ANNOUNCEMENTS

Kay Wolf announced that the Northeast Johnson County Chamber of Commerce hired their new president, Pamela Ducas. She invited Council members to attend a reception September 27th to meet Pamela.

Committee meetings scheduled for the next two weeks include:

Tree Board	09/07/2005	6:00 p.m.
Park & Recreation Committee	09/07/2005	7:00 p.m.
Sister City	09/12/2005	7:00 p.m.
Village Vision Steering Committee	09/12/2005	7:00 p.m.
Village Vision Steering Committee	09/14/2005	5:00 p.m.
Council Committee of the Whole	09/19/2005	6:00 p.m.
City Council	09/19/2005	7:30 p.m.

The Prairie Village Arts Council will feature an exhibit by the Senior Arts Council in the R. G. Endres Gallery during the month of September. The opening reception will be held on September 9, 2005 from 6:30p.m. – 7:30p.m.

Village Vision – Community Choices Workshop – 7:00p.m. at Indian Hills Middle School
Village Vision Open House – 7:00p.m. at Indian Hills Middle School

Labor Day was a recognized holiday for Deffenbaugh. Trash services will be one day late this week.

The 2005 League of Kansas Municipalities Conference will be held October 8 – 11, 2005 in Wichita, Kansas. The conference theme is “Cities United”. Registrations are due by September 16th. Please let Barbara know if you want to attend.

Johnson County invites you to help celebrate "Birthday in the Park" on September 17, 2005. Johnson County will have its 150 year anniversary and Johnson County Park & Recreation District is having its 50 year anniversary to be held at Shawnee Mission Park from 10:00 a.m. to 4:00 p.m. with free admission. Join in at Shawnee Mission Park for a full day of fun.


The 50th Anniversary books, Prairie Village Our Story, are being sold to the public.

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned at 8:07 p.m.

Lori Franke
Administrative Assistant

CITY OF PRAIRIE VILLAGE

TO: MAYOR & COUNCIL
FROM: DOUG LUTHER 
SUBJECT: 2005 UNITED WAY CAMPAIGN
DATE: 9/13/2005
CC:

For many years the City has participated in the annual United Way Campaign sponsored by the Alliance of Greater Kansas City United Ways. Through this campaign, City employees are permitted to make contributions to the United Way or the non-profit organization of the employee's choice through a payroll deduction.

Approval of attached Resolution will authorize the City's participation in the 2005 United Way Campaign.

This item has been placed on the 19 September, 2005 Consent Agenda for your consideration.

Resolution 2005-03

WHEREAS, the City of Prairie Village recognizes that there are members of our community who are in need of a wide variety of services; and

WHEREAS, there are numerous organizations throughout the metropolitan area that strive to help our fellow citizens during their time of need; and

WHEREAS, the United Way provides support for over 150 agencies throughout the area; and

WHEREAS, the United Way provides City employees a way to contribute to United Way agencies and other non-profit organizations;

NOW, THEREFORE, BE IT RESOLVED, that I, Ronald L. Shaffer, Mayor and the Governing Body of the City of Prairie Village hereby authorize the City's participation in the 2005 United Way Campaign sponsored by the Alliance of Greater Kansas City United Ways; and

BE IT FURTHER RESOLVED that all City employees are encouraged to participate in the 2005 Campaign by making a contribution to the non-profit organization of the employee's choice.

Adopted this _____ day of September, 2005.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk

M E M O R A N D U M

DATE: September 19, 2005
TO: City Council
FROM: Mayor Shaffer
RE: **Peanut Butter Week**

Since 1985, the City of Prairie Village has annually held a food drive in which the commodity of peanut butter is collected for the Harvesters Community Food Network. Our community participates in the drive through our churches and schools. The 2005 dates will be October 3-7, 2005. This will be the 21st annual Peanut Butter Week.

Adoption of Resolution 2005-02 proclaiming the week of October 3-7, 2005 as Prairie Village Peanut Butter Week will be included on the Consent Agenda.

Resolution 2005-02

WHEREAS, the citizens of Prairie Village take great civic pride in their community and the good deeds performed therein; and

WHEREAS, the citizens of Prairie Village strive to maintain the high quality of life now enjoyed by most citizens and also recognize there are less fortunate in the Greater Kansas City area; and

WHEREAS, Prairie Village has a unique opportunity to lend its support to Harvesters in their efforts to lessen some of the hunger of the people in the Greater Kansas City area (including Johnson and Wyandotte Counties) by supporting them in their goal of distributing the high protein food, peanut butter, to social and charitable agencies, serving over 22,000 households; and

NOW, THEREFORE, BE IT RESOLVED, that I, Ronald L. Shaffer, Mayor of the City of Prairie Village, do hereby designate October 3-7, 2005 as

PEANUT BUTTER WEEK

in the City of Prairie Village, Kansas, and call upon all citizens to support this worthwhile cause by donating jars of peanut butter or by providing a cash donation for the purchase of peanut butter.

Adopted this _____ day of September, 2005.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk

CONSIDER RE-PLAT OF MUNICIPAL CAMPUS AND HARMON PARK

Background:

Several months ago, the Mission Road Bible Church submitted plans for an expansion. During the review, I noticed that their parking lot appeared to encroach onto City property and certainly onto an old right-of-way that transverses the property along the east-west line. Further review of the City property found a subdivision lot layout that was still on County records that was located south of the water tower. From time to time I would receive inquiries about interest in purchasing one of the lots. I concluded after counsel with the City Attorney, that a re-plat of the property would be the best action.

A new plat was surveyed. The right-of-way along the property with the Mission Road Bible Church would be replaced by an utility easement. The old subdivision lots would be deleted. The final item was to establish an easement on which the radio tower sits. This plat was reviewed and approved by the Planning Commission on September 6, 2005.

Financial Impact:

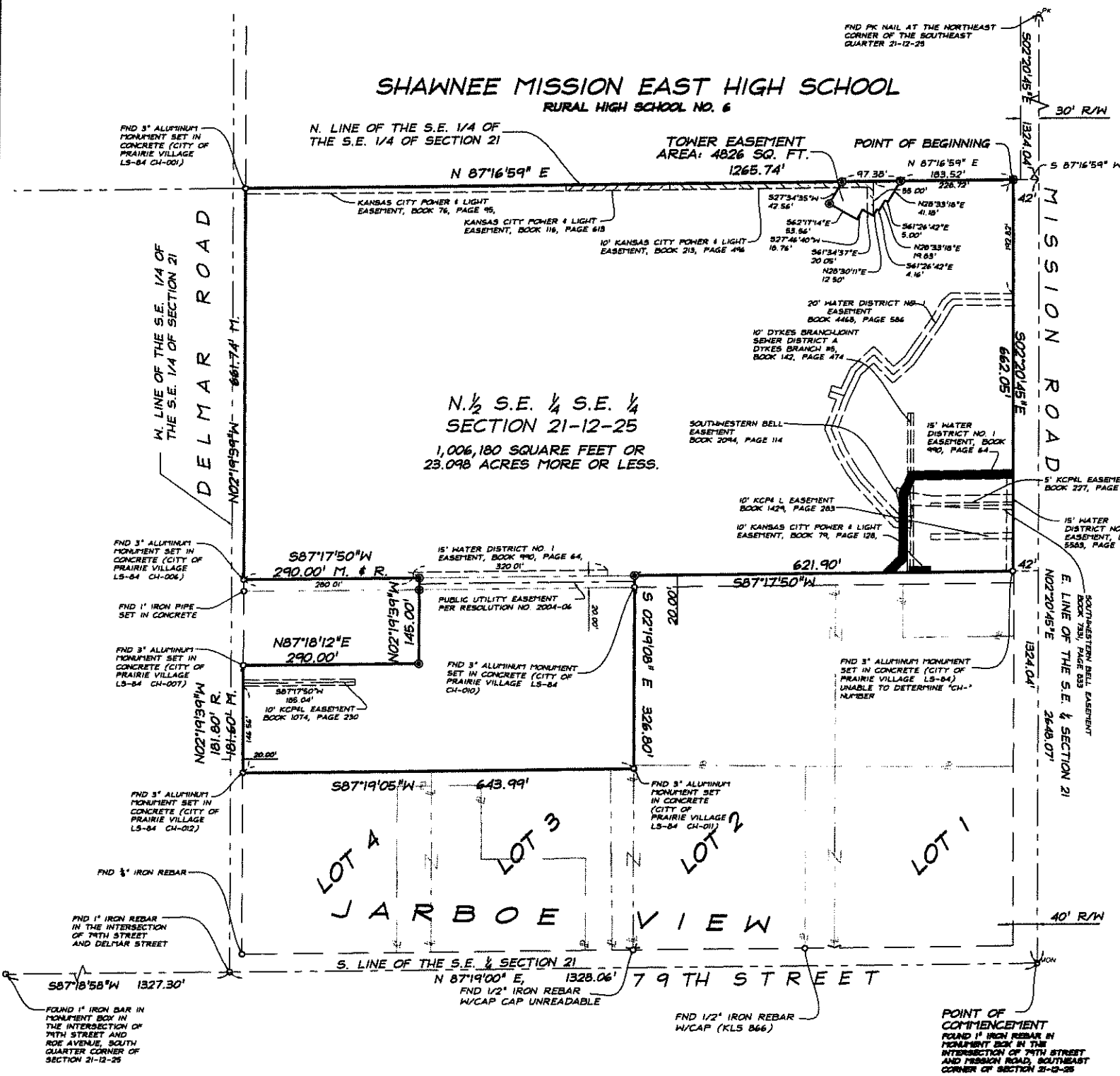
The financial impact is limited to preparation of the plat and filing costs.

Recommendation:

Staff recommends the City Council approve the new plat for the Prairie Village Municipal Office Complex.

PRAIRIE VILLAGE MUNICIPAL OFFICE COMPLEX

SHAWNEE MISSION EAST HIGH SCHOOL
RURAL HIGH SCHOOL NO. 6



LEGAL DESCRIPTION:

That portion of the Southeast quarter of Section 21, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Southeast corner of the Southeast quarter of said Section 21; thence North 02°20'45" West along the east line of said Northeast quarter a distance of 1324.04 feet; thence leaving said east line South 87°16'59" West a distance of 42.00 feet to the westerly right of way of Mission Road, also being the TRUE POINT OF BEGINNING; thence South 02°20'45" East along said westerly right of way a distance of 662.05 feet to the north line of the plat of JARBOE VIEW as recorded in Book 7 at Page 8; thence South 87°17'50" West along said north line, a distance of 621.90 feet to the east line of the plat of "TOWER COURT ADDITION" as recorded in Book 72 at Page 41, resolution vacating all of said plat on record as Ordinance #2135604 in Volume 3631 at Page 443; thence South 02°19'08" East along said east line, a distance of 326.80 to the south line of said plat; thence South 87°19'05" West along said south line, a distance of 643.99 feet to the southwest corner of said plat; thence North 02°19'59" West along the west line of said plat, a distance of 181.60 feet to the south line of the west 290 feet of the north 125 feet of Lot 4, JARBOE VIEW; thence North 87°18'12" East along said south line, a distance of 290.00 feet; thence North 02°19'39" West a distance of 145.00 feet to the north line of JARBOE VIEW; thence South 87°17'50" West along said north line, a distance of 290.00 feet to the easterly right of way of Delmar Road; thence North 02°19'39" West along said right of way, a distance of 661.74 feet to the north line of the Southeast quarter of the Southeast quarter of said Section 21; thence North 87°16'59" East a distance of 1265.74 feet to the TRUE POINT OF BEGINNING. Said parcel contains 23.098 acres, more or less, and is subject to all easements and restrictions of record.

DEDICATION

The undersigned proprietor of the above described tract has caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision and plat shall hereafter be known as "PRAIRIE VILLAGE MUNICIPAL OFFICE COMPLEX"

An easement is hereby dedicated, to locate, construct and maintain, and to authorize the location, construction, maintenance or use of a tower, poles, wires, anchors and appurtenances thereto, or any or all of them, for communication purposes under, along and above the tract of land outlined on this plat and designated, "Tower Easement".

EXECUTION

IN TESTIMONY WHEREOF, _____, an authorized representative of City of Prairie Village, has caused this instrument to be executed this _____ day of _____, 2005.

By _____

ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____)

On this _____ day of _____, in the year 2005, before me, in and for said state, personally appeared the authorized representative of the City of Prairie Village.

Notary Public: _____

Printed Name: _____

My appointment expires: _____

APPROVALS

APPROVED BY: The Planning Commission of the City of Prairie Village, Johnson County, Kansas this _____ day of _____, 2005.

Chairman, Kenneth J. Vaughn

Secretary, Joyce Hagen Mundy

APPROVED BY: The Governing Body of the City of Prairie Village, Johnson County, Kansas, this _____ day of _____, 2005.

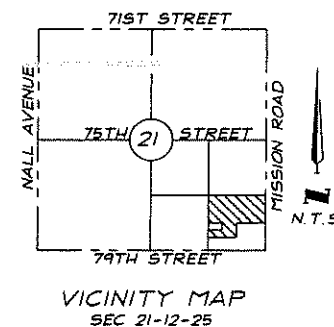
Mayor, Ronald L. Shaffer

Attest
City Clerk, Joyce Hagen Mundy

I hereby certify that this survey, plat or map was prepared by me, or under my direct supervision, and was executed in accordance with the current state of Kansas Minimum Standards for Property Boundary Surveys.

Mark A. Gabert LS - 1389

Date



⊗ - SET 5/8" REBAR WITH 2" ALUMINIUM CAP IN CONCRETE

Notes:

Bearing Reference System: Survey is based on the State Plane Coordinate System of 1983, Kansas, North Zone.

Plat revised per city comments: 9-6-2005

LARKIN GROUP INC.
9200 Ward Parkway • Kansas City, MO • 64114
Phone: 816-361-0440 • Fax: 816-361-0045
SURVEYORS • CONSULTING ENGINEERS

CONSIDER ENERGY IMPROVEMENTS AT PUBLIC WORK FACILITY

Background:

Funding was provided in the Capital Infrastructure Program to make energy improvements to the light fixtures at Municipal Offices, Public Safety Facility and Community Center. There will be a balance in the Municipal Offices project. I am requesting to use this balance to make the same energy improvements at the Public Works Facility. The savings are the result of efforts by Roger Wyatt and Teague Electric, the City contracted electrician.

Financial Impact:

The balance in the Project 190908 is \$4,739.14. The cost for Public Works Facility is \$4,678.13.

Recommendation:

Staff recommends the approval of transferring \$4,700.00 from Capital Infrastructure Program Project 190908 to a new Project 190913: Public Works Lighting Improvement.

CONSIDER ONLINE BANKING SERVICES AGREEMENT WITH INTRUST BANK

Issue: Should the City Council approve an agreement with Intrust Bank for banking services?

Background:

In November of 2001, Council approved the City's banking services agreement with Intrust Bank, designating the City officials authorized to act on behalf of the City for the purpose of all banking transactions.

Recently, Intrust notified the City of plans to upgrade their Business Internet Banking system. In order for the City to utilize this upgrade, they have asked that the agreements passed in 2001 be updated.

Attached to this agenda item are the following agreements:

- **Corporate Authorization.** This agreement identifies the individuals who will be allowed to execute the agreements in the name of the City.
- **Intrust Treasury Online User Agreement.** This agreement identifies the services and responsibilities of both Intrust and the City, as they relate to the Internet banking service.
- **Treasury Online Enrollment Form.** This form identifies who will administer the Internet banking service for the City.
- **Information Transfer Reporting Services.** This form identifies the accounts the City wishes to allow inter-account transfers.

Financial Impact:

None. Fees related to the new service were not changed and funds were budgeted in the 2005 Annual Budget.

The following motion will be added to the Consent Agenda for your approval

**APPROVE ONLINE BANKING SERVICES AGREEMENT WITH
INTRUST BANK**



INTRUST TREASURY ONLINE USER AGREEMENT

This Intrust Treasury Online User Agreement ("Agreement") is made and entered into this _____ day of _____, 20__ by and between City of Prairie Village("Customer"), (collectively referred to as "Account Holders") and INTRUST Bank, N.A. ("Bank"). All parties agree that the services described and provided by Bank will be subject to the terms and conditions set forth below.

1. Services.

- a. Bank will provide Customer access to Intrust Treasury Online ("Internet Site") allowing Customer to obtain certain account information, receive reports electronically, and perform electronic funds transfer services via Customer's web browser and computer. Bank shall provide access to the Internet Site at a time specified and agreed by the parties. Bank hereby grants Customer a non-exclusive, non-transferable and revocable license to use the Internet Site and the services contained thereon solely for Customer's internal business purpose and subject to the terms and conditions of this Agreement.
- b. The Internet Site will contain the following services:
 - i. Account Reporting
 - ii. Stop Payment
 - iii. ACH Collections and Payments
 - iv. Wire Transactions

In addition, the Internet Site will contain a Book Transfer system ("Transfer Service"). Customer may make transfers through the Transfer Service as described in this Agreement below.

- c. The use of the term "Service" or "Services" herein shall mean all of the services listed above, including the Transfer Service, collectively or all of the services being accessed and utilized by Customer under the terms of this Agreement, whichever is applicable.
- d. The Internet Site will also contain a Loan Module which may be delivered at a later date. If the Loan Module is delivered at a later date, the term "Service " or "Services" herein shall then include the Loan Module as of date of final delivery.
- e. Customer shall pay all fees and charges for Treasury Online and each Service provided thereunder in accordance with the Intrust Business Accounts Fee Schedule as in effect at the time of execution of this Agreement and as may be amended from time to time.

2. Enrollment.

- a. Customer shall have access to those Services which are available on the Internet Site and for which Customer has executed a separate agreement with Bank ("Service Agreement"). Each Service Agreement so executed between Customer and Bank regarding any of the Services provided on the Internet Site is incorporated herein by reference. No additional Service Agreement is necessary for the Transfer Services, ACH Collections and Payments and Wire

Transactions. Customer shall use the Services in accordance with all written procedures or instructions provided by Bank.

- b. Customer and each Account Holder will execute a Corporate Authorization ("Authorization") at the time of execution of this Agreement. Said Authorization will include the name of an Agent ("Agent") authorized to execute on behalf of Customer or Account Holder all documents reasonably requested by Bank related to this Agreement, including but not limited to, agreements related to each Service provided hereunder. It is anticipated by the parties hereto that the Agent named by Customer and each Account Holder in their respective Authorizations will be the same individual. Any reference herein to Agent shall include the plural if not all Account Holders name the same individual as agent under their respective Authorizations. Account Holder acknowledges that a new Authorization may be required from time to time and agrees to promptly execute said document upon request of Bank.
- c. The Authorization shall also include the name of the Administrator of the Internet Site. Customer and all Account Holders must appoint the same individual as Administrator. No Internet Site will be allowed to have more than one Administrator. The Administrator may be changed only upon the re-execution of Authorizations by Customer and all Account Holders agreeing to a new individual.
- d. Customer and each Account Holder will complete and execute the Treasury Online Enrollment Form and appropriate attachments (all referred to herein after as "Enrollment Form") at the time of execution of this Agreement. The information on the Enrollment Form may only be modified by completion and execution of a new Enrollment Form by the Agent. Any new Enrollment Form shall not be effective until accepted by Bank and Bank has had a reasonable opportunity to implement the changes. Upon execution of the Enrollment Form, whether the initial Enrollment Form or a later executed Enrollment Form, such Enrollment Form is deemed a part of this Agreement and incorporated herein by this reference. Customer agrees to execute a new Treasury Online Enrollment Form upon reasonable request of Bank.

3. System Requirements and Security.

- a. Customer must have and maintain a computer system ("System") that has access to the Internet using a secure browser with 128-bit encryption. By signing this Agreement, Customer represents and warrants to Bank that Customer's System satisfies this requirement. Bank is not responsible for any upkeep or maintenance required by such System or for any System upgrades which may become necessary due to upgrades in the Services provided under this Agreement.
- b. A Customer ID, Customer Password, User ID and initial User Password will be assigned to Customer in accordance with the Bank's security procedures. Customer is solely responsible for controlling and safeguarding the Customer ID, Customer Password, User ID and User Password and will be required to change the initial User Password when signing on to the Internet Site for the first time. Customer agrees to change its password periodically. Bank may require Customer to change its password from time to time at Bank's sole discretion.
- c. Customer will be responsible for designating employees or affiliated persons ("Employees") who will be able to access Customer information through the Internet Site. Customer will provide the Customer ID, Customer Password, User ID and a User Password to each

Employee so designated. All Employees with access to the Internet Site will be required by Customer to change User Passwords periodically. Bank may require Employees to change their User Passwords from time to time at Bank's sole discretion. Each Employee will be responsible for controlling and safeguarding the Customer ID, Customer Password, User ID and the User Password.

d. Customer is responsible for all use of the Internet Site accessed through the Customer ID and Customer Password and any User ID and User Password. Customer hereby authorizes all transactions entered into the Internet Site by Employees or any other person who accessed the Internet Site via the Customer ID and Customer Password and any User ID and User Password, unless access to such Customer ID and Customer Password was improperly provided by or obtained from Bank. Each transaction conducted through the Internet Site is deemed to have been properly authorized regardless of whether the Employee entering the transaction is named as an "authorized representative" or similar authority on any Service Agreement or attachment thereto.

- e. Customer agrees to promptly notify Bank of the loss or theft of the Customer ID, Customer Password or any User ID or User Password.
- f. Customer agrees to notify Bank immediately if any Service does not perform as anticipated; as represented during training on the Internet Site; or in accordance with the applicable Service Agreement.

4. Transfer Services.

- a. Customer may make transfers through the Transfer Services only from accounts designated as From Accounts to accounts designated as To Accounts. Such designations shall be made by account number on the Enrollment Form. Customer may modify the accounts and their designation only by re-execution of the Enrollment Form as described above. Customer authorizes and directs Bank to transfer funds on the basis of the designated account numbers (debits and credits) even if such number identifies a person or account Customer did not intend.
- b. Bank will process and complete all transfers properly entered through the Transfer Service in accordance with the terms of this Agreement. Bank will not be responsible for any losses or damages if:
 - i. Through no fault of Bank there is insufficient funds in the From Accounts to make the transfer;
 - ii. The computer connection is malfunctioning and Customer knew about the malfunction when the transfer was started; or
 - iii. Circumstances beyond the control of the Bank (such as acts of God, fire, flood, adverse weather conditions or other catastrophes; interruption of transmission or communication facility; equipment failure; criminal acts; or other emergency conditions) prevent the proper completion of the transaction despite reasonable precautions by Bank to avoid these circumstances.

The Bank may transmit oral, electronic or written notice to the customer of any transfer order which is not completed. The Customer agrees that notice given orally, electronically, or in writing is commercially reasonable and that such notice shall be effective when given.

- c. Customer may not cancel or amend a transfer once the order has been transmitted to Bank.

5. ACH Collections and Payments.

- a. For the initiation of credit and debit Entries ("Entries"), Customer and Bank agree to be bound by this Agreement and the rules of the National Automated Clearing House Association ("NACHA") (the "Rules") as may be amended or modified from time to time. Customer acknowledges that a copy of the Rules may be obtained for a fee from Mid-America Payment Exchange Company. Capitalized terms used in this section of this Agreement shall have the meanings provided in the Rules unless otherwise defined herein. Customer acknowledges that some Entries may be governed by Article 4A of the Uniform Commercial Code, as amended from time to time.
- b. Files shall be delivered to Bank or Bank's agent in the manner and format as set forth in the Rules. If any File does not comply with the format as set forth by the Rules, Bank is not required to process and shall notify Customer within one (1) business day from receipt along with notice of the reason for not processing the File. It shall be Customer's responsibility to correct errors and submit a new File to Bank for processing. Bank will not edit any Files to correct errors or otherwise. Customer shall transmit Entries only in those Standard Entry Class Codes ("SEC") as provided on the Enrollment Form.
- c. Customer acknowledges that Bank and Customer have not agreed to any security procedures for the detection of any error in the transmission or content of a File, Entry or transaction. Any and all security procedures put in place by Bank are for the sole purpose of verification of authenticity of the transmitted data. Customer agrees to be bound by any payment order, File or Entry, whether or not authorized, issued in its name and accepted by Bank in compliance with its security procedures as in effect at the time of acceptance (and as amended from time to time), absent negligence or willful misconduct, including but not limited to fraud, on the part of the Bank or its employees and agents.
- d. The persons designated on the Enrollment Form as Authorized Individuals are the persons authorized to act on behalf of Customer in connection with ACH Instructions, including File origination or transmission, or deletion, reversal, remake or modification of any File or Entry. Bank shall be entitled to rely upon the authority of such Authorized Individuals until a new Enrollment Form is executed by the Agent. Customer shall obtain all consents and authorizations required by the Rules, if any, relating to Originators and shall retain such consents and authorizations for two (2) years after they expire.
- e. Warranties.
 - i. With respect to each and every Entry initiated by Customer as an Originator and transmitted to Bank, Customer represents and warrants:
 1. All Entries will be submitted to Bank in compliance with the Rules;
 2. Appropriate notice as required by the Rules has been provided to any consumer prior to submission of Entry;
 3. Each Entry is properly authorized, each credit Entry is timely, each debit Entry is for an amount which on Settlement Date will be due and owing to the Customer and each Entry otherwise complies with all requirements as set forth in the Rules; and

4. At the time of transmitting such Entry to the Bank:
 - a. Customer does not have actual knowledge of the revocation of such Authorization by the consumer or of the termination by the Receiving Bank of the arrangement under which such Entry is to be initiated by Originator and credited/debited by such Receiving Bank to the checking account or savings account of the consumer with such Receiving Bank; and
 - b. Customer, as Originator, has not terminated such arrangements.
 5. At the time such Entry is processed by the Receiving Bank, such Authorization has not been terminated in whole or in part by operation of law; provided, however, that this warranty shall not be applicable if, at the time of such processing, such Receiving Bank has actual knowledge of the circumstances giving rise to such termination and Originator does not have actual knowledge thereof; and
 6. Each Entry transmitted to Bank contains all information necessary by the Receiving Bank and in a format in compliance with the Rules.
- ii. In addition to the warranties set forth in (i.) above, with respect to any Point of Purchase ("POP") Entry transmitted under the SEC POP, the Customer as Originator represents and warrants:
 1. Each and every source document is returned voided to the consumer at the time of the transaction; and
 2. None of the source documents have been used to create prior POP Entries.
 - iii. In addition to the warranties set forth in (i.) above, with respect to any Telephone initiated ("TEL") Entry transmitted under the SEC TEL, the Customer as Originator represents and warrants:
 1. Commercially reasonable procedures have been employed to verify the identity of the consumer; and
 2. Commercially reasonable procedures have been used to verify the bank routing numbers provided by the consumer.
 - iv. In addition to the warranties set forth in (i.) above, with respect to any Internet initiated ("WEB") Entry transmitted under the SEC WEB, the Customer as Originator represents and warrants:
 1. A commercially reasonable fraudulent transaction detection system has been used to screen Entries;
 2. Commercially reasonable procedures have been used to verify the bank routing numbers provided by the consumer;
 3. The Internet session has been secured prior to keying of banking information by the consumer; and
 4. An annual audit is performed to ensure all financial information obtained via the Internet site is protected by security including, but not limited to:
 - a. Physical security from theft, tampering or damage;
 - b. Personnel and access controls to protect against unauthorized use; and

- c. Network security against capture, storage and distribution of financial information.
- v. In addition to the warranties set forth in (i.) above, with respect to any Accounts Receivable ("ARC") Entry transmitted under the SEC ARC, the Customer as Originator represents and warrants:
 - 1. All information is accurately entered from the source document;
 - 2. Each source document will be destroyed within fourteen (14) days from the Settlement Date and a copy of each such source document will be retained for a period of two (2) years from the Settlement Date of the Entry; and
 - 3. The source document will not be presented for payment.
- vi. In addition to the warranties set forth in (i.) above, with respect to any Represented Check ("RCK") Entry transmitted under the SEC RCK, the Customer as Originator represents and warrants:
 - 1. Appropriate notice as required under the Rules has been provided to the consumer including a separate notice agreed to in writing by the consumer for the collection of fees, if any;
 - 2. All information (including MICR) is accurately entered from the item;
 - 3. The original item will be retained for a period of ninety (90) days from the Settlement Date and a copy of each such item will be retained for a period of seven (7) years from the Settlement Date of the Entry;
 - 4. The item will not be presented for payment;
 - 5. Originator has no knowledge of any defense or claim which may be made by the consumer on the item; and
 - 6. The item does not contain a valid, enforceable restrictive endorsement.
- vii. Bank Warranties. The Bank warrants to the Customer as follows:
 - 1. Bank processes and procedures comply with the Rules, and with all applicable federal and state laws governing processing, transmittal and settlement of ACH transactions. Bank has in place such security systems as are required by applicable law for the receipt, transmittal, processing and settlement of Entries;
 - 2. Bank shall (a) process Entries received from Customer which conform with the specifications of this Agreement, (b) transmit such Entries as an Originating Depository Financial Institution to the Federal Reserve Bank as "ACH Operator", and (c) settle as provided by the Rules; and
 - 3. Bank shall transmit all Entries to the ACH Operator in compliance with the Rules and prior to Settlement Date.
- f. Customer acknowledges that any action by it taken in violation of the Rules could result in a fee levied against Bank under the Rules and that Bank will assess Customer for any violation which it causes or is created out of an Entry initiated by Customer, other than violations the Bank causes. Upon request Bank shall provide Customer with a description of fees in effect at the time of execution of this Agreement which could be levied. Bank shall also provide written notice of any assessment of fee levied due to Customer and the violation which caused the fee.

- g. Customer may send prenotification in accordance with the specifications provided in the Rules. If Customer chooses to send prenotifications, Customer may not then originate live dollar Entries until at least six (6) banking days following Settlement Date of the prenotification Entry.
- h. Customer shall have no right to cancel or amend any File or Entry after its receipt by Bank. However, Bank shall use reasonable efforts to act on a request by Originator for adjustment, reversal or deletion of a File or Entry prior to transmitting it to the ACH Operator or prior to crediting a Receiver's account, provided such request complies with the Rules. Bank shall have no liability if such adjustment, reversal or deletion is not effected.
- i. Bank shall notify Company by United States mail or other method agreed upon in writing, of the receipt of a returned Entry from the ACH Operator no later than three (3) banking days after the banking day of receipt of return. Notice shall include the reason for such return. Bank shall have no obligation to retransmit the Entry if Bank has complied with the Rules and all terms of this Agreement.
- j. Bank will provide notice of any File or Entry rejected no later than the business day on which such File or Entry would have been transmitted, which notice shall include the reason for the rejection. If the Entry is "on us", Bank will provide notice of rejection of the Entry no later than the Effective Entry Date along with the reason for the rejection. Notice is effective when given. Bank shall have no liability to Customer by reason of the rejections of any File or Entry or the failure to give notice prior to the times as set forth herein. Bank may reject any File or Entry if:
 - i. It does not comply with the specifications of the Rules;
 - ii. It contains an effective date ten (10) days after the date of receipt by the Bank;
 - iii. The Customer has not complied with the security procedures set forth by Bank as may be amended from time to time;
 - iv. The Customer has not complied with its account balance obligations as set forth in Paragraphs 5m and 5n herein; or
 - v. It is allowed under the Rules for an "on us" Entry.
- k. Customer shall retain all information necessary to remake any File or Entries for three (3) days after midnight of the Settlement Date and shall promptly provide such information to Bank if requested. Bank shall retain processing information relating to File or Entries, whether rejected or transmitted, for a period of seven (7) years.
- l. Payment by Customer with respect to Entries initiated by Customer and transmitted by Bank and with respect to any Entry's payment or posting which is stopped or reversed, adjusted or returned by Bank, as provided for herein, shall be by debit or credit, as appropriate, to Customer's Settlement Account as set forth on the Enrollment Form.
- m. For credit transfers, Originator shall maintain at all times in the Settlement Account collected funds, as defined by Bank's procedures, in the aggregate amount of all credit Entries transmitted to Bank pursuant to this Agreement and to which settlement has not yet been effected. Bank will not be required to transmit any credit Entry if, at the time Bank would otherwise transmit such credit Entry, Customer does not have sufficient collected funds in the Settlement Account or Customer is in default under any provision of this Agreement. Bank shall notify Customer of its decision not to transmit an Entry and the reasons for such decision.

- n. Bank shall, not later than the Settlement Date, cause immediately available collected funds to be deposited in the Settlement Account in satisfaction of debit entries initiated by Customer through Bank. Customer remains responsible for ensuring that sufficient immediately available collected funds remain in the Settlement Account for the charge-back (in accordance with the Rules) of any return Entries.
- o. If an unauthorized debit Entry is asserted by a Receiver, the Customer's Settlement Account will be debited for the amount thereof, and the Bank shall provide notice of such debit within three (3) business days of receipt of the return. If the balance in the Settlement Account is insufficient, Customer shall promptly provide immediately available funds to Bank to satisfy such insufficiency.
- p. The Customer may, at the discretion of the Bank, be required to submit annual financial statements, in a format reasonably approved by Bank or copies of federal income tax returns in order for Bank to ascertain whether Customer continually meets the Bank's internal credit policies.

6. Limitations of Liability.

- a. Customer is solely responsible for the correctness and accuracy of all information entered in connection with the Services. Customer shall hold Bank harmless for the entry of any incorrect information by an Employee.
- b. THE SERVICES PROVIDED ON THE INTERNET SITE ARE DISTRIBUTED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND LACK OF VIRUSES OR OTHERWISE, OTHER THAN THOSE WARRANTIES OF SPECIFIC INTRUST PRODUCTS OR SERVICES TO WHICH INTRUST HAS EXPRESSLY AGREED. BANK DOES NOT WARRANT THAT THE SERVICES PROVIDED WILL MEET SPECIFIC REQUIREMENTS OF CUSTOMER. BANK DOES NOT WARRANT THAT THE OPERATION OF THE INTERNET SITE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS.
- c. Customer agrees that all access and use of the Internet Site and its contents is at Customer's own risk. Bank shall be responsible only for performing the services expressly provided for in this Agreement. Except as required by applicable law, or express agreement, Bank specifically disclaims any liability (whether based in contract, tort, strict liability or otherwise) for any direct, indirect, incidental, consequential, punitive or special damages arising out of or in any way connected with Customer's use or inability to use the Services, any loss of information or for errors and delays in transmission or processing of Customer's transactions for any reason, or for any claim by another party (even if Bank has been advised of the possibility of such damages).
- d. Customer is solely responsible for any loss or liability arising due to Customer's failure to limit access to the Internet Site or maintain the confidentiality to the Customer ID or Password or the User ID or Password or any of Bank's security procedures.
- e. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, liabilities, losses, damages (including, without limitation consequential,

special and punitive damages) and expenses (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees), directly or indirectly resulting from:

- i. Any breach by Customer of any or all of the Customer's warranties under this Agreement;
- ii. Any failure by Customer to comply with this Agreement; or
- iii. Any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses (including attorney fees) incidental to the forgoing.

7. Miscellaneous.

- a. Customer and Account Holders hereby acknowledge the confidential nature of the contents of the Internet Site, including all software used therein, and any printed material provided as a resource or guide to the Internet Site. Customer and Account Holders agree the contents of the Internet Site and written materials will not be duplicated by any means, including but not limited to, electronic media, nor disclosed in any manner whether oral, written or electronic, to any person or entity not affiliated with Customer by any Employee without the express written consent of Bank. Said limitation includes but is not limited to, any and all screens appearing on the Internet Site. Customer may however, duplicate said screens for training purposes for its Employees.
- b. Customer will not lease, sublease, sell or distribute software or resource materials to any third parties nor use software or resource materials in any time-sharing, service bureau or other similar arrangement or make any other use of the software and resource materials not expressly permitted hereunder.
- c. Notwithstanding any other provision of this Agreement; Bank shall have no responsibility for any damages arising directly or indirectly from any error; delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, terrorist activity, inoperable communications facilities or any other circumstance beyond the reasonable control of Bank.
- d. This Agreement, along with any other Service Agreements entered into by Customer and Bank, Bank's Deposit Agreement and any other applicable rules or regulations, constitutes the complete and exclusive Agreement between the Customer and the Bank.
- e. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors or permitted assigns.
- f. Neither party shall assign this Agreement nor any of the rights or duties hereunder to any third party without the other party's consent. Such consent shall not be unreasonably withheld.
- g. This Agreement may be amended at any time by Bank. Bank will provide notice to Customer prior to the effective date of the amendment. Continued use of the Internet Site by Customer or any Employee after the effective date of the amendment will constitute acceptance and agreement to the amendment.
- h. This Agreement may be terminated by either party by giving written notice of termination to the other. Notwithstanding the termination of this Agreement, this Agreement shall remain in full force and effect as to all debit or credit Entries initiated by Customer prior to the termination date. **Bank may unilaterally terminate this Agreement at any time Bank**

suspects any fraud or other illegal activity in Customer's accounts. In such case, customer should contact Bank to verify status of transactions scheduled for dates after the termination of this Agreement.

- i. In the event any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.
- j. The parties to this Agreement shall comply with all applicable federal and state statutes, laws, regulations or policies, all as may be amended or modified from time to time. This Agreement shall be construed in accordance with and governed by the laws of the state of Kansas.

City of Prairie Village

INTRUST Bank, N.A.

Title: Mayor of Prairie Village
Ronald L. Shaffer

Title:

(Account Holder signatures on next page)

LEGISLATIVE FINANCE COMMITTEE
6 SEPTEMBER, 2005

The Legislative/Finance Committee met in the Police Department Conference Room at 6:00 pm. Members present: Co-Chairs Bill Griffith and Ruth Hopkins, Laura Wassmer, Kay Wolf, Diana Ewy Sharp, and Andrew Wang. Also present: Barbara Vernon, Doug Luther, Ron Williamson, Tim Schwartzkopf, Wes Jordan, Steve Horner, Trevor Wood, and Lana McDonald.

LEG2005-29 Consider proposed exterior lighting regulations

Mr. Williamson reported that, for the past several months, the Planning Commission has been considering ordinance revisions establishing standards for exterior lighting, particularly parking lot lighting. He noted that this issue recently arose during the proposed expansion of Nall Avenue Baptist Church. Both staff and the Planning Commission felt it would be possible to develop standards for outdoor lighting. Mr. Williamson said the proposed regulations will establish a standard that has a goal of minimizing the effects of outdoor lighting on adjacent and neighboring properties.

In developing the proposed regulations, a draft was circulated among several electrical engineers and contractors in the area. There were no objections to the regulations. In fact, the owners of the Prairie Village Shopping Center, which plans to update the center's parking lot lighting, has agreed to build to the new standards prior their adoption.

Mr. Williamson said the regulations would apply to new structures and expansions of existing uses over 25%, and that one and two-family dwellings would be exempt from the regulations. However, other uses in residential districts, such as schools, churches, etc. would be subject to the new regulations.

Mr. Griffith expressed concerns that placing additional regulations on expansions of existing uses could discourage reinvestment.

Mrs. Hopkins asked if the proposed regulations are similar to those of other communities. Mr. Williamson said it is not uncommon for cities to regulate exterior lighting. However, cities vary widely in the level of detail provided in their regulations.

Mrs. Hopkins confirmed that the Planning Commission unanimously recommended the City Council adopt the proposed regulations.

Mrs. Ewy Sharp moved and Ms. Wassmer seconded the following motion which passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING
SECTION 19.43 OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED
"ACCESSORY USES" BY ADDING A NEW SECTION 19.34.050 ENTITLED
"OUTDOOR LIGHTING"
COUNCIL ACTION REQUIRED**

LEG2005-32 Consider Sprint Franchise and Settlement Agreement

Mr. Horner reported that Sprint is providing local telephone service in Prairie Village, and has been doing so since 2003. According to statute, Sprint is required to obtain a franchise agreement with the City prior to offering local telephone service.

Mr. Horner has been working with Sprint to negotiate a franchise agreement. The proposed agreement is similar to the City's franchise agreement with SBC. The agreement states that Sprint will pay a franchise fee of 5% of gross receipts. Initially, Sprint had wanted the fee to be based on the number of access lines.

Mr. Griffith expressed concern with the 20 year term of the agreement. Mr. Horner noted that, while the overall term of the agreement is 20 years, it is structured with a first term expiring in 2007, followed by a series of 17 one year renewals. The renewal periods would allow the City to renegotiate the agreement in the future to address the changing dynamics of the telecommunications industry.

Lana McDonald, an attorney representing Sprint, said she would prefer an access line based franchise fee because it is easier to calculate and would make little difference in the amount of franchise fee revenue received by the City. Committee members agreed that the fee should be based on gross receipts, as with other telecommunications franchises.

Ms. McDonald said Sprint currently has approximately 2,500 access lines in Prairie Village. However, this number will likely decrease in the future as Sprint plans to get out of the local telephone business.

Mr. Horner confirmed that Sprint would need to maintain a franchise agreement as long as it has facilities located in public rights-of-way, even if the company discontinues providing local telephone service.

Ms. Ewy Sharp moved and Mrs. Wolf seconded the following motion which passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT AN ORDINANCE GRANTING TO SPRINT COMMUNICATIONS COMPANY L.P. A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF PRAIRIE VILLAGE.
COUNCIL ACTION REQUIRED**

Mr. Horner noted that, since 2003, Sprint has been providing services in Prairie Village without the required franchise agreement. He presented a proposed settlement agreement between the City and Sprint which would compensate the City for all franchise fees the City should have received from Sprint during the time it was providing telecommunications services in the City without a franchise agreement.

Mrs. Ewy Sharp asked why Sprint failed to obtain the required agreement in 2003. Ms. McDonald said it was due to an internal communications problem within Sprint.

Mr. Griffith noted that other companies are likely providing telecommunications services in Prairie Village without the required franchise agreements. Mr. Horner said it is very difficult to identify all companies providing telephone service in the City. However, he

tries to monitor the situation. Telephone companies are regulated at the State level to provide service to the entire state. So, even if a company is authorized to provide service in Prairie Village, it may not be doing so.

Ms. Ewy Sharp moved and Mrs. Wolf seconded the following motion which passed unanimously:

RECOMMEND THE CITY COUNCIL APPROVE AN AGREEMENT WITH SPRINT COMMUNICATIONS COMPANY TO MAKE PAYMENT TO THE CITY OF PRAIRIE VILLAGE IN THE AMOUNT OF 5% OF GROSS RECEIPTS FOR ALL LOCAL EXCHANGE SERVICE PROVIDED IN THE CITY SINCE AND INCLUDING ANY PART OF 2003 THROUGH THE ENACTMENT DATE OF THE NEW FRANCHISE.

COUNCIL ACTION REQUIRED

LEG2005-33 Consider Ordinance Granting to TELCOVE INVESTMENT a contract franchise to construct, operate and maintain a telecommunications system in the City of Prairie Village

Mr. Horner reported that Telcove is another telecommunications company seeking to locate its facilities in the public rights-of-way. He said the company plans to sell its services to businesses rather than residential customers. The proposed franchise agreement calls for a franchise fee of 5% of gross receipts, as with other telecommunications franchise agreements the City has with other providers.

Mrs. Wolf asked if Telcove is providing services in other cities. Mr. Horner said they are providing services to several other cities in the metro area.

Mrs. Ewy Sharp moved and Ms. Wassmer seconded the following motion which passed unanimously:

RECOMMEND THE CITY COUNCIL APPROVE A TELECOMMUNICATIONS CONTRACT FRANCHISE WITH TELCOVE INVESTMENT
COUNCIL ACTION REQUIRED

LEG2004-31- Consider proposal from Cingular to install a telecommunication equipment building in McCrum Park

Mrs. Vernon reported that, on two previous occasions Cingular Wireless had proposed installing an antenna on the water tower in McCrum Park on Water District property, along with an equipment building/facility on City-owned parkland. On both occasions the City and Cingular were unable to come to an agreement regarding the fee Cingular should pay for use of the parkland.

The Park and Recreation Committee has reviewed a revised proposal from Cingular to install a 12' x 20' building, along with appropriate landscaping in McCrum Park to house its equipment. Cingular has also tentatively agreed to pay a fee of \$2,000/month for use of the space in McCrum Park. Mrs. Vernon said she is seeking guidance from the Committee before attempting to negotiate a lease agreement with Cingular.

Mr. Wood, with Selective Site Consultants, reported that the original proposal was for a fenced equipment area. The new design would include a fully enclosed, covered structure with landscaping to minimize its effect on the rest of the park.

Mr. Griffith asked why the building is so large. Mr. Wood said the original proposal was for a 12' x'16' area. The additional space is required to store the necessary equipment required for the newest generation of wireless technology.

Mrs. Hopkins asked if the City has received comments from the neighbors regarding the proposed building. Mrs. Vernon said Cingular would still be required to obtain a Special Use Permit for the antenna and a site plan approval for the building. Notification of neighboring property owners is required as part of the site plan review and Special Use Permit processes.

Mr. Griffith expressed concerns that the lease agreement would be a long-term one.

Mrs. Vernon also recommended the rental fee of \$2000/month be dedicated to park use. Mr. Griffith said this revenue should not be earmarked. Mrs. Hopkins agreed. Mrs. Wolf said the money should be set aside for parks, as the equipment will take away limited open space in the City.

Mrs. Hopkins moved and Mrs. Ewy Sharp seconded the following motion which passed 5-1 with Mr. Griffith voting "nay."

**RECOMMEND THE CITY COUNCIL APPROVE A LEASE FEE OF
\$2,000/MONTH WITH ANNUAL INCREASES OF 3% FOR A FIVE YEAR
PERIOD FOR USE OF LAND IN MCCRUM PARK SUBJECT TO SITE PLAN
APPROVAL BY THE PLANNING COMMISSION AND APPROVAL OF
CONDITIONS AND TERMS OF THE LEASE BY BOTH PARTIES.
COUNCIL ACTION REQUIRED**

LEG2005-31 Consider Amendments to Animal Control Ordinance

Captain Schwartzkopf said the Police Department's Community Service Officers have been reviewing the current animal control ordinances and recommend several revisions. Generally, the revisions serve to clarify current ordinance requirements and provide Community Service Officers with the authority to more effectively enforce the ordinance requirements. The proposed revisions have been reviewed and approved by the City Attorney and the Animal Control Advisory Committee.

Mr. Griffith confirmed that the proposed ordinance would continue to ban pit bulls from the City.

Mrs. Hopkins asked about situations where an animal is loose in its yard and charges someone. Capt. Schwartzkopf said the ordinance would continue to prohibit pet owners from allowing their animals to run at large.

Committee members asked how Animal Control responds to complaints. Captain Schwartzkopf said that, when a call is received and an Animal Control Officer is on duty, he will respond to the call. If an Animal Control Officer is not available, a patrol officer will respond if his/her call load permits and if the situation poses a danger to public safety.

Captain Schwartzkopf said the revised ordinance also provides a better definition of animal cruelty and permits an officer to enter a vehicle to rescue an animal.

Mrs. Wolf moved and Mr. Griffith seconded the following motion which was unanimously approved:

RECOMMEND THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE PRAIRIE VILLAGE MUNICIPAL CODE CHAPTER 2 ENTITLED "ANIMAL CONTROL REGULATIONS PENDING APPROVAL OF THE CITY ATTORNEY COUNCIL ACTION REQUIRED

LEG2005-34 Consider Uniform Public Offense Code and Standard Traffic Ordinance for 2005

Captain Jordan reported that this ordinance is adopted annually. The ordinance amendments will bring the City's Public Offense Code and Standard Traffic Ordinance into conformance with changes made by the Kansas Legislature during its 2005 session. These codes are published annually by the Kansas League of Municipalities and adopted by cities throughout the state.

Adoption of the new regulations will not have a significant impact on the operations of the Police Department.

Mr. Griffith moved and Mrs. Wolf seconded the following motion which passed unanimously:

**APPROVE AN ORDINANCE ADOPTING THE 2005 EDITIONS OF THE UNIFORM PUBLIC OFFENSE CODE AND STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES WITH CERTAIN DELETIONS AND ADDITIONS, AND PRESCRIBING ADDITIONAL REGULATIONS
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

LEG2005-35 Consider Facility Usage Agreement between the City and Johnson County for the County Nutrition Program at the Community Center

Mr. Griffith moved and Ms. Ewy Sharp seconded the following motion which passed unanimously:

**RECOMMEND THE CITY COUNCIL APPROVE A FACILITY USAGE AGREEMENT WITH JOHNSON COUNTY TO PROVIDE A NUTRITION PROGRAM AT THE PRAIRIE VILLAGE COMMUNITY CENTER AT A COST OF \$136/MONTH.
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

There being no further business, the meeting adjourned.

Ruth Hopkins
Co-Chair

Bill Griffith
Co-Chair

AN ORDINANCE AMENDING TITLE 19 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 1973, ENTITLED "ZONING" BY AMENDING CHAPTER 19.34 ENTITLED "ACCESSORY USES" BY ADDING A NEW SECTION 19.34.050 ENTITLED "OUTDOOR LIGHTING".

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

Section I. Planning Commission Recommendation.

After having received a recommendation from the Planning Commission and proper notice having been published and hearing held as provided by law and under the authority of and subject to the provisions of the Zoning Regulations of the City of Prairie Village, Kansas, the Zoning Ordinance is amended as set forth in Section II.

Section II.

Section 19.34.050 entitled "Outdoor Lighting" is hereby adopted to read as follows:

19.34.050 Outdoor Lighting

A. Purpose and Intent.

It is the intent of this Section to define practical and effective measures to preserve safety, security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of excessive and/or careless outdoor light usage. These measures will curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light and glare resulting from overlighting and poorly shielded or inappropriately directed lighting fixtures.

All business, residential, public, institutional, and semi-public use lighting should be installed in an effort to minimize spillover onto adjacent properties and streets.

B. Definitions

For the purposes of this Ordinance, terms used shall be defined as follows:

1. *Direct light:* Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.
2. *Floodlight or Spotlight:* Any luminaire or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
3. *Footcandle (FC):* A quantitative unit measuring the amount of light cast onto a given point, measured as one (1) lumen per square foot.
4. *Full cutoff luminaire:* An outdoor fixture shielded or constructed in such a manner that it emits no light above the horizontal plane at the bottom of the fixture.
5. *Glare:* Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.
6. *Height of Luminaire:* The height of a luminaire shall be the vertical distance from the ground directly below the center line of the luminaire to the lowest direct light emitting part of the luminaire.
7. *Indirect light:* Direct light that has been reflected or has scattered off of other surfaces.
8. *Lamp:* The component of a luminaire that produces the actual light.
9. *Light Trespass:* The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
10. *Lumen:* A unit of luminous flux. The lumen output values shall be the initial lumen output ratings of a lamp or light bulb as provided by the manufacturer.
11. *Luminaire:* The complete lighting assembly (including the lamp, ballast, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.
12. *Outdoor lighting:* The illumination of an outside area or object by any manmade device located outdoors that produces light by any means.
13. *Security lighting:* Outdoor lighting used to illuminate walkways, roadways, and building entrances where general illumination for safety is the primary concern.
14. *String of Lights:* A series of lights attached to a wire, race, or inserted in transparent tubing in such a way that it can be moved about or hung in various ways, and whose bulbs are not light fixtures permanently attached to a building or other structure.

15. *Temporary outdoor lighting:* The specific illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of not more than ninety (90) days.

C. **Applicability**

1. *New Uses, Buildings and Additions:* All proposed new land uses, developments, buildings, structures, or building additions of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, seating capacity, parking spaces or other units of measurement specified herein, either with a single addition or cumulative additions subsequent to the effective date of this provision, except for single-family and two-family dwellings shall meet the requirements of this provision for the entire property. This includes additions which increase the total number of required parking spaces by twenty-five (25) percent or more. For all building additions of less than twenty-five (25) percent cumulative, the applicant shall meet the requirements of this provision for any new outdoor lighting provided.
2. *Installation of New Lighting for Existing Development* Any new outdoor lighting installed for existing uses except for single-family and two-family residential shall meet the requirements of these regulations.
3. *Street Lighting:* These regulations shall not apply to public lighting that is located in street right-of-way.

D. **Design Standards**

All outdoor lighting shall be installed and maintained to meet the requirements of this section:

1. *Maximum Light Levels at Property Line:* The maximum light level at any point on a property line shall not exceed 0.0 footcandles when adjacent to a residential zone or 0.2 footcandles when adjacent to non-residential zones, measured five (5) feet above grade.
2. *Architectural Lighting of Building Facades:* The lighting of a building façade for security, architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:
 - (a) All building façade lighting shall be fully shielded, fully confined from projecting into the sky by eaves, roofs or overhangs, and mounted as flush to a wall as possible.
 - (b) Building façade lighting shall be fully contained within the vertical surface of the wall being illuminated and shall not spill out beyond the edge of the wall.
3. *Canopy Lighting:* Lighting fixtures mounted under canopies used for vehicular shelter shall be aimed downward and installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. A full cut off light fixture may project below the underside of a canopy. All light emitted by an under-canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lighting, except that permitted by the sign ordinance, shall be permitted on the top or sides of a canopy.
4. *Flag Poles:* A flagpole may be illuminated by one upward aimed fully shielded spotlight luminaire which shall not exceed 3500 lumens. The luminaires shall be placed within five feet of the base of the flagpole.
5. *Strings of Lights:*
 - (a) No person shall use a string of lights on property with non-residential uses except as follows:
 - (1) Strings of lights may only be used if they are approved by the Planning Commission as part of an outdoor lighting plan or landscape plan. The plan must comply with all of the standards of this subsection. The purpose of such lighting is intended to create pleasing pedestrian spaces. Such as an outdoor dining or patio areas, utilizing low lighting levels.
 - (2) Strings of lights permitted under this subsection shall be displayed in compliance with the following standards:
 - The string of light contains only low wattage bulbs that are not greater than 50 lumens per bulb (equivalent to a seven watt C7 incandescent bulb);
 - The string of lights may be located within a pedestrian way, plaza, patio, outdoor dining area, or the primary entry into a building;

- The string of lights may be displayed on buildings, facades, walls, fences, trees, and shrubs; and
 - The string of lights shall not suspend horizontally between any buildings, walls, fences, trees or shrubs (for the purpose of this paragraph, "horizontally" means any portion of the suspended string which dips less than forty-five degrees below the horizontal).
- (b) Temporary lighting displays for both residential and non-residential uses: Strings of lights may be located on trees, shrubs or structures located in street, rights-of-way and may cross street rights-of-way upon issuance of a right-of way permit from the Department of Public Works.
6. *Control of Glare-Luminaire Design Factors*
- (a) Luminaire Height: The mounting height for luminaires shall not exceed 25 feet as measured to the bottom of the luminaire from grade.
- (b) Luminaire: All luminaires shall be non-adjustable and shall have a full cutoff.
- (c) Average Maintained Footcandles: The maximum average maintained footcandles for all parking lighting shall be three footcandles. For the purposes of this ordinance the average maintained footcandles shall be calculated at 0.8 of initial footcandles.
7. *Exceptions*
- (a) All temporary emergency lighting needed by the Police, the Fire and Public Works Departments or other emergency services, as well as all vehicular luminaires, shall be excepted from the requirements of this article.
- (b) All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaries used must be shown to be as close as possible to the federally required minimum lumen output requirement for ht specific task.
8. *Temporary Outdoor Lighting*
- (a) Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the Planning Commission after considering 1) the public and/or private benefits that will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Planning Commission, who shall consider the request in the same manner as a site plan approval.
9. *Outdoor Sports Facilities and Park Area Lighting except for single-family and two-family residences:* The proposed lighting for outdoor sports facilities and park areas shall be reviewed and approved by the Planning Commission under the Site Plan Regulations. The proposed lighting will be independently evaluated based on the use being lighted and is not required to meet the requirements of the Outdoor Lighting Regulations.

E. Sign Lighting

Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign and the fixture shall be flush mounted in the ground or screened from view.

F. Lighting Plans Required

A lighting plan shall be submitted to the Planning Commission for review and approval for all conditions as setout in Subsection C1 and C2 Applicability, in which outdoor lighting is proposed or required. The lighting plan shall be prepared by an architect, engineer, electrical contractor or lighting consultant and shall include:

- (1) A site plan showing the location of all building and building heights, parking, and pedestrian areas on the lot or parcel;
- (2) The location and description including mature height of existing and proposed trees and the location of light fixtures on adjacent properties or the street right-of-way within ten feet of the subject property;
- (3) The location and height above grade of all proposed and existing light fixtures on the subject property;
- (4) The type, initial lumen rating, color rendering index, and wattage of each lamp source;
- (5) The general style of the light fixture such as cut-off, lantern, coach light, globe, and a copy of the manufacturers catalog information sheet and IESNA

- photometric distribution type, including any shielding information such as house side shields, internal, and/or external shields;
- (6) Control description including type of controls (timer, motion sensor, time clock, etc.), the light fixtures to be controlled by each type, and control schedule when required;
 - (7) Aiming angles and diagrams for sports lighting fixtures; and
 - (8) A light calculation which shows the maximum light levels on a grid not to exceed ten feet by ten feet across the entire site and a minimum of ten feet beyond the lot or parcel property line. The grid shall also indicate maximum to minimum uniformities for each specific use area such as parking and circulation areas, pedestrian areas, and other common public area.

G. Final Inspection and Certification

Prior to a final inspection or the issuance of a certificate of occupancy, the applicant shall provide certification that the outdoor lighting as installed complies with the approved illumination plan and the requirements of this section. The certification shall be submitted in a format prescribed by the city. The certification shall be completed by the architect, electrical engineer, contractor, or lighting consultant responsible for the plans or the final installation.

Section III

This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS ____th day of September, 2005.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Charles E. Wetzler
City Attorney

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO SPRINT COMMUNICATIONS COMPANY L.P. A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF PRAIRIE VILLAGE, KANSAS.

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

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

- a. "Access line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements.
- b. "Access line count" - means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month.
- c. "Access line fee" - means a fee determined by the City, up to a maximum as set out in K.S.A. 12-2001(c)(3), and amendments thereto, to be used by Grantee in calculating the amount of Access line remittance.
- d. "Access line remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the Access line fee, as determined in the City, by the number of Access lines served by Grantee within the City for each month in that calendar quarter.
- e. "City" - means the City of Prairie Village, Kansas.
- f. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to provide local exchange telecommunications services within the City.
- g. "Facilities" - means telephone and telecommunication lines, conduits, manholes, ducts, wires, cables, pipes, poles, towers, vaults, appliances, optic fiber, and all equipment used to provide telecommunication services.

- h. "Grantee" - means Sprint Communications Company L.P., a telecommunications service provider providing service within the City. References to Grantee shall also include as appropriate any and all successors and assigns.
- i. "Gross Receipts" - shall mean only those receipts collected from within the corporate boundaries of the City enacting the contract franchise and which are derived from the following: (1) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) Recurring local exchange access line services for pay phone lines provided by Grantee to all pay phone service providers; (3) Local directory assistance revenue; (4) Line status verification/ busy interrupt revenue; (5) Local operator assistance revenue; (6) Nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills; and (7) Revenue received by Grantee from resellers or others which use Grantee's Facilities. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002 would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services within the City.
- j. "Local exchange service" - means local switched telecommunications service within any local exchange service area approved by the state Corporation Commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.
- k. "Public right-of-way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.
- l. "Telecommunication services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

SECTION 2. GRANT OF CONTRACT FRANCHISE.

- a. There is hereby granted to Grantee this nonexclusive Contract franchise to construct, maintain, extend and operate its Facilities along, across, upon or under any Public right-of-way for the purpose of supplying local exchange telecommunication services to the consumers or recipients of such service located within the corporate boundaries of the City, for the term of this Ordinance, subject to the terms and conditions of this Ordinance.

- b. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or city regulations (including, but not limited to those relating to the construction and use of the Public right-of-way or other public property).
- c. Grantee shall not provide any additional services for which a franchise is required by the City without first obtaining a separate franchise from the City or amending this franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.
- d. This authority shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

- a. Pursuant to K.S.A. 17-1902, and amendments thereto, and subject to the provisions of this Ordinance, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Public right-of-way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.
- b. Grantee's use of the Public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public right-of-way, including, but not limited to, the City's Ordinance for Managing the Use and Occupancy of Public Right-of-way, adopted as Ordinance No. 2047, and amendments thereto.
- c. Grantee shall participate in the Kansas One Call utility location program.
- d. The grant of this usage of the Public right-of-way by the City shall not convey title, equitable or legal, in the Public right-of-way, and shall give only the right to occupy the Public right-of-way, for the purposes and for the period stated herein. It does not:
 - (1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;
 - (2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way, specifically including, but not limited to, parkland property, City Hall property or

public works facility property; or

- (3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party.

SECTION 4. COMPENSATION TO THE CITY.

In consideration of this Ordinance, Grantee agrees to remit to the City a franchise fee of 5% of Gross Receipts. To determine the franchise fee, Grantee shall calculate the Gross Receipts and multiply such receipts by 5%. Thereafter, subject to subsection (b) hereafter, compensation for each calendar year of the remaining term of this Ordinance shall continue to be based on a sum equal to 5% of Gross Receipts, unless the City notifies Grantee prior to ninety days (90) before the end of the calendar year that it intends to switch to an Access line fee in the following calendar year; provided, such Access line fee shall not exceed the maximum Access line fee allowed by Statute. In the event the City elects to change its basis of compensation, nothing herein precludes the City from switching its basis of compensation back; provided the City notifies Grantee prior to ninety days (90) before the end of the calendar year.

- a. Beginning January 1, 2004, and every 36 months thereafter, the City, subject to the public notification procedures set forth in K.S.A. 12-2001 (m), and amendments thereto, may elect to adopt an increased Access line fee or gross receipts fee subject to the provisions and maximum fee limitations contained in K.S.A. 12-2001, and amendments thereto, or may choose to decline all or any portion of any increase in the Access line fee.
- b. Grantee shall pay on a quarterly basis without requirement for invoice or reminder from the City, and within 45 days of the last day of the quarter for which the payment applies franchise fees due and payable to the City. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.
- c. Upon forty-five (45) days prior written request by the City, but no more than once per quarter, Grantee shall submit to the City a certified statement showing the manner in which the franchise fee was calculated.
- d. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City. Any dispute concerning the amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.
- e. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee.
- f. Unless previously paid, within sixty (60) days of the effective date of this Ordinance, Grantee shall pay to the City a one-time application fee that reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Ordinance. Any such fee charged shall be competitively neutral and shall not be unreasonable or discriminatory.

- g. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City. The franchise fee is compensation pursuant to K.S.A. 12-2001(j) and shall in no way be deemed a tax of any kind.
- h. Grantee shall remit an access line (franchise) fee or a gross receipts (franchise) fee to the City on those Access lines that have been resold to another telecommunications local exchange service provider, but in such case the City shall not collect a franchise fee from the reseller service provider and shall not require the reseller service provider to enter a franchise ordinance.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Public right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., it has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage by its negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public right-of-way.

The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If Grantee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and Grantee and does not create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public right-of-way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND

- a. During the term of this Ordinance, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed to do business in the state of Kansas. Should Grantee elect to use the services of an affiliated captive insurance company for this purpose, that company shall possess a certificate of authority from the Kansas Insurance Commissioner. Grantee shall provide not less than the following insurance:

- (1) Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.
 - (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Ordinance.
- b. As an alternative to the requirements of subsection (a), Grantee may demonstrate to the satisfaction of the City that it is self-insured and as such Grantee has the ability to provide coverage in an amount not less than one millions dollars (\$1,000,000) per occurrence and two million dollars (2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by Grantee, or alleged to so have been caused or occurred.
 - c. Grantee shall, as a material condition of this Ordinance, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force and will not be cancelled or materially changed with respect to areas and entities covered without first giving the City thirty (30) days prior written notice. Grantee shall make available to the City on request the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.
 - d. Grantee shall, as a material condition of this Ordinance, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of \$50,000, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public right-of-way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Ordinance, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Ordinance, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Ordinance shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Ordinance, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Ordinance. If at the end of such sixty (60) day period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Ordinance by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which

this Ordinance is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter; and further provided, if the nature of the default is such that it cannot be reasonably cured within the above said sixty (60) day period, but in good faith Grantee has timely commenced its cure and is diligently prosecuting the completion of the same, Grantee shall be given a reasonable additional period of time to complete its cure. Nothing herein shall prevent the either party from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Ordinance, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Ordinance shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Ordinance or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Ordinance shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

SECTION 8. RESERVATION OF RIGHTS.

- a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Telecommunications service and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.
- b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.
- c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.
- d. In entering into this Ordinance, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Ordinance, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances (e.g. the City's right-of-way ordinance referenced in Section 3b of this Ordinance), and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Ordinance shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same

shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

- a. This Ordinance shall be effective for a term beginning on the effective date of this Ordinance and ending on April 1, 2007. Thereafter, this Contract franchise will automatically renew for up to seventeen (17) additional one (1) year terms, unless either party notifies the other party of its intent to terminate the Ordinance at least one hundred and eighty (180) days before the termination of the then current term. The additional term shall be deemed a continuation of this Ordinance and not as a new franchise or amendment.
- b. Upon written request of either the City or Grantee, this Ordinance shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Ordinance granted to Grantee or the compensation to be received by the City hereunder.
- c. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire Ordinance. In the event of such invalidity, if Grantee is required by law to enter into a Ordinance with the City, the parties agree to act in good faith in promptly negotiating a new Ordinance.
- d. Amendments under this Section, if any, shall be made by ordinance as prescribed by statute. This Ordinance shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.
- e. In the event the parties are actively negotiating in good faith a new franchise or an amendment to this Ordinance upon the termination date of this Ordinance, the parties by written mutual agreement may extend the termination date of this Ordinance to allow for further negotiations. Such extension period shall be deemed a continuation of this Ordinance and not as a new franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

The City:

The City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208
Attn: City Clerk
(913) 381-7755 fax

Grantee:

Sprint Communications Company L.P.
Attn: Transaction and Project Services
Field Services
Mail Stop: KSOPHT0101-Z2040
6391 Sprint Parkway
Overland Park, Kansas 66251-2040
(913) 315-3928 fax
With copies of notices of default to:

Sprint Communications Company L.P.
Attn.: Real Estate Attorney
Mail Stop: KSOPHT0101-Z2020
6391 Sprint Parkway
Overland Park, Kansas 66251-2020

or to replacement addresses that may be later designed in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Ordinance is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to any entity controlling, controlled by or under common control with Grantee. The parties acknowledge that said City consent shall only be with regard to the transfer or assignment of this Ordinance, and that, in accordance with Kansas Statute, the City does not have the authority to require City approval of transfers of ownership or control of the business or assets of Grantee. In the event of any transfer or assignment of either this Ordinance or Grantee's business or assets, Grantee shall: timely notify the City of the successor entity; provide a point of contact for the successor entity; and advise the City of the effective date of the transfer or assignment. Additionally, Grantee's obligations under this Ordinance with regard to indemnity, bonding and insurance shall continue until the transferee or assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the transfer or assignment. In the event an entity acquires substantially all of the assets of Grantee, said successor entity shall be allowed to operate under this Ordinance for up to one hundred and eighty (180) days from the date of transfer; provided, within thirty (30) days from the date of transfer said successor entity makes application with the City for either a new ordinance or the transfer of this Ordinance, and provides the City with written evidence satisfying the obligations under this Ordinance with regard to indemnity, bonding and insurance.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 and 66-1220a, et seq., and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of Grantee, or of the City at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Ordinance.

SECTION 14. ACCEPTANCE OF TERMS.

Grantee shall have sixty (60) days after the final passage and approval of this Ordinance to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this Ordinance and acceptance shall constitute a contract between the City and Grantee subject to the provisions of the laws of the state of Kansas.

SECTION 15. PAYMENT OF PUBLICATION COSTS.

In accordance with statute, Grantee shall be responsible for payment of all costs and expense of publishing this Ordinance, and any amendments thereof.

SECTION 16. SEVERABILITY.

If any clause, sentence, or section of this Ordinance, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Ordinance is invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Ordinance.

SECTION 17. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

PASSED by the Governing Body of the City of Prairie Village, Kansas this ____ day of _____, 2005.

APPROVED by the Mayor this ____ day of _____, 2005.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Stephen B. Horner, Assistant City Attorney

AGREEMENT

This Agreement dated _____, is made by and between the City of Prairie Village, Kansas, (the "City") and Sprint Communications Company L.P. ("Sprint").

RECITALS

WHEREAS, the City requires the granting of franchises for telecommunications local exchange service providers in accordance with K.S.A. 12-2001; and

WHEREAS, the parties acknowledge that K.S.A. 12-2001 allows cities to require a franchise, and to charge local exchange service providers a franchise fee based upon either a gross receipts or an access line basis for those local exchange services; and

WHEREAS, Sprint has provided local exchange service within the City since approximately December of 2003, but it did not apply for or receive a franchise, nor has it remitted to the City the franchise fees that should have accrued to date; and

WHEREAS, the parties have negotiated this Agreement in good faith in order to resolve the issues concerning the City's franchise requirement and the outstanding franchise fees due to the City; and

WHEREAS, concurrently with the enactment of this Agreement, the parties intend to enter into a new franchise comparable to the franchises of other local exchange service providers in the City.

NOW THEREFORE, in consideration of the foregoing and the mutual promises herein set forth, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties enter into this Agreement upon, and subject to the following terms and conditions:

1. The parties agree that Sprint will calculate and pay the City a franchise fee amount equal to 5% of Sprint's gross receipts as defined by K.S.A. 12-2001(c)(6) for all local exchange service that Sprint has provided within the City since and including any part of 2003 through the enactment date of the new franchise. Sprint agrees that such payment will be calculated and paid no later than thirty (30) days after approval of the new franchise and this agreement. Upon receipt of full payment in accordance with this paragraph, all outstanding franchise fees due for said period shall be deemed paid in full, and Sprint's obligations thereunder shall be considered met.
2. Upon written request, the City shall have the right to examine those records necessary to verify the correctness of the gross receipts calculation during the above-said period, in accordance with K.S.A. 12-2001(j)(2).
3. A new contract franchise ordinance between the parties shall be submitted to the Prairie Village Governing Body for approval in substantial form as Exhibit A attached hereto.
4. Provided that the Prairie Village Governing Body approves and adopts a new contract franchise ordinance with provisions, terms and conditions identical to Exhibit A, Sprint's approval and acceptance of the same, as required in Section 14 therein, shall be hereby deemed granted. In such event, the parties also agree and acknowledge that the quarterly payments prescribed by Section 4c therein shall be made on a calendar quarterly basis.

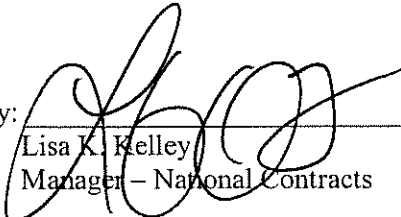
5. This Agreement shall become effective only upon the execution of this Agreement by both parties.
6. The terms of this Agreement are to be construed in accordance with Kansas law.
7. This Agreement may be executed in one or more counterparts which when executed shall be treated as an original of the Agreement to which the party executing the counterpart is bound.

IN WITNESS WHEREOF, the City and Sprint have executed this Agreement by their duly authorized representatives as of this _____ day of _____, 2005.

CITY OF PRAIRIE VILLAGE, KANSAS

SPRINT COMMUNICATIONS COMPANY L.P.

By: _____
 Ronald L. Shaffer
 Mayor of the City of Merriam

By: _____

 Lisa K. Kelley
 Manager - National Contracts

ATTESTED TO:

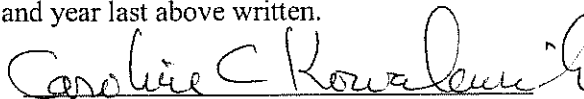
By: _____
 Joyce Hagen Mundy, City Clerk

STATE OF KANSAS)
) ss.
 COUNTY OF JOHNSON)

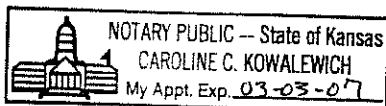
On this 19th day of AUGUST, 2005, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Lisa K. Kelley who holds the office of Manager for Sprint Communications Company L.P., to me known to be the identical person who signed the foregoing instrument and acknowledged to me that she voluntarily executed the same as on behalf of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My commission expires 03-03-07



 Notary Public



ORDINANCE NO. _____

AN ORDINANCE GRANTING TO TELCOVE INVESTMENT, LLC A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF PRAIRIE VILLAGE, KANSAS AND PRESCRIBING THE TERMS OF SAID CONTRACT FRANCHISE.

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

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

- a. "Access line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements.
- b. "Access line count" - means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month.
- c. "Access line fee" - means a fee determined by the City, up to a maximum as set out in K.S.A. 12-2001(c)(3), and amendments thereto, to be used by Grantee in calculating the amount of Access line remittance.
- d. "Access line remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the Access line fee, as determined in the City, by the number of Access lines served by Grantee within the City for each month in that calendar quarter.
- e. "City" - means the City of Prairie Village, Kansas.
- f. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to provide telecommunications services within the City.
- g. "Facilities" - means telephone and telecommunication lines, conduits, manholes, ducts, wires, cables, pipes, poles, towers, vaults, appliances, optic fiber, and all equipment used to provide telecommunication services.

- h. "Grantee" – means TelCove Investment, LLC, a telecommunications local exchange service provider providing local exchange service within the City. References to Grantee shall also include as appropriate any and all successors and assigns.
- i. "Gross Receipts" - shall mean only those receipts collected from within the corporate boundaries of the City enacting the contract franchise and which are derived from the following: (1) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) Recurring local exchange access line services for pay phone lines provided by Grantee to all pay phone service providers; (3) Local directory assistance revenue; (4) Line status verification/ busy interrupt revenue; (5) Local operator assistance revenue; (6) Nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills; and (7) Revenue received by Grantee from resellers or others which use Grantee's Facilities. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002 would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services within the City.
- j. "Local exchange service" - means local switched telecommunications service within any local exchange service area approved by the state Corporation Commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.
- k. "Public right-of-way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.
- l. "Telecommunication services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

SECTION 2. GRANT OF CONTRACT FRANCHISE.

- a. There is hereby granted to Grantee this nonexclusive Contract franchise to construct, maintain, extend and operate its Facilities along, across, upon or under any Public right-of-way for the purpose of supplying Telecommunication services to the consumers or recipients of such service located within the corporate boundaries of the City, for the term of this Contract franchise, subject to the terms and conditions of this Contract franchise.
- b. The grant of this Contract franchise by the City shall not convey title, equitable or legal,

in the Public right-of-way, and shall give only the right to occupy the Public right-of-way, for the purposes and for the period stated in this Contract franchise. This Contract franchise does not:

- (1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;
 - (2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way, specifically including, but not limited to, parkland property, City Hall property or public works facility property; or
 - (3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party.
- c. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or city regulations (including, but not limited to those relating to the construction and use of the Public right-of-way or other public property).
- d. Grantee shall not provide any additional services for which a franchise is required by the City without first obtaining a separate franchise from the City or amending this Contract franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this Contract franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.
- e. This authority to occupy the Public right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

- a. Pursuant to K.S.A. 17-1902, and amendments thereto, and subject to the provisions of this Contract franchise, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Public right-of-way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.
- b. Grantee's use of the Public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public

right-of-way, including, but not limited to, the City's Ordinance for Managing the Use and Occupancy of Public Right-of-way, adopted as Ordinance No. 2047, and amendments thereto.

- c. Grantee shall participate in the Kansas One Call utility location program.

SECTION 4. COMPENSATION TO THE CITY.

- a. In consideration of this Contract franchise, Grantee agrees to remit to the City a franchise fee of 5% of Gross Receipts. To determine the franchise fee, Grantee shall calculate the Gross Receipts and multiply such receipts by 5%. Thereafter, subject to subsection (b) hereafter, compensation for each calendar year of the remaining term of this Contract franchise shall continue to be based on a sum equal to 5% of Gross Receipts, unless the City notifies Grantee in writing prior to ninety days (90) before the end of the calendar year that it intends to switch to an Access line fee in the following calendar year; provided, such Access line fee shall not exceed the maximum Access line fee allowed by Statute. In the event the City elects to change its basis of compensation, nothing herein precludes the City from switching its basis of compensation back, provided the City notifies Grantee prior to ninety days (90) before the end of the calendar year.
- b. Notwithstanding any of the foregoing, the Parties acknowledge that Grantee may add to its end user customer bill a surcharge equal to the pro rata share of any such gross receipts or access line fee to the extent allowed by K.S.A. 12-2001(r).
- c. Beginning January 1, 2004, and every 36 months thereafter, the City, subject to the public notification procedures set forth in K.S.A. 12-2001 (m), and amendments thereto, may elect to adopt an increased Access line fee or gross receipts fee subject to the provisions and maximum fee limitations contained in K.S.A. 12-2001, and amendments thereto, or may choose to decline all or any portion of any increase in the Access line fee.
- d. Grantee shall pay on a quarterly basis without requirement for invoice or reminder from the City, and within 45 days of the last day of the quarter for which the payment applies franchise fees due and payable to the City. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.
- e. Upon written request by the City, but no more than once per quarter, Grantee shall submit to the City a certified statement showing the manner in which the franchise fee was calculated.
- f. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City. Any dispute concerning the amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.
- g. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee.
- h. The parties hereby acknowledge that Grantee has previously paid the City's required one-time application fee, and the City agrees that such fee reasonably reimburses the City for

its reasonable, actual and verifiable costs of reviewing and approving this Contract franchise.

- i. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001 and 17-1902, and amendments thereto. The franchise fee is compensation for use of the Public right-of-way and shall in no way be deemed a tax of any kind.
- j. Grantee shall remit an access line (franchise) fee or a gross receipts (franchise) fee to the City on those Access lines that have been resold to another telecommunications local exchange service provider, but in such case the City shall not collect a franchise fee from the reseller service provider and shall not require the reseller service provider to enter a contract franchise ordinance.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

It shall be the responsibility of Grantee to take reasonably adequate measures to protect and defend its Facilities in the Public right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., it has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public right-of-way.

The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If Grantee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and Grantee and does not create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public right-of-way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND

- a. During the term of this Contract franchise, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed to do business in the state of Kansas. Should Grantee elect to use the services of an affiliated

captive insurance company for this purpose, that company shall possess a certificate of authority from the Kansas Insurance Commissioner. Grantee shall provide not less than the following insurance:

- (1) Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.
 - (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability and umbrella or excess liability insurance of not less than One Million Dollars (\$1,000,000) per occurrence, One Million Dollars (\$1,000,000) aggregate. The umbrella or excess liability policy must be at least as broad as the underlying general liability policy. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Contract franchise.
- b. As an alternative to the requirements of subsection (a), Grantee may demonstrate to the satisfaction of the City that it is self-insured and as such Grantee has the ability to provide coverage in an amount not less than one millions dollars (\$1,000,000) per occurrence and two million dollars (2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by Grantee, or alleged to so have been caused or occurred.
- c. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force and will not be cancelled or materially changed with respect to areas and entities covered without first giving the City thirty (30) days prior written notice. Grantee shall make available to the City on request the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.
- d. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of \$50,000, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public right-of-way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Contract franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Contract franchise, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Contract franchise shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has

completed the following procedures: Before the City proceeds to revoke and terminate this Contract franchise, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Contract franchise. If cure cannot be reasonably effected within sixty (60) days, Grantee shall be afforded such reasonable time to cure, provided Grantee commences its attempt to cure in good faith and due diligence. If at the end of such cure period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Contract franchise by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which this Contract franchise is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Contract franchise, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Contract franchise shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Contract franchise or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Contract franchise shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

SECTION 8. RESERVATION OF RIGHTS.

- a. The City specifically reserves its right and authority as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Telecommunications service and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.
- b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.
- c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.
- d. In entering into this Contract franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Contract franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances (e.g. the City's right-of-way ordinance referenced in Section 3b of this Contract franchise), and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Contract franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

- a. This Contract franchise shall be effective for a term beginning on the effective date of this Contract franchise and ending on April 1, 2007. Thereafter, this Contract franchise will automatically renew for up to seventeen (17) additional one (1) year terms, unless either party notifies the other party of its intent to terminate the Contract franchise at least one hundred and eighty (180) days before the termination of the then current term. The additional term shall be deemed a continuation of this Contract franchise and not as a new franchise or amendment.
- b. If at any time Grantee sells or otherwise ceases to operate its facilities within the City, Grantee may request in writing an early termination of this Contract franchise. Upon such request, the City shall within thirty (30) days review Grantee's request in order to verify that Grantee has either: (1) removed all of its facilities from the City; or (2) has transferred or assigned its facilities within the City pursuant to Section 12 hereafter, and that the successor entity has taken the appropriate measures to assume and replace Grantee's duties and obligations under this Contract franchise, including, but not limited to, indemnity, bonding and insurance. Upon such verification, and provided that there are no other outstanding issues under the Contract franchise, the City shall grant such request. Provided, any termination of the Contract franchise shall in no manner rescind Grantee's franchise or other fee obligations to the City, and such obligations, if any, shall survive until paid in full.
- c. Upon written request of either the City or Grantee, this Contract franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Contract franchise granted to Grantee or the compensation to be received by the City hereunder.
- d. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire Contract franchise. In the event of such invalidity, if Grantee is required by law to enter into a Contract franchise with the City, the parties agree to act in good faith in promptly negotiating a new Contract franchise.
- e. Amendments under this Section, if any, shall be made by contract franchise ordinance as prescribed by statute. This Contract franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

- f. In the event the parties are actively negotiating in good faith a new contract franchise ordinance or an amendment to this Contract franchise upon the termination date of this Contract franchise, the parties by written mutual agreement may extend the termination date of this Contract franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this Contract franchise and not as a new contract franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES

Grantee shall at all times maintain with the City a point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

The City:

The City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208
Attn: City Clerk
(913) 381-7755 fax

Grantee:

Local Contact:
Brent Tucker
2001 Grand Blvd., Suite 200
Kansas City, MO 64108
(816) 421-2169; (316) 264-9260fax

Corporate Address:
Attn: Manager of Legal and
Regulatory Affairs
121 Champion Way
Canonsburg, PA 15317
(724) 743-9791 fax

or to replacement addresses that may be later designed in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Contract franchise is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to any entity controlling, controlled by or under common control with Grantee. The parties acknowledge that said City consent shall only be with regard to the transfer or assignment of this Contract franchise, and that, in accordance with Kansas Statute, the City does not have the authority to require City approval of transfers of ownership or control of the business or assets of Grantee. In the event of any transfer or assignment of either this Contract franchise or Grantee's business or assets, Grantee shall: timely notify the City of the successor entity; provide a point of contact for the successor entity; and advise the City of the effective date of the transfer or assignment. Additionally, Grantee's obligations under this Contract franchise with regard to indemnity, bonding and insurance shall

continue until the transferee or assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the transfer or assignment. In the event an entity acquires substantially all of the assets of Grantee, said successor entity shall be allowed to operate under this Contract franchise for up to one hundred and eighty (180) days from the date of transfer; provided, within thirty (30) days from the date of transfer said successor entity makes application with the City for either a new ordinance or the transfer of this Contract franchise, and provides the City with written evidence satisfying the obligations under this Contract franchise with regard to indemnity, bonding and insurance.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 and 66-1220a, et seq., and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of Grantee, or of the City at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Contract franchise.

SECTION 14. ACCEPTANCE OF TERMS.

Grantee shall have sixty (60) days after the final passage and approval of this Contract franchise to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Contract franchise, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this Contract franchise and acceptance shall constitute a contract between the City and Grantee subject to the provisions of the laws of the state of Kansas, and shall be deemed effective on the later of the date Grantee files acceptance with the City or publication of this Contract franchise.

SECTION 15. PAYMENT OF PUBLICATION COSTS.

In accordance with statute, Grantee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

SECTION 16. SEVERABILITY.

If any clause, sentence, or section of this Contract franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Contract franchise is invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Contract franchise.

SECTION 17. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

PASSED by the Governing Body of the City of Prairie Village, Kansas this ____ day of _____, 2005.

APPROVED by the Mayor this _____ day of _____, 2005.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Stephen B. Horner, Assistant City Attorney

Chapter II

Animal Regulations, Licensing and Control

Purpose.

Sections:

- 2-101 Definitions.
- 2-102 Authority to determine an animal to be deemed dangerous.
- 2-103 Keeping of livestock, poultry and fowl prohibited.
- 2-104 Harboring or keeping of animals.
- 2-105 Pit bull dog – Keeping prohibited.
- 2-106 Unlawful to harbor or keep any animal without proper and necessary precautions.
- 2-107 Cruelty to animals.
- 2-108 Authority of animal control officer or law enforcement officer to rescue an endangered animal.
- 2-109 Registration – Tags.
- 2-110 License fee – Designated.
- 2-111 License fee – Overdue.
- 2-112 License fee – Exemptions.
- 2-113 Inoculation against rabies required.
- 2-114 Collar or harness required.
- 2-115 Permit required.
- 2-116 Exemptions.
- 2-117 Issuance of permit.
- 2-118 Application for permit.
- 2-119 Provisions and/or requirements for keeping a dangerous animal.
- 2-120 Permit fee.
- 2-121 Term and renewal of permit.
- 2-122 Inspections for renewal.
- 2-123 Temporary permits for dangerous animals – Powers of animal control officer or chief of police.
- 2-124 Revocation of permits.
- 2-125 Appeals – Fees.
- 2-126 Appointment of animal control committee.
- 2-127 Enumeration of animals.
- 2-128 Limitations on number of animals.
- 2-129 Dog and cat control.
- 2-130 Seizure.
- 2-131 Notice of keeping dangerous animals.
- 2-132 Destruction or removal from city of certain animals.
- 2-133 Procedure for failure to redeem.

2-134	Presentation of animal.
2-135	Duty to report animal bites and scratches.
2-136	Animal bite procedure.
2-137	Disease control.
2-138	Removal of animal feces.
2-139	Fees to general fund.
2-140	Enforcement.
2-141	Violation – Penalty.
2-142	Severability.

PURPOSE

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

(a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;

(b) Delineating the responsibility of the animal's owner, keeper, or harbinger for the acts and behavior of his or her animal at all times;

(c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and

(d) Encouraging responsible pet ownership.

2-101

Definitions.

For the purposes of this chapter, the following words and phrases shall mean:

- A. "Abandon" includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.
- B. "Animal" means any living creature, other than humans.
- C. "Animal Bite" is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch or break to the skin.
- D. "Animal Control Officer" is a duly authorized person employed by the City who is charged with the duties of enforcing this chapter and/or related ordinances.
- E. "At-large" means to be off the owner's property, except when the animal is taken off the owner's property on a leash, in a cage, or other conveyance.
- F. "City" or "The City" is a reference to the City of Prairie Village, Kansas and its corporate limits.
- G. "Confined to the Premises" applies to Chapter II regarding Dangerous Animals; Permits, Provisions and/or Requirements to Keep Dangerous Animal(s); Animal Bite Procedures; and/or Disease Control. When used in Chapter II, "Confined to the Premises" means confined or restricted either inside the residential structure of the owner, keeper or

harborer; or if outside the residential structure, confined or restricted to the backyard of the premises by being physically restrained on a chain or leash or within a suitable fence or other proper method of physical restraint from which the animal cannot escape.

- H. “Dangerous Animal” shall include:
- (a) Any animal, which is wild by nature and of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and snakes which are poisonous or otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors;
 - (b) Any animal that is determined to be a dangerous animal by the Animal Control Officer or the Chief of Police; or
 - (c) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.
- I. “Domesticated Cat or Dog” is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- J. “Harborer” is any person who provides food and shelter for any domesticated animal.
- K. “Owner” means keeping or harboring any animal referred to in this chapter. Any person keeping any animal in the City for three consecutive days shall be conclusively presumed to be the owner of such animal.
- L. “Person” means any natural person, association, firm, partnership, organization, or corporation.
- M. “Service / Work Dog” is any guide dog, signal dog or other dog that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability, or a dog that is utilized by law enforcement personnel.
- N. “Vicious Bite” is any unprovoked attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

2-102

Authority to Determine an Animal to be Deemed Dangerous.

Where City records indicate a dog or cat has attacked or bitten any person and/or *domestic* animal without provocation, all known facts shall be considered in determining whether the dog or cat is a “dangerous animal”. The Animal Control Officer or the Chief of Police of the City shall have the authority to determine whether or not any animal in the City should be classified as a “dangerous animal.” A factor to consider in making this determination is: At the time of the bite or attack, did the person or domestic animal so bitten have permission to be on the property of the person who owns or harbors such dog or cat?

2-103

Keeping of Livestock, Poultry and Fowl Prohibited.

A. It shall be unlawful for any person to own, keep or harbor livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.

B. The following persons or organization shall be allowed to own, harbor, or have charge, custody, control or possession of any livestock, poultry and fowl:

1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
4. Commercial establishments processing such animals for the purpose of sale or display.

2-104

Harboring or Keeping of Animals.

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

1. Domestic dog (*Canis familiaris*);
2. Domestic cat (*Felis domesticus*);
3. Gerbils (*Tateriltus gracillio*);
4. Hamsters (*Critecus critecus*);
5. Rabbits (*Lepus Cunicullus*);
6. Domestic Mice (*Mus musculus*);

7. Domestic rat (*Rattus norvegicus*); and
8. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (*Mustela furo*), Chinchillas (*Chinchillidae*), Canaries (*Serinus Canaria*), Cockatoos, Macaws, Parakeets, and Parrots (*Psittacines*).

B. Any person who harbors any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-141.

2-105 Pit Bull Dog – Keeping Prohibited.

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Prairie Village, Kansas, any pit bull dog.

Pit bull dog for the purposes of this chapter shall include:

1. The Staffordshire pit bull terrier breed of dog;
2. The American pit bull terrier breed of dog;
3. The American Staffordshire bull terrier breed of dog; or
4. Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

2-106 Unlawful to Harbor or Keep Any Animal Without Proper and Necessary Precautions.

Any person who owns, harbors or keeps any animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal to the owner's property and prevent injury to other humans, domestic animals and/or damage to property.

A. It is unlawful for the owner or harborer of any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.

B. No owner, keeper or harborer of an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner or harborer must offer some freedom from continuous chaining and tethering. All restraints placed on an animal must be such that it prevents the animal from being tangled or injured by the restraint.

Cruelty to Animals.Cruelty to animals is:

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

The provisions of this section shall not apply to:

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

2-108

Authority of Animal Control Officer or Law Enforcement Officer to Rescue an Endangered Animal.

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

2-109

Registration – Tags.

The owner of any dog and/or cat, which is harbored or kept within the City, shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the animal's owner, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-113, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-110, issue a suitable tag, bearing a number and stating the year for which the tag is issued. (Ord. 1562, (part), 1985)

2-110

License Fee – Designated.

- A.** In addition to any permit fees required by this chapter, there is levied and imposed an annual license fee upon the owner of each dog and cat of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- B.** The license year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty. An animal for which a license fee is required as set forth in this section, over six months of age, brought into the City on or after March 1st or an animal attaining the age of six months on or after March 1st of any license year, should be licensed within thirty days of being brought into the City or attaining six months of age.

2-111 License Fee – Overdue.

- A. If the license fee required in section 2-109 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- B. After May 31st of each calendar year, if the fee imposed and required to be paid by section 2-110 remains unpaid, the City Clerk shall issue a complaint against the owner, keeper or harbinger for violation of section 2-109.
- C. In the case of any animal brought into the City on or after March 1st, or an animal attaining the age of six months on or after March 1st of any license year, if the license required by section 2-109 is not paid within the time provided in this section penalties will apply in addition to the normal license fee. The amount of penalty to be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.

2-112 License Fee – Exemptions.

Any person owning, keeping, or harboring a service/work dog shall be exempt from the license fee payment upon submittal of adequate proof that the dog is fully trained as a service/work dog and is current for the year on its rabies vaccination.

2-113 Inoculation Against Rabies Required.

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

2-114 Collar or Harness Required.

The owner of any dog or cat shall cause the same to wear a collar or harness outside the dwelling of the owner or harbinger. The tag required in section 2-109 shall be securely affixed to the collar or harness of each dog and cat registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to Law Enforcement Officers or Animal Control Officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

2-115

Permit Required.

- A. Permits allowing persons to own, harbor or have possession of a dangerous animal shall be issued only for domestic cats and domestic dogs, subject to the provisions of this chapter.
- B. No person owning, harboring or having charge, custody, control or possession of any dangerous animal shall allow such animal to remain within the City unless and until he/she has first secured a permit to do so and complies with all terms and conditions of such permit; and, in addition thereto, such animal shall at all times be so confined, controlled and restrained in such a manner so the life, limb or property of any person lawfully entering into premises shall not be endangered.
- C. Failure to obtain a permit as required by subsection B, after written notification by any Animal Control Officer or Law Enforcement Officer, shall be adequate grounds for the officer to impound the animal until a permit is obtained. If no permit is obtained within ten days of receipt of such notice and no appeal is pending, the animal will be subject to destruction or removal from the City in the manner provided in section 2-132.
- D. The following persons or organization shall be allowed to own, harbor, or have charge, custody, control or possession of any dangerous animal without securing permit as required by section 2-115:
 - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
 - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
 - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;
 - 4. Commercial establishments processing such animals for the purpose of sale or display.

2-116

Exemptions.

The provisions of this section shall not apply to the transportation of dangerous animals through this City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof. (Ord. 1562 (part), 1985).

2-117

Issuance of Permit.

No person shall have, keep, maintain or have in his/her possession or his/her control within the City any dangerous animal without first applying to and receiving a permit from the City Clerk as hereinafter provided. No permit shall be granted except with such conditions attached as shall, in the opinion of the person or agency approving such permit, reasonably ensure the public health, safety and general welfare, and in any event no

permit shall be granted for any animal at any particular location except upon an explicit finding by an Animal Control Officer or a Law Enforcement Officer that the issuance thereof will not be contrary to the public health, safety and general welfare.
(Ord. 1562 (part) 1985).

2-118

Application for Permit.

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

- A. Name, address and telephone number of the applicant
- B. The applicant's interest in such animal;
- C. The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any;
- D. The number and general disposition of all animals for which the permit is being sought;
- E. Any information known to the applicant concerning vicious or dangerous propensities of said animals;
- F. Housing arrangements for all said animals with particular details as to the safety or structure, locks, fences, warning sign, etc.
- G. Safety precautions proposed to be taken;
- H. Noises or odors anticipated in the keeping of such animals;
- I. Prior history of incidents involving the public health or safety involving any of said animals;
- J. Proof of insurance to cover those who may be injured or killed by said animal. Minimum insurance requirements shall be:
 - 1. \$500,000 for bodily injury coverage.
 - 2. \$100,000 for any liability arising out of damage to property.
- K. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal;
- L. Any additional information required by the Animal Control Officer or Law Enforcement Officer authorized by the Governing Body to enforce the provisions of this chapter at the time of filing such application or thereafter.
- M. When a permit is issued in accordance with this chapter and it is for a cat, the requirement(s) will include, but not be limited to such cat being confined within the residential structure at all times, except when secured on a leash or in a carrier and while on the cat owner's property or for transport to the veterinarian. (Ord. 1562 (part), 1985)

Provisions and/or Requirements for Keeping a Dangerous Animal.

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

1. Leash and muzzle. A dog that is a dangerous animal and is kept in this City will be required to be securely leashed with a leash no longer than four feet in length and be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals when it is taken outside of its area of confinement.
2. Confinement. All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a fenced yard, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. Confinement indoors. No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
4. Signs. All owners, keepers or harborer of a dog that is a dangerous animal must display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.
5. Identification Photographs. All owners, keepers, or harborers of a dangerous animal must provide to the City Clerk two color photographs of such animal clearly showing the color and approximate size of the animal.
6. Reporting requirements. All owners, keepers or harborers of dangerous animals must within ten days of the incident, report the following information in writing to the Prairie Village City Clerk as required hereinafter:
 - a. The removal from the City or death of such animal.
 - b. The birth of offspring of such animal.
 - c. The new address of such animal's owner should the owner move within the corporate City limits.
7. Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a dangerous animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such animal; provided that the registered owner

of such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

2-120

Permit Fee.

The fee for a permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of dangerous animals and is non refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit. (Ord. 1562 (part), Ord. 1649 ss 2, 1988; Ord. 1774 ss 2, 1991)

2-121

Term of Renewal of Permit.

No permit required by this chapter shall be granted for a period in excess of one year. An application for renewal of any permit shall be made not less than forty-five days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application. (Ord. 1562 (part), 1985)

2-122

Inspections for Renewal.

Prior to the annual renewal of any permit issued hereunder, an Animal Control Officer or Law Enforcement Officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this chapter and also reassess the animal that is subject to the permit. If the Animal Control Officer or Law Enforcement Officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Additionally, if the Animal Control Officer or Law Enforcement Officer determines that the animal subject to the permit should no longer remain deemed a dangerous animal, it shall be documented in a written report, which shall be reviewed by the Chief of Police. The owner of such animal will be notified if and when their animal is no longer deemed a dangerous animal. (Ord. 1562 (part), 1985)

2-123

Temporary Permits for Dangerous Animals – Powers of Animal Control Officer or Chief of Police.

An Animal Control Officer or Chief of Police may, following application for a permit and pending final disposition of the same, grant a temporary permit for the maintenance within the City of any such animal upon such conditions as he or she shall, in his or her sole discretion, require when, in his or her opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare, that no such animal shall be otherwise kept or maintained within the City or permitted to occupy any premises within the City, except while such a regular or

temporary permit is in full force and effect; provided, however, that any Law Enforcement Officer or Animal Control Officer shall take possession of any dangerous animal for which a permit has not been issued and keep the same until the proper permit has been secured by the owner or keeper thereof and shall release the same to the owner or keeper when all fees and costs have been paid and all laws and permit conditions complied with. (Ord. 1562 (part), 1985)

2-124 Revocation of Permits.

The City Clerk, upon recommendation of an Animal Control Officer or any Law Enforcement Officer, may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing, for a period not to exceed thirty days. Failure to comply with any of the provisions of this chapter shall be sufficient grounds for revocation. (Ord. 1562 (part), 1985)

2-125 Appeals – Fees.

- A. Any person aggrieved by or dissatisfied with any of the following decisions, rulings, actions or findings may, within ten days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Animal Control Committee as established in section 2-126.
 - 1. The determination by the Animal Control Officer or the Chief of Police that an animal is a “dangerous animal” under section 2-101;
 - 2. The denial of a permit under section 2-117;
 - 3. The denial of a renewal of a previously issued permit under section 2-121;
 - 4. The revocation of a previously issued permit under section 2-124; and
 - 5. The temporary suspension of any permit or portion thereof under section 2-124; provided, however, that the filing of an appeal under this subsection shall not stay such order or temporary suspension.
- B. An administrative fee shall be adopted by the Governing Body and be on record in the office of the City Clerk. The administrative fee shall be paid to the City Clerk and is required for each appeal to the Animal Control Committee, and no appeal shall be placed on the agenda of any meeting of the animal control committee until such fee has been paid. (Ord. 1562 (part), 1985; Ord. 1775 ss 2, 1991)

2-126 Appointment of Animal Control Committee.

- A. An Animal Control Committee consisting of six members appointed by the Mayor, by and with the consent of the City Council, is established. The Mayor shall designate one member of the Council to serve as a reporting member back to the Council for a period of one year. The functions of said committee shall include but not be limited to matters of

animal welfare and control and to consider and make decisions as to whether appeals under section 2-125 should be granted or denied. The Animal Control Committee shall have the authority to grant or deny said appeals.

- B. At least two members of the Animal Control Committee shall be residents of the City. Consideration should be given to one member of the committee being a veterinarian. All appointed members shall serve for a period of two years and shall serve without compensation. (Ord. 1562 (part), 1985; Ord. 1783 ss 2, 1991)

2-127

Enumeration of Animals.

The City Council may require the annual enumeration of all dogs and cats owned within the City. The enumeration shall account for the number and ownership of all dogs and cats. For purposes of determining whether or not a person is owning, keeping or harboring any animal referred to in this chapter, it shall be conclusively presumed that any person keeping any animal in the City for three consecutive days shall be conclusively presumed to be the owner of such animal. (Ord. 1562 (part), 1985)

2-128

Limitations on Number of Animals. (old def. - Nuisance Declared)

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this chapter. (Ord. 1562 (part), 1985; Ord. 1689 ss 2, 1989)

2-129

Dog and Cat Control.

- A. All cats must be under the control of their owners or keeper. Cats, which cause injury to persons or damage to property, shall be presumed not to be under the control of their owner or keeper.
- B. It is unlawful for the owner, keeper or harbinger of any dog to permit such dog to run at large within the City. Any dog is running at large when found upon property other than that of the owner, keeper or harbinger thereof. It is lawful for any Law Enforcement Officer or other person designated by the Governing Body to pursue and capture same; provided, further, however, that no such dog shall be held to be running at large when said dog is merely passing along or through such property while on a leash, in a cage or other conveyance. (Ord. 1562 (part), 1985)

Seizure.

- A. Any Animal Control Officer, Law Enforcement Officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-129 and any cat which is not under control as defined in section 2-129 and place them in a shelter house designated by the Governing Body for that purpose. If the owner or harbinger of any such dog or cat does not redeem the same within ten days after such impounding by the payment to the City Clerk then such dog or cat shall be disposed of in some humane manner as provided in section 2-133. If such animal is to be redeemed, the owner or harbinger must make payment to the City Clerk a fee adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of redemptions within a twenty-four month period. To redeem such an animal, receipt for such payment must be presented to the shelter house and the owner or harbinger must pay additional board bills incurred by the shelter house owners. In addition to or in lieu of seizing the dog or cat, an animal control or Law Enforcement Officer of the City may charge said owner or harbinger for being in violation of section 2-129.
- B. An Animal Control Officer or Law Enforcement Officer shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping or harboring any such animal has failed to comply with the notice sent pursuant to section 2-131. Upon seizure and impoundment, said animal shall be delivered to a place of confinement, which may be with any organization, which is authorized by law to accept, own, keep or harbor such animals.
- C. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a dangerous animal by the Animal Control Officer or any Law Enforcement Officer, they may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- D. Any reasonable costs incurred by an Animal Control Officer or Law Enforcement Officer in seizing, impounding, confining or disposing of any dangerous or wild animal, pursuant to the provisions of this section, shall be charged against the owner, keeper or harbinger of such animal and shall be collected by the City Clerk.
- E. Whenever an Animal Control Officer or Law Enforcement Officer seizes and impounds any such animal under the provisions of this section, the officer shall attempt to notify the owner of such animal of the seizure, however, such notice attempt shall be required only if the animal is wearing a valid and updated registration tag or, in the case of a dangerous animal, the animal is seized on the owner's property. Such notice should be in writing and should be delivered to the owner's residence within three days of seizure of the animal. The notice shall state the reasons for seizure and impoundment. Notice attempt may also include the leaving of voice message(s) on the listed phone of the animal's owner, keeper or harbinger.

- F. After receipt of such notice as described in subsection E of this section, the owner of any animal, which has been seized and impounded, is entitled to request a hearing before the Animal Control Committee by filing written request for hearing with the City Clerk. The purpose of this hearing shall be to determine whether probable cause existed to seize and impound the animal. Request for this hearing must be made within five days of receipt of the notice of seizure and impoundment, or the hearing shall be waived. If a hearing is requested, it shall be held within ten days from the filing of the request. If, at such hearing, the Animal Control Committee finds that no probable cause existed for such seizure and impoundment, the animal shall be released, no fees or costs for care of the animal shall be assessed against its owner, and the City shall pay the costs accrued in boarding the animal.
- G. The owner, keeper or harbinger of any animal who has been found to have violated this section or section 2-129 of this chapter, which animal is not properly licensed by the City, may be assessed an additional penalty the amount of which shall be determined by resolution by the Governing Body on file with the City Clerk. (Ord. 1562 (part), 1985; Ord. 1776 ss 2, 1991; Ord. 1779 ss 2, 1991; Ord. 1860 ss 1, 1994)

2-131

Notice of Keeping Dangerous Animals.

Upon the written or *verbal* complaint of any person that a person owns or is keeping or harboring a dangerous animal in violation of this chapter in the City, an Animal Control Officer or Law Enforcement Officer shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such "dangerous animal" in the City as finally determined by the Animal Control Officer or the Chief of Police without a proper permit, the officer shall forthwith notify such owner, keeper or harbinger in writing requiring such person to safely remove said animal from the City within three days of the date of the notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or who has escaped and is at large, in which case the Animal Control Officer or Law Enforcement Officer shall cause said animal to be immediately seized and impounded, or *as soon as practicable* and according to the provisions of section 2-130, or destroyed if seizure or impoundment are not possible without risk of serious physical harm or death to any person. *The Animal Control Officer may exercise discretion by allowing such person up to ten days to safely remove said animal, provided no urgency is apparent.* (Ord. 1562 (part), 1985)

- 2-132 Destruction or Removal from City of Certain Animals.**
- A. When City records indicate that a particular dog or cat has committed two or more vicious bites, as defined in section 2-101, the dog or cat shall be deemed a threat to public safety, except that it shall be a defense to such a finding that the person or domestic animal so bitten was on the property of the person who owns or harbors said dog or cat at the time of the bite or attack and did not have consent to be on the owner's property. Any Animal Control Officer or Law Enforcement Officer shall upon notification of a dog's or cat's second vicious bite, cause the animal to be seized. After a test for rabies has been conducted, and if no post-seizure hearing has been requested, the animal shall be destroyed or permanently removed from the City. The decision of whether to destroy said animal or remove it from the City shall be in the sole discretion of the Animal Control Officer or the Chief of Police.
- B. Law Enforcement Officers or Animal Control Officers of the City or anyone having the authority of an Animal Control Officer, as designated by the Mayor or Chief of Police, may kill any animal without notice to the owner thereof whether it bears the tag provided for in this chapter or not if such animal is deemed by said officer to pose a risk of serious physical harm or death to persons or is injured severely with no apparent chance of survival, or is in such pain as to warrant humane destruction. When it is known that such animal has bitten or scratched a person or domestic animal, then the remains of that animal so destroyed shall be preserved by officers, to permit a test to be conducted for rabies. (Ord. 1562 (part), 1985)

2-133 Procedure for Failure to Redeem.

Any animal captured or apprehended under the terms and conditions of this chapter and for which no appeal under section 2-125 is pending shall be held for a period of ten days and disposed of in a humane manner as shall from time to time be determined by the Governing Body of the City. (Ord. 1562 (part), 1985)

2-134 Presentation of Animal.

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

2-135 Duty to Report Animal Bites and Scratches.

When any animal, while within the City limits of Prairie Village, has bitten or attacked any person or domestic animal and has caused a break to the skin, or when an animal is suspected of having rabies; it shall be the duty

of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the Animal Control Officer.

2-136

Animal Bite Procedure.

- A. Except as provided in subsection E of this section an animal which bites or otherwise so injures a person as to cause an abrasion of the skin shall immediately, or as soon as practicable, be quarantined at the owner's expense with a licensed veterinarian of the owner's choice or with the City's impounding agent for a period of not less than ten days nor more than twelve days.
- B. If the owner, keeper or harbinger of the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City authorized impounding agent, at the owner's expense, for a period of not less than ten days nor more than twelve days. If the address of the owner of the animal can be determined, the Police Department shall make a reasonable effort to notify the owner that said animal is impounded under the provisions of this section and the owner has the right to redeem the animal at the expiration of confinement upon the payment of pound fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
- C. In the event the original place of impoundment is not the choice of the owner, the owner may cause the animal's place of impoundment to be changed to a licensed veterinarian of the owner's choice; provided all other provisions of this chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten days nor more than twelve days. Credit for any period the animal remains at large after the bite shall not be given.
- D. The veterinarian or City-authorized impounding agent with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten days no more than twelve days. At the expiration of the aforesaid confinement period, the veterinarian or City-impounding agency shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.
- E. In the event the investigating officer determines that the animal had an effective rabies inoculation and was duly licensed under this chapter at the time of the injury, then the animal need not be impounded in accordance with subsection A of this section but the following alternative procedure shall be followed:
 - 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection A of this section notwithstanding any other provision of this chapter.

2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of its owner or keeper; provided no animal shall be allowed to remain on the property of its owner or keeper under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection A of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. If the owner or keeper is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection A of this section. (Ord 1562, (part), 1985)

2-137

Disease Control.

- A. When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the owner of such animal to keep such animal confined to the premises of such owner or keeper and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property of their owner, keeper or harbinger if the only restraining device is an invisible electric fence.
- B. It shall be the duty of all Animal Control Officers or Law Enforcement Officers, or those having the authority of Law Enforcement Officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize school guards and other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the owner to the end that warrants of arrest can be issued against violating owners. (Ord. 1562 (part), 1985).

2-138

Removal of Animal Feces.

- A. Any person in charge of an animal, when such animal is off the owner, keeper or harbinger's property, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- B. It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property. (Ord. 1921 ss 1, 1997)

2-139

Fees to General Fund.

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this chapter shall be paid over to the City Treasurer and credited to the general operating fund. (Ord. 1562 (part), 1985).

2-140

Enforcement.

It is the duty of the Animal Control Officer or anyone having the authority of an Animal Control Officer, including but not limited to Law Enforcement Officers, to enforce the terms and provisions of this chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an Animal Control Officer whose duties it shall be to assist in the enforcement of this chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an Animal Control Officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any owner of an animal for the violation of any of the provisions of this chapter. (Ord. 1562 (part), 1985).

2-141

Violation – Penalty.

- A. Any person who fails to do anything required by this chapter or who does anything prohibited by this chapter is guilty of a violation thereof. Any person convicted of the violation of any provision of this chapter where a specific penalty is not otherwise prescribed shall be fined not more than five hundred dollars, or imprisoned for more than thirty days, or be both so fined and imprisoned.
- B. Each day any violation of this chapter to which this penalty applies continues constitutes a separate offense. (Ord. 1562 (part), 1985).

2-142

Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. (Ord. 1562 (part), 1985.)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER XI OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, 2003, ENTITLED "PUBLIC OFFENSES" BY INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2005, WITH CERTAIN DELETIONS AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; AND REPEALING CHAPTER XI, ARTICLE 1 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, AND AMENDING CHAPTER XI, ARTICLE 3; AND

AMENDING CHAPTER XIV OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, 2003, ENTITLED "TRAFFIC" BY REPEALING CHAPTER XIV, ARTICLE 1 ENTITLED "STANDARD TRAFFIC ORDINANCE" AND INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES", EDITION OF 2005, WITH CERTAIN DELETIONS AND ADDITIONS; AND PRESCRIBING ADDITIONAL REGULATIONS.

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

A. CHAPTER XI, ARTICLE 1

SECTION ONE

11-101. is hereby adopted to read as follows:

11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.
There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Prairie Village, Kansas, that certain code known as the "Uniform Public Offense Code," edition of 2005, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, with certain sections deleted and with additional and supplemental sections, such incorporations being authorized by K.S.A. §§12-3301 and 12-3302 and K.S.A. §§12-3009 through 12-3012. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped, "Official Copy as Adopted by Ordinance No. _____" with such additional sections clearly marked and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO

Article 5 of the Uniform Public Offense Code is hereby amended by deleting existing Section 5.6 and inserting in place thereof the following:

Section 5.6 Purchase or Possession of Cigarettes or Tobacco Products by a Minor.

It shall be unlawful for any person:

- (a) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products; or
- (b) Who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products. (K.S.A. 79-3321:3322, as amended)

Violation of this section shall be an ordinance cigarette or tobacco infraction for which the fine shall be a minimum of \$25 and a maximum of \$100. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

SECTION THREE

Article 5 of the Uniform Public Offense Code is hereby amended by deleting the existing Section 5.8 and inserting in place thereof the following:

Section 5.8 Unlawful Possession, Consumption, and Acquisition of Alcohol or Cereal Malt Beverages by a Minor.

- (a) No person under 21 years of age shall possess or consume alcoholic liquor or cereal malt beverages except as authorized by law.

Violation of this subsection is a violation punishable:

- (1) By a fine of not less than \$200.00 or by 40 hours of community service or by both, if committed on premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated; or
 - (2) By a fine of not less than \$200.00 or by 10 hours of community service, or by both, if committed on any other premises.
- (b) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor or cereal malt beverages from any person except as authorized by law.

Violation of this subsection is a violation punishable by a fine of not less than \$100.00 and not more than \$250.00 or by 40 hours of community service, or by both.

SECTION FOUR

Article 6 of the Uniform Public Offense Code is hereby supplemented to add the following provisions:

Section 6.24 Unlawful Posting of Pictures and Advertisements.

- (a) Unlawful posting of pictures and advertisements is:
 - (1) The putting up, affixing or fastening of either or both to a traffic control device or traffic control standard or telegraph, telephone, electric light, power or other utility pole, but it is not unlawful to affix official traffic control devices to such poles; or
 - (2) The placement of either or both on public property other than as prescribed in subdivision 3 of this subsection;

(3) The placement of either or both on right-of-way without the consent of the landowner or the person in possession whose land lies along the right-of-way where such picture or advertisement is placed; or

(4) The placement of either on private property without the consent of the landowner or the person in possession of such property.

(b) It is unlawful for any person within the city limits to tack, paste, paint, hang or place in any manner whatsoever, or cause to be tacked, posted, hung, or placed in any manner whatsoever, any handbills, dodgers, signs, or advertisements, written or unwritten, or printed matter, to or upon any telephone or telephone pole, sidewalk, or building in the city, or to throw, scatter or cause to be thrown or scattered, any handbills, dodgers or other advertisements or propaganda, or of written or printed matter or paper of any kind upon any street, alley, sidewalk, vacant lot, city property, or yard within the city limits.

Unlawful posting of pictures and advertisements is a Class C violation.

Section 6.25 Opening, Damaging or Removing Coin-Operated Machines.

Opening, damaging or removing coin-operated machines is willfully and knowingly opening, removing or damaging any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.

Violation of this section is a Class A violation.

Section 6.26 Possession of Tools for Opening, Damaging or Removing Coin-Operated Machines.

Possession of tools for opening, damaging or removing coin-operated machines is the possession of any key, tool, instrument or other device, or any drawing, print or mold of a key or other device or any explosive specifically designed for or suitable for the use in opening or breaking into any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services with intent to commit theft.

Violation of this section is a Class B violation.

SECTION FIVE

Article 9 of the Uniform Public Offense Code is hereby supplemented to add the following provisions:

Section 9.14 Loitering.

(a) Loitering is loafing, wandering, standing or remaining idle, either alone or in concert with others, in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk or public building or any other place of public access by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

(2) Committing in or upon any public street, public highway, public sidewalk or public building or any other place of public access any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or public building or any other place of public access, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto.

(b) When any person causes or commits any of the conditions enumerated in this section, a law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such order is guilty of a violation of this section.

Violation of this section is a Class C violation.

Section 9.15 Unsolicited Publications -- Penalty.

(a) No person shall either directly or indirectly place or deposit or cause to be placed or deposited, upon any building or structures used for human abode, including the lot or lots upon which the structure is located or upon any right-of-way or city property within the city, any newspaper, magazine, publication or any other printed material if the owner or occupant of the structure has previously requested in writing that the publisher or deliverer of the material not place or deposit the material on the structure or lot.

(b) Exceptions. The provisions of this section shall not apply to distributions made through the U.S. Postal Service or any other private postal service.

(c) Penalties. Any person who violates the provisions of this section shall, upon conviction thereof, be punished for each such violation by a fine not exceeding \$100 for each such violation.

Section 9.16 Residential Picketing.

It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the city or before or about any church in the city.

Every person convicted of violating this section shall be imprisoned for not more than one year or fined not more than \$2,500 or by both such fine and imprisonment, provided that any person convicted of a second or subsequent conviction shall be required to be confined to not less than five consecutive days in the county jail in addition to any penalty assessed, which period of imprisonment shall not be suspended nor the defendant placed on probation until the five consecutive days are served.

SECTION SIX

Article 10 of the Uniform Public Offense Code is hereby amended by deleting existing Section 10.1 and inserting in place thereof the following:

Section 10.1 Criminal Use of Weapons.

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(2) Carrying concealed on one's person or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung shot, dangerous knife, straight-edged razor stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(3) Carrying on one's person or in any vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) Carrying any pistol, revolver or other firearm with similar characteristics, concealed or exposed on or about the person, or in or on any part or area of any air, land or water vehicle unless such pistol, revolver or other firearm shall be unloaded and encased in a container which completely encloses the pistol, revolver or other firearm, except when on the person's land or in the person's abode or fixed place of business;

(5) Setting a spring gun;

(6) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

(b) Subsections (a)(1), (2), (3) and (4) shall not apply to or affect any of the following:

- (1) Law enforcement officers or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
- (3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
- (4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b)(1) through (b)(3) of this section to possess such weapons.

(c) Subsection (a)(4) does not apply to or affect the following:

- (1) Watchmen, while actually engaged in the performance of the duties of their employment;
- (2) Licensed hunters or fishermen, while engaged in hunting or fishing;
- (3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
- (4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or
- (5) The state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(d) Subsections (a)(1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person transfer such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class B violation.

SECTION SEVEN

Article 10 of the Uniform Public Offense Code is hereby supplemented to add the following provisions:

Section 10.23 Intoxicating Liquor and Cereal Malt Beverage -- Consumption and Possession of Open Containers Prohibited at Certain Places.

It is unlawful for any person to drink, consume, or possess an open container of alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highways, or upon property owned by the City.

(a) The provisions of this section shall not apply to the consumption or possession of alcoholic liquor or cereal malt beverage upon property owned by the city and operated as the Prairie Village Community Center; provided further, that no person shall possess or consume any alcoholic liquor or cereal malt beverage at the Prairie Village Community Center unless:

- (1) That person is in attendance at an event or a function for which permit authorizing the serving and consumption of liquor and beer has been previously issued by the city, and
 - (2) The liquor or beer being consumed has been provided by the individual, person, or organization to which the permit has been issued.
- Violation of this section is a Class C violation.

Section 10.24 Drunkenness.

It is unlawful for any person to be drunk on any highway, street or in any public place or building in the city.

Violation of this section is a Class B violation.

Section 10.25 Impersonating an Officer.

It is unlawful for any person to exercise or to assume to exercise any of the powers conferred upon any police officer, or to represent himself or herself to be any such officer, or to possess the power and authority thereof, unless such person is a duly authorized officer of the law.

Violation of this section is a Class B violation.

Section 10.26 Vehicles in City Parks.

It is unlawful to run, stand or park any motor vehicle or motorized bicycle through or across or over any part of any city park, other than roadways or parking areas so designated.

Violation of this section is a Class C violation.

Section 10.27 Smoking on Common Carrier Buses -- Penalty.

- (a) No person shall smoke or carry in his or her hand a lighted cigar, cigarette or pipe, while in or upon any motorbus operated in common carrier passenger service upon the streets or public ways of the city.
- (b) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$5 nor more than \$100.

Section 10.28 Public Urination or Defecation.

No person shall urinate or defecate in any place open to the public or while exposed to public view, except while using appropriate fixtures in a restroom or other facility designed for the sanitary disposal of human waste.

Violation of this section is a Class C violation.

Section 10.29 Public Nudity.

No person shall knowingly or intentionally appear in a state of nudity in a public place. Nudity is defined as the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual arousal.

Violation of this section is a Class A violation.

SECTION EIGHT

Article 11 of the Uniform Public Offense Code is hereby supplemented to add the following provision:

Section 11.13 Window Peeping.

Window peeping is the going upon property owned or occupied by another without such person's consent for the purpose of looking into any window, door, skylight or other opening into a house, room or building.

Violation of this section is a Class A violation.

SECTION NINE Repeal

Existing Article 1 of Chapter XI of the Prairie Village Municipal Code is hereby repealed.

B. CHAPTER XI, ARTICLE 3

SECTION TEN

Existing Chapter XI, Article 3 of the Prairie Village Municipal Code, entitled, "Drugs" is hereby amended as follows: (emphasis supplied)

11-302. REGULATIONS.

(a) It is unlawful for any person to deliver, possess, manufacture, have under his or her control, sell or offer for sale any drugs or **controlled substances** unless:

(1) **If a drug**, such drug is delivered by a pharmacist or his or her authorized agent, in good faith upon prescription and there is affixed to the immediate container in which such drug is delivered a label bearing:

(A) The name and address of the owner of the establishment from which such drug was delivered,

(B) The date on which the prescription for such drug was filled,

(C) The number of such prescription as filed in the prescription files of the pharmacist who filed such prescription;

(D) The name of the practitioner who prescribed such drug;

(E) The name and address of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal; and

(F) The direction for use of the drug and cautionary statements, if any, as contained in the prescription.

(2) In the event that such delivery is pursuant to telephonic order, such prescription shall be promptly reduced to writing and filed by the pharmacist; or

(3) Such drug is delivered by a practitioner in good faith and in the course of his or her professional practice only.

(b) It is unlawful for any person to refill any prescription for a drug unless such refilling is specifically authorized by the prescriber.

(c) It is unlawful for any person to possess a drug unless such person obtained such drug on the prescription of a practitioner or in accordance with subdivision (3) of subsection (a) of this section or from a person licensed by the laws of any other state or the District of Columbia to prescribe or dispense drugs.

(d) It is unlawful for any person to obtain or attempt to obtain a drug by fraud, deceit, misrepresentation or subterfuge; or by the forgery or alteration of a prescription; or by the use of a false name or the giving of a false address.

(e) It is unlawful for any person to sell, offer for sale or have in his or her possession with the intent to sell any **controlled substance** described in section 11-301.

(f) It shall be unlawful for any person to sell, offer to sell, dispense, give away or display any instrument or simulated controlled substance or simulated drug in or upon any premises which: (1) are premises open to minors, unless the instruments, simulated controlled substances or simulated drugs are kept in such part of the premises that is not open to view by minors or to which minors

do not have access; or (2) are in close proximity to a school. Provided, however, that display of any such items at a place of display for education or scientific purpose shall not be unlawful.

C. CHAPTER XIV, ARTICLE 1

SECTION ELEVEN

14-101. is hereby adopted to read as follows:

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE

A. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Prairie Village, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2005, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3301 and 12-3302 and K.S.A. 12-3309 through 12-3012. Not less than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Prairie Village, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, municipal judges and all administrative departments of the city charged with the enforcement of the ordinances shall be supplied, at the cost of the city, such number of official copies of such "Standard Traffic Ordinance" similarly marked, deleted and changed as may be deemed expedient.

SECTION TWELVE

Article 13, Section 87 of the Standard Traffic Ordinance is hereby amended as follows:

Article 13, Section 87, subsection (e)(2): Violation of subsection (e)(1) is punishable by a mandatory fine of \$100.

SECTION THIRTEEN

14-102 is hereby adopted as follows:

14-102. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. Supp. 8-2118.

(b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.

SECTION FOURTEEN

14-103 is hereby adopted as follows:

14-103. PENALTY FOR SCHEDULED FINES.

The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judges establish a fine in a fine schedule shall not be more than \$500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500.

SECTION FIFTEEN

Article Four, Section 13.1 of the Standard Traffic Ordinance is hereby amended as follows:

Article Four, Section 13.1, subsection (c) "The provisions of this section shall not apply to the operator, passenger, or owner of any of the following authorized emergency or public works vehicles, in the course of such person's emergency or public safety duties:

- (1) Publicly owned fire department vehicles
- (2) Publicly owned police vehicles
- (3) Motor vehicles operated by ambulance services permitted by the emergency medical services board; or
- (4) Publicly owned public works vehicles during snow removal operations.

SECTION SIXTEEN

Existing Article 1 of Chapter XIV of the Prairie Village Municipal Code is hereby repealed.

SECTION SEVENTEEN

Effective Date

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2005.

RONALD SHAFFER, MAYOR

ATTEST:

JOYCE HAGEN MUNDY, CITY CLERK

APPROVED AS TO FORM:



CHAUNCEY M. DEPEW, ASSISTANT CITY ATTORNEY

FACILITY USAGE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of _____, 2005, by and between the City of Prairie Village, Kansas, hereinafter referred to as the "City", and the Board of County Commissioners of Johnson County, Kansas, by and through the Office of County Manager of Johnson County, Kansas, hereinafter referred to as the "County".

WITNESSETH:

WHEREAS, the County has established and conducts a Nutrition Program for the senior citizen population in Johnson County, Kansas; and

WHEREAS, the County desires to use the City owned and operated Prairie Village Community Center located at 7720 Mission Road, Prairie Village, Johnson County, Kansas (hereinafter the "Facility") as a nutrition center for the purpose of administering a nutrition program to the senior citizen population; and

WHEREAS, the City has determined that the aforesaid nutrition program provides a valuable service to the community and wishes to aid the County by supplying the Facility in which meals and entertainment can be provided to senior citizens; and

WHEREAS, the City has determined that the aforesaid Nutrition Program provides a valuable service to the community and wishes to aid the County by supplying the Facility in which meals can be provided to senior citizens.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and covenants hereinafter given, and for other good and valuable consideration, the parties hereto agree as follows:

1. The County shall have the use of the Facility, as outlined in this Agreement, for the period beginning October 1, 2005, and ending September 30, 2006, unless otherwise terminated pursuant to Paragraph 16 hereinbelow.

2. There shall be no separate legal entity created under this Agreement.

3. The purpose of this Agreement is to facilitate cooperation in the establishment and administration of a nutrition program for the elderly and to define responsibilities for the administration, finances, building maintenance, and other matters pertaining to the program.

4. The City shall provide for certain space of the Facility for use by the County in administering the nutrition program for the period stated in Paragraph 1, subject to the terms and conditions of this Agreement. To this end, the County shall have use of the space of the Facility designated as the Prairie Village Community Center, (hereinafter the "Premises"). Such use of the designated space shall include: dining area, kitchen and storage closet together with the right of access to and joint use of all common areas, entryways, parking and driving areas.

The kitchen space shall be available to the County between the hours of 8:30 a.m. and 1:30 p.m., and the nutrition center shall be available to the County between the hours of 9:30 a.m. and 1:30 p.m., Monday through Friday, excluding the following observed holidays, to-wit: Veteran's Day; Thanksgiving Day and the day following Thanksgiving; Christmas Day (observed); New Year's Day (observed); Martin Luther King, Jr. Day; Memorial Day (observed); Independence Day (observed); and, Labor Day (observed).

Further, it is understood by the parties that for one (1) mutually designated and agreed upon day per year, the City shall be entitled to and have sole use of the Facility.

5. During the period of October 1, 2005 through September 30, 2006, the County shall pay the City the amount of One Hundred Thirty-Two Dollars and Fifty Cents (\$132.50) per month for the use and maintenance of the designated space at the Facility. Payment will begin October 1, 2005 and shall continue thereafter in like successive quarterly installments. The City will provide an invoice, by mail, in order to process this payment.

6. Appropriate County and City staff shall meet on a regular basis to discuss questions of daily maintenance and any property damage which may occur; to inform each other as to planned programs and to coordinate the scheduling of those programs so that duplication of space usage will not occur.

7. The City agrees to provide the Premises with heat, air conditioning, light, electricity, water and janitorial service,

including disposal of trash, waxing floors, cleaning of the Premises, snow and ice removal and keeping the sidewalks and parking areas around the Facility clear for use.

8. All rules for use of the Facility established by the City will be enforced in relation to the County's nutrition program. The City shall provide the County with a copy of such rules upon the execution of this Agreement.

9. The Facility shall remain the property of the City. The County may not install any fixtures or make any physical changes to the premises of the Facility without the express written consent of the City. Any equipment used at the Facility will either be owned by the City or County. No equipment is to be jointly owned. Upon termination of this Agreement, any and all property shall be returned to the respective owner. All equipment and/or furnishings shall display owner designation as referenced in the attached Appendix. The maintenance, repair, replacement, and general upkeep of the equipment shall be the responsibility of the Owner except as may be otherwise provided in this Agreement.

10. The City shall have the right to inspect the Premises of the Facility occupied by the County at all reasonable times.

11. This Agreement shall not be assigned, transferred, or sold, nor the Premises of the Facility herein leased or sublet to any other party, agency or corporation, in whole or part, without the express written consent of the City.

12. The County agrees to indemnify the City and hold it harmless from and against all costs, expenses, claims, and liabilities arising from any accident, injury, or damage to person or property in or about the Facility where such accident, injury or damage results solely from any negligent or intentional act on the part of the County, its officers, employees or agents.

13. The City shall not be liable or obligated to the County for damage incurred to the County upon the Premises of Facility by fire, theft, casualty, civil disaster, and such other occurrences and events beyond the control of the City. The City shall provide, either by appropriate reserve funding or by conventional or pooled insurance, adequate fire and extended coverage insurance for the entire Facility and installed fixtures, but shall not be required to maintain coverage for the contents belonging to the County.

14. It is the intent of the parties hereto in the preparation and execution of this Agreement to avoid a conflict with the applicable laws or regulations of the State of Kansas; and if any provision herein is found to be in conflict with any state law or regulation, it is the intent of the parties hereto that such provision shall have no force and effect and the remainder of the Agreement shall be valid as though such conflicting provision had not been written or made a part thereof.

15. It is understood and agreed that the written terms and provision of this Agreement shall supersede all prior verbal statements of any and every official and/or other representative of

the City and County; and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any way whatsoever, this written Agreement. This Agreement shall not be altered, amended, changed, or otherwise modified except in writing signed by all parties to this Agreement.

16. Either party may terminate this Agreement by giving to the other party written notice of such termination thirty (30) days prior to the date upon which said party desires to terminate this Agreement. Further, provided that if the City or County shall fail or refuse to comply with any of the obligations or provisions herein agreed, the affected party shall have the right to notify the other party in writing of such default; and if the party so notified shall remain in default for thirty (30) days thereafter, the affected party may elect to cancel this Agreement immediately thereafter.

17. Notwithstanding anything to the contrary contained herein, it is understood and agreed by the parties hereto that the County is obligated only to pay periodic payments or monthly installments under this Agreement as may lawfully be made from funds budgeted and appropriated for such purpose during the County's then current budget year or from funds made available from any lawfully operated revenue producing source. Should the County be unable to budget, appropriate or otherwise make available funds for purposes of this Agreement in any then applicable budget year, this Agreement shall be deemed terminated on the last day for which

appropriations were received without penalty or expense to the County of any kind whatsoever.

18. The City shall cause four copies of this Agreement to be executed with each party hereto receiving a duly executed copy of this Agreement for its official records.

IN WITNESS WHEREOF, the parties hereto have executed the above and foregoing Agreement on the day and year first above written.

CITY OF PRAIRIE VILLAGE, KANSAS

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO FORM:

Charles Wetzler, City Attorney

BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS

Michael B. Press
County Manager

APPROVED AS TO FORM:

Nicholas Saldan
Deputy County Counselor

APPENDIX

This appendix lists the equipment referenced on page 4, paragraph 9, of the Facility Usage Agreement between the City of Prairie Village and Johnson County, Kansas, for the use of the Prairie Village Community Center:

The following equipment is solely the property of the City of Prairie Village:

Description:

Garbage Disposal - in-sink Erator (Pro-Series)
Refrigerator/Freezer
 Whirlpool-ET20DKXS
Tile Wall Mural
Television/VCR Unit - installed on ceiling
 RCAVG4240 (donated to the City)
Piano (donated to City by Unitarian-Universalist Fellowship)
Dover Grey Folding Tables
 5-30 x 96
Blue Padded Chairs - 45

Policy/Services Committee
September 6, 2005
-Minutes-

The Policy/Services Committee met on Tuesday, September 5, 2005 at 6:00 p.m. in the Council Chamber. Present: Steve Noll, Al Herrera, Jeff Anthony and David Belz. Staff present: Bob Pryzby, Jamie Shell and Joyce Hagen Mundy.

POL2005-20 Consider Traffic Engineer Consultant

Bob Pryzby stated during the interviews for the traffic engineer consultant, the committee selected TranSystems as being qualified for the position. The next step in the two-step process was to request costs from TranSystems. Mr. Pryzby received and reviewed the hourly fee schedule submitted by TranSystems with their proposal for the position of Traffic Engineer Consultant. He presented the following comparison of their fees with other consultant fees for 2005:

<u>Position</u>	<u>TranSystems</u>	<u>A</u>	<u>B</u>	<u>C</u>
Principal	\$216.00	\$160.00	\$170.00	\$160.00
Design Eng II	\$93.00	\$80.00		
Technician I	\$54.00	\$60.00		
Admin Support	\$57.00		\$60.00	\$50.00
Assoc Eng	\$114.00		\$90.00	\$140.00
Project Rep	\$76.00		\$60.00	\$65.00
Survey Chief	\$105.00		\$75.00	\$80.00
CAD Technician	\$78.00		\$70.00	\$70.00
Traffic Eng	\$159.00			\$115.00

He noted the proposed fees are higher than those being paid to existing consultants with the City.

Steve Noll confirmed the traffic engineer was to start immediately because of the pending 5-year traffic study.

Mr. Pryzby noted the only other firm making application for the position was the Affinis Corporation, which the committee did not select. The concern expressed regarding Affinis was that they had only one traffic engineer on staff, whereas, TranSystems as a national company has several traffic engineers on staff. Mr. Pryzby stated the decision before the committee is whether to go forward with TranSystems or to direct staff to get cost figures from Affinis.

David Belz asked for clarification of the process as he was unable to be at the interviews. Mr. Pryzby responded the committee conducted interviews with representatives of Affinis Corporation and TranSystems to determine if they were qualified to serve as the City's traffic engineer. The committee found TranSystems to be qualified and directed staff to secure cost proposals for their work.

Al Herrera asked if Council action would be necessary for the committee to get cost figures from Affinis. Mr. Pryzby responded no agreement has been entered into, the committee is still in the selection process and to get cost figures from Affinis would not need Council action. Mr. Pryzby noted the city's current agreement with Affinis does not include traffic engineering services.

Steve Noll stated he felt both firms were qualified. The committee recognized the depth of TranSystems, whereas concern was expressed with Affinis having only one traffic engineer on staff and more limited resources. He sees the question before the committee as "does the city want to pay a premium for a highly qualified firm with extensive resources?" He feels the City should look at Affinis and get their rates, he questions the scope of city work merits the premium rate.

Jeff Anthony asked Mr. Pryzby if he could provide the number of hours of service that would be required. He responded he could not, but noted with the exception of the preparation of the 2005 Traffic Safety Study and Report, he would estimate between 400 and 500 billable hours. Mr. Pryzby also noted the agreements for projects are written with a "not to exceed" dollar amount specified. The only question he has had with consultants is the level of staff person selected to perform the work, i.e. he questioned the use of a principal vs. a design engineer on certain projects. However, he noted TranSystems rates are higher at all staff levels.

David Belz expressed his concern with the committee finding Affinis unqualified during the interviews and now considering them. Al Herrera responded the committee did not feel Affinis was not qualified, but felt TranSystems was better qualified to provide the traffic engineer services because of the limited staff and resources available with Affinis. He stated he would like to have Affinis submit fee schedules for consideration.

Steve Noll asked the cost of the last traffic study conducted. Mr. Pryzby stated he did not have those figures with him, but he thought it was between \$40,000 and \$45,000. Mr. Noll confirmed general use of the traffic engineer is for traffic analysis for specific projects as needed.

Steve Noll moved the committee direct the Public Works Director to notify TranSystems, Inc. that the city will be requesting rates/fee schedule from Affinis for consideration and offer them the opportunity to resubmit their rates. The motion was seconded by David Belz and passed unanimously.

POL2005-21 Consider 2006 Paving Program – Sidewalks

Bob Pryzby reported that Public Works staff has advised residents living on 81st Street (Lamar Avenue to Dearborn Drive) and on Roe Circle (north of 75th Street) that sidewalks are planned for construction when the street paved next summer. As requested by the Policy Services Committee, letters have been sent and the intended line for the sidewalk has been staked.

He noted in the same program are several streets that were unable to be included in the 2005 Paving Program as planned. The City Council approved not to construct sidewalks on five of these streets. The streets are 67th Terrace (75th Delmar to Mission Road), Eaton Street (71st Terrace to 72nd Terrace), 77th Place CDS off Roe Avenue, 78th Street (Booth Street to Booth Drive) and 78th Street (Booth Drive to Cambridge Street). Because the City Council acted as not to construct sidewalks on these streets last year, No letters were sent or properties staked.

Mr. Pryzby advised the committee the consideration of sidewalks for the 2006 Paving Program will be on the committee's October 3rd agenda and noted that he would not be present at that meeting.

No design work has been done for the sidewalks. The sidewalks have been staked as an indication of the city's intent to construct sidewalks per the city's policy on sidewalks. He stress this is not an opinion poll on if sidewalks should be constructed. Mr. Pryzby noted the streets carried over from the 2005 Paving Program will not be considered for sidewalks as the Council has already taken action on those streets. The committee will determine if sidewalks should be constructed on 81st Street (Lamar to Dearborn) and Roe Circle (north of 75th Street).

Steve Noll asked if the has been any response from residents. Mr. Pryzby responded he did not know. He confirmed these streets are scheduled for construction in 2006.

David Belz questioned the location of the proposed sidewalk on Roe. Mr. Pryzby stated the sidewalk would only be on the north side in accordance with City policy. Mr. Belz confirmed that letters were sent to residents on both sides of the street as well as the surrounding area.

Mr. Pryzby urged the committee to schedule a work session to discuss the issue of sidewalks and curbs. He noted these issues continue to arise and noted he has no preference on what is built, but noted the decision must be a policy decision made by the Council.

POL2005-19 Consider revisions to Personnel Policy #241- "Workers' Compensation" and the repeal of Policy #262 – "Workers' Compensation" and #214-"Disability Leave"

Jamie Shell reported at the February 22nd Insurance Committee meeting, the City's Insurance representative, Bob Frankovic, informed the Committee of proposed legislation (House Bill #2141) which would allow for the possibility of an employee's claim for worker's compensation benefits to be denied if he or she tests positive for drugs or alcohol following an on the job accident.

Since that meeting HB2141 has been signed by the Governor and became effective July 1, 2005. In order for the City to require its' employees to take a drug or alcohol test, the proposed revisions to Personnel Policy #241 must be approved by the City Council.

Mr. Shell noted there are also a number of minor changes to Policy #241 intended to clarify Staff and employee responsibilities related to workers' compensation. One of the major changes is the consolidation of three Personnel Policies which address workers' compensation (#241, #262-"Workers' Compensation" and #214-"Disability Leave).

The approval of this policy would add an additional \$62 charge to conduct a drug and alcohol test of employees who require medical attention for an on the job injury. He also advised, the approval of the policy could cause some workers' compensation claims to be denied.

Mr. Shell stated one other significant change is being proposed in the policy under V.F. The previous policy prohibited vacation and sick leave from being accrued during Worker's Compensation leave. In a recent experience an employee was not released to return to work until Wednesday and therefore, could not accrue sick or vacation leave for the 8 days out of the 10 -day pay cycle he worked. Under the proposed language, "Employee vacation and sick leave will not be earned and accrued in any pay period in which the employee does not work the full-time equivalent of forty (40) or more hours during the same pay period in which Workers' Compensation leave is utilized."

Al Herrera asked how many workers' compensation claims the city experienced annually. Mr. Shell responded an average of 15 claims which them being fairly equally divided between Public Works and Public Safety Staff. He noted there is usually one significant claim per year.

Al Herrera asked if drug screens were given prior to employment with the City. Mr. Shell responded they were for some job classifications.

Bob Pryzby noted the City does have a policy prohibiting the use of alcohol or drugs while on the job. Steve Noll asked if there are set actions the City would take if an employee tested positive. Mr. Shell responded each case would be dealt with individually.

Jeff Anthony agreed with the City dealing with each case individually and working with the employees. It is not a black and white issue. He stated his employer has a similar policy in place and it has proven beneficial for the company.

David Belz asked if the employee would have any recourse, i.e. if a second test could be taken. Mr. Shell felt the individual probably could do so, but was confident the initial test would take precedence.

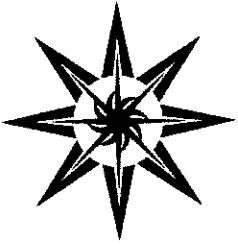
Mr. Belz asked if the City was obligation to follow the statute. Mr. Shell stated the City was not obligation; however, he noted that if the City was to require a drug test, it must be clearly stated in the employee's personnel policies. He also stated that if adopted, the drug test would be administered uniformly for all on-the-job injuries.

David Belz made the following motion, which was seconded by Jeff Anthony and passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT THE PROPOSED
AMENDMENTS TO PERSONNEL POLICY #241 ENTITLED
"WORKERS' COMPENSATION" AND REPEAL PERSONNEL
POLICIES #262 ENTITLED "WORKERS' COMPENSATION"
AND #214 ENTITLED "DISABILITY LEAVE"
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

With no further business to come before the Committee, Co-Chairman Al Herrera adjourned the meeting at 6:45 p.m.

Al Herrera
Co-Chairman



City Council Policy: PP241: WORKERS COMPENSATION

Effective Date:

Amends: PP241: WORKERS COMPENSATION, December 21, 1987; PP262: WORKERS COMPENSATION, December 21, 1987; PP214: DISABILITY LEAVE, November 16, 1994

Approved By:

I. SCOPE

A. This policy applies to all City employees.

II. PURPOSE

- A. To provide disability benefits, including extended time away from work, for **employees** unable to work because of illness or injury which arise out of and in their regular course of employment with the City; and
- B. To provide death and other benefits for dependants of **employees** who die from an illness or injury that arises out of and in their regular course of employment with the City.

III. RESPONSIBILITY

- A. The Human Resources Specialist shall be responsible for creating rules and regulations for the City to ensure compliance with all Kansas statutes and any applicable Federal laws regarding Workers' Compensation; and
- B. The affected employee's **Manager** shall be responsible for completing the necessary documentation once notified of any illness, injury, or death that arises out of and in the **employee's** regular course of employment with the City; and
- C. The affected **employee** is responsible for notify his or her **Manager** of any illness or injury that arises out of and in the **employee's** regular course of employment with the City.

IV. DEFINITIONS

- A. "**Manager**" is defined as one of the following:
1. City Administrator;
 2. Assistant City Administrator;
 3. Chief of Police;
 4. Public Works Director;
 5. Or the designee of the positions listed.
- B. "**Employee**" is defined as anyone classified as such in *Personnel Policy #010 - Definitions of Employment Status*
- C. "**Light duty**" shall be defined as any light work that does not conflict with restrictions set forth by the affected **employee's** authorized treating physician.

V. POLICY

- A. The Worker's Compensation plan offered by the City shall conform to all relevant Kansas statutes and any applicable Federal laws.
- B. Benefits are established by relevant Kansas statutes.
- C. The City will use a Workers' Compensation insurance company to aid in the administration of Workers' Compensation claims.
- D. **Employees** unable to work because of illness or injury that arises out of and in their regular course of employment with the City may use vacation or sick leave to supplement Workers' Compensation benefits, but in no case shall the total Workers' Compensation benefits and leave payments exceed an affected **employee's** normal salary.
- E. Every effort will be made to accommodate **light duty** for affected **employees**. . However, the City may change an **employee's** work assignments, department, and types of work or shifts in order to provide such **light duty** accommodations. **Employees** receiving a light duty assignment will be paid at his or her normal rate of pay by the **employee's** original department. Failure of an **employee** to report for the assignment will result in a loss of wages to the **employee** unless he or she chooses to utilize paid time off for the temporary absence.
- F. **Employee** vacation and sick leave will not be earned and accrued in any pay period in which the employee does not work the full-time equivalent of forty (40) or more hours during the same pay period in which Workers' Compensation leave is utilized.

PP241: WORKERS' COMPENSATION

- G.** Workers' compensation time will be counted towards an affected employee's time off under the Family Medical Leave Act.
- H.** Employees may return to their regular position after providing a written statement from the authorized treating physician, stating that he or she is able to perform the full range of duties required by the applicable job description.
- I.** Pursuant to the K.S.A. 44-501, all affected employees requiring medical treatment will be subject to drug and alcohol screening at the time of treatment.
1. The City shall not be liable under the Workers' Compensation Workers' Compensation Act where the injury, disability or death was caused or contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or other compounds or substances, including, but not limited to, drugs or medications that are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens.
 2. In the case of drugs or medications that are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and that there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous twenty-four (24) months.
 3. It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more, or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

	<i>Confirmatory test cutoff levels (ng/ml)</i>
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine ⁴	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine ³	500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

² Benzoyllecgonine.

³ Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

⁴ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

- J.** If an employee refuses to submit to a chemical test as defined in Section V(l):
1. The employee may be subject to discipline up to and including termination as determined by his or her Manager; and
 2. The employee's claim for Workers' Compensation benefits may be denied as permitted under the Workers' Compensation Act.

ACTION REQUESTED
09/19/2005

From Council Committee of the Whole – Kay Wolf

COU2005-34 Consider Tree Trimming Bid

**RECOMMEND THE CITY COUNCIL AWARD THE BID FOR
TREE TRIMMING AREA 33 TO VANBOOVEN LANDSCAPE AND
TREE CARE IN THE AMOUNT OF \$24,208.00 WITH FUNDING
FROM THE 2005 PUBLIC WORKS OPERATING BUDGET**

MAYOR'S ANNOUNCEMENTS

Monday, September 19, 2005

Committee meetings scheduled for the next two weeks include:

Citizens Advisory Committee	09/20/2005	7:00 p.m.
Smoke Free Task Force	09/20/2005	7:00 p.m.
Prairie Village Arts Council	09/21/2005	7:00 p.m.
Environmental/Recycle Committee	09/28/2005	7:00 p.m.
Policy/Services Committee	10/03/2005	6:00 p.m.
Legislative/Finance Committee	10/03/2005	5:30 p.m.
Council	10/03/2005	7:30 p.m.

The Prairie Village Arts Council is pleased to feature an exhibit of Senior Arts Mixed Media in the R.G. Endres Gallery during the month of September. In October Ted Defeo's Underwater Photography will be featured in the R. G. Endres Gallery.

The City will hold its 21st Annual Peanut Butter Campaign in support of Harvesters Community Food Network the week of October 3rd -7th. Watch for more information and plan to participate. As in the past, area stores, schools and churches will be joining the City for this campaign.

Council members are invited to attend a reception to meet Pamela Ducas, the new President of the Northeast Johnson Chamber of Commerce. The event will be held at the Holiday Inn on Johnson Dr. from 5:30 – 7:30 pm on September 27, 2005

Remember to Vote in the Special County Election on September 27th, 2005.

The 2005 League of Kansas Municipalities 97th Annual Conference will be held October 8-11, 2005 in Wichita, Kansas. The conference theme is "Cities United".

The 50th Anniversary books, **Prairie Village Our Story** are being sold to the public.

INFORMATIONAL ITEMS
September 19, 2005

1. City Administrator Report – September 15, 2005
2. Sister City Committee Minutes – September 12, 2005
3. Park and Recreation Committee Minutes – September 7, 2005
4. Tree Board Minutes – September 7, 2005
5. Supplemental Retirement Plan Advisory Committee Minutes – August 30, 2005
6. Prairie Village Police Pension Plan Board of Trustee Meeting Minutes – August 29, 2005
7. Planning Commission Meeting Minutes – August 2, 2005
8. Mark your Calendar
9. Council Committee Agenda.

CITY ADMINISTRATOR'S REPORT

September 15, 2005

Village Vision

Both meetings this week were well attended by residents and business owners of a variety of ages from across the City. The first meeting focused on the process which included explanation of the Goals established by the Steering Committee and Principles which are statements of intent that describe the direction of future change. Consultants explained why planning is important to Prairie Village at this time in its history and stressed the need to plan ahead for change that is compatible and fiscally sound. At the second meeting consultants and participants focused on specific ideas, designs and locations.

One of the early decisions made by the Steering Committee this week was to recognize that this project in Prairie Village is not development of a Comprehensive Land Use Plan in the traditional sense. The Plan for this City will involve development of recommendations for changes that move in the direction of creating the "village" appearance throughout the City and making certain planned redevelopment that is in keeping with that ambiance and that contributes to the City's long term financial stability. The result of this process will be a Strategic Investment Plan designed to perpetuate the village lifestyle.

The meeting Tuesday night was attended by more than 100 people. Because the focus was on the process and broad goals, participants were involved as a group. Questions and comments from participants ranged from concerns about a specific location/property to questions of a more general nature. Participants were asked to complete three questionnaires. The first provides an indication of the demographics of those who attended as well as general comments about the process and the meeting. The other two asked for responses to Draft Goals and Principles. Seventy-five percent of those present completed the questionnaires. I briefly flipped through some of the comments which were varied. Some examples of responses to why they attended the meeting:

- Interested in long term health of the community
- Interested in what will happen on 75th St. and in Corinth
- To make sure someone under 40 provides input to the plan
- Want to make sure there are plans that enhance commercial business
- I'm curious
- Want to know what consultants did with the results of May meetings
- Want to be involved
- Want to make sure the City is more walkable
- I want to know if you are going to take away my home

A section on two of the forms asked for other comments. These were also interesting and diverse. Examples:

- Bravo!
- Bring in more younger people
- Change is inevitable, we can plan it

Room was too cold, seats were not comfortable
Too many negative people dominated the conversation
Keep up the good work
Need ideas like this for those of us with young families who can cope with change
Need green spaces and walking areas
Create a specific plan ASAP
Whoopee!! Great ideas
(expletives deleted) stop throwing good money after bad
I was surprised at the hostility in the room
Young families like mine need a place that is affordable and has a future
Prairie Village would love to drive residents over 65 out of the City

During the day on Wednesday, the consultants had several people come by with questions and ideas. I was there for less than an hour and saw at least five people come in to review the pictures and other information and talk to the consultants. Even the consultants were surprised by the number of people who came.

On Wednesday the crowd was about the same, 97 people signed in, some did not want to sign the list so there were over 100 there. The focus at this meeting was explanation of designs of various ways improvements to the 75th corridor could be made and areas where redevelopment could occur along with design sketches of ways to increase housing and commercial facilities. This time the presentation lasted about 45 minutes, then participants were invited to look at the examples, make comments directly to the consultants and committee members and complete another questionnaire. This time many of the same people from the night before were there but the atmosphere was much different – the hostility was gone. Some of the comments from Wednesday night's questionnaires:

Very enthusiastic about idea/process/vision
Renditions are great – feeds the acronym IKIWISI –I know it when I see it
Need homes that are affordable to young people and families, community center
Tonight was 100% better than Tues, actual, concrete ideas, clearly presented
Do you have a time line? Particularly 75/Nall and 75/Lamar
Encourage locally owned businesses – you are on the right track
Will look for more information and hope residents will continue to be included
Plans like these will maintain PV character and slow the loss of population
I'm very excited about these ideas. Do it!

Highland Cemetary

At the last Council meeting I was asked about a letter written to the Governing Body by Ms. Pamela Kessler. I talked to Asher Langworthy who is the Sexton of the cemetery. He said the endowment for the cemetery is \$15,000. Five years ago he sent letters to all relatives asking them to donate funds to increase the endowment so repairs could be made. He received a total of \$85 to add to the endowment. Asher said the grass is mowed every two weeks, not just every two months. Relatives are asked to make repairs to the gravestones which is not unusual in private cemeteries with low endowments.

Bad News

Lori Franke resigned effective September 23. She will take a position that has a higher salary, better benefits and future promotional opportunity.

Sister City Committee
September 12, 2005
Minutes

The Sister City Committee meeting was held in the multi-purpose room of the Prairie Village Municipal Offices. The meeting was officially called to order at 7:05 p.m. Members present were Cindy Dwigans- Vice Chairperson, Cleo Simmonds, Chris Haggerty, Ruth Hopkins and Alyce Grover. Staff present was Joshua Farrar.

Approval of the Minutes

The minutes of June 13, 2005, July 11, 2005, and August 8, 2005 could not be approved because a quorum was not present.

The Committee discussed voting requirements and the potential for proxy votes. Josh will check into this item. The Committee also discussed changing the Committee format to reduce requirements for a quorum.

Discuss KC Sister City Organization

Cindy Dwigans reported she attended a meeting of the Kansas City Sister City organization. Their organization is completely funded by the City and considered an economic development tool. They also have separate Committees for each of their sister cities. Jody Edgerton is a staff member for the KC organization and is very knowledgeable. Kansas City is scheduled to host the 2008 Sister City Conference and Committee members discussed contacting Kansas City to ask about participating on the steering committee. Cleo and Cindy will attend the next meeting on Monday, October 3 at 5:30 p.m.

Cindy reported on her trip to Spokane for the national conference. She said she was amazed at success stories and interesting programs from Cities throughout the world. She went there with preconceived notions that mostly large Cities had the greatest success, but found that many small communities also experience success. Two examples were Boyertown, PA who did a teacher exchange and another small town that did an art exchange. Cindy suggested the Committee consider working with Village Church who already does an exchange of doctors and nurses who work in a clinic in the Dominican Republic.

The Committee also discussed contacting Cities with sister cities in Louisiana and Mississippi to see if they need assistance fulfilling their obligations. The Committee felt a form letter to the nine cities in the area that have Sister City relationships inquiring in their need for assistance.

Rockhurst Report

The Committee felt an in depth discussion of the good and bad suggestions offered in the report was necessary. Cleo Simmonds felt the suggestion for a 501 (c) 4 organization instead of a 501© 3 was inappropriate because it limits the most essential function for community/non-profit groups which is fundraising. Alan Beshore will not be attending meetings due to a new work schedule. Committee members suggested Cindy call Alan to

determine his level of commitment and if he is interested in working on the 501©3 portion of the report.

Chris Haggerty felt one of the most important items was the idea of community outreach. He felt the Committee should truly focus on this item to get their name out throughout the community.

Discuss Africa Proposal

With Leigh-Ann out this item was tabled. Committee members also discussed where they should look for potential Cities. It was decided the initial City should be from Europe or Australia in hopes of finding a community economically and demographically similar to Prairie Village.

Movie Night

The Committee felt it should try again with movie night and that Thursdays or Sundays would be best. Josh will check availability for Thursdays and Chris Haggerty will pick the movies. Chris also suggested advertising in the 50+ newspaper in Johnson County. Josh suggested putting up fliers in Brighton Gardens and Claridge Court.

Other Business

Alyce will attempt to send out a notice including each Committee member's user name and password for the Sister Cities International website.

The Committee felt a notice in the Village Voice was necessary to judge interest in joining the Committee. Josh will work on the notice and forward it to Cindy for approval.

Cleo also asked that Josh put a notice in the November and January Village Voice for the Sister Cities Young Artists Competition.

The meeting ended at 8:40 p.m.

Park and Recreation Committee
September 7, 2005
Meeting Minutes

The Park and Recreation Committee met on September 7, 2005 in the Council Chambers of Prairie Village City Hall. Members present were Diana Ewy Sharp, David Belz, Shelly Trewolla, Diane Mares, Kathy Peterson, Clarence Munsch, Tod Hueser, Mary Beth Smith, and Peggy Couch. Staff present was Joshua Farrar and Bob Pryzby.

CALL TO ORDER

Diana Ewy-Sharp called the meeting to order at 7:05 p.m.

PUBLIC PARTICIPATION

Janet Johnson, 4911 W. 100th Terrace, Overland Park addressed the Committee commenting that she represented those in attendance and also a much larger group of swimmers. Mrs. Johnson said she is a pool member and an avid lap swimmer who attends the pool regularly. She feels the PV pool is the best in the metro area and Kim is a wonderful manager. Her one concern is the closing of the pool in August on the last two Tuesday and Thursdays of the season. She understands the closing was due to staffing problems.

Kerry Steffenson, 5919 76th Street, Prairie Village addressed the Committee and made the following points.

- She understands staffing can be difficult but thought upon hiring and again mid-season guards should be asked until when they can work to determine staffing needs.
- Rather than closing the entire complex for the day the City should consider closing only some of the pools and staffing others, particularly the 50 meter pool.
- The City should have given better notice of the closing and should notify patrons that the pool could possibly be closed at the beginning of the season.
- Brett Wise, who was in Josh's position before him, had done a study and determined it would only cost \$12.00/membership to keep the pool open two additional weeks.

Susan Blattner, 8447 Constance Street, Lenexa, addressed the committee as a representative of the Master's Swim Team. She said the Prairie Village pool is amazing and they really appreciate the time they are permitted. She felt the lack of notice was a major problem and that guards schedules could have been arranged.

Diana Ewy Sharp thanked those present and asked Josh Farrar if he had anything to add. Josh asked to clarify a few points to give the group a better understanding of what happened.

Josh said Kim came to him with a complete schedule of guards available for those two weeks. After reviewing the schedule it was clear that a number of guards would be

required to work every day for two weeks to fully staff the pool. Josh felt it would be inappropriate to ask the staff to do this. The decision was made to close the pool for the last two Tuesday's and Thursday's of the season to give the guards some time off. Josh then responded to Mrs. Steffenson's points.

- The City does ask each guard for the day until which they can work, but these employees are "at will" and can leave whenever they want. It is important to remember these are mostly teenagers and their schedules often change over night.
- The problem with opening and closing one pool or the other is that you are always going to disappoint someone.
- A sign was up at the pool the day after Kim notified Josh of the lifeguard shortage. The City also gives notice in the Parks & Recreation brochure that "the pool may be closed or hours shortened due to weather conditions, the availability of lifeguards, scheduled competitive swim and dive meets, maintenance or other City sponsored events."
- Josh will look for the analysis performed by Brett.

Josh also explained staffing was hindered by the cancellation of a Red Cross lifeguarding class which was scheduled for August. Typically the City hires a few guards from this class which helps end of the year staffing. The following is a list of attendees for public participation:

First	Last	Address	City
MJ	Pronko	4121 83rd Street	Prairie Village
Mike	Calwell	5250 94th Terrace	Prairie Village
Bill	Copher	7844 Tomahawk	Prairie Village
Teede	Stipich	7222 Charlotte	Kansas City
Susan	Blattner	8447 Constance Street	Lenexa
Annedore	Vegezzi	2201 73rd Street	Prairie Village
Erma	Wolowski	7934 Juniper Drive	Prairie Village
Edeltraud	Heumann	5308 72nd Street	Prairie Village
Detlet	Heumann	5308 72nd Street	Prairie Village
Shayne	Malone	7801 Mohawk	Prairie Village
Nancy	Norman	3630 75th Street	Prairie Village
Georgia	Pratt	309 Delaware Street	Kansas City
Janet	Johnson	4911 100th Terrace	Overland Park
Chuate	Siegel	8377 Somerset	Prairie Village
Kerry	Steffenson	5919 76th Street	Prairie Village

Diana shared with those in attendance that the committee would discuss their comments during an upcoming meeting and thanked them for making the time to attend and address the members.

Diana Ewy Sharp explained to the Committee she would like them to follow procedures and be respectful. Those wishing to speak should raise a hand, cell phones should be turned off, and side conversations should be limited. Diana also explained the idea of the consent agenda and how it would work. She made a point to tell the Committee simply because an item is on the consent agenda does not mean it can not be discussed.

CONSENT AGENDA

David Belz moved to approve the consent agenda for Wednesday, September 7, 2005.

1. Approve Committee minutes from August 10, 2005

The motion was seconded and approved unanimously.

STAFF REPORT

Recreation Report

Josh Farrar reported he will have his season end report to the Committee in October. The City should be in good condition with coaches for next year.

Public Works Report

Bob Pryzby reported Public Works is catching up on lawn mowing. They put hydro-seed around the skate park and the last shade structure for the park has not been delivered yet. Public Works has started to search for the leak in the pool. Bob also presented a memo from Dr. Michael Beach of the World Water Park Association regarding water born illnesses. The memo suggested some valuable signage which could help change peoples behavior. He suggested putting the signage in the pool front desk area and adding it to the Park & Recreation Brochure. Committee members discussed the recommendation and agreed to post the signage.

NEW BUSINESS

Diana asked the Committee their impressions of the workshop on the 27th. The Committee felt it was very useful and well done.

Diana read the recommended vision statement to the Committee and asked their opinion. The vision statement is "Responsive stewards of innovative and visionary community programs." Committee members liked the final version and agreed it should be the Committee Vision statement from this point forward.

Diana asked the Committee to review the bullet points for the presentation to Barbara and the Mayor. The Committee felt they were appropriate.

The Committee reviewed responsibilities identified for the business plan.

Scope/Umbrella – Kathy Peterson, Mary Beth Smith, Josh Farrar, Bob Pryzby
Fiscal Policy – David Voysey, Josh Farrar, Bob Pryzby
Meet with Mayor and City Administrator – Diana Ewy Sharp and David Belz
Logo – Tod Hueser, Josh Farrar, Bob Pryzby
Inventory of Facilities – Diane Mares, Clarence Munsch, and Bob Pryzby
Programs – Shelly Trewolla, Diane Mares, David Belz, and Joshua Farrar
Village Vision – Shelly Trewolla, Peggy Couch, Josh Farrar, Bob Pryzby
Review Existing Code, Budget, Policies – Mary Beth Smith, David Voysey, Josh Farrar
and Bob Pryzby
Review Revenue Streams – Clarence Munsch, David Voysey, Josh Farrar, Bob Pryzby

The timeline for the project is for Diana and David to speak with the Mayor and Barbara before September 20. Sub-Committee reports should be provided at the October meeting and the plan should be completed by Thanksgiving.

The meeting adjourned at 8:10 p.m.

TREE BOARD
City of Prairie Village, Kansas

MINUTES

Wednesday – September 7, 2005, 6:00PM Meeting
City Hall – Multi-Purpose Room
7700 Mission Road

Board Members: Cliff Wormcke, Shelly Trewolla, Kathy Riordan, Jack Lewis, Jim Hansen,
Gregory VanBooven, John Capito

Committee Members: Luci Mitchell

Other Attendees: Pat Daniels, Bob Pryzby, Marcy Davenport

- 1) **Review and Approve minutes from June 1, 2005 meeting** -- A motion made by Jack Lewis, seconded by John Capito to accept the minutes passed with no dissension.

- 2) **Sub-Committee Report**
 - 2.1) **Arboretum:** -- No report given as Deborah Nixon was absent
 - a) **Completion of Inventory**
 - b) **Tree Adoption Program**

 - 2.2) **Fall Seminar**
 - a) **Program** -- Greg VanBooven asked the Board to consider the number of panelists. The Board agreed to two -- Dennis Patton and Larry Straus. The Board also agreed to provide 10 drawings of trees and shrubs. The Board discussed the possibility of replacing the Fall Seminar, if the attendance is low, with a Spring Seminar in conjunction with Arbor Day.
 - b) **Champion Trees** -- Bob Pryzby reported that 13 entries have been received. However, two of them have been recognized previously as Champion Trees. Public Works is still processing the information and will be mailing invitation to all. The Board requests that notice of the fall seminar be sent to all on the attendees list from previous events.

 - 2.3) **VillageFest**
 - a) **Wrap up of event** -- John Capito and Shelly Trewolla reported that 60 photos were taken at the event and emailed. They reported that the event was very successful.

- 3) **Old Business:**
 - 3.1) **Corinth Shopping Center tree removal** – Kathy Riordan reported that she, as a resident and not as a member of the Tree Board, had sent a letter to Highwoods expressing concern and disappointment about the removal of the trees. She has not received a response. Bob Pryzby stated that he would mention this item at the next meeting with Highwoods officials.

 - 3.2) **Arbor Day honoree selection process** – Kathy Riordan handed out a draft proposal for recognizing contributions of citizens (handout attached).

- 4) **New Business** – Ms. Marcy Davenport, 5105 Tomahawk Road, requested the removal of a sycamore tree in the parkway in front of her house. She stated that she would pay for the tree removal and the planting of a replacement tree. Her request is based on safety

due to falling limbs and the nuisance commonly associated with this species of tree. The Board members stated their position that they would not allow the removal of a tree that is healthy. Greg VanBooven agreed to look at the tree and report back to the Tree Board.

- 5) **The next meeting** – The next meeting will be the Fall Tree Seminar on October 5 at 7PM.

SUPPLEMENTAL RETIREMENT PLAN ADVISORY COMMITTEE

Minutes August 30, 2005

The Supplemental Retirement Plan Advisory Committee met August 30, 2005. Present: Chairman Steve Noll, Barbara Vernon and Jamie Shell. Also present, John Lundy representing M&I Company.

Financial Report

John Lundy reported that the total portfolio of the Supplemental Retirement Plan increased 1.69% during the second quarter. This is lower than the Composite Index benchmark established in the City's investment policy. That index is based 60% on S&P 500 and 40% on LBGCI which is 2.04 for the same period.

Lundy said some of the portfolio's poor performance is caused by a bond which came with the original transfer of the portfolio. He will hold the bond to its maturity in order to collect full value.

The Marshall Intermediate Bond fund performance also contributed to the poor performance of the portfolio. Lundy plans to reduce the City's investment in this fund. The portfolio investment in Vanguard Mid Cap Index is performing above the benchmark; however, the Marshall funds in this category are not meeting the benchmark; they will be replaced. The same is true in the small cap category. Some of the holdings are exceeding the benchmark but the Marshall Small Cap Growth fund is yielding lower than the benchmark. Lundy will reduce the portfolio investment in this fund.

Lundy said oil and energy are currently driving the market; he thinks Katrina will have a short term impact. Domestically, he predicts large cap investments will be strong along with the technology sector.

Lundy said that although the portfolio performance for the third quarter has been weak, he plans to make changes to the portfolio to increase performance to meet the benchmarks by yearend.

There being no further business at hand, the meeting adjourned.

Steve Noll
Chairman

**PRAIRIE VILLAGE POLICE PENSION PLAN
BOARD OF TRUSTEES MEETING**

August 29, 2005

Minutes

The Police Pension Plan Board of Trustees met August 29, 2005. Present: Chairman Steve Noll and Captain Tim Schwartzkopf. Also present: Barbara Vernon and Jamie Shell. K.C. Matthews, representing United Missouri Bank .

Minutes

Minutes of the Trustees' meeting held February 3, 2005 were approved.

Review of Portfolio Performance

Matthews reported that investment allocation in the portfolio is in compliance with the City's investment policy. Year-to-date (12/31/04 – 7/31/05) rate of return for the portfolio is 3.84, the City's Investment Policy benchmark is 2.27.

Matthews said small cap and world wide investments are not performing as well as expected so he will not increase investments in those areas. He predicts earnings will drive the market in the future.

Consider M&I Receipt of Shareholder Services document

M&I has requested approval of the Receipt of Shareholder Services document. This form discloses the revenue that M&I will receive on an ongoing basis from the current mutual funds held in the Police Pension Plan portfolio. Approval of the form acknowledges that Trustees have been informed of the fees to be charged and agree to accept those fees.

Captain Schwartzkopf moved for approval of administrative service fees of 36.25 basis points per year charged by M&I for management of UMB Scout Small Cap fund and UMB Scout Worldwide Fund. The motion was seconded and passed unanimously.

Consider Amendment to comply with "Cash Out" distribution regulations

Cash out provisions in the Police Pension Plan do not comply with requirements of the Federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). In order for the Police Pension Plan to comply with the regulations, the Plan's cash out provision should be amended.

Trustees considered three options:

- 1) Authorize the Plan Administrator to distribute a terminated member's vested interest to an IRA with M&I, if the terminated member does not elect to have the vested benefit of more than \$1,000 but less than \$5,000 rolled into an eligible retirement plan,
- 2) Limit distributions of vested interest to \$1,000 or less.
- 3) Eliminate automatic" cash out" distributions by terminated employees, of vested interest from the Prairie Village Police Department Pension Plan.

After discussion, Steve Noll moved to authorize amendments to the Prairie Village Police Pension Plan to eliminate cash out distributions of vested interest. The motion was seconded and passed unanimously.

Consider Disclosure and Authorization for Use of UMB Scout Funds

The Board of Trustees authorized investment in UMB Scout Funds. The Bank has notified Trustees of the administrative fees charged by UMB in each of the funds and requested acknowledgement and approval of the fees by the Trustees. Matthews reminded Board members that UMB Trust excludes amounts invested in M&I and UMB Scout funds before calculating the investment fees for their management services.

Steve Noll moved acknowledgement and approval of fees charged by UMB Scout Funds Stock, Small Cap, Energy, Balanced, Bond, Stock Select and

Kansas Tax-Exempt Funds	.85 of 1%
Money Market and Tax-Free Money Market Fund	.50 of 1%
WorldWide, WorldWide Select and Technology Funds	1.10%
Equity Index Fund	.30 of 1%

The motion was seconded and passed unanimously.

There being no further business at hand, the meeting was adjourned.

Steve Noll
Chairman

Council Members
Mark Your Calendars
September 19, 2005

September, 2005	Senior Arts – Mixed Media
Sept. 27	Special County Election
October, 2005	Masters of the Midwest exhibit in the R.G. Endres Gallery
Oct 3	City Council Meeting
Oct 8-11	League of Kansas Municipalities annual meeting in Wichita
Oct 14	Prairie Village Arts Council reception for Masters of the Midwest exhibit
October 17	City Council Meeting
November, 2005	MAPS Society exhibit in the R.G. Endres Gallery
Nov 7	City Council Meeting
Nov 11	Prairie Village Arts Council reception for MAPS Society exhibit
Nov 21	City Council Meeting
Nov 24/25	City offices closed in observance of Thanksgiving
December, 2005	Julie Johnson Photography exhibit in the R.G. Endres Gallery
Dec 2	Mayor’s Holiday Party – Homestead Country Club
Dec 9	Prairie Village Arts Council reception for Julie Johnson’s Photography exhibit
Dec 5	City Council Meeting
Dec 6 – 11	NLC Annual Conference, Charlotte, NC
Dec 19	City Council Meeting
Dec 26	City offices closed in observance of Christmas

Mark Your Calendars
2006

January, 2006	Gary Mehl & Art Whorton mix media exhibit in the R.G. Endres Gallery
January 2	New Year’s Holiday
January 3 Tuesday	City Council Meeting
January 13	Prairie Village Arts Council reception for art exhibit
January 16	Martin Luther King Day
January 17 Tuesday	City Council Meeting
February, 2006	Not Filled yet exhibit in the R.G. Endres Gallery
February 6	City Council Meeting
February 10	Prairie Village Arts Council reception for art exhibit
February 20	President’s Day
February 21 Tuesday	City Council Meeting
March, 2006	Virginia Fortner watercolor exhibit in the R.G. Endres Gallery
March 6	City Council Meeting
March 10	Prairie Village Arts Council reception for art exhibit
March 11-15	NLC Congressional City Conference in Washington DC
March 20	City Council Meeting

**PLANNING COMMISSION MINUTES
MEETING OF AUGUST 2, 2005**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, August 2, 2005 in the Council Chambers of the Municipal Building, 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Bob Lindeblad, Randy Kronblad, Marlene Nagel, Nancy Vennard and Charles Clark.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, Planning Consultant; Doug Luther, Assistant City Administrator and Joyce Hagen Mundy, Planning Commission Secretary.

APPROVAL OF MINUTES

Charles Clark moved to approve the minutes of July 5, 2005 as written. The motion was seconded by Marlene Nagel and passed unanimously.

Robb McKim joined the meeting.

PUBLIC HEARINGS

**PC2005-03 Proposed Amendment to Prairie Village Zoning Regulations
Section 19.34 entitled "Accessory Uses" adding a new Section
19.34.050 entitled "Outdoor Lighting"
Applicant: City of Prairie Village**

Chairman Ken Vaughn reviewed the rules of procedure for the public hearing on proposed ordinance revisions and called upon City Planning Consultant to present the application on behalf of the City.

Ron Williamson reviewed the changes in proposed language by Section.

In Section A entitled "Purpose and Intent", the first sentence has been rewritten in a more positive manner to read as follows: "It is the intent of this Section to define practical and effective measures to preserve safety, security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of excessive and/or careless outdoor light usage.

In section B entitled "Definitions", the following two definitions were added:

13. Security Lighting: Outdoor lighting used to illuminate walkways, roadways, and building entrances where general illumination for safety is the primary concern.
14. String of lights: A series of lights attached to a wire, race or inserted in transparent tubing in such a way that it can be moved about or hung in various

ways, and whose bulbs are not light fixtures permanently attached to a building or other structure.

Section C entitled "Applicability", specifies that "All proposed new land uses, developments, buildings, structures or building additions of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, seating capacity, parking spaces or other units of measurement specified herein . . . shall meet the requirements of this provision for the entire property. It states "For all building additions of less than twenty-five (25) percent cumulative, the applicant shall meet the requirements of this provision for any new outdoor lighting provided.

Section C 3 requires luminaries be replaced with a luminaire that meets the requirements of these regulations. Mr. Williamson stated that although this is a good provision, it will be extremely difficult to enforce as no permit is required for the replacement of a luminaire. The city's codes staff has requested the Planning Commission reconsider this language.

In Section D entitled "Design Standards", the regulations state the mounting height for luminaries shall not exceed 25 feet as measured to the bottom of the luminaire from grade. It also requires all luminaries shall be non-adjustable and shall have a full cutoff. The maximum average maintained footcandles for all parking lighting shall be three footcandles.

A change has been made in Section D7(b) to delete the red color at the request of the Public Works Department and will read as follows:

- (b) All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaries used must be shown to be as close as possible to the federally required minimum output requirement for their specific task.

Section E entitled "Sign Lighting" as revised to read as follows:

"Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign and the fixture shall be flush mounted in the ground or screened from view."

Section F entitled "Curfew" was deleted at the direction of the Commission.

In the new Section F entitled "Lighting Plans Required" the second sentence was changed to read as follows: "The lighting plan **shall be prepared by an architect, engineer, electrical contractor or lighting consultant** and shall include: "

In Section G entitled "Final Inspection and Certification" the final sentence was amended to change "electrical engineer" to "engineer" to agree with the change made in Section F to read as follows: "The certification shall be completed by the architect, engineer, electrical contractor or lighting consultant responsible for the plans or the final installation."

Nancy Vennard noted in response to Section C3 that if only one luminaire was changed and made to meet the new specifications it would not match the remaining lighting. Ken Vaughn agreed with Mrs. Vennard that there would be a problem if only one luminaire were replaced.

Robb McKim asked if the regulations only applied to commercial applications. Mr. Williamson responded the regulations also apply to churches, apartments and multi-family units only single-family and two-family dwellings are exempt.

Bob Lindeblad stated he agreed with Mrs. Vennard and would support deleting this requirements. Charles Clark favors the removal of the requirement out of principal if it can not be enforced. The Commission agreed by consensus to delete Section C3.

Doug Luther, Assistant City Administrator, responded to Mrs. Vennard's request on the number of lighting complaints received by the City. Complaints have been received on the outdoor lighting at the Kansas City Christian School, which were addressed by staff contacting the school. Most of the residential complaints are from motion lights and there have been relatively few.

Robb McKim asked how the time period for temporary lighting was set. Mr. Williamson responded it follows the regulations adopted by the City in the National Electric Code.

Scott Bayles, with Bayles & Associates, addressed the Commission on the proposed regulations. He recently completed a lighting plan submittal on behalf of the Prairie Village Shops following the proposed regulations and found the technical requirements to be very reasonable.

It was noted that the City also received e-mail communication from Rick Jones, Nearing Staats Prelogar & Jones, supporting the proposed regulations. He suggested the Commission consider further restricting the height of light poles from the proposed 25 feet to 12 feet to limit the spill over of light onto adjacent properties.

With no further comments to be made, Chairman Ken Vaughn closed the public hearing at 7:30 p.m.

Nancy Vennard moved the Planning Commission recommend the City Council adopt the proposed outdoor lighting amendment, PVMC 19.34.050, with the noted changes including the deletion of Section C.3. The motion was seconded by Randy Kronblad and passed unanimously.

NON-PUBLIC HEARINGS

**PC2005-110 Lighting Review – Prairie Village Shopping Center
69th and Tomahawk
Zoning: C-2
Applicant: Bayles & Associates**

Scott Bayles, Bayles & Associates, presented to the Commission a plan for phased replacement of parking lot lighting at the Prairie Village Shopping Center based on the lighting standards formulated by the Commission. The plan meets the proposed requirements as follows:

- All luminaries are full cut off.
- Luminaries are mounted on poles not more than 25 feet in height.
- The maximum average foot candles are less than 3.
- The Design Standards set a maximum light level of 0.0 at the property line. The property lines at the Village Center are street and because of the public street lighting the 0.0 can not be met. The applicant presented site photo grametrics across the street and the light level appears to be as low as possible.

Mr. Bayles reported that Sections 4, 6, 7, and 8 are scheduled to be done in 2005.

Ron Williamson noted the Village Center has two public streets within it, Mission Lane and Prairie Lanes. It appears from the plan that some of the light standards may be in the right-of-way. The City does not want to accept any liability for these poles and needs to be indemnified from any liability that might occur.

Marlene Nagel asked the height of the current light poles in the parking lot. Mr. Bayles responded the poles vary with some being very short and a maximum height of 30 feet.

Nancy Vennard asked if a timetable had been established for the implementation of the Lighting Plan in the other sections of the lot. Mr. Bayles stated no timetable has been set, but stated when done, they would follow the plan submitted.

Ken Vaughn asked the applicant for comments on the conditions of the staff recommendation asking for the vacation of Mission Lane and Prairie Lane.

Jay Kanik, Property Manger, with Highwoods Properties, responded that the center is prepared to issue a statement of indemnification releasing the City of any responsibility for the poles or actions caused by the poles; however, they do not want to vacate the streets at this time. Highwoods does not feel this issue should be connected to the approval of the lighting plan and would like it considered separately.

Ron Williamson stated he has talked with Barry Brady, regarding this issue and agreed to present revised wording of the second condition as follows: "That the Prairie Village Center staff and the City staff will continue discussions and evaluation of vacating

Mission Lane and/or Prairie Lane.” Mr. Williamson stated there are some complicated issues that need to be resolved before the vacation can occur.

Ron Williamson reviewed the streets in question with the Commission. Bob Lindeblad agreed that the vacation of the streets is a larger issue and should not be connected with the approval of the lighting plan.

Bob Lindeblad moved the Planning Commission approve the lighting plan for the Prairie Village Shops as presented subject to the following conditions: 1) The lighting plan is approved for the entire Center and the applicant can install it on a phased program without returning to the Planning Commission unless a significant change occurs. 2) That the Prairie Village Center staff and City staff continue discussions and evaluation of vacating Mission Lane and/or Prairie Lane. 3) Highwoods Properties shall, by separate instrument, indemnify the City of Prairie Village from any liability for any lighting installed on or adjacent to public right-of-way. The motion was seconded by Robb McKim and passed unanimously.

**PC2005-111 Monument Sign Approval – “Jimmy’s Block”
7900 – 7918 State Line Road
Zoning: C-2
Applicant: Morton Mann, Block & Company**

Ross Jensen, with Acme Signs, presented the proposed revisions to the previously approved monument for the center at 7900 – 7918 State Line Road. The approved sign identified the shops as “79th Street Shops”. The monument sign was a very simple design placed on a prairie stone base with approximately 20 square feet per face.

Mr. Jensen stated the center will now be identified as “Jimmy’s Block” and the proposed signage follows the sign coloring and style of the center developer, Block & Company with a blue background and white lettering.

Ron Williamson stated the main concern of city staff is that the colors are not consistent or compatible with the new building renovation. Staff suggested a more brown or tan background that picks up the colors of the building would make a more compatible looking sign and development.

Nancy Vennard noted the proposed design is one of the most readable color combinations available. She confirmed the prairie stone brick base would remain. Mrs. Vennard stated she understood the desire of Block & Company to follow their corporate color scheme, but suggested that the scheme be reversed using blue lettering on a cream color background. She also suggested the frame color matched the background.

Bob Lindeblad suggested the color of the lighter colored EIFS on the building be used as the background color.

Mr. Jensen agreed with the suggested change to the proposed sign.

Nancy Vennard moved the Planning Commission approve a monument sign for the shops at 7900 – 7918 State Line Road with the proposed lettering to be the blue color proposed for the background and the background and frame match the light coloring of the EFIS the building. The motion was seconded by Marlene Nagel and passed unanimously.

DISCUSSION

Proposed Amendments to Fence Regulations

Ron Williamson presented the proposed amendments to the City's fence regulations as discussed during the last meeting. He noted that because the revisions were major, he has drafted an entire new regulation rather than the usual lineout and italics.

19.44.025 FENCES AND RETAINING WALLS

A. Purpose and Intent

1. To buffer or screen uses that may have negative impact on adjacent uses.
2. To provide privacy in outdoor spaces.
3. To provide safety from hazards such as swimming pools, hot tubs, spas and other similar facilities.
4. To enhance the quality of appearance of developed land use.

B. Design

1. Appearance – Those fences which have surface material, whether it be wood, chain link, metal bars or other permitted material, attached on one side of posts and/or rails, thus producing a finished side and an unfinished side, shall be installed with the finished sides exposed toward the street and adjacent properties. When doubt exists as to which way the surface of the proposed fence shall face, the Building Official shall make the final determination.
2. Prohibited Fences – The installation of barbed wire, electric and razor ribbon fences or any similar type fence shall be prohibited from all uses except public uses.
3. Height – No fence shall exceed six (6) feet in height except tennis court enclosures which may not exceed twelve (12) feet in height and except fences which are located within the building envelope of a lot shall not exceed eight (8) feet in height. The height of the fence shall be deemed to be the average distance from the finished grade to the highest point on the fence panel, excluding posts. Where the terrain is not level the average dimension may, at the discretion of the Building Official, be applied to each eight (8) foot section of the fence. Fences built in combination with retaining walls and/or berms shall not exceed the required height restrictions. In addition, fences and walls built on slopes shall comply with the required height measurement along the line of the fence location.
4. Decorative Fences – Decorative fences shall be designed so that they are at least 50% open and do not exceed two and a half (2 ½) feet in height. Split rail and wrought iron fences are examples of this type of fence.

C. Location

1. Decorative fences may be located in the front yard but shall be located no closer than ten (10) feet from a right-of-way line.
2. Fences, other than decorative fences, shall not be located in the front yard and shall be setback at least five (5) feet from the front corner of the dwelling.
3. Fences located on the side street of a corner lot shall not be less than five (5) feet from the right-of-way line except that if an adjacent lot faces the side street, the fence shall be setback from the right-of-way line a distance of fifteen (15) feet or not less than one half the depth of the front yard of an adjacent building whichever is the greater setback.
4. If the rear of a through lot is fenced, a gate shall be installed to provide access to the right-of-way.
5. Diagrams depicting the location of fences on various types of lots are attached.

D. Retaining Walls

Retaining walls shall be designed and constructed to support lateral loads. Applications for retaining walls exceeding four (4) feet in height, whether terraced or not, shall be accompanied by design calculations and plans sealed by a professional engineer registered in the State of Kansas. Said plans shall be reviewed prior to the issuance of a building permit. Retaining walls exceeding six (6) feet in height shall be required to be setback from the property line one foot for each two feet, or part thereof, in excess of six (6) feet in height, e.g. a ten (10) foot high retaining wall would be required to set back a minimum of four (4) feet from the property line. Any exceptions or deviations from this formula shall require site plan approval by the Plan Commission.

E. Drainage and Utility Easements

1. Fences and walls shall not restrict natural surface drainage nor be constructed to divert or channel water flow with increased velocity. All fence applications shall be reviewed by Public Works prior to the issuance of a permit. Fences shall not be constructed in drainage easements if they affect the flow of storm water.
2. Fences installed in a utility easement may need to be removed in order to access the utilities. Fences constructed in easements are at the risk of the owner and shall not be the responsibility of the utility to replace them.

F. Permits Required

1. All fences, as defined herein, unless otherwise excepted, shall require a building permit. No fence may be erected, constructed or replaced until said permit has been procured from the Building Official. The Building Official may allow minor deviations and adjustments relative to the dimensions set out in this section where topographic or other natural features, utility locations, meters, trees or other conditions so warrant and where the spirit and intent of this section will be preserved.
2. Decorative fences shall not require a permit. A deck or patio enclosure that meets the yard requirements for a principal building and which is not

more than eight (8) feet high shall be excluded from these regulations and shall not require a permit. Enclosures erected around compost piles in compliance with the conditions set forth in Chapter 7.24 of this code are excluded from these regulations and shall not require a permit. A dog containment enclosure located in the rear yard which is not more than six (6) feet high shall be excluded from these regulations and shall not require a permit.

G. Site Plan Approval

1. As a part of the site plan approval process as set out in Section 19.32 Site Plan Approval, the Planning Commission may make adjustments to the height and location of fences provided that it results in a project that is more compatible, provides better screening, or provides a more efficient utilization of the site.
2. An application may be made to the Planning Commission for site plan approval of a fence that is unique and does not have the locational or design characteristics set out in these regulations.

Mr. Williamson noted the proposed regulations found in this section allow tennis court fences to be 12 feet in height. The existing regulations on tennis courts found in the accessory uses section of the zoning regulations only allow tennis enclosures to be 10 feet in height. These will need to be brought into agreement.

Mr. Williamson noted another area that may need further clarification is the addition of a possible limitation on the height of fence posts. The proposed regulations state, "The height of the fence shall be deemed to be the average distance from the finished grade to the highest point on the fence, excluding posts." Commission members agreed and directed Mr. Williamson to further investigate appropriate limitations for posts with the initial thought that a 12" extension for posts should probably be adequate.

Mr. Williamson noted under the proposed regulations fence permits are not required for decorative fences, a deck, patio or pool enclosure, enclosures around compost piles or dog containment enclosures. He suggested that only compost piles and dog enclosures not be required to get a permit.

Ken Vaughn stated he does not see dog enclosures as a problem but noted the language regulating them is vague and they could become an issue. Marlene Nagel expressed concern with the location of dog enclosures adjacent to other property owners. Mr. Luther responded that most are placed adjacent to other properties and they have not been a problem except for maintenance of the enclosures. He stated the city has had problems with patio enclosures and feels they should require a permit.

Nancy Vennard asked where pool fences were addressed. Mr. Luther responded they are addressed in the accessory use regulations and are permitted and inspected in conjunction with the installation of the pool. Mrs. Vennard asked if the City required proof of utility clearance to dig prior to issuing permits. Mr. Luther responded it is recommended, but not required. Mr. Lindeblad stated this would be very difficult to enforce.

Robb McKim asked why 8' fences are allowed for deck and patio enclosures. Mr. Williamson stated the regulations were changed to allow for 8' fences in response to many BZA variance applications because of the topography of the land. In many cases, due to topography, a six foot fence does not create the desired privacy from adjacent properties.

Commission members agreed that a fence permit should be required for all fences.

Robb McKim expressed his continued concern with the 5' setback allowed for fences parallel to the front of the house from an aesthetic and design point of view stating the installation of a solid fence creates a building mass along the front of the home that is not sufficiently softened by a 5' setback.

Ken Vaughn stated the regulations call for a minimum 5' setback. He feels it will be greater than 5' in many instances. Mr. Williamson noted the discussion at the last meeting, the Commission agreed upon a minimum 5' setback, but noted many fences would be set back further to allow for adjustments to be made for windows and other features of the house.

Bob Lindeblad stated he is comfortable with the minimum 5' setback noting that some people will do landscaping in that setback area and he feels the distance is sufficient to dispel the solid wall image.

Randy Kronblad confirmed the original fence regulations only allowed solid fences to be constructed from the rear of the house back.

Ron Williamson noted the language allows the Building Official to send unique fence plans to the Planning Commission for site plan approval. Mr. McKim stated he is still concerned with the appearance of the properties from the street.

Commission members stressed the need for input from the homes associations and general public on this issue. Mr. Williamson suggested recommendations could be presented to the homes association presidents at the City's next Citizen Advisory Committee meeting.

Ken Vaughn related concerns with the regulations for retaining walls. He feels the setback for walls over four feet in height should be one foot per foot of height of the wall over four feet, not one foot per two feet of height with a two foot minimum to allow for necessary maintenance. He also confirmed that retaining walls would be required to get a permit.

Village Vision Report

Doug Luther presented a report from the Village Vision Steering Committee's actions during the past two months. The committee collected over 500 responses and ideas from the May public input meetings and identified the following eight general categories:

- Community Character
- Community Facilities, Activities and Services
- Housing
- Land Resources
- Leadership & Governance
- Learning
- Prosperity
- Transportation

The next step was to take these general categories and develop themes and goals. These were given to ACP for use in developing scenarios, ideas and visualizations addressing the goals. These will be given to the public at three informational meetings to be held September 12, 13 and 14th. Representatives of ACP will also meet with stakeholders and other identified groups to discuss their findings and ideas.

Nancy Vennard noted the themes and goals are similar to what she has seen for the past ten years and asked if ACP would be taking these to the next level with potential applications/actions. She asked if any new ideas were discovered through the public forums. Ken Vaughn responded there were several ideas covering a wide range including public transit, community centers, more open space and more housing options.

Marlene Nagel noted a significant number of comments reflected a general direction toward more acceptance of increasing density and of different housing types. Mr. Vaughn also noted the general feeling was that the City should be involved to assist in redevelopment.

Ron Williamson noted two specific areas – the 75th Street Corridor and the Corinth Square Shopping Area will be specifically studied with the idea of multi-use development and greater density. Nancy Vennard expressed frustration in the selection of the Corinth area, noting the Highwoods should be leading the investigation of development of this area, not the City.

Ken Vaughn stated he sensed a greater acceptability to change and for less rigid rules. Doug Luther sensed that many groups are recognizing that Prairie Village can not be frozen in the 50's/60's and needs to accommodate change to allow the expansion of single family homes as well as the development of other housing options. However, he stressed it is still the strong desire of residents to retain the uniqueness of Prairie Village.

Robb McKim stated the steering committee discussed in detail out to get to the next step without limitations of feasibility in the development of their goals. They are trusting ACP to take those goals and add to them with tangible and specific action recommendations.

Ken Vaughn expressed his appreciation to Doug Luther for his extensive work on this project.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 8:20 p.m.

Ken Vaughn
Chairman

April, 2006	Ms. Bobbi Toyne mixed media exhibit in the R.G. Endres Gallery
April 3	City Council Meeting
April 14	Prairie Village Arts Council reception for art exhibit
April 17	City Council Meeting
May, 2006	Studio West pastel exhibit in the R.G. Endres Gallery
May 1	City Council Meeting
May 12	Prairie Village Arts Council reception for art exhibit
May 15	City Council Meeting
May 29	City Offices closed in observance of Memorial Day
June 2006	Not filled yet exhibit in the R.G. Endres Gallery
June 5	City Council Meeting
June 9	Prairie Village Arts Council reception for art exhibit
June 19	City Council Meeting
July 2006	Not filled yet exhibit in the R.G. Endres Gallery
July 3 Tuesday	City Council Meeting
July 4	City Offices closed in observance of 4 th of July
July 4	Villagefest
July 17	City Council Meeting
August 2006	Not filled yet exhibit in the R.G. Endres Gallery
August 7	City Council Meeting
August 21	City Council Meeting
September 2006	Dale Cole's Photography exhibit in the R.G. Endres Gallery
September 4 Tuesday	City Offices Closed observance of Labor Day
September 5	City Council Meeting
September 18	City Council Meeting
October 2006	Senior Arts Council mixed media exhibit in the R.G. Endres Gallery
October 2	City Council Meeting
October 7-10	League of Kansas Annual Conference in Topeka
October 16	City Council Meeting
November 2006	Mid-America Pastel Society's exhibit in the R.G. Endres Gallery
November 6	City Council Meeting
November 7	Johnson County Election
November 20	City Council Meeting
November 23-24	City offices closed in observance of Thanksgiving
December 2006	Not filled yet exhibit in the R.G. Endres Gallery
December 1	Mayor's Holiday Gala
December 4	City Council Meeting
December 5-9	NLC Congress of Cities Conference in Reno Nevada
December 18	City Council Meeting
December 25	City Offices Closed in observance of Christmas

ANIMAL CONTROL COMMITTEE

AC96-04 Consider ban the dogs from parks ordinance (assigned 7/15/96)

COMMUNICATIONS COMMITTEE

COM2000-01 Consider redesign of City flag (assigned 7/25/2000)

COM2000-02 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for 1st Quarter 2001)

COM2000-04 Consider the installation of marquees banners at City Hall to announce upcoming civic events (assigned Strategic Plan for 1st Quarter of 2001)

COMMUNITY STANDARDS COMMITTEE

CAC2005-01 Consider proposed revisions to the City's fence regulations (assigned 8/3/2005)

COUNCIL COMMITTEE

COU99-13 Consider Property Audits (assigned 4/12/99)

COU2000-42 Consider a proactive plan to address the reuse of school sites that may become available (assigned Strategic Plan for 4th Quarter 2001)

COU2000-44 Provide direction to PVDC regarding its function / duties (assigned 2000 Strategic Plan)

COU2000-45 Review current City definition for blight and redefine it where appropriate (assigned 2000 Strategic Plan)

COU2004-10 Develop programs to promote and encourage owner occupied housing (transferred from PVDC on 3/15/2004)

COU2004-11 Identify potential redevelopment areas and encourage redevelopment proposals (transferred from PVDC on 3/15/2004)

COU2004-12 Pursue development of higher value single-family housing (transferred from PVDC on 3/15/2004)

COU2004-13 Proactively encourage redevelopment to increase property values (transferred from PVDC on 3/15/2004)

COU2004-14 Meet with the Homes Association of the Country Club District (HACCD) to obtain their input regarding deed restrictions (transferred from PVDC on 3/15/2004)

COU2004-20 Consider No Smoking Ordinance (assigned 9/28/2004)

COU2004-22 Consider School Zone Policy (assigned 10/15/2004)

COU2005-08 Consider Request for Proposal for Compensation/Benefits Consulting Services (assigned 6/15/2005) Moved to Legislative/Finance Committee

COU2005-12 Consider proposed Mission Hills Public Safety Budget for 2006 (assigned 8/3/2005)

COU2005-15 Consider planning meetings for the Governing Body (assigned 9/6/2005)

COU2005-16 Consider how to improve the Council's effectiveness as a team (assigned 9/6/2005)

COU2005-17 Consider how to expand leadership opportunities for Council members (assigned 9/6/2005)

COU2005-18 Develop a school zone policy (assigned 9/6/2005)

COU2005-19 Consider committee term limits for elected officials and residents (assigned 9/6/2005)

COU2005-20 Develop a sidewalk policy (assigned 9/6/2005)

COU2005-21 Develop a policy for use of Fund Balance (assigned 9/6/2005)

COU2005-22 Consider Council mentoring program (assigned 9/6/2005)

COU2005-23 Consider sponsoring social events with other jurisdictions (assigned 9/6/2005)

COU2005-24 Develop and improve parliamentary procedures (assigned 9/6/2005)

COU2005-25 Consider changing procedure for selecting Council President (assigned 9/6/2005)

COU2005-26 Consider automated Council packets (assigned 9/6/2005)

- COU2005-27 Consider concept of Outcomes Measurement or Quantifying Objectives (assigned 9/6/2005)
- COU2005-28 Consider more effective public notice of Council and Committee vacancies (assigned 9/6/2005)
- COU2005-29 Consider City service to remove oak pollen in gutters and curbs (assigned 9/6/2005)
- COU2005-30 Consider \$500 deposit from landlords for remediation of code violations (assigned 9/6/2005)
- COU2005-31 Consider amending weed ordinance (assigned 9/6/2005)
- COU2005-32 Consider City service to eliminate weeds in the street (assigned 9/6/2005)
- COU2005-33 Discuss County's School Sales Tax Ballot Issue (assigned 9/14/2005)
- COU2005-34 Consider Tree Trimming Bid (assigned 9/14/2005)
- COU2005-35 Consider Third Amendment to PV Police Pension Plan (assigned 9/14/2005)
- COU2005-36 Consider 2006 Budget Process and 2007 Plan (assigned 9/14/2005)
- COU2005-37 Consider Flu Shot Program (assigned 9/15/2005)

LEGISLATIVE/FINANCE COMMITTEE

- LEG2000-07 Consider current policies and procedures for code violations (Transferred from CCW 3/18/2002)
- LEG2000-25 Review fee schedules to determine if they are comparable to other communities and adjust where appropriate (assigned Strategic Plan for 1st Quarter of 2001)
- LEG2003-12 Consider Resident survey - choices in services and service levels, redevelopment (assigned 8/7/2003)
- LEG2004-31 Consider Lease of Park Land to Cingular Wireless (assigned 8/31/2004)
- LEG2005-19 Consider Harmon Park & Pool Renovation Bond Refinancing (assigned 7/12/2005)
- LEG2005-28 Consider Minor Home Rehabilitation Program Funding Request (assigned 7/29/2005)

- LEG2005-29 Consider proposed outdoor lighting regulations (assigned 8/2/2005)
- LEG2005-30 Consider Proposal for Compensation/Benefits Consulting Services (assigned 8/9/2005)
- LEG2005-31 Consider proposed revisions to animal ordinances (assigned 8/15/2005)
- LEG2005-32 Consider Sprint Franchise & Settlement Agreement (assigned 8/30/2005)
- LEG2005-33 Consider Ordinance granting to TELCOVE INVESTMENT a contract franchise to construct, operate and maintain a telecommunications system in the City of Prairie Village (assigned 8/30/2005)
- LEG2005-34 Consider Uniform Public Offense Code and Standard Traffic Ordinance for 2005 (assigned 8/30/2005)
- LEG2005-35 Consider Facility Usage Agreement between the City and Johnson County for the Country Nutrition Program use of the Community Center (assigned 8/30/2005)

PARKS AND RECREATION COMMITTEE

- PK97-26 Consider Gazebo for Franklin Park (assigned 12/1/97)
- PK2003-06 Consider Capital Improvement Plan for 2004-2006 (assigned 8/13/2003)

PLANNING COMMISSION

- PC2000-01 Consider the inclusion of mixed-use developments in the City and create guidelines criteria and zoning regulations for their location and development (assigned Strategic Plan)
- PC2000-02 Consider Meadowbrook Country Club as a golf course or public open space – Do not permit redevelopment for non-recreational uses (assigned Strategic Plan 2nd Qtr 2001)

POLICY/SERVICES

- POL2003-14 Consider Project 190845: Mission Road – 75th St to 79th St (CARS) (assigned 7/3/2003)
- POL2004-06 Consider Project 190715: 2005 Storm Drainage Repair Program (assigned 2/25/2004)
- POL2004-08 Consider Project 190841: Mission Road – 71st to 75th (CARS) (assigned 2/25/2004)
- POL2004-09 Consider Project 190848: Mission Rd – Somerset to 83rd (CARS) (assigned 2/25/2004)
- POL2004-10 Consider Project: 190847: 2005 Street Paving Program (assigned 2/25/2004)
- POL2004-11 Consider Project 190849: Roe Avenue – Somerset to 95th St. (CARS) (assigned 2/25/04)
- POL2004-12 Consider Project 190714: 2004 Storm Drainage Repair Program (assigned 3/30/2004)
- POL2004-11 Consider Project 190847: 2005 Street Paving Program (assigned 7/29/2004)
- POL2004-15 Consider Project 190707: Somerset, Delmar to Fontana Street (assigned 8/26/2004)
- POL2004-16 Consider Project 190708: Tomahawk Road Nall to Roe (assigned 8/26/2004)
- POL2004-18 Consider Sidewalk Policy (assigned 9/18/2004)
- POL2005-02 Consider Project 190616: Harmon Park Skate Facility (assigned 1/31/2005)
- POL2005-03 Consider Project 190850: Reeds Street – 69th to 71st St. (assigned 1/31/2005)
- POL2005-04 Consider Project 190809: 75th Street and State Line Road (assigned 2/1/2005)
- POL2005-11 Consider Project 190715: 2005 Storm Drainage Repair Program (assigned 6/2/2005)
- POL2005-12 Consider Project 190854: 2005 Pavement Repair Program (assigned 6/2/2005)
- POL2005-13 Consider Project 191012: 2005 Concrete Repair Program (assigned 6/2/2005)
- POL2005-14 Consider Project 190852: 2005 Crack/Slurry Seal Program (assigned 6/2/2005)
- POL2005-17 Consider revising bidding ordinance (assigned July 19, 2005)
- POL2005-19 Consider Revisions to Personnel Policies #241, #262 and #214 (assigned 7/27/2005)
- POL2005-20 Consider Traffic Engineer Consultant (assigned 8/30/2005)
- POL2005-21 Consider 2006 Paving Program - Sidewalks (assigned 8/30/2005)

PRAIRIE VILLAGE ARTS COUNCIL

- PVAC2000-01 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for the 1st Quarter of 2001)

CONSIDER ONLINE BANKING SERVICES AGREEMENT WITH INTRUST BANK

Issue: Should the City Council approve an agreement with Intrust Bank for banking services?

Background:

In November of 2001, Council approved the City's banking services agreement with Intrust Bank, designating the City officials authorized to act on behalf of the City for the purpose of all banking transactions.

Recently, Intrust notified the City of plans to upgrade their Business Internet Banking system. In order for the City to utilize this upgrade, they have asked that the agreements passed in 2001 be updated.

Attached to this agenda item are the following agreements:

- **Corporate Authorization.** This agreement identifies the individuals who will be allowed to execute the agreements in the name of the City.
- **Intrust Treasury Online User Agreement.** This agreement identifies the services and responsibilities of both Intrust and the City, as they relate to the Internet banking service.
- **Treasury Online Enrollment Form.** This form identifies who will administer the Internet banking service for the City.
- **Information Transfer Reporting Services.** This form identifies the accounts the City wishes to allow inter-account transfers.

Financial Impact:

None. Fees related to the new service were not changed and funds were budgeted in the 2005 Annual Budget.

The following motion will be added to the Consent Agenda for your approval

**APPROVE ONLINE BANKING SERVICES AGREEMENT WITH
INTRUST BANK**



INTRUST TREASURY ONLINE USER AGREEMENT

This Intrust Treasury Online User Agreement ("Agreement") is made and entered into this _____ day of _____, 20____ by and between City of Prairie Village("Customer"), (collectively referred to as "Account Holders") and INTRUST Bank, N.A. ("Bank"). All parties agree that the services described and provided by Bank will be subject to the terms and conditions set forth below.

1. Services.

- a. Bank will provide Customer access to Intrust Treasury Online ("Internet Site") allowing Customer to obtain certain account information, receive reports electronically, and perform electronic funds transfer services via Customer's web browser and computer. Bank shall provide access to the Internet Site at a time specified and agreed by the parties. Bank hereby grants Customer a non-exclusive, non-transferable and revocable license to use the Internet Site and the services contained thereon solely for Customer's internal business purpose and subject to the terms and conditions of this Agreement.
- b. The Internet Site will contain the following services:
 - i. Account Reporting
 - ii. Stop Payment
 - iii. ACH Collections and Payments
 - iv. Wire Transactions

In addition, the Internet Site will contain a Book Transfer system ("Transfer Service"). Customer may make transfers through the Transfer Service as described in this Agreement below.

- c. The use of the term "Service" or "Services" herein shall mean all of the services listed above, including the Transfer Service, collectively or all of the services being accessed and utilized by Customer under the terms of this Agreement, whichever is applicable.
- d. The Internet Site will also contain a Loan Module which may be delivered at a later date. If the Loan Module is delivered at a later date, the term "Service " or "Services" herein shall then include the Loan Module as of date of final delivery.
- e. Customer shall pay all fees and charges for Treasury Online and each Service provided thereunder in accordance with the Intrust Business Accounts Fee Schedule as in effect at the time of execution of this Agreement and as may be amended from time to time.

2. Enrollment.

- a. Customer shall have access to those Services which are available on the Internet Site and for which Customer has executed a separate agreement with Bank ("Service Agreement"). Each Service Agreement so executed between Customer and Bank regarding any of the Services provided on the Internet Site is incorporated herein by reference. No additional Service Agreement is necessary for the Transfer Services, ACH Collections and Payments and Wire

Transactions. Customer shall use the Services in accordance with all written procedures or instructions provided by Bank.

- b. Customer and each Account Holder will execute a Corporate Authorization ("Authorization") at the time of execution of this Agreement. Said Authorization will include the name of an Agent ("Agent") authorized to execute on behalf of Customer or Account Holder all documents reasonably requested by Bank related to this Agreement, including but not limited to, agreements related to each Service provided hereunder. It is anticipated by the parties hereto that the Agent named by Customer and each Account Holder in their respective Authorizations will be the same individual. Any reference herein to Agent shall include the plural if not all Account Holders name the same individual as agent under their respective Authorizations. Account Holder acknowledges that a new Authorization may be required from time to time and agrees to promptly execute said document upon request of Bank.
- c. The Authorization shall also include the name of the Administrator of the Internet Site. Customer and all Account Holders must appoint the same individual as Administrator. No Internet Site will be allowed to have more than one Administrator. The Administrator may be changed only upon the re-execution of Authorizations by Customer and all Account Holders agreeing to a new individual.
- d. Customer and each Account Holder will complete and execute the Treasury Online Enrollment Form and appropriate attachments (all referred to herein after as "Enrollment Form") at the time of execution of this Agreement. The information on the Enrollment Form may only be modified by completion and execution of a new Enrollment Form by the Agent. Any new Enrollment Form shall not be effective until accepted by Bank and Bank has had a reasonable opportunity to implement the changes. Upon execution of the Enrollment Form, whether the initial Enrollment Form or a later executed Enrollment Form, such Enrollment Form is deemed a part of this Agreement and incorporated herein by this reference. Customer agrees to execute a new Treasury Online Enrollment Form upon reasonable request of Bank.

3. System Requirements and Security.

- a. Customer must have and maintain a computer system ("System") that has access to the Internet using a secure browser with 128-bit encryption. By signing this Agreement, Customer represents and warrants to Bank that Customer's System satisfies this requirement. Bank is not responsible for any upkeep or maintenance required by such System or for any System upgrades which may become necessary due to upgrades in the Services provided under this Agreement.
- b. A Customer ID, Customer Password, User ID and initial User Password will be assigned to Customer in accordance with the Bank's security procedures. Customer is solely responsible for controlling and safeguarding the Customer ID, Customer Password, User ID and User Password and will be required to change the initial User Password when signing on to the Internet Site for the first time. Customer agrees to change its password periodically. Bank may require Customer to change its password from time to time at Bank's sole discretion.
- c. Customer will be responsible for designating employees or affiliated persons ("Employees") who will be able to access Customer information through the Internet Site. Customer will provide the Customer ID, Customer Password, User ID and a User Password to each

Employee so designated. All Employees with access to the Internet Site will be required by Customer to change User Passwords periodically. Bank may require Employees to change their User Passwords from time to time at Bank's sole discretion. Each Employee will be responsible for controlling and safeguarding the Customer ID, Customer Password, User ID and the User Password.

- d. Customer is responsible for all use of the Internet Site accessed through the Customer ID and Customer Password and any User ID and User Password. Customer hereby authorizes all transactions entered into the Internet Site by Employees or any other person who accessed the Internet Site via the Customer ID and Customer Password and any User ID and User Password, unless access to such Customer ID and Customer Password was improperly provided by or obtained from Bank. Each transaction conducted through the Internet Site is deemed to have been properly authorized regardless of whether the Employee entering the transaction is named as an "authorized representative" or similar authority on any Service Agreement or attachment thereto.
- e. Customer agrees to promptly notify Bank of the loss or theft of the Customer ID, Customer Password or any User ID or User Password.
- f. Customer agrees to notify Bank immediately if any Service does not perform as anticipated; as represented during training on the Internet Site; or in accordance with the applicable Service Agreement.

4. Transfer Services.

- a. Customer may make transfers through the Transfer Services only from accounts designated as From Accounts to accounts designated as To Accounts. Such designations shall be made by account number on the Enrollment Form. Customer may modify the accounts and their designation only by re-execution of the Enrollment Form as described above. Customer authorizes and directs Bank to transfer funds on the basis of the designated account numbers (debits and credits) even if such number identifies a person or account Customer did not intend.
- b. Bank will process and complete all transfers properly entered through the Transfer Service in accordance with the terms of this Agreement. Bank will not be responsible for any losses or damages if:
 - i. Through no fault of Bank there is insufficient funds in the From Accounts to make the transfer;
 - ii. The computer connection is malfunctioning and Customer knew about the malfunction when the transfer was started; or
 - iii. Circumstances beyond the control of the Bank (such as acts of God, fire, flood, adverse weather conditions or other catastrophes; interruption of transmission or communication facility; equipment failure; criminal acts; or other emergency conditions) prevent the proper completion of the transaction despite reasonable precautions by Bank to avoid these circumstances.

The Bank may transmit oral, electronic or written notice to the customer of any transfer order which is not completed. The Customer agrees that notice given orally, electronically, or in writing is commercially reasonable and that such notice shall be effective when given.

- c. Customer may not cancel or amend a transfer once the order has been transmitted to Bank.

5. ACH Collections and Payments.

- a. For the initiation of credit and debit Entries ("Entries"), Customer and Bank agree to be bound by this Agreement and the rules of the National Automated Clearing House Association ("NACHA") (the "Rules") as may be amended or modified from time to time. Customer acknowledges that a copy of the Rules may be obtained for a fee from Mid-America Payment Exchange Company. Capitalized terms used in this section of this Agreement shall have the meanings provided in the Rules unless otherwise defined herein. Customer acknowledges that some Entries may be governed by Article 4A of the Uniform Commercial Code, as amended from time to time.
- b. Files shall be delivered to Bank or Bank's agent in the manner and format as set forth in the Rules. If any File does not comply with the format as set forth by the Rules, Bank is not required to process and shall notify Customer within one (1) business day from receipt along with notice of the reason for not processing the File. It shall be Customer's responsibility to correct errors and submit a new File to Bank for processing. Bank will not edit any Files to correct errors or otherwise. Customer shall transmit Entries only in those Standard Entry Class Codes ("SEC") as provided on the Enrollment Form.
- c. Customer acknowledges that Bank and Customer have not agreed to any security procedures for the detection of any error in the transmission or content of a File, Entry or transaction. Any and all security procedures put in place by Bank are for the sole purpose of verification of authenticity of the transmitted data. Customer agrees to be bound by any payment order, File or Entry, whether or not authorized, issued in its name and accepted by Bank in compliance with its security procedures as in affect at the time of acceptance (and as amended from time to time), absent negligence or willful misconduct, including but not limited to fraud, on the part of the Bank or its employees and agents.
- d. The persons designated on the Enrollment Form as Authorized Individuals are the persons authorized to act on behalf of Customer in connection with ACH Instructions, including File origination or transmission, or deletion, reversal, remake or modification of any File or Entry. Bank shall be entitled to rely upon the authority of such Authorized Individuals until a new Enrollment Form is executed by the Agent. Customer shall obtain all consents and authorizations required by the Rules, if any, relating to Originators and shall retain such consents and authorizations for two (2) years after they expire.
- e. Warranties.
 - i. With respect to each and every Entry initiated by Customer as an Originator and transmitted to Bank, Customer represents and warrants:
 1. All Entries will be submitted to Bank in compliance with the Rules;
 2. Appropriate notice as required by the Rules has been provided to any consumer prior to submission of Entry;
 3. Each Entry is properly authorized, each credit Entry is timely, each debit Entry is for an amount which on Settlement Date will be due and owing to the Customer and each Entry otherwise complies with all requirements as set forth in the Rules; and

4. At the time of transmitting such Entry to the Bank:
 - a. Customer does not have actual knowledge of the revocation of such Authorization by the consumer or of the termination by the Receiving Bank of the arrangement under which such Entry is to be initiated by Originator and credited/debited by such Receiving Bank to the checking account or savings account of the consumer with such Receiving Bank; and
 - b. Customer, as Originator, has not terminated such arrangements.
 5. At the time such Entry is processed by the Receiving Bank, such Authorization has not been terminated in whole or in part by operation of law; provided, however, that this warranty shall not be applicable if, at the time of such processing, such Receiving Bank has actual knowledge of the circumstances giving rise to such termination and Originator does not have actual knowledge thereof; and
 6. Each Entry transmitted to Bank contains all information necessary by the Receiving Bank and in a format in compliance with the Rules.
- ii. In addition to the warranties set forth in (i.) above, with respect to any Point of Purchase ("POP") Entry transmitted under the SEC POP, the Customer as Originator represents and warrants:
 1. Each and every source document is returned voided to the consumer at the time of the transaction; and
 2. None of the source documents have been used to create prior POP Entries.
 - iii. In addition to the warranties set forth in (i.) above, with respect to any Telephone initiated ("TEL") Entry transmitted under the SEC TEL, the Customer as Originator represents and warrants:
 1. Commercially reasonable procedures have been employed to verify the identity of the consumer; and
 2. Commercially reasonable procedures have been used to verify the bank routing numbers provided by the consumer.
 - iv. In addition to the warranties set forth in (i.) above, with respect to any Internet initiated ("WEB") Entry transmitted under the SEC WEB, the Customer as Originator represents and warrants:
 1. A commercially reasonable fraudulent transaction detection system has been used to screen Entries;
 2. Commercially reasonable procedures have been used to verify the bank routing numbers provided by the consumer;
 3. The Internet session has been secured prior to keying of banking information by the consumer; and
 4. An annual audit is performed to ensure all financial information obtained via the Internet site is protected by security including, but not limited to:
 - a. Physical security from theft, tampering or damage;
 - b. Personnel and access controls to protect against unauthorized use; and

- c. Network security against capture, storage and distribution of financial information.
- v. In addition to the warranties set forth in (i.) above, with respect to any Accounts Receivable ("ARC") Entry transmitted under the SEC ARC, the Customer as Originator represents and warrants:
 - 1. All information is accurately entered from the source document;
 - 2. Each source document will be destroyed within fourteen (14) days from the Settlement Date and a copy of each such source document will be retained for a period of two (2) years from the Settlement Date of the Entry; and
 - 3. The source document will not be presented for payment.
- vi. In addition to the warranties set forth in (i.) above, with respect to any Represented Check ("RCK") Entry transmitted under the SEC RCK, the Customer as Originator represents and warrants:
 - 1. Appropriate notice as required under the Rules has been provided to the consumer including a separate notice agreed to in writing by the consumer for the collection of fees, if any;
 - 2. All information (including MICR) is accurately entered from the item;
 - 3. The original item will be retained for a period of ninety (90) days from the Settlement Date and a copy of each such item will be retained for a period of seven (7) years from the Settlement Date of the Entry;
 - 4. The item will not be presented for payment;
 - 5. Originator has no knowledge of any defense or claim which may be made by the consumer on the item; and
 - 6. The item does not contain a valid, enforceable restrictive endorsement.
- vii. Bank Warranties. The Bank warrants to the Customer as follows:
 - 1. Bank processes and procedures comply with the Rules, and with all applicable federal and state laws governing processing, transmittal and settlement of ACH transactions. Bank has in place such security systems as are required by applicable law for the receipt, transmittal, processing and settlement of Entries;
 - 2. Bank shall (a) process Entries received from Customer which conform with the specifications of this Agreement, (b) transmit such Entries as an Originating Depository Financial Institution to the Federal Reserve Bank as "ACH Operator", and (c) settle as provided by the Rules; and
 - 3. Bank shall transmit all Entries to the ACH Operator in compliance with the Rules and prior to Settlement Date.
- f. Customer acknowledges that any action by it taken in violation of the Rules could result in a fee levied against Bank under the Rules and that Bank will assess Customer for any violation which it causes or is created out of an Entry initiated by Customer, other than violations the Bank causes. Upon request Bank shall provide Customer with a description of fees in effect at the time of execution of this Agreement which could be levied. Bank shall also provide written notice of any assessment of fee levied due to Customer and the violation which caused the fee.

- g. Customer may send prenotification in accordance with the specifications provided in the Rules. If Customer chooses to send prenotifications, Customer may not then originate live dollar Entries until at least six (6) banking days following Settlement Date of the prenotification Entry.
- h. Customer shall have no right to cancel or amend any File or Entry after its receipt by Bank. However, Bank shall use reasonable efforts to act on a request by Originator for adjustment, reversal or deletion of a File or Entry prior to transmitting it to the ACH Operator or prior to crediting a Receiver's account, provided such request complies with the Rules. Bank shall have no liability if such adjustment, reversal or deletion is not effected.
- i. Bank shall notify Company by United States mail or other method agreed upon in writing, of the receipt of a returned Entry from the ACH Operator no later than three (3) banking days after the banking day of receipt of return. Notice shall include the reason for such return. Bank shall have no obligation to retransmit the Entry if Bank has complied with the Rules and all terms of this Agreement.
- j. Bank will provide notice of any File or Entry rejected no later than the business day on which such File or Entry would have been transmitted, which notice shall include the reason for the rejection. If the Entry is "on us", Bank will provide notice of rejection of the Entry no later than the Effective Entry Date along with the reason for the rejection. Notice is effective when given. Bank shall have no liability to Customer by reason of the rejections of any File or Entry or the failure to give notice prior to the times as set forth herein. Bank may reject any File or Entry if:
 - i. It does not comply with the specifications of the Rules;
 - ii. It contains an effective date ten (10) days after the date of receipt by the Bank;
 - iii. The Customer has not complied with the security procedures set forth by Bank as may be amended from time to time;
 - iv. The Customer has not complied with its account balance obligations as set forth in Paragraphs 5m and 5n herein; or
 - v. It is allowed under the Rules for an "on us" Entry.
- k. Customer shall retain all information necessary to remake any File or Entries for three (3) days after midnight of the Settlement Date and shall promptly provide such information to Bank if requested. Bank shall retain processing information relating to File or Entries, whether rejected or transmitted, for a period of seven (7) years.
- l. Payment by Customer with respect to Entries initiated by Customer and transmitted by Bank and with respect to any Entry's payment or posting which is stopped or reversed, adjusted or returned by Bank, as provided for herein, shall be by debit or credit, as appropriate, to Customer's Settlement Account as set forth on the Enrollment Form.
- m. For credit transfers, Originator shall maintain at all times in the Settlement Account collected funds, as defined by Bank's procedures, in the aggregate amount of all credit Entries transmitted to Bank pursuant to this Agreement and to which settlement has not yet been effected. Bank will not be required to transmit any credit Entry if, at the time Bank would otherwise transmit such credit Entry, Customer does not have sufficient collected funds in the Settlement Account or Customer is in default under any provision of this Agreement. Bank shall notify Customer of its decision not to transmit an Entry and the reasons for such decision.

- n. Bank shall, not later than the Settlement Date, cause immediately available collected funds to be deposited in the Settlement Account in satisfaction of debit entries initiated by Customer through Bank. Customer remains responsible for ensuring that sufficient immediately available collected funds remain in the Settlement Account for the charge-back (in accordance with the Rules) of any return Entries.
- o. If an unauthorized debit Entry is asserted by a Receiver, the Customer's Settlement Account will be debited for the amount thereof, and the Bank shall provide notice of such debit within three (3) business days of receipt of the return. If the balance in the Settlement Account is insufficient, Customer shall promptly provide immediately available funds to Bank to satisfy such insufficiency.
- p. The Customer may, at the discretion of the Bank, be required to submit annual financial statements, in a format reasonably approved by Bank or copies of federal income tax returns in order for Bank to ascertain whether Customer continually meets the Bank's internal credit policies.

6. Limitations of Liability.

- a. Customer is solely responsible for the correctness and accuracy of all information entered in connection with the Services. Customer shall hold Bank harmless for the entry of any incorrect information by an Employee.
- b. THE SERVICES PROVIDED ON THE INTERNET SITE ARE DISTRIBUTED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND LACK OF VIRUSES OR OTHERWISE, OTHER THAN THOSE WARRANTIES OF SPECIFIC INTRUST PRODUCTS OR SERVICES TO WHICH INTRUST HAS EXPRESSLY AGREED. BANK DOES NOT WARRANT THAT THE SERVICES PROVIDED WILL MEET SPECIFIC REQUIREMENTS OF CUSTOMER. BANK DOES NOT WARRANT THAT THE OPERATION OF THE INTERNET SITE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS.
- c. Customer agrees that all access and use of the Internet Site and its contents is at Customer's own risk. Bank shall be responsible only for performing the services expressly provided for in this Agreement. Except as required by applicable law, or express agreement, Bank specifically disclaims any liability (whether based in contract, tort, strict liability or otherwise) for any direct, indirect, incidental, consequential, punitive or special damages arising out of or in any way connected with Customer's use or inability to use the Services, any loss of information or for errors and delays in transmission or processing of Customer's transactions for any reason, or for any claim by another party (even if Bank has been advised of the possibility of such damages).
- d. Customer is solely responsible for any loss or liability arising due to Customer's failure to limit access to the Internet Site or maintain the confidentiality to the Customer ID or Password or the User ID or Password or any of Bank's security procedures.
- e. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, liabilities, losses, damages (including, without limitation consequential,

special and punitive damages) and expenses (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees), directly or indirectly resulting from:

- i. Any breach by Customer of any or all of the Customer's warranties under this Agreement;
- ii. Any failure by Customer to comply with this Agreement; or
- iii. Any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses (including attorney fees) incidental to the forgoing.

7. Miscellaneous.

- a. Customer and Account Holders hereby acknowledge the confidential nature of the contents of the Internet Site, including all software used therein, and any printed material provided as a resource or guide to the Internet Site. Customer and Account Holders agree the contents of the Internet Site and written materials will not be duplicated by any means, including but not limited to, electronic media, nor disclosed in any manner whether oral, written or electronic, to any person or entity not affiliated with Customer by any Employee without the express written consent of Bank. Said limitation includes but is not limited to, any and all screens appearing on the Internet Site. Customer may however, duplicate said screens for training purposes for its Employees.
- b. Customer will not lease, sublease, sell or distribute software or resource materials to any third parties nor use software or resource materials in any time-sharing, service bureau or other similar arrangement or make any other use of the software and resource materials not expressly permitted hereunder.
- c. Notwithstanding any other provision of this Agreement; Bank shall have no responsibility for any damages arising directly or indirectly from any error; delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, terrorist activity, inoperable communications facilities or any other circumstance beyond the reasonable control of Bank.
- d. This Agreement, along with any other Service Agreements entered into by Customer and Bank, Bank's Deposit Agreement and any other applicable rules or regulations, constitutes the complete and exclusive Agreement between the Customer and the Bank.
- e. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors or permitted assigns.
- f. Neither party shall assign this Agreement nor any of the rights or duties hereunder to any third party without the other party's consent. Such consent shall not be unreasonably withheld.
- g. This Agreement may be amended at any time by Bank. Bank will provide notice to Customer prior to the effective date of the amendment. Continued use of the Internet Site by Customer or any Employee after the effective date of the amendment will constitute acceptance and agreement to the amendment.
- h. This Agreement may be terminated by either party by giving written notice of termination to the other. Notwithstanding the termination of this Agreement, this Agreement shall remain in full force and effect as to all debit or credit Entries initiated by Customer prior to the termination date. **Bank may unilaterally terminate this Agreement at any time Bank**

suspects any fraud or other illegal activity in Customer's accounts. In such case, customer should contact Bank to verify status of transactions scheduled for dates after the termination of this Agreement.

- i. In the event any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.
- j. The parties to this Agreement shall comply with all applicable federal and state statutes, laws, regulations or policies, all as may be amended or modified from time to time. This Agreement shall be construed in accordance with and governed by the laws of the state of Kansas.

City of Prairie Village

INTRUST Bank, N.A.

Title: Mayor of Prairie Village
Ronald L. Shaffer

Title:

(Account Holder signatures on next page)



CORPORATE AUTHORIZATION

Customer Name: City of Prairie Village

Account Holder: City of Prairie Village

The undersigned ("Account Holder") hereby authorizes any one of the following individuals to execute on its behalf all agreements, amendments or other documents and to take all acts as set forth beside each of their names:

A/B/C	Name	Signature
A/B	Ronald L. Shaffer	_____
A/B	Fielding Norton, Jr.	_____
A/B	Barbara Vernon	_____
A/B	Joyce Hagen-Mundy	_____
C	Doug Luther	_____
	_____	_____

- A: Execute the Treasury Online User Agreement and enroll any or all accounts of Account Holder in Treasury Online under the Customer named above:
- B: Act as Agent to execute the Treasury Online Enrollment Form and all amendments thereto; all Service Agreements (as defined in the Treasury Online User Agreement) and all documents reasonable requested by Bank in relation thereto.
- C: Act as Administrator of the Treasury Online product and all accounts enrolled in said Treasury Online product under the name of Customer: approve the appointment of representatives of the Customer with authority to reset the Administrator's password.

Account Holder acknowledges that once enrolled, funds in its name in each account enrolled in Treasury Online may be received, paid or transferred solely at the direction of the Customer without additional authorization from any signer authorized by Account Holder on the account.

Account Holder hereby indemnifies and holds harmless INTRUST Bank, N.A. for any and all claims which may arise from the commingling of these funds or the receipt or transfer of funds upon the direction of the Administrator named above or Customer without further authorization from any signer designated by Account Holder on the account while said accounts are enrolled in Treasury Online under Customer's name.

I hereby certify this authorization on behalf of the board of directors of this company on this ____ day of _____, 20____.

City of Prairie Village

Title: _____

"Account Holder"



TREASURY ONLINE ENROLLMENT FORM

Customer Name: City of Prairie Village
Address: 7700 Mission Rd
Prairie Village, KS 66208

TIN: 486077081

Administrator Name: Douglas Luther
Address for Administrator's mail: 7700 Mission Rd.
Prairie Village, KS 66208
Phone Number: (913) 385-4603
Fax Number: (913) 381-7755
Email Address: dluther@pvkansas.com

Corporate Representatives with Authority to Reset Administrator's Password (minimum of one):

Name: Barbara Vernon
Address: 7700 Mission Rd.
Prairie Village, KS 66208
Phone #: (913) 385-4601
Fax #: (913) 381-7755
Email: bvernon@pvkansas.com

Module Selection (check Services to be used):

- X Account Reporting
Book Transfer
Stop Payment
ACH File Pass-Thru
ACH Application
Wire

Customer and Account Holder agree Bank may permit transactions between accounts held in the name of Customer or in the name of any of the Account Holders (as defined in the Treasury Online User Agreement). Bank is hereby released from any responsibility or liability for or rising out of the commingling of funds of the Customer and the Account Holders or for

the payment from or transfer of funds held in the accounts listed on the attachment hereto, regardless of the source of such funds.

Dated: _____, 20 ____.

City of Prairie Village

Title:

Authorized Agent of Account Holders:

Title:
(Must be authorized on all Account Holder Corporate Authorizations)