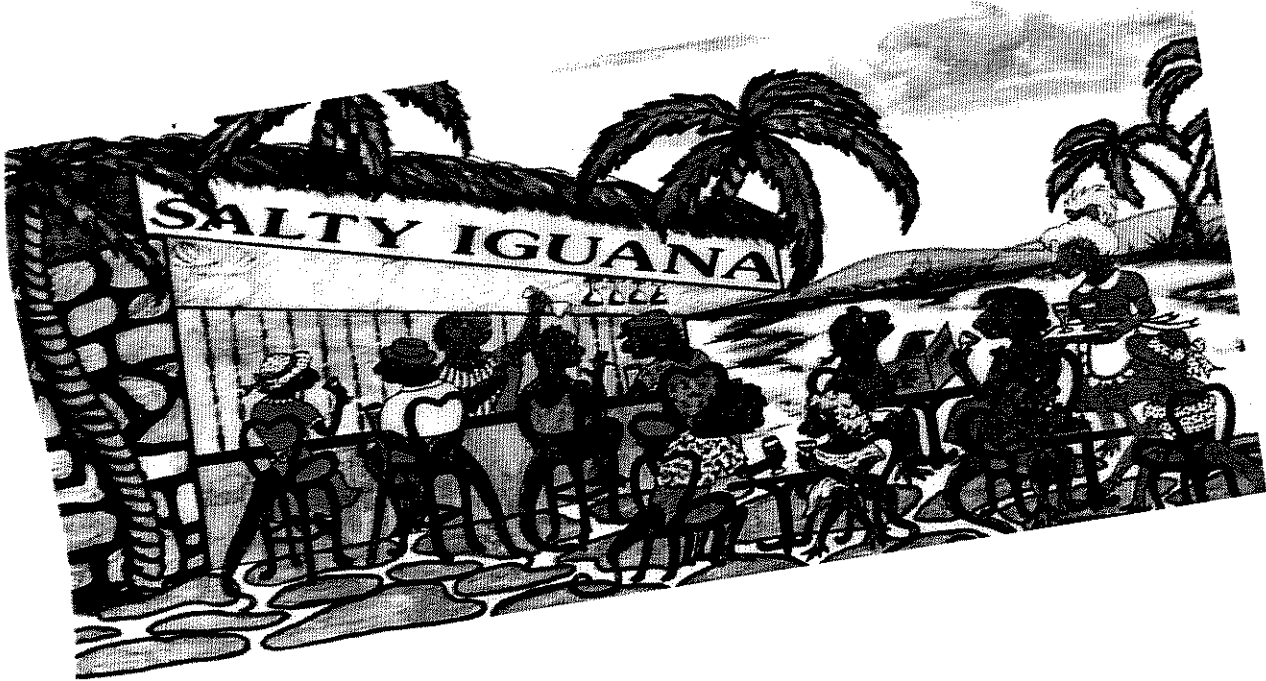


City Council Meeting

December 18, 2006



*Dinner
provided by:*

SALTY IGUANA

Burritos and Enchiladas

Beans and Rice

Iguana dip,

Chips and sauce

COUNCIL COMMITTEE

December 18, 2006

COUNCIL CHAMBER

6:00 P.M.

AGENDA

DAVID BELZ

CONSENT AGENDA

- *COU2006-54 Consider Annual Service Agreement for Materials Testing**
- *COU2006-55 Consider Project 191017: 2007 Concrete Repair Program**
- *COU2006-56 Consider Project 191021: City Entrance Signs**
- COU2006-57 Consider Special Use Permit for Communications Antenna at
7700 Mission Road**

AGENDA ITEMS

- COU2006-38 Consider Park & Recreation Committee Report
#3 Infrastructure Condition analysis and capital
infrastructure program request
#5 Explore development of partnerships with private
entities and other cities on programs and facilities
Diana Ewy Sharp**
- COU2005-15 Consider Planning Meetings for the Governing Body**
- COU2005-16 Consider How to Improve Council's Effectiveness as a Team**
- COU2005-17 Consider How to Expand Leadership Opportunities for
Council**
- COU2005-22 Consider Council Mentoring Program**
- COU2005-23 Consider Sponsoring Social Events with other Jurisdictions**
- COU2005-30 Consider \$500 deposit from landlords for remediation of code
violations**

***COUNCIL APPROVAL REQUESTED THE SAME EVENING**

COU2006-54 CONSIDER ANNUAL SERVICE AGREEMENT FOR MATERIALS TESTING

Background:

Two companies submitted bids for this program. Since this would be an on-call contract, the low bidder was determined by estimating the number and type of tests that will be required and multiplying those times the unit prices submitted by each laboratory. The Bid Tabulation is attached.

Based on these criteria, Geotechnology, Inc. is the low bidder at \$25,350.00. Terracon was the second lowest bidder at \$26,700.00.

Financial Impact:

The money for this program will come from each individual project and is budgeted if that project.

Suggested Motion:

Move to approve the award of the 2007 Materials Testing Service Agreement to Geotechnology, Inc. Consulting Engineers.

COU2006-55 CONSIDER PROJECT 191017: 2007 CONCRETE REPAIR PROGRAM

Background:

On December 1, 2006, the City Clerk opened bids for Project 191017: 2007 Concrete Repair Program. This program consists of repairs to deteriorated concrete sidewalk and curbing. Four bids were received:

McAnany Construction	\$466,000.00
Miller Paving	\$436,342.50
Mega Industries	\$675,670.00
William White & Sons Construction Co. Inc.	\$424,809.50
Engineer's Estimate	\$521,973.50

City staff has reviewed the bids for accuracy. Based on the unit price for ADA sidewalk ramps, the total amount for that item was not computed correctly by William White & Sons Construction Co. Inc. The actual total for this bid item is \$3,527.50, instead of the \$3,777.50 shown on the Contractor's Bid Proposal Form. This is a difference of \$250.00. Therefore the actual bid total for the project is \$424,559.50. Despite this error, William White & Sons Construction Co. Inc. is still the low bidder.

Financial Impact:

Funding is available in the Capital Infrastructure Program Project 191017.

Suggested Motion:

Move to approve the construction contract with William White & Sons Construction Co. Inc. for Project 191017: 2007 Concrete Repair Program for \$424,559.50.

COU2006-56 CONSIDER PROJECT 191021: CITY ENTRANCE SIGNS

Background:

On Friday, December 08, 2006, the City Clerk opened two bids for purchase and installation of 17 city entrance signs. Mais Fence bid \$45,000.00 and Mega Industries bid \$67,000.00. No exceptions were taken to the specifications.

Financial Impact:

Funding is available in the Capital Infrastructure Program.

Suggested Motion:

The City Council moves to approve a bid award for purchase and installation of 17 city entrance sign to Mais Fence for \$45,000.00 using funds from the Capital Infrastructure Program project allocation.

COU2006-57 Consider renewal of Special Use Permit for Communications Antenna at 7700 Mission Road

Issue:
Should the Council renew a Special Use Permit for wireless communications antenna and equipment at 7700 Mission Road?

Background:
In 2001, the City Council adopted an ordinance approving a Special Use Permit for the installation of wireless communication antennas and equipment at the Communications Tower at 7700 Mission Road for a period of five years. This permit for has expired and the applicant is requesting renewal of the Special Use Permit for the installation of communication antennas and equipment. Cingular Wireless has a 25-year lease agreement with the City of Prairie Village for co-location on the tower and equipment installation in the walled compound.

A public hearing was held before the Planning Commission on Tuesday, December 5, 2006 with no members of the public in attendance. A copy of the application and the minutes of the Planning Commission meeting on this application are attached.

The Planning Commission reconfirmed its findings on the initial application approved in 2001 and recommended that the City Council adopt an Ordinance renewing the Special Use Permit subject to the following conditions:

1. That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, and any subsequent ten-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
2. All equipment cabinets and wiring shall be contained within the existing walled area.
3. The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
4. If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
5. The applicant shall comply with all state and federal regulations.
6. The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as a part of the renewal application.
7. The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.
8. The Compound Plan submitted as a part of the original application shall be incorporated as a part of the approval of this application.

9. The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.

Recommendation:

Adopt an ordinance renewing the Special Use Permit for the installation of wireless communication antennas and equipment at 7700 Mission Road subject to the conditions established by the Planning Commission.

ORDINANCE _____

AN ORDINANCE APPROVING THE RENEWAL OF A SPECIAL USE PERMIT FOR THE INSTALLATION OF WIRELESS COMMUNICATIONS ANTENNA AND EQUIPMENT ON THE PROPERTY DESCRIBED AS FOLLOWS: 7700 MISSION ROAD, PRAIRIE VILLAGE, KANSAS.

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

Section I. Planning Commission Recommendation. At its regular meeting on December 5, 2006, the Prairie Village Planning Commission held a public hearing, found the findings of fact to be favorable and recommended that the City Council approve the renewal of a Special Use Permit for the wireless communications antenna installation on the communications tower at 7700 Mission Road and related equipment placed inside the equipment compound, subject to nine specific conditions contained in the minutes of the Planning Commission for that date.

Section II. Findings of the Governing Body. The Governing Body concurred with the findings of fact of the Planning Commission as contained in the minutes of the Planning Commission meeting of December 5, 2006, relating to the application for the renewal of a Special Use Permit, docketed as PC2006-16 and approved the Special Use Permit renewal for 7700 Mission Road for a Wireless Communications installation subject to the following conditions:

1. That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, and any subsequent ten-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
2. All equipment cabinets and wiring shall be contained within the existing walled area.
3. The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
4. If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
5. The applicant shall comply with all state and federal regulations.
6. The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as a part of the renewal application.
7. The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.
8. The Compound Plan submitted as a part of the original application shall be incorporated as a part of the approval of this application.
9. The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.

Section III. Granting of Special Use Permit. Be it therefore ordained that the City of Prairie Village renew the Special Use Permit for 7700 Mission Road for use by Cingular Wireless Communications for the installation wireless communications antennas on the communications

tower at 7700 Mission Road, Prairie Village, Kansas with related equipment to be placed inside the equipment compound, subject to the specific conditions listed above.

Section IV. Take Effect. That this ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper as provided by law.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2006.

CITY OF PRAIRIE VILLAGE, KANSAS

By: /s/ Ronald L. Shaffer
Ronald L. Shaffer., Mayor

ATTEST:

 /s/ Joyce Hagen Mundy
Joyce Hagen Mundy, City Clerk

APPROVED AS TO FORM:

 /s/ Charles E. Wetzler
Charles E. Wetzler, City Attorney

**PLANNING COMMISSION MINUTES
MEETING OF DECEMBER 5, 2006**

**PC2006-19 Request for Renewal of Special Use Permit for Communication Antenna & Equipment at 7700 Mission Road
Zoning: R-1a
Applicant: Curtis Holland, Cingular Communications**

Matt Austin, an attorney with Polsinelli Shalton Welte Suelthaus PC representing Cingular Communications, appeared before the Commission to request a renewal to the existing Special Use Permit for wireless communication antenna and equipment on the tower located behind City Hall at 7700 Mission Road.

With no one present to speak on this application, Chairman Ken Vaughn closed the public hearing.

Ron Williamson stated at its regular meeting on July 3, 2001 the Planning Commission held a public hearing, found the findings of fact to be favorable and recommended approval to the City Council. On August 6, 2001, the City Council approved the recommendation of the Planning Commission which included the following nine conditions:

- 1) The initial approval of the special use permit shall be for a maximum of five years. At the end of the five-year period, and any subsequent five-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional five years and new conditions may be required.
- 2) All equipment cabinets and wiring shall be contained within the existing walled area.
- 3) The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
- 4) If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
- 5) The applicant shall comply with all state and federal regulations.
- 6) The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every five-year renewal and submit it as a part of the renewal application.
- 7) The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.

- 8) The Compound Plan submitted with this application shall be incorporated as a part of the approval of this application.
- 9) The transmission line installed on the tower shall be enclosed in a conduit that is painted the same color as the tower.

The original Special Use Permit was granted to AT&T, but since that time, AT&T and Cingular have formed a joint venture for providing wireless communication services.

The five year initial approval has expired and the applicant is requesting a renewal. The antennas are in place on the monopole and the equipment boxes are contained within the brick walled area. No changes are proposed from the original Special Use Permit that was approved and the applicant is in compliance with all the conditions.

The Planning Commission approved a renewal for ten years last month for an antenna and equipment installation. This application is similar in nature and has a 25 year lease with the City, so consideration should be given increasing the length of time from five years to ten years.

A neighborhood meeting was not required for this renewal since no changes were proposed. The applicant held a meeting on June 19, 2001 when the original special use permit was proposed and no one attended the meeting.

The following is an update of the July 3, 2001 Staff Report:

1. **Validation Study** - A study comparing all potential sites within an approximate ½ mile radius of the proposed application area. The study shall include the location and capacity of existing towers, potential surrounding sites, a discussion of the availability or inability of the tower site to host a communications facility and reasons why certain sites were excluded from consideration. The study must demonstrate to the City's satisfaction that alternative tower sites are not available due to a variety of constraints. It must also contain a statement explaining the need for the facility in order to maintain the system and include a map showing the service area of the proposed as well as any other existing and proposed towers.

If the use of current towers is unavailable, a reason or reasons specifying why they are unavailable needs to be set out and may include one or more of the following: refusal by current tower owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable.

Since the applicant is requesting the renewal of an antenna installation on an existing tower, and is not requesting the construction of a new communications tower or the extension of the height of an existing tower, a study of alternative tower site locations within a ½ mile radius was not required. The City has encouraged wireless communication providers to co-locate on existing towers and this applicant is following that request. The applicant has stated that this is the only location in the City of Prairie Village that is suitable to provide their services. The applicants feel that this location would provide the best coverage for providing high-speed wireless internet access within the City of Prairie Village. The applicant has submitted updated propagation maps.

2. **Photo Simulation** - A photo simulation of the proposed facility as viewed from the adjacent residential properties and public rights-of-way.

Since this is an existing installation and it can be observed, a photo simulation of this location was not required.

3. **Co-Location Agreement - A signed statement indicating the applicant's intention to share space on the tower with other providers.**
This condition is not applicable since the applicant is requesting co-location on an existing tower rather than requesting to construct a new tower and place its antennas on it.
4. **Copy of Lease - A copy of the lease between the applicant and the land owner containing the following provisions:**
 - a. **The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.**
 - b. **The landowner shall be responsible for the removal of the communications antennas in the event that the leaseholder fails to remove upon abandonment.**

A copy of the lease with the City has been submitted and it runs for a period of 25 years.
5. **Site Plan - A site plan prepared in accordance with Chapter 19.32 Site Plan Approval.**
Since all the equipment is contained within the existing walled area, the need for landscaping and screening and any kind of special construction to screen the equipment is not necessary. Since the installation is already in place, a site plan is not necessary and the original site plan will be adequate.
6. **Transmission Medium - Description of the transmission medium that will be used by the applicant to offer or to provide services and proof that applicant will meet all federal, state, and City regulations and laws, including but not limited to FCC regulations.**
The applicant submitted a study with the original application, Shared Site Interference Analysis stating that it predicts no interference with existing configurations and separations and no interference has been reported. The applicant shall meet all state and federal regulations prior to obtaining a permit from the City.
7. **Description of Services - Description of services that will be offered or provided by the applicant over its existing or proposed facilities including what services or facilities the applicant will offer or make available to the City and other public, educational and governmental institutions.**
The applicant has indicated that the purpose for these antennas is to provide the Prairie Village community with simultaneous voice and high-speed wireless internet access. Since this application is for the location of antennas on an existing tower, no special services or facilities are planned to be offered to the City or any other educational or governmental body.
8. **Relocated Items - Indication of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposed to temporarily or permanently remove or relocate.**
The equipment cabinet is located within the walled area and no existing equipment will need to be removed or relocated. Again this is the renewal of an installation of antennas on an existing tower along with the support equipment and no new construction is proposed to occur.
9. **Construction Schedule - Preliminary construction schedule including completion dates.**
N/A. Equipment and antennas are already installed.

10. **Qualifications and Experience - Sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding communications or utility facilities and services described in the application.**
The Cingular/AT&T Joint Venture has extensive experience in providing telecommunications services and has been providing FWS services since 1997.
11. **All Required Governmental Approvals - Information to establish that the applicant has obtained all governmental approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.**
There is no information included with this application that indicated the need for any other governmental approvals, except licensing of FCC. This antenna is not in a location that would require FAA approval.
12. **Miscellaneous - Any other relevant information requested by City staff.**
Since this is a request to renew the installation of antennas on an existing tower, Staff requested that a Tower Structural Analysis be prepared. The Analysis indicates that the existing structure is adequate and will not require structural modifications to the monopole. The report states that the coax wiring harness or transmission line will be installed on the inside of the monopole and no coax will be mounted on the outside of the monopole.
13. **Copies of Co-Location Letters - Copies of letters sent to other wireless communication providers notifying them of the proposed request and inquiring of their interest to co-locate.**
Since this is an application to renew the installation of an antenna on an existing tower, the need to send out co-location letters is not applicable.

Ron Williamson stated since this renewal is similar to the renewal granted for the antenna at 7321 Mission Road, an established location, operating without complaints and with a long-term lease with the property owner, he is recommending the term of the lease be extended from five years to ten years with the other conditions of renewal remaining the same as the initial permit.

The Planning Commission reviewed the findings for the requested renewal of the Special Use Permit for the communication antenna and related equipment at 7700 Mission Road as follows:

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**
The proposed installation of the antennas and equipment meets all the setback, height and area regulations contained in the Zoning Ordinance.
2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**
Approval of the renewal of this special use permit should enhance the welfare and convenience of the public because it will improve the communications link to users in the Prairie Village community and it is co-located on an existing tower.
3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**
The installation of the antennas and equipment have had relatively little impact on the adjacent area in that the antennas were installed on an existing tower and the equipment was contained within an existing walled area so the new use was virtually unnoticeable. It should also be pointed out that the only residents in the area are on the east side of Mission Road which is a significant distance from the location of the tower. It should also

be noted that no one appeared at the public information meeting or the Planning Commission Public Hearing when the original application was approved.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: (a) the location, size and nature of the height of building structures, walls and fences on the site; and (b) the nature and extent of landscaping and screening on the site.**
The installation of these antennas on the existing tower and the installation of equipment in the existing walled area have had relatively little impact on the neighborhood and have not hindered its development. It also should be pointed out that the neighborhood is totally developed and that no equipment will be visible from the exterior of the site. No additional landscaping or screening on the site would be necessary under the existing circumstances.
5. **Off-street parking and loading areas will be provided with standards set forth in these regulations, and areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.**
Off-street parking is already available to serve this user and the other users on the tower. The parking that is currently provided on the site will be adequate for this need.
6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**
Since there are no external improvements required. Existing utility, drainage, and other facilities should be adequate to serve the proposed installation.
7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**
The site and the equipment only requires service vehicles for installation and periodic maintenance and an access road is already in place. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets or drives in the area around City Hall.
8. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing process, obnoxious odors, or unnecessary intrusive noises.**
The antennas and equipment do not have any hazardous or toxic materials, obnoxious odors, or intrusive noises that would affect the general public.
9. **Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed structure is to be built or located.**
The equipment is contained within the existing walled area and therefore has not created any need to expand the walls or screening. The items that will be exposed are the antennas that would be installed on the tower and the appearance of these antennas would be similar in nature to other antennas that are located on the tower at this time but will be architecturally different than other styles and materials used in the neighborhood.

Nancy Vennard moved the Planning Commission find the findings of fact favorable for application PC2006-11 the renewal of the Special Use Permit for wireless communication antenna and related equipment at 7700 Mission Road and recommends the Planning Commission forward the application to the City Council with a recommendation that it be approved subject to the following conditions:

- 1) That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, and any subsequent ten-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
- 2) All equipment cabinets and wiring shall be contained within the existing walled area.
- 3) The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
- 4) If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
- 5) The applicant shall comply with all state and federal regulations.
- 6) The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as a part of the renewal application.
- 7) The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.
- 8) The Compound Plan submitted as a part of the original application shall be incorporated as a part of the approval of this application.
- 9) The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.

The motion was seconded by Robb McKim and passed unanimously.

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, BWR, Planning Consultant
SUBJECT: PC 2006-19: Request for Renewal of a Special Use Permit for Installation of Antennas and Equipment on a Communications Tower at City Hall 7700 Mission Road by Cingular Wireless.

DATE: December 5, 2006

BWR Project # 2000-024.01

COMMENTS:

This is a request by Cingular Wireless to renew the Special Use Permit for the installation of antennas and equipment on the communications tower behind City Hall.

At its regular meeting on July 3, 2001 the Planning Commission held a public hearing, found the findings of fact to be favorable and recommended approval to the City Council. On August 6, 2001, the City Council approved the recommendation of the Planning Commission which included the following nine conditions:

- 1) The initial approval of the special use permit shall be for a maximum of five years. At the end of the five-year period, and any subsequent five-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional five years and new conditions may be required.
- 2) All equipment cabinets and wiring shall be contained within the existing walled area.
- 3) The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
- 4) If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
- 5) The applicant shall comply with all state and federal regulations.
- 6) The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every five-year renewal and submit it as a part of the renewal application.
- 7) The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.

- 8) The Compound Plan submitted with this application shall be incorporated as a part of the approval of this application.
- 9) The transmission line installed on the tower shall be enclosed in a conduit that is painted the same color as the tower.

The original Special Use Permit was granted to AT&T, but since that time, AT&T and Cingular have formed a joint venture for providing wireless communication services.

The five year initial approval has expired and the applicant is requesting a renewal. The antennas are in place on the monopole and the equipment boxes are contained within the brick walled area. No changes are proposed from the original Special Use Permit that was approved and the applicant is in compliance with all the conditions.

The Planning Commission approved a renewal for ten years last month for an antenna and equipment installation. This application is similar in nature and has a 25 year lease with the City, so consideration should be given increasing the length of time from five years to ten years.

A neighborhood meeting was not required for this renewal since no charges were proposed. The applicant held a meeting on June 19, 2001 when the original special use permit was proposed and no one attended the meeting.

The following is an update of the July 3, 2001 Staff Report:

1. **Validation Study – A study comparing all potential sites within an approximate ½ mile radius of the proposed application area. The study shall include the location and capacity of existing towers, potential surrounding sites, a discussion of the availability or inability of the tower site to host a communications facility and reasons why certain sites were excluded from consideration. The study must demonstrate to the City’s satisfaction that alternative tower sites are not available due to a variety of constraints. It must also contain a statement explaining the need for the facility in order to maintain the system and include a map showing the service area of the proposed as well as any other existing and proposed towers.**

If the use of current towers is unavailable, a reason or reasons specifying why they are unavailable needs to be set out and may include one or more of the following: refusal by current tower owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable.

Since the applicant is requesting the renewal of an antenna installation on an existing tower, and is not requesting the construction of a new communications tower or the extension of the height of an existing tower, a study of alternative tower site locations within a ½ mile radius was not required. The City has encouraged wireless communication providers to co-locate on existing towers and this applicant is following that request. The applicant has stated that this is the only location in the City of Prairie Village that is suitable to provide their services. The applicants feel that this location would provide the best coverage for providing high-speed wireless internet access within the City of Prairie Village. The applicant has submitted updated propagation maps.

2. **Photo Simulation – A photo simulation of the proposed facility as viewed from the adjacent residential properties and public rights-of-way.**

Since this is an existing installation and it can be observed, a photo simulation of this location was not required.

3. **Co-Location Agreement – A signed statement indicating the applicant’s intention to share space on the tower with other providers.**

This condition is not applicable since the applicant is requesting co-location on an existing tower rather than requesting to construct a new tower and place its antennas on it.

4. **Copy of Lease – A copy of the lease between the applicant and the land owner containing the following provisions:**

- a. **The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.**
- b. **The landowner shall be responsible for the removal of the communications antennas in the event that the leaseholder fails to remove upon abandonment.**

A copy of the lease with the City has been submitted and it runs for a period of 25 years.

5. **Site Plan – A site plan prepared in accordance with Chapter 19.32 Site Plan Approval.**

Since all the equipment is contained within the existing walled area, the need for landscaping and screening and any kind of special construction to screen the equipment is not necessary. Since the installation is already in place, a site plan is not necessary and the original site plan will be adequate.

6. **Transmission Medium – Description of the transmission medium that will be used by the applicant to offer or to provide services and proof that applicant will meet all federal, state, and City regulations and laws, including but not limited to FCC regulations.**

The applicant submitted a study with the original application, Shared Site Interference Analysis stating that it predicts no interference with existing configurations and separations and no interference has been reported. The applicant shall meet all state and federal regulations prior to obtaining a permit from the City.

7. **Description of Services – Description of services that will be offered or provided by the applicant over its existing or proposed facilities including what services or facilities the applicant will offer or make available to the City and other public, educational and governmental institutions.**

The applicant has indicated that the purpose for these antennas is to provide the Prairie Village community with simultaneous voice and high-speed wireless internet access. Since this application is for the location of antennas on an existing tower, no special services or facilities are planned to be offered to the City or any other educational or governmental body.

8. **Relocated Items – Indication of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposed to temporarily or permanently remove or relocate.**

The equipment cabinet is located within the walled area and no existing equipment will need to be removed or relocated. Again this is the renewal of an installation of antennas on an existing tower along with the support equipment and no new construction is proposed to occur.

9. **Construction Schedule – Preliminary construction schedule including completion dates.**

18

N/A. Equipment and antennas are already installed.

10. **Qualifications and Experience – Sufficient detail to establish the applicant’s technical qualifications, experience and expertise regarding communications or utility facilities and services described in the application.**

The Cingular/AT&T Joint Venture has extensive experience in providing telecommunications services and has been providing FWS services since 1997.

11. **All Required Governmental Approvals – Information to establish that the applicant has obtained all governmental approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.**

There is no information included with this application that indicated the need for any other governmental approvals, except licensing of FCC. This antenna is not in a location that would require FAA approval.

12. **Miscellaneous – Any other relevant information requested by City staff.**

Since this is a request to renew the installation of antennas on an existing tower, Staff requested that a Tower Structural Analysis be prepared. The Analysis indicates that the existing structure is adequate and will not require structural modifications to the monopole. The report states that the coax wiring harness or transmission line will be installed on the inside of the monopole and no coax will be mounted on the outside of the monopole.

13. **Copies of Co-Location Letters – Copies of letters sent to other wireless communication providers notifying them of the proposed request and inquiring of their interest to co-locate.**

Since this is an application to renew the installation of an antenna on an existing tower, the need to send out co-location letters is not applicable.

FACTORS FOR CONSIDERATION:

The Planning Commission shall make findings of fact to support its decision to approve, conditionally approve or disapprove a special use permit. In making its decision, consideration should be give to any of the following factors that are relevant to the request:

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The proposed installation of the antennas and equipment meets all the setback, height and area regulations contained in the Zoning Ordinance.

2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

Approval of the renewal of this special use permit should enhance the welfare and convenience of the public because it will improve the communications link to users in the Prairie Village community and it is co-located on an existing tower.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

The installation of the antennas and equipment have had relatively little impact on the adjacent area in that the antennas were installed on an existing tower and the equipment was contained within an existing walled area so the new use was virtually unnoticeable. It should also be pointed out that

the only residents in the area are on the east side of Mission Road which is a significant distance from the location of the tower. It should also be noted that no one appeared at the public information meeting or the Planning Commission Public Hearing when the original application was approved.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: (a) the location, size and nature of the height of building structures, walls and fences on the site; and (b) the nature and extent of landscaping and screening on the site.**

The installation of these antennas on the existing tower and the installation of equipment in the existing walled area have had relatively little impact on the neighborhood and have not hindered its development. It also should be pointed out that the neighborhood is totally developed and that no equipment will be visible from the exterior of the site. No additional landscaping or screening on the site would be necessary under the existing circumstances.

5. **Off-street parking and loading areas will be provided with standards set forth in these regulations, and areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.**

Off-street parking is already available to serve this user and the other users on the tower. The parking that is currently provided on the site will be adequate for this need.

6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Since there are no external improvements required. Existing utility, drainage, and other facilities should be adequate to serve the proposed installation.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The site and the equipment only requires service vehicles for installation and periodic maintenance and an access road is already in place. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets or drives in the area around City Hall.

8. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing process, obnoxious odors, or unnecessary intrusive noises.**

The antennas and equipment do not have any hazardous or toxic materials, obnoxious odors, or intrusive noises that would affect the general public.

9. **Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed structure is to be built or located.**

The equipment is contained within the existing walled area and therefore has not created any need to expand the walls or screening. The items that will be exposed are the antennas that would be installed on the tower and the appearance of these antennas would be similar in nature to other antennas that are located on the tower at this time but will be architecturally different than other styles and materials used in the neighborhood. 20

RECOMMENDATION:

After a review of the proposed application to renew the Special Use Permit in relation to the nine factors previously outlined, the Planning Commission shall make findings of fact to support its decision and may either recommend approval of the special use permit with or without conditions, recommend denial, or continue it to another meeting. In granting this special use permit, however, the Planning Commission may impose such conditions, safeguards, and restrictions up on the premises benefited by the approval of the special use permit as may be necessary to reduce or minimize any potentially injurious affect on other property in the neighborhood. If the Planning Commission recommends approval of the special use permit renewal to the City Council, it is suggested that the following conditions be included:

- 1) That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, and any subsequent ten-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
- 2) All equipment cabinets and wiring shall be contained within the existing walled area.
- 3) The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
- 4) If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
- 5) The applicant shall comply with all state and federal regulations.
- 6) The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as a part of the renewal application.
- 7) The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.
- 8) The Compound Plan submitted as a part of the original application shall be incorporated as a part of the approval of this application.
- 9) The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.

SPECIAL USE PERMIT APPLICATION

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: PC 2006-19

Filing Fee: \$100

Deposit: \$500

Date Advertised: 11/4/06

Date Notices Sent: 11/14/06

Public Hearing Date: 12/5/06

APPLICANT: Curtis M. Holland, Polsinelli Shalton Welte Suelthaus PC, on behalf of Cingular Wireless PHONE: 913-451-8788

ADDRESS: 6201 College Blvd., Suite 500, Overland Park, Kansas ZIP: 66211

OWNER: City of Prairie Village PHONE: 913-381-6464

ADDRESS: 7700 Mission Road, Prairie Village, Kansas ZIP: 66208

LOCATION OF PROPERTY: 7700 Mission Road, Prairie Village, Kansas

LEGAL DESCRIPTION: Please see attached.

ADJACENT ZONING AND LAND USE:

	<u>Land Use</u>	<u>Zoning</u>
North	<u>Shawnee Mission East High School</u>	<u>R-1A</u>
South	<u>Church</u>	<u>R-1A</u>
East	<u>Single Family Residential</u>	<u>R-1A</u>
West	<u>Single Family Residential</u>	<u>R-1A</u>

Present Use of Property: Prairie Village Municipal Office Complex

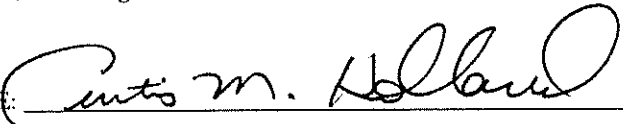
Please complete both pages of the form and return to: Codes Administrator
City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208

Does the proposed special use meet the following standards? If yes, attach a separate sheet explaining why. Yes No

1. Is deemed necessary for the public convenience at that location. X
2. Is so designed, located, and proposed to be operated that die public health, safety, and welfare will be protected. X
3. Is found to be generally compatible with die neighborhood in which it is proposed. X
4. Will comply with the height and area regulations of die district in which it is located unless specifically granted. X
5. Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential use from any injurious effect. X
6. Adequate utility, drainage, and other such necessary facilities have been or will be provided. X

Should this special use be valid only for a specific time period? Yes No X

If Yes, what length of time?

SIGNATURE:  DATE: 11/10/06

BY:

TITLE:

Attachments Required:

- Site plan showing existing and proposed structures on die property in question, and adjacent property, off-street parking, driveways, and other information.
- Certified list of property owners.

Exhibit C

THE PREMISES

Commencing at the N.E. corner of the N ½ of the SE ¼ of the SE ¼ of Section 21, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas; thence S 89° 57' 34" W along the North line of said N ½, SE ¼, SE ¼, a distance of 299.62 feet; thence S 00° 02' 26" E, a distance of 7.95 feet to the Point of Beginning of Lease Boundary; thence S 30° 17' 51" W, a distance of 44.17 feet; thence S 59° 42' 09" E a distance of 22.67 feet; thence N 30° 17' 51" E, a distance of 13.71 feet; thence S 59° 42' 09" E, a distance of 14.00 feet; thence N 30° 17' 51" E, a distance of 44.39 feet; thence N 59° 42' 09" W, a distance of 20.33 feet; thence S 30° 17' 51" W, a distance of 13.94 feet; thence N 59° 42' 09" W, a distance of 16.34 feet to the Point of Beginning. Containing 1711 square feet more or less.

AFFIDAVIT

STATE OF KANSAS)
)
COUNTY OF JOHNSON) ss.

Barbra Vernon, City Administrator for the City of Prairie Village, being first duly sworn upon her oath, deposes and states as follows:

1. The City of Prairie Village is the owner of property in Johnson County, Kansas, parcel ID# OP55200000 0T01, located in the city of Prairie Village, Kansas, hereby referred to as the "Property";
2. The City of Prairie Village has entered into a Lease for the Property with Cingular Wireless to allow for the development of wireless communication facilities;
3. I am City Administrator for the City of Prairie Village and am authorized to execute this instrument on behalf of the City of Prairie Village; and
4. I have authorized Polsinelli Shalton Welte Suelthaus PC to act as Agent on behalf of Cingular Wireless and The City of Prairie Village, to file applications to renew a Special Use Permit and any other necessary applications to allow for the above referenced project on the Property.

By: Barbara Vernon

Subscribed and sworn to before me this 9th day of November, 2008

Joyce Hagen Mundy
Notary Public

My Appointment Expires:



November 8, 2006

Ms. Joyce Mundy
City of Prairie Village
7700 Mission Road
Prairie Village, KS 66208

RE: Structural Review
Cingular Wireless Site
KS-5025 Prairie Village

Dear Ms. Mundy:

I have visited the Cingular Wireless Site at 7700 Mission Road to evaluate the structural condition of the existing 150' Valmont Monopole. The tower was last analyzed in February of 2006 in accordance with TIA/EIA 222-F for a wind speed of 75 mph without ice and 65 mph with 1/2" radial ice and it was found to be structurally adequate to support the proposed loading configuration.

Proposed Loading:

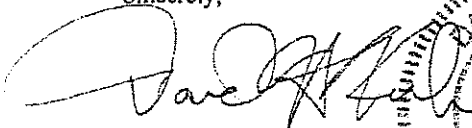
6 – CSS XDU06-80-R antennas w/ 6 TMA's at 150' with 12 runs 1-5/8" coax on the top 15' platform
1 – 12' Omni antenna at 157' with 1 run 1-1/4" coax mounted on the corner of the top 15' platform
9 – Decibel 731DG65-VTAXM antennas w/ 6 TMA's at 124' with 9 runs 1-5/8" coax on a 15' low profile platform at 123'
3 – EMS RR-65-17-XXDPL2 antennas with 6 runs 1-1/4" coax chain mounted to the pole at the 110' level
1 – 20' Omni antenna at 67' with 1 run 7/8" coax mounted on a 6' standoff clamped to the monopole at the 57' level

Note: All coax is to be installed inside the pole no coax to be mounted to the exterior of the pole.

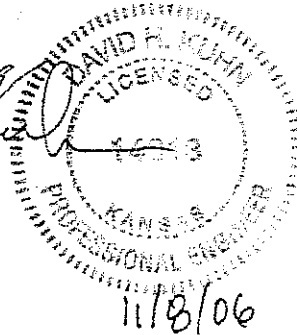
I have verified the antenna loading on the tower and the structural condition of the existing monopole and have found the tower to be in compliance with latest structural review and in good condition with no visible deterioration of the structural members of the monopole. Entry ports that have been installed for a Sprint PCS installation since the previous renewal appear to have been installed properly and with due care to ensure the structural integrity at the installation locations.

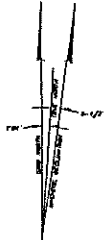
If you have any questions regarding this review, please contact me at 913-707-6974.

Sincerely,

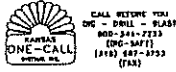


David H. Kuhn, P.E.





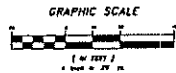
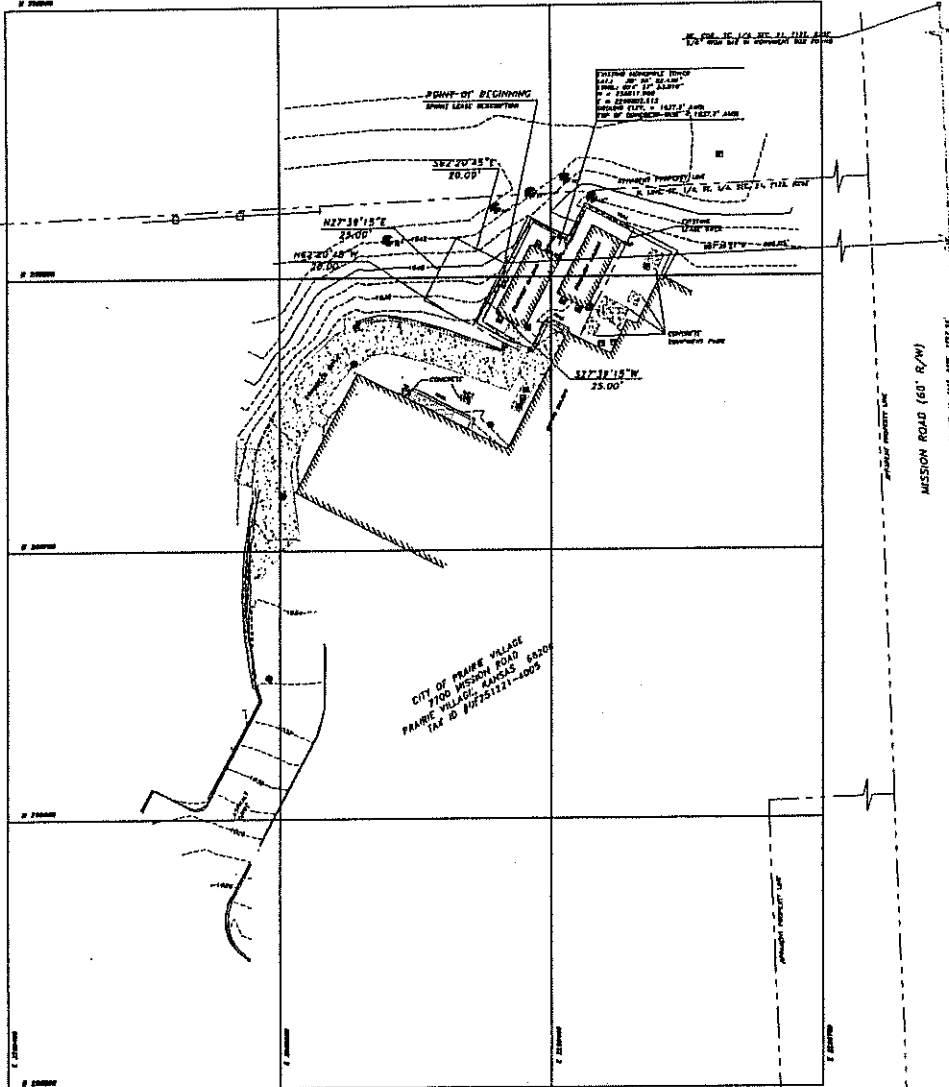
- LEGEND**
- BENCHMARK
 - MONUMENT SET (1/2" IRON BAR UNLESS OTHERWISE NOTED)
 - MONUMENT FOUND
 - SURVEY PROPERTY
 - PROPERTY LINE
 - - - RIGHT-OF-WAY LINE
 - - - EASEMENT LINE
 - - - SECTION LINE
 - - - CENTER LINE
 - - - FLOW LINE
 - OVERHEAD UTILITY LINES
 - UTILITY POLE
 - CUT ANCHOR
 - ELECTRIC METER
 - AIR CONDITIONER UNIT
 - SANITARY SEWER MANHOLE
 - CABLE TV PEDestal
 - CHAIN LINK FENCE
 - GATE POST
 - CONCRETE TREE AND SIZE
 - BUSH
 - CONCRETE BOLLARD



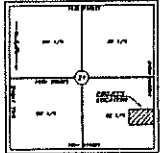
CALL BEFORE YOU DIG - DIBILL - 91437
 800-344-7333 (TOLL-FREE)
 (913) 687-3753 (LOCAL)
 (913)

THE UTILITIES AS SHOWN ON THIS DRAWING WERE DEVELOPED FROM THE INFORMATION AVAILABLE. THIS IS NOT GUARANTEED NOR INTENDED TO BE THE COMPLETE INVENTORY OF UTILITIES IN THIS AREA. IT IS THE CLIENT'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE.

BENCHMARK (NAVD 1988 DATUM)
 CHASTLED BOLLARD AT SOUTHEAST CORNER OF JUNCTION BOX ON NORTHWEST CORNER OF CONCRETE ACCESS DRIVE TO TOWER EQUIPMENT. ELEVATION=1036.32



POINT OF COMMENCEMENT
 BE EARLY 1/4, SEC. 21, T15S, R25E
 6 1/4" IRON BAR AT INTERSECTION WITH PLAIN



VICINITY MAP
 SEC. 21, T15S, R25E, 23E
 SCALE: 1"=7000'

GENERAL NOTES

1. BASIS OF BEARINGS: STATE PLANE COORDINATE, KANSAS NORTH ZONE (NAD 83).
2. NO MODIFICATION WAS SET AT THE TIME OF THIS SURVEY.

TITLE COMMITMENT

TITLE COMMITMENT FILE NO.: 7531143
 EFFECTIVE DATE: JAN 1, 2004
 NATIONAL APPRAISAL AND TITLE SERVICES, INC.
 388 SOUTHMOORE BLVD SOUTHMOORE, PA 15217

TITLE DESCRIPTION

ALL THE FOLLOWING DESCRIBED REAL ESTATE, SITUATED IN THE COUNTY OF JOHNSON AND STATE OF KANSAS, TO-WIT:
 THE NORTH ONE-HALF (1/2) OF THE SOUTHWEST ONE-QUARTER (S.E. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.E. 1/4) OF SECTION 21, TOWNSHIP 15, RANGE 25 IN JOHNSON COUNTY, KANSAS; EXCEPTING THEREFROM THE SOUTH 113 FEET OF THE EAST 170 FEET, SUBJECT, HOWEVER TO EXTENSION OF AN ESTATE FOR LIFE IN BROADEN BLAETTER, LEFT BLAETTER AND MARIE BLAETTER PROVIDED, HOWEVER, IF MARIE BLAETTER SHOULD CEASE TO BE THE WIFE OF LEROY BLAETTER OR IF SHE SURVIVES LEROY BLAETTER AND REMARIES, HER LIFE ESTATE SHALL TERMINATE IMMEDIATELY AND CERTAIN TO THE HOLDERS OF THE PREMISES; IN AND TO THE FOLLOWING DESCRIBED PREMISES, TO-WIT:

ALL THAT PART OF THE NORTH ONE-HALF (1/2) OF THE SOUTHWEST ONE-QUARTER (S.E. 1/4) OF SECTION 21, TOWNSHIP 15, RANGE 25 IN JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE SOUTH 183 FEET OF THE NORTH 353 FEET OF THE EAST 220 FEET, EXCEPT THE EAST 36 FEET THEREOF DEDICATED AS PART OF HIGHWAY ROAD

SPRINT LEASE DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 15 SOUTH, RANGE 25 EAST, IN JOHNSON COUNTY, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 82°30' WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 127.85 FEET; THENCE SOUTH 87°30' WEST LEAVING SAID EAST LINE A DISTANCE OF 42.00 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE SOUTH 87°30' WEST A DISTANCE OF 28.00 FEET; THENCE NORTH 82°30' WEST A DISTANCE OF 80.00 FEET; THENCE NORTH 87°30' EAST A DISTANCE OF 25.00 FEET; THENCE SOUTH 82°30' EAST A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING. CONTAINS 0.0400 ACRES, MORE OR LESS, THE OF DESCRIPTION.

FLOOD STATEMENT

THE SUBJECT TRACT LIES WITHIN "ZONE X" (AREAS DETERMINED TO BE OUTSIDE 100-YEAR FLOOD PLAINS) AS SHOWN ON THE JOHNSON COUNTY, KANSAS FLOOD INSURANCE RATE MAP (FIRM).
 PANEL: 48 OF 140
 MAP NO.: 20050501E B
 EFFECTIVE DATE: SEPTEMBER 17, 1991
 NO FIELD SURVEYS WERE PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE OBTAINED TO VERIFY THE DETERMINATION OF APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

DISCLAIMER

LIABILITY IS LIMITED TO THE ABOVE DESCRIBED AND TO THEIR LEGAL. FUTURE USE IS PROMOTED AND NO LIABILITY WILL BE ASSUMED. THIS SURVEY IS FOR LEASE AND EASEMENT PURPOSES ONLY. IF THEY WERE PERFORMED THE LOCATION OF THE LEASER AND EASEMENT AS THEY WERE SURVEYED. THIS IS NOT A BOUNDARY SURVEY OF THE ABOVE REFERENCED DEED DESCRIPTION AND IS SUBJECT TO ANY MODIFICATIONS THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE. IT IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY FENCE, WITHIN OR OUTSIDE OF THE LEAST OF EASEMENT AREAS. NO PROPERTY CORNERS OF THE ABOVE REFERENCED DEED DESCRIPTION WERE SET UNLESS OF ANCHOR MARKS EXISTING HEREON. IF ANY ARE FOUND FROM PLAT OR DEED INFORMATION, AND HAVE NOT BEEN VERIFIED UNLESS NOTED, NO WARRANTY IS EXTENDED HEREON TO THE PRESENT OR FUTURE OWNER OR OCCUPANTS. DO NOT SCALE DRAWINGS.

SURVEYOR'S CERTIFICATE

I, DEWEY J. BLANKENHORN, A REGISTERED LAND SURVEYOR IN THE STATE OF KANSAS, DO HEREBY CERTIFY THAT THE ABOVE SURVEY AND DESCRIPTION ARE IN CONFORMANCE WITH A SURVEY COMPLETED UNDER MY DIRECT SUPERVISION AND WAS EXECUTED IN ACCORDANCE WITH CURRENT ANNUAL STANDARDS FOR PROPERTY BOUNDARY SURVEYS OF THE STATE OF KANSAS TO THE BEST OF MY KNOWLEDGE AND BELIEF.



DEWEY J. BLANKENHORN, 15-1151

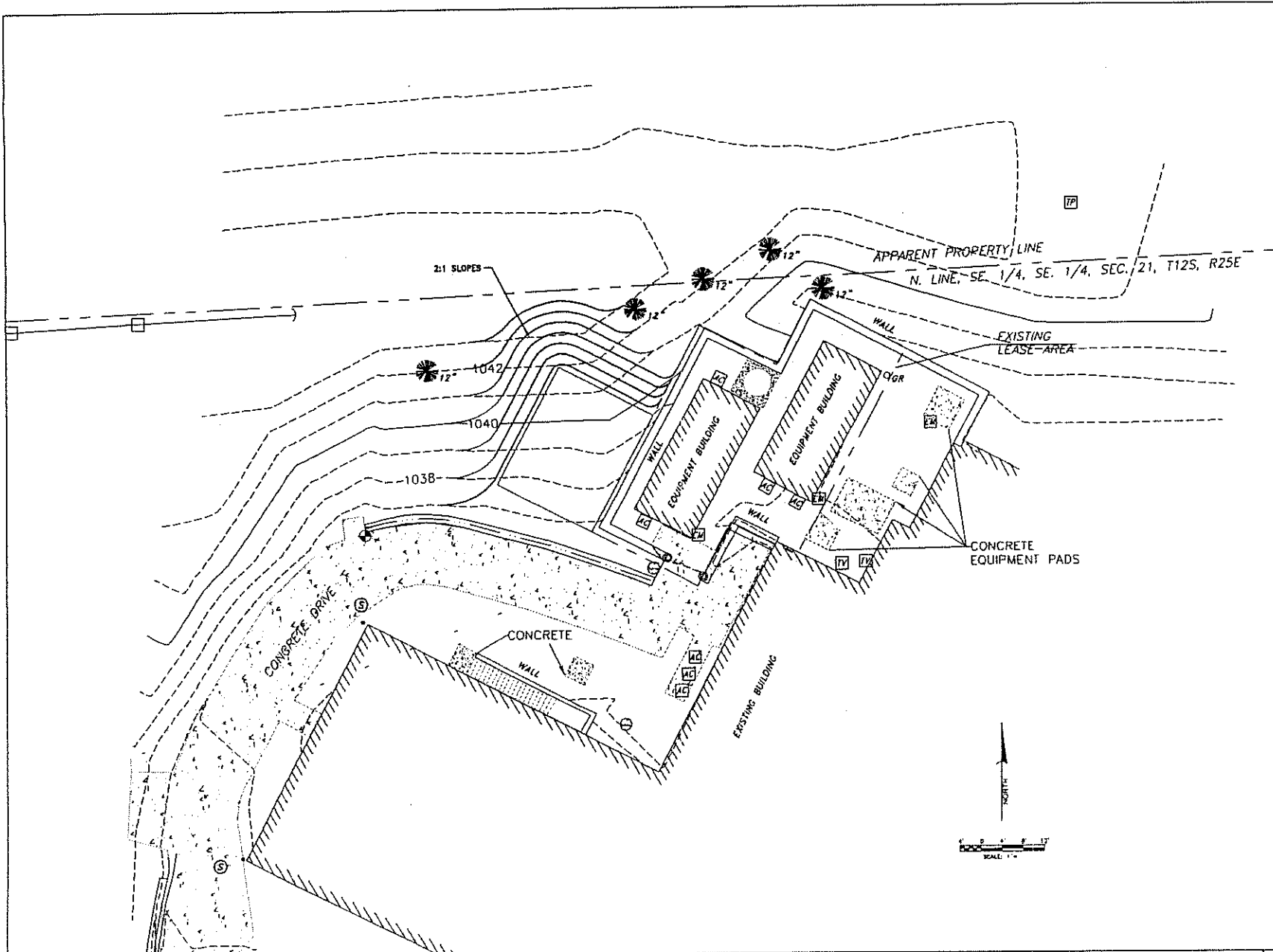
DATE	08/05/04
DRAWN BY	MAC
CHECKED BY	ZB
DATE	08/05/04
PROJECT	CH
NO. 1	OF 1

DYNATEK
 433 CRESTVIEW DRIVE
 TRANSFER, PENNSYLVANIA 16154


SITE KCBK027-C
 PRAIRIE VILLAGE MOBILE HOME
 700 MISSOURI ROAD
 PRAIRIE, KANSAS 66506
 TOPOGRAPHIC SURVEY



PROJECT NO. 3213.1
 FILE NO. 3213.1-TOPD
 DATE 08/05/04
 DRAWN BY MAC
 CHECKED BY ZB
 DATE 08/05/04



ARCHITECTURAL SITE PLAN




12200 W. 80TH STREET
LENEKA, KS 68215
TELEPHONE: (913) 894-6209
FAX: (913) 984-8210

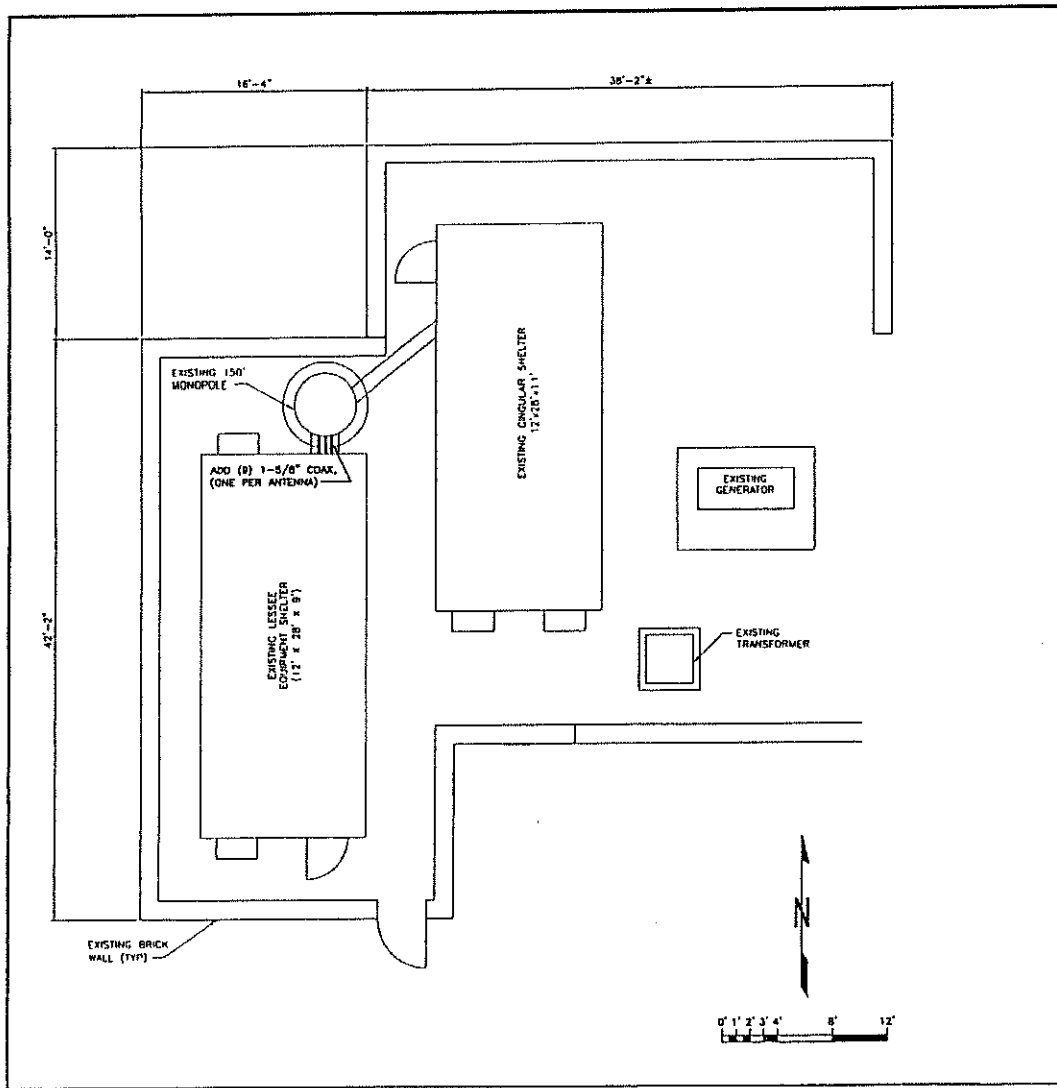
Dynatek

TELECOMMUNICATIONS SERVICES

435 Cranberry Drive
Trafalgar, PA 16134
Phone: 800-838-3234
Fax: 717-666-1384
www.dynatek.com



DYNATEK PROJECT NO.	4781
SITE NAME:	PRAIRIE VILLAGE CITY MONOPOLE
SITE NUMBER:	KC60XC727C
SITE ADDRESS:	7700 MISSION ROAD (A) PRAIRIE VILLAGE, KS 66208
DISCRIPTION:	CO-LOCATION (MONOPOLE)
DRAWING TITLE:	GRADING PLAN
DATE:	11/11/03
DESIGNED BY:	Tom MURPHY
CHECKED BY:	D.C.D.
DATE:	11/11/03
DRAWN BY:	C-1
REV. NO.	2



ANTENNA KEY

ANTENNA POSITION	COAX COLOR CODE	BEAM WIDTH	MODEL NUMBER	ANTENNA VENDOR	AZIMUTH	ELECTRICAL DOWNTILT	MECHANICAL DOWNTILT	HEIGHT TO CL OF ANTENNA (AGL)	COAXIAL FEEDER	
									SIZE	LENGTH
A-1	1 RED BAND	65'	731DG85VTAXM	DECIBEL	0'	XX	XX	124'	1-5/8"	144'
A-2	2 RED BANDS	65'	731DG85VTAXM	DECIBEL	0'	XX	XX	124'	1-5/8"	144'
A-3	3 RED BANDS	65'	731DG85VTAXM	DECIBEL	0'	XX	XX	124'	1-5/8"	144'
B-1	1 BLUE BAND	65'	731DG85VTAXM	DECIBEL	120'	XX	XX	124'	1-5/8"	144'
B-2	2 BLUE BANDS	65'	731DG85VTAXM	DECIBEL	120'	XX	XX	124'	1-5/8"	144'
B-3	3 BLUE BANDS	65'	731DG85VTAXM	DECIBEL	120'	XX	XX	124'	1-5/8"	144'
C-1	1 GREEN BAND	65'	731DG85VTAXM	DECIBEL	240'	XX	XX	124'	1-5/8"	144'
C-2	2 GREEN BANDS	65'	731DG85VTAXM	DECIBEL	240'	XX	XX	124'	1-5/8"	144'
C-3	3 GREEN BANDS	65'	731DG85VTAXM	DECIBEL	240'	XX	XX	124'	1-5/8"	144'

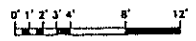
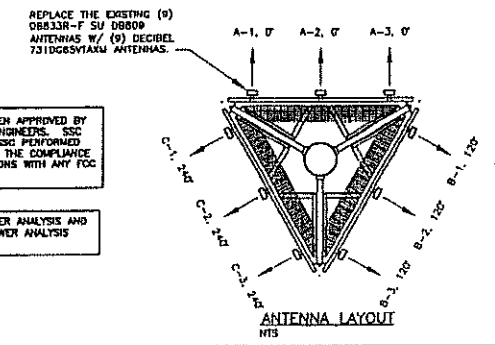
ADD ONE TMA & COUPLER PER ANTENNA

- NOTES:**
- ALL COAX SHALL BE COLOR CODED AT THREE (3) PLACES EACH; AT ANTENNA, EXTERIOR OF SHELTER, AND THE INTERIOR OF SHELTER.
 - COLOR BANDS DENOTES TRANSMIT.
 - COAXIAL FEEDER LENGTHS INDICATED ABOVE ARE APPROXIMATE. CONTRACTOR TO VERIFY ACTUAL LENGTH BEFORE ORDERING.
 - CONTRACTOR SHALL FIELD VERIFY THE EXACT TMA'S TO BE INSTALLED PER THE OPERATIONS MANAGER.
 - CONTRACTOR SHALL OBTAIN A COPY OF SDF FROM VERIZON WIRELESS FOR INFORMATION OF ANTENNA TYPE, TMA'S, COUPLERS, ELEVATION, AZIMUTH AND SIZE OF COAX TO BE USED.
 - CONTRACTOR MUST FOLLOW ALL MANUFACTURER'S RECOMMENDATIONS REGARDING THE INSTALLATION OF COAXIAL CABLES, CONNECTORS AND ANTENNAS.

- SCOPE OF WORK:**
- REPLACE THE EXISTING (9) DB833R-F 5U DB809 ANTENNAS W/ (9) DECIBEL 731DG85VTAXM ANTENNAS.
 - ADD ONE TMA & COUPLER PER ANTENNA
 - ALL COAX LADDERS, CABLE TRAYS, ICE BRIDGE, ETC., SHALL BE MODIFIED OR REPLACED TO ACCOMMODATE THE ADDITIONAL COAX RUNS, WITH THE APPROVAL FROM THE VERIZON CONSTRUCTION MANAGER.

LOCATIONS OF ANTENNAS AS SHOWN HAVE BEEN APPROVED BY CLIENT AND/OR CLIENT'S RADIO FREQUENCY ENGINEERS. SSC ASSUMES NO RESPONSIBILITY FOR, NOR HAS SSC PERFORMED ANY INVESTIGATIONS OR STUDIES CONCERNING, THE COMPLIANCE OR NONCOMPLIANCE OF SAID ANTENNA LOCATIONS WITH ANY FCC RADIO FREQUENCY EXPOSURE REGULATIONS.

SSC HAS NOT PERFORMED A STRUCTURAL TOWER ANALYSIS AND HAS NOT BEEN PROVIDED ANY STRUCTURAL TOWER ANALYSIS INFORMATION REGARDING THIS SITE.



OVERALL SITE PLAN

REV	DATE	REVISION DESCRIPTION	DESIGN
A	06/28/04	LEASE EXHIBIT	JMB

NOTICE: THIS DRAWING HAS NOT BEEN PUBLISHED AND IS THE SOLE PROPERTY OF SSC, INC. AND IS LOANED TO THE BORROWER FOR CONFIDENTIAL USE ONLY, AND IN CONSIDERATION OF THE LOAN OF THIS DRAWING, THE BORROWER PROMISES AND AGREES TO RETURN IT UPON REQUEST AND AGREES THAT IT WILL NOT BE REPRODUCED, COPIED, LOAN OR OTHERWISE DISPOSED OF DIRECTLY OR INDIRECTLY, NOR USED FOR ANY PURPOSE OTHER THAN FOR WHICH IT IS PROVIDED.

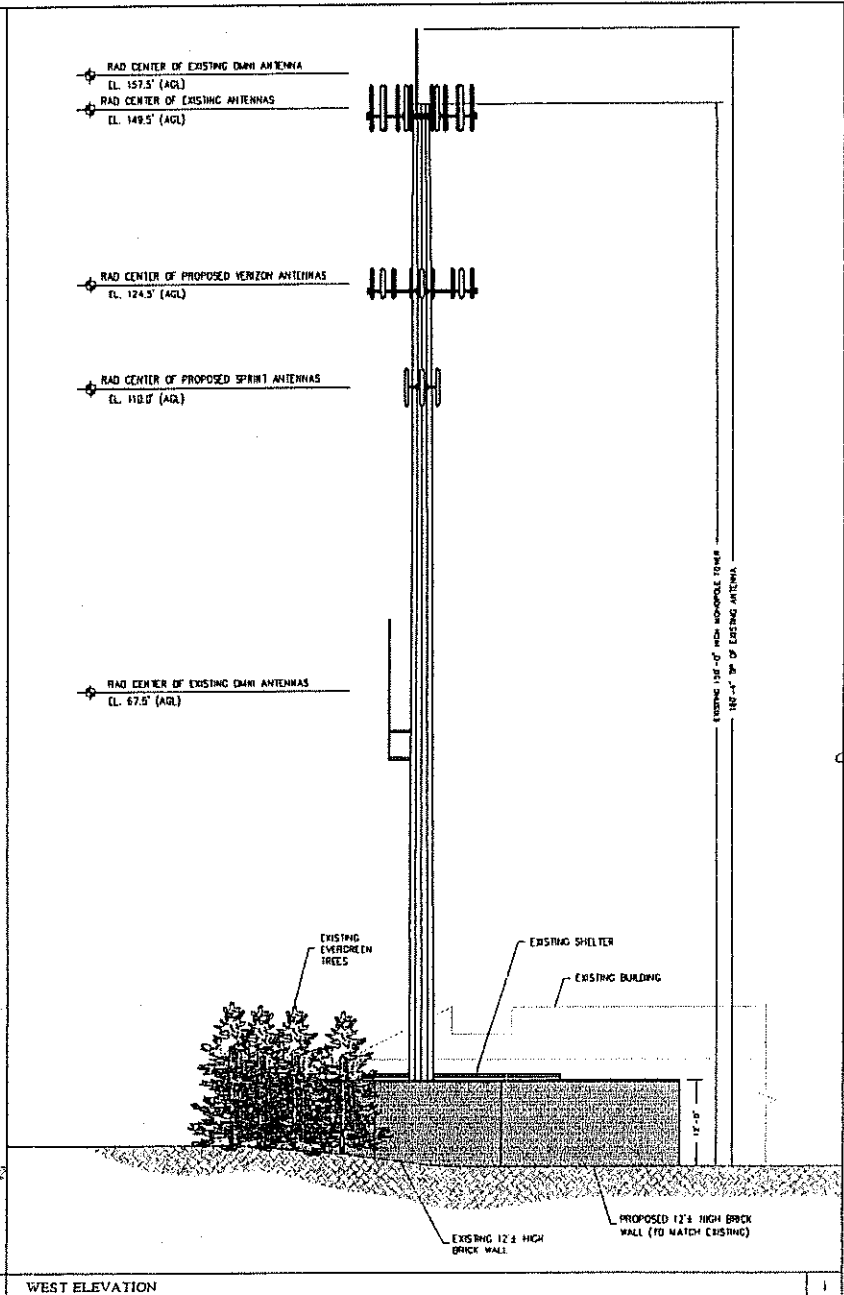
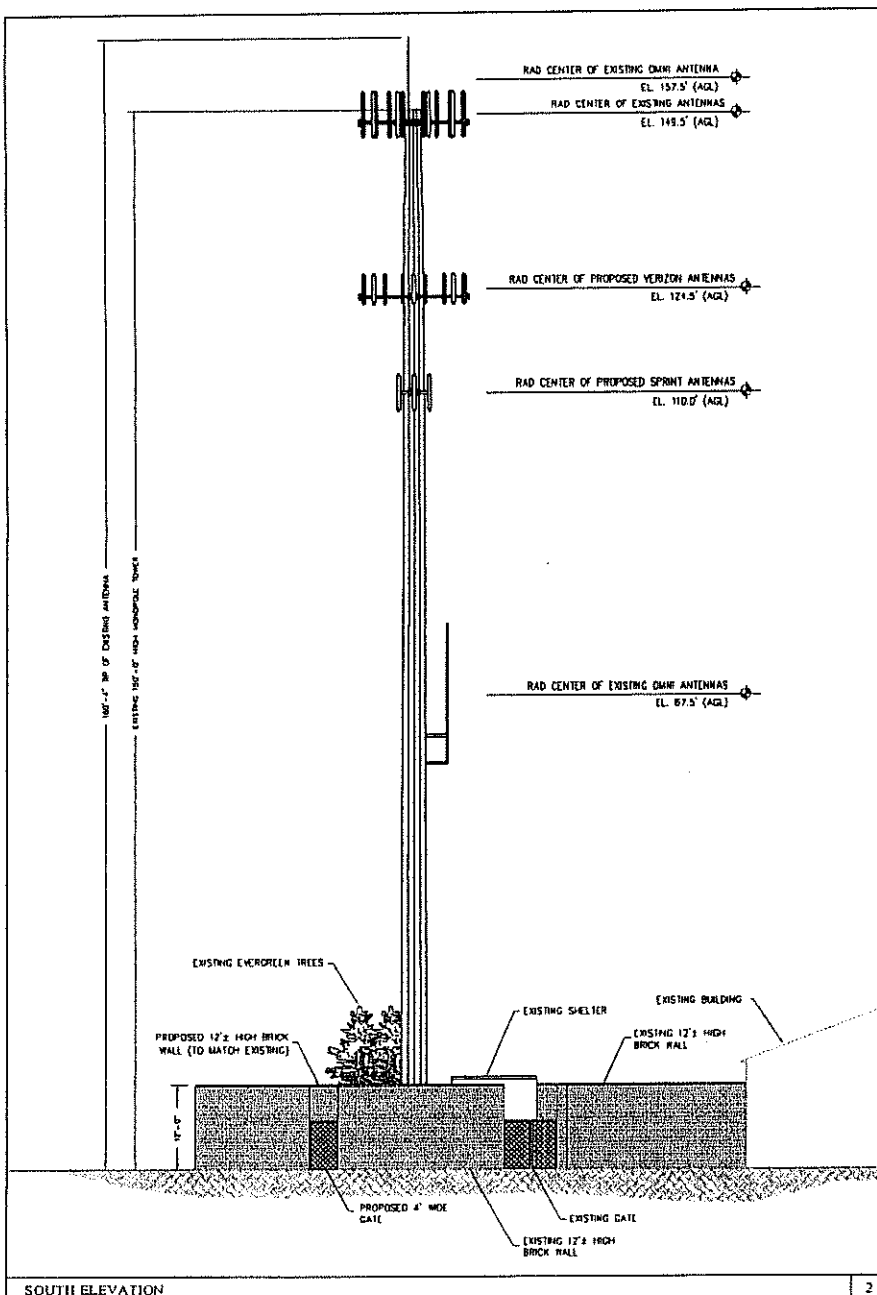
SELECTIVE SITE CONSULTANTS, INC.
 A Full-Service Engineering and Construction Safety Assessment Company
 8500 W. 110th Street, Suite 300
 Overland Park, Kansas 66210
 Phone: 913-435-7700
 Fax: 913-435-7777

PLANS PREPARED UNDER THE SUPERVISION OF:

DESIGNED BY: JMB
 CHECKED BY: DT
 SUPERVISOR: DT
 LEAD ENGINEER/SPECIALIST: HAN/TMS

PRAIRIE VILLAGE
 LESSEE
 OVERALL SITE PLAN
 7700 MISSION ROAD
 PRAIRIE VILLAGE, KANSAS 66208

DRAWING NUMBER	REV
EVD0 #37 - A01	A



JLCC
12205 W. 86TH STREET
LENEXA, KS 66215
TELEPHONE: (913) 884-6209
FAX: (919) 984-8210

Dynatek
TELECOMMUNICATIONS SERVICES
433 Conover Drive
Towaco, PA 16154
Phone: 800-818-3324
Fax: 724-646-1334
www.dynatektelecom.com

DAVID C. BAUDO
LICENSED
4309
PROFESSIONAL ARCHITECT

DYNATEK PROJECT NO: 4781

SITE NAME:
PRAIRIE VILLAGE
CITY MONOPOLE

SITE NUMBER:
K.C60XC727C

SITE ADDRESS:
7700 MISSION ROAD (A)
PRAIRIE VILLAGE, KS
66208

PROJECT TYPE:
CO-LOCATION
(MONOPOLE)

DRAWING TITLE:
TOWER
ELEVATIONS

DATE: 11/11/11
BY: Todd Alexander
CHECKED BY: D.C.B.

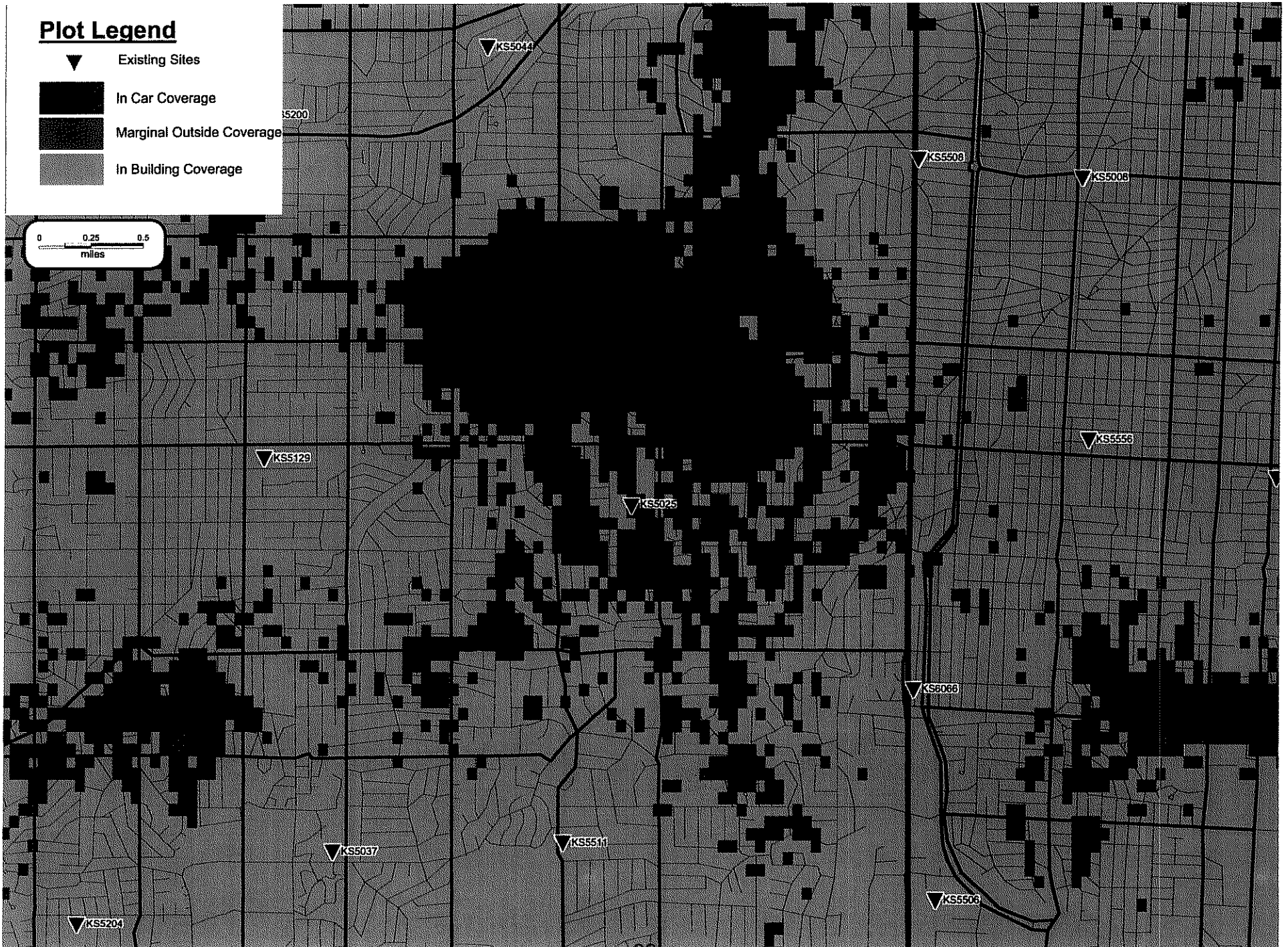
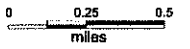
SCALE: AS SHOWN
DRAWN: J.L.

DATE: 11/11/11

A-2 2

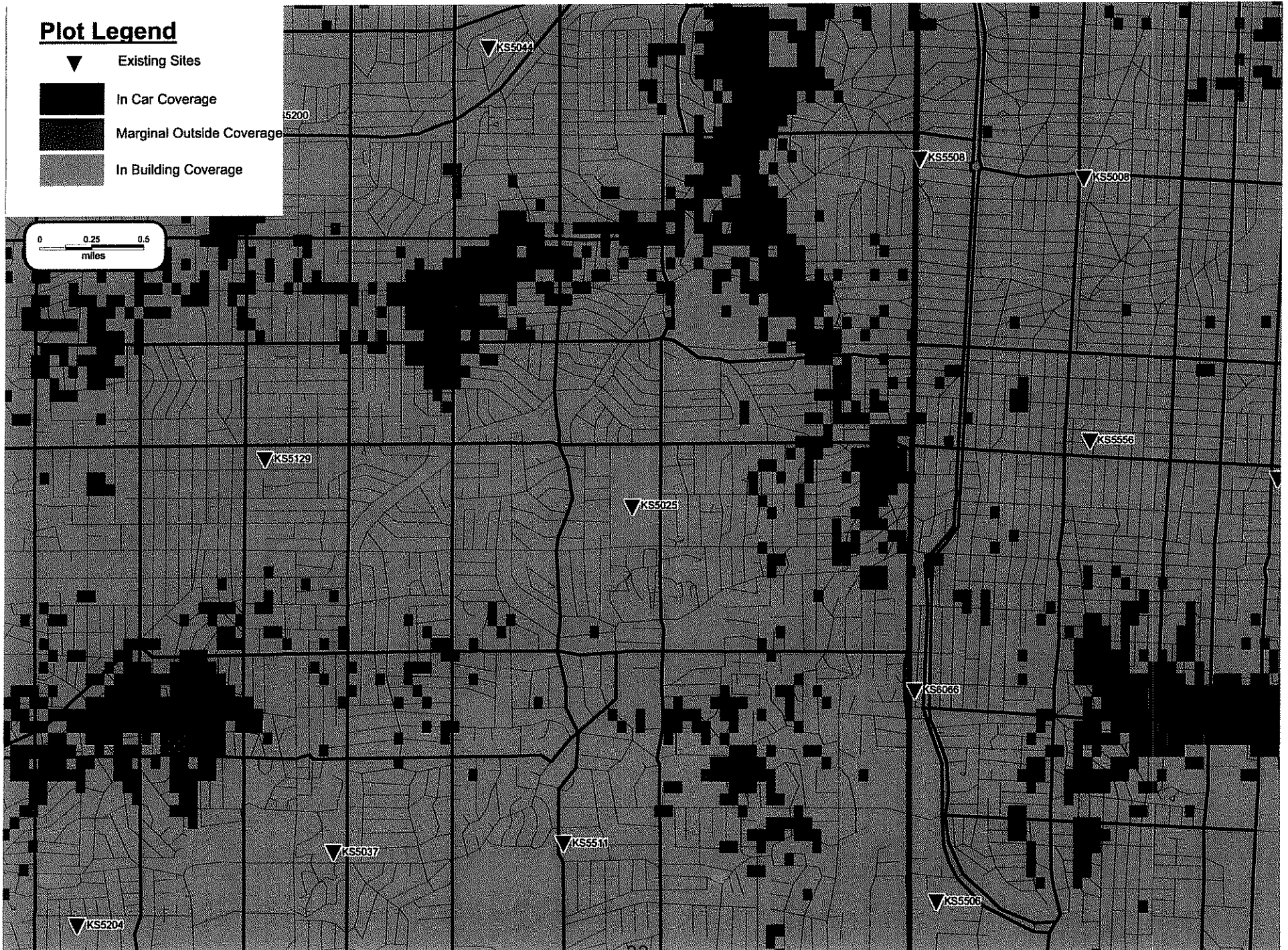
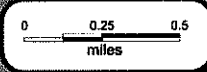
Plot Legend

- ▼ Existing Sites
- In Car Coverage
- Marginal Outside Coverage
- In Building Coverage



Plot Legend

- Existing Sites
- In Car Coverage
- Marginal Outside Coverage
- In Building Coverage



MEMORANDUM

TO: Mayor Shafer and City Council Members
FROM: Bob Pryzby
DATE: December 15, 2006
RE: Master Plan for Parks

The *Strategic Investment Plan* (The Plan) recently presented to the City Council recommended as one of its goals – “**Community Facilities & Services:** Provide diverse community recreation areas, cultural programs, parks, green spaces including a new or renovated community center, complemented by well-maintained infrastructure and excellent City services”. The Plan addresses the findings and recommendations in Section 5: Civic and Park Enhancement. It notes in the Overview “If roadway corridors are the ‘windows’ to the community, then civic spaces – parks, plazas, squares, educational, and governmental facilities – are the outdoor rooms or ‘front porches’.

In the Issues/Findings:

- Even though they are too small for public gathering, these unique traffic islands are a source of pride in the community and include “legacy statues” as well as landscaping.
- Public and semi-public spaces were generally rated as weak due to limited parking, poor access, small size, poor maintenance, no facilities and not being family friendly.
- There are many areas in the community that are more than one-quarter of a mile from a civic space. Inadequate parking was one of reasons several parks were rated as weak.
- The need for public open space competes with the need for land to accommodate development and improve the City’s economic and fiscal health.
- Citizen participants, particularly those who rated parks as being weak, also expressed concern about the continued maintenance and appearance of public spaces. This includes not only park maintenance, but also the maintenance of smaller traffic islands and legacy statues that are found throughout the entrances to Prairie Village neighborhoods.
- Recreation and leisure for all ages – this includes parks for passive recreation and leisure, open space that accommodates playfields, and plazas and squares that accommodate public events or function as places for people-watching.

The Plan presents several recommendations:

- New residential development (such as the opportunity afforded by the potential redevelopment of the Meadowbrook Country Club) [ed. Note; Homestead Country Club and YMCA] should be required to allocate a certain proportion of the site as public parkland and/or open space.
- The area within the public realm (the space within the City's publicly dedicated rights-of-way) is an excellent place to provide space for public leisure and activity. Civic spaces and open space can be interconnected via the public realm with pedestrian sidewalks and improved landscapes.
- It is possible to upgrade the existing parks to include sought after amenities. Some of the suggestions from the public comments include adding newer equipment, increasing landscaping, adding lighting, and adding or increasing parking.
- Consider building a community center facility – Community centers can take the form of one facility housing multitude of activities.
- Enhance resident's access to recreational opportunities – It [the City] should also work with partners in the immediate vicinity (YMCA, Johnson County Park and Recreation) to ensure that Prairie Village residents are aware of and have access to recreational opportunities in neighboring communities.
- The City's zoning ordinance should be updated to require the provision of walkable, accessible public gathering spaces within new or redeveloped commercial areas.

The *Strategic Investment Plan* (The Plan) provides an outline of issues/findings with recommendations for preparing a **Master Plan for Community Facilities & Services** (Master Plan) for providing diverse community recreation areas, cultural programs, parks, green spaces including a new or renovated community center, complemented by well-maintained infrastructure and excellent City services. The preparation of a Master Plan should begin with a meeting of the stake holders – ADA Advisory Committee, Communications Committee, Environmental Committee, Park & Recreation Committee, Planning Commission, Prairie Village Arts Council, Sister City Committee, Tree Board, VillageFest Committee, Department of Public Works – led by two City Council members. The results of the meeting will establish the components of a Master Plan for Community Facilities & Services. [The last attempt at a park master plan was in the early nineties and was primarily for park amenities.]

Public Works, or another agency, could then solicit Master Plan proposals in accordance with City Council Policy CP015 Selection of Professional Consulting Services.

COU2006-38 CONSIDER PARK & RECREATION REPORT

Recommendation #5 Explore the development of a partnership with private entities and other cities on programs and facilities – this action should result in a diversification of programs and facilities

Background:

The City of Prairie Village has been doing this for several years but to a limited extent and only in response to requests from others. Examples of this type of partnership which are advertised by the City at no cost to the service provider:

- Use of swimming pool by Johnson County for various programs

- Use of Community Center by Johnson County for Nutrition program

- Use of Harmon park and pavilion by Johnson County for summer day camp

- Use of various fields for sport camps during the summer by Fundamentals Sport Camp, Challenger Sports, British Soccer and Kansas City Comets.

- Use of City Tennis Courts by Shawnee Mission East High School, Bishop Miege High School and Kansas City Christian School

Administrators have talked informally about cooperating in programming activities and sharing facilities but nothing has happened as a result of those conversations.

In the past, the City had taken a passive approach to development of partnerships. This recommendation suggests a more aggressive approach. Initially, this recommendation would require staff time to contact various agencies and organizations, attend meetings and develop programming ideas/budgets for elected officials to consider. If programming ideas are approved, additional funds might be necessary.

COU2005-15 CONSIDER PLANNING MEETINGS FOR THE GOVERNING BODY

Background:

In 2004 and 2005 the Governing Body met with a facilitator in full day sessions. The facilitator used a unique “lego” approach to encourage conversation about how members of the Council communicate, work together and make decisions. One of the concerns repeated throughout the sessions was the need to have meetings dedicated to planning for the future. This agenda item was added to the Council Committee agenda as a result of that discussion.

It is always difficult for this large Governing Body to meet for serious, lengthy planning sessions. You have professional commitments during the day, family commitments and often other commitments to the community in the evenings and on weekends. For that reason, the Council generally hires consultants to study specific issues and make recommendations which can then be considered by elected officials in a more abbreviated time frame. Even that poses problems because of the difficulty of getting everyone – even a majority – of the group together on an evening or weekend for serious discussion.

Now the City has a professionally prepared Strategic Investment Plan filled with recommendations which could be the subject of planning meetings for the next several years.

Suggestions:

If this Governing Body agrees with the previous groups that more planning sessions are needed, a couple of options would be:

Set a specific day or evening each month for that purpose. Put it on your calendar as you do Council meetings and make the commitment to attend.

Establish ad-hoc committees to thoroughly investigate/consider a single planning issue and report to Council.

COU2005-16 CONSIDER HOW TO IMPROVE COUNCIL'S EFFECTIVENESS AS A TEAM.

Background:

This issue came from sessions with facilitators who used lego sets to assist participants as they considered how they interact as a group. After two sessions with the Council, the consultants recommended an ongoing process of several more sessions until the Council felt comfortable working together and had developed common goals and direction.

The Council used these facilitators in 2004 and in 2005. Although the innovative technique stimulated a lot of conversation, after the second session the Council decided no progress had been made. Although this model can be effective in a corporate structure, it was not as helpful for this elected group. Each time they met, someone was missing or had to leave during the day. Each time they met, at least one of the Council's elected officials had changed. The changing composition of the Council makes it difficult to develop a team, unless development of teamwork is the only agenda of a meeting, every member of the team agrees to participate in the entire session and it is done every time a new member is appointed or elected. Some Governing Bodies make this commitment.

COU2005-17 CONSIDER HOW TO EXPAND LEADERSHIP OPPORTUNITIES FOR COUNCIL

Background:

The City currently has six committees chaired by a Council member:

- Council Committee
- Park and Recreation Committee
- Communications Committee
- Insurance Committee
- Police Pension Board of Trustees
- Supplemental Retirement Advisory Board

Five of these committees also have a Council member appointed to be the Vice-Chair.

There are currently two ad-hoc committees chaired by Council members:

- Smoke Free workplace taskforce
- Finance taskforce

Council members also serve as liaison committee members on seven committees:

- Planning Commission
- Arts Council
- Sister City
- Municipal Foundation
- Tree Board
- Environment/Recycle
- Villagefest

Each year the Mayor asks Council members which committee appointments they would prefer, making leadership opportunities available for all members of the Council.

Council members are also encouraged to participate in the League of Kansas Municipalities, National League of Cities, Northeast Johnson County Chamber of Commerce and MARC, all of which provide opportunities for leadership positions.

COU2005-22 CONSIDER COUNCIL MENTORING PROGRAM

Background:

After serving a few years on the City Council, some members have said those first few months could have been easier if the City had a mentoring program for newly elected officials..

COU2005-23 CONSIDER SPONSORING SOCIAL EVENTS WITH OTHER JURISDICTIONS

Background:

The City encourages Council members to participate in the League of Kansas Municipalities, the National League of Cities, Northeast Johnson County Chamber of Commerce, Council of Mayors and MARC. Each of these organizations sponsors at least one social event every year. The Kansas and National League events are primarily for elected officials from other jurisdictions. The Chamber and MARC are both strongly supported by city governments; a significant number of elected officials from other jurisdictions attend these social events.

COU2005-30 Consider \$500 deposit from landlords for remediation of code violations

Issue:

Should the City require landlords to pay a \$500 deposit for remediation of code violations?

Background:

It has been suggested that, in order to address code enforcement problems at rental properties, the City require landlords to pay a \$500 deposit. The purpose of the deposit would be to help ensure that the rental property was adequately maintained.

For many years the City has required residential landlords to obtain a city business license. The license fee is \$60/year and is intended to offset the City's costs involved with processing the license and the Code Enforcement Officer's time performing the annual inspection of rental properties.

Each year the Code Enforcement Officer performs an exterior inspection of all rental properties in the City. Over the past five years, these inspections have revealed that violations exist at approximately 5% of the City's rental properties.

Recommendation

Given that the annual rental inspections do not reveal a significant number of violations at rental properties, requiring ALL landlords to post a performance bond in addition to obtaining a rental license may be excessive. In addition, the administrative burden required to collect, process, monitor, and refund the deposit when the property is no longer a rental would be significant.

It is recommended this item be deleted from the agenda without action, and that the City continue to aggressively enforce property maintenance requirements at both owner-occupied and rental properties. Owners/tenants who do not correct violations with an appropriate time frame with continue to be referred to the Municipal Court for prosecution.

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Monday, December 18, 2006
7:30 p.m.**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC PARTICIPATION

V. 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 – December 4, 2006
2. Claims Ordinance 2633
3. Approve the carryover of unspent 2006 funds in account 1-6-41-5165 into the Environmental Committee's 2007 budget account 1-6-41-5165.
4. Approve the disposal of 13 light-duty Police helmets in storage by donation to the following Kansas Police Departments:

Herrington Police Department	7 helmets
Burden Police Department	2 helmets
Tonganoxie Police Department	4 helmets
- 5.. Approve the renewal of Cereal Malt Beverage Licenses for 2007 for the following businesses
Hen House 22 – 4050 W 83rd Street
Hen House 28 – 6950 Mission Road
Hy-Vee, Inc. – 7620 State Line Road
Kayo Oil Company DBA Phillips 66 Circle K #2706100 – 9440 Mission Road
6. Approve the 2007 50+ Facility Use Agreement between the City of Prairie Village and the Johnson County Park and Recreation District.
7. Ratify the Mayor's appointment of Brad Watson as Municipal Judge

By Committee:

8. Approve the construction contract with Pyramid Construction for Project 191020: Pedestrian Bridge Replacement over Brush Creek (77th Street/Colonial Drive) in the amount of \$19,500 and approve a transfer of \$19,500 from Capital Infrastructure Program-Street Unallocated to Project 191020. (Council Committee of the Whole Minutes – December 4, 2006)
9. Approve the payment of \$15,458.05 to the City of Overland Park for Project 190850: Reeds Street – 69th to 71st from the Capital Infrastructure Program – Street Unallocated. (Council Committee of the Whole Minutes – December 4, 2006)
10. Approve the distribution of \$15,000 budgeted from the Special Alcohol Fund for the allocation recommended by the Drug & Alcoholism Council. (Council Committee of the Whole Minutes – December 4, 2006)
11. Adopt Resolution 2006-12 establishing compensation ranges for the City of Prairie Village after review and approval of the City Attorney. (Council Committee of the Whole Minutes – December 4, 2006)
12. Approve establishment of Personnel Policy PP935 entitled "Cellular Phones." (Council Committee of the Whole Minutes – December 4, 2006)
13. Approve amendments to Personnel Policy PP1012 entitled "Civil Leave." (Council Committee of the Whole Minutes – December 4, 2006)

VI. COMMITTEE REPORTS

Council Committee of the Whole – David Belz

COU2006-54 Consider Annual Service Agreement for Materials Testing

COU2006-55 Consider Project 191017: 2007 Concrete Repair Program

Supplemental Retirement Plan Advisory Board – Charles Clark

- VII. OLD BUSINESS**
- VIII. NEW BUSINESS**
- IX. ANNOUNCEMENTS**
- X. 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

CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

Monday, December 18, 2006

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
DECEMBER 4, 2006**

The City Council of Prairie Village, Kansas, met in regular session on Monday, December 4, 2006, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Al Herrera, Bill Griffith, Ruth Hopkins, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, Pat Daniels, Charles Clark, Wayne Vennard and David Belz.

Also present were: Barbara Vernon, City Administrator; Charles Grover, Chief of Police; Bob Pryzby, Public Works Director; Doug Luther, Assistant City Administrator; Karen Kindle, Finance Director and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Mayor Shaffer opened public participation by recognizing a Prairie Village resident and businessman recently featured on the cover of the Kansas City Small Business Monthly, Das Hardin, and asked him to come forward. Das Hardin stated he started his business in Prairie Village at 95th & Nall in 1980 and moved to his current location in the Prairie Village Shopping Center in 1993. The article addresses the challenges faced in developing a small business as well as some of the current challenges.

Mr. Hardin stated the City has been good to him and for his business. However, he noted in order to be allowed outside decorations at his location, he had a special provision added to his lease. Mr. Hardin also addressed the impact of 1-800-Flowers, taking business from him and sales tax from the City. He noted as these numbers are presented in the area telephone books, they appear to be local shops, but they are not. The Mayor and Council congratulated Mr. Hardin and "The Village Flower Company" on their success.

Eugene Mika, 7612 Mohawk, expressed his concern with the lack of repair to Stanley Siggs' house at 7618 Mohawk since its declaration as a unsafe structure. He stated that very little other than the outdoor clean-up that was done immediately following the last hearing has been completed. Mayor Shaffer announced the Council would be considering this item next on their agenda and invited Mr. Mika to remain.

PUBLIC HEARING

Catherine Logan, serving as the City's Public Officer, reported that Resolution 2006-09, adopted by the City on October 2, 2006, found the structure at 7618 Mohawk to be unsafe; directed that the repair or removal be commenced within 45 days from the date that a copy of the resolution is delivered to the owner (This was done on October 3, 2006); and resolved that the Governing Body will cause the unsafe structure to be razed and removed if such repair or removal is not commenced within the 45 day period. The 45 day period expired November 17, 2006.

It has been documented by the City's Building Official, Jim Brown, that repairs have not been commenced as of this date.

Ms Logan stated the City is authorized under both the City Code (Sections 4-506 and 4-508) and State Statute (12-1751 and 12-1753) to cause the unsafe structure to be raised and removed. The City Code does not authorize the City to undertake repair, although repair is an option in the state statute.

Ms Logan reviewed the options available to the City Council including an extension of time for the owner to take action and the steps to proceed with removal of the unsafe structure. Based on the report of the Building Official there is no evidence of any progress by Mr. Siggs to repair the property. Therefore, the City is authorized under statute to proceed according to city code to notify him to remove his personal property and to actually raise the structure. One of the items of concern is the handling of personal property, especially because of potentially valuable items in the home. Ms Logan researched what the City responsibility would be for that personal property and essentially the City has to give Mr. Siggs notice and a reasonable period of time to report his personal property. If he fails to do so or to the extent he fails to do so, she feels he would be deemed to have abandoned the property. Mr. Siggs would need to give the City permission to enter the house to remove items and if

he didn't the City would need to ask for an Administrative Warrant from the District Court to have access. She feels it would be important to inventory the property and make every effort to preserve his personal property.

Ms. Logan noted another option not included in her earlier memo would be for the City to bring a case in District Court and ask a judge for guidance as to what to do in this case, i.e. basically to agree that we do have authority to inventory his property and demolish the house if he doesn't begin repair activity.

Mayor Shaffer asked if indeed the City went forward who would be retained to go forward to inventory his personal belongings. Ms. Logan responded she thought City staff would perform that function. Charles Wetzler stated the City could hire someone to do it, the problem is first making sure Mr. Siggs has the opportunity to remove items. If we do it ourselves, there is a risk of being accused of losing or taking some property. He stated that was one of the reasons they thought of getting a court action where the judge would determine number one: that the ordinance was valid and number two: that you had so many days notice and this is what you do with the property, etc. The advantage being you've acted under a court order eliminating the possibility of suit against the City. Ms Logan stated she felt a court could appoint a receiver to be in charge of this property if Mr. Siggs doesn't take responsibility for it.

Al Herrera noted Mr. Siggs has a brother and asked if the court could appoint him. Ms. Logan stated if he is willing to serve in that capacity it would be suggested to the court. Mr. Wetzler noted when this is all over, the City doesn't want someone to say Mr. Siggs is incompetent and we razed his house and he didn't know what was going on.

Charles Clark asked what kind of timeframe is being considered? Mr. Wetzler responded there would be a 20 day answer period and he would hope the City could get a declaratory judgment. The purpose of the lawsuit would be to verify first that the council has appropriate action in finding this structure to be unsafe so we have that issue resolved. He would hope the court would provide answers to the number of days notice is appropriate, what do to with the personal property and when it should be razed. Mr. Wetzler stated the City has previously razed a house without going through the court system and it worked out, but he feels this is an unusual situation as he doesn't know what

Mr. Siggs' competency is. He feels the Council has clearly found the structure to be unsafe and the ordinance clearly gives the City the authority to raze the property, but the issue of how to handle personal property raises some questions.

Charles Clark sympathized with the neighbors who have had to endure this structure for a long time and would hope action could be taken without significant delay. Ms. Logan responded she did not think the City could get a court order for 30 to 60 days, probably closer to 60.

David Belz stated his concern that this gentleman might not really know what is going on and he supports going through the courts, even though it may take longer, that way Mr. Siggs' rights are protected and the City's rights are protected.

Darlene Shull, 7614 Mohawk, a neighbor present, stated Mr. Siggs' brother is older and they have not spoken in years. She noted even before the fire that the roof leaked. There is one path that goes through the house. You can not get through the front door. She feels Mr. Siggs is very aware of what is going on, he is simply a stubborn old man who considers all his property to be prized possessions which he will not part with. She does not see him cooperating or moving forward on the needed repairs.

Eugene Mika, 7612 Mohawk, stated he was in the house a few days ago and there was only a trail that you had to walk sideways to get through the house. There are boxes and cans piled from floor to ceiling throughout the house, including the porch area.

Pat Daniels stated he appreciates the third option as it provides a good buffer and asked looking at the worse case scenario, what if the judge said "no". Ms. Logan responded that is highly unlikely.

Jim Brown, City Building Official, has been working with Mr. Siggs for the past several years. He noted he is the same now as the first time he met him. If he disagrees with the decision, he can be difficult to deal with. This is a unique situation and the City needs to use caution, the bottom line is you're looking at an elderly man and this is his home, so it becomes a very delicate situation.

Wayne Vennard confirmed the purpose of going to a judge to get judicial support although the City could make the same decisions without going to the judge and will probably have the same result. Mr. Vennard asked if the City's insurance policy covered this situation. Charles Wetzler

responded that is why we would go to the judge, to be your insurance policy. The reason for doing that would be to have all the issues raised now, rather than later.

Ms. Logan stated another possibility would be to notify Mr. Siggs that we intend to proceed as stated in the resolution and he might file a lawsuit against the City asking for an injunction from taking such action. Mr. Vennard noted he could always sue. Mr. Wetzler responded "yes" the question is whether it is better for the City to raze the house or to have a judge give approval to raze the house.

Laura Wassmer stated she supported going forward to the judge if for no other reason than to have him/her determine who would go through all the property, as this is a huge responsibility. Ms Logan stated this also provides the advantage that the judge can order Mr. Siggs to allow someone in his house, and appoint someone to be responsible for the personal property.

Bill Griffith confirmed even if the structure was razed, the lot would still be owned by Mr. Siggs and would probably remain undeveloped with the City having responsibility for maintenance.

Ms Logan stated if the house is razed and the foundation filled in there isn't any other official action to be taken on the City's part. It is still Mr. Siggs property and he is obligated to maintain it.

Bill Griffith noted there have been many similar situations which have been resolved by a third party coming in and taking over the property, making improvements and in some cases selling the property. Is this possible in this situation? Jim Brown replied Mr. Fortner, who was present at the early hearing has tried to work with Mr. Siggs to do this, but pulled out of the picture failing to reach any agreement with Mr. Siggs. He does not feel it is likely that this would occur.

Darlene Shull, 7416 Mohawk, noted Mr. Siggs does not have any insurance on this property and has refused assistance from anyone. Eugene Mika, 7412 Mohawk, stated Mr. Siggs has stated for years, his objections to complying with City regulations.

With no one else wishing to address the Council, the Public Hearing was closed at 8:00 p.m.

Pat Daniels made the following motion, which was seconded by Andrew Wang and passed by a vote of 11 to 1 with Bill Griffith abstaining due to not being present at earlier discussions.

AUTHORIZE THE CITY ATTORNEY TO INITIATE AN ACTION IN DISTRICT COURT TO AFFIRM THE CITY'S AUTHORITY TO PROCEED TO ENFORCE CITY ORDINANCE, TO FIND THAT THE HOUSE IS INDEED AN UNSAFE STRUCTURE AND AUTHORIZING THE CITY TO PROCEED TO RAZE

IT AND FURTHER ORDER MR. SIGGS TO REPAIR THE PROPERTY AND IF HE FAILS TO DO SO TO PROCEED UNDER THE CITY'S CODE AND APPOINT SOMEONE TO INVENTORY HIS PERSONAL PROPERTIES FOR HIS BENEFIT.
COUNCIL ACTION REQUIRED
CONSENT AGENDA

Mayor Shaffer asked what happens if the judge decides this is already within the authority of the City.
Mr. Wetzler stated that would be good and it would allow the City to move forward.

CONSENT AGENDA

David Belz moved the approval of the Consent Agenda for Monday, December 4, 2006:

1. Approve Regular Council Meeting Minutes - November 20, 2006
2. Approve Construction Change Order #2 for a reduction of \$7,333.96 in the original contract amount and an addition of 15 calendar work days to Musselman & Hall Contractors.
3. Ratify the Mayor's appointments of Linda Bishop and Art Kennedy to the Tree Board with the terms expiring in April, 2007 and April, 2009 respectively.
4. Adopt Ordinance 2137 renewing the Special Use Permit for the installation of a wireless communication antenna and equipment at 7321 Mission Road subject to the conditions established by the Planning Commission
5. Waive Council Policy CP204 entitled "sidewalks" and not construct a sidewalk on Briar Street from 75th Street north to Brush Creek as part of Project 190860: 2007 Street Resurfacing Program.
6. Accept as information the Compensation and Benefits Final Report of FBD Consulting, Inc.
7. Approve the School Resource Officer Agreement with the Shawnee Mission School District for the 2006-2007 school year.

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Voysey, Kelly, Wang, Wassmer, Daniels, Clark, Vennard and Belz.

COMMITTEE REPORTS

Council Committee of the Whole

Consider Revisions to PVMC Chapter 19.48 entitled "Signs"

On behalf of the Council Committee of the Whole, David Belz moved the City Council adopt Ordinance 2138 repealing the existing Chapter 19.48 entitled "Signs" and adopting a new Chapter 19.48 entitled "Signs". The motion was seconded by Wayne Vennard.

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Hopkins, Voysey, Kelly, Wang, Wassmer, Daniels, Clark, Vennard and Belz.

OLD BUSINESS

Consider Lease with Leawood for use of Island at Somerset and Lee Blvd.

Charles Wetzler reported on his recent conversations with Patty Bennett, City Attorney for Leawood, regarding the proposed use of the traffic island at Somerset & Lee Blvd. by Leawood for the placement of an art structure entitled "Porchlights". When Leawood selected this location for this piece of artwork, they felt it was located within the City of Leawood. A survey revealed the island is primarily in Prairie Village and Leawood's City Attorney was directed to negotiate a lease for the use of the land with Mr. Wetzler as city attorney for Prairie Village.

Initially, Leawood was seeking a 100 year lease while Prairie Village was considering a 10 year lease. Ms Bennett, City Attorney for Leawood has come down from 100 to 50-years and Prairie Village has gone from a 10 to 25-year lease. Mr. Wetzler contacted Ms Bennett requesting information of the city's investment into this project. Ms Bennett responded the estimated cost for design and construction of "Porchlights" is about \$90,000 to \$100,000. Leawood would also replace the street lighting on the island and run electricity to the island at a cost of \$180,000 for a total investment estimated to be between \$270,000 and \$280,000. Because of their significant financial investment, it was suggested Prairie Village consider a 50-year lease.

Ruth Hopkins asked during this entire discussion, has anyone from Leawood's Council or their Mayor spoken with the City. Mr. Wetzler responded Ms Bennett was directed by her Mayor to contact him on behalf of Leawood. Mayor Shaffer reported he and Mayor Dunn have had several discussions on this. Mayor Dunn looks upon this as a piece of artwork to be enjoyed by all. They readily admit they made a genuine, unintended error, in not determining true ownership earlier in the process. They strongly want this project to proceed. Mr. Wetzler stated the City has prepared a lease with input from Mayor Shaffer and Bob Pryzby and they have approved the language of the lease, the length of the lease is the issue.

Mayor Shaffer, in discussions with Mayor Dunn, has stated he did not feel the Council would agree to a 100-year lease and she responded that then it may not be done. He responded both cities have to come to terms or it won't be completed.

Al Herrera noted that once the structure is built, regardless of the length of the lease, Prairie Village is not going to tear it down. He feels it is a good use of this odd piece of land and supports its construction through a compromise in the length of the lease.

Bill Griffith stated he would argue that that intersection and piece of land has been reconfigured two or three times in his lifetime. What's to say that the City or County or someone else will want to change how that road runs and the structure needs to come out. Bob Pryzby stated the last improvement to the intersection was 1990-1991.

Charles Wetzler replied there is a provision for that kind of issue in the lease, saying that in the event Prairie Village wanted to change the configuration we could do that. To that Leawood responded, Prairie Village would need to pay them back the \$200,000 and he said "no".

Wayne Vennard does not see a 50-year lease for this significant of an expenditure as a problem and anything the City can do to improve that piece of land would be welcomed. Mr. Vennard confirmed the City of Leawood would be responsible for maintaining the structure and there will not be any signage on the structure. Mr. Wetzler also noted the lease calls for the approval of the City of Prairie Village for any changes to the structure.

Laura Wassmer felt the lease should correspond to the lifetime of the art and she does not feel this artwork will last 50 years and suggested 25 years. She felt the lease could be renegotiated at that point of time.

Mr. Wetzler stated from his discussions with Ms Bennett there seems to be a clear 25 year difference with Prairie Village at 25 years and Leawood at 75 years

Mayor Shaffer stated Leawood will be maintaining it. They generally believe this to be one of their prime pieces of art.

David Belz stated he would hate to see the City negotiate this to the point that nothing gets done. He doesn't know how long this would last, but if they're going to maintain it then whose to say it won't look as good as it looks year one. He does not want to see this lost over a period of 25 years. He would support a 50-year lease. Pat Daniels stated he also supports a 50 year lease.

Andrew Wang agrees with Mr. Griffith and Ms Wassmer we do not know of what will become of the area around that property and would not be supportive of any lease beyond 20-25 years. If it happens or not is not Prairie Village's problem.

Al Herrera stated he can support a 50-year lease considering their expenditure of approximately \$300,000.

Michael Kelly stated he has not been pleased with the way this was initially presented and how it has gone forward. However, he believes this is a good opportunity for the city to have an excellent piece of artwork built and maintained and doesn't consider a difference of 25 years or 50 years to be significant on this matter.

David Belz made the following motion, which was seconded by Al Herrera and passed by a vote of 11 to 1 with Andrew Wang voting "nay":

**RECOMMEND THE CITY COUNCIL AUTHORIZE THE CITY ATTORNEY TO
NEGOTIATE A 50-LEASE WITH THE CITY OF LEAWOOD FOR THE USE OF THE
TRAFFIC ISLAND AT SOMERSET & LEE BLVD FOR THE PLACEMENT OF THE
ART SCULPTURE ENTITLED "PORCHLIGHTS" AS APPROVED BY THE CITY
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

NEW BUSINESS

Consider Resolution on 7400 State Line Road

John Cruz, attorney with Lewis, Rice & Fingersh, representing 7400 Place, LLC advised the City Council of the pending sale of the Lockton Building at 7400 State Line Road, which was initially acquired and constructed through Industrial Revenue Bonds issued by the City, to 7400 Place, LLC, a Missouri, limited liability.

In connection with the sale, the bonds will be paid in full and 7400 Place will provide for the payment of all rental payments and additional payments required under the Lease through the closing of the sale. 7400 Place has requested that the City convey title to 7400 Place pursuant to the provisions of the Lease. Mr. Anderson has prepared a resolution for adoption to convey the property to 7400 Place, LLC.

Barbara Vernon stated when Industrial Revenue Bonds are issued by the City for projects, the City retains ownership of the land and buildings until the bonds are repaid. With the sale of this

property and repayment of all the bonds, the City will transfer ownership of the land to the purchaser. This is viewed as an administrative approval since the bonds will be paid off and all costs of the City will be covered by 7400 Place, LLC.

Pat Daniels moved the City Council adopt Resolution 2006-11 authorizing the City of Prairie Village, Kansas to convey certain real and personal property to 7400 Place, L.L.C.; and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith. The motion was seconded by Charles Clark and passed unanimously.

ANNOUNCEMENTS

Mayor Shaffer highlighted the upcoming Johnson/Wyandotte Mayors' Holiday gathering on Tuesday, December 12 encouraging Council members to attend if possible. He also noted the brochure included with the information items on the 2007 City Hall Day at the Capitol on January 25, 2007 and asked Council members to mark this on their calendar.

Committee meetings scheduled for the next two weeks include:

Planning Commission	12/05/2006	7:00 p.m.
Tree Board	12/06/2006	6:00 p.m.
Sister City	12/11/2006	7:00 p.m.
Council Committee of the Whole	12/18/2006	6:00 p.m.
City Council	12/18/2006	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to feature a photography and ceramics exhibit by Marearl Denning in the R.G. Endres Gallery during the month of December. The opening reception will be held on December 8th from 6:30 to 7:30 p.m.

Donations to the Holiday Tree Fund are being accepted. The funds will be used to assist Prairie Village families and Senior Citizens needing help to pay their heating and electric bills during the cold winter months, as well as with home maintenance throughout the year. Your tax-deductible contributions are appreciated.

Barbara Vernon reported \$900 in contributions was collected during the Mayor's Holiday Tree Lighting and the Volunteer Appreciation Holiday Party this past week.

The City offices will be closed December 25th in observance of Christmas. Deffenbaugh will observe the holiday and trash pickup will be delayed.

Prairie Village Gift Cards are on sale at the Municipal Building. This is a great way to encourage others to "Shop Prairie Village."

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

Mayor Shaffer acknowledged the presence of former KC Star reporter Sara Sites.

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned at

9:00 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

December 18, 2006

Copy of Ordinance
2633

Ordinance Page No. _____

An Ordinance Making Appropriate for the Payment of Certain Claims.

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

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

NAME	WARRANT NUMBER	AMOUNT	TOTAL
<u>EXPENDITURES:</u>			
Accounts Payable			
84995-85101	11/3/2006	145,650.80	
85102-85106	11/8/2006	6,024.44	
85107-85225	11/17/2006	799,259.60	
85226-85231	11/20/2006	73,997.61	
85232	11/27/2006	2,400.00	
Payroll Expenditures			
11/10/2006		69,554.72	
11/22/2006		71,814.03	
Electronic Payments			
Intrust Bank -credit card fees (General Oper)		444.73	
State of Kansas - sales tax remittance		6.11	
Marshall & Ilsley - Police Pension remittance		12,786.36	
Intrust Bank - fee		405.96	
KCP&L		7,305.78	
MHM - Section 125 admin fees		287.92	
Intrust Bank - purchasing card transactions		9,367.06	
United Health Care - Health Insurance		60,771.85	
Unum - Long Term Care		779.20	
Kansas Gas		1,352.84	
TOTAL EXPENDITURES:			\$ 1,262,209.01
Voided Checks			
Ear Phone Connection # 85037		501.35	
Metro KC ICBO # 76604		15.00	
Audio Intelligence Device # 76655		300.00	
TOTAL VOIDED CHECKS:			816.35
GRAND TOTAL CLAIMS ORDINANCE			1,263,025.36

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


Passed this 18th day of December 2006.

Signed or Approved this 18th day of December 2006.

(SEAL)

ATTEST: _____
City Treasurer
Mayor

CITY OF PRAIRIE VILLAGE

TO: MAYOR & CITY COUNCIL
FROM: DOUG LUTHER 
SUBJECT: CARRYOVER OF 2006 FUNDS FOR ENVIRONMENTAL COMMITTEE
DATE: 11/30/2006
CC:

At its 15 November, 2006 meeting the Environmental Committee approved a motion to request the City Council authorize a carryover of the committee's unspent funds in 2006 into 2007.

These funds would be used to:

- Assist with funding the construction of a streamway sign
- Assist with publicity for the 2007 Earth Fair event
- Assist with funding of the annual Community Forum on Environmental Issues, and
- Purchase compact fluorescent light bulbs for distribution at the 2007 VillageFest event.

The estimated carryover will be \$4,000.

RECOMMEND THE CITY COUNCIL APPROVE THE CARRYOVER OF UNSPENT 2006 FUNDS IN ACCOUNT 1-6-41-5165 INTO THE ENVIRONMENTAL COMMITTEE'S 2007 BUDGET ACCOUNT 1-6-41-5165.

This item has been placed on the Consent Agenda for your consideration.

PV Environmental/Recycle Committee
Minutes of the November 15, 2006 meeting

There will be no meeting in December.

Members present: Margaret Thomas, Toby Grotz, Anne-Marie Hedge, Tom Heintz, Pete Jarchow, Cheryl Landes, Karin McAdams, Diane Mooney, Mary Montello, Kathy Riordan, Kristin Riott, Linda Smith. Council Representative present: Wayne Vennard.

Margaret T. opened the meeting at 7:00pm. The minutes were approved.

The Electronic Recycling Event is this Saturday at SM West. Margaret reviewed the volunteer assignments. Cheryl L. and Polly S. will meet with Dennis Murphy, CEO of Kansas City, at 1pm on Friday, to talk about how to KC was persuaded to adopt the Climate Protection Plan.

Recycling: Margaret asked for ideas on how to keep PV residents up to date about recycling. There is a constant need to keep educating people about this. Wayne said he would get a list of the Homes Associations in PV. Communicating through them would be one method. The price of an insert in the PV Voice will be checked into. Can we do publicity in other venues like the Star, Neighborhood News, etc.? Mary M. asked if we could find out how much the schools make on the recycling bins. This should be advertised. This subject will continue to be discussed.

Remaining budget dollars: We discussed ways to spend the remaining money in our budget. Ideas suggested included buying books for a circulating library, CFL bulbs to give away, stamps, and the stream restoration sign. Finally, we approved a motion to recommend the city council approve the carryover of any unspent 2006 funds in our account 1-6-41-5165 into the Environmental Committee's 2007 budget for the purpose of funding the construction of the streamway sign, funding publicity for the Earth Fair and Community Forum, and purchasing CFLs for Village Fest.

Roster: Mary Helen and Kristin have not had their appointments to our committee approved yet.

Plan B Presentation: Kristin R. showed the PowerPoint presentation she has put together on the book Plan B. Her intention is to present it to the City Council when it is finalized, as well as to make it an adaptable presentation for other groups. Kathy R suggested having a list of specific things that could be done given at the end of the talk. Toby G suggested presenting the talk as a challenge for the council to help make PV a model city in energy conservation. Tom H. suggested including a reading list. Kristin R. likes the idea of installing a small working wind turbine on the hill behind city hall. Wayne V. will find out how she can present the talk to the Council.

Mary Helen K. passed out letters about supporting a moratorium on construction of more coal-fired electric plants in KS. She asked us to personalize them and then send them to the Governor.

Margaret T. adjourned the meeting at 8:35pm.
Respectfully submitted (in Lisa's absence),
Anne-Marie Hedge

CONSENT AGENDA

CONSIDER DISPOSAL OF PUBLIC SAFETY POLICE HELMETS

Background:

A number of years back, the Department transitioned from a light-duty police helmet to a ballistic helmet that provides our officers with more safety.

The Department had 13 light-duty police helmets in storage, and was no longer using them. The Department sent out an e-mail of interest to other police departments across the State of Kansas regarding the donation of this equipment, and received in excess of a dozen responses.

The Department wishes to dispose of the aforementioned assets to the following police departments:

Herrington Police Department	7 helmets
Burden Police Department	2 helmets
Tonganoxie Police Department.	4 helmets

Recommendation:

STAFF RECOMMENDS THE CITY COUNCIL APPROVE DISPOSAL OF THE ABOVE MENTIONED CITY PROPERTY.

DATE: December 18, 2006
TO: Mayor Shaffer & Council
FROM: Joyce Hagen Mundy
RE: Cereal Malt Beverage License Applications

The following businesses have submitted applications for a 2007 Cereal Malt Beverage Licenses to allow for the sale of beer in unopened original containers only:

Hen House 22 – 4050 West 83rd Street
Hen House 28 – 6950 Mission Road
Hy-Vee, Inc. – 7620 State Line Road
Kayo Oil Company DBA Phillips 66 Circle K 2706100 – 9440 Mission Road

These applications are being submitted to you for approval in accordance with Prairie Village Municipal Code 3-202.

Authorization to issue 2007 Cereal Malt Beverage Licenses to the Hen House #22 at 4050 West 83rd Street, the Hen House #28 at 6950 Mission Road, the Hy-Vee, Inc. at 7620 State Line Road and Kayo Oil Company DBA Phillips 66 Circle K #2706100 will be included on the Consent Agenda for your approval.

Consider Johnson County Park & Recreation District 50+ Facility Use Agreement

Background:

Since 1988 the City of Prairie Village has been partnering with the Johnson County Park & Recreation District to provide facilities for 50+ Programs offered in Prairie Village. Their current programming is an exercise class that meets twice a week at 7:15 a.m. in the Community Center. During the course of the year, they may also offer craft and activity classes. Most of their activities have been held during the day and have not impacted the availability of the Community Center for meetings by the City or other organizations.

Although the City is responsible for providing the facilities, chairs and tables, the District staff is responsible for the return of tables and chairs moved during the operation of the activity to their original placement. The terms and conditions of the agreement have not changed. A copy of the agreement is attached.

Financial Impact:

The agreement establishes a partnership between the City and the Park District. No fees are charged for the use of the City's facilities.

RECOMMENDATION:

**RECOMMEND THE CITY COUNCIL APPROVE THE 2007
50+ FACILITY USE AGREEMENT BETWEEN THE CITY
OF PRAIRIE VILLAGE AND THE JOHNSON COUNTY
PARK AND RECREATION DISTRICT.**

2007 CITY OF PRAIRIE VILLAGE 50 PLUS FACILITY USE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of December, 2006, by and between the City of Prairie Village, Kansas, hereinafter referred to as the "City", and the Johnson County Park and Recreation District, hereinafter referred to as the "District", each party having been organized and now existing under the laws of the State of Kansas.

WHEREAS, K.S.A. 19-2862 authorizes the District to enter into contracts; and the City is authorized to enter into contracts by virtue of Article 12, Section 5, of the Kansas Constitution and K.S.A. 12-101; and

WHEREAS, the District has established and conducts a program to provide for the recreational, cultural, educational, and social needs of senior citizens; and

WHEREAS, the City has facilities available for such programs; and

WHEREAS, a coordinated approach to the provision of recreational and cultural services to the population is most effective and efficient; and

WHEREAS, K.S.A. 12-2901 et seq., and amendments thereto, entitled the "Interlocal Cooperation Act", authorize the parties hereto to cooperate in sponsoring recreational and cultural programs for the aforesaid reasons; and

WHEREAS, the Governing Body of the City did approve and authorize its Mayor to execute this agreement by official vote of said body on the ____ day of December, 2006; and

WHEREAS, the Governing Body of the District did authorize its chairperson to execute this agreement by official vote of said body on the ____ day of December, 2006.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable consideration, the parties agree as follows:

1. The District shall have access to and the use of city facilities for the term, times and use as hereinafter mutually agreed upon.
2. Duration of Agreement and Termination - This agreement shall be in effect from **January 1, 2007** through the period ending **January 1, 2008** provided that this agreement may be terminated by either party, giving at least 30 days' prior written notice to the other party of its intention to terminate this agreement; further provided that if the City or District 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 30 days thereafter, the affected party may elect to cancel this agreement immediately thereafter.

3. No Legal Entity Created - There will be no separate legal entity created under this agreement.
4. Purpose of the Agreement - The purpose of this agreement is to facilitate cooperation in the establishment and operation of recreational and cultural programs and to define responsibilities for the operation, finances, publicity, facility maintenance, and other matters pertaining to the programs.
5. Financing - Except as may be otherwise provided herein, the District shall provide all funding and personnel necessary to manage the 50 Plus programming.
6. Acquisition Holding, and Disposal of Property - The city facilities shall remain the property of the City. The District may not install any fixtures or make any physical changes to the premises and facilities of the City. Any equipment used in the city facilities will either be owned by the City or the District as listed in Appendix A. No equipment is to be jointly owned. In the event that this agreement is terminated, all property shall be returned to the owner agency. The maintenance, repair, replacement, and general upkeep of equipment shall be the responsibility of the owner except as otherwise provided in this agreement. The District will be responsible for the set up of the facility.
7. Administration of Agreement - The 50 Plus program at the Prairie Village City facilities shall be administered by the District.

8. Responsibilities

The District

- a. Shall provide all support supplies needed to maintain the programs to include office supplies, printing, etc., the cost to be the responsibility of the District.
- b. Shall provide all necessary personnel to establish and maintain quality programs.
- c. Shall permit only persons qualified to conduct programs, to instruct, lead or supervise the classes. It is the responsibility of the District to ensure that the instructors are qualified.
- d. Shall provide an annual report to the City Administrator which will include the number of programs, the number of people served, residency of persons served, an inventory of equipment, the class fee structure.

- e. Shall be responsible for moving tables and chairs to accommodate the programs conducted by the Parks and Recreation District. The District shall also be responsible for replacing the tables and chairs in the positions required, if such placement does not occur a \$25 maintenance fee will be charged.

The City:

- a. Shall provide access to the Community Center and Municipal Building facilities during days and times agreed upon by the City and the District for programs. The City may choose to provide access at other dates and times provided that such approval is in writing and agreeable to both parties.
 - b. Shall furnish tables and chairs.
 - c. May provide access to kitchen facilities as required for special events, said access to be during non-lunch hours.
9. Indemnification - In case any action in court is brought against the City or City's representative, or any officer or agent, for the failure, omission, or neglect of the District or its officers, agents or employees to perform any of the covenants, acts, matters, or things by this Agreement undertaken, or for injury or damage caused, in whole or in part, by the alleged negligence or other actionable fault of the District, its officers, agents and employees, the District shall indemnify and save harmless the City and City's representative and its officers and agents, from all losses, damages, costs, expenses, judgments, or decrees, or portions thereof, arising out of such action and which arise from and are proximately caused by the negligent or other actionable fault of the District, its officers, agents or employees.
10. Disclaimer of Liability - The City shall not be liable or obligated to the District or any participants in the program for any injuries or damages sustained while participating in any of the programs or for any damage incurred to the District or participants in its programs upon the premises by fire, theft, casualty, acts of God, civil disaster, and other occurrences and events beyond the control of the City.
11. Insurance - The District shall secure and maintain, or have maintained throughout the duration of this contract, insurance of such types and in such amounts as may be necessary to protect the District and the City against all hazards or risks generated by the District and the City against all hazards or risks generated by the District or any of its agents. The District shall offer to the City other evidence of such insurance coverage, and any and all renewals thereof, in the form of a Certificate of Insurance. This certificate of insurance shall list the City of Prairie Village as an additional insured. The Certificate shall list the following insurances:

General Aggregate	\$2,000,000
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Products and Completed Operations	\$2,000,000
Personal/Advertisement Injury	\$ 500,000
Fire Damage	\$ 300,000
Each Occurrence	\$ 500,000

Workers Compensation and Employers Liability as determined by Kansas Statutes.

12. Miscellaneous Provisions By the terms of this agreement, the 50 Plus program is a program of the District; provided, however, since the City is providing the facilities for the programs, every effort shall be made by both agencies to inform the participants and the public that the programs are made possible through the joint efforts of the District and the City.
13. Verbal Statements Not Binding - It is understood and agreed that the written terms and provisions of this agreement shall supersede all prior verbal statements of any and every official and/or other representative of the City and District, and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any way whatsoever the written agreement.
14. Inspection of Premises by City - The City shall have the right to inspect the premises and facilities occupied by the District at all reasonable times.
15. Provisions Separable - It is the intent of the parties hereto in the preparation and execution of the 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 the 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 hereof.
16. Nonassignability of Agreement - This agreement shall not be assigned, transferred, or sold, nor the premises and facilities corporation, in whole or part, except with the express written consent of the City.
17. Placing Agreement in Force - The City shall cause three copies of this agreement to be executed and each party hereto shall receive a duly executed copy of this agreement for its official records.

IN WITNESS WHEREOF, four copies of the above and foregoing agreement have been executed by each of the parties on the day and year first above written.

DATE: _____

CITY OF PRAIRIE VILLAGE, KANSAS

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

Charles Wetzler, City Attorney

DATE: _____

JOHNSON COUNTY PARK AND RECREATION DISTRICT

Paul E. Alvarado, Jr.,
Chair
BOARD OF COMMISSIONERS

ATTEST:

James R. Azeltine, Secretary

APPROVED AS TO FORM:

District Legal Counsel

APPENDIX

This appendix lists the equipment referenced on page 2 paragraph 6 of the Facility Use 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

CITY OF PRAIRIE VILLAGE

TO: CITY COUNCIL
FROM: MAYOR SHAFFER
SUBJECT: MUNICIPAL JUDGE
DATE: 12/15/2006
CC:

I am pleased to announce the appointment of Brad Watson as Municipal Judge. Mr. Watson will be replacing Tom Hamill, who is retiring after serving nearly 30 years as one of the City's Municipal Judges.

Brad, a member of the Logan & Logan firm in Prairie Village, has served previously as the City Prosecutor and is well known and respected in the legal community.

This appointment has been placed on the 18 December, 2006 Consent Agenda.

RECOMMEND THE CITY COUNCIL APPROVE THE APPOINTMENT OF BRAD WATSON AS MUNICIPAL JUDGE.

M. BRADLEY WATSON

CURRICULUM VITAE

Personal

Widowed

Born July 1, 1958

Two children

Residence: 6824 Cherokee Lane

Mission Hills, Kansas

Education: Bachelor of Arts, Political Science
University of Kansas, 1980

Juris Doctor,
University of Kansas, 1984

Professional Background:

Member, Kansas Bar, Missouri Bar, United States District Court for Kansas, United States District Court for the Western District of Missouri

Assistant District Attorney, Johnson County, Kansas, 1984 - 1989

Staff Attorney 1984 - 1986
Section Attorney 1986 - 1989

Logan & Logan L.C., 1989 -to Present

Handled insurance defense litigation for the past 16 years, primarily in the areas of medical malpractice and personal injury.

Trial Experience:

Lead counsel in over fifty jury trials; researched and briefed appeals in the Kansas Court of Appeals and the Kansas Supreme Court, presenting oral argument in both the Kansas Court of Appeals and the Supreme Court of the State of Kansas

Prairie Village Prosecutor, 1989 to 2000.

Civic: Member St. Ann's Catholic Church

**COUNCIL COMMITTEE OF THE WHOLE
DECEMBER 4, 2006**

The Council Committee of the Whole met on Monday, December 4, 2006 at 6:00 p.m. The meeting was called to order by Council President David Belz with the following members present: Mayor Shaffer, Al Herrera, Bill Griffith, Ruth Hopkins, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, Pat Daniels (arrived late), Charles Clark and Wayne Vennard. Staff members present: Barbara Vernon, City Administrator; Charles Grover, Chief of Police; Bob Pryzby, Director of Public Works; Doug Luther, Assistant City Administrator; Karen Kindle, Finance Director and Joyce Hagen Mundy, City Clerk.

Wayne Vennard asked that item #1 on the consent agenda be removed. Al Herrera moved the approval of the consent agenda for December 4, 2006 with the removal of item #1:

- **Removed**
- **Approve the construction contract with Pyramid Construction for Project 191020: Pedestrian Bridge Replacement over Brush Creek (77th Street/Colonial Drive) in the amount of \$19,500 and approve a transfer of \$19,500 from Capital Infrastructure Program-Street Unallocated to Project 191020**
- **Approve the payment of \$15,458.05 to the City of Overland Park for Project 190850: Reeds Street-69th to 71st from the Capital Infrastructure Program-Street Unallocated.**

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

The motion was voted on and passed unanimously.

Wayne Vennard noted, because of his involvement with the Drug & Alcoholism Council, he would be abstaining from voting on this motion.

Bill Griffith made the following motion, which was seconded by Ruth Hopkins and passed by a vote of 10 to 0 with Wayne Vennard abstaining:

- **Approve the distribution of \$15,000 budgeted from the Special Alcohol Fund for the allocation recommended by the Drug & Alcoholism Council**
- COUNCIL ACTION REQUIRED
CONSENT AGENDA**

NEW BUSINESS

COU2006-52 Consider 2007 Salary Ordinance

The City annually adopts a resolution establishing salary ranges for all employment classifications within the City. The proposed 2007 salary ranges reflect the ranges proposed by the City's compensation consultant as presented to the Council Committee of the Whole on November 20, 2006.

Doug Luther stated after the last meeting staff conducted a review of the ranges with the current and projected future salaries of incumbents in the five questioned ranges. The consultant recommends and the City's department managers concur that salary ranges in the following classifications: accounting clerk; receptionist, court clerk, administrative support specialist and community service officer as of the effective date of the adoption of the 2007 salary resolution should be administered based on a separate set of ranges. In essence, salary ranges for employees in these five classifications will be "grandfathered" for as long as the employee remains with the City in his/her current classification. These ranges will also be adjusted annually based on a cost of labor factor, the same as other non-grandfathered ranges. Mr. Luther stated there would be no financial impact of doing this and noted there are only 12 employees in these classifications.

Andrew Wang confirmed there is no cost as none of the employees in these ranges are at or near the top of their range.

The new ranges established for these positions in the 2007 salary resolution will only apply to individuals who begin employment with the City after the adoption of the 2007 salary resolution. Doug Luther noted adjustments have also been made to the hourly wages for seasonal and part time employees based on a "cost of labor" adjustment factor of 2.6%. The salary range for the Assistant Swim Team Coach has been increased significantly based on the recommendation of the Park and Recreation Committee.

Bill Griffith noted the staff recommendation is contingent upon the review and approval of the City Attorney. He stressed the need for very good documentation about why this is being done. He would not be surprised to see the dual system challenged down the road. Mr. Griffith asked for further explanation on the significant increase for the assistant swim coaches.

Mr. Luther responded the Park & Recreation committee conducted a salary survey and recommended the request for an increase at an earlier meeting. Barbara Vernon stated the survey indicated the salaries paid by the City were approximately 60% of the salaries paid to coaches in other area cities. Mr. Griffith asked if this classification was part of the salary study. Doug Luther responded it was not included as part of the salary study

Ruth Hopkins asked the employees present at the meeting if they had any comments. No one addressed the Council.

Bill Griffith made the following motion, which was seconded by Al Herrera and passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT RESOLUTION 2006-12
ESTABLISHING COMPENSATION RANGES FOR THE CITY OF
PRAIRIE VILLAGE AFTER REVIEW AND APPROVAL OF THE CITY
ATTORNEY**

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2006-50 Consider Establishment of Personnel Policy 935 - Cellular Phones

The City's Finance Director, Karen Kindle, advised the Council that earlier this year the City received a letter from its auditors informing us about recent compliance efforts by the IRS regarding cell phones and recommending the City review its policy. City staff has spent the last several months reviewing current practices and IRS regulations in order to develop a policy.

IRS regulations classify cellular phones as "listed property." Because the nature of the property lends itself to personal use, strict substantiation requirements must be met or the value of all usage of the property must be included in the employees' wages and taxed accordingly. Substantiation requirements are met if the employee keeps track of business and personal usage and the value of personal usage is included in the employee's wages.

The City has several options for complying with these regulations.

1. Require employees to indicate personal calls on the bill and include that value in their wages.
2. Require employees to indicate personal calls on the bill and reimburse the City for those calls.
3. Do not require the employees to go through the bills and indicate personal calls. In this situation the entire cost of the phone plan would be included in the employees' wages.
4. Pay employees a monthly stipend through payroll and tax it accordingly. The employee would be responsible for obtaining and maintaining their own phone. Substantiation requirements do not have to be met in this case because the amount paid to the employee is taxed through payroll.

In determining which option would work best for the City, staff took into consideration the administrative burden and the fairness of taxation to employees related to each option. Staff determined that paying a monthly stipend is the best option. However, staff noted there are a few instances where this solution would not work and that a city-owned cell phone was a better option. Therefore, the

policy includes provisions for the monthly stipend and for City-owned cell phones. City-owned cell phones would be subject to the substantiation requirements. Employees will be required to reimburse the City for personal calls.

Financial Impact:

Section V.A.1.a states that the stipend amount is \$25.00 per month. Section V.A.2.f states that the reimbursement rate for personal calls on a City-owned phone is \$.10 per minute. Total monthly cost under the new plan increases by \$77.90 per month, which is more than offset by the administrative cost there would have been if all phones continued to be City-owned and employees were required to go through the bills each month and indicate personal usage. In addition, complying with the IRS regulations will avoid costly penalties.

Wayne Vennard asked who would be tracking submittals of telephone use. Karen Kindle responded this would be the responsibility of the Department Managers. Mr. Vennard questioned if it was worth the time it would take to track. Mrs. Kindle acknowledged his point, but noted it is a requirement of the IRS that it be done and their guidelines be followed.

Bill Griffith asked how many phones would fall under this policy. Barbara Vernon replied 4 city-owned phones and 14 phones that would operate under the stipend provision. Mr. Griffith suggested compensation be adjusted to offset the cost of the phones. Mrs. Kindle responded that is the intent of the stipend. She noted the 4 City-owned phones are shared between employees and the likelihood of significant personal use is minimal, so tracking should not become cumbersome.

Mr. Daniels arrived.

Bill Griffith made the following motion, which was seconded by David Voysey and passed unanimously:

**RECOMMEND THE CITY COUNCIL APPROVE ESTABLISHMENT
OF PERSONNEL POLICY PP935 ENTITLED "CELLULAR PHONES".
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Mayor Shaffer asked why the IRS was looking into governmental entities. Karen Kindle stated, as she understands it, the process began with IRS compliance checks which uncovered a sufficient amount of questionable practices to merit audits. The audits have continued to find non-compliance, so follow-up is being expanded. Mayor Shaffer asked what the potential impact was to the City. Mrs. Kindle stated the City would need to recalculate income and create adjusted W2 statements for employees and they would need to possibly amend their tax submittal.

Ruth Hopkins asked what actions were taken against the City of Salina. Mrs. Kindle stated their audit only went back one year and uncovered a tax deficiency by the City of \$30,000.

COU2006-53 Consider Amendments to Personnel Policy 1012 - Civil Leave

A review of the City's Personnel Policies regarding leave time has revealed the need to revise the policy to provide clarification and establish procedures regarding the civil leave process. The following amendments are proposed:

- Section 1 - The policy has been updated so all active employees despite status will receive civil leave benefits.
- Section V.C - The policy has been updated to remove the managerial discretion and provide clarification for FLSA issues, reimbursement of jury duty payment and return to work requirements.
- Section V.D - The policy has been updated to remove the managerial discretion and provide clarification for FLSA issues and return to work requirements.

Al Herrera confirmed it is a common practice for employees to turn over their jury payment to their employer and then receive from their employer full compensation for the time away.

Wayne Vennard made the following motion, which was seconded by Al Herrera and passed unanimously:

**RECOMMEND THE CITY COUNCIL APPROVE AMENDMENTS TO
PERSONNEL POLICY PP1012 ENTITLED CIVIL LEAVE
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2006-48 Consider Revisions to Prairie Village Municipal Code Chapter 19.48 entitled "Signs"

City Attorney Charles Wetzler stated the Council is aware of the City's sign regulations going before Judge Lungstrum as a result of the lawsuit file by Mr. Quinly and the judge's decision. He really didn't like anything about our sign ordinance, his primary concern is that the City has treated political signs for races differently from other type of signs. He does not feel there is a difference. So the new ordinance removes all references to political signs and groups together "Temporary Signs".

Mr. Wetzler reported the status with the ACLU, they have approved the changes made that essentially eliminate the category of a political sign and discuss temporary signs, and have a better definition of "profanity" which is one that is standard use.

Mr. Wetzler stated Judge Lungstrum is extremely knowledgeable of issues and related case law on this issue and he would not recommend appealing his ruling. He noted the City representatives have been working with representatives of the ALCU on the proposed amendments and have reached agreement with the proposed language.

Mr. Wetzler introduced Ms Amii Castle with his law firm. Ms Castle represented the City in front of Judge Lungstrum and has worked diligently on the proposed revisions. Ms Castle noted the City's existing ordinance was drafted following the IMLA model, which she has since learned should not be done. Judge Lungstrum's determination basically stated that if there is a regulation where the City has to look at the content of the sign, to see if the regulation has to apply it is considered to be content based. If it is content based the judge must apply strict scrutiny. If strict scrutiny is applied it will probably be struck down because the judge has to find that the city has a compelling interest in enforcing that restriction or ordinance and it has been widely held by courts that traffic hazards and aesthetics are not compelling interests, they are important but not compelling. Therefore, every thing the Judge found to be content based was struck down. There were four main sections of the ordinance that he found to be content based and those were the ones claimed by Mr. Quinly to be unconstitutional. As a result of that Ms Castle has been working with a representative of the ACLU focusing on what would resolve the Quinly case.

Ms Castle agrees with Mr. Wetzler that the City should not appeal Judge Lungstrum's ruling. At this point, if the ordinance as proposed is passed, Mr. Quinly has agreed to dismiss his lawsuit against the City.

Mr. Wetzler noted from her extensive research in defending this suit, Ms Castle has become an area expert on the subject of sign regulations, speaking to the state lawyers association, and has received several requests for copies of the proposed ordinance from attorneys around the state. He feels that many Cities will follow the actions of Prairie Village in regard to this issue. Ms Castle stated that the City will never know if Judge Lungstrum would accept this ordinance as constitutional as the lawsuit will be dismissed. They believe it is in the City's best interest to get rid of the litigation and the attorney fees that go along with it.

Charles Clark asked if all the proposed changes are based on the issues raised by Judge Lungstrum. Ms. Castle stated they were. Mr. Clark asked about the removal of advertising signs, construction signs, etc. Ms Castle stated these were removed based on the "on-site/off-site" prohibition, which states that you can not advertise something commercial on residential property - it must be on the site of the commercial property. To define these signs, you have to look at their content and they become content based and thus were removed. Every change made based on the criteria that "if the city has to look at the sign to

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determine the square footage requirement or duration it can be up”, the sign is content based.

Charles Clark confirmed all changes were related to content. Ms Castle noted however, they focused on residential restrictions with only a few changes on commercial regulations.

Bill Griffith questioned the “roofing” signs placed in yards while roofing projects are underway. Ms Castle stated under the City’s regulations they are prohibited as they are off-site signs. Mr. Griffith asked for clarification. Ms Castle responded based on court cases, you can prohibit advertising signs that are not on the site of the commercial property.

David Belz asked if the 90 day restriction was removed. Ms Castle responded “no” noting the 90 days is a very important part. What was removed is the tie to election days. Judge Lungstrum stated “tied to an election” is vague. The 90 days “remove or replace” language has been upheld by the courts and acknowledged the difficulty in enforcement. Any temporary sign must be removed or replaced after 90 days. David Belz confirmed however, the sign could be immediately reinstalled.

David Voysey confirmed “garage sales”, “for sale” and “sold” signs are all considered to be temporary. Therefore a “garage sale” sign could be up for 90 days. Ms. Castle responded Judge Lungstrum was very clear that all temporary signs must be treated the same. If you have a house “for sale” and it doesn’t sell for a year, you can continue to have that sign. David Voysey questioned if “sold” signs no longer need to be removed after 10 days, but could remain for 90. Ms Castle stated as a temporary sign it could. Mr. Voysey stated that a certain element of the “SOLD” sign could be considered as advertisement. She noted an argument could be made for it being an advisement sign, but she would recommend proceeding cautiously.

Wayne Vennard asked how the definition for “obscene” was determined. Ms Castle responded it was judicially determined coming directly from Supreme Court Cases at the direction of Judge Lungstrum. Ms. Castle acknowledged there are several cases interpolating what is obscene and the definitions used have been established by case law.

Pat Daniels felt the Homes Realty Association would place regulations on the length of time “sold” signs can be in place.

Michael Kelly asked how long this ordinance would last. Charles Wetzler responded the City is attempting to regulate signs and we have no set criteria on which to base them. The proposed regulations may be found compliant by one judge and non-compliant by another judge. David Belz confirmed that to the City’s knowledge the proposed ordinance will appease Mr. Quinly.

Al Herrera noted the original ticket for Mr. Quinly was not written in response to content but because of the number of signs. Ms Castle noted Mr. Quinly's ticket was actually based on the City's previous ordinance. This lawsuit is based on the ACLU's feeling the current City's regulations are unconstitutional and do not relate to the original ticket.

Bill Griffith asked how Homes Associations and private development can have more prohibitive sign regulations. Ms Castle responded these are private agreements which the owners enter into voluntarily as a term of ownership.

Ron Williamson, City Planning Consultant, noted other clean-up changes were made within the chapter for better clarification and to remove any conflicting language. He noted a change in Section 19.48.020 A2 to further define what constitutes a school award sign. The current words "display an award sign" have been replaced with "install a sign to display a National School of Excellence or equivalent award."

Charles Clark noted the "Schools of Excellence Sign" should be considered permanent as they remain forever.

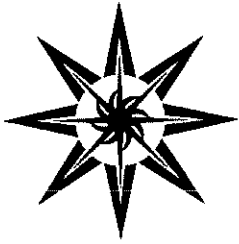
Charles Wetzler stated he was prepared to go into executive session to discuss the financial costs related to this lawsuit including the payment of attorney's fees for the ALCU; however, he spoke with the City's insurance carrier today and they may have found an area in the city's insurance coverage that may be applied to this, so he would rather wait until he had complete information. Council members agreed it would be better to wait.

Bill Griffith made the following motion, which was seconded by Ruth Hopkins and passed unanimously:

**RECOMMEND THE CITY COUNCIL ADOPT ORDINANCE 2138
REPEALING THE EXISTING CHAPTER 19.48 ENTITLED "SIGNS"
AND ADOPTING A NEW CHAPTER 19.48 ENTITLED "SIGNS"
COUNCIL ACTION TAKEN
12/04/2006**

With no further business to come before the Committee, Council President David Belz adjourned the meeting at 7:00 p.m.

David Belz
Council President



City Council Policy: PP935 - CELLULAR PHONES

Effective Date: December 18, 2006

Amends:

Approved By: Governing Body, December 18, 2006

I. SCOPE

A. This policy applies to all **employees**.

II. PURPOSE

A. To maintain guidelines and procedures for authorization of **cellular phones** for **employees**.

III. RESPONSIBILITY

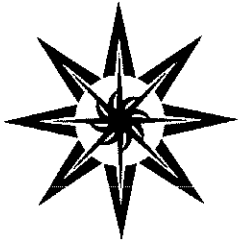
- A. The **Manager** will be responsible for notifying the Finance Department of the need for an **employee** to receive the monthly **cellular phone** stipend
- B. The **Manger** will be responsible for reviewing the billing on a City-owned **cellular phone** for compliance with this policy prior to submitting the request for payment to the Finance Department.

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 #720 - Definitions of Employment Status*.
- C. "**Cellular Phone**" is a hand-held, mobile radio/telephone for use in an area divided into small sections (cells), each with its own short-range transmitter/receiver.

V. POLICY

- A. The **Manger** will determine which of the following options an **employee** receives.
1. **Monthly Cellular Phone Stipend**
 - a.) **Employees** that have been designated by the **Manager** that they are required to have a **cellular phone** due to the nature of their employment will receive a monthly stipend for their business use in an amount of \$25.00.
 - b.) Payment of the monthly stipend will be made to the **employee** via the City's payroll system and is subject to taxation.
 - c.) The purchase, maintenance, and payment of services for the **cellular phone** will be the responsibility of the **employee**.
 2. **City-owned Cellular Phone**
 - a.) A **Manager** may elect to provide a City-owned **cellular phone** in lieu of a stipend; this request must be approved by the City Administrator.
 - b.) The City will be responsible for the purchase, maintenance, and payment of services for the **cellular phone**.
 - c.) All calls made via a City-owned **cellular phone** shall be recorded with the date, time, telephone number, and duration of all calls placed or received by the **employee** and will be required to be submitted with the request for payment; the monthly invoice with a detailed call list may be used.
 - d.) Employees are required to review the monthly call record and designate any calls that are personal in nature.
 - e.) Personal use of any City-owned **cellular phone** is strongly discouraged.
 - f.) Reimbursement of any personal use of a City-owned **cellular phone** will be at a rate \$0.10 per minute and will deducted from the **employee's** paycheck via the City's payroll system.
 - g.) Upon termination of employment or transfer to a position in which the need for a City-owned **cellular phone** does not exist, an employee will be required to return the **cellular phone** to the City.



City Council Policy: PP1012 - CIVIL LEAVE

Effective Date: December 18, 2006

Amends: PP216 - CIVIL LEAVE, November 16, 1992

Approved By: Governing Body, December 18, 2006

I. SCOPE

A. This policy applies to all employees.

II. PURPOSE

A. To enable employees to receive time away from work with or without pay for jury duty or court appearances.

III. RESPONSIBILITY

- A. The employee will be responsible for completing the necessary documentation and notifying his or her Manager of their request to utilize civil leave.
- B. The Manager will be responsible for approving any civil leave and ensuring that the necessary documentation is completed by the employee.

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 #720 - Definitions of Employment Status*.
- C. "Jury Duty" is defined as the civic duty to serve on a jury.

V. POLICY

- A. While on civil leave, benefits shall accrue as though on regular duty.
- B. Civil leave will be considered "hours worked" for overtime calculation purposes as defined in *Personnel Policy #910 - Overtime: Non-Exempt Employees*.
- C. Jury Duty
1. An employee who serves on jury duty during his or her normal work hours shall be paid his or her normal rate of pay for such service.
 2. An employee who serves on jury duty on a scheduled day(s) off or during non-work hours is not entitled to receive his or her regular compensation for such service.
 3. Time spent on jury duty during non-work hours or days off does not count toward a non-exempt employee's overtime threshold.
 4. If an employee is instructed to report to jury duty more than one hour after the start of his or her normal work day, or is excused from jury duty more than 1 hour before the end of his or her normal work day, he or she shall notify his or her Manager. The Manager shall direct the employee whether to report to work before reporting to jury duty or after being released from jury duty for the day.
 5. In order to receive his or her regular compensation for time served on jury duty during normal work hours, an employee must turn in to the City the total amount of money received from the court for jury duty, minus the amount that is designated as a transportation allowance.
 6. The amount earned for jury duty, less travel costs, must be remitted to the City.
 7. Leave for jury duty will be with pay provided the employee remits the amount paid for jury service to the City.
- D. Court Appearances
1. In order to receive payment for court appearances, an employee must be subpoenaed to testify and may not be the plaintiff or defendant in the proceeding.
 2. An employee who is subpoenaed to serve as a witness on behalf of the Federal, State government or a political subdivision thereof in a criminal or civil proceeding during his or her normal work hours shall be paid his or her normal rate of pay for such service.

PP1012 CIVIL LEAVE

3. An **employee** who is subpoenaed to serve as a witness on behalf of the Federal, State government or a political subdivision thereof on a scheduled day(s) off or during non-work hours is not entitled to receive his or her regular compensation nor is such time counted toward an non-exempt **employee's** overtime threshold,
4. If an **employee** is required to provide testimony as a direct result of his or her employment with the City, they will be compensated at their normal rate of pay and such time will be counted toward an non-exempt **employee's** overtime threshold
5. If an **employee** is instructed to arrive at a proceeding for purposes of providing testimony more than 1 hour after the start of his or her normal work day, or is excused from the proceeding more than 1 hour before the end of his or her normal work day, he/she shall notify his or her **Manager**. The **Manager** shall direct the **employee** whether to report to work before reporting to or after being released from the proceeding.
6. In order to receive his or her regular compensation for time served as a witness, an **employee** must turn in to the City the total amount of witness fees received for his or her testimony, minus the amount that is designated as a transportation allowance.

VI. PROCEDURES

- A. Upon receipt of the order requiring an **employee** to report for **jury duty**, the **employee** must notify his/her **Manager** who shall review the order and grant permission for Civil Leave.

RESOLUTION 2006-12

WHEREAS, the Governing Body of the City of Prairie Village is authorized to establish salary ranges for city positions; and

WHEREAS, it is the desire of the Governing Body that these salary ranges be reviewed annually to ensure appropriate funds are budgeted and the salary ranges remain competitive;

NOW, THEREFORE, be it resolved the Governing Body of the City of Prairie Village, Kansas, hereby adopts the following compensation ranges:

Compensation generally.

The elected officers, appointive officers and employees of the city shall be compensated within the salary ranges provided in this section. The amount of compensation shall be fixed by the Governing Body in accordance with personnel procedures as adopted by the Governing Body from time to time, provided, however, that the salaries and compensation from the date of adoption of this resolution until December 31, 2007, shall be within and determined by the following ranges:

Classification	Annual Min.	Annual Max
Receptionist	21,400	32,000
Admin Support Specialist	26,600	40,000
Executive Assistant (NE)	36,000	54,000
Office Manager (Exempt)	37,400	56,200
Court Clerk	25,800	38,600
Court Administrator	42,100	63,100
Management Intern	36,000	54,000
Accounting Clerk	24,700	37,100
Management Assistant	49,800	74,600
Code Enforcement Officer	34,600	52,000
Building Inspector	37,500	56,300
Human Resources Specialist	38,800	58,200
City Clerk	49,800	74,800
Building Official	53,800	80,600
Assistant City Administrator	66,200	99,400
Finance Director	73,300	109,900
City Administrator	98,700	148,100
Laborer	22,600	31,900
Maintenance Worker	29,000	40,900
Sr Maintenance Worker	34,900	49,200
Crew Leader	41,700	58,900
Mechanic	30,700	46,100
Construction Inspector	37,500	56,300
Mgr. of Engineering Services	53,800	80,600
Field Superintendent	48,500	72,700
Public Works Director	77,600	116,400
Police Officer	36,000	56,300
Police Corporal	48,300	64,400
Police Sergeant	57,200	76,300
Police Captain	66,700	100,100
Police Chief	76,600	114,800
Records Clerk	27,900	41,900
Community Service Officer	28,000	42,000
Property Clerk	29,500	44,300
Dispatcher	31,600	48,400
Communications Supervisor	43,000	64,400

Seasonal/Part-time Employees - Seasonal/Part-time employees shall be compensated as follows:

Seasonal / Part-Time Employees	Minimum	Maximum
Seasonal worker (hourly)	8.25	12.30
Tennis Assistant (hourly)	8.25	17.50
Concession Worker (hourly)	5.65	7.45
Clerical Assistant (hourly)	8.75	12.85
Assistant Pool Manager (hourly)	9.25	15.40
Bailiff	10.25	12.30
School Crossing Guards (session)	11.10	11.10
Swim/Dive Coach (season)	2,055.00	5,650.00
Synchro Coach (Season)	1,030.00	1,850.00
Asst. Synchro Coach (season)	668.00	1,130.00
Assistant Coaches (season)	1,200.00	1,500.00
Pool Manager (season)	9,250.00	19,000.00

Employee/Consultant

A person may be compensated in a category defined as "independent contractor consultant". The rate of pay and other terms of employment for an individual in this category will be established and approved by the City Council.

Part-time Appointed Officials -

Part-time appointed officials shall be compensated as follows in 2007:

Part-Time Appointed Officials	Minimum	Maximum
Municipal Judge(s)	1,130.00	1,550.00
City Attorney (monthly)	125.00	160.00
City Attorney (hourly)	105.00	175.00
Asst. City Attorney (hourly)	105.00	130.00
City Prosecutor (monthly)	1,540.00	1,850.00
City Prosecutor (hourly)	105.00	130.00
Treasurer (monthly)	335.00	420.00

BE IT FURTHER RESOLVED that, the following ranges are hereby established for the calendar year 2007 for individuals employed by the City in the following classifications on the adoption date of this resolution:

Classification	Annual Min.	Annual Max
Receptionist	\$28,900	42,500
Administrative Support Specialist	\$28,900	42,500
Court Clerk	\$28,900	42,500
Accounting Clerk	\$28,900	42,500
Community Service Officer	\$31,400	\$43,800

Adopted this 18th day of December, 2006.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk

AMENDED AND RESTATED

THE CITY OF PRAIRIE VILLAGE, KANSAS

SUPPLEMENTAL PENSION BENEFIT PLAN

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AMENDED AND RESTATED
THE CITY OF PRAIRIE VILLAGE, KANSAS
SUPPLEMENTAL PENSION BENEFIT PLAN

The City of Prairie Village, Kansas, a municipal corporation organized under the laws of the State of Kansas, hereby adopts this restatement of its Supplemental Pension Benefit Plan and Trust Agreement.

The City of Prairie Village, Kansas continues its Plan for the administration and distribution of contributions made by it or the purpose of providing retirement benefits for eligible employees. The provisions of this plan shall apply solely to an Employee whose employment with the City terminates on or after the effective date. If an Employee's employment with the City terminates prior to the effective date, that Employee shall not be entitled to any benefit under the Plan.

ARTICLE I

DEFINITIONS

1.01 "Plan" shall mean the retirement plan established by the Employer in the form of this document, designated as **The City of Prairie Village, Kansas Supplemental Pension Benefit Plan**.

1.02 "Employer" shall mean the City of Prairie Village, Kansas, which is also sometimes herein referred to as The City.

1.03 "Trustee" shall mean Marshall & Ilsley Trust Company, N.A., or any successor in office who in writing accepts the position of Trustee.

1.04 "Plan Administrator" shall be the Employer, unless the Employer designates another person to hold the position of Plan Administrator. In addition to his other duties, the Plan Administrator shall have full responsibility for compliance with the reporting and disclosure rules under the Plan.

1.05 "Advisory Committee" shall mean the Employer's Advisory Committee as from time to time constituted.

1.06 "Employee" shall mean any Employee of the Employer other than a commissioned police officer. However, nothing contained in this Plan, or with respect to the establishment of the Trustee, or any modification or amendment to the Plan or Trust, or in the creation of any Account, or the payment of any benefit, shall give any Employee, Employee-Participant, or any Beneficiary any right to continue employment, any legal or equitable right against the Employer or any officer, or Employee of the Employer, or against the Trustee, or against the Plan Administrator, except as expressly provided by the Plan, the Trust, or by a separate agreement.

Notwithstanding the foregoing, a person who is not considered by the Employer, on its payroll records, to be a common law employee, but who is later determined by a court of competent jurisdiction or an agency of the federal or an applicable state government to be an Employee shall nevertheless not be considered an Employee for purposes of this Plan for periods prior to the date on which such determination is made.

The term "Leased Employee" shall mean an individual (who otherwise is not an Employee) who, pursuant to a leasing agreement between the Employer and any other person, has performed services for the Employer (or for the Employer and any persons related to the Employer within the meaning of Section 414(n)(6) of the Code) on a substantially full time basis for at least one year and who performs services under the primary direction and control of the Employer. The Plan does not treat a Leased Employee as an Employee.

1.07 "Participant" is an Employee who is eligible to be and becomes a Participant in accordance with the provisions of Section 2.01. An Employee who becomes a Participant shall remain a Participant under the Plan until the Trustee has fully distributed his nonforfeitable Accrued Benefit to him.

1.08 "Beneficiary" is a person designated by a Participant who is or may become entitled to a benefit under the Plan. A Beneficiary who becomes entitled to a benefit under the Plan shall remain a Beneficiary under the Plan until the Trustee has fully distributed his benefit to him. A Beneficiary's right to (and the Plan Administrator's, the Advisory Committee's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan shall not arise until he first becomes entitled to receive a benefit under the Plan.

1.09 "Compensation" shall mean the total amount of the annualized monthly base wage established as of January 1 of the Plan Year and paid by the Employer to an Employee for services rendered to the Employer. Compensation shall not include overtime wages, Employee expense reimbursement, contributions made by the Employer under the Plan, payments made by the Employer for group insurance, hospitalization and like benefits, nor contributions made by the Employer under any other Employer benefit plan it maintains.

Limitations on Compensation.

- (1) Compensation Dollar Limitation. The annual Compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual Compensation means compensation during the Plan Year (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

For any Plan Year beginning after December 31, 1988, and before January 1, 1994, the Board of Trustees must take into account only the first \$200,000 (or beginning January 1, 1990, such larger amount as the Commissioner of Internal Revenue may prescribe) of any Participant Compensation. For any Plan Year beginning after December 31, 1993, and before January 1, 2002, the Board of Trustees must take into account only the first \$150,000 (as indexed for inflation) of any Participant's Compensation. This Compensation limitation also applies to any 12 month period for which the Plan measures a Participant's Compensation and on a prorated basis to any measuring period less than 12 months.

- (2) Family Aggregation. For Plan Years beginning after December 31, 1988, and before January 1, 1997, the Compensation dollar limitation applies to the combined Compensation of the Employee and of any family member aggregated with the Employee and who is either (i) the Employee's spouse; or (ii) the Employee's lineal descendant under the age of 19. If, for a Plan Year, the combined Compensation of the Employee and such family members who are

Participants entitled to accrue benefits for that Plan Year exceeds the Compensation dollar limitation, "Compensation" for each such Participant, for benefit accrual purposes, means his Adjusted Compensation. Adjusted Compensation is the amount that bears the same ratio to the Compensation dollar limitation as the affected Participant's Compensation (without regard to the limitation) bears to the combined Compensation of all the affected Participants in the family unit. If the Plan uses permitted disparity, the Board of Trustees must determine the integration level of each affected family member Participant prior to the proration of the Compensation dollar limitation, but the combined integration level of the affected Participants may not exceed the Compensation dollar limitation. The combined Excess Compensation of the affected Participants in the family unit may not exceed the Compensation dollar limitation minus the affected Participants' combined integration level (as determined under the preceding sentence). If the combined Excess Compensation exceeds this limitation, the Board of Trustees will prorate the Excess Compensation limitation among the affected Participants in the family unit in proportion to each such individual's Adjusted Compensation minus his integration level. The adjustment required by this paragraph (2) will not apply for any Plan Year in which the family aggregation rule is not applicable.

1.10 "Account" shall mean the separate accounts) that the Advisory Committee or the Trustee shall maintain for a Participant under the Plan.

1.11 "Accrued Benefit" shall mean the amount standing in a Participant's Account as of any date derived from both Employer contributions and net earnings therefrom

1.12 "Nonforfeitable" shall mean a Participant's or Beneficiary's unconditional claim, legally enforceable against the Plan, to the Participant's Accrued Benefit.

1.13 "Plan Year" shall mean the fiscal year of the Plan, a 12-consecutive month period ending every December 31st.

1.14 "Effective Date" of this Plan is January 1, 1981. The effective date of this restatement of the Plan is January 1, ~~2002~~2006.

1.15 "Plan Entry Date" shall mean the Effective Date and every January 1 after the Effective Date.

1.16 "Accounting Date" shall be the last day of the Plan Year, December 31. The Advisory Committee shall make all Plan allocations for a particular Plan Year as of the Accounting Date of that Plan Year.

1.17 "Trust" shall mean the Trust created under the Plan.

1.18 "Trust Fund" shall mean all property of every kind held or acquired by the Trustee under this Agreement.

1.19 "Nontransferable Annuity" means an annuity that by its terms provides that it may not be sold, assigned, discounted, pledged as collateral for a loan or security for the performance of an obligation or for any purpose to any person other than the insurance company.

1.21 "Code" means the Internal Revenue Code of 1986, as amended.

1.22 "Service" means any period of time the Employee is in the employ of the Employer, including any period the Employee is on leave of absence authorized by the Employer under a uniform, nondiscriminatory policy applicable to all Employees.

1.23 "Hour of Service" means:

(a) Each Hour of Service for which the Employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment, for the performance of duties during the Plan Year, but excluding overtime hours. The Advisory Committee shall credit Hours of Service under this paragraph (a) to the Employee for the Plan Year in which the Employee performs the duties, irrespective of when paid,

(b) Each Hour of Service for back pay, except overtime hours, irrespective of mitigation of wages, to which the Employer has agreed or for which the Employee has received an award. The Advisory Committee shall credit Hours of Service under this paragraph (b) to the Employee for the Plan Years to which the award or the agreement pertains rather than for the Plan Year in which the award, agreement, or payment is made, and

(c) Each Hour of Service for which the employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment (irrespective of whether the employment relationship is terminated), for reasons other than for the performance of duties during a Plan Year, such as leave of absence, vacation, holiday, sick leave, illness, incapacity "(including disability), layoff, jury duty or military duty. The Advisory Committee shall credit Hours of Service under this paragraph (c) in accordance with the rules of paragraphs (b) and (c) of Labor Reg., Section 2530.200b-2, which the Plan, by this reference, specifically incorporates in full within this paragraph (c). Notwithstanding the preceding provisions of this paragraph (c), the Advisory Committee shall not credit:

(1) More than five hundred one (501) Hours of Service under this paragraph (c) to an Employee on account of .any single continuous period during which the Employee does not perform any duties single Plan Year); (whether or not such period occurs during a single Plan Year);

(2) An Hour of Service to an Employee on account of a period during which the Employee does not perform any duties if the payment the Employer makes (or the payment due) is under a plan maintained solely for the purpose of complying with the applicable workman's compensation law, unemployment compensation law or disability insurance law; and

(3) An Hour of Service for a payment to an Employee; which solely reimburses the Employee for medical or medically related expenses incurred by the Employee.

The Advisory Committee shall not credit an Hour of Service under more than one (1) of the above paragraphs. The Advisory Committee shall resolve any ambiguity with respect to the crediting of an Hour of Service in favor of the Employee.

The Advisory Committee shall credit every Employee with Hours of Service on the basis of the "actual" method. For purposes of the Plan, "actual" method means the determination of Hours of Service from records of hours worked and hours for which the Employer makes payment or for which payment is due from the Employer.

In any event, the Plan shall at all times comply with the requirements of Section 414(u) of the Code.

1.24 SERVICE FOR THE EMPLOYER PRIOR TO THE ORIGINAL EFFECTIVE DATE. Employees of the Employer prior to January 1, 1981, shall not receive credit under the vesting schedule for service with the Employer prior to January 1, 1981.

1.25 COMMENCEMENT OF FULL TIME EMPLOYMENT. For purposes of this Plan, the determination of the commencement of an Employee's full-time employment shall be consistent with the date used under the Kansas Public Employees Retirement System and as it has been determined by the Employer for purposes of that plan.

1.26 OVERTIME. Overtime shall mean any hours of service by the Employee in excess of (i) those prescribed for that Employee in the personnel policies of the Employer as the "regular working hours" for that Employee's position; or (ii) forty (40) hours per week, whichever is less.

ARTICLE II

EMPLOYEE PARTICIPANTS

2.01 ELIGIBILITY. Each full-time Employee shall become a Participant in the Plan on the Plan entry date (if employed on that date) coincident with or immediately following the date of his employment with his Employer. Any Employees who are full time Employees of the Employer as of the effective date of this Plan shall become Participants in the Plan on the effective date of the Plan.

2.02 FULL-TIME EMPLOYEE. For purposes of participation under Section 2.01 of the Plan, a full-time Employee shall be an Employee who works not less than 1,040 hours of service a year excluding overtime hours.

2.03 BREAK IN SERVICE - PARTICIPATION. For purposes of participation in the Plan, the Plan shall not apply any break in service rule.

2.04 PARTICIPATION UPON RE-EMPLOYMENT. A Participant whose employment terminates shall re-enter the Plan as a Participant on the January 1st following his re-employment. Any other Employee whose employment terminates and who is subsequently reemployed shall become a Participant in accordance with the provisions of Section 2.01.

ARTICLE III

EMPLOYER CONTRIBUTIONS AND FORFEITURES

3.01 AMOUNT. The first Plan Year of the Plan (the Plan Year beginning January 1, 1981), the Employer shall make a contribution to the Trust in an amount equal to ten percent (10%) of the annualized monthly base wage established for each Participant in January of the first Plan Year up to a maximum amount of \$2,000 per Participant. For each subsequent Plan Year prior to the year beginning January 1, 1991, the Employer shall make a contribution to the Trust in an amount equal to five percent (5%) of the annualized monthly base wage established for each Participant in January of that Plan Year up to a maximum amount of \$1,000 per Participant. For the Plan Year beginning January 1, 1991, and for each subsequent Plan Year, the Employer shall make a contribution to the Trust in an amount equal to five percent (5%) of the Participant's Compensation for that Plan Year up to a maximum amount of \$2,500 per Participant; or such contribution amount that the Employer may from time to time deem advisable for that Plan Year. Although the Employer may contribute to this Plan irrespective of whether it has net profits, the Employer intend the Plan to be a profit sharing plan for all purposes of the Code.

The Employer may not make a contribution to the Trust for any Participant for any Plan Year to the extent the contribution would exceed the limitations imposed under section 415 of the Code. The applicable provisions of Section 415 of the Code, and regulations thereunder, are hereby incorporated herein by reference.

The Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution made by the Employer by mistake of fact or the amount of the Employer's contribution disallowed as a deduction under section 404 of the Code. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after:

- (a) The Employer made the contribution by mistake of fact; or
- (b) The disallowance of the contribution as a deduction, and then only to the extent of the disallowance.

The Trustee will not increase the amount of the Employer contribution returnable under this Section 3.01 for any earnings attributable to the contribution, but the Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable under this Section.

3.02 DETERMINATION OF CONTRIBUTION. The Employer, from its records, shall determine the amount of any contributions to be made by it to the trust under the terms of the Plan.

3.03 TIME OF PAYMENT OF CONTRIBUTIONS. The Employer may pay its contribution for each Plan Year in one or more installments without interest. If the Employer makes contribution for a particular Plan Year after the close of the Plan Year, the Employer must make its contribution to the Trustee prior to March 15th of the next Plan Year.

3.04 CONTRIBUTION ALLOCATION. Subject to the conditions of Section 3.06, the Advisory Committee shall allocate and credit to each Participant's account each annual Employer contribution to this Trust on the basis of credit points. The Advisory Committee shall credit each Participant's account with that portion of the Employer's annual contribution that is allocated by taking the proportion that each Participant's total credit points with respect to such year bears to the total points awarded to all Participants with respect to such year. In order to calculate a Participant's credit points with respect to any year, one credit point shall be allocated to a Participant for each one thousand dollars (\$1,000.00) of his Compensation for such year and for any remaining fractional part thereof equal to one-half (1/2) or more of such amount, and in addition thereto, each Participant shall be assigned one point for each year said Employee has been an Employee eligible for participation under the Plan.

3.05 FORFEITURE ALLOCATION. The Employer shall allocate the amount of a Participant's accrued benefit forfeited under Section 5.05 among the remaining Participants' accounts in proportion to their respective interests in the Trust as of the last day of the Plan Year in which the forfeiture occurs. The Advisory Committee shall continue to hold the undistributed, non-vested portion of a terminated Participant's accrued benefit in his account solely for his benefit until forfeiture occurs at the time specified in Section 5.09.

3.06 ACCRUAL OF BENEFIT. The Advisory Committee shall determine the accrual of benefit (Employer contributions) on the basis of the Plan Year. Furthermore, the Advisory Committee shall not allocate any portion of an Employer contribution and net earnings for a Plan Year to any Participant's account if the Participant does not complete a minimum of one thousand forty (1,040) hours of service during the Plan Year excluding overtime, provided however, the Advisory Committee shall not apply any minimum "Hour of Service" requirement for purposes of allocating any portion of an Employer contribution and net earnings to a Participant's account for a particular Plan Year if a Participant terminates employment during the plan year because of death, disability, or attaining normal retirement age.

3.07 DEFINITIONS - ARTICLE III. For purposes of Article III, the annual addition shall mean:

"ANNUAL ADDITION" - The sum of the following amounts allocated on behalf of a Participant for a Limitation Year, of (i) all Employer contributions; and (ii) all forfeitures. For the purposes of this Article III, Annual Additions also shall include any amounts re-applied to reduce Employer contributions under this Article.

ARTICLE IV

PARTICIPANT CONTRIBUTIONS

4.01 PARTICIPANT VOLUNTARY CONTRIBUTIONS. The Plan does not permit nor require Participant contributions.

4.02 PARTICIPANT ROLLOVER CONTRIBUTIONS. The Plan does not permit Participant rollover contributions.

ARTICLE V

TERMINATION OF SERVICE, PARTICIPANT VESTING

5.01 NORMAL RETIREMENT AGE. A Participant's normal retirement age is fifty-five (55) years of age. A Participant who remains in the employ of the Employer after attaining normal retirement age shall continue to participate in Employer contributions and net earnings. Upon termination of a Participant's employment for any reason after attaining normal retirement age, the Advisory Committee shall direct the Trustee to commence payment of the Participant's nonforfeitable accrued benefit to him (or to his beneficiary if the Participant is deceased), in accordance with the provisions of Article VI, not later than sixty (60) days after the close of the Plan Year in which the Participant's employment terminates.

5.02 PARTICIPANT DISABILITY. The Plan shall consider a Participant disabled on the date the Advisory Committee determines the Participant, because of a physical or mental disability, will be unable to perform the duties of his customary position of employment for an indefinite period that the Advisory Committee considers will be of long continued duration. The Advisory Committee may require a Participant to submit to a physical examination by an employer-designated physician in order to confirm disability. The Advisory Committee shall, apply the provisions of this Section 5.02 in a nondiscriminatory, consistent, and uniform manner.

5.03 TERMINATION OF SERVICE PRIOR TO NORMAL RETIREMENT AGE. Upon termination of a Participant's employment prior to attaining normal retirement age (for any reason other than death or disability), the Advisory Committee, in its sole discretion, may direct the Trustee to commence payment to the Participant of his nonforfeitable accrued benefit prior to the Participant's attaining normal retirement age. The Advisory Committee may give its direction to the Trustee on or at any time before the last day of the Plan Year in which the Participant first incurs a break in service as a result of the termination of his employment. If the Advisory Committee gives the Trustee a direction to distribute, the Trustee shall commence payment to the Participant, in accordance with the provisions of Section 6.02, within ninety (90) days after the close of the Plan Year in which the Participant first incurs a break in service as a result of the termination of his employment. If the terminating Participant is 100 percent vested in his accrued benefit by the close of the Plan Year in which his employment terminates, the Advisory Committee, in its sole discretion, may direct the Trustee to commence payment to the Participant of his accrued benefit within ninety (90) days after the close of the Plan Year in which the Participant's employment terminates without regard to the Participant's incurring a break in service.

If the Advisory Committee does not give the Trustee a direction to commence payment prior to the Participant's incurring a break in service as a result of this termination of employment, the Trustee shall continue to hold the Participant's nonforfeitable accrued benefit in trust until the close of the Plan Year in which the Participant attains normal retirement age.

At that time, the Trustee shall commence payment of the Participant's nonforfeitable accrued benefit in accordance with the provisions of Article VI; provided however, if the

Participant dies or becomes disabled after terminating employment but prior to attaining normal retirement age, the Advisory Committee, upon confirmation of the death or disability, shall direct the Trustee to commence payment of the Participant's nonforfeitable accrued benefit to him (or to his beneficiary if the Participant is deceased) in accordance with the provisions of Section 6.02 not later than ninety (90) days after the close of the Plan Year in which the Participant's death occurs; or in the case of disability, not later than ninety (90) days after the later of the close of the Plan Year in which the Participant first incurs a break in service as a result of the termination of his employment or after the close of the Plan Year in which the Participant's disability occurs.

If the Participant terminates employment prior to attaining normal retirement age because of death or disability the Advisory Committee shall direct the Trustee to commence payment of the Participant's nonforfeitable accrued benefit to him (or to his beneficiary if the Participant is deceased), in accordance with the provisions of Section 6.02, not later than ninety (90) days after the close of the Plan Year in which the Participant's employment terminates.

In no event shall the Trustee commence payment under this Section 5.03 later than the time prescribed by Section 6.01. Furthermore, the Advisory Committee shall make its determinations under this Section 5.03 in a nondiscriminatory, consistent and uniform manner. The Advisory Committee shall furnish a terminated Participant a true copy of its distribution to the Trustee.

5.04 NO RESTORATION OF FORFEITED ACCRUED BENEFIT. Notwithstanding any repayment, the Advisory Committee shall not recompute nor restore any amount of the re-employed Participant's accrued benefit that he previously forfeited.

5.05 VESTING SCHEDULE. A Participant's accrued benefit derived from Employer contributions shall be 100 percent nonforfeitable upon and after his attaining normal retirement age or if his employment terminates as a result of death or disability. If a Participant's employment terminates prior to normal retirement age for any reason other than death or disability, then for each year of service he shall receive a nonforfeitable percentage of his accrued benefit (forfeiting the balance) derived from employment contributions and net earnings equal to the following.

Years Of Service With The Employer	Percent Of Nonforfeitable Accrued Benefit
Less than 4 years	0%
4 years	40%
5 years	45%
6 years	50%
7 years	60%
8 years	70%
9 years	80%
10 years	90%
11 years or more	100%

5.06 YEAR OF SERVICE -VESTING. For purposes of vesting under Section 5.05, Year of Service shall mean any Plan Year during which an Employee completes not less than one thousand forty (1,040) Hours of Service with the Employer, excluding overtime.

5.07 BREAK IN SERVICE - VESTING. For purposes of this Article V, a Participant shall incur a "Break in Service" if during any Plan Year he does not complete more than 500 hours of Service with the Employer.

5.08 INCLUDED YEARS OF SERVICE - VESTING. For purposes of determining "Years of Service" under Section 5.05, the Plan shall take into account all years of service an Employee completes with the Employer except any year of service after the Participant first incurs a break in service as a result of the termination of his employment. This exception shall apply for the sole purpose of determining a Participant's nonforfeitable percentage of his accrued benefit derived from Employer contributions that accrued for his benefit prior to the break.

5.09 FORFEITURE OCCURS. A Participant's forfeiture, if any, of his accrued benefit derived from Employer contributions shall occur under the Plan as of the last day of the Plan Year in which the Participant first incurs a break in service as a result of the termination of his employment. The Advisory Committee shall determine a Participant's accrued benefit forfeiture, if any, solely by reference to the vesting schedule of Section 5.05, and a Participant shall not forfeit any portion of his accrued benefit for any other reason or cause.

ARTICLE VI

TIME AND METHOD OF PAYMENT OF BENEFITS

6.01 TIME OF PAYMENT OF ACCRUED BENEFIT. The Trustee shall commence distribution of a Participant's nonforfeitable accrued benefit not later than sixty (60) days after the close of the Plan Year in which the latest of the following events occurs:

- (a) The date the Participant attains normal retirement age; or
- (b) The date the Participant terminates service (employment) with the Employer;
- (c) The date the Participant reaches age 70;

Notwithstanding any provision of the Plan to the contrary, in no event shall distribution of a Participant's nonforfeitable accrued benefit commence later than his "Required Beginning Date." "Required Beginning Date" means, for a Participant who is not a five-percent owner (as defined in Code Section 416) for the year in which he attains age 70½, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½, ~~and/or~~ the calendar year in which he ceases to be an Employee. For a Participant who is a five-percent owner in the Plan Year in which he attains age 70½, and for any other Participant who attains age 70½ prior to January 1, 1999, the Required Beginning Date is the April 1 of the calendar year following the calendar year in which ~~he~~the Participant attains age 70½.

All distributions required under this article shall be determined and made in accordance with the proposed regulations under section 401(a)(9), including the minimum distribution incidental benefit requirement of section 1.401(a)(9)-2 of the proposed regulations.

6.02 METHOD OF PAYMENT OF ACCRUED BENEFIT. After all required accounting adjustments, the Trustee, in accordance with the direction of the Advisory Committee, shall make payment of the Participant's nonforfeitable accrued benefit under one, or any combination, of the following methods:

- (a) By payment in a lump sum;
- (b) By payment in substantially equal monthly installments over a fixed reasonable period of time, not exceeding 10 years. Furthermore, upon the Participant's or beneficiary's written request, the Advisory Committee, in its sole discretion, may accelerate the payment of all, or any portion, of the Participant's unpaid accrued benefit; or
- (c) By payment in substantially equal annual installments over a fixed reasonable period of time, not exceeding 10 years. Furthermore, upon the Participant's or beneficiary's written request, the Advisory Committee, in its sole discretion, may accelerate the payment of all, or any portion, of the Participant's unpaid accrued benefit.

To facilitate installment payments either under ~~paragraph~~ paragraphs (b) or (c) of this Section 6.02, the Advisory Committee, in its sole discretion, may direct the Trustee to segregate all or any part of the Participant's accrued benefit in a separate account. The Advisory Committee may direct the Trustee to invest the Participant's segregated account in federally insured interest bearing savings account(s) or time deposit(s) (or a combination of both), or in other fixed income investments. A segregated account shall remain a part of the Trust, but it alone shall share in any income it earns, and it alone shall bear any expense or loss it incurs.

6.03 PARTICIPANT BENEFIT PAYMENT ELECTION. The Advisory Committee may permit a Participant who terminates employment after attaining normal retirement age to elect either or any combination of the two forms of payment of retirement benefits prescribed by Section 6.02. Upon the Participant's request, the Advisory Committee shall furnish the Participant an appropriate form for the making of the election. The Participant shall make an election under this Section 6.03 by filing the election form with the Plan Administrator on or before the last day of the Plan Year following which the Trustee would otherwise commence to pay a Participant's accrued benefit in accordance with the requirement of Section 6.01.

6.04. DISTRIBUTIONS UNDER DOMESTIC RELATIONS ORDERS. Nothing contained in this Plan will prevent the Trustee, in accordance with the direction of the Advisory Committee, from complying with the provisions of a qualified domestic relations order (as defined in Code section 414(p)). The Advisory Committee may adopt any written procedures relating to a qualified domestic relations order which the Advisory Committee 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: (1) the order specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution; and (2) if the present value of the alternate payee's benefits under the Plan exceeds \$3,500, and the order requires, the alternate payee consents to any distribution occurring prior to the Participant's attainment of earliest retirement age. Nothing in this Section 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.

6.05 ROLLOVERS. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this provision, a distributee may elect, at the time and in the manner prescribed by the Advisory Committee, to have any portion of an eligible rollover distribution that is at least equal to two hundred dollars (\$200) paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) Eligible rollover distribution - An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the

extent such distribution is required under Section 401(a)(9) of the Code; any hardship distribution described in Code Section 401(k)(2)(B)(i)(IV); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(b) Eligible retirement plan - An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Notwithstanding the foregoing, for distributions commencing on or after January 1, 2002, however, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; and the definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

(c) Distributee - A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse.

(d) Direct rollover - A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

6.06 DEATH BENEFIT DISTRIBUTIONS.

Distribution beginning before death. If the Participant dies after distribution of his or her interest has begun, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.

Distribution beginning after death. If the Participant dies before distribution of his or her interest begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death except to the extent that an election is made to receive distributions in accordance with (a) or (b) below:

(a) If any portion of the Participant's interest is payable to a designated beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of the designated beneficiary commencing on or before December 31 of the calendar year immediately following the calendar year in which the Participant died;

(b) If the designated beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with (a) above shall not be earlier than the later

of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died and (2) December 31 of the calendar year in which the Participant would have attained age 70½.

If the Participant has not made an election pursuant to this Section by the time of his or her death, the Participant's designated beneficiary must elect the method of distribution no later than the earlier of (1) December 31 of the calendar year in which distributions would be required to begin under this section, or (2) December 31 of the calendar year which contains the fifth anniversary of the date of death of the Participant. If the Participant has no designated beneficiary, or if the designated beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the surviving spouse dies after the Participant, but before payments to such spouse begin, the provisions of this Section, with the exception of paragraph (b), shall be applied as if the surviving spouse were the Participant.

6.07 REQUIRED MINIMUM DISTRIBUTIONS.

General Rule. The requirements of these requirement minimum distribution provisions will take precedence over any inconsistent provisions of the Plan and any prior amendments thereto. All distributions required under this amendment will be determined and made in accordance with the Internal Revenue Service regulations under Code §401(a)(9). Notwithstanding the other provisions of this amendment, distributions may be made under a designation made before January 1, 1984, in accordance with §242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to §242(b)(2) of TEFRA.

The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

If the Participant dies before distributions begin, his or her entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then (subject to subsection (e) below) distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(b) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then subject to subsection (e) below distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be

distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this section, other than subsection (a), will apply as if the surviving spouse were the Participant.

(e) If the Participant dies before distributions begin and there is a designated beneficiary, distribution to the designated beneficiary is not required to begin by the date specified in subsections (a) or (b) above if the Participant's entire interest is distributed to the designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. In addition, a designated beneficiary who is receiving payments under this 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

For purposes of this section, unless subsection (d) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection (a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (a)), the date distributions are considered to begin is the date distributions actually commence.

Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with the rules set forth below. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the IRS regulations.

Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed each distribution calendar year is the lesser of (a) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table in §1.401(a)(9)-9 of the IRS regulations using the Participant's age as of his or her birthday in the distribution calendar year; or (b) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table in §1.401(a)(9)-9 of the IRS regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

Required minimum distributions will be determined beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

Required Minimum Distributions After Participant's Death -- Death On or After Date Distributions Begin. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows: (1) the Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year; (2) if the Participant's surviving spouse is the sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year; and (3) if the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one each subsequent year.

Required Minimum Distributions After Participant's Death -- Death Before Distributions Begin. If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, as determined above in the discussion concerning death on or after the date distributions begin.

If the Participant dies before distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the 5th anniversary of the Participant's death.

If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under subsection (a) above, these

provisions (concerning death prior to date distributions begin) will apply as if the surviving spouse were the Participant.

Definitions.

The beneficiary designated by the Participant is the designated beneficiary under Code §401(a)(9) and §1.401(a)(9)-1, Q&A-4 of the IRS regulations.

“Distribution calendar year” means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant’s Required Beginning Date. For distributions beginning after the Participant’s death, the first distribution calendar year is the calendar year in which distributions are required to begin. The required minimum distribution for the Participant’s first distribution calendar year will be made on or before the Participant’s Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant’s Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.

“Life expectancy” means life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the IRS regulations.

“Participant’s account balance” means, for purposes of determining minimum distributions the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

ARTICLE VII

EMPLOYER ADMINISTRATIVE PROVISIONS

7.01 INFORMATION TO COMMITTEE. The Employer shall supply current information to the Advisory Committee as to the name date of birth, date of employment, annualized compensation leaves of absence, Years of service, and Date of termination of employment of each Employee who is, or who will be eligible to become, a Participant under the Plan, together with any other information which the Advisory Committee considers necessary. The Employer's records as to the current information the Employer furnishes to the Advisory Committee shall be conclusive as to all persons.

7.02 NO LIABILITY. The Employer assumes no obligation or responsibility to any of its Employees, Participants or beneficiaries for any act of, or failure to act, on the part of its Advisory Committee or the Trustee.

7.03 INDEMNITY OF COMMITTEE. The Employer indemnifies and saves harmless the members of the Advisory Committee, and each of them, from and against any and all loss resulting from liability to which the Advisory Committee, or the members of the Advisory Committee, may be subjected by reason of any act or conduct (except willful misconduct or gross negligence) in their official capacities in the administration of this Trust or Plan or both, including all expenses reasonably incurred in their defense, in case the Employer fails to provide such defense. Furthermore, the Advisory Committee members and the Employer may execute a letter agreement further delineating the indemnification agreement of this Section 7.03. The indemnification provisions of this Section 7.03 shall extend to the Trustee solely to the extent provided by a letter agreement executed by the Trustee and the Employer.

7.04 EMPLOYER DIRECTION OF INVESTMENT. The Employer shall have the right to direct the Trustee with respect to the investment and re-investment of assets constituting the trust fund only if the Trustee consents in writing to permit such direction.

If the Trustee does consent to Employer direction of investment, the Trustee and the Employer shall execute a letter agreement as a part of this Plan containing such conditions, limitations, and other provisions they deem appropriate before the Trustee shall follow any Employer direction as respects the investment or re-investment of any part of the trust fund.

7.05 AMENDMENT TO VESTING SCHEDULE. Though the Employer reserves the right to amend the vesting schedule at any time, the Employer shall not amend the vesting schedule (and no amendment shall be effective) if the amendment would reduce the nonforfeitable percentage of any Participant's accrued benefit derived from Employer contributions (determined as of ~~the~~the latter of the date the Employer adopts the amendment, or the date the amendment becomes effective) to a percentage less than the nonforfeitable percentage computed under the plan without regard to the amendment.

If the Employer makes a permissible amendment to the vesting schedule, each Participant having at least five (5) years of service with the Employer may elect to have the percentage of his nonforfeitable accrued benefit computed under the Plan without regard to the amendment. The Participant must file his election with the Plan Administrator within sixty (60) days of the latest of (a) the Employer's adoption of the amendment; (b) the effective date of the amendment; or (c) his receipt of a copy of the amendment. The Plan Administrator, as soon as practicable, shall forward a true copy of any amendment to the vesting schedule to each affected Participant, together with an explanation of the effect of the amendment, the appropriate form upon which the Participant may make an election to remain under the vesting schedule provided under the Plan prior to the amendment and notice of the time within which the Participant must make an election to remain under the prior vesting schedule.

For purpose of this Section 7.05, an amendment to the vesting schedule includes any Plan amendment that directly or indirectly affects the computation of the nonforfeitable percentage of an Employee's rights to his Employer derived accrued benefit.

ARTICLE VIII

PARTICIPANT ADMINISTRATIVE PROVISIONS

8.01 **BENEFICIARY DESIGNATION.** Any Participant may from time to time designate in writing, any person or persons, contingently or successively, to whom the Trustee shall pay his accrued benefit on event of his death. The Advisory Committee shall prescribe the form for the written designation of beneficiary and, upon the Participant's filing the form with the Advisory Committee, it effectively shall revoke all designations filed prior to that date by the same Participant.

Notwithstanding the foregoing, and notwithstanding anything in the Plan to the contrary, in the event a Participant is divorced or legally separated from his spouse prior to the annuity starting date, any then existing designation of such spouse as the Participant's Beneficiary shall automatically be null and void as of the date of such divorce or legal separation, and such spouse (or former spouse) shall be considered the Participant's Beneficiary only if the Participant thereafter affirmatively designates the spouse (or former spouse) as such in accordance with the procedures described in this Plan.

8.02 **NO BENEFICIARY DESIGNATION.** If a Participant fails to name a beneficiary in accord with Section 8.01, or if the beneficiary named by a Participant predeceases him or dies before complete distribution of the Participant's accrued benefit, then the Trustee shall pay the Participant's accrued benefit in lump sum(s) in the following order of priority to:

- (a) The surviving spouse;
- (b) Surviving children, including adopted children, in equal shares;
- (c) Surviving parents, in equal shares; or
- (d) The legal representative of the estate of the last to die of the Participant and his beneficiary.

The Advisory Committee shall direct the Trustee as to whom the Trustee shall make payment under this Section 8.02.

8.03 **PERSONAL DATA TO COMMITTEE.** Each Participant and each beneficiary of a deceased Participant must furnish to the Advisory Committee such evidence, data, or information as the Advisory Committee considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Advisory Committee shall advise each Participant of the effect of his failure to comply with its request.

8.04 ADDRESS FOR NOTIFICATION. Each Participant and each beneficiary of a deceased Participant shall file with the Advisory Committee from time to time, in writing, his post office address and any change of post office address. Any communication, statement or notice addressed to a Participant, or beneficiary, at his last post office address filed with the advisory Committee, or as shown on the records of the Employer, shall bind the Participant, or beneficiary, for all purposes of his Plan.

8.05 ASSIGNMENT OR ALIENATION. —Subject to Code section 414(p) relating to qualified domestic relations orders, or except as otherwise permitted by section 401(a)(13) of the Code, neither a Participant nor a beneficiary shall assign or alienate any benefit provided under the Plan, and the Trustee shall not recognize any such assignment or alienation.

8.06 NOTICE OF CHANGE IN TERMS. The Plan Administrator shall furnish all Participants and beneficiaries a summary description of any material amendment to the Plan or notice of discontinuance of the Plan.

8.07 LITIGATION AGAINST THE TRUST. If any legal action filed against the Trustee, the Plan Administrator or the Advisory Committee, or against any member or members of the Advisory Committee, by or on behalf of any Participant or beneficiary, results adversely to the Participant or to the beneficiary, the Trustee shall reimburse itself, the Plan Administrator or the Advisory Committee, or any member or members of the Advisory Committee all costs and fees expended by it or them by surcharging all costs and fees against the sums payable under the Plan to the Participant or to the beneficiary, but only to the extent a court of competent jurisdiction specifically authorizes and directs any such surcharges .

8.08 INFORMATION AVAILABLE. Any Participant in the Plan or any beneficiary may examine copies of the Plan description, latest annual report, any bargaining agreement, this Plan and Trust, contract or any other instrument under which the Plan was established or is operated. The Plan Administrator will maintain all of the items listed in this Section 8.08 in his office, or in such other place or places as he may designate from time to time, for examination during reasonable business hours. Upon the written request of a Participant or beneficiary the Plan Administrator shall furnish him with a copy of any item listed in this Section 8.08. The Plan Administrator may make a reasonable charge to the requesting person for the copy so furnished.

8.09 APPEAL PROCEDURE FOR DENIAL OF BENEFITS. The Plan Administrator shall provide adequate notice in writing to any Participant or to any beneficiary ("Claimant") whose claim for benefits under the Plan the Advisory Committee has denied. The Plan Administrator's notice to the claimant shall set forth:

- (a) The specific reason for the denial;
- (b) Specific references to pertinent Plan provisions on which the Advisory Committee based its denial;

(c) A description of any additional material and information needed for the claimant to perfect his claim and an explanation of why the material or information is needed; and

(d) That any appeal the claimant wishes to make of the adverse determination must be in writing to the Advisory Committee within seventy-five (75) days after receipt of the Plan Administrator's notice of denial of benefits. The Plan Administrator's notice must further advise the claimant that his failure to appeal the action to the Advisory Committee in writing within the seventy-five (75) day period will render the Advisory Committee's determination final, binding and conclusive.

If the claimant should appeal to the Advisory Committee, he, or his duly authorized representative, may submit, in writing, whatever issues and comments he, or his duly authorized representative, feels are pertinent. The claimant, or his duly authorized representative, may review pertinent Plan documents. The Advisory Committee shall re-examine all facts related to the appeal and make a final determination as to whether the denial of benefits is justified under the circumstances. The Advisory Committee shall advise the claimant of its decision within sixty (60) days of the claimant's written request for review, unless special circumstances (such as a hearing) would make the rendering of a decision within the sixty (60) day limit unfeasible, but in no event shall the Advisory Committee render a decision respecting a denial for a claim for benefits later than one hundred twenty (120) days after its receipt of a request for review.

The Plan Administrator's notice of denial of benefits shall identify the name of each name of each member of the Advisory Committee and the name and address of the Advisory Committee member to whom the Claimant may forward his appeal.

ARTICLE IX

ADVISORY COMMITTEE, DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS

9.01 MEMBERS' COMPENSATION, EXPENSES. The Mayor of the City shall appoint an Advisory Committee to administer the Plan, the members of which may or may not be Participants in the Plan, or which may be the Plan Administrator acting alone. The members of the Advisory Committee shall serve without compensation for services as such, but the Employer shall pay all expenses of the Advisory Committee.

9.02 TERM. Each member of the Advisory Committee shall serve until his successor is appointed.

9.03 POWERS. In case of a vacancy in the membership of the Advisory Committee, the remaining members of the Advisory Committee may exercise any and all of the powers, authority, duties and discretion conferred upon the Advisory Committee pending the filling of the vacancy.

9.04 GENERAL. The Advisory Committee shall have the following powers and duties:

- (a) To select a Secretary, who need not be a member of the Advisory Committee;
- (b) To determine the rights of eligibility of an Employee to participate in the Plan, the value of a Participant's accrued benefit and the nonforfeitable percentage of each Participant's accrued benefit;
- (c) To adopt rules of procedure and regulations necessary for the proper and efficient administration of the Plan provided the rules are not inconsistent with the terms of this Agreement.
- (d) To enforce the terms of the Plan and the rules and, regulations it adopts;
- (e) To direct the Trustee as respects the crediting and distribution of the Trust;
- (f) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (g) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (h) To engage the services of an Investment Manager or Managers, each of whom shall have full power and authority to manage, acquire or dispose (or direct the Trustee with respect to acquisition or disposition) of any Plan asset under its control;

(i) To establish and maintain a funding standard account and to make credits and charges to the account to the extent required by and in accordance with the provisions of the Code. The Advisory Committee shall exercise all of its powers, duties and discretion under the Plan in a uniform and nondiscriminatory manner.

(j) The decisions of the Advisory Committee upon all matters within the scope of its authority shall be final and binding upon all interested parties, and is subject to the most deferential standard of judicial review; in the exercise of its powers hereunder, the Advisory Committee shall, however, pursue uniform and consistent policies with respect to all employees in similar circumstances.

9.05 FUNDING POLICY. The Advisory Committee shall review, not less often than annually, all pertinent Employee information and Plan data in order to establish the funding policy of the Plan and to determine the appropriate methods of carrying out the Plan's objectives. The Advisory Committee shall communicate annually to the Trustee and to any Plan Investment Manager the Plan's short-term and long-term financial needs so investment policy can be coordinated with Plan financial requirements.

9.06 MANNER OF ACTION. The decision of a majority of the members appointed and qualified shall control.

9.07 AUTHORIZED REPRESENTATIVE. The Advisory Committee may authorize any one (1) of its members, or its Secretary, to sign on its behalf any notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents. The Advisory Committee must evidence this authority by an instrument signed by all members and filed with to Trustee.

9.08 INTERESTED MEMBER. No member of the Advisory Committee may decide or determine any matter concerning the distribution, nature or method of settlement of his own benefits under the Plan unless the Plan Administrator is acting alone in the capacity of the Advisory Committee.

9.09 INDIVIDUAL ACCOUNTS. The Advisory Committee shall maintain a separate account in the name of each Participant to reflect the Participant's accrued benefit under each Plan Employer contribution formula. Furthermore, if a Participant re-enters the Plan subsequent to his having a break in service, the Advisory Committee, shall maintain a separate account for the Participant's pre-break in service accrued benefit and a separate account for his post-break in service accrued benefit unless the Participant's entire accrued benefit under the Plan is one hundred percent (100%) nonforfeitable. The Advisory Committee will allocate, or request the Trustee to allocate, shares to the accounts of the Participants in accordance with the provisions of Section 9.11. The Advisory Committee shall maintain records of its activities.

9.10 VALUE OF PARTICIPANT'S ACCRUED BENEFIT. The value of each Participant's accrued benefit shall consist of that proportion of the net worth (at fair market value) of the Employer's Trust Fund which the net credit balance in his account bears to the total

net credit balance in the accounts of all— Participants. For purposes of a distribution under the Plan, the value of a Participant's accrued benefit shall be its value as of the accounting date end of the prior month of the period immediately preceding distribution after consideration of applicable asset gains and losses under Section 9.11 below. Any distribution (other than a distribution from a segregated account) made to a Participant (or to his beneficiary) more than ninetythree (9030) days after the accounting date end of the month immediately preceding the distribution shall include interest on the amount of the distribution as an expense of the trust fund. The interest shall accrue at the rate of five percent (5%) per annum from such accounting date to the date of the distribution.

9.11 ALLOCATION AND DISTRIBUTION OF GAIN OR LOSS. As of the accounting date end of each prior month of each Plan Year, the Advisory Committee first shall reduce accounts for any forfeitures arising under Section 5.09 and then, shall allocate the net income (or net loss) from the Trust and the increase or decrease in the fair market value of the assets of the Trust for that portion of the Plan Year pro rata to accounts of the Participants under the Plan as the accounts stood at the beginning of the prior month of the current Plan Year but, for this purpose, excluding from the accounts amounts charged during the Plan Year to the accounts in accordance with Section 9.13, the amount of any account which the Trustee has fully distributed since the immediately preceding accounting date.

9.12 INDIVIDUAL STATEMENT. As soon as practicable after the accounting date of each Plan Year, the Plan Administrator will deliver to each Participant a statement reflecting the condition of his accrued benefit in the Trust as of that date and such other information the Plan Administrator desires be furnished the Participant or beneficiary. No Participant, except a member of the Advisory Committee, shall have the right to inspect the records reflecting the account of any other Participant.

9.13 ACCOUNT CHARGED. The Advisory Committee shall charge all distributions made to a Participant or to his beneficiary from his account against the account of the Participant when made.

9.14 UNCLAIMED ACCOUNT PROCEDURE. Neither the Trustee nor the Advisory Committee shall be obliged to search for, or ascertain the whereabouts of, any Participant or beneficiary. The Advisory Committee, by certified or registered mail addressed to his last known address of record with the Advisory Committee or the Employer, shall notify any Participant, or beneficiary, that he is entitled to a distribution under this Plan, and the notice shall quote the provisions of this section. If the Participant, or beneficiary, fails to claim his distributive share or make his whereabouts known in writing to the Advisory Committee within six (6) months from the date of mailing of the notice, or before this Plan is terminated or discontinued, whichever should first occur, the Advisory Committee shall direct the Trustee to segregate the Participant's unclaimed accrue benefit in a segregated interest bearing account' in the name of the Participant or beneficiary. The Advisory Committee shall then direct the Plan Administrator to notify the Social Security Administration of the Participant's (or beneficiary's) failure to claim the distribution to which he is entitled. The Plan Administrator shall request the Social Security Administration to notify the Participant (or beneficiary) in accordance with the

procedures it has established for this purpose. The segregated account shall be entitled to all income it earns and shall bear all expense or loss it incurs.

ARTICLE X

TRUSTEE, POWERS AND DUTIES

10.01 ACCEPTANCE. The Trustee accepts the Trust created under the Plan and agrees to perform the obligations imposed. The Trustee shall provide bond for the faithful performance of its duties under the Trust to the extent required by the Employer.

10.02 RECEIPT OF CONTRIBUTIONS. The Trustee shall be accountable to the Employer for the funds contributed to it by the Employer, but shall have no duty to see that the contributions received comply with the provisions of the Plan. The Trustee shall not be obliged to collect any contributions from the Employer, nor be obliged to see that funds deposited with it are deposited according to the provisions of the Plan.

10.03 FULL INVESTMENT POWERS. The Trustee shall have full discretion and authority with regard to the investment of the, Trust Fund, except with respect to a Plan asset under the control or direction of a properly appointed investment Manager or with respect to a Plan asset subject to Employer, Participant, or Advisory Committee direction of investment. The Trustee shall coordinate its investment policy with Plan financial needs as communicated to it by the Advisory Committee. The Trustee is authorized and empowered, but not by way of limitation, with the following powers, rights and duties:

(a) To invest and reinvest any part or all of the trust fund in any common or preferred stocks, open-end or closed-end mutual funds, any common or collective trust fund collectively with other trusts participating in such fund (including any fund maintained by the Trustee), United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U.S. Treasury bills, improved or unimproved real estate situated in the United States, ~~limited~~Limited partnerships, insurance contracts, mortgages, notes or other property of any kind, real or personal, as a prudent man would do under like circumstances with due regard for the purposes of this Plan. During the period when any part of all of the assets held hereunder comprise part of any collective or common trust fund, such assets shall be subject to all of the provisions of the Declaration of Trusts of such collective or common trust funds, as amended from time to time, which are hereby made a part of this Agreement and incorporated by reference thereto as though the same were set forth in full herein. Any investment made or retained by the Trustee in good faith shall be proper, but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the trust fund as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the trust fund in a bank account without liability for the highest rate of interest available, including, if a bank is acting as Trustee, specific authority to invest in deposits of the Trustee;

(c) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or

personal, in such manner, for such considerations and on such terms and conditions as the Trustee shall decide;

(d) To credit and distribute the trust as directed by the Advisory Committee. The Trustee shall not be obliged to as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee shall be accountable only to the Advisory Committee for any payment or distribution made by it in good faith on the order or direction of the Advisory Committee;

(e) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(f) To compromise, contest, arbitrate, or abandon claims and demands, in its discretion;

(g) To have with respect to the Trust all of the rights of an individual owner, including the power to give proxies, to participate in any voting trusts, mergers, consolidations or, liquidations, and to exercise or sell stock subscriptions or conversion rights;

(h) To, hold any securities or other property in the name of the Trustee or its nominee, or in another form as it may deem best, with or without disclosing the trust relationship;

(i) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(j) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until final adjudication is made by a court of competent jurisdiction;

(k) To file all tax returns required of the Trustee;

(l) To furnish to the Employer, the Plan Administrator, and the Advisory Committee an annual or more frequent statement of account showing the condition of the Trust Fund and all investment, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts shall be conclusive on all persons, including the Employer, the Plan Administrator and the Advisory Committee, except as to any act or transaction concerning which the Employer, the Plan Administrator or the Advisory Committee files with the Trustee written exceptions or objections within ninety (90) days after the receipt of the accounts, and

(m) To begin, maintain or defend any litigation necessary in connection with the administration of the Plan, except that the Trustee shall not be obliged or required to do so unless indemnified to its satisfactions.

10.04 RECORDS AND STATEMENTS. The records of the Trustee pertain to the Plan shall be open to the inspection of the Plan Administrator, the Advisory Committee, and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Advisory Committee may specify in writing. The Trustee shall furnish the Advisory Committee or the Plan Administrator with whatever information relating to the trust fund the Advisory Committee or Plan Administrator considers necessary.

10.05 FEES AND EXPENSES FROM FUND. The Trustee shall receive reasonable annual compensation as may be agreed upon from time to time between the Employer and the Trustee. The Trustee shall pay all expenses reasonably incurred by it in its administration of the Plan from the Trust Fund unless the Employer pays the expenses. No person who is receiving full pay from the Employer shall receive compensation for services as Trustee from the trust fund.

10.06 PARTIES TO LITIGATION. Only the Employer, the Plan Administrator, the Advisory Committee, and the Trustee shall be necessary parties to any court proceeding involving the Trustee or the trust fund. No Participant, or beneficiary, shall be entitled to any notice of process. Any final judgment entered in any proceeding shall be conclusive upon the Employer, the Plan Administrator, the Advisory Committee, the Trustee, Participants and beneficiaries.

10.07 PROFESSIONAL AGENTS. The Trustee may retain at its expense, agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Plan, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

10.08 DISTRIBUTION OF CASH. The Trustee shall make distributions under the Plan in cash.

10.09 DISTRIBUTION DIRECTIONS. If no one claims a payment or distribution made from the Trust, the Trustee shall promptly notify the Advisory Committee and shall dispose of the payment in accordance with the subsequent direction of the Advisory Committee.

10.10 THIRD PARTY. No person dealing with the Trustee shall be obligated to see to the proper application of any money paid to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Plan. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and shall not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Plan shall be conclusive in favor of any person relying on the certificate.

10.11 RESIGNATION. The Trustee may resign at any time as Trustee of the Plan by giving thirty (30)-days written notice in advance to the Employer and to the Advisory Committee.

10.12 REMOVAL. The Employer, by giving thirty (30) days' written notice in advance to the Trustee, may remove any Trustee.

In the event of the resignation or removal of a Trustee, the Employer shall appoint a successor Trustee if it intends to continue the Plan. During any period a Trustee is unable to serve for any reason, the remaining Trustee or Trustee(s) shall act as the sole Trustee or as the only Trustee(s) of the Trust created under this Agreement.

10.13 INTERIM DUTIES AND SUCCESSOR TRUSTEE. Each successor Trustee shall succeed to the title to the Trust vested in his predecessor by accepting in writing his appointment as successor Trustee and filing the acceptance with the former Trustee and the Advisory Committee without the signing or filing of any further statement. The resigning or removed Trustee, upon receipt of acceptance in writing of the Trust by the successor Trustee, shall execute all documents and do all acts necessary to vest the title of record in any successor Trustee. Each successor Trustee shall have and enjoy all of the powers, both discretionary and ministerial, conferred under this Agreement upon his predecessor.

No successor Trustee shall be personally liable for any act or failure to act of any predecessor Trustee. With the approval of the Employer and the Advisory Committee, a successor Trustee, with respect to the Plan, may accept the account rendered and the property delivered to it by a predecessor Trustee without incurring any liability or responsibility for so doing.

10.14 VALUATION OF TRUST. The Trustee shall value the Trust Fund as of each account date to determine the fair market value of each Participant's accrued benefit in the trust, and the Trustee shall value the trust fund on such other dates) as may be necessary for such purpose.

10.15 LIMITATION ON LIABILITY - IF INVESTMENT MANAGER APPOINTED. The Trustee shall not be liable for the acts or omissions of any Investment Manager or Managers the Advisory Committee may appoint, nor shall the Trustee be under any obligation to invest or otherwise manage any asset of the Plan which is subject to the management of a properly appointed investment manager. The Advisory Committee, the Trustee and any properly appointed investment manager may execute a letter agreement as a part of this Plan delineating the duties, responsibilities and liabilities of the investment manager with respect to any part of the trust fund under the control of the investment manager.

ARTICLE XI

MISCELLANEOUS

11.01 EVIDENCE. Anyone required to give evidence under the terms of the Plan may do so by certificate, affidavit, document or other information which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. Any action required of the Employer shall be by resolution of its Governing Body. Both the Advisory Committee and the Trustee shall be fully protected in acting and relying upon any evidence described under this Section 12.01.

11.02 NO RESPONSIBILITY FOR EMPLOYER ACTION. The Trustee, the Advisory Committee, and the Plan Administrator shall not have any obligation nor responsibility with respect to any action required by the Plan to be taken by the Employer, any Participant or eligible Employee, nor for the failure of any of the above persons to act or make any payment or contribution, or to otherwise provide any benefit contemplated under this Plan, nor shall the Trustee, the Advisory Committee or the Plan Administrator be required to collect any contribution required under the Plan, or determine the correctness of the amount of any Employer contribution. The Trustee, the Advisory Committee and the Plan Administrator shall not have any obligation to inquire into or be responsible for any action or failure to act on the part of the others.

11.02 FIDUCIARIES NOT INSURERS. The Trustee, the Advisory Committee, the Plan Administrator, and the Employer in no way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Trust Fund. The liability of the Advisory Committee and the Trustee to make any payment from the Trust Fund at any time and all times is limited to the then available assets of the Trust.

11.04 WAIVER OF NOTICE. Any person entitled to notice j under the Plan may waive the notice.

11.05 SUCCESSORS. The Plan shall be binding upon all persons entitled to benefits under the Plan, their respective heirs and legal representatives, upon the Employer, its Committee, the Plan Administrator and their successors.

11.06 WORD USAGE. Words used in the masculine shall apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural shall be read as the singular and the singular as the plural.

11.07 STATE LAW. Kansas law shall determine all questions arising with respect to the provisions of this Agreement except to the extent Federal statute supersedes Kansas law.

ARTICLE XII

EXCLUSIVE BENEFIT, AMENDMENT, TERMINATION

12.01 EXCLUSIVE BENEFIT. Except as provided under ARTICLE III, the Employer shall have no beneficial interest in any asset of the Trust and no part of any asset in the trust shall ever revert to or be repaid to an Employer, either directly or indirectly; nor prior to the satisfaction of all liabilities with respect to the Participants and their beneficiaries under the Plan, shall any part of the corpus or income of the Trust Fund, or any asset of the Trust, be (at any time) used for, or diverted to, purposes other than the exclusive benefit of the Participant or their beneficiaries.

12.02 AMENDMENT BY EMPLOYER. The Employer shall have the right at any time and from time to time:

(a) To amend this Agreement in any manner it deems necessary or advisable in order to qualify (or maintain qualification of) this Plan and the Trust created under it under the appropriate provisions of the Code; and

(b) To amend this Agreement in any other manner. However, no amendment shall authorize or permit any of the trust fund (other than the part which is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Participants or their beneficiaries or estates. No amendment shall cause or permit any portion of the trust fund to revert to or become a property of the Employer, and no amendment which affects the rights, duties or responsibilities of the Trustee, the Plan Administrator or the Advisory Committee may be made without the written consent of the affected Trustee, the Plan Administrator or the affected member of the Advisory Committee.

The Employer shall make all amendments in writing. Each amendment shall state the date to which it is either retroactively or prospectively effective.

12.03 DISCONTINUANCE. The Employer shall have the right, at any time, to suspend or discontinue its contributions under the Plan, and to terminate, at any time, this Plan and the Trust created under this Agreement. The Plan shall terminate upon the first to occur of the following:

(a) The date terminated by action of the Governing Body of the Employer, provided the Governing Body gives the Trustee thirty (30) days' prior notice of termination;

(b) The date the Employer shall be judicially declared bankrupt or insolvent;

12.04 FULL VESTING ON TERMINATION. Notwithstanding any other provision of this Plan to the contrary, upon termination of the Plan, or, if applicable, upon the date of complete discontinuance contributions to the Plan, an affected Participant's right to his accrued benefit shall be one hundred percent (100%) nonforfeitable.

12.05 MERGER. The Trustee shall not consent to, or be a party to, any merger or consolidation with another plan, or to a transfer of assets or liabilities to another plan, unless immediately after the merger, consolidation or transfer, the surviving plan provides each Participant a benefit equal to or greater than the benefit each Participant would have received had the plan terminated immediately before the merger or consolidation or transfer.

12.06 TERMINATION. Upon termination of the Plan, the provisions of Section 5.03 and of Article VI shall remain operative, and the Trust shall continue until the Trustee has distributed all of the benefits under the Plan. On each accounting date, the Advisory Committee shall credit any part of, a Participant's accrued benefit retained in the Trust with its proportionate share of the Trust's income, expenses, gains and losses, both realized and unrealized.

EXECUTION BY EMPLOYER

IN WITNESS WHEREOF, the City of Prairie Village, Kansas has caused this Supplemental Pension Benefit Plan to be executed this 28th day of ~~February, 2002~~, 2006.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____

Ronald L. Shaffer, Mayor

CONSENT BY TRUSTEE

IN WITNESS WHEREOF, the Trustee acknowledges its consent to the adoption of this amendment and restatement of the Plan, agrees to its terms, and agrees to continue in its capacity under the Plan and related Trust.

MARSHALL & ILSLEY
TRUST COMPANY, N.A., Trustee

By: _____

Name: _____

Title: _____

Document comparison done by DeltaView on Monday, July 17, 2006 2:12:22 PM

Input:	
Document 1	pdocs://cc/1715470/1
Document 2	pdocs://cc/1715470/2
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	78
Deletions	31
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	109

MAYOR'S ANNOUNCEMENTS

Monday, December 18, 2006

Committee meetings scheduled for the next two weeks include:

Environmental Recycle Committee	12/27/2006	7:00 p.m.
Council Committee of the Whole (Tuesday)	01/02/2006	6:00 p.m.
Council (Tuesday)	01/02/2006	7:30 p.m.

The Prairie Village Arts Council is pleased to feature a photography and ceramics exhibit by Marearl Denning in the R.G. Endres Gallery during the month of December.

Donations to the Holiday Tree Fund are still being accepted. As of December 12th the Holiday Tree Fund has received \$7,175.00. The funds will be used to assist Prairie Village families and Senior Citizens needing help to pay their heating and electric bills during the cold winter months, as well as with home maintenance throughout the year. Your tax-deductible contributions are appreciated.

Holiday tree recycling will be available from December 23rd through January 22nd at Harmon, Franklin, Porter and Meadowlake Parks.

The City offices will be closed December 25th in observance of Christmas. Deffenbaugh will observe the holiday and trash pickup will be delayed.

The City Offices will be closed January 1st in observance of the New Year holiday. Deffenbaugh also observes the holiday and trash pickup will be delayed all week.

The 50th Anniversary books, Prairie Village Our Story, and Prairie Village Gift Cards continue to be sold to the public.

INFORMATIONAL ITEMS
December 18, 2006

1. City Administrator's Report - December 14, 2006
2. Planning Commission Minutes - November 7, 2006
3. Planning Commission Actions - December 5, 2006
4. Tree Board Minutes - December 6, 2006
5. Invitation to Johnson County Legislative Delegation - January 4, 2007
RSVP to Jeanne by December 31, 2006 if you plan to attend
6. Memo - **All Reimbursement Requests for 2006 need to be submitted before the end of the year**
7. The 2007 Northeast Johnson County Chamber of Commerce Annual Dinner is Friday, January 12th, 2007.
RSVP to Jeanne by January 2, 2007 if you plan to attend
8. Clear Air Kansas City letter
9. Appreciation letter from Prairie Village resident
10. Mark Your Calendar's
11. Prairie Village Employee Noteworthy

CITY ADMINISTRATOR'S REPORT

December 14, 2006

Emergency Management

Several members of the staff attended a three day Emergency Management training session earlier this week. This course is required by FEMA for management staff members and must be completed by October 31, 2007.

In Prairie Village, a City employee in the Intern position has had responsibility for training and coordinating the City's emergency management program. Through the efforts of several different individuals, the City now has a well equipped Emergency Command Center in the Municipal Building and staff, as well as elected officials, have met all FEMA requirements as of this time. An ongoing concern about Emergency Management is when Interns change there is a long learning period necessary for the new employee. Now that several formal courses are required, that person will have to spend the first few months of the internship becoming certified. The system would be more stable if a regular employee were assigned the title of Emergency Management Coordinator.

When the City's senior management team was meeting regularly with the Fire Department to plan for emergencies that might occur in this City, we talked about the Fire Chief's concern that cities served by the Fire District have different plans which may not work effectively with other cities' plans in case an emergency affects more than one city. Working with Chief Graham, we developed a plan that would have Consolidated Fire District No. 2 of Northeast Johnson County take the lead in unifying the several individual city plans into a shared Emergency Operations Plan to include ongoing communication, training and coordination for all involved. In Prairie Village that would mean Chief Graham or a member of his staff would be the employee responsible for Emergency Operation planning and training rather than an Intern employee.

The action plan prepared by the Fire District is:

- Re-develop the Emergency Operations Plan for Northeast Johnson County for submittal to Johnson County Emergency Preparedness for approval.

- Form a standing committee with representation from all cities involved

- Develop and implement a training plan to include police departments, public works departments, utility managers, city administrations and any other resources deemed necessary.

The outcome of this plan will be a well prepared, coordinated response to a multi-jurisdictional emergency should it occur in the Northeast part of Johnson County. With

the implementation of a single emergency plan, the mayors and elected officials of each city involved will be assured their citizens will receive a quick, safe and efficient response.

Cell Towers

McCrum Park / T-Mobile request

Shortly after Cellular One asked the Planning Commission to “continue” their application to install a building adjacent to the water tower in McCrum Park, I received a call from a representative of T-Mobile asking if the City would approve that company’s application to install equipment boxes *inside* the fence under the water tower, adding antenna on top of the tower. I explained information the Water District gave us indicating ground beneath the tower is filled with equipment which cannot be covered with other equipment, I advised him to start his inquiries with Water District staff.

Last week a Water District manager called to tell me he has been working with T-Mobile to determine if there is a way the company’s equipment can fit on grounds inside the fence under the tower. He said the T-Mobile equipment is much smaller than that proposed by Cellular One and they have located a very small area on which it can be accommodated inside the fence. The proposal is that T-Mobile would install a new fence around the tower, doors to the equipment box would be installed in the gate to provide access to the equipment from outside the fence. The Water District does not want anyone inside the fence except their service employees, this plan would solve that problem. The City’s lease with Water One gives them the right to sub-lease the property with prior written approval of the City – which approval cannot be unreasonably withheld. If T-Mobile and the District reach an agreement, the City would only be asked to approve the sub lease, and a Special Use Permit for the antenna and equipment.

If this goes forward, T-Mobile or their agent, Selective Site Consultants, will meet with neighbors to inform them of the project. They would then present the plan to the City’s Planning Commission and, if it is approved by that body, to the City Council for approval.

McCrum Park / Cellular One application

Cellular One asked the Planning Commission to continue their application for an equipment building and antenna in McCrum Park until the February 2007 meeting. The City has received no other indication that they have located another site.

Water District main break at 95th and Nall

Last week the Water District had a main break at 95th Street and Nall. They tried to repair it Saturday night but it “blew up” and created road damage. They had to close 95th Street this week, detouring traffic onto 94th Terrace. The District plans to complete the work this Sunday. Unfortunately, some of the businesses will be without water Sunday, notably two or three restaurants will be affected. The District is receiving calls from angry drivers and business owners. Today they notified businesses that will be without water Sunday so they expect more calls tomorrow and wanted to alert the City.

**PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 7, 2006**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, November 7, 2006 in the Council Chambers, 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Randy Kronblad, Marlene Nagel, Marc Russell, Nancy Vennard and Bob Lindeblad.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, Planning Consultant; Laura Wassmer, City Council Liaison; Barbara Vernon, City Administrator; Doug Luther, Assistant City Administer and Joyce Hagen Mundy, Planning Commission Secretary. Also present were City Attorney Charles Wetzler and Attorney Amii Castle with Lathrope & Gage.

APPROVAL OF MINUTES

Randy Kronblad clarified his statement on page 17 of the minutes noting it should read as follows: "Randy Kronblad stated that of the two firms that submitted proposals, BWR had a larger and more experienced staff to provide the required type of planning services to the City." Bob Lindeblad moved the approval of the minutes of October 3, 2006 with the above correction to the first sentence on page 17 of the minutes. The motion was seconded by Randy Kronblad and passed unanimously.

Chairman Ken Vaughn noted the agenda included several public hearings and reviewed the procedures to be followed for the hearings and opened the hearing on applications PC2006-09 and PC2006-12 since these two applications for conditional use permits for utility boxes were similar in nature although they would require separate action on each application.

PUBLIC HEARINGS

- | | |
|------------------|--|
| PC2006-09 | Request for Conditional Use Permit for Communication Utility Boxes at
8220 Briar
Applicant: Eric Stong, AT&T |
| PC2006-12 | Request for Conditional Use Permit for Communication Utility Boxes at
9321 Delmar
Applicant: Eric Stong, AT&T |

Chris Carroll, representing AT&T, presented a video demonstration on their new AT&T U-Verse program that will be launched once these installations are completed. The program has been launched in Texas. They are in the process of getting boxes installed throughout the metropolitan area and anticipate launching the program in this area in the Spring. The Commission has already approved two of their 15 applications for locations within Prairie Village. This technology requires the placement of a new communication box in close proximity to an existing box that will be retrofitted to provide the new services. None of the cabinets are on private property. They are all located within the city right-of-way.

The retrofit cabinets will be approximately the same size as the current cabinets with the new box located adjacent to them. Landscape plans have been submitted for these two applications after conferring with the adjacent property owners.

Mr. Carroll reported the public information meetings held on November 1st for the two applications. Three residents attended, both regarding the proposed cabinet placement at 8220 Briar. Mike & Deborah Nixon requested the landscaping mulch be changed from a "red" coloring to a dark mulch for the landscaping area shown on the plan. They also asked if the technicians servicing the units could park in the street instead of jumping the curb. Mr. Carroll stated this issue will be addressed with city officials, with the safety of the technician, as well as the flow of vehicular traffic being considered.

Mr. Innis and Mr. Nixon asked about any noise emissions from the cabinets. There is a fan motor inside the cabinet that will run occasionally in hot weather to keep the electronics cool, but the sound would not be much greater than that experienced with a computer fan and less than that given off by a household air-conditioning unit. He also noted the proposed landscaping surrounding the units in many cases will also serve as a noise buffer.

Chairman Ken Vaughn asked if anyone in the audience wished to address the Commission on these applications.

Robert Moffat, 8221 Juniper, questioned the voltage emitted from the units. Mr. Carroll responded he did not know the specific voltage but assured Mr. Moffat it was no more than 220.

Deborah Nixon, 8220 Briar, stated she visited other sites with the proposed cabinets and noted the fans do not run continuously and the noise emissions are minimal. She expressed appreciation to the AT&T staff for allowing them to have input into the landscape plan for the box to be located adjacent to their property.

With no one else wishing to speak on the applications, Chairman Ken Vaughn closed the public hearing at 7:15 p.m.

**PC2006-09 Request for Conditional Use Permit for Communication Utility Boxes at
8220 Briar
Applicant: Eric Stong, AT&T**

Ron Williamson reviewed the staff report noting AT&T is requesting the approval of a conditional use permit for the installation of a utility box that has a footprint of 38" x 47" (12.4 sq. ft.) a height of 63" and sets on a 6' x 6' (36 sq. ft.) pad. The Ordinance requires that utility boxes having a footprint greater than 12 sq. ft. in area; a pad greater than 32 square feet or a height of more than fifty four inches must be approved as a conditional use prior to installation. The proposed utility box exceeds all the minimum requirements for staff approval.

The proposed utility box will be paired with an existing SAI utility box that is located on the north side of 83rd Street at the rear lot line just west of Briar Lane. The proposed utility box will be located in public R/W while the existing SAI box is located in a utility easement. The new boxes are being installed to help AT&T keep up with the increased demand for services. This is another facility being installed to implement AT&T's new plan which is called "Project Light Speed". This will enable AT&T to broadcast high quality images and video programming over telephone lines.

Marlene Nagel confirmed that the requested conditional use permit is issued for the land and not specifically for AT&T.

Nancy Vennard confirmed the recommendation for approval contains the condition for removal of the units if they obsolete and non-functional.

Marc Russell questioned the proposed indefinite length of the permit noting there is no benefit to the City. He would prefer a ten-year permit.

Chris Carroll responded not only is the applicant investing a significant amount of money in this project but will be supplying a service to the residents of Prairie Village. He expressed concern for that service base should some future Commission decide not to renew the permit. Mr. Carroll stated the applications being approved by the other area cities are being issued for an indefinite period of time.

Ron Williamson stated the initial applications requested a 25 year permit and during discussion at the last meeting the Commission changed the length of the permit to an indefinite period of time. Bob Lindeblad stated that to him there was little difference between granting a 25 year permit and an indefinite permit. Mr. Russell stated he would prefer a 25-year permit.

The Planning Commission reviewed the findings of fact relevant to the requested Conditional Use Permit at 8220 Briar:

- 1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations.**

The proposed utility box is larger than what is permitted by Staff approval and therefore is required to obtain a conditional use permit.

- 2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.**

The proposed utility equipment box will not adversely affect the welfare or convenience of the public, but will actually benefit the public because it will improve electronic communications to households in Prairie Village.

- 3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

The proposed utility box will be located in the right-of-way west of Briar Lane at a rear lot line adjacent to 83rd Street where it will be adequately screened. The proposed utility box is relatively small in size and is not an intense use that generates a lot of people activity; therefore, it should not have an adverse affect on the value of the property immediately in the neighborhood.

- 4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets given access to it, are such that the conditional use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration should be given to:**

- a. The location, size, nature and height of buildings, structures, walls, and fences on the site; and**

- b. The nature and extent of landscaping and screening on the site.**

The proposed utility box itself is approximately 47" wide x 38" deep x 63" high. The pad is 6' x 6' and it will be surrounded by landscaping. The applicant has also indicated that there will be a 2' x 3' hand hole that will be flush with the ground and not

be a part of the pad. The hand hole will be located between the sidewalk and the curb while the proposed utility box will be located behind the sidewalk.

The landscape plan is well thought out and it should blend well with the other landscaping in the area. The choice of plant materials is good in that year around screening will be provided through the use of evergreens. The landscape plan indicates that some of the adjacent property owners' plants will be transplanted because of the utility box installation.

The size of this use is not such that it would dominate the neighborhood or hinder development. The neighborhood is totally developed to the east, west, south and north and this use is being installed on right-of-way that should be able to accommodate it compatibly without it being a problem for the other properties in the neighborhood.

5. **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential use and located so as to protect such residential uses from any injurious affect.**

The only parking required for this use is what will be needed while construction and installation are occurring, and then periodic maintenance. There is no need to provide permanent off-street parking for this use because it can easily be accommodated in the street.

6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Since this is a very small installation and a companion to an existing utility box, there is not a need for additional utilities, drainage, or other facilities.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.**

There will not be a need for access roads or entrance and exit drives because all the parking will be adequately handled in the street.

8. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessarily intrusive noises.**

The proposed use does not utilize any hazardous or toxic materials and does not generate any obnoxious odors or unnecessarily intrusive noises.

Bob Lindeblad moved the Planning Commission find the findings of fact favorable for the proposed Conditional Use Permit for the installation of a communications utility box in the 83rd Street right-of-way at 8220 Briar and grant a Conditional Use Permit subject to the following conditions:

1. That the applicant maintains the landscaping and replaces any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant install the landscaping immediately after installation of the utility box.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.

5. That the applicant transplant the plants designated on the plan to a location suitable to the adjacent property owner.

The motion was seconded by Marlene Nagel and passed by a vote of 5 to 1 with Marc Russell voting "nay".

**PC2006-12 Request for Conditional Use Permit for Communication Utility Boxes at
9321 Delmar
Applicant: Eric Stong, AT&T**

AT&T is requesting the approval of a conditional use permit for the installation of a utility box that has a footprint of 38" x 47" (12.4 sq. ft.) a height of 63" and sets on a 6' x 6' (36 sq. ft.) pad. The Ordinance requires that utility boxes having a footprint greater than 12 sq. ft. in area; a pad greater than 32 square feet or a height of more than fifty four inches must be approved as a conditional use prior to installation. The proposed utility box exceeds all the minimum requirements for staff approval.

The proposed utility box will be paired with an existing SAI utility box that is located on the east side of Delmar Street at the intersection with 94th Street. Both boxes will be located in public R/W.

Ron Williamson noted there are large shade trees in the area of this installation and recommended as one of the conditions of approval that the trees be protected during the installation.

The Commission reviewed the Planning Commission reviewed the findings of fact relevant to the requested Conditional Use Permit at 9321 Delmar:

1. **The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations.**

The proposed utility box is larger than what is permitted by Staff approval and therefore is required to obtain a conditional use permit.

2. **The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.**

The proposed utility equipment box will not adversely affect the welfare or convenience of the public, but will actually benefit the public because it will improve electronic communications to households in Prairie Village.

3. **The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

The proposed utility box will be located in the right-of-way on the east side of Delmar Street at the intersection with 94th Street. The proposed utility box is relatively small in size and is not an intense use that generates a lot of people activity; therefore, it should not have an adverse affect on the value of the property immediately in the neighborhood. The proposed utility box as well as the existing SAI Box will be screened with landscaping.

4. **The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets given access to it, are such that the conditional use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining**

whether the conditional use will so dominate the immediate neighborhood, consideration should be given to:

- a. The location, size, nature and height of buildings, structures, walls, and fences on the site; and
- b. The nature and extent of landscaping and screening on the site.

The proposed utility box itself is approximately 47" wide x 38" deep x 63" high. The pad is 6' x 6' and it will be surrounded by landscaping. The applicant has also indicated that there will be a 2' x 3' hand hole that will be flush with the ground and not be a part of the pad. It appears that an existing hand hole is already on the site.

The landscape plan is well thought out and it should blend well with the other landscaping in the area. The choice of plant materials is good in that year around screening will be provided through the use of evergreens. Two large existing Honey Locust trees will remain and will need to be protected during construction.

The size of this use is not such that it would dominate the neighborhood or hinder development. The neighborhood is totally developed to the east, west, north and south and this use is being installed on right-of-way that should be able to accommodate it compatibly without it being a problem for the other properties in the neighborhood.

5. **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential use and located so as to protect such residential uses from any injurious affect.**

The only parking that will be required for this use is what will be needed while construction and installation are occurring, and then periodic maintenance. There is no need to provide permanent off-street parking for this use because it can easily be accommodated in the street.

6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Since this is a very small installation and a companion to an existing utility box, there is not a need for additional utilities, drainage, or other facilities.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.**

There will not be a need for access roads or entrance and exit drives because all the parking will be adequately handled in the street.

8. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessarily intrusive noises.**

The proposed use does not utilize any hazardous or toxic materials and does not generate any obnoxious odors or unnecessarily intrusive noises.

Randy Kronblad moved the Planning Commission find the findings of fact favorable for the proposed Conditional Use Permit for the installation of a communications utility box in the right-of-way at 9321 Delmar and grant a Conditional Use Permit subject to the following conditions:

1. That the applicant maintains the landscaping and replaces any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant installs the landscaping immediately after installation of the utility box.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
5. That the existing large Honey Locust trees be protected during construction.

The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 1 with Marc Russell voting "nay".

**PC2006-11 Renewal of Special Use Permit for Communication Antenna
and Equipment Installation at
7321 Mission Road
Applicant: Curtis Holland for Sprint/Nextel**

Curtis Holland, representing Sprint/Nextel and St. Ann's Church, addressed the Commission requesting the renewal of the Special Use Permit for Communication Antenna and Equipment currently installed at 7321 Mission Road. There are two sets of antenna included in the installation - one for Sprint and one for Nextel. Mr. Holland noted although the companies have merged, they operate two distinctive and separate operating systems. Both sets of antenna are still necessary.

This installation uses an existing structure and the antennas are painted to match the coloring of the building making the units virtually non visible to the public. Mr. Holland noted the initial permit was issued for a period of five years, but noting the uniqueness of this installation asked the Commission to consider renewing the permit for a period of ten years.

Marlene Nagel asked if there was a schedule for painting the antenna. Mr. Holland replied the antennas were manufactured to match in a color to blend with the bricks on the building.

With no one present to speak on this application, Chairman Ken Vaughn closed the public hearing at 7:30 p.m.

Ron Williamson stated the initial permit for this installation was approved by the Planning Commission on September 4, 2001 with the City Council approving the permit subject to the nine conditions recommended by the Commission on October 1, 2001. The five-year initial approval period has expired and Sprint Nextel is requesting the renewal. The antennas and equipment were installed in accordance with the plans submitted and the applicant has complied with the nine conditions, which are as follows:

1. That the initial approval of the special use permit be for a maximum of five years. At the end of the five-year period, and any subsequent five-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional five years and new conditions may be required.
2. All equipment cabinets and wiring shall be contained within the building and steeple.
3. The twelve antennas shall be permitted and the six that are mounted on brick shall be painted a color that blends with the brick so that their visibility is minimized.
4. The applicant shall not prevent other users from co-locating on the building.

5. Any permit granted which is found to be in non-compliance with the terms of the special use permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If the special use permit becomes null and void, the applicant will remove the antennas, equipment cabinets, and all other appurtenances and shall restore the site to its original condition.
6. The applicant shall comply with all state and federal regulations.
7. In the event that the leaseholder abandons the facility and fails to remove the installation, the landowner shall remove it within 30 days.
8. The applicant shall submit a copy of the lease agreement to the City prior to the issuance of a permit to install the equipment and antennas.
9. The site plan submitted with this application shall be incorporated as a part of the approval of this request.

Ron Williamson reviewed the staff report on this application.

The antennas were installed on the existing church steeple, which is approximately 80 feet in height. The antennas were mounted at a height of approximately 73 feet two inches on the exterior side of the steeple. All the equipment was placed inside the church in an unused room and the cable that delivers the signal to the antenna was routed through the roof of the facility into the church steeple and run up the inside of the steeple to the antennas. Three antennas, which are approximately four feet in length, were mounted on the steeple and were painted to match the color of the exterior brick.

In July of 1996, the Planning Commission considered an application and approved the wireless communications antenna installation at St. Ann's for Sprint. This application is a request to renew a co-location for Nextel on an existing approved site. It also should be noted that that Nextel and Sprint have merged since the application in 2001 and there is a question whether all the antennas are still needed.

The following is an update of the September 4, 2001 Staff Report:

1. **If the use of current towers is unavailable, a reason or reasons specifying why they are unavailable needs to be set out and may include one or more of the following: refusal by current tower owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable.**
Since this is a renewal of a co-location application, the applicant was not requested to submit a detailed report setting out the reason for the selection of this site. The applicant did perform a search in 2001 and determined that this area was the best location in order to accommodate their needs. The applicant used the typical considerations in analyzing the site which are the ground elevation, clearance above ground clutter, such as buildings or vegetation and that the antenna site is located in an area that is geographically suited to provide coverage to the sites that are experiencing poor levels of service. The City has encouraged the use of existing buildings in order to minimize the negative impacts of towers on residential neighborhoods. Sprint Nextel is requesting renewal of this installation at this location in order to continue to provide adequate coverage to the residences and businesses in this portion of Prairie Village and to cover a current gap in the desired level of service.
2. **Photo Simulation - A photo simulation of the proposed facility as viewed from adjacent residential properties and public rights-of-way.**
Since the installation exists an actual photo is attached. As indicated, the antennas are not very visible from the adjacent properties and Mission Road.

3. **Co-Location Agreement - A signed statement indicating the applicant's intention to share space on the tower with other providers.**
 Since the antennas are being placed on a building rather than an independent communications tower, it is not necessary for Sprint Nextel to sign an agreement that it would permit co-location. However, it is important that Sprint Nextel not prohibit other providers from locating on the building if they need to do so in the future. A review of the lease agreement between Sprint Nextel and St. Ann's Church should not prohibit other providers from leasing space on the building.
4. **Copy of Lease - A copy of the lease between the applicant and the landowner containing the following provisions:**
 - a. **The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.**
 - b. **The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.**
 The applicant has not submitted a copy of the proposed lease agreement for review but shall submit a copy of the base agreement prior to City Council consideration.
5. **Site Plan - A site plan prepared in accordance with Chapter 19.32 Site Plan Approval.**
 The applicant has resubmitted the original site plan, and since the antennas are located on an existing structure and the equipment is housed inside the building, it was not necessary to submit a landscape and screening plan or other types information that are contained in the site plan regulations.

 The applicant shall however submit a letter from a structural engineer licensed in the state of Kansas stating that the installation of antennas and wiring will not cause any adverse loading conditions on the steeple.
6. **Transmission Medium - Description of the transmission medium that will be used by the applicant to offer or to provide services and proof that applicant will meet all federal, state, and city regulations and laws, including but not limited to FCC regulations.**
 Sprint Nextel is licensed by FCC and is required to meet their guidelines and regulations in order to operate both locally and nationally. The applicant will meet all state and federal regulations.
7. **Description of Services - Description of services that will be offered or provided by the applicant over its existing or proposed facilities including what services or facilities the applicant will offer or make available to the City and other public, educational and governmental institutions.**
 The applicant is proposing to continue to provide a better level of coverage to the existing residents and businesses in the area as well as for automobiles that are traveling through the area. The applicant has not however, identified any services that they are planning to provide to the City or other public educational or government institutions.
8. **Relocated Items - Indication of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposed to temporarily or permanently remove or relocate.**
 Since the antennas were mounted on the church steeple and the equipment was housed in a room inside the church building, there were no external improvements and no trees structures or improvements were removed or relocated.
9. **Construction Schedule - Preliminary construction schedule including completion dates.**
 N/A. Antennas and equipment are already installed.

10. **Qualifications and Experience - Sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding communications or utility facilities and services described in the application.**
Sprint Nextel has other facilities installed in Prairie Village and has reviewed its qualifications, experience and expertise during a previous application.
11. **All Required Governmental Approvals - Information to establish the applicant has obtained all government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.**
There is no information included with this application that indicates that the existence of any other governmental approvals required other than the licensing of FCC. The applicant is licensed by FCC and this antenna is not in a location that would require FAA approval.
12. **Miscellaneous - Any other relevant information requested by City staff.**
Staff did not request any additional information relevant to this application.
13. **Copies of Co-Location Letters - Copies of letters sent to other wireless communication providers notifying them of the proposed request and inquiring of their interest to co-locate.**
Since a new tower was not proposed to be constructed and since these antennas are simply mounted on the top of an existing church steeple, it was not necessary to send out co-location letters.

Bob Lindeblad asked Mr. Williamson's opinion on increasing the term of the Special Use Permit from 5 years to 10 years. Mr. Williamson responded that since the equipment being housed inside the church, there are no exterior maintenance issues and he feels it would be appropriate to consider a longer term for the renewal of this specific application. He stressed each application needs to be considered independently.

Nancy Vennard questioned if the term was extended should a structural analysis or inspection report be required at five years to ensure the antennas are securely attached. Curtis Holland responded the applicant would accept that condition, but noted the structures are routinely inspected to ensure all the apparatus is in good conditioning and functioning correctly.

The Commission reviewed the Planning Commission reviewed the findings of fact relevant to the requested renewal of the Special Use Permit at 7321 Mission Road:

1. **The proposed special use complies with all applicable provisions of these regulations including intensive use regulations, yard regulations, and use limitations.**
The proposed antenna installation meets all the setback, height and area regulations contained in the Zoning Ordinance.
2. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**
A review of the installation does not indicate that there are any adverse affects on the welfare or convenience to the public. The installation of the antennas should be an improvement to the communications for users in the immediate area and therefore should be a benefit to the public.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

The applicant held a meeting on Wednesday, August 15, 2001, in accordance with the Planning Commission Citizen Participation Policy and no residents appeared at the meeting. The installation has had very little visual impact on the area, and has not caused substantial injury to the value of the property in the neighborhood.

4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: (a) the location, size and nature of the height of building structures, walls and fences on the site; and (b) the nature and extent of landscaping and screening on the site.**

The antenna installation on the church steeple is small in comparison to the building itself, has had relatively little impact, and has not dominated immediate neighborhood so as to hinder development. It should be pointed out that this neighborhood is totally developed and the only equipment that will be visible from the exterior would be the antenna panels that are located on the steeple.

5. **Off-street parking and loading areas will be provided with standards set forth in these regulations, and areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.**

Additional off-street parking is not necessary for this use because there will be no permanent staff on site. Service personnel will be on the site periodically to maintain the equipment, but the parking that is provided on the site is adequate for this need.

6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Since there are no external improvements or building expansions, existing utility, drainage, and other facilities are adequate.

7. **Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

The antennas and equipment require only service vehicles for periodic maintenance. The traffic generated by the use will be minimal and can easily be accommodated by the existing circulation system currently on the Church site.

8. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing process, obnoxious odors, or unnecessary intrusive noises.**

The antennas and equipment do not have any hazardous or toxic materials, obnoxious odors, or intrusive noises that would affect the general public.

9. **Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed structure is to be built or located.**

The equipment that will be utilized to support the antennas is contained within the building and therefore does not create the need for any additional screening or exterior walls. The antennas have been placed on the steeple and painted to match

brick and therefore blend with the building and are architecturally compatible. The cables are contained within the steeple minimizing any negative external appearance.

Nancy Vennard noted the applicant addressed the staff's question on the need for antenna installations for both Sprint and Nextel and therefore, condition number 11 should be removed.

Nancy Vennard moved the Planning Commission find the findings of fact favorable for application PC2006-11 the renewal of the Special Use Permit for wireless communication antenna and related equipment at 7231 Mission Road and recommends the application be approved subject to the following conditions:

- 1) That the renewal of the special use permit be for a maximum of ten years. At the end of the ten-year period, and any subsequent renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
- 2) That all equipment cabinets and wiring shall be contained within the building and steeple.
- 3) That the antennas shall be painted a color that blends with the brick on the Church so that their visibility is minimized.
- 4) That the applicant shall not prevent other users from co-locating on the building.
- 5) That any permit granted which is found to be in non-compliance with the terms of the special use permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If the special use permit becomes null and void, the applicant will remove the antennas, equipment cabinets, and all other appurtenances and shall restore the site to its original condition within 30 days.
- 6) That the applicant shall comply with all local, state and federal regulations.
- 7) That in the event that the leaseholder abandons the facility and fails to remove the installation, the landowners shall remove it within 30 days.
- 8) That the applicant shall submit a letter from a structural engineer licensed in the State of Kansas, stating that the antenna installation has not caused any adverse affect to the structure of the steeple.
- 9) That the applicant shall submit a copy of the lease agreement to the City.
- 10) That the site plan submitted with the original application shall be reincorporated as a part of the approval of this request.

The motion was seconded by Marlene Nagel and passed unanimously.

**PC2005-05 Tabled Request for Special Use Permit for
Wireless Communication Antenna
69th Terrace & Roe (McCrum)
Applicant: Curtis Holland for Cingular Wireless**

Curtis Holland confirmed the applicant is continuing to explore alternate locations. He noted Cingular Wireless had placed a temporary hold on several of their proposed locations earlier in the year; however, this area has been listed for action in 2007. He does not anticipate they will be ready to file an application for three months and requested consideration of the application be continued until the February meeting of the Planning Commission.

Bob Lindeblad moved to continue PC2005-05 to the February 6, 2007 meeting of the Planning Commission. The motion was seconded by Marlene Nagel and passed unanimously.

PC2006-13 Proposed Revisions to the Prairie Village Zoning Regulations
Chapter 19.48 entitled "Signs"
Applicant: City of Prairie Village

City Attorney Charles Wetzler introduced Amii Castle a lawyer with his firm who represented the City of Prairie Village in the Quinley lawsuit against the City's sign regulations. He noted the entire sign regulations were reviewed. References to political signs were removed with the signs being classified as "informational signs". Ms Castle has been working closely with the attorney representing the ACLU and to address the rulings made by Judge John Lungstrum.

Ms Castle stated Judge Lungstrum's ruling in a nutshell prohibits any restriction that requires the City to look at the content of the sign or is context based. She noted governments can intervene under compelling government interests, but traffic safety and aesthetics are not considered to be compelling government interests.

The focus of the proposed revisions has been on the areas or issues addressed by the judge in his ruling. Only minor revisions were made in the area of commercial signs. The intent of the new regulations is to treat all temporary signs the same. Ms Castle noted that case law on the sign issues varies widely and doesn't provide anything for the City to "hang its hat on". She and Mr. Wetzler and Mr. Williamson have attempted to address the concerns of the ACLU with the proposed revisions.

Marlene Nagel asked if a permit was required for temporary signs and how can the length a sign has been posted be determined. Ms Castle responded it is unconstitutional to require a permit for temporary signs. The courts have upheld the 90 day replace or remove restrictions, however, it is very difficult to track the number of days, but this gives the City a mechanism if a sign becomes dilapidated to take action.

Laura Wassmer noted a resident requested language be added to address where the signs can be placed in relation to an adjoining property and asked if this has been done. Ron Williamson responded the new regulations require signs be setback five feet from the rear and side yard.

Ms Wassmer asked if under the proposed ordinance every resident in Prairie Village could have signs. Ms Castle responded they could up to a total of 48 square feet. She noted one court case has allowed up to 80 square feet of signs but the ACLU has agreed to accept the 48' restriction in Prairie Village.

Nancy Vennard asked if there were any regulations that addressed the number of signs per frontage of the lot noting 48' is less intrusive displayed on larger lots than on small lots. Ms Castle stated she was unaware of such regulations and felt they would be seen by the courts as discriminatory.

Mr. Wetzler pointed out in a final review that the term "school award sign" needed a better definition.

Ron Williamson noted a revision needs to be made to Section 19.48.020 A3 further defining what constitutes a school award sign. The words "display an award sign" shall be replaced with "install a sign to display a National School of Excellence or equivalent award". Ms Castle noted the prior language may have been ruled by the courts as too vague.

Randy Kronblad asked if the revised ordinances will be reviewed by the Courts. Ms Castle responded they would not. If the ordinance is passed by the City, the ALCU has agreed to

dismiss their lawsuit and thus the ordinance would not go back to Judge Lungstrum for review.

Bob Lindeblad expressed the appreciation of the Commission to Mr. Wetzler and Ms Castle for the extensive work on this very difficult issue. Mr. Wetzler noted Ms Castle has spoken to attorneys at the recent League of Municipalities conference and he anticipates other cities may follow the city's stance on this issue.

Bob Lindeblad moved the Planning Commission recommend the City Council adopt the proposed revisions to Chapter 19.48 of the Prairie Village Municipal Code entitled "Signs" as presented with the oral change presented by Mr. Williamson on school award signs. The motion was seconded by Marlene Nagel and passed unanimously.

NON PUBLIC HEARINGS

**PC2006-114 Sign Approval - Entrance Signs
City of Prairie Village
Applicant: Bob Pryzby for City of Prairie Village**

The need for new entrance signs first appeared in the Planning Commission's Action Plan in 1998 identifying only 75th and State Line. In 1999, the Action Plan expanded to include new entrance signs to all entrance points to Prairie Village. In 2001, the Citizens Advisory Committee considered this matter and recommended a list of 18 locations.

The City formed a Committee at the beginning of 2006 to prepare a new design for the entrance signs and is submitting it to the Planning Commission for its consideration and approval. In accordance with Section 19.48.015m all monument signs must be approved by the Planning Commission. The signs will be located in public right-of-way at the 16 sites that had previous City signs and at 87th Street and Nail Avenue.

The proposed entrance signs will be located so that they provide the best visual opportunity for people entering the City. The Prairie Village plaque will only be on one side of the stone pillar. Therefore, the monument sign will need to be positioned so that the plaque is most visible. Specific site locations will not be required but will be left to the discretion of Public Works. Setbacks for each location shall be determined by Public Works in order to avoid any sight distance problems.

The proposed facing of the entrance monuments is a faux stone. Mr. Pryzby presented a sample of the stone to be used for the monuments and a full scale model of the sign. The cap and plaque will be cast stone. The monuments will be 5' in height and the actual sign area will have a square footage of slightly more than two square feet. There will be no illumination of the signs.

The monument signs will be located within landscaped areas. Mr. Pryzby stated the public works staff is removing the current plantings around the old signs, which have been removed, and is trying to save the plant material. The landscaping around the signs will be minimal.

Nancy Vennard asked if the Sister City signs are remaining. Mr. Pryzby responded they have been taken down and are in storage.

Ken Vaughn asked how close the signs will be to traffic. Mr. Pryzby responded all signs will be located within the City right-of-way. The signs will be placed in the same location as the signs removed at the first property line from the intersection .

Randy Kronblad moved the Planning Commission approve the proposed City Entrance Identification signs as submitted subject to the following conditions:

1. That the overall height of the monument sign be reduced to five feet.
2. That the signs be approved for the requested 17 locations plus other locations that the City may determine in the future.
3. That the requirement for a landscape plan be waived.

The motion was seconded by Marc Russell and passed unanimously.

OTHER BUSINESS

The Commission reviewed the proposed meeting and deadline submittal schedule for 2007. They discussed potential conflicts with the July meeting which falls on July 3rd. The Commission agreed to change the July meeting date to Tuesday, July 10th and revise the submittal dates accordingly.

Nancy Vennard moved the Commission approve the 2007 meeting and deadline submittal schedule with a change of the July meeting date from July 3rd to July 10th. The motion was seconded by Randy Kronblad and passed unanimously.

December Meeting

The Commission Secretary reported AT&T has submitted application for conditional use permits for the remaining 11 utility boxes. The Commission will consider five of these applications at the December meeting and the remaining six in January. Also on the agenda is a building line modification at 8700 Catalina, signage for Asbury Church and renewal of the Special Use Permit for the Cingular antenna on the City's tower.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 8:15 p.m.

Ken Vaughn
Chairman

Planning Commission Actions
Tuesday, December 5, 2006

PC2006-14 Request for a Conditional Use Permit for a Communication Utility Box to be located at 8300 Mission Road

This application was withdrawn by the applicant as they were able to place a second box at 3700 West 83rd Street that would service this area.

PC2006-15 Request for a Conditional Use Permit for a Communication Utility Box to be located at 3720 West 83rd Street

The Planning Commission held a public hearing on this application and granted a Conditional Use Permit for the installation of a Communication Utility Box in the easement at 3720 West 83rd Street subject to the following conditions:

1. That the conditional use be approved for two utility boxes at the location as shown on the plans.
2. That the applicant maintains the landscaping and replaces any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
3. That the applicant installs the landscaping immediately after installation of the utility boxes.
4. That the Conditional Use be approved for an indefinite period of time.
5. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.

PC2006-16 Request for a Conditional Use Permit for a Communication Utility Box to be located at 8900 Mission Road

The Planning Commission held a public hearing on this application and granted a Conditional Use Permit for the installation of a Communication Utility Box in the easement on the east side of Mission Road in the 8900 Block subject to the following conditions:

1. That the applicant maintains the landscaping and replaces any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant installs the landscaping immediately after installation of the utility boxes.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.

PC2006-17 Request for a Conditional Use Permit for a Communication Utility Box to be located between 7825 and 7831 Juniper Street

The Planning Commission held a public hearing on this application and granted a Conditional Use Permit for the installation of a Communication Utility Box in the utility easement between 7825 and 7831 Juniper Street subject to the following conditions:

1. That the applicant maintains the landscaping and replaces any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.

2. That the applicant installs the landscaping immediately after installation of the utility boxes.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
5. That the applicant protects the existing plants during construction and replaces any that are damaged.

PC2006-19 Renewal of Special Use Permit for Communication Antenna & Equipment installation at 7700 Mission Road

The Planning Commission held a public hearing on this application and recommended the City Council renew by Ordinance the Special Use Permit for wireless communication antenna and related equipment at 7700 Mission Road subject to the following conditions:

- 1) That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, and any subsequent ten-year renewal periods, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a need still exists for the antennas and that all the conditions of approval have been met. The permit may then be extended for an additional ten years and new conditions may be required.
- 2) All equipment cabinets and wiring shall be contained within the existing walled area.
- 3) The antennas and the frames for mounting them shall be painted a color that blends with the other antennas and the tower so the visibility is minimized.
- 4) If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
- 5) The applicant shall comply with all state and federal regulations.
- 6) The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as a part of the renewal application.
- 7) The plans for the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower's owner.
- 8) The Compound Plan submitted as a part of the original application shall be incorporated as a part of the approval of this application.
- 9) The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.

PC2006-118 Request for approval of Building Line Modification at 8700 Catalina

The Planning Commission found favorably on the three factors for approval and approved by Resolution the requested building setback modification from 50 feet to 42 feet for only that portion of the garage as shown on the plan submitted.

TREE BOARD
City of Prairie Village, Kansas

MINUTES

Wednesday – December 6, 2006, 6:00PM Meeting
Public Works – Conference Room
3535 Somerset Drive

Attending Board Members: Cliff Wormcke, Jim Hansen, Deborah Nixon, Luci Mitchell

Other Attendees: Bob Pryzby

- 1) **Review and Approve minutes from November 1, 2006 meeting** – Motion by Deborah, seconded by Cliff passed unanimously.
- 2) **Sub-Committee Report**
 - 2.1) **Fall Seminar:**
 - a) **Ideas for increasing attendance** – suggested notices to Homes Associations, postings at nurseries; offer a tree drawing at VillageFest
 - b) **Possible topics** – need recognized speaker, i.e., Rick Barrett from KMBC Wise Guys; topic of how to rejuvenate your yard; how to landscape with trees;
 - 2.2) **Arbor Day:**
 - a) **Planning** – April 28, 2007.
- 3) **Park Tree Inventory** – Bob reported that the park tree inventory is 90% complete. He will have an inventory list for the next meeting.
- 4) **Reminder of no January 3rd Meeting**
- 5) **Old Business** - none
- 6) **New Business** – Luci requested the Board think about what they would like to do at the VillageFest.
- 7) **The next meeting** – Wednesday, February 7, 2007 at 6PM at Public Works Conference Room.

You are cordially invited to attend
a Convener reception in honor of the

Johnson County Legislative Delegation

Thursday, January 4, 2007
5:00 - 7:00 p.m.
Universal Underwriters Group
7045 College Boulevard

Cost is \$12 per person.

Legislators sponsored by:

City of Gardner
City of Leawood
City of Lenexa
City of Olathe
City of Overland Park
City of Prairie Village
City of Spring Hill
City of Shawnee
Johnson County
Johnson County Community College
WaterOne of Johnson County
De Soto Chamber of Commerce
Gardner Area Chamber of Commerce
Greater Kansas City Area Chamber of Commerce
Leawood Chamber of Commerce
Lenexa Chamber of Commerce
Northeast Johnson County Chamber of Commerce
Olathe Chamber of Commerce
Overland Park Chamber of Commerce
Shawnee Chamber of Commerce
Spring Hill Chamber of Commerce
Blue Valley School District
De Soto School District
Gardner-Edgerton School District
Olathe School District
Shawnee Mission School District
Spring Hill School District

Memo

To: Mayor & City Council
From: Jeanne Koontz
Date: 12/11/2006
Re: Reimbursement Requests

All Reimbursement Requests for 2006 need to be submitted before the end of the year.

Auditors do not like to see these requests being paid after the first of the year. It also affects the budget and could cause prior year expenses to be charged against the new year's budget.

Please help us by submitting these requests before the end of the year.

Memo

To: Mayor & City Council
From: Jeanne Koontz
Date: 12/12/2006
Re: NE Johnson County Chamber of Commerce Annual Dinner

The 2007 Northeast Johnson County Chamber of Commerce Annual Dinner is Friday January 12, 2007. The City has a table for this event. **Please RSVP by January 2, 2007 to 913-381-6464 x4207 or jkoontz@pvkansas.com.**

Lake Quivira Country Club, 100 Crescent Boulevard Lake Quivira, Kansas 66217. Black tie optional. Cocktail Reception – 6:00 pm. Dinner – 7:00 pm. Auction and dancing to follow.

10/30/06

Clean Air Kansas City
6800 W. 93rd St.
Overland Park, KS 66212

Kansas Restaurant and Hospitality Association
3500 N. Rock Road, Bldg. 1300
Wichita, KS 67226

Dear Honorable Mayor and City Council Members,

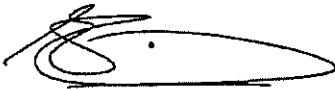
It is clear that the effort to approve smoke free ordinances is moving forward city by city within the greater Kansas City metropolitan area.

In an effort to encourage a level playing field for businesses in the restaurant and hospitality industry, as well as provide a public health benefit for employees and the public, Clean Air Kansas City and the Kansas Restaurant and Hospitality Association have come to an agreement on terms of a smoke free ordinance that, we believe, are reasonable for businesses and provide safeguards for public health.

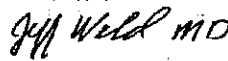
We believe that by sharing this agreement with all city governments we can encourage smoke-free ordinances that are more uniform in nature and provide a competitive business environment throughout the metro area.

We strongly encourage you to consider the points outlined on the second page, so the entire metropolitan area can move forward on this issue.

Sincerely,



Bob Carmichael
Kansas Restaurant and Hospitality Association
Chairman of the Board '06



Jeffrey Wald, MD
Clean Air Kansas City

Clean Air Kansas City and the Kansas Restaurant and Hospitality Association agree on the following clean indoor air ordinance issues.

- **Smoking should not be permitted in any indoor public place or business.**
 - **An implementation date of January 2nd, 2008.** This phase-in period would allow businesses and venues to prepare for operational, marketing and regulatory changes affecting their business. A uniform implementation date by all greater Kansas City cities would eliminate the possibility of driving business from restaurants or bars in one city to restaurants and bars in surrounding cities. A date certain in the future allows proponents of clean indoor air more time to focus on prevention and cessation education efforts.
 - **No exemptions.** Exempting certain classes of businesses, organizations or clubs creates unfair advantages to the businesses not exempted. No exemptions provide greater protection from second hand smoke.
 - **Smoking should be prohibited within ten feet of the entrance and it must not infringe on indoor air quality.** This provides a smoke free area for patrons entering and exiting a building and it safeguards against second hand smoke entering open windows or air intakes.
 - **Smoking should not be regulated in outdoor patios and or courtyards** ~~provided~~courtyards provided it does not infringe on indoor air quality. This allows smoking patrons to “take it outside,” thus preserving the quality of indoor air.
 - **Retail tobacco shops should not be subject to a smoke free ordinance.** Retail tobacco shop is defined as a retail store whose primary business is the sale and use of tobacco products and accessories which is located in a stand alone building not attached to or the part of any building devoted to other uses.
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Dear Mayor / Council of
Prairie Village

I'm in print a note to tell
you that the tree service that
trammed our big trees on
Roe Ave. about a month ago
did a very fine job.

Ironically I had a different
outfit trim the same trees
earlier in the year and they
were missed a lot of dead
wood. I appreciate their
fine service and yours for
providing it.

John Ingram
8001 Roe.

Council Members
Mark Your Calendars
December 18, 2006

December 2006 Marearl Denning photography and ceramics exhibit in the R.G. Endres Gallery
December 25 City offices closed in observance of Christmas

Council Members
Mark Your Calendars
2007

January 2007 Rebecca Darrah watercolor on cloth exhibit in the R.G. Endres Gallery
January 1 City offices closed in observance of New Year's Day
January 2 (Tuesday) City Council Meeting
January 4 Johnson County meeting with legislative delegates – 5 to 7 p.m. – 7045 College Blvd
January 12 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
January 12 NE Johnson County Chamber of Commerce Annual Dinner – Lake Quivira Country Club
January 15 City offices closed in observance of Martin Luther King, Jr. Day
January 16 (Tuesday) City Council Meeting
January 25 City Hall Day at the Capitol

February 2007 Ted DeFeo photography exhibit in the R.G. Endres Gallery
February 3 Chief Grover's retirement reception – Homestead Country Club
February 5 City Council Meeting
February 9 Employee Appreciation Dinner at New Theater
February 9 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
February 15 NE Johnson County Chamber of Commerce lunch – State of the Cities at the Overland Park Marriott – each member Mayor will make a presentation
February 19 City offices closed in observance of President's Day
February 20(Tuesday)City Council Meeting

March 2007 A. J. Weber mixed media exhibit in the R. G. Endres Gallery
March 5 City Council Meeting
March 9 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
March 10-14 NLC Congressional Conference in Washington D.C.
March 19 City Council Meeting

April 2007 Kay Trieb photography exhibit in the R. G. Endres Gallery
April 2 City Council Meeting
April 13 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
April 16 City Council Meeting

May 2007 David Payne oils exhibit in the R. G. Endres Gallery
May 7 City Council Meeting
May 11 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
May 21 City Council Meeting
May 28 City offices closed in observance of Memorial Day

June 2007 Jack O'Hara watercolors exhibit in the R. G. Endres Gallery
June 4 City Council Meeting
June 8 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
June 18 City Council Meeting

July 2007 Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
July 2 City Council Meeting
July 4 City offices closed in observance of Independence Day
July 13 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
July 16 City Council Meeting

August 2007 Shawn Bohs photography exhibit in the R. G. Endres Gallery
August 6 City Council Meeting
August 10 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
August 20 City Council Meeting

September 2007 Barney Newcom oils exhibit in the R. G. Endres Gallery
September 3 City offices closed in observance of Labor Day
September 4(Tuesday)City Council Meeting
September 14 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
September 17 City Council Meeting

October 2007 No exhibit scheduled yet in the R. G. Endres Gallery
October 1 City Council Meeting
October 15 City Council Meeting

November 2007 Mid-America Pastel Society exhibit in the R. G. Endres Gallery
November 5 City Council Meeting
November 9 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
November 19 City Council Meeting
November 22-23 City offices closed in observance of Thanksgiving

December 2007 Christi Roberts-Bony mixed media R. G. Endres Gallery
December 3 City Council Meeting
December 7 Mayor's Holiday Gala
December 14 Artist reception in R. G. Endres Gallery 6:30 to 7:20 p.m.
December 17 City Council Meeting
December 25 City offices closed in observance of Christmas

NOTEWORTHY

December 2006

DECEMBER BIRTHDAYS & ANNIVERSARIES

Birthday Wishes to...

12/05	Stephen Albright	Adm Sup Spec
12/06	Claudia Alexander	Computer Spec
12/06	Connie Walsh	Adm Sup Spec
12/19	Adam Taylor	Police Officer
12/23	Charles Grover	Police Chief
12/23	Ryan Warkentin	Police Officer
12/24	Karen Kindle	Finance Director
12/26	Thomas Trienens	Mgr of Eng Svcs
12/26	Kassie Kohm	Police Officer

We appreciate your years of service...

Rodney Smith	Corporal	17 years
Debra Templeton	Const. Insp.	1 year

**Wishing you a
happy & healthy
Holiday Season!**

Welcome to:

**Pam Huskey who started as a
Dispatcher in the Police
Department on November 13th.**

Order Your Brick for the Holidays!

**Make sure to put the Prairie
Village Arts Council's Pave the
Patio project on your Holiday
shopping list! The Arts Council
is selling personalized bricks,
which will be installed in the
patio of the Community Center.
Prices for individual bricks are
\$35, and gift certificates are
available. immortalize yourself
and/or your family with your
engraved brick at the
Community Center.**

Employee Appreciation Dinner

**RSVP by December 20, 2006 to
jkoontz@pvkansas.com for
"Leading Ladies" starring Bernie
Kopell from "The Love Boat" at
the New Theatre Restaurant on
February 9, 2007. We hope you
and your guest will join fellow
employees and council members
for a fun and relaxed evening.
Join us before the show in the
meeting room starting at 5:30
for drinks. There will be a cash
bar.**

Office Holiday Hours

**City offices will be closed
Monday December 25th and
Monday January 1st for the
Holidays. Emergency services
will be available at the Police
Department.**

The ABCs of Vitamins

Vitamins are an essential part of a healthy diet and proper body function. They regulate metabolism and help change food into energy. The chart below lists major vitamins, what they do and natural sources. Generally, men, women and children need different dosages to maintain their health. Talk with your doctor about what's right for you.

	FUNCTION	SOURCES
Vitamin A	<ul style="list-style-type: none"> • Prevents night blindness and other eye problems • Enhances immunity • May help prevent cancer 	<ul style="list-style-type: none"> • Animal liver • Fish liver oils • Green leafy vegetables, and yellow fruits and vegetables
Vitamin B Complex (B ₁ , B ₂ , B ₃ , B ₅ , B ₆ , B ₁₂)	<ul style="list-style-type: none"> • Maintain health of nerves, skin, eyes, hair, liver and mouth • Aid in proper brain function 	<ul style="list-style-type: none"> • Vary between each type of vitamin B, but many are commonly found in eggs, fish and whole grains
Vitamin C	<ul style="list-style-type: none"> • Required for tissue growth and repair, adrenal gland function and healthy gums • May help prevent cancer • Enhances immunity 	<ul style="list-style-type: none"> • Berries • Citrus fruits • Broccoli, red peppers, tomatoes and Brussels sprouts
Vitamin D	<ul style="list-style-type: none"> • Required for the absorption and use of calcium and phosphorus by intestinal tract • Aids in normal development of bones and teeth in children • Protects against muscle weakness 	<ul style="list-style-type: none"> • Fish liver oils • Fatty saltwater fish • Dairy products (low-fat preferred) • Eggs
Vitamin E	<ul style="list-style-type: none"> • May help prevent cancer and cardiovascular disease • Promotes healthy skin/hair 	<ul style="list-style-type: none"> • Cold-pressed vegetable oils • Green leafy vegetables • Legumes, nuts and seeds
Vitamin K	<ul style="list-style-type: none"> • Necessary for blood-clotting • Aids in bone formation and repair 	<ul style="list-style-type: none"> • Found in some foods, but majority is produced naturally in body
Folic Acid	<ul style="list-style-type: none"> • Needed for energy production and red blood cell formation • Enhances immunity • Important for healthy cell division • Important for women who may become pregnant 	<ul style="list-style-type: none"> • Broccoli, spinach and romaine lettuce • Beef • Cheese • Oranges and orange juice • Liver • Whole grains and fortified cereals

With myuhc.com[®], UnitedHealthcare's innovative consumer Web site, you can access an array of health information that will help you answer important questions relating to nutrition and many other health and wellness topics.

Call Care24SM to learn more about vitamins. Nurses are available 24 hours every day.

Care24 1-888-887-4114

TDD/TTY callers, please call the National Relay Center
at 1-800-855-2880 and ask for 1-888-887-4114.

www.myuhc.com