

CITY OF PRAIRIE VILLAGE

November 16, 2009

**Committee Meeting
6:00 p.m.**

**Council Meeting
7:30 p.m.**



City Council Meeting

November 16, 2009



Dinner will be provided by:

Dragon Inn

Shrimp w/seasonal vegetables

Pork – Hunan Style

Sweet and Sour Chicken

Beef and Broccoli

**COUNCIL COMMITTEE
November 16, 2009
6:00 p.m.
Council Chambers**

AGENDA

MICHAEL KELLY, COUNCIL PRESIDENT

CONSENT AGENDA

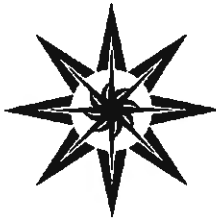
- COU2009-106** **Consider adoption of Resolution 2009-21 establishing 2010 Salary Ranges**
- COU2009-107** **Consider renewing the agreement with SilverStone Group to provide actuary services for the City's Police Pension Plan**

AGENDA ITEMS FOR DISCUSSION

- *COU2009-108** **Consider approving plan changes to the City's Supplemental Pension Plan
Charles Clark**
- *COU2009-109** **Consider approval of professional planning/design services agreement with
Indigo Design for 2010 Park Plans
Chris Engel**
- COU2009-110** **Consider changes to fee schedule related to planning and zoning
applications
Dennis Enslinger**

**Presentation on recently implemented Intergraph records system and CAD - Kyle Shipps
*A portion of the presentation will take place in the Police Department**

***Council Action Requested the same night**



COUNCIL COMMITTEE

Committee Meeting Date: November 16, 2009
Council Meeting Date: December 7, 2009

COU2009-106: Consider adoption of 2010 Salary Ranges by resolution.

SUGGESTED MOTION

Move that the Governing Body adopt a resolution establishing 2010 compensation ranges for the City of Prairie Village, subject to the review and approval of the City Attorney.

BACKGROUND

The City annually adopts a resolution establishing salary ranges for all employment positions within the City. The proposed ranges continue the process of salary administration begun in 2006 with a comprehensive compensation study. The study resulted in the establishment of market-based ranges for all employment classifications. Each employment classification is assigned a market reference point and minimum and maximum ranges are established as a percentage of the market reference point.

Staff recommends a range adjustment of 1.75% for 2009. This adjustment would apply to all employment classifications, with the exception of swimming pool related positions and school crossing guards. As a result, minimum and maximum for each classification would be adjusted accordingly. The adjustment factor is based upon national and regional survey data provided by both public and private sector employers.

Adoption of the 2010 salary resolution will not automatically increase an employee's salary unless that employee's pay would fall below the new minimum established for the range.

There are five classifications that have both an A and B range. The "A" range applies to employees who were employed with the City at the time the 2006 ranges were put into place. These employees are in "grandfathered" ranges, which will be adjusted annually in the same manner as other ranges. New employees hired into these positions will be administered against the "B" salary range. The same 1.75% adjustment has been applied to the City's part-time positions as well.

FUNDING SOURCE

Not applicable.

PUBLIC NOTICE

Not applicable.

ATTACHMENTS

Proposed Resolution

Prepared By:

Nicholas Sanders, PHR
Human Resources Specialist
Date: November 5, 2009

RESOLUTION 2009-21

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 for 2010:

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 during calendar year 2010 shall be within and determined by the following ranges:

	2010	
	<u>Minimum</u>	<u>Maximum</u>
000 ADMINISTRATIVE SUPPORT		
Receptionist A	30,500	45,700
Receptionist B	22,800	34,200
Administrative Support Specialist A	30,500	45,700
Administrative Support Specialist B	28,500	42,700
Management Intern	38,500	57,700
Management Assistant	53,100	79,700
Executive Assistant	38,500	57,700
Court Clerk A	30,500	45,700
Court Clerk B	27,500	41,300
Accounting Clerk A	30,500	45,700
Accounting Clerk B	26,400	39,600
Office Manager	40,000	60,000
Code Enforcement Officer	37,000	55,400
Building Inspector	40,100	60,100
Human Resources Specialist	41,400	62,200
Court Administrator	45,000	67,400
Building Official	57,400	86,000
City Clerk	53,200	79,800
Finance Director	78,300	117,500
Assistant City Administrator	70,800	106,200
City Administrator	105,400	158,200
100 PUBLIC WORKS		
Laborer	24,100	34,100
Maintenance Worker	30,900	43,700
Senior Maintenance Worker	37,300	52,700

Crew Leader	42,800	60,400
Mechanic	32,800	49,200
Construction Inspector	40,100	60,100
Field Superintendent	51,800	77,600
Manager of Engineering Services	57,400	86,000
Public Works Director	82,900	124,300

200 PUBLIC SAFETY

Records Clerk A	30,500	45,700
Records Clerk B	29,800	44,600
Property Clerk	31,600	47,400
Community Service Officer A	31,400	47,200
Community Service Officer B	29,800	44,800
Dispatcher	33,800	51,700
Communications Supervisor	45,900	68,900
Police Officer	38,500	60,100
Police Corporal	51,700	68,900
Police Sergeant	61,100	81,500
Police Captain	71,300	106,900
Police Chief	81,800	122,800

Police Officer Step System

1	38,500
2	39,700
3	40,900
4	42,100
5	43,300
6	44,500
7	45,700
8	46,900
9	48,100

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

Seasonal/Part-Time Employees	<u>Minimum</u>	<u>Maximum</u>
Seasonal Worker (hourly)	8.61	12.84
Lifeguard (hourly)	8.46	12.62
Tennis Assistant (hourly)	8.61	18.27
Concession Stand Worker (hourly)	7.25	9.06
Clerical Assistant (hourly)	9.35	13.72
Assistant Pool Manager (hourly)	9.71	16.16
Bailiff (hourly)	10.95	13.14
School Crossing Guards (session)	12.00	12.00
Swim/Dive Coaches (season)	2,156.92	5,930.23
Synchronized Coaches (season)	1,081.09	1,941.76
Assistant Synchro Coaches (season)	701.13	1,186.05
Assistant Coaches (season)	1,259.52	1,574.40
Pool Manager (season)	9,708.78	19,942.36

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 2010:

	<u>Minimum</u>	<u>Maximum</u>
Municipal Judge (monthly)	1,207	1,655
Treasurer (monthly)	358	449

Adopted this ____ Day of _____.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk



COUNCIL COMMITTEE

Committee Meeting Date: November 16, 2009
Council Meeting Date: December 7, 2009

COU2009-107: Consider renewing the agreement with SilverStone Group to provide actuary services for the City's Police Pension Plan.

SUGGESTED MOTION

Move that the Governing Body approve agreement with SilverStone Group to provide actuary services for the City's Police Pension Plan, pending review by the City Attorney.

BACKGROUND

In 2006 the Governing Body approved a change in the provider of actuarial services for the City's Police Pension Plan to SilverStone Group for a three year period of 2007 - 2009. Based on the positive experience over the last three years in working with SilverStone Group, Staff suggests the renewal of a three year agreement with SilverStone Group to provide these services from 2010 - 2012. The renewal retains the three year fixed amount schedule with an adjustment and combines the Pension and post-retirement medical expenses services.

FUNDING SOURCE

Not applicable.

PUBLIC NOTICE

Not applicable.

Prepared By:
Nicholas Sanders, PHR
Human Resources Specialist
Date: November 2, 2009

**Actuarial and Administrative
Services Agreement**

Between

The City of Prairie Village

and

SilverStone Group

Updated as of May 2009

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THIS ACTUARIAL AND ADMINISTRATIVE SERVICES AGREEMENT ("Agreement") is made and entered into effective as of the 1st day of January, 2010 (the "Effective Date"), by and between SilverStone Group, doing business from Omaha, Nebraska, (hereinafter referred to as "SilverStone Group"), and the City of Prairie Village, Kansas, (hereinafter referred to as "the City").

WITNESSETH

WHEREAS, the City maintains the Prairie Village, Kansas Police Department Pension Plan "Pension Plan" which is under the general management and administration of the City.

WHEREAS, the city maintains a post-retirement medical and dental plan "Post-Retirement Medical Plan" which is under the general management and administration of the city.

WHEREAS, subject to the terms and conditions set forth herein, the City deems it appropriate to engage SilverStone Group to provide certain actuarial and administrative services for the Pension Plan and Post-Retirement Medical Plan ("Plans"), and SilverStone Group desires to accept such engagement.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **Contract for Services.** The City hereby contracts with SilverStone Group for their services as actuaries and administrators to the Plans, and SilverStone Group hereby accepts such contract and agrees to provide such services in accordance with this Agreement.
2. **Actuarial Services.** SilverStone Group shall render their services as actuaries to the Pension Plan as requested by the City in the Request for Proposals for Actuarial Services dated September 1, 2006 and included as part of this Agreement by reference. SilverStone Group shall perform such services as described in their Actuarial Services Proposal for Prairie Village, Kansas Police Department Retirement Plan, dated September 2006, and which is included as part of this Agreement by reference. Such services shall specifically include, but shall not be limited to, the services described as follows:
 - a. Actuarial Valuation
 - b. Annual Required Contribution
 - c. Governmental Accounting Standards Board GASB 25 and 27 Disclosure
 - d. Annual Statements
 - e. Calculations for Retiring Employees
 - f. Periodic Employee Education Meeting
 - g. Periodic Meetings with representatives of the City and the Plan

In addition, SilverStone Group shall render their actuarial services to the Post-Retirement Medical Plan as appropriate for the City to comply with the GASB 43 and 45 accounting standards. SilverStone Group shall perform such services as described in their Actuarial Services Proposal dated March 22, 2007, which is part of this Agreement by reference.

These services shall specifically include, but shall not be limited to, the services described as follows:

- a. Annual Required Contribution
 - b. GASB 43 and 45 Disclosure Report
 - c. Periodic Meetings with representatives of the City
 - d. Consultative services regarding implementation of GASB 43 and 45
3. **Other Consulting Services.** SilverStone Group will provide, at the City's request, additional consulting services to the Plans. These services may include, but are not limited to, (i) additional meetings with the City, the Plan, or other employee educational meetings not made part of the "standard" agreement (ii) plan design analysis and projection modeling based on plan design modification considerations; (iii) plan document or plan summary reviews; (iv) any other actuarial or administrative consulting services deemed necessary or appropriate by the Plans of the city; (vii) suggestions/recommendations by SilverStone Group.
4. **Actuarial and Administrative Personnel.** SilverStone Group shall at all times throughout the term of this Agreement maintain a team of qualified professionals comprised of designated full-time employees/ principals of SilverStone Group who are permanently assigned to monitor, oversee and provide on a daily basis all of the actuarial and administrative services to be provided to the Plans hereunder, and to receive and address all concerns communicated by the City. The City, in its sole discretion, shall have the right to demand the replacement of any individuals assigned to provide actuarial and administrative services to the City hereunder, in which case SilverStone Group shall immediately replace such person(s) with qualified replacements acceptable to the City in its sole discretion
5. **Actuarial Fees.** As consideration for the services set forth in this Agreement, the City agrees to pay SilverStone Group the fees that are applicable and as otherwise set forth in Section 17 of this Agreement. Fees related to any renewal period shall be in accordance with any other applicable terms and conditions set forth below.
6. **Invoices.** SilverStone Group shall provide the City with quarterly invoices not later than the twenty-fifth (25th) day of the month following each calendar quarter. These invoices shall set forth the amount of fees for the work performed in the preceding calendar quarter.
- Payment for services must be made within 30 days of receipt of invoice. Payments made subsequent to such period, shall be subject to a late charge and reasonable interest as determined by SilverStone Group.
7. **Term.** The term of this Agreement shall commence on the Effective Date, and shall continue through December 31, 2012, unless terminated before that time by the City in accordance with applicable notice and termination requirements set forth below. The continuation of the agreement shall be contingent upon the periodic review by the City of the services being provided by SilverStone Group. This Agreement may be renewed for additional annual periods by mutual written agreement by both parties.

8. **Termination for Cause.** Without in any manner limiting the right of the City to terminate this Agreement or declare SilverStone Group in default thereof for any reason set forth herein or in the Request for Proposal documents, if the work to be done under this contract shall be abandoned or underperformed in any material respect by SilverStone Group; or if this Agreement shall be assigned by SilverStone Group otherwise than as herein provided; or if SilverStone Group should be judged as bankrupt; or if a general assignment of its assets should be made for the benefit of its creditors; or if a receiver should be appointed for SilverStone Group or any of its property; or if the SilverStone Group or any of its owners are investigated by any state or federal regulatory agency and the interests of the City and its Plans are negatively impacted; or if at any time the City determines that the performance of the work under this contract is being unnecessarily delayed, that SilverStone Group is violating any of the conditions or covenants of this Agreement, that it is executing the same in bad faith or otherwise not in accordance with the terms of said Agreement; then, in addition to other rights the City may choose to exercise, the City may, at its option, serve written notice upon SilverStone Group of the City's intention to terminate this Agreement, and, unless within ten (10) days after the serving of such notice upon SilverStone Group a satisfactory arrangement be made for the continuance thereof, this Agreement shall cease and terminate unless the City otherwise agrees to continue the Agreement. In the event of such termination, the City shall immediately serve notice thereof upon SilverStone Group, and the City may take over the work and prosecute same to completion by contract with another actuarial firm or otherwise and in such event the City may take possession of and utilize in completing the work any and all documents and other materials as may be necessary therefore. When SilverStone Group's services have been so terminated, such termination shall not affect any rights or remedies of the City against SilverStone Group then existing or which may later accrue, as well as shall relieve the City, the Plans or any applicable representatives from the payment of any monies that may otherwise be due to SilverStone Group in accordance with this Agreement generally. .
9. **Termination without cause.** The City may terminate this Agreement at any time without cause by providing delivery of at least a 60-days advance written notice to SilverStone Group. In the event that the City exercises its right to terminate the Agreement as provided in this Paragraph, SilverStone Group shall be entitled to payment pursuant to Paragraph 5 hereof for services actually rendered to the City prior to the date of termination.
- SilverStone Group may terminate this agreement at any time without cause by providing delivery of at least 60-days written advance notice to the City.
10. **Indemnification of the City and the Plans.** SilverStone Group shall defend, indemnify and hold the City, the Plans, as well as any applicable council members, employees, Plan fiduciaries, other agents or similar representatives, harmless from and against any and all claims, suits, losses, liabilities, costs, damages and expenses, including reasonable attorneys' fees and court costs, suffered or incurred by the City or the Plans arising from or as a result of negligence, fraud or willful misconduct by SilverStone Group or any representative, agent or employee of SilverStone Group, or any such party's failure to perform its duties and obligations under this Agreement.

The City and/or Plans shall defend, indemnify and hold SilverStone Group harmless from and against any and all claims, suits, losses, liabilities, costs, damages and expenses, including reasonable attorney's fees and court costs, suffered or incurred by SilverStone Group arising from or as a result of negligence, fraud or willful misconduct by the City or the Plans or any representative, agent or employee of the City or the Plans or any such party's failure to perform its duties and obligations under this Agreement.

11. **Insurance.** From and after the Effective Date and continuing throughout the term of this Agreement, SilverStone Group shall, at their sole cost and expense, carry and maintain in full force and effect a professional liability errors and omissions insurance policy with a policy limit of not less than Fifteen Million Dollars (\$15,000,000), as well as such other coverages that are required by the Request for Proposal. SilverStone Group shall provide the City with not less than sixty (60) days prior written notice of any proposed change in the type, coverage or amount of insurance required hereunder.
12. **Access to and Ownership of the City Files and Information.** SilverStone Group hereby acknowledges and agrees that the City, the Plans, and the City's Plan's authorized representatives, agents and employees shall have access to and the right to examine, inspect, audit, transcribe and copy during SilverStone Group's normal business hours, any and all accounts, books, documents, records and papers relating to the services provided pursuant to this Agreement. All such examinations shall be at the City's or the Plans' expense and shall be conducted in a manner which preserves the confidentiality of SilverStone Group's records and business operations.

All intellectual property rights (such as copyrights and trade secrets) relating to materials and information developed by or relating to the Plans and disclosed or supplied to SilverStone Group under this Agreement (the "Plan Information") will belong exclusively to the City or the Plans, as applicable. All intellectual property rights (such as copyrights and trade secrets) relating to SilverStone Group's work product (including all materials and information developed by SilverStone Group in the course of performing services under this Agreement, but excluding Plan Information) ("SilverStone Group's Work") will belong exclusively to SilverStone Group. If personnel of SilverStone Group incorporate into SilverStone Group's Work any information relating to the Plan to which SilverStone Group's confidentiality obligations under this Agreement apply, the information so incorporated into SilverStone Group's Work will be and remain subject to such confidentiality obligations. SilverStone Group hereby grants to the City and/or the Plans the perpetual and unrestricted right to use, reproduce and incorporate into other work all SilverStone Group's work delivered to the City under this Agreement for any internal business purpose of the City or the Plans.

13. **Confidential Treatment of Plan Files and Information.** SilverStone Group acknowledges and agrees that, in the course of rendering their actuarial and administrative services and otherwise performing their duties and obligations hereunder, they shall be provided and entrusted with the safekeeping of certain documents and information relating to the City and its property and accounts (including Plan Information). All such Plan Information shall at all times during the term of this Agreement and for a period of five (5) years thereafter, be treated by SilverStone

Group as strictly confidential and sensitive proprietary business information. SilverStone Group shall maintain commercially reasonable policies and procedures to ensure the confidentiality and safekeeping of such Plan Information and shall not, except in accordance with the express terms of this Agreement or with the prior written consent of the City, disclose or permit the disclosure of any Plan Information to any person or entity whatsoever other than SilverStone Group's employees, offers and agents directly assigned to provide actuarial and administrative services to the Plans hereunder, each of which shall be provided with such Plan Information solely on a "need-to know" basis and shall be bound by the confidentiality provisions of this Paragraph. The parties hereto acknowledge and agree that the confidentiality provisions set forth in this Paragraph shall not apply to: (i) information which is already known to SilverStone Group prior to disclosure by the City; (ii) information which is in the public domain or is otherwise generally available to the public; (iii) information which is available to SilverStone Group from third parties, which third parties and information are not subject to non-disclosure obligations to the City; or (iv) information which is independently developed by SilverStone Group. Furthermore, in the event any court or regulatory order or other service of legal process requires SilverStone Group to disclose information subject to the confidentiality provisions of this Paragraph, SilverStone Group, after providing written notice to the City as soon as reasonably possible after receipt of any such order or service of process, shall be permitted to make any disclosure required by law. SilverStone Group further agrees to cooperate with the City in responding to any such orders. SilverStone Group acknowledges and agrees that any breach, attempted breach or repudiation of the confidentiality requirements set forth in this Paragraph would produce irreparable harm and injury to the City and therefore agree that specific performance and/or injunctive relief, in addition to any other remedies available to the City at law or in equity, shall be remedies available to prevent the breach, attempted breach or repudiation of this Paragraph.

14. **Representations.** SilverStone Group makes the following representations:
- The price submitted is independently arrived at without collusion.
 - It has not knowingly influenced and promises that it will not knowingly influence a City employee or former City employee to breach any of the ethical standards set forth within the City's applicable procurement regulations and the City's Code of Ethics.
 - It has not violated, and is not violating, and promises that it will not violate any prohibition against gratuities and kickbacks set forth within the City's procurement regulations, as applicable.
 - It has not retained and will not retain a person to solicit or secure a City contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
15. **Integrated Agreement; Severability.** This Agreement, including reference proposal documents, constitutes the entire understanding between the parties concerning the

subject matter hereof. No other prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the parties relating to the subject matter hereof and not embodied in this Agreement, shall be of any force or effect. This Agreement shall not be modified except in a writing signed by all parties hereto. If any provision of this Agreement shall for any reason be held to be invalid, unenforceable, or contrary to public policy, whether in whole or in part, the remaining provisions shall not be affected by such holding.

16. **Governing Law.** The statutes, regulations, and judicial interpretations of the laws of the State of Kansas shall determine all questions arising with respect to the provisions of this Agreement, except to the extent federal statutes supercede the laws of the State of Kansas.
17. **Exhibit – Cost Proposals.** The cost proposal section of SilverStone Group’s Proposal is included as an exhibit of the Agreement and is otherwise incorporated in the manner set forth below:

Actuarial and Administrative Services – Charges for actuarial and administrative services will be based on time records. However, we will guarantee the time charges will not exceed the following amounts for the 2010, 2011, and 2012 years.

Pension Plan

• Actuarial Valuation	\$5,025
• Annual Required Contribution	1,280
• Government Accounting Standards Board (GASB) Disclosures	2,525
• Annual Statements	925
• Calculations for Retiring Employees	
- Each Retirement, Death	\$ 275
- Each Termination, Disability	190
- Each Estimate	165
- Each QDRO	Minimum of 500
• “What If” Analysis	Project/Time
• Employee Education	Project/Time
• Ongoing Services	Time
• Optional Services	Project/Time

Post-Retirement Medical Plan

- Actuarial Valuation \$5,925
- GASB 45 Disclosure and Required Supplement Information 1,900
- "What If" Analysis Project/Time
- Employee Education Project/Time
- Ongoing Services Time
- Optional Services Project/Time

Project/Time Charges – Charges for any "What If" Analysis, Employee Education, Ongoing Services and Optional Services will be based on our regular hourly rates. We will provide and estimate of additional charges for each project before beginning work.

Hourly Rates – Our hourly billing rates applicable to 2010, 2011, and 2012 will be:

	Hourly Rate
Principal Actuary	\$275
Group Medical Consultant	275
Support Actuary	225
Actuarial Analyst	150
Administrator	100

Telephone Calls – We expect to establish an open line of communication. This should include informal calls that you place to our consultants, actuaries or administrators. We will not submit time charges for calls that you place to ask questions or seek Clarification regarding work we have performed. If, as a result, we are asked to perform additional work or conduct specific research to answer a question, we will identify the Work as a special project and record our time. In this situation we will provide an estimate of the anticipated charges for the special project.

IN WITNESS WHEREOF, the City and SilverStone Group have duly executed this **ACTUARIAL AND ADMINISTRATIVE SERVICES AGREEMENT** effective as of the day and year first above written.

THE CITY OF PRAIRIE VILLAGE

SILVERSTONE GROUP

By: _____

By: _____

Its: _____

Its: _____

Addresses

The City of Prairie Village, Kansas
Municipal Building
7700 Mission Road
Prairie Village, Kansas

SilverStone Group
11516 Miracle Hills Drive
Omaha, NE 68154



COUNCIL COMMITTEE

Committee Meeting Date: November 16, 2009
Council Meeting Date: November 16, 2009

COU2009-108: Consider approving plan changes to the City's Supplemental Pension Plan.

SUGGESTED MOTION

Move that the Governing Body:

- Approve changes to the City's Supplemental Pension Plan (SPP) with the effective date of the new plan of January 1, 2010, and,
- Approve that ING will become the trustee effective January 1, 2010 and custodian of assets contributed to the plan January 1, 2010 and thereafter with M&I remaining as sub-custodian on all assets in the plan as of December 31, 2009 and sub-custodian on plan asset balance as of December 31, 2009 through delivery to ING on February 1, 2010.

RECOMMENDATION

The SPP Board recommends approval of the proposed plan changes.

BACKGROUND

In 1981, the City developed the Supplemental Pension Plan to assist KPERS eligible employees in saving for retirement. There are currently 60 employees in the plan and includes all non-sworn personnel. While there have been a minor changes to the plan, it has remained relatively the same since its inception. In early 2009, the Supplemental Pension Advisory Board began to review the performance, applicability, and design of the Supplemental Pension Plan. The determination was made to investigate the options of updating the plan. After much discussion, the Board recommends changes to the design of the Supplemental Pension Plan that they believe will be more equitable and provide a greater benefit to employees currently in the plan and in the future.

Contributions

The City's annual contribution is the only source for the pool. Participating employees do not contribute to the pool. The City's contribution is a calculated formula based on salary and in 2008 it was \$119,000. The City contribution is allocated on a points system with the employee receiving one point for every year of service and one point for every thousand dollars in base salary. The employee receives an allocation based on their points proportionate to that of the total points of all active employees in the plan.

The new plan design is a significant change to the existing pool model. The plan is proposed to be a 'match' system that is based on the employee's contribution to their Section 457 Plan (Deferred Compensation) with the City's contribution going to the employee's Section 401(a) Plan (see below). The plan encourages employees to become an active participant in their retirement both in the contribution and in the investment choices they may make.

Proposed Plan

Employee Match 457 - %	City Match 401(a) - %
0.00	3.50
1.00	4.00
2.00	4.50
3.00	5.00
4.00	5.50
5.00	6.00

Forfeitures

Under the current plan design, forfeitures are allocated to any individual (active, separated, or retired) who has funds in the plan in proportion to the balance of the pension fund. Therefore, an individual (active, separated, or retired) who has 10% of the balance in the fund would receive 10% of the amounts forfeited. Currently, the vesting schedule is tiered over 11 years, see below:

Current Plan

Years	% Vested
Less Than 4	0
4	40
5	45
6	50
7	60
8	70
9	80
10	90
11	100

With the change in plan design, vesting would be two year 'cliff' vesting with the employee being 0% vested until they reach two years of employment and then becoming 100% vested. Any funds that would be forfeited by an employee who separates from the City within two years of their date of hire would be used to offset future City contributions. The City's contribution and employee match will occur at each pay period based on gross salary. The employee can change match levels at any time to be effective with the next pay period.

Plan members who are no longer employed by the City or may be receiving payments from the Supplemental Pension Plan will also experience a change. When the Plan transitions to the new design, the balance of their account as of December 31, 2009 will be transferred over to a 401(a) account; pensioners will continue to receive payments just as they have in the past.

ING has been selected as the administrator of the accounts due to their relationship with the State of Kansas and the additional benefits they offer plan participants. This partnership will enable employees the ability to view their retirement benefits from the City and KPERS in order to make smart financial decisions. ING representatives will be available meet with employees and provide financial advice at any time and enhance the retirement education of all employees who participate in the Supplemental Pension Plan.

The proposed plan was drafted by Lathrop & Gage with direction and guidance of the Supplemental Pension Plan Board. The proposed plan was reviewed by ING.

With the pending significant changes to the plan, the City Administrator, HR specialist and the employee board representative (Bob Pryzby) met with affected employee groups to discuss the existing plan and proposed plan changes.

It is recommended that this item be forwarded to City Council the same evening due to the significant work of deconverting the old plan and providing information to plan participants including separated and retired employees.

FUNDING SOURCE

The annual amount contributed by the City will remain part of the annual budget process in the General Fund. The new plan was modeled to maintain the same level of funding toward the Supplemental Pension Plan.

PUBLIC NOTICE

Not applicable.

ATTACHMENTS

- Proposed Supplemental Pension Plan

Prepared By:

Nicholas Sanders, PHR
Human Resources Specialist
Date: November 9, 2009

ING

**SPECIMEN 401(a) DEFINED CONTRIBUTION PLAN FOR
GOVERNMENTAL EMPLOYERS
BASIC PLAN DOCUMENT**

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SPECIMEN 401(a) DEFINED CONTRIBUTION PLAN
FOR GOVERNMENTAL EMPLOYERS
PREAMBLE

The Employer hereby establishes the Code Section 401(a) Defined Contribution Plan for Governmental Employers (the "Plan").

The Plan is intended to be a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code (the "Code"); based on the election of the Employer in the Adoption Agreement, a money purchase pension plan within the meaning of Section 1.401-1(b)(1)(i) of the Income Tax Regulations or a profit sharing plan within the meaning of Section 1.401-1(b)(1)(ii) of the Income Tax Regulations; and a governmental plan within the meaning of Section 414(d) of the Code and Section 3(32) of the Employee Retirement Income Security Act of 1974.

The Plan consists of the provisions set forth in this basic plan document and the Adoption Agreement and is applicable to each Eligible Employee.

ARTICLE I
DEFINITIONS

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context.

1.1 "414(h) Pick-Up Contributions" means mandatory contributions that all Participants must make if required under the Adoption Agreement pursuant to Section 414(h) of the Code. 414(h) Pick-Up Contributions are picked up by the Employer in accordance with Section 414(h)(2) of the Code and are treated as Employer Contributions for federal income tax purposes, but are considered "wages" for purposes of FICA and FUTA.

1.2 "414(h) Pick-Up Contributions Account" means the account (including any earnings and losses attributable thereon) established and maintained by the Administrator for each Participant with respect to his total interest under the Plan resulting from 414(h) Pick-Up Contributions.

1.2A "457(b) Plan" means the Code Section 457(b) Plan specified in the Adoption Agreement in which the Employer participates.

1.3 "Administrator" means the person(s), committee or organization appointed by the Employer pursuant to Section 5.2 to administer the Plan and perform administrative functions for the Plan as specified by the Employer.

1.4 "Adoption Agreement" means the separate agreement which is executed by the Employer and sets forth the elective provisions of the Plan. The Adoption Agreement is considered a part of the Plan.

1.5 “Anniversary Date” means the annual date for valuation of Plan assets specified in the Adoption Agreement, but in no event shall a valuation of Plan assets be performed less than once a year occurring on the last day of the Plan Year.

1.6 “Beneficiary” means the individual, individuals or trust designated by the Participant in writing on a form acceptable to the Administrator, and received by the Administrator before the Participant’s death, to receive any undistributed amounts under the Participant Account which becomes payable upon the Participant’s death. A Beneficiary may designate his own Beneficiary. In addition, any Beneficiary designation will meet the requirements of applicable state law.

1.7 “Code” means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.8 “Compensation” with respect to any Participant means such Participant’s annual compensation as defined in the Adoption Agreement and as determined within the 12-consecutive month period specified in the Adoption Agreement that is paid during that 12-consecutive month. If a Participant’s compensation is determined for a period of less than 12 months, the annual compensation limit described below is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12.

The annual compensation of each Participant that may be taken into account in determining allocations for any Plan Year shall not exceed \$200,000, as adjusted for the cost of living increases in accordance with Section 401(a)(17)(B) of the Code. The Plan may provide that the Compensation of an “eligible Participant” be not less than such Participant’s Compensation determined as of July 1, 1993 and adjusted for cost of living. For purposes of this Section, an eligible Participant is an individual who first became a Participant in the Plan before the first day of the first Plan Year beginning after the earlier of:

- (a) the last day of the Plan Year by which the Plan is amended to provide for the 1995 limit on Compensation and such amendment becomes effective, or
- (b) December 31, 1995.

The cost of living adjustment in effect for a calendar year applies to Compensation for the determination period that begins with or within such calendar year.

Notwithstanding the foregoing, except as specifically described below, Compensation shall not include amounts paid to a Participant after the date of his or her severance from employment with the Employer.

- (1) Compensation shall include regular pay paid after a Participant’s severance from employment with the Employer if (i) the payment is regular compensation for services performed during the Participant’s regular working hours, or compensation for services performed outside of the Participant’s regular working hours, commissions, bonuses, or other similar payments; (ii) the payment would have been paid to the Participant prior to a severance

from employment if the Participant had continued in employment with the Employer and would have been treated as Compensation; and (iii) the payment is made by the later of 2 ½ months after the date of the Participant's severance from employment with the Employer or by the end of the Plan Year that includes the date of such severance from employment.

(2) Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Section 414(u)(1) of the Code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

1.9 "Eligible Employee" means any individual Employee of the Employer who meets the criteria set forth in Section 2.1, and is in one or more of the classifications of Employees specified in the Adoption Agreement.

1.10 "Employee" means any person who is employed by the Employer and who performs services for the Employer for which compensation is paid. If elected by the Employer in the Adoption Agreement, the term Employee shall include Leased Employees.

1.11 "Employer" means the governmental employer that satisfies the definition of Section 414(d) of the Code and is named in the Adoption Agreement (together with any other entity required to be aggregated with such governmental employer under Sections 414(b), (c), (m) or (o) of the Code), and any successor which shall maintain this Plan, and any predecessor which has maintained this Plan.

1.12 "Employer Contributions" means the Employer's contributions (other than Matching Contributions) to the Plan in accordance with the formula selected in the Adoption Agreement.

1.13 "Employer Contributions Account" means that portion of the Participant Account established and maintained by the Administrator for each Participant with respect to his total interest (including any earnings and losses attributable thereon) under the Plan resulting from Employer Contributions and/or Matching Contributions.

1.14 "Fiscal Year" means the Employer's 12-month consecutive accounting year specified by the Employer in the Adoption Agreement.

1.15 "Forfeiture" means that portion of a Participant's Employer Contributions Account that is not Vested and in which the Participant no longer has an interest and will be treated in accordance with Section 3.8(c).

1.16 "Investment Product" means group or individual annuity contracts or such other investment arrangements issued by or offered through the Provider and used to hold the assets of the Plan. Notwithstanding the previous sentence, life insurance shall not be a permissible investment product under the Plan.

1.17 "Leased Employee" means any person (other than an Employee of the Employer) who, pursuant to an agreement between the Employer and any other person or entity ("leasing

organization”) has performed services for the Employer (or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the Employer. Contributions or benefits provided for a leased employee by the leasing organization which are attributable to services performed for the Employer will be treated as provided by the Employer.

A leased employee will not be considered an employee of the Employer if: (a) such individual is covered by a money purchase pension plan sponsored by the leasing organization providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Section 415(c)(3) of the Code, including amounts contributed pursuant to a salary reduction agreement which are excludable from the individual’s gross income under Section 125, 402(e)(3), 402(h)(1)(B), 403(b) or 132(f)(4) of the Code, (2) immediate participation, and (3) full and immediate vesting, and (b) leased employees do not constitute more than 20 percent of the Employer’s nonhighly compensated work force.

1.18 “Matching Contribution” means the Employer’s contributions to the Plan, made in accordance with the formula selected in the Adoption Agreement, that match a Participant’s elective deferrals made under the Code Section 457(b) Plan designated in the Adoption Agreement.

1.19 “Normal Retirement Age” means the earliest date attained by a Participant as selected by the Employer in the Adoption Agreement and thus is entitled to a distribution under the Plan. At Normal Retirement Age, a Participant shall become fully Vested in his Participant Account.

1.20 “Participant” means any individual who participates in the Plan and subsequently has not for any reason become ineligible to participate further in the Plan and has not yet received a distribution of his entire Participant Account under the Plan.

1.21 “Participant Account” means the total of a Participant’s 414(h) Pick-Up Contributions Account, Rollover Contributions Account, Voluntary Contributions Account and the Employer Contributions Account for each Participant in the Plan, the account established for a Beneficiary after a Participant’s death, and any account or accounts established for an alternate payee (as defined in Section 414(p)(8) of the Code).

1.22 “Plan” means the name of the Plan as indicated in the Adoption Agreement.

1.23 “Plan Year” means the Plan’s 12-consecutive month accounting year as elected by the Employer in the Adoption Agreement.

1.24 “Provider” means ING Life Insurance and Annuity Company and/or ReliaStar Life Insurance Company or such other provider entity as the Employer may approve.

1.25 “Rollover Contribution” means, if so elected by the Employer in the Adoption Agreement, contributions made by a Participant (or, if applicable, Eligible Employee) pursuant to Section 3.6 of “eligible rollover distributions” in accordance with Section 402(c)(4) of the Code. If elected by an Employer in the Adoption Agreement, the Plan will accept Rollover

Contributions of after-tax amounts from other qualified defined contribution plans within the meaning of Section 401(a) of the Code.

1.26 “Rollover Contributions Account” means the account established and maintained by the Administrator for each Participant (or, if applicable, Eligible Employee) with respect to his total interest (including any earnings and losses attributable thereon) under the Plan resulting from Rollover Contributions, if permitted in the Adoption Agreement. To the extent that an Eligible Employee rolls over after-tax amounts to the Plan from another plan subject to Section 401(a) of the Code, such after-tax amounts in the Rollover Contributions Account will be separately accounted for.

1.27 “Total and Permanent Disability” means the inability to perform the duties customary for the applicable position of employment for an indefinite period of time that the Administrator considers will be of long, continued duration. The determination of Total and Permanent Disability of a Participant shall be performed by a licensed physician chosen by the Administrator. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is totally and permanently disabled for the purposes of this Plan. The criteria for determination of Total and Permanent Disability shall be applied uniformly to all Participants.

1.28 “Vested” means the nonforfeitable portion of any account maintained on behalf of a Participant in accordance with Section 3.8.

1.29 “Voluntary Contributions” means a contribution made to a Plan by a Participant on an after-tax basis pursuant to the election of the Participant.

1.30 “Voluntary Contributions Account” means the account established and maintained by the Administrator for each Participant with respect to his total interest (including any earnings and losses attributable thereon) under the Plan resulting from Voluntary Contributions.

ARTICLE II ELIGIBILITY

2.1 Eligibility

Each Eligible Employee will be a Participant in the Plan when he satisfies the eligibility requirements specified in the Adoption Agreement.

2.2 Determination of Eligibility and Effective Date of Participation

(a) The Administrator will determine whether an Eligible Employee has satisfied the eligibility requirements specified in the Adoption Agreement based upon information furnished by the Employer. Such determination will be conclusive and binding and the criteria for such determination will be applied uniformly to all Participants.

(b) An Eligible Employee who has become eligible to be a Participant shall become a Participant effective as of the day specified in the Adoption Agreement. In the event an

Employee who has satisfied the Plan's service and age requirements for eligibility but who has not satisfied one of the classifications of an Eligible Employee at any time becomes an Eligible Employee, such Employee shall become a Participant immediately as of the date he becomes an Eligible Employee.

(c) If applicable, the Participant will provide investment direction for contributions made to an Investment Product on such forms as may be required by the Provider.

2.3 Termination of Eligibility

In the event a Participant will go from a classification of an Eligible Employee to a non-Eligible Employee, such Participant will not be able to participate in the Plan until he is again reclassified as an Eligible Employee. The Participant Account of such inactive Participant will continue to be allocated any attributable earnings and losses.

2.4 Information Provided by the Employee

Each Eligible Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan.

2.5 Leave of Absence

If an Employee is absent from work by leave of absence, contributions under the Plan shall continue to the extent that Compensation continues.

2.6 Payment of Contributions to Investment Product

The Employer shall remit to the Provider the contributions to be allocated under the Investment Product to fund benefits under the Plan within the time period prescribed by applicable law or under any applicable collective bargaining agreement.

ARTICLE III CONTRIBUTION AND ALLOCATION

3.1 Employer Contributions and Matching Contributions

If the Plan is a money purchase pension plan within the meaning of Section 1.401-(b)(1)(i) of the Income Tax Regulations as elected by the Employer in the Adoption Agreement, the Employer will make Employer Contributions and/or Matching Contributions for each Plan Year as elected in the Adoption Agreement. If the Plan is a profit sharing plan within the meaning of Section 1.401-1(b)(1)(ii) of the Income Tax Regulations as elected by the Employer in the Adoption Agreement, the Employer may elect to make Employer Contributions and/or Matching Contributions each Plan Year and such Employer Contributions and Matching Contributions shall be allocated in accordance with the formula elected by the Employer in the Adoption Agreement. Employer Contributions and Matching Contributions are subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such

Employer Contributions and Matching Contributions shall both be allocated to the Participant's Employer Contributions Account.

3.2 414(h) Pick-Up Contributions

A Participant shall make 414(h) Pick-Up Contributions as indicated in the Adoption Agreement, subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such contributions shall be allocated to the 414(h) Pick-Up Contributions Account of each Participant.

3.3 Voluntary Contributions

A Participant may make Voluntary Contributions to the Plan as indicated in the Adoption Agreement, subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such contributions shall be allocated to the Voluntary Contributions Account of each Participant.

3.4 Maximum Annual Additions

(a) The maximum permissible Annual Additions that may be contributed or allocated to each Participant Account under the Plan for any Limitation Year shall not exceed the lesser of:

- (1) \$40,000, as adjusted for increase in the cost of living under Section 415(d) of the Code, or
- (2) 100 percent of the Participant's Compensation for the Limitation Year.

(b) For purposes of this Section, "Annual Additions" means, for any Limitation Year, the sum of Employer Contributions, Matching Contributions, 414(h) Pick-Up Contributions, Voluntary Contributions and Forfeitures to the Plan and any contributions and forfeitures allocated to any other qualified defined contribution plans of the Employer which are required to be aggregated with the Plan in accordance to Section 1.415(c)-1(a)(2) of the Income Tax Regulations. For this purpose, any excess amount applied under Section 415 of the Code in the Limitation Year to reduce Employer contributions shall be considered "Annual Additions" for such Limitation Year.

(c) For purposes of this Section, "Limitation Year" means the 12-consecutive month calendar year. If the Employer maintains any other qualified defined contribution plans as defined in Section 1.415(c)-1(a)(2) of the Income Tax Regulations, such other plans shall also use the calendar year as the Limitation Year.

(d) If a Participant participates in another qualified defined contribution plan maintained by the Employer (as defined in Section 1.415(c)-1(a)(2)) which is required to be aggregated with the Plan for purposes of this Section, the amount of Annual Additions which may be credited to an individual's Participant Account for any Limitation Year shall not exceed the maximum permissible amount described in subsection (a). If amounts allocated to an individual's participant account maintained under such other plans are equal or greater than the

maximum permissible amount described in subsection (a) in a Limitation Year, no amount shall be contributed to the Participant Account under the Plan for that Limitation Year.

3.5 Adjustment for Excess Annual Additions

(a) Notwithstanding Section 3.4(d), if the maximum permissible amount described in Section 3.4(a) is exceeded and if the Employer sponsors more than one qualified defined contribution plan, then any excesses will first be cured from such other qualified plan. If excesses remain or if there is no other qualified defined contribution plan of the Employer, then any remaining excesses shall be corrected in accordance with this Section.

(b) Notwithstanding any provision of the Plan to the contrary, if the Annual Additions to a Participant Account under the Plan are exceeded in any Limitation Year, then the Plan shall correct such excess in accordance with the Income Tax Regulations and such other guidance as the IRS may issue from time to time including Revenue Procedure 2008-50 or such other superseding guidance.

3.6 Rollovers to the Plan

(a) If elected by the Employer in the Adoption Agreement and with the consent of the Administrator, amounts that are considered eligible rollover distributions as defined in Section 402(c)(4) of the Code may be rolled over by an Eligible Employee, whether or not a Participant at the time, from an eligible retirement plan, as defined in subsection (b) below. A Participant who is a surviving spousal Beneficiary or an alternate payee (who is a spouse or former spouse) of another eligible retirement plan may roll over eligible rollover distributions from such eligible retirement plan as further defined in subsection (b). Such amounts shall be allocated to the Participant's Rollover Contributions Account.

(b) For purposes of this Section, the term "eligible retirement plan" means any other plan under Section 401(a) of the Code, a plan under Section 457(b) of the Code maintained by an employer as defined in Section 457(e)(1)(A) of the Code, a plan under Section 403(b) of the Code, an individual retirement account as described in Section 408(a) of the Code, and an individual retirement annuity as described in Section 408(b) of the Code, provided that after-tax amounts may only be rolled into the Plan from another plan that is subject to Section 401(a) of the Code. For purposes of this Section, the term "amounts rolled over from an eligible retirement plan" means:

- (1) amounts rolled to the Plan directly from another eligible retirement plan on behalf of an Eligible Employee (or Participant, surviving spouse or alternate payee, as applicable); and
- (2) eligible rollover distributions as defined in Section 402(c)(4) of the Code received by an Eligible Employee (or Participant, surviving spouse or alternate payee, as applicable) from another eligible retirement plan that are rolled over by the him to the Plan within sixty (60) days, following his receipt thereof.

3.7 Investments

Amounts deferred under the Plan will be invested in any Investment Product. If applicable, a Participant will direct the investment of his Participant Account among the investment options available under the Investment Product. Contributions will be allocated to a Participant Account in accordance with this Article III and earnings and losses attributable to such contributions will be allocated to such Participant Account. If any provision of an Investment Product agreement is not consistent with the Plan provisions, the terms of the Plan will control.

3.8 Vesting

(a) The Vested portion of any Employer Contributions Account will be a percentage of such Account determined on the basis of the Participant's number of years in accordance with the vesting schedule selected by the Employer in the Adoption Agreement. Criteria for determining a Participant's years with the Employer shall be made on a uniform basis applicable to all Eligible Employees and subject to the terms of any applicable collective bargaining agreement.

(b) A Participant is always fully vested in his 414(h) Pick-Up Contributions, Rollover Contributions, Voluntary Contributions and the earnings thereon.

(c) Except as provided in subsection (d) below, any amount that is not Vested upon a Participant's separation from service will be considered to be a Forfeiture and will be used as directed by the Employer.

(d) Notwithstanding the foregoing, a Participant will be 100% vested in any Employer Contributions and Matching Contributions upon attaining Normal Retirement Age, Total and Permanent Disability, death of the Participant, termination of the Plan or the complete discontinuance of Employer contributions.

(e) If the Plan's vesting schedule is amended, or if the criteria for determining years with the Employer is amended in any way that directly or indirectly affects the computation of the Participant's Vested percentage, then each Participant who has performed services for the Employer for at least three (3) years as of the end of the election period as defined below may elect to have such Participant's Vested percentage computed under the Plan without regard to such amendment or change, subject to any applicable collective bargaining agreement. If a Participant fails to make a timely election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the adoption date of the amendment and shall end sixty (60) days after the latest of:

- (1) the adoption date of the amendment,
- (2) the effective date of the amendment, or
- (3) the date the Participant receives written notice of the amendment from the Employer or Administrator.

3.9 Protection of Persons Who Serve in a Uniformed Service

(a) Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

(b) In the case of a Participant who dies while performing qualified military service (as defined in Section 414(u) of the Code), the Beneficiaries are entitled to any additional benefits (other than deferrals relating to the period of qualified military service) provided under the Plan had the Participant resumed employment and then had a separation from service on account of death.

(c) In the case of a Participant who receives a differential wage payment, as described in Code Section 3401(h)(2)), for purposes of the Plan (i) such individual shall be treated as an Employee of the Employer, (ii) such differential wage payment shall be treated as Compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(c) by reason of any contribution which is based on such differential wage payment.

3.10 Plan to Plan Transfers

The Administrator may, in its discretion, enter into merger agreements or direct transfer of assets agreements with the administrator(s) of other retirement plans described in Code Section 401(a) and, as a party to any such agreement, may accept the direct transfer of plan assets to this Plan, or transfer Plan assets from this Plan. The Administrator shall hold, administer and distribute the transferred assets as part of the Plan and shall maintain a separate Employer Contributions Account for the benefit of the Participant on whose behalf the Administrator accepted the transfer of assets in order to reflect the value of the transferred assets so that immediately such transfer of assets to this Plan, each affected Participant shall be credited with a benefit equal to or greater than the benefit he or she would have received had the plan from which such assets were transferred terminated immediately prior to such transfer.

ARTICLE IV DETERMINATION AND DISTRIBUTION OF BENEFITS

4.1 Distributions under the Plan

(a) A Participant Account may not be paid to a Participant (or, if applicable, the Beneficiary) until one of the following events has occurred:

- (1) attainment of Normal Retirement Age
- (2) separation from service prior to Normal Retirement Age,
- (3) the Participant's Total and Permanent Disability, or
- (4) the Participant's death.

(b) Notwithstanding subsection (a), a Participant may choose to receive a distribution from his Rollover Contributions Account and Voluntary Contributions Account at the time elected by the Employer in the Adoption Agreement.

4.2 Distribution of Benefits upon Normal Retirement Age, Other Separation From Service and Total and Permanent Disability

(a) Upon attainment of a distributable event described in Section 4.1, but in no event later than the requirement to commence minimum distribution payments in accordance with Section 401(a)(9) of the Code and Section 4.4, a Participant may elect a benefit distribution option to which benefits will be paid.

(b) Upon a Participant's application for benefits, the Administrator will direct the distribution of a Participant Account in accordance with this Section 4.2.

(c) A Participant may choose a benefit distribution option as selected by the Employer in the Adoption Agreement. The terms of any annuity contract purchased and distributed by the Plan to a Participant will comply with the requirements of the Plan. In the event a Participant fails to make an election as to a benefit distribution option, any benefit payable to such Participant will be distributed in accordance with Section 401(a)(9) of the Code.

4.3 Distribution of Benefits upon Death

(a) Upon the death of a Participant, the Administrator will direct that the deceased Participant's Participant Account, be distributed to the Beneficiary in accordance with the provisions of this Section.

(b) The designation of a Beneficiary will be made on a form satisfactory to the Administrator. A Participant or Beneficiary may at any time revoke his designation of a Beneficiary or change his Beneficiary by filing written notice of such revocation or change with the Administrator. In the event no valid designation of Beneficiary exists at the time of the Participant's death or if the Beneficiary is not alive at the time of Participant's death, the death benefit will be paid, in the following order of priority, to: (1) the Participant's surviving spouse; (2) the Participant's children, including adopted children, per stirpes; (3) the Participant's surviving parents in equal shares; or (4) the Participants' estate. If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's designated Beneficiary (or, if there is no designated Beneficiary, the Beneficiary's estate).

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Participant Account of a deceased Participant or Beneficiary, as the Administrator may deem appropriate. The Administrator's determination of death and of the right of any person to receive payment will be conclusive.

(d) Death benefits payable to a Beneficiary will be made in a form as selected by the Beneficiary in accordance with the available options as elected by the Employer in the Adoption Agreement. In the event a Beneficiary fails to make an election as to a benefit distribution option, any benefit payable to such Beneficiary will be distributed in accordance with Section

401(a)(9) of the Code and Section 4.4. The terms of any annuity contract purchased and distributed by the Plan to a Beneficiary will comply with the requirements of the Plan.

(e) Notwithstanding anything in this Section to the contrary, if a Participant has designated the spouse as a Beneficiary, then a divorce decree or legal separation that relates to such spouse shall revoke the Participant's designation of the spouse as a Beneficiary unless the divorce decree or a qualified domestic relations order provides otherwise.

4.4 Minimum Distributions

(a) 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 Section 401(a)(9). Notwithstanding the other provisions of this Section 4.4, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

(b) Distributions During the Participant's Lifetime. The entire Participant's Account 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 Participant's Account will be distributed, or begin to be distributed, no later than as follows:

- (1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then (subject to Subsection (b)(5) 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.
- (2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then subject to Subsection (b)(5) 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.
- (3) 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 Participant's Account will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (4) 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 (1), will apply as if the surviving spouse were the Participant.

- (5) If the Participant dies before distributions begin and there is no surviving spouse at the time of the Participant's death, distribution to the Designated Beneficiary or the Participant's estate, as applicable, is not required to begin by the date specified in Subsections (b)(1) or (b)(2) above if the Participant's entire Participant's Account is distributed 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 (b)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Subsection (b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subsection (b)(1). If applicable, 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 (b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) 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 (i) 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 (ii) 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.

(d) 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) (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.

(e) **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 Participant's Account 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 (b)(1), these provisions (concerning death prior to date distributions begin) will apply as if the surviving spouse were the Participant.

(f) **Definitions.**

“Designated Beneficiary” means the beneficiary designated by the Participant under Code Section 401(a)(9) and Section 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 Section 1.401(a)(9)-9 of the IRS regulations.

“Participant’s Account Balance” means, for purposes of determining minimum distributions the balance of the Participant’s Account 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.

“Required Beginning Date” means, with respect to any Participant, the later of the calendar Year in which the Participant attains age 70½ or the calendar year in which the Participant retires.

4.5 Rollovers from the Plan

(a) Notwithstanding any provision of the Plan to the contrary, a Participant will be permitted to elect to have any eligible rollover distribution (as defined in Section 402(c)(4) of the Code) paid directly to an eligible retirement plan (as defined in Section 3.6(b)) or to a Roth IRA established under Code Section 408A specified by the Participant. Notwithstanding the foregoing, if Voluntary Contributions are permitted under the Plan, they may only be rolled over to another plan subject to Section 401(a) of the Code or to an individual retirement arrangement under Section 408(a) or (b) of the Code. The Participant will, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the eligible retirement plan to receive such rollover. Any portion of a distribution which is not rolled over will be distributed directly to the Participant.

(b) The election described in subsection (a) also applies to the surviving spouse who is the designated Beneficiary of the Participant or a spouse or former spouse who is the alternate payee, provided that such spouse, former spouse or alternate payee directs the transfer of an eligible rollover distribution, as defined in Section 402(c)(4) of the Code into an eligible

retirement plan, as defined in Section 3.6(b), in which such spouse, former spouse or alternate payee is a participant.

(c) A non-spousal Beneficiary may elect to roll over death benefits amounts in accordance with Section 402(c)(11) of the Code provided that:

- (1) such amounts are rolled over to an inherited IRA via a direct trustee-to-trustee transfer;
- (2) such election is made by December 31 of the year following the year of the Participant's death; and
- (3) the rolled over amounts are eligible rollover distributions as defined in Section 402(c)(4) of the Code.

Any distribution made under this Subsection (c) prior to January 1, 2010 is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B)), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c)). If a non-spousal Beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

4.6 Loans to Participants

(a) This Section will apply only if elected by the Employer in the Adoption Agreement. For purposes of this Section, all plans of the Employer will be considered one plan in accordance with Section 72(p) of the Code and regulations thereunder, and the balance of all loans under any plan of the Employer under which the Participant participates must be aggregated in determining the maximum loan available under subsection (c).

(b) The Provider may, in accordance with the Administrator's direction, make loans to Participants under the following circumstances: (1) loans will be made available to all Participants on a reasonably equivalent basis; (2) loans will bear a reasonable rate of interest; (3) loans will be adequately secured; and (4) will provide for periodic repayment over a reasonable period of time. Such loans may also be subject to the requirements of the Investment Product.

(c) No loan made pursuant to this Section shall exceed the lesser of:

- (1) \$50,000 reduced by the excess (if any) of the highest outstanding balance of loans from the Plan to the Participant during the one-year period ending on the day before the date on which such loan is made, over the outstanding balance of loans from the Plan to the Participant on the date on which such loan was made, or
- (2) one-half (1/2) of the Participant Account.

For purposes of this Section, any loan from any other plan maintained by the Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the

provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

(d) Loans will provide for level amortization with payments to be made not less frequently than quarterly over a period not to exceed five (5) years. However, loans used to acquire any dwelling unit which, within a reasonable time, is to be used (determined at the time the loan is made) as a principal residence of the Participant will, provide for periodic repayment over a reasonable period to be determined by the Administrator of time that may exceed five (5) years. Notwithstanding the foregoing, in the event a Participant enters the uniformed services of the United States and retains reemployment rights under law, repayments will be suspended and interest will cease to accrue during the period of leave and the period of repayment will be extended by the number of months of leave in the uniformed services. In the event a Participant is on an Employer approved, bona fide leave of absence without pay, loan payments may be suspended (but interest will continue to accrue) for the period of leave but not to exceed one year; however, the loan must be repaid by the original loan repayment date.

(e) An assignment or pledge of any portion of a Participant's interest in the Plan will be treated as a loan under this Section.

(f) Any security interest held by the Plan by reason of an outstanding loan to the Participant will be taken into account in determining the amount of the death benefit or single lump-sum payment.

4.7 Distributions from Governmental Plans for Health and Long Term Care

If elected by the Employer in the Adoption Agreement and pursuant to Section 402(l) of the Code, annual distributions of up to \$3,000 from the Plan are excludable for income tax purposes if the following conditions are satisfied: (1) the distribution is used to pay for qualified health insurance premiums (accident, health insurance or long term care) for an eligible public safety officer, or spouse or dependent of the public safety officer, (2) the public safety officer is separated from service due to disability or attainment of the age which the Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan, and (3) the distributions are paid directly to the insurer or to the administrator of a self-insured plan.

ARTICLE V ADMINISTRATION

5.1 Powers and Responsibilities of the Employer

(a) The Employer shall have full power to interpret and construe the Plan in a manner consistent with its terms and the provisions of Section 401(a) of the Code, including the applicable Income Tax Regulations and to establish practices and procedures conforming to those provisions. In all such cases, the Employer's determination shall be final and conclusive upon all persons. It is recognized that unusual circumstances may occur and questions may arise that are not specifically covered by any provision of the Plan, and the Employer shall have the right to resolve all such questions. Notwithstanding the above, the Employer's power and

responsibility under the Plan will not extend to, nor have any control over, those responsibilities and duties of the Provider.

(b) The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

(c) The Employer shall periodically review the performance of any person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.

5.2 Designation of Administrative Authority

The Mayor of the Employer may appoint a committee ("Committee") of one or more persons to serve as the Administrator and to discharge the Administrator's responsibilities under the Plan. The Employer may remove a Committee member for any reason by giving such member ten (10) days' written notice and may thereafter fill any vacancy thus created. If the Employer does not appoint a Committee to administer the Plan, the Employer shall be the Administrator.

5.3 Allocation and Delegation of Responsibilities

If more than one person is appointed as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that the Employer makes no such delegation, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer in writing of such action and specify the responsibilities of each Administrator.

5.4 Powers and Duties of the Administrator

The primary responsibility of the Administrator is to administer the Plan for the benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator will administer the Plan in accordance with its terms and will have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator will be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as will be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction will be done in a nondiscriminatory manner based upon uniform principles consistently applied and will be consistent with the intent that the Plan will continue to be deemed a qualified plan under the terms of Section 401(a) of the Code, and will comply with the terms of all Income Tax Regulations issued pursuant thereto. The Administrator will have all powers necessary or appropriate to accomplish his duties under this Plan. The Administrator will be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees and Independent Contractors to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) determine the amounts to be contributed to each Participant Account;
- (c) to authorize and direct the Provider with respect to all disbursements to which a Participant or Beneficiary is entitled under the Plan;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to maintain practices and procedures necessary to administer the Plan as are consistent with the terms hereof;
- (f) to determine the type of any Investment Product to be purchased from the Provider; and
- (g) to assist any Participant or Beneficiary regarding his rights, benefits, or elections available under the Plan.

5.5 Records and Reports

The Administrator will keep a record of all actions taken and will keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and will be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

5.6 Appointment of Advisers

The Administrator may appoint/employ such agents, attorneys, actuaries, accountants, auditors, investment counsel, and clerical assistants, and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan.

5.7 Information from Employer

To enable the Administrator to perform his functions, the Employer will supply the necessary information to the Administrator on a timely basis regarding the Participants under the Plan, including but not limited to Compensation, date of hire, date of death, disability, or termination of employment, and such other pertinent facts and data as the Administrator may require. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

5.8 Payment of Expenses

All expenses of administration will be paid as directed by the Employer. Such expenses will include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan.

ARTICLE VI
AMENDMENT AND TERMINATION

6.1 Amendment

(a) The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. Any such amendment shall become effective as provided therein upon its execution.

(b) No amendment to the Plan will be effective if it authorizes or permits any part of the Investment Product (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries; or causes any reduction in the amount credited to the account of any Participant or Beneficiary; or causes or permits any portion of the Investment Product to revert to or become property of the Employer.

6.2 Termination

(a) The Employer shall have the right at any time to terminate the Plan by resolution of its governing board. Upon any full or partial termination all amounts credited to the affected Participant Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture, and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions hereof. In addition, the Employer must deliver written notice of discontinuance of the Investment Product to the Provider.

(b) Upon the full termination of the Plan, the Employer will direct the distribution of the assets to Participants and Beneficiaries in a manner which is consistent with and satisfies the provisions of Article IV.

ARTICLE VII
MISCELLANEOUS

7.1 Assets For Exclusive Benefit Of Participants And Beneficiaries

All amounts in the Participant Accounts under this Plan, all property and rights which may be purchased with such amounts and all income attributable to such amounts, property or rights will be held in trust (or a custodial account or annuity contract described in Section 401(f) of the Code) for the exclusive benefit of Participants and their Beneficiaries. All such amounts will not be subject to the claims of the Employer's general creditors.

7.2 Participant's Rights

This Plan will not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan will be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant in this Plan.

7.3 Alienation

Subject to applicable state law (and Section 401(g) of the Code if the Investment Product consists of an annuity contract) and except as provided in Section 7.4, no benefit which will be payable to any person (including a Participant or their Beneficiaries) will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same will be void; and no such benefit will in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor will be subject to attachment or legal process for or against such person, and the same will not be recognized except to such extent as may be required by law.

7.4 Recognition of Approved Domestic Relations Orders

Notwithstanding Section 7.3, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State (“domestic relations order”) and Section 414(p) of the Code, then the amount of the Participant Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

7.5 IRS Levy

Notwithstanding Section 7.3, if a Participant or Beneficiary is entitled to a distribution in accordance with Section 5, the Administrator may pay from a Participant’s or Beneficiary’s Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

7.6 Distribution for Minor Beneficiary or Incompetent

If a Participant or his Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, the Participant’s benefits will be paid to the legal guardian, or if none in the case of a minor Beneficiary, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains residence, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the legal guardian, custodian or parent of a minor or incompetent individual shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

7.7 Mistaken Contributions

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

7.8 Procedure When Distributee Cannot Be Located

The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

7.9 Governing Law

The Plan will be construed, administered and enforced according to the Code and the laws of the state in which the Employer has its principal place of business.

7.10 Headings

Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

7.11 Gender

Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

7.12 Approval by Internal Revenue Service

Notwithstanding anything herein to the contrary, if, pursuant to a timely application filed by or on behalf of the Plan, the Commissioner of the Internal Revenue Service or his delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Sections 401 and 501 of the Code, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one year and the Plan shall terminate. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended and restated. In the event that a contribution is made to the Plan conditioned upon qualification of the Plan as amended, such contribution must be returned to the Employer upon the determination that the amended Plan fails to qualify under the Code.

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**SPECIMEN ADOPTION AGREEMENT FOR
401(a) DEFINED CONTRIBUTION PLAN
FOR GOVERNMENTAL EMPLOYERS**

The undersigned Employer adopts the 401(a) Defined Contribution Plan for Governmental Employers for those Employees who shall qualify as Participants hereunder, to be known as the

The City of Prairie Village, Kansas Supplemental Pension Benefit Plan
(Enter Plan Name)

It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

Employer Information (Plan Section 1.11)

Name of Employer: The City of Prairie Village, Kansas

Address: 7700 Mission Rd.

Prairie Village, KS 66208
City State Zip

Telephone Number: 913.381.6464

Employer Identification Number: 48-6077081

Location of Employer:

state commonwealth district city of Prairie Village and the Plan shall be governed in accordance with retirement plan laws of the City of Prairie Village, Kansas (name of state/commonwealth).

Employer Fiscal Year (Plan Section 1.14):

The 12-consecutive month period commencing on January 1 [month and day] and ending on December 31 [month and day].

Plan Information

Type of Plan:

This 401(a) Defined Contribution Plan for Governmental Employers is designed as:

- a money purchase pension plan within the meaning of Section 1.401-1(b)(1)(i) of the Income Tax Regulations.
- a profit sharing plan within the meaning of Section 1.401-1(b)(1)(ii) of the Income Tax Regulations.

Effective Date:

This Adoption Agreement of the 401(a) Defined Contribution Plan for Governmental Employers shall:

- establish a new Plan effective as of _____.
- constitute an amendment and restatement in its entirety of a previously established 401(a) Defined Contribution Plan of the Employer which was effective January 1, 1981. Except as specifically provided in the Plan, the effective date of this amendment and restatement is January 1, 2010.

Plan Year (Plan Section 1.23):

The 12-consecutive month period commencing on January [month and day] and ending on December 31 [month and day].

Anniversary Date of Plan (Annual Valuation Date) (Plan Section 1.5):
December 31 [month and day]

Name of Administrator:

- Employer (use Employer address)
- Other: Name City Administrator for the City of Prairie Village, Kansas
Address 7700 Mission Rd
Prairie Village, KS 66208
City State Zip
Telephone 913-381-6464
Administrator's I.D. Number 48-6077081

Compensation

Compensation (Plan Section 1.8):

- Compensation for purposes of Code Section 415, as defined in Section 1.415(c)-2(b)(1) and 1.415(c)-2(c) of the Income Tax Regulations
- Compensation reportable as wages on Form W-2. For purposes of the Plan, amounts paid to any Leased Employees by the leasing organization for services performed for the Employer shall be treated as Compensation paid by the Employer.

Compensation shall be based on:

- the Plan Year.
- the Fiscal Year (consisting of 12-consecutive months) coinciding with or ending within the Plan Year.
- the 12-consecutive months comprising of the calendar year coinciding with or ending within the Plan Year.

Eligibility, Contributions and Allocations

Participants eligible for Employer Contributions (Plan Section 3.1):

- N/A – Employer Contributions are not permitted under the Plan

Employee status:

- All Employees
- The following Employees who have satisfied the eligibility requirements:

- Employees hourly paid
- Employees paid by annualized salary
- Collectively bargained employees who participate in the following unions:

-
- Employees whose employment is NOT governed by a collective bargaining agreement between the Employer and employee representatives
 - Management employees
 - Treasurer
 - Administrator

- Other (specify): All full-time, non-commissioned employees. Any non-commissioned employee of the Employer who is regularly scheduled to work less than 1,000 hours during a Plan Year shall not be an Eligible Employee.

NOTE: The Eligible Employees specified above must correspond to a group of the same designation that is defined in statutes, ordinances, rules, regulations, personnel manuals, collective bargaining agreements or other authority for the state or local jurisdiction of the Employer.

Age and Service Requirements

- Employees that have satisfied the service and age requirements specified below:

- Service Requirement

___ years of service with the Employer

- N/A – there is no service requirement for Employer Contributions

- Age Requirement

Attained age _____

- N/A – there is no age requirement for Employer Contributions

NOTE: If the Employer maintains the plan of a predecessor employer that is also a governmental employer with the same state, service with such predecessor employer will be treated as service for the Employer.

Effective Date of Participation

For purposes of Employer Contributions, an Eligible Employee shall become a Participant as of:

- The first date next following the date on which he met all requirements for participation
- The first day of the month coinciding with or next following the date on which he met all requirements for participation
- The earlier of the first day of the seventh month or the first day of the Plan Year coinciding with or next following the date on which he met all requirements for participation
- The first day of the Plan Year next following the date on which he met all requirements for participation
- Other (specify): The date upon which he met all requirements for participation.

Money Purchase Pension Plan: Amount of Annual Employer Contribution

For each Plan Year, the Employer Contribution shall be:

- _____ % of each Participant's Compensation contributed to the Employer Contributions Account of each Participant.
- \$ _____ contributed to the Employer Contributions Account of each Participant.
- An amount, determined uniformly with respect to each Employee classification within the applicable collective bargaining agreement, to the Employer Contributions Account of each Participant as specified in the applicable collective bargaining agreement.
- N/A (the Plan is not a money purchase plan.)

NOTE: If Employer Contributions are available to collectively bargained employees, such Employer Contributions formula must also reflect the terms of the collective bargaining agreement.

Profit Sharing Plan: Allocation of Annual Employer Contribution

If the Employer chooses to make an Employer Contribution for a Plan Year, the Employer Contribution shall be allocated as follows:

- 3.5% of each Participant's Compensation contributed to the Employer Contributions Account of each Participant.
- \$ _____ contributed to the Employer Contributions Account of each Participant.
- An amount, determined uniformly with respect to each Employee classification within the applicable collective bargaining agreement, to the Employer Contributions Account of each Participant as specified in the applicable collective bargaining agreement.

NOTE: If Employer Contributions are available to collectively bargained employees, such Employer Contributions formula must also reflect the terms of the collective bargaining agreement.

Matching Contributions:

- N/A – Matching Contributions are not permitted under the Plan

Employees eligible for Matching Contributions:

- All Employees
- The following Employees who have satisfied the eligibility requirements:
 - Employees hourly paid
 - Employees paid by annualized salary
 - Collectively bargained employees who participate in the following unions:

- Employees whose employment is NOT governed by a collective bargaining agreement between the Employer and employee representatives
- Management employees
- Treasurer
- Administrator
- Other (specify): All full-time, non-commissioned employees. Any non-commissioned employee of the Employer who is regularly scheduled to work less than 1,000 hours during a Plan Year shall not be an Eligible Employee.

NOTE: The Eligible Employees specified above must correspond to a group of the same designation that is defined in statutes, ordinances, rules, regulations, personnel manuals, collective bargaining agreements or other authority for the state or local jurisdiction of the Employer.

Age and Service Requirements for Matching Contributions

- Employees that have satisfied the service and age requirements specified below:
 - Service Requirement
 - ____ years of service with the Employer
 - N/A – there is no service requirement for Matching Contributions
 - Age Requirement
 - Attained age _____
 - N/A – there is no age requirement for Matching Contributions

NOTE: If the Employer maintains the plan of a predecessor employer that is also a governmental employer with the same state, service with such predecessor employer will be treated as service for the Employer.

Effective Date of Participation

For purposes of Matching Contributions, an Eligible Employee shall become a Participant as of:

- The first date next following the date on which he met all requirements for participation
- The first day of the month coinciding with or next following the date on which he met all requirements for participation
- The earlier of the first day of the seventh month or the first day of the Plan Year coinciding with or next following the date on which he met all requirements for participation
- The first day of the Plan Year next following the date on which he met all requirements for participation
- Other (specify): The date upon which he met all requirements for participation.

Amount of Annual Matching Contribution

For each Plan Year, the Matching Contribution shall match a Participant's (select all that apply):

- Code Section 414(h) Pick-Up Contributions
- Voluntary Contributions
- Elective Deferrals made to the following Code Section 457(b) Plan: Kansas Public Employees Deferred Compensation Plan

Amount of Matching Contribution to the Employer Contributions Account of each Participant:

- A matching contribution equal to 50% of each Participant's contribution to the 457(b) Plan but not to exceed 2.5% of the Participant's Compensation for the Plan Year.
- A matching contribution equal to \$ of each Participant's contribution to the Plan.
- A matching contribution equal to a percentage of each Participant's contribution to the Plan in an amount to be determined each Plan Year by the Employer or the applicable collective bargaining agreement.

NOTE: If Matching Contributions are available to collectively bargained employees, such Matching Contributions formula must also reflect the terms of the collective bargaining agreement.

Participants eligible for Code Section 414(h) Contributions (Plan Section 3.2):

- N/A – Code Section 414(h) Contributions are not permitted under the Plan

Participants eligible for Voluntary Contributions (Plan Section 3.3):

- N/A – Voluntary Contributions are not permitted under the Plan

Rollover Contributions (Plan Section 3.6):

Rollover Contributions shall shall not be permitted into the Plan.

Rollover Contributions of after-tax amounts from another Code Section 401(a) defined contribution plan shall shall not be permitted into the Plan.

Leased Employees (Plan Section 1.17)

For purposes of the Plan, the term Employee shall shall not include any Leased Employees.

Vesting (Plan Section 3.8)

Vesting of Participant's Interest in Employer Contributions

The vesting schedule, based on number of years, shall be as follows:

100% upon entering Plan

0-2 years 0%
3 years 100%

0-4 years 0%
5 years 100%

0-1 year 0%
2 years 33%
3 years 66%
4 years 100%

1 year 25%
2 years 50%
3 years 75%
4 years 100%

1 year 20%
2 years 40%
3 years 60%
4 years 80%
5 years 100%

0-1 years 0%
2 years 20%
3 years 40%
4 years 60%
5 years 80%
6 years 100%

Other: Years
0-1 year _____
2 years _____

Percentage
0% _____
100% _____

Vesting of Participant's Interest in Matching Contributions

The vesting schedule, based on number of years, shall be as follows:

- | | | | |
|-------------------------------------|-------------------------|--------------------------|-------------------|
| <input type="checkbox"/> | 100% upon entering Plan | | |
| <input type="checkbox"/> | 0-2 years 0% | <input type="checkbox"/> | 0-4 years 0% |
| | 3 years 100% | | 5 years 100% |
| <input type="checkbox"/> | 0-1 year 0% | <input type="checkbox"/> | 1 year 25% |
| | 2 years 33% | | 2 years 50% |
| | 3 years 66% | | 3 years 75% |
| | 4 years 100% | | 4 years 100% |
| <input type="checkbox"/> | 1 year 20% | <input type="checkbox"/> | 0-1 years 0% |
| | 2 years 40% | | 2 years 20% |
| | 3 years 60% | | 3 years 40% |
| | 4 years 80% | | 4 years 60% |
| | 5 years 100% | | 5 years 80% |
| | | | 6 years 100% |
| <input checked="" type="checkbox"/> | Other: Years | | Percentage |
| | <u>0-1 year</u> | | <u>0%</u> |
| | <u>2 years</u> | | <u>100%</u> |
| | <u> </u> | | <u> </u> |
| | <u> </u> | | <u> </u> |
| | <u> </u> | | <u> </u> |

Notwithstanding the foregoing, a Participant will be 100% vested in any Employer Contributions and Matching Contributions upon attaining Normal Retirement Age, termination of the Plan, the complete discontinuance of Employer contributions, death of the Participant and the Total and Permanent Disability of the Participant.

Further notwithstanding the foregoing, with respect to any Participant who completes an Hour of Service after December 31, 2009, any amount credited to such Participant's Account for any Plan Year beginning prior to January 1, 2010 shall be 100% vested.

Notwithstanding any other provision of the Plan to the contrary, a Participant is always 100% vested in his Code Section 414(h) Pick-Up Contributions, Rollover Contributions, Voluntary Contributions and the earnings thereon.

Distributions

Normal Retirement Age (Plan Section 1.19):

- The date a Participant attains his 55th birthday
- The later of the date a Participant attains his _____ birthday or the _____ anniversary of the first day of the Plan Year in which participation in the Plan commenced.
- The _____ anniversary of the first day of the Plan Year in which participation in the Plan commenced.

Distribution Options for Participants (Plan Section 4.2):

- Lump sum
- Immediate or deferred annuity (including life annuities and installment payment annuities)
- Monthly, quarterly, semi-annual or other installments over a fixed reasonable period not exceeding the life expectancy of the Participant or the joint life expectancies of the Participant and his designated Beneficiary.
- A combination of a lump sum and installments (as described above).
- Partial lump sums.
- Any other systematic distribution option permitted under the Investment Product.

Death Benefits Payable to Beneficiary (Plan Section 4.3(d)):

Amounts payable to the Beneficiary may be elected by the Beneficiary in the following forms of benefit payment:

- Same distribution options as available to the Participant
- Other:

NOTE: Distribution options selected are available to the extent permitted by applicable law and the terms of the Investment Product.

Miscellaneous

Loans to Participants (Plan Section 4.6):

Loans shall shall not be permitted under the Plan.

Distributions for Health Insurance and Long Term Care (Plan Section 4.7):

Distributions to pay for health insurance and long term care will will not be permitted under the Plan.

Certification and Signature

Employer hereby represents that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government as described in Code Section 414(d). If Employer ceases to be considered a governmental entity within the meaning of Code Section 414(d), then it would be ineligible to sponsor this plan prospectively and will be required to restate its plan accordingly.

This Adoption Agreement and this basic plan document together constitute the Plan. The Plan is a specimen plan, not a master or prototype plan, and has not been approved by the IRS. The adoption of this Plan, determination of its qualification by the IRS, and related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

IN WITNESS WHEREOF, the Employer hereby causes this Plan to be executed on this _____ day of December, 2009.

EMPLOYER: _____ City of Prairie Village, Kansas _____

By: _____
Ronald L. Shaffer, Mayor

**SECOND AMENDMENT
TO THE
CITY OF PRAIRIE VILLAGE, KANSAS
SUPPLEMENTAL PENSION BENEFIT PLAN
(as amended and restated effective January 1, 2006)**

Section 12.02 of the City of Prairie Village, Kansas Supplemental Pension Benefit Plan (the “**Plan**”) maintained by the City of Prairie Village, Kansas (the “**City**”), provides that the City may amend the Plan at any time and from time to time. In accordance with the provisions of such Section the Plan is amended as follows –

1. The following new definition shall be added to Article I of the Plan:

“New Plan” shall mean the City of Prairie Village, Kansas Supplemental Pension Benefit Plan, as amended and restated effective January 1, 2009.

2. The following shall be added to the end of Section 3.01 of the Plan:

For any Plan Year beginning on or after December 31, 2009, no contribution, as described in this Section 3.01, shall be made to the Plan by the Employer, and instead, any contribution made for Plan Years beginning on or after January 1, 2010 shall be made only as described in the New Plan.

3. The following shall be added to the end of Section 3.05 of the Plan:

Forfeitures incurred during the Plan Year beginning January 1, 2009 shall be allocated as of December 31, 2009 in accordance with the provisions of this Section 3.05; and, notwithstanding the provisions of this Section, forfeitures incurred in Plan Years beginning on or after January 1, 2010 shall be allocated only in the manner set forth in the New Plan.

4. The following shall be added to the end of Section 5.05 of the Plan:

Notwithstanding the foregoing, the Plan Account of any Participant who completes an Hour of Service after December 31, 2009, with respect to any amounts credited for Plan Years beginning prior to January 1, 2010, shall be 100% vested. Any amounts credited to Participants’ Accounts for Plan Years beginning on or after January 1, 2010 shall vest under the schedule specified in the New Plan.

5. Effective as of January 1, 2010, the Plan shall be administered by ING and as soon as administratively practicable following December 31, 2009, the assets of the Plan shall be transferred to ING for the New Plan.

IN WITNESS WHEREOF, the City of Prairie Village, Kansas has adopted this Amendment to the City of Prairie Village, Kansas Supplemental Pension Benefit Plan this _____ day of _____, 2009.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Ronald L. Shaffer, Mayor

PLAN ASSET TRANSFER AGREEMENT

THIS AGREEMENT, is entered into this ___ day of December, 2009, by and between the City of Prairie Village, Kansas (the "City"), Marshall & Ilsley Trust Company, N.A. ("M&I") and ING to provide for the transfer of certain qualified plan assets referred to below.

WHEREAS, the City is the sponsor of The City of Prairie Village, Kansas Supplemental Pension Benefit Plan (the "Plan"); and

WHEREAS, M&I currently serves as trustee of the Plan; and

WHEREAS, effective as of January 1, 2010, the City has amended and restated the Plan (the "Restated Plan"); and

WHEREAS, ING will serve as custodian of the Restated Plan.

NOW, THEREFORE, the parties agree as follows:

1. M&I hereby consents to the transfer(s) of assets of the Plan to ING and to take such further action as may be necessary in order to effectuate the foregoing.
2. The City hereby directs ING to accept such transferred assets from M&I and ING hereby agrees to accept such transferred assets.
3. As soon as administratively practicable following the allocation of the City's contribution to the Plan and the Trust Fund earnings, gains or losses for the Plan Year ended December 31, 2009, M&I shall liquidate the assets allocated to participants' Plan accounts and transfer such amounts to ING.
4. As soon as administratively practicable following December 31, 2009, the City shall provide M&I with such sufficient information to allocate among the accounts of the participants in the Plan the unused forfeitures in such Plan as of December 31, 2009 (the "2009 Forfeitures").
5. As soon as administratively practicable following the allocation of the 2009 Forfeitures, M&I shall, if necessary, liquidate the assets in the Plan and shall transfer such amounts to ING.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Quinn Bennion, City Administrator

MARSHALL & ILSLEY TRUST COMPANY

By: _____

Name: _____

Title: _____

ING

By: _____

Name: _____

Title: _____



ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: November 2, 2009

City Council Meeting Date: November 16, 2009

COU2009-109

Consider approval of professional planning/design services agreement with Indigo Design for 2010 Park Plans

RECOMMENDATION

Recommend the City Council approve the park planning/design services agreement with Indigo Design and waive Council Policy 16 - Selection of Professional Architect/Engineer Consulting subject to review by the City Attorney.

BACKGROUND

The Parks and Recreation Committee recently selected Franklin, Weltner and Schliffke Parks as their preferred priorities for improvements recommended by the Parks Master Plan. The revised CIP Plan will include funding for these projects over the 2010 and 2011 budget years. At the November 2, 2009 Council Committee meeting the Council voted to accelerate the selection process for a parks planner and waive the public solicitation requirements contained within Council Policy 16 - Selection of Professional Architect/Engineer Consulting.

The motivation for this action was to take advantage of current economic conditions and possibly realize a substantial savings by bidding construction in early 2010. In addition, the chosen firm, Indigo Design, was the lead firm on the recently approved Parks Master Plan. As a result of that process Indigo already has a high level of familiarity with the parks that should further accelerate the process.

The proposed professional agreement has been provide to City Attorney and is currently under review.

FINANCIAL IMPACT

The fee for Indigos services includes the design of all three parks - \$79,320 for Franklin, \$18,840 for Weltner and \$19,760 for Schliffke Park. This amount will be funded from the Parks Capital Improvement Projects Fund.

ATTACHMENTS

Indigo Design has prepared a proposal that includes the design team members and credentials, past projects, a professional services agreement, project timeline and fee schedule.

PREPARED BY

Chris Engel

Asst. to City Administrator

November 12, 2009

November 12, 2009

Mr. Chris Engel
Assistant to the City Administrator
7700 Mission Road
Prairie Village, Kansas 666208

Re: Proposal for Prairie Village Park Projects (Franklin, Schliffke, and Weltner Parks)

Mr. Engel,

Indigo Design, Inc. and its design team members are very appreciative of the opportunity to submit this proposal for design services relative to Franklin, Schliffke, and Weltner Parks. We are truly pleased to be given this chance to implement the park concepts that we were a part of developing for the Prairie Village Parks and Recreation Master Plan.

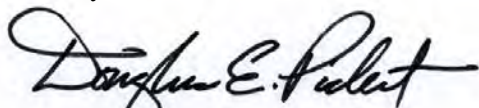
Per the request of the City of Prairie Village, we have compiled the attached brief proposal document, which includes the following elements:

- Design Team Overview
- Indigo Design's Park Project Summaries
- Agreement for Professional Planning Services (City standard contract) with,
 - Attachment A - Scope of Services and Schedule
 - Attachment B - Proposed Fees

We trust that you will find the proposal responsive to the needs of the City and leading to a final product that will please the citizens, community leaders, and staff of Prairie Village. Our design team personnel is composed primarily of principals of each of the firms, all of whom will be involved in the project from start to finish.

We greatly appreciate the opportunity to submit this proposal to carry forward with implementation of the design concepts and quality of park space envisioned in the Parks and Recreation Master Plan.

Sincerely,



Douglas E. Pickert, ASLA, RLA
President and Owner
Indigo Design, Inc.

Prairie Village Park Projects

DESIGN TEAM OVERVIEW

The Indigo Design Project Team for the Prairie Village Park Projects will consist of the following design firms and team members:

Indigo Design, Inc was founded on a desire to design high-quality parks and play environments. The firm focuses on this project-type and works locally, as well as nationally, on children and family play spaces. The firm recently completed a major destination playground for the City of Gardner's new Celebration Park.

Doug Pickert, Landscape Architect and Owner of Indigo Design, Inc., will serve as Lead Designer/Project Manager for the entire project - throughout its duration - and will oversee all day-to-day correspondence and design coordination with the team. He will also be responsible for design of the play environments, pedestrian circulation (trails and walking paths), signage, selection of site amenities, and the detailed planting plan. Also, he will work with the City on selection and customization of the shelter and restroom elements.

VSR Design was a member of the design team for the Prairie Village Parks and Recreation Master Plan. The firm's office is located in Prairie Village, just a few blocks from Franklin Park. **Vance Rzepka, Landscape Architect and Owner** of VSR Design, will prepare plans and specifications for the north sports practice field improvements and irrigation plans for the north and south practice spaces.

McAfee Henderson Solutions (Surveyors and Civil Engineers) has much recent experience with parks-related projects, including teaming with Indigo Design on Phase I improvements to Stoll Memorial Park for the Johnson County Park and Recreation District. The firm has continued to assist JCPRD with implementation of other park projects and is currently assisting Indigo Design with design for the final phases of Black Hoof Park in Lenexa.

Matt Henderson, P.E. and Principal, will serve as Project Manager for MHS on all survey and civil engineering issues. **Mark Scannell, P.E.**, will serve as Project Engineer for MHS, and will be responsible for the construction documents and permits associated with the civil engineering design solutions.

Aquatic Design Consultants, Inc. was also a member of the design team for the Prairie Village Parks and Recreation Master Plan. **Kevin McElyea, P.E. and Owner**, will assist with the play steam water supply and control details.

LightWorks, Inc. has previously worked on park projects with Doug Pickert and Indigo Design, most recently providing electrical design of an extensive vendor and stage system for the city of De Soto's new Riverfest Park Festival Area.

Kathi Vandell, P.E. and Owner of LightWorks, Inc., will be responsible for design of all electrical systems and light fixture selection for illumination of the shelter, restroom, and path areas. **Allyson Evans, E.I.** will be responsible for lighting and electrical plan preparation.

Krudwig & Associates, Inc. **John Krudwig, P.E. and Owner** will provide structural design for the shelter, restroom, and footbridge footings and foundations.

Gezer Park – Leawood, Kansas

This unique, new park was officially dedicated on October 20, 2009, and honors the City of Leawood’s sister city relationship with the Gezer Region, Israel. Indigo Design provided landscape architectural services as a sub-consultant to Phelps Engineering. Indigo Design was responsible for revising and updating the master plan for this 10-acre park site, including development of the overall design grading concept. The firm’s design responsibilities included final designs for the 700’-long central water feature (the “wadie”) and the landscape theme and enhancements, which include:

- Ornamental grasses and upright junipers to evoke the feel of the Gezer Region.
- Hillside “orchards” and grape trellises as a nod to the agricultural roots of the Gezer Region.
- Four cut limestone pedestrian bridges, selected to match the native Jerusalem stone used on the shelter and restroom.
- Hillside stone outcrops and stone layers lining the main pond/sculpture feature.

Indigo Design has also prepared preliminary plans for a future play area and a decorative water feature to surround a large, stone sculpture piece (a gift by the Gezer Regional Council to the City of Leawood) which is placed near the park’s entry.

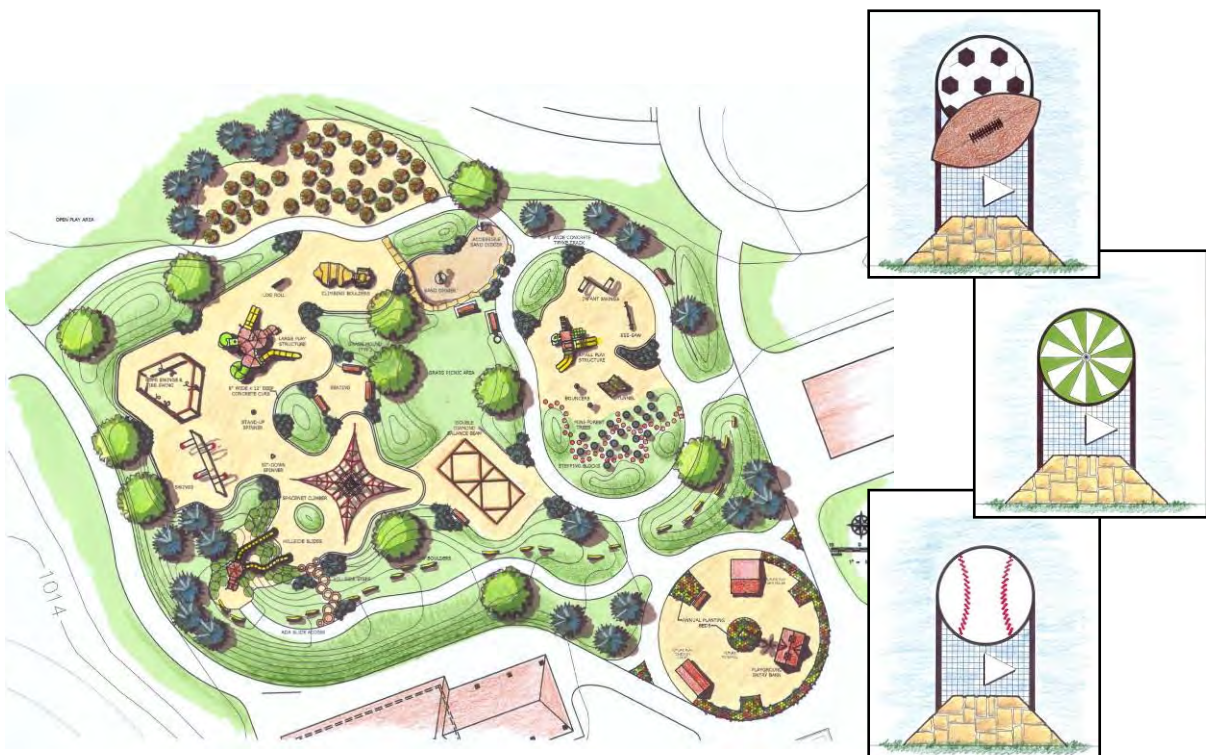


Gardner Celebration Park – Gardner, Kansas

Indigo Design provided landscape architectural services from schematic design through construction documents and construction administration for the open space, play areas, and other site amenities of this new 82-acre park in Gardner, Kansas. The open space portion of the project includes a large destination playground, sports complex playground, new 9-acre lake, 60' steel pedestrian bridge, hard-surface and limestone trails, lake overlook, entry monument signage, and directional signage.

The open space portions of the project include the following features, among others:

- Destination playground with separate play areas for toddlers and older children. The basic features are climbing structures, a climbing net, custom play barn, custom balance beam and rope swings, hillside slide, climbing boulders, sand play, and plant mazes. There is extensive berming and landscaping to create a comfortable, stimulating, and visually attractive play environment and to encourage interaction with the natural environment.
- Thematic monument signs at two park entries.
- Thematic directional signs to direct patrons to the various park areas.
- Extensive native plantings to provide visual interest and reduced maintenance for the open park areas.



Fairmont Park Destination Playground Master Plan – Riley County, Kansas

Indigo Design provided landscape architectural services to create a master plan for a large destination playground, set within a large county park near the Kansas River. The play area is designed around the concept of a river's edge environment stretched between two towering cottonwood trees and includes large 'sand bars', grassy river banks, new cottonwood trees, and stone 'outcrops' where parents and patrons may sit and relax while the children play.

The playground master plan features the following play elements, among others:

- Separate play areas for toddlers and older children.
- Climbing structures, space net, climbing boulders, slides and swings.
- Custom Play Village and Fort
- Nature play area with log balance beams, stepping logs, log tunnel, and plant maze.
- Nature seating area with wood blocks for constructive play.
- Large sand play areas with diggers and plant mazes.
- Three shelters arranged around a large, open play space.
- Extensive berming and landscaping to create a comfortable and visually attractive play environment and to encourage interaction with the natural environment.
- Walking trail and exercise circuit for adults.



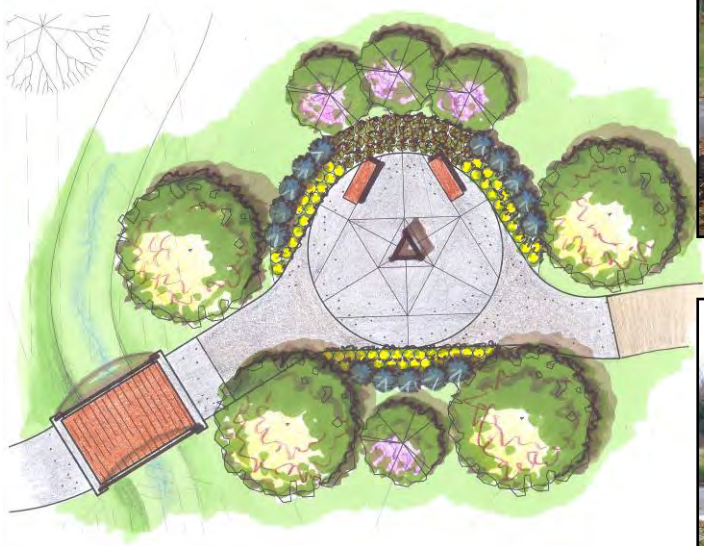
De Soto Riverfront Park Master Plan and Phase 1 Improvements – De Soto, Kansas

Indigo Design provided landscape architectural design services for the master planning of this 50-acre site along the banks of the Kansas River, as well as construction documents for the recently completed Phase 1 improvements. The park is designed to complement a river access boat ramp and add many uses for the citizens of the city and surrounding region. A festival area will anchor the central portion of the site and become a place for community gatherings, festivals, barbeque contests, and musical events. The project also includes the following features.

- Destination playground with nature play area, sand play dunes, and traditional play pieces.
- Open space for carnivals and flex-use.
- Extensive trail system along the banks of the river, as well as interior trails around existing wetlands, connecting all park uses.
- Wetland preservation areas
- Shelters – large and small- and restrooms.
- RV and tent camping areas.
- Historic interpretation of the former sand plant operation and city history.
- Overflow parking areas and practice sports fields.
- Disc golf course and sand volleyball courts



Thomas S. Stoll Memorial Park – Johnson County, Kansas



Indigo Design served as lead design firm for the first phase of renovations to this 80+ acre park, which is owned by Johnson County Park and Recreation District, at 119th and Quivera in Overland Park, Kansas. The project included redesign of the entry drive and 119th Street frontage, reconfiguration of two baseball fields to a multi-purpose sports field, and new landscaped pedestrian entry plazas to provide an improved sense of entry from the adjacent neighborhoods.

The project includes the following features, among others:

- Improved exit turn-lanes and drive median at the park entry.
- A new information kiosk pull-off near the park entry.
- Distinctive, three-sided stone columns along 199th Street frontage and at the pedestrian entry plazas (with new decorative fencing and landscaping along 119th Street).
- A unique wood and steel pedestrian bridge at the west entry plaza.
- ADA-compliant access to the multi-use sports field.
- New irrigation system for the sports field.

Quail Meadows Neighborhood Park – Gardner, Kansas

Indigo Design, Inc. recently completed the design of a master plan for this 10+ acre neighborhood park. Final design efforts are underway for 2009 construction. The park site includes segments of Kill Creek and Johnson County's Streamway Trail System corridor, as well as some large open field areas. The design of the park seeks to enhance access to nature-based play by developing play areas within the wooded creek edge, and the primary project features include:

- A large shelter, set above a stone wall and overlooking a series of rain gardens
- Two playgrounds, one “fort-like” wooden structure with traditional climbing, slide, and swing elements and another area dedicated to nature play, which uses the existing wooded areas and natural features of the site to encourage a child-nature interaction.
- Open play space and half basketball court
- Asphalt walking trails, including a segment of the Kill Creek Streamway Trail
- Site grading and drainage improvements for the low-lying creek-side site
- Site lighting, benches, tree plantings



AGREEMENT FOR
PROFESSIONAL PLANNING SERVICES
FOR
PROJECT: PRAIRIE VILLAGE PARK PROJECTS
(FRANKLIN, SCHLIFFKE, AND WELTNER PARKS)

THIS AGREEMENT, made at the city of Prairie Village, Kansas, this 16th day of November, 2009, by and between the City of Prairie Village, Kansas, a municipal corporation with offices at 7700 Mission Road, Prairie Village, Kansas, 66208, hereinafter called the “**City**”, and **Indigo Design, Inc.**, a corporation with offices at 8593 Timber Trails Drive, De Soto, Kansas 66018 hereinafter called the “**Consultant**”.

WITNESSED, THAT WHEREAS, City has determined a need to retain a professional consulting firm to provide services for park improvements to Franklin, Schliffke, and Weltner Parks, hereinafter called the “**Project**”,

AND WHEREAS, the City is authorized and empowered to contract with the Consultant for the necessary consulting services for the Project,

AND WHEREAS, the City has the necessary funds for payment of such services,

NOW THEREFORE, the City hereby hires and employs the Consultant as set forth in this Agreement effective the date first written above.

1. CITY RESPONSIBILITIES

- 1.1. The City has designated the Assistant to the City Administrator, Chris Engel, to act as the representative for the City with respect to the services to be performed or furnished by the Consultant under this Agreement. This person shall have the authority to transmit instructions, receive information, interpret and define the City policies with respect to the Consultant’s services for this Project.
- 1.2. The City shall make available to the Consultant all existing data and records relevant to the Project such as, maps, plans, correspondence files and other information possessed by the City that is relevant to the Project. Consultant shall not be responsible for verifying or ensuring the accuracy of any information or content supplied by City or any other Project participant unless specifically defined by the scope of work, nor ensuring that such information or content does not violate or infringe any law or other third party rights. However, Consultant shall promptly advise the City, in writing, of any inaccuracies in the information provided or any other violation or infringement of any law or third party rights that Consultant observes. City shall indemnify Consultant for any infringement claims resulting from Consultant’s use of such content, materials or documents.
- 1.3. The City shall review for approval all criteria, design elements and documents as to the City requirements for the Project, including objectives, constraints, performance requirements and budget limitations.
- 1.4. The City shall provide copies of all existing standard details and documentation for use by the Consultant for the project.

1.5. The City shall diligently review all submittals presented by the Consultant.

1.5.1. The City has funded \$110,520 for this project.

2. CONSULTANT RESPONSIBILITIES

2.1. The Consultant shall either perform for or furnish to the City professional contracting services and related services in all phases of the Project to which this Agreement applies as hereinafter provided.

2.2. The Consultant shall serve as the prime professional Consultant for the City on this Project

2.3. The standard of care for all professional consulting services and related services either performed for or furnished by the Consultant under this Agreement will be of the care and skill ordinarily used by members of the Consultant's profession, practicing under similar conditions at the same time and in the same locality.

2.4. Designate a person to act as the Consultant's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, and make decisions with respect to the Consultant's services for the Project.

3. SCOPE OF SERVICES

3.1. Upon receipt of notice to proceed from the City, the Consultant shall provide consulting services related to this project including, but not limited to, these phases and tasks. The scope tasks are outlined below and detailed in Attachment A and Attachment A –Supplement for Design Scope.

Topographic Surveying
Geo-technical Services (Soil Testing)
Phase 1 – Schematic Design
Phase 2 – Design Development
Phase 3 – Construction Documents
Phase 4 – Bidding Administration
Phase 5 – Construction Administration

4. TIME SCHEDULE

4.1. The Consultant's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Project.

If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by the Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation.

Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. Consultant shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

Should such circumstances occur, the consultant shall, within a reasonable time of being prevented from performing, give written notice to the City describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

- 4.2. Recognizing that time is of the essence, the Consultant proposes to complete the scope of services as specified in the Scope of Services according to the schedule outlined in Attachment A.

5. COMPENSATION

- 5.1. The City agrees to pay the Consultant as maximum compensation as defined in Attachment B.
- 5.2. The compensation will be billed by Phase detailing the position, hours and appropriate hourly rates (which include overhead and profit) for Consultant's personnel classifications and Direct Non-Salary Costs.
- 5.3. The term "Direct Non-Salary Costs" shall include the Consultant payments in connection with the Project to other consultants, transportation, and reproduction costs. Payments will be billed to the City at actual cost. Transportation, including use of survey vehicle or automobile will be charged at the IRS rate in effect during the billing period. Reproduction work and materials will be charged at actual cost for copies submitted to the City.
- 5.4. All billings must be submitted monthly for all services rendered in the previous month. The Consultant will invoice the City on forms approved by the City. All properly prepared invoices shall be accompanied by a documented breakdown of expenses incurred. This documentation shall include personnel by job classification, hourly rate, number of hours, description of sub-consultant services and detail list of Direct Non-Salary Costs.
- 5.5. The maximum fee shall not be changed unless adjusted by Change Order mutually agreed upon by the City and the Consultant prior to incurrence of any expense. The Change Order will be for major changes in scope, time or complexity of Project.

6. GENERAL PROVISIONS

- 6.1. **Opinion of Probable Cost and Schedule:** Since the Consultant has no control over the cost of labor, materials or equipment furnished by Contractors, or over competitive bidding or market conditions, the opinion of probable Project cost, construction cost or project schedules are based on the experience and best judgment of the Consultant, but the Consultant cannot and does not guarantee the costs or that actual schedules will not vary from the Consultant's projected schedules.
- 6.2. **Quantity Errors:** Negligent quantity miscalculations or omissions because of the Consultant's error shall be brought immediately to the City's attention. The Consultant shall not charge the City for the time and effort of checking and correcting the errors to the City's satisfaction.
- 6.3. **Reuse of Documents:** All documents including the plans and specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service in respect of the Project. The Consultant shall retain an ownership and property interest upon payment therefore whether or not the Project is completed. The City may make and retain copies for the use by the City and others; however, such documents are not intended or suitable for reuse by the City or others as an extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability to the Consultant. The City shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting reuse of the documents.

In a similar manner, the Consultant is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Project without the expressed written permission of the City. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the Consultant.

6.4 **Insurance:** The Consultant shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles; (d) Professional Liability coverage of not less than \$1,000,000. In addition, Consultant agrees to require all consultants and sub-consultants to obtain and provide insurance in identical type and amounts of coverage together and to require satisfaction of all other insurance requirements provided in this Agreement.

6.4.1 Consultant's insurance shall be from an insurance carrier with an A.M. Best rating of A-IX or better, shall be on the CG 0001 ISO Occurrence form or such other form as may be approved by City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear, except that the additional insured requirement shall not apply to Professional Liability or Workers Compensation/Employers Liability coverage. Such endorsement shall be ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled until after thirty (30) days' unqualified written notice of cancellation or material change has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing as respects the work of Consultant on those policies where City is an additional insured.

6.4.2 Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by this Article. Consultant agrees to maintain the insurance required by this Article of a minimum of three (3) years following completion of the Project if commercially available and affordable and, during such entire three (3) year period, to continue to name City, City's agent, and other specified interests as additional insureds thereunder.

6.4.3 Coverage shall contain a waiver of subrogation in favor of the City, and its subdivisions, departments, officials, officers and employees except on Professional Liability.

6.4.4 If due to the Consultant's negligent act, error or omission, any required item or component of the project is omitted from the Construction documents produced by the Consultant, the Consultant's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents.

6.5 **Termination:** This Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, the nonperforming party shall have

14 calendar days from the receipt of the termination notice to cure the failure in a manner acceptable to the other party. In any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated, but it is mutually agreed by the parties that the City will use them solely in connection with this Project, except with the written consent of the Consultant (subject to the above provision regarding Reuse of Documents).

6.6 Controlling Law: This Agreement is to be governed by the laws of the State of Kansas.

6.7 Indemnity: To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by Consultant or any sub-consultants hired by Consultant, the Consultant agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Consultant or its sub-consultants, to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants. Consultant shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants.

6.8 Severability: Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

6.9 Notices: Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from item to item by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

6.10 Successors and Assigns: The City and the Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of the City and the Consultant are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other party in respect of all covenants and obligations of this Agreement.

Neither the City nor the Consultant may assign, sublet, or transfer any rights under the Agreement without the written consent of the other, which consent shall not be unreasonably withheld; provided, Consultant may assign its rights to payment without Owner's consent, and except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.

Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Contractor, subcontractor, supplier, other person or entity or to any surety for or employee of any of them, or give any rights or benefits under this Agreement to anyone other than the City and the Consultant.

IN WITNESS WHEREOF: the parties hereto have executed this Agreement to be effective as of the date first above written.

City:

City of Prairie Village, Kansas

Consultant:

Indigo Design, Inc.

By:

Ronald L. Shaffer, Mayor

By

Douglas Pickert, President

Address for giving notices:

City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208

Address for giving notices:

Indigo Design, Inc.
8593 Timber Trails Drive
De Soto, Kansas 66018

Telephone: 913-385-4600

Telephone: 913-583-1370

ATTEST:

APPROVED AS TO FORM BY:

Joyce Hagen Mundy, City Clerk

Catherine Logan, City Attorney

Attachment A - Scope of Services and Schedule for Prairie Village Park Projects

See "Attachment A - Supplement for Project Scope" for additional description of Design Scope and Deliverables	Anticipated Participants			Dateline - Week Beginning
	City Staff	PRC Committee/ Sub-Committee	City Council	
Franklin Park Meeting/Activity				
1 - Schematics				2009
Based on contract approval at November 16, 2009 City Council Meeting				Nov
Receive Notice To Proceed				23
Initiate Topo Survey Work				
Kick-off Meeting with Staff				
Gather additional data regarding utilities, reports, etc.				
Begin product research for Shelters and Restrooms				
Meet with Staff to review shelters and restrooms, customization options				30
				December
Meet with PRC to review shelters and restrooms, customization options		9-Dec		7
Topo work complete				
Initiate schematic design for Nature Play Area				14
				21
Prepare Opinion of Construction Costs				28
Meet with Staff to review schematics and costs				
				2010
Revise schematics and update costs				January
Coordinate Geotechnical Work/Soil Tests				4
Presentation of Schematic Plans to Public and PRC Committee		13-Jan		11
Presentation of Schematic Plans to City Council			18-Jan	18
2 - Design Development Phase				
Prepare Design Development Plans				25
Prepare Opinion of Construction Costs				
				February
DD Plans and Costs Review Meeting				1
Revise DD Plans				
Update Opinion of Construction Costs				8
Deliver Final DD Plans				
3 - Construction Documents Phase				15
Prepare Construction Documents				
Update Opinion of Construction Costs				22
Deliver 95% CD's and meet for review				March
Finalize Project Manual and Bid Form				1
Issue Final Bid Documents				8
4 - Bidding Phase				15
Advertise for Bid and issue bid documents to Contractors				22
				29
Respond to Bidder inquiries				
Respond to Bidder inquiries				April
				5
Receive Bids	13-Apr			12
Review bids with PRC		14-Apr		
Bids accepted by City Council			19-Apr	19
Construction Contract preparation				26
				May
5 - Construction Phase				3
Ground-breaking				10
Shelter, Trails, and Play Area Construction (May thru September)				June
				July
				August
Turf establishment and landscape plantings				September
Grand Opening!				October
Schedules for Schliffke and Weltner Parks - To be determined at the discretion of the City of Prairie Village	The design phases for these two parks (Schematic Design through Construction Documents) are anticipated to be approximately 8 weeks in duration, and may be accomplished simultaneously, if desired)			

Prairie Village Park Projects.

ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE

This supplemental section for Attachment A further defines the design scope and deliverables for each park project:

DESIGN SCOPES

Franklin Park

- 8-10' wide Perimeter and Interior Trails
- New Nature Play Area
 - Features will include but not be limited to the attached Franklin Park Play Area Detail (from PV Parks Master Plan)
- New Shelter - approximately 25' x 40', pre-engineered with customization
 - Structure material (steel or wood) and roofing to be determined during design
 - Customization may include decorative framing and/or stone column accents
- Concrete patio area and stone grill with seat walls, adjacent to shelter
- New small, permanent restroom (men's/women's sides and/or family facilities to be determined during design)
 - Pre-engineered structure, with stone accents to visually tie to shelter
 - Set on concrete foundation and connected to on-site sanitary main
- Practice Field Improvements
 - North field to be re-graded to improve drainage and infield/backstop shifted west to increase useable open space
 - North and south fields to receive irrigation systems
- (9) Additional parking stalls on west side of existing internal parking lot
- Interpretive park history signs and trail circuit(s) length sign
- Site lighting (in shelter and play areas) and electrical supply for shelter, restroom, play stream controls, irrigation system, and future circuits (gazebo, etc.)
- Water supply improvements for shelter, restroom, play stream, and irrigation system
- Landscape and tree replacement plans
- Site Amenities – benches, picnic tables, and trash receptacles

Weltner Park

- 8-10' wide Perimeter Trails
- Site Design Grading, responsive to new Cambridge alignment and existing trees
- New Nature Play Area
 - Features will include some manufactured play pieces (climbers, slides, swings, plus simple nature play features (earth and plant materials)
- New Shelter - approximately 20' x 30', pre-engineered with customization
 - Structure material (steel or wood) and roofing to be determined during design
 - Customization may include decorative framing and/or stone column accents
- Site lighting (in shelter and play areas) and electrical supply for shelter
- Interpretive park history signs and trail circuit length sign
- Landscape and tree replacement plans
- Site Amenities – benches, picnic tables, and trash receptacles

Prairie Village Park Projects.

ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE

Schliffke Park

- 10'-wide Trail
- Picnic areas – at-grade locations near creek bank to maximize views of water (elevated/cantilevered overlooks are deemed unlikely to be approved due to flood water elevations)
- Partial removal of existing parking and drives, with new connecting drive to Mission Road
- Site lighting
- Interpretive park history signs and trail length sign
- Landscape and tree replacement plans
- Site Amenities – benches, picnic tables, and trash receptacles

DELIVERABLES

Deliverables for each project include:

Topographic Survey (Franklin only)

- Entire site from surrounding street centerlines to fences at south residences.
- 1' contours
- Site utilities – water, storm, sanitary, electric.
- Individual trees in new play, shelter, restroom area
- AutoCAD format (and other digital formats, if desired)

Topographic Survey (Schliffke only)

- Entire site from Mission Rd. centerlines to creek bank toe
- 1' contours
- Site utilities – water, storm, sanitary, electric.
- Individual trees (4" and larger)
- AutoCAD format (and other digital formats, if desired)

Phase 1 – Schematic Design

- 24x36 plan sets to illustrate site plan and detailed design features (6 copies for City) - Layout, grading, landscape, lighting, and details for items noted in the design scope.
- Product data and images for shelter and restrooms
- Opinion of Probable Project Costs
- 24x36 or larger rendered plan for presentation purposes (for Public, PRC, and Council)
- Digital copies of all of the above

Phase 2 – Design Development

- 24x36 plan sets to illustrate dimensions, materials, colors, etc. for all site plan and detailed design features (6 copies for City) - Layout, grading, shelter and restroom (foundations and footings), lighting, utility improvements, landscape, signage, and other details for items noted in the design scope.
- Opinion of Probable Project Costs
- Digital copies of all of the above

Prairie Village Park Projects.

ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE

Phase 3 - Construction Documents

- 24x36 plan sets for bidding and construction purposes (6 copies for City) for all items noted in the design scope
- Project Manual with City-approved front end documents, bid form, and project specifications.
- Opinion of Probable Project Costs
- Digital copies of all of the above

Phase 4 – Bidding Administration

- Responses to bidder inquiries
- Addenda document preparation
- Bid tabulation form
- Assistance with bid tabulation and review

Phase 5 – Construction Administration

- The design team will provide on-call services to assist with plan interpretation at the discretion of the City.
- The design team will review shop drawings, as needed.
- A minimum of six (6) site visits will be conducted by Indigo Design during construction to coordinate with the Contractor relative to the nature play area, specifically to review final grading, review placement of stones in the play stream, locate specific play components, and mark/adjust plant locations, etc.
- As-built drawings will be prepared for the public sanitary main extension, per JCWW requirements.

Reimbursable Expenses - Geotechnical services for soil testing: This work will include 3-4 soil borings (10' depth), as needed, and report to assess soil conditions for the shelter, restroom, and footbridge footings and foundations.

Prairie Village Park Projects.

ATTACHMENT B - Proposed Fees

The following proposed fees for the Indigo Design team are based on our current understanding of the project elements and the scope of services included in this proposal. We reserve the right to adjust these fees during contract negotiations if our understanding of the project requirements is altered.

Franklin Park

Phase 1 – Schematic Design	\$ 12,525
Phase 2 – Design Development	\$ 19,500
Phase 3 - Construction Documents	\$ 17,725
Phase 4 – Bidding Administration	\$ 1,600
<u>Phase 5 – Construction Administration*</u>	<u>\$ 12,490 (Hourly to maximum)</u>
Total for above Phase 1-5 Services	\$ 63,840

Topographic Survey	\$ 5,780
Reimbursable Expenses (Mileage, Printing, Mailing, etc.)	\$ 1,200 maximum
<u>Reimbursable Expenses (Geo-tech for soil testing)</u>	<u>\$ 1,500 maximum</u>
Total for Franklin Park	\$72,320

Possible Fee Reduction

If Johnson County wastewater allows for the new restroom to be connected to the existing sanitary main via a service line, in lieu of a public sanitary main extension, the above fees will be reduced by \$ 2,700.00

Weltner Park and Schliffke Park Fees

For a scope of services consistent with that described for Franklin Park (Schematic Design through Construction Administration), and consistent with the concept plans contained in the Prairie Village Parks and Recreation Master Plan, the proposed fees for these parks are as follows:

Weltner Park (Note: topo survey to be provided by City via Cambridge St. project)

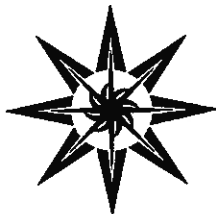
Design services items per Attachment A -	\$14,840
Construction Administration* (Hourly to maximum)	\$ 3,400
Reimbursable Expenses (Mileage, Printing, Mailing, etc.)	\$ 800 max.
<u>Reimbursable Expenses (Geo-tech for shelter soil testing)</u>	<u>\$ 600 max.</u>
Total for Weltner Park	\$19,640

Schliffke Park

Topographic Survey -	\$ 3,900
Design services items per Attachment A -	\$10,860
Construction Administration* (Hourly to maximum)	\$ 3,000
<u>Reimbursable Expenses (Mileage, Printing, Mailing, etc.)</u>	<u>\$ 800 max.</u>
Total for Schliffke Park	\$18,560

***Additional Notes regarding the Proposed Fees**

1. Construction Administration fees shall be based on hourly rates of \$80/hour for Indigo Design, up to \$120/hour maximum for sub-consultants.
2. The fees do not include the review or assessment of hazardous materials or environmental impacts.
3. The fees are based on the scope of services being completed by the end of 2010.



ADMINISTRATION

Council Committee Date: November 16, 2009
City Council Meeting Date: December 7, 2009

COU2009 -110: Consider changes to fee schedule related to planning and zoning applications

RECOMMENDATION

Staff recommends the City Council approve the revisions to the 2009 Prairie Village Fee Schedule as proposed in Attachment A.

SUGGESTED MOTION

I hereby move that the City Council adopt the Proposed Planning and Zoning Fees as outlined in Attachment A, modifications to the fee schedule shall begin on January 1, 2010.

BACKGROUND

Staff has been reviewing the existing fee structure for planning and zoning applications to determine if changes should be made for the upcoming 2010 calendar year. Staff looked fees assessed by adjacent jurisdictions including, Mission, Merriam, and Overland Park.

In addition, staff took into consideration a change in the process of how staff reports are written for detached and attached single-family residential property owner requests. Recently, city staff has taken over the role of processing applications for these residential property owners rather than sending the applications out for processing to the City's Planning Consultant. Therefore, staff has proposed set fees for these types of applications rather than actual costs associated with the outside consultant.

There have also been several fees which have been eliminated under the planning and zoning section since they are currently covered under the building permit fee schedule, or are no longer applicable. These include sign permit, banner permit, and a second special use permit fee.

A summary of the proposed fees has been included in Attachment A. New permit fees are shown in bold and deleted fees are shown with strike-through.

FUNDING SOURCE

N/A

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: November 12, 2009

**ATTACHMENT A:
PROPOSED MODIFICATIONS TO THE PLANNING AND ZONING FEES**

PLANNING COMMISSION

REZONING APPLICATION	\$ 600*	PVMC 19.42.010; 16-404 - 02/06/89
SPECIAL USE PERMIT APPL.	\$ 600*	PVMC 19.28.015; 16-404 - 02/06/89
SPECIAL USE PERMIT APPL.	\$ 525*	PVMC 19.28.015 - 02/06/89
PER PARAGRAPHS Q & W		PVMC 16.20.050 - 02/06/89
CONDITIONAL USE PERMIT	\$600*	PVMC 19.30.025 - 01/01/10
SITE PLAN APPROVAL	\$650*	
PRELIMINARY/FINAL DEVELOPMENT PLAN	\$650*	PVMC 19.23; 19.24 - 01/01/10
ADMINISTRATIVE SITE PLAN APPROVAL	\$100	
RESIDENTIAL BUILDING LINE MODIFICATION	\$100	PVMC 18.18 -01/01/10
RESIDENTIAL SITE PLAN FOR GENERATOR	\$100	PVMC 19.44.040.C - 01/01/10
FENCE/RETAINING WALL	\$100	PVMC 19.44.025.G - 01/01/10
BUILDING ELEVATION	\$100	PVMC 19.44.30 - 01/01/10
SIGN STANDARDS REVIEW	\$100	PVMC 19.48.25.J - 01/01/10
MONUMENT SIGN REVIEW	\$ 50	PVMC 19.48.25.M - 01/01/10
SIGN PERMIT (per sign)	\$ 25	PVMC 19.40.030 - 2/6/89
BANNER PERMIT (per location/event)	25	PVMC 19.40.030 - 6/15/92
PRELIMINARY PLAT	\$650*	PVMC 18.12.020 - 12/19/88
FINAL PLAT	\$650*	PVMC 18.12.020 - 12/19/88
BOARD OF ZONING APPEALS	\$ 75	PVMC 19.44.030; 16-401 - 2/6/89
BOARD OF CODE APPEALS	\$ 100	Council Action 8/21/89
SHORT TERM SPECIAL USE PERMIT CITY COUNCIL APPROVAL	\$25**	PVMC 19.34.040.C; 16-403 - 04/18/05
PLANNING COMMISSION APPROVAL	\$100**	PVMC 19.34.040.E; 16-403 - 01/01/10

* A \$500 cost advance is collected at the time of application to be applied towards actual costs including but not limited to publication, court reporting and transcript, outside consulting, engineering or legal review.

**Exempted

- Prairie Village Governing Body
- City Committees
- Homes Associations representing properties with the City
- Other City, County, State & Federal Governmental Agencies
- Non-profit organizations with a 501c(3) designation by the IRS

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
November 16, 2009
7:30 p.m.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- 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 - November 2, 2009
- 2. Approve Claims Ordinance 2865
- 3. Approve the Interlocal Agreement between the City of Prairie Village and Johnson County Park & Recreation District for the use of City facilities for 2010 programming.
- 4. Adopt the proposed revisions to the City's Records Retention Schedule.

By Committee:

- 5. Rescind Personnel Policy #196 entitled "YMCA Membership" effective December 31, 2009. (Council Committee of the Whole Minutes - November 2, 2009)

- VI. MAYOR'S REPORT**
- VII. COMMITTEE REPORT**

Council Committee of the Whole

COU2009-108 Consider revisions to supplemental pension plan. - Michael Kelly

COU2009-109 Consider approval of professional planning services with Indigo Design for 2010 Parks Plans. - Michael Kelly

- VIII. STAFF REPORTS**

- IX. OLD BUSINESS**

Update on 83rd Street sidewalk design

Status of nuisance declaration at 7578 High Dr.

Consider revision to the publication date of Resolution 2009-20.

- X. NEW BUSINESS**
- XI. ANNOUNCEMENTS**
- XII. 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

November 16, 2009

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
November 2, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, November 2, 2009, 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, Dale Warman, Ruth Hopkins, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz.

Also present were: Quinn Bennion, City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Larry Baker, controller for Meadowbrook Country Club, addressed the Council regarding their appeal of the City's calculation of their storm drainage fee. Also, Mr. Baker noted the nature of their 137 acre property contains several paved cart paths; however, these paths are surrounded by surface grass that absorbs the runoff from these paths. It does not go into the city's storm drainage system. Of the 17 areas of impervious surface identified on their property, 15 of these are cart paths. He added the golf course also has series of collection areas for water that are then used for irrigation of the course with all drains leading into these collection areas.

Mayor Shaffer asked if Mr. Baker had received Mr. Pryzby's memo. He had not. Bob Pryzby explained the City recently adopted a policy to allow for credits to be given on assessments based on established criteria upon written appeal by the property owner. Mr. Pryzby stated the Country Club had made a written appeal; however, it does not fit under the BMP criteria established. Laura Wassmer stated the claim by the country club makes sense and is reasonable.

Bob Pryzby stated there have been discussions regarding considering the ponds on the course to be detention basins; however, it would cost more for the club to hire an engineer to do the necessary calculations than the amount received by the responding credit. Larry Baker stated the impact of the impervious surface created by the cart paths is not the same as impervious surface found in other locations. Mr. Baker added they are requesting the adjustment be retroactive to last year's assessment.

Charles Clark suggested that the Finance Committee review the request and bring a recommendation forward to the City Council. Anthony Ward, 7521 Booth Drive, addressed the Council regarding his neighboring property noting there are four cars in the front yard with three of them inoperable. He has a young son and is unable to have him play in their yard because of the foul language and inappropriate activities taking place on the neighboring property. He noted two restraining orders have been filed by other property owners in the neighborhood and other neighbors are afraid to talk. He expressed frustration with the lack of action by the City's Codes Department and Police Department. Although as a resident, the Police Department works for him, he feels their concerns have fallen on death ears. An inoperable vehicle becomes a code violation after 48 hours; however, these have been at this residence for three weeks.

Bob Tyner, 2401 West 75th Place, stated his main concern is for protection. He noted when placing a call earlier in the evening to Dispatch, the Dispatcher responded they were tired of getting calls from this neighborhood and accused him of harassment.

He questioned why he was interrogated by the Dispatcher when calling for assistance. He stated he may need to start calling the Sheriff's office to get a response. Mr. Tyner submitted several letters from neighboring residents stating their concerns and requesting action from the City. He noted the inoperable vehicles do not concern him as much as the actual physical threats that have been made against him and asked for a response from Chief Jordan.

Chief Jordan stated he had received a call today from Mr. Tyner's attorney and at this point will work through the attorney. He noted the call to Dispatch earlier in the day came in at shift change.

Mary Morgan, 2400 West 75th Place, stated she spoke at the last Council meeting and is so concerned with the lack of response from the Police Department that she has also taken out a restraining order. She, too, has called with no response made. She noted it should not matter if it is shift change. If a Dispatcher takes a call, they should address the needs of that call before leaving their station. Chief Jordan responded with an explanation of the procedures that have to be followed by the Department.

Dennis Enslinger stated the current code violation for inoperable vehicles is scheduled to appear at Municipal Court tomorrow morning. He added that once the vehicles have been moved, the entire process must begin over.

Laura Wassmer stated she understands Mrs. Morgan's fears and frustrations noting she lived through a similar experience. She stressed there is a process that has to be followed and even though it may appear as nothing is being done, there is investigation and action being taken to address the concerns of the neighborhood, some of which can not be made public.

Tom Fagan, 9640 High Drive, stated he has invested over a million dollars along the 75th Street corridor with improvements to four rental properties within 150 feet of this property. He chose Prairie Village and this area because of the reputation of the City for

its code enforcement, safe neighborhoods and high standards. This property has appeared to become an island of blight that the City does not want to address. He noted this is a neighborhood in transition, the day of larger homes is coming to an end and he hopes the City will exercise good sense and protect its neighborhoods from a slow death of blight.

CONSENT AGENDA

David Morrison asked for the removal of item #1.

Michael Kelly moved the approval of the Consent Agenda for Monday, November 2, 2009 as amended.

1. Removed
2. Approve Special Council Meeting Minutes - October 26, 2009
3. Approve new Cereal Malt Beverage Licenses for Sunshine Energy LLC DBA SE #156 and Sunshine Energy LLC DBA SE #67
4. Adopt Ordinance 2220 establishing General Franchise and Franchise Application requirements in the City of Prairie Village, Kansas; Adding a New Article 4 to Chapter XV of the Code of the City of Prairie Village, Kansas entitled "Franchises".
5. Adopt Ordinance 2221 granting to Kansas Gas Service, a Division of ONEOK, Inc. its Grantees, Successors and Assigns a Franchise to Construct, Maintain and Operate all works and plants necessary or proper for supplying consumers with Natural Gas.

A roll call vote was taken with the following members voting "aye": Herrera, Warman, Hopkins, Kelly, Wang, Wassmer, Beckerman, Clark, Morrison, Ewy Sharp and Belz.

David Morrison noted that his vote was not reflected in the minutes of the October 19th meeting on the roll call votes. The City Clerk noted the error and stated the minutes would be corrected.

David Morrison moved the regular Council meeting minutes of October 19, 2009 be approved as corrected. The motion was seconded by Charles Clark and passed unanimously.

MAYOR'S REPORT

- Mayor Shaffer noted he has had a busy two weeks, but due to the lateness of the hour would he would not be giving a report.

COMMITTEE REPORTS

Council Committee of the Whole

COU2009-104 Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year.

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year and to allocate 2010 General Fund Contingency in the amount of \$96,000 to employee benefit costs. The motion was seconded by Andrew Wang and passed unanimously.

Police Pension Board

Charles Clark reported that the Board had received the third quarter earnings report on the police pension fund and he was pleased to report the plan has recouped half of its earlier loss as the markets continue to make progress.

STAFF REPORTS

PUBLIC WORKS

- The locations for the Park Identification signs have been marked in the field and work begun on constructing the signs.
- Work on El Monte Fountain is scheduled to start next week. Funds have not yet been received from the homes association.
- 2010 Bond Projects - Mr. Pryzby announced he will be meeting with contractors regarding the work and noted he has not made a decision on going out to bid.

Dale Beckerman asked if he would be using one contractor for all of the work. Mr. Pryzby responded he would prefer to use only one to minimize the coordination of work. He hopes to be ready to go out for bid by Thanksgiving.

- Three firms have been selected to submit costs for the work on 75th Street - Affinis, GBA and TranSystems. Mr. Pryzby noted he was redoing the agreement to be very specific on the scope of services.
- The Campus Brick Project proposals have been received and are being reviewed by the selection committee.
- Engineering work has begun on the trails.

- 2009 Paving Program is complete - final change orders will be submitted to the Council at the next meeting.
- 2009 Storm Drainage and Concrete Projects are complete

Mayor Shaffer noted the presence of special representatives and asked the Council for permission to move ahead on the agenda to New Business.

NEW BUSINESS

Consider Items to Finalize Issuance of Series 2009-A Bonds

Mayor Shaffer commended everyone involved in the sale of Bonds. Quinn Bennion announced the successful sale of General Obligations Bonds for the funding of infrastructure improvements at an interest rate of 1.88% and recognized the role of the Finance Committee and Council in securing a great bond sale. .

Jeff White, Columbia Capital Management, stated there was enormous interest in the sale with ten bidders, including local bidders as well as out of state bidders. The bid was as competitive as he has seen in ten years with the decision coming down to the third decimal point on the TIC. Mr. White added the refunding portion of the bond sale allowed the City to exchange bonds at 5% for bonds at 2% resulting in a savings of \$65,000 just on that portion of the sale. He was very pleased with the terrific response to the bonds and the resulting excellent rate.

Gary Anderson, Gilmore & Bell, concurred with Mr. White's comments and stated the finalization of the sale requires the acceptance of the best bid, the adoption of an ordinance authorizing the issuance of the bonds and approval of a resolution prescribing the form and details of and authorizing and directing the sale and delivery of the bonds.

Charles Clark moved the bid of George K. Baum & Company be accepted and that the Mayor and Clerk be authorized and directed to execute the bid form selling the Bonds to the best bidder on the basis of said bid and the terms specified in the Notice of Bond Sale. The motion was seconded by Dale Beckerman and passed unanimously.

Charles Clark moved the Governing Body adopt Ordinance No. 2223 authorizing and providing for the issuance of \$10,085,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2009-A of the City of Prairie Village, Kansas; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on said bonds as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto. The motion was seconded by Al Herrera.

A roll call vote was taken with the following votes cast: "aye" Herrera, Warman, Hopkins, Kelly, Wang, Wassmer, Beckerman, Clark, Morrison and Ewy Sharp.

Charles Clark moved the Governing Body adopt Resolution No. 2009-20 prescribing the form and details of and authorizing and directing the sale and delivery of \$10,085,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2009-A, of the City of Prairie Village, Kansas, previously authorized by Ordinance 2223 of the issuer; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith. The motion was seconded by Dale Beckerman and passed unanimously.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	11/03/2009	6:30 p.m.
Planning Commission	11/03/2009	7:00 p.m.
Sister City Committee	11/09/2009	7:00 p.m.
Communication Committee	11/10/2009	5:30 p.m.
Parks & Recreation Committee	11/11/2009	7:00 p.m.
Council Committee of the Whole	11/16/2009	6:00 p.m.
City Council	11/16/2009	7:30 p.m.

=====
Mayor Shaffer noted the Sister City will host a reception on Monday, November 9th at City Hall for the Shawnee Mission Foreign Exchange Students at 7 p.m.

The Prairie Village Arts Council is pleased to announce an exhibit by the Mid America Pastels Society during the month of November. The reception will be held on November 13th from 6:30 to 8:30 p.m.

Flu shots have been rescheduled for **November 18, 2009** from 7:30 - 9:00 a.m. at Public Works or 2:00 - 4:00 p.m. at City Hall. Flu shots are available to Council members for \$10.

The National League of Cities conference is November 10-14 in San Antonio, Texas.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 21st at 6 p.m.

The Municipal Foundation will be hosting the annual Mayor's Holiday Tree Lighting on Monday, November 30th at Corinth Square from 6:00 to 7:30 p.m.

The Johnson and Wyandotte Counties Council of Mayors Annual Holiday Social Dinner is December 2, 2009 at 5:30 p.m. at The Lodge at Ironwoods Park.

The Mayor's Holiday Volunteer Party is December 4, 2009 at 6:30 p.m. at Homestead Country Club.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 14th at the Community Center from 2 to 4 p.m.

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

STAFF REPORTS

LEGAL

Katie Logan advised the Council that she had received a letter from the District Attorney's Office regarding their interpretation of the correctness of the language of the question on the recently submitted protest petition. She noted this is an advisory opinion and can be challenged by the City in court. Ms Logan read the regulations as specified in the Kansas Statutes dealing with Charter Ordinances which requires the language to be as stated in the Kansas Constitution. She noted there is different language stipulated for referendums. The petition must state the issue in the form of a question. In addition to the specific language, with a charter ordinance, it is required that the entire language of the charter ordinance be included or attached. The finding of the District Attorney was that the language used in the petition was close enough but noted the required ordinance was not attached.

Ms Logan stated that if the City wants to challenge the opinion that challenge needs to be filed within 20 days, which would be November 9th. She noted the challenge would be specifically did the petition follow the required language. The costs would include legal and filing fees, which she estimated at \$2500 to \$3500.

Mayor Shaffer asked where it would be filed. Ms Logan responded it would be filed in Johnson County Court.

Dale Beckerman clarified if the petition was found to be valid, then the City would need to have a special election or repeal the charter ordinance. Ms Logan stated the ordinance does not specifically need to be repealed if found invalid. If the petition was found to be invalid, the Charter Ordinance would stand as adopted and could be used for future bond sales.

Laura Wassmer moved the Governing Body authorize the City Attorney to file a lawsuit in Johnson County District Court to challenge the validity of the “form of question” in the protest petition filed with respect to Charter Ordinance No. 25. The motion was seconded by Michael Kelly and passed by a vote of 10 to 1 with David Morrison voting “nay”.

ADMINISTRATION

- Chris Engle reported the Sister City Committee would be hosting a reception for the Shawnee Mission East Exchange Students on Monday, November 9th at 7 p.m.
- Johnson County Park & Recreation District Board has agreed to contribute toward the Community Center Study. The School District Board will be discussing their level of participation at their meeting this week.
- The Kansas League of Municipalities Regional Supper will be held on November 19th at 6 p.m. at the Sylvester Powell Center. Council members are encouraged to attend. Ruth Hopkins added she has invited the Northeast Johnson County Chamber of Commerce President to attend as well.
- Schedules/Guides have been distributed to those individuals who will be attending the National League of Cities Conference next week.
- The Johnson County Board of Commission approved the City's application for CDBG funding for improvements to 75th Street in the amount of \$150,000.
- Finance Director Karen Kindle reported the City received the final mill levy from the County. The City's mill levy is 18.179, which is .003 less than submitted.

- Ms Kindle noted staff is actively working with Springbrook on the installation of the new financial software. The financial portion of the software is scheduled to “go live” March 1st, with Licensing and Permits following in mid March and the final portion going live mid April.
- Quinn Bennion stated he will be attending the National League of Cities Conference next week along with six Council members.
- Mr. Bennion noted that 75th Street will be eligible for the Exterior Grant Program next year and will receive CDBG funds for a street project in 2010. He added there are several initiatives being implemented by the City by the end of the year and staff is working to keep them all on schedule.
- Dennis Enslinger stated the City had received confirmation that Mr. Birnbaum had received notice of the declaration of a nuisance on his property at 7678 High Drive. Mr. Birnbaum has ten days to request a hearing before the City Council.
- There was a residential fire at 4102 Homestead this morning that resulted in significant damage to the home. The Building Official has inspected the home and found it uninhabitable.
- Mr. Enslinger reported two “safe routes to school” meetings have been scheduled - Prairie Elementary on November 4th and Briarwood on November 10th.
- November 14th the City will be participating in an E-Recycle Event with the Cities of Overland Park and Leawood at 135th & Nall.

PUBLIC SAFETY

- Chief Jordan reported he felt the additional conversation with the residents who spoke earlier at the meeting was productive as more information was shared and processes explained.
- Chief Jordan was pleased to report that the Rainbow Mental Health Facility will remain open
- Chief briefly reviewed the third quarter crime statistics that were distributed prior to the meeting. He acknowledged an increase in residential burglaries and auto burglaries as well as in criminal damage. However, he was pleased to report accidents reflect a significant decrease over 2008.

OLD BUSINESS

Al Herrera stated he was glad the City Council had decided to challenge the protest petition. He was confident that if he had more time, he would have gathered a sufficient number of withdrawals to invalidate the petition. He noted in talking with individuals while gathering signatures, they indicated they were told the City Council was taking away their right to vote, that some of the signatures were not signed by the individual indicated on the petition or were signed simply so the petitioner would leave. He feels the petition has undermined residents’ confidence in the City’s system of government and the Council. He is discouraged with the miscommunication that has

occurred surrounding this action, including conversations between the City Administrator and Assistant City Administrator and other Council members. He felt he should have been called and hoped for better and more open communication in the future.

Michael Kelly noted the resident he spoke with on Rosewood regarding the protest petition felt she had been misled after talking with him. He agreed that given more time or a weekend with more residents home, enough signatures would have been gathered to invalidate the petition.

Quinn Bennion responded to Mr. Herrera's statements noting that he had been specifically asked his opinion by some of the Council; however, he understands his concerns. Diana Ewy Sharp stated that she for one, had asked Mr. Bennion and Mr. Enslinger for their opinions.

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned at 9:10 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

November 16, 2009

**Copy of Ordinance
2865**

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
EXPENDITURES:			
Accounts Payable			
93192-93283	10/1/2009	81,123.27	
93284-93287	10/7/2009	4,582.18	
93288-93289	10/9/2009	590.78	
93290-93387	10/16/2009	379,244.08	
93388	10/17/2009	101.00	
93389-93391	10/21/2009	772.05	
93392-93481	10/30/2009	501,865.66	
Payroll Expenditures			
10/9/2009		231,745.26	
10/23/2009		234,116.42	
Electronic Payments			
Intrust Bank -credit card fees (General Oper)		616.74	
State of Kansas - sales tax remittance		243.56	
Marshall & Ilsley - Police Pension remittance		7,747.30	
Intrust Bank - fee		393.14	
KCP&L		11,741.92	
CBIZ - Section 125 admin fees		252.92	
Intrust Bank - purchasing card transactions		17,529.04	
United Health Care		1,174.04	
Kansas Gas		955.55	
TOTAL EXPENDITURES:			\$ 1,474,794.91
Voided Checks			
Olathe T-Shirt	# 93368	(102.06)	
Heart Strings	# 93225	(250.00)	
TOTAL VOIDED CHECKS:			(352.06)
GRAND TOTAL CLAIMS ORDINANCE			1,474,442.85

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

Passed this 16th day of November 2009.

Signed or Approved this 16th day of November 2009.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



CITY CLERK DEPARTMENT

Council Meeting Date: November 16, 2009
Consent Agenda

Consider Interlocal Agreement with Johnson County Park & Recreation District for use of City facilities for 50+ programming

RECOMMENDATION

Recommend the Governing Body approve the Interlocal Agreement between the City of Prairie Village and Johnson Country Park & Recreation District for the use of City facilities for 2010 programming.

Consent Agenda

BACKGROUND

For the past several years, Johnson County Park & Recreation District and the City of Prairie Village have entered into an interlocal agreement which makes it possible for the District to programming in City facilities. This agreement has been renewed annually.

The terms of the agreement have not changed; therefore, the approval of the 2010 Interlocal Agreement between the City of Prairie Village and the Johnson Country Park & Recreation District for use of City facilities is included on the Consent Agenda.

ATTACHMENTS

Proposed agreement

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: November 11, 2009

2010 CITY OF PRAIRIE VILLAGE 50 PLUS FACILITY USE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2009 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, 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 _____, 2009; 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 _____, 2009.

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, 2010** through the period ending **January 1, 2011** 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, provided, however, that the District shall have no liability greater than that provided under the Kansas Tort Claims Act, K.S.A. 75-6101, et seq. and amendments thereto.
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
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

Catherine P. Logan, City Attorney

DATE: _____

JOHNSON COUNTY PARK AND
RECREATION DISTRICT

Gary K. Montague, Chair
BOARD OF COMMISSIONERS

ATTEST:

George J. Schlagel, 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)
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 CLERK DEPARTMENT

Council Meeting Date: November 16, 2009

COU2008-81 Consider Amendment to Records Retention Schedule

RECOMMENDATION

Recommend the City Council adopt the proposed revisions to the City's Records Retention Schedule.

BACKGROUND

In 2002 the City adopted Council Policy 036 establishing a records management program and corresponding records retention schedule. The records retention schedules are created in conjunction with the individual City Departments based on their records inventory, the value of the record, accepted records retention standards and required federal and stated retention rulings and are reviewed periodically.

The current records retention schedule calls for permanent retention of payroll records. The State of Kansas requires these be kept at least 3 years after the date the withholding tax was due or paid. Under Federal law, an employer is required to keep payroll records for at least 4 years after the date the withholding tax was due or paid (whichever is later).

The City Attorney has reviewed the proposed revisions to the retention schedule and found them to be in compliance with state, federal and employment regulations.

New language is represented by **Bold type**. This includes changes in time frame on identified records. The previous language to be changed is shown as ~~regular print~~.

ATTACHMENTS

Proposed Revisions to City of Prairie Village Records Retention Schedule

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: October 30, 2008

**CITY OF PRAIRIE VILLAGE
RETENTION SCHEDULE**

DEPARTMENT: Finance & Accounting	Retention Period in Years		
	Active	Inactive	Destroy
Accounts Payable Records Vouchers, Invoices, Ledgers, Correspondence	2 years	3 years	5 years
Accounts Receivable Records Invoices, Correspondence	2 years	3 years 1 year	5 years 3 years
Annual & Special Reports	2 years	Perm	
Audit Reports	2 years	Perm	
Audit Proposals and Contracts	2 years	3 years	5 years
Banking Records Bank Statements; Deposit records, Check Register, cancelled checks, Voided Checks	2 years	3 years	5 years
Certificates of Deposit	Current	Maturity + 5 years	Maturity + 5 years
Check Logs	2 years	3 years 1 year	5 years 3 years
City Budget	3 years	Perm	
Claims Ordinances	2 years	Perm	
Employee Time Records Time Cards, Time Sheets, W-4, Attendance reports	1 year	4 years	5 years
Fixed Asset Records	2 years	3 years	5 years
General Ledger	2 years	Perm	
Investment Records	2 years	3 years	5 years
Payroll Reports	2 years	Perm 5 years	7 years
Payroll Records: W2's,	2 years	3 years 5 years	5 years 7 years
Purchasing Records, Purchase Orders	2 years	3 years	5 years
Receipt Records - Receipt slips/books/ledgers	2 years	3 years 1 year	5 years 3 years
Tax Records	2 years	Perm	
Treasurer's Reports	2 years	3 years	5 years
Treasury Bills & related correspondence	Maturity	5 years	Maturity + 5 years
Vouchers & Requisitions	2 years	3 years	5 years
1099's	2 years	3 years	5 years
Labor and Statistics Reports	2 years	3 years	5 years
Journal Entries	2 years	3 years	5 years
Budget Preparation Files	2 years	3 years	5 years

Approved by:

Karen Kindle, Finance Director

COUNCIL COMMITTEE OF THE WHOLE
November 2, 2009

The Council Committee of the Whole met on Monday, November 2, 2009 at 6:00 p.m. The meeting was called to order by Council President Michael Kelly with the following members present: Mayor Shaffer, Al Herrera, Dale Warman, Ruth Hopkins, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz. Staff members present: Quinn Bennion, City Administrator; Wes Jordan, Chief of Police; Captain Tim Schwartzkopf & Sgt. James Carney; Bob Pryzby, Director of Public Works; Katie Logan, City Attorney; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator; Nic Sanders, Director of Human Resources and Joyce Hagen Mundy, City Clerk.

COU2009-104 Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year

The City currently contracts with Blue Cross Blue Shield of Kansas City (BCBS) for its health insurance plans. The plan year ends in December and consequently, renewals were sought from BCBS for the 2010 plan year.

Nic Sanders reviewed the renewal process and plan changes. The employee benefits committee was involved in the process and selecting the necessary plan changes to minimize cost and impact to the plan. Dave Johnson with CBIZ was present to address any questions.

Overall, the renewal amount is a 7% increase to HMO and 10% to the PPO and QHDHP/HSA. The increase is more than hoped for, however, the city realized a 4% decrease last year for a cumulative increase of 3% over two year period.

The renewal amount is based on the claims incurred by plan participants over the twelve month period of June 2008 - May 2009. The City's loss ratio for January 1, 2009 to August 31, 2009 was 59%; adding the claims from the previous provider, United Healthcare, that loss ratio goes to 77%. With the addition of 10% for pooling, 18% for trend and 20% for administration, that puts the City at 125%, or a 25% renewal increase. If the BCBS were to factor in the last three months of our loss ratio, it would be at 81% compared to the 77% used in the calculation, resulting in a higher renewal.

Initially, BCBS submitted a renewal of 14.10%; with the assistance of CBIZ, the City's employee benefits consultant, BCBS agreed to lower the increase to 11%. Due to 2010 budgetary constraints, an 11% renewal would not fit within the 2010 budget amount. Due to this, plan design changes were necessary.

BCBS presented several options to lower the renewal rate from the initial 11%. The decision was made by staff and employee benefit committee to have the following plan design changes on the HMO (Base) plan: 1) increase office visit co-pays from \$20 for primary care physician and \$40 for specialist to \$30 and \$60, respectively and increase

urgent care co-pay from \$40 to \$60, and 2) increase drug co-pays from \$10 for Tier 1, \$30 for Tier 2, and \$50 for Tier 3, to \$12, \$35, \$60, respectively.

With these plan design changes, the renewal from BCBS of the three current health plans offered to employees, HMO, PPO, and QHDHP/HSA results in an increase of 7%, 10%, and 10%, respectively.

As, in prior years, the Governing Body determined the cost sharing by the City and the employee to be as follows:

	<u>City</u>	<u>Employee</u>
EE Only	100%	0%
EE+1	83%	17%
Family	75%	25%

Based on this information the monthly cost sharing structure for the BCBS plans are shown below.

<i>Base (HMO)</i>	2009 Plan Year			2010 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	340.09	0.00	340.09	363.90	0.00	363.90
EE+1	823.15	139.94	683.21	880.77	149.73	731.04
Family	1,213.09	303.28	909.81	1,298.01	324.50	973.51

<i>Buy-Up (PPO)</i>	2009 Plan Year			2010 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	421.86	81.77	340.09	464.05	100.15	363.90
EE+1	1,021.09	337.88	683.21	1,123.20	392.16	731.04
Family	1,504.78	594.97	909.81	1,655.26	681.75	973.51

<i>QHDHP w/ HSA</i>	2009 Plan Year				2010 Plan Year			
	Total	Employee	HSA Cont.	City	Total	Employee	HSA Cont.	City
EE Only	340.09	0.00	81.93	258.16	363.90	0.00	79.92	283.98
EE+1	683.21	0.00	58.46	624.75	731.04	0.00	43.81	687.23
Family	921.63	11.82	0.00	909.81	1,013.79	40.28	0.00	973.51

Mr. Sanders noted the City introduced the HSA plan last year with a positive response and 25% of the employees joining the plan. The HSA option will still allow the City to fund a portion of the employee's HSA while still reducing overall total healthcare cost. The employee can also contribute to their HSA in the amount of the difference between the IRS annual contribution limit.

Nic Sanders noted employee health insurance premiums are funded with General Fund and employee contributions. The 2010 budget anticipated a 3% health insurance increase in City premium contributions. With the proposed renewal rates, it is necessary to request funds from 2010 general fund contingency. These funds are the surplus amount from the 2009 plan year when a 5% increase was budgeted, but a 4% decrease was realized due to provider and plan changes.

Mayor Ron Shaffer asked if there was any special event that contributed to the large increase. Nic Sanders responded there were two incidents that resulted in \$45,000 in claim which made up 80% of the claims for the City. He also noted that since the City does not have a full year of history with Blue Cross Blue Shield claims experience from the previous year was also considered.

Andrew Wang confirmed that 3% was budgeted for insurance premiums in the 2010 budget. He asked Mr. Johnson how he felt the City should forecast future budgets. David Johnson replied the 3% budget was aggressive, but reasonable. His firm has had clients receiving from a 0 to 30% increases. The current marketplace is reflecting a 12-15% annual increase.

Ruth Hopkins confirmed the rollover was from budgeted but unused funds in the 2009 budget because of the lower premiums last year. Mr. Bennion noted that these unused funds will rollover into the 2010 General Fund Contingency in 2010. Mrs. Hopkins also confirmed that by using those funds the City will not have any rollover funds available for 2011.

Andrew Wang made the following motion, which was seconded by Laura Wassmer and passed unanimously:

MOVE THE GOVERNING BODY APPROVAL BLUE CROSS BLUE SHIELD OF KANSAS CITY AS THE CITY'S HEALTH CARE PROVIDER FOR THE 2010 PLAN YEAR AND ALLOCATE 2010 GENERAL FUND CONTINGENCY IN THE AMOUNT OF \$96,000 TO EMPLOYEE BENEFIT COSTS

**COUNCIL ACTION TAKEN
11/02/2009**

COU2009-105: Consider rescinding Personnel Policy 1096: YMCA Membership

Nic Sanders noted that during the 2010 budget process, the decision was made to cease the YMCA membership subsidy by the City due to the new fitness center inside City Hall. The funds that are budgeted for the YMCA subsidy will now be applied to future expenses of the fitness center. Due to this change, the rescinding of Personnel Policy 1096: YMCA Membership is appropriate.

Mr. Sanders noted there are currently six employees that utilize the subsidy and that the YMCA management is aware of the change. This change will actually take place December 1st as premiums are paid in advance.

Ruth Hopkins made the following motion, which was seconded by Dale Beckerman and passed unanimously:

**MOVE THE GOVERNING BODY RESCIND PERSONNEL POLICY #196 ENTITLED "YMCA MEMBERSHIP" EFFECTIVE DECEMBER 31, 2009.
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Discussion regarding park design schedule for 2010 projects and waiving procurement process

Diana Ewy Sharp stated she, Al Herrera, Bob Pryzby and Chris Engle met to determine a timeline for the implementation of the first phase of the Parks Master plan after the last City Council meeting. It was their intent to issue a request for qualifications for the design; however, in reviewing the time that process would take and its implications on the completion of the projects, they looked for other options. Because of the current workload on staff with the bond initiatives, it was not felt that an RFQ process could be completed until mid January. This would delay the construction start date to late spring with a questionable completion in 2010. One of the options discussed was to proceed with Indigo Design, Inc., who prepared the master plan, which would require the City Council to waive its policy on the selection of consultants.

Charles Clark asked for background information on Indigo, i.e. how much actual design work have they done.

Diana Ewy Sharp replied she didn't know, but noted they are very interested in taking the master plan to the next level. The subcommittee felt that since they put the vision together and are so familiar with the City's parks they would have a step up. She noted they would have to hire an architect.

Quinn Bennion stated the firm has a good working relationship with the City and staff feels comfortable working with them in the future. He noted this is more of a timing and workload issue.

Diana Ewy Sharp stated she feels this would be a two-step process - first, discussion this evening regarding proceeding without opening the process through requests for qualification and then asking Indigo to submit a proposal and costs.

Andrew Wang asked what the disadvantage would be of following the city's established process. Mrs. Ewy Sharp replied it is a timing issue, noting staff does not have the time to prepare the RFQ. The process takes a great deal preparation and time for selection. By following the process, the construction start would be delayed significantly.

Michael Kelly noted the City has a history and policy established and needs to go out for proposals. Mrs. Ewy Sharp stated the policy has been waived in the past. She noted this would not be for the design of all parks, but only for the three identified for 2010 to ensure their timely completion which is anticipated to yield a 15-20% savings in construction costs.

Laura Wassmer said she sees several positives in going forward at this time with Indigo - the City has seen and likes his work, no learning curve as he is familiar both with the City and with the Plan. However, without going through the process, he may not feel pressure to put together a competitive bid. She would like to be able to go out to bid if his proposal is not satisfactory.

David Belz stated unless waiving the process ensures that Franklin Park will be completed before the summer, he does not see a reason to rush the process. Diana Ewy Sharp stated she would like to have Franklin Park completed by November in preparation of a possible sales tax initiative on the 2010 ballot. She added contractors are hungry for work and anticipated bids and costs will be lower now than later. Mr. Belz responded that because contractors are hungry is a reason to go out for bid. He will not vote against going forward, but he likes to be open to proposals and feels that policy should be followed.

Dale Beckerman stated he has the same discomfort with not following process, noting earlier discussion waiving on the park signs contract and discussion on also waiving the process for contractors on the bond contracts. He would like to see some assurance of the qualifications, stating there is a difference between being a planner and a designer. They are not comparable.

Andrew Wang asked at what point is the City at risk of losing funds if it follows its standard operating procedures. Is there a compelling reason? Diana Ewy Sharp responded Franklin Park is a \$1.5 million project. The costs for completing it next year over completing it in the next three years will be less.

Andrew Wang stated there are safeguards in the established process and with the expenditure of that amount of money, not to mention the costs for the other two parks, he does not see any compelling reason to shed the process.

Mayor Shaffer clarified that the City was not going out to bid, but seeking proposals establishing qualifications. He suggested if the City waived the process that it only apply to Franklin Park. Mrs. Ewy Sharp stated that was possible.

Michael Kelly noted he understood this was not a bid, but he still does not feel the sense of urgency to move forward ignoring established policy. The reason for the process is to ensure the best possible return on the expenditure of tax payers' dollars.

Diana Ewy Sharp stated the cost savings being discussed are for the park construction that will begin earlier, not necessarily for the consultant design costs. She has been told that the current cost of construction materials is 15% lower than in the past. Mr. Kelly responded those are projected numbers, not fact.

Charles Clark stated the savings would not be on the design, the question is how quickly this project can go to bid to realize the current low costs for construction materials. He noted the City could do nothing now and go out for RFQ in January.

Quinn Bennion read the policy language that projects with a value of over \$20,000 require public solicitation of firms to determine who is the best qualified at a reasonable written fee and submittal of agreement to the City Council.

Ruth Hopkins stated she sees the reasons for doing this - noting this individual is deeply involved in this project and is a known entity. She is comfortable with the proposed waiving of Council Policy.

Andrew Wang stated he can see bypassing the process because the person has a personal investment in the project; but he does not support proceeding without providing the opportunity for all interested firms submit proposals for work with the City.

David Belz asked if the process was waived, would Franklin Park be done by the summer. He does not see having an established relationship with the City as a reason to select a firm without going through the process. He has seen this clearly demonstrated in recent proposals received for other City projects.

Diana Ewy Sharp noted the established process was followed in the selection of Indigo to prepare the master plan and they were selected over a firm with a relationship with the City. In response to if the park will be completed by summer, Mr. Pryzby has told her that if the City goes out to bid in April with construction taking place throughout the summer, it is realistic that the work could be completed by the end of the fall.

Bob Pryzby noted there are related storm drainage projects proposed for Somerset, the trails could be delayed until fall. The project will take four to five months to design, three to four weeks to bid, construction can be completed by the end of November. He also stated that parts of the park such as the ball fields could remain in use during some of the construction if appropriately fenced, but that is part of the work of the designer to determine. The earlier the project is started the more likely it is that it will be completed by fall.

Diana Ewy Sharp moved the City Council waive Council Policy #16 related to the procurement of professional consulting services for the 2010 parks projects. The motion was seconded by Laura Wassmer.

David Belz asked if the costs came in high could the City go out for proposals in January. Quinn Bennion responded this action addresses the waiving of the policy, not the selection of Indigo, to bypass the selection process.

Dale Warman stated he does not like to supersede policy, but feels there are sound financial reasons to move forward and supported waiving the policy and going forward.

Andrew Wang noted the Council would not have anything to compare to the proposal submitted by Indigo. He is concerned with the lack of design experience. Diana Ewy Sharp stated in response to Ms Wassmer's earlier point, Indigo needs to know that the City will be looking at its' costs.

Dale Beckerman stated he would be in favor of having the proposal reviewed by other architects, noting the City has several on professional architects on various commissions and committees that could review the proposal. He noted if this is to be used to advance the potential ballot issue, he is not sure an unfinished construction project is a good promotional tool.

Presentation of in-car digital video equipment and software

Sgt. James Carney presented a history of the in-car video equipment used by the Police Department. The initial equipment was purchased in 1997 and installed in 13 patrol units.

The units used VHS tapes with a maximum recording time of five hours and had an external microphone. In 2001, the City purchased a second generation system that was installed in all 14 patrol units. The system used DVD's with a recording time of 8 hours. They also had an external microphone and were installed overhead taking up a large portion of space. The DVD tapes were more easily and quickly transferred than the previous VHS tapes and had a longer lifespan. In 2009, the City purchased ICOP 20/20 In-Car Audio/Video Systems. They have been installed in all patrol units. The system records for more than 28 hours and records directly on a hard drive. It has an extended microphone range and built in GPS system. The systems can be accessed by shift supervisors from police department computers. These are used both for evidence and for staff training. The recordings are maintained for 45 days.

Sgt. Carney shared with the City Council several video recorded instances demonstrating its use and capabilities.

Adjournment

With no further business to come before the Council Committee, Council President Michael Kelly adjourned the meeting at 7:28 p.m.

Michael Kelly
Council President



ADMINISTRATION

Council Meeting Date: November 16, 2009

Consider Resolution 2009-20 authorizing Trafficway Improvements

RECOMMENDATION

Governing Body approve Resolution 2009-20 authorizing certain main trafficway improvements and providing for the manner of paying for the same.

BACKGROUND

On September 8, 2009, the Governing Body adopted Ordinance 2205 designating City streets as trafficways. Certain streets designated in the ordinance were omitted in the official publication. To correct this publication problem, the Ordinance has been republished and bond counsel has advised staff that the corresponding Resolution 2009-15 should be readopted.

Except for the new adoption number and date, the attached resolution is the same as Resolution No. 2009-15 adopted on September 21, 2009.

RELATION TO VILLAGE VISION

CFS3A – Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed

ATTACHMENTS:

Resolution 2009-20

PREPARED BY

Joyce Hagen Mundy

City Clerk

Date: November 10, 2009

RESOLUTION NO. 2009-20

**A RESOLUTION AUTHORIZING CERTAIN MAIN TRAFFICWAY IMPROVEMENTS,
AND PROVIDING FOR THE MANNER OF PAYING FOR THE SAME.**

WHEREAS, K.S.A. 12-685 *et seq.*, as amended (the "Act"), authorizes the governing body of the City of Prairie Village, Kansas (the "City"), to improve or reimprove any main trafficway or trafficway connection designated and established under the Act, and to issue general obligation bonds therefor; and

WHEREAS, by the adoption of Ordinance No. 2205 on September 8, 2009, the City has previously designated the streets described on **Exhibit A** attached hereto, as a main trafficway or a main trafficway connector; and

WHEREAS, by the adoption of Ordinance No. 2205 on September 8, 2009, the City has previously designated the streets described on **Exhibit B** attached hereto, as a main trafficway or a main trafficway connector; and

WHEREAS, the City finds it necessary and desirable to authorize certain main trafficway improvements, as more fully described herein.

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

Section 1. Pursuant to the Act, the governing body hereby determines that it is necessary to make the following improvements (collectively, the "Improvements"):

Street Improvement #1:

Street rehabilitation for the streets described on **Exhibit A** attached hereto, including asphalt pavement replacement, curb installation, sidewalk installation, accessibility ramps, storm sewers, turf restoration, design, engineering, surveying, material testing and other related costs.

Street Improvement #2:

Relocation, improvement and reimprovement of Booth Drive from 77th Street to Cambridge Street and Cambridge Street from State Line Road to Somerset Drive, including removal of certain portions of said streets, reconstruction of roadways, drains, drain structures, curb installation, sidewalk installation, turf restoration, engineering, surveying, material testing and other related costs.

Section 2. The City Administrator and other City staff are authorized to take all necessary actions to proceed with the Improvements.

Section 3. The estimated cost for the Improvements shall not exceed \$6,000,000, plus capitalized interest and costs of issuance, to be paid by the issuance of general obligation bonds and/or temporary notes as authorized by the Act.

Section 4. The City expects to make capital expenditures in connection with the Improvements after the date of this Resolution and intends to reimburse itself for such expenditures with the proceeds of general obligation bonds and/or temporary notes in an amount not to exceed \$6,000,000, plus capitalized interest and costs of issuance.

Section 5. This Resolution shall take effect and be in full force and effect from and after its passage and approval by the governing body of the City.

PASSED by the Governing Body on November 16, 2009 and **APPROVED** by the Mayor.

(SEAL)

Mayor Ronald L. Shaffer

ATTEST:

City Clerk

EXHIBIT A

Main Trafficways or Main Trafficway Connectors
Street Improvement #1

Street	From	To
90th St	Roe Ave	Somerset Drive
Juniper Lane	83rd St	86th St
71st Terr	State Line Rd	Eaton St
High Drive	71st Terr	73rd St Cul-de-sac
87th St	Somerset Drive	Nall Ave
Fontana St	75th St	79th St
93rd St	Delmar Rd	Roe Ave
76th St	State Line Rd	Booth Drive
80th Terr	Rosewood Drive	81st St
90th Terr	Delmar Rd	Roe Ave
90th Terr	Mission Rd	Delmar Rd
90th St	Delmar Rd	Roe Ave
94th St	Delmar Rd	Roe Ave
79th St	Booth St	Belinder Ave
79th St	Cambridge St	Booth St
67th St	Mission Rd	Roe Ave
63rd St	Roe Ave	Nall Ave
Cambridge St	State Line Rd	Somerset Drive
83rd St	Roe Ave	Nall Ave
Somerset Drive	Mission Rd	Nall Ave
Canterbury Drive	77th St	Canterbury Cul-de-sac
Outlook Drive	Reeds St	81st St
El Monte St	74th Terr	75th St
79th Terr	Rosewood Drive	Nall Ave
Cedar St	70th Terr	71st St
79th St	Roe Ave	Nall Ave
Aberdeen St	77th St	79th St
72nd Terr	Tomahawk Rd	Nall Ave
Nall Ave	75th St	79th St
Lamar Ave	75th St	79th St

EXHIBIT B

**Main Trafficways or Main Trafficway Connectors
Street Improvement #2**

Street	From	To
Booth Drive	75th St	Cambridge St
Cambridge St	State Line Rd	Somerset Drive

MAYOR'S ANNOUNCEMENTS

Monday, November 16, 2009

Committee meetings scheduled for the next two weeks include:

Arts Council	11/18/2009	7:00 p.m.
Environment/Recycle Committee	12/02/2009	7:00 p.m.
Council Committee of the Whole	12/07/2009	6:00 p.m.
City Council	12/07/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce an exhibit by the Mid-America Pastels Society during the month of November.

Flu shots have been rescheduled for **November 18, 2009** from 7:30 - 9:00 am at Public Works or 2:00 - 4:00 pm at City Hall. Flu Shots are available to Council Members for \$10.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 21st at 6:00 pm.

The City offices will be closed November 26th and 27th in observance of the Thanksgiving holiday. Deffenbaugh observes this holiday on November 26th.

The Municipal Foundation will be hosting the annual Mayor's Holiday Tree Lighting on Monday, November 30th at Corinth Square from 6:00 - 7:30 pm.

The Johnson and Wyandotte Counties Council of Mayor Annual Holiday Social Dinner is December 2, 2009 at 5:30 pm at The Lodge at Ironwoods Park.

The Mayor's Holiday Volunteer Party is December 4, 2009 at 6:30 pm at Homestead Country Club.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 13th at the Community Center at 2:00pm and 4:00 pm.

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

INFORMATIONAL ITEMS
November 16, 2009

1. Board of Zoning Appeals Minutes - September 1, 2009
2. Planning Commission Minutes - October 6, 2009
3. Sister City Committee Minutes - September 14, 2009
4. Sister City Committee Minutes - September 21, 2009
5. Sister City Committee Minutes - October 12, 2009
6. Sister City Committee Minutes - November 2, 2009
7. Tree Board Minutes - November 4, 2009
8. Mark Your Calendars
9. Committee Agenda

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, SEPTEMBER 1, 2009**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, September 1, 2009 in the Council Chambers. Chairman Randy Kronblad called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, Dirk Schafer, Marlene Nagel and Ken Vaughn. Also present in their advisory capacity to the Board of Zoning Appeals were: Ron Williamson, Planning Consultant, Dennis Enslinger, Assistant City Administrator; Jim Brown, Building Official and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Bob Lindeblad moved to approve minutes of February 3, 2009 as written. The motion was seconded by Ken Vaughn and passed unanimously.

BZA2009-01 Request for a Variance from P.V.M.C. 19.08.025(a) to allow

April Giddens, 7820 Juniper Drive, stated she sells medical equipment such as wheelchairs, crutches and other mobility equipment from her home. She does not have appointments at her home or carry an inventory of products. In order to qualify as a Medicare Vendor, she is required to have her hours of operation visibly posted. She does this by placing an 8 ½" x 11" laminated piece of white paper in your garage windows that reads as follows:

**MMS
Kansas City, Inc.
By Appointment Only**

Ms. Giddens stated her appeal is based on the view that this small sign is not advertising which is prohibited by ordinance for home occupations and does not call attention to her home as a business operation. She noted the sign is barely visible from the street and noted that she has been operating out of her home for 12 years with the sign in place.

Randy Kronblad asked if the sign had to be visible from the street. Ms. Giddens responded the medicare guidelines a vague and do not specifically address that.

Bob Lindeblad asked how the violation was discovered. Ms Giddens states her license with Medicare is required to be renewed every three years at which time an inspector visits.

Dennis Enslinger stated a representative from Medicare contacted the City for a copy of its regulations. He called and talked with staff regarding the regulations confirming that signage was not allowed for home occupations.

Marlene Nagel asked if the sign could be posted inside the home. Ms Giddens stated the medicare guidelines do not specifically state where the sign is to be posted. Dirk Schafer confirmed it was placed on the inside window of the garage.

Ron Williamson stated there are two sections of the City's regulations relative to the operation of home occupations as accessory uses that address this issue. Section B.3.a states that no home occupation shall require external alterations or other visible evidence of the conduct of a home occupation. A sign would show visible evidence of a home occupation and would not be consistent with the regulation. He added that several years ago the state required beauty salons to have signage so they could be easily identified and inspected.

Section B.4 specifically states no advertising signs shall be placed on the property which calls attention to the fact that the home is being used for business purposes. The sign in the window would call attention to the fact that a business is being conducted and would not be consistent with the ordinance.

Dennis Enslinger noted that some Medicare Regions do not allow operations out of homes. He stated the City does have other home occupations, such as contractors, where signage is an issue.

Bob Lindeblad asked if the Board had the ability to say this is not a business sign. Mr. Enslinger responded the Board has the ability, but noted such action could open doors for other appeals.

Dirk Schafer stated that he does not feel the sign to be advertising as referenced in B4 nor does he feel it to be an exterior alteration referenced in B3.

Dennis Enslinger stated the Board has a fine line in its ability to interpret and felt confident that Medicare would challenge.

Randy Kronblad stated since no customers come to the home, he does not see the need for the sign to be visible from the outside. He questions if the sign could be posted inside the home.

Ron Williamson asked if it was a federal regulation. Ms. Giddens responded it is stated as guidelines and noted they are not interpreted the same in all regions.

Bob Lindeblad asked if staff had reviewed the regulations. Mr. Enslinger stated staff has read the guidelines, but does not interpret other governing body's regulations. Ms Giddens stated Medicare says it should be posted and visible from the outside, but noted again some regions interpret the regulations differently.

Ken Vaughn stated he does not feel a piece of paper of this size visible outside to be a sign.

Marlene Nagel stated she wanted to support local residents in their business endeavors and would hope that a solution could be found.

Dirk Schafer noted this is not an exterior alternation and felt that although the sign placed visible to the outside may not be in compliance, one place on the insider is not a violation.

Bob Lindeblad asked if the Board would consider this any differently if a franchise owner would require any franchisee to have a sign. He feels it is important to preserve the integrity of the ordinance and noted the Board can not make an individual interpretation on each home occupation.

Bob Lindeblad moved the Board of Zoning Appeals deny the appeal of BZA2009-02 and uphold the interpretation of the Building Official that the applicant is in violation of the City ordinances with the placement of the sign in her garage window. The motion was seconded by Ken Vaughn and passed by a vote of 3 to 2 with the following votes cast: "aye" Kronblad, Vaughn, Lindeblad and "nay" Nagel and Schafer.

ADJOURNMENT

With no further business to come before the Board of Zoning Appeals, Chairman Randy Kronblad adjourned the meeting at 7:00 p.m.

Randy Kronblad
Chairman

PLANNING COMMISSION MINUTES
OCTOBER 6, 2009

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, October 6, 2009 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: Bob Lindeblad, Dirk Schafer; Randy Kronblad, Nancy Vennard and Marlene Nagel.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, Planning Consultant; Dale Beckerman, Council Liaison; Dennis Enslinger, Assistant City Administrator; Jim Brown, City Building Official; and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Bob Lindeblad noted a typographical error on page 2; "5000 W 05th Street" should be "5000 West 95th Street" and moved the approval of the minutes of September 1, 2009 with the correction noted. The motion was seconded by Randy Kronblad and passed by a vote of 5 to 0 with Nancy Vennard abstaining.

PUBLIC HEARINGS

Chairman Ken Vaughn stated there would be several public hearings and reviewed the rules of procedure to be followed for the public hearings.

PC2009-013 - Revisions to the Prairie Village Zoning Regulations
Chapter 19.34 entitled "Accessory Uses"

Ron Williamson stated at the September 1, 2009 meeting of the Planning Commission Staff were directed to prepare an amendment to the Permanent Standby Emergency Generators Ordinance allowing for Staff approval for side yard locations provided the generator meets the criteria. The Planning Commission has reviewed and approved a number of these requests, all of which were compatible with the criteria in subsection (j). Planning Commission approval requires more time and cost for the homeowner which in the opinion of the Commission is not necessary. The emergency generators are more common now and their design has improved so that they are quieter and are only about the same size or smaller than an air conditioning unit.

The proposed change in the ordinance will give approval authority to the Building Official, but if in the opinion of the Building Official the proposed generator does not meet the criteria, an application can be made to the Planning Commission.

The following text shows the proposed changes. Text to be deleted is lined out and new text is in bold.

- F. Permanent standby emergency generators shall be permitted as an accessory use for single-family and two-family dwellings subject to the following conditions:
 - i. Proposed locations of permanent standby emergency generators that do not meet Subsection d above, but are not located in a front yard may be submitted

to the ~~Planning Commission Building Official~~ or his/her designee for review and approval.

The ~~Planning Commission Building Official~~ or his/her designee shall give consideration to the following criteria in approving or disapproving a location:

1. That there are special circumstances or conditions affecting the property.
2. That adequate distance exists between the location and adjacent property.
3. That the proposed location will be adequately screened from the street.
4. That the location will not cause significant adverse impact on adjacent properties.
5. That the ~~Planning Commission Building Official~~ or his/her designee may impose any conditions it deems necessary to mitigate any negative impacts of the proposed location. (Ord. 2188, Sec. II, 2009)
6. **If in the opinion of the Building Official or his/her designee, the proposed generator does not meet the criteria stated above, an application may be made to the Planning Commission for site plan approval.**

Chairman Ken Vaughn asked if there was anyone wishing to address the Commission regarding the proposed revisions. Seeing none, he closed the public hearing at 7:05 p.m.

Randy Kronblad moved the Planning Commission recommend the Governing Body adopt an ordinance making the revisions proposed to PVMC 19.34. (F) "Permanent Standby Emergency Generators". The motion was seconded by Marlene Nagel and passed unanimously.

PC2009-14 Renewal of Special Use Permit for Wireless Communications on the water tower
PC2009-18 at 7801 Delmar

Ron Williamson noted these two applications are renewals of existing Special Use Permits on the water tower at 7801 Delmar and both carriers are being represented by Selective Site Consultants. Therefore, they will be discussed together; however, separate motions will need to be made on each application.

Trevor Wood, with Selective Site Consultants, 8500 West 110th Street, Suite 300, Overland Park, addressed the Commission representing Sprint/Nextel. He noted this installation has been in place for more than a decade. They have presented information documenting there continues to be a need for service from this location. The applicant has an agreement with Water District #1 for the use of their tower. No change is proposed to the antenna or the related ground equipment with the request for renewal.

Chairman Ken Vaughn asked if there was anyone wishing to address the Commission regarding application PC2009-14. Seeing none, he closed the public hearing at 7:10p.m.

Ron Williamson provided background information on this communication site. T-Mobile, Sprint and Cricket are the current carriers on the water tower and are requesting renewal of a Special Use Permit that allowed the installation of antennas and the associated equipment cabinets on the water tower at 7801 Delmar. The initial application was approved for three carriers in 1997 and renewed in 2003. The carriers in 2003 were T-Mobile, Nextel and at&t. Since that time, Nextel changed to Sprint and at&t has transferred its facilities to Cricket. T-Mobile is still operating as T-Mobile.

City Staff was unaware that AT&T had transferred its facilities to Cricket, therefore, staff has added a condition to the approval that if a carrier changes or a merger occurs creating a new entity, the City should be notified. If no changes occur in the installation, no approvals would be necessary.

Cricket Communications is a subsidiary of Leap Wireless and a new carrier for Prairie Village. Cricket was founded in 1999 and its initial marketing was Chattanooga, Tennessee. It has been expanding into new market areas since that time. Cricket offers broadband service but uses a flat rate month-to-month contract rather than long term service agreements.

There are no changes planned for T-Mobile and Cricket, but the Sprint antennas will be modified to allow the installation of Clearwire.

The equipment cabinet's location was approved for the west side of the water tower and fencing and landscaping were installed to screen them. The fence and landscaping appear to be in good shape and have accomplished their purpose. There is a large tree in the north compound that the applicant has requested to trim. The branches are hanging low and touching some of the equipment boxes. The tree does a great job in the overall screening of the installation so trimming should be limited to the minimum necessary for the installation.

The Special Use Permit renewal that was approved September 3, 2003 was for three carriers and subject to the following 15 conditions:

1. The renewal of the Special Use Permit shall be for a maximum of six years from the date of the ordinance approving the renewal with subsequent six year renewals.
2. The antennas and equipment cabinets shall be painted a color that matches the water tower and all wires that connect to the antennas shall be enclosed in a metal shield that is painted the same color as the water tower. The applicant shall maintain the painted surfaces and repaint as needed.
3. There will be no security lighting installed around the base of the tower.
4. 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.
5. The equipment cabinets shall be located on the west side of the tower. Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence, and landscape screening as shown on the revised landscape plan. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.
6. The applicant shall have a structural inspection of all antennas and cables performed by a licensed professional engineer prior to every six year renewal and submit it as a part of the renewal application. This has not been done yet for this renewal application and will need to be conducted and the findings submitted to the City prior to the application being forwarded to the City Council.
7. Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.
8. The Special Use Permit will be for three carriers. Additional carriers will need to apply for a Special Use Permit and submit site plans for approval prior to the installation of antennas and equipment.
9. The carriers will be allowed to erect temporary towers when the Water District is stripping and painting the tower.
10. The utility transformer will be placed on Water District property.
11. A copy of the lease with the Water District shall be submitted to the City prior to the publication of the ordinance approving the renewal of the Special Use Permit

12. Grass tiles shall be used to provide vehicle and equipment access to the area beneath the tower.
13. The approved Site Plan, dated April 14, 1997, shall be reincorporated as the Site Plan for approval of this application.
14. The applicant shall submit a new landscape plan for Staff approval indicating the existing plants and those that will be installed to replace the ones that have died. The plan shall be submitted and approved prior to the City Council meeting and the applicant shall guarantee the installation and maintenance.
15. The applicant may change out equipment boxes, cable and antennas provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.

The original Special Use Permit approved in 1997 and the subsequent renewal in 2003 was under the Wireless Communications Policy. Under the new ordinance, the Factors for Consideration and the Application Information requirements are somewhat different than the policy and therefore a complete review is being done. Mr. Williamson noted this renewal request is past the six year approval time, but it could not be considered earlier because of the moratorium on Wireless Communications Facilities applications. The moratorium was rescinded by the City Council in July when the new ordinance was approved.

Ron Williamson led the Commission through the review of the application based on the new wireless communications ordinance, noting that since the application is for the renewal of an existing antenna installation and not a tower, a number of items in the ordinance may not be applicable. The required application information, as set out in the new ordinance, is shown in bold type.

- A. **A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers, alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower site and antennas.**

If the use of existing towers, alternative tower structures, and sites are 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 or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.

The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna.

The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall also provide documentation establishing the minimum height necessary to provide the applicant's services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.

The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant's expense, to confirm the need for the facility.

The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.

Since this is the second renewal of an existing installation, the City has not required a study of alternative locations within a one-mile radius. The City has encouraged the use of existing structures in order to minimize the impact on the surrounding neighborhoods. The applicant has indicated that this installation is an important location in the continued service for their customers.

B. Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.

Since the antennas and equipment cabinets are installed, the applicant has not been required to submit photo simulation.

C. When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant's intention to share space on the tower with other providers.

The agreement between the carriers and the Water District #1 will not prohibit other providers from placing antennas on the water tower.

D. Any application for construction of a new wireless communication facility, tower, and antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, including the proposed facility, the full radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review and approval by the Planning Commission.

The installation is in place and the 1997 Site Plan and the revised Landscape Plan approved in 2003 will be reincorporated in the Conditions of Approval. Therefore, specific Site Plan Review and Approval is not necessary.

E. Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state and city regulations and law, including but not limited to FCC regulations.

The applicant shall provide an engineer's statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennas and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna.

Not applicable.

F. Preliminary construction schedule including completion dates.
Not applicable.

G. The applicant shall provide a copy of its FCC license
Submitted with previous renewal.

H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.
Not applicable since it is an existing structure.

I. Any other relevant information requested by City Staff.
None requested.

The applicant held a neighborhood meeting on September 16th and presented information on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered.

The Planning Commission reviewed the Findings of Fact on this application as follows:

A. The character of the neighborhood.

The water tower is located in a predominately public use area. Harmon Park, the YMCA, City Hall Campus, Shawnee Mission East High School, and churches are found to the north, east and south. Single-family residents are located to the west.

B. The zoning and uses of property nearby.

The property to the west is zoned R-1B and is developed for single-family residences; the property to the north and east is zoned R-1A Single-family and is occupied by Harmon Park; and the property to the south is Zoned R-1A Single-family Residential and is occupied by the Park and YMCA.

C. The extent that a change will detrimentally affect neighboring property

This is the renewal of an existing Special Use Permit that will not have a detrimental affect on neighboring property.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This is an existing installation and will not create any hardship on adjacent landowners.

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

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

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

This application will have no adverse affect on the welfare or convenience of the public. The City has not received any complaints regarding this installation.

G. 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 as the special use will not cause substantial injury to the value of the property in 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 cause substantial injury to the value of property in the immediate neighborhood, consideration shall be given to:

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

The installation of the antennas on the water tower has had relatively little impact and has not dominated the immediate neighborhood as to hinder development. It also should be pointed out that the neighborhood is totally developed and fencing and landscaping have been installed to screen the equipment compound from the residents to the west.

H. 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 uses and located so as to protect such residential uses from any injurious effect.

Off street parking will not be necessary for this particular use other than a parking space currently available for service people to maintain equipment. The parking that is provided on the site will be adequate for this need.

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

Since the improvements have already been made on the site, existing utility, drainage, and other facilities appear to be adequate.

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

The site and the equipment should require only service vehicles for installation and periodic maintenance. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets.

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

L. Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.

The antennas are mounted on the water tower and their design is consistent with the design of the water tower. All cables have been required to be covered with a cap compatible with the water tower construction and painting. The equipment cabinets are enclosed by a seven foot high wood fence and landscaping. The plant materials have matured to the point that they provide good screening.

M. City Staff recommendations.

It is the opinion of Staff that the proposed renewal of the Special Use Permit for three existing carriers favorably meets the Factors for Consideration and recommends that it be approved subject to the pertinent conditions of the renewal in 2003 and the new conditions contained in the new wireless communications facilities ordinance. Under the new ordinance, the Special Use Permit Renewal may be extended for ten years rather than five and it is recommended that this be done.

Ken Vaughn asked how the City would keep track of changes on the towers from mergers. Trevor Wood replied that as this has become more common, communications companies have become more diligent at notifying cities of changes. He was confident that the City would be notified of any changes in the future.

Bob Lindeblad moved the Planning Commission find favorably on the findings of fact and recommend the Governing Body approve PC2009-14, the renewal of the Special Use Permit for wireless communication antenna at 7801 Delmar by Sprint/Nextel subject to the conditions listed below:

- 1) The Special Use Permit renewal will be approved for the existing three carriers T-Mobile, Sprint and Cricket. Additional carriers may locate on the water tower subject to approval of a site plan by the Planning Commission and an amended Special Use Permit will not be required.
- 2) The approval of the Special Use Permit Renewal 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.
- 3) The antennas and equipment cabinets shall be painted a color that matches the water tower and all wires that connect to the antennas shall be enclosed in a metal shield that is painted the same color as the water tower. The applicant shall maintain the painted surfaces and repaint as needed.
- 4) There will be no security lighting installed around the base of the tower.
- 5) 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.
- 6) The equipment cabinets shall be located in the compound on the west side of the tower. Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence, and landscape screening as shown on the revised landscape plan and the fence and landscaping shall be maintained in good condition by the applicant. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.
- 7) The applicant shall have a structural inspection of all antennas and cables performed by a licensed professional engineer prior to every ten year renewal and submit it as a part of the renewal application. This has not been done yet for this renewal application and will need to be conducted and the findings submitted to the City prior to the application being forwarded to the City Council.

- 8) Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.
- 9) The carriers will be allowed to erect temporary towers when the Water District is stripping and painting the tower.
- 10) The utility transformer will be placed on Water District property.
- 11) Grass tiles that provide vehicle and equipment access to the area beneath the tower shall be maintained in good condition by the applicant.
- 12) The approved Site Plan, dated April 14, 1997, and the revised Landscape Plan approved in 2003, shall be reincorporated as the Site Plan for approval of this application.
- 13) The applicant may change out equipment boxes, cable and antennas provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official or his/her designee, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
- 14) The applicant shall not prevent other users from locating on the water tower.
- 15) If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
- 16) The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance, regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.
- 17) In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
- 18) In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
- 19) The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
- 20) The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- 21) A copy of the lease between the applicant and Water District #1 shall be submitted to the City and contain 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 facility in the event that the leaseholder fails to remove it upon abandonment.

- 22) The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
- 23) In the event that a carrier transfers its facilities to another carrier or changes its name due to merger acquisition, etc., it will notify the City within 30 days of such change and will provide a description of the service provider by that carrier. If modifications are required as a result of this change, they will be approved by Staff unless in the opinion of Staff they are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.

The motion was seconded by Nancy Vennard.

Marlene Nagel questioned condition number 15 which allows an antenna installation to not operate for a continuous 12 month period before abandonment, stating she felt that was a long time. Ron Williamson responded this issue was discussed at great length during the creation of the ordinance and the Commission agreed to 12 months. This condition is specifically set out in the Wireless Communications Ordinance.

The motion was voted on and passed by a vote of 6 to 0.

Randy Kronblad moved the Planning Commission find favorably on the findings of fact and recommend the Governing Body approve PC2009-18, the renewal of the Special Use Permit for wireless communication antenna at 7801 Delmar by T-Mobile subject to the conditions listed below:

- 1) The Special Use Permit renewal will be approved for the existing three carriers T-Mobile, Sprint and Cricket. Additional carriers may locate on the water tower subject to approval of a site plan by the Planning Commission and an amended Special Use Permit will not be required.
- 2) The approval of the Special Use Permit Renewal 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.
- 3) The antennas and equipment cabinets shall be painted a color that matches the water tower and all wires that connect to the antennas shall be enclosed in a metal shield that is painted the same color as the water tower. The applicant shall maintain the painted surfaces and repaint as needed.
- 4) There will be no security lighting installed around the base of the tower.
- 5) 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.
- 6) The equipment cabinets shall be located in the compound on the west side of the tower. Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence, and landscape screening as shown on the revised landscape plan and the fence and landscaping shall be maintained in good condition by the applicant. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.
- 7) The applicant shall have a structural inspection of all antennas and cables performed by a licensed professional engineer prior to every ten year renewal and submit it as a part of the renewal application. This has not been done yet for this renewal application and will need to be conducted and the findings submitted to the City prior to the application being forwarded to the City Council.

- 8) Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.
- 9) The carriers will be allowed to erect temporary towers when the Water District is stripping and painting the tower.
- 10) The utility transformer will be placed on Water District property.
- 11) Grass tiles that provide vehicle and equipment access to the area beneath the tower shall be maintained in good condition by the applicant.
- 12) The approved Site Plan, dated April 14, 1997, and the revised Landscape Plan approved in 2003, shall be reincorporated as the Site Plan for approval of this application.
- 13) The applicant may change out equipment boxes, cable and antennas provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official or his/her designee, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
- 14) The applicant shall not prevent other users from locating on the water tower.
- 15) If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
- 16) The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance, regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.
- 17) In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
- 18) In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
- 19) The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
- 20) The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- 21) A copy of the lease between the applicant and Water District #1 shall be submitted to the City and contain 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 facility in the event that the leaseholder fails to remove it upon abandonment.

- 22) The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
- 23) In the event that a carrier transfers its facilities to another carrier or changes its name due to merger acquisition, etc., it will notify the City within 30 days of such change and will provide a description of the service provider by that carrier. If modifications are required as a result of this change, they will be approved by Staff unless in the opinion of Staff they are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.

The motion was seconded by Marlene Nagel and passed by a vote of 6 to 0.

**PC2009-15 Request for Special Use Permit for Wireless Communications
7801 Delmar**

Trevor Wood, with Selective Site Consultants, 8500 West 110th Street, Suite 300, Overland Park, addressed the Commission representing Clearwire Wireless. Clearwire is an additional carrier although it has a relationship with Sprint. Sprint owns a controlling interest in Clearwire and shares sites when it is practical. The specific request by Clearwire is to install six antennas, three of which are small microwave dish antenna (approximately 26 inches in diameter) on the water tower walkway and a small equipment box in the north compound. The equipment box is approximately 3 feet x 6 feet x 4 feet in height according to the plans. Therefore, it will be shorter than the fence and will be screened.

Clearwire provides wireless high speed broadband service to deliver its new WiMax network. Sprint and Clearwire are partners and in the merger combined their wireless broadband networks. Clearwire launched its service in Portland, Oregon on January 6, 2009 and has expanded to new metropolitan markets since that time.

The tree north of the compound will need to be trimmed to protect the equipment and prevent interference.

Nancy Vennard asked when this service would be available in Prairie Village. Trevor Wood responded Clearwire is currently in the process of obtaining approval for 225 sites in the Kansas City Metro area. It is their desire to deploy all sites at once in 2010.

Nancy Vennard asked for clarification on the coverage maps submitted, noting they appear to be the same before and after. The Water Tower is incorrectly numbered on the drawing. The water tower site is incorrectly numbered on the drawing of the RF Coverage Map should be labeled coverage without 5436.

Ron Williamson asked Mr. Wood to explain the use of both panels and small dishes. This application will use four panel antenna and three dish antennas, 26 inches in diameter.

Chairman Ken Vaughn asked if there was anyone wishing to address the Commission regarding application PC2009-15. Seeing none, he closed the public hearing at 7:30p.m.

Ron Williamson reviewed the application for this new carrier and the proposed site plan noting that since this is an application to co-locate an antenna installation on an existing site, a number of items in the ordinance may not be applicable.

- A. A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers,

alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower site and antennas.

If the use of existing towers, alternative tower structures, and sites are 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 or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.

The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna.

The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall also provide documentation establishing the minimum height necessary to provide the applicant's services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.

The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant's expense, to confirm the need for the facility.

The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.

Since this is a co-location request, much of the information set out in this section is not needed, for example; a study of alternative location within a one-mile radius was not required. The Water Tower has been approved for three carriers and this is a request for a fourth. The City has strongly encouraged co-location and use existing structures in order to minimize the negative impacts on surrounding neighborhoods. The coverage maps prepared by the applicant show that Prairie Village will be reasonably well covered by Clearwire when installations are also added to St. Ann's and the fire station locations.

B. Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.

The applicant has submitted photo simulation of the proposed installation which indicates very little change in the appearance.

C. When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant's intention to share space on the tower with other providers.

The applicant has provided a copy of its agreement with Water District #1 which allows co-location.

D. Any application for construction of a new wireless communication facility, tower, and antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, including the proposed facility, the full radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review and approval by the Planning Commission.

Since this is the addition of a proposed carrier to an existing approved Site Plan, a new detailed Site Plan was not required. The proposed plan submitted shows the equipment cabinet located in the north compound. No changes are needed and the screening fence and landscaping is already in place. The 1997 Site Plan will be reincorporated into the conditions of approval along with the revised Landscape Plan that was approved in 2003.

E. Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state and city regulations and law, including but not limited to FCC regulations.

The applicant shall provide an engineer's statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennas and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna.

The applicant will use six panels three of which will be small microwave dish antennas. Approximately 26 inches in diameter.

The applicant needs to submit a letter stating they will meet all federal, state and local regulation and laws and a statement regarding the electromagnetic radiation.

F. Preliminary construction schedule including completion dates.
Clearwire intends to launch service in 2010.

G. The applicant shall provide a copy of its FCC license
A copy has been submitted.

H. **Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.**

Not applicable since it is a proposed co-location of a fourth carrier on an existing structure.

I. **Any other relevant information requested by City Staff.**
None requested.

The applicant held a neighborhood meeting on September 16th and presented information on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered.

The Planning Commission made the following review of the Findings of Fact on application PC2009-15 requesting a Special Use Permit for wireless communication antenna.

A. The character of the neighborhood.

The water tower is located in a predominately public use area. Harmon Park, the YMCA, City Hall Campus, Shawnee Mission East High School, and churches are found to the north, east and south. Single-family residents are located to the west. Currently there are three carriers on the water tower.

B. The zoning and uses of property nearby.

The property to the west is zoned R-1B and is developed for single-family residences; the property to the north and east is zoned R-1A Single-family and is occupied by Harmon Park; and the property to the south is Zoned R-1A Single-family Residential and is occupied by Park and the YMCA.

C. The extent that a change will detrimentally affect neighboring property

This is the request from a fourth carrier on an approved location. The proposed installation is minimal and will not have a detrimental affect on neighboring property. The proposed equipment cabinet will be installed within the north compound which is fenced and landscaped and the antennas will be mounted on the catwalk similarly to the others.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This is a minor expansion of an existing installation which will not create any hardship on adjacent landowners.

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

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

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

This application will have no adverse affect on the welfare or convenience of the public. The applicant held a public meeting and three neighbors appeared. The City has not received any complaints regarding the existing installation. When the proposed installation was explained and it was pointed out that the tower height and compound would not be increased, the neighbors did not express any opposition.

G. **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 as the special use will not cause substantial injury to the value of the property in 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 cause substantial injury to the value of property in the immediate neighborhood, consideration shall 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 installation of the antennas on the water tower will have relatively little impact on and will not dominate the immediate neighborhood as to hinder development. Three carriers are already located on the tower and they have had a minimal impact. It also should be pointed out that the neighborhood is totally developed and fencing and landscaping have been installed to screen the equipment compound from the residents to the west.

H. **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 uses and located so as to protect such residential uses from any injurious effect.**

Off street parking will not be necessary for this particular use other than a parking space currently available for service people to maintain equipment. The parking that is provided on the site will be adequate for this need.

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

Since the improvements have already been made on the site, to accommodate existing carriers, existing utility, drainage, and other facilities appear to be adequate.

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

The site and the equipment should require only service vehicles for installation and periodic maintenance. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets.

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

L. **Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.**

The antennas are mounted on the water tower and their design is consistent with the design of the water tower. All cables are required to be covered with a cap compatible with the water tower construction and painted a matching color. The equipment compounds are enclosed by a seven foot high wood fence and landscaping. The plant materials have matured to the point that they provide good screening.

M. **City Staff recommendations.**

It is the opinion of Staff that the proposed request for approval of the Special Use Permit for an additional carrier favorably meets the Factors for Consideration and recommends that it be approved subject to the pertinent conditions setout in case PC 2009-15. It is also recommended

that this application be approved for ten years so that it is consistent in timeframe with the other three carriers.

Site Plan Approval

Ron Williamson noted the proposed installation is a very minor project and will have a minimal impact on the existing installation on the site. The equipment cabinet is approximately 3 feet x 6 feet x 4 feet in height and will be located within the north compound. No changes to the fencing or landscaping will be required. The antenna installation will include four panels approximately 13 inches x 42 inches and two dish antennas approximately 26 inches in diameter. All the antennas will be mounted on the catwalk on the tower.

The Planning Commission conducted the following review of the site plan criteria:

a. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The location has already been approved for three carriers and the site is capable of accommodating them plus this fourth carrier. The equipment cabinet for Clearwire will be within the existing compound and can be easily accommodated with the existing improvements.

b. Utilities are available with adequate capacity to serve the proposed development.

Utilities are currently in place serving the existing installation and are adequate to serve this minor expansion.

c. The plan provides for adequate management of stormwater runoff.

There will be no increase in impervious surface so stormwater is not an issue.

d. The plan provides for safe and easy ingress, egress and internal traffic circulation.

The proposed site will utilize existing streets and parking lot for circulation which will adequately serve the proposed use.

e. The plan is consistent with good land planning and good site engineering design principles.

This is a minor expansion of an existing installation and land planning and site engineering is not relevant concerns. The proposed installation will be within the existing facility and will have very little impact.

f. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The proposed installation of the antennas will be compatible with the existing antennas that are currently in place. The only difference is that two dish antennas will be added which are different in design than the more typical panel design.

g. The plan represents an overall development pattern that is consistent with the comprehensive plan (Village Vision) and other adopted planning policies

Wireless communications are not specifically addressed in Village Vision. However it falls into two general goal areas which are maintaining and improving infrastructure and improving communications between the City and its residents.

Dirk Schafer moved the Planning Commission find favorably on the findings of fact and recommend the Governing Body approve PC2009-15, the issuance of the Special Use Permit for wireless communication antenna at 7801 Delmar by Clearwire Wireless Communications subject to the conditions listed below with the site plan approved upon the issuance of the Special Use Permit:

- 1) The Special Use Permit will be approved to allow four carriers (the three existing carriers T-Mobile, Sprint and Cricket plus Clearwire). In the future, additional carriers may locate on the water tower subject to approval of a Site Plan by the Planning Commission and an amended Special Use Permit will not be required.
- 2) The approval 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.
- 3) The antennas and equipment cabinets shall be painted a color that matches the water tower and all wires that connect to the antennas shall be enclosed in a metal shield that is painted the same color as the water tower. The applicant shall maintain the painted surfaces and repaint as needed.
- 4) There will be no security lighting installed around the base of the tower.
- 5) 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.
- 6) The equipment cabinet shall be located in the compound on the west side of the tower. Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence, and landscape screening as shown on the revised Landscape Plan and the fence and landscaping shall be maintained in good condition by the applicant. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.
- 7) The applicant shall have a structural inspection of all antennas and cables performed by a licensed profession engineer prior to every ten year renewal and submit it as a part of the renewal application.
- 8) Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.
- 9) The carrier will be allowed to erect a temporary tower when the Water District is stripping and painting the tower.
- 10) The utility transformer will be placed on Water District property.
- 11) Grass tiles that provide vehicle and equipment access to the area beneath the tower shall be maintained in good condition by the applicant.
- 12) The Site Plan submitted with this application, the approved Site Plan, dated April 14, 1987 and the revised Landscape Plan approved in 2003 shall be reincorporated as the Site Plan for approval of this application.
- 13) The applicant may change out equipment boxes, cable and antennas subject to the Staff approval provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official or his/her designee, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
- 14) The applicant shall not prevent other users from locating on the water tower.
- 15) If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
- 16) The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance,

regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.

- 17) In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
- 18) In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
- 19) The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
- 20) The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- 21) A copy of the lease between the applicant and Water District #1 shall be submitted to the City and contain 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 facility in the event that the leaseholder fails to remove it upon abandonment.
- 22) The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
- 23) If Clearwire changes its name through merger, acquisition, etc. or sells or transfers its installation to another carrier, it shall notify the City within 30 days of such change and provide a description of the service provided by that carrier. If modifications are required as a result of this change they will be approved by Staff unless in the opinion of Staff are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.

The motion was seconded by Randy Kronblad and passed unanimously.

**PC2009-16 Request for Special Use Permit for Wireless Communications
9011 Roe Avenue**

Trevor Wood, with Selective Site Consultants, 8500 West 110th Street, Suite 300, Overland Park, addressed the Commission representing Clearwire Wireless. Clearwire is requesting approval to install antennas and an equipment cabinet at the existing Cellular Tower located at the Fire Station at 9011 Roe Avenue. Sprint is a majority owner of Clearwire and will sublease space on the Tower. The Sprint installation includes three two-panel antennas. The proposal is to change out three existing Sprint panels to Clearwire panels. Sprint will remove a panel from each of the three sheaths and they will be replaced with Clearwire panels. In addition, Clearwire will add two small microwave dish antennas (26 inches in diameter) at the top of the tower. The equipment cabinet for Clearwire will be placed in the existing fenced compound which will not be enlarged or increased in size.

Mr. Wood asked to Commission to consider approval of the addition of a third microwave dish antenna in the northwest sector if needed at a future time. Dirk Schafer confirmed the all three dishes would be the same size and relatively the same location.

Dirk Schafer asked why an engineering study was conducted on the tower. Mr. Wood responded to document the structural integrity of the structure to accommodate the additional antenna.

Clearwire provides wireless high speed broadband service to deliver its new WiMax network. Sprint and Clearwire are partners and have combined their wireless broadband networks. Clearwire launched its service in Portland, Oregon on January 6, 2009; has expanded to new metropolitan markets since that time and plans to launch its service here in 2010.

Chairman Ken Vaughn asked if there was anyone wishing to address the Commission regarding application PC2009-16 Seeing none, he closed the public hearing at 7:35 p.m.

Ron Williamson stated this tower was originally approved in 1996 and it was the first tower installation approved by the City. The tower was approved for a height of 100 feet plus eight feet for lightening arrestors. Sprint was the original occupant of the tower. In 2004, Cingular Wireless requested approval to co-locate on the tower and it was approved. Cingular has since merged with at&t so the current two carriers on the tower are Sprint and at&t.

The original application was approved in 1996 as a Conditional Use with the following conditions:

1. That the telecommunications towers be used only for general communications purposes;
2. That the telecommunication tower not exceed the dimensions of 100 feet for the monopole plus eight feet for the lightening arrestors.
3. That the screen fence be a solid wood privacy fence of six feet in height, painted or stained in a color that blends with the existing structure;
4. That adequate landscaping, subject to approval of the Fire District, be provided at the base of the tower;
5. That the applicant permit additional communications services to utilize the tower in order to minimize the number of towers needed to serve the area with any co-locator returning to the Planning Commission for compatibility review;
6. That plans be prepared by a structural engineer for submission to the City for a permit;
7. That if the tower is abandoned for communication uses, it will be removed by the applicant unless the applicant obtains a conditional use permit for another use; and
8. That the pole be constructed of a galvanized or other permanent surface.

The Cingular application in 2004 was approved as a Special Use Permit subject to the following conditions:

1. All equipment cabinets shall be contained within the existing fenced area and all wiring shall be inside the pole.
2. 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.
3. 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.
4. The applicant shall comply with all state and federal regulations.
5. The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer every five years and submit it to the City for its review.

6. 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.
7. The applicant shall comply with all conditions of approval that were required of the original tower approval.

Ron Williamson reviewed the application for this new carrier and the proposed site plan noting that since this is a new application requirements will be somewhat different than in the past and Site Plan Approval will also be required.

- A. A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers, alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower site and antennas.

If the use of existing towers, alternative tower structures, and sites are 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 or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.

The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna. The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall also provide documentation establishing the minimum height necessary to provide the applicant's services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.

The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant's expense, to confirm the need for the facility.

The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.

Since this is a co-location request, much of the information set out in this section is not needed, for example; a study of alternative locations within a one-mile radius was not required. The Tower has been approved for two carriers and this is a request for a third. The City has strongly

encouraged co-location and using existing structures in order to minimize the negative impacts on surrounding neighborhoods. The coverage maps prepared by the applicant show that Prairie Village will be reasonably well covered when installations are also added to St. Ann's and the Delmar Water Tower locations.

- B. Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.

The applicant has submitted photo simulations of the proposed installation which indicates very little change in the appearance primarily because Clearwire will be using three of Sprints existing panel sheaths. The two 26 inch diameter microwave dishes will be new equipment and they will be installed at the top of the tower. They appear to blend with the rest of the antennas.

- C. When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant's intention to share space on the tower with other providers.

The agreement between carriers and the tower owner will not prohibit other providers from placing antennas on the tower. A copy of that agreement needs to be submitted.

- D. Any application for construction of a new wireless communication facility, tower, and antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, including the proposed facility, the fall radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review and approval by the Planning Commission.

Since this is the addition of a proposed carrier to an existing approved site plan, a new detailed site plan was not required. The proposed equipment cabinet will be located with the existing compound and therefore it will not need to be expanded or enlarged. The compound is located within a paved area and landscaping has not been required.

- E. Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state and city regulations and law, including but not limited to FCC regulations.

The applicant shall provide an engineer's statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennas and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna.

The applicant will use three panels and two small microwave dish antennas which are approximately 26 inches in diameter.

The applicant needs to submit a letter stating they will meet all federal, state and local regulation and laws and a statement regarding the electromagnetic radiation.

F. Preliminary construction schedule including completion dates.
Clearwire intends to launch service in 2010.

G. The applicant shall provide a copy of its FCC license
A copy has been submitted.

H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.

Not applicable since it is a proposed co-location of a third carrier on an existing structure.

I. Any other relevant information requested by City Staff.
None requested.

The applicant held a neighborhood meeting in accordance with the Planning Commission Citizen Participation Policy September 21, 2009. No residents appeared at the meeting.

The Planning Commission made the following review of the Findings of Fact on application PC2009-16 requesting a Special Use Permit for wireless communication antenna at 9011 Roe Avenue.

A. The character of the neighborhood.

The immediate area is office, business and public uses. There are residential dwellings further to the east, west and north.

B. The zoning and uses of property nearby.

The existing property is zoned C-1 Restricted Business District and is occupied by Consolidated Fire District No. 2 Fire Station. The property to the north is zoned C-2 General Business District and is occupied by a multi-tenant office building. The property to the east is zoned C-1 Restricted Business District and is occupied by an office building. The property to the south is zoned R-1A Single-Family Residential and is occupied by a KCP&L substation. The property to the west is zoned R-1A Single-Family Residential and is occupied by Single-Family dwellings.

C. The extent that a change will detrimentally affect neighboring property

There will be very little impact on neighboring property from what exists now. Clearwire will be placing three of the existing Sprint sheaths for its antennas and the equipment cabinet will be placed within the existing compound. The only new equipment(s) that will be visible are the two 26 inch diameter microwave dish antennas.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This is a minor expansion of an existing installation which will not create any hardship on adjacent landowners.

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

The equipment compound meets the setback requirements; however, the tower does not. According to the new ordinance, non stealth monopoles shall setback a minimum distance from all property lines equal to the height of the tower unless a reduction or waiver is granted by the City Council. Based on the AIMS maps, it appears that the tower is approximately 120 feet from

Roe Avenue and 110 feet from West 90th Terrace, however, it is only 35 feet from the east property line and 80 feet from the north property line. Therefore, it will be necessary to grant a setback waiver in order to approve this Special Use Permit. In order to approve a reduction or waiver, the Planning Commission and City Council must consider the following:

a. That there are special circumstances or conditions affecting the proposed cell tower installation;

This cell tower was approved in 1996 and is already in existence, but it is nonconforming and cannot be increased or enlarged without approval of a waiver. This means that no new carriers and no additional equipment can be put on the tower. It should be pointed out that this is a business area and is the type of location that the Planning Commission and City Council would prefer towers to locate.

b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners' property;
Because this is a developed site for a fire station, this is the only suitable location for a tower that would not interfere with the fire station operation.

c. That the granting of the setback waiver will not be detrimental to the public welfare or cause substantial injury to the value of the adjacent property or other property in the vicinity in which the particular property is situated.

This waiver is for an existing facility in a business area and the City has received no complaints from surrounding neighbors since it was built in 1996. Also no neighbors appeared at the neighborhood meeting.

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

This monopole has been in place since 1996 and the City has received no complaints. Also no neighbors appeared at the neighborhood meeting.

G. 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 as the special use will not cause substantial injury to the value of the property in 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 cause substantial injury to the value of property in the immediate neighborhood, consideration shall 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 neighborhood is fully developed and is predominately a business area. There is a large KCP&L substation across the street to the south and the tower seems to blend with it. The equipment cabinets are screened by a fence and no landscaping is required.

H. 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 uses and located so as to protect such residential uses from any injurious effect.

Off street parking will not be necessary for this particular use other than what is required for service people to maintain equipment. The parking that is provided on the site will be adequate for this need.

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

Since the improvements have already been made on the site to accommodate existing carriers, existing utility, drainage, and other facilities appear to be adequate.

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

The site and the equipment should require only service vehicles for installation and periodic maintenance. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets.

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

L. Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.

The antenna installation will change very little by the addition of the new carrier, Clearwire Communications. Antenna panels from three of the existing Sprint sheaths will be removed and replaced with panel antennas for Clearwire. In addition, two 26 inch diameter microwave dish antennas will be installed on the top of the tower with a possible third dish added later. The tower is a utility and is similar in character to the adjacent substation.

M. City Staff recommendations.

It is the opinion of Staff that the proposed request for approval of the Special Use Permit for an additional carrier favorably meets the Factors for Consideration and recommends that it be approved including the setback waiver subject to the pertinent conditions. Perhaps an additional condition should be added so that the towers can be replaced by a slim line monopole or whatever the new design standard is at the time of the next renewal.

Bob Lindeblad questioned the staff recommendation that the existing tower be replaced by a slim line monopole or the new design standard at the time of the next renewal. He asked if dish antennas could be added to slim line monopoles. Trevor Wood responded the industry currently avoids using slim line monopoles for dish antenna installations. Mr. Wood noted there has not been any complaints from the neighborhood regarding the existing tower and would rather not have to replace it. Ken Vaughn stated it would be better to leave the existing structure than to place a dish antenna on a monopole.

Ron Williamson stated the recommendation was made noting the existing structure would have been in place for 23 years at the time of the next renewal and he felt it would be in the City's best interest to move toward the newer technology.

Bob Lindeblad confirmed a taller pole would be necessary to provide the same coverage as is provided by the existing structure.

Nancy Vennard noted it is unknown what the technology will be in ten years and she does not feel it is appropriate to state now what type of installation would be required. Bob Lindeblad suggested the condition be removed and that the Planning Commission deal with the issue at the time of renewal. Commission members agreed.

Ron Williamson noted under the new wireless communication regulations the tower does not meet the required setback and the Commission will need to take action on approving a waiver to the setback. This should be a separate motion prior to consideration of the findings and taking action on the application.

Randy Kronblad moved the Planning Commission find this application meets the requirements for a setback waiver and grant a waiver for the setback on the east and north side of the tower. The motion was seconded by Dirk Schafer and passed unanimously.

Dennis Enslinger suggested the Commission ask the applicant to submit new drawings showing the location of the possible third dish antenna and approve all three at this time.

Bob Lindeblad moved the Planning Commission find favorably on the findings of fact and recommend the Governing Body approve PC2009-16, the issuance of the Special Use Permit for wireless communication antenna at 9011 Roe Avenue by Clearwire Wireless Communications subject to the following conditions:

- 1) The Special Use Permit will be approved and in the future, additional carriers may locate on the tower subject to approval of a Site Plan by the Planning Commission and an amended Special Use Permit will not be required.
- 2) The approval 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 Governing Body 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. At that time the tower will be replaced with a monopole that is of slim line design or its equivalent which is more aesthetically compatible with the community.
- 3) The antennas and equipment cabinets shall be painted a color that matches the tower and all wires that connect to the antennas shall be enclosed within the monopole.
- 4) There will be no security lighting installed around the base of the tower.
- 5) 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.
- 6) The equipment cabinet shall be located within the existing compound. Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence and the fence shall be maintained in good condition by the applicant. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.
- 7) The applicant shall have a structural inspection of the all antennas and cables performed by a licensed professional engineer prior to every ten year renewal and submit it as a part of the renewal application.
- 8) Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.
- 9) The applicant may change out equipment boxes, cable and antennas subject to the Staff approval provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
- 10) The applicant shall not prevent other users from locating on the tower.
- 11) If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
- 12) The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance,

- regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.
- 13) In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
 - 14) In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
 - 15) The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
 - 16) The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
 - 17) A copy of the lease between the applicant and property owner shall be submitted to the City and contain 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 facility in the event that the leaseholder fails to remove it upon abandonment.
 - 18) The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
 - 19) If Clearwire changes its name through merger, acquisition, etc. or sells or transfers its installation to another carrier, it shall notify the City within 30 days of such change and provide a description of the service provided by that carrier. If modifications are required as a result of this change they will be approved by Staff unless in the opinion of Staff are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.
 - 20) A setback waiver is granted for the tower from the east and north property lines to reduce the setback requirement from 100 feet to the actual distance from the tower to the property lines.

The motion was seconded by Marlene Nagel and passed unanimously.

The applicant was directed by the Commission to submit revised site plan drawings prior to Council approval, indicating the potential location of the future third dish antenna requested.

Site Plan Approval

The proposed installation will involve minor changes and will have a minimal impact on the existing installation. Three of the Sprint panel antennas will be replaced by three Clearwire antenna panels which will result in no visual change. Initially two microwave dish antennas, approximately 26 inches in diameter, will be added to the top of the tower and that will be the major change, with a possible third dish antenna added in the future. The equipment cabinet will be located within the existing fenced compound.

The Planning Commission made the following review of the findings of fact on the proposed site plan for this installation.

a. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The location has already been approved for two carriers and the site is capable of accommodating a third. The equipment cabinet for Clearwire will be within the existing compound and can be easily accommodated within the existing improvements.

b. Utilities are available with adequate capacity to serve the proposed development.
Utilities are currently in place serving the existing installation and are adequate to serve this minor expansion.

c. The plan provides for adequate management of stormwater runoff.
There will be no increase in impervious surface so stormwater is not an issue.

d. The plan provides for safe and easy ingress, egress and internal traffic circulation.
The proposed site will utilize the existing driveway and parking lot for circulation which will adequately serve the proposed use.

e. The plan is consistent with good land planning and good site engineering design principles.
This is a minor expansion of an existing installation and land planning and site engineering are not relevant concerns. The proposed equipment cabinet will be within the existing compound and will have very little impact.

f. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.
The proposed installation of the antennas will be compatible with the existing antennas that are currently in place. The only difference is that two 26 inch diameter dish antennas will be added to the top of the tower which are different in design than the more typical panel design.

It should be pointed out that the design of the tower was typical of what was available in the mid-nineties. The new slim line monopoles are a significant improvement in the aesthetics design of towers and this tower should be upgraded to the more current design at some point in the future.

g. The plan represents an overall development pattern that is consistent with the comprehensive plan (Village Vision) and other adopted planning policies
Wireless communications are not specifically addressed in Village Vision. Perhaps it falls into two goal areas which are maintaining and improving infrastructure and improving communications between the City and its residents.

Bob Lindeblad moved the Planning Commission approve the Site Plan for Clearwire Wireless Communication with the applicant resubmitting revisions prior to the City Council meeting reflecting the location of the future third dish antenna and that the Site Plan Approval be conditional upon the approval of the Special Use Permit. The motion was seconded by Randy Kronblad and passed unanimously.

**PC2009-17 Renewal of Special Use Permit for Wireless Communications
7700 Mission Road**

Trevor Wood, with Selective Site Consultants, 8500 West 110th Street, Suite 300, Overland Park, addressed the Commission representing Sprint. Sprint is requesting renewal of its Special Use

Permit that was originally approved in 2004 for a period of five years. The City tower is 150 feet tall and accommodates several carriers including at&t, Verizon, the City and Sprint. This is the tallest tower in Prairie Village and it was designed to accommodate multiple carriers.

Sprint was the last carrier approved which was in 2004 and a new equipment compound was added in order to accommodate its equipment cabinets. Sprint continues to need this location to provide service to its customers, but has not proposed any changes to its existing installation. The applicant held a neighborhood meeting on September 21, 2009, and no one attended.

Mr. Wood stated he is working with Sprint to get an updated tower plan and site plan reflecting the upgraded antennas added since the initial installation.

Chairman Ken Vaughn asked if there was anyone wishing to address the Commission regarding the proposed revisions. Seeing none, he closed the public hearing at 7:50 p.m.

Ron Williamson reviewed the conditions for approval in September, 2004 which were as follows:

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 expanded walled area which shall be built out of a brick that matches the existing wall and is capped with concrete or stone. The power line serving the cabinet shall be relocated around the north side rather than the south side as proposed.
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 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 applicant shall plant eight to ten foot pine trees on the north and west sides to fill in a complete screening of the compound.
9. The coaxial cable serving the antennas shall be placed inside the monopole.

The original Special Use Permit approved in 2004 was under the Wireless Communications Policy. Under the new ordinance, the Factors for Consideration and the Application Information requirements are somewhat different than the policy and therefore a complete review is being done. This renewal request is past the five year approval time, but it could not be considered earlier because of the moratorium on Wireless Communications Facilities applications. The moratorium was rescinded by the City Council in July when the new ordinance was approved.

Ron Williamson led the Commission through the review of the application based on the new wireless communications ordinance, noting that since the application is for the renewal of an existing antenna installation and not a tower, a number of items in the ordinance may not be applicable. The required application information, as set out in the new ordinance, is shown in bold type.

- A. A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers, alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower site and antennas.

If the use of exiting towers, alternative tower structures, and sites are 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 or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.

The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna.

The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall also provide documentation establishing the minimum height necessary to provide the applicant's services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.

The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant's expense, to confirm the need for the facility.

The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.

Since this is the renewal of an existing installation, the City has not required a study of alternative locations within a one-mile radius. The City has encouraged the use of existing structures in order to minimize the impact on the surrounding neighborhoods. The applicant has indicated that this installation is an important location in the continued service for its customers.

B. Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.

Since the antennas and equipment cabinets are currently installed, the applicant has not been required to submit photo simulation.

C. When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant's intention to share space on the tower with other providers.

The agreement between the carrier and the City will not prohibit other providers from placing antennas on the tower.

D. Any application for construction of a new wireless communication facility, tower, and antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, including the proposed facility, the fall radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review and approval by the Planning Commission.

The installation is in place and the 2004 Site Plan will be reincorporated in the Conditions of Approval. Therefore, specific Site Plan review and approval is not necessary. It should be noted that a new equipment compound was constructed and additional plantings were installed as a part of the original approval in 2004.

E. Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state and city regulations and law, including but not limited to FCC regulations.

The applicant shall provide an engineer's statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennas and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna.

Not applicable. The facility is already installed.

F. Preliminary construction schedule including completion dates.

Not applicable. The facility is already installed.

G. The applicant shall provide a copy of its FCC license

Submitted with previous renewal.

H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.

Not applicable since it is an existing structure with multiple carriers.

I. Any other relevant information requested by City Staff.

None requested.

Site Plan Approval

The Planning Commission conducted the following review of the site plan criteria:

A. The character of the neighborhood.

The tower is located behind City Hall and is surrounded by public uses. Shawnee Mission East High School is to the north and the Municipal Complex is on the east, south and west sides.

B. The zoning and uses of property nearby.

The City Hall site and all surrounding property is zoned R-1a Single-Family Residential. Shawnee Mission East High School is located to the north, Harmon Park is to the west and the Municipal Complex is located to the south and east.

C. The extent that a change will detrimentally affect neighboring property.

This is the renewal of an existing Special Use Permit that will not have a detrimental affect on neighboring property because the tower is entirely surrounded by public uses.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This is an existing installation which will not create any hardship on adjacent landowners.

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

The new Wireless Communication Facilities ordinance requires that equipment compounds meet the minimum setbacks for principal structures in the district in which it is located and that towers setback from all property lines a distance equal to the tower height.

The side yard setback in the R-1A District is five feet and it appears that the compounds meet that requirement. The tower sets back more than 150 feet from the west, south and east property lines but is only about 22 feet from the north property line. Therefore, it will be necessary to grant setback waiver from the north property line in order to approve the renewal of this Special Use Permit. In order to approve a reduction or waiver, the Planning Commission and City Council must consider the following:

1. That there are special circumstances or conditions affecting the proposed cell tower installation;

This cell tower was constructed in 1991 prior to any cell tower standards and it is nonconforming and cannot be increased or enlarged without approval of a waiver. This means that no new carriers and no additional equipment can be put on the tower and therefore technical modifications could be a problem.

It should be pointed out that this is a large public use area and is the type of location that the Planning Commission and City Council would prefer towers to locate.

2. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;

Because the cell tower facility and equipment compounds have already been developed, this is the best location for a tower that would not interfere with the other uses of the site.

3. That the granting of the setback waiver will not be detrimental to the public welfare or cause substantial injury to the value of the adjacent property or other property in the vicinity in which the particular property is situated.

This waiver is for an existing facility in a large public use area and the City has received no complaints since it was built in 1991. Also no neighbors appeared at the neighborhood meeting. The use to the north is a parking lot for Shawnee Mission East High School.

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

This existing installation is located on a large publicly owned property and will have no adverse affect on the welfare or convenience of the public. The City has not received any complaints regarding this installation.

G. 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 as the special use will not cause substantial injury to the value of the property in 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 cause substantial injury to the value of property in the immediate neighborhood, consideration shall 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 facility already exists and no modifications are proposed as a part of this application. Landscaping and screening are already in place. The facility does not have an impact on residential development because there is none close by.

H. 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 uses and located so as to protect such residential uses from any injurious effect.

Off street parking will not be necessary for this particular use other than a parking space currently available for service people to maintain equipment. The parking that is provided on the site will be adequate for this need.

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

Since the improvements have already been made on the site, existing utility, drainage, and other facilities appear to be adequate.

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

The site and the equipment should require only service vehicles for installation and periodic maintenance and a service drive to the complex is adequate to meet this need.

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

L. Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.

The tower is tall and industrial in appearance, but is typical of a type of facility that would be found on a municipal complex. The equipment compounds have been screened by a wall constructed of a brick that matches City Hall and landscaping has been provided to break up the wall façade.

M. City Staff recommendations.

It is the opinion of Staff that the proposed renewal of the Special Use Permit for Sprint favorably meets the Factors for Consideration and recommends that it be approved including the setback waiver subject to the pertinent conditions of the approval in 2004 and the new conditions contained in the new wireless communications facilities ordinance. Under the new ordinance, the Special Use Permit Renewal may be extended for ten years rather than five and it is recommended that this be done. Mr. Williamson added some of the initial trees have died need to be replaced and others added.

Trevor Wood stated the applicant would work with staff on the replacement and addition of trees as desired by the City.

Ron Williamson pointed out that the setback waiver should be addressed in a separate motion prior to consideration of the findings and action by the Planning Commission.

Dirk Schafer moved the Planning Commission find this application meets the requirements for a setback waiver and grant a waive for the tower from the north property line to reduce the required setback from 150 feet to the actual distance between the existing tower and the property line. The motion was seconded by Randy Kronblad and passed unanimously.

Marlene Nagel moved the Planning Commission find favorably on the findings of fact and recommend the Governing Body approve PC2009-17, the renewal of the Special Use Permit for wireless communication antenna at 7700 Mission Road by Sprint/Nextel subject to the following conditions:

1. The Special Use Permit renewal will be approved for Sprint. Additional carriers may locate on the tower subject to approval of a Site Plan by the Planning Commission and an amended Special Use Permit will not be required.
2. The approval of the Special Use Permit renewal 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 that 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.
3. The antennas shall be painted a color that matches the tower and all wires that connect to the antennas shall be inside the tower.
4. There will be no security lighting installed around the base of the tower.
5. The applicant shall have a structural inspection of all the antennas and cables performed by a licensed professional engineer prior to every ten year renewal and submit it as a part of the renewal application. This has not been done yet for this renewal application and will need to be conducted and the findings submitted to the City prior to the application being forwarded to the City Council.
6. Any permit granted which is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of the notification of noncompliance

unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.

7. The approved Site Plan, dated October 14, 2004 shall be reincorporated as the site plan for approval of this application.
8. The applicant may change out equipment boxes, cable and antennas provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official or his/her designee, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
9. The applicant shall not prevent other users from locating on the tower.
10. If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
11. The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance, regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.
12. In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
13. In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
14. The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
15. The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
16. The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
17. In the event that a carrier transfers its facilities to another carrier or changes its name due to merger acquisition, etc., it will notify the City within 30 days of such change and will provide a description of the service provider by that carrier. If modifications are required as a result of this change they will be approved by Staff unless in the opinion of Staff they are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.
18. A setback waiver is hereby granted for the tower from the north property line to reduce the required setback from 150 feet to the actual distance between the existing tower and the property line which is approximately 22 feet.

19. The applicant shall maintain the pine trees that have been planted on the north and west sides of the equipment compound and if they die, shall replace them with a variety as approved by the Tree Board.

The motion was seconded by Dirk Schafer and passed unanimously

NON-PUBLIC HEARINGS

PC2009-109 **Site Plan Approval PC2009-109 Site Plan Approval**
Stealth Communication Antenna
7231 Mission Road

Trevor Wood, with Selective Site Consultants, 8500 West 110th Street, Suite 300, Overland Park, addressed the Commission representing Clearwire Wireless Communications. He noted this application is similar to the installation at 9011 Roe Avenue. Clearwire Communications is proposing to locate on the steeple at St. Ann's Church. Currently Sprint and Nextel who have combined have panel antennas on the steeple. The antenna panels have been painted to match the brick or stone on the steeple and are generally unnoticeable unless you are looking for them. The equipment cabinets are located brick walled areas that blend into the building and also are not noticeable. No new antenna panels will be added, but several will be changed to incorporate Clearwire. In addition to the antenna panels, one microwave antenna will be installed. The microwave antenna is a 15 inch square panel that will be mounted behind the mesh screen. A two foot portion of the metal screen will be removed and be replaced with a nonmetallic material that will match the existing screening. The metal screening must be replaced with a nonmetallic material in order for the microwave panel to function. These changes will not materially change the installation and it will still retain its stealth appearance.

Currently the antenna installations on the north and the south protrude approximately 8 inches from the structure, Mr. Wood noted the new installations will not have that visible protrusion. He also explained that the top two sections of the existing metal screen would be replaced on one screen panel with a mesh screen of an opaque material that will allow light to pass, and not interfere with the transmissions. Most of the antennas on the steeple will be replaced but the stealth appearance will not be compromised.

A neighborhood meeting was held on September 21, 2009, in accordance with the Planning Commission's Citizen Participation Policy. One neighbor attended, questions were answered and the neighbor does not oppose the project.

Ron Williamson noted St. Ann's Church is the only stealth wireless communication installation in Prairie Village and the ordinance provides that stealth designed facilities are an exception from the Special Use Permit requirements and only Site Plan Approval is required. The current two carriers on this site were allowed by Special Use Permit. Mr. Williamson noted the dish antenna on this installation is only 14 inches square.

The Planning Commission conducted the following review of the site plan criteria:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The location has already been approved for two carriers, Sprint and Nextel, and the site is capable of accommodating them plus this third carrier. The equipment cabinet for Clearwire will be within the existing compound and can be easily accommodated within the existing improvements. No additional landscaping or changes in the size of the compound are needed.

B. Utilities are available with adequate capacity to serve the proposed development.
Utilities are currently in place serving the existing installation and are adequate to serve this expansion.

C. The plan provides for adequate management of stormwater runoff.
There will be no increase in impervious surface so stormwater is not an issue.

D. The plan provides for safe and easy ingress, egress and internal traffic circulation.
The proposed site will utilize the existing driveways and parking lot for circulation which will adequately serve the proposed use.

E. The plan is consistent with good land planning and good site engineering design principles.
This is a minor expansion of an existing installation and land planning and site engineering have been well done to minimize the visual impact on the neighborhood. The proposed installation will be within the existing facility, will have very little impact and will maintain its stealth appearance.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.
The proposed installation of the panel antennas and equipment cabinet will be compatible with the stealth design of the existing antennas and equipment compound that are currently in place. The microwave dish antenna will be added behind the screening and will continue to maintain the stealth appearance.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan (Village Vision) and other adopted planning policies.
Wireless communications are not specifically addressed in Village Vision. However, it falls into two general goal areas which are maintaining and improving infrastructure and improving communications between the City and its residents.

Randy Kronblad moved the Planning Commission approve the Site Plan for Clearwire Wireless Communication subject to the following conditions:

1. The installation shall be made in accordance with the plans submitted and shall maintain its stealth appearance. The microwave dish shall be behind the screening and the screening shall be replaced with a screening that matches what exists.
2. The initial approval of the Site Plan shall be for a maximum of five years. At the end of the five year period, the applicant shall resubmit the application to the Planning Commission and shall demonstrate to the satisfaction of the Planning Commission that a good faith effort has been made to cooperate with other providers to establish co-location at the tower site, that a need still exists for the tower, and that all the conditions of approval have been met. The application may then be extended for an additional ten years.
3. 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.
4. The equipment cabinet shall be located in the existing compound.
5. The applicant shall have a structural inspection of all antennas and cables performed by a licensed professional engineer prior to every renewal and submit it as a part of the renewal application.
6. If the Site Plan Approval is found not to be in compliance with the terms of the approval, it will become null and void within 90 days of the notification of noncompliance unless the noncompliance is corrected. If the Site Plan Approval becomes null and void, the

applicant will remove the antennas, equipment cabinets and all appurtenances and restore the site to its original condition.

7. The applicant may change out equipment boxes, cable and antennas subject to the Staff approval provided that the replacements are generally consistent with the approved Plan. If change-outs are significantly different, as determined by the Building Official, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
8. The applicant shall not prevent other users from locating on the steeple.
9. If the antenna and equipment installation is not operated for a continuous period of twelve (12) months, it shall be considered abandoned and the owner of the installation shall remove the same within 90 days after receiving notice from the City. If the installation is not removed within that 90 days period, the Governing Body may order the installation removed and may authorize the removal of the same at the permittee's expense.
10. The installation shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance, regulation or standard) and if it is found not to be in compliance with the terms of the Site Plan Approval, it will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Site Plan Approval becomes null and void, the applicant will remove the installation and all appurtenances and restore the site to its original condition.
11. In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication installation shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
12. In order to ensure structural integrity, the antennas shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such antennas that are published by the Electronic Industries Alliance.
13. The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the installation shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
14. The permit holder shall promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
15. A copy of the lease between the applicant and owner shall be submitted to the City and contain 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 facility in the event the leaseholder fails to remove it upon abandonment.
16. The applicant shall obtain all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
17. If Clearwire changes its name through merger, acquisition, etc. or sells or transfers its installation to another carrier, it shall notify the City within 30 days of such change and provide a description of the service provided by that carrier. If modifications are required as a result of this change they will be approved by Staff unless in the opinion of Staff are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.

The motion was seconded by Marlene Nagel and passed unanimously.

OTHER BUSINESS

Dennis Enslinger advised the Commission that staff had reviewed and approved proposed changes to the commercial parking lot for the office building at 5200 West 94th Terrace. The changes were minor in nature allowing for parking closer to the building and more green space.

Ron Williamson stated he is planning to retire and wants to make sure the transition is properly handled. No specific date has been set. He introduced Kevin Kokes from BWR as his future replacement. Kevin will be working with him on the review of Prairie Village applications in preparation for his retirement. Kevin gave the Commission members a brief introduction of his professional experience, noting his work as a City Planner and consulting work with several cities. He stated he was looking forward to working with Prairie Village.

Joyce Hagen Mundy announced that at this time, no new applications have been submitted for consideration by the Planning Commission; however, a BZA application as been submitted for a side yard variance for a pool.

Nancy Vennard noted the recent changes to the City's day care regulations in view of a recent case in the state of Michigan where a neighbor allowing her neighbor's children to wait at her home until the school bus arrived was cited for providing day care without a license although she was not receiving any pay. She hoped the city's regulations would not be interpreted to prevent this from occurring in Prairie Village. Mr. Williamson responded under the existing regulations the interpretation could be made by the Board of Zoning Appeals that such action would not constitute the operation of a home day care.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 8:07 p.m.

Ken Vaughn
Chairman

SISTER CITY COMMITTEE
14 September 2009
MINUTES

Call to Order

Chairperson Jim Hohensee called the meeting to order. Present: Laura Wassmer, Dick Bills, Rod Atteberry, Bob McGowan, Vera Glywa, Carole Mosher, Phil Monnig and Cindy Dwigans. Guests: Nancy Wallerstein and Hildegard Knopp. Staff: Chris Engel

Minutes

Minutes for August 10, 2009 were approved.

Tour de Prairie Village

The race has been postponed until fall 2010. Rod is currently researching routes within Prairie Village to minimize driveway crossings and allow for acceptable turning radii.

Ukrainian Art Show

Rod reported that he and Dan had met with the people at the museum in Dolyna and with the help of the Peace Corp volunteers we should be able to fill out the show. Embroidery had been sent by Larissa to also help fill out the show. There was discussion about children's art and the Nelson has a Saturday art class for children that may bring in some pieces if the right connections can be made. SMSD also has a district-wide art show and they might be able to pull out the Prairie Village art if we connect with them. Rod will contact Shelly Trewolla of PVAC.

Rod is working on getting the grant company some additional requested information. He will be getting a bio to Jim on Mark English, who will be the art lecturer for the event.

Additional discussion was had over sponsoring an art show in Dolyna to get more art for the City Hall art show. A reputable and reliable shipper has been located so getting the pieces should not be as difficult as before. The Committee agreed to expend \$700 to assist in setting up the show and awarding cash prizes and \$300 for shipping the winning pieces to Prairie Village.

Display Case Discussion

Since the Arts Council owns the display case the Committee discussed buying a new one or researching the purchase of a kiosk. A digital picture frame for the current case will be researched as a method of showcasing the recent visit.

After Action Report from Dolyna Visit

The members of the committee that visited Dolyna will be putting together a 10 - 15 minute presentation for City Council on October 5. There will also be a slideshow created to run in the background before the start of the meeting.

There was discussion over how the committee should move forward. The discussion centered on the more charitable-oriented requests that were coming from the Peace Corp volunteers vs. the exchanges between businesses, schools and governmental agencies agreed to by the two mayors. It was agreed upon that the exchanges should be the focus of the committee and assisting the Peace Corp in their initiatives should fall under the scope of the "Friends of PV Sister City."

Adjournment

The next meeting will be a special meeting of the Sister City Committee on September 21st at 7:00pm to further discuss next steps and a strategic plan for the committee.

Jim Hohensee
Chair

SISTER CITY COMMITTEE
21 September 2009
MINUTES

Call to Order

Chairperson Jim Hohensee called the meeting to order. Present: Dick Bills, Rod Atteberry, Bob McGowan, Vera Glywa, Carole Mosher, Phil Monnig and Cindy Dwigans.

Mission Statement

The committee determined that a mission statement should be drafted. Discussion ensued. Cindy cited the Sister City International mission. The following language was adopted on motion by Phil Monnig and Second by Bob McGowan:

To foster, develop and promote art, cultural, educational and civic exchanges between Dolyna, Ukraine and Prairie Village, Kansas. To explore our shared democratic ideals and common values in a spirit of international diplomacy.

This mission statement will provide a test for the efforts of the coming year.

Focus for the Coming Year

The committee discussed where to focus efforts for the coming year. A number of ideas were discussed. Four matters already in progress were noted as requiring attention. They are:

- A need for better publicity - making the city more aware
- The art show
- The bike race
- Fundraising efforts

Other efforts were discussed.

The committee focused on an effort to get an exchange student. The following goal was adopted:

Identify one or more students in Dolyna to attend Shawnee Mission East High School and reside with a Prairie Village Family beginning in August 2010

It was also agreed that the committee would make arrangements for the short term internships with a Prairie Village connection. These are proposed for January 2010.

Rod moved to adjourn. Bob seconded and the motion was carried.

SISTER CITY COMMITTEE
12 October 2009
MINUTES

Call to Order

Chairperson Jim Hohensee called the meeting to order. Present: Vera Glywa, Phil Monnig, Cleo Simmonds and Cindy Dwigans. Guests: Hildegard Knopp. Staff: Chris Engel

Minutes

Due to the lack of a quorum the minutes for September 14th and September 21st were held over.

Display Case Discussion

The Committee is still interested in using the Arts Council display case when available. In addition, they are interested in getting a flat screen/kiosk display in City Hall - possibly by the entrance into the Council Chambers. Chris will investigate feasibility.

After Action Report from Dolyna Visit

The delegation that went to Dolyna will be meeting in City Hall at 6.30pm on Tuesday, October 20 to share pictures and stories.

Budget Discussion

Remaining expenditures for 2009 were discussed as being \$1,000 for the art show in Dolyna, ~\$200 to reimburse Vera for gifts purchased for the trip, ~\$300 to reimburse Mayor for trip expenses and \$462.64 to pay for the hotel rooms in Lviv on the first night of the trip. This will leave approximately \$1,100 in the budget for the kiosk display.

Additional Meetings

The Committee discussed holding meetings on the second and fourth Mondays of the month until at least January. With visitors coming in January meeting once a month will not be enough.

December Meeting

Due to the holidays the December meetings will be on December 7th and 14th.

New Business

Vera reported that Mayor Volodia and Larysa have sent thanks for the \$1,000 sponsorship of the art show at the museum.

The Kansas School for the Blind has agreed for Oksana to work with them for 10 days in January.

Larysa has mentioned she is interested in the Kaufmann Foundation and UMKC School of Entrepreneurial Arts or also how language is taught in the classroom.

Adjournment

The next meeting will be a special meeting of the Sister City Committee on October 26th at 7:00pm to further discuss the January visit of residents from Dolyna.

Jim Hohensee
Chair

SISTER CITY COMMITTEE
2 November 2009
MINUTES

In attendance: Jim Hohensee, Carole Mosher, Cindy Dwigans, Cleo Simmonds, Bob McGowan, Vera Glywa

Carole advised that invitations were out for the international student reception. The room is reserved. There are 7 students. With families we should get to about 35-40 people.

Cleo moved that \$200 be made available for the reception and for items for the students. Bob seconded the motion and it passed.

Everyone was asked to wear their Sister City shirts.

Concerns over the amount set aside for the art show had been expressed from Ukraine. Vera, Jim and Rod will meet to discuss it and report back next week.

Chris advised that Nancy was trying to get funds from the Municipal Foundation Sister City fund to pay for Medical expenses for Tanya. Cindy made the point that the foundation money should only be used at the request of the sister city committee, and not by someone outside the committee. The members agreed that the foundation money should only be released on authorization of the sister city committee.

Jim needs to draft a letter inviting Oxsana, her daughter, and Larysa.

The proposal for two meetings each month was discussed. Cleo urged the advantages of having input from everyone. He expressed the idea that committee reports tended to deliver a fait accompli and stifle discussion. Cindy moved that the committee go to 2 full meetings each month. Carole seconded the motion and the motion carried.

Cleo advised that he had investigated lapel pins and found very reasonable prices. He also reported that Web site hosting could be available at \$50 per year.

The meeting was adjourned.

TREE BOARD
City of Prairie Village, Kansas

MINUTES

Wednesday - November 4, 2009, 6:00PM Meeting
Public Works - Conference Room
3535 Somerset Drive

Board Members: Cliff Wormcke, Jack Lewis, Jim Hansen, Greg VanBooven, Deborah Nixon, Luci Mitchell, Tony Rostberg

Other Attendees: Bob Pryzby, Randy Barbour

- 1) **Review and Approve minutes from September 2, 2009 meeting.** Approved on a motion by Lewis seconded by Nixon.

- 2) **Sub-Committee Report**
 - 2.1) **Fall Seminar**
 - a) **Wrap Up** - Successful with best attendance (about 35 persons). Suggested topic for next Fall Seminar is Winterizing your landscape and leaf disposal plus companion planting of trees and shrubs.
 - 2.2) **Arboretum Committee**
 - a) **Update** - Art Kennedy - no discussion
 - 2.3) **Arbor Day**
 - a) **Pre-planning with setup of timeline** - will begin solicitation of name for Arbor Day recognition.

- 3) **Amy Pollack of 5305 W. 84th Terrace concerning apple tree planting issue** - Ms. Pollack was unable to attend the meeting. The Board agreed to plant a Jonathan Apple tree in the front yard as a replacement for the removed Jonathan Apple tree.

- 4) **Old Business** none

- 5) **New Business** - Mr. Randy Barbour explained that he had removed a sweet gum tree from the City Right of Way without City permission. The Board requested that he plant at his cost two two-inch caliber sugar maple trees that would be located on either side of the stump from the removed sweet gum tree.

Chose Art Kennedy to be the Tree Board Chairperson for 2010 on a motion by Nixon seconded by Lewis.

- 6) **The next meeting agenda** - next meeting will be February 3, 2010.

**Council Members
Mark Your Calendars
November 16, 2009**

November 2009	Mid America Pastel Society exhibit in the R. G. Endres Gallery
November 26	City offices closed in observance of Thanksgiving
November 27	City offices closed in observance of Thanksgiving
December 2009	Mimi Pettigrew oils exhibit in the R. G. Endres Gallery
December 2	Johnson and Wyandotte County Mayor's Association Holiday Party
December 4	Mayor's 2009 Holiday Party
December 7	City Council Meeting
December 11	Artist reception in the R. G. Endres Gallery 6:30 - 8:00
December 21	City Council Meeting
December 25	City offices closed in observance of Christmas
January 2010	Anne Nye photography exhibit in the R. G. Endres Gallery
January 1	City offices closed in observance of the New Year holiday
January 4	City Council Meeting
January 8	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
January 18	City offices closed in observance of Martin Luther King Jr. holiday
January 19(Tues.)	City Council Meeting
February 2010	Student mixed media Art Show in the R. G. Endres Gallery
February 1	City Council Meeting
February 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
February 15	City offices closed in observance of Presidents' Day holiday
February 16(Tues.)	City Council Meeting
March 2010	Lynne Hodgman mixed media exhibit in the R. G. Endres Gallery
March 1	City Council Meeting
March 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
March 15	City Council Meeting
April 2010	Dolyna Art Exhibit in the R. G. Endres Gallery
April 5	City Council Meeting
April 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
April 19	City Council Meeting
May 2010	Rod Atteberry and Otto Miller mixed media exhibit in the R. G. Endres Gallery
May 3	City Council Meeting
May 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
May 17	City Council Meeting
May 31	City offices closed in observance of the Memorial Day holiday
June 2010	Marearl Denning photography exhibit in the R. G. Endres Gallery
June 7	City Council Meeting
June 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
June 21	City Council Meeting

July 2010	Ric Cummings photography exhibit in the R. G. Endres Gallery
July 4	VillageFest
July 5	City offices closed in observance of the Independence Day holiday
July 6 (Tuesday)	City Council Meeting
July 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
July 19	City Council Meeting
August 2010	Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
August 2	City Council Meeting
August 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
August 16	City Council Meeting
September 2010	Joan Gerding oils exhibit in the R. G. Endres Gallery
September 6	City offices closed in observance of the Labor Day holiday
September 7(Tues.)	City Council Meeting
September 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
September 20	City Council Meeting
October 2010	State of the Arts exhibit in the R. G. Endres Gallery
October 4	City Council Meeting
October 8	Artist reception in the R. G. Endres Gallery 6 - 8 p.m.
October 18	City Council Meeting
November 2010	Mid-America Pastel Societ pastels exhibit in the R. G. Endres Gallery
November 1	City Council Meeting
November 12	Artist reception in the R. G. Endres Gallery 6:00 - 8:00
November 15	City Council Meeting
November 25	City offices closed in observance of the Thanksgiving holiday
November 26	City offices closed in observance of the Thanksgiving holiday
December 2010	Marcus Cain mixed meda exhibit in the R. G. Endres Gallery
December 6	City Council Meeting
December 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
December 20	City Council Meeting
December 24	City offices closed in observance of the Christmas holiday

ANIMAL CONTROL COMMITTEE

AC96-04 Consider ban the dogs from parks ordinance (assigned 7/15/96)

COMMUNICATIONS COMMITTEE

COM2008-01 Consider upgrade to City's Website (assigned 10/8/2007)

COUNCIL COMMITTEE

- COU2007-02 Consider Reducing size of Council & term limits for elected officials (assigned 1/8/2007)
- COU2007-35 Consider reactivation of Project 190709: 83rd Street/Delmar Drainage Improvements
- COU2007-40 Consider Code Enforcement - Interior Inspections (assigned 5/2/2007)
- COU2007-74 Consider reactivation of Prairie Village Development Corporation (assigned 12/3/2007)
- COU2008-21 Consider Project 190865:2009 CARS - Roe Avenue Resurfacing from Somerset Drive to 83rd Street (assigned 2/26/2008)
- COU2008-22 Consider Project 190890: 2009 Street Resurfacing Program (assigned 2/26/2008)
- COU2008-67 Consider sidewalk policy relative to sidewalks (8200 Rosewood) (assigned 8/13/2008)
- COU2008-75 Consider approval of a modification to Personnel Policy 910 regarding "comp time" (assigned 10/1/2008)
- COU2008-100 Consider approval of ordinance affirming City Boundaries (assigned 12/10/2008)
- COU2009-03 Consider Project 191023: 2009 Concrete Repair Program (assigned 12/23/2008)
- COU2009-04 Consider Project P5000: 2009 Crack Seal/Slurry Seal Program (assigned 12/23/2008)
- COU2009-05 Consider Project P5001: 2009 Street Repair Program (assigned 12/23/2008)
- COU2009-14 Consider Project 190870: 2010 Street Resurfacing Program (assigned 1/13/2009)
- COU2009-15 Consider Project 190721: 2009 Storm Drainage Repair Program (assigned 1/13/2009)
- COU2009-16 Consider Project 190876: 2010 CARS, 83rd Street Resurfacing from Nall Avenue to Roe Avenue (assigned 1/13/2009)
- COU2009-17 Consider Project 190877: 2009 CARS, 83rd Street Resurfacing: Roe Avenue to Somerset Drive (assigned 1/13/2009)
- COU2009-26 Consider Project 190722: 2010 Storm Drainage Repair Program (assigned 2/6/2009)
- COU2009-27 Consider Project 190871: Mission Lane Bridge Replacement (assigned 2/6/2009)
- COU2009-63 Consider Project 190866 - 75th Street Paving (assigned 6/10/2009)
- COU2009-87 Consider Project 190869 - 2009 Street Resurfacing Program - Construction Change Order #1 (assigned 8/12/2009)
- COU2009-97 Consider Project 190653 El Monte Fountain Improvements (assigned 10/12/2009)
- COU2009-98 Consider Project 190656 Community Center Study (assigned 10/12/2009)
- COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program Construction Change Order #1 (Final) (assigned 10/14/2009)
- COU2009-100 Consider Project 190728: Prairie Lane Drainage Project - Design Agreement (assigned 10/14/2009)
- COU2009-106 Consider adoption of Resolution 2009-21 establishing 2010 Salary Ranges (assigned 11/11/2009)
- COU2009-107 Consider renewing the agreement with SilverStone Group to provide actuary services for the City's Police Pension Plan (assigned 11/11/2009)
- COU2009-108 Consider approving plan changes to the City's Supplemental Pension Plan (assigned 11/11/2009)
- COU2009-109 Consider approval of professional planning/design services agreement with Indigo Design for 2010 Park Plan (assigned 11/11/2009)
- COU2009-110 Consider changes to fee schedule related to planning and zoning applications (assigned 11/11/2009)

PARKS AND RECREATION COMMITTEE

PK97-26 Consider Gazebo for Franklin Park (assigned 12/1/97)

PLANNING COMMISSION

- PC2007-01 Study City zoning regulations to address those items identified by the Village Vision Strategic Investment Plan in 2007 (assigned 8/20/2007)
- PC2008-02 Consider development of ordinances to support best practices for renewable energy and for green design related to residential and commercial building design (assigned 7/7/08)

PRAIRIE VILLAGE ARTS COUNCIL

PVAC2000-01 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for the 1st Quarter of 2001)