

City Council Meeting

July 20, 2009



Dinner will be provided by:
Dragon Inn

Beef and Broccoli
Chicken with Seasonal Vegetables
General Tso's Chicken
Sha Cha Shrimp

Mely's Ice Cream Cake

COUNCIL COMMITTEE

July 20, 2009

6:00 p.m.

Council Chamber

AGENDA

MICHAEL KELLY, COUNCIL PRESIDENT

CONSENT AGENDA

***COU2009-73 Consider Approval of Phone Maintenance Agreements**

AGENDA ITEMS FOR DISCUSSION

**COU2009-71 Consider Modification of the sick leave policy regarding the accrual method
Nic Sanders**

***COU2009-72 Consider Approval of Solid Waste Assessment Fees for 2010
Dennis Enslinger**

**COU2009-70 Consider Approval of Participating in the NLC Prescription Program - Caremark
Quinn Bennion**

***COU2009-74 Consider Approval of Amendment to the City Code permitting an organized cycling
race within the City
Chief Jordan**

***COU2009-75 Consider Approval of 2010 Mission Hills Contract and 2010 Mission Hills Budget
Chief Jordan**

***Council Action Requested the same night**



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: July 20, 2009

Council Meeting Date: July 20, 2009

COU2009-73 CONSIDER APPROVAL OF PHONE MAINTENANCE AGREEMENTS

RECOMMENDATION

Staff recommends the City Council approve the agreements with Embarq for Phone Maintenance Services for 7700 Mission Road (City Hall location) and for 3535 Somerset Drive (Public Works location).

COUNCIL ACTION REQUESTED ON JULY 20, 2009

BACKGROUND

The current Phone Maintenance Agreements have expired. Our current service provider, Embarq has offered a 12 month agreement to extend our current maintenance agreement. Currently we are paying \$10,435.20 annually for both locations (\$7,749.12 for City Hall, \$2,686.08 for Public Works). The proposed 12 month contract would be for \$10,041.84 annually for both locations (\$8,190.24 for City Hall, \$1,851.60 for Public Works), which is a decrease of \$393.36.

FUNDING SOURCE

Funding is available in the operations budget

RELATION TO VILLAGE VISION

None

PUBLIC NOTICE

None

ATTACHMENTS

Agreements (2)

PREPARED BY

Suzanne Lownes, Office Manager of Public Works

July 14, 2009

Embarq Centurion™ Service Agreement

Maintenance Contract#: M09GLOZ7TSH6J

Account Manager: Gerardo Lopez

This Embarq Centurion Service Agreement ("Agreement") between United Telephone Company of Kansas ("Embarq") and PRAIRIE VILLAGE CITY OF ("Customer") governs Embarq's provision of certain maintenance services ("Services") to Customer.

SITE ADDRESS		BILLING ADDRESS	
Business Name	PRAIRIE VILLAGE CITY OF	Business Name	PRAIRIE VILLAGE CITY OF
Site Contact	SUZANNE LOWNES	Billing Contact	ATTN: BOB PRYSBY
Street Address	7700 Mission Rd	Street Address	3535 SOMERSET DR
City	Prairie Village	City	Prairie Village
State	KS	State	KS
ZIP	66208	ZIP	66208
Phone	(913) 385-4640	Phone	(913) 385-4640

1. **TERMS OF SERVICE.** Embarq provides Services to Customer under the Standard Plan. The Term for Services will continue for the number of months specified on Attachment A (the Embarq Centurion Bill of Materials), attached and incorporated into this Agreement. Embarq provides Services under the Embarq Standard Terms and Conditions for Communications Services, the Embarq Centurion Maintenance Service Annex, and related annexes applicable to Customer's selection of specific Optional Services, all posted to www.embarq.com/ratesandconditions on the effective date and incorporated by this reference. References to URLs in this Agreement include references to successor URLs identified by Embarq.

2. **RATES AND BILLING.** Embarq will provide Services for the Equipment listed in Attachment A at the rates specified in Attachment A. Rates are exclusive of applicable taxes and surcharges separately itemized on Customer's invoices and other billable items as specified in the applicable annex. Embarq will bill Customer monthly.

AGREED

United Telephone Company of Kansas		PRAIRIE VILLAGE CITY OF	
By:		By:	
Printed:		Printed:	Ronald L. Shaffer
Title:		Title:	Mayor
Date:		Date:	

Address For Notices:
 900 Springmill Road
 Mailstop: OHMANJ0101
 Mansfield, OH 44906

Address For Notices (if different from above):

And if related to a dispute to:
 Embarq - Attn: VP, Commercial Law
 5454 W. 110th Street
 Overland Park KS 66211



EMBARQ
Embarq Centurion Maintenance

Customer Legal Name: -
 Customer Billing Name: PRAIRIE VILLAGE CITY OF
 7700 Mission Rd
 -
 Prairie Village, KS 66208

Valid Until September 7, 2009

Contract Term: 12 Months (Best Value not available for term below 36 months)

Part Number	Description	Quantity	Annual Standard Rate		Annual Extended Rate	
			Unit	Total	Unit	Total
1203022L1	T1 ESF CSU ACE W/POWER SUPPLY	2	48.72	97.44	58.44	116.88
PBX Port Pricing		Quantity	Annual Standard Rate		Annual Extended Rate	
			Unit	Total	Unit	Total
	Ports (Key=Active PBX=equipped)	144	36.00	5,184.00	41.76	6,013.44
	T1 / PRJ	2	432.00	864.00	504.00	1,008.00
	PBX Voicemail Ports (exc CP w/UM)	8	240.48	1,923.84	299.52	2,396.16
	Printers & Terminals	2	60.48	120.96	69.12	138.24
Options Included:						
-						
-						
-						
-						
-						
-						
SUBTOTAL: ANNUAL RECURRING EQUIPMENT COVERAGE.....				\$ 97.44		\$ 116.88
SUBTOTAL: ANNUAL RECURRING ANALOG PBX/KEY VOICE PORTS COVERAGE.....				\$ 8,092.80		\$ 9,555.84
TOTAL ANNUAL RECURRING COVERAGE CHARGES				\$ 8,190.24		\$ 9,672.72
TOTAL CONTRACT TERM RECURRING COVERAGE CHARGES				\$ 8,190.24		\$ 9,672.72
<u>CONTRACT TERM: 12 Months</u>						

Embarq CenturionSM Service Agreement

Maintenance Contract#: M09GLOZ7TSKZY
 Account Manager: Gerardo Lopez

This Embarq Centurion Service Agreement ("Agreement") between United Telephone Company of Kansas ("Embarq") and PRAIRIE VILLAGE CITY OF ("Customer") governs Embarq's provision of certain maintenance services ("Services") to Customer.

SITE ADDRESS		BILLING ADDRESS	
Business Name	PRAIRIE VILLAGE CITY OF	Business Name	PRAIRIE VILLAGE CITY OF
Site Contact	Suzanne Lownes	Billing Contact	ATTN: BOB PRYSBY
Street Address	3535 SOMERSET DR	Street Address	3535 SOMERSET DR
City	Prairie Village	City	Prairie Village
State	KS	State	KS
ZIP	66208	ZIP	66208
Phone	(913) 385-4640	Phone	(913) 385-4640

- TERMS OF SERVICE.** Embarq provides Services to Customer under the Standard Plan. The Term for Services will continue for the number of months specified on Attachment A (the Embarq Centurion Bill of Materials), attached and incorporated into this Agreement. Embarq provides Services under the Embarq Standard Terms and Conditions for Communications Services, the Embarq Centurion Maintenance Service Annex, and related annexes applicable to Customer's selection of specific Optional Services, all posted to www.embarq.com/ratesandconditions on the effective date and incorporated by this reference. References to URLs in this Agreement include references to successor URLs identified by Embarq.
- RATES AND BILLING.** Embarq will provide Services for the Equipment listed in Attachment A at the rates specified in Attachment A. Rates are exclusive of applicable taxes and surcharges separately itemized on Customer's invoices and other billable items as specified in the applicable annex. Embarq will bill Customer monthly.

AGREED

United Telephone Company of Kansas		PRAIRIE VILLAGE CITY OF	
By:		By:	
Printed:		Printed:	Ronald L. Shaffer
Title:		Title:	Mayor
Date:		Date:	

Address For Notices:
 900 Springmill Road
 Mailstop: OHMANJ0101
 Mansfield, OH 44906

Address For Notices (if different from above):

And if related to a dispute to:
 Embarq - Attn: VP, Commercial Law
 5454 W. 110th Street
 Overland Park KS 66211



EMBARQ
Embarq Centurion Maintenance

Customer Legal Name: -
 Customer Billing Name: PRAIRIE VILLAGE CITY OF
 7700 Mission Rd
 -
 Prairie Village, KS 66208

Valid Until September 7, 2009

Contract Term: 12 Months (Best Value not available for term below 36 months)

Part Number	Description	Quantity	Annual Standard Rate		Annual Extended Rate	
			Unit	Total	Unit	Total
1203022L1	T1 ESF CSU ACE W/POWER SUPPLY	1	48.72	48.72	58.44	58.44
PBX Port Pricing			Annual Standard Rate		Annual Extended Rate	
		Quantity	Unit	Total	Unit	Total
	Ports (Key=Active PBX=equipped)	32	36.00	1,152.00	41.76	1,336.32
	T1 / PRI	1	432.00	432.00	504.00	504.00
	Paging Speakers	4	24.48	97.92	27.36	109.44
	Printers & Terminals	2	60.48	120.96	69.12	138.24
Options Included:						
-						
-						
-						
-						
-						
-						
SUBTOTAL: ANNUAL RECURRING EQUIPMENT COVERAGE.....				\$ 48.72		\$ 58.44
SUBTOTAL: ANNUAL RECURRING ANALOG PBX/KEY VOICE PORTS COVERAGE.....				\$ 1,802.88		\$ 2,088.00
TOTAL ANNUAL RECURRING COVERAGE CHARGES				\$ 1,851.60		\$ 2,146.44
TOTAL CONTRACT TERM RECURRING COVERAGE CHARGES				\$ 1,851.60		\$ 2,146.44

CONTRACT TERM: 12 Months



COUNCIL COMMITTEE

Council Meeting Date: Aug. 3, 2009
Committee Meeting Date: July 20, 2009

Agenda Item: Consider amending Personnel Policy 1007: Sick Leave to change the accrual method to 3.70 hours per pay period.

SUGGESTED MOTION

Move that the Governing Body approve the change to Personnel Policy 1007: *Sick Leave* modifying the accrual method of to 3.70 hours per pay period.

BACKGROUND

Currently, an eligible employee earns four (4) hours of sick leave every pay period, with the exception of the third paycheck in a given month, or twenty-four (24) pay periods a year. This method results in the employee receiving eight (8) hours of sick leave per month with a total of twelve (12) days per calendar year.

The current accrual method differs from the vacation leave which is earned every pay period for a total of twenty-six (26) per year. Changing the sick leave accrual method to 26 pay periods instead of the current 24, would change what an employee earns to 3.70 hours each pay period.

The new method of accrual would result in an employee earning 96.2 hours of sick leave per year instead of the 96 hours of sick leave per year currently accrued. The accrual change will make an easier transition to the online payroll system being implemented.

FUNDING SOURCE

Not applicable.

PUBLIC NOTICE

Not applicable.

Prepared By:
Nicholas Sanders
Human Resources Specialist
Date: May 20, 2009



City Council Policy: PP1007 - SICK LEAVE

Effective Date: October 16, 2006

Amends: PP213 - SICK LEAVE, January 18, 1994

Approved By: Governing Body, October 16, 2006

I. **SCOPE**

A. This policy applies to all exempt and non-exempt trial and regular City employees.

II. **PURPOSE**

A. To provide income protection for employees who, because of illness or accident, are temporarily disabled and absent from work for limited periods of time.

III. **RESPONSIBILITY**

IV. **DEFINITIONS**

- A. Sick leave benefit is cash compensation equivalent to the employee's daily rate of pay.
- B. "Immediate family" is defined as someone the employee must take care of, i.e., spouse, child, mother, father, sister, brother, mother-in-law, father-in-law, or any blood relative residing in the employee's home.
- C. False reporting of sick time - When an employee reports to his supervisor that he/she is ill and unable to report for duty, time off is allowed.

V. **POLICY**

- A. The City has a direct interest in the welfare and productivity of its employees. The intent of this sick leave policy is to provide for instances when the employee is truly incapable of working, on when the employee should not be on the job because of a contagious condition. In no event is sick leave to be used as vacation or to be abused.
- B. Amount of Benefit.
 - 1. During absence from work caused by personal illness or injury as a result of an accident, an eligible employee's wage or salary will be continued according to his/her amount of accumulated benefits.
- C. This policy is intended to allow a minimum of time off during the year with pay so that employees are not penalized for being sick. In the same respect, it is not expected that an employee will use total sick days accumulated each year on a continual basis. This is excessive and is not the intent of the City's sick time policy.
- D. The City program allows an employee to accumulate sick time to assist with a major illness, not as a means to obtain extra days off per year.
- E. Accumulation of Benefits.
 - 1. A trial or regular employee earns and accrues 3.70 hours of sick leave on a bi-weekly basis. Accrual begins the pay period following the date of hire or transfer to regular position. If an employee is paid for any portion or all of the pay period, accrual is earned.
 - 2. Sick leave with pay may be accumulated to a maximum of one hundred forty days.
 - 3. Trial and regular part-time employees may earn sick leave benefits based on the total number of hours worked.
 - 4. The number of sick leave days credited is not intended to establish a guideline for acceptable attendance.
- F. Eligibility
 - 1. An employee is eligible for benefits if the following requirements are fulfilled:
 - 2. An employee may utilize his or her accumulated sick leave benefit immediately after his or her date of hire.
 - 3. The City may require an employee to support a request for sick leave benefits by medical certification of disability by the City Physician.

Deleted: one-half day of sick leave on a bi-weekly basis to a maximum of 12 days per calendar year.

VI. **PROCEDURES**

- A. These guidelines will be followed by department heads administering sick leave:
- B. Uses of Sick Leave:
 - 1. Personal illness, injury or disability.
 - 2. Necessary medical treatment, with approval of the department head.

PP1007 Sick Leave

- a.) Because many doctors and dentists will not schedule appointments after hours and on weekends, it is sometimes necessary for employees to schedule them during working hours. If the employee works part of the day and notifies the supervisor in advance of the appointment, it will be counted toward his/her sick time (but will not be counted towards the six illnesses described on page 4 Section F2 b1).
 3. Enforced quarantine of the employee, in accordance with community health regulations.
 4. Serious illness in the immediate family, with the approval of the department head. "Immediate family" is defined as someone the employee must take care of, i.e., spouse, child, mother, father, sister, brother, mother-in-law, father-in-law, or any blood relative residing in the employee's home.
- C. Reporting Sick Leave
1. Prior to the employee's scheduled time to report for duty, he/she must notify his/her immediate supervisor by telephone or messenger no later than the time established as procedure for the employee's department.
 2. Sick leave may be taken in one (1) hour increments. This will prevent an employee from being assessed one (1) full day of sick leave when absence is actually less.
 3. Maintenance of Contact.
 - a.) During a period of sick leave, an employee is expected to maintain regular contact with the supervisor (or make other suitable arrangements) in order for the supervisor to know the employee's estimated date of return of work.
 - b.) An employee taking sick leave is expected to be available to be contacted by his/her supervisor during the period of sick leave.
 - c.) Sick leave benefits are contingent upon maintenance of regular contact.
 4. Upon return to work, the employee must file a written report form stating the reasons for the absence. The Request for Sick Leave form will be investigated and approved by the department head before being charged to sick leave.
 5. A physician's report will be required when the sick leave extends beyond seven (7) consecutive calendar days, and at the end of each succeeding fifteen (15) day period. The City has the right to request a physician's report to verify illness or injury at such other times as may be deemed necessary by the City.
 6. Before an employee can be permitted to perform his/her duties after having sustained an injury or having been ill beyond seven (7) consecutive calendar days, he/she must present the department head with a physician's report which states he/she is able to return to his/her normal job.
- D. Extended Sick Leave
1. Whenever an employee has exhausted all sick leave, he/she may be placed on Family and Medical leave or leave of absence without pay according to the regulations pertaining to such leaves.
- E. Sick Leave Incentive
1. Employees who have taken 16 hours or less of sick leave for a calendar year will be eligible for a bonus of the amount equal to two days pay at the December 31 rate for the year.
 2. The employee, at his/her option may increase accumulated sick leave by two days and forego the cash payment. Employees must be employed by the City from January 1 through December 31, to be eligible.
- F. Terminal Leave
1. Employees who worked for the City prior to January 1, 1983, upon retirement* will be paid an amount equal to 50% of the December 31, 1982 accumulation (up to a maximum of 140 working days) or 50% of their retirement accumulation (up to a maximum of 140 working days) or \$5,000.00, whichever is the least.
 2. Such employees may elect to use half of the smaller accumulation, or the number of working days equal to \$5,000.00, whichever is the lesser, to retire that much earlier.
 3. In all cases, the retiring employee must give ten working days notice before he/she retires.
 4. *For the purposes of this section only; retiring means an employee with twenty years of service or at least 55 years of age.
- G. In a regular employee exhausts his/her paid sick leave reserve, he/she must then use his/her vacation leave.
- H. Abuse of sick leave benefits:
1. False reporting of sick time - When an employee reports to his supervisor that he/she is ill and unable to report for duty, time off is allowed. If an employee falsely reports being sick, the following actions will be taken:
 - a.) First offense - three day suspension without pay
 - b.) Second offense - Termination
- I. Abuse of sick time
1. The abuse of sick time is not acceptable. Employees are needed to provide the services of the City. Frequent illness indicates a need for medical assistance in order to improve physical condition. In addition, each time one employee calls in sick, it requires that another employee perform that duty, or the work goes undone for that day. The following procedure will be followed:

PP1007 Sick Leave

- a.) Any employee who has filed more than six Request for Paid Sick Leave forms for personal illness during any twelve month period will submit subsequent forms in person to his/her department head upon returning to work.
 - b.) The department head may require the employee to provide verification of his/her physical condition. This verification shall either be provided by the City Physician or his/her personal physician, as determined by the Department Head.
 - c.) Abuse of sick leave may subject the employee to disciplinary action by the Department Head.
- J. Full-time employees who have exhausted all their sick leave and are suffering from a serious personal illness or injury or who must take care of an immediate family member with a serious illness may apply to the Personnel Director for donated sick leave.
- 1. The employee making the request must include the following information:
 - a.) The nature of the illness or injury, medical documentation of the illness or injury;
 - b.) Estimated duration of the condition;
 - c.) Whether the request is for the employee or an immediate family member; and
 - d.) A specific number of hours requested.
 - 2. The employee making the request will also indicate whether he or she would like his or her request made public to all City employees.
 - 3. Family members may request donated sick leave on behalf of employees who are unable to request for themselves.
 - 4. The employee making the request must have exhausted all accrued sick leave, vacation and other paid compensatory time off.
 - 5. The employee may only take sick leave for the reasons outlined in Personnel Policy #213, "Sick Leave" V.A.
 - 6. An employee will not accrue vacation or sick leave while receiving donated sick leave.



ADMINISTRATION

Council Committee Meeting Date: July 20, 2009
City Council Meeting Date: August 3, 2009

COU2009-72 : Consider FY 2010 Solid Waste Management Fee and Solid Waste Exemption Fee

RECOMMENDATION

Staff recommends the Council establish a fee for FY 2010 of \$177.62 per year or \$14.80 per month/per household for the collection of solid waste, recyclable material, yard waste, and bulky item pickup.

Staff recommends the Council establish a fee of \$6.43 per year/per household for those subdivisions/homes associations that wish to be exempt from Solid Waste Management Fee.

SUGGESTED MOTION

The City Council approve a fee of \$177.62 per/year or \$14.80 per month/per for each household for the collection of solid waste, recyclable material, yard waste and bulky item pickup and an exemption fee of \$6.43 per year/per household for those subdivisions/homes associations which have applied for exemption from the Solid Waste Management Program.

BACKGROUND

Since 1976, the City has provided collection of solid waste for residences in the city. Although some homes associations opt-out of the city program and obtain their own service, the vast majority of Prairie Village residents receive solid waste, recyclable collection, and yard waste collection services through this city sponsored program.

Because not all Prairie Village residents are served by this program, it is funded through user fees in the form of special assessments placed on the property tax bills for each participating household. Revenues from these assessments, in addition to interest earnings, are accounted for in the Solid Waste Management Fund.

For FY 2010, the City has been negotiating with Deffenbaugh Industries to revise the existing contract. Deffenbaugh has agreed to a four-year contract with the first year per month fee of \$14.55 per household for solid waste, recycling and composting. Deffenbaugh has agreed to reduce the cost of bulky item pickup to \$30,000 for the once yearly event. This works out to a cost of \$3.43 per year or .29 per month for each household.

Ideally, the Solid Waste Management Fund should maintain a balance of one to two months worth of trash collection costs, which in 2010 will be approximately \$119,000/month. At the recommended 2010 assessment rate, the projected 2010 year-end balance in the Solid Waste Management Fund would be \$148,681, which is within an acceptable range.

The City Council will also need to establish a fee associated for those properties which opt-out of the weekly solid waste, recycling and yard composting services provided under the city's contract with Deffenbaugh. The current fee is \$8.00 per household/per year (\$3 exemption fee and \$5 for bulky-item pickup fee). Staff is recommending the fee be decreased to \$6.43 per household/per year. This decrease is due to a reduction in the cost of the bulky item pick-up fee to \$3.43 per household/per year for 2010.

ATTACHMENTS:

Solid Waste Management Fund Budget Expenditures and Estimates for FY 2007-2010.

FUNDING SOURCE

N/A

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: July 14, 2009

**City of Prairie Village
Solid Waste Management Fund**

	2007 Actual	2008 Actual	2009 Budget	2009 Estimate	2010 Budget
Fund Balance 1/1	\$ 144,861	\$ 164,543	\$ 153,124	\$ 188,879	\$ 163,395
Revenues:	-				
Licenses & Permits	963	1,641	4,000	4,000	4,000
Charges for Services	1,238,215	1,304,783	1,381,630	1,367,814	1,467,095
Interest on Investments	32,251	16,548	10,000	1,000	1,000
Total Revenue	1,271,429	1,322,972	1,395,630	1,372,814	1,472,095
Total Sources	1,271,429	1,322,972	1,395,630	1,372,814	1,472,095
Expenditures:					
Personal Services	20,041	17,493	22,616	21,705	22,268
Contract Services	1,231,706	1,281,143	1,384,842	1,376,592	1,464,541
Commodities	-	-	500	-	-
Capital Outlay	-	-	-	-	-
Total Expenditures	1,251,747	1,298,636	1,407,958	1,398,297	1,486,809
Total Uses	1,251,747	1,298,636	1,407,958	1,398,297	1,486,809
Sources Over(Under) Uses	19,682	24,336	(12,328)	(25,483)	(14,714)
Fund Balance @ 12/31	\$ 164,543	\$ 188,879	\$ 140,796	\$ 163,395	\$ 148,681

Funding Sources: Special assessments on property tax bills.

Expenditures: Contract with Deffenbaugh Disposal, Inc. for solid waste collection, recycling, composting services and large item pick up as well as a portion of the City's administrative costs including personal services and supplies.

Notes: The increase in 2010 reflects the estimated increase in the contract due to the previous contract expiring. The previous contract contained a rate increase cap of 4%.

2009 Assessment: \$167.16

2010 Estimated Assessment: \$180.09



ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: July 20, 2009

Council Meeting Date: August 3, 2009

COU2009-70: Consider National League of Cities Prescription Drug Discount Program

RECOMMENDATION

Staff recommends the City Council authorize staff to sign-up for the NLC Prescription Drug Discount Program.

BACKGROUND

Council member Ruth Hopkins heard about the Prescription Drug Discount Program at the NLC Conference in March and requested that staff learn more about it. A resident also heard about the program and requested the City look into it.

The NLC Prescription Discount Card program is designed for NLC member cities to help their residents who are without health insurance or have limited prescription coverage. By using the city-sponsored discount card, residents can save an average of 20% off the full retail cost of prescription medication. The program is administered for NLC by CVS Caremark and includes nearly 60,000 participating pharmacies nationwide, including all major chains and most local pharmacies (Bruce Smith Drugs is a participant).

- * The majority of people who use the program are uninsured or underinsured.
- * The cards may be used for prescriptions that are not covered by insurance.
- * The cards can be picked up by anyone regardless age, income or residency.
- * There are no enrollment fees or membership fees.
- * There is no limit on how many times the card can be used.
- * All family members are covered.
- * Pet medications that are also used to treat a human condition are covered.

There is no cost for a city to participate in the program. The role of the city is to promote the program through the local media and any city communications channels (e.g., city website, newsletter) and to make the prescription discount cards available at locations throughout the city to those residents who might benefit from the program. Caremark provides the city with marketing materials (press releases, PSAs, sample web pages, etc.) as well as providing the city with customized prescription discount cards with the city name and logo. The discount card includes a toll-free customer support phone number for residents to

call if they have questions about the program. The cards are also available to print online.

Each month, after the program is implemented, participating cities receive a report from NLC on the use of the discount card so the city can see the direct impact of the program on helping its residents.

FUNDING SOURCE

There are no direct costs associated with this program. Indirect costs are minimal and include staff time which will be allocated to the Public Relations function.

ATTACHMENTS

1. List of Participating Cities as of May 31, 2009
2. Sample Report - YTD
3. Sample Report - Monthly

PREPARED BY

Jeanne Koontz, Deputy City Clerk
Date: 7/13/2009

The NLC Prescription Discount Card Program

SAVE

your residents
an average of
**20% off the retail
price** of prescription
medication **at no
cost to the city...**

Be a member
of the
National League
of Cities

Sign up for the
FREE
NLC prescription
discount card
program

Your residents
access the
program at a
local pharmacy

New cities are implementing the program everyday! Join the growing list of participating cities...

Alabama

Adamsville
Birmingham
Brent
Brewton
Calera
Daphne
Evergreen
Fairfield
Fairhope
Gulf Shores
Helena
Homewood
Madison
Midfield
Pelham
Pell City
Prattville
Rainbow City
Roanoke
Saraland
Sylacauga
Wetumpka
Arkansas
Helena - West Helena
North Little Rock
Pea Ridge
Texarkana
Arizona
Coolidge
Fountain Hills
Goodyear
Lake Havasu City
Litchfield Park
Maricopa
Mesa
Oro Valley
Peoria
Sahuarita
Show Low

California

Baldwin Park
Bellflower
Cathedral City
Claremont
Culver City
Duarte
Galt
Grand Terrace
Hercules
Lynwood
Murrieta
Parlier
Rancho Cordova
Riverside
Rosemead
San Gabriel
San Jose
Signal Hill
South El Monte
West Hollywood
Colorado
Broomfield
Colorado Springs
Commerce City
Durango
Greenwood Village
Lakewood
Northglenn
Superior
Wheat Ridge
Connecticut
Avon
New Haven
Delaware
Camden
Lewes
Milford

Florida

Belle Isle
Coral Gables
Dania Beach
Hallandale Beach
No. Miami Beach
North Port
Ocala
Palm Coast
Riviera Beach
Seminole
South Miami
Tamarac
Valparaiso
Venice
Wilton Manors
Winter Garden
Winter Haven
Georgia
Lovejoy
Norcross
Riverdale
Union City
Waycross
Idaho
Caldwell
Nampa
Rexburg
Illinois
Evanston
Hillside
Kankakee
North Chicago
Schaumburg
Indiana
Bluffton
Iowa
Charles City
Urbandale

Kansas

Andover
Arkansas City
Atchison
Douglass
Lansing
Leavenworth
Merriam
Olathe
Ottawa
Tonganoxie
Kentucky
Covington
Edgewood
Louisiana
Dequincy
Lake Charles
Maringouin
Maryland
Bladensburg
Bowie
Charlestown
Greenbelt
Maine
Augusta
Grand Isle
Saint Agatha
Michigan
Alma
Burton
Detroit
Farmington Hills
Ferndale
Grand Blanc
Grosse Pointe Woods
Saline
Troy
Wayne

Minnesota

Moorhead
Robbinsdale
Missouri
Belton
Berkeley
Gladstone
Grandview
Liberty
Saint Peters
Mississippi
Greenwood
Grenada
Hattiesburg
Laurel
Yazoo
Montana
Kalispell
Nebraska
North Platte
New Mexico
Española
Taos Ski Valley
North Carolina
Charlotte
Gastonia
Greenville
Jacksonville
Kernersville
Lumberton
Monroe
Mount Olive
New Bern
Oxford
Rocky Mount
Sanford
Sylva
Tryon

Ohio

Akron
Bedford
Bedford Heights
Broadview Heights
Brunswick
Carlisle
Centerville
Clayton
Columbus
Gahanna
Huber Heights
Kettering
Lakewood
Maple Heights
Moraine
Oakwood
Olmsted Falls
Oxford
Riverside
Trotwood
Warrensville Heights
West Carrollton
Youngstown
Oklahoma
Ardmore
Broken Arrow
Claremore
Guymon
The Village
Oregon
Cottage Grove
Pennsylvania
Allentown
Middletown
West Chester
Wilkes -Barre
York

South Carolina

Camden
Charleston
Columbia
Cottageville
Florence
Lexington
Tennessee
Athens
Benton
East Ridge
Martin
Memphis
Morristown
Texas
Beaumont
Decatur
Deer Park
Forest Hill
Jasper
Plano
Port Arthur
Virginia
Bristol
Martinsville
Washington
Auburn
Puyallup
Union Gap
West Virginia
Clarksburg
Lewisburg
Parkersburg
Wyoming
Gillette
Jackson

Do you want to learn more about the program? Please join NLC and CVS Caremark staff on one of the following conference calls:
July 7th or August 4th, 2009, at 1:00 p.m. Eastern Time
Conference call number 888-276-8685 - participant code 3975386.
Or contact Marc Shapiro at NLC (shapiro@nlc.org) or visit www.nlc.org.

This is not insurance. Discounts are only available at participating pharmacies. By using this card, participants agree to pay the entire prescription cost less any applicable discount. Savings may vary by drug and pharmacy.



National League of Cities

NLC Prescription Discount Card Program - Member City Utilization Report - 2009 Year-to-Date



National League of Cities

Account	Total Rxs	% Plan Priced Rxs	Price Savings	Avg. Price Savings	% Price Savings	Total Utilizers
ARDMORE, OK	643	83.8%	\$ 8,974.05	\$ 13.96	27.7%	215
ARKANSAS CITY, KS	271	63.8%	\$ 2,367.59	\$ 8.74	22.8%	116
ATHENS, TN	1,043	76.1%	\$ 12,219.29	\$ 11.72	28.9%	336
AUBURN, WA	2	100.0%	\$ 65.14	\$ 32.57	49.2%	2
AUGUSTA, ME	7	71.4%	\$ 150.36	\$ 21.48	15.9%	6
BEDFORD, OH	157	71.3%	\$ 1,856.38	\$ 11.82	28.1%	60
BERKELEY, MO.	5	40.0%	\$ 44.16	\$ 8.83	14.3%	2
BLUFFTON, IN	38	52.6%	\$ 265.88	\$ 7.00	27.6%	8
BOWIE, MD	151	76.2%	\$ 2,972.29	\$ 19.68	23.2%	62
BREWTON, AL	291	70.8%	\$ 3,821.47	\$ 13.13	22.8%	71
BROKEN ARROW, OK	131	67.2%	\$ 1,266.27	\$ 9.67	22.0%	61
BRUNSWICK, OH	77	46.8%	\$ 559.15	\$ 7.26	16.0%	40
BURTON, MI	35	68.6%	\$ 453.82	\$ 12.97	20.3%	12
CATHEDRAL CITY, CA	3	0.0%	\$ 0.00	\$ 0.00	0.0%	2
CENTERVILLE, OH	73	72.6%	\$ 775.39	\$ 10.62	21.3%	36
CHARLESTOWN, MD	5	40.0%	\$ 14.41	\$ 2.88	20.8%	2
CLAREMONT, CA	5	100.0%	\$ 21.76	\$ 4.35	9.4%	2
CLARKSBURG, WV	2,199	69.3%	\$ 25,543.62	\$ 11.62	27.6%	477
COLORADO SPRINGS, CO	18	61.1%	\$ 278.34	\$ 15.46	21.9%	14
CORAL GABLES, FL	7	85.7%	\$ 62.08	\$ 8.87	12.4%	5
COVINGTON, KY	259	59.5%	\$ 2,223.12	\$ 8.58	27.7%	81
CRYSTAL, MN	45	28.9%	\$ 142.48	\$ 3.17	11.5%	14
DECATUR, TX	16	81.3%	\$ 279.04	\$ 17.44	20.5%	5
DEER PARK, TX	104	80.8%	\$ 1,358.21	\$ 13.06	16.9%	55
DOUGLASS, KS	17	47.1%	\$ 93.39	\$ 5.49	11.3%	6
DUARTE, CA.	140	64.3%	\$ 1,309.89	\$ 9.36	23.9%	69
DURANGO, CO	13	69.2%	\$ 228.97	\$ 17.61	25.6%	11
EDGEWOOD, KY	67	61.2%	\$ 705.40	\$ 10.53	14.0%	30
ESPANOLA, NM	9	55.6%	\$ 39.95	\$ 4.44	9.7%	4
EVANSTON, IL	420	77.1%	\$ 5,190.10	\$ 12.36	17.6%	171
FAIRHOPE, AL	162	74.7%	\$ 1,578.07	\$ 9.74	20.2%	52
GALT, CA	30	90.0%	\$ 775.41	\$ 25.85	25.2%	16
GASTONIA, NC	59	59.3%	\$ 604.66	\$ 10.25	30.1%	23
GILLETTE, WY	314	67.8%	\$ 4,148.85	\$ 13.21	21.7%	108
GLADSTONE, MO	37	70.3%	\$ 235.13	\$ 6.35	11.2%	15
GOODYEAR, AZ	32	68.8%	\$ 277.73	\$ 8.68	12.9%	16
GREENBELT, MD	124	78.2%	\$ 1,959.71	\$ 15.80	26.1%	42
GRENADA, MS	112	67.0%	\$ 839.63	\$ 7.50	19.0%	48

GROSSE POINTE WOODS, MI	70	61.4%	\$ 1,228.60	\$ 17.55	31.3%	23
GUYMON, OK	66	60.6%	\$ 506.03	\$ 7.67	16.1%	28
HATTIESBURG, MS	386	65.3%	\$ 2,982.94	\$ 7.73	18.4%	119
HERCULES, CA	95	100.0%	\$ 1,902.24	\$ 20.02	36.0%	62
HILLSIDE, IL	31	87.1%	\$ 372.81	\$ 12.03	36.2%	10
HUBER HEIGHTS, OH	51	60.8%	\$ 549.61	\$ 10.78	24.6%	22
JACKSON, WY	16	50.0%	\$ 107.38	\$ 6.71	10.3%	11
KERNERSVILLE, NC	81	76.5%	\$ 1,159.45	\$ 14.31	30.6%	37
LAKE HAVASU, AZ	130	79.2%	\$ 2,269.27	\$ 17.46	21.6%	45
LANSING, KS	84	56.0%	\$ 4,374.11	\$ 52.07	50.0%	24
LAUREL, MS	2	50.0%	\$ 28.93	\$ 14.47	14.8%	1
LEWISBURG, WV	10	60.0%	\$ 36.02	\$ 3.60	20.7%	5
LEXINGTON, SC	13	69.2%	\$ 131.19	\$ 10.09	23.3%	9
LIBERTY, MO	1	100.0%	\$ 18.13	\$ 18.13	19.8%	1
LITCHFIELD PARK, AZ	1	100.0%	\$ 3.51	\$ 3.51	3.6%	1
LOVEJOY, GA	3	33.3%	\$ 7.90	\$ 2.63	16.9%	1
MADISON, AL	366	53.6%	\$ 3,085.99	\$ 8.43	25.0%	82
MARICOPA, AZ	14	28.6%	\$ 59.84	\$ 4.27	10.9%	4
MERRIAM, KS	2	50.0%	\$ 0.53	\$ 0.27	3.2%	1
MIDDLETOWN, PA	22	50.0%	\$ 142.20	\$ 6.46	24.4%	6
MONROE, NC	272	62.9%	\$ 2,937.42	\$ 10.80	29.9%	42
MORRISTOWN, TN	8	50.0%	\$ 49.22	\$ 6.15	16.6%	6
MOUNT OLIVE, NC	15	100.0%	\$ 287.34	\$ 19.16	39.3%	2
NEW HAVEN, CT	23	52.2%	\$ 301.15	\$ 13.09	22.2%	12
NORCROSS, GA	24	62.5%	\$ 160.96	\$ 6.71	15.3%	5
NORTH PORT, FL	7	42.9%	\$ 204.37	\$ 29.20	44.2%	6
NORTHGLENN, CO	255	58.0%	\$ 1,751.77	\$ 6.87	16.2%	44
PARKERSBURG, WV	203	70.0%	\$ 2,302.38	\$ 11.34	24.8%	78
PEA RIDGE, AR	21	76.2%	\$ 233.92	\$ 11.14	24.8%	9
PELHAM, AL	157	73.2%	\$ 2,445.52	\$ 15.58	30.4%	62
RANCHO CORDOVA, CA	43	62.8%	\$ 376.01	\$ 8.74	13.7%	20
RIVERDALE, GA	54	55.6%	\$ 320.26	\$ 5.93	14.7%	16
RIVERSIDE, CA	150	66.7%	\$ 1,676.77	\$ 11.18	31.9%	40
RIVERSIDE, OH	7	28.6%	\$ 78.50	\$ 11.21	25.9%	4
ROANOKE, AL	2	50.0%	\$ 0.75	\$ 0.38	0.9%	1
ROBBINSDALE, MN	41	63.4%	\$ 440.77	\$ 10.75	11.9%	21
SALINE, MI	123	78.0%	\$ 2,432.45	\$ 19.78	32.1%	34
SAN JOSE, CA	1	0.0%	\$ 0.00	\$ 0.00	0.0%	1
SANFORD, NC	349	62.2%	\$ 2,886.50	\$ 8.27	25.1%	101
ST. AGATHA, ME	5	100.0%	\$ 151.39	\$ 30.28	23.8%	4
THE VILLAGE, OK	52	51.9%	\$ 426.57	\$ 8.20	22.0%	12
TROTWOOD, OH	47	78.7%	\$ 601.63	\$ 12.80	30.7%	25
VALPARAISO, FL	1	100.0%	\$ 4.07	\$ 4.07	4.8%	1

WAYCROSS, GA	22	63.6%	\$ 198.65	\$ 9.03	19.3%	8
WAYNE, MI	16	50.0%	\$ 113.66	\$ 7.10	20.9%	6
WEST HELENA, AR	12	58.3%	\$ 84.90	\$ 7.08	21.2%	6
WEST HOLLYWOOD, CA	367	77.4%	\$ 5,984.82	\$ 16.31	20.9%	126
WINTER HAVEN, FL	58	51.7%	\$ 370.31	\$ 6.38	12.5%	17
YORK, PA	108	50.0%	\$ 1,055.38	\$ 9.77	20.8%	43
	11,008	64.4%	\$ 130,545.31	\$ 11.35	21.1%	

The NLC Prescription Discount Card Program is a member service of the National League of Cities.
For questions about the monthly report, contact Marc Shapiro, (202) 626-3019 or shapiro@nlc.org.

NLC Prescription Discount Card Program - Member City Utilization Report - April 2009



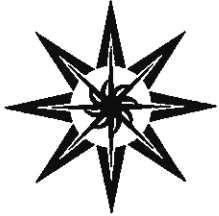
National League of Cities

Account	Total Rxs	% Plan Priced Rxs	Price Savings	Avg. Price Savings	% Price Savings	Total Utilizers
ARDMORE, OK	299	80.6%	\$ 4,379.85	\$ 14.65	28.5%	124
ARKANSAS CITY, KS	200	66.0%	\$ 1,834.64	\$ 9.17	23.4%	90
ATHENS, TN	393	77.9%	\$ 4,796.20	\$ 12.20	29.5%	190
AUBURN, WA	2	100.0%	\$ 65.14	\$ 32.57	49.2%	2
AUGUSTA, ME	7	71.4%	\$ 150.36	\$ 21.48	15.9%	6
BEDFORD, OH	79	69.6%	\$ 878.18	\$ 11.12	28.2%	40
BERKELEY, MO.	4	25.0%	\$ 15.30	\$ 3.83	9.8%	1
BLUFFTON, IN	14	71.4%	\$ 146.56	\$ 10.47	42.8%	5
BOWIE, MD	85	71.8%	\$ 1,420.63	\$ 16.71	22.9%	44
BREWTON, AL	129	67.4%	\$ 1,630.10	\$ 12.64	24.6%	49
BROKEN ARROW, OK	131	67.2%	\$ 1,266.27	\$ 9.67	22.0%	61
BRUNSWICK, OH	70	44.3%	\$ 520.74	\$ 7.44	16.2%	37
BURTON, MI	18	72.2%	\$ 198.59	\$ 11.03	22.1%	7
CATHEDRAL CITY, CA	3	0.0%	\$ 0.00	\$ 0.00	0.0%	2
CENTERVILLE, OH	20	75.0%	\$ 186.56	\$ 9.33	16.2%	15
CHARLESTOWN, MD	3	66.7%	\$ 14.41	\$ 4.80	23.5%	2
CLARKSBURG, WV	524	67.0%	\$ 5,931.33	\$ 11.32	28.0%	230
COLORADO SPRINGS, CO	18	61.1%	\$ 278.34	\$ 15.46	21.9%	14
CORAL GABLES, FL	7	85.7%	\$ 62.08	\$ 8.87	12.4%	5
COVINGTON, KY	110	51.8%	\$ 838.07	\$ 7.62	27.8%	48
CRYSTAL, MN	13	46.2%	\$ 56.87	\$ 4.37	20.7%	7
DECATUR, TX	7	85.7%	\$ 123.09	\$ 17.58	21.0%	3
DEER PARK, TX	88	80.7%	\$ 1,192.24	\$ 13.55	16.5%	50
DOUGLASS, KS	6	50.0%	\$ 24.03	\$ 4.01	19.5%	3
DUARTE, CA.	58	72.4%	\$ 561.34	\$ 9.68	26.8%	40
DURANGO, CO	13	69.2%	\$ 228.97	\$ 17.61	25.6%	11
EDGEWOOD, KY	52	53.8%	\$ 531.60	\$ 10.22	14.8%	24
ESPANOLA, NM	5	40.0%	\$ 11.82	\$ 2.36	6.3%	3
EVANSTON, IL	231	78.4%	\$ 2,808.70	\$ 12.16	18.1%	122
FAIRHOPE, AL	69	76.8%	\$ 740.70	\$ 10.73	21.6%	33
GALT, CA	27	96.3%	\$ 757.25	\$ 28.05	26.4%	16
GASTONIA, NC	24	66.7%	\$ 232.43	\$ 9.68	24.9%	15
GILLETTE, WY	187	67.4%	\$ 2,618.21	\$ 14.00	23.5%	76
GLADSTONE, MO	28	67.9%	\$ 178.88	\$ 6.39	11.8%	14
GOODYEAR, AZ	11	90.9%	\$ 101.32	\$ 9.21	9.6%	9
GREENBELT, MD	27	74.1%	\$ 320.65	\$ 11.88	22.1%	15
GRENADA, MS	81	67.9%	\$ 588.13	\$ 7.26	20.4%	44
GROSSE POINTE WOODS, MI	34	70.6%	\$ 699.88	\$ 20.58	32.1%	14

GUYMON, OK	21	57.1%	\$ 157.94	\$ 7.52	23.4%	12
HATTIESBURG, MS	118	70.3%	\$ 976.08	\$ 8.27	18.2%	61
HERCULES, CA	37	100.0%	\$ 563.44	\$ 15.23	43.0%	23
HILLSIDE, IL	11	90.9%	\$ 134.44	\$ 12.22	42.7%	7
HUBER HEIGHTS, OH	35	60.0%	\$ 325.32	\$ 9.29	24.4%	20
JACKSON, WY	16	50.0%	\$ 107.38	\$ 6.71	10.3%	11
KERNERSVILLE, NC	72	73.6%	\$ 945.77	\$ 13.14	33.0%	35
LAKE HAVASU, AZ	53	77.4%	\$ 823.32	\$ 15.53	20.0%	24
LANSING, KS	15	33.3%	\$ 91.69	\$ 6.11	24.1%	9
LAUREL, MS	2	50.0%	\$ 28.93	\$ 14.47	14.8%	1
LEWISBURG, WV	10	60.0%	\$ 36.02	\$ 3.60	20.7%	5
LEXINGTON, SC	13	69.2%	\$ 131.19	\$ 10.09	23.3%	9
LIBERTY, MO	1	100.0%	\$ 18.13	\$ 18.13	19.8%	1
LITCHFIELD PARK, AZ	1	100.0%	\$ 3.51	\$ 3.51	3.6%	1
LOVEJOY, GA	1	0.0%	\$ 0.00	\$ 0.00	0.0%	1
MADISON, AL	57	52.6%	\$ 583.07	\$ 10.23	33.9%	23
MARICOPA, AZ	4	50.0%	\$ 28.48	\$ 7.12	8.5%	4
MERRIAM, KS	2	50.0%	\$ 0.53	\$ 0.27	3.2%	1
MIDDLETOWN, PA	6	50.0%	\$ 39.39	\$ 6.57	27.9%	2
MONROE, NC	81	66.7%	\$ 1,099.63	\$ 13.58	35.1%	23
MORRISTOWN, TN	8	50.0%	\$ 49.22	\$ 6.15	16.6%	6
MOUNT OLIVE, NC	6	100.0%	\$ 88.20	\$ 14.70	36.5%	2
NEW HAVEN, CT	20	45.0%	\$ 215.28	\$ 10.76	21.7%	12
NORCROSS, GA	16	62.5%	\$ 95.80	\$ 5.99	15.3%	3
NORTH PORT, FL	7	42.9%	\$ 204.37	\$ 29.20	44.2%	6
NORTHGLENN, CO	69	58.0%	\$ 410.05	\$ 5.94	17.8%	24
PARKERSBURG, WV	97	69.1%	\$ 1,112.60	\$ 11.47	25.6%	49
PEA RIDGE, AR	12	75.0%	\$ 95.47	\$ 7.96	18.0%	6
PELHAM, AL	78	73.1%	\$ 1,438.46	\$ 18.44	32.9%	44
RANCHO CORDOVA, CA	22	63.6%	\$ 127.48	\$ 5.79	10.6%	13
RIVERDALE, GA	16	50.0%	\$ 96.87	\$ 6.05	17.9%	8
RIVERSIDE, CA	38	68.4%	\$ 409.43	\$ 10.77	32.3%	20
RIVERSIDE, OH	7	28.6%	\$ 78.50	\$ 11.21	25.9%	4
ROANOKE, AL	2	50.0%	\$ 0.75	\$ 0.38	0.9%	1
ROBBINSDALE, MN	15	66.7%	\$ 155.61	\$ 10.37	13.0%	13
SALINE, MI	46	82.6%	\$ 968.07	\$ 21.05	29.2%	18
SAN JOSE, CA	1	0.0%	\$ 0.00	\$ 0.00	0.0%	1
SANFORD, NC	120	58.3%	\$ 956.30	\$ 7.97	24.7%	58
ST. AGATHA, ME	1	100.0%	\$ 50.22	\$ 50.22	40.5%	1
THE VILLAGE, OK	45	53.3%	\$ 400.91	\$ 8.91	22.8%	11
TROTWOOD, OH	43	76.7%	\$ 549.21	\$ 12.77	31.4%	23
VALPARAISO, FL	1	100.0%	\$ 4.07	\$ 4.07	4.8%	1
WAYCROSS, GA	17	64.7%	\$ 171.97	\$ 10.12	18.0%	8

WAYNE, MI	7	71.4%	\$ 51.54	\$ 7.36	28.3%	4
WEST HELENA, AR	12	58.3%	\$ 84.90	\$ 7.08	21.2%	6
WEST HOLLYWOOD, CA	168	77.4%	\$ 3,301.10	\$ 19.65	22.9%	77
WINTER HAVEN, FL	17	70.6%	\$ 45.06	\$ 2.65	6.0%	6
YORK, PA	59	47.5%	\$ 653.66	\$ 11.08	24.5%	30
	4,583	64.8%	\$ 54,298.82	\$ 10.92	21.6%	2,199

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PUBLIC SAFETY DEPARTMENT

Council Meeting Date: July 20, 2009

COU - 2009-74 Consider Approval of an Amendment to City Code Permitting an Organized Cycling Race Within the City

RECOMMENDATION

The Prairie Village Police Department recommends the City Council approve amendments to Ordinance No. 2201, which would authorize the Chief of Police to approve bicycle races and/or contests within the City limits, according to the standards outlined in said ordinance.

COUNCIL ACTION REQUESTED ON: July 20, 2009

SUGGESTED MOTION

I move to approve Ordinance No. 2201 as amended.

BACKGROUND

On July 6, 2009, Councilman Kelly provided a conceptual overview of a proposed bicycle race to the Council; however, before the event could be considered for approval, the current ordinance addressing such events would need to be amended. Legal staff has reviewed, modified, and approved the revisions.

ATTACHMENT: Revised Ordinance No. 2201

Prepared By:

Wes Jordan
Chief of Police
Date: July 15, 2009

ORDINANCE NO. 2201

AN ORDINANCE AMENDING CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "PUBLIC OFFENSES AND TRAFFIC" BY AMENDING ARTICLE 11 ENTITLED "STREET RACE CONTESTS" BY AMENDING SECTION 11-1105 ENTITLED "PERMIT ISSUE STANDARDS" AND SECTION 11-1106 ENTITLED "PERMIT ISSUANCE."

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

Section I.

Section 11-1105, entitled "PERMIT ISSUE STANDARDS," and Section 11-1106, entitled "PERMIT ISSUANCE," of the Prairie Village Municipal Code are deleted in their entirety and in lieu thereof, the following sections of the same name and number are hereby adopted:

11.1105. PERMIT ISSUE STANDARDS.

The Chief of Police shall authorize a permit to be issued, as provided under this article, when, from consideration of the application and from such other information as may be provided to the Chief of Police, he or she finds that the standards and requirements enumerated below can be met and that the applicant has agreed to be bound by them:

- A. The conduct of the street race contest will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- B. The conduct of the race will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the area contiguous thereto as to prevent normal police protection to the City. Further, the applicant shall agree, prior to the approval of the permit, to reimburse the City for all expenses required to hire or bring in off-duty police officers and the public works personnel to properly control the activity and such other equipment as deemed necessary to protect the contestants and the public. The Chief of Police shall decide the number and placement of the personnel and may request and demand that the applicant furnish personnel to assist traffic at minor intersections.
- C. The assembly point for contestants shall be approved by the Chief of Police and wherever feasible shall be off the street. Contestants shall not enter onto the roadway until the time designated in the applicant's application. Parking for contestants shall be placed and neither the assembly of race contestants nor parking of their private vehicles shall unduly interfere with proper fire and police protection of or ambulance service to, areas contiguous to such assembly areas.
- D. Race contestants shall be required to leave the roadway upon the approach of an emergency vehicle using emergency equipment and remain off the roadway until emergency equipment has cleared the area.
- E. The conduct of the race is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create disturbance.
- F. The race is scheduled to move from its point of origin within the City limits or point of entrance ~~with-in~~into the City-~~limits~~ to point of termination within the City limits or point of exit ~~without~~from the City-~~limits~~ expeditiously and within the time

requirements of the permit. Any person or persons remaining upon the roadway ~~tatat~~ the termination time shall become a pedestrian or bicycle rider and be required to follow all rules of the Standard Traffic Ordinance as amended and codified in the City Code.

G. The following further regulations shall be met:

~~(1) Any course (or portion thereof) which lies within the City shall be no more than six and one-half miles in length.~~

~~(2) Street races will be held on Saturdays, Sundays or legal holidays.~~

~~(1) (3) Any applicant for a race permit for a street race contest shall provide proof of liability insurance coverage in a form acceptable and approved by the Chief of Police, listing the City as an additional insured, for any liability of the applicant which may arise as a result of or out of the conduct of the street contest. The insurance coverage shall provide, at a minimum, \$500,000 and \$100,000 in coverage for any liability arising out of damage to property comprehensive general liability and property damage coverage for the event with minimum limits of One Million Dollars (\$1,000,000) for injury or death for one person in any one occurrence; Three Million Dollars (\$3,000,000) for injury or death for two or more persons in any one occurrence; and Five Hundred Thousand Dollars (\$500,000) for property damage in any one occurrence.~~

~~(2) (4) The applicant shall agree to indemnify the City and defend and hold it harmless for any and all liabilities, including the cost of any legal proceeding it may incur as a result of, or out of the conduct of, any street race contest.~~

~~(3) (5) No vehicles, whether driven by foot, motor or any other power, may participate in a street race contest, provided, however, that nothing herein shall prohibit the participation of individuals utilizing wheelchairs which are powered solely by human physical effort. Street race contests shall be limited to foot and wheelchair races and races of bicycles propelled solely by human power. No motorized vehicles may participate in a street race contest.~~

~~(4) (6) At no time will runners be allowed to run in opposite directions on all or any portion of the race course.~~

H. The applicant is responsible for ensuring that the standards in this section are met and adhered to during the course of the event.

11.1106. PERMIT ISSUANCE.

A. The Chief of Police shall act upon the application for a race permit and shall have the authority to approve or disapprove the permit and shall notify the applicant of his or her decision. If approved by the Chief of Police, then the City Clerk shall be instructed to issue the permit in accordance with the direction of the Chief of Police.

B. If the Chief of Police determines that the proposed street race contest will significantly affect residents whose vehicular access to their property is affected by the street closure, he or she may condition the approval of the permit on the approval of the Governing Body of the City.

Section II. Repeal of Prior Ordinances.

All ordinances and parts thereof that are inconsistent with any provision of this ordinance are hereby repealed.

Section III. Effective Date

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

PASSED AND APPROVED THIS 20th day of July, 2009

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney

ORDINANCE NO. 2201

AN ORDINANCE AMENDING CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "PUBLIC OFFENSES AND TRAFFIC" BY AMENDING ARTICLE 11 ENTITLED "STREET RACE CONTESTS" BY AMENDING SECTION 11-1105 ENTITLED "PERMIT ISSUE STANDARDS" AND SECTION 11-1106 ENTITLED "PERMIT ISSUANCE."

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

Section I.

Section 11-1105, entitled "PERMIT ISSUE STANDARDS," and Section 11-1106, entitled "PERMIT ISSUANCE," of the Prairie Village Municipal Code are deleted in their entirety and in lieu thereof, the following sections of the same name and number are hereby adopted:

11.1105. PERMIT ISSUE STANDARDS.

The Chief of Police shall authorize a permit to be issued, as provided under this article, when, from consideration of the application and from such other information as may be provided to the Chief of Police, he or she finds that the standards and requirements enumerated below can be met and that the applicant has agreed to be bound by them:

- A. The conduct of the street race contest will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- B. The conduct of the race will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the area contiguous thereto as to prevent normal police protection to the City. Further, the applicant shall agree, prior to the approval of the permit, to reimburse the City for all expenses required to hire or bring in off-duty police officers and the public works personnel to properly control the activity and such other equipment as deemed necessary to protect the contestants and the public. The Chief of Police shall decide the number and placement of the personnel and may request and demand that the applicant furnish personnel to assist traffic at minor intersections.
- C. The assembly point for contestants shall be approved by the Chief of Police and wherever feasible shall be off the street. Contestants shall not enter onto the roadway until the time designated in the applicant's application. Parking for contestants shall be placed and neither the assembly of race contestants nor parking of their private vehicles shall unduly interfere with proper fire and police protection of or ambulance service to, areas contiguous to such assembly areas.
- D. Race contestants shall be required to leave the roadway upon the approach of an emergency vehicle using emergency equipment and remain off the roadway until emergency equipment has cleared the area.
- E. The conduct of the race is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create disturbance.
- F. The race is scheduled to move from its point of origin within the City limits or point of entrance into the City to point of termination within the City limits or point of exit from the City expeditiously and within the time requirements of the permit. Any person or persons remaining upon the roadway at the termination time shall become a pedestrian or bicycle rider and be required to follow all rules of the Standard Traffic Ordinance as amended and codified in the City Code.
- G. The following further regulations shall be met:
 - (1) Any applicant for a race permit for a street race contest shall provide proof of liability insurance coverage in a form acceptable and approved by the Chief of Police, listing the City as an additional insured, for any liability of the applicant which may arise as a result of or out of the conduct of the street contest. The insurance coverage shall provide, at a minimum, comprehensive general liability and property damage coverage for the event with minimum limits of One Million Dollars (\$1,000,000) for injury or death for one person in any one occurrence; Three Million Dollars (\$3,000,000) for injury or death for two or more persons in any one occurrence; and Five Hundred Thousand Dollars (\$500,000) for property damage in any one occurrence.
 - (2) The applicant shall agree to indemnify the City and defend and hold it harmless for any and all liabilities, including the cost of any legal proceeding it may incur as a result of, or out of the conduct of, any street race contest.

- (3) Street race contests shall be limited to foot and wheelchair races and races of bicycles propelled solely by human power. No motorized vehicles may participate in a street race contest.
- (4) At no time will runners be allowed to run in opposite directions on all or any portion of the race course.
- H. The applicant is responsible for ensuring that the standards in this section are met and adhered to during the course of the event.

11.1106. PERMIT ISSUANCE.

- A. The Chief of Police shall act upon the application for a race permit and shall have the authority to approve or disapprove the permit and shall notify the applicant of his or her decision. If approved by the Chief of Police, then the City Clerk shall be instructed to issue the permit in accordance with the direction of the Chief of Police.
- B. If the Chief of Police determines that the proposed street race contest will significantly affect residents whose vehicular access to their property is affected by the street closure, he or she may condition the approval of the permit on the approval of the Governing Body of the City.

Section II. Repeal of Prior Ordinances.

All ordinances and parts thereof that are inconsistent with any provision of this ordinance are hereby repealed.

Section III. Effective Date

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

PASSED AND APPROVED THIS 20th day of July, 2009

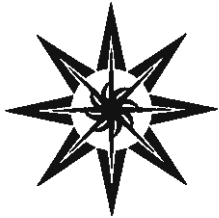
Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk

APPROVED AS TO FORM:

Catherine P. Logan
City Attorney



PUBLIC SAFETY DEPARTMENT

Council Meeting Date: July 20, 2009

COU - 2009-75 Consider Approval of the 2010 Mission Hills Contract and the 2010 Mission Hills Budget

RECOMMENDATION

The Prairie Village Police Department recommends the City Council formalize its law enforcement relationship with the City of Mission Hills for the 2010 calendar year by approving the attached 2010 Mission Hills Contract and the 2010 Mission Hills Budget.

COUNCIL ACTION REQUESTED ON: July 20, 2009

BACKGROUND

Each year the Cities of Prairie Village and Mission Hills formalize their law enforcement relationship with an agreement between the municipalities.

The Mission Hills City Council has agreed with the contents of the attached 2010 Mission Hills Contract, as well as the 2010 Mission Hills Budget.

ATTACHMENTS: 2010 Mission Hills Contract and 2010 Mission Hills Budget Comparison.

Prepared By:

Wes Jordan
Chief of Police
Date: July 14, 2009

MISSION HILLS AGREEMENT - 2010

THIS AGREEMENT, made this ____ day of _____, 2009, between the City of Prairie Village, Kansas, a municipal corporation, hereinafter referred to as "Prairie Village," and the City of Mission Hills, Kansas, a municipal corporation, hereinafter referred to as "Mission Hills."

WHEREAS, Prairie Village and Mission Hills are adjoining cities and share many of the same problems and concerns for police protection; and

WHEREAS, in the opinion of the governing bodies of Prairie Village and Mission Hills, the consolidated operation of law enforcement and policing of the two cities will be to the mutual benefit and the general welfare of the persons and properties of both municipalities; and

WHEREAS, K.S.A. 12-2908, and amendments thereto, authorize the parties hereto to enter into a contract with respect to performance of government services; and

WHEREAS, the governing bodies of said cities have determined to enter into an agreement as authorized and provided by K.S.A. 12-2908 and amendments thereto,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein made and contained, it is mutually agreed as follows:

A. **Services Provided.** Prairie Village shall furnish to Mission Hills during the term of this agreement, the following items:

1. **Police Cars.** It is agreed and understood that Mission Hills has previously paid for four police cars that are currently being used primarily in the City of Mission Hills and said cars are identified as:

847 - 2008 Ford Crown Victoria
VIN 2FAHP71V78X163085
registered to the City of Prairie Village;

848 - 2008 Ford Crown Victoria
VIN 2FAHP71V58X163084
registered to the City of Prairie Village;

849 - 2008 Ford Crown Victoria
VIN 2FAHP71V88X123176
registered to the City of Prairie Village,
and

Unit 648 - 2006 Ford Crown Victoria
VIN 2FAFP71W56X128798
registered to the City of Prairie Village.

During the terms of this agreement, Mission Hills shall be responsible for the replacement costs of any new vehicles needed. The Chief of Police shall notify the Mission Hills City Administrator when fleet bids are being offered. Replacement vehicles for Mission Hills will be offered as part of the fleet purchase, above the costs of this contract, if desired and approved by Mission Hills. New vehicles will be titled to the City of Prairie Village. Collision and liability insurance on the vehicles purchased by Mission Hills shall be maintained and paid for by Prairie Village.

Mission Hills shall pay all expenses relating to the maintenance of said vehicles, including, but not limited to, gasoline, oil, lubrication, tires, repairs and equipment changeover. Maintenance of said vehicles shall be under the direction and supervision of the Chief of Police. Routine maintenance will be provided by a vendor agreed upon by the Mission Hills City Administrator and the Chief of Police. Labor provided by the Prairie Village Public Works Department will be at no charge for labor, plus all costs of parts. Gasoline shall be provided through the Prairie Village gasoline pump. A monthly itemized bill shall be prepared and forwarded to Mission Hills for payment, which shall be above the costs of the contract agreement listed in Paragraph B. Major repair items such as engine or transmission overhaul shall be approved by the Mission Hills City Administrator prior to work being performed and will be billed directly to Mission Hills. If a Mission Hills police unit is inoperable for a period of time - as determined by a Police Department Shift Supervisor or Command Staff member, due to the vehicle being unable to be operated safely, or where further use may cause damage to the vehicle - Prairie Village shall provide a replacement vehicle and may bill Mission Hills at the rate equal to the 2010 IRS standard mileage rate per mile for a car used for business purposes for its use, above the costs of this contract.

It is agreed and understood that if both parties agree to terminate the conditions of this contract, those vehicles purchased by the City of Mission Hills, but titled to the City of Prairie Village, shall be transferred back to the ownership of Mission Hills for the sum of \$1.00.

2. Police Personnel. Prairie Village shall provide to Mission Hills the services of police officers, detectives, and other personnel as adopted by budget formulas to provide efficient and effective law enforcement services. The Chief of Police

will approve staffing/scheduling in consultation with the Mission Hills City Administrator. With respect to the additional officers, Prairie Village shall not be required to provide a replacement officer or effect a reduction in the amount due Prairie Village by Mission Hills under this Agreement when such an officer is unavailable due to an excused absence. An "excused absence" is an absence provided for under Prairie Village's personnel policies and for which the officer receives monetary compensation or compensatory time directly from Prairie Village for the absence, but does not include any such absence for which the officer is receiving monetary compensation for the absence from Workers' Compensation or other insurance. If any additional officer is unavailable for any reason other than an excused absence, Prairie Village shall either assign a replacement officer for the position or effect an appropriate reduction in the amount due Prairie Village by Mission Hills under this Agreement. Prairie Village shall use its best efforts to ensure that excused absences of police officers assigned to Mission Hills shall not be disproportionately higher than excused absences of police officers assigned to Prairie Village.

Prairie Village shall provide the services of such supervisory and support personnel as shall be necessary for the operation of said police cars and to provide normal police services.

Prairie Village shall pay the salaries, payroll taxes, Workers' Compensation and related benefits and shall bear all expenses and liabilities with respect to said police personnel, which may accrue from or be attributable to the employer-employee relationship.

All Prairie Village Police officers, and all cars used by such police officers, including the cars designated as the Mission Hills police cars, shall be subject to the jurisdiction of the Prairie Village Chief of Police, whether operating in Mission Hills or Prairie Village. The Prairie Village Chief of Police shall have exclusive supervision of the operation of the police cars designated as the Mission Hills cars and the personnel operating same, and shall handle all complaints or calls for services through the Police Department's Offices at the Public Safety Center, Prairie Village, Kansas. The Chief of

Police will consult and cooperate with Mission Hills in scheduling and supervising the operation of Mission Hills cars and personnel operating same.

Mission Hills will designate an individual who shall serve as its representative to consult with the Chief of Police. All Prairie Village Police officers shall be deputized to act as police officers in Mission Hills and all Prairie Village personnel, in carrying out the police functions for Mission Hills as contemplated by this Agreement, shall be deemed to be acting for, and as the police arm of, Mission Hills.

It is further mutually agreed by the governing bodies of the respective cities hereto that each will respectively do all acts necessary and proper as provided in K.S.A. 19-2645 and K.S.A. 19-2646, and acts amendatory and supplemental thereto, for carrying out the applicable provisions of this Agreement.

3. **Court Personnel.** Prairie Village shall also provide a Clerk of the Court for the Mission Hills Municipal Court for two court sessions per month. Said Clerk shall be assigned by the Court Administrator of the Prairie Village Municipal Court. Said Clerk of the Court shall perform all duties as required by law and shall be deemed to be acting for and on behalf of the City of Mission Hills while performing said duties. Prairie Village shall not be liable in any manner for the actions of said clerk of the Court in the performance or nonperformance of said duties. Prairie Village shall be reimbursed for the costs of providing said Court personnel, which amount is included in the total contract amount as provided in Paragraph B of this Agreement.

4. **Humane Officer.** For purposes of animal control, Prairie Village shall provide to Mission Hills the services of a humane officer, when such services are needed. Said humane officer shall be under the supervision of the Chief of Police. It is agreed that when on duty, the humane officer shall respond to calls for service within Mission Hills that are the normal function of this service. In addition, the Mayor or City Administrator of Mission Hills can request scheduled hours in Mission Hills on a regular basis, which shall be provided if personnel are available. The cost of this service is not included in the contract amount as provided in Paragraph B, and shall be documented and billed at the rate of \$32.10 per hour.

It is further agreed that Prairie Village has entered into a contract agreement with Animal Medical Center for the professional care and boarding of animals taken into custody by the Police Department. This service is not included in the contract amount as provided in Paragraph B, and shall be billed to Mission Hills by Prairie Village as required by the service provided by Animal Medical Center.

5. **General Law Enforcement Services.** Prairie Village shall provide to Mission Hills law enforcement services necessary to efficiently maintain public safety in the City of Mission Hills. These services include, but are not limited to, administration of the Police Department; 9-1-1 and non-emergency PSAP for communications to the Police Department and police vehicles; Records for maintaining law enforcement files; Crime Prevention Program for education to reduce community vulnerability to crime and establish "community-oriented policing," Investigations function that provides for the investigation of Part I and Part II crimes perpetrated by adults and youths; D.A.R.E. to provide a prevention aspect to adolescent drug use; the Property Room and evidence system, and the Department's comprehensive training.

B. **Reimbursement Costs.** Mission Hills shall reimburse Prairie Village for the cost of services and equipment provided to the City of Mission Hills as heretofore provided, the total amount of One Million, Two Hundred and Thirty Four Thousand, Four Hundred and Eleven and 00/100 Dollars (\$1,234,411.00), said amount to be paid by Mission Hills at the rate of One Hundred and Two Thousand, Eight Hundred and Sixty Seven and 58/100 Dollars (\$102,867.58), per month during the term of this Agreement, said payment to be made not later than the 15th day of each month.

Said amount is based on the standard employee work schedule of the City of Prairie Village and includes the cost of supervision and insurance, radio dispatching, officer supplies, uniform replacement, salary of personnel, overhead and other costs which will be incurred by Prairie Village in fulfilling the obligations of this Agreement. The estimated costs of services and equipment to be provided under this Agreement have been compiled in a proposed budget for the year 2010, previously furnished to Mission Hills by Prairie Village. This budget was used in determining the costs to be

reimbursed by Mission Hills; however, the parties recognize that the actual costs for the items furnished may differ from those estimated.

In the event of a difference which results from a change in the wage structure of Prairie Village personnel from that contemplated in the proposed budget, or pursuant to Paragraph A., 2., any additional officer is unavailable for any reason other than an excused absence and Prairie Village elects not to assign a replacement officer, an appropriate increase or decrease will be made in the amount due Prairie Village by Mission Hills hereunder. However, the parties agree that no other difference, if any, in the actual costs of the services and equipment provided from that contemplated in the proposed budget will be cause for increasing or decreasing the amount due Prairie Village from Mission Hills hereunder.

C. **Reports.** The Chief of Police of Prairie Village shall at least once a month submit to Mission Hills a complete written report of the police activity and protection provided within said city.

D. **Liability Insurance and Uninsured Claims.** The parties recognize that actions (or omissions) in connection with services to be provided by Prairie Village under this Agreement may result in, or give rise to, claims against Mission Hills or Prairie Village, or both, for alleged damages or injuries. For the purpose of limiting financial exposure with respect to such claims, Prairie Village has obtained liability insurance relating to the operation of the Police Department and relating to the operation of vehicles used in providing the services contemplated by this Agreement. Part of the cost of these policies is allocated to Mission Hills and included in the total contract amount as provided in Paragraph B of this Agreement. Mission Hills shall at all times be named as an insured party on both such insurance policies.

In addition, both Prairie Village and Mission Hills carry general liability insurance and both parties agree that they will use their best efforts to cause the insurance companies providing such insurance coverage to waive any subrogation rights, which such companies may have against Prairie Village or Mission Hills, as the

case may be, with respect to expenses incurred and amounts paid under such policies on behalf of the party carrying such insurance.

The parties also recognize that claims may be made against Mission Hills or Prairie Village or both for alleged injuries or damages which are not covered by any of such insurance policies. With respect to such uninsured claims: The parties agree that Mission Hills should bear all or most of the costs related to such claims (including defense costs and payments for settlement or judgment) in those situations in which the action or omission which gives rise to the claim relates primarily to a risk that would not have been incurred by Prairie Village, if Prairie Village were not providing services to Mission Hills under this Agreement; and Prairie Village should bear all or most of the costs related to such claims (including defense costs and payments for settlement or judgment) in those situations in which the action or omission which gives rise to the claim relates primarily to the operation or policies of the Prairie Village Police Department and services provided to Mission Hills under this Agreement are only incidental to the situation.

Accordingly, the parties agree that the circumstances surrounding any claim, which is not covered by insurance and which relates to or arises from actions (or omissions) in connection with services provided or to be provided by Prairie Village under this Agreement, will be examined at the time such claim is made for the purpose of determining the appropriate percentage of the costs related to such claim, which are to be paid by Mission Hills and the appropriate percentage of such costs, which are to be paid by Prairie Village.

E. Effective Date. This Agreement shall be in effect from January 1, 2010, through December 31, 2010, and shall not be assigned. It is agreed that during the term of this Agreement neither party may terminate or modify the Agreement without the consent of the other, except as otherwise provided by this Agreement.

IN WITNESS WHEREOF, the Mayor of Prairie Village, Kansas, has signed this Agreement on behalf of the City of Prairie Village, as such mayor, and the City of Prairie Village has caused these presents to be attested by its Clerk and the seal of said

city to be hereto attached; and the Mayor of Mission Hills, Kansas, has signed this Agreement on behalf of the City of Mission Hills, as such mayor, and the City of Mission Hills has caused these presents to be attested by its Clerk, and the seal of said city to be hereto attached, the day and year first above written.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Ronald L. Shaffer - Mayor

ATTEST:

Joyce Hagen Mundy - City Clerk

THE CITY OF MISSION HILLS, KANSAS

By: _____
Rick Boeshaar - Mayor

ATTEST:

Jill Clifton - City Clerk

MISSION HILLS BUDGET FOR 2010

PROGRAM	2008	2009	2010	09-10 COMPARISON	% INCREASE/ DECREASE
Administration	\$70,156	\$76,173	\$65,832	(\$10,341)	-13.6%
Staff Services	\$156,957	\$153,393	\$146,924	(\$6,469)	-4.2%
Community Services	\$0	\$0	\$0	\$0	0.0%
Crime Prevention	\$10,750	\$11,396	\$12,201	\$805	7.1%
Patrol	\$755,827	\$777,708	\$827,315	\$49,607	6.4%
Investigations	\$58,947	\$58,359	\$76,382	\$18,023	30.9%
Special Investigation	\$0	\$0	\$0	\$0	0.0%
D.A.R.E.	\$8,847	\$9,102	\$7,220	(\$1,882)	-20.7%
Professional Standards	\$20,090	\$21,329	\$21,136	(\$193)	-0.9%
Traffic	\$0	\$0	\$0	\$0	0.0%
Court	\$78,318	\$77,376	\$77,401	\$25	0.0%
School Crossing	\$0	\$0	\$0	\$0	0.0%
Accounting	\$0	\$0	\$0	\$0	0.0%
TOTAL	\$1,159,892	\$1,184,836	\$1,234,411	\$49,575	4.02%

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
July 20, 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 - July 6, 2009
- 2. Approve Claims Ordinance 2861
- 3. Approve revised Council Policy CP204 entitled "Sidewalks."

By Committee:

- 4. Approve Construction Change Order #3 to McAnany Construction for Project 191023: 2009 Concrete Repair Program in the amount of \$6,360.00 increasing the project cost to \$591,360.00. (Council Committee of the Whole Minutes - July 6, 2009)
- 5. Approve Council Policy CP257 entitled Stormwater Utility Fee Credit. (Council Committee of the Whole Minutes - July 6, 2009)
- 6. Approve Phone Maintenance Agreements (COU2009-73 - Council Committee of the Whole Consent Agenda - July 20, 2009)

VI. MAYOR'S REPORT

VII. COMMITTEE REPORTS

Council Committee of the Whole

COU2009-72 Consider approval of Solid Waste Assessment Fees for 2010 (Council Committee of the Whole - July 20, 2009) - David Voysey

Consider Authorization to Publish 2010 Budget - David Voysey

COU2009-74 Consider Approval of Amendment to the City Code permitting an organized cycling race within the City (Council Committee of the Whole - July 20, 2009) David Voysey

COU2009-75 Consider Approval of 2010 Mission Hills Contract and 2010 Mission Hills Budget (Council Committee of the Whole - July 20, 2009) David Voysey

Planning Commission

COU2009-25 Consider Amendment to Zoning Ordinance Chapter 19.52 - Dennis Enslinger

COU2009-75 Consideration of an Amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan 2009 (Planning Commission Item PC2009-10) - Dennis Enslinger

COU2009-35 Consider New Zoning Chapter 19.33 entitled Wireless Communications Facilities, deleting Section 19.28.070(s) and amending Section 19.02.449 entitled "Utility Box" (Planning Commission Item PC2009-03) - Dennis Enslinger

COU2009-59 Consideration of An Ordinance Repealing Ordinance No. 2195, A Moratorium on applications for a Special Use Permit related to Wireless Communications Towers and Antennas constructed or installed for use by commercial carriers - Dennis Enslinger

- VIII. STAFF REPORTS**
- IX. OLD BUSINESS**
- 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

July 20, 2009

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
July 6, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, July 6, 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, David Voysey, 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; Keith Bredenhoeft, Project Manager; 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

No one was present to address the Council.

CONSENT AGENDA

Michael Kelly moved the approval of the Consent Agenda for Monday, July 6, 2009.

1. Approve Regular Council Meeting Minutes - June 15, 2009
2. Ratify the Mayor's appointment of Linda Forman to the Prairie Village Arts Council to complete an unexpired term expiring in April, 2011.

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

MAYOR’S REPORT

Presentation by the Northeast Johnson County Chamber

Rob Johnson, President of the Northeast Johnson County Chamber called upon the co-chairmen of the annual NEJCC golf classic city challenge to present the winner’s trophy to the City of Prairie Village. The travelling trophy will remain with the City for the next year after several years at the City of Fairway. The City’s team included Mayor Shaffer, David Belz, Andrew Wang and Al Herrera. Team members noted that although it was a very hot day, they enjoyed the competition and representing the City. Mayor Shaffer thanked the chamber for their work in organizing the event and stated the City would return to defend its title next year.

New Business Recognition

Mayor Shaffer welcomed new business owner Dennis Hayden. Mr. Hayden owns “The Skin Care Guy” at 7301 Mission Road which provides deep massage therapy services. The new business will hold an open house on Saturday, July 18th.

COMMITTEE REPORTS

VillageFest Committee

Diana Ewy Sharp reported on the 2009 Villagefest celebration and shared a slide presentation depicting the many events of the day. Although the number of attendees was lower than last year, Mrs. Ewy Sharp felt those attending stayed longer. She thanked all who participated in the event and called upon Villagefest Committee Chairman John Capito.

John Capito expressed his thanks to the Council for their support of Villagefest. Corporate sponsorships were down due to the current economic conditions; however,

the committee created "Friends of Villagefest" which received donations of approximately \$700. He noted there were several new volunteers and committee members working on the event bringing new activities along with the traditional activities. The rides and the climbing wall were very popular.

Diane Ewy Sharp reported over 900 persons participated in the breakfast. Community Spirit Awards were presented to the following individuals: Diana Ewy Sharp, Nancy Wallerstein, Brighton Gardens and Chuck Dehner.

Planning Commission

Consider Amendment to Special Use Permit - Highlawn Montessori

Dennis Enslinger stated Highlawn Montessori was given its first Special Use Permit in 1977, with an amendment for expansion in 1984 and again in 1993. Currently the school has approximately 140 students from preschool through sixth grade. The school has achieved the maximum development on the existing site and is proposing to expand to the east to provide more playground and open space. There is no expansion of their facility for additional students.

They will demolish the existing house and garage, fence the area along Somerset Drive and install playground equipment. The garage slab will be kept for hard surface activities. All mature trees will be saved and the driveway will remain up to the fence gates. The applicant will install a four foot tall board on board natural finish fence thirty feet from the property line along Somerset Drive.

The Planning Commission has recommended approval of the amendment subject to eight conditions.

Al Herrera confirmed the neighbors were all notified. Mr. Enslinger stated two Leewood residents had concerns with screening that will be addressed by the Planning Commission. There were no issues raised by Prairie Village residents.

Laura Wassmer asked what kind of playground equipment was being installed. Kathy Morrison, Director of the school, responded they will be placing a wooden play structure on the site that has been donated, not large commercial playground equipment. There will be a small basketball goal, 4 square will be drawn on the remaining hard surface. They are primarily seeking additional open space for their students.

Diana Ewy Sharp stated she had anticipated receiving calls from neighboring property owners, but had not received any.

Dale Beckerman moved the City Council adopt Ordinance 2197 amending the Special Use Permit to allow the expansion of the school at 3531 Somerset Drive to include a playground at 3409 Somerset Drive subject to the conditions recommended by the Planning Commission. The motion was seconded by Andrew Wang.

A roll call vote was taken with the following votes cast: "aye" Herrera, Hopkins, Voysey, Kelly, Wang, Wassmer, Beckerman, Clark, Morrison, Ewy Sharp and Belz. Dale Warman abstained from voting as he served on the Planning Commission during this application.

Council Committee of the Whole

COU2009-67 Consider Project 190722: 2010 Storm Drainage Repair Engineering Change Order

On behalf of the Council Committee of the Whole, Michael Kelly moved the City Council approve Engineering Change Order #1 in the amount of \$64,920.00 for Project 190722 authorizing Affinis Corporation to proceed with preliminary and final design. The motion was seconded by Al Herrera and passed unanimously.

COU2009-63 Consider Project 190866: 75th Street Paving

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the hiring of a street engineer to conduct a survey of 75th

Street with the street engineer determining what suggested improvements can be made within the street right-of-way and then meet with the council subcommittee and staff regarding possible implementation of improvements as part of this project. The motion was seconded by Dale Beckerman and passed unanimously.

STAFF REPORTS

Administration

- Karen Kindle reported the City received the updated appraisal values from Johnson County. Their initial estimate was for a decrease of 1.5%. The revised figure reflects a decrease of 1.8% which is the equivalent of approximately another \$21,000 decrease in revenue. She stated she would continue to review revenue figures and present the final budget to the Council at the next meeting. Ruth Hopkins asked if the latest cuts made by the Governor impacted the City. Mrs. Kindle responded the new reductions did not impact the City.
- Dennis Enslinger reported the Planning Commission would have requested a joint meeting with the City Council. It will take place during the Council Committee of the Whole on Monday, September 21st.
- Mr. Enslinger stated he is working with the Home Builders Association on setting up a half day tour for Council and Planning Commission of different housing types in the metro area. The potential dates are September 26; October 3 or October 10th. Council members identified conflicts with the October 3rd date.
- The reception for the new art exhibit will be held on Friday, July 10th.
- Mr. Enslinger, Ken Vaughn and Ruth Hopkins recently attended a Wizards game at the invitation of Lane4. Staff has two meetings in the near future to Lane4 representatives to discuss their vision for the shopping centers.

Legal

- Katie Logan confirmed the motion “to call the question” does require a second and is debatable.

Public Works

- Bob Pryzby reported 83rd Street is now open and complete except for minor landscaping. Crews will move to 73rd Street next week.
- The T-beams have been installed at the Mission Lane Bridge. The contract is approximately one week ahead of schedule.
- The pool was broken into last Friday evening. The police have apprehended the individual.
- Mr. Pryzby acknowledged Mike Helms and the Public Works volunteers who worked the Villagefest event.

Public Safety

- Captain Tim Schwartzkopf will be leaving July 8th for FBI academy training. Captain Lovett and Sgt. Roberson will be handling his responsibilities while he is gone. Chief noted that only four applicants from the area are accepted for this training.
- Chief Jordan attended a hearing in Topeka to testify against the possible closing of the Rainbow Mental Health Facility. He noted the difficulties that would be experienced by the police department if the facility were closed.

OLD BUSINESS

There was no Old Business to come before the City Council.

NEW BUSINESS

Discussion regarding Tour de Village Concept and related Ordinance Amendments

Mayor Shaffer stated the Council would continue their earlier discussion from the committee meeting regarding the Tour de Village and called upon Chief Jordan to continue.

Chief Jordan stated one of the concerns of his department is the number of residents that would be impacted by having their driveway access closed during the time of the event. Based on the current proposed route, 20 to 40 households would be impacted. They are looking at ways to be able to open the area for residential traffic every couple hours during the six-hour race.

David Belz noted residents are more amenable to road closings if it is for a good cause. Michael Kelly stated the race is a fund raiser for the Sister City Committee as they look ahead to find funds to supplement, or if necessary, replace City funds for their events. Mr. Kelly noted they are looking for corporate sponsors for the event and that there will be a registration fee for the bikers participating. It is his objective for this to be a community event showcasing Prairie Village. Mr. Kelly noted in addition to supporting the concept, the Council needs to change the City's existing ordinance on street races which prohibits bike races.

Chief Jordan explained under the current regulations the Chief of Police is authorized to approve permits for street races by foot. The decision of the Chief can be appealed to the City Council. Andrew Wang confirmed that the ordinance needs to be changed that the Council can not approve a waiver.

Al Herrera asked what day this would be. Mr. Kelly stated it would be held on a Saturday. Mr. Herrera noted Saturdays in the fall are busy for families with football and soccer games, etc. He encouraged the City to work out a way to allow people to leave during the course of the day and stressed the need for broad communication on the event. Michael Kelly stated there is a sub-committee on communication and they plan to send out notices 30 days, 10 days and 3 days prior to the event. Diana Ewy Sharp noted that when the street is closed for 15 minutes for the children's parade they get complaints and advised the Council they would be receiving calls from residents.

David Belz stated he is ok with the ordinance change, but he wants to be clear on what impact the event will have on residents. He would like the Council to have oversight on the plans for the event. Mayor Shaffer stated Chief Jordan and his staff have spent many hours looking for the best possible route.

Andrew asked if action needed this evening was to change the ordinance or authorize and direct the City Attorney to make the revisions for the Council to formally approve at the next meeting. Katie Logan stated either action could be taken by the Council. Mr. Wang stated he shares Mr. Belz's concerns noting this is different than a parade or a street project closing a street. He feels the race is a good idea, but noted there are important issues that need to be worked out and he would like the Council to have a stronger voice. Mr. Herrera agreed, noting the length of time street access would be closed is significant.

Dale Beckerman noted the people in his neighborhood have not had access to their driveways for several weeks and they have adjusted. He feels this issue can be addressed with sufficient notification for residents to make alternate plans and urged the Council to let staff handle the details.

Mayor Shaffer asked if there was a consensus to direct the City Attorney to draft ordinance changes to allow for bike races and bring the ordinance back to the Council

for action at the next meeting. There was a consensus of the Council with three members opposing.

Chief Jordan noted that he would bring an event of this magnitude back to the Council. His staff will continue to research options and make plans with the emphasis being on safety for all involved and minimal impact on residents.

Al Herrera confirmed there will be no cost to the City for this event.

COU2009-66 Consider Cul-de-sac Sidewalks

Bob Pryzby presented a draft Council Policy addressing the construction of sidewalks on cul-de-sacs, at the request of Council, after reviewing comments from Council, city regulations, ADA regulations and the Manual on Uniform Traffic Control Devices. The City Code does not address sidewalks on cul-de-sacs and the subdivision regulations address them only in reference to the development of new subdivisions.

American with Disabilities provisions have been interpreted to mean that if the City is constructing or altering (reconstruction or paving) that sidewalks are required to provide an access route. The continuity of a pedestrian access route can be broken by crossing a street, but continuing on the other side of the street. The MUTCD provisions apply to school routes. Mr. Pryzby presented a map of the city identifying the location of all cul-de-sacs. He provided the following statistical information:

- There are 80 cul-de-sacs in the City
- The length varies from 200 feet to 1,613 feet.
- The average length is 491 feet and the mean is 400 feet.
- 25 cul-de-sacs are longer than 500 feet.
- Five of the 25 cul-de-sacs are longer than 1,000 feet.

The proposed Council Policy calls for sidewalks be constructed all around the cul-de-sac that is 501 feet and longer.

Laura Wassmer asked how many cul-de-sacs less than 500 feet currently have sidewalks. Mr. Pryzby responded probably 40 to 60 percent of the cul-de-sacs in the

City. Ms Wassmer asked if over 500 feet is considered a walkable street. Mr. Pryzby replied 500 feet, under the current lot standards, would probably cover 12 to 14 houses.

Andrew Wang asked if the width of the street was an issue. Mr. Pryzby responded it was not. Standard width is 22 to 26 feet with some having islands at the end.

Charles Clark stated to him the principal issue was the number of houses as that is reflective of the amount of traffic that would be encountered. He feels the 500 number is valid. He doesn't feel the Council should continue putting sidewalks in on an ad-hoc basis. He feels the City needs to say sidewalks everywhere or have a set standard that defines when they will be constructed.

Al Herrera noted that on the larger lots in the southern portion of the City over 500 feet would not be 12-14 houses. He feels it needs to be a case by case determination.

Diana Ewy Sharp stated the Council should have sidewalks as called for in Village Vision and make the entire City walk able. She doesn't feel the public safety issue is any different on a street less than 500 feet than more than 500 feet. She supports sidewalks on all streets.

Dale Beckerman stated the City will continue to have people come in that do not want sidewalks; however, he noted sidewalks are not placed solely for the benefit of those who live on the street but for all residents. He agrees with Mrs. Ewy Sharp.

David Belz asked if people are allowed to say they don't want sidewalks. Mr. Pryzby responded when residents call they advise them it is the City's policy to construct sidewalks but that they can come speak to the Council. There is no petition.

David Belz stated he agrees with Mr. Herrera that sidewalks should be dealt with on a case by case basis. Mr. Herrera added he feels the construction of sidewalks at some locations as a waste of taxpayer money.

Quinn Bennion noted that part of the policy is to place sidewalk on both sides of the cul-de-sac and entry street.

Dale Warman stated when they worked on Hodges last year almost all the residents were opposed to the construction of sidewalks; however, he stated it was the City policy. He noted that most people, when given the choice, to not want sidewalks on their property. Charles Clark noted the current policy does call for sidewalks; however, the Council has routinely waived the policy, especially on cul-de-sacs. Therefore, he requested a policy to address the issue on a consistent basis.

Diana Ewy Sharp confirmed our current policy calls for the placement of sidewalks on one side of cul-de-sacs. Laura Wassmer said it doesn't make sense to construct a sidewalk that doesn't go anywhere.

David Belz moved the Governing Body direct Mr. Pryzby to revise Council Policy #204 entitled "Sidewalks" to incorporate the provisions to construct sidewalks on cul-de-sacs that are 501 feet or longer. The motion was seconded by David Voysey and passed by a vote of 9 to 3.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Planning Commission	07/07/2009	7:00 p.m.
Sister City Committee	07/13/2009	7:30 p.m.
Prairie Village Arts Council	07/15/2009	7:30 p.m.
Council Committee of the Whole	07/20/2009	6:00 p.m.
City Council	07/20/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a photography exhibit by Mark Raynes for the month of July. The reception will be held on July 10th from 6:30 p.m. to 7:30 p.m.

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

ADJOURNMENT

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

at 8:55 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

 July 20, 2009

Copy of Ordinance
2861

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			
92261-92262	6/5/2009	274.72	
92263-92272	6/8/2009	184,932.49	
92273-92273	6/10/2009	22,139.85	
92274-92460	6/12/2009	1,096,977.02	
92461-92461	6/23/2009	495.07	
92462-92462	6/22/2009	51,196.28	
92463-92592	6/26/2009	359,487.36	
Payroll Expenditures			
6/5/2009		255,245.09	
6/19/2009		278,030.27	
Electronic Payments			
Intrust Bank -credit card fees (General Oper)		403.70	
State of Kansas - sales tax remittance		78.63	
Marshall & Ilsley - Police Pension remittance		7,448.61	
Intrust Bank - fee		451.57	
KCP&L		9,695.61	
CBIZ - Section 125 admin fees		252.92	
Intrust Bank - purchasing card transactions		13,204.98	
United Health Care		1,156.16	
Kansas Gas		873.26	
Wells Fargo HSA		7,096.44	
Police Pension 2009 Employer Contribution		430,000.00	
TOTAL EXPENDITURES:			\$ 2,719,440.03
Voided Checks			
Rod A Heberry	#92557	(33.03)	
TOTAL VOIDED CHECKS:			(33.03)
GRAND TOTAL CLAIMS ORDINANCE			2,719,407.00

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

Passed this 20th day of July 2009.

Signed or Approved this 20th day of July 2009.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



CITY CLERK DEPARTMENT

Council Meeting Date: July 20, 2009
CONSENT AGENDA

Consider amendment to Council Policy #204 entitled "Sidewalks"

RECOMMENDATION

Recommend the Governing Body approve revised Council Policy CP204 entitled "Sidewalks".

BACKGROUND

At the July 6th meeting of the City Council, staff was directed to amend Council Policy CP204 entitled "Sidewalks" to include direction for the construction of sidewalks on cul-de-sacs. After much discussion, the Council approved setting as a policy that sidewalks would be constructed all around cul-de-sacs that are 501 feet or longer. The attached revised Council Policy reflects that change.

RELATED TO VILLAGE VISION

TR1A Provide sidewalks in new and existing areas to allow for continuous pedestrian movement around Prairie Village.

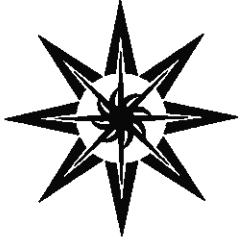
ATTACHMENTS

Council Policy CP204 - Sidewalks

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: July 14, 2009



City Council Policy: CP204 - Sidewalks

Effective Date: July 20, 2009

Amends: CP204 dated April 3, 2006

Approved By: Governing Body

I. PURPOSE

- A. To establish a Public Works policy for the construction, reconstruction, maintenance and repair of City sidewalks.**

II. RESPONSIBILITY

- A. Director of Public Works**

III. POLICY

- A. All arterial streets will have sidewalks constructed on both sides of the street.**
- B. All collector streets will have sidewalks constructed on both sides of the street**
- C. All local streets will have sidewalks constructed on one side of the street.**
- D. Sidewalks may be constructed one side of street as part of a street resurfacing project**
- E. Sidewalks installed by the City will be financed by the City**
- F. A notice of intent to construct a sidewalk will be sent to property owners before design work is begun.**
- G. The City of Prairie Village will repair or replace and pay the entire cost for sidewalks on public streets within the City limits of Prairie Village that have deteriorated due to natural conditions, except as otherwise provided by Prairie Village Municipal Code Chapter XIII Article 1 SIDEWALKS.**
- H. Sidewalks will be constructed all around cul-de-sacs that are 501 feet or longer. Sidewalks will not be constructed on cul-de-sacs 500 feet or less unless a sidewalk already exists.**

IV. CONSTRUCTION

- A. All constructed sidewalks shall have a minimum width of five feet**
- B. When a sidewalk terminates at a street pavement, a ramp shall be constructed in accordance with the latest provisions of the American with Disabilities Act.**

**COUNCIL COMMITTEE OF THE WHOLE
July 6, 2009**

The Council Committee of the Whole met on Monday, July 6, 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, David Voysey, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz. Staff members present: Quinn Bennion, City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Bob Pryzby, Director of Public Works; Keith Bredenhoeft, Project Manager; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

***COU2009-67 Consider Project 190722 - 2010 Storm Drainage Repair Engineering Change Order #1 for \$64,920.00 with Affinis Corporation**

Bob Pryzby stated Affinis has completed the concept phase for the 2010 Storm Drainage Repair Program and staff has agreed on the list of projects to be included in this program. He is seeking authorization for Affinis to precede with the preliminary and final design stages of the program through the approval of engineering change order #1 in the amount of \$64,920 and the execution of a new contract with Affinis Corporation.

Laura Wassmer made the following motion, which was seconded by David Voysey and passed unanimously:

MOVE THE GOVERNING BODY APPROVE ENGINEERING CHANGE ORDER #1 TO AFFINIS CORPORATION FOR PROJECT 190722: 2010 STORM DRAINAGE REPAIR PROGRAM IN THE AMOUNT OF \$64,920 AND THE EXECUTION OF A NEW AGREEMENT FOR THE PRELIMINARY AND FINAL DESIGN OF THE PROJECT

**COUNCIL ACTION TAKEN
07/06/2009**

COU2009-68 Consider Construction Change Order #3 with McAnany Construction for \$6,360.00 for Project 191023 - 2009 Concrete Repair Program

Last summer during the 2008 Roe Avenue paving project, the flume off 90th Terrace to a drain inlet on the corner was repaired using sod in place of concrete implementing green initiatives. However, because of the large volume of water coming off 90th Terrace, the water has been destroying the sod. The proposed change order in the amount of \$6,360 is for replacement with a concrete flume.

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

MOVE THE GOVERNING BODY APPROVE CONSTRUCTION CHANGE

**ORDER #3 TO MCANANY CONSTRUCTION FOR PROJECT 191023:
2009 CONCRETE REPAIR PROGRAM IN THE AMOUNT OF \$6,360
INCREASING THE PROJECT COST TO \$591,360.00.**

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2009-69 Consider Stormwater Utility Fee Credit Policy

Bob Pryzby noted that when the Stormwater Utility Fee was created last year and that a credit policy would be written to provide a fee credit based on reduction impact on the amount of impervious surface area. After researching what has been done elsewhere, Mr. Pryzby drafted a Council Policy that provides for credits for educational efforts as well as structural credits based on the accepted Best Management Practices.

The education credit would allow those schools wishing to receive a credit for educating its students and employees in the area of water quality awareness and protection. This would apply to individual schools, not to the entire school district. The maximum education credit will be 15%.

The second credit is for the application of Best Management Practices with a maximum 15% credit. Since this is the first year of the program individuals will be allowed until June, 2010 to request an adjustment. The applications will be processed by the Public Works Department.

David Belz asked what types of actions an individual property owner could do to qualify. Mr. Pryzby acknowledged the program is more applicable to commercial and multi-tenant properties but noted there are items individuals could do such as rain barrels, impervious surface driveways, rain gardens or ponds. Mr. Belz asked who they should contact if they have questions. Mr. Pryzby stated the BMP is on the internet and he will also prepare information on the program for the City's website.

Charles Clark asked how the credit would be calculated. Mr. Pryzby responded he would work with the property owner to determine the amount. Mr. Clark agreed that many of the items would be costly for individual homeowners to implement. Mr. Clark asked if there was currently anything being taught in the schools. Mr. Pryzby stated not to his knowledge.

Diana Ewy Sharp asked if the Finance Committee had looked at the credit and considered any pitfalls from significant reductions in revenue by improvements. Mr. Voysey stated the committee had not. Mr. Pryzby added there is no way to predict the level of credits that will be sought. Quinn Bennion acknowledged that a 15% decrease in the fee for Shawnee Mission East would have a significant impact on revenues.

David Voysey asked if the City allowed impervious driveways. Dennis Enslinger responded paver bricks are allowed for driveway surfaces. Ruth Hopkins asked what other cities were doing for credits. Mr. Pryzby responded Prairie Village will be the first area city to offer credits. All of his research was at the national level. Mrs. Hopkins asked if he felt the schools would apply for educational credits. Mr. Pryzby stated he has not had any discussions or assurances from any schools that they would participate, but noted if they

do so, there is educational material on the Internet. Mr. Pryzby stated that the educational program would help the City meet the requirements of NPDES.

David Voysey made the following motion, which was seconded by Michael Kelly and passed unanimously:

**MOVE THE GOVERNING BODY APPROVE COUNCIL POLICY CP257
ENTITLED STORMWATER UTILITY FEE CREDIT
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2009-63 Consider Project 190866: 75th Street Paving

Bob Pryzby stated he is requesting permission to repave 75th Street from State Line Road to Mission Road. The pavement surface in the rapid deterioration portion of its life curve that will lead to continuous patching. Previous action was delayed in deference to the 75th Street Corridor Steering Committee. He would like to hire a consultant to begin the street design process. His intent is for a mill & overlay application as has been done on other streets. The design will also consider sidewalks according to the City's policy which calls for sidewalks on both sides of the street.

Mr. Pryzby acknowledged there were several comments made regarding this portion of road within the context of the 75th Street Corridor Study. He noted these could be evaluated by the consultant on their feasibility within the design of the project. The consultant would provide plans and specifications for repaving 75th Street and for other possible improvements. The project will not consider burying the utilities. It was noted the project will have two components - State Line Road to Belinder Avenue and Belinder Avenue to Mission. Two components are being recommended for funding reasons and potential grant eligibility.

The focus will be informational to discover what right-of-way is available through a survey indicating if adjustment of lanes is feasible or if expansion for sidewalks could occur. He stressed this is a street maintenance project, not a redevelopment project. Funding that was appropriated previously is available for to cover a portion of this work. This is currently not in the five-year CARS program but could be added to the next application in the Spring. He estimates the construction cost will be approximately two million dollars.

Laura Wassmer asked what the cost to mill and overlay State Line to Belinder. Mr. Pryzby responded approximately a half million. She stated she is looking for bigger and better action to take place and is concerned that this action would prevent that from occurring in the future. Mr. Pryzby stated he is looking at repaving but noted perhaps some things could be done to address the aesthetics of 75th Street. He stressed he is not talking changes in zoning or doing anything in front yards.

Ms Wassmer stated she is looking at possible changes to the intersection as the entrance to the City. Mr. Pryzby stated he did not foresee any changes being made to the intersection. He noted that lane widths may be changed slightly to gain space. Ms. Wassmer noted she is thinking bigger, possibly purchasing property. He responded that is not what he is looking for. It would be a long-term solution, but added even if five properties were purchased, you still may not be able to do the project.

Laura Wassmer expressed concern that this action would prevent the City from taking later action on enhancements they want to make. The committee had much bigger things in mind than paving a street. Mr. Pryzby responded he is not saying don't carry out the vision, but he needs to address potential pavement deterioration. Pavement is good for 12-15 years which gives the City time to look at what visionary changes you want to make. He feels that visionary process could take five to ten years.

Ruth Hopkins stated that she was horrified when she read the packet asking for the hiring of another consultant. She agrees with Ms. Wassmer that what is being proposed circumvents the whole point of the 75th Street Committee and feels the residents who worked on this will be very upset. She feels it is being rushed and does not want to move ahead. She feels it will impact future improvements that she believes are doable and does not want to wait 12 to 15 years, the life of a new street

Mr. Pryzby stated he would be willing to just do the mill and overlay and not look at any of the issues identified by the 75th Street Committee, but noted it would require looking at sidewalks. He stated the condition of that road is deteriorating and will be worse after next spring. All he is trying to do is head off those problems. He added he is not certain if there still is a 75th Street Committee.

Michael Kelly stated he feels the 75th Street Corridor Committee should be scrapped and the City move forward. Laura Wassmer stated she would like to make decisions at the Council level.

Dale Warman stated lots of money and time was spent by the committee and several good ideas. He does feel it is time to move forward, but not necessarily dump the committee. He acknowledges that the street repair cannot wait; however, it stated people will have a lot questions.

Dale Beckerman felt the Council was placing Public Works in a small box. He feels realistically the City is a long way from doing anything with this thoroughfare. He does not feel the City can acquire enough property to make a big difference. He does not feel the City should defer maintenance and noted the City has a policy that addresses sidewalks. He sees it being 8 to 10 years before any significant changes can be done. He does not feel the Council can do what the Committee did and added their needs to be community backing to whatever action is taken.

Al Herrera confirmed there would not be any work in 2010 and stated he does not have any problem moving forward with the paving and if there are some items from the 75th Street Committee that can be incorporated into the design. He supports Mr. Pryzby's request and does not feel it would be a waste of money.

David Belz noted that the 75th Street Committee has not met in a year. He feels the road needs to be repaired in a timely fashion noting aesthetics start with the condition of the road.

Ruth Hopkins would like to see a committee work with this consultant in the initial stages to apprise him of what has been talked about and your vision and see if he can't at least set

the stage for some of those ideas to be carried out and assure that his action will not compromise future improvements the City would want to do. Bob Pryzby stated the big question remains, what is it the City wants to do in the future.

Diana Ewy Sharp stated the discussions from Village Vision regarding the 75th Street Corridor were more about the beautification. She feels the City can incorporate some of the beautification items into what the engineer designs. She feels there are opportunities for medians at the intersections, landscape and paths. The City will need to figure out how to do sidewalks and noted that requires an engineer. She wants to see this move forward and supports Mrs. Hopkins suggestion. Mrs. Ewy Sharp confirmed with Chief Jordan that four lanes of traffic are needed.

Mayor Shaffer suggested the City Council representatives on the 75th Street Corridor Committee serve as that committee and the formal committee be disbanded.

Michael Kelly stated he is in favor of doing maintenance on the street; however, he is concerned with the perception of the 75th Street Committee and stated this seems to be circumventing the committee.

Laura Wassmer noted the 75th Street Committee stopped meeting when the City entered into litigation with the consultant with the intention of resuming after the lawsuit was resolved. She supports maintaining the street but does not want to put a lot of work into something that could be removed in the future.

Ruth Hopkins made the following motion which was seconded by Dale Beckerman:

MOVE THE GOVERNING BODY APPROVE THE HIRING OF A CONSULTANT FOR PROJECT 190866: 75TH STREET PAVING WITH THE UNDERSTANDING THAT THE CONSULTANT WILL MEET WITH THE 75TH STREET COUNCIL COMMITTEE.

Diana Ewy Sharp asked if there could be a public information meeting held and confirmed the 75th Street Corridor Committee would be notified.

Dale Warman stated he supports the motion noting that what was agreed to when there were problems with the consultant was switching to another consultant but stress the need for the City to clearly tell the consultant what is wanted.

Al Herrera stated he does not feel Mr. Pryzby is asking for a consultant to do a 75th Street Redevelopment Plan, he sees the request being for simple street design with possibly some sidewalks. He supports keeping it simple and only address the street work that needs to be completed. He does not want to slow the process with more public opinion, committee suggestions, etc. fearing that will result in the Council being in the same position a year from now.

Bob Pryzby stated he wants to have a complete and clear scope of services when he asks for proposals. He does not want to be adding things after the fact. He needs Council Committee action to identify what they want before the scope of services is written.

Dale Beckerman agreed with Mr. Herrera that Mr. Pryzby wants to do a street project and not a redevelopment project and the City needs to keep it at that in order to make this go. He stressed the need not to hold the street project up with the redevelopment issues. What he sees as the committee's goal is to see that street project does not interfere with what may be a future redevelopment project.

Bob Pryzby stated he does not have an issue looking at these items with the Council Committee in the design of the street project.

Dennis Enslinger stated the first step from his perspective is to see how much right-of-way as that will define the scope of what the project can be. Given that information then the committee can more clearly determine the scope of the project. He stated if the City is merely going to do mill and overlay an engineer is not needed. The City has done maintenance in other areas without addressing the sidewalk issues such as State Line Road. He recommends having survey work done to identify exactly that the City owns and then in turn determine what improvements could be fit within that scope or if alternate action is needed.

Michael Kelly stated he is hearing two separate motions. First to have a survey done and secondly after that survey is completed to have the 75th Street Committee meet with the engineer to determine what improvements to include in the design. Mr. Enslinger asked if it would be the 75th Street Committee or a subcommittee. Mrs. Hopkins stated her motion called for the subcommittee.

Dennis Enslinger stated that once the survey crews go out he and Mr. Pryzby will get calls from residents wanting to know what is happening, even though they would have received a letter from the City notifying them of the survey work. Staff would then be able to respond that the crews the scope of the project - that the City is doing a maintenance project on 75th Street the crews are conducting a survey to determine accurate boundary lines and right-of-way perimeters. Staff is comfortable stating it is a maintenance project at this point and should it become something else the public would be re-engaged.

David Belz asked when the work needed to be done. Mr. Pryzby responded it was dependent on the type of winter and number of salt applications and freeze/thaw conditions. It does not have to be done immediately; however, by 2012, the City will be receiving a significant number of complaints on the road condition.

Ruth Hopkins feels the subcommittee will simply look at small improvements or beautifications that can be done now and will not draw this out into a ten to fifteen year project. She feels it would be a huge mistake to go from the grandiose ideas of the committee to a solely maintenance project without any consideration or involvement of the subcommittee on possible enhancements. She does not see the committee coming up with additional ideas

Dale Beckerman noted that there are places where 75th Street is not a very good street and he feels the City should go beyond maintenance and make it a good street. He agreed it is not the committee's job to come up with ideas and agrees with Mr. Enslinger that the first step is to find out the present condition.

Mr. Pryzby stated the second step would be for the consultant to address each one of the items listed as to whether they are doable or not. Then advise the committee what could be done and what the ramifications would be.

Laura Wassmer stated she is hearing the Council state they support doing a survey and asked how quickly that could be done and what would it cost. Mr. Pryzby stated a survey could exceed \$20,000 and noted it if exceeds that amount it must be bid which adds 45 to 60 days to the process with another 45 to 60 days for the actual survey to be conducted. He does not feel the City would have any information until after the first of the year. He does not think someone should be hired only to do the survey. He feels the individual needs to be able to do the survey and address the questions.

Al Herrera questioned if the Council was going beyond the scope of the requested street paving. If the subcommittee decided to move forward on additional enhancements o where maintenance was done without add

Michael Kelly expressed concern that the City was setting itself up for a negative situation.

Quinn Bennion stated he agreed with the need for education and notification of the public and the 75th Street Committee. Mr. Bennion stated he was hearing the Council stating that it was time to dissolve the 75th Street Corridor Committee with thanks for their time and service.

Dale Beckerman stated the life of the 75th Street Committee is not applicable to this discussion and appears to be becoming an impediment to moving forward. Mr. Bennion noted the staff does receive inquires from 75th Street Committee members wondering what is going on and feels if the City is going forward hiring a consultant the 75th Street Committee needs to know their status..

Laura Wassmer stated a survey was needed for the City to move forward

Michael Kelly requested a restatement of the motion. The City Clerk stated Mrs. Hopkins moved the Governing Body approving the hiring of a consultant for Project 190866: 75th Street Paving with the understanding that the consultant will meet with the 75th Street Council Committee.

Laura Wassmer felt the motion needed to be more specific. She felt a member of the public would not understand the intent of the motion as stated She recommended stating it was for a survey, noting the other items could be addressed after the completion of the survey.

Charles Clark stated he felt it was clear from the list of things to be considered that this is more than a mill and overlay application and it is also clear that it is not redevelopment. It is making a better more beautiful street and he feels this is reflected by the motion.

Diana Ewy Sharp asked the Council for clarification on what to do with Carroll Plaza, specifically whether Park & Recreation should move forward and where it fits into this discussion. Ruth Hopkins stated it is not related to this discussion. Al Herrera responded

at this point the Park & Recreation Committee should move forward with their study on Carroll Plaza.

Mr. Herrera asked for clarification on the purpose of the meeting of the subcommittee with the consultant. Mr. Beckerman responded what he heard the reason for the meeting to be is to make sure that any action to be taken was not incompatible or prohibitive to future redevelopment of the corridor.

Michael Kelly stated he also felt the motion was too vague and that it needs to be much clearer for the residents as to what the focus is. Mr. Clark suggested he amend the motion stating the consultant will only be considering ways to make 75th Street a better street.

Bob Pryzby stated he is hearing a consensus on the survey. He understands there will not be discussion on redevelopment of major visionary improvements, but he asked if they were going to talk about the items he listed that although they came from the visionary process and determine if they could be done in conjunction with the project.

Mr. Pryzby presented the following two options:

- 1) Put in the contract with the consultant to do the survey and to address the issues noted in a general manner as to how they might be able to be accomplished with this program at normal expense; or
- 2) Do just the survey and come back and let the committee and staff look at the results and determine whether they would fit.

Dale Warman stated he does not feel the motion clearly addresses 75th Street.

Dennis Enslinger stated staff would be comfortable to give guidance after looking at the survey. His recommendation would be to move forward with the survey. If after the survey was done the council want to look further at doing other items the contract could be amended. He feels the survey will tell you where the scope will be and what will be needed to achieve your vision.

Mayor Shaffer stated a survey is a technical issue and asked if a consultant would even do a survey. Mr. Pryzby responded the consultant would probably work with a survey crew. The advantage would be to tie the consultant together with the survey crew and establish that relationship when there are questions.

Dale Beckerman confirmed that by the term "consultant" Mr. Pryzby meant a "street engineer". Mr. Beckerman and Ms Wassmer suggested that the term "consultant" be replaced with "street engineer"

Dale Beckerman added the following clarification to the motion:

Move the Governing Body approve the hiring of a street engineer to conduct a survey of 75th Street with the Street Engineer determining what suggested improvements can be made within the street right-of-row and then meet with the Council Subcommittee and staff regarding possible implementation of improvements as part of this project.

Al Herrera asked what the next step would be.

Bob Pryzby clarified the direction that would be given to the street engineer as follows:

- 1) Do a survey to determine what property the City owns and identify impediments to construction;
- 2) Design a mill and overlay project
- 3) Determine if any of the listed suggestions could be implemented in conjunction with this project and at what cost;
- 4) Meet with the Council subcommittee to discuss options and costs including possible recommendations from him.
- 5) Prepare the design based on direction given.

Mr. Pryzby noted when the design is completed he will bring it before the City Council for approval.

The following motion as clarified was voted on and passed unanimously:

MOVE THE GOVERNING BODY APPROVE THE HIRING OF A STREET ENGINEER TO CONDUCT A SURVEY OF 75TH STREET WITH THE STREET ENGINEER DETERMINING WHAT SUGGESTED IMPROVEMENTS CAN BE MADE WITHIN THE STREET RIGHT-OF-WAY AND THEN MEET WITH THE COUNCIL SUBCOMMITTEE AND STAFF REGARDING POSSIBLE IMPLEMENTATION OF IMPROVEMENTS AS PART OF THIS PROJECT.

**COUNCIL ACTION TAKEN
07/06/2009**

Diana Ewy Sharp asked if a Village Vision public information update meeting could be held advising the community of what actions have been taken in response to Village Vision noting there have been some very positive actions taken and use that also as a way to inform the public of what is happening with 75th Street..

Discussion of Tour de Village Concept and related Ordinance Amendments

Michael Kelly reported that the Tomahawk Cycling Club and Sister City Committee will be holding a closed loop circle race. He noted this will require some homes to be prevented access to their driveways during the period of the race which will be run from 8 am to 2 pm. They have been working with the police department to determine the best possible location for the race. Mr. Kelly also noted the city's current street race ordinance does not allow pedal powered races within the City and the ordinance would need to be amended by the Council for this event to occur.

Diana asked why they would not be able to access driveways. Michael Kelly explained there would be five races run throughout the day. The racers will take 30 to 60 laps on this closed loop course so there will be ongoing traffic. The streets need to be closed for the safety of the racers.

The race is scheduled for Saturday, September 12th, the day before the Tour de Missouri, and is anticipated to draw between 200 and 400 riders. Mr. Kelly noted this event will be

completely paid through fund raising. There will be no cost to the City. The estimated cost is \$3,000 to \$5,000. They are seeking corporate sponsors and Lane4 will be participating.

Dale Beckerman asked if the races could be scheduled to allow fifteen minute breaks during the day for the residents to have access to there home. Chief Jordan responded it could not be done after each race, but they are looking for a time after 2 or 3 hours where the course could be closed for a period a time. They are also looking for volunteers to assist in the movement of residents.

Chief Jordan stated the action needed this evening is an approval of the concept so they can continue working to finalize a route and determine a costs involved by the police department and public works to coordinate the event, noting there is a lot to be done in the next two months.

Council President Michael Kelly adjourned the meeting at 7:30 p.m. and announced continued discussion of this item and the remaining agenda items would take place under New Business during the City Council meeting.

Michael Kelly
Council President



Policy: **CP257 Stormwater Utility Fee Credit**

Effective Date: **August 1, 2009**

Amends:

Approved By: **Governing Body, 2009**

1. SCOPE

- a. The purpose of this Policy is to establish a Stormwater Utility Fee Credit process.

2. PURPOSE

- a. In 2008, the City established the Stormwater Utility Fee in order to provide stable and non-discriminatory funding for its stormwater activities. The impact on individual properties in the stormwater system is quantified based on the amount of impervious area on a parcel of property as defined in Prairie Village Municipal Code Chapter 14 Article 4 *Stormwater Utility*.
- b. The Stormwater Utility Fee does not take into account the value provided by some property owners that independently implement and maintain Best Management Practices (BMPs) that offset, to some extent, the impact of their developed property on the components of the stormwater drainage system, both natural and man-made.
- c. Using the Stormwater Utility Fee Credit process, the City may make an adjustment to the Stormwater Utility Fee paid by a property owner that provides value-added stormwater management services that support and complement the City's stormwater management goals.
- d. The granting of a Stormwater Utility Fee credit is an administrative recognition of the value of a variety of significant stormwater management activities provided by the property owner for as long as the approved activities continue and accomplish their intended purposes.

3. RESPONSIBILITY:

- a. The responsibility for administering the Stormwater Utility Fee Credit will be the City Director of Public Works.

4. DEFINITIONS

- a. In addition to the words, terms and phrases elsewhere defined in this policy, the following words, terms and phrases, as used in this policy shall have the following meanings:
 - i. **CITY-** means the City of Prairie Village.
 - ii. **CREDIT** -- means a conditional reduction in the amount of the Stormwater Utility Fee paid by an individual property owner based on the provision and continuation of an effectively

- documented Education Credit or BMP Credit, which system, facility, services or components reduces the volume of stormwater the rate at which it discharges.
- iii. **DEVELOPED PROPERTY** – means real property, other than Undeveloped Land.
 - iv. **DIRECTOR** – means the Director of Public Works or the designated person.
 - v. **IMPERVIOUS AREA** – means as defined in Prairie Village Municipal Code Chapter 14 Article 4.
 - vi. **PROPERTY OWNER**- means any partnership, corporation or any person who alone or jointly and severally with others, either as tenants in common or otherwise has:
 - 1. Legal title to any real property or building, with or without accompanying actual possession thereof: or
 - 2. Has charge, care or control of any property or building as owner or agent of the owner, or as executor, executrix administrator, administrator, trustee, or guardian of the estate of the owner.
 - vii. Any such partnership, corporation or person representing the actual owner shall be bound to comply with the provisions of this policy to the same extent as if they were the owner.
 - viii. **STORMWATER MANAGEMENT PROGRAM** – mean as defined in Prairie Village Municipal Code Chapter 14 Article 2.
 - ix. **STORMWATER SYSTEM** – means as defined in Prairie Village Municipal Code Chapter 14 Article 2.
 - x. **STORMWATER UTILITY FEE** – means a fee authorized by Prairie Village Municipal Code Chapter 14 Article 4 and charged to owners of property served and benefited by the City Stormwater System.

5. POLICY

a. Restrictions

- i. No public or private property shall receive credit to offset Stormwater Utility Fee for any condition or activity unrelated to the City cost of providing stormwater management services.
- ii. The maximum Credit will be equal or less than 15% of the Stormwater Utility Fee.
- iii. No credit will be applied to any parcel that reduces the Stormwater Utility Fee to an amount less than \$75.00.
- iv. Credits outline in this policy will be given only to any property located within the boundaries of the City.
- v. Credit shall only be given for that portion of the Stormwater Utility Fee paid by the property owner.

b. Terms

- i. To receive a credit, an application must be submitted to the Public Works Director on the required form.
- ii. Credits will only be applied if requirements outlined in this Policy are met, including, but not limited to, guaranteed right-of-entry by Public Works for inspections and submittal of annual reports by the property owner to Public Works.
- iii. Credits will be defined as a percentage (%) reduction applied as a Credit adjustment to the Stormwater Utility Fee calculation.
- iv. Credits for BMPs constructed or installed prior to the creation of the Stormwater Utility Fee will be applied if the credit application is approved and inspected by Public Works before the June 1, 2010.
- v. Credits will be applied to the next billing year for credit applications approved and inspected after June 1 of any year.
- vi. Credits are valid as long as the BMP is implemented as approved (as demonstrated by the annual report and Public Works inspection).
- vii. If the approved BMP is not implemented as approved or is terminated, the Credit reduction will be canceled.
- viii. Once a Credit has been canceled, a property owner may not reapply for a Credit for a period of 12 months and only if the deficiency has been corrected as determined by a Public Works inspection.

6. EDUCATION CREDIT

- a. Those schools, public or private, wishing to receive a Credit for educating its students and employees in the area of water quality awareness and protection must agree to the following minimum standards:
 - i. Devote two hours per half student year (four hours annually) to educating the fourth and ninth grade students about water quality awareness and protection. Topics must rotate on at least an annual basis for each grade level. Credit allowance is five percent for each grade.
 - ii. Devote one-half hour twice a year (one hour annually) to educating employees about water quality awareness and protection. Each new employee will receive one-half hour about water quality and protection at time of hiring. Credit allowance is five percent.
 - iii. The maximum Education Credit will be fifteen (15) percent.
 - iv. A pre and post education survey of students and staff will be required.

- v. Schools will be required to submit an annual report to the Public Works Director for the proposed education sessions that will include information on the number of attendees, time(s), locations(s), and topic(s) covered during each session. Copies of materials disseminated must be provided to Public Works with the annual report.
- vi. Educational information may be obtained from the United States Environmental Protection Agency, the Kansas Department of Health and Education, the Mid-America Regional Council (MARC), Johnson County Stormwater Management (SMAC), or any other reputable educational resource approved by the Director.

7. BMP CREDIT

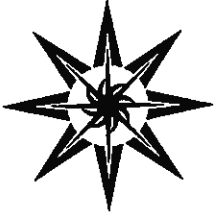
- A.** A basic goal for BMP Credit is to maintain predevelopment peak flows, runoff volumes, and water quality by the installation of an approved BMP.
- B.** Those residential and non-residential properties wishing to receive a Credit of reducing the quantity and quality of stormwater entering the City Stormwater System must agree to construction of a BMP approved by Public Works on a developed site, and must agree to the following minimum standards:
 - I.** Install an appropriate BMP as provide in the Kansas City Metro Chapter of American Public Works and the Mid-America Regional Council Manual of Best Management Practices for Water Quality published in March 2008 and as amended.
 - II.** Provide document for choosing the selected BMP.
 - III.** Provide the design calculations for the selected BMP.
 - IV.** Provide the intended maintenance practice and schedule.
 - V.** Provide the area in square feet provided by the BMP.
 - VI.** Credit allowance will be the percentage calculated by dividing the area of the BMP by the total impervious area on the property.
 - VII.** The maximum BMP Credit for each property is fifteen (15) percent.
 - VIII.** Property owners will be required to submit a written annual report to the Public Works Director for the proposed BMP Credit that will include description of the BMP, location of BMP, and maintenance provided for the BMP.

8. APPLICATION PROCEDURE

- a. A property owner seeking a Stormwater Utility Fee Credit must comply with the procedures outlined in this Policy and must submit a Stormwater Utility Fee Credit application.
- b. All information necessary for the Public Works Director to make a determination must be supplied as outlined in this Policy.
- c. Failure to comply with the procedures will result in denial of the Stormwater Utility Fee Credit application.
- d. The Director will review and make a determination of the Stormwater Utility Fee Credit application within sixty (60) calendar days of receipt of the complete application.
- e. The City reserves the right to review the application for accuracy and/or inspect and review the documentation confirming the provision of the BMP Credit or Education Credit at any time.
- f. A determination of the Credit value will be mailed to the applicant and the Stormwater Utility Fee will be adjusted accordingly for the following year as stated in Section V.B.4 of this policy.
- g. Appeals of the Credit decision by the Director may be made to the City Administrator within thirty (30) calendar days of date of decision by the Director.

9. ENFORCEMENT

- a. An annual report will be required to be submitted every May 1 to the Director to document the continuing provision of BMP Credit or Education Credit.
- b. If, after its review or inspection, the Director finds either the application or annual report to be inaccurate or the projected level of service is not being provided or continued, the property owner will be notified in writing and given thirty (30) calendar days to correct the deficiency. The property owner must provide written documentation to the Director within thirty (30) calendar days of the original notice that the deficiency has been corrected.
- c. If, in the opinion of the Director, the deficiency is not satisfactorily corrected, the Stormwater Utility Fee Credit attributable to the deficiency will be terminated on the next billing cycle and will remain in effect for a minimum of twelve (12) months before a new Credit application may be submitted.



ADMINISTRATION

Council Meeting Date: July 20, 2009

Request Permission to Publish the 2010 Proposed Budget

SUGGESTED MOTION

Move to authorize staff to publish the 2010 Proposed Budget as required by State statutes.

BACKGROUND

Over the last several months the Council and staff have diligently worked to develop the 2010 budget. There were many challenges in the process, including State cuts to the gas tax and a decrease in assessed valuation. The City's real estate portion of the assessed valuation decreased reflecting the housing trends in the metro area as well as across the nation. The personal property portion of the assessed valuation decreased again as a result of changes to the State statutes in 2006 which exempted certain personal property purchased after June 30, 2006 from taxation.

To meet the budget challenges, the management staff worked together to develop a list of budget gap reduction strategies. The list was refined over several months and resulted in thirty-three items that were presented to the Council for consideration and adoption in May. The Council adopted all but four of the items on the list. In the end, the 2010 Budget maintains the same level of services as the 2009 Budget.

The proposed budget maintains the mill rate of 18.182, which is comprised of the General Fund mill levy and the Bond & Interest Fund mill levy. State statutes require the City Council adopt an ordinance increasing the mill levy if the total dollars levied in the General Fund are higher than allowed by the state's formula. While the mill rate was maintained in the proposed budget, the total dollars levied in the General Fund exceed the limit established by the State's formula, so an ordinance is required.

State statutes require that the City hold a public hearing on the proposed budget at least ten days prior to the date the budget is certified to the County Clerk (August 25th) and that the City publish the budget at least ten days prior to the date of the public hearing. To comply with these statutory requirements, the public hearing has been scheduled for the City Council's regular meeting on Monday, August 3, 2009. The Budget Summary page of the attached State budget forms will be published in The Legal Record on Tuesday, July 21, 2009.

PUBLIC NOTICE

The Budget Summary will be published in The Legal Record on Tuesday, July 21, 2009.

ATTACHMENTS:

- State Budget Forms
- 2010 Budget Summary - All Funds

Prepared By:
Karen Kindle
Finance Director
Date: 7/16/09

2010

CERTIFICATE

To the Clerk of Johnson County, State of Kansas

We, the undersigned, officers of

City of Prairie Village

certify that: (1) the hearing mentioned in the attached publication was held;
(2) after the Budget Hearing this budget was duly approved and adopted as the
maximum expenditures for the various funds for the year 2010; and
(3) the Amount(s) of 2009 Ad Valorem Tax are within statutory limitations.

		2010 Adopted Budget			
Table of Contents:		Page No.	Expenditures	Amount of 2009 Ad Valorem Tax	County Clerk's Use Only
Computation to Determine Limit for 2010		2			
Allocation of MVT, RVT, 16/20M Veh & Slider		3			
Schedule of Transfers		4			
Statement of Indebtedness		5			
Statement of Lease-Purchases		6			
Fund	K.S.A.				
General	12-101a	7	20,853,421	4,958,446	
Bond & Interest	10-113	8	306,278	259,061	
Special Highway		9	560,000		
Solid Waste Management		9	1,486,809		
Stormwater Utility		10	1,517,301		
Special Parks		10	86,000		
Special Alcohol		11	87,202		
		11			
Non-Budgeted Funds-A		12			
Totals		x	24,897,011	5,217,507	
Budget Summary		13			
Neighborhood Revitalization Rebate					
Is an Ordinance required to be passed, published, and attached to the budget?				Yes	

County Clerk's Use Only

November 1st Total Assessed Valuation _____

State Use Only
 Received _____
 Reviewed by _____
 Follow-up: Yes ___ No ___

Assisted by: _____

Address: _____

Attest: _____, 2009

County Clerk

Governing Body

City of Prairie Village

2010

Computation to Determine Limit for 2010

		Amount of Levy
1. Total Tax Levy Amount in 2009 Budget		+ \$ 5,316,020
2. Debt Service Levy in 2009 Budget		- \$ <u>375,790</u>
3. Tax Levy Excluding Debt Service		<u>\$ 4,940,230</u>
 2009 Valuation Information for Valuation Adjustments:		
4. New Improvements for 2009:	+	<u>613,981</u>
5. Increase in Personal Property for 2009:		
5a. Personal Property 2009	+	2,629,120
5b. Personal Property 2008	-	<u>3,244,713</u>
5c. Increase in Personal Property (5a minus 5b)	+	<u>0</u>
		(Use Only if > 0)
6. Valuation of annexed territory for 2009:		
6a. Real Estate	+	<u>0</u>
6b. State Assessed	+	<u>0</u>
6c. New Improvements	-	<u>0</u>
6d. Total Adjustment (Sum of 6a, 6b, and 6c)	+	<u>0</u>
7. Valuation of Property that has Changed in Use during 2009:		<u>0</u>
8. Total Valuation Adjustment (Sum of 4, 5c, 6d & 7)		<u>613,981</u>
9. Total Estimated Valuation July 1, 2009	<u>286,960,008</u>	
10. Total Valuation less Valuation Adjustment (9 minus 8)		<u>286,346,027</u>
11. Factor for Increase (8 divided by 10)		<u>0.00214</u>
12. Amount of Increase (11 times 3)		+ \$ <u>10,593</u>
13. Maximum Tax Levy, excluding debt service, without an Ordinance (3 plus 12)		<u>\$ 4,950,823</u>
14. Debt Service Levy in this 2010 Budget		<u>259,061</u>
15. Maximum levy, including debt service, without an Ordinance (13 plus 14)		<u><u>5,209,884</u></u>

If the 2010 budget includes tax levies exceeding the total on line 15, you must adopt an ordinance to exceed this limit, publish the ordinance, and attach a copy of the published ordinance to this budget.

Allocation of Motor, Recreational, 16/20M Vehicle Tax & Slider

Budgeted Funds for 2009	Budget Tax Levy Amt for 2009	Allocation for Year 2010			
		MVT	RVT	16/20M Veh	Slider
General	4,940,230	523,607	857	824	0
Bond & Interest	375,790	39,829	65	63	0
TOTAL	5,316,020	563,436	922	887	0

County Treas Motor Vehicle Estimate	<u>563,436</u>			
County Treasurers Recreational Vehicle Estimate		<u>922</u>		
County Treasurers 16/20M Vehicle Estimate			<u>887</u>	
County Treasurers Slider Estimate				<u>0</u>
Motor Vehicle Factor	<u>0.10599</u>			
Recreational Vehicle Factor		<u>0.00017</u>		
16/20M Vehicle Factor			<u>0.00017</u>	
Slider Factor				<u>0.00000</u>

City of Prairie Village

2010

Schedule of Transfers

Fund Transferred From:	Fund Transferred To:	Actual Amount for 2008	Current Amount for 2009	Proposed Amount for 2010	Transfers Authorized by Statute
General	Capital Projects	4,639,500	2,146,126	6,263,368	12-1,118
General	Risk Management	35,000	35,000	35,000	12-2615
General	Economic Development	948,314	-	-	Ord. 2153
General	Equipment Reserve	380,010	642,000	485,500	12-1,117
Special Highway	Capital Projects	589,245	540,000	560,000	12-1,118
Stormwater Utility	General	-	338,624	443,551	Charter Ord. 23
Stormwater Utility	Capital Projects	-	1,089,617	946,150	Charter Ord. 23
Stormwater Utility	Equipment Reserve	-	-	90,000	Charter Ord. 23
Special Parks	Capital Projects	86,000	104,717	86,000	12-1,118
Special Alcohol	Risk Management	-	-	-	12-2615
	Totals	6,678,069	4,896,084	8,909,569	
	Adjustments				
	Adjusted Totals	6,678,069	4,896,084	8,909,569	

Note: Adjustments are only required if the transfer expenditure is not shown in the Budget Summary total.

STATEMENT OF INDEBTEDNESS

Type of Debt	Date of Issue	Date of Retirement	Interest Rate %	Amount Issued	Beginning Amount Outstanding Jan 1,2009	Date Due		Amount Due 2009		Amount Due 2010	
						Interest	Principal	Interest	Principal	Interest	Principal
General Obligation:											
Park Refunding	1/1/94	9/1/09	3.9%-5%	1,240,000	55,000	March & Sept	Sept	2,750	55,000	0	0
Police Facility	1/4/99	9/1/10	3.7%-4%	1,660,000	360,000	March & Sept	Sept	14,400	215,000	5,800	145,000
Pool Improvements	2/15/00	9/1/14	4.75%-6.5%	1,600,000	790,000	March & Sept	Sept	41,286	115,000	35,478	120,000
Total G.O. Bonds					1,205,000			58,436	385,000	41,278	265,000
Revenue Bonds:											
NONE											
Total Revenue Bonds					0			0	0	0	0
Other:											
NONE											
Total Other					0			0	0	0	0
Total Indebtedness					1,205,000			58,436	385,000	41,278	265,000

City of Prairie Village

2010

STATEMENT OF CONDITIONAL LEASE-PURCHASE AND CERTIFICATE OF PARTICIPATION*

Item Purchased	Contract Date	Term of Contract (Months)	Interest Rate %	Total Amount Financed (Beginning Principal)	Principal Balance On Jan 1 2009	Payments Due 2009	Payments Due 2010
NONE							
Totals					0	0	0

***If you are merely leasing/renting with no intent to purchase, do not list--such transactions are not lease-purchases.

FUND PAGE - GENERAL

Adopted Budget General	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	6,672,709	4,431,766	4,842,607
Receipts:			
Ad Valorem Tax	4,652,655	4,920,230	XXXXXXXXXXXXXXXXXXXX
Delinquent Tax	24,992		
Motor Vehicle Tax	457,336	506,564	523,456
Recreational Vehicle Tax	940	872	857
16/20M Vehicle Tax	968	508	824
Gross Earning (Intangible) Tax			0
LAVTR			0
City and County Revenue Sharing			0
Slider			0
Local Alcoholic Liquor	88,615	86,000	86,000
In Lieu of Taxes (IRB)			
Sales Tax	4,531,150	4,358,000	4,478,000
Use Tax	687,907	830,000	850,000
Franchise Fees	1,817,429	1,724,000	1,765,000
Licenses & Permits	459,552	456,700	458,700
Intergovernmental	0	0	5,000
Charges for Services	1,647,492	1,698,485	1,688,000
Fines & Fees	1,006,365	1,082,500	1,113,500
Recreational Fees	429,579	467,500	472,000
Transfer from Stormwater Utility Fund	0	338,624	443,551
Interest on Idle Funds	258,239	150,000	150,000
Miscellaneous	45,758	55,500	60,000
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	16,108,977	16,675,483	12,094,888
Resources Available:	22,781,686	21,107,249	16,937,495

City of Prairie Village

2010

FUND PAGE

Adopted Budget Bond & Interest	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	30,121	35,735	22,374
Receipts:			
Ad Valorem Tax	496,508	375,790	XXXXXXXXXXXXXXXXXXXX
Delinquent Tax	3,142		
Motor Vehicle Tax	54,096	53,937	39,829
Recreational Vehicle Tax	112	93	65
16/20M Vehicle Tax	121	55	63
Slider	0		0
Interest on Idle Funds	6,405	200	200
Miscellaneous	0		
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	560,384	430,075	40,157
Resources Available:	590,505	465,810	62,531
Expenditures:			
Principal	475,000	385,000	265,000
Interest	79,770	58,436	41,278
Neighborhood Revitalization Rebate			
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	554,770	443,436	306,278
Unencumbered Cash Balance Dec 31	35,735	22,374	XXXXXXXXXXXXXXXXXXXX
2008 Budget Authority Limited Amount:	554,771	Non-Appropriated Balance	15,314
Violation of Budget Law for 2008:		Total Expenditures/Non-Appropriated Bal	321,592
Possible Cash Violation for 2008:		Tax Required	259,061
Delinquency Computation % Rate	0.000%		0
Amount of 2009 Ad Valorem Tax			259,061

City of Prairie Village

2010

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Highway	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	0	0	0
Receipts:			
State of Kansas Gas Tax	589,245	540,000	560,000
County Transfers Gas	0	0	0
Interest on Idle Funds	0		
Miscellaneous			
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	589,245	540,000	560,000
Resources Available:	589,245	540,000	560,000
Expenditures:			
Transfer to Capital Projects Fund	589,245	540,000	560,000
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	589,245	540,000	560,000
Unencumbered Cash Balance Dec 31	0	0	0

2008 Budget Authority Limited Amount: 649,000

Violation of Budget Law for 2008:

Possible Cash Violation for 2008:

Adopted Budget

Adopted Budget Solid Waste Management	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	164,543	188,879	163,395
Receipts:			
Charges for Services	1,306,424	1,367,813	1,467,094
Licenses & Permits		4,000	4,000
Interest on Idle Funds	16,548	1,000	1,000
Miscellaneous			
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	1,322,972	1,372,813	1,472,094
Resources Available:	1,487,515	1,561,692	1,635,489
Expenditures:			
Solid Waste & Recycling Collection	1,298,636	1,398,297	1,486,809
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	1,298,636	1,398,297	1,486,809
Unencumbered Cash Balance Dec 31	188,879	163,395	148,680

2008 Budget Authority Limited Amount: 1,311,491

Violation of Budget Law for 2008:

Possible Cash Violation for 2008:

City of Prairie Village

2010

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Stormwater Utility	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	0	0	0
Receipts:			
Licenses & Permits	0	7,000	7,000
Charges for Services	0	1,431,413	1,505,301
Interest on Idle Funds	0	5,000	5,000
Miscellaneous			
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	0	1,443,413	1,517,301
Resources Available:	0	1,443,413	1,517,301
Expenditures:			
Contract Services	0	0	25,000
Transfer to the General Fund	0	338,624	443,551
Transfer to the Capital Projects Fund	0	1,089,617	946,150
Transfer to the Equipment Reserve Fund	0	0	90,000
Miscellaneous		15,172	12,600
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	0	1,443,413	1,517,301
Unencumbered Cash Balance Dec 31	0	0	0

2008 Budget Authority Limited Amount 0
 Violation of Budget Law for 2008:
 Possible Cash Violation for 2008:

Adopted Budget

Special Parks	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	18,717	21,331	2,614
Receipts:			
Intergovernmental	88,614	86,000	86,000
Interest on Idle Funds			
Miscellaneous			
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	88,614	86,000	86,000
Resources Available:	107,331	107,331	88,614
Expenditures:			
Transfer to Capital Projects Fund	86,000	104,717	86,000
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	86,000	104,717	86,000
Unencumbered Cash Balance Dec 31	21,331	2,614	2,614

2008 Budget Authority Limited Amount: 86,000
 Violation of Budget Law for 2008:
 Possible Cash Violation for 2008:

City of Prairie Village

2010

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Alcohol	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1	11,036	12,738	9,968
Receipts:			
Intergovernmental	88,615	86,000	86,000
Interest on Idle Funds			
Miscellaneous	66		
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	88,681	86,000	86,000
Resources Available:	99,717	98,738	95,968
Expenditures:			
Public Safety	71,981	73,770	72,202
Alcohol Programs	14,998	15,000	15,000
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	86,979	88,770	87,202
Unencumbered Cash Balance Dec 31	12,738	9,968	8,766

2008 Budget Authority Limited Amount: 86,000
 Violation of Budget Law for 2008: **Yes**
 Possible Cash Violation for 2008:

Adopted Budget

0	Prior Year Actual 2008	Current Year Estimate 2009	Proposed Budget Year 2010
Unencumbered Cash Balance Jan 1		0	0
Receipts:			
Interest on Idle Funds			
Miscellaneous			
Does miscellaneous exceed 10% of Total Receipts			
Total Receipts	0	0	0
Resources Available:	0	0	0
Expenditures:			
Miscellaneous			
Does miscellaneous exceed 10% of Total Expenditures			
Total Expenditures	0	0	0
Unencumbered Cash Balance Dec 31	0	0	0

2008 Budget Authority Limited Amount: 0
 Violation of Budget Law for 2008:
 Possible Cash Violation for 2008:

0

NON-BUDGETED FUNDS (A)
(Only the actual budget year for 2008 is to be shown)

2010

Non-Budgeted Funds-A

(1) Fund Name:		(2) Fund Name:		(3) Fund Name:		(4) Fund Name:		(5) Fund Name:		
Capital Projects		Risk Management Reserve		Economic Development		Equipment Reserve		Grants		Total
Unencumbered		Unencumbered		Unencumbered		Unencumbered		Unencumbered		
Cash Balance Jan 1	2,272,552	Cash Balance Jan 1	84,688	Cash Balance Jan 1	1,504,491	Cash Balance Jan 1	0	Cash Balance Jan 1	0	3,861,731
Receipts:		Receipts:		Receipts:		Receipts:		Receipts:		
Intergovernmental	728,705	Interest on Idle Funds	4,802	Interest on Idle Funds	45,545	Interest on Idle Funds	4,061	Intergovernmental	6,564	
Trans fr General Fund	4,639,500	Trans fr General Fund	35,000	Trans fr General Fund	948,314	Trans fr General Fund	380,010			
Trans fr Spec Highway	589,245	Trans fr Spec Alcohol	0							
Trans fr Spec Park	86,000	Insurance Reimb	40187							
Trans fr Eco Devo	117,000									
Total Receipts	6,160,450	Total Receipts	79989	Total Receipts	993859	Total Receipts	384071	Total Receipts	6564	7,624,933
Resources Available:	8,433,002	Resources Available:	164,677	Resources Available:	2,498,350	Resources Available:	384,071	Resources Available:	6,564	11,486,664
Expenditures:		Expenditures:		Expenditures:		Expenditures:		Expenditures:		
Infrastructure	5,956,049	Insurance Deductibles	96,902	Urban Mgmt & Planning	66,868	Equipment Purchases	108,593	Public Safety	6,564	
				Trans to Capital Proj	117,000					
Total Expenditures	5,956,049	Total Expenditures	96902	Total Expenditures	183868	Total Expenditures	108593	Total Expenditures	6564	6,351,976
Cash Balance Dec 31	2,476,953	Cash Balance Dec 31	67,775	Cash Balance Dec 31	2,314,482	Cash Balance Dec 31	275,478	Cash Balance Dec 31	0	5,134,688 **
										5,134,688 **

**Note: These two block figures should agree.

NOTICE OF BUDGET HEARING

The governing body of
City of Prairie Village
will meet on the 3rd day of August, 2009, at 8:00 p.m. at 7700 Mission Road for the purpose of
hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of ad valorem tax.

Detailed budget information is available at the Prairie Village Municipal Offices, 7700 Mission Road
and will be available at this hearing.

BUDGET SUMMARY

Proposed Budget 2010 Expenditures and Amount of 2009 Ad Valorem Tax establish the maximum limits of the 2010 budget.
Estimated Tax Rate is subject to change depending on the final assessed valuation.

FUND	Prior Year Actual for 2008		Current Year Estimate for 2009		Proposed Budget for 2010		
	Expenditures	Actual Tax Rate *	Expenditures	Actual Tax Rate *	Expenditures	Amount of 2009 Ad Valorem Tax	Estimate Tax Rate *
General	18,349,920	16.388	16,264,642	16.897	20,853,421	4,958,446	17.279
Bond & Interest	554,770	1.745	443,436	1.285	306,278	259,061	0.903
Special Highway	589,245		540,000		560,000		
Solid Waste Management	1,298,636		1,398,297		1,486,809		
Stormwater Utility			1,443,413		1,517,301		
Special Parks	86,000		104,717		86,000		
Special Alcohol	86,979		88,770		87,202		
Non-Budgeted Funds-A	6,351,976						
Totals	27,317,526	18.133	20,283,275	18.182	24,897,011	5,217,507	18.182
Less: Transfers	6,678,069		4,896,084		8,909,569		
Net Expenditure	20,639,457		15,387,191		15,987,442		
Total Tax Levied	5,223,069		5,316,020		xxxxxxxxxxxxxxxxxxxx		
Assessed Valuation	288,042,190		292,384,855		286,960,008		

Outstanding Indebtedness,			
January 1,	<u>2007</u>	<u>2008</u>	<u>2009</u>
G.O. Bonds	2,135,000	1,680,000	1,205,000
Revenue Bonds	0	0	0
Other	0	0	0
Lease Purchase Principal	0	0	0
Total	<u>2,135,000</u>	<u>1,680,000</u>	<u>1,205,000</u>

*Tax rates are expressed in mills

City Official Title: _____ City Clerk

**City of Prairie Village
2010 Budget
Budget Summary - All Funds**

**City of Prairie Village
2010 Budget
Budget Summary - All Funds**

	General Fund	Solid Waste Management	Special Highway	Stormwater Utility	Special Parks & Rec	Special Alcohol	Bond & Interest	Subtotal - Budgeted Funds	Capital Projects	Risk Management	Economic Development	Equipment Reserve	All Funds Total
Fund Balance 1/1	4,842,607	163,395	-	-	2,614	9,968	22,374	5,040,957	1,180,413	93,275	2,172,698	301,862	8,789,206
Revenues:													
Property Taxes	4,958,446	-	-	-	-	-	259,061	5,217,507	-	-	-	-	5,217,507
Sales Taxes	4,478,000	-	-	-	-	-	-	4,478,000	-	-	-	-	4,478,000
Use Tax	850,000	-	-	-	-	-	-	850,000	-	-	-	-	850,000
Motor Vehicle Tax	525,288	-	-	-	-	-	39,957	565,245	-	-	-	-	565,245
Liquor Tax	86,000	-	-	-	86,000	86,000	-	258,000	-	-	-	-	258,000
Franchise Fees	1,765,000	-	-	-	-	-	-	1,765,000	-	-	-	-	1,765,000
Licenses & Permits	458,700	4,000	-	7,000	-	-	-	469,700	-	-	-	-	469,700
Intergovernmental	5,000	-	560,000	-	-	-	-	565,000	592,000	-	-	-	1,157,000
Charges for Services	1,688,000	1,467,095	-	1,505,301	-	-	-	4,660,396	-	-	-	-	4,660,396
Fines & Fees	1,113,500	-	-	-	-	-	-	1,113,500	-	-	-	-	1,113,500
Recreational Fees	472,000	-	-	-	-	-	-	472,000	-	-	-	-	472,000
Interest on Investments	150,000	1,000	-	5,000	-	-	200	156,200	-	500	10,000	500	167,200
Miscellaneous	60,000	-	-	-	-	-	-	60,000	-	-	-	-	60,000
Total Revenue	16,609,934	1,472,095	560,000	1,517,301	86,000	86,000	299,218	20,630,548	592,000	500	10,000	500	21,233,548
Transfers from Other funds:													
Transfer from General Fund	-	-	-	-	-	-	-	-	2,725,000	35,000	-	485,500	3,245,500
Transfer from Solid Waste Management	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfer from Stormwater Utility Fund	443,551	-	-	-	-	-	-	443,551	679,000	-	-	90,000	1,212,551
Transfer from Special Highway Fund	-	-	-	-	-	-	-	-	560,000	-	-	-	560,000
Transfer from Special Parks & Rec Fund	-	-	-	-	-	-	-	-	86,000	-	-	-	86,000
Transfer from Special Alcohol Fund	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	443,551	-	-	-	-	-	-	443,551	4,050,000	35,000	-	575,500	4,660,500
Total Sources	17,053,485	1,472,095	560,000	1,517,301	86,000	86,000	299,218	21,074,099	4,642,000	35,500	10,000	576,000	25,894,048
Expenditures:													
Personal Services	8,340,135	22,268	-	-	-	64,010	-	8,426,413	-	-	-	-	8,426,413
Contract Services	4,009,626	1,464,541	-	25,000	-	19,412	-	5,518,579	-	15,000	70,000	-	5,603,579
Commodities	935,760	-	-	-	-	3,780	-	939,540	-	-	-	-	939,540
Capital Outlay	284,032	-	-	-	-	-	-	284,032	-	-	-	250,000	534,032
Debt Service	-	-	-	-	-	-	306,278	306,278	-	-	-	-	306,278
Infrastructure	-	-	-	-	-	-	-	-	4,859,000	-	-	-	4,859,000
Equipment Reserve	-	-	-	-	-	-	-	-	-	-	-	-	-
Risk Management Reserve	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital Project Reserve	-	-	-	-	-	-	-	-	-	-	-	-	-
Contingency	500,000	-	-	12,600	-	-	-	512,600	-	-	-	-	512,600
Total Expenditures	14,069,553	1,486,809	-	37,600	-	87,202	306,278	15,987,442	4,859,000	15,000	70,000	250,000	21,181,442
Transfers to Other Funds:													
Transfer to General Fund	-	-	-	443,551	-	-	-	443,551	-	-	-	-	443,551
Transfer to Capital Projects Fund	3,153,556	-	560,000	946,150	86,000	-	-	4,745,706	-	-	-	-	4,745,706
Transfer to Risk Management Fund	35,000	-	-	-	-	-	-	35,000	-	-	-	-	35,000
Transfer to Economic Development Fund	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfer to Equipment Reserve Fund	485,500	-	-	90,000	-	-	-	575,500	-	-	-	-	575,500
Total	3,674,056	-	560,000	1,479,701	86,000	-	-	5,799,757	-	-	-	-	5,799,757
Total Uses	17,743,609	1,486,809	560,000	1,517,301	86,000	87,202	306,278	21,787,199	4,859,000	15,000	70,000	250,000	26,981,199
Sources Over(Under) Uses	(690,124)	(14,714)	-	-	-	(1,202)	(7,060)	(713,100)	(217,000)	20,500	(60,000)	326,000	(1,087,151)
Fund Balance @ 12/31	4,152,483	148,681	-	-	2,614	8,766	15,314	4,327,858	963,413	113,775	2,112,698	627,862	7,702,055



PLANNING COMMISSION

Council Meeting Date: July 20, 2009

COU2009-25 Consider Amendment to Zoning Ordinance Chapter 19.52

RECOMMENDATION

Recommend the City Council adopt an Ordinance amending Chapter 19.52 of the Prairie Village Municipal Code entitled "Procedural Provisions" and Chapter 19.28 entitled "Special Use Permits"

BACKGROUND

The City's Zoning Ordinance is inconsistent with the City Code and State Statutes regarding action by the Governing Body. Since the Zoning Ordinance was adopted, the City has adopted a definition of Governing Body that includes the Mayor and City Council. The Planning Statutes state that a two-thirds majority vote is required by the Governing Body to override the Planning Commission. Since the Governing Body of Prairie Village consists of 13 members it requires nine votes to override. The current Zoning Ordinance specifies City Council rather than Governing Body therefore, ordinance revisions were prepared to bring the zoning ordinance into compliance with the City Code and State Statute.

The Kansas Planning Laws are specific about Zoning Change requests, but leave the procedure for consideration of Special Use Permits to the discretion of the City. Changes have been made to Chapter 19.28 "Special Use Permit" making the procedures consistent with those of zoning changes or amendments. A public hearing was held on these proposed revisions on July 7, 2009, before the Planning Commission. No one was present to speak on the changes.

ATTACHMENTS

Planning Commission minutes of July 7, 2009
Proposed Ordinance

PREPARED BY

Joyce Hagen Mundy
City Clerk
Date: July 13, 2009

**PLANNING COMMISSION MINUTES
JULY 7, 2009**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, July 7, 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, Marlene Nagel and Nancy Vennard.

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

APPROVAL OF MINUTES

Bob Lindeblad moved the approval of the minutes of June 2, 2009 as submitted. The motion was seconded by Randy Kronblad and passed by a vote of 4 to 0 with Marlene Nagel & Dirk Schafer abstaining due to their absence on June 2nd.

PUBLIC HEARINGS

Chairman Ken Vaughn reviewed the rules of procedure to be followed for the public hearing.

**PC2009-09 Revisions to the Prairie Village Zoning Regulations
Chapter 19.48 entitled "Special Use Permit" & Chapter
19.52 entitled "Procedural Provisions"**

At its regular meeting on June 2, 2009, the Planning Commission authorized a Public Hearing for the July 7, 2009 Planning Commission meeting to consider procedural changes that are needed in the Zoning Ordinance so that it is consistent with City Code and State Statute. Ron Williamson stated the proposed revisions also make the voting procedures for Special Use Permits consistent with those for Zoning Change requests. He noted the Kansas Planning Laws are specific about Zoning Change requests, but leave the procedure for consideration of Special Use Permits to the discretion of the City.

The primary change is in reference to a new definition of the Governing Body which includes all of the City Council and the Mayor. All references to City Council have been changed to "Governing Body" and clearly specifying the voting requirements for action by the Governing Body.

The City procedure for filing applications is different now than in the past. Chapter 19.52 Procedural Provisions refers to the Building Official and that is now the City Clerk. This has been revised as well. The following are proposed changes by Section. Language to be deleted is lined out and new language to be included is in italics.

CHAPTER 19.52 PROCEDURAL PROVISIONS

19.52.000 **Governing Body.**

Governing Body means the twelve (12) members of the City Council plus the Mayor for a total of thirteen (13) members.

19.52.005 ~~Applicant.~~ **Application.**

A proposed amendment that affects specific property may be initiated by application of the owner of the property affected, the Planning Commission or the ~~City Council~~ **Governing Body**. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the ~~City Planning Commission~~ and duly filed with the ~~Building Official~~ **City Clerk or their designee**.

A proposed amendment to supplement, change or generally revise the boundaries or zoning regulations may be initiated by the ~~City Council~~ **Governing Body** or Planning Commission.

19.52.015 **Public Hearing.**

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the Planning Commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the Planning Commission, be continued for a definite time to be specified in the record of the Commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less than twenty (20) days exclusive of the days of the publication and hearing, prior to the date of said hearing before the Commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed change to all the owners of lands located within two hundred (200) feet, except public streets and ways, of the area proposed be rezoned at least twenty (20) days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the

form of a letter explaining the proposed change. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the ~~Building Official~~ **City Clerk or their designee**, not less than six (6) days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

19.52.035 Planning Commission Action.

After the public hearing, the Planning Commission, by a majority of members present and voting, shall be required to recommend approval or denial of the amendment to the ~~City Council~~ **Governing Body**. If the Planning Commission fails to make a recommendation on a rezoning request, it shall be deemed to have made a recommendation of disapproval. The Planning Commission shall submit its recommendation, and the reasons therefore, to the ~~City Council~~ **Governing Body**.

19.52.040 ~~City Council~~ Governing Body Action.

After receipt of the Planning Commission's recommendations of any such amendment, the ~~City Council~~ **Governing Body** may:

1. Adopt such recommendation by a simple majority (7 votes) and if it is to approve a change, adopt an ~~by ordinance~~ to that effect;
2. Override such recommendation by a 2/3 majority vote of the membership of the ~~City Council~~ **Governing Body** (9 votes) and if it is to approve a change, adopt an ~~by ordinance~~ to that effect; or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the ~~City Council~~ **Governing Body's** failure to approve or disapprove ~~by a simple majority of the quorum present~~.

If the ~~City Council~~ **Governing Body** returns the recommendations, the Planning Commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the ~~City Council~~ **Governing Body** following the Planning Commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the ~~City Council~~ **Governing Body** may adopt or it may revise or amend and adopt such recommendation by a simple majority (7 votes) thereof or it need take no further action.

19.52.045 Protest.

Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the Office of the ~~Building Official~~ **City Clerk** within 14 days after the date of the conclusion of the public hearing pursuant to the

publication notice, the ordinance adopting such amendment shall not be passed except by at least a 3/4 vote of all members of the ~~City Council~~ **Governing Body (10 votes)**, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified of the proposed rezoning of specific property, excluding streets and public ways.

CHAPTER 19.28 SPECIAL USE PERMITS

19.28.000 Governing Body.

Governing Body means the twelve (12) members of the City Council plus the Mayor for a total of thirteen (13) members.

19.28.010 Application.

A special use permit application shall be initiated by the owner of the property affected. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owners. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the City Planning Commission and duly filed with the City Clerk or their designee.

19.28.020 Public Hearing Notice.

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the Planning Commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the Planning Commission, be continued for a definite time to be specified in the record of the Commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less than twenty (20) days or more than forty (40) days, exclusive of the days of the publication and hearing, prior to the date of said hearing before the Commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed special use permit to all the owners of lands located within two hundred feet, except public streets and ways, of the application area at least twenty (20) days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter describing the proposed special use. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner

occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the City Clerk or their designee, not less than six (6) days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

In the case of an application for a special use which may, in the opinion of the Commission or Governing Body, substantially change traffic patterns, or create traffic congestion, either body may, by motion, require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such study shall show whether or not the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner and that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner.

19.28.035 Factors for Consideration.

The Planning Commission and ~~City Council~~ Governing Body shall make findings of fact to support their decision to approve or disapprove a Special Use Permit. (~~Ord. 1973, Sec. I, 1999~~)

19.28.040 Planning Commission Action.

After the public hearing, the Planning Commission, by a majority of members present and voting, shall be required to recommend approval, approval subject to conditions, or denial of the special use permit to the ~~City Council~~ Governing Body. If the Planning Commission fails to make a recommendation, it shall be deemed to have made a recommendation of disapproval. The Planning Commission shall submit its recommendation and the reasons therefore to the ~~City Council~~ Governing Body.

19.28.045 ~~City Council~~ Governing Body Action.

After receipt of the Planning Commission's recommendation, the ~~City Council~~ Governing Body may:

- A. Adopt such recommendation by simple majority (7 votes) and if the recommendation is to approve, adopt an by ordinance to that effect;
- B. Override such recommendation by a 2/3 majority vote of the membership of the ~~City Council~~ Governing Body (9 votes) and if it is to approve a change, adopt an by ordinance to that effect; or
- C. Return such recommendation to the Planning Commission with a statement specifying the basis for the ~~City Council's~~ Governing Body's failure to approve or disapprove by a simple majority of the quorum present.

If the ~~City Council~~ Governing Body returns the recommendations, the Planning Commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the ~~City~~

~~Council~~ **Governing Body** following the Planning Commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the ~~City Council~~ **Governing Body** may adopt or may revise or amend and adopt such recommendation by a simple majority (**7 votes**) thereof or it need take no further action.

19.28.050 Conditions of Approval.

In granting a Special Use Permit, the Planning Commission and ~~City Council~~ **Governing Body** may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to reduce or minimize any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

19.28.065 Revocation of Special Use Permits.

Special use permits may be revoked by the ~~City Council~~ **Governing Body** *for:*

Dennis Enslinger advised that the City Attorney had reviewed and approved the proposed revisions.

No one was present to speak on this application. Chairman Ken Vaughn closed the public hearing at 8:05 p.m.

Randy Kronblad moved the Planning Commission forward the proposed revisions to the Governing Body with their recommendation for adoption. The motion was seconded by Nancy Vennard and passed by a vote of 6 to 0.

**PC2009-10 Amendment to Prairie Village Comprehensive Plan
Village Vision, to include the Prairie Village Parks &
Recreation Master Plan 2009**

Village Vision addressed Parks and Recreation in a big picture sense through the establishment of broad goals as set out in several chapters as follows:

- **Chapter 4. Neighborhoods**, pages 4.4, 4.5 and 4.6.
- **Chapter 5. Civic and Park Enhancement**, pages 5.1 through 5.9.
- **Chapter 8. Potential Redevelopment**, page 8.4.
- **Chapter 11. Goals and Actions**, pages: 11.3 CC2a; 11.4 - B. Community Facilities and Services; 11.5 - CFS1. Community Center; 11.5 - CFS2. Parks and Green Space; 11.18 - Transportation Issues; 11.19 TR1 Bike and Pedestrian Friendly.

Village Vision also recommended specific actions in Chapter 12 as follows:

Ordinance No. _____

AN ORDINANCE AMENDING CHAPTER 19.52 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, ENTITLED "PROCEDURAL PROVISIONS" AND CHAPTER 19.28 ENTITLED "SPECIAL USE PERMITS" BY REPEALING THE EXISTING CHAPTERS AND ADOPTING NEW CHAPTERS OF THE SAME NAME AND TITLE.

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

Section I. Planning Commission Recommendation.

After having received a recommendation from the Planning Commission and proper notice having been published and hearing held on July 7, 2009, as provided by law and under the authority of and subject to the provisions of the Zoning Regulations of the City of Prairie Village, Kansas, the Zoning Ordinance is amended as set forth in Sections II, III and VI.

Section II.

Chapter 19.52 of the Prairie Village Municipal Code, entitled "Procedural Provisions" and Chapter 19.28 entitled "Special Use Permits" are hereby repealed

Section III. :

A new Chapter 19.52 of the Prairie Village Municipal Code, entitled "Procedural Provisions" is hereby adopted to read as follows:

CHAPTER 19.52 PROCEDURAL PROVISIONS

19.52.000 Governing Body.

Governing Body means the twelve (12) members of the City Council plus the Mayor for a total of thirteen (13) members.

19.52.005 Application.

A proposed amendment that affects specific property may be initiated by application of the owner of the property affected, the Planning Commission or the Governing Body. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the City and duly filed with the City Clerk or their designee.

A proposed amendment to supplement, change or generally revise the boundaries or zoning regulations may be initiated by the Governing Body or Planning Commission.

19.52.015 Public Hearing.

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the Planning Commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the Planning Commission, be continued for a definite time to be specified in the record of the Commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less

than twenty (20) days exclusive of the days of the publication and hearing, prior to the date of said hearing before the Commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed change to all the owners of lands located within two hundred (200) feet, except public streets and ways, of the area proposed be rezoned at least twenty (20) days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the City Clerk or their designee, not less than six (6) days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

19.52.035 Planning Commission Action.

After the public hearing, the Planning Commission, by a majority of members present and voting, shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning Commission fails to make a recommendation on a rezoning request, it shall be deemed to have made a recommendation of disapproval. The Planning Commission shall submit its recommendation, and the reasons therefore, to the Governing Body.

19.52.040 Governing Body Action.

After receipt of the Planning Commission's recommendations of any such amendment, the Governing Body may:

1. Adopt such recommendation by a simple majority (7 votes) and if it is to approve a change, adopt an by ordinance to that effect;
2. Override such recommendation by a 2/3 majority vote of the membership of the Governing Body (9 votes) and if it is to approve a change, adopt an by ordinance to that effect; or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a simple majority of the quorum present.

If the Governing Body returns the recommendations, the Planning Commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the Governing Body may adopt or it may revise or amend and adopt such recommendation by a simple majority (7 votes) thereof or it need take no further action.

19.52.045 Protest.

Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, the ordinance adopting such amendment shall not be

passed except by at least a 3/4 vote of all members of the Governing Body (10 votes), signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified of the proposed rezoning of specific property, excluding streets and public ways.

19.52.50 Lesser Districts

The Planning Commission may recommend a lesser change than that requested. Lesser change is deemed to be a more restrictive change. The restrictiveness of the zoning classifications in this code and title are established in the following descending order from most restrictive to least restrictive:

1. MXID
2. R-1a & RP-1a
3. R-1b & RP-1b
4. R-2 & RP-2
5. R-3 & RP-3
6. R-4 & RP-4
7. C-3
8. C-0 & CP-0
9. C-1 & CP-1
10. C-2 & CP-2

Section IV. :

A new Chapter 19.28 of the Prairie Village Municipal Code, entitled "Special Use Permits" is hereby adopted to read as follows:

CHAPTER 19.28 SPECIAL USE PERMITS

19.28.000 Governing Body.

Governing Body means the twelve (12) members of the City Council plus the Mayor for a total of thirteen (13) members.

19.28.010 Application.

A special use permit application shall be initiated by the owner of the property affected. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owners. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the City Planning Commission and duly filed with the City Clerk or their designee.

19.28.020 Public Hearing Notice.

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the Planning Commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the Planning Commission, be continued for a definite time to be specified in the record of the Commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less than twenty (20) days or more than forty (40) days, exclusive of the days of the publication and hearing, prior to the date of said hearing before the Commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used,

said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed special use permit to all the owners of lands located within two hundred feet, except public streets and ways, of the application area at least twenty (20) days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter describing the proposed special use. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the City Clerk or their designee, not less than six (6) days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

In the case of an application for a special use which may, in the opinion of the Commission or Governing Body, substantially change traffic patterns, or create traffic congestion, either body may, by motion, require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such study shall show whether or not the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner and that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner.

19.28.035 Factors for Consideration.

The Planning Commission and Governing Body shall make findings of fact to support their decision to approve or disapprove a Special Use Permit.

19.28.040 Planning Commission Action.

After the public hearing, the Planning Commission, by a majority of members present and voting, shall be required to recommend approval, approval subject to conditions, or denial of the special use permit to the Governing Body. If the Planning Commission fails to make a recommendation, it shall be deemed to have made a recommendation of disapproval. The Planning Commission shall submit its recommendation and the reasons therefore to the Governing Body.

19.28.045 Governing Body Action.

After receipt of the Planning Commission's recommendation, the Governing Body may:

- A. Adopt such recommendation by simple majority (7 votes) and if the recommendation is to approve, adopt an ordinance to that effect;
- B. Override such recommendation by a 2/3 majority vote of the membership of the Governing Body (9 votes) and if it is to approve a change, adopt an ordinance to that effect; or
- C. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a simple majority of the quorum present.

If the Governing Body returns the recommendations, the Planning Commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, such inaction shall be deemed a resubmission of the original

recommendation. Upon the receipt of any such recommendation, the Governing Body may adopt or may revise or amend and adopt such recommendation by a simple majority (7 votes) thereof or it need take no further action.

19.28.050 Conditions of Approval.

In granting a Special Use Permit, the Planning Commission and Governing Body may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to reduce or minimize any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

19.28.065 Revocation of Special Use Permits.

Special use permits may be revoked by the Governing Body for:

- A. A violation of the ordinances of this City including, but not limited to, the zoning regulations;
- B. A violation of the district regulations; and
- C. A violation of non-compliance with the conditions, limitations or requirements contained in the special use permit or these regulations.

19.28.70 Specifically Listed Special Use Permits

Any of the following uses may be located in any district by special use permit in accordance with Section 19.28.005: unless otherwise noted:

- A. Country clubs, or private clubs or clubs which serve food and alcoholic, wine and cereal malt beverages;
- B. Cemeteries;
- C. Columbariums;
- D. Hospitals;
- E. Nursery sales office, building, greenhouse or area (wholesale or retail);
- F. Nursing and convalescent homes as defined by state statutes; but not including group homes;
- G. Buildings, structures, towers and premises for public utility services or public service corporations whether located in public right-of-way or on easements on private property except that the following shall be specifically excluded from the Special Use Permit requirements: utility poles, utility boxes; and underground utility lines;
- H. Assembly halls;
- I. Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use. Not less than seven hundred square feet of land shall be provided for each bed in a nursing or continuous care facility. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises on the maximum shift, provided; however, that this section shall not apply to group homes;
- J. Service stations in C-1, C-2 & C-3 Districts only; not including automatic car wash; provided that all gasoline storage tanks shall be located below the surface of the ground. Display and service racks for new stock normally

carried by filling stations, including oils and tires, may be placed outside the building during business hours;

- K. Automatic and semiautomatic car washes, continuous line car washes, self-service car washes, manual car washes and all other car washing facilities located separately or in relation to the operation of a service station in C-1, C-2 & C-3 Districts only;
- L. Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 & C-3 Districts only provided such use shall not be less than two hundred feet from any existing clinic, hospital, school, church or district R-1 to R-4 inclusive, unless approved by the Governing Body under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use;
- M. Mortuaries and funeral homes - in C-0, C-1, C-2 & C-3 Districts only;
- N. Day Care Centers in residential districts;
- O. Drinking Establishments - Bar or Night Club - C-1, C-2 & C-3 Districts only;
 - a. The initial approval shall be for a period of three years;
 - b. Subsequent renewals may be for periods up to ten years, but shall not be in excess of the lease term or options thereof;
- P. Accessory uses to motels includes but not limited to restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;
- Q. Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;
- R. Utility or Storage Buildings: Detached storage or utility buildings for nonresidential uses.
- S. Wireless Communications Towers and antennas constructed or installed for use by commercial carriers;
- T. Private Schools, Colleges and University Education Centers.

Section IV. Repeal of Prior Ordinances.

All ordinances and parts thereof that are inconsistent with any provision of this ordinance are hereby repealed.

Section V. Effective Date

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

PASSED AND APPROVED THIS 20th day of July, 2009

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney



PLANNING COMMISSION

City Council Meeting Date: July 20, 2009

COU2009-75: Consider amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan 2009 (Planning Commission Item PC2009-10)

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 2199 approving an amendment to the Prairie Village Comprehensive Plan, Village Vision, to include by reference the Prairie Village Parks & Recreation Master Plan 2009.

BACKGROUND

The City Council adopted Resolution No. 2009-4 adopting the Prairie Village Parks & Recreation Master Plan 2009 on June 1, 2009. In accordance with K.S.A. 12-747 and Section 16 of the Prairie Village Municipal Code, the Planning Commission was directed to consider an amendment to the City's Comprehensive Plan, Village Vision, to include the Village Parks & Recreation Master Plan 2009.

The Planning Commission held a public hearing on July 7, 2009 pursuant to K.S.A. 12-747 and Section 16 of the Prairie Village Municipal Code. After due consideration of the proposed amendments and public testimony, the Planning Commission has recommended the adoption of the proposed amendments and adopted Resolution PC2009-01 by a unanimous vote.

Staff has drafted an ordinance for the Council's consideration which has been reviewed and approved by the City Attorney (see attachments).

The City Council has the following options regarding the proposed recommendation:

- 1) Approve the proposed recommendations by adopting Ordinance No. 2199.
This action takes a simple majority of the Governing Body or 7 votes.
- 2) Override the Planning Commissions Recommendation by a 2/3 majority vote.
This takes a vote of 9 members of the Governing Body.
- 3) Remand the proposed amendments back to the Planning Commission for further consideration with a statement as the basis for the governing body's failure to approve or disapprove.
This action takes a simple majority vote of those present.
- 4) Table the item to a future date.
This action takes a simple majority vote of those present.

ATTACHMENTS

Planning Commission minutes of July 7, 2009
July 7, 2009 Planning Commission Staff Report
Planning Commission Resolution PC2009-01

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: July 14, 2009

~~City Council~~ **Governing Body** following the Planning Commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the ~~City Council~~ **Governing Body** may adopt or may revise or amend and adopt such recommendation by a simple majority (**7 votes**) thereof or it need take no further action.

19.28.050 Conditions of Approval.

In granting a Special Use Permit, the Planning Commission and ~~City Council~~ **Governing Body** may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to reduce or minimize any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

19.28.065 Revocation of Special Use Permits.

Special use permits may be revoked by the ~~City Council~~ **Governing Body** *for:*

Dennis Enslinger advised that the City Attorney had reviewed and approved the proposed revisions.

No one was present to speak on this application. Chairman Ken Vaughn closed the public hearing at 8:05 p.m.

Randy Kronblad moved the Planning Commission forward the proposed revisions to the Governing Body with their recommendation for adoption. The motion was seconded by Nancy Vennard and passed by a vote of 6 to 0.

**PC2009-10 Amendment to Prairie Village Comprehensive Plan
Village Vision, to include the Prairie Village Parks &
Recreation Master Plan 2009**

Village Vision addressed Parks and Recreation in a big picture sense through the establishment of broad goals as set out in several chapters as follows:

- **Chapter 4. Neighborhoods**, pages 4.4, 4.5 and 4.6.
- **Chapter 5. Civic and Park Enhancement**, pages 5.1 through 5.9.
- **Chapter 8. Potential Redevelopment**, page 8.4.
- **Chapter 11. Goals and Actions**, pages: 11.3 CC2a; 11.4 - B. Community Facilities and Services; 11.5 - CFS1. Community Center; 11.5 - CFS2. Parks and Green Space; 11.18 - Transportation Issues; 11.19 TR1 Bike and Pedestrian Friendly.

Village Vision also recommended specific actions in Chapter 12 as follows:

- **Chapter 12. Implementation** page 12.9. TR1.a and TR1.b; page 12.11 CFS1.a, pages 2.12-2.13, Enhancing Parks and Open Space. The Summary of Actions Table starting on page 12.14 provides an overall organization by Goal/Theme. See Sections CC2A, CFS1A, CFS2A, CFS2B on page 12.14; Sections TR1A and TR1B on page 12.17.

The Parks and Recreation Master Plan addressed these issues and provided more specific recommendations and actions. Mr. Williamson stated it is not necessary to delete or revise these sections in the Village Vision, but the Parks and Recreation Master Plan should be incorporated as it provides a higher level of detail than Village Vision. In Section 4, Vision and Goals, pages 2-6, the Park Master Plan addressed most of the items in Village Vision. **Chapter 5. Civic and Park Enhancement** should be amended to add the Prairie Village Parks and Recreation Master Plan 2009 with the caveat that since its recommendations are more detailed, it will supercede the general recommendations in the Plan. **Chapter 12. Implementation** will need to be updated at a later date when all actions are reviewed including those relating to Parks and Recreation and others.

The Governing Body has approved the Parks Master Plan, which presents a much more detailed analysis, discussion and recommendations on each specific park and was prepared under the guidance of a Park Master Plan Committee. In order for the Plan to be officially adopted as a part of the Village Vision it must be considered by the Planning Commission.

Dirk Schafer asked why this was not included in Village Vision. Randy Kronblad responded this was a recommendation of Village Vision which has been followed with its findings now being incorporated by reference as a part of Village Vision.

Nancy Vennard moved the Planning Commission adopt a resolution amending Village Vision to incorporate the Prairie Village Parks and Recreation Master Plan 2009 by reference into **Chapter 5. Civic and Park Enhancement** and submit said Resolution and Master Plan to the Governing Body for its approval. The motion was seconded by Randy Kronblad and passed by a vote of 6 to 0.

Ron Williamson announced that the action items of Village Vision will be reviewed in a joint meeting of the Governing Body and Planning Commission scheduled for Monday, September 21st at 6 p.m.

**PC2009-109 Request for Site Plan Approval for Highlawn Montessori School
at 3531 and 3409 Somerset Drive
Current Zoning: R-1a**

Kathy Morrison, Director of Highlawn Montessori School, Oliver Trug, President of the Board, and Board member John Coe presented the application. Ms. Morrison stated the school purchased the adjacent property three years ago for possible expansion. They have determined the best utilization of the property would be as open space and



BWR | Right in the Center

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, BWR, Planning Consultant
SUBJECT: PC 2009-10: Amendment to Prairie Village Comprehensive Plan to Incorporate the Prairie Village Parks and Recreation Master Plan 2009
DATE: July 7, 2009 BWR Project # 2009-0024.01.0002

COMMENTS:

Village Vision addressed Parks and Recreation in a big picture sense through the establishment of broad goals as setout in several chapters as follows:

- **Chapter 4. Neighborhoods**, pages 4.4, 4.5 and 4.6.
- **Chapter 5. Civic and Park Enhancement**, pages 5.1 through 5.9.
- **Chapter 8. Potential Redevelopment**, page 8.4.
- **Chapter 11. Goals and Actions**, pages: 11.3 CC2a; 11.4 – B. Community Facilities and Services; 11.5 – CFS1. Community Center; 11.5 - CFS2. Parks and Green Space; 11.18 - Transportation Issues; 11.19 TR1 Bike and Pedestrian Friendly.

Village Vision also recommended specific actions in Chapter 12 as follows:

- **Chapter 12. Implementation** page 12.9. TR1.a and TR1.b; page 12.11 CFS1.a, pages 2.12-2.13, Enhancing Parks and Open Space. The Summary of Actions Table starting on page 12.14 provides an overall organization by Goal/Theme. See Sections CC2A, CFS1A, CFS2A, CFS2B on page 12.14; Sections TR1A and TR1B on page 12.17.

The Parks and Recreation Master Plan addressed these issues and provided more specific recommendations and actions. It is not necessary to delete or revise these sections in the Village Vision, but the Parks and Recreation Master Plan should be incorporated because it provides a higher level of detail than Village Vision. In Section 4 Vision and Goals, pages 2-6, the Park Master Plan addressed most of the items in Village Vision. **Chapter 5. Civic and Park Enhancement** should be amendment to add the Prairie Village Parks and Recreation Master Plan 2009 with the caveat that since its recommendations are more detailed, it will supersede the general recommendations in the Plan. **Chapter 12. Implementation** will need to be updated at a later date when all actions are reviewed including those relating to Parks and Recreation and others. It is proposed that this will be presented to a joint City Council/Planning Commission meeting September 21st.

RECOMMENDATIONS:

It is the recommendation of Staff that the Planning Commission adopt a resolution amending Village Vision to incorporate the Prairie Village Parks and Recreation Master Plan 2009 by reference into **Chapter 5. Civic and Park Enhancement** and submit said Resolution and Master Plan to the Governing Body for its approval. A copy of the proposed Resolution is attached.

BUCHER, WILLIS & RATLIFF CORPORATION

903 East 104th Street | Suite 900 | Kansas City, Missouri 64131-3451 | P 816.363.2696 | F 816.363.0027 | www.bwrcorp.com
engineering | planning | architecture

RESOLUTION NO. PC2009-01

A RESOLUTION AMENDING THE VILLAGE VISION STRATEGIC INVESTMENT PLAN, 2007 IDENTIFIED THEREIN, AS THE COMPREHENSIVE PLAN FOR THE CITY OF PRAIRIE VILLAGE KANSAS.

WHEREAS, the City of Prairie Village has a duly constituted Planning Commission as required by law; and

WHEREAS, the Village Vision Strategic Investment Plan 2007 was adopted by the Planning Commission on May 1, 2007, and by the Governing Body as the Prairie Village Comprehensive Plan on May 21, 2007; and

WHEREAS, the Planning Commission is authorized to adopt, review and amend the Comprehensive Plan of the City, all as authorized by Sections 16-104 and 16-105 of the Prairie Village Municipal Code; and

WHEREAS, the Planning Commission is also authorized by City ordinance to review the Comprehensive Plan of the City on an annual basis and to report to the Governing Body by making suggestions for any amendments, extensions or additions to said plan; and

WHEREAS, Indigo Design, Inc. has prepared the Prairie Village Parks and Recreation Master Plan 2009 including all maps and exhibits identified therein; and

WHEREAS, proper notice was published in the official City newspaper once a least twenty (20) days prior to the public hearing to notify the public that the Planning Commission was reviewing the said Parks and Recreation Master Plan and requesting public input; and

WHEREAS, the public hearing was held on July 7, 2009, and a quorum of the Planning Commission was present to constitute a meeting; and

WHEREAS, the Chairman of the Planning Commission called the meeting to order and declared the public hearing open; and

WHEREAS, the Prairie Village Parks and Recreation Master Plan 2009 and all maps and exhibits identified therein were discussed; and

WHEREAS it was moved and seconded that the report titled Prairie Village Parks and Recreation Master Plan 2009 and all maps and exhibits identified therein, be adopted by reference as an Amendment to Chapter 5. Civic and Park Enhancement of Village Vision and that a certified copy be submitted to the Governing Body; and

WHEREAS, the motion carried unanimously.

NOW, THEREFORE, be it resolved by the Planning Commission of the City of Prairie Village, Kansas, that said Prairie Village Parks and Recreation Master Plan 2009 and all maps and exhibits is hereby incorporated by reference into Chapter 5. Civic and Park Enhancement of Village Vision Strategic Investment Plan, 2007, the Comprehensive Plan for the City of Prairie Village, Kansas.

ADOPTED, at Prairie Village, Kansas on this 7th day of July 2009.

ATTEST

Joyce Hagen Mundy, Secretary
Prairie Village Planning Commission

Kenneth J. Vaughn, Chairman
Prairie Village Planning Commission



PLANNING COMMISSION

City Council Meeting Date: July 20, 2009

COU2009-35: Consider New Zoning Chapter 19.33 entitled Wireless Communications Facilities, deleting Section 19.28.070(s) and amending Section 19.02.449 entitled "Utility Box" (Planning Commission Item PC2009-03)

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 2189, establishing Chapter 19.33, entitled Wireless Communications Facilities and deleting Section 19.28.070(s). In addition, staff recommends the City Council adopt Ordinance No. 2190, amending Section 19.02.449, entitled "Utility Box"

BACKGROUND

At the May 18, 2009 City Council Meeting, the City Council requested that the Planning Commission reconsider several items that were generated by the public during a discussion of the proposed wireless communications facilities ordinance.

The Planning Commission considered the proposed changes at their June 2, 2009 meeting and directed staff to make the changes recommended by staff and to bring a revised final copy of the proposed ordinance for review. The proposed changes are outlined in the attached Planning Commission Staff Report dated July 7, 2009. The changes involved the following Sections; 19.33.025.G, 19.33.030.A. and 19.33.030.D.

The Planning Commission, at their July 7, 2009 meeting, unanimously recommended approval of the proposed changes. The changes are reflected in the draft Ordinance No. 2189, Wireless Communications Facilities. The Planning Commission previously recommended the changes contained in the draft Ordinance No. 2190 at their April 6, 2009 meeting. Legal Counsel has reviewed and approved the proposed draft ordinances.

Because the City Council has already remanded the proposed ordinance back to the Planning Commission, the City Council has the following options regarding the proposed recommendation:

1. The City Council may adopt or may revise or amend and adopt such recommendations by ordinance or it may take no further action thereon
This action takes a simple majority of Governing Body or 7 votes.
2. The City Council may table the item to a future date.
This action takes a majority of those present.

ATTACHMENTS

Planning Commission minutes of July 7, 2009

July 7, 2009 Planning Commission Staff Report

May 18, 2009 City Council Minutes Excerpts

May 4, 2009 City Council Memorandum and Packet Information

Draft Ordinance No. 2189

Draft Ordinance No. 2190

PREPARED BY

Dennis J. Enslinger

Assistant City Administrator

Date: July 14, 2009

**Excerpts from July 7, 2009 Planning Commission
Meeting Minutes**

3. That the proposed location will be adequately screened from the street.

The generator will be screened with shrubs, but no plan has been submitted. A landscape plan should be submitted to Staff for review and approval. Existing landscaping provides adequate screening from the south and only minor landscaping is needed to screen from the street.

4. That the location will not cause significant adverse impact on adjacent properties.

The unit will be approximately 25 feet from the side property line and 55 feet from the adjacent dwelling so it will not have an adverse impact on adjacent property. The unit proposed has a sound decibel of 62 dB. Normal conversation at a distance of three to five feet away is 60 dB. Noise should not be an issue. It was also noted that the garage for the residence to the south is on the north end of the dwelling so there will be no impact on the living space.

5. That the Planning Commission may impose any conditions it deems necessary to mitigate any negative impacts on the proposed location.

The only special condition for this application is the submission of a landscape plan for Staff review and approval.

Randy Kronblad moved the Planning Commission find favorably on the criteria and approve the installation of the Emergency Standby Generator as proposed at 8300 Fontana subject to the following conditions:

1. That the unit be located as shown on the drawing.
2. That the applicant submit a landscape plan to Staff for review and approval.
3. That the maximum noise level be 66 dB and as much noise reduction as possible be incorporated into the unit.
4. That the generator testing only occur between the hours of 8:00 a.m. and 6:00 p.m.
5. That the generator meet all the requirements of city codes regarding installation.

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

OTHER BUSINESS

PC2009-03 Consider Proposed Wireless Communications Facilities Ordinance - Chapter 19.33

At its regular meeting on June 2, 2009, the Planning Commission reconsidered the Proposed Wireless Communications Facilities Ordinance as returned by the Governing Body considering several items that had been generated by the public during the discussion of the proposed ordinance.

It was the consensus of the Planning Commission to make the revisions recommended by Staff and bring a revised final copy of the proposed ordinance for final review and recommendation of the Commission.

Ron Williamson reviewed the changes recommended which replaced the word "dominant" in factors of consideration; adding coverage maps at ten foot intervals;

allowing for a third party analysis and identifying the fall zone for monopoles. The specific language follows with the language to be deleted is lined out and new language is shown in *bold italics*.

19.33.025 Factors For Consideration

- A. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not *cause substantial injury to the value of other properties in* ~~dominate~~ the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will ~~se-~~*dominate cause substantial injury to the value of property in* the immediate neighborhood, consideration shall be given to:

19.33.030 Application Information

- A. 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 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 of City Council 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 timely update the above described study and information during the Special Use Permit process.

- D. Any application for construction of a new wireless communication facility, tower, 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.

Marlene Nagel asked for clarification on stealth definition. Mr. Williamson confirmed a monopole is not a stealth application and that a tree structure would be a stealth application. Dale Beckerman confirmed the tree application could also be considered an "alternative structure".

Chairman Ken Vaughn noted that although this is not a public hearing, he would take relative comments on the changes made.

Harold Neptune, 4722 West 68th Street, stated he is supportive of the proposed ordinance; however, he would like to see the ordinance more directly address structures in residential areas. He felt this ordinance was more appropriate for commercial areas.

Kate Faerber, 4806 West 68th Street, asked how often maintenance of the tower is required. Mr. Williamson responded they are required to maintain the structure at all times. Mrs. Faerber asked specifically about radiation levels. Mr. Williamson stated they need to meet the FCC requirements and that local unites of government could not regulate environmental issues. Dennis Enslinger added the city relies on the FCC to oversee the technical requirements for licensing.

Nancy Vennard moved the Planning Commission forward the proposed ordinance as revised to the Governing Body with their recommendation for adoption. The motion was seconded by Bob Lindeblad and passed by a vote of 6 to 0.

Consider revisions to Chapter 19.34 "Accessory Uses"

Ron Williamson explained Chapter 19.34 has lengthy and detailed requirements for licensing Home Occupations and Child Care Facilities. The problem is that regulations and procedures change and the Zoning Ordinance must be amended. Also, these requirements may be in conflict with the city licensing code and who actually issues the licenses. To simplify this situation, Staff would like to delete the text relating to the administrative process of licensing and simply require that they be licensed. The administrative requirements would be contained in the licensing regulations.

In order to accomplish this, Sections 19.34.010.C, D and E relating to Home Occupations would be deleted and replaced by a new Section 19.34.010.C that reads as follows:

- C. All home occupations shall be licensed by the City of Prairie Village. Procedures for granting and suspension of licenses shall be governed by the administrative regulations of the City. Licensing Applications may be obtained from the City Clerk. Appeals from denials or suspensions or***

July 7, 2009 Planning Commission Staff Report



BWR | Right in the Center

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, BWR, Planning Consultant
SUBJECT: PC 2009-03 : Wireless Communication Facilities Ordinance
DATE: July 7, 2009 BWR Project # 2009-0024.01.0002

COMMENTS:

At its regular meeting on June 2, 2009, the Planning Commission reconsidered the Proposed Wireless Communications Facilities Ordinance as returned by the Governing Body. The Governing Body requested that the Planning Commission consider several items that had been generated by the public during the discussion of the proposed ordinance.

It was the consensus of the Planning Commission to make the revisions recommended by Staff and bring a revised final copy of the proposed ordinance for final review and recommendation of the Commission. Language to be deleted is lined out and new language is shown in *bold italics*.

A. Create a new chapter titled Wireless Communication Facilities

19.33 WIRELESS COMMUNICATION FACILITIES

19.33.005 Intent

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City has diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount. Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character of the City. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time the general safety and welfare of the community is protected.

19.33.010 Purpose

A wireless communication facility, tower or antenna including its equipment, may be sited, constructed, designed or maintained provided that it is in conformance with the stated standards, procedures, and other requirements of this chapter. More specifically, these regulations are necessary to:

- A. Provide for suitable location of wireless communication facilities, towers and antennae so as to mitigate their negative effect on residential neighborhoods and land uses;
- B. Maintain community aesthetics by minimizing the negative visual effects of wireless communication facilities, towers and antennae through specific design and siting criteria;
- C. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;

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- D. Encourage co-location among wireless service providers on existing and newly constructed sites in order to reduce the overall number of towers needed; and
- E. Promote the use of innovative stealth, camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City.

19.33.015 Definitions

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

- A. **Alternative Tower Structure:** This shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. **Antenna:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips.
- C. **Co-location:** The act of siting Telecommunications Facilities from more than one provider in the same location on the same Support Structure as other Telecommunications Facilities. Co-location also means locating Telecommunications Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.
- D. **Equipment:** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
- E. **Equipment Compound:** The area in which the equipment and tower may be located which is enclosed with a fence or wall or is within a building or structure.
- F. **Maintenance:** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself or replacing Antennas and Accessory Equipment on a like-for-like basis on an existing Telecommunications Facility ordinary maintenance also includes maintaining walls, fences and landscaping including the replacement of dead or damaged plants as well as picking up trash and debris. Ordinary Maintenance does not include Modifications.
- G. **Modifications:** Improvements to existing Telecommunications Facilities and Support Structures, that result in some material change to the Facility or Support Structure. Such Modifications include, but are not limited to, extending the height of the Support Structure, replacing the support structure and the expansion of the compound area for additional equipment.
- H. **Monopole:** A single, freestanding pole-type structure supporting one or more Antenna.
- I. **Stealth Telecommunications Facility:** Any Telecommunications Facility that is integrated as an architectural feature of a structure or the landscape so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- J. **Support Structure(s):** Monopoles, Towers, Utility Poles and other freestanding self-supporting structures which supports a device used in transmitting or receiving radio frequency energy.
- K. **Wireless Communications Facility(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular

telephone service, personal communications service (PCS), and paging service. A Wireless Communication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

19.33.020 Special Use Permit Requirement

Unless otherwise excepted herein, wireless communication facilities, towers and antennae shall be allowed only upon approval of a Special Use Permit in accordance with the procedures setout in Chapter 19.28, Special Use Permit.

19.33.025 Factors For Consideration

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit for a wireless facility shall include, but not be limited to the following:

- A. The character of the neighborhood.
- B. The zoning and uses of property nearby.
- C. The extent that a change will detrimentally affect 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.
- E. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
- F. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.
- 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 that the special use will not *cause substantial injury to the value of other properties in* ~~dominate~~ the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will ~~se-dominate~~ *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.
- 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.
- I. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- J. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- 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.
- 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.

M. City Staff recommendations.

19.33.030 Application Information

At the time the application is filed, the applicant shall submit the following information:

- 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 sites and antennas.

If the use of existing towers, alternative tower structures or 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 construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. 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 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 of City Council 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 timely update the above described study and information during the Special Use Permit process.

- 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.
- 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.
- D. Any application for construction of a new wireless communication facility, tower, 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.

- 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 antennae 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.

- F. Preliminary construction schedule including completion dates.
- G. The applicant shall provide a copy of its FCC license.
- H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.
- I. Any other relevant information requested by City Staff.
- J. Application and fee. The applicant shall submit a completed application form with all required attachments and must agree to and reimburse the City for all costs related to the application.

19.33.035 Design Requirements

A. Setbacks

1. The equipment compound shall meet the minimum required setbacks for a principal use in the district in which it is located.
2. Stealth towers and alternative tower structures that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principal building.
3. Non-stealth monopoles or towers 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.
4. The applicant may request a reduction or waiver of the setback requirement. The Planning Commission shall consider the request and make a recommendation to the City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed cell tower installation;
 - b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;
 - 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.

B. Screening and Landscape Buffer

Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence or a permanent building enclosure using materials similar to adjacent structures on the property. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.

Landscaping shall be required around the base or perimeter of the screening wall or fence. A combination of coniferous and deciduous trees and shrubs is required and drought tolerant plant materials are encouraged. When the visual impact of the equipment compound would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission or City Council.

C. Tower/Antennae Design

1. All non-stealth towers shall maintain a hot dipped galvanized finish, and shall be a monopole design unless otherwise approved by the Planning Commission or City Council.
2. All antennae installed on towers shall be internal. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Prairie Village and other governmental agencies are exempt from this requirement.
3. All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached.

4. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure of the background against which they are most commonly seen.
5. All electrical cables shall be installed within the monopole. For installations on buildings, water towers and other structures, cables shall be enclosed with a shield that is painted the same color as the building, water tower, or structure. Underground cables that are a part of the installation shall be required to be located at a safe depth underground.

D. Illumination

Communication towers may be only illuminated if required by the FCC and/or the FAA. Security lighting around the base of the tower may be installed, provided that no light is directed toward an adjacent residential property or public street.

E. Height

The maximum height for a wireless communication tower shall be 150 feet plus a lighting rod not exceeding ten feet (10').

F. Sealed Drawings

The construction plans for the tower shall be prepared and sealed by a structural engineer licensed in the State of Kansas. Construction observation shall be provided by the design engineer provided that said engineer is not an employee of the tower's owner. If the design engineer is an employee of the owner, an independent engineer will be required to perform construction observation.

- G. Anti-perch devices that prevent birds from perching or roosting on the installation shall be installed when appropriate.

19.33.040 Conditions of Approval

The Planning Commission and City Council may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location:

- A. The initial approval of the Special Use Permit shall be for a maximum of five years. At the end of the five year period, the permittee shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council 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 Special Use Permit may then be extended for an additional ten years by the City Council and the permittee shall resubmit after each ten year reapproval. The process for considering a resubmittal shall be the same as for the initial application.
- B. Any tower, antenna or other facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower, antenna or facility shall remove the same within 90 days after receiving notice from the City. If the tower, antenna or facility is not removed within that 90 day period, the governing body may order the tower, antenna or facility removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of the Special Use Permit, the applicant shall submit a bond to the City in an amount adequate to cover the cost of tower removal and the restoration of the site. This bond will be secured for the term of the Special Use Permit plus one additional year. In the event the bond is insufficient and the permittee otherwise fails to cover the expenses of any such removal, the site owner shall be responsible for such expense.

- C. The applicant shall have a structural inspection of the tower performed by a licensed professional engineer licensed in the State of Kansas prior to every five year renewal and submit it as a part of the renewal application.
- D. Any wireless communication facility, tower or antenna which is not 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 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 notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the facility tower antenna and all appurtenances and restore the site to its original condition.
- E. The permittee shall keep the property well maintained including maintenance and replacement of landscape materials; free of leaves, trash and other debris; and either regularly cleaning up bird droppings or installing anti-perch devices that prevent birds from perching on the installation.
- F. 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 facility, tower or antenna 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.
- G. In order to ensure structural integrity, all wireless communication facilities, towers and antennae shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such facilities, towers and antennae that are published by the Electronic Industries Alliance.
- H. All wireless communication facilities, towers and antennae 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 all facilities, towers, and antennae 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.
- I. It shall be the responsibility of any permit holder to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- J. A copy of the lease between the applicant and the landowner containing the following provisions:
1. The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 2. The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.
- K. Information to establish the applicant has obtained all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.

19.33.045 Site Plan Approval

All installations shall have a site plan approval in accordance with Chapter 19.32, Site Plan Approval.

19.33.050 Exceptions

Any wireless communications facility, tower and antennae that are a stealth design, which means that they will be integrated as an architectural feature of a structure or building so that the wireless services installation is not readily apparent to the casual observer, shall be exempt from the Special Use Permit requirements and shall be approved in accordance with Chapter 19.32, Site Plan Approval.

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.

19.33.055 Existing Site Improvements

Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

- A. Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this Chapter. Unless otherwise provided for by the current Special Use Permit, application for such alteration or improvement to an existing site will require approval through an amended Special Use Permit. However, if provided by the current Special Use Permit, such application shall be considered a revised final site plan and will only require submission to and approval of the Planning Commission.
- B. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- C. Additional Antennae. When provided for in the approved capacity limit of a multi-user tower's current Special Use Permit, additional antennae or replacement of current antenna may be added through an application for a revised site plan and will only require submission to and approval by the Planning Commission. Any additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require an amended Special Use Permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- D. In the event that new technology provides a better alternative to the design requirements herein, the Planning Commission may reasonably approve or require design modification of a wireless communication facility, tower or antenna when the appearance of the same is deemed to be less obtrusive than the requirements permitted herein.
- E. Any proposal by a permit holder to replace a current antenna or to alter and improve an existing facility, tower or antenna in a manner to make the same less obtrusive such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antenna to a "slim line" or internal design shall be considered as an amended site plan and will only require submission to and approval by the Planning Commission.
- F. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements, and the cumulative effect of any additional antennae and related facilities must comply with the radio frequency emission guidelines established by the FCC.

19.33.060 Small Wireless Communications Antennae

The location, design and appearance of small wireless communications antennae installations shall be subject to Staff review and approval as follows:

1. Small wireless communication antennae shall mean those whip antennae 6' 0" or less in height and panel antennae with a maximum front surface area of 2.0 square feet and not more than 15" in width, 36" in height, and 4" in depth that can be mounted on an existing utility or street light pole.
2. Prior to installation, the provider shall obtain a permit from the City. If the proposed installation is located in right-of-way, the permit shall be issued in accordance with the City's requirements for a R-O-W permit. Otherwise it shall be issued by the Building Official.
3. The size, location, and appearance of the small wireless antennae will be subject to Staff review and approval. In its discretion, if Staff does not feel the proposed installation meets the intent of this regulation, it may refer approval of the permit to the Planning Commission.
4. Prior to the review and approval of a permit, the applicant shall enter into an agreement whereby it agrees to abide by the requirements of the City's Right-of-Way Ordinance (as applicable) and to protect the City from any liability associated with the proposed installation. Such protection shall include requirements regarding bond, insurance, and indemnification. The agreement shall be applicable to the applicant's subsequent small wireless communication antenna permits and shall be in a form approved by the City's legal counsel.
5. Utility racks will not be permitted and all equipment will be contained within an enclosed utility box. Utility boxes shall be located and installed in accordance with the requirements of the Zoning Regulations as set out in Sections 19.34.020.K and 19.30.055.G.
6. Small antennae will be allowed to be mounted on existing utility and street light poles but the installation of taller utility poles or new overhead wiring to accommodate the antennae will not be permitted unless approved as a Special Use Permit.
7. Not more than three antennae panels and one provider may be located on a utility or street light pole.
8. The coaxial cable connecting the antennae to the equipment box shall be contained inside the pole or shall be flush mounted to the pole and covered with a metal, plastic, or similar material cap that matches the color of the pole and is properly secured and maintained by the provider.
9. The applicant shall provide proof that it is a licensed provider and will comply with all federal, state and city regulations and laws relative to wireless services.
10. The applicant shall provide any relevant information requested by City Staff.
11. Any applicant may appeal a Staff decision to the Planning Commission.
12. Any antenna that is not operated for a continuous period of six months shall be considered abandoned and the owner of such antenna shall remove the same within 90 days after receiving notice from the City. If the antenna is not removed within that 90 day period, the Governing Body may order the antenna removed and may authorize the removal of such antenna at the owner's expense.

19.33.065 Nonconformities

Pre-existing wireless communication facilities, towers and antennae operating with a valid Special Use Permit, shall be considered legal non-conforming structures and shall not be required to meet the mandates of this Ordinance until the expiration of their applicable Special Use Permit.

Changes in other Sections of the Code to be in compliance with new regulations.

19.02.499 Utility Box

Any cabinet, pedestal, box, building, or other equipment enclosure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one-half square foot, a pad of two square feet or less, and a height of 36" or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety.

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 Nonconformities. Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and Maintenance, and Section 19.40.015C Damage, Destruction, and Demolition, and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City Staff.

B. Delete Section 19.28.070.S of the Special Use Permit Chapter as follows:

- S. Wireless Communications Towers and antennae constructed or installed for use by commercial carriers (Ord. 1909, Sec. II, 1997).

RECOMMENDATIONS:

It is the recommendation of Staff that the Planning Commission consider public input and make appropriate revisions to the proposed Wireless Communications Ordinance and forward its recommendation to the City Council.

**Excerpts from May 18, 2009 City Council Meeting
Minutes**

Inc. in the amount of \$20,886.50. The motion was seconded by Dale Beckerman and passed unanimously.

COU2009-57 Consider Bid Award for Mowing Services and change to 2009 Fee Schedule

On behalf of the Council Committee of the Whole, Michael Kelly moved the City Council approve the bid award to BIG GREEN, INC. for the abatement of properties found to be in violation of the City weed and grass ordinance and further approve a revision to the 2009 Prairie Village fee schedule to include a \$50 per occurrence administrative fee for properties in violation of the City's weeds and grass ordinance and abated by the City. The motion was seconded by David Voysey and passed unanimously.

COU2009-35 Consider New Zoning Chapter 199.33 entitled "Wireless Communications Facilities" deleting Section 19.28.070(s) and Amending Section 19.02.449 entitled "Utility Box"

On April 6, 2009, the City Council directed staff to provide additional information on the following portions of the proposed wireless communications facility ordinance: 1) Co-location in residential areas, 2) Types of facilities allowed in different areas, 3) Setback requirements and 4) Setback waiver. Since that time, staff has met with interested residents and included in the information input from them.

Co-Location in Residential Areas

Ron Williamson stated co-location in residential areas is a major decision by the Council and will have a significant impact on the direction of the ordinance. To date, it has been the policy of the City to encourage co-location and minimize the number of towers that will be needed to accommodate the carriers providing service in Prairie Village. Co-location generally means fewer but taller towers and height has been a major issue for the adjacent property owners. He stressed, however, since the FCC regulations state that "A city shall not discriminate among providers," the City could

have more towers if the policy is for shorter towers. The following options were presented by staff for consideration:

- Retain the existing philosophy that encourages co-location and taller, but fewer towers.
- Approve a maximum height for towers located in residentially zoned areas. However, he noted all the parks, schools, city hall and fire station sites are zoned residential and the two existing towers at City Hall and Fire Station #2 on Roe Avenue would not be allowed under this provision.
- Approve a maximum height for towers located in residentially zoned areas except for properties that are owned by the public.

Types of Facilities Allowed in Different Areas

As the ordinance is proposed, monopoles and alternative tower structures and facilities are permitted in all districts by Special Use Permit. Stealth communications facilities only require approval of a site plan by the Planning Commission. Mr. Williamson noted St. Ann's has two carriers on its bell tower and is an example of a stealth installation. Mr. Williamson reviewed with the Council the definitions in the ordinance regarding alternative tower structures. He stressed the recent T-Mobile application which was referred to by the applicant as a stealth facility, would not be considered a stealth facility under the city's definitions in the proposed ordinance. The following options were presented by staff for consideration:

- Allow only stealth installations in residentially zoned areas by Site Plan approval.
- Allow only stealth installations in residentially zoned areas except for properties that are owned by the public.
- Allow alternative tower structures in residentially zoned areas subject to the approval of a Special Use Permit.

Setback Requirements

Mr. Williamson reviewed the setback requirements found in ordinances from neighboring cities and model codes noting there is a wide variation within setback requirements. The proposed ordinance proposes the following:

Setbacks

1. The equipment compound shall meet the minimum required setbacks for a principal use in the district in which it is located.

2. Stealth towers and alternative tower structures that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principle building.
3. Non stealth monopoles or towers 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.
4. The applicant may request a reduction or waiver of the setback requirement. The Planning Commission shall consider the request and make a recommendation to the City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed cell tower installation;
 - b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowner's property;
 - c. That the granting of the setback waiver will not be detrimental to the public welfare or cause substantial injury to the value of adjacent property or other property in the vicinity in which the particular property is situated.

Ron Williamson noted in preparing their recommendation, the Planning Commission considered an analysis of existing sites that may potentially be able to accommodate a wireless communications facility. He noted there are only four public sites that can meet the 200-foot setback - City Hall, Porter Park, Harmon Park & Franklin Park. Eight school sites could meet the setback requirements, but at this time the School District has not agreed to allow wireless communications facilities on school sites. The following six private sites can meet the 200-foot setback requirement:

- St. Ann's School/Church (no other church sites in Prairie Village can meet this setback)
- Homestead Country Club
- The Prairie Village Center
- The Corinth Square Center
- The Hy-Vee Center
- Meadowbrook Village.

Setback Waiver

Ron Williamson stated the idea of a setback waiver was initiated by the City Council. The only other city to have a waiver provision in their regulations is the City of Overland Park. He added the two tower sites located in the City do not meet the 200-foot setback and could not be approved without a waiver. In both cases, the towers are located in the most appropriate places on the site. There has been much discussion

on a future cell tower at McCrum Park when the water tower is removed and stated that site is too small to meet the 200-foot setback requirement without a variance.

Citizen Input

Area residents reviewed the proposed wireless communications facilities ordinance and provided staff with a redlined version indicating revisions they would like to see made to the ordinance. These were distributed to the Council and reviewed briefly by Mr. Williamson.

Al Herrera confirmed the current setback is determined by the height of the tower unless a waiver is granted. Mr. Williamson noted there are only two sites within the City that would accommodate a tower without a waiver.

Bill Griffith stated the central issue is the setback and supports the City establishing a reasonable setback of 1.5 and not allow for any waiver of that requirement. He feels this would define where facilities can be located and meet the requirements of the FCC as long as there are sites available. Mr. Williamson noted the existing tower locations would not meet that setback criteria. He reminded the Council that different requirements could be set for privately and publicly owned land. Mr. Griffith stated he felt regulating by the distance from the adjacent property line would be a defensible position. City Attorney Katie Logan disagreed with Mr. Griffith and felt the flexibility was important for the defensibility of the regulation. David Voysey stated he would support the availability of a waiver on publically owned land.

Dale Beckerman confirmed there could simply be no waivers or the ability to have waivers based on project or waivers for publically owned property. He stated using the 200 foot height and proposed setback, there are no possible sites to address coverage needs in northern Prairie Village. Bill Griffith responded towers placed in Mission or Roeland Park could provide that coverage.

Dennis Enslinger noted the process for approval would be different for publically owned land and privately owned land. There would be additional opportunities for public input for an application on public land through discussions with the appropriate boards for the public entities owning the property.

Michael Kelly asked if the City could establish an order of preference in the ordinance for the types of structures. Mr. Williamson stated it could be done in specifically identified areas .

Mayor Shaffer opened the meeting for public comment.

Kate Faerber, 4806 West 68th Street, thanked the Council for their diligent review of this issue. She stated there is a group of citizens that want to work with City staff on this issue. There are other cities who have established a master plan identifying where cell towers can be located and stressed the importance of requiring alternative structures which has been done by the City of Leawood. She encouraged the City Council to set a moratorium on accepting further applications until the new ordinance has been adopted by the City.

Harold Neptune, 4722 West 68th Street, noted that many towers also include a ten-foot lightning rod at the top of the structure and asked if that was considered as part of the height of the structure. He would like to see further investigation into how the City can best take advantage of the McCrum Park property as a potential site and does not feel this has been addressed in the ordinance.

Mary Cordill, 4904 West 68th Street, commended the City for their efforts to work with the residents and highlighted the issues the neighboring residents view as critical for the ordinance:

- No co-location in residential areas
- The installation of alternative structures, noting several have been presented to the Council during the past few weeks that can be found in neighboring cities.
- The height and setback for residential areas must be restricted, existing towers not meeting those requirements can be grandfathered.

- Allow waivers only for installations on public land.
- They would like to see the ordinance returned to the Planning Commission with specific height limitations, require consideration alternative structures
- Set a moratorium on further applications until a new ordinance can be adopted.
- Encourage the schools to consider allowing structures on their property as has been done at Bishop Miege and at Blue Valley schools.

Pat Kaufman, 4307 West 63rd Terrace, stressed that monopoles are not stealth applications.

Mayor Shaffer noted the City was instrumental in getting the water district to accept communication antennas on the Harmon Park water tower. He thanked the residents for their comments and study of this issue.

Charles Clark stated that 93 percent of Prairie Village is zoned residential with many of the homes being single-story construction. He feels co-location is essential to meet the needs for coverage within the City. Diana Ewy Sharp stated she is not concerned with the additional antenna located on towers, but more concerned with the additional ground-level equipment compounds. She feels that with 93 percent of the City zoned residential to prohibit co-location in residential area is too restrictive.

David Belz stated his overarching concern is that the City meets the requirements of the FCC. The ordinance can not be so restrictive as to in essence prohibit location. He would like to see the City retain the flexibility to review applications on their own merit and not be placed in a box in relation to the location and type of structure. He wants to have the opportunity to review other options and totally supports allowing for co-location. An 85-foot structure sounds acceptable, but he does not see having 65-foot towers located throughout the City is a good option.

Al Herrera stated he visited the 75-foot monopine in the middle of a golf course surrounded by trees. He does not feel higher towers are needed simply because of other trees in the area. He is looking for an ordinance that will protect Prairie Village neighborhoods and plug loop holes.

Dale Beckerman asked Mr. Williamson if he felt 65- to 75-foot towers were feasible for the 67th & Roe to Nall area and what would be the impact on the number of towers needed. Mr. Williamson responded it does depend on the height of the trees and the technology used by the carriers. He noted it is not simply the height of the trees, but the line of sight communication between towers. The golf course does have tall trees, but it also has significant open space that allows for the needed line of sight communication. Dennis Enslinger added at 65-feet the carrier would receive some coverage, the question remains as to if the level of coverage merits the economic investment by the provider. It did for the church tower installation on State Line. Mr. Beckerman asked if this would require structures every few blocks. Mr. Enslinger responded it depended on how large of a service gap you needed to cover. Katie Logan stated she felt limiting the height, knowing you have significant service gaps in practicality would be considered as prohibitive.

Dennis Enslinger stated he would rather see the height issue addressed not in terms of a specific height but in reference to compatibility with the area and with the ability to allow for deviations. It is reasonable for the City to not allow a structure that would dominate the neighborhood and feels that approach would be more defensible than a set static height restriction. Federal regulations ask "does it dominate the area". The City can look at tree height, the height of other structures and other community conditions, it can limit the type of structures allowed. He advised there are no firm rulings that state you can do this or can't do this, it remains as what the court will accept as reasonable.

Ruth Hopkins stated four carriers have identified needs within the City and she feels to prohibit co-location would only multiply the number of applications for and the number of towers/facilities being located within the City. The City does not have enough school and park sites to accommodate individual structures for each carrier.

She does not see the decision by T-Mobile to withdraw their application as a victory, noting Prairie Village residents and individuals travelling through Prairie Village will continue to suffer with poor or no cell phone communications.

Michael Kelly stated he felt the City should not be scared to set a maximum height limit for communications facilities. He feels the ordinance should be returned to the Planning Commission for further revision to protect the City and its residents. Charles Clark stated the Planning Commission has given its recommendation. They will only be reviewing the directions for change given by the City Council. Dale Beckerman stated he does not see this as a matter of fear, but a matter of common sense. He feels co-location makes more sense and better protects the City and its residents than placing multiple towers throughout the City.

Dennis Enslinger advised the Council there are two issues on which they need to make a decision; first, what setback requirements will be required and secondly, if the City is willing to grant waivers to that setback and if so, in what situations will waivers be considered. The issue of co-location will be addressed by addressing these two issues.

Charles Clark moved the City Council retain the proposed one to one setback ratio established in the proposed ordinance. The motion was seconded by Ruth Hopkins and passed.

Charles Clark moved the City Council consider of setback waivers for applications on all property. The motion was seconded by Ruth Hopkins and passed.

Ron Williamson confirmed that by the definitions in the proposed ordinance a monopole is not a stealth application. A stealth application must be integrated as an architectural feature of a structure so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer. Mayor Shaffer confirmed that most of the City, including the parks and City Hall, is zoned as residential property.

Dale Beckerman stated he would like to see the options for types of facilities left open. Katie Logan stated the more possibilities allowed, the more defensible she views the ordinance.

Dennis Enslinger noted based on the feedback presented he does not see any major changes in the proposed ordinance. The staff will incorporate those items identified as factors of considerations from the residents agreed with in the staff report.

David Belz moved the City Council remand the proposed ordinance back to the Planning Commission for reconsideration of the items identified by the City Council and those changes suggested by residents and recommended by staff. The motion was seconded by Ruth Hopkins and passed unanimously.

Bill Griffith left the meeting.

Park & Recreation Committee

Consider El Monte Fountain

Diana Ewy Sharp reported in April, 2008, the City Council approved a design agreement for the replacement of this fountain located in the island at the intersection of Oxford Road, El Monte Street and 69th Street. It is currently not functioning and the homes association has requested that the City take over the ownership and perform the necessary repairs. The estimated fee for design and construction is \$66,000. Since there is only \$30,000 in the budget for this project, it was decided to talk with the homes association regarding sharing in the costs once they became finalized.

As indicated earlier by Mr. Barthlos the Homes Association does not \$36,000 to cover the shortfall between the cost and what has been budgeted by the City. Mrs. Ewy Sharp stated at their May meeting the Park and Recreation Committee voted to recommend ownership of the fountain be returned to the homes association. Speaking for herself, Mrs. Ewy Sharp stated she has some concerns with the precedence that would be set by the City taking over this fountain and paying for its repair.

May 4, 2009 Staff Report to City Council



BWR | Right in the Center

MEMORANDUM

TO: City Council
FROM: Ron Williamson, BWR, Planning Consultant
SUBJECT: PC 2009-03 Wireless Communications Facilities Ordinance
DATE: May 4, 2009

At its regular meeting on April 6, 2009, the City Council discussed the proposed Wireless Communications Facility Ordinance and requested Staff to provide additional information in generally four areas. In addition, Staff met with interested citizens and has included their comments as well.

- A. Co-Location in Residential Areas
- B. Types of Facilities Allowed in Different Areas
- C. Setback Requirements
- D. Setback Waiver
- E. Citizen Input

A. CO-LOCATION IN RESIDENTIAL AREAS

This is a major decision of the Council and it will have an impact on the direction of the ordinance. To date, it has been the policy of the City to encourage co-location and minimize the number of towers that will be needed to accommodate the carriers providing service in Prairie Village. Co-location means fewer but taller towers and height has been a major issue for adjacent property owners. Because the FCC regulations state that "A City shall not discriminate among providers," the City could have more towers if the policy is for shorter towers.

Options for consideration:

1. Retain the existing philosophy that encourages co-location and taller, but fewer towers.
2. Approve a maximum height of ____ (*to be determined by City Council*) feet in residentially zoned areas and have Staff revise the proposed ordinance accordingly.

BUCHER, WILLIS & RATLIFF CORPORATION

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Note: All the parks, schools, city hall, and fire station sites are zoned residential and the two existing towers at City Hall and Fire Station #2 on Roe Avenue would not be allowed under this provision.

3. Approve a maximum height of ___ (*to be determined by City Council*) feet in residentially zoned areas except for properties that are owned by the public.

B. TYPES OF FACILITIES ALLOWED IN DIFFERENT AREAS

This is another major area of discussion. As the ordinance is proposed, monopoles and alternative tower structures and facilities are permitted in all districts by Special Use Permit. Stealth communication facilities only require approval of a Site Plan by the Planning Commission. St. Ann's has two carriers on its bell tower and is an example of a stealth installation. For reference purposes, the definition of the types of facilities as proposed in the ordinance is as follows:

Alternative Tower Structure: This shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips.

Monopole: A single, freestanding pole-type structure supporting one or more antenna.

Stealth Telecommunications Facility (Integrated): Any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.

Options for consideration:

1. Allow only stealth installations in residentially zoned areas by Site Plan approval.
2. Allow only stealth installations in residentially zoned areas except for properties that are owned by the public.
3. Allow alternative tower structures in residentially zoned areas subject to approval of a Special Use Permit.

C. SETBACK REQUIREMENTS

The setback requirement of other communities was researched and submitted to the Planning Commission on September 9, 2008 and is as follows:

In reviewing ordinances from other neighboring cities and model codes, there is a wide variation for the setback requirement. Some cities use a specific dimension, others use a ratio such as 1.0 times the monopole height and Overland Park includes a reduction or waiver provision.

Leawood

H) **Tower Setback and Buffer Requirements.**

1. **Setbacks.** Towers and related facilities shall meet the applicable building setback limits of the zoning district in which the tower and facilities are to be sited.
2. **Distance From Residential Areas.** Any proposed tower and related facilities shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or comprehensive (master) planned residential area. Note: This 500-foot buffer requirement applies only to towers as defined herein and not to other wireless communication facilities or alternative tower structures.

Note: Towers are defined as monopole and lattice type towers are not allowed.

Fairway

15-4-3.407 **Tower Setback and Requirements**

- A. **Setbacks.** Towers and related facilities shall meet the applicable building setback limits of the zoning district in which the tower and facilities are to be sited.
- B. **Distance From Residential Areas.** Any proposed tower and related facilities shall be sited at a distance of at least two hundred (200) feet, in all directions, from the base of the tower to the property line of any existing or comprehensive planned residential area.

Note: This 200-foot buffer requirement applies to towers as defined herein and not to other wireless communication facilities or alternative tower structures.

Westwood

- A. Transmission and receiving towers shall be setback a minimum of 1.2 feet for every foot of tower height from all front, rear and side lot lines.

Overland Park - Old Ordinance

7. Setbacks - Towers and accessory buildings shall meet the setbacks of the zoning district in which they are located unless greater setbacks are required by the Planning Commission or Governing Body. The setbacks for towers located on residentially zoned property which is Master Planned for a use other than very-low density or low-density residential shall be determined at the time of the special use permit.

All towers, except those designed as an architecturally compatible element in terms of material, design and height to the existing or proposed use of the property, shall be setback 200 feet from any surrounding property which is zoned for single-family development, R-2, RP-2 or RP-4. Provided, however, that the distance may be reduced or waived by the Planning Commission or the Governing Body where the residentially zoned land is Master Planned for uses other than very-low density or low-density residential.

Overland Park - New Ordinance

- D. Setbacks - Towers and accessory structures shall meet the setbacks of the zoning district in which they are located unless greater setbacks are required by the Planning Commission or Governing Body. The setbacks for towers located on residentially zoned property which is Master Planned for a use other than very-low density or low density residential shall be determined at the time of the application.

All towers, except those designed as an architecturally compatible element in terms of material, design and height to the existing or proposed use of the property shall be setback 200 feet from any surrounding property which is zoned for single-family development, R-2, RP-2 or RP-4. Provided, however, that the distance may be reduced or waived by the Director, Planning Commission or the Governing Body where the residentially zoned land is Master Planned for uses other than very-low density or low density residential.

- F. The Planning Commission or Governing Body shall have the ability to grant a deviation from the setback and separation standards subject to Section 18.150.070 (H). In support of a deviation request from the separation requirements, the application shall submit a technical study acceptable to the City which confirms that there are no other suitable sites available with the separation requirements.

PCIA

The Personal Communication Industry Association (PCIA) which is the organization that represents the providers. All monopoles and towers shall setback from all property lines a distance equal to their height while the equipment compound is required to meet the zoning district setbacks.

The proposed Prairie Village Ordinance reads as follows:

A. Setbacks

1. The equipment compound shall meet the minimum required setbacks for a principal use in the district in which it is located.
2. Stealth towers and alternative tower structures that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principal building.
3. Non stealth monopoles or towers 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.
4. The applicant may request a reduction or waiver of the setback requirement. The Planning Commission shall consider the request and make a recommendation to the City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed cell tower installation;
 - b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;
 - 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.

When the Planning Commission prepared its recommendation, it reviewed the ordinances above but also requested Staff to perform an analysis of existing sites that may potentially be able to accommodate a Wireless Communications Facility.

There are only four public sites that can meet the 200-foot setback and they are:

- City Hall
- Porter Park
- Harman Park
- Franklin Park

Note: Eight school sites could meet the setback requirements but at this time the School District has not agreed to allow wireless communications facilities on their school sites.

There are six private sites that can meet the 200-foot setback and they are:

- St. Ann's School/Church
- Homestead Country Club
- The Village Center
- Corinth Square Center
- Hy-Vee Center
- Meadowbrook Village

Note: No other church sites in Prairie Village can meet the 200-foot setback requirement.

D. SETBACK WAIVER

The idea of a setback waiver was initiated by the City Council when it made an interim review of the proposed Wireless Communications Ordinance. The Council requested that the Planning Commission give consideration to the waiver concept. It should be noted that the setbacks only apply to non stealth structures. The Planning Commission requested an analysis of sites that could accommodate a wireless facility which Staff did and the results are reported under Section C. of the memorandum. Also as reported before, the only other City in the area that has a waiver provision is Overland Park. It had a waiver provision in its old ordinance and also has one in the new ordinance that was recently adopted.

The two tower sites currently located in the City, (City Hall and the Fire Station) do not meet the 200-foot setback and could not be approved without a waiver. In both cases, however, the towers are located in the most appropriate place on the sites. There has been much discussion of a future cell tower at McCrum Park when the water tower is removed and that site is too small to meet the 200-foot setback requirements without a variance.

E. CITIZEN INPUT

On April 16, 2009, Staff met with Mary Cordill who outlined the concerns of the residents with the proposed ordinance. Their major points are outlined in the following. A marked-up copy of their specific revisions is attached.

Section 19.33.025 - Factors for Consideration

They would like factor D deleted from the list. Factor D is one of the Golden criteria which is used for the consideration of zoning change applications and Staff recommends that it not be deleted.

They have requested removing the word "dominate" from Factor G and replacing it with "affect." This is a factor that is used for all Special Use Permits but is not a Golden Factor and Staff recommends that it not be changed. There is a significant difference in "dominate" and "affect." The word dominates also ties

back to the FCC Regulations which states that a denial must be supported by substantial evidence.

They have requested the removal of Factor M, the City Staff Recommendation. This is another Golden Factor and it should not be deleted. However, Staff prepares a Staff Report on every application so that will happen regardless of whether the factor is included.

Section 19.33.03.A - Application Information

They have suggested including a requirement for the applicant to show coverage maps at 10 feet descending intervals. This appears to be a good addition, but, it should have a bottom at perhaps 50 feet.

Section 19.33.03.B

They have requested two additional items:

First, they would like all facilities located in residential areas to be integrated into buildings or accessory structures such as steeple bell towers, flag poles, etc., and structures with no monopoles. The answer to this depends upon how the City Council addresses co-location.

The second issue is the third party analysis of need. They have proposed this to be at the discretion of the City so it is not mandatory for all applications. The Council discussed this previously and did not seem to support it, but it may be a good addition since it is discretionary.

Section 19.33.03.C

They requested the language be changed to prohibit co-location in residentially zoned areas. City Hall, fire stations, schools, parks, churches are potential sites and are all zoned residential. This would not be a very practical change. The co-location issue will be addressed under item A in this memorandum and will provide the direction for this section. It should be pointed out that the bell tower at St. Ann's accommodate two carriers, co-location.

Section 19.33.03 - Add a new Section D on notification.

Notification is included in the Special Use Permit Chapter of the ordinance and sets out the same notification process for all Special Use Permits. They would like publication in the local press (Sun or KC Star) in an advertisement format rather than in the legal notices section so more people would be aware. This obviously would be an additional cost. Also, the posted signs should be larger and the proposed use listed on the sign. The signs need to be clear so people can easily read them. Probably, the better solution is a better posting of the property and that does not need to be in the ordinance. It can be handled administratively. Posting signs are provided to the applicants by the City. Lastly,

they would like the notice to property owners sent to all owners within 1,000 feet rather than 200 feet which is the current requirement. The 200 feet notification is based on the state statute that requires a 200 feet notice for zoning changes. This would add a significant number of notices and an increased cost to the applicant. Based on the response of the public to a variety of applications, the 200 feet notification seems to be getting the word out. If changed, this should apply to all Special Use Permits.

Section 19.33.030.D

They requested the fall radius of the tower be shown on the site plan. This is information that the applicant should easily have available and could be added to the required documents.

Section 19.33.030.E

They requested adding the City may request additional propagation maps. The City already has the ability to do this under Item I.

Section 19.33.030 New H

A public hearing is required for Special Use Permits so this is repetitive and not needed.

Section 19.33.035 Design Requirements

They would like the setback waiver deleted from the ordinance. The Council will have addressed this in a previous section of the memorandum.

COUNCIL COMMITTEE OF THE WHOLE
March 23, 2009

The Council Committee of the Whole met on Monday, March 23, 2009 at 6:00 p.m. The meeting was called to order by Council President David Voysey with the following members present: Mayor Shaffer, Al Herrera, Bill Griffith, 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; 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; Ron Williamson, Planning Consultant and Jeanne Koontz, Deputy City Clerk.

Andrew Wang moved the approval of the Consent Agenda for Monday, March 23, 2009:

- **Approve the aforementioned revisions to the Police Department's section of the City's Retention Schedule.**

COUNCIL ACTION REQUIRED
CONSENT AGENDA

- **Adopt Ordinance 2192 amending Chapter 11 of the Prairie Village Municipal Code entitled "Public Offenses & Traffic" repealing the existing Article 3 entitled "Drugs" and adopting a new Article 3 entitled "Drugs".**

COUNCIL ACTION TAKEN
03/23/2009

The motion was voted on and passed unanimously.

COU2009-35 Consider New Zoning Chapter 19.33 entitled Wireless Communications Facilities; deleting Section 19.28.070(S) and amending Section 19.02.449 entitled "Utility Box"

Ron Williamson said the process for this ordinance began almost one year ago. The City Council requested information on the existing cell tower policy and authorized the Planning Commission to analyze this policy. Since then, there has been input from citizens, providers, carriers and the PCIA (a wireless infrastructure alliance). Staff reviewed adjacent cities' ordinances, prepared numerous staff reports and distributed information to everyone who was interested in this issue and notified them of meetings. The Planning Commission unanimously recommends this ordinance. The ordinance has been reviewed legal staff. The Planning Commission held a public hearing on February 3, 2009 and received written comments from PCIA and Curtis Holland with Polsinelli Shughart. The ordinance was reviewed again at the March 3, 2009 meeting.

The major issues addressed were policy vs. ordinance, co-location (multiple short towers with no co-location or fewer tall towers with co-location), setbacks, integration of towers into existing structures and a waiver provision. Planning Commission requested that staff look at the number of available sites that would accommodate a 500' setback and a 200' setback. There are only two properties in Prairie Village large enough to meet the 500 ft setback: Shawnee Mission East High School and Meadowbrook Country Club. The 200' setback allows for 11 public sites and 6 private sites. The commercial sites have not expressed much interest in having cell towers.

Bill Griffith asked if a 150' monopole could accommodate co-location. Ron Williamson responded it could accommodate approximately four users; most users are now using two locations on each pole.

Al Herrera said he would rather see the City stay with an 85' tower and does not see the benefit of a 150' tower. Ron Williamson responded this is a major consideration for the council. The Planning Commission recommends fewer towers that are taller. It depends on the location of the tower if it needs to be taller.

Michael Kelly asked whether a provider is required to locate on an existing tower if there is space or can they request a new tower because they do not like the spot available. Ron Williamson responded that each carrier wants the highest part of the tower but they need to justify why they need a new tower. The City could require a third party analysis of the height issue. Michael Kelly asked if the footprint of the tower including the support devices will be larger on a taller tower because of more co-locations. Ron Williamson responded that each provider has their own equipment so the more co-locations, the more ground equipment.

Ron Williamson stated the applicant will be able to request a waiver from the setback restrictions. The Planning Commission would consider the request and make a recommendation to the City Council whether to grant the waiver. Three conditions will be reviewed:

- a. That there are special circumstances or conditions affecting the proposed cell tower installation;
- b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;
- 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.

The Planning Commission has to make a finding on each of the three conditions.

Bill Griffith requested more information on the third party analysis requirement. He specifically asked who pays for the analysis. Ron Williamson said the City can contract for it and bill the applicant. Ultimately, the applicant pays the cost. Bill Griffith asked why the third party analysis is not included in the ordinance. Ron Williamson stated the Planning Commission opted not to include it in the recommendation because they felt it is not necessary for the extra cost. Dennis Enslinger stated the estimates from Overland Park were \$20,000 to \$30,000 for each analysis. The applicant can choose from three firms selected by Overland Park.

David Voysey asked what the significant differences are between our ordinance and other cities' ordinances. Ron Williamson stated the ordinances are fairly parallel with some differences in the setback requirements. Michael Kelly asked how Mission Hills deals with this issue. Ron Williamson responded their ordinance is very loose and the applications are processed through their Board of Zoning Appeals.

Bill Griffith asked if the third party analysis is a legitimate requirement under the Telecommunications Act. Ron Williamson stated it is legitimate as long as it is needed in order to make an appropriate decision. It is not legitimate if it is used only to deter providers from applying. Diana Ewy Sharp asked if the information provided in the application will suffice. Ron Williamson said without a third party analysis, the City is accepting the information from the applicant without

verification. David Belz asked if a company wanted to build another tower instead of co-locate could the City require a third party analysis. Ron Williamson responded the City could require the analysis.

David Voysey opened the discussion to the public.

Casey Housley, 4900 W 68th Street, reminded the Council that he presented a packet of surrounding cities' ordinances to the Council last year. He said the residents would like the ordinance to provide certainty so they do not have to come back to the Council each time to argue their position. The ordinance is an improvement over the policy, but it still does not give certainty, because it has a catch all under the waiver provision. This provision forces both parties to come before Council to argue their position. He said there are differences in what the surrounding cities have implemented regarding specific setback requirements, provisions in residential areas and the wavier provision. He requested the Council send the ordinance back to the Planning Commission for revision.

Mary Cordill, 4904 W 68th Street, requested the ordinance be returned to the Planning Commission for further discussion. She said the residents are very passionate about this issue. There were not any citizens at the public meeting, because there was a big misunderstanding of the date of that meeting. She said she has been receiving updates from city staff, but it was not clear there was a public meeting. She pointed out that there were two new planning commissioners when this discussion began who did not have the benefit of hearing all the previous public input. She implored the council to give the residents a chance to speak before the Planning Commission.

Kate Faerber, 4806 W 68th Street, said she presented packets to the council in February 2008. The Planning Commission did not receive this information until June 2008. She said she is disappointed in this lack of communication between governing bodies. She pointed out that other cities have different setback requirements. She said at the February Planning Commission meeting, she was under the impression that she would be allowed to speak at the March meeting and that is why she did not speak at the February public hearing.

Lebert Schultz, 4507 W 89th Street, said he has practiced law for 40 years and there is always an exception. He urged the Council to allow some flexibility. He pointed out the cell towers are a benefit for citizens that give them quality cell coverage and capacity for future capabilities. He suggested encouraging cooperation between providers, so the number of towers is limited.

Paul Middleton, 6434 Hodges Drive, stated the requirement for a third party evaluation is very logical.

Paige Price, 6730 Fonticello, said Prairie Village is a nice place to live and she would like to keep the family atmosphere. She said commercial towers should be placed on commercial property.

John Faerber, 4806 W 68th Street, stated through effective planning and timely ordinances, he believes a more positive outcome can be obtained. He feels the City has dragged its feet on this issue over the last year. The waiver is very disconcerting. He said he has been a Prairie Village resident for 19 years and feels like his voice has not been heard this past year. He would like to see the City and Homes Associations come up with a more effective master plan.

With no other comments, David Voysey closed the public comment portion of the meeting.

Bill Griffith said that very few sites were mentioned that would meet the 200' or 500' setback. He asked which shopping centers could handle the setback requirements. Ron Williamson responded that Highwoods does not want to have cell towers in case they make changes to their centers. The Prairie Village Shops accommodate a 200' setback. Bill Griffith said there is a long list of people who do not want them. Ron Williamson stated there was a request to put one at Homestead Country Club but the membership decided they did not want it. He said the City cannot force a tower to be located where a landowner does not want it. Bill Griffith stated the City is not obligated to provide a solution for the cell providers and many cities do not have a waiver. Ron Williamson responded the new Overland Park ordinance has a waiver clause. Fairway and Leawood do not have waiver clauses. He said he believes the council asked the waiver to be included in the ordinance.

Diana Ewy Sharp stated she hears the residents feel like nothing they wanted was considered, but feels that the ordinance is a huge victory because the Council did not want to change from a policy to an ordinance. She believes there was very serious consideration given to residents' thoughts and comments. Staff and the Planning Commission spent a great deal of time on this issue. Prairie Village is unique because it is 93% residential and 7% commercial. She stated that she wants all the technology that we can get for our residents. Nobody wants a cell tower in their backyard, but there is a purpose for the infrastructure.

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

MOVED THE CITY COUNCIL ADOPT ORDINANCE 2189 ADDING CHAPTER 19.33 ENTITLED "WIRELESS COMMUNICATION FACILITIES" TO THE PRAIRIE VILLAGE MUNICIPAL CODE, 2003; AND ORDINANCE 2190 AMENDING CHAPTER 19.02 ENTITLED "DEFINITIONS" BY AMENDING SECTION 19.02.499 ENTITLED "UTILITY BOX" AND CHAPTER 19.28 ENTITLED "SPECIAL USE PERMITS" BY DELETING SECTION 19.28.070(S).

**COUNCIL ACTION REQUIRED
COMMITTEE REPORTS**

Bill Griffith said he did not understand the reluctance to consider a third party review and will vote no on this motion.

Al Herrera said he does not see why we need to rush through this and would like to give the residents another opportunity to go before the Planning Commission. He would like the ordinance to be tightened up and non-negotiable.

David Voysey stated he thinks the Planning Commission should have one more chance. He does not like the waiver. An ordinance with so many loopholes is like not having an ordinance at all.

Michael Kelly said his primary concern is a guarantee that providers will co-locate. He stated he will be voting no on this motion.

Andrew asked for clarification on how an third party study becomes independent. Dennis Enslinger responded that the City of Overland Park selects a preapproved list of contractors. Andrew Wang asked if anything would prevent a provider from using one of the contractors in the

future. Dennis Enslinger said there will be some relationship but the City of Overland Park is trying to find contractors who do not work in this area. Andrew Wang asked if the incentive to co-locate is economic or are there other reasons. Dennis Enslinger responded that most providers would choose co-location because it is economically beneficial, but the City cannot guarantee they will not look for another site based on their needs. They must show all available towers in a one mile radius and they must show that they cannot co-locate.

Ruth Hopkins stated that we have been discussing the lack of input and thought but there have been nine Planning Commission discussions and all those meetings are open for residents and council members. She said she thinks the Planning Commission has reached their decision and will not change their minds.

Charles Clark stated there have not been any questions raised tonight they have not been thoroughly reviewed and considered by the Planning Commission.

Dale Beckerman said he agrees with Councilmember Clark. He said the third party review is an attractive option but the real issue is whether the tower is necessary and suitable. He believes this can be determined without a third party review. He stated that since Prairie Village is 93% residential, it is necessary to have flexibility because of the scarcity of suitable sites. The Planning Commission has done a good job of tailoring the ordinance to Prairie Village.

Laura Wassmer said the process has taken over one year and that tells her it is not a good process. It has been very painful and will continue to be painful if this ordinance is passed. She does not think a third party is needed if the ordinance is specific enough. She would like the Planning Commission to review the ordinance considering specific setbacks, resident input and making the process easier for everyone involved.

David Belz said he would vote for the motion because the Planning Commission has been reviewing this for almost one year and he trusts that they vetted the possibilities and brought forward the best possible ordinance for Prairie Village. He stated Prairie Village is a unique situation and there may be times when we do not want the ordinance to be so tight. In reference to the third party review, he understands that it can be required even if it is not in the ordinance.

Al Herrera said he would like to send the item back to Planning Commission. If a provider wants to install a 150' tower, he would like to see the lease that includes two other tenants. He would like the ordinance tightened up. He does not think it is urgent to pass it tonight and would like to send it to Planning Commission one more time.

The motion was voted on and passed 7-6 with an "aye" vote from the Mayor. The following council members voted "aye:" Hopkins, Wang, Beckerman, Clark, Ewy Sharp and Belz.

This matter will be considered at the City Council meeting on April 6, 2009.

COU2009-36 Consider Resolution of Support for Transportation Enhancement Funding from Kansas Department of Transportation

Chris Engel reported the resolution is part of the application process for grant funding for the stimulus package. The application for a grant from the Kansas Department of Transportation for

the Brush Creek Trail System has already been submitted. The City will provide ongoing maintenance.

Diana Ewy Sharp stated the Park and Recreation Committee already discussed and approved this item.

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

**MOVE THE CITY COUNCIL ADOPT A RESOLUTION OF SUPPORT FOR
TRANSPORTATION ENHANCEMENT FUNDING FROM THE KANSAS DEPARTMENT
OF TRANSPORTATION TO FUND BRUSH CREEK TRAIL - PHASE ONE.
COUNCIL ACTION TAKEN
03/23/2009**

COU2009-37 Consider Ordinance regarding Quorum Requirements

Katie Logan reported Council requested a modification to the quorum requirement at the last meeting. The ordinance changes the requirement from eight to seven and removes antiquated language.

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

**MOVE THE CITY COUNCIL ADOPT ORDINANCE 2191 AMENDING CHAPTER 1 OF
THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "ADMINISTRATION" BY
AMENDING ARTICLE 2 ENTITLED "GOVERNING BODY" BY AMENDING SECTION 1-
204 ENTITLED "SAME: QUORUM-COMPELLING ATTENDANCE."
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

David Belz stated he will vote against the motion because he is not comfortable that almost half of the Council could be gone and decisions could still be made. He stated that maybe the Council should not be voting if we cannot get eight council members to attend a meeting.

Charles Clark stated it is very inconvenient to not have a meeting if something needs to be resolved.

Quinn Bennion said the ordinance removes the requirement that compels a council member to attend.

The motion passed 11 to 1 with David Belz voting nay.

Laura Wassmer said she hopes as a matter of procedure that Council would postpone a vote if it needs to have full Council input.

COU2009-39 Consider Allocation of Funds for the Intergraph Project to Purchase/Install laptop computer mounts, docking stations and external GPS antennas in the marked patrol units and CSO vehicle

Chief Jordan reported the Council agreed to set aside \$13,200 in the Equipment Reserve Fund for this purchase on December 1, 2008. The final bid from K-Comm., Inc. was \$1,564 less than project costs.

Ruth Hopkins made the following motion, which was seconded by Charles Clark and passed unanimously:

MOVE THAT \$11,636.00 BE TRANSFERRED FROM THE POLICE RECORDS MANAGEMENT/CAD PROJECT (221471) TO THE POLICE IN-CAR LAPTOP COMPUTERS PROJECT (221473) IN THE EQUIPMENT RESERVE FUND TO FINANCE THE PURCHASE AND INSTALLATION OF LAPTOP COMPUTER MOUNTS/DOCKING STATIONS AND EXTERNAL GPS ANTENNAS IN THE MARKED PATROL UNITS AND THE CSO VEHICLE.

**COUNCIL ACTION TAKEN
03/23/2009**

Discussion regarding El Monte Fountain

Diana Ewy Sharp pulled the El Monte Fountain Agenda Item because the Prairie Village Homes Association Board will not meet until April 15th.

COU2007-51 Village Vision: Discussion of Report from Council Retreat

The discussion of the Council Retreat Report will be moved to the April 6, 2009 meeting.

Adjournment

Council President David Voysey adjourned the committee meeting at 7:20 p.m.

David Voysey
Council President

Redlined Ordinance From Neighborhood Group

A. Create a new chapter titled Wireless Communication Facilities

19.33 WIRELESS COMMUNICATION FACILITIES

19.33.005 Intent

The Telecommunications Act of 1996 grants authority to local jurisdictions decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennas. As the City has diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount. Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennas result in visual clutter that adversely affects community aesthetics and damages the character of the City. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time the general safety, welfare, property value and aesthetics of the community is protected.

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19.33.010 Purpose

A wireless communication facility, tower or antenna including its equipment, but excluding small wireless communication antennas as setout in Section 19.33.055 may be sited, constructed, designed or maintained provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance. More specifically, these regulations are necessary to:

- A. Provide for suitable location of wireless communication facilities, towers and antennas so as to mitigate their negative effect on residential neighborhoods, property values and land uses;
- B. Maintain community aesthetics by minimizing the negative visual effects of wireless communication facilities, towers and antennas through specific design and siting criteria;
- C. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;
- D. Encourage co-location among wireless service providers on existing and newly constructed, within the parameters set forth herein in order to reduce the overall number of to needed; and
- E. Promote the use of innovative stealth, camouflage and disguise techniques for wireless communication facilities, towers, and antennas as to integrate their appearance with the many architectural and natural themes found throughout the City.

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19.33.015 Definitions

Redlined Ordinance From Neighborhood Group

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

- A. **Alternative Tower Structure:** This shall mean man-made trees, towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. **Antenna:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips.
- C. **Co-location:** The act of siting Telecommunications Facilities from more than one provider in the same location on the same Support Structure as other Telecommunications Facilities, Co-location also means locating Telecommunications Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.
- D. **Equipment:** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
- E. **Equipment Compound:** The area in which the equipment and tower may be located which is enclosed with a fence or wall or is within a building or structure.
- F. **Maintenance:** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself or replacing Antennas and Accessory Equipment on a like-for-like basis on an existing Telecommunications Facility. Ordinary maintenance also includes maintaining walls, fences and landscaping including the replacement of dead or damaged plants as well as picking up trash and debris. Ordinary Maintenance does not include Modifications.
- G. **Modifications:** Improvements to existing Telecommunications Facilities and Support Structures, that result in some material change to the Facility or Support Structure. Such Modifications include, but are not limited to, extending the height of the Support Structure, replacing the support structure and the expansion of the compound area for additional equipment.

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- H. **Monopole:** A single, freestanding pole-type structure supporting one or more Antenna.
- I. **Stealth Telecommunications Facility:** Any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- J. **Support Structure(s):** Monopoles, Towers, Utility Poles and other freestanding self-supporting structures which supports a device used in transmitting or receiving radio frequency energy.
- K. **Wireless Communications Facility(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Wireless Communication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

19.33.020 Special Use Permit Requirement

Unless otherwise excepted herein, wireless communication facilities, towers and antenna shall be allowed only upon approval of a Special Use Permit in accordance with the procedures setout in Chapter 19.28, Special Use Permit.

19.33.025 Factors For Consideration

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit for a wireless facility shall include, but not be limited to the following:

- A. The character of the neighborhood.
- B. The zoning and uses of property nearby.
- C. The extent that a change will detrimentally affect neighboring property.
- D. ~~The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.~~
- E. ~~The proposed special use at the specified location will rot adversely affect the welfare or convenience of the public.~~

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

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

G. 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.

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

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

J. 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.

K. 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.

19.33.030 Application Information

At the time the application is filed, the applicant shall submit the following information:

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- 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 at 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

Redlined Ordinance From Neighborhood Group

map showing the service area of the proposed facility as well as other alternative tower sites and antennas.

If the use of existing towers, alternative tower structures or sites are unavailable, a reason or reasons specifying why they are unavailable shall 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 construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. 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.

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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.

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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.

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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.

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The applicant shall show coverage maps for the proposed tower or structure at the requested height and at 10' descending intervals as well.

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

The applicant shall provide at least 2 styles or types of structures that could be used in the proposed location.

- 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.

In low density, R-1 zoned areas, antennas shall be incorporated into existing architectural structures within the neighborhood such as steeples, bell towers, flag poles, school structures, and consistent with the aesthetics and proportion of the existing structures.

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Redlined Ordinance From Neighborhood Group

The City may, at its discretion, hire such third parties as are necessary, at the applicant's expense, to confirm any information presented within the Application for Special Use Permit.

- C. In all areas zoned other than residential, all R-1 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.

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- D. A list of recipients to whom Notices of Intent to apply for Special Use Permit were sent to property owners within 1000' of the lot/property where the site is located, via certified mail and copies of all return receipt cards returned to the Applicant by the United States Postal Service.

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- E. Any application for construction of a new wireless communication facility, tower, 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, 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 site plan shall list the fall radius of the tower as proposed.

- F. 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.

- G. The City may request additional propagation maps as it deems necessary to grant or deny a Special Use Permit.

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 antenna and related

Redlined Ordinance From Neighborhood Group

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.

- H. A public hearing is required for each Special Use Permit Application and notice shall be provided by a posting at the proposed site.
- I. Preliminary construction schedule including completion dates.
- J. The applicant shall provide a copy of its FCC license
- K. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.
- L. Any other relevant information requested by City Staff.
- M. Application and fee. The applicant shall submit a completed application form with all required attachments and must agree to and reimburse the City for all costs related to the application.

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19.33.035 Design Requirements

A. Setbacks

1. The equipment compound shall meet the minimum required setbacks for a principal use in the district in which it is located.
2. Stealth towers and alternative tower structures that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principal building.
3. In non-residential zoned areas, or non-R-1 areas, non-stealth monopoles or towers 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.

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Deleted: <#>The applicant may request a reduction or waiver of the setback requirement. The Planning Commission shall consider the request and make a recommendation to the City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:¶
<#>That there are special circumstances or conditions affecting the proposed cell tower installation;¶
<#>That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;¶
<#>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.¶

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B. Screening and Landscape Buffer

Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence or a permanent building enclosure using materials similar to adjacent structures on the property. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.

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Landscaping shall be required around the base or perimeter of the screening wall or fence. A combination of coniferous and deciduous trees and shrubs is required and drought tolerant plant materials are encouraged.

Deleted: When the visual impact of the equipment compound would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission or City Council.

C. Tower/Antenna Design

1. All non-stealth towers shall maintain a hot dipped galvanized finish, and shall be a monopole design unless otherwise approved by the Planning Commission or City Council.
2. All antenna installed on towers shall be internal. Antenna bridges and platforms are not allowed. Public service omni-directional antenna operated by the City of Prairie Village and other governmental agencies are exempt from this requirement.
3. All antenna and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antenna on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached.
4. Antenna and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antenna and related facilities shall be a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antenna and related facilities as visually unobtrusive as possible. Antenna mounted on the side of a building or structure shall be painted to match the color of the building or structure of the background against which they are most commonly seen.
5. All electrical cables shall be installed within the monopole. For installations on buildings, water towers and other structures, cables shall be enclosed with a shield that is painted the same color as the building, water tower, or structure. Underground cables that are a part of the installation shall be required to be located at a safe depth underground.

D. Illumination

Communication towers may be only illuminated if required by the FCC and/or the FAA. Security lighting around the base of the tower may be installed, provided that no light is directed toward an adjacent residential property or public street.

E. Height

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The maximum height for a wireless communication tower shall be 150 feet plus a lightning rod not exceeding ten feet (10') and only in areas zoned other than residential.

F. Sealed Drawings

The construction plans for the tower shall be prepared and sealed by a structural engineer licensed in the State of Kansas. Construction observation shall be provided by the design engineer provided that said engineer is not an employee of the tower's owner. If the design engineer is an employee of the owner, an independent engineer will be required to perform construction observation.

G. Anti-perch devices that prevent birds from perching or roosting on installation shall be installed when appropriate.

19.33.040 Conditions of Approval

The Planning Commission and City Council may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location:

- A. The initial approval of the Special Use Permit shall be for a maximum of five years. At the end of the five year period, the permittee shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council 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 Special Use Permit may then be extended for an additional ten years by the City Council and the permittee shall resubmit after each ten year reapproval. The process for considering a resubmittal shall be the same as for the initial application.
- B. Any tower, antenna or other facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower, antenna or facility shall remove the same within 90 days after receiving notice from the City. If the tower, antenna or facility is not removed within that 90 days period, the governing body may order the tower, antenna or facility removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of the Special Use Permit, the applicant shall submit a bond to the City in an amount adequate to cover the cost of tower removal and the restoration of the site. This bond will be secured for the term of the Special Use Permit plus one additional year. In the event the bond is insufficient and the permittee otherwise fails to cover the expenses of any such removal, the site owner shall be responsible for such expense.

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- C. The applicant shall have a structural inspection of the tower perform by a licensed professional engineer licensed in the State of Kansas prior to every ten year renewal and submit it as a part of the renewal application.
- D. Any wireless communication facility, tower or antenna which is not 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 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 notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the facility tower antenna and all appurtenances and restore the site to its original condition.
- E. The permittee shall keep the property well maintained including maintenance and replacement of landscape materials; free of leaves, trash and other debris; and either regularly cleaning up bird droppings or installing anti-perch devices that prevent birds from perching on the installation.
- F. 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 facility, tower or antenna 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.
- G. In order to ensure structural integrity, all wireless communication facilities, towers and antenna shall be constructed and maintained in compliance with all applicable local building codes and the applicable standard for such facilities, towers and antenna that are published by the Electronic Industries Alliance.
- H. All wireless communication facilities, towers and antenna 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 all facilities, towers, and antenna 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.
- I. It shall be the responsibility of any permit holder to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- J. A copy of the lease between the applicant and the landowner containing the following provisions:

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1. The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 2. The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.
- K. Information to establish the applicant has obtained all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission

19.33.045 Site Plan Approval

All installations shall have a site plan approval in accordance with Chapter 19.32, Site Plan Approval.

19.33.050 Exceptions

Any wireless communications facility, tower and antenna that are a stealth design shall be exempt from the Special Use Permit requirements and shall be approved in accordance with Chapter 19.32, Site Plan Approval.

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.

19.33.055 Existing Site Improvements

Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

- A. Accommodate additional wireless service providers, provided that the alterations on improvements meet all applicable requirements of this Chapter. Unless otherwise provided for by the current Special Use Permit, application for such alteration or improvement to an existing site will require approval through an amended Special Use Permit. However, if provided by the current Special Use Permit, such application shall be considered a revised final site plan and will only require submission to and approval of the Planning Commission.
- B. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennas and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

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- C. Additional Antennas. When provided for in the approved capacity limit of a multi-user towers current Special Use Permit, additional antennas or replacement of current antenna may be added through an application for a revised site plan and will only require submission to and approval by the Planning Commission. Any additional antennas that exceed the originally approved capacity limit shall be considered a revised application, and shall require an amended Special Use Permit to locate. Any additional antennas or replacement of current antennas shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennas and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- D. In the event that new technology provides a better alternative to the design requirements herein, the Planning Commission may reasonably approve or require design modification of a wireless communication facility, tower or antenna when the appearance of the same is deemed to be less obtrusive than the requirements permitted herein.
- E. Any proposal by a permit holder to replace a current antenna or to alter and improve an existing facility, tower or antenna in a manner to make the same less obtrusive such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antenna to a "slim line" or internal design shall be considered as an amended site plan and will only require submission to and approval by the Planning Commission.
- F. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements, and the cumulative effect of any additional antennas and related facilities must comply with the radio frequency emission guidelines established by the FCC.

19.33.060 Small Wireless Communications Antennas

The location, design and appearance of small wireless communications antennas installations shall be subject to Staff review and approval as follows:

- A. Small wireless communication antennas shall mean those whip antennas 6' 0" or less in height and panel antennas with a maximum front surface area of 2.0 square feet and not more than 15" in width, 36" in height, and 4" in depth that can be mounted on an existing utility or street light pole.
- B. Prior to installation, the provider shall obtain a permit from the City. If the proposed installation is located in right-of-way, the permit shall be issued in accordance with the City's requirements for a R-O-W permit. Otherwise it shall be issued by the Building Official.

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- C. The size, location, and appearance of the small wireless antennas will be subject to Staff review and approval. In its discretion, if Staff does not feel the proposed installation meets the intent of this regulation, it may refer approval of the permit to the Planning Commission.
- D. Prior to the review and approval of a permit, the applicant shall enter into an agreement whereby it agrees to abide by the requirements of the City's Right-of-Way Ordinance (as applicable) and to protect the City from any liability associated with the proposed installation. Such protection shall include requirements regarding bond, insurance, and indemnification. The agreement shall be applicable to the applicant's subsequent small wireless communication antenna permits and shall be in a form approved by the City's legal counsel.
- E. Utility racks will not be permitted and all equipment will be contained within an enclosed utility box. Utility boxes shall be located and installed in accordance with the requirements of the Zoning Regulations as set out in Sections 19.34.020.K and 19.30.055.G.
- F. Small antennas will be allowed to be mounted on existing utility and street light poles but the installation of taller utility poles or new overhead wiring to accommodate the antennas will not be permitted unless approved as a Special Use Permit.
- G. Not more than three antennas panels and one provider may be located on a utility or street light pole.
- H. The coaxial cable connecting the antennas to the equipment box shall be contained inside the pole or shall be flush mounted to the pole and covered with a metal, plastic, or similar material cap that matches the color of the pole and is properly secured and maintained by the provider.
- I. The applicant shall provide proof that it is a licensed provider and will comply with all federal, state and city regulations and laws relative to wireless services.
- J. The applicant shall provide any relevant information requested by City Staff.
- K. Any applicant may appeal a Staff decision to the Planning Commission.
- L. Any antenna that is not operated for a continuous period of six months shall be considered abandoned and the owner of such antenna shall remove the same within 90 days after receiving notice from the City. If the antenna is not removed within that 90 day period, the Governing Body may order the antenna removed and may authorize the removal of such antenna at the owner's expense.

19.33.065 Nonconformities

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Pre-existing wireless communication facilities, towers and antennas operating with a valid Special Use Permit, shall be considered legal non-conforming structures and shall not be required to meet the mandates of this Ordinance until the expiration of their applicable Special Use Permit.

B. Changes in other Sections of the Code to be in compliance with new regulations.

19.02.499 Utility Box

Any cabinet, pedestal, box, building, or other equipment enclosure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one-half square foot, a pad of two square feet or less, and a height of 36" or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety.

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 Nonconformities. Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and Maintenance, and Section 19.40.015C Damage, Destruction, and Demolition and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City Staff.

C. Delete Section 19.28.070.S of the Special Use Permit Chapter as follows:

- S. Wireless Communications Towers and antennas constructed or installed for use by commercial carriers (Ord. 1909, Sec. II, 1997).

Proposed Draft Ordinance No. 2189

Ordinance No. 2189

AN ORDINANCE CREATING CHAPTER 19.33 ENTITLED "WIRELESS COMMUNICATION FACILITIES" TO THE PRAIRIE VILLAGE MUNICIPAL CODE, 2003

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

Section I. Planning Commission Recommendation.

After having received a recommendation from the Planning Commission and proper notice having been published and hearing held on February 3, 2009, as provided by law and under the authority of and subject to the provisions of the Zoning Regulations of the City of Prairie Village, Kansas, the Zoning Ordinance is amended as set forth in Section II.

Section II. Adding Chapter 19.33

Chapter 19.33 of the Prairie Village Municipal Code, entitled "Wireless Communication Facilities" is hereby added to read as follows:

19.33 WIRELESS COMMUNICATION FACILITIES

19.33.005 Intent

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City has diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount. Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character of the City. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time the general safety and welfare of the community is protected.

19.33.010 Purpose

A wireless communication facility, tower or antenna including its equipment, but excluding small wireless communication antennae as set out in Section 19.33.055 may be sited, constructed, designed or maintained provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance. More specifically, these regulations are necessary to:

- A. Provide for suitable location of wireless communication facilities, towers and antennae so as to mitigate their negative effect on residential neighborhoods and land uses;
- B. Maintain community aesthetics by minimizing the negative visual effects of wireless communication facilities, towers and antennae through specific design and siting criteria;
- C. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;
- D. Encourage co-location among wireless service providers on existing and newly constructed sites in order to reduce the overall number of towers needed; and
- E. Promote the use of innovative stealth, camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City.

19.33.015 Definitions

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

- A. **Alternative Tower Structure:** This shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. **Antenna:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips.
- C. **Co-location:** The act of siting Telecommunications Facilities from more than one provider in the same location on the same Support Structure as other Telecommunications Facilities. Co-location also means locating Telecommunications Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.
- D. **Equipment:** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
- E. **Equipment Compound:** The area in which the equipment and tower may be located which is enclosed with a fence or wall or is within a building or structure.
- F. **Maintenance:** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself or replacing Antennas and Accessory Equipment on a like-for-like basis on an existing Telecommunications Facility. Ordinary maintenance also includes maintaining walls, fences and landscaping including the replacement of dead or damaged plants as well as picking up trash and debris. Ordinary Maintenance does not include Modifications.
- G. **Modifications:** Improvements to existing Telecommunications Facilities and Support Structures, that result in some material change to the Facility or Support Structure. Such Modifications include, but are not limited to, extending the height of the Support Structure, replacing the support structure and the expansion of the compound area for additional equipment.
- H. **Monopole:** A single, freestanding pole-type structure supporting one or more Antenna.
- I. **Stealth Telecommunications Facility:** Any Telecommunications Facility that is integrated as an architectural feature of a structure or the landscape so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- J. **Support Structure(s):** Monopoles, Towers, Utility Poles and other freestanding self-supporting structure which supports a device used in transmitting or receiving radio frequency energy.
- K. **Wireless Communications Facility(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Wireless Communication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

19.33.020 Special Use Permit Requirement

Unless otherwise excepted herein, wireless communication facilities, towers and antennae shall be allowed only upon approval of a Special Use Permit in accordance with the procedures setout in Chapter 19.28, Special Use Permit.

19.33.025 Factors For Consideration

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit for a wireless facility shall include, but not be limited to the following:

- A. The character of the neighborhood.
- B. The zoning and uses of property nearby.
- C. The extent that a change will detrimentally affect 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.
- E. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
- F. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.
- 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 that the special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will 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.
- 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.
- I. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- J. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- 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.
- 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.
- M. City Staff recommendations.

19.33.030 Application Information

At the time the application is filed, the applicant shall submit the following information:

- 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 sites and antennas.

If the use of existing towers, alternative tower structures, 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 construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. 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 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.

- 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.
- 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.
- D. Any application for construction of a new wireless communication facility, tower, 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.

- 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 antennae 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.

- F. Preliminary construction schedule including completion dates.
- G. The applicant shall provide a copy of its FCC license
- H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.
- I. Any other relevant information requested by City Staff.
- J. Application and fee. The applicant shall submit a completed application form with all required attachments and must agree to and reimburse the City for all costs related to the application.

19.33.035 Design Requirements

A. Setbacks

1. The equipment compound shall meet the minimum required setbacks for a principal use in the district in which it is located.
2. Stealth towers and alternative tower structures that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principal building.
3. Non-stealth monopoles or towers 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.
4. The applicant may request a reduction or waiver of the setback requirement. The Planning Commission shall consider the request and make a recommendation to the City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed cell tower installation;
 - b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;
 - 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.

B. Screening and Landscape Buffer

Adequate screening of the equipment cabinets located at the tower base shall be provided by a solid or semi-solid wall or fence or a permanent building enclosure using materials similar to adjacent structures on the property. All equipment cabinets shall be adequately secured to prevent access by other than authorized personnel.

Landscaping shall be required around the base or perimeter of the screening wall or fence. A combination of coniferous and deciduous trees and shrubs is required and drought tolerant plant materials are encouraged. When the visual impact of the equipment compound would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission or City Council.

C. Tower/Antennae Design

1. All non-stealth towers shall maintain a hot dipped galvanized finish, and shall be a monopole design unless otherwise approved by the Planning Commission or City Council.
2. All antennae installed on towers shall be internal. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Prairie Village and other governmental agencies are exempt from this requirement.
3. All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached.
4. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure of the background against which they are most commonly seen.
5. All electrical cables shall be installed within the monopole. For installations on buildings, water towers and other structures, cables shall be enclosed with a shield that is painted the same color as the building, water tower, or structure. Underground cables that are a part of the installation shall be required to be located at a safe depth underground.

D. Illumination

Communication towers may be only illuminated if required by the FCC and/or the FAA. Security lighting around the base of the tower may be installed, provided that no light is directed toward an adjacent residential property or public street.

E. Height

The maximum height for a wireless communication tower shall be 150 feet plus a lighting rod not exceeding ten feet (10').

F. Sealed Drawings

The construction plans for the tower shall be prepared and sealed by a structural engineer licensed in the State of Kansas. Construction observation shall be provided by the design engineer provided that said engineer is not an employee of the tower's owner. If the design engineer is an employee of the owner, an independent engineer will be required to perform construction observation.

- G. Anti-perch devices that prevent birds from perching or roosting on the installation shall be installed when appropriate.

19.33.040 Conditions of Approval

The Planning Commission and City Council may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location:

- A. The initial approval of the Special Use Permit shall be for a maximum of five years. At the end of the five year period, the permittee shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council 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 Special Use Permit may then be extended for an additional ten years by the City Council and the permittee shall resubmit after each ten year reapproval. The process for considering a resubmittal shall be the same as for the initial application.
- B. Any tower, antenna or other facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower, antenna or facility shall remove the same within 90 days after receiving notice from the City. If the tower, antenna or facility is not removed within that 90 days period, the governing body may order the tower, antenna or facility removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of the Special Use Permit, the applicant shall submit a bond to the City in an amount adequate to cover the cost of tower removal and the restoration of the site. This bond will be secured for the term of the Special Use Permit plus one additional year. In the event the bond is insufficient and the permittee otherwise fails to cover the expenses of any such removal, the site owner shall be responsible for such expense.
- C. The applicant shall have a structural inspection of the tower performed by a licensed professional engineer licensed in the State of Kansas prior to every ten year renewal and submit it as a part of the renewal application.
- D. Any wireless communication facility, tower or antenna which is not 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 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 notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the facility tower antenna and all appurtenances and restore the site to its original condition.
- E. The permittee shall keep the property well maintained including maintenance and replacement of landscape materials; free of leaves, trash and other debris; and either regularly cleaning up bird droppings or installing anti-perch devices that prevent birds from perching on the installation.

- F. 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 facility, tower or antenna 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.
- G. In order to ensure structural integrity, all wireless communication facilities, towers and antennae shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such facilities, towers and antennae that are published by the Electronic Industries Alliance.
- H. All wireless communication facilities, towers and antennae 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 all facilities, towers, and antennae 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.
- I. It shall be the responsibility of any permit holder to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- J. A copy of the lease between the applicant and the landowner containing the following provisions:
 - 1. The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 - 2. The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.
- K. Information to establish the applicant has obtained all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.

19.33.045 Site Plan Approval

All installations shall have a site plan approval in accordance with Chapter 19.32, Site Plan Approval.

19.33.050 Exceptions

Any wireless communications facility, tower and antennae that are a stealth design shall be exempt from the Special Use Permit requirements and shall be approved in accordance with Chapter 19.32, Site Plan Approval.

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.

19.33.055 Existing Site Improvements

Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

- A. Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this Chapter. Unless otherwise provided for by the current Special Use Permit, application for such alteration or improvement to an existing site will require approval through an amended Special Use Permit. However, if provided by the current Special Use Permit, such application shall be considered a revised final site plan and will only require submission to and approval of the Planning Commission.
- B. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- C. Additional Antennae. When provided for in the approved capacity limit of a multi-user tower's current Special Use Permit, additional antennae or replacement of current antenna may be added through an application for a revised site plan and will only require submission to and approval by the Planning Commission. Any additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require an amended Special Use Permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- D. In the event that new technology provides a better alternative to the design requirements herein, the Planning Commission may reasonably approve or require design modification of a wireless communication facility, tower or antenna when the appearance of the same is deemed to be less obtrusive than the requirements permitted herein.
- E. Any proposal by a permit holder to replace a current antenna or to alter and improve an existing facility, tower or antenna in a manner to make the same less obtrusive such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antenna to a "slim line" or internal design shall be considered as an amended site plan and will only require submission to and approval by the Planning Commission.
- F. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements, and the cumulative effect of any additional antennae and related facilities must comply with the radio frequency emission guidelines established by the FCC.

19.33.060 Small Wireless Communications Antennae

The location, design and appearance of small wireless communications antennae installations shall be subject to Staff review and approval as follows:

- A. Small wireless communication antennae shall mean those whip antennae 6' 0" or less in height and panel antennae with a maximum front surface area of 2.0 square feet and not more than 15" in width, 36" in height, and 4" in depth that can be mounted on an existing utility or street light pole.

- B. Prior to installation, the provider shall obtain a permit from the City. If the proposed installation is located in right-of-way, the permit shall be issued in accordance with the City's requirements for a R-O-W permit. Otherwise it shall be issued by the Building Official
- C. The size, location, and appearance of the small wireless antennae will be subject to Staff review and approval. In its discretion, if Staff does not feel the proposed installation meets the intent of this regulation, it may refer approval of the permit to the Planning Commission.
- D. Prior to the review and approval of a permit, the applicant shall enter into an agreement whereby it agrees to abide by the requirements of the City's Right-of-Way Ordinance (as applicable) and to protect the City from any liability associated with the proposed installation. Such protection shall include requirements regarding bond, insurance, and indemnification. The agreement shall be applicable to the applicant's subsequent small wireless communication antenna permits and shall be in a form approved by the City's legal counsel.
- E. Utility racks will not be permitted and all equipment will be contained within an enclosed utility box. Utility boxes shall be located and installed in accordance with the requirements of the Zoning Regulations as set out in Sections 19.34.020.K and 19.30.055.G.
- F. Small antennae will be allowed to be mounted on existing utility and street light poles but the installation of taller utility poles or new overhead wiring to accommodate the antennae will not be permitted unless approved as a Special Use Permit.
- G. Not more than three antennae panels and one provider may be located on a utility or street light pole.
- H. The coaxial cable connecting the antennae to the equipment box shall be contained inside the pole or shall be flush mounted to the pole and covered with a metal, plastic, or similar material cap that matches the color of the pole and is properly secured and maintained by the provider.
- I. The applicant shall provide proof that it is a licensed provider and will comply with all federal, state and city regulations and laws relative to wireless services.
- J. The applicant shall provide any relevant information requested by City Staff.
- K. Any applicant may appeal a Staff decision to the Planning Commission.
- L. Any antenna that is not operated for a continuous period of six months shall be considered abandoned and the owner of such antenna shall remove the same within 90 days after receiving notice from the City. If the antenna is not removed within that 90 day period, the Governing Body may order the antenna removed and may authorize the removal of such antenna at the owner's expense.

Section III. Repeal of Prior Ordinances.

All ordinances and parts thereof that are inconsistent with any provision of this ordinance are hereby repealed.

Section IV. Effective Date

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

PASSED AND APPROVED THIS 20th DAY OF JULY, 2009.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney

Proposed Draft Ordinance No. 2190

Ordinance No. 2190

AN ORDINANCE AMENDING CHAPTER 19.02 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, ENTITLED "DEFINITIONS" BY AMENDING SECTION 19.02.499 ENTITLED "UTILITY BOX".

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

Section I. Planning Commission Recommendation.

After having received a recommendation from the Planning Commission and proper notice having been published and hearing held on February 3, 2009, as provided by law and under the authority of and subject to the provisions of the Zoning Regulations of the City of Prairie Village, Kansas, the Zoning Ordinance is amended as set forth in Section III.

Section II. Amendment to Chapter 19.02

Chapter 19.02 of the Prairie Village Municipal Code, entitled "Definitions" is hereby amended by amending Section 19.02.499 to read as follows:

19.02.499 Utility Box

Any cabinet, pedestal, box, building, or other equipment enclosure used for public utility services, public service corporation, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one-half square foot, a pad of two square feet or less, and a height of 36" or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety.

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 "Nonconformities. Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and Maintenance, and Section 19.40.015C Damage, Destruction, and Demolition, and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City Staff.

Section III. Repeal of Prior Ordinances.

All ordinances and parts thereof that are inconsistent with any provision of this ordinance are hereby repealed.

Section IV. Effective Date

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

PASSED AND APPROVED THIS 20th DAY OF JULY, 2009.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney

ORDINANCE NO. 2198

AN ORDINANCE REPEALING ORDINANCE NO. 2195, A MORATORIUM ON APPLICATIONS FOR A SPECIAL USE PERMIT RELATED TO WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS CONSTRUCTED OR INSTALLED FOR USE BY COMMERCIAL CARRIERS

Whereas, Ordinance No. 2195 was adopted on June 1, 2009 and became effective upon publication, June 9, 2009.

Whereas Ordinance No. 2195 created a moratorium on applications for special use permits for wireless communications towers and antennas pending a review by the Governing Body and the Planning Commission of the City's current ordinances and policies relating to the issuance of special use permits for wireless communications towers and antennas.

Whereas, the Governing Body has adopted changes to the City ordinances related to wireless communications towers and antennas on July 20, 2009.

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

- Section 1. Ordinance No. 2195 is hereby repealed for the reasons set forth herein.
- Section 2. This Ordinance shall take effect on August 1, 2009 and after publication as provided by law.

PASSED AND APPROVED THIS 20th day of July 2009.

Ronald. L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, Secretary
City Clerk

Catherine P. Logan
Prairie Village Planning Commission

MAYOR'S ANNOUNCEMENTS

Monday, July 20, 2009

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Environment/Recycle Committee	07/22/2009	7:00 p.m.
Council Committee of the Whole	08/03/2009	6:00 p.m.
City Council	08/03/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a photography exhibit by Mark Raynes for the month of July.

The 50th Annual Water Show will be on Sunday, July 26th at 8:30 p.m.

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

INFORMATIONAL ITEMS
July 20, 2009

1. Prairie Village - First Half Crime Report 2009
2. Prairie Village Arts Council Minutes - May 20, 2009
3. Prairie Village Environmental Committee Minutes - May 27, 2009
4. Finance Committee Minutes - May 28, 2009
5. Sister City Committee Minutes - June 8, 2009
6. Finance Committee Minutes - June 10, 2009
7. Sister City Committee Minutes - June 15, 2009
8. Prairie Village Arts Council Minutes - June 17, 2009
9. Prairie Village Environmental Committee Minutes - June 24, 2009
10. Mark Your Calendars
11. Committee Agenda

PRAIRIE VILLAGE

FIRST HALF CRIME REPORT - 2009

CRIME	2005	2006	2007	2008	2009	AVERAGE	2009 +/- AVG
Homicide	0	0	0	0	0	0.00	0.00
Rape	4	2	0	1	2	1.80	0.20
Robbery	5	2	1	2	5	3.00	2.00
Assault	47	34	38	36	28	36.60	-8.60
Burglary	35	9	21	36	33	26.80	6.20
Residence	22	5	14	33	26	20.00	6.00
Business/ Miscellaneous	13	4	7	3	7	6.80	0.20
Theft	97	91	71	69	100	85.60	14.40
Auto Theft	16	8	15	10	7	11.20	-4.20
Arson	4	0	2	4	0	2.00	-2.00
Forgery	3	5	4	3	13	5.60	7.40
Fraud	5	3	0	3	5	3.20	1.80
Criminal Damage	34	66	38	29	49	43.20	5.80
Sexual Offenses	7	2	1	3	0	2.60	-2.60
TOTAL	257	222	191	196	242	221.60	20.40

ACCIDENTS	2005	2006	2007	2008	2009	AVERAGE	2009 +/- AVG
Fatal	0	0	0	0	0	0.00	0.00
Street - Injury	15	13	14	11	8	12.20	-4.20
Street - Property + \$1,000*	139	165	153	153	124	146.80	-22.80
Street - Property - \$1,000*	27	17	22	15	18	19.80	-1.80
Private - Injury	0	0	0	0	0	0.00	0.00
Private - Property	24	35	42	52	27	36.00	-9.00
Walk-In Property	39	26	30	32	22	29.80	-7.80
TOTAL	244	256	261	263	199	244.60	-45.60

TOTAL CALLS	4,839	4,564	4,898	4,043	4,188	4506.40	-318.40
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*2005 statute change to \$1,000

**Prairie Village Arts Council
May 20, 2009
Minutes**

The Prairie Village Arts Council met at 7:00 pm in the City Council Chambers of City Hall. Members present: Randy Kronblad, Chairman, Angi Jones, Dan Andersen, Jack Shearer, Annie Brabson, Jeff Preuss, Shelly Trewolla, Pam Marshall, and David Morrison. Also present: Dennis Enslinger, City Staff, Donna Potts, Prairie Village Shopping Center.

Minutes

Committee approved minutes from the May 20th meeting with correction to the spelling of Dan Andersen.

Prairie Village Arts Show

Donna Potts indicated that there were over 100 artists signed up for the Prairie Village Arts Show. She confirmed that the Arts Council was still going to participate in serving wine Friday night, dinner on Saturday and breakfast on Sunday. The Council confirmed that was their intention and passed around a volunteer schedule for the events.

Council Report

David Morrison indicated that he did not have anything to report at this time except that the City Council was still working on the proposed budget. Councilmember Morrison indicated that he would have more to report at the next meeting.

Financial Report

Dennis Enslinger provided an overview of the current financial sheets.

Monthly Art Exhibits

It was reported that the April exhibit with Kay Trieb was well attended. The May Show will be L. Daniel Compton, photographer on Friday, June 12th at 6.30pm.

Old Business

Update on State of the Arts Event, October 9, 2009 (6.00pm to 8.00pm awards at 7.00pm)

Dan presented information contained on the Arts Council's web page which would allow for artists to apply for the State of the Arts Event online. The Council was shown the web site. Dan indicated that they were hoping to do the payments of the entry fee online and that staff was working on setting up a PayPal account.

The Council had a discussion about the rate to charge as an entry fee. The Council decided that the fee should be \$35.

Angi Jones provided a summary of the event and food and indicated they would provide more information at the next meeting.

New Business

Mr. Enslinger reminded the council that the next Johnson County Arts Council Luncheon will be on June 25th from 11:30a.m. – 1p.m. at the Merriam Visitor's Center. Dan

Andersen indicated he could not attend so he requested that another Council member attend.

Mr. Enslinger also reminded the Council the dedication for the Porch Light sculpture at Somerset and Cambridge would be on May 27th at 4 p.m.

The Council had a general discussion about a possible Jazz event. Dan Andersen indicated that he would hold a subcommittee meeting for those interested. Staff would send out notification of the meeting once the time and place had been established.

The meeting was then adjourned at 8:30 p.m.

PRAIRIE VILLAGE ENVIRONMENTAL COMMITTEE

MINUTES, May 27, 2009

Anne-Marie Hedge, of the steering committee, called the meeting to order at 7:00. Attending were: Cheryl Landes, Polly Swafford, Thomas O'Brien, Pete Jarchow, Ruth Hopkins, Dennis Enslinger, Don Landes, Deborah English, Margaret Goldstein, Penny Mahon, Anne-Marie Hedge, Karin McAdams, David Morrison, Barbara Brown, Bob Pierson, Kathy Riordan, Toby Grotz and Margaret Thomas. Dave Crawford, a first-time attendee, introduced himself. The minutes were approved as read.

Events and information:

- **Rain garden seminar** – Leawood Presbyterian Church at 7 p.m. on June 1. rsvp to Leslie Alford, 816-309-0762
- **Clean Energy Jobs Day** at Sandstone

Reports:

- **Village Fest** - Deborah needs volunteers to run the kids' games in our booth. She passed around a sign-up sheet. There are good offers of coloring books for prizes. We will get ten clear-bag recycling containers and are probably responsible for them during and after the event.
- **Forum** – Conversation with Bluebird is continuing and favoring dinner over dessert. We discussed lowering the price and perhaps subsidizing it with the \$500 we'll get back from the shoe drive and other funds. Polly, Mary Helen and Kathy are working on the mailing list, and Margaret will contact the tablers.
- **Holcomb** – Margaret expressed the frustration that most environmental groups are experiencing regarding Parkinson's action on the power plant. Sierra Club is considering a protest, but most of our group preferred working politically to participating in a negative demonstration. Kansas Natural Resources Council and the Sierra Club are working on a candidate scorecard. Perhaps we could encourage Prairie Village to run itself independently of coal power.

New business – An appeal for new members of the leadership committee appeared to fall on deaf ears. No action was taken.

Subcommittee reports:

- **Recycling** – The committee is working on a range of issues. Critically, we need to monitor the choice of Prairie Village recycling company when the Deffenbaugh contract expires in 2010. The committee stated four goals: 1) Recycling at city offices, 2) City purchasing, 3) City parks recycling, and 4) Recycling at city businesses. Ruth found that city offices now have recycling bins, and the recycling services picks up there. The parks department is positive about have better recycling there. The committee also discussed better publicity, considering the possibility of literature with the Prairie Village logo (Star of Kansas) printed in green. Finally, we discussed the use of water bottles at City Council meetings and decided that the time-honored water pitcher was a good alternative.
- **Gliding toward Frugality** – Margaret described this group as helping people embrace a more modest lifestyle. The committee proposed several ideas: 1) A blog on the new Prairie Village website; 2) Educating people about this idea, perhaps including the 2010 Forum; 3) Creating a Prairie Village green business directory; 4) Working with the Community Gardens Committee and the SME Environmental Committee to encourage small enterprises within the community; 5) Expand the opportunities for green jobs, such as in deconstructing buildings; 6) Creating a Prairie Village farmers market; 7) Making music, as in front- or back-porch porch gatherings.
- **Stream Revival** – Pete reported that 99% of Prairie Village streams have concrete bottoms, which are not easy to remove. The group is examining existing natural to streams to see if they can be improved. There are possibilities for stream restoration, and MARC and others offer grants for such projects.

- **Composing** – Education should be the main goal of this committee, and the Prairie Village website is a good vehicle for it. The group has been studying relevant city ordinances, so we will know what kind of composing to promote – or if the ordinances need to be updated. It was suggested that the city consider selling compost bins at cost.

Next meeting – We can all help the publications committee with its new task of providing a green column for each new issue of the Village Voice. We are planning to invite Stacia Stelk to speak on glass recycling.

The meeting was adjourned about 8:45.

Respectfully submitted, Karin McAdams

PRAIRIE VILLAGE ENVIRONMENTAL COMMITTEE

AGENDA June 24, 2009

7:00 Call to order and approving May minutes.

7:10 Choosing new leadership committee for the second half of 2009

7:20 Reports

- VillageFest – Deborah
- Forum – Kathy
- Political issues
- Other

7:35 Upcoming events

- Sunday, June 28 – Urban Farms and Gardens Tour – 10 a.m. to 5 p.m. For more information see <http://urbanfarmtourkc.com>
- Weekly garden clinic at KC Community Gardens – Thursdays noon – 1 p.m.
- Climate and Energy Project – check them out often at <http://www.climateandenergy.org/>
- Next meeting – Stacia Stelk

7:40 Penny's letter to the gov.

7:50 Reports from committees

8:15 Further discussion of *Village Voice* possibilities

8:30 Adjourn

FINANCE COMMITTEE MAY 28, 2009

The Finance Committee met on May 28, 2009. Present: Mayor Ron Shaffer, David Voysey, Charles Clark. Staff Present: Quinn Bennion, Karen Kindle, Bob Pryzby. Consultant Present: Jeff White, Columbia Capital

Possible Bond Issue

- Mr. Bennion explained that bonding CIP projects was a strategy that staff was discussing as part of the budget preparation process. Rates for entities with high credit ratings, such as the rating the City has, are very good right now. In addition, construction costs are low right now due to the sluggish economy.
- Mr. White reviewed a memo he had prepared which highlights issues and options regarding a bond issue for the City. He also reviewed a sample bond issue calendar.
- Mrs. Kindle presented a list of possible projects noting funding sources for the debt service payments.
- The Committee directed staff to fine tune the list and schedule another meeting to review that list and discuss timing further.
- Staff noted that if decisions about the bond issue were not reached prior to passage of the budget, the budget could be amended to reflect the changes.

City Hall Fitness Room

- Mr. Bennion reviewed the information regarding a fitness room in the City Hall basement. Currently the room serves as records storage. Mr. Bennion noted that staff was planning to bring this item to the June 1st Council Committee meeting.
- The Committee was supportive of the concept.

2010 Budget Gap and Gas Tax Trend

- Mrs. Kindle reviewed the budget gap sheet again. She also discussed the gas tax trend review she completed. The Council had asked questions about the difference in staff's estimates vs. the League of Kansas Municipalities' estimates. The trend shows a history of the Leagues' estimates being significantly higher than revenues actually received.
- The Committee agreed with staff's approach to estimating the amount for this revenue source.

2010 Budget Gap Reduction Strategies

- Elimination of 2 FTE
 - Mr. Bennion noted that he and Mr. Enslinger had met individually with a few of the Council members who had questions about this budget gap reduction strategy.
- Retirement Incentives
 - Mr. Bennion highlighted the provisions of the two proposed retirement incentive package alternatives. He noted that the provisions were similar to provisions in packages used by Olathe and Lenexa. He also noted that the package was still subject to legal review.

FINANCE COMMITTEE
MAY 28, 2009

- Mr. Bennion went over a worksheet that analyzed the potential costs and savings associated with the two alternatives for the proposed retirement incentive package.
- The Committee directed staff to present the alternative that provides one week of pay for each year of service to the Council. It is the alternative that made the most sense from a budgetary perspective.
- Employee Salary Increase/Merit Pool
 - Staff had been reviewing several scenarios ranging from 0% to 3%. Mr. Bennion asked the Committee for feedback on which percentage for the merit pool staff should use.
 - The Committee was supportive of 2%.

SISTER CITY COMMITTEE
08 June 2009
MINUTES

Call to Order

Chairperson Jim Hohensee called the meeting to order at 7.00pm. Members present: Cleo Simmonds, Dick Bills, Rod Atteberry, Carole Mosher and Cindy Dwigans. Guests: Phil Monnig, Paul Thoma and Michael Kelly.

Phil Monnig introduced himself and expressed his interest in the Sister City Committee.

Minutes

Rod moved for approval of the May minutes and Carole seconded. The motion carried.

Tour de Prairie Village

Mike Kelly was present with Rob & Paul from the Tomahawk Cycling Club. The race is planned for September 12th and they have a cost effective route that has been approved. Mike has spoken with the Merchants Assn. and they are very interested in some association with the race. USA Cycling has a preparation checklist that will provide guidance on organizing the race. Advertising will take place through flyers and the web. Costs will be around \$2500 - \$3,000 with registration costs being about \$30 early bird, \$35 on the day of the race. Each entrant will receive a water bottle. The Tomahawk Club would like to split the proceeds; taking 15% of any revenues after all expenses have been covered. The Committee is agreeable, but requires a document outlining roles and responsibilities for the race. Rod and Mike will work with the club to draw up such a document.

Recent Ukrainian Visit

It was noted that we learn more about what to do with each visit. Some examples are: being sure to include host families from previous visits in certain activities and serving more soup.

Appropriate gifts for the August visit were discussed. Vera advised that US pencils & flags make good gifts. As would Kansas quarters placed in small coin case. In addition, short bios should be prepared in advance as well as PowerPoint presentations in case the opportunity arises.

The committee agreed that we need one city e-mail address and one person who receive all e-mail. We should also keep a master list of everyone a visiting delegation meets, places they visit, etc. This will make future planning and thank you cards easier to write.

Jim made a motion to express deep appreciation to Dick for providing the refreshments at the informal discussion session. Rod seconded the motion. The motion passed.

Art Show Update

The delegation did not bring the art items we hoped for, making the visit in August more critical. Rod has discussed the Art Show with Tanya and she is looking into ways of sending us art. She is also interested in increasing child involvement. Children's art will be a part of our Village Fest activities. The committee authorized Rod to procure markers for that purpose.

Adjournment

The next meeting will be June 15th at 7:00pm.

Jim Hohensee
Chair

**FINANCE COMMITTEE
JUNE 10, 2009**

The Finance Committee met on June 10, 2009. Present: Mayor Ron Shaffer, David Voysey, Charles Clark, Dale Beckerman. Staff Present: Quinn Bennion, Karen Kindle, Bob Pryzby. Consultant Present: Jeff White, Columbia Capital

Possible Bond Issue

- Staff reviewed the list of possible projects and the possible funding sources to pay the debt service. Mr. Pryzby and Mr. Bennion provided possible cost estimates.
- The Committee reviewed the reasons to do a bond issue at this time – good rates for entities with high bond ratings, the ability to accelerate projects in the CIP and get them done at a lower cost, etc.
- The Committee directed staff to prepare information for discussion at the June 15th Council Committee meeting.
 - Mr. White was directed to prepare a diagram showing the with a bond issue and without a bond issue financing of the CIP.
 - The primary objective of the discussion would be to determine if the Council would like Staff to continue to pursue a possible bond issue.

Retirement Incentives

- Mr. Bennion highlighted the provisions of the proposed retirement incentive package. He explained that he, Chief Wes Jordan and Nic Sanders, HR Specialist, met with the eligible employees to find out what their concerns were and what elements of a package would be important to them. Mr. Bennion said that most of the eligible employees expressed concerns about health insurance coverage. Mr. Bennion noted that he and the department heads discussed options regarding healthcare and updated the proposed retirement package. The additional provisions were a lump sum payment to use towards healthcare premiums, setting the retiree healthcare on the City's plan at 100% of the premium that active employees pay (in 2008, Council adopted a rate of 125%) and a lump sum payment for waiver of coverage under the City's healthcare plan if the employee is eligible.
- Mr. Bennion went over a worksheet that analyzed the potential costs and savings associated with the updated proposed retirement incentive package.
- The Committee was supportive of the proposed plan as updated by staff.

SISTER CITY COMMITTEE
15 June 2009
MINUTES

Call to Order

Chairperson Jim Hohensee called the meeting to order at 7.00pm. Members present: Cleo Simmonds, Dick Bills, Rod Atteberry, Bob McGowan, Carole Mosher and Cindy Dwigans. Guests: Phil Monnig and Hildegard Knopp.

August Ukrainian Visit

Chris advised that funding for the Mayor's trip and Chris's trip to Dolyna was approved by the City Council. He also advised that the Mayor was sending letters to community leaders asking them to attend. They include Stoney Bogan, Nancy Wallerstein, and the SMSD Superintendent. Chris noted that the Mayor is under a time constraint and may not be able to stay the entire time.

Jim outlined spots. If we have seven home stays and we send the Mayor, Chris, and Mike and we allow for at least two invitees from the Mayor's list, we will only have two or three spots for sister city people. We cannot overwhelm them with anyone who wants to go. We must keep numbers limited. Dick, Rod, and Cindy all expressed interest in going. Jim stated that he and Sally would act as a backup if the Mayor didn't get positive responses to his invites. Otherwise, Jim will plan for a future visit.

It was reaffirmed that people should have bios and a presentation.

There should be an orientation meeting once the delegation is confirmed.

Chris discussed gifts to be taken to Ukraine. The committee recognized that any gifts from the city will be paid for by the committee. Suggestions included Native American pipes and flutes, and cowboy related items.

Villagefest

The Committee will have 2 tables, a tent and electricity for a boom box. There will be cookies to sell and items Barbara Dolci donated. In addition, Irene Thompson will demonstrate the creation of the Ukrainian eggs and we will have some to sell. Vera offered her Ukrainian Christmas ornaments for sale at the tent. The committee agreed to buy them from her for resale at \$4 - \$6. We will have space for children to draw. Rod mentioned a Sister City Banner and the committee agreed to the amount of \$100. Other ideas for decoration included balloons, a Map, and the Ukrainian flag.

New Business

Chris mentioned the El Monte Fountain and its need for repairs. Repairs would require \$50,000 but there are opportunities for "sweat equity" on the project - such as gardening. The committee will be open to the possibility of contributing to the project in some way, in exchange for Sister City recognition.

Tour de Prairie Village

At Cleo's suggestion, Jim will look into trademark for the Tour de PV.

Adjournment

The next meeting will be July 13th at 7:00pm.

Jim Hohensee
Chair

**Prairie Village Arts Council
June 17, 2009
Minutes**

The Prairie Village Arts Council met at 7:00 pm in the City Council Chambers of City Hall. Members present: Randy Kronblad, Chairman, Angi Jones, Dan Andersen, Jack Shearer, Bill Rose, Michael Riley, Jeff Preuss, Shelly Trewolla, Pam Marshall, and David Morrison. Also present: Dennis Enslinger, City Staff.

Minutes

Council approved minutes from the May 20th meeting.

Financial Report

Dennis Enslinger provided an overview of the current financial sheets. Mr. Enslinger noted that the cost of the PV Arts show was \$1997 which was under the budgeted amount.

Council Report

David Morrison indicated the City Council reinstated the full amount of the Arts Council Budget (\$13,500) in the latest draft of the budget. The budget will not be final until August.

Monthly Art Exhibits

It was reported that the June exhibit with L. Daniel Compton, photographer on Friday, June 12th had a lower than expected turnout. It was thought that there were a number of events going on in the community that week. The July exhibit reception will be Mark Raynes, photographer, and will be held on July 10, 2009 from 6:30 to 7:30 p.m. Dan, Jeff, and Randy volunteered for the reception.

Old Business

PV Arts Show

The Council had a general discussion about the Prairie Village Art Fair. Generally, it was decided that attendance was good but purchases were down from previous year. There was some discussion about the idea of hosting a VIP tent with the possibility of a prepaid party (invitees agree to purchase a certain dollar amount of art). This idea was initially brought up by Donna Potts. It was decided that the Council would ask Donna to discuss this concept at a future date. Mr. Enslinger noted that the only complaint he heard was with regard to relief breaks for the artists. It was decided to try and have a sign-up sheet at next year's event so that there is a specific time for artists to sign-up for breaks rather than leaving it open ended.

Update on State of the Arts Event, October 9, 2009 (6.00pm to 8.00pm awards at 7.00pm)

Dan Andersen presented information contained on the Arts Council's web page which would allow for artists to apply for the State of the Arts Event online. The Council was shown the web site. Dan requested that the Council members try to go on the site and sign-up for the event.

The Council had a discussion using the \$500 budgeted for art purchases to add an additional award, Peoples Choice. It was agreed that this was a good idea and the Council approved this change to the budget. There was further discussion regarding how voting would occur but there was not a decision on this issue.

There was a brief discussion regarding putting the Arts Council logo on the glasses. David Morrison agreed to look into this issue and get back to the Council at the July meeting.

Angi Jones noted that that they were still working on a number of specifics regarding the reception event. Some of the items have been secured such as the individuals who would do the ice sculpture and the photographer.

Artists for the 2010 Gallery Exhibits

The Council set the September 16th meeting as the meeting to select the artists for the upcoming exhibition year. Mr. Enslinger indicated that there were 9 openings and five artists have submitted.

The Council had a discussion about scheduling a Dolyna exhibit showcasing the art of the City's Sister City. It was determined that this event would be scheduled for May 2010. The Council had a discussion about the necessary requirements including shipping/receiving artwork and any associated costs. It was agreed that a subcommittee would discuss the specifics on July 7, at 5:00 p.m. at Dan Andersen's residence and then provide a report to the Council at the July meeting.

The Council had a discussion about having a student exhibition either the month of February or March. Mr. Enslinger indicated he would confirm the dates of Spring Break to make sure the reception did not conflict with the March date.

Johnson County Arts Council Luncheon

Jack Shearer indicated that he would attend the June 25th event.

New Business

Possible Jazz event in 2010

The Council had a general discussion about a possible Jazz event. Dan Andersen indicated that he would hold a subcommittee meeting for those interested on July 14th at 7:00 p.m. at his residence. A report would be made at the July 15th.

The Council had a general discussion about how it might help the community maintain the sculptures contained within the Islands of the various subdivisions in the city.

The meeting was then adjourned at 8:45 p.m.

PRAIRIE VILLAGE ENVIRONMENTAL COMMITTEE

MINUTES, June 24, 2009

Linda Smith called the meeting to order at 7:05. Attending were: Barbara Brown, Mary Helen Korbelik, Polly Swafford, Bob Pierson, Ruth Hopkins, Dennis Enslinger, Linda Smith, Deborah English, Margaret Goldstein, Penny Mahon, Dave Crawford, Karin McAdams, David Morrison and Kathy Riordan. The minutes were approved.

The upcoming leadership team will include Tom O'Brien, Linda Smith and Anne-Marie Hedge. Karin McAdams will continue to take minutes. Future meetings were discussed, and Toby Grotz was discussed as a possible presenter on "Food Not Lawns." Deborah English will explore her contacts, also. Stacia Stelk, from Ripple Glass, will speak on glass recycling at the July meeting.

Events and information:

- **Urban Farms and Gardens Tour** will take place Sunday, June 28, from 10 a.m. to 5 p.m.
- **KC Community Gardens** have gardening clinics at noon every Thursday during the summer.
- **Dennis** announced that solar panels may be installed on police department buildings and that Deffenbaugh will be adding new rules tightening trash disposal. They will provide larger recycling bins and new trash bins. He invited to us look at samples after the meeting.
- **The Waxman Markey Climate Bill** will come to a vote in the House on Friday, and Penny and Mary Helen urged us to contact Dennis Moore if we haven't already.

Reports:

- **VillageFest** – Deborah asked for more volunteers, especially as there is a children's activity. Lots of booklets on water quality are available to give out, but none on recycling. If we print them out it might cost \$100. Deborah will check with the EPA first. There are also adult give-aways, and we'll be giving out water with paper cups.
- **Forum** – Publicity, mostly through other organizations, is on track. The Bluebird Bistro will probably provide the meal; other possibilities are Eden Alley and the Bloomsday Bistro.

Subcommittee Reports:

- **Green awards** – These awards can be given for local, state and national achievement; if they are presented at the Forum, it will encourage recipients to attend. The committee is building a mailing list and lining up donations of awards. It was suggested that they also work on specific criteria for the awards.
- **Streams** – They looked at several streams and found that trash is thrown in often. There's a community volunteer who is willing to help with cleanup.
- **Compost** – the committee is looking for ways to spread information; the *Village Voice* is one vehicle for this. Articles for the August-September edition need to be submitted by late July.
- **Community gardens** – Margaret G. has had two meetings with Christine Germann of the Village Church food pantry about the possibility of having the garden on their land. She is very enthusiastic, and she says that volunteers and materials would be forthcoming from Village Church. It's unfortunate but not insurmountable that this location is in Overland Park. Other ideas for locations were Prairie School, the Lutheran Church at 90th St. and Mission, and the land under the WDAF radio tower. Islands are a possibility, too, and Margaret has a list of the ones with water.
- **Gliding to Frugality** – Some ideas are: a blog on the Prairie Village website, where we could share stories relating to saving money, living lightly on the planet and increasing our sense of community; encouraging neighbors to share various kinds of equipment and services; starting community or city musical gatherings and possibly and city band.

Penny's letter to the governor on his agreement with the power plant backers:

- She would like advice on the uncertain parts (highlighted in gold).

- Instead of coming from the whole committee (inappropriate professionally for some members), we can specify that the letter is from "the following members of the committee."
- Everyone expressed gratitude to Penny for drafting the letter.

The meeting was adjourned at 8:30 p.m.
The next meeting will be on July 22.

Respectfully submitted,

Karin McAdams

**Council Members
Mark Your Calendars
July 20, 2009**

July 2009	Mark Raynes photography exhibit in the R. G. Endres Gallery
August 2009	Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
August 3	City Council Meeting
August 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
August 17	City Council Meeting
September 2009	
September 7	City offices closed in observance of Labor Day
September 8 (Tues.)	City Council Meeting
September 21	City Council Meeting
October 2009	State of the Arts exhibit in the R. G. Endres Gallery
October 3-6	2009 LKM Annual Conference - Topeka Expocentre & Capitol Plaza Hotel
October 5	City Council Meeting
October 9	Artist reception in the R. G. Endres Gallery 6:00 - 8:00
October 19	City Council Meeting
November 2009	Mid America Pastel Society exhibit in the R. G. Endres Gallery
November 2	City Council Meeting
November 13	Artist reception in the R. G. Endres Gallery 6:00 - 8:00
November 16	City Council Meeting
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 4	Mayor's 2009 Holiday Party
December 7	City Council Meeting
December 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
December 21	City Council Meeting
December 25	City offices closed in observance of Christmas

COMMITTEE AGENDA

July 20, 2009

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)
- COU2009-66 Consider Cul-de-sac Sidewalks (assigned 6/29/2009)
- COU2009-67 Consider Project 190722 - 2010 Storm Drainage Repair Engineering Change Order #1 for \$64,920.00 with Affinis Corporation (assigned 6/29/2009)
- COU2009-69 Consider Stormwater Utility Fee Credit Policy (assigned 6/29/2009)
- COU2009-70 Consider participating in the NLC Prescription Program - Caremark (assigned 7/15/2009)
- COU2009-71 Consider Modification of the sick leave policy regarding the accrual method (assigned 7/15/2009)
- COU2009-72 Consider Approval of Solid Waste Assessment Fees for 2010 (assigned 7/15/2009)
- COU2009-73 Consider approval of Phone Maintenance Agreements (assigned 7/14/2009)
- COU2009-74 Consider Approval of Amendment to the City Code permitting an organized cycling race within the City (assigned 7/15/2009)
- COU2009-75 Consider Approval of 2010 Mission Hills Contract and 2010 Mission Hills Budget (assigned 7/15/2009)
- COU2009-76 Consider approval of expenditure from Risk Management Fund (assigned 7/15/2009)

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)