

City Council Meeting

October 20, 2008

Dinner provided by:



O'Neill's
Restaurant & Bar



Chicken Alfredo
Caesar Salad
Rolls & Butter
Brownie Tray



COUNCIL COMMITTEE
October 20, 2008
6:00 p.m.
Council Chamber

AGENDA

DAVID VOYSEY, COUNCIL PRESIDENT

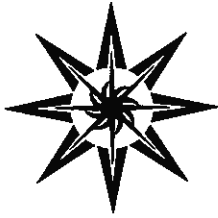
CONSENT AGENDA

AGENDA ITEMS FOR DISCUSSION

Update on Transportation Cooperation Council
David Belz

- * COU2007-27** **Consider Project 190864: 2008 Street Resurfacing Program**
Construction Change Order #6
Bob Pryzby
- * COU2007-49** **Consider Project 190868: 2008 CARS, Roe Avenue**
Construction Change Order #1 (Final)
Bob Pryzby
- COU2008-76** **Consider City Council Policy CP258 BMP Manual**
Bob Pryzby
- COU2008-77** **Consider New Erosion and Sediment Control Code**
Bob Pryzby
- COU2008-78** **Consider New Post Construction Management Code**
Bob Pryzby
- COU2008-79** **Consider New Stream Setback Requirement and Controls Code**
Bob Pryzby
- COU2007-51** **Village Vision**

***Council Action Requested the Same Evening**



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008

Council Meeting Date: October 20, 2008

COU2007-27 CONSIDER PROJECT 190864: 2008 STREET RESURFACING PROGRAM CONSTRUCTION CHANGE ORDER #6

RECOMMENDATION

Staff recommends the City Council approves Construction Change Order #6 with O'Donnell & Sons Construction for an increase of \$40,055.40 to project 190864: 2008 Street Resurfacing Program.

COUNCIL ACTION REQUESTED ON OCTOBER 20, 2008

BACKGROUND

The plans call for partial replacement of the existing curb and sidewalk on 80th Street (Nall Avenue to Rosewood Drive). Due to additional deterioration over the winter and the excellent unit bid prices that were received on this contract, it is recommended that all the curb and sidewalk be replaced. This represents a 1.8% increase over the current contract amount.

FUNDING SOURCE

Funds are available in the Capital Infrastructure Program under Streets Unallocated.

RELATED TO VILLAGE VISION

- CC1a. Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm.*
- CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.*
- TR3a. Ensure the quality of the transportation network with regular maintenance as well as efficient responses to seasonal issues such as snow removal.*

ATTACHMENTS

1. Construction Change Order #6 with O'Donnell & Sons Construction.

PREPARED BY

S Robert Pryzby, Director of Public Works

October 8, 2008

Explanation of Changes

Project 190864; 2008 Paving Program. This change order is to cover the following items:

Replacement of all the curb and sidewalk on 80th Street (Nall to Rosewood).

This change order increases the contract amount by \$40,055.40.

Calendar days were not added as result of this change order.

Original Contract Price	<u>\$1,631,516.30</u>
Current Contract Price, as adjusted by previous Change Orders	<u>\$2,227,192.60</u>
NET Increase or decrease this Change Order	<u>\$40,055.40</u>
New Contract Price	<u><u>\$2,267,248.00</u></u>

Change to Contract Time:

The current contract deadline of December 1, 2008 will remain the same.

The City does not anticipate a related Engineering Change Order.




Thomas Triens, Manager of Engineering Services
City of Prairie Village, KS

10/8/08

Date

Ronald L. Shaffer, Mayor
City of Prairie Village, KS

Date



Joseph O'Donnell
O'Donnell & Sons Construction

10-8-08

Date



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008
Council Meeting Date: October 20, 2008

COU2007-49 CONSIDER PROJECT 190868: 2008 CARS, ROE AVENUE (91st STREET TO SOMERSET DRIVE) CONSTRUCTION CHANGE ORDER #1 (FINAL)

RECOMMENDATION

Staff recommends the City Council approves Construction Change Order #1 (Final) with O'Donnell & Sons Construction for an increase of \$7,879.89 to project 190868: 2008 CARS, Roe Avenue (91st Street to Somerset Drive).

COUNCIL ACTION REQUESTED ON OCTOBER 20, 2008

BACKGROUND

This project is complete. Final as-built quantities have been computed. This change order represents an increase of 2.5% over the original contract amount.

FUNDING SOURCE

Funds are available in the Capital Infrastructure Program under Project 190868. Half of the \$7,879.89 will be reimbursed to the City by Johnson County.

RELATED TO VILLAGE VISION

- CC1a. Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm.*
- CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.*
- TR3a. Ensure the quality of the transportation network with regular maintenance as well as efficient responses to seasonal issues such as snow removal.*

ATTACHMENTS

1. Construction Change Order #1 (Final) with O'Donnell & Sons Construction.

PREPARED BY

Thomas Trienens, Manager of Engineering Services

October 16, 2008

Jece

CITY OF PRAIRIE VILLAGE
PUBLIC WORKS DEPARTMENT
CONSTRUCTION CHANGE ORDER NO. 1 (FINAL)

Consultant's Name: BHC Rhodes

Project Title: 2008 CARS, Roe Avenue (91st Street to Somerset Drive)

Date Requested: November 3, 2008

Owner's Project No.: 190868

Contract Date: March 3, 2008

Contractor's Name: O'Donnell & Sons

REQUIRED CHANGES IN PRESENT CONTRACT

Contract Quantity	Previous Amount	Unit	Item Description	Adj. Quant.	Unit Price	Adjusted Amount
1	\$3,000.00	LS	Mobilization	1	\$3,000.00	\$3,000.00
1	\$4,900.00	LS	Traffic Control	1	\$4,900.00	\$4,900.00
244	\$16,104.00	SY	Portland Cement Concrete Pavement (Roe Ave)	215	\$66.00	\$14,190.00
10,980	\$19,215.00	SY	Cold Milling (2")	11083	\$1.75	\$19,395.25
1,335	\$78,831.75	TON	2" Asphalt Surface (Type 6)	1324.7	\$59.05	\$78,223.54
254	\$10,668.00	SY	Full Depth Pavement Repair (Arterial/Collector)	0	\$42.00	\$0.00
13	\$260.00	TON	12" Subgrade Modification	0	\$20.00	\$0.00
6,951	\$96,618.90	LF	Concrete Curb and Gutter -New Type B	7199	\$13.90	\$100,066.10
29	\$1,699.40	SY	Replaced 6" Concrete Driveway	63	\$58.60	\$3,691.80
103	\$7,261.50	SY	Replaced 8" Concrete Driveway	103	\$70.50	\$7,261.50
431	\$19,179.50	SY	Replaced 4" Sidewalk	464	\$44.50	\$20,648.00
336	\$11,625.60	SY	New 4" Sidewalk	367	\$34.60	\$12,698.20
125	\$8,000.00	SY	Replaced ADA Ramp	125	\$64.00	\$8,000.00
45	\$2,655.00	SY	New ADA Ramp	45	\$59.00	\$2,655.00
288	\$6,465.60	SF	Truncated Dome Panel	288	\$22.45	\$6,465.60
507	\$2,661.75	SY	Sod-Fescue	1425	\$5.25	\$7,481.25
57	\$270.75	SY	Sod-Bluegrass	0	\$4.75	\$0.00
275	\$1,375.00	LF	Lawn Sprinkler - Pipe Replace (EST)	275	\$5.00	\$1,375.00
11	\$550.00	EA	Lawn Sprinkler - Head Replace (EST)	11	\$50.00	\$550.00
3	\$450.00	EA	Erosion Control - Gravel Filter Bags	3	\$150.00	\$450.00
2	\$5,800.00	EA	Curb Inlet Adjustment	2	\$2,900.00	\$5,800.00
20	\$400.00	LF	Drain Tile Connection (EST)	20	\$20.00	\$400.00
18	\$4,050.00	SY	Concrete Cast In Place Channel	18	\$225.00	\$4,050.00
1	\$3,400.00	LS	Contractor Construction Staking	1	\$3,400.00	\$3,400.00
58	\$58.00	LF	4" White Epoxy Pavement Marking	0	\$1.00	\$0.00
42	\$126.00	LF	12" White Epoxy Pavement Marking	44	\$3.00	\$132.00
22	\$154.00	LF	24" White Epoxy Pavement Marking	19	\$7.00	\$133.00
2	\$100.00	EA	Left Turn Epoxy Pavement Marking Symbol	2	\$50.00	\$100.00
6,945	\$4,167.00	LF	4" Yellow Thermoplastic Pavement Marking	6809	\$0.60	\$4,085.40
835	\$835.00	LF	4" White Thermoplastic Pavement Marking	894	\$1.00	\$894.00
119	\$357.00	LF	12" White Thermoplastic Pavement Marking	174	\$3.00	\$522.00
21	\$63.00	LF	12" Yellow Thermoplastic Pavement Marking	13	\$3.00	\$39.00
16	\$80.00	LF	24" White Thermoplastic Pavement Marking	19	\$5.00	\$95.00
2	\$2,000.00	EA	County Project Sign	2	\$1,000.00	\$2,000.00
						\$0.00
0	\$0.00	CY	Additional Concrete Pavement at Roe Avenue	22	\$120.00	\$2,640.00
0	\$0.00	LS	Modify Existing Storm Sewer Structure	1	\$3,520.00	\$3,520.00
0	\$0.00	LF	4" White Prefomed Tape (with Shadow)	60	\$20.00	\$1,200.00
0	\$0.00	LS	Additional Traffic Control (4 signs for businesses)	1	\$1,200.00	\$1,200.00
			Contingent Items			

TOTAL \$313,381.75

0
0

NET

TOTAL \$321,261.64
 Increase \$7,879.89

Explanation of Changes

Project 190868; CARS - Roe Avenue Resurfacing (91st Street to Somerset Drive). This change order is to cover the following items:

This change order increases the contract amount by \$7879.89.

Calendar days were **not** added as result of this change order.

Original Contract Price	<u>\$313,381.75</u>
Current Contract Price, as adjusted by previous Change Orders	<u>\$313,381.75</u>
NET increase or decrease this Change Order	<u>\$7,879.89</u>
New Contract Price	<u>\$321,261.64</u>

Change to Contract Time

The current contract deadline of December 1, 2008 will remain the same.

The City does not anticipate a related Engineering Change Order.



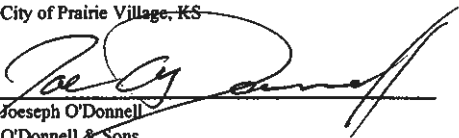
Thomas Trienens, Manager of Engineering Services
City of Prairie Village, KS

10/16/08

Date

Ronald L. Shaffer, Mayor
City of Prairie Village, KS

Date



Joseph O'Donnell
O'Donnell & Sons

10-16-08

Date



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008
Council Meeting Date: November 3, 2008

COU2008-76 CONSIDER CITY COUNCIL POLICY CP258 BMP MANUAL

RECOMMENDATION

Staff recommends the City Council approve Council City Council Policy CP258 to include the Manual of Best Management Practices for Stormwater Quality adopted by the Kansas City Metro Chapter of American Public Works and the Mid-American Regional Council as part of the City Infrastructure Manual.

BACKGROUND

The Kansas City Metro Chapter of American Public Works and the Mid-American Regional Council have published a Manual of Best Management Practices for Water Quality in March 2008.

This manual has been in development for over two years by engineers and public works personnel from both State of Kansas and State of Missouri. The initiative for the manual is provide combination of infiltration, filtration, detention and other water quality treatment of stormwater. The more common Best Management Practices (BMP) is rain garden, bio-retention cell, swale, and sand filter

FUNDING SOURCE

There will be not cost to the City.

RELATION TO VILLAGE VISION

CC2a Preserve and protect natural areas.

PUBLIC NOTICE

None is required

ATTACHMENTS

- A. City Council Policy CP258 entitled BMP Manual
- B. Sample BMP for Rain Gardens

PREPARED BY

S Robert Pryzby, Director of Public Works

Date October 14, 2008

City Council Policy CP258 - BMP Manual

Effective Date: November 3, 2008

Amends:

Approved by: City Council

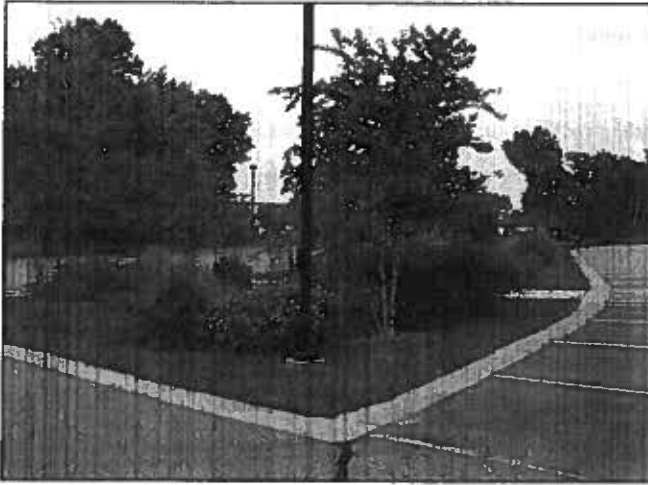
- I. SCOPE
 - A. The Kansas City Metro Chapter of American Public Works and the Mid-American Regional Council have published a Manual of Best Management Practices for Water Quality in March 2008 and is made part of the City Infrastructure Manual.

- II. PURPOSE
 - A. The BMP Manual will provide design and construction practices for a combination of infiltration, filtration, detention and other water quality treatment of stormwater.
 - B. The BMP Manual is intended to minimize site disturbance and introduce native landscaping practices during site development.
 - C. Use of the BMP Manual will promote infiltration and on-site detention of stormwater runoff before its entry into the City stormwater drainage system.

- III. Responsibility
 - A. Director of Public Works

- IV. Policy
 - A. For any site land disturbance within the City, an appropriate BMP will be considered and may be required as a condition of the drainage permit.

8.1 RAIN GARDENS



Targeted Constituents

Sediment	●
Nutrients	○
Trash	●
Metals	●
Bacteria	●
Oil and Grease	●
Organics	●

Legend (Removal Effectiveness)

High	Medium	Low
●	○	○

8.1.1 Description

A rain garden is an *infiltration device* consisting of a small excavated area that is covered with a mulch layer and planted with a diversity of woody and herbaceous vegetation. Storm water directed to the device percolates through the mulch and into the native soil, where it is treated by a variety of physical, chemical and biological processes.¹ Generally, a rain garden is a small depression planted with native wetland and prairie vegetation (rather than a turfgrass lawn) where stormwater runoff collects and infiltrates. Runoff can be from sheetflow or from direct discharge from rain spouts, swales, or directed drainage from impervious areas on a property. Rain gardens function similar to larger-scale bioretention areas, providing collection and infiltration of rainwater, reducing runoff into the common stormwater system. Rain gardens can provide effective contributions to stormwater runoff reduction if they are sufficient in number and common throughout an area. Individual gardens also aid in controlling the volume of runoff from individual lots that would otherwise combine with and contribute to runoff from other properties into the stormwater sewer system.

8.1.2 General Application

Rain gardens can be used to enhance stormwater runoff quality and reduce peak stormwater runoff rates from small sites. Rain gardens can be used to improve the quality of urban/suburban runoff coming from roof tops, driveways, and lawns of residential neighborhoods, small commercial areas, and parks. They are typically most effective for catchments less than one acre. They can be used as an onsite BMP that works well with other BMPs, such as upstream onsite source controls and downstream infiltration/filtration basins.

8.1.3 Advantages/Disadvantages

8.1.3.1 General

Rain gardens are promoted and designed as native landscapes that add to aesthetic appearances of properties while reducing peak runoff rates and improving water quality. In residential application, they are intended to provide the enjoyment of gardening and observing native plants and wildlife as well as serving an important drainage and stormwater function for the homeowner. They are effective in removing particulate matter and the associated heavy metals and other pollutants. As with other BMPs, safety issues need to be addressed through proper design.

8.1.3.2 Physical Site Suitabilit

Normally, the area required for rain garden may be from 10 to 40 percent of it's catchment area, depending on the amount of impervious area, soil conditions, and types of plants used. Site specific soil testing to check infiltration is appropriate to determine the design requirements of the rain garden. If infiltration rates are less than 0.10 inch per hour² (typical of a clay loam soil), the soil is not suitable for a rain garden, or the site may need an engineered soil mix to promote infiltration. Rain gardens using an engineered soil mix should use a 1:1 sand/compost mix to a depth of approximately two feet if the soil is deep enough. Rain gardens should be placed near the end of a runoff area before stormwater leaves the site, or in a low area of the property where water collects. Factors limiting the effectiveness of rain gardens include slope, depth and type of soil, and available area for the rain garden.

8.1.3.3 Pollutant Removal

Raingardens are effective in removing from 30 to 90 percent of nutrients (such as nitrogen and phosphorus) and 80 percent of sediments as well as reducing runoff volumes. The pollutant removal range of a rain garden is presented in Table SQ-6 in the STORMWATER QUALITY MANAGEMENT chapter of this volume. Removal of suspended nutrients, solids, and metals can be moderate to high.

A major factor controlling the degree of pollutant removal is the volume and rate of stormwater runoff captured by the rain garden that filters through the vegetation and infiltrates into the soil. The rate and degree of removal may depend on the amount of time that the garden remains saturated, with varying degrees of nitrate and phosphorus removal depending on the buildup of organic materials in the raingarden, and plant uptake. Metals, oil and grease, and some nutrients have a close affinity for suspended sediment and will be removed partially through sedimentation.

8.1.3.4 Aesthetics and Multiple Uses

Rain gardens should be designed to drain within 24- to 48-hours. It's not unusual, however, for rain gardens to be inundated frequently. Vegetation planted in parts of the rain garden that are frequently inundated should be species that can survive both frequently wet or often dry conditions. In this respect, native wetland or mesic wetland species can be planted that facilitate both excellent drainage as well as aesthetic qualities.

Because rain gardens are intended to be aesthetically pleasing components of residential or small commercial properties, proper selection and placement of native species that are attractive and acceptable to land owners is important. Native species that are deep-rooted perennials are used to achieve the desired function of stormwater runoff capture and infiltration. Species selection for the rain garden should consider the drier portions of the garden (elevated berms to catch runoff) as well as the lower, wetter areas of the garden.

8.1.4 Design Considerations

Rain gardens can be designed to function individually or as part of a larger stormwater treatment system. Also, whenever possible, consider the recreational and aesthetic factors of gardening, and the wildlife function that can be served in a rain garden, even in urban areas. Main design components should include:

- The ponding depth of a rain garden is typically 4 to 6 inches. Some rain gardens, however, have deeper ponding depths that drain completely within two days.
- Limit ponding in the depressional area to 2 days or less to avoid nuisance insects.
- Clay soil will typically require amendments such as compost or peat to enhance porosity and more rapid root growth, and to improve infiltration during the first year. To provide better infiltration during the first year, a 1:1 sand/compost mix may be used in the raingarden.
- A layer of rich organic material and/or mulch should be placed over the soil in the depressional area. The organic material and/or mulch holds moisture and aids removal of metals.
- Rain gardens should be placed a minimum of 10 feet away from building foundations.
- Placement of the rain garden and overflow path should not interfere with adjoining property drainage patterns.
- Rain gardens should not be located in areas where ponded water may create problems for surrounding vegetation or land use.
- Construction and planting should be as early in the spring as possible to take advantage of spring rains. Watering as needed during dry periods during the first year may be necessary until the vegetation is established.

8.1.5 Design Procedure and Criteria

The following steps outline the design procedure and criteria for a rain garden.

- Determine an appropriate area for constructing the rain garden. Rain gardens should be placed near the lowest point of a catchment area, on slope not exceeding two percent. The location selected should have sufficient area available for the rain garden.
- Examine existing soil conditions and perform percolation tests if necessary. A simple percolation test involves excavating a hole approximately six inches deep and 12 inches in diameter and filling it with water. If the water does not drain within 24 hours, the soil may not be suitable for a rain garden, or will require soil amendments or an engineered soil mix to facilitate infiltration. Depending on location, size of the rain garden, and local requirements, a professional engineer may be required to conduct a percolation test of the selected site.
- Size the rain garden to intercept runoff from a water quality storm event. Sizing calculations must include runoff coefficients for the type of groundcover within the rain garden catchment area. The "footprint" area of the rain garden can vary depending on the amount of rain fall runoff intercepted, and the depth of the type of soil. Ponding depth of the rain garden should be restricted to six inches or less.
- If possible, the soil should be native topsoil or similar, with at least two- to five-percent organic material (brown to near black coloration). Tight, clayey soils (typical of subsoils left as the soil surface in many residential areas) should be amended with organic supplements to increase porosity. Sandier soils may not need amendments.
- Using native soils are preferred for the rain garden. If an engineered soil mix is used, a 1:1 sand/compost mix is recommended. The engineered soil mix must be thoroughly homogenized prior to placement in the rain garden. The underlying native soil should be scarified prior to placement of the engineered soil mix. Soil mixes can actually vary to also include a small portion of topsoil. The amount of engineered soil mix to use should be determined from the sizing calculations of the rain garden, but the depth of the soil mix should not exceed two feet.
- A small berm may be included in the design of the rain garden on the down-hill side. The berm should be at least 12 inches wide and constructed of the native topsoil.
- A filter strip of grass (native preferred but not necessary) is recommended for reducing velocity and for filtering fine sediments before water enters the rain garden. For rain gardens collecting runoff from parking lots or paved areas, a buffer strip of river rock, at least 12 inches wide, is recommended to reduce flow velocity.
- A planting soil composed of topsoil and compost on the surface of the rain garden is recommended. Above the planting soil, a two- to three-inch layer of mulch should be placed after vegetation is planted.
- Plant selection will include native species that are tolerant of both wet and dry cycles will achieve the highest level of success in a rain garden. Other non-native species can be added. Deep rooted perennials are encouraged. Trees and shrubs are also commonly used in rain gardens.

8.1.6 Maintenance & Inspections

Rain gardens should be weeded weekly until native plants are established. Surface mulch will aid in reducing the growth of unwanted vegetation. Fertilizer applications should be avoided, and minimized near the rain garden. After the rain garden is established, dead vegetation should be removed each spring by mowing or burning (if allowed). Allowing vegetation that goes dormant in the fall or winter

to remain provides food for birds through the winter. After the rain garden is established, periodic maintenance to remove non-native invasive or un-desired plants, or to cut back excessive growth is appropriate. The following table provides general maintenance guidance¹:

TABLE 12:

Typical Maintenance Activities for Rain Gardens	
Activity	Frequency
Water Plants	As necessary during first growing season
Water as necessary during dry periods	As needed after the first growing season
Re-mulch void areas	As needed
Treat diseased trees and shrubs	As needed
Inspect soil and repair eroded areas	Monthly
Remove litter and debris	Monthly
Add additional mulch	Once per year

8.1.7 Design Example

The procedure for sizing rain gardens is similar to the procedure for sizing bioretention cells without an underdrain system. See section 8.4.7 for example and omit the underdrain system design.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008
Council Meeting Date: November 3, 2008

COU2008-77 CONSIDER NEW EROSION AND SEDIMENT CONTROL CODE

RECOMMENDATION

Staff recommends the City Council approve a new municipal code Chapter XIV Article 5 entitled "Erosion and Sediment Control".

BACKGROUND

One of the requirements of National Pollution Discharge Elimination System (NPDES) permit issued by the Kansas Department of Health and Environment (KDHE) to the City is for the City to have a municipal code that pertains to the erosion and sediment conditions that occur during construction activities.

The proposed new code was written using a draft prepared by Johnson County Public Works with input from several cities. Consequently, the proposed code is nearly identical the code adopted or being adopted by Johnson County cities.

FUNDING SOURCE

The new code may increase the number of drainage permits issued by Public Works and therefore increase revenue.

RELATION TO VILLAGE VISION

CC2a Preserve and protect natural areas.

PUBLIC NOTICE

The new code will be published by the City Clerk.

ATTACHMENTS

Chapter XIV Article 5 Erosion and Sediment Control Ordinance and Code

PREPARED BY

S Robert Pryzby, Director of Public Works
2008

Date October 14,

ORDINANCE NO.

AN ORDINANCE FOR THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, ESTABLISHING EROSION AND SEDIMENT REQUIREMENTS AND CONTROLS ON ANY NEW DEVELOPMENT OR REDEVELOPEMMENT PROJECTS THAT DISTURB THE LAND.

WHEREAS, the Water Pollution Control Act, K.S.A. 12-3101, et seq., is applicable to the City, but not uniformly applicable to all cities; and

WHEREAS, The purpose of this Ordinance is to set forth procedures for controlling erosion and sedimentation caused by land disturbance activities, thereby providing for the protection and enhancement of the water quality of watercourses, water bodies, and wetlands. This ordinance seeks to meet this purpose through the following objectives:

Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels;

Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE);

Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety; and

WHEREAS, The Governing Body of the City of Prairie Village hereby finds that pollutants are discharged into surface water through the wash off and transport of storm water runoff from the disturbed land during rainfall events; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that such discharge of sediments may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that this ordinance will promote public awareness of damage to water quality, water bodies, and wetlands caused by storm water runoff from land disturbance activities or increased impervious surfaces; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Code, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that a reasonable establishment of restrictions and regulations on land disturbance activities or increased impervious surfaces within the City of Prairie Village is necessary to eliminate or minimize such storm water runoff of sediments to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City of Prairie Village and within downstream communities.

THEREFORE, the Governing Body of the City of Prairie Village adopts the following:

Chapter XIV Article 5

EROSION AND SEDIMENT CONTROL

Sections:

14-501	Purpose of Ordinance
14-502	Definitions
14-503	Administration
14-504	General Provisions
14-505	Erosion and Sediment Control Plans
14-506	Inspection
14-507	Enforcement
14-508	Violation
14-509	Miscellaneous

14-501 Purpose of Ordinance

- A. The purpose of this Ordinance is to set forth procedures for controlling erosion and sedimentation caused by land disturbance activities, thereby providing for the protection and enhancement of the water quality of watercourses, water bodies, and wetlands. This ordinance seeks to meet this purpose through the following objectives:
1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels;
 2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE);
 3. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety.

14-502 Definitions

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

- A. "Best Management Practice", or "BMP" mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with Land Disturbance activities regulated by this Ordinance.
- B. "Certified Professional in Erosion and Sediment Control (CPESC)" means an individual who is currently holding such certification as issued by CPESC, Inc., or other Person holding a state license authorizing them to prepare and submit an Erosion and Sediment Control Plan as Professional Engineer or Landscape Architect registered in the State of Kansas.
- C. "Code" means the City of Prairie Village Municipal Code.
- D. "Director" means the Director of Public Works or the Director's authorized representative.
- E. "Erosion" means the wearing away of land by the action of wind, water, gravity or ice or a combination thereof.
- F. "Erosion and Sediment Control Plan", means a Plan for the control of soil erosion and sedimentation resulting from land disturbing activity, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the Best Management Practices (BMP) on a project. The Plan shall include any information required to review the design of the BMP and to ensure proper installation, maintenance, inspection, and removal of the BMP, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.
- G. "Erosion and Sediment Control Standards" means the Erosion and Sediment Control design criteria and specifications adopted in writing by the Director.
- H. "Land Disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.
- I. "Perennial Vegetation" means grass or other appropriate natural growing vegetation that provides substantial land cover, erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Ordinance, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective

erosion and sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered perennial vegetation.

- J. "Permit" means a Drainage Permit.
- K. "Permit Holder" means the owner or contractor who is issued a permit.
- L. "Person" means any individual, business, partnership, corporation, association, organization or legal entity of any kind including governmental entities.
- M. "Sediment" means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.
- N. "Storm Sewer System" means any conveyance or system of conveyances for storm water, including road with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, as well as any system that meets the definition of a municipal separate storm sewer system or "MS4" as defined by the Environmental Protection Agency in 40 CFR 122.26.
- O. "Storm Water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
- P. "Water Bodies" means surface waters including rivers, streams, lakes and wetlands, including all areas designated by the federal government as water of the United States.

14-503 Administration

- A. **Authority.** The Director shall be responsible for the administration and enforcement of this Ordinance. The Director shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Ordinance. The Director may waive the requirements for maps, plans, reports or drawings, if the Director finds that the information otherwise submitted or to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Ordinance.
- B. **Right of entry.** Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this Ordinance, the Director is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this Ordinance. If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry.
- C. **Erosion and Sediment Control Standards.** The Director shall adopt and maintain Erosion and Sediment Control Standards at the Public Works Office to assist in the administration of this Ordinance. The Erosion and Sediment Control Standards shall be based on, but not limited to, the following principles:

1. Fit the development to existing site conditions
 2. Minimize the extent of exposure
 3. Minimize duration of exposure
 4. Break work activities into phases when possible
 5. When possible, protect disturbed areas from any unnecessary run-on of stormwater from adjacent sites, at least during the construction period
 6. Stabilize disturbed areas
 7. Keep runoff velocities low
 8. Retain Sediment on the site
 9. Inspect and maintain control measures
 10. Use performance measures and outcomes
 11. Timely employment and maintenance of all measures
- D. **Time Requirement.** Where land disturbance activities have temporarily or permanently ceased on a portion of a project site for over 21 consecutive days, the disturbed areas shall be protected from erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMP, unless the timeframe for compliance is extended by the Director. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.
- E. **Other Pollutants.** In addition to sediment, the Erosion and Sediment Control Plan shall provide for the control of other pollutants related to the land disturbance activity that might cause an adverse impact to water quality, including, but not limited to, discarded building materials, concrete truck washout, fuel, hydraulic fluids, chemicals, litter, and sanitary wastes.

14-504 Land Disturbance Permit

- A. **Requirements.** Any Person undertaking land disturbance activities, including the clearing, grading, excavating, filling, storing, and disposing of soil and earth materials, shall comply with the requirements and standards for obtaining a Drainage Permit as set forth in Chapter XIV Article 2 of the Code
- B. **Responsible Person.** The responsible Person is the person to whom the permit is issued and the owner of the property upon which a land disturbance takes place and any person performing a land disturbance activity. When a drainage permit is issued, the owner is responsible for land disturbance activities from permit issuance to closure, unless the City approves a transfer of responsibility to a new owner.

14-505 Erosion and Sediment Control Plans

- A. **Applicability.** Any land disturbance activity requires a drainage permit for any land disturbance activity of 1,000 square feet or more and/or is located within 50 feet of any drainage component, including channels, BMP detention facility, or stormwater inlet, shall comply with the spirit and intent of this Ordinance. At a minimum, such persons shall employ BMP methods for Erosion and Sediment

Control in proportion to the scale of the activity to reduce the amount of Sediment or other pollutants in stormwater discharges associated with those activities.

B. Plan Requirements. All proposed land disturbance activity requiring a permit shall be depicted on a site-specific Erosion and Sediment Control Plan. The Erosion and Sediment Control Plan shall be submitted to the Director for review. The Plan shall include, at a minimum, the following information:

1. Proposed site map.
2. Areas to be disturbed.
3. Proposed Erosion and Sediment Control BMP to be employed.
4. Phasing of Erosion and control measures.
5. Final stabilization plan for each phase.
6. Details and specifications for any sections of the final storm sewer system that must be constructed after the removal of BMP such as temporary sediment basins.
7. Work schedule.
8. Maintenance and inspection requirements.

The Director may require any additional information or data deemed appropriate to ensure compliance with the intent, purpose and provisions of this Section of the Code.

C. Review and Approval of Erosion and Sediment Control Plans. The Erosion and Sediment Control Plan shall be of sufficient clarity to indicate the location, manner, nature and extent of the work proposed. The Plan shall clearly show that the proposed work will conform to the provisions of this Code, and other relevant laws, ordinances, policies, rules and regulations as determined by the Director. The Director shall review the submitted documents to determine compliance with the Erosion and Sediment Control Standards. If the Director finds that the Plan is in compliance, the Applicant shall be advised that they may request a Permit. If the Director finds that the Plan is not in compliance, the Director shall advise the applicant which elements of the Plan are not in compliance.

D. Preparation of Plans. Erosion and Sediment Control Plans submitted to the City for review must be prepared under the supervision of and sealed by a licensed professional engineer or landscape architect or by a Certified Professional in Erosion and Sediment Control (CPESC). The engineer or landscape architect must be licensed to practice in the State of Kansas.

E. Amended Plans. Work shall be installed and maintained in accordance with the approved Plan. Changes made during construction that are not in compliance with the approved Plan shall be resubmitted for approval as an amended set of construction documents. Minor modifications of the approved Plan may be authorized by the Director without formal review provided those modifications are consistent with the Erosion and Sediment Control Standards and standard industry practice.

14-506 Inspection

- A. **Initial Inspection.** The Permit Holder shall notify the Director when initial Erosion and Sediment Control measures are installed in accordance with the Erosion and Sediment Control Plan. No Land Disturbance activities shall begin prior to approval from the Director that all pre-construction Erosion and Sediment Control measures are correctly installed per the approved Plan.
- B. **Maintenance of Control Measures.** All prescribed Erosion and Sediment Control measures shall be maintained in good order and in compliance with the Erosion and Sediment Control Plan at all times.
- C. **Routine Inspection.** It shall be the duty of the Permit Holder to routinely inspect the construction site and maintain effective Erosion and Sediment Control measures. Routine inspections shall be performed once per month or more frequently if required on the Plan and within 24 hours following each rainfall event of ½-inch or more within any 24 hour period. A log shall be kept of these inspections by the Permit Holder. Any deficiencies shall be noted in a report of the inspection and include the action taken to correct the deficiency. Inspection reports shall be submitted to the Director upon request. The inspection report shall include the following minimum information:
1. Inspectors name.
 2. Date of inspection.
 3. Observations relative to the effectiveness of the Erosion and Sediment Control measures.
 4. Actions necessary to correct deficiencies.
 5. Signature of Person performing the inspection.
- D. **Compliance Verification.** The Director may also perform inspections of the Land Disturbance site to verify compliance with the Erosion and Sediment Control Plan. Should it be found that Erosion and control methods are ineffective or are not being maintained properly, the Director may take enforcement actions described within this Chapter.
- E. **Closure of Land Disturbance Activities.** Once the site is stabilized a final inspection shall be requested. The site shall be considered stabilized when Perennial Vegetation, pavement, buildings or structures using permanent materials, cover all areas that have been disturbed. Perennial Vegetation shall be considered established and completed for stabilization when it has established a healthy and growing stand with a density of at least 80 percent of undisturbed areas at the site.
- F. **Removal of Temporary Erosion and Sediment Control Measures.** Subsequent to a satisfactory final inspection of the Land Disturbance, all temporary Erosion and Sediment Control measures must be removed and the segments of the storm sewer system shall be inspected for any sediment removal. Such removal shall be complete prior to closure of the Permit which authorized the Land Disturbance.

14-507 Enforcement

- A. **General.** The Director shall handle enforcement of the provisions of this Chapter through routine activities that include receiving inspection reports from the Permit Holder when requested, inspections, and communication with contractors. However, if these methods fail, the Director may proceed with any or all of the following enforcement measures:
- B. **Refusal of Inspection.** Request for an inspection of any permitted construction activity may be denied if it is found that Erosion and Sediment control measures have not been implemented, or are found to be ineffective or are not maintained. If an inspection is refused, a notice of violation or a stop work order may be issued. No further inspections will be performed until the Erosion and control measures have been implemented or violations abated.
- C. **Notice of Violation.** The Director is authorized to serve a Notice of Violation or order on any Person found to be doing work in violation of the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and order the abatement of the violation by the responsible Person.
- D. **Stop Work Order.** The Director is authorized to issue a stop work order for any or all construction activity without an approved permit or within the established boundary of the Permit. The stop work order shall be in writing and shall be mailed by certified mail to the owner of the property involved, or the owner's agent or to the Person doing the work. In addition, notice of the stop work order shall be posted on the site. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume. Any Person, who shall continue to work after having been served with a stop work order, except such work as that Person is directed by the City to perform to remove a violation or unsafe condition, is guilty of a public offense and may be subject to penalties as in the Code.
- E. **Abatement.** Should any Person fail to comply with the provisions of this Code, the Director is authorized to correct or abate such violation. This action can be taken in lieu of, or in conjunction with, any action taken, or enforcement actions set forth in this Chapter.
- F. **Abatement Costs by City.** City expenditures to correct or abate a violation shall be assessed as a fee against the Permit issued for work at the same site. The City will keep a record of the abatement costs. The fee shall be paid prior to recommencement of work on the site and prior to any further inspections. If the fee is not paid within 30 days of the date the invoice is sent to the Permit Holder, the Director is authorized, as the Director deems appropriate, to expend additional abatement funds to provide permanent soil stabilization on the site. Such additional expenditures shall also be assessed as a fee against the Land Disturbance, or other Permit issued for work on the same site.
- G. **Recovery of City Abatement Costs.** Should the Permit become suspended, revoked, or expired with the fee not paid, all City expenditures to correct or abate the violation may be assessed as a lien and special assessment against the lot or

parcel of land on which the permitted activity took place. The same abatement and collection procedure shall apply if work is done without the issuance of a Permit. After thirty calendar days of receipt of abatement notice, the City Clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against the lot or parcel of land.

- H. **Surety.** Prior to approval of a Permit that authorizes the disturbance of one acre or more of land, the Director shall require surety in the form of a bond, cash deposit or letter of credit, approved by the City, to be used to offset the costs of abatement of erosion and sediment caused by the land disturbance, including removal of the temporary BMP and where applicable, their replacement. The surety amount, established and reviewed by the Director, shall be based on the estimated cost to the City of providing temporary Erosion control and establishing Perennial Vegetation on typical project sites and may be increased to include costs associated with removing temporary BMP and repairing or cleaning segments of the storm sewer system. The surety amount will be proportioned based on the acreage of the site. If the surety is furnished in the form of a letter of credit, the amount shall equal the surety amount or five thousand dollars (\$5,000), whichever is greater. Amounts not used for abatement shall be returned to the Permit Holder after final inspection and approval to close the Permit.

14-508 Violations and penalties

- A. **Failure to Comply.** Any Person who violates a provision of this Ordinance, fails to comply with any of the requirements thereof or fails to comply with a directive issued by the Director is guilty of a public offense and shall be subject to penalties as provided in the City Code.
- B. **Citation of Owner.** The City Code Enforcement Officer shall be permitted to cite the owner, or any/all Persons identified on a Permit as being legally responsible to the City for any violations of the Ordinance pertaining to that Permit.

14-509 Miscellaneous

- A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.
- B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by

the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

- C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008

Council Meeting Date: November 3, 2008

COU2008-78 CONSIDER NEW POST CONSTRUCTION MANAGEMENT CODE

RECOMMENDATION

Staff recommends the City Council approve a new municipal code Chapter XIV Article 6 entitled "Post Construction Management".

BACKGROUND

One of the requirements of National Pollution Discharge Elimination System (NPDES) permit issued by the Kansas Department of Health and Environment (KDHE) to the City is for the City to have a municipal code that pertains to management of post construction after construction is complete.

The proposed new code was written using a draft prepared by Johnson County Public Works with input from several cities. Consequently, the proposed code is nearly identical the code adopted or being adopted by Johnson County cities.

FUNDING SOURCE

The new code may increase the number of drainage permits issued by Public Works and therefore increase revenue.

RELATION TO VILLAGE VISION

CC2a Preserve and protect natural areas.

PUBLIC NOTICE

The new code will be published by the City Clerk.

ATTACHMENTS

Chapter XIV Article 6 Post Construction Management Ordinance and Code

PREPARED BY

S Robert Pryzby, Director of Public Works

Date October 14, 2008

ORDINANCE NO.

AN ORDINANCE FOR THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, ESTABLISHING POST-CONSTRUCTION MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS ON ANY NEW DEVELOPMENT OR REDEVELOPEMMENT PROJECTS THAT DISTURB THE LAND FOR MORE THAN ONE ACRE.

WHEREAS, the Water Pollution Control Act, K.S.A. 12-3101, et seq., is applicable to the City, but not uniformly applicable to all cities; and

WHEREAS, The purpose of this Code shall be to establish post-construction minimum stormwater management requirements and controls on any new development or redevelopment projects that disturb land for more than one acre. This Code also will establish requirements for long-term maintenance of structural controls within the City for drainages into the municipal separate storm sewer system and/or into surface waters. This ordinance seeks to meet this purpose through the following objectives:

Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels;

Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE);

Minimize the total peak volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime; and

Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety; and

WHEREAS, The Governing Body of the City of Prairie Village hereby finds that pollutants are discharged into surface water through the wash off and transport of storm water runoff from the disturbed land during rainfall events; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that this Ordinance will promote public awareness of damage to water quality, water bodies, and

wetlands caused by storm water runoff from land disturbance activities or increased impervious surfaces; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Code, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation; and

WHEREAS, the Governing Body of the City of Prairie Village hereby finds that a reasonable establishment of restrictions and regulations on land disturbance activities or increased impervious surfaces within the City of Prairie Village is necessary to eliminate or minimize such storm water runoff to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City of Prairie Village and within downstream communities, and to comply with the provisions of the City responsibilities under the Clean Water Code and the NPDES program.

THEREFORE, the Governing Body of the City of Prairie Village adopts the following:

Chapter XIV Article 6

POST-CONSTRUCTION STORM WATER RUNOFF CONTROL

14-601	Purpose
14-602	Definitions
14-603	Permit Required
14-604	Post Construction Plan
14-605	Site Plan and Existing Conditions
14-606	Preliminary Post Construction Plan
14-607	Final Post Construction Plan
14-608	Maintenance Agreement
14-609	Maintenance Responsibility
14-610	Work Schedule
14-611	Minimum Control Measurements
14-612	Plan Modification
14-613	As-built Plan
14-614	Permit Expiration and Renewal
14-615	Miscellaneous

14-601 Purpose

A. The purpose of this Code shall be to establish post-construction minimum stormwater management requirements and controls on any new development or redevelopment projects that disturb greater than one acre. This Code also will establish requirements for long-term maintenance of structural controls within the City for drainages into the municipal separate storm sewer system and/or into surface waters. This Code seeks to meet this purpose through the following objectives:

- I. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels

2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE)
3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable
4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety.

14-602 Definitions

- A. For the purposes of this Code, the following terms, phrases, words and their derivations shall have the meaning given herein:
1. "Applicant" means any person who makes application for an approved drainage permit for an activity involving building or development that results in land disturbance as required by this Code.
 2. "Approved plan" means a set of representational drawings or other documents that have been approved by the City as complying with the provisions of this Code submitted by an applicant (either as an independent submittal or a part of another development application(s) required by the City Code as a prerequisite to obtaining a drainage permit and that contain the information and specifications required by the to minimize storm water runoff.
 3. "As-Built plan" means a record drawing or plan prepared and certified by a licensed Professional Engineer or Land Surveyor that represents the actual dimensions, contours, elevations, etc., of the completed land disturbance activity.
 4. "Best Management Practice", or "BMP" mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with Land Disturbance activities regulated by this Code.
 5. "Certified Professional in Erosion and Sediment Control (CPESC)" means an individual who is currently holding such certification as issued by CPESC, Inc., or other Person holding a state license authorizing them to prepare and submit an Erosion and Sediment Control Plan.
 6. "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
 7. "City" means the City of Prairie Village, Kansas
 8. "Code" means the City of Prairie Village Municipal Code.

9. "Detention Facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
10. "Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
11. "Director" means the Director of Public Works or the Director's authorized representative.
12. "Drainage Easement" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes
13. "Erosion and Sediment Control Plan", means a Plan for the control of soil erosion and sedimentation resulting from land disturbing activity, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the Best Management Practices (BMP) on a project. The Plan shall include any information required to review the design of the BMP and to ensure proper installation, maintenance, inspection, and removal of the BMP, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.
14. "Erosion and Sediment Control Standards" means the Erosion and Sediment Control design criteria and specifications adopted in writing by the Director.
15. "Erosion" means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance activities.
16. "Floodplain" means the floodway and floodway fridge as identified by the Federal Insurance Administration through its latest report entitled "The Flood Insurance Study for the City of Prairie Village, Kansas," or such other designation of the floodplain as is subsequently adopted by the City, in Chapter XIV Article 3 and representing the regulated 100-year water surface and corresponding elevations.
17. "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
18. "Impervious Cover" means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).
19. "Infiltration" means the process of percolating stormwater into the subsoil.
20. "Infiltration Facility" means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above or below grade.
21. "Jurisdictional Wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

22. "Land Disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.
23. "Landowner" means that legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land.
24. "Licensed land surveyor" means an individual who is duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A 74-7001 et seq. to practice surveying.
25. "Maintenance Agreement" means a legally recorded document that Codes as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
26. "Maximum Extent Practicable" means the use of those best management practices, which, based on sound engineering and hydro-geological principals, will, to the greatest degree possible, given all relevant considerations, including technology, climate, and site conditions, minimize storm water runoff from a site during and after construction.
27. "Nonpoint Source Pollution" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
28. "Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
29. "On-Site Facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
30. "Perennial Vegetation" means grass or other appropriate natural growing vegetation that provides substantial land cover, erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Code, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective erosion and sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered perennial vegetation.
31. "Permit Holder" means the owner or contractor who is issued a permit.
32. "Permit" means a Drainage Permit.
33. "Person" means any individual, business, partnership, corporation, association, organization or legal entity of any kind including governmental entities.

34. "Professional Engineer" is an engineer duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A. 74-7001 et seq. to practice engineering.
35. "Recharge" means the replenishment of underground water reserves.
36. "Responsible personnel" means any foreman, superintendent, or project engineer designated in the permit or in an approved plan, as the person in charge of on-site land disturbance activities or stormwater runoff associated with land disturbance activities.
37. "Sediment" means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.
38. "Site" any lot or parcel of land or a series of lots or parcels of land adjoining or contiguous or joined together under one ownership on which land disturbance activity is proposed.
39. "Stop Work Order" means an order issued which requires that all construction activity on a site be stopped.
40. "Storm Water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
41. "Storm Water Management" means the use of structural or non-structural practices that are designed to reduce storm water pollutant loads, discharge volumes, and/or peak flow discharge rates.
42. "Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation.
43. "Water Bodies" means surface waters including rivers, streams, lakes and wetlands, including all areas designated by the federal government as water of the United States.
44. "Water Quality Volume" means the storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQ_v) will vary as a function of long term rainfall statistical data.
45. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

14-603 Permit Required

- A. **Drainage Permit** No person shall receive any of the building, or disturb any land without first obtaining a drainage permit from the City.
- B. **Conflict with other laws** This code shall not be construed to be in conflict with any state law intended to control post construction storm water runoff. In those instances where state law imposes a duty or requirement with respect to a matter covered by this code, the more environmentally stringent duty or requirement shall control.

- C. **Permit Not Required** Neither a drainage permit nor an approved post-construction storm water plan is required under this code solely for:
 - 1. Any land disturbance activity that:
 - a. Disturbs less than one acre of surface area
 - b. Landscaping or home gardening
 - c. Re-establishment of lawn areas
 - d. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- D. **Permit Authorization** The issuance of a permit shall constitute authorization to do only that work described or shown on the approved plan, all in strict compliance with the requirement of this code, unless each and every modification or waiver is specifically listed and approved by the Director.
- E. **Permit Responsibility** The permittee and/or agent of the permittee, property owner, contractors, and employees shall carry out the proposed work in accordance with the approved plan, and the permit, and in compliance with all applicable requirements or conditions.

14-604 Post Construction Plan

- A. **Plan Submittal** Where land disturbance activity is to be performed, the owner of the site or the site owner's authorized representative shall submit the engineered post construction plans to the Director when applying for a drainage permit.
- B. **Right to Inspect** In making an application covered by this Code, the applicant or the landowner performing or allowing the work consents to the City right to enter the site for the purpose of inspecting compliance with the approved plan or for performing any work necessary to bring the site into compliance with the approved plan.
- C. **Information Required** The following information shall be submitted to the Director:
 - 1. A site map in compliance
 - 2. A post construction stormwater runoff management concept plan
 - 3. A post construction stormwater BMP maintenance
 - 4. A work schedule
 - 5. An engineering soils report in compliance, when required by the City.
- D. **Concept and Maintenance Agreement** The post construction stormwater runoff management concept and stormwater BMP maintenance agreement plans must be prepared and certified by a Professional Engineer.
- E. **Additional Information** The City may require any additional information or data deemed appropriate and/or may impose conditions thereto as the Director may deem necessary to ensure compliance with the provisions of this Code and to preserve public health and safety.

- F. **Waiver of Requirements** The Director may waive the requirements for maps, plans, reports, or drawings, if the Director finds that the information otherwise is submitted or to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Code.
- G. **Information Submitted** The applicant is bound by information submitted and by this Code.
- H. **Permit Issuance** Land disturbance activity may not take place in the City until a permit has been issued, and the Director has determined that an acceptable performance guaranty has been obtained.

14-605 Site Map and Existing Conditions

- A. **Site Location** The applicant shall submit a site map clearly showing the location of the proposed land disturbance site in relation to the surrounding area's watercourses, water bodies, and other significant geographic and natural features, and street and other significant features.
- B. **Site Map Details** The site map also should
 1. Identify any watercourses or water bodies where drainage on the site may flow to waters that are known to be impaired as defined by the Clean Water Code 303d listing as identified by the Kansas Department of Health and Environment or known to have any special designation, such as habitat for a protected species. Also, if impaired waters or special designations are present, list impairments and special designations
 2. Show the existing and proposed topography of the entire site with contour lines drawn with one chosen interval in accordance with the following table:

Ground Slope	Contour Interval (in feet)
Flat: 0-2%	0.5 or 1
Rolling: 2-8%	1 or 2
Steep: 8%+	2, 5, or 10

3. Show on and off-site drainage, including the sub-watershed as well as the entire drainage basin
4. Show the site's property lines shown in true location of all existing and proposed natural and man-made drainage facilities
5. Present a graphic representation of the location of and legend of soil types if applicable to proposed runoff controls (including source of information)
6. Show a clear and definite delineation of any wetlands, natural or artificial water storage detention areas, and drainage ditches on this site, or a statement that there are no wetlands, detention areas or drainage ditches located on the property
7. Show a clear and definite delineation of any drainage, sanitary, utility, or other easement(s) on or near the site

8. Detail a clear and definite delineation of applicant's determination, based on the best available information and sound engineering principles of the existence of a regulatory 100-year floodplain, as defined in Chapter XIV Article 3 and of any fully urbanized floodplain on or near the site as determined by a Johnson County watershed study or a statement that there are no such floodplains located on the property;
9. Locate and present a legend of existing vegetative cover and the location and legend of vegetative cover to be left undisturbed;
10. Show location of existing surface runoff and detention control measures;
11. Show the signature and seal of a Professional Engineer or Landscape Architect registered in the State of Kansas.

14-606 Preliminary Post-Construction Concept Plan

- A. **Requirements** A stormwater management concept plan shall be required with all permit applications and will include sufficient information (i.e., maps, hydrologic calculations, BMP level of service calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impact of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management concept plan shall present:
1. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) also will clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; the limits of clearing and grading; a written description of the site plan and justification of proposed changes in natural conditions.
 2. Sufficient engineering analysis to show that the proposed stormwater management BMP(s) are capable of controlling and treating runoff from the water quality storm at the site in compliance with this Code.
 3. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features, including water body impairments listed in the Clean Water Code 303d listing and identified by the Kansas Department of Health and Environment, which provide particular opportunities or constraints for development.
 4. Identification and preliminary plan for control of any stormwater "hot spots" that could pose an environmental hazard such as, but not limited to; fuel dispensing facilities, above ground storage of liquid materials, solid waste storage areas, exterior storage of bulk materials, material transfer areas and loading docks, equipment and vehicle washing facilities, covered parking

- areas, and high-use vehicle and equipment traffic areas, parking, and vehicle storage.
- 5. A written description of the required maintenance burden for any proposed structural and non-structural stormwater BMP.
- 6. A schedule for required maintenance as well as identification of party responsible for the maintenance.
- 7. For development or redevelopment occurring on a previously developed site, the applicant is required to include within the plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Code to the maximum extent practicable.

14-607 Final Post Construction Plan

- A. **Requirements** After review of the preliminary stormwater management concept plan, and modifications to that plan as deemed necessary by the Public Works Director, a final post-construction stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the following information:
1. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
 2. A 1"=200' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
 3. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Code. Such calculations shall include (i) description of the design storm frequency, intensity, and duration, (the design storm for water quality BMPs is the water quality storm, which is the storm event that produces less than or equal to 90 percent volume of all 24-hour storms on an annual basis) (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area; (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms, (ix) pre- and post-development percent imperviousness of the site, and (x) documentation of sources for all computation methods and field test results.
 4. If a stormwater management control BMP depends on the hydrologic properties of soils (i.e., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measures.

5. A Maintenance and Repair Plan showing the design and planning of all storm water management structural and non-structural BMPs shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
 6. Landscaping plan presented by the applicant detailing a plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the local soil conservation district.
 7. Maintenance Easements prepared by the applicant to ensure access to all stormwater BMPs at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and in the land records of the Johnson County and will remain in effect even with transfer of title to the property.
 8. Erosion and Sediment Control Plans prepared by the applicant must prepare detailing the erosion and sediment control for all construction activities related to implementing any on-site stormwater management practices as required.
- B. **Other Environmental Permits** The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

14-608 Maintenance Agreement

- A. **Binding Maintenance Agreement** Prior to the issuance of any building permit for which stormwater management is required, the City shall require the applicant to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- B. **Land Records** The agreement shall be recorded by the applicant and/or owner in the land records of the Johnson County.
- C. **Violation Correction** The agreement shall also provide that, if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the City may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the City.

14-609 Maintenance Responsibility

- A. **Good Condition** The owner of the property on which work has been done pursuant to this Code for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
- B. **Plan** A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

14-610 Work Schedule

- A. **Schedule** The applicant shall submit a chronological construction and maintenance schedule for each BMP, structural or non-structural, approved in the final post-construction stormwater management plan.
- B. **Inspection** Stormwater BMP(s) are subject to inspection throughout construction at the discretion of the Public Works Director.

14-611 Minimum Control Requirements

- A. All stormwater management practices will be designed so the water quality storm frequency storage volumes are treated and controlled.
- B. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Public Works Director reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

14-612 Plan Modification

- A. **Modification** Modification of the approved plan must be submitted to the City, and shall be reprocessed in the same manner as the original plan, where:
 - 1. Field inspection or evaluation has revealed the inadequacy of the approved plan to accomplish the control the post construction runoff according to the design criteria; or
 - 2. The person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out.
- B. **Field Modification** Field modifications of a minor nature may be authorized by the Public Works Director; provided those modifications are consistent with the post construction runoff criteria of this Code and the Post-Construction Stormwater Runoff Management manual. The Public Works Director may establish a list of allowable field modifications for this purpose that shall be included in the manual.

14-613 As Built Plans

- A. All applicants are required to submit actual “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City is required before the release of any performance guaranty can occur.

14-614 Permit Expiration and Renewal

- A. **Validity** The drainage permit shall be valid for three years from the time that it is issued until a final certificate of completion has been issued.
- B. **Sale of Property** If the permittee sells the property before the expiration of the permit, the permit may be assigned to the new owner of the site if the assignment is approved in writing by the Director.
- C. **Out of Compliance** If the permittee violates the conditions of the permit and does not comply with the required remedial work within ninety days, the permit will be terminated.

14-615 Miscellaneous

- A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.
- B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.
- C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 20, 2008

Council Meeting Date: November 3, 2008

COU2008-79 CONSIDER NEW STREAM SETBACK REQUIREMENT AND CONTROLS CODE

RECOMMENDATION

Staff recommends the City Council approve a new municipal code Chapter XIV Article 7 entitled "Stream Setback Requirements and Controls".

BACKGROUND

Several of the Johnson County cities have adopted a stream setback code. The intent of the code is to prevent and to limit construction activity along the slopes of a natural watercourse. For the City of Prairie Village, this code would apply to activities along Brush Creek and Rock Creek. There could be application The creek within Meadow Brook Country Club is a feeder creek to Tomahawk Creek and is considered a natural watercourse.

The proposed new code was written using a draft prepared by Johnson County Public Works with input from several cities. Consequently, the proposed code is nearly identical the code adopted or being adopted by Johnson County cities.

FUNDING SOURCE

The new code may increase the number of drainage permits issued by Public Works and therefore increase revenue.

RELATION TO VILLAGE VISION

CC2a Preserve and protect natural areas.

PUBLIC NOTICE

The new code will be published by the City Clerk.

ATTACHMENTS

Chapter XIV Article 7 Stream Setback Requirement and Controls Ordinance and Code

PREPARED BY

S Robert Pryzby, Director of Public Works

Date October 14, 2008

ORDINANCE NO.

AN ORDINANCE FOR THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, ESTABLISHING STREAM SETBACK REQUIREMENTS AND CONTROLS.

WHEREAS, the Governing Body of the City of Prairie Village, Kansas, in order to protect the public health, safety and welfare, has adopted a Storm Water Management Plan that calls for long-term, effective water quality management and flood protection, including preservation, conservation and protection of designated assets, such as stream corridor; and

WHEREAS, streams and their associated watersheds are complex ecosystems vital to the protection of our streams, rivers, wetlands, lakes and all other water bodies; and

WHEREAS, lands adjacent to natural watercourses and associated watersheds improve the quality of water resources by removing or ameliorating the effects of pollutants in storm and surface water runoff; and

WHEREAS, property development and redevelopment create increased volumes and rates of storm and surface water runoff, which causes flooding, property damage, safety hazards, nuisance problems, and water quality degradation; and

WHEREAS, the increase in the amount of impervious surface with the attendant destruction of the natural systems adjacent to streams resulting from development increases the incidence of flooding and is the most significant influence on storm water hydrology and pollutant loadings in streams and other water bodies; and

WHEREAS, the rate and quantity of soil erosion significantly increases on slopes and has the potential to cause excessive soil erosion and storm water runoff during and after construction; and

WHEREAS, stream preservation, conservation and protection have the following benefits:

- Provides flood control resulting in less severe flooding,
- Lower water velocities and lower water depths in the streams;
- Reduces property damage caused by flooding;
- Maintains base flow of streams;
- Enhances infiltration of storm water runoff;
- Reduces erosion and sediment entering streams and other water bodies;
- Removes sediments, nutrients, and other pollutants delivered from storm water runoff;
- Maintains natural water temperatures by preventing the overheating that results from the elimination of vegetative cover;
- Stabilizes stream banks and decreases stream bank erosion;
- Provides visually appealing "greenbelts," scenic value and can serve as a location for recreational opportunity; and
- Increases the value of properties adjacent to streams; and

WHEREAS, it is the desire of the City to preserve, conserve and protect Prairie Village's streams, and their associated watersheds within the City's boundaries by following and implementing the specifications and related documents; and

WHEREAS, it is the City's policy to protect and enhance streams, lakes and other water bodies, drainage basins, wildlife habitat, stream banks, and other property from adverse drainage impacts; and

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, ADOPTS THE FOLLOWING:

CHAPTER XIV ARTICLE 7

STREAM SETBACK REQUIREMENTS AND CONTROLS

14-701	Purpose
14-702	Definitions
14-703	Applicability
14-704	Stream Corridor
14-705	Prohibitions
14-706	Regulated Uses
14-707	Activities Permitted
14-708	Permit
14-709	Appeals
14-710	Appeal to District Court
14-711	Notification and Recording
14-712	Enforcement
14-713	Miscellaneous

14-701 Purpose

- A. It is the intent of this Article to reasonably regulate uses and activities within Stream Corridors and to thereby preserve, conserve, manage disturbance, and attempt to restore the City's natural stream corridor, so that the following objectives may be achieved:
1. Regulate the land use, location, and engineering of all development within the Stream Corridor to ensure accepted conservation and Best Management Practices, and to work within the carrying capacity of existing natural resources;
 2. Assist in the implementation of pertinent federal, state, and local laws concerning clean water, pollutant discharges, storm and surface water management, erosion and sediment control and flood control;
 3. Improve surface and ground water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands and subsurface and surface water bodies by using proven processes including filtration, deposition, absorption, adsorption, plant uptake, and de-nitrification, and by improving infiltration, encouraging sheet flow and stabilizing concentrated flows;

4. Manage development within floodplains, on land adjacent to stream segments with greater than 15% slopes, and other environmentally sensitive areas to minimize hazards to life, property, and stream features;
5. Recognize that natural features contribute to the welfare and quality of life of the residents of the City;
6. Provide natural, scenic, and recreation areas within and adjacent to Stream Corridor for the community's benefit.

14-702 Definitions

A. These words and phrases have the following meaning:

1. "Best Management Practices or BMPs" The utilization of methods, techniques or products that have been demonstrated to be the most effective and reliable in minimizing adverse impacts on water bodies and their adjacent Stream corridor.
2. "Clearing" Any act by which vegetative cover, structures or surface material is removed, including, but not limited to, surface layer, root mat or topsoil removal.
3. "Development" Any human-made change to improved or unimproved real estate including, but not limited to buildings, other structures or land disturbance such as mining, dredging, filling, grading, site clearance, paving, excavation, drilling operations and storage of equipment and materials.
4. "Drainage Permit" as defined in Chapter XIV Article 2 of the Municipal Code of the City of Prairie Village.
5. "Edge of the Stream" A line formed by the outer boundary of the stream as delineated by the bank-full or channel-forming flow caused by approximately the two-year rainfall event.
6. "Enhancement" A process undertaken to rehabilitate or improve an existing degraded stream segment by increasing native plant diversity or removing exotic plant species and increasing water quality, wildlife habitat or erosion controls.
7. "Erosion" The process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and /or land disturbance.
8. "Filling" Any act by which soil, rock, organic material or any other material is deposited, placed, pushed, pulled or transported and includes the conditions that result from that act.
9. "Floodplain" The floodway and floodway fringe as identified by the Federal Insurance Administration through its report entitled "The Flood Insurance Study of the City of Prairie Village, Kansas, " as amended, or such other designation of the floodplain as is subsequently adopted by the City, and representing the regulated 100-year water surface and corresponding elevations.
10. "Intermittent Stream" A stream of mixed character, behaving as a perennial stream at certain times of the year and an ephemeral stream at other times. Depending on seasonal conditions these streams may feed to and from the groundwater.
11. "Grading" Any act by which soil is cleared, stripped, moved, leveled, stockpiled, or any combination thereof, and includes the conditions that result from that act.

12. "Native Vegetation" Vegetation comprised of plant species that are indigenous to the area in question.
13. "Public Works Director" The individual appointed by the City as the Public Works Director or authorized designee.
14. "Restoration" The act of improving, enhancing, and reestablishing a once viable and now degraded Stream Segment to a state in which its stability, functions, and values approach its unaltered state.
15. "Slopes" The inclined surface of a fill, excavation or natural terrain expressed as a ratio of horizontal distance to vertical distance over a measured inclined surface.
16. "Stream" A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river that flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
17. "Structure" Anything constructed or erected that requires location on the ground or attachment to something having a location on the ground, including, but not limited to signs, conventional television or satellite antennas and excepting customary utility poles, retaining walls and boundary fences.
18. "Utility" Buildings, structures or any constructed portion of a system that provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, storm water, telephone and cable television.

14-703 Applicability.

- A. No Development shall be approved that proposes development on any parcel of land wholly or partially within the defined Stream Corridor unless the proposed development is in compliance with the applicable provisions of this Article.

14-704 Stream Corridor.

- A. The Stream Corridor is an area surrounding an identified Stream Segment, including adjacent floodplains and lands with slope greater than 15%. The Stream Corridor is a protective zone for the adjacent stream.
- B. Where manmade ponds interrupt streams, the Stream Corridor as herein defined shall stop at the pond and resume on the other side thereof. Where ponds are removed or filled in as part of development, the stream shall be restored through that area and the Stream Corridor buffer shall be created used the typology for adjacent stream sections.

14-705 Prohibitions.

- A. Any use or activity not identified as permitted by this Article.

14-706 Regulated Uses

- A. No development shall be undertaken on land in a Stream Corridor unless a Drainage Permit has been approved authorizing the applicant to perform the

Development proposed therein; provided that, no Drainage Permit shall be approved unless the Development proposed therein is, in all respects, in conformity with the requirements of this Article.

- B. Uses and activities permitted:
1. Conservation uses, wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and passive areas of parklands.
 2. Unpaved and unpaved recreational trails and greenways.
 3. Education/scientific research.
 4. Stream bank stabilization and other storm water BMPs approved by the Public Works Director.
 5. Activities associated with the Restoration and Enhancement of Stream Corridor.
 6. Excavation and fill required to plant any new trees or vegetation.
 7. Installation of water and wastewater facilities, provided that, the owner of the facilities provides information to the City that is sufficient to allow the Public Works Director to determine that the installation of the facilities is unfeasible in another location. Feasibility will be determined through consideration of factors, such as geology, topography and the presence of unique habitat in the Stream Corridor. When installation of such facilities does occur, such installation and construction activities must comply with the recommendations of the Public Works Director. Water and wastewater facilities will be permitted to cross the Stream Corridor, as necessary, provided that, the number of crossings is minimized to the greatest extent possible.
 8. Public infrastructure.
- C. The rear yard of a single-family residential use may extend into the Stream Corridor; provided, however, that the rear of the actual residential structure may not be located nearer than 50 feet from the outer edge of the stream corridor and no ancillary structure may be located in the stream corridor unless permitted by the Public Works Director.
- D. Uses Subject to Federal and/or State Approval.
- E. The following in-stream activities are regulated and require approval from United States Corp of Engineers or Environmental Protection Agency, the Kansas Department of Health and Environment or other appropriate federal and state agencies:
1. dredging,
 2. filling,
 3. excavation,
 4. draining, and
 5. clearing;

Provided, that the requisite state and/or federal approvals are provided to the City.

14-707 Activities Permitted

- A. The following activities are allowed within the Stream Corridor:

1. Maintenance/repair of public right-of-way, streets, public structures;
2. Site investigation work necessary for initial land use applications, such as surveys, soil logs and percolation tests, and special studies, provided, however, that the land must be restored to its pre-investigation condition;
3. Reconstruction, remodeling or maintenance of existing structures, provided that the activity does not expand the existing use beyond the previously approved use so as to physically extend into or adversely affect the Stream Corridor;
4. Routine maintenance of existing landscaping within the boundary of a lot, including pruning, removal of diseased trees or other diseased vegetation and replacement of individual plants when necessary to maintain a unified landscape theme;
5. Control of vegetation defined as state noxious weeds by K.S.A. 2-1314 et seq., by the recommended methods or alternative methods established by the State Board of Agriculture, Noxious Weed Division;
6. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be taken at any time without advance notice to the Public Works Director; provided that, the notice, as herein above required, shall be given at the earliest opportunity thereafter.

14-708 Permit

- A. All persons required to submit a Drainage Permit Application. Stream Corridor and location information must be accurately delineated on a property survey.
- B. When considering any Drainage Permit Application, the City may:
 1. Require a reduction in the yard and setback requirements established by the underlying zoning district, of up to 25%, to maintain the width of Stream Corridor;
 2. Alter the outer boundary of the mapped Stream Corridor allowing the width to become narrower than as mapped at some points within the property, as long as the Stream Corridor is not altered by the narrowing, and no new structures are built within the Floodplain.
- C. The decision to approve or deny a request for a deviation from requirements applicable to lands within Stream Corridor shall be based on the following considerations:
 1. Sensitivity of the stream segment and affected critical habitats;
 2. Sensitivity of land use adjacent to the stream segment proposed for reduced Stream Corridor width;
 3. Impact on Floodplain and stream functions.
- D. A Stream Corridor deviation shall not be approved when the reduction would result in the Stream Corridor being narrower than the Floodplain or a width that does not include adjacent land with a slope of greater than 15%

14-709 Appeals

- A. If an applicant believes that the requirements of this Article will result in an unnecessary hardship, the applicant may seek an appeal through the procedures from the Board of Code Appeals.
- B. The appeal shall be in writing on form approved by the City and a copy shall be simultaneously provided to the Public Works Director. The written appeal shall identify the specific grounds for the appeal, including the exact locations of the Stream Corridor that the applicant disputes. The notice shall also be accompanied by a Stream Corridor Report that shall include:
 - 1. A surveyed site plan covering all property that is the subject of the appeal application, which shows the property's topography;
 - 2. Drainage flow on the property;
 - 3. The location of streams, flow, width, quality, critical habitat, value and function;
 - 4. The ordinary high-water mark of the stream;
 - 5. A tree and native vegetation inventory;
 - 6. A delineation of areas with slope greater than 15% (with the percentage slope shown);
 - 7. Critical habitat contiguous to the streams;
 - 8. Designation of the Floodplain;
 - 9. All other information required by the Board of Code Appeals to be submitted for its consideration.
- C. On appeal, the burden will be on the appellant to establish, by clear and convincing evidence, that the Drainage Application is consistent with the Stream Corridor.
- D. The Board of Code Appeals, after considering all evidence presented by the applicant in support of the appeal and any evidence presented by the City in rebuttal or otherwise presented in relation to the appeal, shall render a written decision. If the Board of Code Appeals determines that applicant has not met the requisite burden of proof, it shall affirm, wholly or partly, the decision of the Public Works Director. If the Board of Code Appeals determines that the applicant has met the requisite burden of proof, it may reverse or modify the decision of the Public Works Director and make a decision respecting Development Application as it determines is appropriate. In making this new decision, the Board of Code Appeals may attach any condition it deems necessary to further the purposes of this Article.

14-710 Appeal to District Court

- A. Any person or persons jointly or severally aggrieved by any final decision on appeal may present to the District Court of Johnson County, Kansas, a petition duly verified appealing the decision. The petition shall set forth that the decision is illegal, in whole or in part, and specify the ground of its illegality. The petition shall be presented to the court within thirty (30) days after the decision is issued or it shall be barred.

14-711 Notification and Recording

- A. The owner of any property within a Stream Corridor, upon the approval of a Drainage Permit covering property containing a Stream Corridor (which does not involve the approval of a final plat) shall record a notice of presence for each Stream Corridor with the Johnson County Register of Deeds. This recording shall contain notice of the Stream Corridor, the application of this Article to the property, and the limitations on actions in or affecting such Stream Corridor. The applicant must submit proof that the notice has been legally recorded before the Drainage Permit is issued. The notice shall run with the land and failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Article. The notice shall be substantially as set forth below:
1. Legal Description:
 2. Present Owner:
 3. Notice: This property is located within or contains the following Stream Corridor, as defined and regulated in the City of Prairie Village,
 4. Restrictions on the use or alteration of land within the Stream Corridor may apply.
 5. Application # ___ filed on (Date).
 6. Signature of owner(s).
 7. Notarization:
- B. For all subdivision proposals within the Stream Corridor, the applicant shall include a notice on the face of the plat. The notice shall be substantially as set forth below:
1. Notice: This site lies within a protected Stream Corridor, as defined and regulated in City of Prairie Village,
 2. Restrictions on the use or alteration of the Stream Corridor may apply.

14-712 Enforcement.

- A. The Public Works Director is authorized and empowered to enforce the requirements of this Article in accordance with the procedures set forth herein and shall have all the enforcement powers and may employ all or any of the remedies set forth in the Municipal Code of the City of Prairie Village, Kansas.

14-713 Miscellaneous

- A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.
- B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by

the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

- C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
October 20, 2008
7:30 p.m.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. RECOGNITION OF SISTER CITY DIGNATARIES FROM DOLYNA**
- V. RECOGNITION OF EMPLOYEE ACCOMPLISHMENTS**
- VI. PUBLIC PARTICIPATION**
- VII. CONSENT AGENDA**

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

By Staff:

- 1. Approve Regular Council Meeting Minutes – October 6, 2008
- 2. Approve Claims Ordinance 2852
- 3. Ratify the Mayor’s appointment of Shelly Trewolla to the Prairie Village Arts Council to fill an unexpired term ending in April, 2010; Roderick Atteberry to the Sister City Committee to fill an unexpired term ending in April, 2010 and Amy Esselman to the Sister City Committee as a student representative for a one-year term.

By Committee:

- 4. Adopt Ordinances 2177 and 2178 incorporating the Uniform Public Offense Code, (UPOC) and the Standard Traffic Ordinance (STO), 2008 Edition, prepared and published by the League of Kansas Municipalities with certain sections deleted and with additional and supplemental sections. (Council Committee of the Whole Minutes – October 6, 2008)
- 5. Approve the spending of Contingency Funds for an evaluation of the grounding issues involving the cell tower by Lyncole Industries at a cost of \$6,822.00. (Council Committee of the Whole Minutes – October 6, 2008)

VIII. STAFF REPORTS

IX. COMMITTEE REPORTS

Council Committee of the Whole

COU2008-75 Consider approval of a revision to Council Policy PP910 regarding “comp time” (recommend deferral to a later meeting)

COU2007-27 Consider Project 190864: 2008 Street Resurfacing Program Construction Change Order #6 – David Voysey

COU2007-49 Consider Project 190868: 2008 Cars, Roe Avenue Construction Change Order #1 (Final) – David Voysey

- X. OLD BUSINESS
- XI. NEW BUSINESS
- XII. ANNOUNCEMENTS
- XIII. 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

October 20, 2008

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
OCTOBER 6, 2008**

The City Council of Prairie Village, Kansas, met in regular session on Monday, October 6, 2008, 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: Bill Griffith, Ruth Hopkins, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, David Morrison, Charles Clark and David Belz.

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

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

PUBLIC PARTICIPATION

Randy Kronblad addressed the Council as chairman of the Arts Council to invite the Council to attend the State of the Arts reception on Friday, October 10th. The three award winners will be announced at the reception with the "Best of the Show" being designated as the "Bob Endres Memorial Award". Over 200 entries were received for this show as the event continues to grow in recognition.

CONSENT AGENDA

David Voysey moved the approval of the Consent Agenda for Monday, October 6, 2008:

1. Approve Regular Council Meeting Minutes - September 15, 2008
2. Ratify the Mayor's appointment of Deborah English to the Prairie Village environment/Recycle Committee for a three year term.

3. Approve the renewal of the Animal Medical Center contract for the remainder of 2008 through 2009
4. Authorize the Mayor to issue a proclamation for Lancer Day - October 17, 2008
5. Approve Construction Change Order #5 with O'Donnell & Sons Construction for an increase of \$48,521 to Project 190864: 2008 Street Resurfacing Program
6. Adopt Ordinance 2176 amending Section 1 of Ordinance 2091 of the City of Prairie Village
7. Authorize the Mayor to accept a Phase 1 Safe Routes to School Grant Application in the amount of \$15,000.
8. Approve amendments to City Council Policy 515 entitled "Daycare at Swimming Pool", Council Policy 527 entitled "Tennis Court Rental/Reservation Policy" and Ordinance 2179 amending Article 3 of the Prairie Village Municipal Code entitled "Tennis Program" by deleting Section 12-301 entitled "Tennis Court Supervisors; Duties and Authority" and amending Section 12-303 entitled "Charges for use to be fixed by Governing Body".

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

STAFF REPORTS

Staff reports were given at the Council Committee of the Whole.

COMMITTEE REPORTS

Council Committee of the Whole

COU2008-70 Consider Employee Health Insurance Plan for 2009

On behalf of the Council Committee of the Whole, David Voysey moved the City Council approve Blue Cross/Blue Shield of Kansas City as the City's health care provider for the 2009 plan year, and add a high deductible health care plan with a Health Savings Account for the 2009 Plan in addition to the two current plan options, establishing the HMO plan as the City's "base" health insurance option for purposes of determining employer premium contributions. The motion was seconded by Laura Wassmer and passed unanimously.

COU2007-27 Consider Project 191022: 2008 Concrete Repair Program

On behalf of the Council Committee of the Whole, David Voysey moved the City Council approve Construction Change Order #2 with McAnany Construction for an increase of \$23,168.82 for final as-built quantities bringing the final contract cost to \$765,819.83. The motion was seconded by Laura Wassmer and passed unanimously.

OLD BUSINESS

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

NEW BUSINESS

Charles Clark noted reknowned international vocal performer Joyce DiDanto is a Prairie Village residents who speaks highly of the City wherever she travels. Mr. Clark would like to see January 20th be designated as "Joyce DiDanto Day" in Prairie Village acknowledging the accomplishments of this amazing performer who is recognized throughout the world. Ms DiDanto travels and performs 50 weeks out of the year; however, with family in Prairie Village she returns to the City whenever possible and will be in town on January 20th. The Council expressed their support and Mr. Clark stated he and Mrs. Hopkins would work on coordinating the recognition.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Planning Commission	10/07/2008	7:00 p.m.
Park & Recreation Committee	10/08/2008	7:00 p.m.
Sister City Committee	10/13/2008	7:00 p.m.
Prairie Village Arts Council	10/15/2008	7:00 p.m.
Council Committee	10/20/2008	6:00 p.m.
Council	10/20/2008	7:30 p.m.

The Prairie Village Arts Council is pleased to an exhibit by the State of the Arts mixed media exhibit during the month of October. It will be juried show featuring entries from local artists. There will be three prizes of \$1,000. Each and the winners will be announced at the reception on October 10th from 6:00 to 8:00 p.m.

Flu shots for City of Prairie Village employees and Council members are scheduled for October 13th from 7:30 to 9:30 at Public Works and on October 14th from 2 to 4 p.m. at City hall. Cost to employee/council member is \$10.

The annual Mayor's Holiday Tree Lighting will be at Corinth Square on November 24th at 6:30 p.m.

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

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

Mayor Shaffer noted the recent interview in last Saturday's Neighborhood News with Dan Robles addressing crime prevention for both residential and commercial properties.

The Johnson/Wyandotte County Mayor's Holiday Dinner will be held on December 3rd, Council members should respond to Joyce if interested in attending. Also mark your calendars for the Mayor's holiday party on Friday, December 5th at Homestead Country Club and the Employee's holiday luncheon on Friday, December 12th.

Mayor Shaffer asked for volunteers to participate in the next Leadership Northeast class.

ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned
at 7:48 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

October 10, 2008

Copy of Ordinance
2852

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			
90391-90468	9/5/2008	515,530.40	
90469-90472	9/10/2008	1,353.87	
90473-90473	9/12/2008	3,352.00	
90474-90575	9/19/2008	604,304.82	
90476-90576	9/20/2008	881.35	
90577-90585	9/24/2008	110,200.07	
Payroll Expenditures			
9/12/2008		244,328.36	
9/26/2008		228,029.25	
Electronic Payments			
Intrust Bank -credit card fees (General Oper)		438.47	
State of Kansas - sales tax remittance		522.51	
Marshall & Ilsley - Police Pension remittance		6,759.31	
Intrust Bank - fee		381.64	
KCP&L		17,214.17	
CBIZ - Section 125 admin fees		337.92	
Intrust Bank - purchasing card transactions		7,608.08	
United Health Care		74,929.54	
Kansas Gas		1,192.61	
TOTAL EXPENDITURES:			\$ 1,817,364.37
Voided Checks			
Scholastic Photography	#90454	(565.00)	
Sanitol	#90452	(3,352.00)	
Boresow Chemical	#90483	(1,147.65)	
TOTAL VOIDED CHECKS:			(5,064.65)
GRAND TOTAL CLAIMS ORDINANCE			1,812,299.72

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

Passed this 20th day of October 2008.

Signed or Approved this 20th day of October 2008.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



MAYOR

**Council Committee Meeting Date:
Council Meeting Date: October 20, 2008**

Consent Agenda: Consider Appointments to Sister City and Prairie Village Arts Council

RECOMMENDATION

Mayor Shaffer requests Council ratification of the appointment of Shelly Trewolla to the Prairie Village Arts Council to fill an unexpired term ending in April, 2010; Roderick Atteberry to the Sister City Committee to fill an unexpired term ending in April, 2010 and Amy Esselman to the Sister City Committee as a student representative for a one-year term.

BACKGROUND

Shelly Trewolla has been actively involved in the Tree Board and Park & Recreation Committee. As an art teacher at Shawnee Mission East, she wants to focus her attention on the Arts in Prairie Village. Roderick Atteberry participated in an International Sister City exchange in high school, travelling extensively throughout Europe and strongly supports the mission of the Sister City Committee. Volunteer applications for all three candidates are attached.

ATTACHMENTS

Volunteer application - Shelly Trewolla
Volunteer application - Roderick Atteberry
Volunteer application - Amy Esselman

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: October 14, 2008



**City of Prairie Village
APPLICATION TO VOLUNTEER**

Please complete this form and return it to the City Clerk's Office, 7700 Mission Road, Prairie Village, Kansas 66208. If you have any questions, please contact the City Clerk's Office at 913-381-6464 or send an e-mail to cityclerk@pvkansas.com.

Name Shelly Trewolla Spouse's Name John
Address 8236 Linden Dr Zip 66208 Ward 4
Telephone: Home 913 642-8219 Work 913 993-6750 Fax _____
E-mail strewolla@hotmail.com Other Number(s): _____
Business Affiliation Shawnee Mission East High School
Business Address 7500 Mission Rd
What Committee(s) interests you? Arts Council

Please tell us about yourself, listing any special skills or experiences you have which would qualify you for a volunteer with the City of Prairie Village.

I have lived in PV for almost 30 years. I was on the Park Board over 12 yrs + was the charter member of the tree board. I began substitute teaching in 1997 + was hired at East in 2000, where I am today. I teach art, specifically ceramics, sculpture + advanced studio art.

In my previous life, before PV, I was a studio potter in Santa Fe, N.M.

I really want to see the arts flourish in PV as both short term, long term + permanent events or installations

Thank you for your interest in serving our community.



City of Prairie Village
APPLICATION TO VOLUNTEER

Please complete this form and return it to the City Clerk's Office, 7700 Mission Road, Prairie Village, Kansas 66208. If you have any questions, please contact the City Clerk's Office at 9381-6464 or send an e-mail to cityclerk@pvkansas.com.

Name Roderick Atteberry Spouse's Name _____
 Address 3304 W. 71st Street Zip 66208 Ward III
 Telephone: Home 310 562 2709 Work 877 258 2101 Fax 702 938 9057
 E-mail rod@dandersenconsulting.com Other Number(s): _____
 Business Affiliation D. Andersen Consulting
 Business Address 32 via Siena Place, Henderson, NV 89011
 What Committee(s) interests you? Sister City

Please tell us about yourself, listing any special skills or experiences you have which would qualify you for a volunteer with the City of Prairie Village.

I recently served as Technical Director for the Johnson County Arts Commission's Shooting Stars Banquet. Previously, I have worked in entertainment onboard cruise ships travelling the globe for nearly seven years. I participated in an International Sister City exchange in High School, travelling to Montpellier (sister city to Louisville, KY) France, and also throughout Belgium including our own, Antwerp, Brussels, Bruges & Ghent. I believe in the value of this type of cultural exchange in linking Prairie Village to the global village.

Thank you for your interest in serving our community.

COUNCIL COMMITTEE OF THE WHOLE
October 6, 2008

The Council Committee of the Whole met on Monday, October 6, 2008 at 6:00 p.m. The meeting was called to order by Council President David Voysey with the following members present: Mayor Shaffer, Bill Griffith, Ruth Hopkins, Michael Kelly, Andrew Wang (arrived late), Laura Wassmer, Charles Clark, David Morrison and David Belz. Staff members present: Quinn Bennion, City Administrator; Wes Jordan, Chief of Police; Captain Tim Schwartzkopf, Captain Wes Lovett, Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Nic Sanders, Human Resources Specialist; Karen Kindle, Finance Director; Chris Engle, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

COU2008-70 Consider Employee Health Insurance Plan for 2009

Quinn Bennion stated the City went out to bid for health insurance coverage through CBIZ, its employee benefits consultant. The City received seven proposals which were reviewed by the City's Employee Benefits Committee. The committee is recommending the City accept the proposal from Blue Cross Blue Shield of Kansas City (BCBS). This determination was made based on provider availability, specifically St. Luke's Health System, a second year rate cap of 14.9%, and health and wellness offerings.

The proposal from BCBS includes the two current health plans offered to employees (HMO & PPO) or equivalent. The proposal also included the addition of a third plan: a high deductible health plan to be used with a Health Savings Account (HSA). A high deductible plan does not cover first dollar medical expenses, with the exception of preventative care, and typically has a yearly deductible of \$2,000 or more dollars. Because of the higher deductible, the monthly premium is lower than that of a HMO or PPO plan.

The high deductible plan would be associated with the HSA: a special account owned by an individual used to pay for current and future medical expenses. The HSA allows an individual and/or employer to contribute funds to an account on a pre-tax basis. The participating individual can use the funds in the account for qualifying medical expenses (deductibles, prescriptions, hospital visits, glasses, orthodontics, etc.) on a tax free basis. The funds in the HSA account are the individual's responsibility and are fully-owned by the participant; therefore, if the individual leaves employment or the City stops offering an HSA plan, the individual retains the funds in their HSA account. In concept, the HSA plan encourages the individual to be more accountable and aware of health costs. The Governing Body discussed the HSA plan during the September 15, 2008 Council Committee of the Whole meeting.

BCBS presented a high deductible with HSA option as part of their renewal proposal. The HSA monthly premium is proposed at 28% less than the current cost for the HMO plan. BCBS also presented an option for the HMO and PPO renewal with a decrease of 4.3% and 4.0%, respectively.

CBIZ recommends that the City use the HMO plan as the 'base' plan for determining the employer's premium contributions and pay the same amount per month for premium towards the HSA or the PPO plan. In 2009, the base amount per month is \$340.09 for Employee Only, \$683.21 for Employee +1, and \$909.81 for Family Coverage.

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

	City	Employee
EE Only	100%	0%
EE+1	83%	17%
Family	75%	25%

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

<i>Base (HMO)</i>	2008 Plan Year			2009 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	355.55	0.00	355.55	340.09	0.00	340.09
EE+1	860.57	146.30	714.27	823.15	139.94	683.21
Family	1,268.21	317.06	951.15	1,213.09	303.28	909.81

<i>Buy-Up (PPO)</i>	2008 Plan Year			2009 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	439.97	84.42	355.55	421.86	81.77	340.09
EE+1	1,064.91	350.64	714.27	1,021.09	337.88	683.21
Family	1,569.35	618.20	951.15	1,504.78	594.97	909.81

<i>HSA w/ high deductible</i>	2009 Plan Year			
	Total	Employee	HSA Contribution	City
EE Only	258.16	0.00	81.93	340.09
EE+1	624.75	0.00	58.46	683.21
Family	921.63	11.82	0.00	909.81

The HSA option allows the City to fund a portion of the employee's HSA while still reducing overall total healthcare cost. The employee can also contribute to their HSA in the amount of the difference between the IRS annual contribution limit.

Mr. Bennion noted the City is still securing proposals for vision and dental insurance renewals which he plans to bring to the Council at a future meeting.

Employee health insurance premiums are funded with General Fund. The 2009 budget anticipated a 5% health insurance increase in City premium contributions. With the proposed renewal rates, health care costs will be well below budget.

Mr. Bennion noted the question has been raised regarding allowing City Council members to participate on the employee health insurance plan. Information was distributed on benefits

provided to City Council members by neighboring cities. Most of the area cities do not offer insurance coverage to their council members. He noted it is an option that can be considered and asked Dave Johnson with CBIZ to respond to any questions.

Dave Johnson stated their organization works with several companies that have insurance coverage provided by Blue Cross Blue shield and noted they are an experienced and good organization. The basic coverages under the HMO and PPO are very similar to the existing coverage provided by United Health Care. The addition of the Health Savings Account is a good benefit for employees. With the Council putting the difference in premiums from the "base" plan vs. the HSA in the employee's account, the employee is supported in case of a serious claim prior to being able to build up an account balance. For the individual with employee + 1 coverage, the City is adding approximately \$700 to their account and \$1000 to the account of an employee with family coverage.

Bill Griffith asked if the availability of services through St. Luke's was an issue. Dave Johnson stated it was; however, past records indicated St. Luke's was the 6th most used facility by employees.

Dave Anderson stated to allow City Council members to participate on the plan is allowed by BCBS. However, adding Council would require the plan to be rebid as it would increase the base membership by 10 percent which could result in an increase of 5 to 7 percent. He stated under the current plan language all Council members would have to be provided coverage. Ruth Hopkins confirmed this would be the case even though they were covered under another policy.

Bill Griffith noted that although other area cities do not provide coverage to council members, Prairie Village is the only City that does not pay council members. He feels this would be a rather inexpensive perk for council members. Laura Wassmer responded she would rather see the \$50,000 go towards salary as insurance coverage would not be a benefit to her. Ruth Hopkins noted the complications that would result from dual coverage. Andrew Wang confirmed that it would be possible to add family members with the Councilmember paying the premium cost for those members. David Belz agreed with Ms Wassmer that he would prefer salary to insurance coverage. He questioned what would happen if a council member was not re-elected. Mr. Johnson responded the council member would have the option to go back on their original employer's plan or participate in COBRA.

Michael Kelly stated this is a volunteer position and noted the size of the Council is significantly larger than most neighboring cities. He does not feel this benefit is needed.

Ruth Hopkins asked if part-time city employees were provided insurance coverage and felt if it was offered to the City Council it would need to be offered to part-time employees. Nic Sanders responded the City only has one part-time employee, noting crossing guards are considered seasonal employees and are not provided benefits.

Charles Clark stated the City should celebrate the renewal received noting it is very rare to have an insurance premium reduction and to be offered a rate cap for a future year. He commended CBIZ and City staff for their efforts to secure this proposal.

Charles Clark made the following motion, which was seconded by David Morrison and passed unanimously:

Move that the Governing Body: 1) Approve Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2009 plan year; and 2) Add a high deductible health care plan with a Health Savings Account for the 2009 plan year (in addition to the two current plan options). And 3) Establish the HMO plan as the City's 'base' health insurance option for purposes of determining employer premium contributions.

**COUNCIL ACTION TAKEN
10/6/2008**

COU2007-27 Consider Project 191022: 2008 Concrete Repair Program

Bob Pryzby stated the 2008 Concrete Repair Program is completed and noted change order #2 reflects changes to the contract based on the final as-built quantities. The final contract amount is 3.1% over the original contract and funding is available in the Capital Infrastructure Program

Bill Griffith asked why some driveways were replaced three-fourths of the way to the garage. Mr. Pryzby responded the amount of driveway replaced is determined by several factors including the necessity to maintain grade and ADA requirements.

Charles Clark made the following motion, which was seconded by David Belz and passed unanimously:

MOVE THE CITY COUNCIL APPROVE CONSTRUCTION CHANGE ORDER #2 WITH MCANANY CONSTRUCTION FOR AN INCREASE OF \$23,168.82 TO PROJECT 191002:2008 CONCRETE REPAIR PROGRAM BRINGING THE FINAL COST TO \$765,819.83

**COUNCIL ACTION TAKEN
10/06/2008**

COU2008-72 Consider adoption of 2008 Standard Traffic Ordinances and Uniform Public Offense Code

Each year the City receives the latest edition of the Uniform Public Offense Code and Standard Traffic Ordinances from the League of Kansas Municipalities. Prior to incorporation, the offense codes and traffic ordinances are reviewed against current City ordinances for any discrepancies with any deletions and/or additions reviewed and approved by the City Attorney.

The 2008 editions do not significantly differ from the 2007 edition. City Attorney Catherine Logan has prepared ordinances incorporating these codes by reference.

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

ADOPT ORDINANCES 2177 AND 2178 INCORPORATING THE UNIFORM PUBLIC OFFENSE CODE, (UPOC) AND THE STANDARD TRAFFIC ORDINANCE (STO), 2008 EDITION, PREPARED AND PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES WITH CERTAIN SECTIONS DELETED AND WITH ADDITIONAL AND SUPPLEMENTAL SECTIONS COUNCIL ACTION REQUIRED CONSENT AGENDA

COU2008-74 Consider use of Lyncole Industries to conduct an evaluation of the radio system with funding from the general contingency fund.

Captain Wes Lovett reported the City has incurred four substantial lightning strikes to the cell tower in the past two years. Each lightning strike has caused a significant amount of damage to the public safety radio system with repair cost ranging from \$10,000 to \$62,000 with an insurance deductible of \$25,000.

Several actions have been taken over the past two years to address this problem such as adding surge protectors. The City's current radio maintenance provider recommends moving the switch box from the cell tower to City Hall or the police building. This would require running underground fiber optic cable from the cell tower to the main building at an estimated cost of \$32,000. This has proven to be an effective solution for the City of Leawood who experienced similar problems. However, Communications Associates can not guarantee this will solve the problem and have suggested prior to making any repairs the City contact someone who has expertise in grounding and lightning protection.

Captain Lovett stated the city received three bids from firms to conduct an evaluation. Lyncole Industries submitted a bid of \$6,822 which is significantly lower bid than the two other firms. They are located in Torrance, California and have worked with the Navy, AT&T, Sprint and Motorola. The City does not have any funds budgeted for this and is seeking authorization to use funds from the general contingency fund for this evaluation.

Ruth Hopkins asked if there was any concern with this bid being so significantly lower than others. Captain Lovett responded the company has a proven track record of success in the industry.

David Morrison asked if the company is guaranteeing their work will solve the problem. Captain Lovett said he could ask. He noted the radio system is not constructed to take any kind of lightning hit. Charles Clark stated this is an evaluation with the contractor making a determination of the problem. He is not doing anything to address the problem and therefore a guarantee would not be applicable.

Ruth Hopkins made the following motion, which was seconded by Michael Kelly and passed unanimously:

THE CITY COUNCIL APPROVE THE SPENDING OF CONTINGENCY FUNDS FOR AN EVALUATION OF THE GROUNDING ISSUES INVOLVING THE CELL TOWER BY LYNCOLE INDUSTRIES AT A COST OF \$6,822.00

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2008-75 Consider approval of a revision to Council Policy PP910 regarding "Comp time"

Quinn Bennion stated Council Policy PP910 outlines the policies for overtime and compensatory (comp) time. Staff is recommending that comp time use be eliminated for all non-exempt positions except commissioned officers and positions with regular shift work.

The City currently provides overtime pay or compensatory (comp) time to a non-exempt employee who works more than a specific number of hours in a work period.

- For commissioned officers, overtime hours start at 80 hours worked during a 14 day period.
- For non-commissioned employees, overtime hours start at 40 hours worked during a 7 day period.
- Salaried employees are not eligible for overtime or comp time.

The employee chooses if the extra hours worked are to be paid as overtime pay, comp time earned or a combination of the two after coordination with their supervisor. Comp time is earned at 1½ times the hours worked; i.e. two hours of overtime would equate to 3 hours of comp time to be used at a future date similar to vacation hours.

Mr. Bennion noted flex time is also offered as an alternative to comp time and overtime, although an official policy does not exist. Flex time is used within the same week. For example an employee working at an evening meeting for two hours could leave two hours early on another day during that week.

This proposed change is the result of research and investigation by staff of comp time, flex time and overtime policies for effectiveness in conjunction with the upcoming implementation of a new payroll system. The new system was tested with pool staff this past summer and proved to be effective in reducing administrative time, human error and payroll inaccuracies. The new system implementation city-wide is scheduled for November with related supervisor and staff training.

Department managers have discussed the comp time policy and possible changes during the past months. Some employees will view the elimination of comp time as a

reduction in employee benefits. The staff recommendation is based on the following factors:

- The employee chooses whether to receive overtime pay or comp time credit for eligible hours regardless of the position's staffing needs or supervisor's approval.
- The use of comp time adds an administrative burden to track comp time earned, comp time used and the amount carried forward for each employee.
- Comp time is more difficult for a supervisor to manage than flex time or overtime. Although comp time does not have an immediate budget impact, personnel resources and services are impacted.
- If comp time is carried over to a new year, the pay rate at which comp time is used is higher than the pay rate at which it was earned.
- Unfortunately, the comp time policy has been abused by some employees.

The recommended changes would not impact commissioned officers or employees on regular shift work. The use of comp time allows flexibility for these positions as they are subject to call outs and extra shifts.

The elimination of comp time brings concern about the impact of overtime budgets within departments. Overtime budgets will remain the same and managers will work to manage overtime costs with the use of flex time and shifting of work as possible.

If approved, staff is recommending the employees with a comp time balances use the hours or be "paid out" the balance by the end of 2008. If the comp time balance was paid out at this time, the cost would be approximately \$8,500 (\$8,000 for Public Works and \$500 for Administration).

David Belz asked why managers can not determine when comp time is used. Chief Jordan responded the Fair Labor Standards Act (FLSA) allows employers to restrict when vacation time is taken, but it does not allow employers to restrict the use of comp time.

Ruth Hopkins made the following motion, which was seconded by David Belz and passed unanimously:

**APPROVE THE AMENDMENT TO COUNCIL POLICY PP910 ENTITLED
"OVERTIME: NON-EXEMPT EMPLOYEES" REGARDING EMPLOYEE
COMPENSATORY TIME EFFECTIVE JANUARY 1, 2009.
COUNCIL ACTION REQUIRED**

STAFF REPORTS

Public Safety - Chief Jordan

- 242 surveys have been returned from the initial mailing in the Village Voice. Chief stated they have extended the return date as they would like a greater number returned

- On Thursday, the police department served a search warrant and confiscated 21 pounds of marijuana. The 18 year old suspect has ties to Shawnee Mission East and frequents Harmon Park. The police feel they have made a dent in the drug supply to Prairie Village youth.
- The industrial park tables at the Harmon Pavilion have been damaged by students. The department is working with the park committee to try to address on-going vandalism in city parks.
- The department is hosting a meeting of representatives of area churches to discuss security issues. Sixteen area churches will be participating.
- "Operation Litterbug" will begin next week with the department focusing on enforcement of littering in the City.

Public Works - Bob Pryzby

- Following up with Chief's concerns regarding vandalism in the parks, crews are notifying PD of any suspicious action and Bob suggested the public be asked to do the same.
- Mr. Pryzby has received historical information on the statues/columns at 75th & Belinder
- Work on the southeast corner of Mission will finally complete that project. However, WaterOne will be back to do patch work when weather allows
- WaterOne has placed a large solar panel in Franklin Park. They did not receive permission from the City or any permits. Staff have contacted them regarding removal of the panels.
- The City has not received any recent calls from residents regarding the stormwater utility fee.
- The department has received favorable response to the traffic calming on Cherokee and also three additional requests from neighborhoods seeking traffic calming.
- The preliminary design for the El Monte fountain has been completed and Mr. Pryzby will be talking with representatives of the homes association regarding possible funding assistance. The design is very similar to the original design.
- Public Works crews will be participating in the snowplow rodeo later this week
- The City has received notice from Highwoods that the building contract is still at their corporate headquarters.

Codes Administration - Dennis Enslinger

- Staff is in the process of preparing an RFQ for the position of City Prosecutor. Once it is finalized it will be distributed with 30 days to respond. A committee will be formed to review RFQ's and interview candidates making a recommendation to the Mayor for appointment.
- October 25th the City is co-sponsoring with Mission Hills, Roeland Park and Overland Park a recycling event from 9 a.m. to 2 p.m. The event will include electronic recycling and based on past experience 400 to 500 vehicles are anticipated.
- There will be an Environmental Community Forum on Friday at the Village Church

- The 2nd Annual State of the Arts event will be held on Friday evening from 6 to 8 p.m.
- The Planning Commission will be considering an application for site plan approval for the replacement of the current Tippins building with a CVS [pharmacy with drive-thru. The proposed design does not comply with Village Vision. This will not come to the City Council for approval as the zoning is appropriate for the proposed use.
- Staff has met several times with representatives of Walgreens who are proposing to locate in the retail strip at 95th and Mission. They would replace the Vet Clinic, O'Neill's and Discovery Shop. The zoning is appropriate for the use and if submitted this items would not come to the City Council. Village Vision does not clearly address the redevelopment of this area.

Michael Kelly noted Village Vision goes into detail for the development of Corinth Square and questioned if the City should adopt a comprehensive plan for that area. Mr. Enslinger stated the application before the Commission is not for redevelopment of the center but for the placement of another pad site which will impact future redevelopment.

Quinn Bennion stressed as the appropriate zoning is in place neither of these applications will need City Council approval. Council members can attend and address these matters before the Planning Commission.

City Attorney - Katie Logan

- The City has received a ruling on the KOMA violation that was filed regarding the Special City Council meeting held in July. The findings are that there was no violation of open meetings regulations by the City. The City could not have been expected to have anticipated the number of people who attended and acted responsibly in addressing the safety restrictions for the meeting room.

City Administrator - Quinn Bennion

- Quinn along with two Council members will be attending the League of Kansas Municipalities meeting October 11th through 14th in Wichita
- Several staff members attended the Johnson County Leadership Summit last Friday. The 80-90 participants discussed regional issues impacting the county such as metro communication, solid waste, sustainability, transportation and economic considerations

Park & Recreation - Chris Engle

- The Parks Master Plan workshop will be held on Monday, October 27th at 7 p.m. at City Hall.

Sister City Committee - Michael Kelly

- Another Ukrainian delegation of Dolyna will be arriving in Prairie Village on October 17th and staying through October 25th. The delegation will include 5 representatives from their governing body and a facilitator. They are visiting as guests of the State Department under a program entitled "Accountable Governance" They will be staying in homes within the City and again meet with

local and area governmental entities. There is no financial investment by the City as this trip was initiated by the United States State Department as a follow up on the City's Sister City relationship with Dolyna.

Laura Wassmer asked if they would be meeting with the Council. Mayor Shaffer stated they would attend the October 20th City Council meeting and there will be both a "Welcome" and "Farewell" event. Council members will receive schedule information after it is finalized.

Quinn Bennion reminded the Council members that Councilman Herrera has arranged for the Council to ride in cars in the 50th Anniversary Lancer Day parade next Friday, October 17th. Council members should meet in the SME parking lot at 1:45 p.m.

ADJOURNMENT

With no further business to come before the Committee, Council President David Voysey adjourned the meeting at 7:30 p.m.

David Voysey
Council President

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER XI OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, 2003, ENTITLED "PUBLIC OFFENSES & TRAFFIC" BY INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2008, WITH CERTAIN DELETIONS AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; AND REPEALING CHAPTER XI, ARTICLE 1 OF THE PRAIRIE VILLAGE MUNICIPAL CODE

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

SECTION ONE

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

11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Prairie Village, Kansas, that certain code known as the "Uniform Public Offense Code," edition of 2008, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, with certain sections deleted and with additional and supplemental sections, such incorporations being authorized by K.S.A. §§12-3301 and 12-3302 and K.S.A. §§12-3009 through 12-3012. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped, "Official Copy as Adopted by Ordinance No. _____" with such additional sections clearly marked and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO

11-102. is hereby adopted to read as follows:

11-102. UNIFORM PUBLIC OFFENSE CODE; ADDITIONS.

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

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

It shall be unlawful for any person:

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

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

SECTION THREE

11-103. is hereby adopted to read as follows:

11-103. SAME.

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

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

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

Violation of this subsection is a violation punishable:

- (1) By a fine of not less than \$200.00 or by 40 hours of community service or by both, if committed on premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated; or
- (2) By a fine of not less than \$200.00 or by 10 hours of community service, or by both, if committed on any other premises.

- (b) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor or cereal malt beverages from any person except as authorized by law.

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

SECTION FOUR

11-104. is hereby adopted to read as follows:

11-104. SAME.

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

Section 6.24 Unlawful Posting of Pictures and Advertisements.

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

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

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

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

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

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

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

Violation of this section is a Class A violation.

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

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

Violation of this section is a Class B violation.

SECTION FIVE

11-105. is hereby adopted to read as follows:

11-105. SAME.

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

Section 9.14 Loitering.

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

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

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

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

Violation of this section is a Class C violation.

Section 9.15 Unsolicited Publications -- Penalty.

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

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

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

Section 9.16 Residential Picketing.

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

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

SECTION SIX

11-106. is hereby adopted to read as follows:

11-106. SAME.

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

Section 10.1. Criminal Use of Weapons.

- (a) Criminal use of weapons is knowingly:
- (1) selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement;
 - (2) carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung shot, dangerous knife, straight-edged razor stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife, with no blade more than four inches in length, shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;
 - (3) carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;
 - (4) carrying any pistol, revolver, shotgun, rifle or other firearm with similar characteristics, concealed or exposed on or about the person, or in or on any part or area of any air, land or water vehicle unless the pistol, revolver or other firearm is unloaded and encased in a container that completely encloses the pistol, revolver or other firearm, except when on the person's land or in the person's abode or fixed place of business;
 - (5) setting a spring gun;
 - (6) possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

- (b) Subsections (a)(1), (2), (3) and (4) shall not apply to or affect any of the following:
 - (1) law enforcement officers, or any person summoned by an officer to assist in making arrests or preserving the peace, while actually engaged in assisting that officer;
 - (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crimes, while acting within the scope of their authority;
 - (3) members of the armed services or reserve forces of the United States or the Kansas national guard, while in the performance of their official duty; or
 - (4) manufacture of, transportation to or sale of weapons to a person authorized under (b)(1) through (b)(3) of this section to possess those weapons.
- (c) Subsection (a)(4) does not apply to or affect the following:
 - (1) watchmen, while actually engaged in the performance of the duties of their employment;
 - (2) licensed hunters or fishermen, while engaged in hunting or fishing;
 - (3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
 - (4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or
 - (5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which the fire marshal, deputy or member is authorized to carry a firearm, pursuant to K.S.A. 31-157 and amendments thereto.
- (d) Subsections (a)(1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment that has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and that has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of that person and, if that person transfers that firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.
- (e) Subsection (a)(4) shall not apply to any person carrying a concealed weapon as authorized by K.S.A. Supp. 75-7c01 through 75-7c17.
- (f) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)
- (g) Violation of this section is a Class A violation.

10.1.1 Concealed Carry; Where Prohibited.

- (a) No license issued pursuant to Chapter 32 of the 2006 Session Laws of Kansas shall authorize the licenses to carry a concealed weapon into:
- (1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;
 - (2) Any police, sheriff, or highway patrol station;
 - (3) Any detention facility, prison, or jail;
 - (4) Any courthouse;
 - (5) Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;
 - (6) Any polling place on the day an election is held;
 - (7) Any meeting of the governing body of a court, city, or other political or taxing subdivision of the state, or any committee or subcommittee thereof;
 - (8) On the state fairgrounds;
 - (9) Any state office building;
 - (10) Any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institute of postsecondary education;
 - (11) Any professional athletic event not related to or involving firearms;
 - (12) Any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;
 - (13) Any elementary or secondary school building or structure used for student instruction or attendance;
 - (14) Any community college, college, or university facility;
 - (15) Any place where the carrying of firearms is prohibited by federal or state law;
 - (16) Any child exchange and visitation center provided for in K.S.A. 75-720 and amendments thereto;
 - (17) Any community mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 *et seq.*, and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital, or Rainbow mental health facility;
 - (18) Any city hall;
 - (19) Any public library operated by the state or by a political subdivision of the state;
 - (20) Any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420; or
 - (21) Any church or temple.

- (b) Violation of section is a class A violation. (2006 Session Laws of Kansas, Chapter 32)

10.1.2 Concealed Carry; Where Prohibited by Employers.

- (a) Nothing in Chapter 32 of the 2006 Session laws of Kansas shall be construed to prevent:
- (1) Any public or private employer from restricting or prohibiting in any manner persons licensed under the act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer; or
 - (2) Any entity owning or operating business premises open to the public from restricting or prohibiting in any manner persons licensed under the act from carrying a concealed weapon while on such premises, provided that the premises are posted in a manner reasonably likely to come to the attention of persons entering the premises, as premises where carrying a concealed weapon is prohibited; or
 - (3) A property owner from restricting or prohibiting to any manner persons licensed under the act from carrying a concealed weapon while on such property provided that the premises are posted, in a manner reasonably likely to come to the attention of persons entering the property where carrying a concealed weapon is prohibited.
- (b) Carrying a concealed weapon on premises in violation of any restriction or prohibition allowed by subsection (a), or in violation of any restriction or prohibition allowed by subsection (b) or (c) if the premises are posted as required by such subsection, is a class B violation. (2006 Session Laws of Kansas, Chapter 32)

10.1.3 Concealed Carry; When Impaired. It is a class A violation for a person licensed pursuant to Chapter 32 of the 2006 Session Laws of Kansas to carry a concealed weapon while under the influence of alcohol or drugs, or both. (2006 Sessions Laws of Kansas, Chapter 32)

SECTION SEVEN

11-107. is hereby adopted to read as follows:

11-107. SAME.

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

Section 10.24 Intoxicating Liquor and Cereal Malt Beverage -- Consumption and Possession of Open Containers Prohibited at Certain Places.

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

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

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

Section 10.25 Drunkenness.

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

Violation of this section is a Class B violation.

Section 10.26 Impersonating an Officer.

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

Violation of this section is a Class B violation.

Section 10.27 Vehicles in City Parks.

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

Violation of this section is a Class C violation.

Section 10.28 Smoking on Common Carrier Buses -- Penalty.

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

Section 10.29 Public Urination or Defecation.

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

Violation of this section is a Class C violation.

Section 10.30 Public Nudity.

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

Violation of this section is a Class A violation.

SECTION EIGHT

11-108. is hereby adopted to read as follows:

11-108. SAME.

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

Section 11.13 Window Peeping.

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

Violation of this section is a Class A violation.

Section 11.14 Severability.

If any provision of this Article 11 is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION NINE Repeal

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

SECTION TEN Effective Date

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

PASSED AND APPROVED THIS _____ DAY OF OCTOBER, 2008.

RONALD SHAFFER, MAYOR

ATTEST:

JOYCE HAGEN MUNDY, CITY CLERK

APPROVED AS TO FORM:

Catherine P. Logan, CITY ATTORNEY

ORDINANCE NO. 2178

AN ORDINANCE AMENDING CHAPTER XIV OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, 2003, ENTITLED "TRAFFIC" BY REPEALING CHAPTER XIV, ARTICLE 1 ENTITLED "STANDARD TRAFFIC ORDINANCE" AND INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES", EDITION OF 2008, WITH CERTAIN DELETIONS AND ADDITIONS; AND PRESCRIBING ADDITIONAL REGULATIONS.

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

SECTION ONE

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

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE

A. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Prairie Village, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2008, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3301 and 12-3302 and K.S.A. 12-3309 through 12-3012. Not less than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Prairie Village, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, municipal judges and all administrative departments of the city charged with the enforcement of the ordinances shall be supplied, at the cost of the city, such number of official copies of such "Standard Traffic Ordinance" similarly marked, deleted and changed as may be deemed expedient.

SECTION TWO

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

Article 13, Section 87, subsection (e)(2) is deleted and replaced with the following:

"(2) Violation of subsection (e)(1) is punishable by a mandatory fine of \$100."

SECTION THREE

14-102 is hereby adopted as follows:

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

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

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

SECTION FOUR

14-103 is hereby adopted as follows:

14-103. PENALTY FOR SCHEDULED FINES.

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

SECTION FIVE

Article 4, Section 13.1 of the Standard Traffic Ordinance is hereby amended as follows:

Article 4, Section 13.1, subsection (c) is deleted and replaced with the following:

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

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

SECTION SIX

Article 13, Section 107 of the Standard Traffic Ordinance is hereby amended by deleting existing Section 107 and inserting in place thereof the following:

"Sec. 107. Unattended Vehicles. No person either operating or in charge of a motor vehicle shall leave the vehicle unattended and unlocked on either a public or private area within the City unless the ignition of such vehicle is in the locked position and the keys are removed from the ignition and are not visible from the exterior of the vehicle. These provisions shall not apply if the windows are closed and the doors locked or the vehicle is in a closed and secure building. A vehicle shall be presumed unattended if the owner or person in charge of the vehicle is not in the vehicle or is not in the immediate vicinity so as to have direct control or access to the vehicle."

SECTION SEVEN

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

SECTION EIGHT Effective Date

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

PASSED AND APPROVED THIS 20TH DAY OF OCTOBER, 2008.

RONALD L. SHAFFER, MAYOR

ATTEST:

APPROVED AS TO FORM:

JOYCE HAGEN MUNDY, CITY CLERK

CATHERINE P. LOGAN, CITY ATTORNEY



City Council Policy: PP910 - OVERTIME: NON-EXEMPT EMPLOYEES

Effective Date: January 1, 2009

Deleted: June 21, 2004

Amends: PP311 - OVERTIME: NON-EXEMPT EMPLOYEES, June 21, 2004

Approved By:

I. SCOPE

A. This policy applies to all non-exempt employees.

II. PURPOSE

A. To provide guidelines for the administration of overtime pay policy in compliance with applicable federal and state wage and hour regulations.

III. RESPONSIBILITY

IV. DEFINITIONS

V. POLICY

A. The City overtime pay policy will conform to overtime provisions of the Federal Fair Labor Standards Act.

- 1. Commissioned non-exempt law enforcement personnel will have a 14-day work period.
- 2. All non-exempt non-commissioned personnel will have a 7-day work period.

B. Overtime pay policy for employees includes the following principal elements:

- 1. Non-exempt non-commissioned employees will be paid straight time for all approved hours worked through forty in one 7 day work period. Non-exempt commissioned employees will be paid straight time for all approved hours worked through 80 in one 14 day work period.
- 2. Non-exempt employees will be paid one-and-one half times their regular rate for approved hours worked:
 - a.) In excess of forty in one pay period if they are non-commissioned.
 - b.) In excess of eighty hours in one pay period if they are commissioned.
- 3. Non-exempt employees who work on a City holiday may receive overtime pay at 2 times their regular rate for hours worked when:
 - a.) They are non-commissioned employees and work more than forty hours in the pay period for which the holiday falls.
 - b.) They are commissioned employees and work more than 80 hours in the pay period for which the holiday falls.
- 4. Pre-Approved vacation or an official City holiday as listed in Policy #1006 are considered "hours worked" for overtime calculation purposes.
- 5. Sick leave, disability leave, funeral leave and compensating time are not considered "hours worked" for overtime calculation purposes.
 - a.) Police officers and other employees of the police department who receive hourly pay for official City holidays rather than time-off shall not have those hours considered for overtime calculation purposes.
- 6. Overtime worked for non-exempt employees must be authorized in advance by the supervisor unless special exception is granted by the department manager.
- 7. Compensatory Time
 - a.) Compensating time off in lieu of overtime payments can be granted by the supervisor. The decisions as to when compensatory time off can be used is at the discretion of the supervisor.
 - b.) ~~Compensatory time off may only be earned by commissioned officers or employees on regular shift work.~~
 - c.) Compensatory time, if granted, will be at the rate of 1 ½ hours off for each hour worked beyond 40 in a given pay period for non-commission employees.
 - d.) Compensatory time, if granted, will be at the rate of 1 ½ hours off for each hour worked beyond 80 in a pay period for commissioned employees.
 - e.) Compensatory time off can be accumulated up to 40 hours in a comp-time bank.
 - f.) The balance of compensatory time in the bank at December 31st will automatically carry forward into the subsequent year, up to the maximum time allowed pursuant to this policy.

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Deleted: by those employees who

Deleted: are working

PP910 Overtime: Non-Exempt Employees

- When an employee changes from a non-exempt to an exempt position, they will receive payment for the compensatory time banked at their final non-exempt position rate of pay.

| VI.

Deleted: PROCEDURES

MAYOR'S ANNOUNCEMENTS

Monday, October 20, 2008

Committee meetings scheduled for the next two weeks include:

Environmental/Recycle	10/22/2008	7:00 p.m.
Council Committee	11/03/2008	6:00 p.m.
Council	11/03/2008	7:30 p.m.

The Prairie Village Arts Council is pleased to announce the State of the Arts mixed media exhibit during the month of October. It is a juried show featuring entries from local artists. There are three prizes of \$1,000.00 each and the winners were announced at the reception on October 10th.

A Parks Master Plan Public Workshop will be held October 27 at 7:00 p.m. in the Council Chambers.

The National League of Cities conference is November 11-15 in Orlando, FL.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 22nd.

The Municipal Foundation will be hosting the annual Mayor's Holiday Tree lighting on Monday, November 24th at Corinth Square from 6:30 - 8:00 p.m.

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

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

INFORMATIONAL ITEMS
October 20, 2008

1. 3rd Quarter Financial Report
2. Planning Commission Actions - October 7, 2008
3. Planning Commission Minutes - September 9, 2008
4. Mark Your Calendars
5. Committee Agenda

CITY OF PRAIRIE VILLAGE

3rd QUARTER 2008

FINANCIAL REPORT

UNAUDITED



**City of Prairie Village
3rd Quarter 2008 Financial Report**



The following pages contain the financial reports for the 3rd Quarter of 2008. Below are highlights of the information contained in these reports. These reports are unaudited.

Fund Balance – General Fund

The chart on this page shows the total fund balance in the General Fund broken down into its various components. The emergency reserve portion of the fund balance was calculated using 15% of budgeted revenue per the 2008 Budget discussions.

The fund balance at September 30th is lower than it was at June 30th because the City has received almost all of the property tax for the year. In addition the City is ¾ of the way through the expenditures for the year.

Balance Sheet

This report shows the balance sheet information for all of the City's funds at September 30th.

Combined Statement of Revenue, Expenditures and Changes in Fund Balance

This report shows the income statement information for all of the City's funds as of September 30th.

Revenue Summary

This report shows revenue received to date in all funds by major categories. Sales and use taxes appear to be behind when you look at the percent collected. While we have had nine months of activity in 2008, there has been only seven months of distributions posted to the current fiscal year. The January and February distributions are posted to the prior fiscal year since they cover November and December sales periods.

- * The percent of property tax collected is in line with the percent collected at September 30th for the last several years. There are still one more distribution in 2008; however, it is usually not a large amount. Historically, the City has collected around 98% of the property tax revenue budgeted. The collection rate does not appear to be affected yet by the events taking place in the housing market.
- * In comparison to the same time last year, sales tax revenue is up 6.9%. The City is receiving a larger share of the County Sales Tax due to the mill levy increase for 2008 and there is an increase in local sales tax from grocery stores and utilities. Because we only have a half year of data, it is difficult to determine just what the final year over year increase will be, or even if in the end it will be an increase. At March 31st, the increase over 2007 was 36% and at June 30th the increase over 2007 was 10%, so it appears that while there is an increase over last year, the amount of that increase is a moving target. The part of the trend related to utilities could change significantly as utility company sales depend on the weather. We will continue to monitor this revenue source.
- * Use Tax revenue is lagging behind compared to last year. This trend reflects the County Use Tax refunds issued by the State of Kansas as noted during our 2009 Budget discussion.
- * Interest revenue is 45% lower than at September 30, 2007. This is due to a significant decrease in rates received on investments. Rates are averaging half of what they were



**City of Prairie Village
3rd Quarter 2008 Financial Report**



one year ago. Due to current market conditions, it does not appear that interest rates will improve in the near future.

- * Capital-Intergovernmental revenue is significantly higher compared to the same period last year. This revenue will fluctuate from year to year depending on which CARS and SMAC projects are in process and what the stage of construction is.

While we will not meet budget for County Use Tax or Interest Earned revenues, we will likely make up part of the difference with sales tax and possibly franchise fees. It appears that the rest of the revenues will come in fairly close to budget.

Expenditure Summary

This report shows expenditures for all funds broken out by fund, department and category. As of September 30th, 72.04% of the budget has been utilized which is reasonable considering we are 75% through the budget year.

Program Expenditure Summary

This report presents expenditures broken down by program. It should be noted that this report does not include the contingency budget and transfers in the calculation of the percent of budget obligated.

Statement of Cash Investments

This report shows the City's cash and investment balances at September 30th. By state law, some investments are required to be collateralized. This report contains information regarding the City's compliance with these collateral requirements. At September 30th, the City's investment portfolio totaled \$9,000,000.

Use of Contingency Reserve

This report lists the Council approved uses of the contingency budget. Only 25% of this budget has been used to date.

Local Sales Tax Receipts

This report breaks down the City's sales tax receipts by business type. The total to date for 2008 is lower than the total sales tax reported on the Revenue Summary because this data reflects only the City's levy. The total sales tax on the Revenue Summary also includes the City's share of County sales taxes. In addition, this report shows actual money received in 2008. As noted earlier under the Revenue Summary section of this report, for accounting purposes sales tax revenue received in January and February is posted to the prior fiscal year.

In total, there was a 4.0% increase compared to the same period in 2007. This increase consisted of increases in gas stations, grocery stores, restaurants and utilities. This trend reflects the prices increases that consumers are seeing in these goods/services.

Economic Development Fund



**City of Prairie Village
3rd Quarter 2008 Financial Report**



This report shows the status of the Economic Development Fund. Actual revenues and expenditures are listed as well as the balance of any commitments made by the Council. Three projects have been approved, and so far, only the Shawnee Mission East parking lot project is complete. The School Sales Tax and related use tax are transferred into this fund each month as they are received from the State. These taxes will sunset on December 31, 2008.

Johnson County Schools Sales & Use Tax Reserve

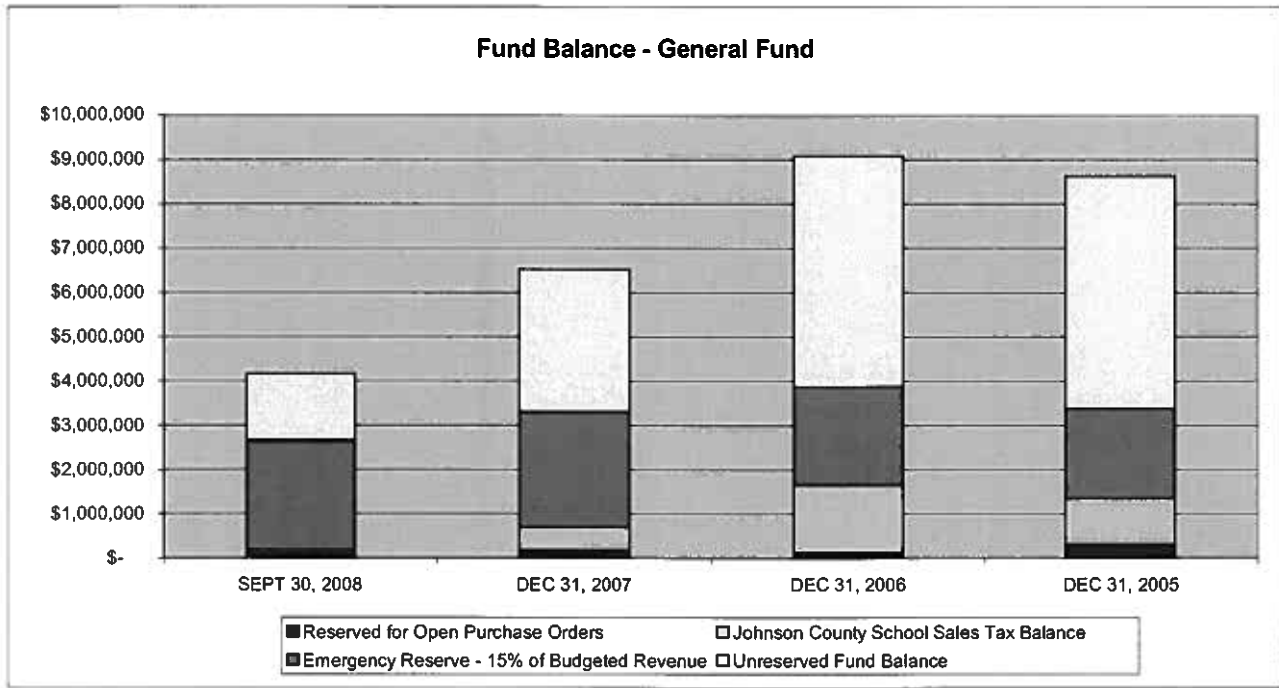
This page displays the amount of the School Sales Tax reserve in the General Fund at September 30th. The balance is zero since all of the school sales tax money has been transferred to the Economic Development Fund. In addition, the School Sales Tax revenue will be transferred to the Economic Development Fund as it is received.

Risk Management Reserve Fund

The Risk Management Reserve Fund was established to pay uninsured losses, such as insurance deductibles. Two types of uninsured losses will be paid from this fund: losses related to workers comp and losses related to property and casualty. Revenues in this fund consist of transfers from the General Fund per the budget, insurance claim reimbursements and investment earnings. This report shows the activity in the fund as of September 30th. The balance in the fund has decreased since June 30th because of the repairs made to the radio tower due to the lightning strike sustained in June. The city was responsible for the \$25,000 deductible for the claim. The repairs totaled over \$62,000.

**CITY OF PRAIRIE VILLAGE, KANSAS
GENERAL FUND - FUND BALANCE
SEPT 30, 2008**

	SEPT 30, 2008	DEC 31, 2007	DEC 31, 2006	DEC 31, 2005
Reserved for Open Purchase Orders	\$ 177,035	\$ 173,854	\$ 106,738	\$ 301,539
Johnson County School Sales Tax Balance	-	521,040	1,538,568	1,040,244
Emergency Reserve - 15% of Budgeted Revenue	2,466,118	2,602,035	2,216,473	2,029,701
Unreserved Fund Balance	1,510,026	3,225,479	5,206,473	5,249,342
Total Fund Balance	\$ 4,153,180	\$ 6,522,408	\$ 9,068,251	\$ 8,620,826



CITY OF PRAIRIE VILLAGE
BALANCE SHEET
SEPTEMBER 30, 2008

	General	Solid Waste Management	Special Highway	Special Parks & Recreation	Special Alcohol	Bond & Interest	Capital Projects	Risk Management	Economic Development	Equipment Reserve	Total
ASSETS											
<u>Pooled Cash & Investments</u>											
Cash											
General Operating	(\$4,408.45)	\$14,699.80		\$0.00	\$0.00		\$43,470.00	\$0.00	\$39,443.26	\$1,897.47	\$95,102.08
Payroll	(\$0.00)										(\$0.00)
Gift Card Clearing	\$6,942.28										\$6,942.28
Petty Cash	\$1,055.00										\$1,055.00
Money Market											\$0.00
Treasury Notes	\$0.00							\$0.00	\$0.00	\$0.00	\$0.00
Certificates of Deposit	\$2,851,990.01						\$3,714,310.80	\$83,699.19	\$2,100,000.00	\$250,000.00	\$9,000,000.00
Municipal Investment Pool	\$1,377,089.18	\$712,346.91	\$0.00	\$18,716.54	\$9,925.99	\$29,262.97	\$203,427.64	\$0.00	\$12,376.75	\$349.05	\$2,363,495.03
Total Pooled Cash & Investments	\$4,232,668.02	\$727,046.71	\$0.00	\$18,716.54	\$9,925.99	\$29,262.97	\$3,961,208.44	\$83,699.19	\$2,151,820.01	\$252,246.52	\$11,466,594.39
<u>Accounts Receivable</u>											
Property Taxes	\$74,983.61	\$1,226.05				\$5,551.87					\$81,761.53
Interest on Investments	\$9,900.60							\$3,404.21	\$13,053.83	\$71.92	\$26,430.56
Other Receivables	\$226,626.24										\$226,626.24
Due from Other Governments	\$4,431.00		\$0.00				\$258,565.71				\$262,996.71
Due from Other Funds							\$0.00				\$0.00
Total Accounts Receivable	\$315,941.45	\$1,226.05	\$0.00	\$0.00	\$0.00	\$5,551.87	\$258,565.71	\$3,404.21	\$13,053.83	\$71.92	\$597,815.04
<u>Prepaid Expenditures</u>											
	\$152,946.38				\$1,745.70						\$154,692.08
<u>Restricted Assets</u>											
	\$78,272.12										\$78,272.12
TOTAL ASSETS	\$4,779,827.97	\$728,272.76	\$0.00	\$18,716.54	\$11,671.69	\$34,814.84	\$4,219,774.15	\$87,103.40	\$2,164,873.84	\$252,318.44	\$12,297,373.63
LIABILITIES											
Accounts Payable & Other Liabilities	\$266,744.76	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$1,590.15)	\$296.37	\$0.00	\$0.00	\$265,450.98
Compensated Absences	\$1,919.21	\$0.00			\$0.00						\$1,919.21
Payable from Restricted Assets	\$78,272.13										\$78,272.13
Deferred Revenue	\$279,712.30	\$1,226.05				\$5,674.87	\$253,821.84				\$540,435.06
TOTAL LIABILITIES	\$626,648.40	\$1,226.05	\$0.00	\$0.00	\$0.00	\$5,674.87	\$252,231.69	\$296.37	\$0.00	\$0.00	\$886,077.38
FUND BALANCE											
<u>Reserved Fund Balance</u>											
Reserve for Current Year Encumbrances	\$144,667.61	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,427,861.58	\$0.00	\$0.00	\$0.00	\$1,572,529.19
Reserve for Prior Year Encumbrances	\$32,367.53						\$457,705.23			\$0.00	\$490,072.76
Reserve for Johnson County School Sales Tax	\$									\$	
Reserve for Incomplete Capital Projects							\$0.00				\$0.00
Total Reserved Fund Balance	\$177,035.14	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,885,566.81	\$0.00	\$0.00	\$0.00	\$2,062,601.95
<u>Unreserved Fund Balance</u>											
1/1/08 Unreserved Fund Balance	\$ 6,151,668.15	\$164,543.05	\$0.00	\$18,716.54	\$11,035.91	\$30,120.76	\$1,186,432.14	\$84,688.19	\$1,504,491.04	\$0.00	\$ 9,151,695.78
Prior Period Adjustment	\$0.00										
Prior Year Encumbrances Written Off	\$ 3,011.64						\$ 68,078.46				\$ 71,090.10
YTD Revenues	\$12,569,276.25	\$1,321,717.61	\$302,989.70	\$67,452.34	\$67,518.33	\$553,789.21	\$5,812,898.81	\$79,550.24	\$829,766.95	\$252,318.44	\$21,857,277.88
YTD Expenditures/Encumbrances	(\$15,268,851.97)	(\$759,213.95)	(\$302,989.70)	(\$67,452.34)	(\$66,882.55)	(\$554,770.00)	(\$4,985,433.76)	(\$77,431.40)	(\$169,384.15)	\$0.00	(\$22,252,409.82)
Sch Sales Tax Incl in Rev & Expd & Fund Bal Resv	\$521,040.35						\$0.00				\$521,040.35
Total Unreserved Fund Balance	\$ 3,976,144.42	\$727,046.71	\$0.00	\$18,716.54	\$11,671.69	\$29,139.97	\$2,081,975.65	\$86,807.03	\$2,164,873.84	\$252,318.44	\$9,348,694.29
TOTAL FUND BALANCE	\$4,153,179.56	\$727,046.71	\$0.00	\$18,716.54	\$11,671.69	\$29,139.97	\$3,967,542.46	\$86,807.03	\$2,164,873.84	\$252,318.44	\$11,411,296.24
TOTAL LIABILITIES & FUND BALANCE	\$4,779,827.97	\$728,272.76	\$0.00	\$18,716.54	\$11,671.69	\$34,814.84	\$4,219,774.15	\$87,103.40	\$2,164,873.84	\$252,318.44	\$12,297,373.63



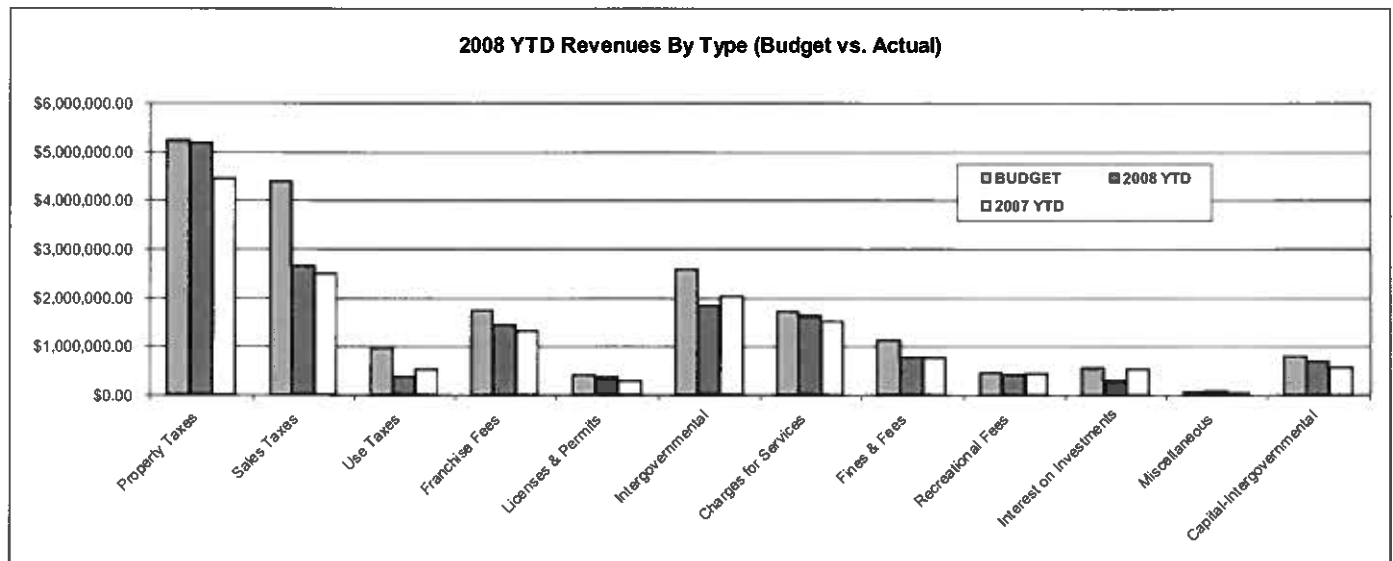
**CITY OF PRAIRIE VILLAGE
COMBINED STATEMENT OF REVENUE, EXPENDITURES
AND CHANGES IN FUND BALANCE - ALL FUNDS
SEPTEMBER 30, 2008**

<u>REVENUES</u>	<u>GENERAL FUND</u>	<u>SOLID WASTE MGMT.</u>	<u>SPECIAL HIGHWAY</u>	<u>SPECIAL PARKS RECREATION</u>	<u>SPECIAL ALCOHOL FUNDS</u>	<u>DEBT SERVICE</u>	<u>CAPITAL PROJECTS</u>	<u>RISK MGMT</u>	<u>ECONOMIC DEVELOPMENT</u>	<u>EQUIPMENT RESERVE</u>	<u>TOTALS</u>
Taxes:											
Property	\$ 4,675,709	\$ -	\$ -	\$ -	\$ -	\$ 499,442	\$ -	\$ -	\$ -	-	\$ 5,175,151
Sales	2,653,725										2,653,725
Use	367,253										367,253
Franchise Fees	1,431,001										1,469,808
Licenses & Permits	348,274										348,274
Intergovernmental	1,345,775		302,990	67,452	67,452	47,962	685,957				2,517,588
Charges for Services	306,824	1,305,549									1,612,373
Fines & Forfeits	764,838										764,838
Recreational Fees	421,469										421,469
Interest	220,338	16,168	-			6,385		4,363	40,005	2,318	289,578
Other	34,070				66			40,187			74,323
Total Revenue	12,569,276	1,321,718	302,990	67,452	67,518	553,789	685,957	44,550	40,005	2,318	15,694,381
Transfers From Other Funds							5,126,942	35,000	789,762	250,000	6,201,704
Total Revenue & Transfers	12,569,276	1,321,718	302,990	67,452	67,518	553,789	5,812,899	79,550	829,767	252,318	21,857,278
EXPENDITURES											
City Governance	354,165										354,165
Public Works	3,480,267						4,924,334				8,404,601
Public Safety	3,888,372				52,618	232,695					4,173,685
Municipal Justice	269,691										269,691
Administrative Services	797,260	759,214									1,556,474
Parks & Community Programs	764,835				14,265	322,075	61,100				1,162,275
Risk Management Reserve								77,431			77,431
Economic Development									52,384		52,384
Equipment Reserve										-	-
Total Expenditures	9,554,590	759,214	-	-	66,883	554,770	4,985,434	77,431	52,384	-	16,050,706
Transfer to Other Funds	5,714,262		302,990	67,452	-				117,000		6,201,704
Total Expenditures & Transfers	15,268,852	759,214	302,990	67,452	66,883	554,770	4,985,434	77,431	169,384	-	22,252,410
Revenue/Transfers Over (Under)											
Expenditures/Transfers	(2,699,576)	562,504	-	-	636	(981)	827,465	2,119	660,383	252,318	(395,132)
Unreserved Fund Balance - 1/1/08	6,151,668	164,543	-	18,717	11,036	30,121	1,186,432	84,688	1,504,491	-	9,151,696
2008 Fund Balances Reserved	521,040										521,040
PY POs closed less than balance	3,012						68,078				71,090
Fund Balance (Budget Basis)	\$ 3,976,144	\$ 727,047	\$ -	\$ 18,717	\$ 11,672	\$ 29,140	\$ 2,081,976	\$ 86,807	\$ 2,164,874	\$ 252,318	\$ 9,348,694

**CITY OF PRAIRIE VILLAGE
REVENUE SUMMARY
AS OF SEPTEMBER 30, 2008**

CATEGORY	2008 ORIGINAL BUDGET	2008 AMENDED BUDGET	MTD	YTD	BUDGET BALANCE	% COLLECTED	9/30/2007 YTD
Taxes							
Property Taxes	\$5,223,069.00	\$5,223,069.00	\$240,144.37	\$5,175,150.91	\$47,918.09	99.08%	\$4,448,420.57
Sales Taxes	\$4,375,000.00	\$4,375,000.00	\$355,474.20	\$2,653,725.18	\$1,721,274.82	60.66%	\$2,481,460.18
Use Taxes	\$948,000.00	\$948,000.00	\$59,098.15	\$367,252.99	\$580,747.01	38.74%	\$527,436.37
Franchise Fees	\$1,735,520.00	\$1,735,520.00	\$384,392.07	\$1,431,001.43	\$304,518.57	82.45%	\$1,300,883.50
Licenses & Permits	\$400,000.00	\$400,000.00	\$102,758.82	\$348,273.62	\$51,726.38	87.07%	\$304,525.57
Intergovernmental	\$2,572,638.00	\$2,572,638.00	\$350,530.33	\$1,831,631.64	\$741,006.36	71.20%	\$2,020,437.44
Charges for Services	\$1,700,000.00	\$1,700,000.00	\$66,210.54	\$1,612,373.26	\$87,626.74	94.85%	\$1,492,377.54
Fines & Fees	\$1,122,000.00	\$1,122,000.00	\$84,138.50	\$764,837.80	\$357,162.20	68.17%	\$759,949.84
Recreational Fees	\$460,000.00	\$460,000.00	\$7,739.87	\$421,468.75	\$38,531.25	91.62%	\$433,277.51
Interest on Investments	\$547,000.00	\$547,000.00	\$20,003.59	\$289,578.48	\$257,421.52	52.94%	\$532,012.97
Miscellaneous	\$58,000.00	\$58,000.00	\$1,440.37	\$74,323.37	(\$16,323.37)	128.14%	\$47,908.48
Operating Revenues	\$19,141,227.00	\$19,141,227.00	\$1,671,930.81	\$14,969,617.43	\$4,171,609.57	78.21%	\$14,348,689.97
Capital-Intergovernmental	\$793,500.00	\$793,500.00	(\$5,268.81)	\$685,956.77	\$107,543.23	86.45%	\$576,727.55
Interfund Transfers	\$5,367,000.00	\$5,367,000.00	\$68,359.12	\$6,201,703.68	(\$834,703.68)	115.55%	\$5,197,756.06
Total Revenues	\$25,301,727.00	\$25,301,727.00	\$1,735,021.12	\$21,857,277.88	\$3,444,449.12	86.39%	\$20,123,173.58

FUND	2008 ORIGINAL BUDGET	2008 AMENDED BUDGET	MTD	YTD	BUDGET BALANCE	% COLLECTED	9/30/2007 YTD
General Fund	\$17,083,632.00	\$16,440,788.00	\$1,554,479.82	\$12,569,276.25	\$3,871,511.75	76.45%	\$12,112,657.08
Solid Waste Management	\$1,258,000.00	\$1,324,000.00	\$29,724.31	\$1,321,717.61	\$2,282.39	99.83%	\$1,238,690.22
Special Highway	\$644,000.00	\$649,000.00	\$0.00	\$302,989.70	\$346,010.30	46.69%	\$261,470.90
Special Parks & Recreation	\$80,000.00	\$86,000.00	\$21,415.86	\$67,452.34	\$18,547.66	78.43%	\$60,785.16
Special Alcohol	\$80,000.00	\$86,000.00	\$21,415.86	\$67,518.33	\$18,481.67	78.51%	\$60,785.16
Bond & Interest	\$536,595.00	\$555,439.00	\$42,973.27	\$553,789.21	\$1,649.79	99.70%	\$528,952.13
Capital Projects	\$5,619,500.00	\$6,160,500.00	\$23,647.05	\$5,812,898.81	\$347,601.19	94.36%	\$5,774,483.61
Risk Management	\$0.00	\$0.00	\$168.54	\$79,550.24	(\$79,550.24)	N/A	\$85,349.32
Economic Development	\$0.00	\$0.00	\$41,196.41	\$829,766.95	(\$829,766.95)	N/A	\$0.00
Equipment Reserve	\$0.00	\$0.00	\$75.07	\$252,318.44	(\$252,318.44)	N/A	\$0.00
Total Revenues	\$25,301,727.00	\$25,301,727.00	\$1,735,021.12	\$21,857,277.88	\$3,444,449.12	86.39%	\$20,123,173.58

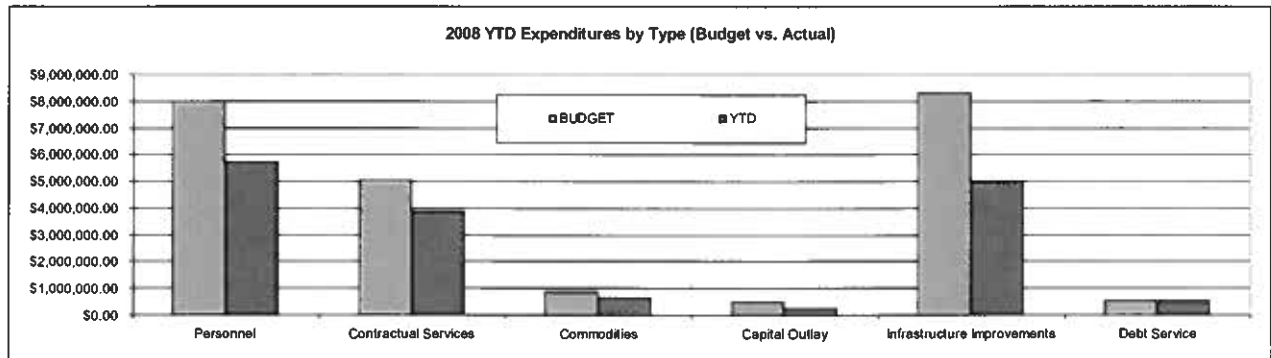
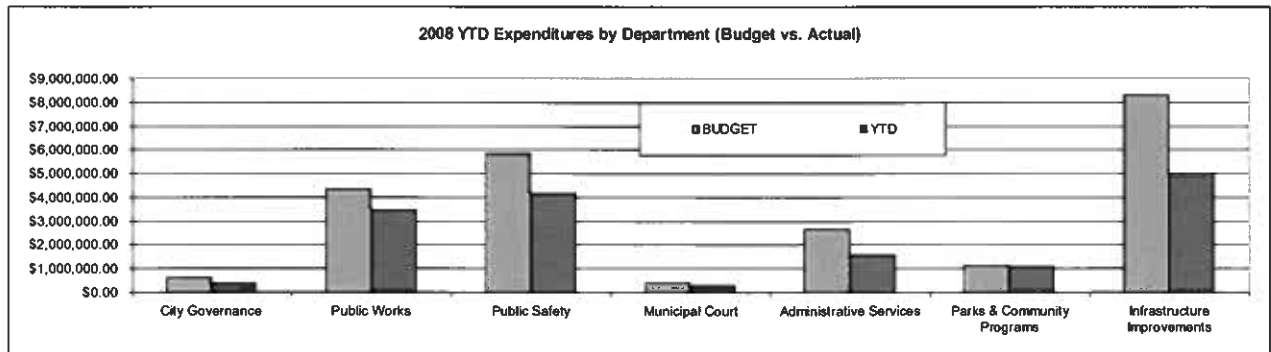


**CITY OF PRAIRIE VILLAGE
EXPENDITURE SUMMARY
AS OF SEPTEMBER 30, 2008**

FUND	2008	2008	MTD	YTD	ENC	TOTAL	BUDGET BALANCE	9/30/2008
	ORIGINAL BUDGET	AMENDED BUDGET						% UTILIZED
General Fund	\$19,874,169.00	\$19,872,202.00	\$1,512,832.63	\$15,124,184.36	\$144,667.61	\$15,268,851.97	\$4,603,350.03	76.84%
Solid Waste Management	\$1,311,491.00	\$1,311,491.00	\$1,627.30	\$759,213.95	\$0.00	\$759,213.95	\$552,277.05	57.89%
Special Highway	\$649,000.00	\$649,000.00	\$0.00	\$302,989.70	\$0.00	\$302,989.70	\$346,010.30	46.69%
Special Parks & Recreation	\$86,000.00	\$86,000.00	\$21,415.86	\$67,452.34	\$0.00	\$67,452.34	\$18,547.66	78.43%
Special Alcohol	\$86,000.00	\$87,967.00	\$5,857.82	\$66,882.55	\$0.00	\$66,882.55	\$21,084.45	76.03%
Bond & Interest	\$554,771.00	\$554,771.00	\$0.00	\$554,770.00	\$0.00	\$554,770.00	\$1.00	100.00%
Capital Projects	\$6,160,500.00	\$8,329,285.25	\$719,281.18	\$3,557,572.18	\$1,427,861.58	\$4,985,433.76	\$3,343,851.49	59.85%
Risk Management Reserve	\$0.00	\$0.00	\$62,231.40	\$77,431.40	\$0.00	\$77,431.40	(\$77,431.40)	N/A
Economic Development	\$0.00	\$0.00	\$12,013.47	\$169,384.15	\$0.00	\$169,384.15	(\$169,384.15)	N/A
Equipment Reserve	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Total Expenditures	\$28,721,931.00	\$30,890,716.25	\$2,335,259.66	\$20,679,880.63	\$1,572,529.19	\$22,252,409.82	\$8,638,306.43	72.04%

Department	2008	2008	MTD	YTD	ENC	TOTAL	BUDGET BALANCE	9/30/2008
	ORIGINAL BUDGET	AMENDED BUDGET						% UTILIZED
City Governance	\$1,639,289.00	\$604,289.00	\$27,814.32	\$354,165.03	\$0.00	\$354,165.03	\$250,123.97	58.61%
Public Works	\$4,280,472.00	\$4,315,472.00	\$787,207.02	\$3,359,837.05	\$120,430.21	\$3,480,267.26	\$835,204.74	80.85%
Public Safety	\$5,988,329.00	\$5,837,479.00	\$393,171.17	\$4,158,865.46	\$14,829.40	\$4,173,684.86	\$1,863,794.14	71.50%
Municipal Court	\$409,855.00	\$409,855.00	\$24,290.77	\$269,690.98	\$0.00	\$269,690.98	\$140,164.02	65.80%
Administrative Services	\$2,680,251.00	\$2,680,251.00	\$86,516.30	\$1,547,065.54	\$9,408.00	\$1,556,473.54	\$1,123,777.46	58.07%
Parks & Community Program	\$1,130,188.00	\$1,143,589.18	\$154,374.91	\$1,101,175.16	\$0.00	\$1,101,175.16	\$42,414.02	96.29%
Infrastructure Improvements	\$6,160,500.00	\$8,329,285.25	\$719,281.18	\$3,557,572.18	\$1,427,861.58	\$4,985,433.76	\$3,343,851.49	59.85%
Risk Management Reserve	\$0.00	\$0.00	\$62,231.40	\$77,431.40	\$0.00	\$77,431.40	(\$77,431.40)	N/A
Economic Development	\$0.00	\$0.00	\$12,013.47	\$52,384.15	\$0.00	\$52,384.15	(\$52,384.15)	N/A
Equipment Reserve	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Sub-total	\$22,268,884.00	\$23,320,220.43	\$2,266,900.54	\$14,478,176.95	\$1,572,529.19	\$16,050,706.14	\$7,269,514.29	68.83%
Contingency	\$700,000.00	\$524,948.82					\$524,948.82	0.00%
Interfund Transfers	\$5,753,047.00	\$7,045,547.00	\$68,359.12	\$6,201,703.68	\$0.00	\$6,201,703.68	\$843,843.32	88.02%
Total Expenditures	\$28,721,931.00	\$30,890,716.25	\$2,335,259.66	\$20,679,880.63	\$1,572,529.19	\$22,252,409.82	\$8,638,306.43	72.04%

Category	2008	2008	MTD	YTD	ENC	TOTAL	BUDGET BALANCE	9/30/2008
	ORIGINAL BUDGET	AMENDED BUDGET						% UTILIZED
Personnel	\$7,904,457.00	\$7,994,457.00	\$567,544.41	\$5,736,983.38	\$0.00	\$5,736,983.38	\$2,257,473.62	71.76%
Contractual Services	\$6,073,386.00	\$5,051,787.18	\$899,117.63	\$3,771,035.34	\$112,752.09	\$3,883,787.43	\$1,167,999.75	76.88%
Commodities	\$840,720.00	\$874,854.49	\$80,500.25	\$642,243.02	\$7,678.12	\$649,921.14	\$224,933.35	74.29%
Capital Outlay	\$735,050.00	\$515,065.51	\$457.07	\$215,573.03	\$24,237.40	\$239,810.43	\$275,255.08	46.56%
Infrastructure Improvements	\$6,160,500.00	\$8,329,285.25	\$719,281.18	\$3,557,572.18	\$1,427,861.58	\$4,985,433.76	\$3,343,851.49	59.85%
Debt Service	\$554,771.00	\$554,771.00	\$0.00	\$554,770.00	\$0.00	\$554,770.00	\$1.00	100.00%
Sub-total	\$22,268,884.00	\$23,320,220.43	\$2,266,900.54	\$14,478,176.95	\$1,572,529.19	\$16,050,706.14	\$7,269,514.29	68.83%
Contingency	\$700,000.00	\$524,948.82					\$524,948.82	0.00%
Interfund Transfers	\$5,753,047.00	\$7,045,547.00	\$68,359.12	\$6,201,703.68	\$0.00	\$6,201,703.68	\$843,843.32	88.02%
Total Expenditures	\$28,721,931.00	\$30,890,716.25	\$2,335,259.66	\$20,679,880.63	\$1,572,529.19	\$22,252,409.82	\$8,638,306.43	72.04%

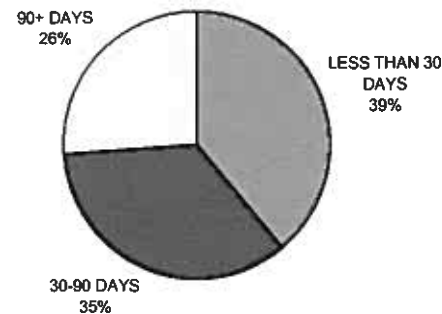
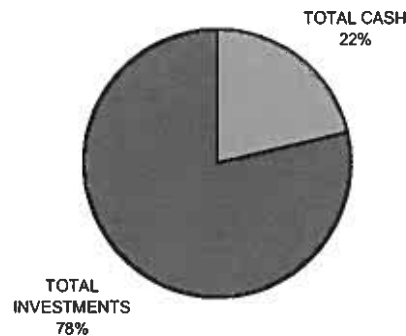


**CITY OF PRAIRIE VILLAGE, KANSAS
PROGRAM EXPENDITURE SUMMARY REPORT
AS OF SEPTEMBER 30, 2008**

DEPARTMENT	2008 ORIGINAL BUDGET	2008 AMENDED BUDGET	MTD	YTD	ENC	TOTAL	BUDGET BALANCE	% OBLIGATED
City Governance								
Mayor & Council	\$152,847.00	\$152,847.00	\$6,396.37	\$39,417.55	\$0.00	\$39,417.55	\$113,429.45	25.79%
Management & Plannin	\$1,486,442.00	\$451,442.00	\$21,417.95	\$314,747.48	\$0.00	\$314,747.48	\$136,694.52	69.72%
TOTAL	\$1,639,289.00	\$604,289.00	\$27,814.32	\$354,165.03	\$0.00	\$354,165.03	\$250,123.97	58.61%
Public Works								
Administration	\$861,211.00	\$861,211.00	\$62,594.34	\$609,378.65	\$0.00	\$609,378.65	\$251,832.35	70.76%
Vehicle & EQ Maint.	\$411,051.00	\$411,051.00	\$47,573.77	\$359,386.93	\$0.00	\$359,386.93	\$51,664.07	87.43%
Streets & Drains	\$2,049,082.00	\$2,084,082.00	\$549,843.33	\$1,785,614.67	\$120,430.21	\$1,906,044.88	\$178,037.12	91.46%
Buildings & Grounds	\$959,128.00	\$959,128.00	\$127,195.58	\$605,456.80	\$0.00	\$605,456.80	\$353,671.20	63.13%
TOTAL	\$4,280,472.00	\$4,315,472.00	\$787,207.02	\$3,359,837.05	\$120,430.21	\$3,480,267.26	\$835,204.74	80.65%
Public Safety								
Administration	\$762,927.00	\$768,559.00	\$32,579.32	\$646,245.51	\$0.00	\$646,245.51	\$122,313.49	84.09%
Staff Services	\$1,546,649.00	\$1,316,852.00	\$98,594.31	\$900,800.63	\$14,829.40	\$915,630.03	\$401,221.97	69.53%
Patrol	\$2,780,977.00	\$2,856,009.00	\$211,124.81	\$2,044,260.28	\$0.00	\$2,044,260.28	\$811,748.72	71.58%
Investigations	\$817,865.00	\$836,148.00	\$46,975.50	\$530,227.36	\$0.00	\$530,227.36	\$305,920.64	63.41%
Off-Duty Contractual	\$59,911.00	\$59,911.00	\$3,897.23	\$37,321.68	\$0.00	\$37,321.68	\$22,589.32	62.30%
TOTAL	\$5,968,329.00	\$5,837,479.00	\$393,171.17	\$4,158,855.46	\$14,829.40	\$4,173,684.86	\$1,663,794.14	71.50%
Municipal Court								
Judicial	\$34,961.00	\$34,961.00	\$2,675.31	\$24,806.57	\$0.00	\$24,806.57	\$10,154.43	70.95%
Prosecutor	\$49,715.00	\$49,715.00	\$1,725.36	\$31,545.16	\$0.00	\$31,545.16	\$18,169.84	63.45%
Court Clerks	\$325,179.00	\$325,179.00	\$19,890.10	\$213,339.25	\$0.00	\$213,339.25	\$111,839.75	65.61%
TOTAL	\$409,855.00	\$409,855.00	\$24,290.77	\$269,690.98	\$0.00	\$269,690.98	\$140,164.02	65.80%
Administrative Services								
Human Resources	\$90,261.00	\$90,261.00	\$5,785.68	\$58,797.49	\$0.00	\$58,797.49	\$31,463.51	65.14%
Administrative Services	\$171,043.00	\$171,043.00	\$9,078.12	\$87,349.59	\$0.00	\$87,349.59	\$83,693.41	51.07%
Financial Management	\$351,612.00	\$351,612.00	\$17,725.23	\$142,477.61	\$9,408.00	\$151,885.61	\$199,726.39	43.20%
Codes Administration	\$358,863.00	\$358,863.00	\$25,406.90	\$242,484.59	\$0.00	\$242,484.59	\$116,378.41	67.57%
Solid Waste Mgt	\$1,311,491.00	\$1,311,491.00	\$1,627.30	\$759,213.95	\$0.00	\$759,213.95	\$552,277.05	57.89%
City Clerk	\$396,981.00	\$396,981.00	\$26,893.07	\$256,742.31	\$0.00	\$256,742.31	\$140,238.69	64.67%
TOTAL	\$2,680,251.00	\$2,680,251.00	\$86,516.30	\$1,547,065.54	\$9,408.00	\$1,556,473.54	\$1,123,777.46	58.07%
Park & Community Programs								
Community Programs	\$238,142.00	\$239,543.18	\$112,438.39	\$305,913.33	\$0.00	\$305,913.33	(\$66,370.15)	127.71%
Swimming Pool	\$792,867.00	\$804,867.00	\$40,506.42	\$711,024.39	\$0.00	\$711,024.39	\$93,842.61	88.34%
Pool Food Service	\$52,932.00	\$52,932.00	\$150.89	\$63,817.42	\$0.00	\$63,817.42	(\$10,885.42)	120.56%
Tennis	\$46,247.00	\$46,247.00	\$1,279.21	\$20,420.02	\$0.00	\$20,420.02	\$25,826.98	44.15%
TOTAL	\$1,130,188.00	\$1,143,589.18	\$154,374.91	\$1,101,175.16	\$0.00	\$1,101,175.16	\$42,414.02	96.29%
Total Operating	\$16,108,384.00	\$14,990,935.18	\$1,473,374.49	\$10,790,789.22	\$144,667.61	\$10,935,456.83	\$4,055,478.35	72.95%
Infrastructure Improvements								
Park Projects	\$236,000.00	\$308,114.53	\$14,087.19	\$15,387.24	\$45,712.76	\$61,100.00	\$247,014.53	19.83%
Drainage Projects	\$891,000.00	\$1,505,605.47	\$0.00	\$503,295.01	\$92,875.65	\$596,170.66	\$909,434.81	39.60%
Street Projects	\$4,198,500.00	\$5,620,985.09	\$455,203.01	\$2,415,649.16	\$1,145,203.26	\$3,560,852.42	\$2,060,132.67	63.35%
Building Projects	\$10,000.00	\$44,703.06	\$0.00	\$0.00	\$7,292.00	\$7,292.00	\$37,411.06	16.31%
Concrete Projects	\$825,000.00	\$849,877.10	\$249,990.98	\$623,240.77	\$136,777.91	\$760,018.68	\$89,858.42	89.43%
TOTAL	\$6,160,500.00	\$8,329,285.25	\$719,281.18	\$3,557,572.18	\$1,427,861.58	\$4,985,433.76	\$3,343,851.49	59.85%
Risk Management Reserve								
Workers Comp	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!
Property & Casualty	\$0.00	\$0.00	\$62,231.40	\$77,431.40	\$0.00	\$77,431.40	(\$77,431.40)	#DIV/0!
TOTAL	\$0.00	\$0.00	\$62,231.40	\$77,431.40	\$0.00	\$77,431.40	(\$77,431.40)	#DIV/0!
Economic Development								
Economic Development	\$0.00	\$0.00	\$12,013.47	\$52,384.15	\$0.00	\$52,384.15	(\$52,384.15)	#DIV/0!
TOTAL	\$0.00	\$0.00	\$12,013.47	\$52,384.15	\$0.00	\$52,384.15	(\$52,384.15)	#DIV/0!
Equipment Reserve								
Equipment Reserve	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!
TOTAL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!
GRAND TOTAL	\$22,268,884.00	\$23,320,220.43	\$2,266,900.54	\$14,478,176.95	\$1,572,529.19	\$16,050,706.14	\$7,269,514.29	68.83%

**CITY OF PRAIRIE VILLAGE
STATEMENT OF CASH INVESTMENTS
SEPTEMBER 30, 2008**

TYPE OF INVESTMENT	INSTITUTION	ACCOUNT NUMBER	PURCHASE DATE	MATURITY DATE	INVESTED AMOUNT	YIELD	WEIGHTED YIELD	COLLATERAL REQUIRED	COLLATERAL MARKET VALUE	OVER/ (UNDER) COLLATERALIZED
Cash										
General Operating (XX-00-00-1001)	Intrust Bank	8290512			\$95,102.08	1.230%	0.01%			
Gift Card Clearing (01-00-00-1004)	Intrust Bank	40766217			\$6,942.28	1.230%	0.00%			
Payroll (01-00-00-1011)	Intrust Bank	8290520			(\$0.00)	1.230%	0.00%	12,248.79	1,515,211.00	1,502,962.21
Petty Cash					\$1,055.00	0.000%	0.00%	N/A		
Municipal Investment Pool - overnight	State of Kansas	0040			\$2,363,495.03	1.734%	0.36%	N/A - State handles collateral		
TOTAL CASH					\$2,466,594.39		0.37%			
Investments										
Certificates of Deposit (XX-00-00-1050)	Commerce Bank		9/25/2008	4/16/2009	\$1,000,000.00	3.10%	0.27%	\$ 1,000,000.00	\$ 1,107,799.00	\$ 107,799.00
	MIP		7/29/2008	10/16/2008	\$2,000,000.00	2.10%	0.37%	N/A - State handles collateral		
	MIP		7/29/2008	11/13/2008	\$2,000,000.00	2.45%	0.43%			
	MIP		7/29/2008	12/18/2008	\$1,000,000.00	2.45%	0.21%			
	Mission Bank		7/29/2008	12/18/2008	\$1,000,000.00	2.95%	0.26%	\$ 3,000,000.00	3,493,466.00	\$ 493,466.00
	Mission Bank		9/25/2008	2/12/2009	\$1,000,000.00	2.11%	0.18%			
	Mission Bank		9/25/2008	3/19/2009	\$1,000,000.00	2.11%	0.18%			
					\$9,000,000.00		1.90%			
TOTAL INVESTMENTS					\$9,000,000.00		1.90%			
TOTAL CASH & INVESTMENTS					\$11,466,594.39		2.27%			



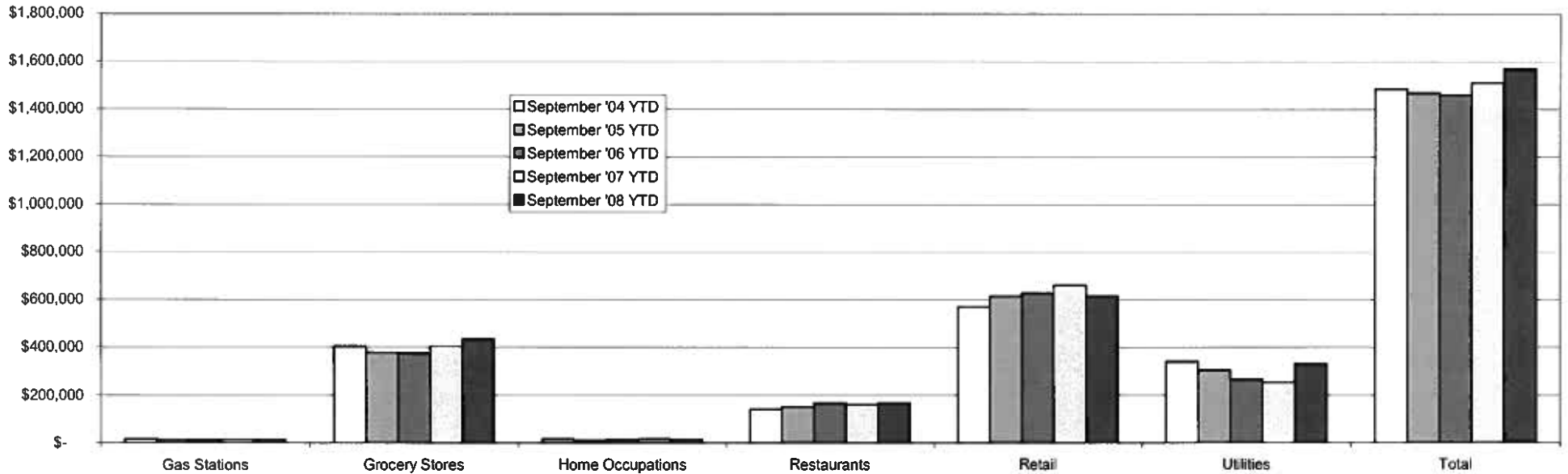
**CITY OF PRAIRIE VILLAGE
USE OF CONTINGENCY RESERVE
THROUGH SEPTEMBER 30, 2008**

DATE OF COUNCIL ACTION	APPROVED USE	AMOUNT AUTHORIZED	TOTAL AUTHORIZED	BALANCE REMAINING
	Beginning balance			\$ 700,000.00
12/17/2007	Carry forward 2007 Ending Balance - Arts Council	1,401.18	1,401.18	698,598.82
1/7/2008	Police Laptop Purchase Delayed from 2007	14,150.00	15,551.18	684,448.82
3/3/2008	Purchase additional road salt	35,000.00	50,551.18	649,448.82
5/5/2008	Swimming pool buildings roof repair	12,000.00	62,551.18	637,448.82
4/7/2008	Power Supply - Police Dept (\$21,000 approved, \$15,000 final cost)	15,000.00	77,551.18	622,448.82
6/16/2008	Additional Amount Required for 2008 Police Pension Contribution	90,000.00	167,551.18	532,448.82
9/15/2008	Repair A/C Unit at Municipal Offices	7,500.00	175,051.18	524,948.82

**CITY OF PRAIRIE VILLAGE
LOCAL SALES TAX RECEIPTS
AS OF SEPTEMBER 30, 2008**

Business Type	September '04 YTD	%	September '05 YTD	%	September '06 YTD	September '07 YTD	%	September '08 YTD	%	Growth
Gas Stations	\$ 14,385	0.97%	\$ 10,997	0.75%	\$ 11,911	\$ 13,402	0.82%	\$ 13,269	0.84%	-7.76%
Grocery Stores	\$ 403,060	27.13%	\$ 377,932	25.73%	\$ 375,106	\$ 404,055	25.71%	\$ 433,864	27.62%	7.64%
Home Occupations	\$ 14,213	0.96%	\$ 9,991	0.68%	\$ 12,700	\$ 14,291	0.87%	\$ 12,609	0.80%	-11.29%
Restaurants	\$ 141,561	9.53%	\$ 151,085	10.29%	\$ 166,682	\$ 161,662	11.43%	\$ 166,537	10.60%	17.64%
Retail	\$ 572,308	38.52%	\$ 615,598	41.91%	\$ 627,167	\$ 662,424	42.99%	\$ 614,188	39.09%	7.32%
Utilities	\$ 340,120	22.89%	\$ 303,277	20.65%	\$ 265,329	\$ 254,752	18.19%	\$ 330,568	21.04%	-2.81%
Total	\$ 1,485,647	100.00%	\$ 1,468,880	100.00%	\$ 1,458,895	\$ 1,510,586	100.00%	\$ 1,571,035	100.00%	5.75%

Local Sales Tax Receipts By Business Type (2004-2008)



**CITY OF PRAIRIE VILLAGE, KANSAS
ECONOMIC DEVELOPMENT FUND
SEPTEMBER 30, 2008**

	2008	2007
Beginning Fund Balance	\$ 1,504,491.04	\$ -
Revenues:		
Interest Earned	40,005.31	12,491.04
Transfers from General Fund	789,761.64	1,492,000.00
Total Revenue	829,766.95	1,504,491.04
Expenditures:		
SME Parking Lot	117,000.00	-
75th Street Corridor	35,384.26	-
Exterior Grant Program	16,999.89	-
Total Expenditures	169,384.15	-
Ending Fund Balance	2,164,873.84	1,504,491.04
Commitments:		
SME Parking Lot - CA 1/22/08 & 6/2/08	-	
75th St Corridor (HNTB) - CA 2/4/08	(162,121.94)	
Exterior Grant Program - CA 3/3/08	(20,500.11)	
Total Commitments	(182,622.05)	-
Adjusted Ending Fund Balance	1,982,251.79	1,504,491.04

**CITY OF PRAIRIE VILLAGE, KANSAS
JOHNSON COUNTY SCHOOLS SALES & USE TAX RESERVE - GENERAL FUND
SEPTEMBER 2008**

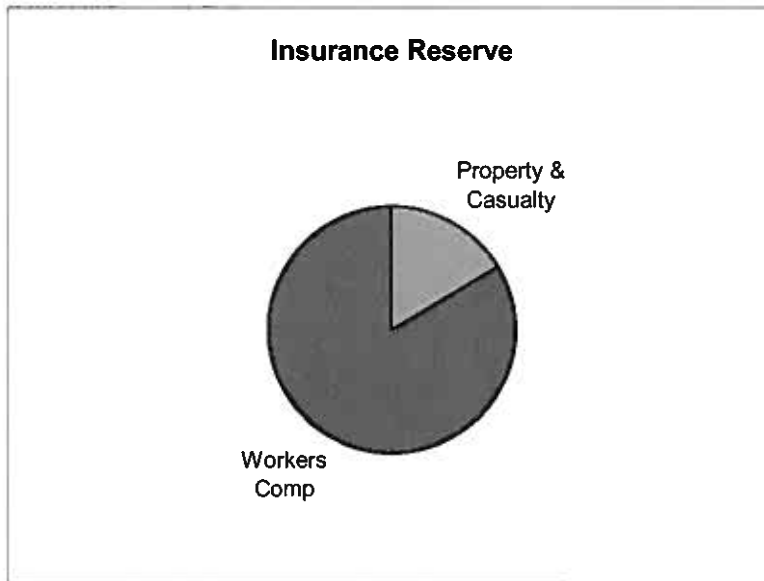
FISCAL YEAR	SALES TAX	USE TAX	TOTAL	USES*	BALANCE
2003	\$ 392,898.21	\$ 42,805.83	\$ 435,704.04	\$ -	\$ 435,704.04
2004	394,733.41	98,143.48	492,876.89	(385,895.00)	542,685.93
2005	396,156.91	101,401.25	497,558.16	-	1,040,244.09
2006	395,571.45	102,752.12	498,323.57	-	1,538,567.66
2007	393,388.96	88,583.73	481,972.69	(1,499,500.00)	521,040.35
2008 YTD	243,302.61	25,418.68	268,721.29	(789,761.64)	-
	<u>\$ 2,216,051.55</u>	<u>\$ 459,105.09</u>	<u>\$ 2,675,156.64</u>	<u>\$ (2,675,156.64)</u>	<u>\$ -</u>

*** USES**

PURPOSE	YEAR	AMOUNT
Skatepark construction	2004	\$ (200,000.00)
Strategic Plan	2004	(185,895.00)
Council Retreat	2007	(7,500.00)
Transfer to Economic Dev Fund	2007	(1,492,000.00)
Transfer to Economic Dev Fund	2008	(601,990.01) 12/31/07 Balance + 2008 sales tax throug
Transfer to Economic Dev Fund	2008	(37,117.19)
Transfer to Economic Dev Fund	2008	(34,526.70)
Transfer to Economic Dev Fund	2008	(35,672.17)
Transfer to Economic Dev Fund	2008	(41,012.31)
Transfer to Economic Dev Fund	2008	(39,443.26)
		<u>\$ (2,675,156.64)</u>

**CITY OF PRAIRIE VILLAGE, KANSAS
RISK MANAGEMENT RESERVE FUND
SEPTEMBER 30, 2008**

	Revenues					Expenditures	Balance at 9/30/2008
	Balance at 8/31/2008	Insurance Claim Reimb	Interest Earned	Transfers In	Total		
Property & Casualty	\$ 76,444.86	\$ -	\$ 86.55	\$ -	\$ 86.55	\$62,231.40	\$ 14,300.01
Workers Comp	72,425.03	-	81.99	-	81.99	\$0.00	72,507.02
Totals	\$ 148,869.89	\$ -	\$ 168.54	\$ -	\$ 168.54	\$ 62,231.40	\$ 86,807.03



**Planning Commission Actions
October 7, 2008**

PC2008-09 Request for Conditional Use Permit for a Communications Utility Box at 7700 Mission Road

This application was approved.

PC2008-10 Request for Conditional Use Permit for a Drive-thru at the southwest corner of Mission Road and Somerset

This application was continued to the next Planning Commission meeting.

PC2008-113 Request for Site Plan Approval for a Carport at 3500 West 75th Street

This application was continued to the next Planning Commission meeting for possible consideration of a revised location.

PC2008-115 Request for Site Plan Approval for a Carport at 3500 West 75th Street

This application was continued to the next Planning Commission meeting.

PC2008-114 Request for Sign Standards & Monument Sign Approval at 1900 West 75th Street

This application was continued to the next Planning Commission meeting for resubmittal of proposed sign standards and sign in accordance with Planning Commission recommendation.

PC2008-116 Request for Monument Sign at 3920 West 63rd Street

The Planning Commission approved the proposed monument sign subject to satisfactory submittal of a site plan and landscape plan.

Discussion on Cell Tower Regulations

Ron Williamson reviewed the staff report which addressed the following items in relation to the City's current Cell Tower Policy:

- Policy vs. Ordinance
- Adding Setbacks
- Adding Buffers
- Integration of Towers into Existing Buildings in Residential Districts
- Documentation of Sites Evaluated
- Master Plan of Anticipated Locations by Provider
- Site Maintenance
- Golden Factors

Commission members provided direction on the proposed changes and directed staff to return with the revised ordinance for review at the next Planning Commission meeting.

**PLANNING COMMISSION MINUTES
MEETING OF SEPTEMBER 9, 2008**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, September 9, 2008 in the Council Chamber, 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:10 p.m. with the following members present: Randy Kronblad, Bob Lindeblad and Dirk Schafer.

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

APPROVAL OF MINUTES

Bob Lindeblad moved the minutes of the August 5, 2008 meeting of the Planning Commission be approved as submitted. The motion was seconded by Randy Kronblad and passed by a vote of 3 to 0 with Mr. Schafer abstaining due to his absence at that meeting.

PUBLIC HEARINGS

**PC2008-06 Request for a Conditional Use Permit for a
Communications Utility Box
5020 West 67th Street
Zoning: R-1a**

Chairman Ken Vaughn noted this application has been formally withdrawn by the applicant.

NON-PUBLIC HEARINGS

**PC2008-113 Site Plan Approval for Carports
3500 West 75th Street**

Chairman Ken Vaughn stated the variance required for the proposed site plan submitted for the construction of carports at 3500 West 75th Street was denied by the Board of Zoning Appeals and therefore, the submitted site plan can not be considered.

Bob Lindeblad moved to continue this application to the October meeting of the Planning Commission to allow the applicant to resubmit for site plan approval at another location on this property if desired. The motion was seconded by Randy Kronblad and passed by a vote of 4 to 0.

OTHER BUSINESS

Ken Vaughn welcomed recently appointed Planning Commissioner Dirk Schafer to the Commission and noted Dale Warman, who was also appointed, would be present at the October meeting.

Discussion on Cell Tower Regulations

Ron Williamson stated the Commission directed Staff to review the Cell Tower Policy that was adopted in 1996 and to address several items that have been identified by the public, the City Council and the Planning Commission. These items are as follows:

1. Policy vs. Ordinance
2. Adding Setbacks
3. Adding Buffers
4. Integration of Towers into Existing Buildings in Residential Districts
5. Documentation of Sites Evaluated
6. Master Plan of Anticipated Locations by Provider
7. Site Maintenance
8. Golden Factors

Mr. Williamson stated his research included several data resources including ordinances from other cities, information from the American Planning Association, information from the Personal Communication Industry Association (PCIA), which is an organization representing providers and wireless guidelines provided by the Mid-America Regional Council (MARC).

1. Policy vs. Ordinance

There are advantages and disadvantages to either approach. As it has been pointed out, they both can be effective if administered uniformly. The primary advantage to a policy is that it can be changed quicker and easier than an ordinance. It should be noted, however, that the policy has not been changed since it was adopted in 1996. A policy can be more responsive to change because hearings and publications are not required. Most of the neighboring communities have adopted ordinances and ordinances are more rigid than policies. Some believe that an ordinance would stand up better in a court of law than a policy. This discussion occurred in 1996 and both the Planning Commission and City Council chose the policy approach.

Mr. Williamson advised the Commission a lawsuit has been filed by T-Mobile against the City for the denial of their recent application for a cell tower and one of the issues raised in the suit is the enforcement of the policy. Whether or not that is a relevant issue will be decided by the Court, but for our purposes, the Commission should be looking more at the ordinance approach.

2. Adding Setbacks

In reviewing ordinances from other cities and model codes, there is a wide variation for the setback requirement.

In reviewing regulations from other communities outside of the metro area, the variety is very similar. One exception is that towers that are a stealth design are normally only required to meet the setbacks of the buildings in the district.

He noted the distances required in the Leawood and Fairway regulations would have very little effect because there are based on Planned Residential Districts and there are very few planned residential districts in Prairie Village and they are small.

In comparing the regulations from other communities, it seems there are some commonalities regarding setbacks and it is suggested that the following be added:

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 that are truly architecturally integrated into the building shall maintain the same setbacks that are required for a principal building.
3. Monopoles or towers shall setback a minimum distance from all property lines equal to the height of the tower or monopole or some multiplier of the height.

Bob Lindeblad confirmed the setbacks are measured from the property line and not the actual residential structure. Mr. Williamson noted the reasons given for the setbacks are appearance and public safety, although with the construction of current towers a large fall zone is not needed as units usually collapse upon themselves if they do fall.

3. **Adding Buffers**

In most of the ordinances, the buffer is the same as the setback. In some ordinances reference is made to a landscape buffer that screens the equipment compound. Consider adding the following text:

“Landscape Buffer. Landscaping in the form of a combination of coniferous and deciduous trees is required on the outside perimeter of the screening wall. The standard buffer shall consist of a landscaped strip at least 6 feet wide outside the perimeter of the screening wall. Coniferous trees are to be a minimum of 6 feet in height, while deciduous trees are to have a minimum 3 inch caliper. The owner or provider shall be responsible for maintenance of all related landscape and screening materials. Existing mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.”

4. **Integration of Towers into Existing Buildings in Residential Districts**

Consider adding the following text:

In residential districts, the telecommunications facility which includes towers, antennas and support equipment, shall be a stealth design which means that it will 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 the casual observer.

5. Documentation of Sites Evaluated

The current policy addresses this item, but perhaps it needs to be emphasized so that the applicants provide more detailed information about why certain locations were not selected. Perhaps a requirement should be added that if a site is rejected by an owner, a letter must be obtained from that owner stating that they do not want a facility on their property.

6. Master Plan of Anticipated Locations by Provider

As providers have approached the City of Prairie Village, they have presented one application at a time. Consequently it is a piece meal program and the Planning Commission has a difficult time of determining coverage and ultimately how many facilities will be needed. Therefore, staff has suggested the following language be added:

“The applicant shall submit a master plan at the time of application that demonstrates how the proposed wireless communication facility, tower or antenna will provide coverage for the service provider within the City and adjacent cities as well. The applicant shall also identify other sites that will be needed to provide complete coverage for the entire community. The master plan shall provide evidence that the proposed site as well as other sites are necessary for the provision of wireless service in Prairie Village.”

7. Site Maintenance

Site maintenance has become an issue in some locations primarily because the towers and equipment compounds attract birds and the droppings are a health concern. A maintenance condition needs to be attached to address this problem. Suggested language is as follows:

“The applicant 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.”

8. Golden Factors

Many communities in Kansas use the Golden Factors as the criteria for consideration of Special Use permits. The Golden Factors were established by case law for consideration of zoning change applications and are used by Prairie Village for that purpose. The Golden Factors are as follows:

19.52.30 Factors.

These factors to be considered in approving or disapproving a zoning request shall include, but not be limited to the following:

1. The character of the neighborhood;
2. The zoning and uses of property nearby;

3. The suitability of the property for the uses to which it has been restricted under its existing zoning;
4. The extent that a change will detrimentally affect neighboring property;
5. The length of time of any vacancy of the property;
6. 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;
7. City Staff recommendations; and
8. Conformance with the Comprehensive Plan.

When the Zoning Ordinance was updated in 1995, the Planning Commission did not feel that the Golden Factors addressed Special Use Permits adequately and developed a new set of factors that are to be considered for all Special Use Permits. It should be emphasized that these factors apply to all Special Use Permits including wireless communication facilities. These factors are as follows:

Chapter 19.28 - Special Use Permits

In making their decision, consideration shall be given to any of the following factors that are relevant to the request:

- A. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
- B. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public;
- C. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
- D. 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 so dominate 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.
- E. 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.
- F. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- G. 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.
- H. 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.

- I. Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed building is to be built or located.

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.

Some of the factors are similar to the Golden Factors, but are more focused toward specific uses rather than broadly based for a zoning change which includes many uses. These factors can be revised; deleted and new ones can be added. Please review and comment. The Golden Factors have a legal history and have a greater likelihood of standing up in court.

Existing Policy

The next step was to review the existing policy and make revisions where necessary. Suggested revisions are in italics.

PLANNING COMMISSION POLICY FOR THE APPROVAL OF WIRELESS COMMUNICATION TOWERS

Adopted December 10, 1996

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

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

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

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

3. A signed statement indicating the applicant's intention to share space on the tower with other providers.
4. A copy of the lease between the applicant and the landowner containing the following provisions.
 - a. The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 - b. The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.
5. A site plan prepared in accordance with Chapter 19.32 Site Plan Approval.

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 150 feet of the tower base. 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 by Planning and Development.

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

Add the following:

The applicant shall provide an engineer's certification 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, along with directional data concerning the pointing of any directive antenna.

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

(This can be deleted it really is no longer applicable.)

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

(This should be combined with Item No. 5, Site Plan.)

9. Preliminary construction schedule including completion dates.
10. Sufficient detail to establish the applicant's technical qualifications, experience and expertise *as a provider* regarding communication or utility facilities and services described in the application.
11. 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.
12. Any other relevant information requested by City Staff.
13. An application fee. The applicant must agree to and reimburse the City for all costs related to the application for franchise to use or to occupy the public right-of-way including any legal, financial or administrative activities. Such application fee shall not be charged against the regular compensation to be paid to the City.
14. Copies of letters sent to other wireless communication providers notifying them of the proposed request and inquiring of their interest to co-locate.

The Planning Commission will consider and may require any or all of the following conditions to be a part of the approval of the Special Use Permit.

1. No change
2. All towers shall maintain a hot dipped galvanized finish, and shall be a mono-pole design unless otherwise approved by the Planning Commission.

Add:

Towers and related facilities shall be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment.

3. ***Add New #3***
 - a. ***Design of Towers. All antennae installed on towers shall be internal or shall panel antennae of "slim-line" design and shall be mounted parallel with the tower. Antennae bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Prairie Village are exempt from this requirement.***
 - b. ***Design on Alternative Tower Structures. 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. Antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed.

- c. *Color and Finish. 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 faculties 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.*

4. *Add New # 4*

All electrical cables shall be 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.

Ron Williamson stated the staff report was sent to neighborhood residents from the last cell tower application and to area providers. He stated he had spoken with Curt Holland who has represented Cingular Wireless on other applications in the City.

The next step is for the Planning Commission to decide whether it prefers the ordinance or policy approach. Staff will then revise the proposed regulations based on the direction of the Planning Commission and prepare either a revised policy or a proposed ordinance. If an ordinance is the preferred approach notice, it will need to be published and a public hearing held by the Planning Commission. If authorized by the Planning Commission, that public hearing could be held October 7, 2008 and then forwarded to City Council. If the Planning Commission chooses the policy approach, the text would be revised and it could be adopted on October 7, 2008.

As an alternative, the revised text could be adopted as a policy on October 7, 2008, while an amendment is being processed to adopt it as an ordinance.

Bob Lindeblad stated he was not comfortable making any decisions with three Commission members not present. The other Commission members agreed that this serious issue should only be discussed in context of the full Commission. Ken Vaughn asked the Secretary to confirm with Commission members if all members will be in attendance at the October meeting.

Bob Lindeblad suggested to Mr. Williamson that he do additional investigation on the setbacks to make certain the setbacks required to not prohibit cells towers from locating anywhere within the City. He may want to look at the radius of residential

properties surrounding public use properties. Mr. Lindeblad noted that some cities have streamlined their approval process to benefit the construction of towers integrated into existing structures.

Randy Kronblad confirmed the lawsuit filed will be reviewed against the existing regulations and will not be impacted by any changes made. Mr. Williamson noted if the court finds in favor of T-Mobile, the court will determine where the cell tower would be allowed. Because the cell tower was recommended for denial, the site plan was not approved and if the Court overturns the City's denial, the site plan will still need to come before the Planning Commission for approval.

Andrew Wang suggested the City Attorney or Assistant City Attorney be present at the next meeting to provide guidance to the Commission from the legal viewpoint.

Next Meeting

The Secretary announced the October agenda does not include any agenda items for the Board of Zoning Appeals. Applications before the Planning Commission include a Special Use Permit for SureWest Communications Utility Box on City Hall property; site plan approval for a CVS at the southwest corner of Somerset & Mission Road, Sign Standards for the Cap Fed Building on State Line and a monument sign for the Church across from the fire station on 63rd. Street.

Ron Williamson suggested the Commission members review the City's Village Vision with regard to the development of the Corinth Square Shopping Center. This is an area specifically addressed by Village Vision and will be impacted by the CVS application.

ADJOURNMENT

With no further business to come before the Planning Commission, Chairman Ken Vaughn adjourned the meeting at 7:40 p.m.

Ken Vaughn
Chairman

**Council Members
Mark Your Calendars
October 20, 2008**

October 2008	
October 27	State of the Arts exhibit in the R. G. Endres Gallery Parks Master Plan Public Workshop
November 2008	Mid-America Pastel Society exhibit in the R. G. Endres Gallery
November 3	City Council Meeting
November 7	Artist reception in the R. G. Endres Gallery 6:00 to 8:00 p.m.
November 11-15	National League of Cities Conference, Orlando, FL
November 17	City Council Meeting
November 22	NEJC Chamber of Commerce Annual Dinner
November 24	Mayor's Holiday Tree lighting
November 27	City offices closed in observance of Thanksgiving
November 28	City offices closed in observance of Thanksgiving
December 2008	Tom Wilson, Melanie Nolker & Wendy Taylor mixed media exhibit in the R. G. Endres Gallery 6:30 to 7:30 p.m.
December 1	City Council Meeting
December 3	Council of Mayors Holiday Social
December 5	Mayor's 2008 Holiday Party
December 12	Artist reception in the R. G. Endres Gallery 6:30 to 7:30 p.m.
December 15	City Council Meeting
December 25	City offices closed in observance of Christmas
January 2009	
January 1	City offices closed in observance of New Year's Day
January 5	City Council Meeting
January 19	City offices closed in observance of Martin Luther King Jr. Day
January 20 (Tues.)	City Council Meeting
February 2009	Prairie Village Arts Collection mixed media exhibit in the R. G. Endres Gallery
February 2	City Council Meeting
February 16	City offices closed in observance of President's Day
February 17 (Tues.)	City Council Meeting
March 2009	
March 2	City Council Meeting
March 16	City Council Meeting
April 2009	Christi Roberts-Bony oils exhibit in the R. G. Endres Gallery
April 6	City Council Meeting
April 20	City Council Meeting
May 2009	Kay Trieb photography exhibit in the R. G. Endres Gallery
May 4	City Council Meeting
May 18	City Council Meeting
May 25	City offices closed in observance of Memorial Day

June 2009

June 1 City Council Meeting
June 15 City Council Meeting

July 2009

Mark Raynes photography exhibit in the R. G. Endres Gallery
July 3 City offices closed in observance of Independence Day
July 6 City Council Meeting
July 20 City Council Meeting

August 2009

Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
August 3 City Council Meeting
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 5 City Council Meeting
October 19 City Council Meeting

November 2009

November 2 City Council Meeting
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

December 7 City Council Meeting
December 21 City Council Meeting
December 25 City offices closed in observance of Christmas

COMMITTEE AGENDA

October 20, 2008

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

COU2006-27 Consider Project 190855: Tomahawk Road Bridge Replacement (assigned 8/28/2006)
COU2006-33 Consider Lease of Public Works from Highwoods Properties, Inc. (assigned 8/29/2006)
COU2006-38 Consider Park & Recreation Committee Master Plan (assigned 09/27/2006)
COU2007-02 Consider Reducing size of Council & term limits for elected officials (assigned 1/8/2007)
COU2007-27 Consider Project 190864 - 2008 Paving Program (assigned 3/9/2007)
COU2007-33 Consider Project 190719: 2008 Storm Drainage Repair Program (assigned 4/11/2007)
COU2007-35 Consider reactivation of Project 190709: 83rd Street/Delmar Drainage Improvements
COU2007-40 Consider Code Enforcement - Interior Inspections (assigned 5/2/2007)
COU2007-49 Consider Project 190868: Roe - 91st to Somerset Drive (assigned 6/27/2007)
COU2007-62 Consider Project 190863: Parking at Shawnee Mission East (assigned 10/12/2007)
COU2007-74 Consider reactivation of Prairie Village Development Corporation (assigned 12/3/2007)
COU2008-01 Consider Project SP105: 2008 Crack Seal/Slurry Seal Program (assigned 12/31/2007)
COU2008-02 Consider Project SP107: 2008 Street Repair Program (assigned 12/31/2007)
COU2008-03 Consider Project 191022: 2008 Concrete Repair Program (assigned 12/31/2007)
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)
COU2008-25 Consider Project 190871: Mission Lane Bridge Replacement (assigned 2/27/2008)
COU2008-67 Consider sidewalk policy relative to sidewalks (8200 Rosewood) (assigned 8/13/2008)
COU2008-72 Consider adoption of 2008 Standard Traffic Ordinances and Uniform Public Offense Code (assigned 9/10/2008)
COU2008-74 Consider approval of agreement with Lyncole Industries to conduct an evaluation of the radio system with funding from the general contingency fund (assigned 10/1/2008)
COU2008-75 Consider approval of a modification to Personnel Policy 910 regarding "comp time" (assigned 10/1/2008)
COU2008-76 Consider City Council Policy CP258 "BMP Manual" (assigned 10/14/2008)
COU2008-77 Consider new erosion and sediment control code (assigned 10/14/2008)
COU2008-78 Consider new post construction management code (assigned 10/14/2008)
COU2008-79 Consider new stream setback requirement and controls code (assigned 10/14/2008)

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)
PC2008-01 Consider Cell Tower Policy (assigned 3/19/2008)
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)