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**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, November 20, 2023
6:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE AGENDA

V. INTRODUCTION OF STUDENTS AND SCOUTS

VI. PRESENTATIONS

- Small Business Saturday proclamation
- Citizens Police Academy graduation
- Legislative update from Senator Ethan Corson and Representatives Stephanie Clayton, Jerry Stogsdill, and Rui Xu

VII. PUBLIC PARTICIPATION

Participants may speak for up to three minutes. To submit written comment to the Council regarding current agenda items, please email cityclerk@pvkansas.com prior to 3 p.m. on November 20. Comments will be shared with Councilmembers prior to the meeting.

VIII. 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. Consider approval of regular City Council meeting minutes – November 6, 2023
2. Consider approval of expenditure ordinance #3032
3. Consider reappointment of City Municipal Judges and Prosecutor

IX. COMMITTEE REPORTS

X. **MAYOR'S REPORT**

XI. **STAFF REPORTS**

XII. **OLD BUSINESS**

XIII. **NEW BUSINESS**

COU2023-68 Consider audit services contract
Jason Hannaman

XIV. **COUNCIL COMMITTEE OF THE WHOLE (Council President presiding)**

COU2023-69 Consideration of ethical complaints by Mr. Mike Sullinger
David Waters

COU2023-70 Consideration of updated code of ethics
David Waters

XV. **ANNOUNCEMENTS**

XVI. **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 913-385-4616, 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.

CITY OF PRAIRIE VILLAGE

Proclamation

Small Business Saturday – November 25, 2023

WHEREAS, the government of Prairie Village, Kansas celebrates our local small businesses and the contributions they make to our local economy and community;

WHEREAS, according to the United States Small Business Administration, there are 32.5 million small businesses in the United States; they represent 99.7% of firms with paid employees, are responsible for 62% of net new jobs created since 1995, and employ 46.8% of the employees in the private sector in the United States; and

WHEREAS, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday; 70% report that the day makes them want to encourage others to shop small, independently owned retailers, and 66% report that the day makes them want to “Shop Small” all year long; and

WHEREAS, advocacy groups, as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, do hereby proclaim November 25, 2023, as Small Business Saturday in the City of Prairie Village, Kansas, and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Mayor Eric Mikkelson

Adam Geffert, City Clerk



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
NOVEMBER 6, 2023**

The City Council of Prairie Village, Kansas, met in regular session on Monday, November 6, at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Cole Robinson, Chad Herring, Inga Selders, Lauren Wolf, Bonnie Limbird, Dave Robinson, Piper Reimer, Greg Shelton, Courtney McFadden, Ian Graves, and Terrence Gallagher. Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Melissa Prenger, Public Works; City Attorney David Waters, Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Jason Hannaman, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Shelton made a motion to approve the agenda as presented. Mrs. McFadden seconded the motion, which passed 11-0.

INTRODUCTION OF STUDENTS AND SCOUTS

No students or scouts were present at the meeting.

PRESENTATIONS

- Mayor Mikkelson read a proclamation declaring November as Pancreatic Cancer Awareness Month.
- Mr. Cole Robinson read a proclamation declaring November as National Native American Heritage Month.
- Mayor Mikkelson read a proclamation recognizing longtime resident Bob Watson's 100th birthday.

PUBLIC PARTICIPATION



PRAIRIE VILLAGE KANSAS

- Pam Justus, Ward 6, Jan Lane, Ward 1, Tim Swanson, Ward 3, and Patricia Uhlmann, Ward 4, shared their concerns about actions taken by the Council and Mayor and the upcoming election.
- Leon Patton thanked Mr. Jordan and Mr. Shelton for speaking with him about City issues.

CONSENT AGENDA

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion:

1. Consider approval of regular City Council meeting minutes - October 16, 2023
2. Consider memorandum of agreement with Little Government Relations for government relations and lobbying services in 2024
3. Consider adoption of Resolution 2023-05 establishing amended 2024 employee compensation ranges
4. Consider adoption of municipal operations climate action plan

Mr. Herring made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: "aye": C. Robinson, Herring, Selders, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed 11-0.

COMMITTEE REPORTS

- **Parks and Recreation Committee**
 - **Discuss Harmon Park pavilion and restroom options as presented to Parks and Recreation Committee**

Ms. Prenger stated that Council had approved a design agreement for the Harmon Park pavilion and restrooms with BBN at its May 1, 2023, meeting. The design scope included concepts to be presented to the public and Council, design, and cost estimating. The design team developed four options for consideration, all of which included a new restroom:

- 1) New construction of two medium shelters - 174 seats (\$1.20M)
- 2) New construction of three small shelters - 182 seats (\$1.30M)
- 3) New construction of one medium shelter with two small shelters - 182 seats (\$1.23M)
- 4) Renovation of existing shelter - 228 seats (\$1.17M)

Ms. Prenger noted the existing shelter could currently be rented to a maximum capacity of 100, with seating for 192.



The Parks and Recreation Committee reviewed the options at its October meeting and recommended moving forward with option #4 to renovate the existing shelter. This option was the least expensive, would require less demolition and would allow the current restrooms to remain open until new restrooms are completed.

Mr. Gallagher shared the Parks and Recreation Committee's focus on building fully accessible restrooms for all park visitors.

Ms. Limbird made a motion to proceed with option #4 to renovate the existing shelter. The motion was seconded by Ms. Wolf.

After further discussion, the motion passed 11-0.

- **Discuss parks branding document and park sign options as presented to Parks and Recreation Committee**

Ms. Prenger said that the Parks and Recreation Committee had reviewed three options for new parks branding and signage, and recommended proceeding with signs featuring a green-based color design by graphic artist Frank Norton. Selection of this option would require additional funding to contract with Mr. Norton to complete maps of all large parks in the City.

Ms. Wolf made a motion to proceed with the staff recommendation for parks branding and signage. The motion was seconded by Mr. Gallagher.

Mr. Shelton asked if the signs would be designed in such a way that individuals who were color blind would be able to view them. Ms. Prenger said that it would be taken into consideration when creating the final designs, which would be brought back to Council for final approval.

After further discussion, the motion passed 11-0.

- **Pickleball noise mitigation discussion**

Ms. Prenger noted that after the installation of the pickleball courts at Windsor Park earlier in the year, Councilmembers and staff received noise complaints from nearby residents. At the September Parks and Recreation meeting, staff discussed the issue with committee members, and the committee recommended performing a sound study by an independent analyst to determine if there was cause for further action.

Staff engaged with PSM, LLC, a recognized expert in the field of pickleball sound mitigation recommended to the City by a certified court contractor.



PSM evaluated the location and made recommendations on the type and placement of material to bring the pickleball sound levels within ANSI guidelines for residential areas of 55 dBA.

Ms. Prenger stated that there were three manufacturers capable of performing the work:

- 1) Acoustiblok
- 2) eNoise Control
- 3) Insul-Quilts

Additionally, she noted that there was a fourth local company that was currently testing its product, and more information regarding its performance would be available in the coming weeks.

At its October meeting, the Parks and Recreation Committee voted to move the issue forward to the Council with a recommendation of noise mitigation through acoustical fencing and tree planting as appropriate on the north and east sides of the courts. Mr. Prenger stated staff recommended engaging with these companies, secure quotes for the material and delivery, then returning to Council for approval of the acquisition with a proposed funding source.

Mr. Cole Robinson made a motion to authorize staff to pursue procurement of the recommended materials for pickleball noise mitigation. The motion was seconded by Ms. Limbird.

Ms. Reimer asked if there had been complaints from residents near other City parks with pickleball courts. Ms. Prenger said there were pickleball courts at both Harmon Park and McCrum Park, but no complaints had been received at those locations.

Mr. Dave Robinson asked how tall the acoustic fencing would be and if it was transparent. Ms. Prenger stated that it would be nine feet tall and was not transparent.

After further discussion, the motion passed 11-0.

- Ms. Reimer shared the following updates:
 - Mr. Bredehoeft gave Youth Council members a tour of the Public Works facility prior to the meeting.
 - The Environmental Committee met on October 25 to discuss 2024 priorities.
 - Dr. Michelle Hubbard, Superintendent of the Shawnee Mission School District was named the 2024 Kansas Superintendent of the Year.



PRAIRIE VILLAGE KANSAS

- Ms. Limbird stated that the Arts Council's next artist reception would be held on November 8 at City Hall.
- Ms. Selders provided information about the Diversity Committee's 3rd annual Martin Luther King, Jr. celebration on January 13.
- Mr. Gallagher said that fundraising letters had been sent out by the Prairie Village Foundation and challenged Councilmembers to donate.

MAYOR'S REPORT

- The Mayor shared information about events that had taken place since the prior Council meeting:
 - The Shawnee Mission Post candidate forum on October 24
 - A visit to City Hall from Ukrainian exchange students
- The Mayor noted the following upcoming events:
 - The annual Mayor's holiday tree lighting at the Corinth Shops on November 30
 - A visit from the U.S. State Department with local Ukrainian clubs at City Hall on November 15
 - The Northeast Johnson County Chamber of Commerce's annual gala on November 18
 - A human relations event honoring Kansas City Chamber of Commerce President and CEO Joe Reardon, sponsored by the Jewish Community Relations Bureau and American Jewish Council on November 19
 - Election Day on November 7
- The Mayor also noted the following:
 - The publication of the City's third quarter financial report
 - The Shawnee Mission East girls' tennis team won the state championship for the fifth year in a row
 - Councilmember Chad Herring's new position at Village Church

STAFF REPORTS

- Chief Roberson stated that officers were participating in "No Shave November" as a fundraiser for cancer awareness and in support of a Shawnee Mission East student named Carlie, who was currently battling leukemia.
- Mr. Jordan stated that the Mid-America Regional Council had begun a process to identify project priorities to be considered for inclusion in a collaborative regional climate pollution reduction implementation grant. Projects that qualified would need to be implemented in five years, with the application deadline on December 11. He



noted that City staff would prepare written applications for both City Hall and the proposed community center.

OLD BUSINESS

None

NEW BUSINESS

COU2023-64

Consider agreement with BNIM for architectural design services for community center project BG500002

Mr. Bredehoeft said that MOUs with the Johnson County Library and the YMCA had been executed and that the next step in the site planning effort would be to hire an architect.

Michelle Kaiser with Benson Method, the City's owner representative for the project, stated that members of the library, YMCA, and the City reviewed eight proposals that were submitted and interviewed four companies. BNIM was selected as the highest-ranking firm due to its project approach, public involvement plan and bid amount.

Mr. Bredehoeft noted that the agreement was between the YMCA and the City and would cover two-thirds of the expected costs, with the library having its own contract with BNIM for their portion of the project.

The project would include a substantial public involvement effort, with site planning expected to be completed in the summer of 2024. The \$95,000 cost of the agreement would be split equally between the YMCA and the City, with funding coming from the economic development fund.

Mr. Graves made a motion to approve the agreement with BNIM for architectural design services for the community center project. The motion was seconded by Mr. Cole Robinson.

Ms. Reimer stated that she had heard concerns from residents that were opposed to proceeding with the community center project but felt that it was important to continue taking steps to compile precise information, as construction could ultimately be decided by voters.

After further discussion, the motion passed 10-1, with Mr. Gallagher in opposition.

COU2023-65

Consider purchase of replacement Ford F-550 truck with equipment and disposal of asset #5429 by auction



Mr. Bredehoeft stated that the proposed purchase would replace a 2011 Ford F-350 truck. The new vehicle would be utilized daily for maintenance operations at City facilities, parks, and streets, as well as for snow removal efforts. He provided the following summary of costs:

• Olathe Ford - truck purchase	\$ 70,790.00
• Viking-Cives Midwest - equipment and assembly	\$ 95,000.00
• <u>KA-COMM, Inc. - electronics</u>	<u>\$ 6,264.78</u>
Total	\$ 172,054.78

Both Olathe Ford and Viking-Cives Midwest prices matched the Sourcewell cooperative purchasing program pricing. Utilizing the Sourcewell contract would guarantee competitive pricing for the truck and equipment, which would include the dump bed, hydraulic system, salt spreader, and front plow, as well as the radio, light bars, and other electronic equipment. Mr. Bredehoeft noted that since 2017, costs for an equivalent truck had increased by 60%.

Mr. Herring made a motion to approve the purchase of a replacement F-550 truck and equipment for \$172,054.78 and dispose of asset #5429 by auction. The motion was seconded by Mr. Shelton and passed 11-0.

COU2023-66 Consider purchase of two replacement Freightliner dump trucks and equipment and disposal of assets #5430 and #5447 by auction

Mr. Bredehoeft stated that the proposed purchase would replace a 2012 International dump truck and a 2013 International dump truck. He noted that the trucks were utilized daily for maintenance operations at City facilities, parks, streets, and snow plowing, and provided the following summary of costs:

Two Truck Purchase Including Equipment (Viking-Cives Midwest)

• Two Freightliner trucks	\$ 196,632.00
• <u>Equipment build-out</u>	<u>\$ 293,538.66</u>
Total	\$ 490,170.66

Mr. Bredehoeft noted that the Viking-Cives Midwest prices matched the Sourcewell cooperative purchasing program pricing, and that utilizing the Sourcewell contract guaranteed competitive pricing for the trucks and equipment, which would include the dump bed, hydraulic system, salt spreader, front plow, and emergency lights.



He added that prices for the replacement trucks had increased nearly 30% over the past several years, and that additional funding from the equipment reserve fund totaling \$40,170.66 would be needed.

Mr. Herring made a motion to approve the purchase of two replacement Freightliner dump trucks and equipment and disposal of assets #5430 and #5447. The motion was seconded by Mrs. McFadden and passed 11-0.

COU2023-67 Consider addition of a school crossing guard at the intersection of 63rd Street and Roe Avenue

Chief Roberson said that both Prairie Village and the City of Mission were contacted by concerned parents regarding the lack of a crossing guard at 63rd Street and Roe Avenue, and the safety of students crossing the intersection when walking to and from Highlands Elementary School, located in the City of Mission at 6200 Roe Avenue.

He noted that Council Policy #345 governed the process of determining the need for a school crossing guard. The Police Department traffic unit obtained preliminary student crossing counts and found them to average more than 15 students per crossing period. A traffic engineering study was then conducted by Kimley Horn, which analyzed the criteria in the policy and recommended that a crossing guard be added to the location.

Chief Roberson noted that the crossing guard would be added to the City's current contract with All City Management Services at a rate of \$28.98 per hour for a total cost of \$10,432.80 per school year. The City of Mission agreed to pay 50% of the cost, and the Prairie Village portion would be covered under the current Police Department budget.

Mrs. McFadden made a motion to approve the addition of a school crossing guard at the intersection of 63rd Street and Roe Avenue. The motion was seconded by Mr. Gallagher and passed 11-0.

Mr. Shelton made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Ms. Reimer and passed 11-0.

COUNCIL COMMITTEE OF THE WHOLE

Discuss City Hall improvement options for new construction

Ms. Prenger stated that the City Hall improvements project started in 2020 with a feasibility study and had progressed through the following phases:

1. Feasibility study (2020)



2. Facility assessment (2022)
3. Programming (2022)
4. Concept development (June 2023) - Three concepts were presented to the Finance Committee on June 27, 2023, which recommended to Council that the City pursue new construction with a cost ceiling of \$30 million. The three concepts presented included basic renovation, renovation with addition on-site or new construction. Council approved staff to move forward with development of concepts for new construction as recommended by the Finance Committee
5. Concept Development (November 2023) - Ms. Prenger noted that the following five concepts derived from option #3 (new construction) would be presented with costs to the Council for selection
 - a. Two story building with court room (as presented in June 2023)
 - b. Two story building with Council Chambers as shared space with court room
 - c. Two story building with council chambers as shared space with court room
 - d. Single story building with council chambers as shared space with court room
 - e. Single story building with court room reconstructed adjacent to the Police Department following the model of other cities where City Hall functions are separate from PD/Court functions

Ms. Prenger said that upon selection of an option, the architect would move into the next scope item, schematic design. At the end of the schematic design phase the City would need to execute a second addendum with the architect for construction documents. Afterward contracts for an owner's representative and construction manager at-risk would be brought to the Council for consideration:

Ms. Prenger presented the following options for consideration:

- Option 3-A: two story building with court room
 - 24,180 square feet
 - 158 to 185 parking spaces
 - Minimum cost - \$31.5M
 - Maximum cost - \$32.4M
- Option 3-B: two story building with a combined Council chamber and court room
 - 23,060 square feet
 - 158 to 185 parking spaces
 - Minimum cost - \$30.5M
 - Maximum cost - \$31.3M
- Option 3-C: two story building with a centered combined Council chamber and court room
 - 23,060 - 24,004 square feet
 - 158 to 185 parking spaces
 - Minimum cost - \$31.4M
 - Maximum cost - \$32.2M



- Option 3-D: single story building with a centered combined Council chamber and court room
 - 20,850 square feet
 - 146 to 210 parking spaces
 - Minimum cost - \$26.7M
 - Maximum cost - \$28.2M
 - Court room remains with Police Department

- Option 3-E: two-story building with a centered Council chamber room
 - 23,808 square feet
 - 146 to 210 parking spaces
 - Minimum cost - \$28.7M
 - Maximum cost - \$30.2M
 - Court room remains with Police Department

Ms. Prenger focused on options 3-D and 3-E, as both fell under the \$30M limit that had previously been set by the Council.

Mr. Gallagher asked if there were any legal requirements to have a stand-alone court room. Mr. Jordan said there were no requirements at the state level, but that most cities had their courtrooms and police departments adjacent to each other.

Ms. Limbird stated that she preferred option 3-D, as utilizing the chamber for both meetings and court was a better use of space.

Mayor Mikkelson and Mr. Dave Robinson suggested utilizing the existing Council Chamber for court in option 3-E rather than tearing it down and constructing a new court room.

Ms. Reimer asked how the existing community center building was currently being used. Ms. Prenger stated that the Police Department used it for training purposes.

Mrs. McFadden made a motion to proceed with option 3-E while taking into account suggestions made by Council. The motion was seconded by Mr. Graves.

After further discussion, the motion passed 11-0.

Mr. Shelton moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Dave Robinson and passed 11-0.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.



PRAIRIE VILLAGE
KANSAS

ADJOURNMENT

Mayor Mikkelsen declared the meeting adjourned at 9:28 p.m.

Adam Geffert
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

November 20, 2023

Copy of Ordinance

Ordinance Page No. _____

3032

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.

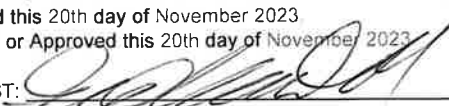
NAME	DATE	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
29348-29352	10/6/2023	17,121.60	
29353	10/9/2023	1,080.47	
29354-29427	10/14/2023	2,360,844.84	
29428-29446	10/20/2023	53,140.66	
29447-29514	10/27/2023	931,630.32	
Payroll Expenditures			
10/6/2023		436,438.02	
10/20/2023		407,351.65	
Electronic Payments			
Electronic Pmnts	10/1/2023	2,720.26	
	10/4/2023	1,979.57	
	10/9/2023	19,494.51	
	10/18/2023	1,591.40	
	10/31/2023	673.96	
TOTAL EXPENDITURES:			4,234,067.26
Voided Checks	Check #	(Amount)	
Interstate Battery Systems	29389	(55.25)	
Kaw Valley Engineering Inc	29398	(11,212.50)	
EE Reimbursement	29466	(48.00)	
TOTAL VOIDED CHECKS:			(11,315.75)
GRAND TOTAL CLAIMS ORDINANCE			4,222,751.51

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

Passed this 20th day of November 2023

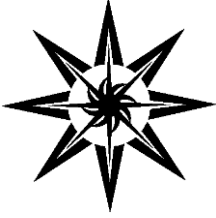
Signed or Approved this 20th day of November 2023

ATTEST:


City Treasurer

ATTEST:


Finance Director



ADMINISTRATION

CONSENT AGENDA

Council Meeting Date: November 20, 2023

Consider Reappointment of City Municipal Judges and Prosecutor

RECOMMENDATION

Ratification of the Mayor's reappointment of the following City Officials:

Michelle Decicco	Municipal Judge
Karen Torline	Municipal Judge
Nora Cooper	City Prosecutor

BACKGROUND

Under the terms of the Municipal Code, the Judge and Prosecutor positions are Mayoral appointments for two-year terms. The compensation of these offices shall be fixed by agreement.

- Michelle DeCicco was appointed as Municipal Judge in January of 2016. She is a graduate of the University of Kansas and Washburn University School of Law. In addition to her private practice, Ms. DeCicco serves as Judge for Spring Hill. The new contract includes increasing Judge DeCicco's compensation from \$461 for arraignment dockets and \$487 for plea dockets to \$500 for arraignment dockets and \$525 for plea dockets for the period of January 1, 2024, through December 31, 2024, and \$525 for arraignment dockets and \$551 for plea dockets for the period of January 1, 2025, through December 31, 2025.
- Karen Torline was appointed as Municipal Judge in January of 2017. She is a graduate of Kansas State University and Kansas University School of Law. Ms. Torline currently serves as Municipal Judge for the cities of Shawnee and Roeland Park. The new contract includes increasing Judge Torline's compensation from \$461 for arraignment dockets and \$487 for plea dockets to \$500 for arraignment dockets and \$525 for plea dockets for the period of January 1, 2024, through December 31, 2024, and \$525 for arraignment dockets and \$551 for plea dockets for the period of January 1, 2025, through December 31, 2025.
- Nora Cooper was appointed City Prosecutor in November of 2022. Ms. Cooper is a graduate of the University of Kansas and University of Missouri-Kansas City School of Law. She currently serves as City Prosecutor in the city of Gardner. The contract includes increasing Prosecutor Cooper's monthly rate from \$2,400 to \$2,520 for the period of January 1, 2024, through December 31, 2024, and \$2,646 for the period of January 1, 2025, through December 31, 2025.

Each of these individuals, with their years of experience, are invaluable in ensuring our municipal court operates fairly and efficiently. The compensation increases are recommended to remain competitive with what other cities pay for these same services. These increases will be accounted for in the 2024 and 2025 budgets.

The professional services agreements have previously been reviewed by the City Attorney.

ATTACHMENTS

Professional Services Agreement with Michelle DeCicco

Professional Services Agreement with Karen Torline
Professional Services Agreement with Nora Cooper

PREPARED BY

Deana Scott

Court Administrator

Date: November 14, 2023

PROFESSIONAL SERVICES AGREEMENT MUNICIPAL JUDGE CONTRACT

This MUNICIPAL JUDGE CONTRACT ("Contract"), made and entered into effective as of January 1, 2024, by and between **Michelle DeCicco** (the "Judge") and the **City of Prairie Village, Kansas**, a Kansas municipal corporation (the "City").

The Judge and the City, for the mutual promises and consideration hereinafter set forth, agree as follows:

1. Scope of Work.

a. The Judge shall provide the services as described in Exhibit A (the "Work"), all as attached and incorporated herein.

b. The Judge shall be solely responsible for all means, methods, techniques and sequences for coordinating all portions of the Work. The Judge shall be responsible to the City for the acts and omissions of his or her agents and employees, and other persons performing any of the Work.

c. The Judge is free to establish and control his or her times of performance of the Work and the City shall not dictate time of performance except as required for presiding over municipal court dockets as noted in Exhibit A.

d. The Judge is not required to perform work exclusively for the City during the term of this Contract.

2. Independent Contractor. This Contract does not create an employer/employee relationship between the parties. It is the parties' intention that the Judge will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Kansas revenue and taxation laws, Kansas workers' compensation law, and Kansas unemployment insurance law. The Judge will retain sole and absolute discretion and judgment in the manner and means of carrying out the Judge's activities and responsibilities hereunder. The Judge agrees that it is a separate and independent enterprise from the City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Work. This Contract shall not be construed as creating any joint employment relationship between the Judge and the City, and the City will not be liable for any obligation incurred by the Judge, including, but not limited to, unpaid minimum wages and/or overtime premiums.

3. License. The Judge shall at all times hold an unrestricted license to practice law in the State of Kansas. The Judge shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4. Annual Training. The Judge is strongly encouraged to attend the annual conference for municipal judges continuing legal education conference hosted by the Kansas Supreme Court

Office of Judicial Administration ("OJA"). The OJA does not charge a fee to municipal judges for such attendance and also will reimburse Judge for hotel, travel and provide a per diem for food. To the extent that OJA does not cover those costs, they will be covered by the City. Judge will notify the Court Administrator of her ability annually to attend this conference.

5. Indemnification. The Judge shall appear, defend, indemnify and hold harmless the City, members of the City's governing body, its officers, agents, representatives, successors and assigns from and against all claims of any character or nature, demands, suits, actions and costs arising out of the Work performed under the terms of this Contract, or on account of any act or omission by the Judge or its agents, employees or representatives, or from any claims or amounts arising or recovered under workers' compensation laws or any other law, bylaw or ordinance, order, decree or any failure on the part of the Judge to fulfill the Judge's obligations under this Contract. Without limiting the generality of the preceding sentence, it is the intent of the parties to this Contract that the City shall, in all instances, be indemnified against all liability losses and damages of any nature whatsoever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this Contract. The provisions of this paragraph shall survive termination of this Contract.

6. Governing Law. This Contract shall be governed by the laws of the State of Kansas.

7. Contract Fee. The Judge shall be compensated for the Work as set forth in Exhibit A. The Judge shall provide a monthly statement for services. The City shall promptly pay amounts due to the Judge.

8. Contract Term. The term of this Contract will be for a period commencing on January 1, 2024 and continue through December 31, 2025.

9. Termination. If the Judge fails to adequately perform the services or is otherwise determined by the City to have committed misconduct, City may immediately terminate this Contract by written notice to Judge. Either party may terminate this Contract at any time, without cause, subject to an obligation to give notice in writing to the other party at least sixty (60) days prior to termination. Termination is effective sixty (60) days from the date of the written notice unless otherwise specified therein. Notwithstanding the termination, the City will remain obligated to pay the Judge all fees incurred prior thereto.

10. Rights and Remedies. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or the Judge shall constitute a waiver of any right or duty afforded the parties under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence to any briefs hereunder, except as may be specifically agreed to in writing.

11. Litigation. Should litigation be necessary to enforce any term or provision under this Contract, or to collect any damages claimed or portion of the amount payable under this Contract, then all litigation and collection expenses, witness fees, court costs and attorneys' fees shall be paid to the prevailing party. Nothing herein shall preclude non-binding arbitration if the

parties so elect in the event of a dispute hereunder.

12. Entire Agreement. This Contract constitutes the entire agreement between the parties relative to the subject matter.

13. Amendment. No amendment or modification of this Contract shall be valid or effective, unless in writing and signed by the parties to this Contract.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed, the day and year first herein written.

JUDGE:

Sign: _____
Michelle DeCicco

**THE CITY OF PRAIRIE VILLAGE,
KANSAS**

By: _____
Eric Mikkelson
Mayor

ATTEST:

By: _____
Adam Geffert
City Clerk

APPROVED AS TO FORM:

By: _____
David E. Waters
City Attorney

EXHIBIT A
SCOPE OF WORK & CONTRACT RATE

1. The Judge shall serve as one of two municipal court judges for the City of Prairie Village, Kansas. The Judge's primary responsibilities shall include, but are not limited to, the following:
 - (a) Alternatively, with the second appointed municipal court judge, presiding over the Court's regularly scheduled dockets, including video appearances when necessary;
 - (b) Scheduling and presiding over such additional or special dockets or hearings as may from time to time be necessary for expeditious disposition of pending matters;
 - (c) Establishing or ratifying a fine schedule applicable to traffic infractions and any other violation for which a scheduled fine is permissible;
 - (d) Establishing or ratifying policies and procedures for posting and revocation of appearance bonds;
 - (e) Adjudging such convictions, acquittals and other dispositions as the evidence and law warrant;
 - (f) Imposing authorized punishment upon persons convicted of violating city ordinances;
 - (g) Issuing such subpoenas, arrest warrants and other process as court procedures and the facts and law warrant; and
 - (h) Providing such services as are required by the Hearing Officer under City Code Sec. 5-801 *et seq.* (Prohibited Discrimination in Employment, Housing, or Public Accommodations).
2. The Judge shall, in the ordinary course of his or her duties, coordinate administrative aspects of his performance hereunder with the Court Administrator or designee to ensure effective and efficient operation of the Court. Administrative matters not resolved through such coordination shall be submitted to the City Administrator for resolution; provided, that this Contract shall not be construed to require the Judge to perform any act which would violate the Code of Judicial Conduct.
3. All municipal court dockets shall be conducted in the courtroom of the Prairie Village Municipal Court, 7700 Mission Road, Prairie Village, KS 66208; provided, that if the courtroom is unavailable by reason of damage, destruction or public emergency, the City may designate another suitable location.
4. The Municipal Court dockets are held on designated Tuesdays' beginning at 8 a.m. and designated Thursdays beginning at 2:00 p.m. as more fully set forth on the City's Municipal Court Calendar. Judge and the second appointed municipal judge will mutually agree upon a schedule of dockets to be presided over by each, and in a manner that ensures coverage of all dockets.
5. The Judge will be compensated \$500 per each arraignment docket and \$525 per each plea docket presided over by Judge for the period January 1, 2024 through December 31, 2024, and \$525 per each arraignment docket and \$551 for each plea docket for the period of January 1, 2025 through December 31, 2025.

PROFESSIONAL SERVICES AGREEMENT MUNICIPAL JUDGE CONTRACT

This MUNICIPAL JUDGE CONTRACT ("Contract"), made and entered into effective as of January 1, 2024, by and between **Karen Torline** (the "Judge") and the **City of Prairie Village, Kansas**, a Kansas municipal corporation (the "City").

The Judge and the City, for the mutual promises and consideration hereinafter set forth, agree as follows:

1. Scope of Work.

a. The Judge shall provide the services as described in Exhibit A (the "Work"), all as attached and incorporated herein.

b. The Judge shall be solely responsible for all means, methods, techniques and sequences for coordinating all portions of the Work. The Judge shall be responsible to the City for the acts and omissions of his or her agents and employees, and other persons performing any of the Work.

c. The Judge is free to establish and control his or her times of performance of the Work and the City shall not dictate time of performance except as required for presiding over municipal court dockets as noted in Exhibit A.

d. The Judge is not required to perform work exclusively for the City during the term of this Contract.

2. Independent Contractor. This Contract does not create an employer/employee relationship between the parties. It is the parties' intention that the Judge will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Kansas revenue and taxation laws, Kansas workers' compensation law, and Kansas unemployment insurance law. The Judge will retain sole and absolute discretion and judgment in the manner and means of carrying out the Judge's activities and responsibilities hereunder. The Judge agrees that it is a separate and independent enterprise from the City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Work. This Contract shall not be construed as creating any joint employment relationship between the Judge and the City, and the City will not be liable for any obligation incurred by the Judge, including, but not limited to, unpaid minimum wages and/or overtime premiums.

3. License. The Judge shall at all times hold an unrestricted license to practice law in the State of Kansas. The Judge shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4. Annual Training. The Judge is strongly encouraged to attend the annual conference for municipal judges continuing legal education conference hosted by the Kansas Supreme Court

Office of Judicial Administration ("OJA"). The OJA does not charge a fee to municipal judges for such attendance and also will reimburse Judge for hotel, travel and provide a per diem for food. To the extent that OJA does not cover those costs, they will be covered by the City. Judge will notify the Court Administrator of her ability annually to attend this conference.

5. Indemnification. The Judge shall appear, defend, indemnify and hold harmless the City, members of the City's governing body, its officers, agents, representatives, successors and assigns from and against all claims of any character or nature, demands, suits, actions and costs arising out of the Work performed under the terms of this Contract, or on account of any act or omission by the Judge or its agents, employees or representatives, or from any claims or amounts arising or recovered under workers' compensation laws or any other law, bylaw or ordinance, order, decree or any failure on the part of the Judge to fulfill the Judge's obligations under this Contract. Without limiting the generality of the preceding sentence, it is the intent of the parties to this Contract that the City shall, in all instances, be indemnified against all liability losses and damages of any nature whatsoever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this Contract. The provisions of this paragraph shall survive termination of this Contract.

6. Governing Law. This Contract shall be governed by the laws of the State of Kansas.

7. Contract Fee. The Judge shall be compensated for the Work as set forth in Exhibit A. The Judge shall provide a monthly statement for services. The City shall promptly pay amounts due to the Judge.

8. Contract Term. The term of this Contract will be for a period commencing on January 1, 2024 and continue through December 31, 2025.

9. Termination. If the Judge fails to adequately perform the services or is otherwise determined by the City to have committed misconduct, City may immediately terminate this Contract by written notice to Judge. Either party may terminate this Contract at any time, without cause, subject to an obligation to give notice in writing to the other party at least sixty (60) days prior to termination. Termination is effective sixty (60) days from the date of the written notice unless otherwise specified therein. Notwithstanding the termination, the City will remain obligated to pay the Judge all fees incurred prior thereto.

10. Rights and Remedies. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or the Judge shall constitute a waiver of any right or duty afforded the parties under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence to any briefs hereunder, except as may be specifically agreed to in writing.

11. Litigation. Should litigation be necessary to enforce any term or provision under this Contract, or to collect any damages claimed or portion of the amount payable under this Contract, then all litigation and collection expenses, witness fees, court costs and attorneys' fees shall be paid to the prevailing party. Nothing herein shall preclude non-binding arbitration if the

parties so elect in the event of a dispute hereunder.

12. Entire Agreement. This Contract constitutes the entire agreement between the parties relative to the subject matter.

13. Amendment. No amendment or modification of this Contract shall be valid or effective, unless in writing and signed by the parties to this Contract.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed, the day and year first herein written.

JUDGE:

Sign: _____
Karen Torline

**THE CITY OF PRAIRIE VILLAGE,
KANSAS**

By: _____
Eric Mikkelson
Mayor

ATTEST:

By: _____
Adam Geffert
City Clerk

APPROVED AS TO FORM:

By: _____
David E. Waters
City Attorney

EXHIBIT A
SCOPE OF WORK & CONTRACT RATE

1. The Judge shall serve as one of two municipal court judges for the City of Prairie Village, Kansas. The Judge's primary responsibilities shall include, but are not limited to, the following:
 - (a) Alternatively, with the second appointed municipal court judge, presiding over the Court's regularly scheduled dockets, including video appearances when necessary;
 - (b) Scheduling and presiding over such additional or special dockets or hearings as may from time to time be necessary for expeditious disposition of pending matters;
 - (c) Establishing or ratifying a fine schedule applicable to traffic infractions and any other violation for which a scheduled fine is permissible;
 - (d) Establishing or ratifying policies and procedures for posting and revocation of appearance bonds;
 - (e) Adjudging such convictions, acquittals and other dispositions as the evidence and law warrant;
 - (f) Imposing authorized punishment upon persons convicted of violating city ordinances;
 - (g) Issuing such subpoenas, arrest warrants and other process as court procedures and the facts and law warrant; and
 - (h) Providing such services as are required by the Hearing Officer under City Code Sec. 5-801 *et seq.* (Prohibited Discrimination in Employment, Housing, or Public Accommodations).
2. The Judge shall, in the ordinary course of his or her duties, coordinate administrative aspects of his performance hereunder with the Court Administrator or designee to ensure effective and efficient operation of the Court. Administrative matters not resolved through such coordination shall be submitted to the City Administrator for resolution; provided, that this Contract shall not be construed to require the Judge to perform any act which would violate the Code of Judicial Conduct.
3. All municipal court dockets shall be conducted in the courtroom of the Prairie Village Municipal Court, 7700 Mission Road, Prairie Village, KS 66208; provided, that if the courtroom is unavailable by reason of damage, destruction or public emergency, the City may designate another suitable location.
4. The Municipal Court dockets are held on designated Tuesdays' beginning at 8 a.m. and designated Thursdays beginning at 3:00 p.m. as more fully set forth on the City's Municipal Court Calendar. Judge and the second appointed municipal judge will mutually agree upon a schedule of dockets to be presided over by each, and in a manner that ensures coverage of all dockets.
5. The Judge will be compensated \$500 per each arraignment docket and \$525 per each plea docket presided over by Judge for the period January 1, 2024 through December 31, 2024, and \$525 per each arraignment docket and \$551 for each plea docket for the period of January 1, 2025 through December 31, 2025.

PROFESSIONAL SERVICES AGREEMENT CITY PROSECUTOR CONTRACT

This CITY PROSECUTOR CONTRACT ("Contract"), made and entered into effective as of January 1, 2024, by and between **Cooper Law, LLC** (the "Contractor") and the **City of Prairie Village, Kansas**, a Kansas municipal corporation (the "City").

The Contractor and the City, for the mutual promises and consideration hereinafter set forth, agree as follows:

1. Scope of Work.

a. The Contractor shall provide, through Nora (Norie) Cooper, the services as described in Exhibit A (the "Work"), all as attached and incorporated herein.

b. The Contractor shall be solely responsible for all means, methods, techniques and sequences for coordinating all portions of the Work. The Contractor shall be responsible to the City for the acts and omissions of his or her agents and employees, and other persons performing any of the Work.

c. The Contractor is free to establish and control his or her times of performance of the Work and the City shall not dictate time of performance except as required for presiding over municipal court dockets as noted in Exhibit A.

d. The Contractor is not required to perform work exclusively for the City during the term of this Contract.

2. Independent Contractor. This Contract does not create an employer/employee relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Kansas revenue and taxation laws, Kansas workers' compensation law, and Kansas unemployment insurance law. The Contractor will retain sole and absolute discretion and judgment in the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including, but not limited to, unpaid minimum wages and/or overtime premiums.

3. License. The Contractor shall at all times hold an unrestricted license to practice law in the State of Kansas. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4. Insurance Coverage. Notwithstanding Contractor's status as an independent contractor, City and Contractor acknowledge that the City shall name the contractor as an insured in respects to the Public Entity Management Liability and Employment Practices Liability insurance policies for contractor's work performed; however City and Contractor acknowledge and agree that such insurance shall not be available as to claims related to Contractor's work or services deemed to be outside the scope of the work or contract.

5. Governing Law. This Contract shall be governed by the laws of the State of Kansas.

6. Contract Fee. The Contractor shall be compensated for the Work as set forth in Exhibit A. The City shall promptly pay amounts due to the Contractor.

7. Contract Term. The term of this Contract will be for a period commencing on January 1, 2024 and continue through December 31, 2025.

8. Termination. If the Contractor fails to adequately perform the services or is otherwise determined by the City to have committed misconduct, City may immediately terminate this Contract by written notice to Contractor. Either party may terminate this Contract at any time, without cause, subject to an obligation to give notice in writing to the other party at least sixty (60) days prior to termination. Termination is effective sixty (60) days from the date of the written notice unless otherwise specified therein. Notwithstanding the termination, the City will remain obligated to pay the Contractor all fees incurred prior thereto.

9. Rights and Remedies. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or the Contractor shall constitute a waiver of any right or duty afforded the parties under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence to any briefs hereunder, except as may be specifically agreed to in writing.

10. Litigation. Should litigation be necessary to enforce any term or provision under this Contract, or to collect any damages claimed or portion of the amount payable under this Contract, then all litigation and collection expenses, witness fees, court costs and attorneys' fees shall be paid to the prevailing party. Nothing herein shall preclude non-binding arbitration if the parties so elect in the event of a dispute hereunder.

11. Entire Agreement. This Contract constitutes the entire agreement between the parties relative to the subject matter.

12. Amendment. No amendment or modification of this Contract shall be valid or effective, unless in writing and signed by the parties to this Contract.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed, the day and year first herein written.

CONTRACTOR:

Sign: _____
Nora Cooper – Sole Member

**THE CITY OF PRAIRIE VILLAGE,
KANSAS**

By: _____
Eric Mikkelson
Mayor

ATTEST:

By: _____
Adam Geffert
City Clerk

APPROVED AS TO FORM:

By: _____
David E. Waters
City Attorney

EXHIBIT A
SCOPE OF WORK & CONTRACT RATE

1. The Contractor shall serve as the City Prosecutor for the City of Prairie Village, Kansas. The Contractor's primary responsibilities shall include, but are not limited to, prosecution of misdemeanors, traffic violations that occur within the City and violations of Prairie Village City Ordinances.
2. The Contractor shall render to the best of its abilities, in accordance with applicable professional standards, the services, legal representation and advice described herein during the continuance of this Contract.
3. The Contractor agrees to faithfully represent the interests of the City in carrying out his or her duties as City Prosecutor and in accordance with established prosecution standards and policies.
4. The Contractor's services shall include attendance at hearings to represent the City of Prairie Village as City Prosecutor in the Municipal Court and preparation for such hearings. Hearing, trial, arraignment and plea dockets will be as specified by the City from time to time and will be held in the council chambers at City Hall or virtually. The Contractor may also be requested from time to time to provide legal advice to the police department not involving the prosecution of individual cases.
5. The Contractor will be compensated \$2,520 per month for the period January 1, 2024 through December 31, 2024, and compensated \$2,646 per month for the period of January 1, 2025 through December 31, 2025 for prosecution services described in paragraph 4 above and other services required under this Contract, except as provided in paragraph 6 below.
6. The Contractor shall also be required to continue its representation of the City when a case is appealed to the Johnson County District Court or when filing a forfeiture action is necessary. The Contractor shall be compensated at an hourly rate of \$152 for such work.
7. The Contractor shall be responsible for arranging for substitute counsel when unable, for any reason, to appear in Court. Substitute counsel shall not be used routinely. Generally, substitute counsel shall be used only when the Contractor cannot serve as City Prosecutor because of illness or prior legal commitment in another Court. The Contractor shall provide the City and the City Attorney with a list of the name(s), address(es), telephone number(s), Kansas Bar number(s), and professional resumes of substitute counsel who will be responsible for providing City Prosecutor services. All substitute counsel on such list must be approved by the City in advance. The City will be responsible for reimbursing substitute counsel a reasonable amount of times per year.
8. Contractor shall provide such services as are required by the Investigator under City Code Sec. 5-801 *et seq.* (Prohibited Discrimination in Employment, Housing, or Public Accommodations).



ADMINISTRATION

Selection Committee Meeting Date: November 2, 2023
Council Meeting Date: November 20, 2023

COU2023-68

Consider Audit Services Contract

RECOMMENDATION

The Selection Committee recommends the City Council approve the audit services agreement with Gordon CPA LLC to audit the City's 2023 financial statements. The proposed engagement covers three years (2023-2025), with options to renew for 2026 and 2027. Renewal is subject to an annual review and the concurrence of the City Council.

SUGGESTED MOTION

Move that the Council approve the agreement with Gordon CPA LLC to audit the City's 2023 financial statements.

BACKGROUND

KSA 75-1122 requires the City to have an annual audit. In 2012, the City issued a Request for Proposals for auditing services and selected Berberich Trahan & Co., P.A. (now known as BT & Co., P.A.). The firm performed the audits of 2012 - 2015 financial statements. In 2016, the City issued a new Request for Proposals for auditing services and again selected BT & Co, P.A. BT & Co. performed annual audits of the 2016 - 2022 financial statements.

During this time, staff has found BT & Co. services to be of high quality at affordable pricing. Price increases for the last several years have averaged under 2% per year. Given their experience with Prairie Village and competitive pricing, staff was comfortable continuing to use BT & Co.'s services. However, in early September of this year, BT & Co. notified the city that due to increases in their costs, they would need to pass along a significant price increase.

In late September of this year, staff issued a Request for Proposals (RFP) for the Professional Audit Services for the City for a period of three years, with City options to renew for an additional two years. A Selection Committee made up of the Chair and Vice-Chair of the Finance Committee, Finance department staff, and the Deputy City Administrator received two proposals. Both were reviewed for service needed as well as pricing. A summary of the two proposals is shown below:

	BT & Co.	Gordon CPA
2023	\$ 42,000	\$ 30,625
2024	\$ 44,100	\$ 31,850
2025	\$ 46,200	\$ 33,125
2026*	\$ 48,300	\$ 33,450
2027*	\$ 50,400	\$ 35,825

*City options to renew

After reviewing the proposals, the Selection Committee interviewed Sean Gordon, Principal of Gordon CPA and conducted reference checks with three active clients. The Committee found Gordon CPA's services to be of high quality and their proposal best fit the needs and philosophy of the City at this time. The engagement is a three-year agreement with two, one-year options to renew.

The proposed fee for the 2023 audit is \$30,625, compared to BT & Co's fee for the 2022 audit of \$27,300.

FUNDING SOURCE

Funding for the financial statement audit is included in the 2024 budget for the Financial Management Program.

ATTACHMENTS: Agreement with Gordon CPA, LLC

PREPARED BY:

Jason Hanaman, Finance Director
November 14, 2023

November 3, 2023

Mayor and City Council
City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208

We are pleased to confirm our understanding of the services we are to provide the City of Prairie Village, Kansas, (the City) for the years ended December 31, 2023 through 2025, with options to renew for the years ended December 31, 2026 and 2027.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, each major fund, budgetary comparison schedules and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the City as of and for each year ended December 31, 2023. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures but will not be audited: Management Discussion and Analysis, the OPEB information and the pension liability information.

We have also been engaged to report on supplementary information other than RSI, such as combining and individual fund financial statements, that also accompanies the City's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole: combining statements and individual fund statements.

The objectives of our audit is to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is substantial likelihood that, individually or in the aggregate, they would influence the judgement of a reasonable user made based on the financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct the audit in accordance with auditing standards generally accepted in the United States of America and will include tests of your accounting records and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS, we will exercise professional judgement and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

Audit Procedures-Internal Control

We will obtain an understanding of understanding of the City and its environment, including internal control relevant to the audit, sufficient to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, forgery, intentional omission, misrepresentation, or the override of internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures-Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

Other Services

We will also prepare the financial statements of the City in conformity with U.S. generally accepted accounting principles based on information provided by you.

We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statement preparation and capital asset depreciation schedule compilation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services, and accept responsibility for them.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP, (3) that the methods of measurement or presentation have not changed from those used in the prior period; and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of emails transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

Engagement Administration, Fees and Other

When delivered to the City, the audit reports and financial statements produced in connection with this engagement letter are public records and may be used (a) to fulfill the requirements of continuing disclosure under SEC Rule 15c2-12, (b) as inserts or incorporated by reference in offering documents issued by the City, and (c) for any lawful purpose of the City, all without subsequent consent from me. Any official statements in connection with debt issuances which include the above-mentioned audit reports and financial statements shall contain the following: "Our independent auditor has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. The independent auditor also has not performed any procedures relating to this official statement."

Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

The workpapers for this engagement are our property and constitute confidential information. However, we may be requested to make certain workpapers available to others pursuant to authority given by law, regulation or other legal process. We will notify you of any such request. If requested, access to such workpapers will be provided under the supervision of firm personnel. Furthermore, upon request, we may provide photocopies of selected workpapers to governmental agencies who may intend or decide to distribute the photocopies or information contained therein to others, including other governmental agencies. You agree to reimburse us for our personnel and other costs associated with our compliance with such requests. Our policy is to retain workpapers for five years after the engagement.

During the term of this engagement, we agree to comply with the provisions of K.S.A. 44-1030.

It is understood that the services provided by our firm necessarily rely, to some extent, on information provided by your organization, including management representations, as well as information and documents. Accordingly, to the extent permitted under Kansas law, your organization indemnifies our firm and its owners and employees, and holds them harmless from all claims, liabilities, losses or costs in connection with services provided by our firm that are affected in any way by erroneous, misleading, or incomplete information furnished by your organization. This indemnification will survive any terminations under this letter.

Gordon CPA LLC and the City agree that any dispute arising hereunder (other than our efforts to collect unpaid fees and expenses) will, prior to resorting to litigation, be submitted to mediation by the parties. The parties will engage in the mediation process in good faith and such process shall be commenced by the written request by either party to the other to mediate any such dispute or alleged breach of this Agreement. Any mediation initiated as a result shall be administered within Johnson County, Kansas, by a mutually agreed-upon mediator in accordance with generally accepted mediation rules. Such mediation shall be binding on both parties only after execution of a written agreement setting forth the terms and conditions agreed to pursuant to such mediation. Any and all costs of mediation shall be divided equally between the parties hereto.

Sean Gordon, CPA is the engagement partner and is responsible for the engagement and signing the report or authorizing another individual to sign it. We agree that our gross fee, including all expenses, for the above services shall not exceed (except as noted above and below) \$30,625 for the year ended December 31, 2023. Future audit fees will be as follows:

\$31,850 for the year ended December 31, 2024
\$33,125 for the year ended December 31, 2025
\$34,450 for the year ended December 31, 2026*
\$35,825 for the year ended December 31, 2027*

*options to renew by City staff with concurrence of the City Council

The fee for the audit of each major single audit program shall not exceed \$3,000 each year.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit, including delays resulting from the untimely delivery of and incomplete preparation of schedules and questionnaires we have requested from your staff. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to the City of Prairie Village, Kansas and believe this letter accurately summarized the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed and return a copy of it to us.

Very truly yours,

Gordon CPA LLC
Certified Public Accountant



By: _____
Sean M. Gordon, CPA

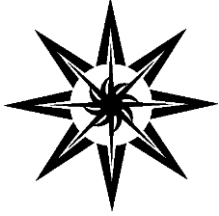
RESPONSE:

This letter correctly sets forth the understanding of the City of Prairie Village, Kansas.

By: _____

Title: _____

Date: _____



ADMINISTRATION/CITY ATTORNEY

City Council Meeting Date: November 20, 2023

COU2023-69

Consideration of Ethical Complaints by Mr. Mike Sullinger

RECOMMENDATION:

RECOMMEND THE COUNCIL COMMITTEE OF THE WHOLE REJECT ALL COMPLAINTS UNDER THE CODE OF ETHICS FILED BY MR. MIKE SULLINGER ON SEPTEMBER 20, 2023.

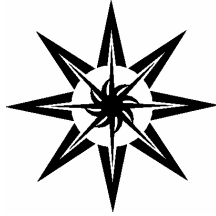
BACKGROUND:

The City Attorney will provide a memorandum/agenda cover for the Council Committee of the Whole's review prior to the meeting.

PREPARED BY:

David E. Waters
City Attorney

Date: November 14, 2023



ADMINISTRATION/CITY ATTORNEY

City Council Meeting Date: November 20, 2023

COU2023-70

Consideration of Updated Code of Ethics

RECOMMENDATION:

RECOMMEND THE COUNCIL COMMITTEE OF THE WHOLE CONSIDER UPDATES TO THE CITY'S CODE OF ETHICS.

BACKGROUND:

The City's Code of Ethics—codified in Section 1-212 of the City Code—has not been updated since 2008. Based on recent issues involving allegations raised under the Code of Ethics, City Staff undertook a review of the Code and those of neighboring municipalities in an effort to both clarify and, in certain cases, strengthen the Code. Staff asked the City Attorney to incorporate lessons from other cities and offer recommendations on how processes under the Code may be clarified and improved.

The Code of Ethics generally consists of two themes: (1) general expectations of behavior and conduct from public officials (which are not necessarily “law” or legally-binding, but are intended to recognize goals which officials should strive to achieve); and (2) enforceable provisions on conflicts of interest and self-dealing, particularly for financial or business gain. The following is a summary of the proposed changes in the draft revised Code of Ethics:

- Following the approach seemingly utilized by most municipalities reviewed by Staff, the Code of Ethics itself would not apply to employees, as the roles of elected and appointed officials differ from those of employees. However, Staff intends to incorporate similar provisions on conflicts and financial self-dealing in appropriate personnel manuals. Members of board, committees, or commissions are governed by a separate code of conduct included among the City Council policies.
- Clearer distinctions have been drawn between expectations of conduct and “guidelines” for behavior and enforceable violations of the Code of Ethics. As an example, new language has been added regarding expectations of civility. Given that “violations” of certain behaviors may be in the eye of the beholder, these standards are not intended to be legally enforceable, but instead serve as a reminder that members of the governing body are expected to comport themselves in appropriate ways.
- New language has been added prohibiting discrimination on the basis of various protected classes of persons.
- The conflict of interest sections have been revised to be consistent with Kansas state statutes on the issue. New language has also been added regarding acquisition of financial interests and the representation of private interests before the body.

- Additional language has been added regarding the disclosure of confidential information.
- In recognition that officials are often invited to represent the City at official functions or events, at which meals or the like may be served, the “gifts and favors” portion of the Code has been revised to allow officials to attend such engagements so long as there is no substantial risk of undermining official impartiality.
- The “misuse of city property” subsection has been expanded to apply to the misuse of City personnel and Staff.
- Clearer provisions allowing for advisory opinions have been added.
- Perhaps the greatest weakness in the current Code of Ethics is in the process by which allegations are raised and considered. Currently, the Code merely provides that allegations are brought to the Council Committee of the Whole which will—perhaps on an ad hoc basis—“adopt its own rules for studying and investigating complaints”. The draft revised Code establishes more specific procedures, so that allegations can be considered appropriately and uniformly, and not by whatever method the then-current Council Committee of the Whole may determine. Specifically, the new processes include the following:
 - An opportunity for officials to raise concerns informally with each other, acknowledging that certain ethical concerns may not constitute any legal violation, and allowing for a measure of self-enforcement. This is important so that City Staff is not regularly in the position of mediating or judging mere political or personality disputes;
 - Review by the City Administrator and/or the City Attorney, with the ability to engage outside independent counsel where appropriate;
 - The ability for certain complaints to be dismissed without full investigations or hearings where it is clear that an allegation, even if true, would not constitute a violation of the Code or other law, or where the complaint is frivolous or made for campaign or political purposes;
 - Investigative findings will otherwise be provided to the Council Committee of the Whole. Impacted persons will be expected to recuse themselves from discussion, deliberation, and debate on the matter, except as to provide their own evidence in their defense.
- Currently, the Code of Ethics only provides for “censor” (which should be “censure”) or ouster as possible punishments. The range of options has now been expanded to include no action, required ethics training, censure, removal from boards, or other lawful action (which could include ouster). The ability to refer violations of state or other local law to other enforcing officials has also been added.

ATTACHMENTS:

Revised draft Code of Ethics Ordinance.

ORDINANCE NO. 2489

AN ORDINANCE REGARDING THE CITY CODE OF ETHICS, AMENDING SECTION 1-212 (CODE OF ETHICS) OF ARTICLE 2 (GOVERNING BODY), CHAPTER I (ADMINISTRATION), OF THE CODE OF THE CITY OF PRAIRIE VILLAGE.

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

Section 1. Section 1-212 of the Prairie Village Municipal Code is hereby deleted in its entirety and amended to read as follows:

1-212. – CODE OF ETHICS POLICY.

(a) **Purposes, Policy, Goals, and Guidelines.**

- (i) The proper operation of democratic government requires that public officials be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels or governmental structures; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.
- (ii) Elected and appointed members of the governing body of the city are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office, regardless of personal consideration, recognizing that the public interest must be their primary concern. The conduct in both official and private affairs should be above reproach.

- (b) **Applicability.** This policy is intended to establish a code of ethics policy for all persons elected or appointed to the governing body. City employees are not covered by this policy, but the city administrator shall establish and maintain a comparable code of ethics policy for application to all city employees. Members of public committees shall be governed by the Code of Conduct set forth in City Council Policy CP001, as amended. The provisions of this code of ethics policy shall apply in addition to all applicable state and local laws. Violations of this code of ethics policy, by themselves, are not offenses or violations of law for purposes of section 1-116 of the city code.

- (c) **General Expectations of Conduct.** All members of the governing body should be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives. Members of the governing body are expected to be civil and professional in the performance of their duties. Members are expected to not knowingly misrepresent information

for the purpose of achieving a desired outcome. Members should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) **Requirements of and Actions Prohibited by the Code of Ethics.**

- (i) Fair and Equal Treatment. Members of the governing body shall not discriminate on the basis of sex, race, color, ethnic background, religion, age, national origin, gender, sexual orientation, disability, gender identity, or gender expression of employees in their employment with the city or individuals in their use and enjoyment of the services, privileges, and advantages of the city. This provision does not prohibit the governing body from making appointments, filling vacancies, or otherwise engaging the public in such way as to include community members with diverse backgrounds based on sex, race, color, ethnic background, religion, age, national origin, gender, sexual orientation, disability, gender identity, or gender expression.
- (ii) Conflicts of Interest. As used in this code, the terms “local governmental officer” and “substantial interest” shall have such meanings as are provided by K.S.A. 75-4301a(a), as amended.
 - (A) As provided in K.S.A. 75-4304, as amended, no local governmental officer shall, in the capacity of such an officer, make or participate in the making of a contract with any person or business by which the officer is employed or in whose business the officer has a substantial interest. A local governmental officer does not make or participate in the making of a contract if the officer abstains from any vote in regard to the contract. This subsection shall not apply (1) if the contract is let after the competitive bidding has been advertised for by public notice, or (2) when a contract is for property or services for which the price or rate is fixed by law.
 - (B) As provided in K.S.A. 75-4305, as amended, any local governmental officer who has not filed a disclosure of substantial interests as required by law shall, before acting upon any matter which will affect any business in which the officer has a substantial interest, file a written report of the nature of the interest with the Johnson County Election Office. A local governmental officer does not pass or act upon any matter if the officer abstains from any vote in regard to the matter.
 - (C) Unless otherwise permitted by law and proper disclosure is made, no member of the governing body shall engage in or accept private or public employment or render services for

pay or monetary consideration for a private or public interest when such employment or service is legally or clearly incompatible with the proper discharge of such member's official duties or would clearly impair such member's independent judgment or action in the performance of such member's official duties.

(iii) Private Benefit and Interests.

- (A) Members of the governing body shall not use their public office or position for their own private financial or personal gain or advantage of a kind that is not or could not be generally available to other citizens; nor for the private financial or similar personal gain or advantage of friends, relatives, or persons with whom the member is affiliated with in a non-governmental capacity.
- (B) To avoid creating the appearance of impropriety, undue influence, and impartiality, members of the governing body shall not appear on behalf of the private interests of any person or business entity before the city council, council committee of the whole, or any other commission, committee, or agency of the city to which they have been appointed, unless they are representing themselves, their spouse, or their minor child(ren). This provision does not prohibit a member of the governing body from attending city council, council committee of the whole, or any other commission, committee, or agency meetings in the performance of public or civic obligations.

(iv) Disclosure of Confidential Information. No member of the governing body, shall, without proper legal authorization, disclose confidential or privileged information provided to them in their official capacity concerning the property, government, or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself, or others. For the purposes of this subsection, "confidential or privileged information" includes any material information discussed in a closed or executive meeting that is specifically related to the basis for the closed or executive meeting and has not previously been made available to the public, and any record or information therein that has not previously been made available to the public and the member knows or should know is confidential or privileged.

(v) Gifts and Favors. No member of the governing body shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official: (A) accept any gift, favor or thing of value that may tend to influence them in the discharge of their duties or (B) grant in the

discharge of their duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (A) an occasional nonpecuniary gift or token of appreciation of only nominal value; (B) an award publicly presented in recognition of public service; (C) gifts or hospitality conferred on account of kinship or other personal, professional, or business relationships independent of the official status of the receiver; (D) invited attendance at receptions, events, luncheons, dinners, sporting events, or the like involving no substantial risk of undermining official impartiality; or (E) other gifts or invitations involving no substantial risk of undermining official impartiality or not clearly targeted at obtaining contractual or other business or financial arrangements from the member on behalf of the city.

- (vi) **Misuse of City Property and Staff.** Members of the governing body shall not use public resources that they may use in their official capacity (e.g., city-owned vehicles, city staff time, equipment, supplies, property, etc.) for private gain, personal purposes, or other activities not related to city business unless otherwise authorized by law or city policy. Prohibited activities that are not related to city business include using public resources to pursue personal commercial endeavors or conduct political activity, to include the activity prohibited by K.S.A. 25-4169a, and amendments thereto. Elected and appointed officials are expected to follow proper chains of command through the mayor, the city administrator, and department heads.
- (vii) **Political Activity.** No member of the governing body shall promise an appointment to any municipal position as a reward for any political activity.
- (e) **Advisory Opinions.** Any member of the governing body may submit a written request to the city attorney for an advisory opinion regarding whether their own proposed actions or conduct would violate a provision of this code. A copy of such request and any advisory opinion shall be provided to the mayor and the city administrator. The member shall have the opportunity to present the member's interpretation of the facts at issue and of the applicability of provisions of this code before such advisory opinion is made. When determining if there is clear and convincing evidence that a member who is the subject of the alleged violation violated a provision of this code, the city attorney and any independent counsel shall presume that the member did not violate a provision of this code if the member has received an advisory opinion and acted in accordance with its provisions. Any advisory opinion provided by the city attorney shall not create an attorney-client relationship and shall not be considered subject to the attorney-client privilege.
- (f) **Self-Responsibility.** This code of ethics policy is intended to be self-enforcing and is an expression of the standards of conduct expected by the city. Therefore, a copy of this policy shall be provided to all members of the governing body as part of their public office orientation. Each member

of the governing body is responsible for upholding these standards. The responsibility of knowing whether or not a given set of circumstances creates an ethical conflict and for acting appropriately rests solely with the individual.

(g) **Complaints under the Code of Ethics; State or other Local Law.**

(i) **Generally.**

- (A) If member of the governing body believes another member has violated any of the provisions of this code or other state or local law, the member with that belief should first advise the other member of their belief. If the member initiating the concern does not believe the matter has been satisfactorily resolved, such member may file a written complaint as provided below.
- (B) Any allegation of a violation of any of the provisions of this code or other state or local law against a member of the governing body may be brought by any person and must be submitted in writing as a formal complaint to the attention of the city clerk. Such complaint must be signed and notarized. The city clerk shall forward the complaint to the mayor, the city administrator, the city attorney, and the member accused of the violation.

(ii) **Investigations.**

- (A) Subject to subsections (j) and (k) below, the city attorney shall initially be responsible for investigating complaints and, if necessary, presenting investigative findings to the council committee of the whole. Alternatively, the city attorney may select, with the approval of the city administrator, independent counsel to conduct such investigations; provided, that nothing herein shall be deemed to require that the city attorney itself conduct any investigation if, in the reasonable opinion of the city attorney, the conduct of such an investigation would create any conflict with the role of the city attorney or other regulations applicable to licensed attorneys. Any independent counsel should have experience conducting investigations or in the area of governmental ethics.
- (B) The city attorney or independent counsel, as the case may be, shall investigate the complaint if they determine that the allegations in the complaint, if true, would constitute a violation of any of the provisions of this code or other state or local law. If the city attorney or independent counsel does not believe the allegations in the complaint, if true, would constitute a violation of any of the provisions of this code or other state or local law, the city attorney or independent

counsel shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member of the governing body accused of the violation.

- (C) If the city attorney or independent counsel proceeds with an investigation, they will also determine whether the alleged violation of the provisions of this code would also constitute a violation of state or other local law.

(iii) Investigative Findings.

- (A) Upon concluding the investigation of a complaint, if the city attorney or independent counsel finds that there is clear and convincing evidence that the member of the governing body who is the subject of the complaint violated any of the provisions of this code, they shall notify the mayor and the city administrator, and the city administrator shall coordinate the holding of a meeting of the council committee of the whole for consideration of such investigation. Prior to the meeting of the council committee of the whole, the city attorney or the independent counsel shall present the investigative findings to the official accused of the violation.
- (B) The city attorney or independent counsel shall present their investigative findings at the meeting of the council committee of the whole where the matter is discussed, and the governing body member who is accused of the violation shall have the right to present evidence on their behalf at the meeting. It is the expectation that such person accused will otherwise recuse themselves from discussion, deliberation, and debate on the matter. Failure to so recuse oneself shall constitute a separate and additional violation of the provisions of this code. After reviewing the investigative findings and the presentation of any evidence, the council committee of the whole will determine whether or not the member accused of the violation committed a violation of any of the provisions of this code.
- (C) If the city attorney or independent counsel concludes that there is clear and convincing evidence that a governing body member has violated any of the provisions of this code and that such violation also constitutes a violation of state or other local law, the city attorney or independent counsel shall include this information in the investigative findings they present to the mayor, city administrator, and council committee of the whole.
- (D) Upon concluding the investigation of a complaint, if the city attorney or independent counsel finds that there is not clear and convincing evidence that the governing body member

who is the subject of the complaint violated any of the provisions of this code or other state or local law, the city attorney or independent counsel shall not present the investigative findings to the council committee of the whole but shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member accused of the violation.

- (i) **Penalties.** If the council committee of the whole determines a member of the governing body who is the subject of a complaint under this code committed a violation of any of the provisions of this code, the Committee may recommend to the city council and the city council may approve one or more of the following actions:

- (i) No action be taken;
- (ii) Requiring that the governing body member participate in ethics training. Failure to complete such training after it has been ordered by the city council shall constitute a separate and additional violation of the provisions of this code;
- (iii) Issuing a written warning or an informal reprimand, or adopting a formal resolution of public censure; or
- (iv) Other lawful action that the city council deems appropriate, including but not limited to the institution of ouster proceedings.

- (j) **Violations of State and other Local Laws.** Violations of state or other local laws by members of the governing body may involve independent proceedings and penalties. Notwithstanding the foregoing procedures, if a complaint alleges a violation of any state or other local law, or if the city attorney or independent counsel concludes that a governing body member has violated a provision of this code and/or any such violation constitutes a violation of state or other local law, the city administrator, city attorney, council committee of the whole, or city council may submit to the chief of police, the Kansas Governmental Ethics Commission, the Kansas Attorney General, the Johnson County District Attorney, or other appropriate official a request for review, investigation, or other appropriate action pursuant to state or local law, including but not limited to initiation of criminal or civil proceedings, forfeiture of office, or ouster proceedings if appropriate.

- (k) **Limitations on Investigations and Enforcement.**

- (i) **Generally.**
 - (A) This code acknowledges that mere political, personal, or policy disagreements cannot generally support a claim for a violation of the code of ethics unless a specific prohibition or requirement of the code is claimed to have been violated. Public officials have a wide variety of backgrounds,

personalities, values, opinions, and goals, but despite this diversity, have all chosen to serve the public and act in the best interest of the community. A mere showing that a member of the governing body has a particular political or policy view or general opinion about a given issue, or is a member or employee of an organization that holds a particular political or policy view or general opinion about a given issue, will generally not suffice to show any violation of this code.

- (B) Accordingly, and unless directed otherwise by the mayor, the city administrator, or the city council, the city attorney or independent counsel shall not generally be called upon to investigate complaints related to political, personal, or policy disagreements, or complaints related to the general purposes, policies, goals, or guidelines of this code, or general expectations of conduct provided in this code.
- (C) if the city attorney or independent counsel finds that a complaint primarily involves political, personal, or policy disagreements, or complaints related to the general purposes, policies, goals, or guidelines of this code, or general expectations of conduct provided in this code, the city attorney or independent counsel shall not present any investigative findings to the council committee of the whole but shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member of the governing body accused of the violation.

- (ii) Campaign or Non-City-Related Matters. Nothing herein shall be deemed to require that city staff, the city attorney, or any independent counsel review, consider, or investigate complaints or issue advisory opinions related to matters which do not involve city business or operations or which, in the opinion of the city administrator, city attorney, or any independent counsel, constitute campaign or political questions or disputes, including but not limited to political remedies such as recall under K.S.A. 25-4301 *et seq.*
- (iii) Frivolous Complaints. Notwithstanding the foregoing procedures, the city administrator, city attorney, or independent counsel may also determine that a complaint is frivolous, or that repeated complaints are intended to disrupt essential functions of the city or harass a member of the governing body. If the city administrator, city attorney, or independent counsel makes such a determination, the city administrator, city attorney, or independent counsel shall present that finding to the mayor and (to the extent handled by the city attorney or independent counsel) the city administrator. If a determination has been made that a complaint is frivolous or is intended to disrupt essential functions of the city or harass an elected or appointed official, the mayor, city administrator, city

attorney, or independent counsel may dismiss the complaint and the city may refuse to accept another complaint from the complainant for up to one (1) year following notice to the complainant. For the purposes of this provision, a frivolous complaint is a complaint that has no basis in law or fact, fails to state a legitimate claim, or is brought either in bad faith or for the purpose of harassment.

Section 2. Section 1-212 of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this ordinance, are hereby repealed. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2023.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

ORDINANCE NO. 2489

AN ORDINANCE REGARDING THE CITY CODE OF ETHICS, AMENDING SECTION 1-212 (CODE OF ETHICS) OF ARTICLE 2 (GOVERNING BODY), CHAPTER I (ADMINISTRATION), OF THE CODE OF THE CITY OF PRAIRIE VILLAGE.

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

Section 1. Section 1-212 of the Prairie Village Municipal Code is hereby deleted in its entirety and amended to read as follows:

1-212. – CODE OF ETHICS POLICY.

~~(a) — Purpose. To establish guidelines for ethical standards of conduct.~~

~~(b) — Scope. This policy applies to officials and employees.~~

~~(c) —~~

(a) Purposes, Policy, Goals, and Guidelines.

(i) The proper operation of democratic government requires that public officials ~~and employees~~ be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels or governmental structures; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. ~~In recognition of these goals, there is hereby established a code of ethics for all officials and employees.~~

~~The purpose of this code is to establish guidelines for ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. The provisions and purpose of this code of ethics are in the best interests of the city. This code of ethics shall not apply to persons who serve only as members of boards, committees, or commissions.~~

~~(1) — Responsibilities of Public Office. Public officials and employees~~

(ii) Elected and appointed members of the governing body of the city

are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office, regardless of personal consideration, recognizing that the public interest must be their

primary concern. The conduct in both official and private affairs should be above reproach.

~~(2) — Dedicated Service.~~

(b) **Applicability.** This policy is intended to establish a code of ethics policy for all persons elected or appointed to the governing body. City employees are not covered by this policy, but the city administrator shall establish and maintain a comparable code of ethics policy for application to all city employees. Members of public committees shall be governed by the Code of Conduct set forth in City Council Policy CP001, as amended. The provisions of this code of ethics policy shall apply in addition to all applicable state and local laws. Violations of this code of ethics policy, by themselves, are not offenses or violations of law for purposes of section 1-116 of the city code.

(a) ~~All officials and employees~~ **General Expectations of Conduct.** All members of the city governing body should be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives. ~~Appointive officials and employees should adhere to the rules of work and~~ Members of the governing body are expected to be civil and professional in the performance ~~established as the standard for~~ of their ~~positions by the appropriate authority.~~

~~(b) — Officials and employees~~ duties. Members are expected to not knowingly misrepresent information for the purpose of achieving a desired outcome. Members should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

~~(d) — Fair and Equal Treatment.~~ ~~No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen, other than those established by council as employee fringe benefits.~~

~~(e) — Conflict of Interest.~~

~~(1) — No councilmember or other official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.~~

~~(2) — Substantial Interest in Any Business.~~ ~~No councilmember or other official or employee shall act on any matter which will affect any business in which he or she holds a substantial (as defined in K.S.A. 75-4301) interest unless a written report of the nature of such interest has been filed with the county clerk.~~

~~(3) — Participation~~

(d) Requirements of and Actions Prohibited by the Code of Ethics.

(i) Fair and Equal Treatment. Members of the governing body shall not discriminate on the basis of sex, race, color, ethnic background, religion, age, national origin, gender, sexual orientation, disability, gender identity, or gender expression of employees in their employment with the city or individuals in their use and enjoyment of the services, privileges, and advantages of the city. This provision does not prohibit the governing body from making appointments, filling vacancies, or otherwise engaging the public in such way as to include community members with diverse backgrounds based on sex, race, color, ethnic background, religion, age, national origin, gender, sexual orientation, disability, gender identity, or gender expression.

(ii) Conflicts of Interest. As used in this code, the terms “local governmental officer” and “substantial interest” shall have such meanings as are provided by K.S.A. 75-4301a(a), as amended.

(A) ~~As provided in a City Contract. No councilmember or other official shall~~ K.S.A. 75-4304, as amended, no local governmental officer shall, in the capacity of such an officer, make or participate in the making of ~~any~~ a contract ~~by the city~~ with any person or business by which ~~he or she~~ the officer is employed or in whose business ~~he or she~~ the officer has a substantial interest. ~~Any official or employee~~ A local governmental officer does not make or participate in the making of a contract if ~~he or she~~ the officer abstains from any ~~action~~ vote in regard to the ~~contact~~ contract. This ~~rule does~~ subsection shall not apply: ~~(i)~~ if the contract is let after the competitive bidding has been advertised for by public notice, or ~~(ii)~~ when a contract is for property or services for which the price or rate is fixed by law.

~~(4) — Incompatible Employment — No councilmember or other official or employee~~

(B) As provided in K.S.A. 75-4305, as amended, any local governmental officer who has not filed a disclosure of substantial interests as required by law shall, before acting upon any matter which will affect any business in which the officer has a substantial interest, file a written report of the nature of the interest with the Johnson County Election Office. A local governmental officer does not pass or act upon any matter if the officer abstains from any vote in regard to the matter.

(C) Unless otherwise permitted by law and proper disclosure is made, no member of the governing body shall engage in

or accept private or public employment or render services for pay or monetary consideration for a private ~~interests or~~ public interest when such employment or service is legally or clearly incompatible with the proper discharge of ~~his or her~~ such member's official duties or would ~~tend to~~ clearly impair ~~his or her independence of~~ such member's independent judgment or action in the performance of ~~his or her~~ such member's official duties, ~~unless otherwise permitted by law and unless disclosure is made as provided in this Code.~~

(iii)

Private Benefit and Interests.

(A)

Members of the governing body shall not use their public office or position for their own private financial or personal gain or advantage of a kind that is not or could not be generally available to other citizens; nor for the private financial or similar personal gain or advantage of friends, relatives, or persons with whom the member is affiliated with in a non-governmental capacity.

(B)

To avoid creating the appearance of impropriety, undue influence, and impartiality, members of the governing body shall not appear on behalf of the private interests of any person or business entity before the city council, council committee of the whole, or any other commission, committee, or agency of the city to which they have been appointed, unless they are representing themselves, their spouse, or their minor child(ren). This provision does not prohibit a member of the governing body from attending city council, council committee of the whole, or any other commission, committee, or agency meetings in the performance of public or civic obligations.

(iv)

~~(5) Disclosure of Confidential Information—~~ No councilmember or other official or employee member of the governing body, shall, without proper legal authorization, disclose confidential or privileged information provided to them in their official capacity concerning the property, government, or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself, or others. When a question arises about classification of information, the departmental supervisor and/or the city attorney shall make the determination. For the purposes of this subsection, "confidential or privileged information" includes any material information discussed in a closed or executive meeting that is specifically related to the basis for the closed or executive meeting and has not previously been made available to the public, and any record or information therein that has not previously been made available to the public and the member knows or should know is confidential or privileged.

(v)

~~(6) Gifts and Favors.~~ No councilmember or other official or employee member of the governing body shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her their knowledge

is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official~~or employee~~: (aA) accept any gift, favor or thing of value that may tend to influence ~~him or her~~them in the discharge of ~~his or her~~their duties or (bB) grant in the discharge of ~~his or her~~their duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (aA) an occasional nonpecuniary gift, or token of appreciation of only nominal value~~or~~; (bB) an award publicly presented in recognition of public service~~or~~; (cC) ~~any gift which would have been offered or given to him or her if not an~~gifts or hospitality conferred on account of kinship or other personal, professional, or business relationships independent of the official status of the receiver; (D) invited attendance at receptions, events, luncheons, dinners, sporting events, or the like involving no substantial risk of undermining official impartiality; or employee(E) other gifts or invitations involving no substantial risk of undermining official impartiality or not clearly targeted at obtaining contractual or other business or financial arrangements from the member on behalf of the city.

~~(7) — Late Case Interest. No public officer or employee shall, after the termination of service or employment with the city, appear before any board, commission, committee or agency of the city in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration. This does not preclude ex-employees from testifying in court on city-related matters.~~

~~F. — Political Activity. Employees are encouraged to vote in any and all elections for which they are eligible; however, to safeguard the city's policy of employment and advancement on the basis of merit and qualifications, employees are prohibited from participating in the election campaign of any candidate for city office or from holding any office in any political party organization "within the city" which may influence the election of any city official.~~

~~No official or employee, whether elected or appointed,~~

(vi) Misuse of City Property and Staff. Members of the governing body shall not use public resources that they may use in their official capacity (e.g., city-owned vehicles, city staff time, equipment, supplies, property, etc.) for private gain, personal purposes, or other activities not related to city business unless otherwise authorized by law or city policy. Prohibited activities that are not related to city business include using public resources to pursue personal commercial endeavors or conduct political activity, to include the activity prohibited by K.S.A. 25-4169a, and amendments thereto. Elected and appointed officials are expected to follow proper chains of command through the mayor, the city administrator, and department heads.

(vii) Political Activity. No member of the governing body shall promise an appointment to any municipal position as a reward for any political activity.

~~G. Misuse of City Property. No city official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.~~

~~H. Applicability of Code. When a councilmember or other official or employee has doubt as to the interpretation or the applicability of a provision of this Code to a particular situation, he/she should apply in writing to the policy/services committee for an advisory opinion and be guided by that opinion when given. Any official, employee or citizen shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provision(s) of the Code before such advisory decision is made. This Code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or charter provision and statutory or charter action is mandatory, or when the application of a statutory or charter provision is discretionary but determined to be more appropriate or desirable.~~

~~I. Distribution of Code of Ethics. The city clerk shall cause a copy of this code of ethics to be distributed to every public officer and employee of the city within 30 days after enactment of this Code. Each public officer and employee elected, appointed or employed thereafter, shall furnish a copy.~~

~~J. Enforcement of Code. Any alleged violation by a public official or employee shall be brought to the attention of the Council Committee of the Whole by a written complaint duly signed by a complaining party. The Council Committee of the Whole shall investigate the written complaint. The Council Committee of the Whole shall adopt its own rules for studying and investigating complaints. After investigating the complaint, the Council Committee of the Whole shall make recommendations in writing to the mayor and the department head of the employee. The mayor and department head shall take whatever action they deem appropriate. In the case of employees, action shall be based upon established employment policies of the city, including dismissal where appropriate. On the part of public officials, action, if any, shall either be public censor or ouster, provided that all action be in accordance with the applicable statutes of the State of Kansas.~~

(e) Advisory Opinions. Any member of the governing body may submit a written request to the city attorney for an advisory opinion regarding whether their own proposed actions or conduct would violate a provision of this code. A copy of such request and any advisory opinion shall be provided to the mayor and the city administrator. The member shall have the opportunity to present the member's interpretation of the facts at issue and of the applicability of provisions of this code before such

advisory opinion is made. When determining if there is clear and convincing evidence that a member who is the subject of the alleged violation violated a provision of this code, the city attorney and any independent counsel shall presume that the member did not violate a provision of this code if the member has received an advisory opinion and acted in accordance with its provisions. Any advisory opinion provided by the city attorney shall not create an attorney-client relationship and shall not be considered subject to the attorney-client privilege.

(f) **Self-Responsibility.** This code of ethics policy is intended to be self-enforcing and is an expression of the standards of conduct expected by the city. Therefore, a copy of this policy shall be provided to all members of the governing body as part of their public office orientation. Each member of the governing body is responsible for upholding these standards. The responsibility of knowing whether or not a given set of circumstances creates an ethical conflict and for acting appropriately rests solely with the individual.

(g) **Complaints under the Code of Ethics; State or other Local Law.**

(i) **Generally.**

(A) If member of the governing body believes another member has violated any of the provisions of this code or other state or local law, the member with that belief should first advise the other member of their belief. If the member initiating the concern does not believe the matter has been satisfactorily resolved, such member may file a written complaint as provided below.

(B) Any allegation of a violation of any of the provisions of this code or other state or local law against a member of the governing body may be brought by any person and must be submitted in writing as a formal complaint to the attention of the city clerk. Such complaint must be signed and notarized. The city clerk shall forward the complaint to the mayor, the city administrator, the city attorney, and the member accused of the violation.

(ii) **Investigations.**

(A) Subject to subsections (j) and (k) below, the city attorney shall initially be responsible for investigating complaints and, if necessary, presenting investigative findings to the council committee of the whole. Alternatively, the city attorney may select, with the approval of the city administrator, independent counsel to conduct such investigations; provided, that nothing herein shall be deemed to require that the city attorney itself conduct any investigation if, in the reasonable opinion of the city attorney, the conduct of such an investigation would create any conflict with the role of the city attorney or other regulations applicable to licensed attorneys. Any independent counsel should have experience conducting investigations or in the area of governmental ethics.

- (B) The city attorney or independent counsel, as the case may be, shall investigate the complaint if they determine that the allegations in the complaint, if true, would constitute a violation of any of the provisions of this code or other state or local law. If the city attorney or independent counsel does not believe the allegations in the complaint, if true, would constitute a violation of any of the provisions of this code or other state or local law, the city attorney or independent counsel shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member of the governing body accused of the violation.
- (C) If the city attorney or independent counsel proceeds with an investigation, they will also determine whether the alleged violation of the provisions of this code would also constitute a violation of state or other local law.

(iii) Investigative Findings.

- (A) Upon concluding the investigation of a complaint, if the city attorney or independent counsel finds that there is clear and convincing evidence that the member of the governing body who is the subject of the complaint violated any of the provisions of this code, they shall notify the mayor and the city administrator, and the city administrator shall coordinate the holding of a meeting of the council committee of the whole for consideration of such investigation. Prior to the meeting of the council committee of the whole, the city attorney or the independent counsel shall present the investigative findings to the official accused of the violation.
- (B) The city attorney or independent counsel shall present their investigative findings at the meeting of the council committee of the whole where the matter is discussed, and the governing body member who is accused of the violation shall have the right to present evidence on their behalf at the meeting. It is the expectation that such person accused will otherwise recuse themselves from discussion, deliberation, and debate on the matter. Failure to so recuse oneself shall constitute a separate and additional violation of the provisions of this code. After reviewing the investigative findings and the presentation of any evidence, the council committee of the whole will determine whether or not the member accused of the violation committed a violation of any of the provisions of this code.
- (C) If the city attorney or independent counsel concludes that there is clear and convincing evidence that a governing body member has violated any of the provisions of this code and that such violation also constitutes a violation of state or other local law, the city attorney or independent counsel shall include this information in the investigative

findings they present to the mayor, city administrator, and council committee of the whole.

- (D) Upon concluding the investigation of a complaint, if the city attorney or independent counsel finds that there is not clear and convincing evidence that the governing body member who is the subject of the complaint violated any of the provisions of this code or other state or local law, the city attorney or independent counsel shall not present the investigative findings to the council committee of the whole but shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member accused of the violation.

- (i) **Penalties.** If the council committee of the whole determines a member of the governing body who is the subject of a complaint under this code committed a violation of any of the provisions of this code, the Committee may recommend to the city council and the city council may approve one or more of the following actions:

- (i) No action be taken;
- (ii) Requiring that the governing body member participate in ethics training. Failure to complete such training after it has been ordered by the city council shall constitute a separate and additional violation of the provisions of this code;
- (iii) Issuing a written warning or an informal reprimand, or adopting a formal resolution of public censure; or
- (iv) Other lawful action that the city council deems appropriate, including but not limited to the institution of ouster proceedings.

- (j) **Violations of State and other Local Laws.** Violations of state or other local laws by members of the governing body may involve independent proceedings and penalties. Notwithstanding the foregoing procedures, if a complaint alleges a violation of any state or other local law, or if the city attorney or independent counsel concludes that a governing body member has violated a provision of this code and/or any such violation constitutes a violation of state or other local law, the city administrator, city attorney, council committee of the whole, or city council may submit to the chief of police, the Kansas Governmental Ethics Commission, the Kansas Attorney General, the Johnson County District Attorney, or other appropriate official a request for review, investigation, or other appropriate action pursuant to state or local law, including but not limited to initiation of criminal or civil proceedings, forfeiture of office, or ouster proceedings if appropriate.

- (k) **Limitations on Investigations and Enforcement.**

- (i) Generally.

- (A) This code acknowledges that mere political, personal, or policy disagreements cannot generally support a claim for

a violation of the code of ethics unless a specific prohibition or requirement of the code is claimed to have been violated. Public officials have a wide variety of backgrounds, personalities, values, opinions, and goals, but despite this diversity, have all chosen to serve the public and act in the best interest of the community. A mere showing that a member of the governing body has a particular political or policy view or general opinion about a given issue, or is a member or employee of an organization that holds a particular political or policy view or general opinion about a given issue, will generally not suffice to show any violation of this code.

(B) Accordingly, and unless directed otherwise by the mayor, the city administrator, or the city council, the city attorney or independent counsel shall not generally be called upon to investigate complaints related to political, personal, or policy disagreements, or complaints related to the general purposes, policies, goals, or guidelines of this code, or general expectations of conduct provided in this code.

(C) if the city attorney or independent counsel finds that a complaint primarily involves political, personal, or policy disagreements, or complaints related to the general purposes, policies, goals, or guidelines of this code, or general expectations of conduct provided in this code, the city attorney or independent counsel shall not present any investigative findings to the council committee of the whole but shall provide their reasons for this finding in writing to the mayor and the city administrator who will forward those reasons to the complainant and the member of the governing body accused of the violation.

(ii) Campaign or Non-City-Related Matters. Nothing herein shall be deemed to require that city staff, the city attorney, or any independent counsel review, consider, or investigate complaints or issue advisory opinions related to matters which do not involve city business or operations or which, in the opinion of the city administrator, city attorney, or any independent counsel, constitute campaign or political questions or disputes, including but not limited to political remedies such as recall under K.S.A. 25-4301 et seq.

(iii) Frivolous Complaints. Notwithstanding the foregoing procedures, the city administrator, city attorney, or independent counsel may also determine that a complaint is frivolous, or that repeated complaints are intended to disrupt essential functions of the city or harass a member of the governing body. If the city administrator, city attorney, or independent counsel makes such a determination, the city administrator, city attorney, or independent counsel shall present that finding to the mayor and (to the extent handled by the city attorney or independent counsel) the city

administrator. If a determination has been made that a complaint is frivolous or is intended to disrupt essential functions of the city or harass an elected or appointed official, the mayor, city administrator, city attorney, or independent counsel may dismiss the complaint and the city may refuse to accept another complaint from the complainant for up to one (1) year following notice to the complainant. For the purposes of this provision, a frivolous complaint is a complaint that has no basis in law or fact, fails to state a legitimate claim, or is brought either in bad faith or for the purpose of harassment.

Section 2. Section 1-212 of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this ordinance, are hereby repealed. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2023.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

Document comparison by Workshare Compare on Tuesday, November 14, 2023
12:40:55 PM

Input:	
Document 1 ID	iManage://spencerfane-mobility.imanage.work/overlandpark/3668851/1
Description	#3668851v1<spencerfane-mobility.imanage.work> - Updated Code of Ethics Ordinance (2023)
Document 2 ID	iManage://spencerfane-mobility.imanage.work/overlandpark/3668851/5
Description	#3668851v5<spencerfane-mobility.imanage.work> - Updated Code of Ethics Ordinance (2023)
Rendering set	Standard

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

Statistics:	
	Count
Insertions	139
Deletions	74
Moved from	6
Moved to	6
Style changes	0
Format changes	0

Total changes	225
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MAYOR'S ANNOUNCEMENTS
Monday, November 20, 2023

Thanksgiving observed – City offices closed	11/23/2023 – 11/24/2023	
Mayor's holiday tree lighting	11/30/2023	6:00 p.m.
Gingerbread house decorating party	12/03/2023	1:30 p.m.
City Council	12/04/2023	6:00 p.m.
Planning Commission	12/05/2023	7:00 p.m.

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INFORMATIONAL ITEMS
November 20, 2023

1. Tree Board meeting minutes – August 2, 2023
2. Planning Commission meeting minutes – October 3, 2023

Minutes Aug 2, 2023

Meeting started at 6:07pm

Ian Graves (minutes), Bridget Tolle, Mark Morgan, Mark Kaufman, Kirk Walters, Beth Held, Kevin Dunn, Lindsay Voitik, Karen Hogan,

Guests: Missy, Susie

- 1) Previous minutes for June 7th, 2023 meeting were approved.
- 2) Assessment of Damage
 - a. 40 city trees damage
 - b. 89MPH winds recorded, 73MPH is the threshold for mass failure
 - c. 35,000 cu. Yards of debris to be collected
 - d. Ashbritt was retained to do emergency response. Ashbritt has been subcontracting hauling away.
 - e. What about private trees that haven't been removed? Owners' responsibility, but city may eventually remind/cite people who haven't cleaned up debris, but that's a ways out.
 - f. 64 houses significantly damaged, 14 not habitable, and 2 hit last Sunday
 - g. Encouraging winter pruning would be a good approach to saving money and hitting the necessary maintenance at the right time of year.
 - h. The group reviewed photos of the tree damage from around town
- 3) Arbor Day Poster Contest
 - a. This is the time to get the schools on board for arbor day poster contests. Prairie Elementary noted that there are lots of contests that they get invited to participate in.
 - b. Kevin asked Ian and Kim to contact Principal Yeoman at Belinder to get school engaged. Other schools could include KCC, Curé, Prairie, St. Ann's, Highlawn, Highlands.
- 4) Native Tree Sale – Mark Morgan
 - a. Working with Forrest Keeling(?) that participates in native plant sales
 - b. Black Dirt farms in Liberty seems too small to handle the necessary
 - c. One idea would be to draft off of the Grow Native Event at Anita Gorman
 - i. Preordering via a nice website
 - ii. Each tree is 30 bucks
 - iii. Three gallon trees
 - iv. 10% Promo code for PV Residents
 - v. Could make the Village Voice if we get links and promo codes in time
- 5) Tree Ordinance Discussion on notification, penalties & enforcement
 - a. Do we as a tree board make recommendations to council about how notification could be better?

- b. How to contact the city regarding tree protection? Should we integrate it into OpenGov?
 - c. Penalties? Get a formula from Kim Bomberger on how to value a tree. It seems to be the case that working up a tree-based fine may be too complicated for the problem according to Bridget and James.
 - d. Enforcement? We can't stay on top of everything, but let's gather data on violations and similar.
- 6) Forming a larger strategic plan – Beth and Kim
 - a. Aerial photography to map and look at the tree canopy.
 - b. LIDAR services are really expensive.
 - c. What about photogrammetry
- 7) Fall Tree Seminar Oct 4th and Meadowbrook
 - a. Punted to next meeting.
- 8) New Business (park tree mapping)
 - a. Lindsey got her certificate for her champion English Oak
- 9) Agenda for next meeting – September 6, 2023

Adjourned at: 8:09pm

PLANNING COMMISSION MINUTES OCTOBER 3, 2023

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, October 3, at 7:00 p.m. in the Council Chambers at 7700 Mission Road. Chair Greg Wolf called the meeting to order at 7:00 p.m. with the following members present: Jonathan Birkel, James Breneman, Patrick Lenahan, Melissa Brown, Nancy Wallerstein, and Jeffrey Valentino.

The following individuals were present in their advisory capacity to the Planning Commission: Chris Brewster, Multistudio; Nickie Lee, Deputy City Administrator; Mitch Dringman, Building Official; Greg Shelton, Council Liaison; Adam Geffert, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Mr. Breneman moved for the approval of the minutes of the July 11, 2023, regular Planning Commission meeting. Mr. Birkel seconded the motion, which passed unanimously.

Mr. Lenahan moved for the approval of the summary of the August 22, 2023, Planning Commission work session. Mr. Breneman seconded the motion, which passed unanimously.

PUBLIC HEARINGS

PC2023-112 Conditional use permit for drive-up ATM
 5368 W. 95th Street
 Zoning: CP-1
 Applicant: Scott McGregor, Southwind Group

Mr. Brewster stated that the applicant was requesting approval of a conditional use permit for a drive-up automated teller machine (ATM), which had already been placed in the parking area of the shopping center. The ATM was not included in the final development plan which was approved by the Planning Commission in 2021; however, it was included on subsequent permit plans reviewed and approved by the City. At the time of approval, that fact that the ATM was not included in the prior plans and did not have the required conditional use permit approval was missed.

The prior associated application reviewed by the Planning Commission in 2021 included the partial tear-down of an existing building, construction of a new two-story building,

cosmetic changes to all existing buildings, and associated site improvements for the property. The plan also included a playground, reconfiguration of outside courtyard spaces, some parking reconfiguration and reconstruction, and associated landscape changes. The Planning Commission approved the preliminary and final development plan subject to conditions provided by staff. Since that time, all conditions have been met, and the only outstanding issue is the ATM.

Mr. Brewster said that the property was zoned CP-1: Planned Restricted Business District, and that zoning regulations allowed accessory drive-up service areas for non-food and beverage businesses but required a conditional use permit to be reviewed and approved by the Planning Commission. He added that the application met the criteria for conditional use permits for drive-up service areas, and was consistent with the approved preliminary development plan, final development plan, and landscape plan. Public Works and Consolidated Fire District #2 had both reviewed and approved the proposed circulation pattern around the ATM.

Mrs. Wallerstein asked how many parking spaces were lost due to the installation of the ATM, and how that impacted total parking for the shopping center overall. Mr. Brewster stated two spots had been removed, but that the amount of parking was still adequate.

Mr. Birkel asked whether additional on-street parking would be allowed on 94th Terrace behind the shopping center. Mr. Brewster said that parking along the street was not included in the previous plan approval, nor a part of the overall parking count, but was permitted.

Jared Hagedorn with Generator Studio, the architect for the project, was present to discuss the application. He noted that with the rise in online banking, ATM visits had decreased, which would limit traffic flow in the lot.

Mr. Wolf opened the public hearing at 7:18 p.m. With no one present to speak, Mr. Wolf closed the hearing at 7:19 p.m.

Mr. Breneman made a motion to approve the conditional use permit. The motion was seconded by Ms. Brown.

Mrs. Wallerstein amended the motion to add a five-year term to the permit. After further discussion, the amended motion passed unanimously.

NON-PUBLIC HEARINGS

PC2023-110	Site plan for alternate location for standby emergency generator 7340 Windsor Street Zoning: R-1B Applicant: Julie Schlachter
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Mr. Brewster stated that the applicant was requesting approval of a permit for a generator. The Building Official determined that the proposed location needed to be approved by the Planning Commission through the site plan review process, due to its proximity to the adjacent house.

The City's zoning regulations allow permanent standby emergency generators as an accessory use for any single-family dwelling subject to specific conditions and location criteria, but state that the Building Official may require an application to the Planning Commission when there are questions or interpretation issues associated with the conditions or location criteria. Mr. Brewster noted that in this case, there was an interpretation issue associated with the side and rear yard, and proximity to the adjacent house.

The side yard is generally any yard that is not the front or the rear, and the front of a lot is defined as the short side of the lot, unless the Building Official determines otherwise based on the context. Therefore, the 74th Street frontage is the front yard unless circumstances determine otherwise. Mr. Brewster said that the house had an atypical configuration oriented toward Windsor Street and had a Windsor Street address. However, the building is positioned similar to other buildings along the blocks in relation to the lot, so the home to the west has a side-to-side yard relationship, and the home to the north has a rear-to-rear yard relationship. This circumstance warrants consideration of the location criteria to allow the generator to be placed at a site different from what otherwise may be considered the rear yard, regardless of the interpretation.

Mr. Brewster stated that staff recommended approval of the site plan and proposed alternative location subject to the following conditions:

1. The applicant submits specifications or other equipment information regarding noise or noise mitigation, that ensures the equipment is operated within Prairie Village noise ordinances or otherwise does not cause adverse impacts. This may include a low-noise generator, and noise shield, or other type of buffer and sound barrier
2. The location is within 5' of the principal structure
3. The equipment is screened with landscape and/or a decorative fence at or behind the building line on 74th Street; and the equipment is also screened from the adjacent property by the same techniques or by equipment casing

Applicant and property owner Julie Schlachter was present to discuss the application. She stated she had no concerns with the three conditions proposed by staff.

Ms. Brown asked how the size of generators was regulated in the zoning regulations. Mr. Brewster stated that there were no size restrictions. Ms. Brown and Mr. Valentino suggested that staff consider adding such limits.

Mr. Lenahan made a motion to approve the application with the conditions recommended by staff. The motion was seconded by Mr. Valentino and passed unanimously.

OTHER BUSINESS

Continued discussion of potential updates to R-2, R-3, R-4, C- and MXD districts

Mr. Brewster said that the Planning Commission held a work session on August 22, 2023, to discuss next steps on housing policies related to Village Vision 2.0, and the specific task of considering updates to R-2, R-3, R-4, C-, and MXD districts to integrate housing options. The work session was a direct follow-up to the public forums held on June 22, 2023, and July 13, 2023.

He noted that the direction of the Planning Commission based on the August 22 work session was the following:

- R-2 district
 - Monitor if changes are needed to be a better transition between R-1 and R-3 districts, but no specific changes identified
- R-3 and R-4 districts
 - Update to maintain existing development scale
 - Use improved planned zoning for any redevelopment
- C-O district
 - Target residential types more compatible with mixed-use contexts
- C-1 and C-2
 - Allow mixed-use residential subject to general standards
 - Facilitate new residential infill or redevelopment through MXD and/or improved planned zoning
- MXD district
 - Develop better criteria and standards for mixed-use projects
 - Improve expectations in plan process and submittals
 - Repurpose for strategic application (smaller scale and/or infill situations)
- -P (Planned zoning)
 - Improve criteria, applications, and expectations

Mr. Brewster then shared a proposed strategy for potential amendments:

- MXD: Improve for current needs
 - Better criteria and standards for mixed-use projects
 - Neighborhood and community design standards (circulation and structure)
 - Building design (range of residential and mixed-use types with design standards similar to R-1 approaches)
 - Relation to surrounding contexts (integration and/or transitions)
 - Repurpose for more strategic application
 - Residential types - at edges of current commercial centers
 - Residential and mixed-use types - integrate into current commercial areas

- All types - redevelopment of current commercial areas as mixed-use project
- -P: Improved criteria
 - Rezoning action (i.e., R-3 to RP-3, C-0 to CP-0)
 - Better criteria and/or standards for planned projects
 - Identify community improvements and design enhancements
 - Targets for project scale - changes to height, density, or lot coverages
 - Improve expectations in plan and process
 - Coordinate planning details with approvals and/or entitlements
- R-2: Monitor for transitions between R-1 and R-3
 - No specific changes recommended
 - Consider basic design standards
- R-3 / R-4: Maintain existing development scale
 - Inventory of biggest non-conformities
 - Amend to reflect existing buildings
 - Permit redevelopment / increases through improved -P designations
 - Incorporate low- and mid-scale residential projects from MXD districts
 - Consider basic design standards (similar to R-1 approach)
- C-0: Target residential types compatible with mixed-use contexts
 - Currently requires R-1, R-2, or R-3 standards
 - Incorporate mid-scale residential projects from MXD
 - Allow repurposing of commercial buildings as mixed-use or all residential projects
 - Allow residential in commercial buildings
 - Incorporate low- and mid-scale mixed-use projects from MXD districts
- C-1 / C-2: Residential currently not allowed
 - Allow residential in commercial buildings (upper floor or behind ground-level commercial)
 - Greater intensity and/or redevelopment for residential of mixed-use in C-1 or C-2
 - Use improved “planned zoning” criteria (more specific community benefits or design enhancements)
 - Rezone to MXD (mid-scale residential; small- or medium-scale mixed-use buildings)

Lastly, Mr. Brewster shared recommended next steps:

- Update City Council on Planning Commission direction
- Revise strategy and create initial draft updates
- Review and discuss concepts and initial draft with the Planning Commission and / or via public forum
- Incorporate feedback into recommended draft updates - revise and discuss as needed

- City Council status updates as needed
- Introduce recommendations into formal public review, comment, and adoption process

Mrs. Wallerstein asked if the recommendations were in alignment with the actions Council took on October 2, 2023, clarifying their priorities in the housing discussion. Councilman Greg Shelton stated that they did align with the “status sheet” the Council passed.

Mr. Lenahan agreed with additional clean-up to the language regarding building coverage, parking, landscaping percentages and building heights rather than “lot area per unit” requirements.

Mr. Birkel requested to receive information ahead of time for the next discussion and others agreed.

Commissioners indicated their support for the proposed strategies and next steps.

ADJOURNMENT

With no further business to come before the Commission, Mr. Wolf adjourned the meeting at 8:26 p.m.

Adam Geffert
City Clerk/Planning Commission Secretary