

**AGENDA
CITY OF VALLEY CENTER
7:00 pm
December 1, 2009
CITY HALL - 121 S. Meridian**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. INVOCATION: JASON RAMSEY**
- 4. PLEDGE OF ALLEGIANCE**
- 5. APPROVAL OF AGENDA** p 2
- 6. CLERKS AGENDA** p 3
 - A. Minutes p 4
 - B. Appropriation Ordinance p 8
- 7. PRESENTATIONS / PROCLAMATIONS** p 13
- 8. PUBLIC FORUM** (*Citizen input and requests*) p 13
- 9. COMMITTEES, COMMISSIONS and APPOINTMENTS** p 13
- 10. OLD BUSINESS** p 13
- 11. NEW BUSINESS** p 14
 - A. Ordinance 1187-09; Operation of Cell Phone in moving vehicle p 15
 - B. Discussion of Noise Ordinance p 18
 - C. Discussion of Special Assessment Policy p 20
- 12. CONSENT AGENDA** p 24
- 14. STAFF REPORTS** p 24
- 15. GOVERNING BODY REPORTS** p 25
- 16. ADJOURN**

APPROVAL OF AGENDA

RECOMMENDED ACTION:

TO APPROVE THE AGENDA AS PRESENTED / AMENDED.

CLERK'S AGENDA

A. MINUTES:

Attached are the minutes from the meeting of November 17, 2009 Regular City Council Meeting as prepared by the City Clerk.

RECOMMENDED ACTION:

TO APPROVE THE NOVEMBER 17, 2009 COUNCIL MEETING MINUTES AS PRESENTED / AMENDED.

REGULAR COUNCIL MEETING
NOVEMBER 17, 2009
CITY HALL
121 S. MERDIAN

Mayor McNown called the meeting to order at 7:00 p.m. with the following members present: Kate Jackson, Marci Maschino, Cheryl Nordstedt, Bruce Campbell, Louis Cicirello, Harrison Gerling, Al Hobson and Lionel Jackson.

Members absent: None

Staff Present: Joel Pile, City Administrator
Kristine Polian, City Clerk
Richard Dunn, City Superintendent
Lonnie Tormey, Fire Chief
Mark Hephner, Police Chief
Neal Owings, Parks Superintendent
Eldon Miller, Community Development Officer
Barry Arbuckle, City Attorney
Mike Kelsey, City Engineer

Press present: The Ark Valley News

APPROVAL OF THE AGENDA

Maschino moved, second by Cicirello, to approve the Agenda as presented. Vote yea: unanimous. Motion carried.

CLERK'S AGENDA

MINUTES- NOVEMBER 3, 2009

Councilmember K. Jackson asked that under her report the IS-300 be changed to IS-400.

Nordstedt moved, second by Cicirello, to approve the November 3, 2009 minutes as amended. Vote yea: unanimous. Motion carried.

APPROPRIATION ORDINANCE- 11/17/09

Cicirello moved, second by K. Jackson, to approve Appropriation Ordinance No. 11/17/09 as presented. Vote yea: unanimous. Motion carried.

TREASURER'S REPORT- OCTOBER 2009

Maschino moved, second by K. Jackson, to receive and file the October 2009 Treasurer's Report. Vote yea: unanimous. Motion carried.

PRESENTATIONS / PROCLAMATIONS

COMMITTEES, COMMISSION AND APPOINTMENTS

OLD BUSINESS

REVISED CHARTER ORDINANCE 27-2009, 2nd READING

Nordstedt moved, second by Cicirello, to adopt Charter Ordinance 27-2009 for 2nd reading. Vote yea: Mayor McNow, Maschino, Nordstedt, Campbell, Cicirello and L. Jackson. Opposed: K. Jackson, Gerling and Hobson. Motion carried.

NEW BUSINESS

FORD STREET TRACT PLANNING AND ENGINEERING

Maschino moved, second by L. Jackson, to approve the scope of services and contract for engineering services as presented and authorize the Mayor to sign. Vote yea: unanimous. Motion carried.

SUBDIVISION REGULATIONS

Cicirello moved, second by Campbell, to adopt Ordinance 1186-09 adopting proposed subdivision regulations as a model code for the City of Valley Center and the City's subdivision area of influence. Vote yea: unanimous. Motion carried.

CONSENT AGENDA

Maschino moved, second by Cicirello, to approve the Consent Agenda as presented. Vote yea: unanimous. Motion carried.

STAFF REPORTS

CITY CLERK POLIAN

Asked Council to consider closing an hour early on December 4 for the employee holiday party to give employees more time to get to the party.

Cicirello moved, second by Hobson, to close City business hours an hour early on December 4 for purposes of the Holiday party. Vote yea: unanimous. Motion carried.

COMMUNITY DEVELOPMENT OFFICER MILLER

Said he will be putting the Neighborhood Development Plans on the December 15 Agenda.

PARKS SUPERINTENDENT OWINGS

Said he and his Staff planted 45 new trees at Arrowhead Park; added 3 new security lights between McLaughlin and Lion's Parks; and topped off the playground mulch at Arrowhead and Lion's Parks.

CITY ENGINEER KELSEY

Said the final plans for the Ford Street Bridge were turned in November 2; bids for the project would be considered on December 4th; and construction would begin sometime in January or February. Also said the waterline construction project for the new high school will begin after Thanksgiving.

CITY ADMINISTRATOR PILE

Said he met with representatives from the Senior Club to discuss possible outcomes for the program. Said Councilmember L. Jackson will ride with the Senior Center Director to explain the loss of funding for the Good Neighbor Nutrition Program; a letter will be written to all recipients of the program as well. Said he will be getting a facilitator involved to assist the seniors with a program, who will be Cathy Sexton, a current City employee.

GOVERNING BODY REPORTS

MAYOR MCNOWN

Said that some elementary students came to City Hall for a school program called "If I were Mayor for a day", and that City Administrator Pile put together some great activities for the students and the program was a success. Stated the Veteran's Day celebration was a great success and hopes to see the program expand in future years. Appointed the following people to the Veteran's Appreciation Committee:

Kate Jackson, Chair, Councilmember
Al Hobson, Councilmember
Kim Wimmer, DAR representative
Kathryn Schroeder, Veteran/ American Legion
JoAnn Gerling, citizen

Cicirello moved, second by K. Jackson, to approve the Veteran's Appreciation Committee appointments. Vote yea: unanimous. Motion carried.

COUNCILMEMBER K. JACKSON

Said she will be attending the IS-400 as required by the National Incident Management System on November 21 and for those that wish to attend should contact Sedgwick County to register.

COUNCILMEMBER GERLING

Asked Staff to prepare an Ordinance prohibiting cell phone usage while driving to be considered by Council at the next meeting.

COUNCILMEMBER HOBSON

Stated 5 veterans who were unable to attend the Veteran's Day celebration thanked the Governing Body for the event.

COUNCILMEMBER L. JACKSON

Thanked Councilmember K. Jackson and the Veteran's Appreciation Committee for the program they put together. Also thanked the LDS Church for honoring certain member of the community and 2 Eagle Scouts for their work within the community.

Maschino moved, second by Nordstedt, to adjourn the meeting. Vote yea: unanimous. Motion carried.

Meeting adjourned at 7:38 p.m.

Kristine Polian, City Clerk

CLERK'S AGENDA

B. APPROPRIATION ORDINANCE:

Below is the proposed appropriation ordinance for December 1, 2009 as prepared by City Staff.

December 1, 2009 Appropriation	<u>\$ 55,112.04</u>
Total	\$ 55,112.04

RECOMMENDED ACTION:

**TO APPROVE THE DECEMBER 1, 2009 APPROPRIATION
ORDINANCE AS PRESENTED / AMENDED.**

11-24-2009 11:00 AM

COUNCIL REPORT 12-1-09 MTG PKT

PAGE: 1

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT	
A T & T KANSAS	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	ADMINISTRATION	310.94	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	LEGAL & MUNICIPAL COUR	28.44	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	POLICE	86.76	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	FIRE	59.79	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	EMERGENCY COMMUNICATIO	181.24	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	COMMUNITY BUILDING	27.85	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	SWIMMING POOL	27.85	
	NOV 9 09 PHONE/DATA SVCS	GENERAL FUND	PUBLIC BUILDINGS	27.85	
	NOV 9 09 PHONE/DATA SVCS	WATER OPERATING	NON-DEPARTMENTAL	140.96	
	NOV 9 09 PHONE/DATA SVCS	SEWER OPERATING	NON-DEPARTMENTAL	197.95	
	NOV 9 09 SVCS - 922 7	SEWER OPERATING	NON-DEPARTMENTAL	39.47	
	NOV 9 09 SVCS - 040 9	SEWER OPERATING	NON-DEPARTMENTAL	34.42	
				<u>TOTAL:</u>	<u>1,163.52</u>
	ANDALE FARMERS CO-OP	1/3RD FERTILIZER-FORD ST	GENERAL FUND	ADMINISTRATION	397.12
OCT 14-29/09 FUEL-USD 262		GENERAL FUND	ADMINISTRATION	6,536.92	
OCT 14-29/09 FUEL PURCH		GENERAL FUND	FIRE	58.51	
OCT 14-29/09 FUEL PURCH		GENERAL FUND	PARKS	41.64	
OCT 14-29/09 FUEL PURCH		SPECIAL HIGHWAY	SPECIAL HIGHWAY	254.77	
			<u>TOTAL:</u>	<u>7,288.96</u>	
CASSIE & RALPH DENNING	RED BUD-OKLAHOMA	GENERAL FUND	PARKS	97.50	
			<u>TOTAL:</u>	<u>97.50</u>	
CITY OF WICHITA	OCT 09 BIOSOLIDS HAULG	SEWER OPERATING	NON-DEPARTMENTAL	3,360.00	
			<u>TOTAL:</u>	<u>3,360.00</u>	
DOLLAR TREE STORES, INC	GIFT BAGS-XMAS DINNER	GENERAL FUND	ADMINISTRATION	53.00	
			<u>TOTAL:</u>	<u>53.00</u>	
FAMILY DOLLAR STORE	10 HOLIDAY TOWELS-XMAS	GENERAL FUND	ADMINISTRATION	10.00	
			<u>TOTAL:</u>	<u>10.00</u>	
ING LIFE INSURANCE & ANNUITY CO	11-20-09 BW DISBURSEMENT	GENERAL FUND	NON-DEPARTMENTAL	100.00	
			<u>TOTAL:</u>	<u>100.00</u>	
INTRUST BANK N.A.	11-20-09 BW PAY FED W/H	GENERAL FUND	NON-DEPARTMENTAL	3,467.43	
	11-20-09 BW FICA & MEDICR	GENERAL FUND	NON-DEPARTMENTAL	3,486.45	
	11-9-09 VCFD #2 FICA/MEDI	GENERAL FUND	NON-DEPARTMENTAL	402.88	
	VCFD OCT 2009 FED W/H #1	GENERAL FUND	NON-DEPARTMENTAL	300.93	
	VCFD FICA & MEDICAR W/H	GENERAL FUND	NON-DEPARTMENTAL	2,442.12	
	11-20-09 EMPR BEN-MEDICR	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	907.39	
	11-20-09 EMPR BEN-FICA	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	3,879.75	
	11-9-09 VCFD #2 EMPR-MEDI	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	76.36	
	11-9-09 VCFD #2 EMPR-FICA	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	326.52	
	VCFD EMPR BEN - MEDICAR	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	462.89	
	VCFD EMPR BEN - FICA	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	1,979.23	
	11-20-09 BW PAY FED W/H	SPECIAL HIGHWAY	NON-DEPARTMENTAL	360.50	
	11-20-09 BW FICA & MEDICR	SPECIAL HIGHWAY	NON-DEPARTMENTAL	351.92	
	11-20-09 BW FICA & MEDICR	ACTIVE AGING GRANT	NON-DEPARTMENTAL	17.95	
	11-20-09 BW PAY FED W/H	WATER OPERATING	NON-DEPARTMENTAL	661.58	
	11-20-09 BW FICA & MEDICR	WATER OPERATING	NON-DEPARTMENTAL	693.81	
	11-20-09 BW PAY FED W/H	SEWER OPERATING	NON-DEPARTMENTAL	208.71	
	11-20-09 BW FICA & MEDICR	SEWER OPERATING	NON-DEPARTMENTAL	237.01	
				<u>TOTAL:</u>	<u>20,263.43</u>

11-24-2009 11:00 AM

COUNCIL REPORT 12-1-09 MTG PKT

PAGE: 2

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
JAMES D GRAYSON	REIMBURSE - 09LM11678	GENERAL FUND	NON-DEPARTMENTAL	197.65
			TOTAL:	197.65
JOEL D PILE	MILEAGE - MARCH 09	GENERAL FUND	ADMINISTRATION	50.55
	MILEAGE - APRIL 09	GENERAL FUND	ADMINISTRATION	82.04
	MILEAGE - MAY 09	GENERAL FUND	ADMINISTRATION	55.75
	MILEAGE - JUNE 09	GENERAL FUND	ADMINISTRATION	96.56
	MILEAGE - JULY 09	GENERAL FUND	ADMINISTRATION	44.85
	MILEAGE - AUGUST 09	GENERAL FUND	ADMINISTRATION	215.69
	MILEAGE - SEPTEMBER 09	GENERAL FUND	ADMINISTRATION	77.61
	MILEAGE - OCTOBER 09	GENERAL FUND	ADMINISTRATION	89.89
			TOTAL:	712.94
KANSAS DEPT OF REVENUE	WATER PROTECTION TAX	WATER OPERATING	NON-DEPARTMENTAL	1,251.84
	OCT 09 RETAIL SALES TAX	WATER OPERATING	NON-DEPARTMENTAL	371.65
	AUG 09 SALES & USE TAXES	WATER OPERATING	NON-DEPARTMENTAL	540.75
	AUG 09 INTEREST	WATER OPERATING	NON-DEPARTMENTAL	5.40
	AUG 09 PENALTIES	WATER OPERATING	NON-DEPARTMENTAL	10.82
	CLN DRINKG WATER TAX	WATER OPERATING	NON-DEPARTMENTAL	1,173.60
			TOTAL:	3,354.06
KANSAS GAS SERVICE	9/29-10/29/09 CITY GAS SV	GENERAL FUND	ADMINISTRATION	218.19
	9/29-10/29/09 CITY GAS SV	GENERAL FUND	POLICE	20.05
	9/29-10/29/09 CITY GAS SV	GENERAL FUND	FIRE	10.02
	9/29-10/29/09 CITY GAS SV	GENERAL FUND	EMERGENCY COMMUNICATIO	20.05
	9/29-10/29/09 CITY GAS SV	WATER OPERATING	NON-DEPARTMENTAL	28.17
	9/29-10/29/09 CITY GAS SV	SEWER OPERATING	NON-DEPARTMENTAL	859.58
			TOTAL:	1,156.06
KANSAS OFFICE OF THE TREASURER	GO TEMP NOTE 2009-1 SVCS	CAPITAL PROJECTS F	2009-1 TEMP NOTE COI	78.23
	GO BOND 2009-1 SVCS FEE	CAPITAL PROJECTS F	2009-1 G.O. BOND COI	309.79
	GO BOND 2009-2 SVCS FEE	CAPITAL PROJECTS F	2009-2 G.O. BOND COI	236.98
			TOTAL:	625.00
KANSAS PAYMENT CENTER	11-20-09 BW 98D002573	GENERAL FUND	NON-DEPARTMENTAL	110.31
	11-20-09 BW 06DM000734	GENERAL FUND	NON-DEPARTMENTAL	224.00
	11-20-09 BW 07DM000222	GENERAL FUND	NON-DEPARTMENTAL	226.61
	11-20-09 BW 05DM06422	SPECIAL HIGHWAY	NON-DEPARTMENTAL	204.50
	11-20-09 BW 06DM006517	WATER OPERATING	NON-DEPARTMENTAL	374.39
			TOTAL:	1,139.81
KPERS	11-20-09 BW DISBURSEMENT	GENERAL FUND	NON-DEPARTMENTAL	1,815.54
	11-20-09 BW DISBURSEMENT	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	3,215.11
	11-20-09 BW DISBURSEMENT	SPECIAL HIGHWAY	NON-DEPARTMENTAL	172.93
	11-20-09 BW DISBURSEMENT	WATER OPERATING	NON-DEPARTMENTAL	344.90
	11-20-09 BW DISBURSEMENT	SEWER OPERATING	NON-DEPARTMENTAL	131.78
			TOTAL:	5,680.26
KRAMER & FRANK, PC	11-20-09 BW DISBURSE-FINA	GENERAL FUND	NON-DEPARTMENTAL	41.52
			TOTAL:	41.52
LAURIE B. WILLIAMS	11-20-09 BW DISBURSEMENT	WATER OPERATING	NON-DEPARTMENTAL	273.04
			TOTAL:	273.04
SECURITY BENEFIT	11-20-09 BW 8913DS	GENERAL FUND	NON-DEPARTMENTAL	25.00
	11-20-09 BW 5556PT	GENERAL FUND	NON-DEPARTMENTAL	25.00

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	11-20-09 BW 6484RT	GENERAL FUND	NON-DEPARTMENTAL	25.00
			TOTAL:	75.00
SEDGWICK COUNTY	OCT 09 SEDG CO COMP USE	GENERAL FUND	ADMINISTRATION	16.34
	OCT 09 SEDG CO COMP USE	GENERAL FUND	LEGAL & MUNICIPAL COUR	4.90
	OCT 09 SEDG CO COMP USE	GENERAL FUND	COMMUNITY DEVELOPMENT	3.00
	OCT 09 SEDG CO COMP USE	GENERAL FUND	POLICE	29.40
	OCT 09 SEDG CO COMP USE	GENERAL FUND	EMERGENCY COMMUNICATIO	14.70
			TOTAL:	68.34
VALLEY CENTER HIGH SCHOOL	ANNUAL POINSETTA PURCH	GENERAL FUND	ADMINISTRATION	60.00
			TOTAL:	60.00
VANTAGEPOINT TRANS AGENTS	11-20-09 BW 9889MH	GENERAL FUND	NON-DEPARTMENTAL	150.00
	11-20-09 BW 6560EM	GENERAL FUND	NON-DEPARTMENTAL	10.00
	11-20-09 BW 5676KP	GENERAL FUND	NON-DEPARTMENTAL	50.00
	11-20-09 BW 1923PT	GENERAL FUND	NON-DEPARTMENTAL	25.00
	11-20-09 BW 0649RD	WATER OPERATING	NON-DEPARTMENTAL	90.00
			TOTAL:	325.00
WESTAR ENERGY	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	ADMINISTRATION	1,036.75
	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	ADMINISTRATION	39.24
	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	POLICE	364.56
	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	FIRE	173.88
	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	EMERGENCY COMMUNICATIO	347.76
	9/20-10/29/2009 ELEC SVCS	GENERAL FUND	PARKS	424.52
	9/20-10/29/2009 ELEC SVCS	SPECIAL HIGHWAY	SPECIAL HIGHWAY	171.66
	9/20-10/29/2009 ELEC SVCS	WATER OPERATING	NON-DEPARTMENTAL	1,868.72
	9/20-10/29/2009 ELEC SVCS	SEWER OPERATING	NON-DEPARTMENTAL	4,639.86
			TOTAL:	9,066.95

===== FUND TOTALS =====

010	GENERAL FUND	24,567.15
110	EMPLOYEE BENEFITS	10,847.25
150	SPECIAL HIGHWAY	1,516.28
220	ACTIVE AGING GRANT	17.95
350	CAPITAL PROJECTS FUND	625.00
610	WATER OPERATING	7,829.63
620	SEWER OPERATING	9,708.78

	GRAND TOTAL:	55,112.04

11-24-2009 11:00 AM

COUNCIL REPORT 12-1-09 MTG PKT

PAGE: 4

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: * All *
VENDOR: THRU ZZZZZZ
ITEM DATE: 0/00/0000 THRU 99/99/9999
GL POST DATE: 11/07/2009 THRU 11/23/2009
CHECK DATE: 0/00/0000 THRU 99/99/9999
INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

PAYROLL SELECTION

PAYROLL EXPENSES: NO
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: None
SEQUENCE: By Vendor Name
DESCRIPTION: Distribution
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT 12-1-09 MTG PKT
SIGNATURE LINES: 0

PRESENTATIONS / PROCLAMATIONS

PUBLIC FORUM

COMMITTEES, COMMISSIONS and APPOINTMENTS

OLD BUSINESS

NEW BUSINESS

A. ORDINANCE 1187-09; OPERATION OF CELL PHONE IN A MOVING VEHICLE:

RECOMMENDED ACTION:

FOR COUNCIL REVIEW AND DISCUSSION

ORDINANCE NO. 1187-09**AN ORDINANCE OF THE VALLEY CENTER CITY COUNCIL AMENDING THE VALLEY CENTER MUNICIPAL CODE TITLE 10, ENTITLED "VECHICLES AND TRAFFIC", CHAPTER 10.40 PROHIBITING THE USE OF HAND-HELD MOBILE TELEPHONES AND OTHER ELECTRONIC COMMUNICATION DEVICES WHILE SIMULTANEOUSLY OPERATING A MOTOR VEHICLE OR A BICYCLE ON A PUBLIC ROADWAY.**

BE IT ORDAINED, by the Governing Body of Valley Center, Kansas that Title 10, Chapter 10.40, Section 10.04.065 of the Valley Center Municipal Code be adopted as follows:

Section 1.

10.04.065 Prohibition of hand-held mobile telephone and other electronic communication device use while operating a motor vehicle or riding a bicycle on a public roadway.

- (A) No person operating a motor vehicle or a bicycle on any street or highway within the city limits of Valley Center shall use a hand-held mobile telephone or other communication device to engage in a call or create, send, or read text messages while such vehicle is in motion.
- (1) For purposes of this subsection the following definitions apply:
- (a) "Engage in a call" shall mean talking into, dialing or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone.
 - (b) "Hands-free mobile telephone" shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a physically disabled person), whether or not the use of either hand (or prosthetic device) is necessary to activate, deactivate or initiate a function of such telephone.
 - (c) "Hand-held mobile telephone" shall mean a mobile telephone with which a user engages in a call using at least one hand (or prosthetic device or aid in the case of a physically disabled person).
 - (d) "Mobile telephone" shall mean the device used by subscribers and other users of wireless telephone service to access such service and shall include Personal Digital Assistants, commonly referred to as PDAs.

- (e) “Personal Digital Assistant” shall mean a device operated using a wireless telecommunications service that provides for data communication other than by voice.
 - (f) “Wireless telephone service” shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and commonly referred to as cellular service or personal communication service.
- (B) An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaged in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call. “Immediate proximity” shall mean that distance as permitted by the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator’s ear.
- (C) The provisions of this section shall not apply to the following factual circumstances:
- (1) Emergency use of a hand-held mobile telephone or other electronic communication devices, including calls to 911, a hospital, an ambulance service provider, a fire department, or a law enforcement agency.
 - (2) Persons using a telephone with a “hands-free” device allowing the driver to talk into and listen to the other party without the use of hands.
 - (3) Use of a hand-held mobile telephone or other electronic communication device by law enforcement and emergency personnel or by a driver of an authorized emergency vehicle acting within the scope of official duties during an emergency. When two way radio service is not available to a police officer, they are allowed to use their cell phone.
 - (4) Use of a device that does not support duplex communications such as two-way mobile transmitter or receiver.
- (D) Law enforcement officers may not require a person operating a motor vehicle or bicycle who may be in violation of this section to stop except:
- (1) upon reasonable cause to believe the operator has violated another traffic regulation or the driver’s vehicle is unsafe or not equipped as required by law; or
 - (2) upon reasonable cause to believe the operator is using an electronic communication device to write, send, or read text messages.

Section 2. **Severability.** If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or

unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Section 3. This ordinance shall be in full force and effect from and after its passage and after publication according to law.

PASSED AND APPROVED by the Governing Body of the City of Valley Center, Kansas, this ____ day of _____ 2009.

First Reading:

Second Reading:

{SEAL}

Michael McNown, Mayor

ATTEST:

Kristine A. Polian, City Clerk

NEW BUSINESS

B. DISCUSSION OF NOISE ORDINANCE:

This item was first presented to Council in the fall of 2007. Council past first reading of Ordinance 1152-07 at the October 16, 2007 Council Meeting, the second reading on November 6, 2007 failed to pass.

THE FOLLOWING IS AN EXCERPT FROM THE MINUTES OF THE NOVEMBER 6, 2007 COUNCIL MEETING:

PROPOSED ORDINANCE: NOISE 2ND READING

Jerry Rogers, Valley Center resident, stated that he is concerned the noise ordinance allows for too much subjectivity from the person hearing the noise. Said that the ordinance has no time limit set for noise complaints, so he fears people may complain all times of the day. Stated that he prefers that people talk to each other instead of involving the police when there is a noise complaint.

Christy Smith, 528 N. Colby, stated that she is also concerned of the subjectivity in the ordinance, and thinks this could be opening a can of worms for the city.

Townsley stated that he thought 50 feet was too close of proximity to justify a complaint. Said he thinks if the ordinance is passed in its current form, the Chief of Police will have to be a referee.

Nordstedt stated that she thinks the ordinance is needed and that it is not too strenuous in its current form.

L. Jackson stated that he thinks this ordinance is meant to target abusive situations.

Police Chief Hephner said his intent is not to patrol for noise if this ordinance passes, but instead to respond to complaints when reported.

K. Jackson asked if there was something in the Code Book now that would allow for the police to enforce noise issues.

Arbuckle said that noise can be addressed under disorderly conduct.

Black asked if the ordinance would be redundant.

Arbuckle stated that it would not be redundant; it would just give more detail to enforce a noise complaint.

Mayor McNown stated he thought that 50 feet was too close.

Cicirello moved, second by Nordstedt, to approve Ordinance No. 1152-07, prohibiting certain excessive noise from home or motor vehicle stereo systems. Vote yea: Nordstedt, Cicirello and L. Jackson. Opposed: Black, Gerling, K. Jackson, Maschino and Townsley. Motion failed.

L. Jackson moved, second by Cicirello, to approve Ordinance No. 1152-07, with the amendment of 150 feet noise allowance from sunrise to sunset and 100 feet noise allowance between sunset and sunrise. Vote yea: Cicirello and L. Jackson. Opposed: Black, Gerling, K. Jackson, Maschino, Nordstedt and Townsley. Motion failed.

NEW BUSINESS

C. DISCUSSION OF SPECIAL ASSESSMENT POLICY:

- City of Valley Center 20-year Special Assessment Policy dated April 20, 2004

City of Valley Center

EXTENDED SPECIAL ASSESSMENT FINANCING PROGRAM

April 20, 2004

PROGRAM DESCRIPTION: The City Council has approved offering 20-year special assessment financing - on a case by case basis in special situations - to 1) residential developments with extraordinary development costs, 2) existing Valley Center residential neighborhoods without municipal services (sewer, water, storm sewers, paving) and 3) all infill projects in the City.

The purpose of this program is to keep special assessment financing from creating a financial burden for buyers who purchase homes in developments that have incurred higher than typical development costs due to extraordinary development situations.

APPLICATION PROCESS: Applications may not be submitted for review until all of the bids for the project have been received. Each application for 20-year special assessment financing must include submittal of a complete Project Profile:

The Profile will provide the developer's responses to the following issues:

- Price range of properties in subdivision.
- Estimated monthly per lot cost for the special assessment taxes calculated on both 15 and 20-year assessments.
- Description of excessive infrastructure costs that the developer believes qualifies the project for 20-year special assessments.

Acceptable monthly range for 15-year special assessment financing: Projects within these monthly ranges will not be approved for 20-year special assessment financing:

Price Range of Property:	Monthly Special Assessment:
Up to \$100,000	\$90 maximum
\$100,001 - \$120,000	\$100 maximum
\$120,001 - \$150,000	\$125 maximum
\$150,001 - \$200,000	\$140 maximum
\$200,001 - \$300,000	\$150 maximum
\$300,001 - \$450,000	\$165 maximum
\$450,001 - \$600,000	\$180 maximum
\$600,001 - and up	\$200 maximum

Development cost drivers that may affect the project include:

- Sewer extensions
- Sewer lift stations
- Erosion controls around ponds and lakes
- Dams and weirs
- City sidewalks
- Collector streets
- Drainage improvements and mass grading
- Bridges
- Accel and Decel lanes
- Signalization costs
- NPDES compliance costs
- Sealing of retention ponds
- Engineering costs
- Paving of roads to entrance of subdivisions

Cost drivers (unless required by platting) that will not typically be considered to qualify a project for 20-year special assessment financing:

- Soil testing
- Water wells
- Landscaping
- Mailboxes
- Temporary access roads
- Temporary utility costs
- Entry monuments and fencing (inclusive of walls)
- Lighting of walking paths
- Pools
- Park and play areas
- Clubhouses
- Art and statuary
- Grass (sod)
- Flagpoles

After the receipt of the Project Profile and other documentation, the committee will evaluate the application and invite the developer to discuss his application with the committee. After that discussion occurs, the committee will recommend approval or denial of the application to the City Council.

REVIEW/APPROVAL PROCESS: The City Council has appointed a committee consisting of City Council members, developers, and City staff to review and approve the applications for 20 year special assessment financing. The committee will meet regularly to review the applications that have been received and recommend approval or denial of each application. If conflicts of interest arise for any member of the committee in the review of an application, another representative from the member's affiliate will be appointed to serve on the review committee for the particular application.

For further information and submittal of completed applications, contact Eldon G. Miller,
Community Development Officer, 116 S. Park, Valley Center, KS 67147. Phone: 755-7310; fax:
755-7319; email: egmiller@valleycenterks.org

CONSENT AGENDA

STAFF REPORTS

A. City Clerk

B. Chief of Police

C. Fire Chief

D. Community Development

E. City Superintendent

F. Parks Superintendent

G. City Engineer

H. City Attorney

I. City Administrator

GOVERNING BODY REPORTS

- A. Mayor McNown**
- B. Councilmember K. Jackson**
- C. Councilmember Maschino**
- D. Councilmember Nordstedt**
- E. Councilmember Campbell**
- F. Councilmember Cicirello**
- G. Councilmember Gerling**
- H. Councilmember Hobson**
- I. Councilmember L. Jackson**

ADJOURN