

CITY OF VALLEY CENTER

FINAL AGENDA

October 28, 2010

*THE CITY COUNCIL SHALL HOLD ITS REGULAR MEETINGS IN THE COUNCIL CHAMBER
IN THE CITY HALL, LOCATED AT 121 S. MERIDIAN, BEGINNING AT 7:00 P.M.*

November 2, 2010

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **INVOCATION: MINISTERIAL ALLIANCE**
4. **PLEDGE OF ALLEGIANCE**
5. **APPROVAL OF AGENDA** p 3
6. **CLERKS AGENDA** p 4
 - A. Minutes p
 - October 19, 2010 Council Meeting p
 - B. Appropriation Ordinance p
7. **PRESENTATIONS / PROCLAMATIONS** p
8. **PUBLIC FORUM** (*Citizen input and requests*) p
9. **APPOINTMENTS** p
10. **COMMITTEES, COMMISSIONS**
 - A. Minutes for Council Review p
 - Library Board Meeting p
 - Planning Commission / Board of Zoning Appeals Meeting p
11. **OLD BUSINESS** p
 - A. Ordinance 1217-10; Removal of dangerous or unsafe structure at 500 N Park, 1st Reading p
 - City Attorney Memo p
 - Community Development Officer Memo p
 - Ordinance 1217-10 p
 - B. Ordinance 1218-10, Food Vendor License, 2nd Reading p
12. **NEW BUSINESS** p
 - A. Ordinance 1219-10, Amendment to City Code Re: Animals, 1st Reading p
 - B. Executive Session – Attorney Client Privileges p
13. **CONSENT AGENDA** p
 - A. Solid Waste / Recycling Transition Timeline Update p
14. **STAFF REPORTS** p
15. **GOVERNING BODY REPORTS** p
16. **ADJOURN**

All items listed on this agenda are potential action items unless otherwise noted. The agenda may be modified or changed at the meeting without prior notice.

At anytime during the regular City Council meeting, the City Council may meet in executive session for consultation concerning several matters (real estate, litigation, not-elected personnel and security).

This is an open meeting, open to the public, subject to the Kansas Open Meetings Act (KOMA). The City of Valley Center is committed to providing reasonable accommodations for persons with disabilities upon request of the individual. Individuals with disabilities requiring an accommodation to attend the meeting should contact the City Clerk in a timely manner, at cityclerk@valleycenter-ks.org or by phone at (316)755-7310.

For Additional information on any item on the agenda, please visit www.valleycenter-ks.org or call (316) 755-7310.

APPROVAL OF AGENDA

RECOMMENDED ACTION:

Staff recommends motion to approve the agenda as presented / amended.

CLERK'S AGENDA

A. MINUTES:

Attached are the Minutes from the meeting of October 19, 2010 Regular Council Meeting as prepared by the City Clerk.

RECOMMENDED ACTION:

Staff recommends motion to approve the October 19, 2010 Regular Council Meeting Minutes as presented / amended

REGULAR COUNCIL MEETING
OCTOBER 19, 2010
CITY HALL
121 S. MERIDIAN

Mayor McNown called the meeting to order at 7:00 p.m. with the following members present: Kate Jackson, Marci Maschino (7:02 p.m.), Cheryl Nordstedt, Bruce Campbell, Lou Cicirello, Harrison Gerling, Al Hobson and Lionel Jackson.

Members absent: None

Staff Present: Joel Pile, City Administrator
Kristine Polian, City Clerk
Robert Tormey, Fire Captain
Mark Hephner, Police Chief
Neal Owings, Parks Superintendent
Eldon Miller, Community Development Officer
Mike Kelsey, City Engineer

Press present: The Ark Valley News

APPROVAL OF THE AGENDA

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

CLERK'S AGENDA

MINUTES- OCTOBER 5, 2010 REGULAR COUNCIL MEETING

Nordstedt moved, second by Maschino, to approve the Minutes from the October 5, 2010 Regular Council Meeting as presented. Vote yea: unanimous. Motion carried.

APPROPRIATION ORDINANCE- 10/19/10

L. Jackson moved, second by Cicirello, to approve Appropriation Ordinance No. 10/19/10 as presented. Vote yea: unanimous. Motion carried.

TREASURER'S REPORT, SEPTEMBER 2010

Maschino moved, second by K. Jackson, to receive and file the September 2010 Treasurer's Report as presented. Vote yea: unanimous. Motion carried.

PRESENTATIONS AND PROCLAMATIONS

SERVICE AWARD PRESENTATIONS

The following City Employees were awarded for their service to the City:

Jacqueline Brown- 20 years- Accounting Clerk II
Brenda Hipps- 10 years- Court Clerk
Steve Mertins- 20 years- Assistant City Superintendent
Eldon Miller- 15 years- Community Development Officer
Lloyd Newman- 15 years- Police Sergeant, Special Assignment
Larry Tormey- 35 years- Emergency Communications
Robert Tormey- 30 years- Fire Captain
Matthew Vogt- 15 years- Police Sergeant, Patrol

EAGLE SCOUT RECOGNITION

Recognition of Cody Dunn, Boy Scout Troop 494, for his work done in the City parks.

PUBLIC FORUM

APPOINTMENTS

Mayor McNown appointed Adam Dunn to the Site Plan Review Committee for an additional 3-year term and Rick Shellenbarger to the Planning Commission for an additional 3-year term.

Maschino moved, second by K. Jackson, to approve the Mayor's appointments. Vote yea: unanimous. Motion carried.

COMMITTEES AND COMMISSIONS

MINUTES FOR COUNCIL REVIEW

Site Plan Review Committee, September 13, 2010 Meeting.

VETERAN'S CELEBRATION COMMITTEE REPORT

Mayor McNown read a letter from the Governor expressing the importance of honoring the Veteran's of the United States. The Mayor also reminded everyone of the Valley Center Veteran's celebration that will take place on November 6.

OLD BUSINESS

NEW BUSINESS

CHAMBER REQUEST

Cicirello moved, second by L. Jackson, to approve the request of the Chamber and allow the requested section of Main Street to be closed on October 29, 2010 from 5-7 p.m. Vote yea: unanimous. Motion carried.

CONSIDERATION OF PEDESTRIAN & BICYCLE FACILITIES MASTER PLAN AGREEMENT WITH P.E.C.

Some Council members expressed concern that the budget was too tight to spend money on a sidewalk plan when the cemetery road needed to be finished.

L. Jackson stated the sidewalks have been a priority of the citizens, especially with the new high school being built and no sidewalks leading to it.

City Administrator Pile stated the Master Plan would be needed when grant money was applied for since the federal government gauged applicants on their Master Plan.

Cicirello moved, second by Nordstedt, to approve the Agreement with P.E.C. to create a Pedestrian & Bicycle Facilities Master Plan. Vote yea: Nordstedt, Cicirello and L. Jackson. Opposed: K. Jackson, Maschino, Campbell, Gerling and Hobson. Motion failed.

AUDITOR'S CONTRACT

Maschino moved, second by Campbell, to approve a 3-year Agreement with Lowenthal, Webb and Odermann, P.A. to provide audit services for the City of Valley Center. Vote yea: unanimous. Motion carried.

FOOD VENDING LICENSE, ORDINANCE 1218-10

Maschino moved, second by Cicirello, to adopt Ordinance 1218-10, creating a food vending license, for 1st reading. Vote yea: unanimous. Motion carried.

REQUEST FOR WAIVER OF REQUIREMENTS CONTAINED IN VALLEY CENTER CITY CODE

Council members K. Jackson, Gerling, Hobson and Cicirello all stated they believe the waiver should be granted to the homeowner to keep his horse on his property. K. Jackson stated the homeowner has put the property in much better condition than it has been in the past several years; the City code exceeds that in which the County mandates.

City Attorney Arbuckle stated he did not believe the Council should give a waiver to the property owner, but should instead amend the existing ordinance if they choose to move forward on the issue.

Nordstedt moved, second by Cicirello, to table to issue to no later than the second meeting in November to give Staff the opportunity to research the issue further. Vote yea: K. Jackson, Nordstedt, Campbell, Cicirello, Gerling and L. Jackson. Opposed: Maschino and Hobson. Motion carried.

CONSENT AGENDA

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

STAFF REPORTS

GOVERNING BODY REPORTS

MAYOR MCNOWN

Congratulated the employees who received service awards and thanked them for their service.

COUNCILMEMBER CICIRELLO

Asked who would be presenting to the plan for the 69-acres to the Planning Commission.

Kelsey stated someone from P.E.C. would present the plan.

Said there was a public meeting last night for the Valley Center Library, and that there would be a presentation from the Library at the next Council meeting to discuss plans for a new library.

L. Jackson moved, second by Cicirello, to adjourn the meeting. Vote yea: unanimous. Motion carried.

Meeting adjourned at 8:05 p.m.

Kristine Polian, City Clerk

CLERK'S AGENDA

B. APPROPRIATION ORDINANCE:

Below is the proposed Appropriation Ordinance for November 2, 2010 as prepared by City Staff.

November 2, 2010 Appropriation

Expenses	<u>\$ 28,089.72</u>
Total	\$ 28,089.72

RECOMMENDED ACTION:

Staff recommends motion to approve the November 2, 2010 Appropriation Ordinance as presented / amended.

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT_
CATHY SEXTON	SR COOR CONTRACT 3/4	GENERAL FUND	PARKS AND PUBLIC GROUN	1,866.25_
			TOTAL:	1,866.25
ING LIFE INSURANCE & ANNUITY CO	VFG496-0159	GENERAL FUND	NON-DEPARTMENTAL	50.00
	VFG496-7047	GENERAL FUND	NON-DEPARTMENTAL	15.00
	VFG496-9889	GENERAL FUND	NON-DEPARTMENTAL	350.00
	VFG496-1325	GENERAL FUND	NON-DEPARTMENTAL	12.00
	VFG496-2230	GENERAL FUND	NON-DEPARTMENTAL	50.00
	VFG496-9681	GENERAL FUND	NON-DEPARTMENTAL	100.00
	VFG496-5676	GENERAL FUND	NON-DEPARTMENTAL	25.00
	VFG496-1112	GENERAL FUND	NON-DEPARTMENTAL	20.00
	VFG496-8830	SPECIAL HIGHWAY	NON-DEPARTMENTAL	15.00
	VFG496-2852	WATER OPERATING	NON-DEPARTMENTAL	12.50
	VFG496-0649	WATER OPERATING	NON-DEPARTMENTAL	200.00_
			TOTAL:	849.50
INTRUST BANK N.A.	EMP FED TAX W/H	GENERAL FUND	NON-DEPARTMENTAL	3,901.59
	EMP FED TAX W/H	GENERAL FUND	NON-DEPARTMENTAL	20.00
	EMP FICA & MEDICARE	GENERAL FUND	NON-DEPARTMENTAL	3,901.41
	EMP FICA & MEDICAR	GENERAL FUND	NON-DEPARTMENTAL	4.53
	EMPR BENEFIT MEDIC	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	938.18
	EMPR BENEFIT MEDIC	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	0.86
	EMPR BENEFIT FICA	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	2,963.23
	EMPR BENEFIT FICA	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	3.67
	EMP FED TAX W/H	SPECIAL HIGHWAY	NON-DEPARTMENTAL	373.84
	EMP FICA & MEDICARE	SPECIAL HIGHWAY	NON-DEPARTMENTAL	387.71
	EMPR BENEFIT MEDIC	SPECIAL HIGHWAY	SPECIAL HIGHWAY	73.48
	EMPR BENEFIT MEDIC	SPECIAL HIGHWAY	SPECIAL HIGHWAY	3.22
	EMPR BENEFIT FICA	SPECIAL HIGHWAY	SPECIAL HIGHWAY	314.23
	EMPR BENEFIT FICA	SPECIAL HIGHWAY	SPECIAL HIGHWAY	13.78
	EMP FED TAX W/H	WATER OPERATING	NON-DEPARTMENTAL	681.96
	EMP FICA & MEDICARE	WATER OPERATING	NON-DEPARTMENTAL	681.39
	EMP FICA & MEDICAR	WATER OPERATING	NON-DEPARTMENTAL	17.00
	EMPR BENEFIT MEDIC	WATER OPERATING	NON-DEPARTMENTAL	129.15
	EMPR BENEFIT FICA	WATER OPERATING	NON-DEPARTMENTAL	552.24
	EMP FED TAX W/H	SEWER OPERATING	NON-DEPARTMENTAL	199.96
	EMP FICA & MEDICARE	SEWER OPERATING	NON-DEPARTMENTAL	224.33
	EMPR BENEFIT MEDIC	SEWER OPERATING	NON-DEPARTMENTAL	42.52
	EMPR BENEFIT FICA	SEWER OPERATING	NON-DEPARTMENTAL	181.81_
			TOTAL:	15,610.09
JOEL D PILE	10/15 - LUN/DIN	GENERAL FUND	ADMINISTRATION	30.00
	10/16 - BKF/LUN/DIN	GENERAL FUND	ADMINISTRATION	40.00
	10/17 - BKF	GENERAL FUND	ADMINISTRATION	10.00
	10/18 - BKF	GENERAL FUND	ADMINISTRATION	10.00
	10/19 - BKF/LUN	GENERAL FUND	ADMINISTRATION	20.00_
			TOTAL:	110.00
KANSAS PAYMENT CENTER	98D002573	GENERAL FUND	NON-DEPARTMENTAL	110.31
	09DM009607	GENERAL FUND	NON-DEPARTMENTAL	144.97
	06DM000961	GENERAL FUND	NON-DEPARTMENTAL	150.00
	06DM000734	GENERAL FUND	NON-DEPARTMENTAL	224.00
	07DM000222	GENERAL FUND	NON-DEPARTMENTAL	221.54
	05DM06422	WATER OPERATING	NON-DEPARTMENTAL	204.50
	06DM006517	WATER OPERATING	NON-DEPARTMENTAL	374.39_
			TOTAL:	1,429.71

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT_	
KPEERS	EMP DEDUCTION-GEN	GENERAL FUND	NON-DEPARTMENTAL	1,948.90	
	EMP DEDUCTION-GEN	GENERAL FUND	NON-DEPARTMENTAL	10.01	
	EMPR DEDUCTION-GEN	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	3,273.18	
	EMPR DEDUCTION-GEN	EMPLOYEE BENEFITS	NON-DEPARTMENTAL	17.88	
	EMP DEDUCTION-STG	SPECIAL HIGHWAY	NON-DEPARTMENTAL	247.10	
	EMP DEDUCTION-STG	SPECIAL HIGHWAY	NON-DEPARTMENTAL	8.89	
	EMPR DEDUCTION-STG	SPECIAL HIGHWAY	SPECIAL HIGHWAY	373.27	
	EMPR DEDUCTION-STG	SPECIAL HIGHWAY	SPECIAL HIGHWAY	15.86	
	EMP DEDUCTION-WA	WATER OPERATING	NON-DEPARTMENTAL	400.75	
	EMPR DEDUCTION-WA	WATER OPERATING	NON-DEPARTMENTAL	614.64	
	EMP DEDUCTION-SWR	SEWER OPERATING	NON-DEPARTMENTAL	125.55	
	EMPR DEDUCTION-SWR	SEWER OPERATING	NON-DEPARTMENTAL	224.11_	
				TOTAL:	7,260.14
	KRISTINE POLIAN	10/9 - BKF/LUN/DIN	GENERAL FUND	ADMINISTRATION	40.00
		10/9 - MILEAGE REIMB	GENERAL FUND	ADMINISTRATION	94.47
10/10 - BKF		GENERAL FUND	ADMINISTRATION	10.00	
10/11 - BKF		GENERAL FUND	ADMINISTRATION	10.00	
10/12 - BKF/LUN		GENERAL FUND	ADMINISTRATION	20.00	
10/12 - MILEAGE REIM		GENERAL FUND	ADMINISTRATION	91.52	
10/15 - LUN/DIN		GENERAL FUND	ADMINISTRATION	30.00	
10/16 - BKF/LUN/DIN		GENERAL FUND	ADMINISTRATION	40.00	
10/17 - BKF		GENERAL FUND	ADMINISTRATION	10.00	
10/18 - BKF		GENERAL FUND	ADMINISTRATION	10.00	
10/19 - BKF/LUN		GENERAL FUND	ADMINISTRATION	20.00_	
				TOTAL:	375.99
LAURIE B. WILLIAMS	0914039	GENERAL FUND	NON-DEPARTMENTAL	55.00	
	081223113	WATER OPERATING	NON-DEPARTMENTAL	100.00	
	081002813	WATER OPERATING	NON-DEPARTMENTAL	273.04_	
			TOTAL:	428.04	
SECURITY BENEFIT	613042-8913	GENERAL FUND	NON-DEPARTMENTAL	25.00	
	613042-5556	GENERAL FUND	NON-DEPARTMENTAL	25.00	
	613042-6484	GENERAL FUND	NON-DEPARTMENTAL	25.00_	
			TOTAL:	75.00	
VANTAGEPOINT TRANS AGENTS	322862-6560	GENERAL FUND	NON-DEPARTMENTAL	10.00	
	322862-5676	GENERAL FUND	NON-DEPARTMENTAL	50.00	
	322862-1923	GENERAL FUND	NON-DEPARTMENTAL	25.00_	
			TOTAL:	85.00	

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT_
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===== FUND TOTALS =====

010	GENERAL FUND	13,826.50		
110	EMPLOYEE BENEFITS	7,197.00		
150	SPECIAL HIGHWAY	1,826.38		
610	WATER OPERATING	4,241.56		
620	SEWER OPERATING	998.28		

	GRAND TOTAL:	28,089.72		

TOTAL PAGES: 3

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-CITY OF VALLEY CENTER
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 9,999,999.00CR THRU 9,999,999.00
GL POST DATE: 10/13/2010 THRU 10/22/2010
CHECK DATE: 0/00/0000 THRU 99/99/9999

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 11-2-10 MTG PKT
SIGNATURE LINES: 0

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

PRESENTATIONS / PROCLAMATIONS

PUBLIC FORUM

APPOINTMENTS

COMMITTEES, COMMISSIONS

A. MINUTES FOR COUNCIL REVIEW:

- Edna Buschow Memorial Library, August 9, 2010 Meeting
- Planning Commission / Board of Zoning Appeals, September 28, 2010 Meeting

**VC Library Meeting
Monday, August 9, 2010**

- 1) Called to Order at 7:15 p.m. by Howard Botts
 - a) Marsha moved to approve
 - b) Mary seconded
- 2) Those in attendance: Howard Botts, Jean Balthazor, Mary Aspenson, Marsha Huebert, Amy Stamm, Janice Sharp, Julia Francisco
- 3) Agenda Approval
 - a) Marsha moved to approve
 - b) Mary seconded
- 4) Approval of July 12 minutes
 - i) Discussion of July 12 minutes
 - (1) Celtic guitarist is October 12 – plans will be firmed up first part of September – Celtic group does advertizing
 - (2) Mary will be liaison with the city – not with Julia
 - (3) Mary wrote letter to the city in response to their land proposal – no response from the City – Janice will forward a copy of the letter to Julia
 - ii) After these changes Jean approved and Mary seconded
- 5) Financial Report & pay bills
 - a) Jean made a motion to approve
 - b) Amy seconded
- 6) Librarian's Report
 - a) New computerized checks are being used
 - b) Summer Reading – fire department came the last day – hand out of certificates finished in 15 minutes (usually takes one hour) – Erin did games with the kids to fill in the excess time waiting for the fire department
 - c) New computer is set up in Janice's area – not all files are transferred over – Lee (from SCKLS) will be back to set up the printer – there were problems with getting the files transferred from Janice's old computer
 - d) Discussed having 3 computers in the Children's Area – would need sufficient surge bar for electrical – will need switch because not enough empty slots to add staff computers – can add on public side, but not employee side – Lee looking into that – we cannot add any more computers at this point until the switch is replaced
 - e) Friday the copier guy came out and now the fax and scanner are combined with the copier
 - f) Old system computer
 - i) Still used – but not often
 - ii) Check old late fees
 - iii) Weed list
 - iv) Howard suggested printing lists and then getting rid of the machine – Janice said that was possible
 - g) Janice attended a workshop in Eldorado last Thursday called Staying Legal – an attorney for the system gave the presentation – materials are to be emailed, but Janice hasn't received them yet
- 7) Library Development Director Report
 - a) The meeting with Hans has been rescheduled for Saturday, August 14 at 9:00 a.m. – Hans will do this without charging us
 - b) TEAM Meeting August 30 – should have 3 floor plans by then

- c) Steering Committee meeting August 11 at 3:00 p.m. will be postponed one week to August 18 at 3:00 p.m.
 - d) Materials Committee – Kevin, Les, Anne, Mike Simmon – will meet Monday, August 16 to work on the brochure and bookmark – Kevin found a source for rubber wristbands 1000 for \$100.00 – good thing to pass out at Fall Festival
 - e) Tamara Conrade at the High School has lots of ideas for school media class – they will do a pre-survey, campaign the year, and then do an end-of-year-survey – Tamara recommends:
 - i) Touring the surround libraries such as Andover
 - ii) Helping with Fall Festival
 - iii) Write an update for the library column in the Ark Valley News
 - (1) Scott Springston has agreed to work with us on this project
 - f) Julia needs to talk with Jeff about the first askings of major gifts
 - i) working on getting the flip charts ready
 - ii) September 3 the first newsletter should go out
 - iii) Jeff plans on doing 2-3 presentations and figure out what works
 - iv) Letter will be sent out to foundations
 - g) Julia did go to WSU and the logo was made up “World Beyond Pages”
 - h) List benefits of the library in the brochure along with quotes
 - i) One comment was made about the rainbow being a Gay & Lesbian symbol – the Board doesn’t feel anyone will have a problem with that – can go with stars instead if need be
 - j) Bookmark just needs to be approved – Les can have students work something up for free – Mike Simmons will not do anything for free thru Associated (no printing)
 - k) September 20 will be another TEAM Meeting – 3rd Monday – final plans
 - l) Next public meeting will be to vote for building plan
 - m) September goals
 - i) Meet with each team leader face-to-face or phone
 - ii) Sprint wi-fi – connect phone & laptop and get internet for \$15.00 per month – cheaper than what we’re paying now
 - iii) By October, have the office be a presence and start working set hours – have a sign in front of the building that says “Library Development Office” – Howard suggested vinyl stick-ons – once they’re made, Howard will hang up
 - iv) Anne asked about getting a banner made at T&J Studios for float, booth, different events – Anne getting estimate on bookmarks and banner
 - n) Janice will talk with Lee about Wireless in our current building
- 8) Old Business
- a) Fall Festival – Dodgeball Tournament
 - i) Marsha having trouble finding cage – can use cattle fencing, but need something higher – borrow from Atwoods – need 8-10’ tall – need to measure court – Mary, Marsha, and Howard will get together & figure something out
- 9) New Business
- a) Executive Session for 30 minutes beginning at 8:45 PM – Marsha made the motion and Jean seconded
- 10) Marsha made a motion to adjourn at 9:30 p.m. – Mary seconded

VALLEY CENTER PLANNING COMMISSION/BOARD OF ZONING APPEALS
7:00 P.M.
SEPTEMBER 28, 2010
121 S. MERIDIAN

Chairman Gary Janzen called the meeting to order at 7:00 p.m. with the following members present: John Dailey, Jaque Davis, Steve Jackson, Danny Park and Kathryn Schroeder.

Members Absent: Bart Balthazar, Bryon Mackey and Ricky Shellenbarger

Staff Present: Eldon G. Miller, AICP, CFM, Secretary

Press:

APPROVAL OF THE AGENDA

Chairman Janzen moved, seconded by Park to approve the agenda as presented. Vote Yea: Unanimous.

MINUTES OF AUGUST 24, 2010

Chairman Janzen moved, seconded by Davis to approve the minutes. Vote Yea: Unanimous.

COMMUNICATIONS

ITEMS BY ZONING ADMINISTRATOR

Discussed the need to update the Floodplain Regulations and to withdraw Item 8E and republish for December meeting.

SUBDIVISION COMMITTEE REPORT

None

SITE PLAN REVIEW COMMITTEE REPORT

Received and filed the unapproved minutes.

PUBLIC COMMENT

None

PUBLIC HEARING

L/S-2010-002

Applicant: Isham & Alexander

Agent: Ruggles and Bohm. P.A.

At 7:02 p.m., Chairman Janzen called the public hearing to order. Eldon G. Miller, AICP, CFM gave the staff report. Brad Isham, owner spoke. Chairman Janzen closed the public hearing at 7:09 p.m. Commissioner Dailey moved, seconded by Park to approve the lot split. Vote Yea: Unanimous.

At 7:11 p.m. the Planning Commission called for a recess until 7:15 p.m. for the next Public Hearing.

RECESS THE PLANNING COMMISSION AND CONVENE THE BOARD OF ZONING APPEALS at 7:15 p.m.

PUBLIC HEARING

CONDITIONAL USE

Case No. BZA-CU-2010-003

Request for a Conditional Use, as an exception to establish mini-storage units in an existing building on property zoned as the C-2 General Business District.

Applicant: Daniel E. I. VanDerBom

Address: 1000 Meadowlake Circle

CALL TO ORDER:

At 7:15 p.m., Chairman Janzen called Agenda item #8B which is a public hearing on Case No. BZA-CU-2010-003, which is a request for a conditional use as an exception to mini-storage units in an existing building on property zoned as the C-2 General Commercial District.

DISQUALIFICATION DECLARED AND QUORUM DETERMINED:

None

NOTIFICATION:

According to the Secretary, a notice for this hearing was published in the Ark Valley News on September 2, 2010, and notices were mailed to the applicant and 12 real property owners of record in the area of notification on August 31, 2010. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given in order for the Planning Commission to hear the case.

EX PARTE COMMUNICATIONS:

No ex parte communication.

ZONING ADMINISTRATOR'S REPORT:

Zoning Administrator, Eldon G. Miller, provided a brief factual background report on the case.

APPLICANT'S REQUEST:

Daniel VanDerBom, 1000 Meadowlake Circle stated that he purchased the property and it has been empty for 2 years. Purchased it in 2006 or 2007 to do something with the building. He moved from Abilene behind the property when he built a house on Meadowlake Circle. He has no experience operating a restaurant. Put the building on the market for lease or sell but no offers on it. It is an eyesore and would fix it up when it would be purchased or leased. He is going to take the building and use the service station openings that are still there for 2 large storage units. Add additional unit on the north and east. Chairman Janzen asked if he was going to fix up the outside. Daniel VanDerBom stated that he would paint the building, new doors, remove and close off the glass, landscape and replace the fence. Neighbors to the south tore down the fence. Commissioner Park stated that the back building looks good, however, the fence is down and this building is an eyesore. Daniel VanDerBom stated that he would paint it and ect. He had 1 buyer who wanted both this property and his on Abilene but there is a sewer that runs between both properties. Vice-Chairman Davis asked if he was going to but in a new parking lot and roof. Daniel VanDerBom stated that he would reroof the building but it is not economic to redo the parking lot but will seal in the cracks. Commissioner Park asked if he was out of money

from purchasing the property and you cleaned up the back building. Daniel VanDerBom stated he is limited to what he can do and limited to fix it up. Chairman Janzen asked when it was last open. Staff stated 5 or 6 years. Commissioner Dailey asked if there are rest rooms there. Daniel VanDerBom stated yes on the north side.

PUBLIC COMMENTS:

None.

WRITTEN COMMUNICATIONS:

None.

CLOSE THE HEARING:

Hearing no further public comments, I hereby close the public hearing at 7:47 p.m. There will be no further public comments unless the Planning Commission wishes to ask questions to clarify information.

APPEALS BOARD DELIBERATIONS:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
The proposed conditional use does comply with all the above limited applicable regulations in the C-2 General Business Districts.
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
A site plan must be submitted and approved before any zoning permit allowed. The Comprehensive Development Plan's Future Land Use Plan does show this property to be commercial. With the new Kwik Shop across the street, traffic has increased to the area.
3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
This property in the past has been a restaurant and a service station. The restaurant had been owned by several different owners. The buildings are single story buildings, front one is concrete block and the rear is a wooden structure. There is no landscaping on the site which could be rectified by Site Plan approval.
4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
There is a parking lot around both buildings.
5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.

Property has been platted and all utilities are installed.

2. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.
Adequate street access is available.

Having considered the evidence at the hearing for Case No. BZA-CU-2010 – 003 and determined that the findings of fact in the conditional use report support the conclusions which are necessary for granting a conditional use as set out in Section 10-108 C of the Zoning Regulations, I, John Dailey move that the Chairperson be authorized to sign a Resolution granting the conditional use as requested, seconded by Park subject to the following conditions:

CONDITIONS:

1. A Site Plan will have to be submitted to the Site Plan Review Committee for approval prior to the issuing of a zoning permit. Site Plan should address the lack of screening to the north and west and the need for landscaping.
2. No outside storage.
3. Inside storage only.
4. If the Zoning Administrator subsequently finds that there is a violation of any of the conditions attached to the granting of this Conditional Use, the Zoning Administrator may in addition to enforcing the other remedies available in the Zoning Regulations, declare the Zoning Permit issued for the Conditional Use is null and void.

Vote Yea: Unanimous.

PUBLIC HEARING

CONDITIONAL USE
Case No. BZA-CU-2010-004
Request for a Conditional Use as an exception to permit the establishment of an detached accessory apartment on property zoned a the R-2 Single-Family Residential District.
Applicant: Nancy Madison
Address: 601 W. Scott

CALL TO ORDER:

At 8:00 p.m., Chairman Janzen called Agenda item #8C which is a public hearing on Case No. BZA-CU-2010-004, which is a request for a conditional use as an exception to permit the establishment of a detached accessory apartment on property zoned as the R-2 Single-Family Residential District.

DISQUALIFICATION DECLARED AND QUORUM DETERMINED:

None

NOTIFICATION:

According to the Secretary, a notice for this hearing was published in the Ark Valley News on September 2, 2010, and notices were mailed to the applicant and 22 real property owners of

record in the area of notification on August 31, 2010. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given in order for the Planning Commission to hear the case.

EX PARTE COMMUNICATIONS:

No ex parte communication.

ZONING ADMINISTRATOR'S REPORT:

Zoning Administrator, Eldon G. Miller, provided a brief factual background report on the case.

APPLICANT'S REQUEST:

Nancy Madison stated that she wants her family close and the house is to much for her, however it works for her daughter. Commissioner Dailey asked about parking. Nancy Madison stated a circle drive.

PUBLIC COMMENTS:

None.

WRITTEN COMMUNICATIONS:

None.

CLOSE THE HEARING:

Hearing no further public comments, I hereby close the public hearing at 8:17 p.m. There will be no further public comments unless the Planning Commission wishes to ask questions to clarify information.

APPEALS BOARD DELIBERATIONS:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
The conditional use does comply with all the above applicable regulations in the R-2 Single-Family Residential Districts.
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
Normally a second dwelling unit is not allowed on a residential lot, however, if the accessory apartment meets the conditions listed then it will not cause substantial injury to the value of other property in the neighborhood.
0. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

As long as the dwelling is accessory to the principal dwelling and meets the 6 conditions then it will not dominate the neighborhood.

4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
The parking standards for a dwelling are one parking space per dwelling unit and the accessory apartment would require a second one for permanent off-street parking. .
5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
Property has been platted and all utilities are installed. A second water meter and sewer tap would be required for the accessory apartment.
3. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.
Adequate access is available to an open public street.

Having considered the evidence at the hearing for Case No. BZA-CU-2010 – 004 and determined that the findings of fact in the conditional use report as amended support the conclusions which are necessary for granting a conditional use as set out in Section 10-108 C of the Zoning Regulations, I, Gary Janzen move that the Chairperson be authorized to sign a Resolution granting the conditional use as requested, seconded by Jackson subject to the following conditions:

CONDITIONS:

1. **Maximum of one accessory apartment on the zoning lot.**
2. **Appearance of the accessory apartment shall be compatible with the principle dwelling and the character of the neighborhood.**
3. **Off-street parking shall provide so that there is one parking space for the accessory apartment.**
4. **Separate water and sewer connections.**
5. **Accessory apartment must remain under the same ownership as the principal single-family dwelling unit and not subdivided or sold as a condominium. Deed restriction stating this restriction must be filed with the Sedgwick County Register of Deeds prior to issuance of any occupancy certificate for the accessory apartment.**
6. **If the Zoning Administrator subsequently finds that there is a violation of any of the conditions attached to the granting of this Conditional Use, the Zoning Administrator may in addition to enforcing the other remedies available in the Zoning Regulations, declare the Zoning Permit issued for the Conditional Use is null and void.**

Vote Yea: Unanimous.

Planning Commission took a break at 8:21 p.m.

At 8:25 p.m. the Planning Commission was called back to order.

PUBLIC HEARING

CONDITIONAL USE
Case No. BZA-CU-2010-005
Request for a Conditional Use as an exception to permit the establishment of permit the operation of a charter bus business as an extended home occupancy property zoned a the RR-1 Suburban Residential District.
Applicant: Ivan Moore
Address: 327 E 77th St N.

CALL TO ORDER:

At 8:25 p.m., Chairman Janzen called Agenda item #8d which is a public hearing on Case No. BZA-CU-2010-005, which is a request for a conditional use as an exception to permit the establishment of permit the operation of a charter bus business as an extended home occupancy property zoned a the RR-1 Suburban Residential District.

DISQUALIFICATION DECLARED AND QUORUM DETERMINED:

None

NOTIFICATION:

According to the Secretary, a notice for this hearing was published in the Ark Valley News on September 2, 2010, and notices were mailed to the applicant and 6 real property owners of record in the area of notification on August 31, 2010. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given in order for the Planning Commission to hear the case.

EX PARTE COMMUNICATIONS:

No ex parte communication.

ZONING ADMINISTRATOR'S REPORT:

Zoning Administrator, Eldon G. Miller, provided a brief factual background report on the case.

APPLICANT'S REQUEST:

None.

PUBLIC COMMENTS:

None.

WRITTEN COMMUNICATIONS:

None.

CLOSE THE HEARING:

Hearing no further public comments, I hereby close the public hearing. There will be no further

public comments unless the Planning Commission wishes to ask questions to clarify information.

APPEALS BOARD DELIBERATIONS:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
The conditional use does comply with all the above applicable regulations in the RR-1 Suburban Residential Districts.

2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
The new 40' X 70' building for parking the buses and the operation of the charter business will not affect the neighborhood because the parking of the 10 buses will be in the rear of the property. The buses pick up the charters at locations other than at this location.

1. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
This property is located on two arterial streets that are paved. The property is separated from the surrounding property on the north and east by a flood control ditch and an arterial street. The property to the west is separated by a tree line and is a vacant field and to the south by an arterial street. This location and size of the lot should provide a buffer to neighbors.

4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
A site plan will have to be submitted showing the parking areas for the buses, drivers vehicles and bulk fuel storage and the screening of the same.

5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
Property has utilities and drainage.

4. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.
Adequate access is available to an open paved public street for the buses.

Having considered the evidence at the hearing for Case No. BZA-CU-2010 – 005 and determined that the findings of fact in the conditional use report support the conclusions which are necessary for granting a conditional use as set out in Section 10-108 C of the Zoning Regulations, I, John Dailey move that the Chairperson be authorized to sign a Resolution granting the conditional use as requested, seconded by Schroeder subject to the following conditions:

CONDITIONS:

- 1. Site Plan will have to be submitted to the Site Plan Review Committee for approval prior to the issuing of a zoning permit.**
- 2. Off-street parking for buses, driver's vehicles and bulk fuel storage will be address by the Site Plan.**
- 3. Maintenance of the buses will be completed inside of the new building.**
- 4. No outside storage of parts for maintenance of the buses.**
- 5. If the Zoning Administrator subsequently finds that there is a violation of any of the conditions attached to the granting of this Conditional Use, the Zoning Administrator may in addition to enforcing the other remedies available in the Zoning Regulations, declare the Zoning Permit issued for the Conditional Use is null and void.**

Vote Yea: Unanimous.

Adjourn the Board of Zoning Appeals meeting and reconvene the Planning Commission meeting

PUBLIC HEARING -ZONING REGULATION AMENDMENTS

Chairman Janzen move, second by Dailey to withdraw the public hearing and republish for a hearing on December 14, 2010. Vote Yea: Unanimous.

ITEMS BY PLANNING COMMISSION

Commissioner Dailey pointed out that it would been nice to have someone taking the minutes while Eldon presents the cases.

The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

Eldon G. Miller, AICP, CFM, Secretary

Approved by the Valley Center Planning Commission on October 26, 2010.

Gary Janzen, Chairman

OLD BUSINESS

A. ORDINANCE 1217-10, REMOVAL OF DANGEROUS OF UNSAFE STRUCTURE AT 500 N PARK, 1ST READING:

Item tabled from October 5, 2010 Council Meeting

An Ordinance authorizing and directing the removal of certain unsafe and dangerous structures located at lot 12 Park Avenue, Carpenter's Addition in the City of Valley Center, Sedgwick County, Kansas, also known and referred to as 500 N. Park, in the City of Valley Center, Sedgwick County, Kansas; Authorizing the financing of the costs of such removal by the sale of salvage from such structure, if any, and/or from the General Fund of the City; and levying of Special Assessments against the lots or parcels of land on which such structures are located.

- City Attorney Memo
- Community Development Officer Memo
- Ordinance 1217-10

Should Council choose to proceed,

RECOMMENDED ACTION:

Staff recommends motion to adopt Ordinance 1217-10, authorizing and directing the removal of certain unsafe and dangerous structures, for 1st reading.

OR

Instructing Staff to continue monitoring property at 500 N Park for Code Violations and take appropriate action to secure property.

MEMORANDUM

TO: City Council and City Administration

FROM: Barry L. Arbuckle

DATE: October 21, 2010

RE: 501 N. Park Disposition

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Dear Folks:

I still am convinced we have taken all steps legally necessary to raze this property should you choose to do so in the next few weeks or months, and the property is secure for now, but will only continue to deteriorate. With property "ownership" and/or a mortgage interest comes certain responsibilities which, if not fulfilled, can result in the physical structure being razed or sold for taxes. If we were to raze this property, the mortgage holder could not complain because it received proper notice from the City.

Another alternative is for a nonprofit, such as Mennonite housing, to petition the District Court to declare the property "abandoned" and for permission to "rehabilitate" the property for use as housing, and giving the current owner and mortgage holder only 90 days to rehabilitate the property, pay delinquent taxes, and bring the property to code. If no one offers a written plan in Court to rehab the property within 30 days of being served, then the nonprofit entity, "the petitioner," would file its plan with the Court to rehabilitate the "abandoned" property. Property is "abandoned" when the taxes are two years in delinquency and it has been unoccupied for 6 months before the petition is filed. After a nonprofit has rehabbed property, it may lease it to others and may also obtain a judicial deed to the property if the past owner has failed to pay the nonprofit its expenses and other compensation as ordered by the Court. If there are other such nonprofits rehabbing housing, we should notify them also.

As I indicated to Joel earlier, there are at least two other statutes dealing with dilapidated structures (K.S.A. 12-117, 115 et seq. - The Kansas Neighborhood Revitalization Act, and K.S.A. 17-2339 dealing with the creation of a City Municipal Housing Authority), but these statutes deal with a more comprehensive problem of "blighted" and "slum" areas rather than the isolated case we have here. Thus, I see no application of these statutes to 501 N. Park. Of course, like any City, we could always bid for the property at a tax sale, but we need a projected "public purpose."

DATE: September 28, 2010

TO: Honorable Mayor McNown
City Council

FROM: Eldon G. Miller, AICP, CFM, Community Development Officer

RE: 500 N. Park Dangerous Structure

Proposed Agenda Date: October 5, 2010

Background:

- On March 29, 2010; Cindy Plant, Code Compliance Officer sent a letter to the property owner reference the garage and has not heard from them.
- On June 4, 2010; 18th Judicial District Court, Sedgwick Court, Sedgwick County, Kansas Civic Department issued a Administrative Search Warrant for this address.
- Cindy Plant, Code Compliance Officer; Jared Truman, Sedgwick County Building Inspector; Bud Lett Sedgwick County Building Inspector/Plans Examiner and I inspected the property on June 4, 2010 at 1:00 p.m.
- Bud Lett has a written report that is enclosed.
- On June 7, 2010 Public Works boarded up the property per the search warrant and Barry Arbuckle; City Attorney and the property was plaque.
- On July 6, 2010; the detached garage was torn down.
- Dennis Cook, P.E., PEC and I inspected the property on July 27, 2010 at 1:00 p.m.
- Dennis Cook, P.E. will have a written report and will be at the Public Hearing.
- On August 3, 2010 City Council passed Resolution No. 576-10 giving the property owner 45 days to make necessary repairs.
- Property owner has not applied for a building permit to make the necessary repairs.

Financial Considerations:

- Costs to the city if the city has to demo the property.
- However, per proposed Ordinance any costs to the city less salvage shall be collected as provided by K.S.A. 12-1,115 and amendments.

Legal Considerations:

- City has the legal authority to order the property to be demolished per City Code 14.28.

Policy Considerations:

- City will have to assess whether the costs of leaving the structure as is (i.e. the safety of the public) outweighs the costs of repair or removing the structure.

Recommendation:

1. Adopt Ordinance No. 1217-10 and direct staff to cause structure to be razed and removed and the premises made safe and secure.

ORDINANCE NO. 1217-10

A ORDINANCE AUTHORIZING AND DIRECTING THE REMOVAL OF CERTAIN UNSAFE AND DANGEROUS STRUCTURES LOCATED AT LOT 12 PARK AVENUE, CARPENTER'S ADDITION IN THE CITY OF VALLEY CENTER, SEDGWICK COUNTY, KANSAS, ALSO KNOWN AND REFERRED TO AS 500 N. PARK, IN THE CITY OF VALLEY CENTER, SEDGWICK COUNTY, KANSAS; AUTHORIZING THE FINANCING OF THE COSTS OF SUCH REMOVAL BY THE SALE OF SALVAGE FROM SUCH STRUCTURE, IF ANY, AND/OR FROM THE GENERAL FUND OF THE CITY; AND LEVYING OF SPECIAL ASSESSMENTS AGAINST THE LOTS OR PARCELS OF LAND ON WHICH SUCH STRUCTURES ARE LOCATED.

WHEREAS, the governing body did after proper notice and hearing as provided by law make findings by Resolution No. 576-10, dated August 3, 2010, that the structures hereinafter described are unsafe and dangerous and did direct the owner of such structures to repair or remove the same and make the premises safe and secure, together with a statement that if the owner failed to commence the repair or removal within the time fixed by such resolution or failed to diligently prosecute the same until the work was completed, the city would cause the structures to be razed and removed; and,

WHEREAS, such resolution was published in the official city newspaper and copies of such resolution was mailed to each owner, agent, lienholder of record and occupant of such structures and all other parties having any legal or equitable interest in the property, or was otherwise served as required by law; and,

WHEREAS, the owner has wholly failed to commence the repair or removal of said structures;

Now Therefore, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VALLEY CENTER, KANSAS:

Section 1. The enforcing officer is hereby authorized and directed to cause the structure located on Lot 12 Park Avenue, Carpenter's Addition in the City of Valley Center, Sedgwick County, Kansas, also commonly known and referred to as 500 N. Park of said city to be razed and removed and the premises made safe and secured, and for this purpose is authorized to invite bids, negotiate a contract, or cause the work to be done by city employees.

Section 2. The enforcing officer shall keep an account of the costs of the work and may sell salvage from such structures and shall keep an account of the receipts therefrom as provided by law.

Section 3. All cost incurred by the city in the razing and removal of such structures and the making of the premises safe and secured shall be paid from moneys received from the sale of salvage therefrom and all moneys in excess of that necessary to pay such cost shall, after the payment of all costs, be paid to the owner and the premises upon which said structures were located; PROVIDED, that if

there is no salvage or if the proceeds received from the sale of salvage is insufficient to pay the costs of such work, such costs or any portion thereof in excess of the amount received from the sale of salvage shall be assessed as a special assessment against the lots or parcels of land on which the structures were located and may be financed until the assessment is paid out of the general fund of the city and/or may be pursued as a personal debt pursuant to the procedure allowed under K.S.A. 12-1,115 and any amendments thereto.

Section 4. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body, this 2nd day of November, 2010.

Michael D. McNown, Mayor

ATTEST:

Kristine A. Polian, City Clerk

OLD BUSINESS

B. ORDINANCE 1218-10, FOOD VENDING LICENSE, 2ND READING:

An Ordinance of the Valley Center City Council creating the Food Vending License, and collection of fees therefore; and repealing all other Ordinances and parts of Ordinances in conflict herewith.

Should Council choose to proceed,

RECOMMENDED ACTION:

Staff recommends motion to adopt Ordinance 1218-10, creating a Food Vending License, for 2nd reading.

ORDINANCE NO. 1218-10

AN ORDINANCE OF THE VALLEY CENTER CITY COUNCIL CREATING THE FOOD VENDING LICENSE, AND COLLECTION OF FEES THEREFOR; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VALLEY
CENTER, KANSAS;**

Section 1. VENDING WITHOUT LICENSE A NUSIANCE. The selling, vending, peddling, hawking or offering to sell food products from vehicles is declared a public health nuisance and it is unlawful for any person, itinerant merchant or peddler to sell or offer to sell, vend, peddler or hawk food products from an automobile, truck, wagon, trailer or other vehicle on the streets of the city, or by going from door to door in the city with such food products, without first having secured a license therefore.

Section 2. APPLICATION. Any person, firm or corporation desiring to apply for a license under this chapter shall file with the city clerk an application in writing setting forth his name, description, permanent address, employer, if any, type and make of vehicle, owner of motor vehicle, police record if any, and three character references. In addition, the applicant shall submit a site plan, if applicable, depicting the location of the mobile food vendor on the property which has been reviewed by the city zoning department with regard to applicable city zoning code.

Section 3. COUNTY HEALTH OFFICER APPROVAL. Each application for a license under this chapter shall be accompanied by a certificate from the county health officer or his or her agent, attesting to the applicant's compliance with county health and sanitation regulations. Such applicant shall also have the approval of the chief of police of the city as having a safe and adequate vehicle.

Section 4. FEE – TERM - CONDITIONS. License shall be issued under this chapter are for a period of one year from the date of issuance. Such licenses may not be transferred. The license permit amount shall be published in the current City of Valley Center Schedule of License, Permit, and Application Fees.

Section 5. FOOD PRODUCT REQUIREMENTS. All persons being licensed under this chapter shall comply with the following food product requirements:

- A. All food dispensed by peddling shall be prepared, package and secured as such from an approved source.
- B. Frozen foods and other significantly perishable foods shall be packaged with the manufacturer's wrapping, kept stored in a clean, tightly covered, refrigerated container recognized for the purpose and located conveniently within or on the vehicle so as not to constitute a safety hazard to the operation of the vehicle.
- C. Other packaged foods not normally kept under refrigeration shall be storied in a clean, tightly covered container to prevent possible contamination by the dust or otherwise.

- D. An approved container shall be provided in a convenient location for waste material.
- E. The outside of the vehicle shall be uniformly painted, preferably white, but at least with a light color and kept clean.
- F. The interior shall be kept clean at all times. The inside paintable surfaces of the vehicle, if enclosed, shall be painted with a light color uniformly throughout. The interior, including headliners and door panels, should be of such materials that can be cleaned and will not constitute a source of dust or dirt hazard.
- G. The operator or driver of each vehicle shall be dressed in clean clothing, preferably white, shall be clean and neat, shall have clean hands and fingernails, proper hair care, and be free from communicable disease.

Section 6. VEHICLE SAFETY REQUIREMENTS. All persons licensed under this chapter must comply with the following vehicle safety requirements:

- A. Every vehicle, whether it is a motor vehicle such as a car, power bike, motorcycle, trailer or a manually operated vehicle such as a bicycle, shall have all the necessary safety devices required by motor vehicle laws or generally recognized for particular safety purposes such as the following:
 - 1. The vehicle shall be in satisfactory repair and maintained without defects such as crumpled and cut fenders, body damage, loose bumpers or bumper guards or broken out glass areas.
 - 2. If a sound-amplifier system is used, it shall be located in a space within the vehicle that will not constitute a potential safety hazard to the safe operation of the vehicle.
 - 3. A motor vehicle shall have operative stoplights and headlights. A nonmotorized vehicle such as a bicycle shall have a rear reflector and the necessary headlamp.
 - 4. An enclosed vehicle shall have an unobstructed glass for the proper safety vision.
 - 5. The vehicle shall have an operative horn or other warning signal device.
 - 6. The vehicle shall have adequate brakes.
- B. All vehicles must be operated in uniformity with the traffic laws of the city and state.

Section 7. POSTING. All persons licensed under this chapter must keep their license posted inside each vehicle in a conspicuous place. Such license must be current and may be used only by the person to whom issued.

Section 8. REVOCATION. Any license issued pursuant to this chapter may be revoked for the licensee's failure to comply with the requirements set forth in this chapter.

Section 9. EXEMPTION. The provisions of this chapter shall not apply to the sale of farm or garden products or fruits grown within the state by the seller or his or her employer. The City Council may waive certain provisions of this ordinance for specific festivals, carnivals or events.

Section 10. PENALTY FOR VIOLATION. Any person, firm or corporation who is convicted of violating the provisions of this chapter shall, upon conviction, be punished by a fine of not more one hundred dollars, imprisonment for not more than thirty days, or by both such fine and imprisonment.

Section 11. 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 12. APPLICABILITY AND EFFECTIVE DATE. This ordinance shall apply to the entirety of Valley Center, Kansas.

All portions of former ordinances in conflict herewith are hereby repealed or superseded.

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 NOVEMBER, 2010.

First Reading: October 19, 2010
Second Reading:

{SEAL}

MICHAEL D. MCNOWN, MAYOR

ATTEST:

KRISTINE A. POLIAN, CITY CLERK

NEW BUSINESS

A. ORDINANCE 1219-10, AMENDMENT TO CITY CODE:

An Ordinance of the Valley Center City Council amending Title 6 of the Valley Center, Kansas Municipal Code by amending Chapter 6.16 “Domestic Animals”.

Should Council choose to proceed,

RECOMMENDED ACTION:

Staff recommends motion to adopt Ordinance 1219-10, amending Title 6 of the Valley Center, Kansas Municipal Code by amending Chapter 6.16 “Domestic Animals”, for 1st Reading.

ORDINANCE NO. 1219-10

**AN ORDINANCE OF THE VALLEY CENTER CITY COUNCIL
AMENDING TITLE 6 OF THE VALLEY CENTER, KANSAS,
MUNICIPAL CODE BY AMENDING CHAPTER 6.16 “DOMESTIC
ANIMALS”**

BE IT ORDAINED, by the Governing Body of Valley Center, Kansas:

Section 1. The Valley Center Municipal Code, Title 6, “Animals,” Chapter 6.16, “Domestic Animals,” Section 6.16.030, “Permit Required-Fee-Inspection of Premises-Renewal,” and Section 6.16.040, “Maintenance of Domestic Animals-Nuisance Exceptions,” are hereby amended to read as follows:

6.16.030 Permit required-Fee-Inspection of premises-Renewal-Waiver-Waiver Appeal.

- C. That the city clerk, or a designated agent thereof, inspect the premises where the applicant proposes to maintain the animal or animals. No permit shall be issued unless and until said premises and premises conditions conform strictly with the requirements of Section 6.16.040 *or the applicant has been granted a waiver for certain requirements of Section 6.16.040 from the city clerk or designated agent thereof;*
- E. *The city clerk, or a designated agent thereof will evaluate properties and may issue waivers of distance and setback requirements for domestic animal structures where such waivers do not adversely affect public health and safety, pose a threat to the environment or constitute a nuisance to neighbors. Criteria for review for such waiver will include, in addition to site-specific requirements, the following requirements:*
 - (1) *That the animals will be kept or maintained at all times in a safe and sanitary manner;*
 - (2) *That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition;*
 - (3) *That the health and well-being of the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property;*
 - (4) *That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement;*
 - (5) *That the keeping of such animals will not harm the surrounding neighborhood or unreasonably disturb the peace and quiet of the surrounding neighborhood;*

- (6) *That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;*
- (7) *That the animals will not repeatedly run or be found at large, will not damage property or deposit excretory matter upon the property of anyone other than their owner;*
- (8) *That the animals will not make disturbing noises, i.e., continued and repeated or untimely howling, barking, whining or other similar utterances causing unreasonable annoyance, disturbance or discomfort to neighbors where the animals are kept or harbored, or otherwise be unreasonably offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping;*
- (9) *That the applicant or any person who will share in the care, custody and control of the animals is not currently in violation of, or has not previously violated any applicable city, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.*

F. In considering waivers for Domestic Animal permits, the city clerk, or a designated agent thereof will consider:

- (1) *Specific location of the animal structure or enclosure on the property in question;*
- (2) *The size of the lot and distance of the structure or enclosure to adjacent property lines and dwellings;*
- (3) *Structures located on or uses made of the adjacent property and the likelihood that a waiver would adversely affect the use of the adjacent property;*
- (4) *Type and number of animals to be maintained and the potential for creation of a nuisance;*
- (5) *Any history of complaints and violations concerning the permit holder's compliance with this code or violations of local, state or federal law;*
- (6) *Any comments of neighbors; and*
- (7) *Any other available information concerning the potential for creation of a nuisance.*

The city clerk, or a designated agent thereof shall notify the applicant for the waiver of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted waiver request. Individuals aggrieved by any decision of the city clerk, or a designated agent thereof relative to waivers may appeal to the City Council within ten (10) days of notice of such decision as set forth in Section 6.16.030(G) of this Code.

G. Any person dissatisfied with a waiver determination of the city clerk, or a designated agent thereof may appeal such waiver decision to the City Council. An appeal shall be a de novo quasi-judicial proceeding from which further appeal may be taken to the district court. An appeal must be filed with the City

Administrator no more than ten (10) business days from the date of the written order appealed from. The City Council will hear the appeal no later than thirty days from the filing of such appeal.

6.16.040 Maintenance of domestic animals-Nuisance exceptions.

M. Stables, coops, pens and other structures or enclosures for the housing of animals shall comply with all zoning requirements of the City of Valley Center Zoning Code. ~~All animal enclosures shall be at least three hundred feet distant from any dwelling on adjoining premises at the nearest points thereof.~~

Section 2. Severability. Those sections, paragraphs, and provisions of Chapter 6.16 of the City of Valley Center Municipal Code which are not expressly amended or repealed by this Ordinance are hereby reenacted, and it is expressly declared to be the intention of this Ordinance no to repeal or amend any portions of the City of Valley Center Municipal Code other than those expressly amended or repealed in Section 1 of this Ordinance.

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. Applicability and Effective Date All portions of former ordinances in conflict herewith are hereby repealed or superseded. 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 _____ 2010.

First Reading: _____

Second Reading: _____

{SEAL}

Michael McNown, Mayor

ATTEST:

Kristine A. Polian, City Clerk

NEW BUSINESS

B. EXECUTIVE SESSION:

ATTORNEY CLIENT PRIVILEGES

RECOMMENDED ACTION:

Staff recommends motion to recess into Executive Session pursuant to the Attorney - Client relationship exception, in order to discuss Privileged Information, for a period of 20 minutes.

CONSENT AGENDA

A. SOLID WASTE / RECYCLING TRANSITION TIMELINE UPDATE

RECOMMENDED ACTION:

Staff recommends motion to approve the Consent Agenda as presented.

CONSENT AGENDA

A. SOLID WASTE / RECYCLING TRANSITION TIMELINE UPDATE:

STAFF REPORTS

A. City Clerk Polian

B. Chief of Police Hephner

C. Fire Chief Tormey

D. Community Development Officer Miller

E. City Superintendent Dunn

F. Environmental Services Officer Plant

- Code Enforcement Report, September 2010

G. Parks & Public Buildings Superintendent Owings

H. City Engineer Kelsey

I. City Attorney Arbuckle

J. City Administrator Pile

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