



Public Works and Safety Committee
Standing Committee Meeting Agenda
Monday, June 26, 2023
5:00 PM

Location: Hybrid

We invite you to view the meeting in person in the 5th Floor Conference Room, Suite 515, Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, or virtually via a Zoom webinar.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85883431508>

Or One tap mobile:

+16699009128,85883431508# US (San Jose), +17193594580,85883431508# US

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 US (San Jose), +1 719 359 4580 US, +1 253 205 0468 US, +1 253 215 8782 US (Tacoma), +1 346 248 7799 US (Houston), +1 669 444 9171 US, +1 386 347 5053 US, +1 507 473 4847 US, +1 564 217 2000 US, +1 646 558 8656 US (New York), +1 646 931 3860 US, +1 689 278 1000 US, +1 301 715 8592 US (Washington DC), +1 305 224 1968 US, +1 309 205 3325 US, +1 312 626 6799 US (Chicago), +1 360 209 5623 US, 877 853 5257 US (Toll-Free), 888 475 4499 US (Toll-Free)

Webinar ID: 858 8343 1508

<u>Name</u>	<u>Absent</u>
Commissioner Melissa Bynum, Chair	☐
Commissioner Christian Ramirez	☐
Commissioner Harold Johnson	☐
Commissioner Angela Markley	☐
Commissioner Mike Kane	☐
Tom Groneman, BPU Board Member	☐

- I.** **Call to Order/Roll Call**
- II.** **Revisions to June 26, 2023 Agenda**
- III.** **Approval of standing committee minutes from September 26, 2022.**

IV. Committee Agenda

Item No. 1 - ORDINANCE: ALLOWING GOOGLE TO OPERATE AND MAINTAIN COMMUNICATIONS SERVICES IN THE RIGHTS-OF-WAY

Synopsis: An ordinance allowing Google to operate and maintain communications services in the right-of-way, submitted by Dan Kuhn, Legal Department, Assistant Counsel.

Tracking #: 212523

Item No. 2 - RESOLUTION: DECLARING NECESSITY AND AUTHORIZING A SURVEY AND DESCRIPTIONS OF LANDS

Synopsis: A resolution declaring the necessity and authorizing a survey and descriptions of lands to be acquired by the right and power of eminent domain for the location, laying-out, reconstruction, expansion, repair, maintenance, operation, and use of 90th Street and State Avenue in Kansas City, Wyandotte County, Kansas, submitted by Daniel Kuhn, Legal Department.

Tracking #: 212528

Item No. 3 - GRANT: VOCA FY 2024 APPLICATION FOR VICTIM SERVICES

Synopsis: Approval to apply for the upcoming VOCA grant in federal VOCA funds of \$380,980. There is no match requirement, submitted by Wendy Medina, Program Supervisor, KCKPD.

Tracking #: 212524

Item No. 4 - RESOLUTION: COUNTY FUNDED INFRASTRUCTURE PROGRAM (CIFI)

Synopsis: Approval of a resolution committing a mill in the same fashion each year into the future, submitted by Jeff Fisher, Executive Director of Public Works.

Tracking #: 212520

Item No. 5 - APPROVAL: EDWARDSVILLE WHOLESALE WASTEWATER RATE AGREEMENT

Synopsis: Public Works staff will present a new and updated 5-year agreement with wholesale rates that align with Kansas City, Kansas ratepayers, submitted by Jeff Fisher, Executive Director of Public Works.

It is requested that this item be fast-tracked to the June 29, 2023 Full Commission meeting.

Tracking #: 212518

Item No. 6 - PRESENTATION: SOLID WASTE RATE STUDY

Synopsis: Presentation of a solid waste rate study including a cost allocation strategy that captures capital, debt, operations, and maintenance costs, as well as indirect costs for each of the program components, submitted by Jeff Fisher, Executive Director of Public Works.

For information only

Tracking #: 212517

Item No. 7 - PRESENTATION: ARMOURDALE WATERSHED STUDY

Synopsis: Presentation of the Armourdale watershed study. The US Army Corp of Engineers (USACE) offers the Planning Assistant to States (PAS) program, which requires a 50/50 participation match, submitted by Jeff Fisher, Executive Director of Public Works.

For information only

Tracking #: 212521

V. Public Agenda

VI. Adjourn

**PUBLIC WORKS AND SAFETY
STANDING COMMITTEE MINUTES
Monday, September 26, 2022**

The meeting of the Public Works and Safety Standing Committee was held on Monday, September 26, 2022, at 5:00 p.m., remotely via Zoom or on-site. The following members were present: Chairman; Commissioners Ramirez, Johnson (arrived at 5:30 p.m.), Markley, Kane, and BPU Board Member Tom Groneman. The following officials were also in attendance: Alan Howze and Bridgette Cobbins, Assistant County Administrators; Casey Meyer, Senior Counsel; James Bain, SueZanne Bishop, and Jon Khalil, Assistant Counsels; Brandy Nichols-Brajkovic, Chief Municipal Court Judge; Dominic Geniuk, Municipal Court Administrator; Jeff Fisher, Executive Director of Public Works; Kent Anderson, Deputy Police Chief; John Droppelmann, Fire Marshal; Mark Weckwerth, Environmental Engineer, Air Quality; Jennifer Stewart, Environmental Health Manager; Robbie Anderson, Asset Manager, Public Works; Jay Clare, Information Systems Analyst, Asset Management Team; John Kelly, Director of Facilities; Jeff Miles, Interim Fleet Services Manager; Vince Billagio, Manager, Street Division; Serena Lopez, Fleet Division; Duane Smith, Street Operation Supervisor; Turina Lopez, DeWayne Smith, and Sam Her, Public Works; Diana Jimenez, Office Manager, Public Works; Trenton Foglesong, Engineer; Gail Bergman, Air Quality Supervisor; LaVert Murray, Economic Development Advisor to the Mayor; Monica L. Sparks, Acting UG Clerk; and Adelina Masingill, UG Clerk's Office.

Chairman Bynum said before I call the meeting to order, I would like to announce that some committee members, staff, and the public are attending remotely by Zoom as well as on-site.

All participants joining virtually should mute phones when not speaking to avoid background noise. During the meeting, please make sure you announce yourself by name and title when you speak so the public knows who is speaking. This is critical given the number of remote participants, it's also guidance from our Kansas Attorney General.

The public is allowed to participate or submit comments by email prior to the meeting, and those will be included in the record of the meeting. The public can also indicate their intent to provide remote public comment by contacting our Clerk's Office by 5:00 p.m. the Thursday prior to the meeting and will have an opportunity to provide brief comments either by phone or Zoom or here in person tonight.

Chairman Bynum called the meeting to order. Roll call was taken, and all members were present as shown above.

Chairman Bynum said we don't have any revisions on tonight's agenda.

Approval of standing committee minutes from May 23, 2022, meeting. **Commissioner Kane made a motion, seconded by Commissioner Markley, to approve the minutes.** Roll call was taken and there were five “Ayes,” Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

COMMITTEE AGENDA

Item No. 1 – 211964...OVERVIEW: GRANT AWARD AND ACCEPTANCE INTO COHORT

Synopsis: Update by Dominic Geniuk on acceptance into the cohort and grant award from Cities & Counties for Fines and Fees Justice (CCFFJ) Program, submitted by Dominic Geniuk, Court Administrator.

Chairman Bynum said I want to recognize Chief Judge Brandy Brajkovic and we'll turn it over to you if you would introduce your team for us.

Brandy Nichols-Brajkovic Administrative Judge, said absolutely. To my right is Joni Hirsch, she is from the Fines and Fees Justice Center. To her right is Priya Sarathy Jones, she is also from the Fines and Fees Justice Center. How we're going to start today is we're going to let them present on what the CCFFJ is and then we will follow up with the team and what our proposed project is.



Priya Sarathy Jones, National Policy and Campaigns Director, Fines and Fees Justice Center, said I will get started with introducing our organization. We are a national advocacy organization that works on the elimination of fees and their collateral consequences when unpaid and making fines equitably imposed and enforced around the country. We do our work in three ways primarily. One, on the national level where we work across the country with state and local governments who are interested in doing this as well as community-based organizations. We run state campaigns and legislative efforts in four states which are New York, Florida, Nevada, and New Mexico. We manage and operate a clearinghouse of information from around the country on reforms, data, research, pilot projects, just really anything in this area that is advancing reforms under the issue of fines and fees.

What's the difference between a fine and a fee?

FINES Monetary sanctions imposed as punishment for violating the law – either criminal or civil. Examples: <i>Fines exist for parking violations, littering, traffic offenses, truancy, sleeping on a park bench, walking dog without a license, cracked windshield etc.,</i>	FEES Costs, assessments, and/or surcharge imposed to access services or fund the justice system or other government services. Examples: <i>Probation Fees, Programming Fees, Counsel Fees, Drug Testing Fees, Civil Assessment Fees, Electronic Monitoring Fees, Warrant Fees, Phone Call Fees etc.,</i>
---	--

We'll start today by first just level setting and identifying what is the difference between a fine and a fee for the purposes of our conversation. Fines, by definition, are the monetary sanction that are imposed as a punishment for violating the law. They can either be criminal or they can be civil. Fees, on the other hand, are really cost assessments and surcharges. They have different names in different jurisdictions, but they are not a part of the punishment; they are not a fine. They are also not a part of restitution, which are paid to victims of crime. They are something that is solely for the purposes of generating revenue and covering costs to operate our government services. When we talk about our policy positions, it's important to know the difference because we advocate for different policy solutions in these two different policy areas.



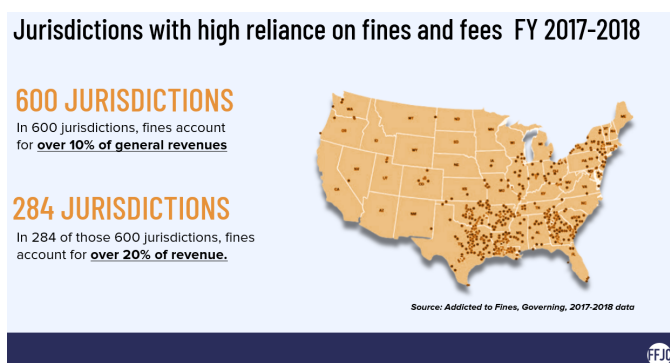
As we talked about, there's a difference between fines and fees but ultimately, people are experiencing them as monetary sanctions that they incur and have a debt that they have to pay off.

What happens when a person can't afford to pay? A series of things begin to happen. When a person doesn't have the ability to pay, it oftentimes leads to an increased amount of fines and fees that they owe. There are penalties, surcharges, interest often tacked on to unpaid fines and fees when a person doesn't pay them. Their punishments also become more severe. There is a slew of collateral consequences that vary from jurisdiction to jurisdiction that begin to attach.

One of the primary ones is when there is unpaid court debt, your driver's license is suspended. People, especially in most places in this country, really are required to drive to really access anything that involves their needs, jobs, and taking care of their families. So, more and more punishment begins to ensue when those types of things happen. The collateral consequences pile on, so you get things like driving on a suspended license; you oftentimes are uninsurable, or your insurance costs go up too much and you aren't able to keep insurance. In some places, it keeps you from registering to vote, having your records cleared, and a slew of other collateral consequences that really put up economic barriers and access to economic opportunities. It also ends up keeping people prolonged in the system and they aren't able to really cycle out of the system.

If you are arrested or charged with something and you're able to pay off your fines and fees, especially in these fines-only cases, then you're able to move yourself out of the system. But when you don't have the ability to pay, then those debts stay on you and the involvement with the system continues until you're able to relieve yourself of those financial sanctions. The communities that are most impacted by this are oftentimes already low- or lower-income

communities and it is driving families and communities further into debt, which then inhibits their ability to pay not only these debts but take care of their day-to-day needs as well.



There has been a growing reliance on fines and fees across the country. There was a study done by *Governing Magazine* a couple of years ago that looked at jurisdictions across the country and how much they rely on fines and fees. Six hundred jurisdictions across the country fines and fees account for over 10% of their general revenues with a little less than 300 of those jurisdictions over 20% of their revenues. The one thing to emphasize here is regardless of whether it's 2%, 10%, or 20%, when you really look into the numbers where those 2%, 10%, and 20% are coming from, are oftentimes low-income communities that can carry them the least.

I'm going to switch this over to my colleague Joni, who can really go into more about fines and fees and our cities and counties project.

MYTH: Fines and fees are effective sources of funding

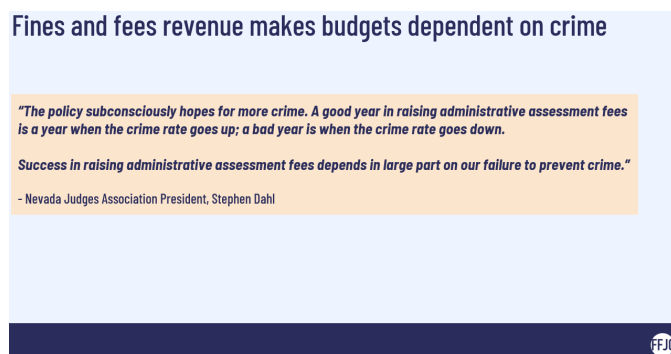
- Unreliable and inequitable funding source
- Cost of collection can outweigh the revenue generated
- Significant lack of data and transparency

**In New Mexico, counties spent at least 41 cents just to collect a single dollar of fine and fee revenue – that's 115 times more than the IRS spends to collect a dollar of income tax. Bernalillo County fairs worst of all, spending a whopping \$1.17 to collect a dollar.*

FFJC

Joni Hirsh, Local Initiatives Strategist, Fines and Fees Justice Center, CCFFJ, said so really quickly, I'm just going to run through a few sort of common myths that are believed about fines and fees then sort of what the data bears out and what anecdotal experience bears out that may be contrary to what folks think.

One is that fines and fees are actually effective sources of funding. Despite the fact that so many places rely on fines and fees for their budget, it's actually a very unreliable funding source. The cost of collection can often outweigh what's actually generated by revenue. You can see this example in New Mexico. Counties spent at least \$0.41 just to collect a single dollar of fine and fee revenue. When we think about the cost of collections, a lot of times we're not actually thinking holistically about how much it's actually costing to collect.



Another problem with this is that relying on fines and fees for revenue actually makes budgets dependent on crime. This phenomenon was described by the Nevada Judges Association President saying, "The policy subconsciously hopes for more crime. A good year in raising administrative assessment fees is a year when the crime rate goes up; a bad year is when crime rate goes down."



So, not surprisingly given these facts, we've actually documented that there's over \$27.6B owed. This is court debt that has not been paid across the nation, and this is actually just a pretty small amount of data that we were able to get from states. It's actually a number much larger than that. The rest is unknown.

MYTH: Fines and Fees are Effective at Deterring Crime

- According to Alabama Appleseed Survey, 38% of respondents admitted to committing at least one crime to help pay off their debt. 28% of those admitted to committing a felony, when their only previous conviction was for a misdemeanor or minor traffic offense.
- A study from Milwaukee found that imposing a mandatory \$200 surcharge on people convicted of misdemeanors increased their likelihood of reoffending.
- Imposition of juvenile fees associated with increased likelihood of recidivism.

Sources: Exploitative Revenues, Law Enforcement, and the Quality of Government Services, Goldstein, Sances, You, 2018; Alabama Appleseed Survey; The Noneconomics of Criminal Fines and Fees, Giles, 2021



Another myth is that fines and fees are effective at deterring crime. In fact, there is a survey out of Alabama. A thousand participants were surveyed and they found that 38% of respondents admitted to committing at least one crime to help pay off their debt. For many of these folks, they were committing a felony in order to help pay it off when their only previous conviction had been a misdemeanor or minor traffic offense.

There was also a study from Milwaukee that found that imposing a new mandatory \$200 surcharge on people convicted of misdemeanors increased their likelihood of reoffending and did not increase their chances of paying. We also know the imposition of juvenile fees is associated with increased likelihood of recidivism. You can see that increasing fines and fees is not effective at deterring crime.

Policing for Profit Makes Communities Less Safe

- Police "quotas" or other pressures designed to maximize arrests or ticketing as a source of revenue can also create a wedge between officers and the community and harm officer morale.
- Every 1% increase in revenue from fines and fees correlates with a 6.1% decrease in the violent crime clearance rate and an 8.3% decrease in the property crime clearance rate.
- Further when enforcement relies on police, it diverts officers from the performance of public safety functions.



Going back to what I was talking about earlier with sort of dependence on crime in order to fill revenue. Policing for profit is actually making communities less safe, and this is the case for a number of reasons. There was a study done recently that showed every 1% increase in revenue from fines and fees actually increased with a decrease in clearance rates. That was a 6% decrease in the violent crime clearance rate and an 8% decrease in property crime clearance rates. And further, when it becomes the police's job to be collecting and trying to think about revenue, it is diverting their attention away from normal public safety functions.



So, why are we here today? We, the Fines and Fees Justice Center, along with two other organizations, the Financial Justice Project in San Francisco and Results for America, started this project a few years ago called Cities and Counties for Fine and Fee Justice. The idea here is supporting local reform, fine and fee reform that is bold and equitable and can sort of create momentum for local reform across the country.



I'll just talk a little bit about sort of what this Cities and Counties for Fine and Fee Justice network is and what kind of grants and TA will provide, then I'll pass it over and you can hear a little bit more about what Wyandotte is planning on doing in the upcoming year.

The map here shows the jurisdictions that were a part of our first cohort and a part of our new cohort. The purple stars are a previous cohort, and the blue is our new 2022 to 2023 participants. As a part of the network, we'll just quickly highlight some of the successes that we saw with the first cohort. We saw reforms around jail phone call fees, making them free; and commissary fees, eliminating surcharges that were put on commissary items in jails.

One of our jurisdiction's passed driver's license suspension reform. We had folks focusing on parks and recreation fees, either eliminating those fees or making them more affordable for

folks with low incomes. Jurisdictions looked at their ticketing costs and ability to pay models. We also had one jurisdiction create the first publicly funded restitution fund.

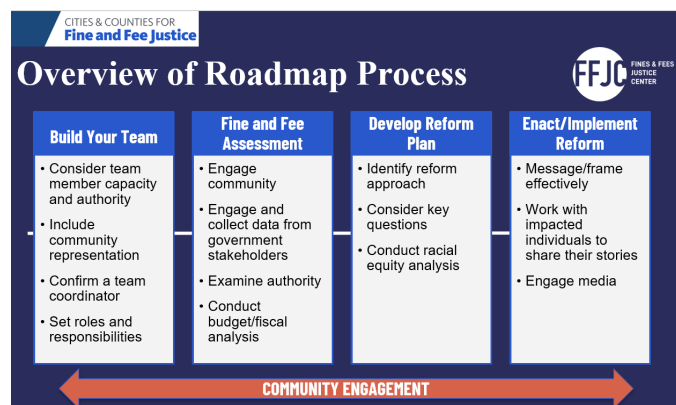


This new group, you can see the six participants. This was a really competitive process of jurisdictions applying to be a part of this leadership network of which Wyandotte was selected. They are focusing sort of on these four main categories of reform. So, eliminating what we call high pain/low gain fees, coming up with alternatives to fines; eliminating debt-based driver's license suspensions, and right-sizing fines through the ability to pay. You can see the other members of this cohort are Washtenaw County; the city of Wilmington, Delaware; Jefferson County; Chatham County; and Miami-Dade County.



Being a part of this leadership network involves getting technical assistance from us and our partner organizations. In addition to the \$50K grant, we provide various forms of tailored assistance. That includes the site visit, which is why we're here this week. In addition to monthly calls, one-on-one assistance, connections to others in the field, and research best practices. We also have webinars that we'll be hosting for issues that are most relevant to the jurisdictions and passing their reforms. Then also just connecting each other to one another and others in the field

through calls and convenings to make sure that folks know what's going on around the country and can sort of create this national momentum.

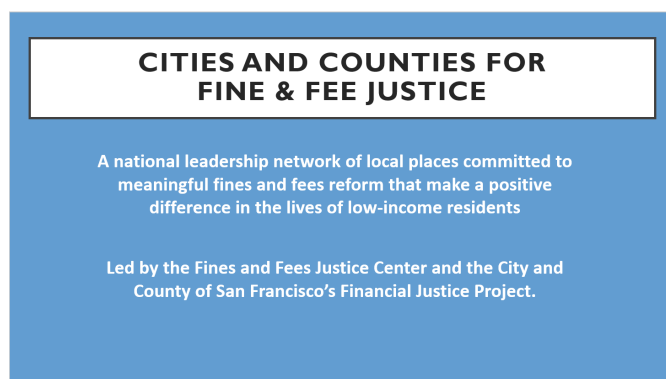


Then very quickly before I pass it off. This is sort of the trajectory of what teams go through as a part of this cohort experience. The first step is putting a team together. A big part of this is making sure that the community is represented. Then also just making sure that the team has the authority to actually be pursuing the reforms that they are setting out to pursue.

We help teams go through a fine and fee assessment to really understand the data and what fees are being imposed, what fees can be imposed, where there is authority to stop imposing, and to do some sort of budget and fiscal analysis. From there, we help teams develop a plan. So, really thinking strategically about what needs to happen in order to pass these reforms and then implementation. So, actually getting reforms passed and implemented and the communications and media support that may come along with that. Sort of throughout this process, we encourage and help with community engagement to make sure the reforms are really centered and the experiences of impacted individuals.

With that, I will pass it off to talk a little bit more specifically about Wyandotte and what you'll be focusing on this year.

Judge Nichols-Brajkovic said we actually saw this first opportunity with the first cohort come out in 2019, 2018 and we were really excited. We were really excited about participating because we were already starting this work. That was around the time that we asked you to drop our \$50 late fees to \$5 late fees. We changed some of our bond forfeiture processes to make sure they weren't just always going into the General Fund.



Just didn't really have the cohesion or the support at the time to move forward to attend that boot camp at that time. We missed the opportunity. So, when it came back the second time, I was unnervingly geeked out about it. It was right after we had the new Mayor and the new Interim County Administrator.

With the support of Bridgette Cobbins, we put together a team that we could go send out to the boot camp. It was myself, Dr. Edwards, Cheryl Harrison-Lee, and Bridgette. We went to this amazing boot camp with, I don't know how many people were in person—100, over 100, and there were several on Zoom. It was just a really exciting place to be learning about—we thought we were doing pretty good and we got so many amazing ideas from that.

We came back and we're like hey, we really want to look at this so we built our team. A key component of having a team is also having a community member because it's a move into understanding your community member is the subject matter expert, is how I think about it. We can think all day long about what we think is going to fix the issue or what we need to address, but we don't really know until somebody has been impacted by our decisions or our policies. Mr. Terry DeMoss will join us and he will be a key component. We're really looking forward to him.

Our specific project is sort of unusual because like when we talk about authority, we're lucky by having the support of the Commission. You guys make the policy so you can allow us to repeal the ordinances. We have the support of the County Administrator's Office, through Cheryl Harrison-Lee and Bridgette Cobbins, and the Mayor's Office. By being a city court, you guys control all those authorizing ordinances so we can come ask you to remove those.

There are several fees that are already in your ordinances that we do not assess. That's a public defender fee. We don't charge people for the public defender. We can actually charge people for each day they stay in jail, \$94 a day. We don't do that. We can charge people an appeal bond, to appeal our appearance bond, to appeal their court, their trial, their guilty finding to District

Court. We don't charge that. That's your constitutional right to appeal. We can charge a \$10 docketing fee for trials. We don't charge those because it's your constitutional right to set up for a trial. Part of this project is shooting fish in a barrel, is that the saying? We'll just ask you guys to repeal that. Another key component is it needs to have community engagement.

Wyandotte County/City of Kansas City, Kansas, along with five other jurisdictions, was announced as a new member of Cities and Counties for Fine & Fee Justice. The selected leaders represent jurisdictions that are rethinking their reliance on fines and fees revenue and committed to implementing reforms that support public safety and economic prosperity for all their residents. The other jurisdictions include:

- Chatham County, Georgia • Jefferson County, Alabama • Miami-Dade County, Florida
- Washtenaw County, Michigan • City of Wilmington, Delaware

As a participating jurisdiction of the 2022-23 CCFJ Cohort, we are receiving a \$50,000 grant to help support our fine and fee reform efforts/goals.

The Municipal Court is committed to eliminating as many costs as possible, and we have implemented several changes over the past few years towards this goal. An area, though, where we have not been able to make as much progress has been eliminating fees related to assessments and/or evaluation services for individuals ordered to probation and/or diversion as well as those persons identified through court interaction.

We will be utilizing the awarded grant funds to help pay for a position that will work with individuals, conducting assessments and evaluations, thereby eliminating the cost to the citizen. This position (Risk Engagement Assessment Liaison ... or "REAL") will also work at building relationships with community partners – we want to provide citizens with viable options and resources that will assist them in overcoming the barriers and obstacles that could lead them back into the criminal-legal system. Also, we understand there must be a consequence for negative actions, especially those actions that threaten public safety. As such, the REAL will explore ways to implement non-monetary sanctions (when feasible) as a way to engage citizens and change behaviors.

CCFJ Representatives will be here for a site visit on Tuesday, September 27th to help us launch this exciting opportunity!

Well, at the same time this boot camp came, was the same time that Dr. Edwards had called and asked me to co-chair the Public Safety and Justice Committee with Commissioner Ramirez. So, bam, we've got our community engagement already built in. We're super excited. Again, we can now ask this community group to be the one to bring it, if they want to support it, to you guys to ask for this action.

There are a couple of other court costs and fines in there that we still charge, and I just had the number up. So, in 2018, we brought in \$2.7M of revenue for fines and fees. Luckily, we are way below the 10%. We're way below the 1%, probably. Of that, the court costs were \$161K. The remaining fees that we're going to ask you to waive as part of this with court costs will be \$161K to the budget, not that you've ever asked us to justify that, but I just wanted to put some numbers since we're talking about numbers. We've been really fortunate. We've been bragging about our jurisdiction that you guys have never put any sort of pressure on us for revenue.

So, they challenged us to take another step. What are the unseen fees that people pay when they're in the criminal justice system? We started looking and really getting in there. When you go on probation, there are certain fees. If I order or Judge Schultz orders you to a drug and alcohol evaluation because of a DUI or a marijuana charge, that's going to cost you \$150. If you do a shoplifting class because we determine you need to for public safety reasons, that's going to cost you money. Shoplifting, there's a number of them. We said hey, you know what, if we've determined that you need these supports around you for public safety needs, because that's what

the public needs, we need to make sure you can get it without having a disparate impact to you. They should not be more severe if you make less money and less severe if you make more money. It needs to be equal across the board. We decided to propose like a real officer. This would be a position that would actually—and part of it would do that programming—do those evaluations free of cost. We order it, they go to this officer, and they get it done free of cost.

This also adds to another component of efficiency. We're going to be able to move those cases faster, which also makes our court just that much more efficient and easier to use. Efficiency really saves our taxpayers' money, right? Secondly, the faster you get to the sentencing stage after you get your evaluations, the faster you get to your expungement stage. So, by being able to speed people up to get their drug and alcohol evaluation for their DUI, we will speed up when they're done with probation and speed up when it comes off their record. Again, we're shortening that punishment, shortening that gap.

Part of this position, though, will expand beyond that. The idea is if you over-sanction a low-risk offender, you're going to increase the risk to reoffend. You have to find that sweet spot of, I don't want to just order all of these things in jail time if you have a low risk to reoffend. We're just going to fine you, make an ability to pay a determination and be done.

It's that middle-risk group. What do we need for you to support you so you don't have to see us again? That's really where we're going to get into this position. We foresee having outreach to Kansas City, Kansas Community College, having outreaches to our schools, to job development, to all these different other places because it could be that our driving while suspended person has a literacy issue and cannot get their driver's license. It could be that a person that has multiple theft charges needs a job and they need the help or the GED to do that.

This position is really—it will sit in the Probation Office, but it will not be probation. It will be designed solely to circle around this person and provide the support that they need without it being dependent on if they have the ability to access those resources or not.

The team that we built is Dr. Edwards; Bridgette Cobbins; Terry DeMoss, the community member; Dominic Geniuk, the Court Administrator; and myself. This has been kind of a dream project for us, so to speak.

I think I about covered it. If you have any questions, let me know and I can also call Dominic Geniuk because he was part of really building that officer. If you have any questions for me, I guess I'll stop talking for a moment.

Commissioner Ramirez said I want to thank you, Judge Brajkovic, for your hard work on this, your persistence. This is something I can tell you love it. I agree. I'm there with you. The first time, I remember, when I mentioned it to you, you already knew about it. I was like great. I remember the first time I found out about CCFFJ and just finding Fee Justice Center. I went down a rabbit hole, a rabbit hole looking at other jurisdictions, what they were doing and that's why I came when the Mayor created the committee on Community Safety Injustice. Yes, I chair it, and then Judge Brajkovic and a couple of others chair that committee as well. That was one of the things that I had mentioned to the community that this was something I think we need to do.

When people come to our Municipal Court, they're all ready, for whatever reasons they're there, they're already in a vulnerable spot. How can we, as a city and a county, more specifically a city pertaining to our Municipal Court, how can we lessen our vulnerabilities?

One of you talked about a cycle. It is a vicious cycle. People, you know, we do—our city, our county, our government, it's a little low-income community and there are those barriers and our Municipal Court shouldn't be one of those barriers.

I thank Judge Brajkovic and the Municipal Court staff and everyone who's working on this. Dr. Edwards, Bridgette, thank you for everything that you guys have been doing and working on it. I'm looking forward to it. I'm ready to help whomever I need to help get this through because when we brought it up to the committee, everybody said yes. I had not one person say no. They said that was the first good step for us to do.

I'm excited and I'm ready to work with the Fine and Fee Justice Center, work with our Municipal Court staff, work with Dr. Edwards, Bridgette, and all other staff to get this through because it's needed. It's innovative thinking and that's what a lot of our other departments need to do. Our Public Works Department is very good at being innovative and coming up with innovative solutions and this is just that. This is another example of how innovative our staff and our departments can be.

Commissioner Kane said I just asked if we had to make a motion. I understand we can't, but if we could I would. The work that you guys have done is unbelievable and there are certain people who just can't pay, and the hole gets deeper, deeper, and deeper. I appreciate what you're doing. Like I said, if I can make a motion, I'd make a motion.

Chairman Bynum said I appreciate that. I'll just turn to Legal Counsel because it's an information only item and it doesn't require our action to move it forward anywhere, right? **Casey Meyer, Senior Counsel**, said that's correct, Commissioner.

Chairman Bynum said thank you. Thanks for being here. Appreciate that. Congratulations on the cohort and the grant. That's exciting to know that we can be competitive in that way.

We're chatting about how often will you update us on the progress of what's going on. I'm just thinking about—I really appreciate the work and the effort, but my mind's in a different kind of place, I guess, because for so many decades here in Wyandotte County, we've worked really, really hard on things like blight elimination, for example; obviously, crime prevention and these efforts with Police and community. In those contexts, sometimes we are just trying to get someone's attention and sometimes it's with their checkbook. This is a little bit different. If you can speak to that, okay. It's a comment that I would be willing to hear you comment back to me about. Additionally, I know you're paying for the position, but are there specific targeted fines in mind? Did I hear that or not?

Judge Nichols-Brajkovic said no, it was just in general. Is your question about how we levy some fines to catch attention and then others this would be waving fines, kind of the counterbalance there?

Chairman Bynum said right. I guess all along in all of our years of work that we've done here in Wyandotte County to try to get folks to comply, for example, with a code. You just have that pesky view that it doesn't matter what you do, they don't care and so you're shooting for hurting them where it hurts the most. Most of our community, I agree with Commissioner Ramirez, is they're not wealthy and so they can't tolerate just the piling on of fines. It's always been a balance.

Judge Nichols-Brajkovic said so the old thought used to be we treat everybody fairly, which means we look at it and the first time you're charged with trespass it's \$75. The first time you get a codes it's a \$100 and that's fair, right? That's fair. But that's not fair because \$75 hits our pocketbook in different ways. So really what you're challenged to do to get people's attention in a way that does not cause more severe consequences to one group than the other is to start at the same spot. I'm still levying a \$100 fine, but now Judge Schultz and I need to determine what does

that \$100 look like to someone who is below the poverty line. Sometimes that's moving over towards community service and, again, you're looking at—when you look at community service, you're not just looking at how many hours does \$5 make. You're looking at that person and saying how many hours do you have above what your family and work commitments can give you, and how many of those hours can you do to satisfy \$100. So, that's really kind of the balance in the work with the ability to pay that we're really hoping to get to.

We did have an ARPA request for a Community Health Officer for our Code Enforcement to try to move away from only having money for codes. I'm moving towards that because you're right, there are certain groups. This approach is really what Judge Schultz and I just were speaking with Joni and Priya about. What we find antidotally, and I think people tell us they can pay more than they can than people who are trying not to pay us. So, really, sometimes when I'm making decisions, and I don't want to speak for Judge Schultz but we share a lot of our philosophy together, if I'm going to get 10%, they're going to take advantage of me. It's worth it for me if I'm not taking advantage of the other 90%. So that's the way I really look at these types of issues when I'm determining these.

I would like to say there are two more things I wish I would have done in my presentation and if I missed a question, please feel free to ask me again.

When we use jail to recoup costs, you go to jail on a warrant, we're changing a lot of that, but it's \$94 a day. It doesn't take long for jail to cost more than the money we are looking to recover.

One other key component if we could get by on with the Legal Department, and we just haven't proposed it to them so I don't want to suggest that we wouldn't. There was a group that was really supportive of is traffic school as part of a diversion policy, specifically for our minors. If you can do a diversion on a basic traffic infraction, it doesn't hit your driving record. If you cannot afford a diversion, it does hit your driving record and that sets up that driver from age 16 to permanently pay more to drive than the kid that can pay the full diversion fee. We're really excited about that component as well.

Chairman Bynum asked, what's your timeline? Is this a year-long process? When can we have a report?

Judge Nichols-Brajkovic said well, I'm going to turn it over to the timeline because I had a brain fart on that, but we will give you reports—a very legal term—we will give you reports just as much as we can. What I anticipate doing is giving a report after the site visit, and then we'll probably come up with some milestones and things there that we can report on.

We also have a pending driving while suspended project that we just started that in the hour we were chitchatting with Joni and Priya, we have some new ideas about so, we'll also update you with that as part of this project. It's not technically part of it, but it works all together. So, yeah, we'll put together some milestones, reach out to you. If you want it more frequently, we can; less frequently, we can.

Chairman Bynum asked, are there other comments or questions from the standing committee members? Clerk, were there comments received from the public on the item? **Ms. Sparks** said no comments were received. **Chairman Bynum** asked, is there anyone online asking to speak? **Ms. Sparks** said no hands raised. **Chairman Bynum** asked, is there anyone here in person requesting to speak on the item?

Chairman Bynum said it was an information only item. Like Commissioner Kane said, if we could make a motion, we would. But thanks so very much. Really appreciate the presentation and good luck.

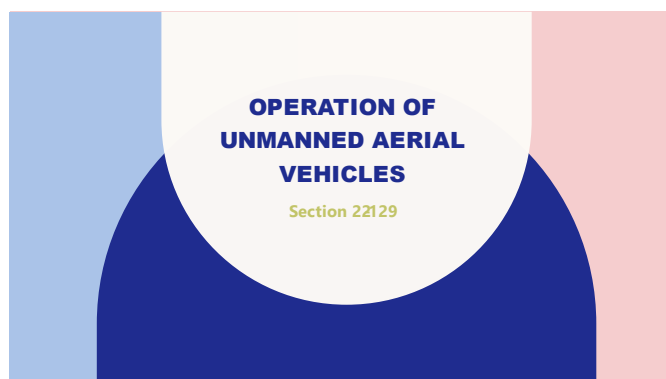
Judge Nichols-Brajkovic said thank you for letting us present.

Action: For information only.

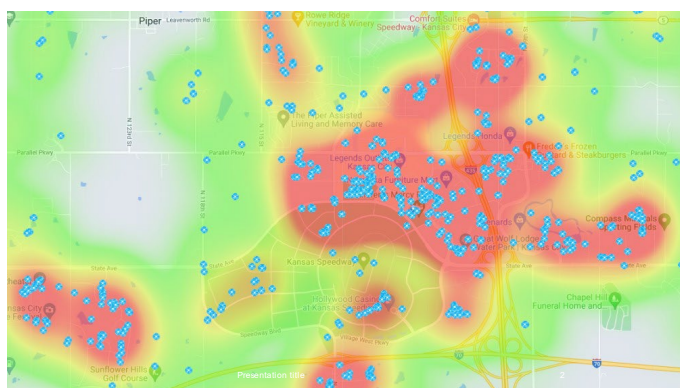
Item No. 2 – 211962...ORDINANCE: OPERATION OF UNMANNED AERIAL VEHICLES

Synopsis: An ordinance approving an addition to Chapter 22, Article IV, Offenses Against Public Peace related to unmanned aerial vehicles (drones), submitted by Casey Meyer, Senior Counsel.

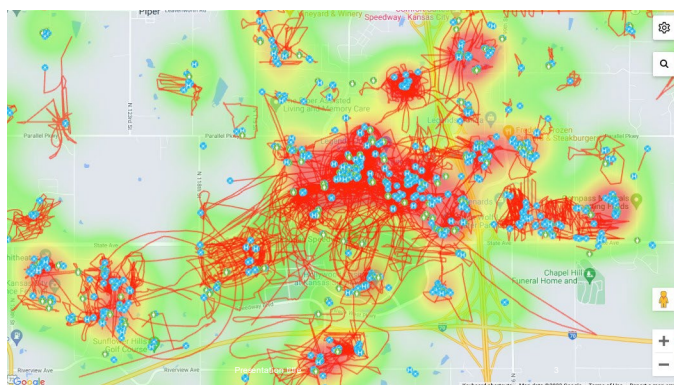
Chairman Bynum said I see Deputy Chief Anderson and Casey Meyer. Which one of you want to take it?

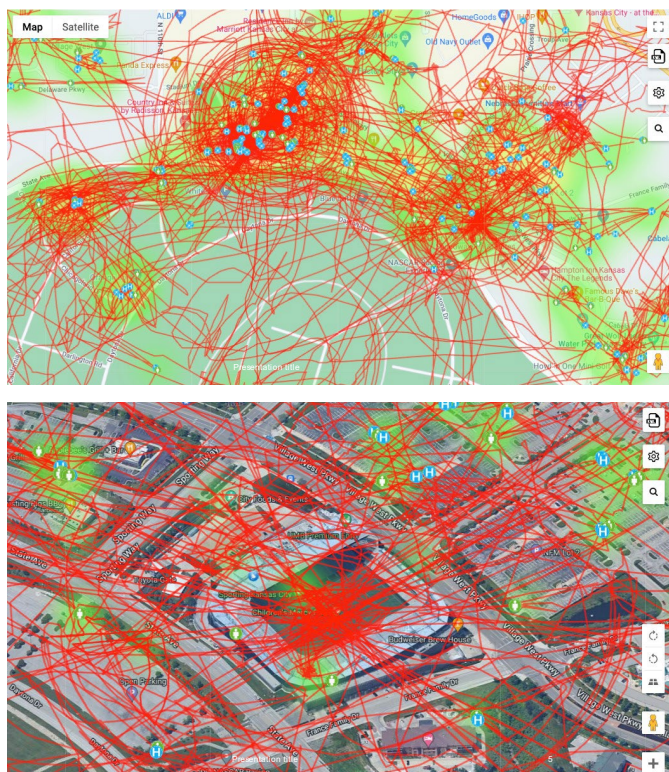


Casey Meyer, Senior Counsel, said I'll start, Commissioner. The Police Department requested this ordinance addition based on a request and some complaints from Sporting KC. We have Mr. Nick Fagen from Sporting KC. He's actually out in the public portion. After we're done doing our presentation, he would like to cover a couple of the slides, if that's possible.



I'm going to let him cover what these are.





It's not me scribbling.

DEFINITIONS

City Airspace
means the airspace above the land and waterways within the jurisdiction of the city.

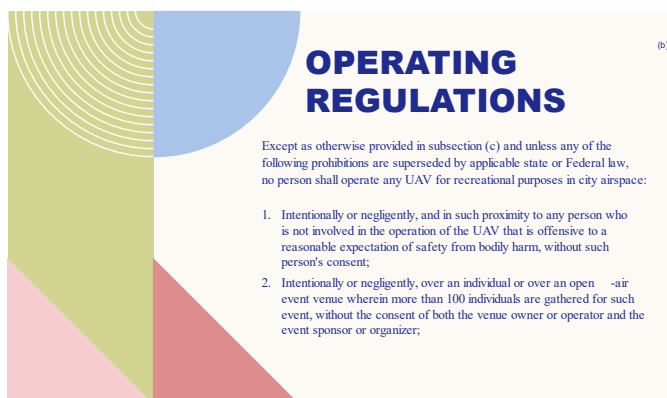
Recreational Purposes
means any purposes governed or regulated pursuant to 49 U.S.C. 44809 (Section 349) of the FAA Reauthorization Act of 2018. "Recreational purposes" may include, but are not limited to, enjoyment, educational, or hobby purposes not otherwise governed or regulated as provided in subsection (c) Limitations on Operating Regulations of this section.

Unmanned Aerial Vehicle or UAV
means an aircraft that: (1) is operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of operation, including the weight of any payload or fuel.

So, I'm jumping to the ordinance. First of all, drone, and I'm just going to use the word drone instead of UAV, but drone use is regulated by the FAA, which is a federal agency. Currently, there is no federal law that expressly prohibits or preamps municipalities from creating ordinances that might address privacy or trespass concerns. In Kansas, there are a couple of cities that have done it, so I have pulled the language for our ordinance from Mission, Kansas; and Prairie Village, Kansas. Also, since the FAA is federal, lots of times it's easier for local law enforcement agencies to follow-up on complaints regarding drone use than a federal agent would be.

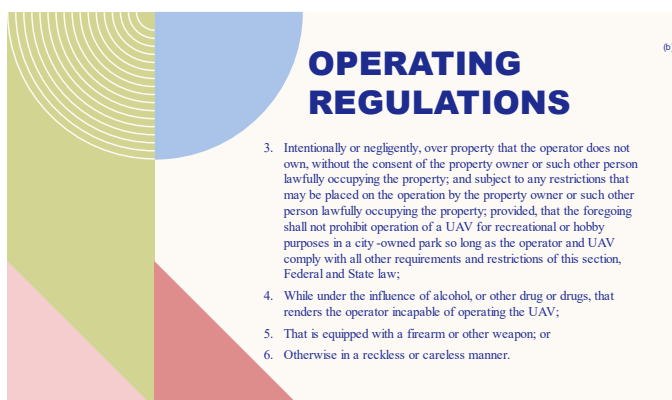
I'm covering the definitions that our ordinance applies to. When we say city airspace, we mean the airspace here in Kansas City, Kansas. This is only prohibiting drone use for recreational purposes. I'll get to it in a little bit, but I've specifically excluded prohibition on commercial use drones. Commercial use is usually realtors use that, people who own businesses that are trying to scan for their business, law enforcement, fire departments, they all have a registration that they have. Media uses a commercial drone. They have to register and they have to be certified by the FAA. So, I just want to make it clear that this is specifically for recreational hobby use prohibition.

Unmanned aerial vehicle. We're talking about drones that weigh less than 55 lbs. at the time of operation, which would include anything attached to it.



Specific things we are regulating are as follows: any operation, whether intentional or negligent, in such proximity to any person who is not involved in the operation of the UAV that is offensive to a reasonable expectation of safety from bodily harm, without such person's consent.

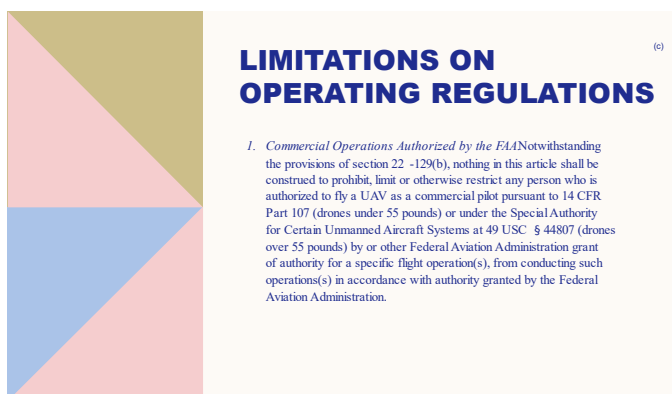
Again, any operation, whether intentional or negligent, over an individual or over an open-air event venue wherein more than 100 individuals are gathered for such event, without the consent of both the venue owner or operator and the event sponsor or organizer.



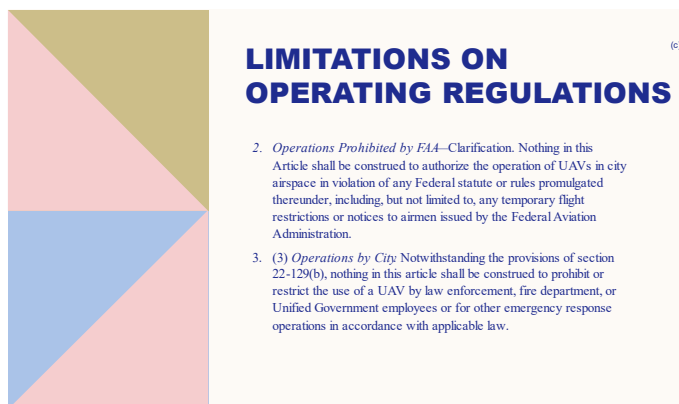
Then, again, either intentionally or negligently operating over property that the operator does not own, without the consent of the property owner. So, obviously, you can still operate your drone on your own property or over another person's property as long as you have that person's consent.

Regarding city parks, we currently require people who want to operate in a city park to get a permit, so this would not prohibit your ability to use your drone in a city park as long as you're following Parks and Rec code.

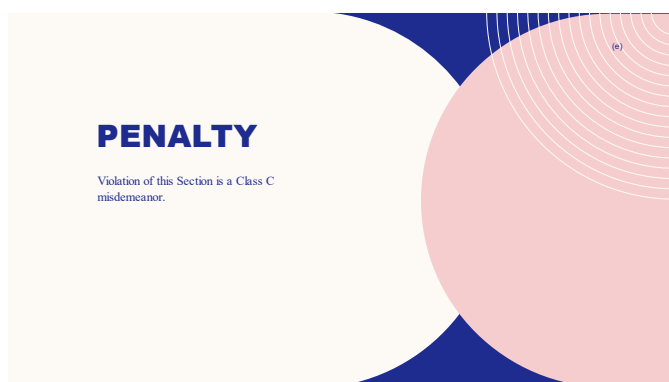
Then, of course, the easy ones. You can't operate your drone while under the influence of alcohol or drugs. You can't operate your drone that's equipped with a firearm or other weapon or otherwise in a reckless or careless manner.



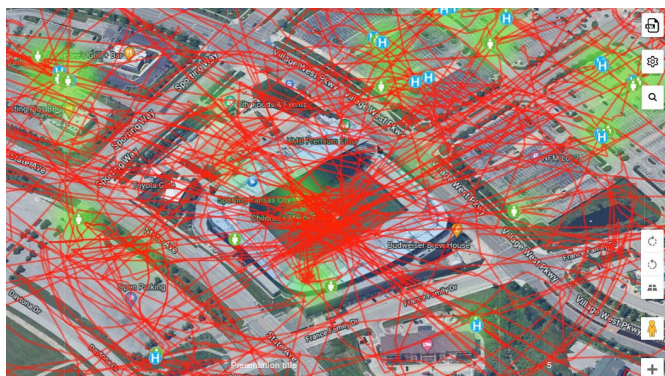
Here's the sections that specifically excluded. We're not regulating the commercial operations of drones.



Again, I'm just making it clear here that we're not trying to do anything to preempt federal law. Third, we are not prohibiting use by our own law enforcement, Fire Department, or Unified Government employees or for other emergency response because we want to be able to use our drone for city purposes.

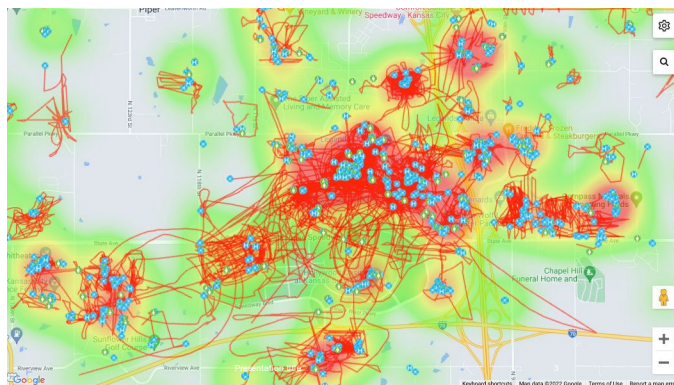


The penalty is a low level Class C misdemeanor. I'm done. I don't know if Deputy Chief Anderson has anything to add.



Kent Anderson, Deputy Police Chief, said I would just add that on the borders, we see a lot of problems with drones where from Mexico, they're flying north to deliver drugs. From the United States, they're flying over to Canada taking firearms. There have been many instances where this has occurred. We haven't had any criminal issues at this point, but we just want to be ready and prepared if we do. I know Sporting Kansas City has a problem with drones, people wanting to fly over while large events are going on, which is dangerous.

We will be having the World Cup here. Well, not here. The games will not be here, but practices will be here. Teams from other countries will be here. MLS, as Nick will talk about, already has rules and regulations about the banning of drones over any of their facilities in the United States. That's about all I would like to add.



I'll give Nick a head start. They had a drone detection system out at Sporting Kansas City for a demo. They're looking into possibly purchasing, and these are the slides that he will go over. There was basically, it was from May 4th to August 20th and this is in The Legends area and a little bit outer from that area where there were 1,043 drones flying over that area. So, that's about all I have for that unless any of you have any questions. We'll have Nick speak a little bit to their research.

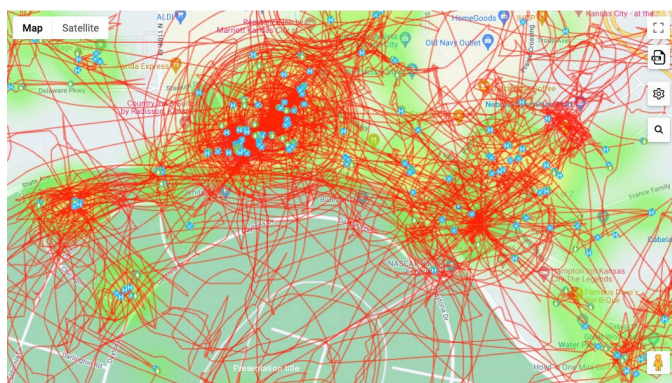
Chairman Bynum asked, are there questions or should we hear from the gentleman with Sporting and then—why don't you go ahead and come up to the table. You can come all the way up if you like.

Nick Fagen, Director of Safety and Security at Sporting Kansas City, said let me just kind of dig into this and how this all came about. I took over this job in March of this year. One of the

first things I looked into was where is our security lacking. If you do a quick Google search, you can see there's a lot of drone problems in the country. Just this weekend, there's an NFL football game that was disrupted because people were flying drones over the stadium at Seattle Seahawks. The day before that, they were flying drones over the Washington NCAA football game in Stanford and they had to stop the games.

So, as we dug into this, we looked at the FAA and the rules they have that protect stadiums and their rules are very specific. You cannot fly drones over a NASCAR facility, NFL, Major League Baseball, or NCAA Division 1 football. That's it. Nothing else is protected. They also have kind of a blanket clause in there that says you can't fly drones over any stadium that has over 30,000 capacity. If we packed everybody in really tight at our stadium, maybe 25,000. So, you see where we fall short; 25,000 is still quite a bit of people, right?

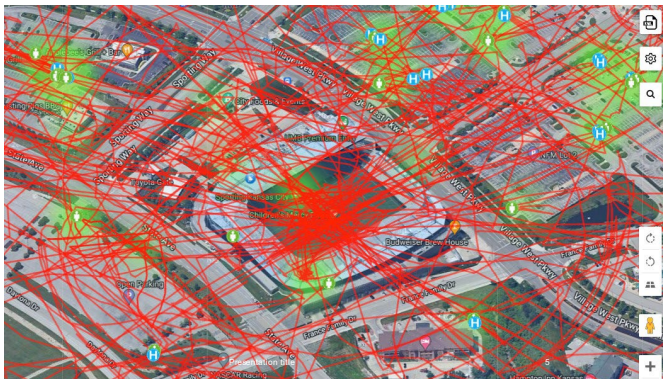
As the Deputy Chief said, so far we've had no nefarious intent, we've had no malicious intent from anyone flying drones over, but we have a drone problem. We got this **TNE (50:19)** and we put it on the stadium. You can see in this map all the red lines are the flight paths of the drones. The little blue circles with the letter H in it is the home or landing takeoff and landing zones and the little green icons are where the controller was at.



Now, we will be purchasing this detection system in January after the first of the year. What kind of amazed me was the very first day that we put it up, within about two hours I was getting an alert. I thought well, this can't be right. This has to be a fluke. We set it up wrong, and it wasn't. Within the first couple of hours, we had somebody in the Nebraska Furniture Mart parking lot who stopped and put their drone up and was flying around our stadium. The detection system will actually pinpoint their location to within about a foot. I was able to go over there and contact the person.

So far, everyone we've contacted has been very cooperative. The whole point has been to educate them and say hey, we don't want you flying over our stadium. MLS has a policy against this. We don't want the drones over our stadium. We don't want to have an accident. But as you look at everything that the federal government has done, as you look at the policy from MLS, everything says hey, you shouldn't allow this, you shouldn't have this, but there's really no enforcement capability for us if it comes to that.

My hope is that we continue to educate people as they fly over the stadium if they try to put drones up around the stadium.



If we have 100 people in a year, I would hope that we have less than 1 or 2 that are ever cited for this. I would hope that through education we can say hey, please bring this down. Here's the rules. Here's the regulations on this.

But this slide may show it a little bit better. You can see the flight pass directly over the top of our stadium. Even NASCAR, who is covered by FAA and as our neighbor, you can see them flying over the NASCAR stadium.

Casey made the point earlier, if they are violating the federal law, there are federal agents that can investigate that, but they quite frankly don't have the resources or the time to come out and investigate a single drone operator who's flying their drone over a stadium, right? They're dealing with things like the Seattle Seahawks football game. They're dealing with people crashing their drones accidentally into a crowd of people. They're not dealing with this type of thing. So, this ordinance helps us if we do find that one person who's very emboldened and says no, I'm not going to land my drone. You can't make me put this down and we explain everything. It gives our law enforcement the capability to say no, we are going to take enforcement action on this and have you land this drone.

If you want to look through the other slides—**Ms. Meyer** said I don't think I have—that's it. I didn't add the numbers. **Mr. Fagen** said the Deputy Chief kind of talked about some of the numbers on there too. Some of the other things that go along with the rules with the FAA for drones, you're not allowed to fly above 400 feet. We had 205 drones that were above 400 feet, which is a federal law violation. You're not allowed to fly at night. We had 108 flights that were nighttime.

So, of all the people that I was able to contact in person or through law enforcement in about the four months that we had it, only one was a registered pilot and licensed through the FAA. It was actually hired by NASCAR to come over and do some work and just kind of slipped over into the stadium and then came back out. No one else was registered. No one else was licensed and quite frankly, you don't have to. You can go to the store and buy a drone off the shelf and fly it. Most of the people, as I said, were very compliant, cooperative, and actually a lot of them were very surprised that we were able to track it and come speak to them and they actually kind of geeked out about it, right? They were very excited about it.

We appreciate all of you looking at this and just kind of bringing this to your attention. I did not think it was going to be this big of a problem. We put this system on our stadium. It was very shocking quite honestly.

Chairman Bynum asked, when did you acquire this system? **Mr. Fagen** said we put it on May 4th of this year and we took it down on August 26th.

Commissioner Ramirez said thank you Casey and everyone. My question is more kind of you alluded to it in the ordinance. What would be, because we know there's some people, I don't know here, but across our country, there are people that like to go to parks, fly up their drone, take nice pictures of the park or the nice scenery, the skyline, what have you. How does this affect them that like it's just as a hobby? It's like they—a hobby that they like to do?

Ms. Meyer said currently, our city Parks and Rec, the Parks and Rec Board has their own code and within the code they already require people to obtain a permit prior to being able to fly their drone. They also require that the operator has, I think, \$2.5M in insurance. But my point is with this ordinance, this ordinance doesn't restrict anybody's ability to fly their drone in a city park

as long as they're complying with the Parks and Rec code and all other FAA and federal regulations.

Commissioner Ramirez asked, would this ordinance actually assist Parks and Rec to enforce their code a little bit more?

Ms. Meyer said well, I don't know that it would assist, but I think it would bring more attention to the fact that people have to comply with the rule. I'm not sure that people know that. Like he just said, there are still FAA regulations that apply to recreational users. I'm not sure everybody knows that they have to—they can only fly their drone within their sight line or they're only supposed to fly up to 400 feet. I think if we have an ordinance, at least brings that to attention that there might be a rule that they have to comply with.

Commissioner Ramirez said okay. I think that is all the questions I have. I personally don't have issue with this. I know this is more of a security. It's a big security thing. I know drones are a big, big thing now. Everyone's buying them left and right. I've flown a couple. They're fun, but I understand the security of what NASCAR, MLS, the stadiums, and all of that. I understand the security aspect so I personally don't have anything as long as it doesn't too restrict somebody from, like I said, if they're following our Parks and Rec code. If they want to do that in the park, yes, but follow the park code first. Do go through your steps. I just didn't want this to hinder that.

Chairman Bynum asked, are there other questions or comments from the standing committee members? Is there any comments from the public, Clerk? **Ms. Sparks** said no comments were received. **Chairman Bynum** asked, and how about anyone online asking to speak? **Ms. Sparks** said we have no hands raised. **Chairman Bynum** asked, is there anyone here in person that would like to speak?

Chairman Bynum asked, is there a motion to approve the...

Action: **Commissioner Kane made a motion, seconded by Commissioner Markley to approve.**

Chairman Bynum said there's a motion and a second. Roll call, please.

Roll call was taken and there were six “Ayes,” Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

Item No. 3 – 211955...RESOLUTION: LEAVENWORTH ROAD AND HUTTON ROAD INTERSECTION PROJECT

Synopsis: A resolution declaring that this project is a necessary and valid improvement and authorizing a survey of lands for said project. The location of the project is Leavenworth and Hutton Road Intersection, Project CMIP 1609, submitted by James Bain, Assistant Counsel.

Chairman Bynum said we have James Bain here from Legal to explain.

James Bain, Assistant Counsel, said this is the resolution that deems the project necessary and for valid reasons, valid improvements, and authorizes the survey that is required to begin the eminent domain proceedings. I know Jeff Fisher is here. I don't know who is here from Public Works to discuss the project.

Chairman Bynum said, sir, we've done a number of survey authorizations for projects that are deemed necessary. I just want to be clear that the step that we would be taking tonight is simply that survey work for a project that's deemed necessary and nothing more.

Mr. Bain said that is all; nothing more.

Commissioner Kane asked, is that all you've got to say? **Mr. Bain** said that's all I have. I expected someone else here to discuss the project as we normally do.

Commissioner Kane said I'm going to make a motion that we go ahead and do as what he's requesting. Just remember, I don't like roundabouts. **Commissioner Markley** said second. **Commissioner Kane** asked, is that a second on the roundabouts? No roundabouts? **Commissioner Markley** said no. I'm seconding quickly before you say anything else.

Action: **Commissioner Kane made a motion, seconded by Commissioner Markley to approve.**

Chairman Bynum said there is a motion and a second to authorize the survey of land for this project.

Chairman Bynum said before I move any further, I should have asked the Clerk if there were comments received from the public. **Ms. Sparks** said no comments received; no hands raised.

Chairman Bynum asked, anyone in person that wants to speak on the project or the item?

Chairman Bynum said we have a motion and a second. Roll call, please.

Roll call was taken and there were six “Ayes,” Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

Item No. 4 – 211956...RESOLUTION: BRIDGE 311 RECONSTRUCTION PROJECT

Synopsis: A resolution declaring that this project is a necessary and valid improvement and authorizing a survey of lands for said project, submitted by James Bain, Assistant Counsel. The location of the project is Bridge 311 over Barber Creek, Reconstruction Project No. 105 U-2436-01.

Chairman Bynum recognized James Bain.

James Bain, Assistant Counsel, said this is a similar resolution that declares the project necessary and valid, and authorizes the survey as the first step to define the property that is needed for the project and potentially eminent domain proceedings.

Chairman Bynum said I think you may have explained this to me in agenda review, but where's the bridge? **Mr. Bain** said I don't know anything about the project. Normally someone is here to present about a specific project.

Chairman Bynum asked, Jeff Fisher, do you know where the bridge is? It's something about Barber Avenue, I think, Barber Creek. **Jeff Fisher, Executive Director of Public Works,** said the Barber Creek area. **Chairman Bynum** asked where's that? **Mr. Fisher** said down south. I don't think it's a major structure. **Chairman Bynum** said that's fair enough. Let me just say,

Commissioner Ramirez or Commissioner Markley, are you familiar with the Barber Creek Bridge down south? Okay, and it's a small structure, a small area. **Mr. Fisher** said I believe that's the case. **Chairman Bynum** said okay, I'm satisfied.

Chairman Bynum asked, Madam Clerk, were there any comments received or anyone asking to speak? **Ms. Sparks** said no comments received; no hands raised.

Action: **Commissioner Markley made a motion, seconded by Commissioner Ramirez to approve.**

Chairman Bynum said we have a motion and a second on the survey item. Roll call, please.

Roll call was taken and there were six "Ayes," Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

Item No. 5 – 211743...ORDINANCE/RESOLUTION: AMENDING CODE PROVISIONS FOR OPEN BURN

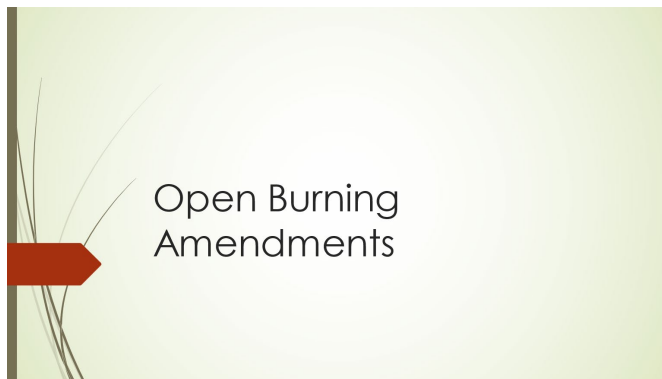
Synopsis: An ordinance/resolution amending the code provisions Section 3-3 definitions and Section 3-17(h)(1)(a) related to open burning, submitted by Jon Khalil, Assistant Counsel, Legal Department. On July 25, 2022, the Public Works and Safety Standing Committee, chaired by Commissioner Bynum, voted unanimously to approve and forward to the full commission. On August 11, 2022, at the request of the Chair, this item was remanded back to the standing committee for further discussion.

Chairman Bynum said we have Legal here, we have Fire, we have Health, I believe that's all our departments that are going to come and talk to us about this. You all have your PowerPoint you received today and then a paper copy here. We've talked about this for a good long while now and we may or may not be ready to take care of business, but we'll know shortly.

What I would like to do is a couple of things. First of all, explain that we passed amendments at a prior standing committee meeting and then when those were to go forward to full

Commission, I pulled the item so that was my action that pulled the item and here we are back at standing committee.

We have Fire Marshal Droppelmann; Mark Weckwerth and Jennifer Stewart, these two fine folks are with our Public Health Department; then we have John Collier, with our Legal Department, all of whom have been working on this for a while. I wonder if the first thing we want to do is—are you going to sort of tag team walking us through the PowerPoint? I think that's the best way to go about it.

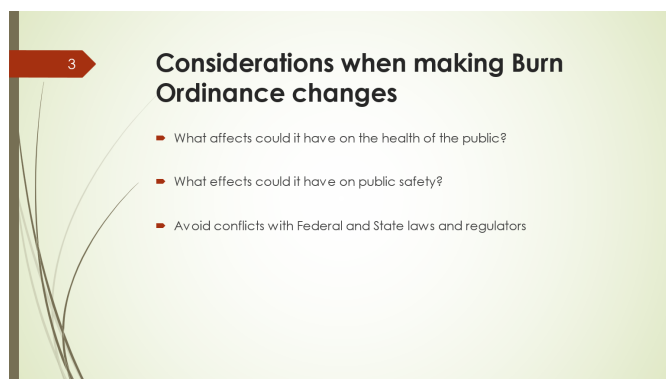


Alan Howze, Assistant County Administrator, said I'll kind of open it up. **Chairman Bynum** said thank you, Alan. Sorry to not acknowledge you. Go ahead. **Mr. Howze** said open it up here and then hand it over to the team.

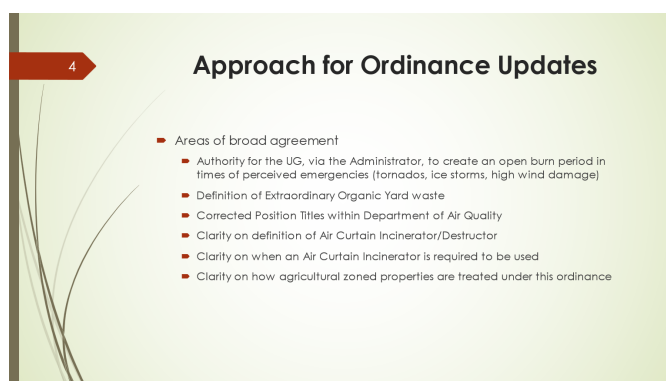
As we kind of go through these slides and as you noted, this is something the committee has seen before. Hopefully with this presentation and the discussion, we can kind of lay out some of those areas where there potentially is, I think, unanimous agreement, that there's a clear path forward, and others where some additional discussion may be warranted based on kind of new information that has been received.



There are kind of a number of moving parts in this and really just to kind of reiterate why we have local open burn regulations in the first place. Starting with public health, and that is derived from our compliance really with state and federal air quality regulations that govern that we can be more, but not less, strict than those state and federal guidelines. Our kind of role in the KC metro, as a metro area, that has metropolitan air quality standards to meet. And lastly, this protection of public safety through Fire Department awareness of open burns so that there's an understanding of what is burning when and where.

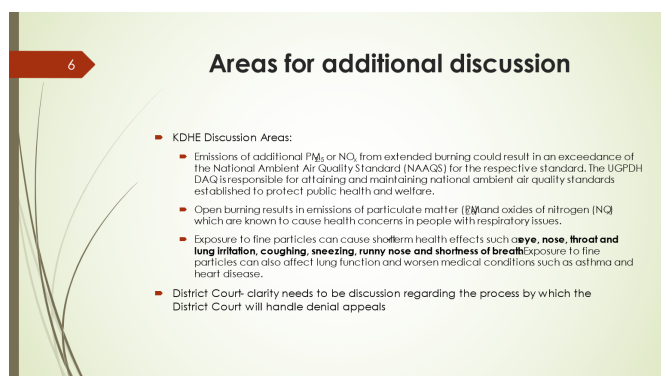


Kind of flowing from that, give some considerations when making those burn ordinance changes. What are the potential affects on public health? What are the potential affects around public safety and visibility into burns? Then this is where it's kind of come more recent information, how do we avoid conflicts with state and federal laws and the regulators who execute those laws?



You'll see in this presentation, and there's kind of a number of slides I think we can get through fairly quickly, but it's really kind of two categories that we tried to work which is, again, this area where we see that there's ones that are broad agreement things that need to be changed in the ordinance, that need to be updated, or clarified to make it a better, clearer ordinance. You can see

those here. They're listed here, and we'll go into greater detail in each one of these as we go through the presentation.



There are some areas that may warrant additional discussion by the Commission, the standing committee, around the areas around particulate emission that KDHE has more recently kind of raised to us as a concern around the open burning. Then the question of kind of a process and the role, potentially, of District Court in this as a mediation or as an appeal body in kind of the administrative process for this.

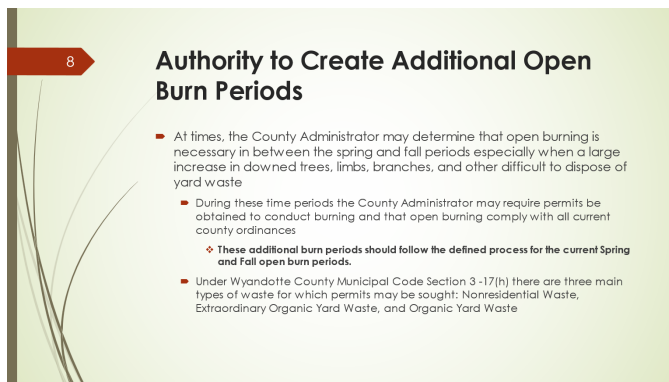
So those are kind of—that's how we've oriented this conversation discussion tonight which is, again, those kinds of areas where we think there's broad agreements and could move forward quickly on those, and the others that we may suggest requiring some additional discussion with other regulatory partners to make sure that we don't kind of run afoul of some of their concerns.

With that, I'm going to turn it over to Fire Marshal Droppelmann for the next two slides to kind of talk about burn periods.



John Droppelmann, Fire Marshal, so just to clarify things. What we do here tonight, there will be no difference in the normal spring and fall burn seasons, which we're coming up on the fall.

So, anybody watching or here or may watch at a later time, those normal April, October, and November burn months will remain the exact same.



The big addition we needed to create tonight was to allow the County Administrator to declare these open burn periods for severe weather. My proposal is that we make sure that they're conducted the same way as the spring and fall ones since we've already got those ordinances, those rules established. Everybody understands them and they have been provided the most safe way to do that.

Go ahead Jennifer.



Jennifer Stewart, Environmental Health Manager, Health Department, said so I'll just go through the next few slides just from our discussions that we've had with KDHE. So, KDHE's current environmental policy allows for open burnings, but encourages and may even require emission controls in sensitive areas or areas near population centers. In more populated areas, we may need to control our burning or open burning.

KDHE, they expressed to us that they prefer open burning only in a manner that guarantees the least number of people that are adversely affected by the burn, which that could be people that

suffer from asthma or have other health concerns and more emissions could aggravate any conditions they might have.

10

Nonresidential Waste and Extraordinary Organic Yard Waste

- Under Wyandotte County Ordinance 3-17(h)(a) Fires set for the disposal of **nonresidential waste**, or **extraordinary organic yard waste** may be permitted when it can be shown such open burning is:
 - (1) absolutely necessary;
 - (2) in the public interest; and
 - (3) no other method can be used.

The burning of land clearing debris, including trees, brush and vegetation is normally considered as being necessary and in the public interest, provided that an applicable air curtain open pit destructor of suitable design and capacity is used to accomplish the burning.

An additional permit is required to be obtained from the Director prior to the use of an air curtain destroyer.

Nonresidential yard waste and extraordinary organic yard waste. Under our current ordinance, fires set for disposal of nonresidential waste, or extraordinary organic yard waste, may be permitted when it can be shown that open burning is absolutely necessary; it is in the public interest, there is no other method that could be used; and burning of the land to clear debris, including trees, brush, and vegetation is normally considered as being necessary and in the public interest, provided that an applicable air curtain open pit destructors of suitable design and capacity are used to accomplish burning.

With an open pit destructor, an additional permit is required and it can be obtained by the Air Quality Office Department and that is prior to using the air curtain destroyer.

11

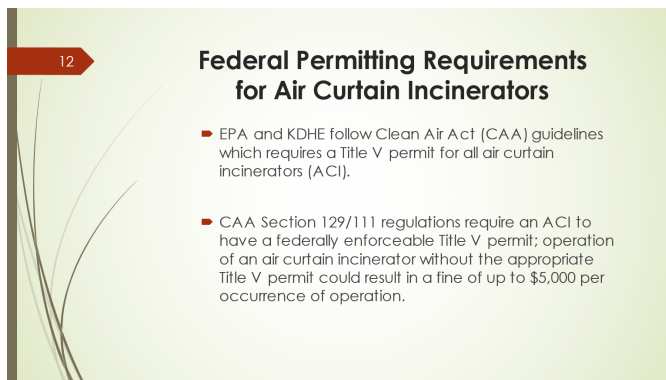
Nonresidential Waste and Extraordinary Organic Yard Waste



- Under the current code open burning of nonresidential waste and extraordinary organic yard waste is an option of last resort.
- And to mitigate against the environment effects of such, burning an air curtain open pit destructor ~~is required~~ for nonresidential waste and ~~may~~ be required for the burning of extraordinary organic yard waste at the discretion of the health director and chief of the fire prevention division.
- Whether or not an air curtain destructor is required for extraordinary organic yard waste depends on several factors including the amount of material and nature of material to be burned, and the location of the property.

Mark Weckwerth, Environmental Engineer, Air Quality, said I would just like to clarify that that is an additional permit. The air curtain incinerator itself has to have a Title V permit. For the most part, those are generally issued by the state. We could issue them from ourselves, but the

one that she just referred to is an additional permit that we have required here for our ordinance to date.

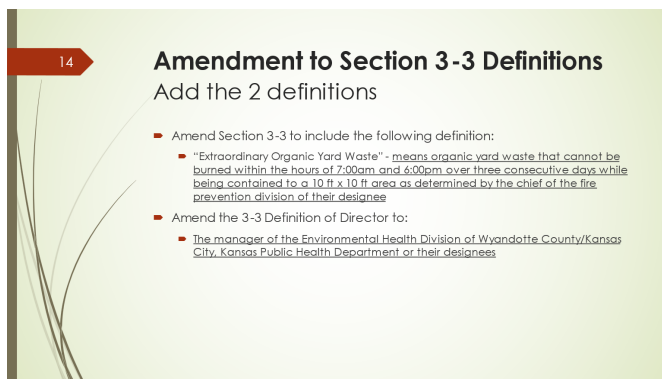
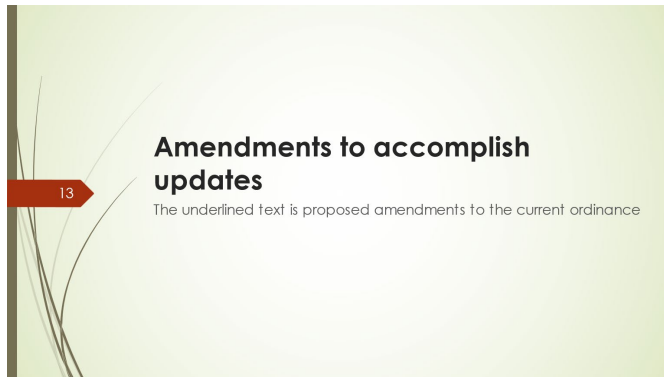


Ms. Stewart said the EPA and KDHE they both follow the Clean Air Act, which Mr. Weckwerth just mentioned in the Title V permit. The Clean Air Act requires an air curtain incinerator to have a federally enforceable Title V permit. Operation of an air curtain incinerator without a Title V permit could result in a fine of up to \$5K per occurrence of operation. Each occurrence is each day. So, if it's three days, we're looking at a \$15K fine.

Chairman Bynum asked, do you mind if I pause right here? I want to make sure that I, and everyone else, is tracking, I think, from the slide prior to this one. The burning of land clearing debris, trees, brush, and vegetation is necessary and in the public interest provided that an applicable air curtain open pit destructor is used. And then we go on to say if we are going to permit that, in addition, a state permit is needed for the air curtain destructor. This is one of our concerns that I know I've spoken with you about that folks may not know that there are additional state and federal regulations. If that permit is not obtained, that's a \$5K fine. Okay. Please proceed.

Mr. Howze said, Commissioner, I just have one clarification too which is we've talked about the air curtain destroyer. That's kind of a fancy name for a big fan, right? So, the purpose there being that for large amounts of debris to be destroyed through fire, to have it burn at a much higher temperature to reduce the amount of particulate matter and to have a cleaner burn, so that's fundamentally what that regulation is designed to do.

Chairman Bynum said okay, so continue because I think we're moving into some of the amendments. **Mr. Howze** said we'll turn it over to Jon Khalil, in UG Legal, to talk about the specific languages that would accomplish these.



Jon Khalil, Assistant Counsel, said the first amendment would be amending Section 3-3, which is the definition section. The first amendment would be an addition. It'd be adding the definition of extraordinary organic yard waste. Extraordinary organic yard waste is a term that we currently use in the code, but we have not defined it. The definition that we've developed here is, extraordinary organic yard waste would mean organic yard waste that cannot be burned within the hours of 7:00 a.m. and 6:00 p.m. over three consecutive days while being contained to a 10 x 10 foot area as determined by the Chief of the Fire Prevention Division or their designee.

The second amended definition would be amending the definition of Director to the Manager of the Environmental Health Division of Wyandotte County/Kansas City, Kansas Public Health Department or their designee. Our current definition of director doesn't fit the current structure of the department. This definition would update that.

15

Amendment to Section 3-3 Definitions (Cont.)

Add 2 phrases to include Non/Extraordinary waste

- Amend the 33 Definition of Approvable air curtain open pit destructor to:
 - Approvable Air Curtain Open Pit Destructor means a device specifically approved by the director as being consistent with engineering and design requirements established by the director and used to accomplish the controlled high temperature, minimum emission burning of land clearing debris (trees, brush and vegetation) ~~or other nonresidential waste or extraordinary organic yard waste~~ such device shall consist of a large blower or fan designed to deliver at least 800 standard cubic feet per minute of air for each foot of length of the pit in which the burning is accomplished and a nozzle equipped plenum chamber designed to deliver air at a minimum air velocity of 150 per second in a flat sheet or curtain of air blowing diagonally downward across the pit. The pit used to accomplish the burning with the air curtain destructor must be the exact length of the manifold plenum chamber, 12 feet or deeper (consistent with local soil conditions) and have all four sides vertical. New pits conforming to these requirements shall be excavated as necessary to replace pits in which the high temperature operation has resulted in crumbling or erosion of the burning pit such that the pit no longer had the required four smooth vertical walls and/or no longer consistent with the dimension requirements provided herein. The director may also require any additional design and/or operating conditions for the air curtain open pit destructor as are necessary to accomplish minimum emission, smokefree burning of the land clearing debris or other nonresidential waste or extraordinary organic yard waste.

The third definition amendment would be including the term extraordinary organic yard waste or other nonresidential waste in our current definition of approvable air curtain open pit destructor. So, it would add more clarity to what that device can be used, what types of waste being burned that device can be used for.

16

Amendment to Section 3-17(g) Open Burning Prohibition Exceptions

- Amend Section 3-17(g)(3) Open Burning Prohibition Exceptions to read:
 - Open burning of vegetation such as grass, woody species, crop residue and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management. Provided that prior written approval is obtained from the Director and the Chief of the Fire Prevention Division.
 - This amendment would bring our language in alignment with the current state regulations on open burning.

Our fourth amendment is an amendment to Section 3-17(g) which is the open burning prohibition exceptions. This amendment would amend the current exception 3-17(g)(3) to read, open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife, or watershed management is exempted prior provided that prior written approval is obtained from the Director and the Chief of the Fire Prevention Division. This language change would bring the current language that we're using in alignment with the current state regulations on open burning.

17

Amendment to Section 3-17(h)(1)(a) Air Curtain Destructor Requirement

- Allows AQ Director to determine ACD necessity
- Amend Section 3-17(h)(1)(a) to read:
 - (i) Open burning permits may be granted for the following types of waste:
 - a. *Nonresidential waste, and extraordinary organic yard waste* ~~when set~~ for the disposal of nonresidential waste or extraordinary yard waste may be permitted only when it can be shown by a person that such open burning is absolutely necessary and in the public interest. ~~The Director may determine whether the burning of nonresidential waste or extraordinary organic yard waste such as trees that are felled by severe storm damage is considered necessary and in the public interest. On a case-by-case basis the Director, or their designee, may determine what, if any, precautions are needed to ensure air quality standards are maintained. The burning of land clearing debris, including trees, brush, and vegetation, as well as trees and limbs felled by severe weather,~~ shall normally be considered as being necessary and in the public interest.
 - (i) if an air curtain pit destructor is required by the director, it shall be of suitable design and capacity to be used to accomplish the burning and such device shall also be installed maintained and operated at maximum efficiency at all time. (Change to include "at the discretion of the director language")

The fourth amendment, which is the amendment to Section 3-17(h)(1)(a), which is the section that currently requires an air curtain destructor. This would amend that section to read, fire set for the disposal of nonresidential waste or extraordinary organic yard waste may be permitted only when it can be shown by a person that such open burning is absolutely necessary and in the public interest. The Director may determine whether burning of nonresidential waste or extraordinary organic yard waste such as trees that are felled by severe storm damage is considered necessary and in the public interest. On a case-by-case basis the Director, or their designee, may determine what, if any, precautions are needed to ensure air quality standards are maintained. The burning of land clearing debris, including trees, brush, and vegetation only, as well as trees and limbs felled by severe weather, shall normally be considered as necessary and in the public interest.

Then it would add that, if an air curtain pit destructor is required by the Director, it shall be of suitable design and capacity to be used to accomplish the burning, and such device shall also be installed, maintained, and operated at maximum efficiency at all times. What this language does is in our current Code Section (a), an air curtain open pit destructor is required in circumstances where extraordinary organic yard waste or nonresidential waste are being burned. This would give the Director some discretion on when an open pit air curtain destructor would need to be used. That determination would be able to be made on a case-by-case basis.

18

Amendment to Section 3-17(h)(1)(b)(2) to include agricultural properties

- Amend Section 3-17(h)(1)(b)(2) to read:
 - Organic yard waste includes leaves, brush, dead wood, tree cuttings, and weeds. Organic yard waste also includes trees felled by storm damage on properties zoned either residential or agricultural. Burning of wire insulation, tires, and other rubber products, automobile parts, paper cardboard, treated, painted, or finished wood, plastics, garbage, trash, petroleum products, asphalt materials, building materials, demolition debris, paints, agricultural chemicals, household chemicals, or any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants is prohibited.

The next amendment would be an amendment to Section 3-17(h)(1)(b)(2). This would include agricultural properties when it comes to the burning of organic yard waste. It would simply add in the second sentence, organic yard waste also includes trees felled by storm damage on properties zoned either residential or agricultural. So, a person who's burning leaves, brush, dead woods, tree cuttings, and weeds and people who own agricultural zoned properties would be treated the same as people who own residential zoned properties.

19

Amendment to Align permitting process to mirror KDHE wording

- Amend Section 3-17(2)(a) to include the language below:
 - a. Any person intending to engage in open burning of nonresidential wastes or extraordinary organic yard waste under this section shall file a request to do so with the director and the chief of the fire prevention division the application shall state the following:
 - 1. The name, address, and telephone number of the person submitting the application.
 - 2. The date(s) and times of the burning operations
 - 3. The type, quantity, and composition of the waste to be burned.
 - 4. The exact location where open burning will be used to dispose of such waste.
 - 5. Map indicating nearest hydrants, structures, roads, water sources, power lines, property lines and burn location within 1500 feet of the burn location.

The next amendment is an amendment to what we require our applications to state. This amendment would bring our permitting process to mirror the current KDHE wording. It would include the name, address, and telephone number of the person submitting the application. The dates and times of the burning operations. The type and quality and composition of the waste to be burned. The exact location of the burning. A map indicating where the nearest fire hydrants, structures, roads, water sources, power lines, property lines, and burn locations; and burn locations within 1,500 feet.

20

Amendment to Align permitting process to mirror KDHE wording

- 6) Management plan for igniting, controlling, and extinguishing the open burn.
- 7) For nonresidential waste, extraordinary residential waste, or extraordinary organic yard waste, in addition to the information required by this subsection:
 - i. The type of business or activity involved
 - ii. A description of the proposed equipment and operating practices, and the expected composition and amount of air contaminants to be released to the atmosphere.
 - iii. Reasons why no method other than burning can be used for disposal of such waste.
 - iv. Evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.
- 8) Under no circumstances shall open burning occur within 50 feet of any building, combustible material, road or within 50 feet of the property line.
 - i. all open burning must be constantly attended until extinguished
 - ii. All persons conducting open burning shall have available the means for controlling or extinguishing the fire, such as water supply and/or heavy equipment.
 - iii. It shall be unlawful for any person to conduct open burning other than in accordance with the requirements set out in this section or in violation of any conditions or operating restrictions imposed by the director or the chief of the fire prevention division.

A management plan for igniting, controlling, and extinguishing the open burn.

For nonresidential waste, extraordinary residential waste, or extraordinary organic yard waste, in addition to the information required by this subsection would require the type of business or activity involved in the burning. A description of the proposed equipment and operating practices, and the expected composition and amount of air contaminants to be released to the atmosphere. Reasons why no other method other than burning can be used for disposal of such waste. Evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.

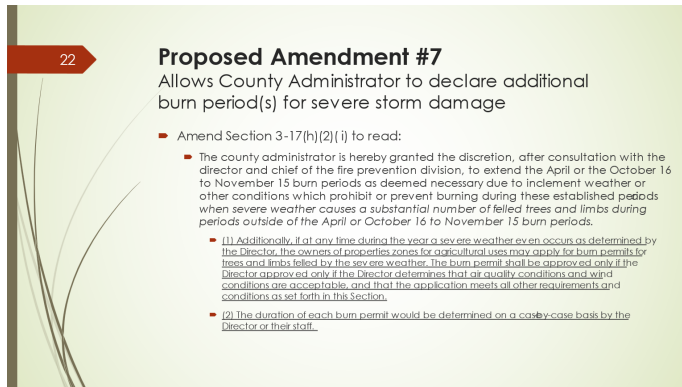
Then under this section, under no circumstances shall open burning occur within 50 feet of any building, combustible material, road, or within 50 feet of the property line. All open burning must be constantly attended until extinguished. All persons conducting open burning shall have available the means for controlling or extinguishing the fire, such as water supply and/or heavy equipment. It shall be unlawful for any person to conduct open burning other than in accordance with the requirements set out in this section or in violation of any conditions or operating restrictions imposed by the Director or the Chief of the Fire Prevention Division.

21

Amendment Adding extraordinary organic waste to application

- Amend section 3-17(h)(2)(c)(5) to read:
 - For nonresidential waste, extraordinary resident waste, or extraordinary organic yard waste in addition to the information required by this subsection

The next amendment would be amending Section 3-17(h)(2)(c)(5) to include, extraordinary organic yard waste, in accordance with the definition that we've included earlier or proposed to include earlier.

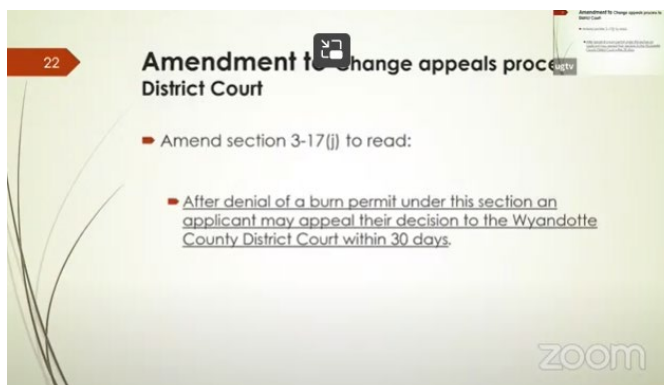


22

Proposed Amendment #7
Allows County Administrator to declare additional burn period(s) for severe storm damage

- Amend Section 3-17(h)(2)(i) to read:
 - The county administrator is hereby granted the discretion, after consultation with the director and chief of the fire prevention division, to extend the April or the October 16 to November 15 burn periods as deemed necessary due to inclement weather or other conditions which prohibit or prevent burning during these established periods when severe weather causes a substantial number of felled trees and limbs during periods outside of the April or October 16 to November 15 burn periods.
 - (1) Additionally, if at any time during the year a severe weather event occurs as determined by the Director, the owner of properties zoned for agricultural uses may apply for burn permits for trees and limbs felled by the severe weather. The burn permit shall be approved only if the Director determines that air quality conditions and wind conditions are acceptable, and that the application meets all other requirements and conditions as set forth in this Section.
 - (2) The duration of each burn permit would be determined on a case-by-case basis by the Director or their staff.

This next amendment would allow the County Administrator to declare an additional burn period after severe storm damage. This would be in addition to our April and our October to November burn periods. The County Administrator would be able to declare a special open burn period if at any time during the year if they determine that it's needed due to severe weather. During this special burn period, the duration of each burn permit would be determined on a case-by-case basis by the Director or their staff.



22

Amendment to change appeals process District Court

- Amend section 3-17(j) to read:
 - After denial of a burn permit under this section an applicant may appeal their decision to the Wyandotte County District Court within 30 days.

zoom

The last proposed change would be, or the next proposed change would be an amendment to Section 17. This would be an addition of an appeals process. So, after the denial of a burn permit under this section, an applicant may appeal their decision to the Wyandotte County District Court within 30 days.

This is an amendment that may require further discussion based on what would be the best way to involve the District Court in this proceeding.

24

Changes Proposed by Commissioner Kane.

- Section 3-17(f) It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted such open burning.
- Section 3-17 (h)(1)(ii) An additional permit shall be obtained from the director prior to the use of an air curtain open pit destructor. A fee in the amount established by the county administrator or their designee shall be paid for such permit.
- Section 3-17 (h)(2)(c)(ii) iv. Evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.
- Section 3-17(i) After denial of a burn permit under this section an applicant may appeal their decision to a panel consisting of the Director, the chief of the fire prevention division, and the County Administrator or their designee by filing a written notice of appeal with the United Government's Clerk's Office within thirty (30) days of such decision. The panel shall conduct a hearing on the appeal within thirty (30) days of receipt of such appeal. Wyandotte County District Court within thirty (30) days.

These were some changes that were also included in the proposed resolution. They were proposed by Commissioner Kane. The first one would be amending Section 3-17(f) to remove the language that states, it shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted such open burning.

The second proposed change was a removal of the additional permitting language when someone is required to use an open air curtain, open pit destructor.

The third change was an amendment to Section 3-17(h)(2)(c)(ii)iv, which would amend that to mean that just to read, evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.

Then the fourth bullet point here is something that we actually already discussed which was the change from a proposed panel of the Director, the Chief of the Fire Prevention Division, and the County Administrator hearing the appeal to an appeal to the Wyandotte County District Court.

25

Engagement with KDHE

- Conversations regarding proposed changes to local UG ordinance have been ongoing between KDHE and UGPHD staff.
- KDHE Bureau of Air (BoA) has expressed concern that proposed UG changes may result in the UG having less restrictive air quality monitoring standards than at the state and federal level.
- KDHE has informed the UGPHD that they will formally review the local ordinance once it is passed by UG Commission to determine if corrective action will be taken.

This last slide concerns further engagement that would need to happen with KDHE. Conversations regarding the proposed changes to the local ordinance have been ongoing between KDHE and the Health Department staff. The KDHE Bureau of Air has expressed some concern

that the proposed changes may result in the UG having a less restrictive air quality monitoring standards than the state or the federal level. Then, KDHE has informed the Unified Government Public Health Department that they will formally review the local ordinance once it is passed by the Commission to determine if corrective action will be taken.

Any questions?

Mr. Howze said, Commissioner Bynum, back to you. That concludes the presentation.

Chairman Bynum said thanks very much. A couple of questions for me. I've been in conversation with the staff here at the table in preparation for bringing this forward again trying to bring us to a place where we can make certain amendments to the open burn ordinance and be satisfied that the changes we're making are needed and good. I've been clear with staff that I can't support ordinance changes that would create the Unified Government having a lower standard, a less restrictive air quality standard than state and federal government. I think that what we've proposed here in the PowerPoint keeps us within the state and federal standards.

I have a couple of questions, but I think I'll hold those and listen to our standing committee members. Commissioner Ramirez and Commissioner Kane, did you have anything?

Commissioner Ramirez said mine's kind of a hypothetical. If we were to pass, clear to pass the ordinance as is with the amendments and everything, us not being in compliance with KDHE, state and federal air quality standards, what parts of the ordinance do you think KDHE might come back and say we need corrective action?

Mr. Weckwerth said one of the items that was on the list from Commissioner Kane involved, shall be prima facie that the owner or person controlling the property. That one's directly in the state regulation. So, leaving it in or taking it out, I don't think makes much difference.

It gets into a little gray area regarding the additional permit and trying to convey what those are. Basically, from talking to the Director of the Bureau of Air, KDHE, it was too hard for him to understand what we were trying to propose and he basically wanted to look at everything after it was finalized and make a decision then. I've got to say with all the changes, I don't completely understand all of it anymore.

Commissioner Ramirez asked, so the first one that Section 317 app, the prima facie, can you, Legal, describe what that does, what it means, what—because I'm not Commissioner Markley. I did not go through law school.

Vince Billagio, Manager, Street Division, said, yes, Commissioner. Prima facie evidence it's an evidentiary standard. So, it's evidence that if shown is sufficient to take an action to a fact finder and then if not rebutted, it is evidence for a determination in that person's favor. So, here that would read, it would be prima facie evidence that the person who owns or controls the property on which the burning occurred has caused or permitted the burning to occur. So, the fact that burning occurred on the property that someone owned or controlled would be a sufficient level of evidence to show that they permitted that burn. The person who owned or controlled the property would still be able to rebut that evidence if they have some sort of evidence that shows that they didn't permit the burning or by someone trespassing on their property and doing the burning or that they no longer controlled the property.

Commissioner Ramirez said okay. Thank you. I don't have any other questions. Those are my two big ones that I had.

Commissioner Kane said and we voted on this once, correct? **Chairman Bynum** said we voted at standing committee. **Commissioner Kane** said okay. So, after standing committee, what happened? **Chairman Bynum** said it went to full Commission and I asked that it come back here. **Commissioner Kane** said okay, but we didn't have this information prior to. **Chairman Bynum** said I would say that's true.

Commissioner Kane said my question is, we were presented with something that we thought was good. I was going to be absent, that's why you pulled it. **Chairman Bynum** said that's right. **Commissioner Kane** said and then we're here a few weeks later and now all of a sudden KDHE is involved and we can't do this and we can't do that. Why weren't we told this in the first place?

Mr. Weckwerth said a day or two or within a week of having that standing committee meeting, we were on what's called our enforcement and compliance meeting and we mentioned that these changes were coming. Katie, she said, wait a minute. That's what happened.

Commissioner Kane said I just don't—I'm a little frustrated. We should have been provided this information at first, not at last. I don't know what you told them because sometimes

it's a presentation that you provide to the people. Obviously you guys didn't like it. Did you present it the proper way? Did you present it your way? I mean, how was it presented? Somebody's got to tell me other than you guys brought it up.

Fire Marshal Droppelmann said I was not at the meeting with what they were discussing. After the standing committee meeting here last month that you all passed that, Commissioner Bynum, you posed the question to Commissioner Kane, what do we gain by striking the prima facie language. He failed to provide you an answer. So, at the special session prep meeting, I provided you the answers to why it should remain. I've yet to hear why somebody would want to take out a highly critical enforcement tool for us to be able to handle over 500 complaints a year that I get about open burning. It's the number one complaint the Fire Department receives.

In that researching that I did while I was waiting for that answer while I asked you to have it removed from the agenda, I came across the state statutes where it says it is. So, it doesn't matter one way or the other. We can still use that provision to issue citations where we need to.

Chairman Bynum said what I think is that the slides that you've shown us with the potential amendments, I'm satisfied with. Then I feel like some of the additional changes, I can actually live with as well. The only one I really have a question about—I have two questions.

Commissioner Kane, on the one where we are striking section, it's the additional permit shall be obtained and we're potentially striking it—on the very second to last changes proposed by Commissioner Kane. What I'm trying, and I'm not necessarily asking you to justify that or explain it, but I think that in Section 3-17(h)(1)(a), what you're suggesting with the striking is the additional permit. Is that right? **Commissioner Kane** said yeah. We already have to get one permit. Why do we have to get a couple of permits?

Chairman Bynum said okay. That's where—and I think I can live with that because up above we say if it is determined that the air curtain pit destructor is required then that's where the permit from KDHE comes into play. I was kind of stuck here last month too, I think, because the point is making sure they know. What concerns me about if they don't know is the fine because I don't know how much an air curtain pit destructor cost.

Commissioner Kane said that's a bad example and I'll tell you why. Nobody in Wyandotte County is ever going to get a burn—you just said it. **Chairman Bynum** said the curtain pit? **Commissioner Kane** said right, unless you're building homes, you're taking out a boatload

of trees because they're like \$25 or \$30K to rent. You just can't, I mean, you got to dig a hole. You do a series of things and it's too expensive to do that unless you plan on building houses in a certain area. It happened out there at Delaware Ridge. They had a big pit that they put in there, but nobody from Wyandotte County, after a storm, is going to use a curtain. I don't care what anybody says.

Chairman Bynum said so let me stop there for a minute and ask staff, with our current laws the way they are now, have you ever issued a permit for the air curtain pit destructor? **Mr. Weckwerth** said I personally have not. My boss Rollin Sachs, who was the predecessor to Jennifer, issued, I believe, three in the 2016-2017 era. One to George Shaw, one to Miles Excavating, and I can't remember who the third one was. **Chairman Bynum** said so it's rare and it's for something big. **Commissioner Kane** said and those are big construction companies.

This isn't—where all this blew up at was a 40 or 50-acre area. I think the way we approached it, Droppelmann shows up with a gun and a taser to intimidate the property owner. I called the State Fire Marshal and he said the only time he's supposed to wear a gun unless he's going to a crime scene. So, that frustrates me because what does that tell our community?

This person had 40 or so trees blown down on the ground and all he's trying to do is burn them and somebody shows up. The Mayor went there and Juliann VanLiew went there. A series of people went there, and there were multiple mistakes that I can't prove or not prove happened on that property.

All I'm trying to do is get this where it makes more common sense for the common person. This is agricultural property and somebody that has a tree burn down in their yard, like me, a small yard, I'm going to haul it off. But in a case like that, it would have cost like \$25K or \$30K to haul off all those trees. So, the question was, just can I burn these trees? It was going to take more than the three days.

Commissioner Ramirez said I'm trying my best to follow along. **Chairman Bynum** said I know. It's ridiculous. **Commissioner Ramirez** said **Commissioner Bynum** brought it up, the need for two permits. What are those two permits? I know one is the state. That's required. What is the second one? Is that the permit we're asking for?

Mr. Weckwerth said correct. It basically provides us the information on the air curtain incinerator, the company that's running the operations, it's all about a whole page of information

that we collect and pretty much turn it around as a permit. I couldn't find anybody that had defined what the fee was. It is in the regulations that the Administrator can set an appropriate fee, but I couldn't find a fee anywhere. I asked my previous boss and he said we waived the fees. So, really it's a matter of filling out a page of paperwork.

Commissioner Ramirez asked, why isn't the state permit suffice? From what we know, state regulations, state laws kind of trump ours at a certain point. Not at a certain point, all the time. So, I'm not—why doesn't their permit that they have to get through the state, why can't we accept that information? **Mr. Weckwerth** said that is a permit on the equipment itself. Our permit defines where it's being used and what it's being used for. The amount of material.

Commissioner Ramirez said our permit that we're wanting is so that we know where's the location, how it's doing, and everything. **Mr. Weckwerth** said and we're supposed to go out and measure the pit to make sure it's compliant with the regulations and so on and so forth.

Chairman Bynum said and the state permit is...**Commissioner Ramirez** said for the equipment. **Chairman Bynum** said one of the things we're looking at is the if we determine that the air curtain pit destructor is needed, then you need to make sure they know at that point, KDHE requires a permit for use of that equipment.

Commissioner Ramirez said okay. I think I'm following along.

Commissioner Kane asked, has a resident ever asked for a curtain permit? **Mr. Weckwerth** said not to the best of my knowledge. **Commissioner Kane** said I don't really care if the business has to do it, that's fine. I just don't want a resident.

Chairman Bynum said right. I think we're saying if required. **Commissioner Kane** said right. **Chairman Bynum** said to me, that's kind of where we're handling the instead of shall, if the fire or director says it's required, then, but the door is open for it but would not be required...**Commissioner Kane** asked, wouldn't you guys have to go out and look at it before you give—you do have to go out there and look at it before you pass the permit. Is that right?

Fire Marshal Droppelmann said the way the current process works, they apply for the permit through Air Quality. He sends it to me in an email. I go out and make a site visit and look at it and go okay, it meets the requirements of what I'm looking for: the distance, water source, what have you. I usually take a couple of photos of the pile. If I see furniture or other stuff in there, I send it back to Air Quality either signed and approved or I send them the pictures going

hey, this one's probably worth you guys driving out there and looking at it because you may have an issue with what they're going to burn. I don't, like I said, in past meetings, I don't determine if they can burn, I just determine if they can burn safely. That's all my job is.

Commissioner Kane said and like I said before, a resident is not going to get a curtain.

Chairman Bynum said so, I think the rest of that is, and I'm okay with this, I just have questions about the mechanics of it. But the amendment of denial of a burn permit under this section may appeal to Wyandotte County District Court within 30 days. So, my only question there is, and I asked this of our staff, could we talk to the Chief Judge to ask them what process would they or have they set up for receiving a denial like that that would immediately go to District Court? I don't know if we've had time to get an answer, but it has come up. Modifying an ordinance to send something across the street to District Court without giving them a heads-up that hey, this might happen. You need to be prepared for it. So, it's really my only concern on that.

Commissioner Kane said this should be a good time for community input.

Chairman Bynum said so here's where I am. I appreciate what you're saying, absolutely, and we will do that. I think we've made a number of changes here that we believe we need to make and that are needed and helpful. Anything else before we take public comment?

Commissioner Ramirez said I'm trying to connect dots. I'm having trouble. So, if during any of the open burn periods or the extraordinary one that the Administrator may call if needed, all that residents need is just a permit from us, correct?

Mr. Weckwerth said yes. Our regulations allow for a burn permit in the spring and the fall. Basically, they can get a permit for three days to burn one pile over the course of three days, less than 100 square feet at the base. That is the assumption we're going for that any additional burns after a severe storm would be applicable the same way.

Commissioner Ramirez said okay. And then let's say a scenario, the Fire Marshal, the Health Department go out. They look at the pit and they see the pile and at that point, they determine that a curtain is necessary. That is when the second permit will kick in, correct? **Mr. Weckwerth** said no. It's actually a completely different permit. **Commissioner Ramirez** said

that's what I mean. The state permit would kick in, where they would have to go, if you determine that a curtain is needed. You would tell them you have to go to the state to get this permit to do this burn. **Mr. Weckwerth** said our spring and fall permits are just for, basically, local yard waste. We don't go out to each individual pile and inspect those. The ones that are larger numbers or larger areas are the ones that we go out and look at before we issue the permit.

Commissioner Ramirez said okay. So, you don't go out to every site? **Mr. Weckwerth** said no.

Commissioner Stites asked, how many do we get, Jon? **Fire Marshal Droppelmann** said easily in the spring and fall we average about 1,100 permits for each season. There's just no way for—we just take their word on it. They're signing on the permit portal they're going to abide by the city regulations. If a neighbor has a problem with it or if they're burning after hours, they call 9-1-1. Pumper shows up. If they're in violation, they educate them. If they continue to violate, they either call me or one of my investigators. We'll educate or serve them a summons, but we do not go out and pre-inspect any piles during that time.

Commissioner Ramirez asked how would we determine, you determine that since you're not able to go to every property that's requesting a permit, what indicators do you see within an application that they may need a curtain or how is that determination made?

Fire Marshal Droppelmann said that would happen on the out of season permits. The ones that aren't done on the computer during those two 30-day periods, you can get a burn permit anytime. You can apply for a burn permit any time of the year. You have to fill out the permit form through Air Quality and in there you answer questions. How much do I have? What's it composed of and all of that. If he feels like it's larger or extraordinary and it may cause an issue with air quality in our city, then we go out. Well, they go out and take a look at it. If they're not able to, they'll send me out and I'll go look at it and shoot pictures and send it to them. It's a lot easier for myself or the fire crews to get out there since there's only a few of them in their office.

Chairman Bynum asked, Commissioner, does that make sense? **Commissioner Ramirez** said yes it does. **Chairman Bynum** said it's kind of a different scenario. **Commissioner Ramirez** said yes, sorry. **Chairman Bynum** said it's no problem. **Commissioner Ramirez** said I'm having trouble connecting those dots. **Chairman Bynum** said I know. We've looked at it for so long.

Chairman Bynum asked, any other questions, comments? Given that we don't have any motions on the floor, let's ask the Clerk if anyone—if there were comments received electronically or anyone with their hand up virtually. **Ms. Sparks** said no comments received; no hands raised.

Chairman Bynum asked, from the public here present tonight, would you like to make a comment and step forward, please. Give us your name and city of residence.

Don Budd, 4021 N. 129th, said sitting on this side of the table it almost looks like Andy Reid threw the red flag first game of the season and the NFL's just getting back to him on the call in the fourth week. It's a lot of information to digest that they've given us. Common sense is going to tell me this, and this is specific to the air curtain, it's specific to a commercial use. An air curtain is going to be used or should be used in a commercial use 100% of the time. It should never be used in a residential use.

So, if we take that away, we're talking about compliance and we're scared of the KDHE and we're scared of the feds. If we don't issue a permit and it all goes through KDHE, how can we be in violation? We didn't issue a permit. How can we violate their statute if we didn't issue a permit? Does that make sense to anyone? **Chairman Bynum** said no. **Mr. Budd** said it does not, okay.

Chairman Bynum said since I'm the only one saying no, it doesn't make sense to me. Either we're in compliance with KDHE regulations or we're not. **Mr. Budd** said, but if you've not issued a permit, how can you not be in compliance? The state is issuing the permit. I don't disagree.

Chairman Bynum said I guess my question is, we're talking about air quality at that point so I'm not tracking. We don't have to spend a lot of time there...**Mr. Budd** said no because, obviously, you want an additional permit. So, I guess if you do want this additional permit, you want it specific to the air curtain, it should be specific to the air curtain for a commercial use, not residential use. **Ms. Sparks** said, sir, you have one minute remaining.

Chairman Bynum said and we'll give you the time that you need because I want to make sure I'm understanding you. We ask for a permit right now, do we not? **Mr. Weckwerth** said yes. **Chairman Bynum** said so the permit part is not in question. **Mr. Budd** said well it was because at the last standing committee meeting, the permit was going to be removed. That's what you all voted on. **Chairman Bynum** asked, the language removing the permit? **Mr. Budd** said correct.

Chairman Bynum said I'm not seeing that as one of the changes proposed. The additional permit was being struck. **Mr. Budd** said right and that's what I'm talking about, the additional permit is the UG permit. The KDHE permit's not struck; it's the UG permit that you guys struck. If you choose to want to have that permit and then want to have to be in compliance with KDHE, then we include simple language with all the other language that you've included tonight that simply says, in commercial uses.

Chairman Bynum said and this is where, again, I apologize because I'm going to give you the time that you need, but I need to understand with staff, this was kind of the question I was asking earlier and not well. Section 3-17(h)(1)(3) being suggested to be stricken says, an additional permit shall be obtained from the Director prior to the use of an air curtain open pit destructor, which to me, is not the same thing as just getting a permit to burn. So, that's where I'm not sure that you and I are talking about the same thing. I was under the impression that we would always, if I have to get a permit to burn a little pile of sticks in my yard during open burn time, I can't imagine why I would be okay with you not needing one to burn big, huge trees that fell down in a storm. So, I just want to make sure. Maybe I've misunderstood this whole entire time.

Mr. Budd said my understanding of it was, and I think the way the changes were presented, was the additional permit was for the air curtain destructor. **Chairman Bynum** said right. **Mr. Budd** said the permit which you guys had stricken in the last meeting; it had nothing to do with permits for burning residential yard waste. There's a pretty big gray area on residential and nonresidential yard waste, I guess.

But if you simply do this, if you want to have a permit for the people that are going to operate an air curtain destructor—and an air curtain destructor isn't something you have in your garage. It's something that's big. It's something that's costly. It's something that's overwhelming. It's something that everybody that has one knows the federal regulations and those state regulations. They're going to know local regulations if they apply. You choose to do that, just use it for the—you're going to get that additional permit specifically only for the air curtain destructor used on commercial projects. If you use that language, then you can have your permit, if you so choose, and you can have it for commercial use.

An air curtain should never be used for private use. It should never be suggested for a private use. It's a discouragement. It's much like the same thing that Droppelmann's talking about

on his enforcement. If we go out and we're using this air curtain destructor well, you're guilty because you're the landowner.

Okay. I'll give you a little bit. That might make a little sense because there's not many people are going to come dig a hole and put an air destructor on your property and burn it. I'll get that. But if they go to Commissioner Markley's backyard and she's got a pile 5 x 5 that she's been waiting for October to come and somebody catches it on fire, is she guilty? No. So, once again, you've got to distinguish between if you want the teeth in the language to say you're guilty; there's no presumption of innocence. You're guilty because you've got this air curtain destructor on your ground and we're going to issue a citation to you. That's okay, but you can't have that same applicable law to every citizen of Wyandotte County because it's not fair. It's not just. You can't say you're guilty because somebody shot a bottle rocket in your brush fire.

Chairman Bynum said I'm not and I don't have a problem with that part at all. A question for you, specifically. When the storm knocked down all the trees on the land that you own, if I'm tracking right, with the storms...**Mr. Budd** said well me and several other people. Dub's Dred Golf Course, there was a large area...**Chairman Bynum** said let's leave Dub's Dred to the side for a minute because that's a commercial application, in your example.

On your property, the trees that fell, and I don't know what they looked like. I wasn't there. Would you say that number of trees down was similar in any way to what it looks like when we are purposefully clearing trees because we're going to build a new subdivision? Were those similar or not?

Mr. Budd said not even close because what happened when this came through, a microburst tornado, it twists them off the top. It knocks branches down. I had Public Works come out. I had the previous Mayor's Office. I had a lot of people come out and they looked at this. Public, and they give me an opportunity, and I volunteered to do it. You can take it to the curb. I was going to take my equipment and take it to the curb. Public Works called me and said please don't do it. It's going to cost us, because they came out and analyzed it and it cost us \$110K to remove your waste. I said I'll bring it up there and put it there.

What I'm saying is this is a singular instance. This happened to me and so that's why I can speak to it the way I am. I'm passionate about it. You can't have somebody out here with a hand grenade and a flamethrower burning the residents in Wyandotte County down with these specific

regulations. You just can't do it because there are such things as bad apples in the enforcement side. There just is and we don't want to give them any more teeth than they have.

Chairman Bynum said I kind of feel like the work that we've tried to do here is...**Mr. Budd** said oh, it's good work...**Chairman Bynum** said is create it on a case-by-case basis so that we're not doing that. That's just my assessment. **Mr. Budd** said and that's where—we've come from here to here and now we're here. If we have a commercial use and a private use and we have two different—if we segregate those two uses, once again, you want a permit for an air curtain destructor, fine. Get a permit. If you want to have—you're guilty with burning an air curtain destructor on your property and you're guilty of burning, here's your citation. It's odd we're talking about citations and fines. The first group of great people that were up here were trying to do away with citations and fines, yet we're trying to encourage it on other sides. That's a whole different subject. If we take the private side, no air curtain destructor; not guilty until proven innocent.

Chairman Bynum said I'd be interested in if there was a municipality that had it structured the way you suggest. Did you have, Commissioner Ramirez?

Commissioner Ramirez kind of yes, because I think I'm tracking what you're saying. So, you're saying that for residential, as you said, residential private use there, they shouldn't be using a curtain? **Mr. Budd** said well, what we've got—we've already got something in place. October, we've got two times a year, two months a year, go get a permit. If we've got it now by the good work of this standing committee, we're going to have something if there's an extraordinary. If there's a storm, we're going to have something. If that happens, air curtain shouldn't be talked about. During the private, when you're getting the permit during those two months or you're getting a permit after the fact, the private use of it just sticks and should stick in everybody's crawl. You can't be guilty of something because it happened on your property. They can't use that and pull it like a pistol every time because you know what, sometimes your job is to investigate and do your job, bottom line.

Commissioner Ramirez said okay. So, that's the residential. You believe that residential, and you don't have to worry about the curtain, there's ample time throughout the year to allow for burning. So, then not having the prima facie evidence. But then on the flip side with commercial use, you say if we want to add a permit, that's okay? **Mr. Budd** said you've already got a permit. We were going to—the vote was to remove the permit. If you want to keep the permit in place,

which I believe is what they're asking for now, okay. **Commissioner Ramirez** said for commercial use. **Mr. Budd** said for commercial use, sure, go ahead.

Commissioner Ramirez said I think I'm tracking now.

Commissioner Kane asked, much how does this affect you? If we do what he said, how does that affect KDHE for these guys have already got a permit? If the trees fall down, they've got to get a permit anyway. I guess I'm slightly confused. **Mr. Budd** said KDHE wouldn't have anything to say about that. You wouldn't be using an air curtain. **Commissioner Kane** said that's what I'm saying.

Mr. Weckwerth said I'm going to speak for Jon here. I think I'm pretty comfortable in this. We don't have any problem issuing a three-day burn permit even on agricultural land, but when somebody asks for a 60-day burn permit, our antlers go up.

Chairman Bynum said and I do agree. That's a concern because, again, I'm going back to Public Safety and Air Quality. That's why we have departments like you and that's why these regulations are in place and that's why KDHE has standards and the EPA. That's what it's all about.

Mr. Budd said but they're talking about something to where the only way that's going to occur is if you've got an extraordinary event...**Chairman Bynum** said right...**Mr. Budd** said and then if it takes more than three days, it could take—somebody else is going to determine that number. They're going to ask the landowner. He's going to give their opinion. Somebody else is going to give their opinion. Here's what we're going to do. They can't do it without the permit.

Commissioner Kane said well, and here's something else. You couldn't burn that stuff in three days even if you wanted to burn it in three days. If you put it in a pile, all of it together, you couldn't burn it in three days. I think they would have to go back and get another permit. Is that what you guys are saying?

Mr. Weckwerth said I have a property that is one acre. When I first moved in about the back third of it wasn't cleared. I cleared it over the course of a couple of years. I got a permit every six months when I was allowed to get a permit, and I burnt it. Now, it wasn't over 26 trees or whatever we're talking about, but I did it over a period of time and I didn't have any problem with that. We can issue three-day permits, one in the spring, one in the fall, and if we have an extraordinary event, we can get one then too. **Mr. Budd** said I don't disagree with that. I agree with what he's saying. I'm just saying commercial should be treated separately than residential.

Can't be guilty on residential. A predetermined guilt. The other way, you're digging the hole. You're doing that. I get it, but soon logic's got to come into play at some point.

Chairman Bynum said the only other comment I have, and then I think Commissioner Markley had her hand up, is that if we don't adopt the changes that we've brought forward, then we have the same permit and ordinance and process that we have right now. Does that make sense? We have changes here that are necessary, pertinent, good, and helpful. Or we can do nothing again, which I am not a proponent of because if we do that, then what we have is what we have right now.

Commissioner Markley, I'm sorry if I kept glossing over your hand going in here. I apologize.

Commissioner Markley said, Commissioner Bynum, you just said something similar to what I was going to say so thank you. We have negotiated this to death. The purpose, you're smiling, it's true, the purpose was to provide some discretion so that when we have an emergency there's some discretion in how we handle that situation. So, my question to staff is, have we met that goal through all this? We've kind of gone off this way. We've taken this path over here. We've made all kinds of changes. We've come back and made some of the changes twice. The original goal was to create some discretion for emergency situation, so I'd like you to just speak to how this does or doesn't meet that goal.

Mr. Weckwerth said the only thing I'm uncomfortable with is issuing a 60-day permit. That was where this all came from. That was where Jon red flagged it. I agreed with his red flag. The idea of somebody having the opportunity to burn for 60 days straight where there's residential neighborhood within 1,500 feet, that's not good.

Commissioner Markley said but under this new language, it would be within your discretion to determine how long a permit could be. **Someone** said that appears to be what has been written by Jon Khalil in here. Yes.

Chairman Bynum said so the short answer is, the discretion that was sought was obtained. Mr. Khalil, would you agree? **Mr. Khalil** said I would agree. I think it's Section 3-17. I don't have my paper in front of me. I believe the amendment to Section 3-17(h)(1)(a) would give the discretion on when an air curtain is needed as determined on a case-by-case basis and then...

Chairman Bynum said here's where I feel like it's achieved in that section that you are reading from. On a case-by-case basis, the Director or their designee may determine what, if any, precautions are needed to ensure air quality standards are maintained. To me, one precaution might be you can burn for 5 days, not 10, not 15, not 20, etc. I'm not a lawyer.

Commissioner Markley said so, then I'm going to go where Commissioner Bynum was going and say listen, we can keep beating this horse or we can adopt what we've got now and we can circle back after it's been used a few times and we can decide if it's doing what it's supposed to do. Realistically, I did a few statutes in my time. You don't usually get it right. You don't usually get it right the first time because you find all these things that you didn't think were going to happen that way.

Action: **Commissioner Markley made a motion that we adopt the changes presented tonight and move ahead with this.**

Commissioner Markley said it doesn't necessarily need to be in the motion, but then I would recommend that after it's been used a few times, we have you back for follow-up to discuss if there are adjustments that should be made.

Ms. Meyer said just so Legal is clear, would the motion be regarding all of the proposed amendments, including proposed Amendment No. 9 regarding the potential appeal to District Court? **Chairman Bynum** said fine with me.

Ms. Meyer said I've talked to Judge Burns and I'm not sure that they would have jurisdiction. I know that we could research that a bit, but most jurisdiction is conferred on a statute and I'm not sure that there's a statute for more of an administrative issue. Everything else is good. We could always add that chunk later or do you want to leave it and then maybe with the understanding you might have to remove it?

Commissioner Markley asked, do you think we can get any comfort level before the full Commission meeting so we can deal with it there? **Ms. Meyer** said yes, definitely. **Commissioner Markley** said then let's put it in with that amendment and try to have that ready to make it official during full Commission.

Chairman Bynum said so, I have a motion. I need a second and then I'll call on you.

Action: **Commissioner Ramirez seconded Commissioner Markley's motion.**

Mr. Khalil asked, just to be clear, would this motion include adopting the amendments on the slide that's titled, Changes Proposed by Commissioner Kane, or not? **Commissioner Markley** said yes. That slide too. **Mr. Khalil** said so all of them. **Commissioner Markley** said all of them.

Chairman Bynum said we have a motion and a second. I'm ready for more discussion if we're going to have it.

Mr. Budd said in all that, I guess the biggest issue or the two biggest issues we talked about was the permitting by the Health Department for the air curtain. That's in the new changes so, the permitting process will stay, correct? **Chairman Bynum** said it's my understanding, yes.

Mr. Budd said the guilty forever policy...**Chairman Bynum** said, sorry, sorry, sorry. **Mr. Weckwerth**.

Mr. Weckwerth said I'm sorry. I believe the changes that are proposed that came from Commissioner Kane include removing the additional permit by the Division of Air Quality. **Chairman Bynum** said and this is where I keep stumbling because the additional permit, in my mind, means the air curtain destructor permit. Is that what it means or not? **Mr. Weckwerth** said there are two permits for an air curtain incinerator: air curtain incinerator, air curtain open pit destructor, all the same thing.

Chairman Bynum said in this Section 3-17(h)(1)(ii), Mr. Khalil, which permit are we referencing if we strike the language, and additional permit shall be obtained? **Mr. Khalil** said that permit we currently require if someone is going to use an air curtain destructor.

Chairman Bynum said but we're still getting a permit to burn, yes? **Mr. Khalil** said they'd still be getting a burn permit. **Chairman Bynum** said we're getting a permit to burn. That's not going away. I want to see every head nod. Casey, Jon Khalil. **Mr. Khalil** said yes. **Chairman Bynum** said and the striking of 3-17(h)(1)(ii) when we say, additional, we mean the destructor. **Mr. Weckwerth** said we mean the permit that the Division of Air Quality issues, not necessarily the permit that the state issues. **Chairman Bynum** said correct. I got that part. **Mr. Weckwerth**

said right. We're on the same page. **Chairman Bynum** said that's where I was going back. Thank you, I appreciate that. That's where I was going back to reference 3-17(h)(1)(a) which says, if.

Gail Bergman, Air Quality Supervisor, said I just want to clarify. All our work is paid for by the state through a grant. We issue state permits for the county. So, any state permit, we issue. We inspect the facilities. We issue the permit. So, when you say a state permit, we still handle those. It's not like—I just want to make it sure. It's like not off in la-la land. We still do those.

Chairman Bynum said I do appreciate that. But it is a different permit. **Ms. Bergman** said correct. **Chairman Bynum** said it is a state permit and not part of this ordinance. **Mr. Weckwerth** said it is truly an additional permit.

Chairman Bynum said okay. What else? Again, I'm going to say this is more than nothing, and we can always do more work and make more adjustments. With that, I'm going to ask for roll call on this item.

Roll call was taken and there were six “Ayes,” Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

Chairman Bynum said, Mr. Budd, thank you. I really do sincerely...**Mr. Budd** said I'm not quite sure what we passed tonight. **Chairman Bynum** said well, we'll let you read it. **Mr. Budd** said I'll dissect it by the Commission. **Chairman Bynum** said thank you. And, again, as Commissioner Markley has said, after we hopefully go through, I mean we don't want to go through another storm like that, but as we interpret this and use it, if we need to look again, we'll look again.

Mr. Budd said and I just want to say thank you to the standing committee. If we look at this and we have further discussion at the Commission meeting, I hope no one's offended. I think I understand what we passed, but I'm not quite...**Chairman Bynum** said well, good. Then you can come up here and join us. Thank you very much. Thank you to staff. Thank you also to the staff who's been waiting and listening to all this discussion.

Item No. 6 – 211937...PRESENTATION: COMPOSTING REPORT

Synopsis: Presentation of findings of a feasibility study funded by an EPA grant for potential composting operations, submitted by Jeff Fisher, Executive Director of Public Works.

Chairman Bynum said if I'm tracking correctly, Jeff Fisher, Public Works, is going to give us a presentation about composting. Thanks for your patience and thanks to your staff for their patience as well.



Jeff Fisher, Executive Director of Public Works, said you might recall last year, Jonathan Gutierrez worked with Burns & Mac to secure an EPA grant to determine the feasibility of a composting operation. We've done the majority of that work. We have to report back to the EPA here in a couple of weeks, so we wanted to report to the standing committee before we did. There's a couple of final numbers and some cost estimates that we still have to fine-tune, but we're going to let you know kind of what this feasibility looks like. It is feasible. There'll be questions about whether or not to pursue that, but we'll determine that at a future date.

I'll hand it over to Julie Davis with Burns & Mac, who's been with us throughout this and let her highlight the feasibility study.

Compost Facility Feasibility Study

- ▶ Funding: \$95,000 - EPA Sustainable Materials Management Grant
- ▶ To evaluate the feasibility of a UG - owned and operated compost facility for material currently being landfilled:
 - Food waste
 - Tree and yard trimmings
 - Biosolids
- ▶ Additional motivation to compost biosolids due to increasing disposal rates at landfill
- ▶ End product could be utilized by UG, made available to UG residents, or sold



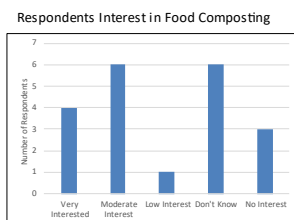
BURNS & McDONNELL

Julie Davis, Burns & McDonnell, said thank you for inviting me here to present the findings of this study that we assisted with. Congratulations, again, on securing the EPA funding for this exciting project that's through the Sustainable Materials Management Grant. The EPA is particularly interested in food waste diversion through composting, so that was the focus of this study as well as other materials such as tree and yard trimmings. As we know, Unified Government residents are allowed to put out their yard waste and it goes to the landfill. The idea is if this facility, in the future, could handle that material if it was set out separately for composting. Biosolids, which are currently going to the landfill, will be going through the proposed Kaw Point anaerobic digester project. This study assumed that that project would process the biosolids from the wastewater treatment plant and the compost facility would handle the digested biosolids at the end of that process.

Motivation for this project not only to divert food waste and yard waste, but just the biosolids. Landfill rates are going up. Then the environmental impacts that this product, compost product, could be utilized by the Unified Government in your operations and defer costs that are otherwise assumed, and make it available to residents and even sell this product for revenue.

Task 1: Stakeholder Engagement

- ▶ Identify and survey large food waste generators: i.e., school districts, food manufacturers, large employers, residential facilities, grocers, etc.
- ▶ One-on-one meetings with material processors regarding potential partnerships:
 - Missouri Organic Recycling – regional compost experience
 - KC Can Compost
 - Food Cycle KC



BURNS & MCDONNELL

2

So, we were tasked with engaging stakeholders we identified as large food generators and surveyed them. We made sure that we included a variety of different generators. We engaged school districts, food manufacturers, large employers, residential facilities that would be multi-family and grocers. We had one-on-one meeting—let me stick to that point. We engaged and did this survey. The results were very interesting. This snapshot is the graph at the bottom where we asked, are you interested in food composting with these types of entities and it ranged all over the board. Very interested to, I have no idea what you're talking about.

So, I think that there's an opportunity. Those who want to do it are motivated to divert food waste, and then there's just a lot of education that would need to be done to capture more material along the way. Other communities across the country have been experiencing this because food waste is a very hot topic.

We also had one-on-one meetings with material processors, so Missouri Organic Recycling is the name in the Kansas City metro area that handles compost including food waste. They were very interested in this project and wanted to be a potential partner on this as a P3, and we continue to engage with them on this project. Then there's a couple of smaller operations that collect food waste and handle it, and they're also interested in this project. It was all very positively received and not seen as being in competition with the private sector.

Task 2: Site Evaluation

Two Sites Evaluated:

- ▶ Riverview
- ▶ WWTP 20

Selected WWTP 20

- ▶ Within industrial area — decreases concerns with residential neighbors
- ▶ Sufficient space for operational needs
- ▶ Co-located with other public works services
- ▶ Staff resources onsite



BURNS & MCDONNELL

We did evaluate two locations for a proposed compost facility. We looked at a site at 82nd & Riverview and Wastewater Treatment Plant 20. We looked at, let me see my list here, the hydrologic geologic hydrogeologic conditions. We looked at proximity to residents. We looked at access to utilities and environmental impacts. Based on all of those evaluation criteria, the city staff selected the Wastewater Treatment Plant 20 to move forward with for the concept design and financial feasibility. This is because that area is within an industrial area. Within one mile, the proximity to residence is 100. A population of 100 versus 3,300 which I think was a driving factor. There was sufficient space for the operational needs, and it's already where the household hazardous waste facility is and the wastewater treatment plant, so there's already staff resources on site and it just outshone the Riverview location.

Chairman Bynum asked, can I just ask you a question, Jeff? That location, because this is going to be wildly popular. Can that location handle additional traffic? **Mr. Fisher** said we did discuss that and we feel confident it can.

Ms. Davis said for anybody who doesn't know Wastewater Treatment Plant 20 is—can you describe where that's located in the county? **Chairman Bynum** said I think it's down south. **Mr. Fisher** said I do know where it's at. It's at 88th St. **Ms. Davis** said it's near the landfill. **Mr. Fisher** said I've been there several times.

Task 3: Feedstock & Processing Evaluations

Feedstock	Tons Projected Capture (2035)
Combined WWTP AD Biosolids (Wet)	25,550
Community Brush Drop Off Centers	1,684
BPU Tree Trimming Waste	5,290
UG Operations Waste (Parks, PW)	1,330
Recovered Bulking Agents	2,000
Commercial Food Waste (potential)	5,240
UG Residential Yard Waste (potential)	5,307
Johnson County Residential YW (potential)	3,540
Commercial Landscape Customers (potential)	TBD
Total Tons	55,415

C:N Ratio	34.08	Target 2040:1
Mix Moisture	59.33	Target 4065%

BURNS & MCDONNELL

Ms. Davis said we looked at the feedstock and what could be handled at that facility. We looked at a projected capture for the future so that this is designed to meet the future needs. I think that the most exciting part of this feasibility study was that the site would be large enough, could be designed large enough at that location to handle all of the biosolids generated at the Kaw Point AD facility. This is an alternative to other means of disposal for that material that's coming out of that facility.

We looked at all of the items in blue are materials that are being generated currently and projected volumes for the future. The BPU tree trimming waste would be a critical piece. Tree trimming waste is critical for composting biosolids. Community brush drop-off centers and we know that UG operations is generating this type of material already. Then there's projected potential materials. That commercial food waste we identified that we could capture up to 35% of that in the future. Then the residential yard waste, we talked about how that's currently going to the landfill, but potential for diversion, as well as Johnson County, which already has yard waste restrictions, that some of those haulers might see a benefit to coming and using this facility. That could be a revenue stream as well as commercial landscaping customers, if you wanted to handle additional material from outside sources for revenue generation. Capturing all of these materials fell within the parameters of the proper carbon to nitrogen ratios, which helps control odor as well as the moisture content which is necessary for properly composting.

Task 4: Technology Evaluation

- ▶ Windrow
- ▶ Aerated Static Pile (ASP)
- ▶ Covered ASP

Selected ASP due to:

- ▶ Odor control
- ▶ Lowest operations cost
- ▶ Passive monitoring; no turning



Stanwood, WA-Photo courtesy of ECS

BURNS & MCDONNELL

We looked at multiple composting technologies. Windrow technology is pretty common. We looked at aerated static pile, which is pictured in this slide, and a covered aerated static pile which is modified for odor control. Again, based on all of the criteria that was presented, staff selected the aerated static pile. It has a higher level of odor control than the windrow, and the control is so much better that taking that additional step up to the covered area, the static pile doesn't get you that much more odor control but it's a significant more cost.

Out of all three, it has the lowest operations cost. Windrows are actually a very high operating cost because of the staffing that's required. It's passive monitoring and no turning. You can see this is a facility out in Washington. The piles are all located next to each other so it has a smaller footprint. It can handle a higher capacity. Because of the biofilters that are applied, the odor is better controlled. It's not turned so it doesn't kick out the odors that the windrow type does.

Task 4: DRAFT Concept Design



BURNS & MCDONNELL

This is a draft concept design. We turned this slide deck in two weeks ago and it's already had several modifications to it. So, please know that this is draft and still a process that we're working through. You can see that there's areas for the incoming material, the feedstock. There's areas for the static piles, curing piles, and then finished compost. Because compost is seasonal, material comes in seasonal that we have to have storage piles to handle material for multiple months and the final compost for multiple months. You can see it fits well within the site.

We're finalizing the financial piece of this, but our estimates that we've worked through that we're comfortable with right now is that it's going to come out to about \$40 to \$45 per ton to process at this facility. That includes a 10-year bond at 3% interest. That includes capital and operating costs around \$40 to \$45 per ton.

Feasibility Study Key Findings

- ▶ Adequate and appropriate site for composting

Environmental Benefits:

- ▶ Opportunity to divert materials from the landfill
 - Food waste
 - Biosolids
 - Yard Waste
- ▶ Opportunity to create a valuable product to be used internally and distributed to residents
- ▶ Local control for future management of biosolids and yard waste

The key findings with everything that we've looked at with this, is that you have adequate and appropriate site for composting, that there are environmental benefits to divert this material from the landfill, and create a viable product that can be used and distributed, and a higher benefit to this material than otherwise landfilling. It gives you local control over the future management of your organic waste. That one is my last slide. Thank you.

Chairman Bynum said thank you very much. I appreciate it. It's nice to get the grant because it showed us that we can and should pursue the project, in my estimation. It's an information only item, so we don't have to do any voting but I see a couple of hands.

Commissioner Ramirez said my question is more on Task 3. I know I listed it as potential but for Johnson County residential yard waste, how would we be able to track that? How would we be able to create that as a revenue stream?

Ms. Davis said the City of Olathe has their own compost facility so we did not consider any of their waste as potential coming to your facility. Johnson County landfill has Waste Management, has their own facility, so we eliminated all of that which was about 85% of all the yard waste being generated in Johnson County. We took that other 15%, which a lot of it is in northeast Johnson County. That's where those haulers, which don't have facilities, are collecting and we assumed 50% of that. So, it's really just 7.5% of the total yard waste that's generated. That was our assumption. We're not assuming that all of Johnson County's waste would come. It would be if you wanted to create a revenue, you could open up that for haulers to bring in that material to your facility. We don't know if it's potential, but that is a very conservative estimate of how much material we thought that you could receive from it.

Biosolids require a lot of carbon and so bringing in more leaves, the better. The more leaves you can get, the better. Just keep bringing in leaves and so that was another component that helped you get to that carbon to nitrogen ratio.

Commissioner Ramirez said let's say this is something we have it built and everything and Public Works you come to us and say you want this as something that we can work on. How would we— if a hauler from Johnson County wants to come over to our facility, do they have to—would they, I mean, this is a very premature question—I'm just curious—when they—would we create like an application process or something so that we know that they're from not within the county? That's where I'm, again, I know it's potential but I'm thinking ahead.

Mr. Fisher said that's farther ahead than I thought so far. I don't know. Julie hasn't experienced that. It's okay. It's a fair question. It is a little bit into the future.

Ms. Davis said I can say what other compost facilities do when they—it's kind of like a transfer station, but there's no scale. It's just you've got a flatbed, it's so many yards of material; it's a charge per yard and you would just have an account. You would have like a scale house operator without a scale house.

Commissioner Ramirez said okay. That makes sense. Thank you, again. Sorry. It's very far in the future.

Commissioner Markley said I just wanted to say how excited I am. We compost fairly extensively on our property so definitely familiar with the process on a small scale and excited to see us implementing it on a larger scale here. So, really excited that we did the study and very excited to see it move forward.

Chairman Bynum said thank you very much. Agree. Anything else on this item? It was informational only. I really appreciate, again, you waiting and being here to share.

Oh, my question, Jeff, was are there grants to pursue for building and operating? **Mr. Fisher** said we've talked about that a couple of times. We believe there will be opportunities and we definitely want to explore those. **Chairman Bynum** said that would be good. Just keep us composted. It was a joke.

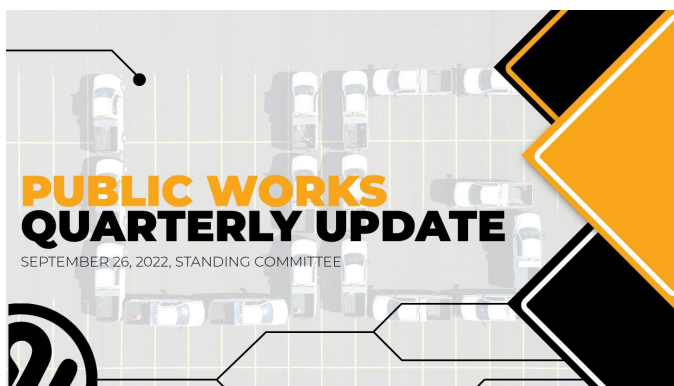
Action: For information only.

Item No. 7 – 211936...PRESENTATION: PUBLIC WORKS QUARTERLY REPORT

Synopsis: Presentation of a quarterly update on new initiatives, programs, and challenges, submitted by Jeff Fisher, Executive Director of Public Works.

Chairman Bynum said the last item on this agenda is our quarterly report from Public Works.

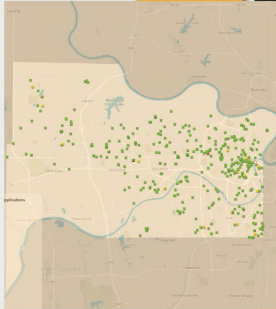
Jeff Fisher, Executive Director of Public Works, said I'm going to hand it over to a much better group that's probably better prepared.



Robbie Anderson, Public Works Asset Manager, said tonight, we're going to go over some great work that's going on inside the Public Works Department. We're going to cover things like technology, how we use them to engage the public, and how we kill weeds with some of our equipment. We're also going to cover our culture and how we communicate with the public about projects.

RIGHT-OF-WAY PERMITS

- New online permitting process
- Manages multiple permit types
- Has a public map residents can view for information about their neighborhood



Jay Clare, Information Systems Analyst, Asset Management Team, said I wanted to quick talk about the new right-of-way permitting process that we've deployed here. It was developed in-house using software that we already had available to us so it was not made at any additional cost to us. It's able to handle multiple different types of permits so whether you're looking for a dumpster permit, a driveway permit, etc., this will all be handled in this software.

I really wanted to highlight a new public-facing hub that we've released. This is live right now. You can go on there and see all the different types of permits that we've collected. You can see who's doing the work, where this work is being done, what the work is, and then when you can expect that work to be completed. So, if you go to the Public Works site, scroll down to the right-of-way button and click on that, you'll be able to go there. Thank you.

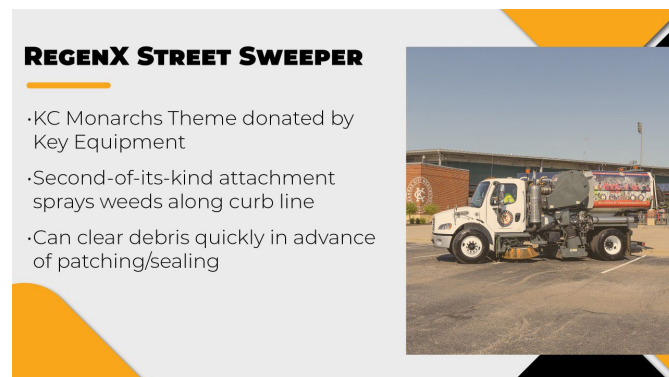


COSTS & INFLATION

- 2 signal projects bid for 30% more than previous years
- Asphalt cost has increased approximately 35% since fall 2021
- Additional cost increases are expected
- This will impact current and future projects

John Kelly, Director of Facilities, said you guys have been hearing a lot about this, especially through the budget process, about cost and inflation so I'm just going to point out a couple of items here. Two signal projects bid for more than 3% than previous years. Asphalt has also increased almost 35% since last fall. As we've been telling you through the budget process that the costs that we're seeing are still increasing as we're working on other projects and future projects. We went to you guys in the last four months on just a couple of building projects as well where we asked for additional funding.

So, I just think it's something that we wanted to bring up today that it's real. Since September of 2021 to now, we're almost at 8.3% inflation across the board. If interest rates start to go up, maybe that inflation number will start to come down, but either way, we just wanted to make sure that we brought it to your attention again tonight that future projects still may be impacted due to inflation and supply chain issues. Thank you.

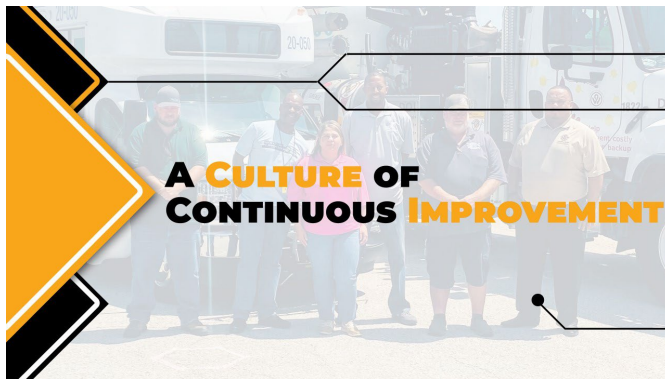


Vince Billagio, Manager of the Street Division, said recently we took delivery of a new street sweeper. This is just another example of Public Works finding ways to improve our efficiencies. First I'll note the monarchs wrap on there that was donated by Key Equipment Company. There's a few things that are unique about this machine. First it's a truck-mounted machine that differs from our current sweepers. This can drive highway speeds, so decrease travel time, increase sweeping time.

Secondly, it's a regenerative air machine so it's kind of like a vacuum opposed to our current ones that have brooms on the outside and a broom on the inside. This has a vacuum on the inside so this will really help with crack sealing, which we know is the most important street preservation activity.

Thirdly it has a sensor on the back that can detect weeds in the curb line and it has a herbicide tank on there that will automatically spray the weeds.

Chairman Bynum said, Mr. Billagio, before we go on, can I ask you, could you send that vehicle tomorrow to Leavenworth Road and run it from 38th Street to at least 55th? Please. **Mr. Billagio** said I will jot that down for you. I think we could use it everywhere. **Chairman Bynum** said thank you very much. I'll let you continue. **Mr. Billagio** asked, Jake, are you mapping that?



Then I want to speak to our culture of continuous improvement. So, starting in the fall of last year, a small group of us met together to kind of outline a path forward to engage the broader Public Works Department staff on the types of improvements that might bring efficiencies about to the department so that we can provide quality service to the public regardless of whatever stressors are put on staffing demands or the changing to adapt to the needs that face our community.

One of the outcomes of that was a change in how we're bringing engineering all into one group, so that's going to streamline both how we do engineering projects and project management, but it's also going to bring those engineers closer together so that they can benefit from the tacit knowledge that they'll provide sitting by one another. Then we're going to continue to do more improvements in the future so those staff-led conversations and ideas for improvement will be implemented over the coming months and years.



EARLY LEARNING DRIVER TRAINING

- In-house program saves money
- Meets all DOT requirements
- Minimizes impact on daily operations
- Retains team members
- Trains for safety and efficiency

Serena Lopez, Fleet Division, said beginning February 7, 2022, all new drivers were required to follow updated requirements as set forth in the entry level driver training regulations by the US Department of Transportation Federal Motor Carrier Safety Administration. Our committee's goal was to design a program that will provide an efficient and cost-effective training tool that will make our drivers more efficient, safer to themselves and to the public. We have succeeded that by designing our own UG CDL driving training program that saves money and is an excellent recruitment and retention tool. Internally, we'll spend only \$149 each driver versus \$5,800. That is the cost charged in our outside program. We provide on-site classroom education and behind-the-wheel training in the actual vehicle they will be performing their services in our community. We are maximizing productivity by having team members perform city services while training. Our program has already saved \$20,357 to date. This unbudgeted cost would have taken further service away from our community.



RECRUITMENT TEAM

- In-house program
- Travel to local schools and career fairs
- Develops relationships and attracts talent to career opportunities

Duane Smith, Street Division Operation Supervisor, said I'm going to talk to you today about the recruitment program that we implemented. Our recruitment program is targeted towards the high school seniors right here in our own backyard; the ones that may be uncertain about their plans after high school.

Our team consists of myself, Diana Jimenez, Conrad Vega, Brandon Wayne, and Brad Phillips. Together we create this powerful and diverse team of Public Works, with leadership and positive culture being our driving force. We started by attending the local high school job fairs, which was a success. We were able to bring large pieces of equipment for students to jump in and touch while we educate them on the day-to-day responsibilities and importance of the services that we provide for the community that we all serve, that we all share.

This is just the beginning. We also have the support of the USD 500. We are planning a field trip for students to safely visit our various job sites and be able to jump and be able to see this work done live. Our team also had a chance to go to the UMKC early talent summit back in July. This was an event for professionals interested in recruiting, developing, and retraining the next generation of talent. We were able to hear from the college students to get their perspective on the new generation of professionals and what they're looking for and the ways that we can grab their attention as a workforce.

Chairman Bynum said, sir, a question for you. This is exciting for me. I mean I like everything that's coming forward, but what I appreciate about this, and I'll just ask you a question. Did you think in your youth that you would be working for Unified Government, city or county government? Was that on your mind in middle school or high school or even maybe early college?

Mr. Smith said I'm going to say no. **Chairman Bynum** said and I'm guessing that's what you would say. **Mr. Smith** said right, but kind of what helped me, what kind of led me and forced me to this position I'm in today is, I did attend the summer help program. So, I kind of got my feet wet. When you're looking for a profession, you keep hearing Unified Government is a good place to work, the benefits, so that kind of, I guess, enhanced me, helped me make my choice.

Chairman Bynum said and thank you for that. I like that because you've kind of furthered my thinking which is, this helps young people understand you can come here and have a career. I think that's what you all are doing. I think that helps. What you're doing here helps our young people understand you can have an actual career here.

Commissioner Johnson said you had, just at the last sentence or two, mentioned some of the lessons that we learned from the new generation. Since we have this comma here, could you speak to some of those lessons or some of the comments that you heard from the younger generation?

Mr. Davis said a couple of things, well I'll say one thing that kind of stuck out to me when we did go. One of the students got up, presented, and he pretty much said that the newer generation, they like feedback fast. They don't want to wait. I mean it takes time going through the process of hiring. Transparency and just being, I guess, it's pretty much just knowing what's going on. They want to understand what's going on. They want to know the whole process pretty much. It's not like hey, you didn't get the job and that's it. They want to know why. What they can improve on. How to better themselves for other opportunities.

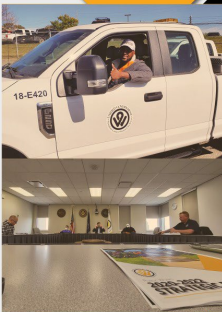
Chairman Bynum said thank you, and I'm sorry to interrupt.

Commissioner Kane asked, did you say KCK school district? Is that the only one you're working with? **Mr. Davis** said as of right now. **Commissioner Kane** said that's a good start, but we have Piper School District, Turner School District, Bonner School District. **Mr. Davis** said sorry. I want to say we are working with Turner. We're working with Turner. **Commissioner Kane** said maybe I said that wrong. **Mr. Davis** said let me just clarify. We went to all the schools, Piper. **Commissioner Kane** said I didn't hear? What did you say? Piper? Go ahead. **Mr. Davis** said Piper. Piper Pirates. **Commissioner Kane** said good. Thank you.

Chairman Bynum said thank you. Please continue. So, wherever you left off, please continue.

STRATEGIC PLAN

- Existing plan updated every 2 years
- Group of Public Works team members
- Updating vision
- Focusing on "Value Statements" to guide team members
- Culture development emphasis

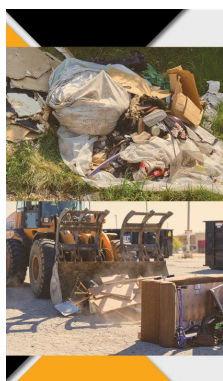


Sam Her, Public Works, said I get the opportunity to speak about something that, as a department, we're very passionate about and that's our strategic plan. We update our strategic plan every two years to help us re-emphasize and make goals that align with the needs of our community. In this most recent iteration, we built a team of—built a team to create the strategic

plan that had members from all levels from managers and supervisors to technicians and operation staff. So, we got a wide range of perspective. That was very valuable in building this plan.

We also worked on our vision statement, mission statement and key value statements. Our vision statement is developing leaders at all levels. Our mission statement is to promote great culture, making bold decisions, and providing sustainable infrastructure that protects and enhances our community. Some of our key, one of our key value statements is to help us align and stay on track is to hire for attitude and train for skill.

We also spent a lot of time developing culture. We want to promote a culture of positivity and excellence in leadership for all members of our team. We believe that this really benefits our department and the Unified Government as a whole, but ultimately, it's going to change how our community looks and sees things. We're really excited about this plan.



SOLID WASTE

- Significant staffing challenges
- Diana Jimenez, Jeff Miles, and Dave Reno are working with Waste Management and consultants on daily activities
- Opportunity to plot a new course
- Next Dumpster Days near the end of October at Wyandotte County Park

Diana Jimenez, Office Manager, said in our Solid Waste Division, we currently have some staffing challenges. We have two full-time positions that are currently vacant. Those are the only full-time positions in this division. So, in the meantime, Jeff Miles, Dave Reno, and myself are working with Waste Management and the consultants on a daily basis. This has given us the opportunity to understand the process and the challenges within the program. We have evaluated missed pickups. In most situations we're able to pinpoint the cause and then take corrective action.

We have made some operational changes. We've increased communication with the residents. We also go out to their homes and speak to them and kind of identify some of the things that need to be changed and work with the route managers with Waste Management. We also explain how to set out items at the curb, the importance of the appearance of the community, and also how loose litter can cause some of the items to go into the storm drains and how it can end up around the neighborhood. At the end of the day, we have maybe a handful of misses.

So, our next event is in October for the Dumpster Days. That's going to be October 15th at Wyandotte County Park. Not only is this important to our community, but it also helps Waste Management with bulk pickup.



Trenton Foglesong, Engineer, said I'm going to talk to you a little about what we have going on in our stormwater corridors. Basically, our prime focus, of course, is sustainable infrastructure, environmental compliance, and then meeting targeted levels of service for our citizens. While doing that, we have the consent decree which has several projects down in the Jersey Creek Watershed, and we've also been pursuing stormwater initiatives down in Jersey Creek tied to the WIFIA Program and other opportunities ongoing in that area.

When we started moving forward with both consent decree projects and stormwater projects, just kind of getting ready and poised to move forward, we actually heard back from some community members that past projects and UG efforts, they don't feel like they were really heard. So, we're actually kind of taking a time out right now and taking a step back and working to reformulate a comprehensive approach on how we can make sure that we're engaging all stakeholders and everyone has a chance to be heard so we can consider those as we move forward and make sure that we're doing maximum public good with the public dollars that we'll be spending. So, there may be a slight pause. Like I said, that's still taking shape right now, so we'll have to report back to you as that comes together.

In the meantime, there are some early phases, or phase one projects tied to the consent decree primarily that may move forward, but we're being cautious and careful to make sure that we only do the work that really has to be done and doesn't preclude any opportunities we might have in the future for the public input.

Mr. Anderson said, finally, I would like to thank the Public Works Standing Committee. This is my last standing committee meeting. I want to thank you for your work on the CMIP process and in the infrastructure subcommittees. I hope you carry on with being data-driven regardless of political whims that you might face that Public Works has to think in different timespans. There's things we have to do tomorrow, but there's things we do so that this city can be here 25, 50, 100 years from now. Just keep that in mind, that long-term vision and the need to do that. I'll be holding your feet to the fire as a resident in the future.

Chairman Bynum said I was going to ask you if you were—you know you can participate in a different way now. **Mr. Anderson** said I hope to do so. **Chairman Bynum** said what you can do is come in person to these meetings and get up and speak and the podium. **Mr. Anderson** said yeah. It's a late hour and I figured this was some sort of send-off for me. Forgive any consequence this action might have on Jeff's spatial awareness.

Chairman Bynum said I just want to say how much, I'm sure I speak for everybody, we appreciate the time and effort you've given us. It's so appreciated and it is a loss, but we have to wish you well and we have to let you continue your career and move on to do it. If we were going to be good people, we have to do that.

Chairman Bynum said I have a question on the Dumpster Days at Wyandotte County Park in Bonner, correct? **Mr. Billagio** asked, so now you don't want this part of solid waste? **Chairman Bynum** said I'm just asking. **Mr. Billagio** said yes, Wyandotte County Park in Bonner. **Chairman Bynum** said you mean the Wyandotte County Park in Bonner. **Mr. Billagio** said yes. Wyandotte County Park in Bonner, yes. **Chairman Bynum** asked, are we opening that county-wide? Is that a county-wide event? **Mr. Billagio** said correct. **Chairman Bynum** said okay. Has it always been? **Mr. Billagio** said yes. **Chairman Bynum** said okay. Excellent. That's all I have. Questions, comments?

Commissioner Ramirez said I always get happy when Public Works comes to do their quarterly update. As always, our Public Works Department, you guys are a case study that efficiencies are there, innovation is there. You just have to, as a department, work together. I think when, especially with myself, infrastructure subcommittee, one of the biggest roles I wanted to make sure

we had was to have those open and candid conversations. There's no use in us beating around the bush. Let's just get to the subject. Let's get to the topic and have those discussions and that's what we did. That's what Commissioner Bynum's subcommittee did and that's how we are able to come up with that amazing document that we now have as our guiding star.

I want all UG departments to look at our Public Works and say it can be done. We just have to sit down, work together, have those open conversations, and create that culture, that atmosphere. Public Works has done it. It's not hard. I thank every single one of you for having those open and candid conversations with each other as a staff.

I know a couple of weeks ago I was on the phone with Commissioner McKiernan and he went to one of the workshops. I don't know what...**Ms. Jimenez** said the roundtable. **Commissioner Ramirez** said the roundtable. Thank you. He could not stop talking about it. He was blown away with it. That's something all departments need to do. We're creating all these tunnels where all departments just stay within their own cubicle or their own silo, but if the whole department works together, we can make it work.

This report showing yeah, even though economically we have rising prices, inflation, you guys are still trying to find the best way possible to do the job, and so I thank you for that. Robbie, I thank you for the work you've done. I know the two words I'll always know you by that is data-driven. That you helped us, as a Commission, view infrastructure as data-driven. I will pledge to you that I will continue to do that. So, thank you for all that you have done for the UG. We're sad to see you go.

Overall to our Public Works Department, thank you, thank you, thank you for all that you do. It does not go unnoticed.

Chairman Bynum asked, Commissioner Markley, did you have a comment?

Commissioner Markley said sure. Commissioner Ramirez said a lot of it, but this is the department, the bar, by which all other departments should be measured. The work that you guys do is amazing. You're each amazing leaders in your own piece of this department. I hope you feel proud of that, and certainly we're proud to have you and see the work that you're doing. I don't think we can say it enough, just a huge amount of appreciation for the leadership coming out of this department.

Robbie, if I could hog-tie you and keep you here I would. But since I can't, I will wish you well. I hope we'll cross paths again in the future.

Chairman Bynum said thank you so much. Thanks to all of you. Appreciate it and thanks again for your diligence and hanging out with us until it was time for the presentation.

Action: **For information only.**

Chairman Bynum said we are done with our agenda items, however, we do have a person who has requested public comment.

PUBLIC AGENDA

Item No. 1 – 211885...APPEARANCE: CHRISTEN FORNAL-HIGBEE

Synopsis: Appearance by Christen Fornal-Higbee to discuss KCK Animal Services.

No appearance. Clerk will contact requestor to reschedule.

Chairman Bynum said I want to apologize to this resident because I never dreamed we'd have three hours of Public Works and Safety meeting, but it was good. It was all good, but I don't know if our resident is here in person or online.

Ms. Sparks said, Commissioner, she was online at the beginning of the meeting, but our speaker has since left. I'm not aware of anyone here. **Chairman Bynum** said okay. I was afraid of that. I really wanted to hear her.

I'm going to make a request and ask Legal if this is possible. If we reach out to her again, is it possible that we could assure her that she would be the very first item on the agenda? **Ms. Meyer** said yes, we can do that you. **Chairman Bynum** said I want to give her an opportunity to speak. It isn't fair for her to join at 5:00 and wait till 8:00, so thank you very much.

ADJOURN

Charmin Bynum said I will entertain a motion to adjourn this meeting.

Action: Commissioner Kane made a motion, seconded by Commissioner Ramirez to adjourn.

Chairman Bynum said roll call on the motion, please.

Roll call was taken and there were six “Ayes,” Groneman, Kane, Markley, Johnson, Ramirez, Bynum.

The meeting was adjourned at 8:19 p.m.

am/cg



Staff Request for Commission Action

Tracking No. 212523

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action: 6/26/2023

(If none, please explain):

Publication Required: No

<u>Date:</u>	<u>Contact Name:</u>	<u>Contact Phone:</u>	<u>Contact Email:</u>	<u>Department/Division:</u>
06/13/2023	Daniel Kuhn	x5189	dkuhn@wycokck.org	Legal

Item Description:

An ordinance allowing Google to operate and maintain communications services in the right-of-way, submitted by Dan Kuhn, Legal Department, Assistant Counsel.

Action Requested:

To approve the ordinance.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Google-UG Franchise Ord (GF Signed 6.7.23)

ORDINANCE NO.

AN ORDINANCE GRANTING TO GOOGLE FIBER KANSAS, LLC, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN COMMUNICATIONS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF KANSAS CITY, KANSAS AND PRESCRIBING THE TERMS THEREOF.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas, a unified county and city municipal government organized and existing under the laws of the State of Kansas (the “**City**”), has jurisdiction over the use of the public rights-of-way in the city of Kansas City, Kansas (“**Public ROW**”); and

WHEREAS, Google Fiber Kansas, LLC, a Kansas limited liability company, and its direct parent, and its direct parent’s subsidiaries, successors, or assigns (“**Franchisee**”), owns, maintains, operates, and controls a fiber optic infrastructure network in Public ROW (“**Network**”); and

WHEREAS, the Network consists of equipment and facilities that may include aerial or underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities (“**Network Facilities**”); and

WHEREAS, prior to the Effective Date (as defined herein), Franchisee operated the Network pursuant to an appropriate state video services franchise and Franchisee desires to continue to use and occupy Public ROW in order to install, operate, and maintain its Network for the purposes of offering certain communications services (“**Services**”), consisting of broadband Internet access service as defined in 47 C.F.R. § 8.1(b) (“**Broadband Internet Services**”) and Voice over Internet Protocol services (“**VOIP Services**”) to residents and businesses in the City (“**Customers**”), but excluding multichannel video programming services that would be subject to a video services franchise under K.S.A. 12-2021 et seq. and telecommunications services as defined in 47 C.F.R. § 153(53), K.S.A. 12-2001(c)(9) or K.S.A. 17-1902(a)(3); and

WHEREAS, in order to facilitate Franchisee’s desire, and pursuant to K.S.A. 12-2001 and its home rule powers, the City is adopting this ordinance granting Franchisee the right to install, operate and maintain its Network in the Public ROW for the provision of Services to its Customers (this “**Contract Franchise**”) and, upon acceptance by Franchisee, this Contract Franchise shall act as a binding agreement between the parties.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

SECTION 1. Grant and Permission to Use and Occupy.

- 1.1. Permission to Use and Occupy Public ROW. Upon the Commencement Date, the City grants Franchisee permission to use and occupy the Public ROW for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the “**Work**”) in order to provide Services to Customers. This Contract Franchise does not authorize Franchisee to use any property other than the Public ROW as agreed herein (e.g., any City parkland or other recreational property, any governmental office property, any public safety property, or any public works facility). Franchisee’s use of any other City property, including poles and conduits, will be governed under a separate agreement regarding that use.

Franchisee shall not provide any additional services (other than the Services defined herein) for which a franchise or license is required by the City without first obtaining a separate franchise or license or amending this Contract Franchise, and Franchisee shall not knowingly allow the use of its Network Facilities by any third party in violation of any federal, state or local law.

- 1.2. Commencement Date. This Contract Franchise will be effective upon the later of the date on which (a) (i) Franchisee has discontinued provision of facilities-based linear video services to Customers, (ii) Franchisee has taken all actions necessary under its state video services franchise to terminate such state franchise and such state franchise has terminated, and (iii) Franchisee has notified the City of (i) and (ii); or (b) the Effective Date.
- 1.3. Subject to State and Local Law. This Contract Franchise is subject to the City's valid authority under state and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Contract Franchise.
- 1.4. Subject to City's Right to Use Public ROW. This Contract Franchise is subject and subordinate to the City's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.
- 1.5. Subject to Pre-Existing Property Interests. The City's grant and permission to use and occupy the Public ROW is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Franchisee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.
- 1.6. No Grant of Property Interest. This Contract Franchise does not grant or convey any property interest, or any title, equitable or legal, in the Public ROW. Additionally, this Contract Franchise does not grant the right to use any facilities or property owned or controlled by a third-party without the consent of such third-party; and Franchisee is responsible for obtaining appropriate access or attachment agreements before locating its Network Facilities on property or facilities owned or controlled by a third-party.
- 1.7. Non-Exclusive. This Contract Franchise is not exclusive. The City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a city, to use Public ROW for similar or different purposes allowed Franchisee under this Contract Franchise.
- 1.8. Reservation of Right. In entering into this Contract Franchise, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas or applicable federal laws and regulations as the same may be amended, its Home Rule powers and other authority established pursuant to the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

SECTION 2. Franchisee's Obligations.

- 2.1. Use of Public ROW. Franchisee's use of the Public ROW shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation

related to the management of the Public ROW; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Franchisee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public ROW or otherwise relating to Franchisee's Network Facilities, including, but not limited to, the City's adopted building and electrical codes (codified in Unified Government Code Chapter 8), the City's ordinance for Managing the Use and Occupancy of the Public Right-of-way (codified at Unified Government Code Chapter 32, Article II), the City's Master Franchise Code (codified at Unified Government Code Chapter 32, Article IV), and the City's Planning and Development ordinances (codified at Unified Government Code Chapter 27) (each as may be amended from time to time).

- 2.2. Individual Permits Required. Franchisee will obtain the City's approval of required individual encroachment, construction, and other necessary permits before placing its Network Facilities in the Public ROW or other property of the City as authorized. (The City's permit process and requirements may be found at [Right-of-Way Procedures Manual \(wycokck.org\)](http://wycokck.org) and are set forth in Unified Government Code Chapter 32, Article II) Franchisee will pay all lawful processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by the City.
- 2.3. Franchisee's Sole Cost and Expense. Franchisee will perform the Work at its sole cost and expense.
- 2.4. Compliance with Laws. Franchisee will comply with all applicable laws and regulations when performing the Work. Franchisee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by the City. Franchisee shall also participate in the Kansas One Call utility location program. To the extent applicable, Franchisee shall obtain any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the FCC or the Kansas Corporation Commission (KCC).
- 2.5. Reasonable Care. Franchisee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater. Franchisee's Network Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use of such public ways by other utilities.
- 2.6. No Nuisance. Franchisee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not cause a public nuisance.
- 2.7. Repair. Franchisee will promptly repair any damage to the Public ROW, City property, or private property: (i) if such damage is directly caused by Franchisee's Work (including Work by an Authorized Individual) and no other Person is responsible for the damage (e.g., where a Person other than Franchisee or its Authorized Individual fails to accurately or timely locate its underground facilities as required by applicable law); or (ii) as otherwise might be required under the Unified Government Code Section 32-29, and/or rules, regulations, and policies. Franchisee will repair the damaged property to a condition equal to or better than that which existed prior to the damage. Franchisee's obligation under this Section 2.7 will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.

- 2.8. As-Built Drawings and Maps. Franchisee will maintain accurate as-built drawings and maps of its Network Facilities located in the City and will provide them to the City upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections.
- 2.9. Network Design. Nothing in this Contract Franchise requires Franchisee to build to all areas of the City, and Franchisee retains the discretion to determine the scope, location, and timing of the design and construction of the Network.
- 2.10. Protection of Facilities. Consistent with and pursuant to the Unified Government Code and/or rules, regulations, and policies, it shall be the responsibility of Franchisee to take adequate measures to protect and defend its Network Facilities in the Public ROW from harm or damage.

SECTION 3. City's Obligations.

- 3.1. Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of the City or its residents, the City may remove or relocate the applicable portions of the Network Facilities without prior notice to Franchisee. The City will, however, make best efforts to provide prior notice to Franchisee before making an emergency removal or relocation. In any event, the City will promptly provide to Franchisee a written description of any emergency removals or relocations of Franchisee's Network Facilities. Franchisee will reimburse the City for its actual, reasonable, and documented costs or expenses incurred for any such work performed by the City, the direct cause of which was Franchisee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities. Franchisee's obligation to reimburse the City under this section will be separate from Franchisee's obligation to pay the Franchise Fee (as defined below).
- 3.2. Relocation to Accommodate Governmental Purposes. If Franchisee's then-existing Network Facilities would interfere with the City's planned use of the Public ROW or other City property for a legitimate governmental purpose, such as the construction, installation, repair, maintenance, or operation of a new water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, Franchisee will, upon written notice from the City, relocate its Network Facilities at Franchisee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the City's governmental purpose and Franchisee's interest in maintaining the integrity and stability of its Network. Franchisee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances. (Unified Government Code Section 32-28)
- 3.3. Relocation to Accommodate Non-Governmental Purposes. If Franchisee's then-existing Network Facilities would interfere with (a) the City's planned use of the Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Franchisee will not be required to bear the cost to relocate or adjust its Network Facilities and shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment. (See Unified Government Code Section 32-28(e))
- 3.4. Non-Discrimination. The City will at all times treat Franchisee and provide access to the Public ROW in a non-discriminatory manner as compared to other similar non-incumbent holders of local or state franchise authority offering wired facilities-based Broadband Internet Services.

- 3.5. Post-Removal Restoration of Public ROW. When removal or relocation is required under this Contract Franchise, Franchisee will, after the removal or relocation of the Network Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to a safe and satisfactory condition in accordance with the construction-related conditions and specifications as established by the City.

SECTION 4. Contractors and Subcontractors.

- 4.1. Use of Contractors and Subcontractors. Franchisee may retain contractors and subcontractors to perform the Work on Franchisee's behalf; provided, Franchisee shall be responsible for its contractors and subcontractors including responsible for their actions or failures to act, and Franchisee shall ensure its contractors and subcontractors adhere to the requirements of this Contract Franchise and any applicable laws. Accordingly, when and if applicable, references in this Contract Franchise to "Franchisee" shall include and apply to Franchisee's contractors and subcontractors.
- 4.2. Contractors to be Licensed. Franchisee's contractors and subcontractors used for the Work will be properly licensed under applicable law.
- 4.3. Authorized Individuals. Franchisee's contractors and subcontractors may submit individual permit applications to the City on Franchisee's behalf, so long as the permit applications are signed by individuals that Franchisee has authorized to act on its behalf via a letter of authorization provided to the City in the form attached as **Exhibit A ("Authorized Individuals")**. The City will accept permit applications under this Contract Franchise submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Franchisee under this Contract Franchise.

SECTION 5. Franchise Fee. Franchisee will pay the City a fee ("**Franchise Fee**") to compensate the City for Franchisee's use and occupancy of Public ROW pursuant to this Contract Franchise. Franchisee and the City acknowledge and agree that the Franchise Fee provides fair and reasonable compensation for Franchisee's use and occupancy of Public ROW and other City property as authorized, and shall in no way be deemed a tax of any kind. The Franchise Fee will begin accruing on the Commencement Date (as defined herein) and will be calculated as set forth in Section 5.1. Subject to any applicable statute of limitations, Franchisee's payment obligations as of expiration or termination of Contract Franchise hereunder shall survive the expiration or termination of this Contract Franchise.

- 5.1. Franchise Fee. Franchisee will pay the City two percent (2%) (the "**Revenue Percentage**") of Gross Revenues for a calendar quarter, remitted within forty-five (45) days of the end of each calendar quarter, commencing on the Commencement Date. The payment will be accompanied by a report showing the basis for the computation and such other relevant facts as may be required by the City to determine the accuracy of the payment. Subject to any applicable statute of limitations, Franchisee's payment obligations hereunder shall survive the expiration or termination of this Contract Franchise.

5.1.1. As used herein, "**Gross Revenues**" means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions (services or goods) received by Franchisee from Customers for Broadband Internet Services that are provided to Customers through Network Facilities located at least in part in Public ROW.

5.1.2. Gross Revenues do not include:

- (i) any revenue not actually received, even if billed, such as bad debt;
- (ii) refunds, rebates, or discounts made to Customers, or the City;
- (iii) revenue received from the sale of Broadband Internet Services for resale in which the purchaser is required to collect and remit a franchise or similar fee to the City from the purchaser's customer;
- (iv) revenue derived from the provision of Broadband Internet Services to Customers where none of the Network Facilities used to provide such Broadband Internet Services are located in Public ROW;
- (v) any forgone revenue from Franchisee's provision of Broadband Internet Services to Customers at no charge if required by state law;
- (vi) any revenue derived from advertising;
- (vii) any revenue derived from VOIP Services;
- (viii) any revenue derived from rental of modems or other equipment used to provide or facilitate the provision of the Broadband Internet Services;
- (ix) any revenue derived from referral or marketing agreements with third party providers of online services which Franchisee may make available to Customers;
- (x) any tax of general applicability imposed upon Franchisee or its Customers by the City or by any state, federal, or any other governmental entity, and required to be collected by Franchisee and remitted to the taxing entity (including but not limited to sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communications taxes, and fees not imposed by this Contract Franchise);
- (xi) any forgone revenue from Franchisee's provision, in Franchisee's discretion, of free or reduced cost Broadband Internet Services to any Person, including without limitation employees of Franchisee; provided, however, that any forgone revenue which Franchisee chooses not to receive in exchange for trades, barter, services, or other items of value will be included in Gross Revenues; and
- (xii) sales of capital assets or sales of surplus equipment.

5.2. Pass Through. To the extent allowed by either federal or state law, Franchisee may identify and collect, as a separate item on the regular bill of any Customer whose Broadband Internet Services are provided by Network Facilities located at least in part in Public ROW, that Customer's pro rata amount of the Franchise Fee.

5.3. Interest on Late Payments. Any payments that are due and payable under this Contract Franchise that are not received within thirty (30) days from the specified due date will be assessed interest at an annual rate equal to the applicable statutory interest rate in effect upon the due date.

5.4. No Accord. No acceptance by the City of any Franchise Fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any Franchise Fee payment be construed as a release or any claim of the City.

- 5.5. Audit. The City shall have the right to examine, upon 30-days written notice to Franchisee and no more often than once per calendar year, those records necessary to verify the correctness of the Franchise Fee paid by Franchisee.
- 5.6. Change in Franchise Fee. The parties may timely negotiate, in good faith and in conformance with applicable law, a potential change to either the Franchise Fee or the Revenue Percentage upon any of the following events:
 - 5.6.1. A request by either party to reduce or increase the Franchise Fee.
 - 5.6.2. A change in applicable law.
 - 5.6.3. If during the term of this the Contract Franchise the City subsequently enters into a franchise with another comparable provider granting said provider the right to use and occupy the Public ROW for the provision of comparable wired facilities-based Broadband Internet Services for a fee more favorable than the Franchise Fee set forth in Section 5.1, then the City and Franchisee shall negotiate a lower Franchise Fee that is comparable to said other provider.

SECTION 6. Defense and Indemnity.

- 6.1. Franchisee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Franchisee, any agent, officer, director, representative, employee or subcontractor of Franchisee, while installing, repairing or maintaining Facilities in the Public ROW.
- 6.2. The indemnity provided by this Section 6 does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If Franchisee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. Likewise, the indemnity provided by this Section 6 does not apply to any liability resulting from the negligence of any third party not associated with Franchisee, or for any portion of any harm caused by the same. This section is solely for the benefit of the City and Franchisee and does not create or grant any rights, contractual or otherwise, to any other person or entity.
- 6.3. Franchisee or the City shall promptly advise the other in writing of any known claim or demand against Franchisee or the City relating to or arising out of Franchisee's activities in the Public ROW.

SECTION 7. Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS CONTRACT FRANCHISE. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

SECTION 8. Performance Bond. If Franchisee has not previously provided the City with a performance bond under any prior agreement, Franchisee will, promptly after the Commencement Date, provide the City with a performance bond in the amount of fifty thousand dollars (\$50,000)

naming the City as obligee and guaranteeing Franchisee's faithful performance of its obligations under this Contract Franchise. The performance bond will remain in full force during the Term of this Contract Franchise. The bond must be with good and sufficient sureties, issued by a surety authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance. At Franchisee's election, any performance bond previously provided by Franchisee to the City and associated with its state or local video service franchise may be applied to its obligations, in whole or in part, under this paragraph.

SECTION 9. Insurance.

9.1. Franchisee will carry and maintain:

- 9.1.1. Commercial General Liability (CGL) insurance, with policy limits not less than \$2,000,000 in aggregate and \$1,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names the City, its employees, and officers as additional insureds.
- 9.1.2. Workers' Compensation insurance with policy limits not less than the Kansas Statutory requirements.
- 9.1.3. Business Automobile Policy covering all owned, hired and nonowned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

9.2. All insurance certificates, endorsements, coverage verifications and other items required pursuant to this Contract Franchise will be mailed directly to the City's insurance compliance representative upon the City's written request.

SECTION 10. Term.

10.1. This Contract Franchise is effective on the Effective Date set forth in Section 15 and will expire on December 31, 2033 ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, this Contract Franchise will automatically renew for four (4) successive 2-year terms (each a "**Renewal Term**") unless a party provides at least six (6) months' prior written notice to the other party of its intent not to renew at the end of the then current term. Each Renewal Term shall be deemed a continuation of this Contract Franchise and not as a new franchise or amendment.

10.2. In the event the parties are actively negotiating in good faith a new contract franchise or an amendment to this Contract Franchise upon the termination date of this Contract Franchise, the parties by written mutual agreement may extend the termination date of this Contract Franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this Contract Franchise and not as a new franchise or amendment.

10.3. Upon written request of either the City or Franchisee, this Contract Franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Franchisee, including but not limited to the scope of the Contract Franchise granted to Franchisee or the compensation to be received by the City hereunder.

SECTION 11. Termination.

- 11.1. Termination by City. The City may terminate this Contract Franchise if Franchisee is in material breach of this Contract Franchise, provided that the City must first provide Franchisee written notice of the breach and one hundred twenty (120) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Franchisee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue. No termination under this paragraph will be effective until the relevant cure period has expired. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law.

SECTION 12. Assignment. Except as set forth below, Franchisee shall not assign or transfer its rights or obligations under this Contract Franchise, in whole or part, to a third party, without the written consent of the City. Any agreed upon assignee will take the place of the Franchisee, and the Franchisee will be released from all of its rights and obligations upon the completion of the requirements of Subsection 12.3 below; provided, however, such release shall not include any liability or obligations under the Contract Franchise, whether of indemnity or otherwise, which may constitute a breach of the Contract Franchise and have accrued prior to the date of such assignment.

- 12.1. Notwithstanding the foregoing, Franchisee may at any time, on written notice to the City, assign this Contract Franchise or any or all of its rights and obligations under this Contract Franchise:

12.1.1. to any Affiliate (as defined below) of Franchisee;

12.1.2. to any successor in interest of Franchisee's business operations in the City in connection with any merger, acquisition, or similar transaction if Franchisee reasonably determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Contract Franchise; or

12.1.3. to any purchaser of all or substantially all of Franchisee's Network Facilities in the City if Franchisee reasonably determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Contract Franchise.

- 12.2. Following any assignment of this Contract Franchise to an Affiliate, Franchisee will remain responsible for such Affiliate's performance under the terms of this Contract Franchise. For purposes of this section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

- 12.3. Franchisee shall: furnish the City with written notice of the assignment/transfer; provide a point of contact for the assignee; and advise the City of the effective date of the assignment. Additionally, Franchisee's obligations under this Contract Franchise with regard to indemnity, bond and insurance shall continue until the assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the assignment.

SECTION 13. Notice and Emergency Contact.

- 13.1. Emergency Contact.** Franchisee shall maintain with the City a point of contact who shall be available to act on behalf of Franchisee in the event of an emergency. Franchisee shall provide the City's ROW Coordinator and City Engineer with said contact's name, address, telephone number and e-mail address.

Emergency notice by the City to Franchisee may be made by telephone to Franchisee's Emergency Contact at (866) 954-1572 or by email to gfiber-noc-leads@google.com.

(Or to replacement Emergency Contact that is later designated by Franchisee in writing.)

Emergency notice by Franchisee to the City may be made by telephone to the City's ROW Supervisor at (913) 573-5310. If the City's ROW Coordinator is not available, then contact the City Engineer or Public Works Director.

(Or to replacement Emergency Contact that is later designated by the City in writing.)

- 13.2. Notice.** All other notices related to this Contract Franchise will be in writing and sent, if to Franchisee to the email addresses set forth below, and if to the City to the address set forth below. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

Franchisee's e-mail address for notice is: googlefibernotices@google.com, with a copy to legal-notices@google.com.

(Or to replacement Notice contact that is later designated by Franchisee in writing.)

City's address for notice is: Unified Government of Wyandotte County/Kansas City, Kansas, Attn: City Clerk, 701 N. 7th St., Kansas City, KS 66101, with a copy to Unified Government of Wyandotte County/Kansas City, Kansas, Attn: Chief Counsel, 701 N. 7th St., Suite 961, Kansas City, KS 66101.

(Or to replacement Notice contact that is later designated by the City in writing.)

SECTION 14. General Provisions. This Contract Franchise is governed by the laws of the state where the City is located (Kansas). Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. The failure of either party to insist upon the strict performance of any one or more terms or provisions of this Contract Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. This Contract Franchise sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Contract Franchise, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. The parties may execute this Contract Franchise in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Contract Franchise agrees that Franchisee may use electronic signatures. If any clause, sentence, or section of this Contract Franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Franchisee may elect to declare the entire Contract Franchise is invalidated if the portion declared invalid is, in the judgment of the City or Franchisee, an essential part of the Contract Franchise.

SECTION 15. Acceptance of Terms and Effective Date. This Contract Franchise shall take effect and be in force from and after (i) its passage and approval by the City, (ii) written acceptance by Franchisee, and (iii) publication in the official city newspaper in accordance with Statute (the "**Effective**

Date"). Franchisee shall have sixty (60) days after the final passage and approval of this Contract franchise to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Contract franchise, and when so accepted, this Contract franchise and acceptance shall constitute a contract between the City and Franchisee. In accordance with Kansas Statute, Franchisee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

PASSED by the City Council this _____, 2022.

APPROVED by the Mayor this _____, 2022.

**UNIFIED GOVERNMENT OF WYANDOTTE
COUNTY/KANSAS CITY, KANSAS**

Tyrone Garner, Mayor

ATTEST:

Brett Deichler, Clerk

ACCEPTANCE OF FRANCHISE ORDINANCE

WHEREAS, the Board of Commissioners of the Unified Government of Wyandotte County/Kansas City, Kansas, did on the _____, 2022, adopt and pass Ordinance No. _____ - entitled:

AN ORDINANCE GRANTING TO GOOGLE FIBER KANSAS, LLC, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN COMMUNICATIONS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF KANSAS CITY, KANSAS AND PRESCRIBING THE TERMS THEREOF.

AND

WHEREAS, said Ordinance was duly signed by the Mayor of the Unified Government of Wyandotte County/Kansas City, Kansas, and was (or will be) duly published according to Kansas law; and

NOW THEREFORE, Google Fiber Kansas, LLC hereby submits its acceptance of the provisions, terms and conditions of said Ordinance.

GOOGLE FIBER KANSAS, LLC

By: _____
Name: _____
Title: _____
Date: _____

Address:
1600 Amphitheatre Parkway
Mountain View, CA 94043

Subscribed and sworn before me this ____ day of _____, 2022

My appointment expires: _____

Notary Public



**EXHIBIT A
FORM OF LETTER OF AUTHORIZATION**

[Franchisee LETTERHEAD]

[Date]

Via Email ([Email Address])

Unified Government of Wyandotte County/Kansas City, Kansas

[Addressee]

[Address]

Re: [Amended] Letter of Authorization

Dear [Name],

In accordance with Section 4.3 of the Contract Franchise dated [] between the **Unified Government of Wyandotte County/Kansas City, Kansas** and **Google Fiber Kansas, LLC** ("**Google Fiber**"), Google Fiber hereby designates the following Authorized Individuals (as that term is defined in the Contract Franchise), who may submit and sign permit applications and other submissions to the City on behalf of Google Fiber. *[If applicable: This letter amends and supersedes the Letter of Authorization dated _____.]*

[Insert name and title for each Authorized Individual, including any Authorized Individual previously named and whose authority continues. Strike through the names of any individuals who are no longer authorized, if any.]

1. [Name, Title]
2. [Name, Title]
3. [Name, Title (previously authorized, authorization continues)]
4. ~~[Name, Title (authorization withdrawn)]~~

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the City.

Kind regards,

[Name]

Manager, **Google Fiber Kansas, LLC**



Staff Request for Commission Action

Tracking No. 212528

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action:

(If none, please explain):

Publication Required: No

<u>Date:</u> 06/14/2023	<u>Contact Name:</u> Daniel Kuhn	<u>Contact Phone:</u> x5189	<u>Contact Email:</u> dkuhn@wycokck.org	<u>Department/Division:</u> Legal
----------------------------	-------------------------------------	--------------------------------	--	--------------------------------------

Item Description:

A resolution declaring the necessity and authorizing a survey and descriptions of lands to be acquired by the right and power of eminent domain for the location, laying-out, reconstruction, expansion, repair, maintenance, operation, and use of 90th Street and State Avenue in Kansas City, Wyandotte County, Kansas, submitted by Daniel Kuhn, Legal Department.

Action Requested:

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

90th Street Improvements-Eminent Domain Resolution

(Published _____)

RESOLUTION NO. _____

A RESOLUTION declaring the necessity and authorizing a survey and descriptions of lands to be acquired by the right and power of eminent domain for the location, laying-out, reconstruction, expansion, repair, maintenance, operation and use of 90th Street in Kansas City, Wyandotte County, Kansas.

**BE IT RESOLVED BY THE COMMISSIONERS OF THE
UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS**

SECTION 1. It is hereby found and determined necessary that certain lands or interests in lands be acquired by all lawful means, including by exercise of the right and power of eminent domain, for public use for location, laying-out, reconstruction, expansion, repair, maintenance, operation and use of 90th Street south of Parallel Parkway in Kansas City, Wyandotte County, Kansas.

SECTION 2. The Board of Commissioners hereby directs and authorizes its Chief Counsel to cause a survey and description of such parcels to be undertaken and filed with the Clerk of Wyandotte County/Kansas City, Kansas; to thereafter prepare and submit to the Board of Commissioners an ordinance authorizing the exercise of eminent domain with respect to such parcels; and upon approval of the same by the Board of Commissioners to initiate eminent domain proceedings in the District Court of Wyandotte County, and to undertake all other necessary actions to complete acquisition of such parcels.

SECTION 3. This resolution shall be published once in the official County newspaper, The Wyandotte Echo.

ADOPTED BY THE COMMISSIONERS OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS _____ DAY OF _____
_____, 2023.

Tyrone Garner
Mayor/CEO

Attest:

Brett A. Deichler
Unified Government Clerk

Approved as to form:

Patrick Waters
Acting Chief Counsel



Staff Request for Commission Action

Tracking No. 212524

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action:

(If none, please explain):

Publication Required: No

<u>Date:</u> 06/13/2023	<u>Contact Name:</u> Wendy Medina	<u>Contact Phone:</u> x5656	<u>Contact Email:</u> wmedina@kckpd.org	<u>Department/Division:</u> Police Department
----------------------------	--------------------------------------	--------------------------------	--	--

Item Description:

Approval to apply for the upcoming VOCA grant. The FY 2024 VOCA Solicitation is expected to open in late June, with the application due in late July or early August. VOCA has funded the Victim Services Unit since its inception in 1999. The current VOCA grant (FY 2023) has provided \$362,749 in federal funds. The required match funds were waived for this fiscal year under the VOCA Fix legislation due to the pandemic. For 2024 the proposed budget draft requests \$380,980 in federal VOCA funds. Received notification from the Kansas Governor's Grants Office to anticipate another VOCA Fix match waiver for the 2024 grant cycle. Therefore, there is no match requirement, submitted by Wendy Medina, Program Supervisor.

Action Requested:

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

2024 VOCA Request DRAFT

DRAFT BUDGET NARRATIVE EXPENSES - VOCA 2024

Line Item	Description	Location	Computation			Request
FEDERAL PERSONNEL			Salary/mo	Months	Percent	
Program Supervisor	Medina 75% VOCA Salary 10/1/22 to 9/30/23		\$6,167	3	75%	\$57,164
	Health Insurance Waiver		6,413	9	75%	
			\$150	12	75%	\$1,350
Response Advocate 1	Ontiveros 75% VOCA Salary 10/1/22 to 9/30/23		\$4,150	3	75%	\$38,484
			\$4,318	9	75%	
Response Advocate 2	Banks 75% VOCA Salary 10/1/22 to 9/30/23		\$4,489	3	75%	\$41,630
			\$4,671	9	75%	
PFA Advocate 1	TBD 100% VOCA Salary 10/1/22 to 9/30/23		\$4,489	3		\$55,506
			\$4,671	9		
PFA Advocate 2	Kennedy 100% VOCA Salary 10/1/22 to 9/30/23		\$4,489	3		\$55,506
			\$4,671	9		
			TOTAL FEDERAL PERSONNEL			\$249,639
Match Personnel	(Police Services Budget) Volunteers			Waived		
	In-Kind Match					
Response Advocate 1	TBD 10/1/22 to 9/30/23 20% VOCA Match Salary			Waived		\$0
Response Advocate 2	Banks 10/1/22 to 9/30/23 20% VOCA Match Salary			Waived		\$0
Program Aide	TBD 10/1/22 to 9/30/23 20% VOCA Match Salary			Waived		\$0
KU Social Work MSW Volunteer/Intern	TBD 10/1/22 to 4/19/23 & 8/19/23 to 9/30/23			Waived		\$0
Other Volunteers KCKCC/JCCC Students &/or Sisters of Charity Volunteer	TBD 10/1/22 to 9/30/23			Waived		\$0
	In-Kind Match					
			Total Match Personnel			\$0
			TOTAL PERSONNEL			\$249,639
FEDERAL FRINGE BENEFITS						

FICA 1 & 2					\$249,639	7.65%	\$19,097.38
Unemployment					\$249,639	0.10%	\$249.64
KPERS					\$249,639	9.90%	\$24,714.26
Health Insurance							

State Member	Women (DV)		& taxi \$500	
	NOVA - National Organization for Victim Assistance Conference (USV)	TBD	Registration \$600 + airfare & transportation \$600 + hotel \$650 + meals \$320(\$74/3 meals/day x 13 meals	\$2,170
	National Sexual Assault Conference (SA)	TBD	Registration \$495 + airfare & transportation \$500 + hotel \$700 (4 nights) + meals \$320(\$74/3meals/day x 13 meals	\$2,015
	NICP DV & SA Training	TBD	Registration \$550 + Hotel \$600 (4 nights) + \$450 airfare&shuttle + \$320 (\$74 perdiem/3 meals/day x 13 meals	\$1,920
	Conference on Crimes Against Children	Dallas, TX	Registration \$825 + hotel \$750 (4 nights) + airfare & shuttle \$500 + meals 300\$ (\$69 per diem/3 meals/day x 13 meals)	\$2,379
	EVAWI Conference on SA, DV & Reimagining Justice	San Diego	Registration \$695 + Hotel \$270/night x 4 nights = \$1,080 + flight&shuttle \$600 + meal per diem \$320 (\$74perdiem/3 meals/day x 13 meals)	\$2,695
			TOTAL FEDERAL TRAVEL & TRAINING	\$15,829.00
FEDERAL SUPPLIES & COMMUNICATION				
Printing	English and Spanish Brochures		Quantity 1,000 Cost \$205 Boxes 15	\$0.00
	Childrens and Spanish Grief Books		100 \$9	\$900.00
			Cost/mo Months Percent	
Office Supplies - HQ	Paper, pens, pencils, ink, etc.		\$250 12 75%	\$2,250.00

Office Supplies - PFA Office	Paper, pens, pencils, ink, etc.	\$250	12		\$3,000.00
R/Client Software	Tech Support	\$75	12	75%	\$675.00
TOTAL FEDERAL SUPPLIES & COMMUNICATION					\$6,825.00
Match Supplies & Communication					
Office Supplies - HQ	Paper, pens, pencils, ink, etc		Waived		\$0
Postage	Letters to Victims		Waived		\$0
R/Client Software	Tech Support		Waived		\$0
TOTAL MATCH SUPPLIES & COMMUNICATION					\$0
TOTAL SUPPLIES AND COMMUNICATION					\$5,925
FEDERAL CONTRACT					
TOTAL FEDERAL CONTRACT					\$0
FEDERAL OTHER COSTS					
Direct Assistance to Victims					
	Transportation	Cost/Emergency	Emergencies		
		\$450	6		\$2,700.00
	Crisis Intervention Supplies (water, clothing, meals, diapers, formula, clothing, miscellaneous, cell and phone card)	Cost/mo	Months		
		\$150	12		\$1,800.00
	Broken Door & Windows Repair or Hotel Vouchers; Crime Scene Cleanup	Cost/Emergency	Emergencies		
		\$600	12		\$7,200.00
Emergency Safety and Shelter & MH Safety	Lock Replacement or Locksmith	Cost/Lock	Months	Locks/mo	
		\$40	12	4	\$1,920.00
TOTAL FEDERAL OTHER COSTS					\$13,620.00
TOTAL FEDERAL					\$380,979.71
TOTAL MATCH					\$0
TOTAL VOCA REQUEST					\$380,979.71

\$58,514

\$51,005.43



Staff Request for Commission Action

Tracking No. 212520

Full Commission Meeting Date: July 13, 2023

Committee: Public Works & Safety

Date of Standing Committee Action: Approval to move to Full Commission

(If none, please explain):

Publication Required: No

<u>Date:</u>	<u>Contact Name:</u>	<u>Contact Phone:</u>	<u>Contact Email:</u>	<u>Department/Division:</u>
06/12/2023	Jeff Fisher	x5415	jfisher@wycokck.org	Public Works

Item Description:

Wyandotte County instituted an infrastructure funding initiative that committed a county mill to Kanas City, Kansas (KC), Bonner Springs, and the City of Edwardsville. In early 2023, the elected body voted to commit \$500k to this program and funds have been distributed, with KCK receiving 50% and 25% to each, Bonner Springs and Edwardsville. This resolution is set up with the intention of committing a mill in the same fashion each year into the future. The elected body will have the opportunity to review and make changes each year, submitted by Jeff Fisher, Executive Director of Public Works.

Action Requested:

Approval to move forward to Full Commission

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Reso of CFIP

RESOLUTION NO. R-_____

**A RESOLUTION APPROVING THE COUNTY INITIATIVE FOR FUNDING
INFRASTRUCTURE**

WHEREAS, the Unified Government (hereafter referred to as “UG”) is a political subdivision organized and existing under the laws of the State of Kansas, with its principal office located at 701 North 7th Street, Kansas City, Kansas 66101 (Grantor); and

WHEREAS, the Unified Government Board of Commissioners are committed to dedicating one county mill to the County Funded Infrastructure Program (CFIP); and

WHEREAS, the CFIP is intended to fund necessary city county-maintained infrastructure, annually.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/ KANSAS CITY, KANSAS:**

Section 1. That the Unified Government Board of Commissioners hereby allocates the one county mill each year in the following manner:

Kansas City, Kansas shall receive 50%.
Bonner Springs, Kansas shall receive 25%.
Edwardsville, Kansas shall receive 25%.

Section 2. Funds received from the CFIP shall be used for city or county-maintained infrastructure.

Section 3. That the County Administrator and all other employees and agents of the Unified Government are authorized to take all actions and to approve all instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 4. This Resolution will take effect and be in full force from and after its passage by the Board of Commissioners.

**ADOPTED BY THE BOARD OF COMMISSIONERS OF WYANDOTTE
COUNTY/KANSAS CITY, KANSAS, THIS ____ DAY OF _____ 2024.**

Tyrone Garner
Mayor/CEO

Attest:

Monica Sparks
Unified Government Clerk

Approved as to form:

Angela Lawson
Interim-Chief Counsel



Staff Request for Commission Action

Tracking No. 212518

Full Commission Meeting Date: June 29, 2023

Committee: Public Works & Safety

Date of Standing Committee Action: June 26, 2023

(If none, please explain):

Publication Required: No

<u>Date:</u> 06/12/2023	<u>Contact Name:</u> Jeff Fisher	<u>Contact Phone:</u> x5415	<u>Contact Email:</u> jfisher@wycokck.org	<u>Department/Division:</u> Public Works
----------------------------	-------------------------------------	--------------------------------	--	---

Item Description:

The current wholesale wastewater rate interlocal agreement has expired with the City of Edwardsville. Public Works staff and Black & Veatch completed a rate study. Public Works staff will present a new and updated 5-year agreement with wholesale rates that align with Kansas City, Kansas ratepayers. The agreement was approved unanimously at the City of Edwardsville council meeting on June 12, 2023, submitted by Jeff Fisher, Executive Director of Public Works.

Action Requested:

Fast-tracked to Full Commission meeting on June 29, 2023.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Wholesale Sewer Agreement (06 12 2023)

COUNTY OF WYANDOTTE §

THIS AMENDED AGREEMENT made this 1st day of July 2023, between the Unified Government of Wyandotte County & Kansas City, Kansas, a municipal corporation, acting herein by and through its County Administrator, hereinafter referred to as “UG;” and the City of Edwardsville, Kansas, a municipal corporation, acting herein by and through its City Manager, hereinafter referred to as “Edwardsville” and

WHEREAS, Edwardsville owns and operates a waste water collection system, and

WHEREAS, the public health, welfare, and safety of the residents of UG and Edwardsville require the development of adequate systems of sewage collection and disposal, the elimination of water pollution, and the preservation of the water resources of the area; and

WHEREAS, UG and Edwardsville have an interest in maintaining and restoring the chemical, physical, and biological integrity of waters and water resources, especially those being used by UG and Edwardsville, and ensuring the reduction of pollution in said waters and water resources, and planning the use, development, restoration, preservation and enhancement of said waters and water

resources; and

WHEREAS, Edwardsville desires to contract for wastewater treatment service on behalf of Customers of Edwardsville, and UG desires to provide wastewater treatment service on a wholesale basis to Edwardsville; and

WHEREAS, K.S.A. 12-2908 authorizes Edwardsville and the UG to contract with each other perform the governmental services outlined herein, and

NOW, THEREFORE, UG and Edwardsville, in consideration of the terms, covenants, and conditions herein contained, hereby AGREE as follows:

CONTRACT

Adoption of Preamble. All matters stated in the preamble of this Contract are true and correct and are hereby incorporated into the body of this Contract as though fully set forth in their entirety herein.

1.0 Definitions When used in this Contract, these terms shall be defined as follows:

1.01 **Act or “the Act”.** The Federal Water Pollution Control Act, also known as the Clean Water Act (“CWA”), as amended (33 U.S.C. 1251, et seq.).

1.02 **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in Standard Methods, and results expressed in terms of weight and concentration [milligrams per liter (mg/l)].

1.03 **Calibration.** Verification of meter accuracy utilizing standard primary device procedures and calibration signals and/or a separate flow measurement instrument.

1.04 **Capital Improvements.** Any of the following facilities which provide utility services and benefits common to all wholesale and retail Customers, and that have a life expectancy of one or

more years located within the jurisdictional limits of UG or the City of Edwardsville: wastewater treatment facilities, metering and sampling facilities, control systems and appurtenances, all major collectors and interceptors, lift stations and force mains associated therewith.

1.05 **Categorical Industrial User (CIU)**. An industrial user that is subject to Categorical Pretreatment Standards according to 40 CFR Section 403.6 and 40 CFR Chapter I, subchapter N, which are technology-based standards developed by EPA setting industry-specific effluent limits.

1.06 **Control Authority**. The UG's water pollution control division, KDHE, or the EPA, depending on the level of oversight or jurisdiction for a facility or location.

1.07 **Edwardsville**. Depending on the context, may refer to the City of Edwardsville or to Edwardsville's Customer or other Customers of Edwardsville being provided service pursuant to this Contract.

1.08 **Edwardsville System**. The facilities of Edwardsville used for pretreatment, collection, and transportation of Wastewater to the Points of Entry into UG's system.

1.09 **Delivery Facilities**. All facilities necessary for the transmission of wastewater from the City of Edwardsville System to the UG System that are on the City of Edwardsville's side of the Point of Entry that are constructed specifically to allow UG to serve Edwardsville.

1.10 **Director**. The UG's Director of Water Pollution Control or the designee.

1.11 **Direct Cost**. Costs directly assignable to the wholesale customer.

1.12 **Domestic Accounts**. Single family and residential duplex dwellings served by one water meter. This definition is used only in the context of determining billing on a per-connection basis.

1.13 **UG Expense**. Expenses incurred by UG related to wholesale wastewater service, such expenses to be allocated as a System Cost in future cost-of-service studies.

1.14 **UG System.** UG’s wastewater collection and treatment system, including the Point of Entry provided for herein.

1.15 **Edwardsville System.** Edwardsville wastewater collection system, including the Point of Entry provide for herein.

1.16 **Edwardsville Representative.** City Manager of the City of Edwardsville or designee.

1.17 **Facility Expansion.** The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new Capital Improvement, in order that the existing facility may serve new or expanded development. The term does not include the repair, maintenance, modernization, or an expansion of an existing facility to better serve existing development.

1.18 **General Benefit Capital Facilities.** Wastewater facilities that provide utility services and benefits common to both UG retail and UG wholesale Customers, including wastewater treatment facilities, metering and sampling facilities, control systems and appurtenances, and collectors and interceptors.

1.19 **Indirect Discharge.** The discharge or the introduction of industrial wastes from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), into the UG System (including holding tank waste discharged into the system).

1.20 **Industrial User.** A source of Indirect Discharge, which does not constitute a “discharge of pollutants” under regulations, issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

1.21 **Industrial Wastes.** All water-borne solids, liquids or gaseous substances resulting from industrial, manufacturing or food processing operations, or from the development of a natural resource, or any mixture of these with water or domestic sewage.

1.22 **Infiltration.** Water that has migrated from the ground into the wastewater system.

1.23 **Inflow.** Water, other than wastewater that enters a sewerage system (including sewer service connections) from sources such as, but not limited to, roof drains, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration water.

1.24 **Kansas Department of Health & Environment (KDHE).** The State agency specifically responsible for the regulation of municipal wastewater systems in the State of Kansas.

1.25 **Liquid Waste.** The water-borne solids, liquids, and gaseous substances derived from certain sources including, but not limited to, a grease trap, septic tank, chemical toilet waste and sand trap waste.

1.26 **Metering and Sampling Facility.** The meter, meter vault, and all metering and telemetry equipment required to measure and/or sample wastewater flows of the City of Edwardsville at Point of Entry(s) or into UG's System.

1.27 **Non-domestic Account.** Commercial, industrial, multifamily or other accounts that are not considered Domestic Accounts. This definition is used only in the context of determining billing on a per-connection basis.

1.28 **Non-Metered Area.** Areas within the City of Edwardsville's boundaries that generate wastewater that do not drain into a part of the City of Edwardsville system for which wastewater flow is measured by an approved metering and sampling facility.

1.29 **Non-Categorical Industrial User (IU).** Any non-domestic Industrial User, other than a CIU, which introduces Wastewater into a Publicly Owned Treatment Works (POTW).

1.30 **Point of Entry (POE).** The metering facility; the point of connection to the UG System.

1.31 **Pretreatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or

in lieu of discharging or otherwise introducing such pollutants into a POTW. Physical, chemical or biological processes can obtain the reduction or alteration, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

1.32 **Pretreatment Requirements.** Pollutant concentration discharge limitation and reporting requirements will be applied by the most restrictive standard stipulated in either UG's Code and any amendments thereto, or Edwardsville's Code of Ordinance, or Federal Pretreatment Standards promulgated by the U.S. Environmental Protection Agency.

1.33 **Significant Industrial User (SIU).** Any industry, which discharges industrial wastes, directly or indirectly into the City of Edwardsville's System and/or UG's System:

Significant industrial user means:

- (1) All categorical industrial users.
- (2) Any noncategorical industrial user that:
 - a. Discharges 25,000 gallons per day or more of process wastewater ("process wastewater" excluding sanitary, noncontact cooling and/or boiler blowdown wastewaters);
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the treatment plant receiving the wastewater; or
 - c. The control authority or approval authority has determined a reasonable potential to adversely affect the POTW treatment plant by inhibition, pass through or pollutants, sludge contamination, or endangerment of POTW workers.

The control authority may decide to remove any noncategorical industrial user from the list of significant industrial users if the industrial facility has no reasonable potential to violate any pretreatment standards (general and specific prohibitions or local limits).

1.34 **Standard Methods.** Those testing or analysis procedures as prescribed in the current edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association and/or the U.S. Environmental Protection Agency "Manual of Methodologies for the Examination of Water and Wastewater," or will otherwise comply with

procedures specified in state and federal discharge permits held by UG.

1.35 **System Costs.** Operating expenses and capital related costs incurred by UG in the provision of wastewater collection and treatment service to the wholesale class of wastewater customers. Such costs are to be specifically identified by UG as a component of the annual cost of providing wholesale wastewater treatment service.

1.36 **Total Suspended Solids (TSS).** Solids, measured in mg/l, that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

1.37 **Wastewater.** All liquid or water-carried waste products from whatever source derived, whether treated or untreated, which are discharged into or permitted to enter into the UG System. The words “wastewater” and “sewage” are interchangeable.

2.0 Connection to the UG System

2.1 UG hereby grants to Edwardsville, upon compliance with the terms and conditions contained herein, permission to connect Edwardsville System to the UG System. The City of Edwardsville shall deliver and discharge wastewater into the UG System; and, UG shall transport, treat, and dispose of the wastewater received from the City of Edwardsville, in accordance with this Contract, unless the Parties otherwise agree in writing. The City of Edwardsville shall provide all lines, metering station(s), lift stations, and associated facilities and shall acquire all property, interests, licenses, and permits that are necessary to collect and transport Wastewater from the City of Edwardsville to the UG System.

2.2 This agreement is solely between the UG and Edwardsville. Without prior approval by the UG, Edwardsville shall not contract with a third party or permit a third party to connect to the UG System, either directly or indirectly. Without prior approval by the UG, Edwardsville shall not allow a third party to connect to its system if such a connection would result in the third party's wastewater discharging into the UG System.

2.3 It shall be the sole responsibility of the City of Edwardsville to convey and deliver the Wastewater to the Point or Points of Entry approved by UG and designated in Exhibit A. UG agrees to accept up to 2.1 million gallons per day of Wastewater from Edwardsville at the Point(s) of Entry as designated on Exhibit A, attached hereto and incorporated herein, and at such additional Points of Entry as may later be mutually agreed upon by the Director for UG and the Edwardsville Representative. A Point of Entry may be changed, or additional Points of Entry added upon mutual agreement, signed by an authorized representative of each Party. Both parties agree to negotiate equitable distribution of direct costs if moving or modifying the Point(s) of Entry occurs.

2.4 The Wastewater delivered to the Point or Points of Entry must be of a minimum quality so as to meet the requirements set in Chapter 30 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas as approved by UG and designated in Exhibit A.

2.5 The cost of all Delivery Facilities necessary to convey Wastewater to the designated Points of Entry, whether shown on Exhibit A, or mutually agreed upon at a later date, together with the cost of connection of the City of Edwardsville System to the UG System shall be borne by the City of Edwardsville.

2.6 Edwardsville shall be responsible for the design, contracting, construction and financing of Delivery Facilities and acquisition of any necessary rights-of-way and easements for such facilities subject to UG approval. All designs, materials and specifications shall conform to KDHE requirements as a minimum standard. Plans and specifications for Delivery Facilities, which connect to the UG System, shall be submitted to the Director for review. All plans and specification that are not reviewed and returned to Edwardsville within sixty (60) days shall be deemed approved. Edwardsville shall address any comments submitted by the Director to the City. Edwardsville agrees that UG has the right to make periodic inspections during the construction phase of the Delivery Facilities.

2.7 To facilitate adequate five-year planning for the transportation and treatment of wastewater, UG will require that the following approval process be utilized when large volume contributors are anticipated to be added to the system. UG will require that a five-year planning document revised annually that details projected increases in wastewater flow to the UG System be submitted to the

Director for incorporation into the UG planning document. The City of Edwardsville's planning document will be submitted annually by November 1. Edwardsville agrees not to provide service to, or contract or subcontract with, any new single retail or commercial customer whose need for Wastewater service would result in non-compliance with KDHE or EPA regulations regarding plant capacity or effluent quality.

3.0 Maintenance of UG and Edwardsville Wastewater Systems

3.1 Edwardsville agrees to maintain its wastewater system(s) in good condition and to make repairs in a timely manner and to require its customers to maintain and repair their respective systems. UG shall have the right to refuse to accept Wastewater for treatment if Edwardsville's System(s) is not being maintained to those generally accepted standards set forth in KDHE rules and regulations. UG shall not have any responsibility or liability now or ever for the operation of the City of Edwardsville's System(s), except as agreed to in writing by the parties hereto.

3.2 UG agrees to maintain its system in good condition and to make repairs in a timely manner. Edwardsville shall not have any responsibility or liability now or ever for the operation of the UG System, except as specifically provided herein, or under separate written modification or Agreement.

4.0 Metering and Sampling

4.1 The UG shall have the right to obtain wastewater samples at designated sampling points mutually agreed to by the parties. The purpose of the samples is to determine the quality of the wastewater at each sampling point to ensure the wastewater is typical municipal sewer flow. If samples are conducted by the UG, it shall collect twenty-four (24) hour flow-weighted composite samples for five (5) consecutive days. Typically, samples will include BOD, TSS, and temperature. In case of a malfunction of the sampling equipment for whatever reason for one or more days, additional days shall be added to obtain five (5) samples. The five (5) samples will be averaged to determine the wastewater strength. The wastewater will be considered typical municipal flow if it complies with the requirements set in Chapter 30 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas. UG may sample at any time. If, at the request of

Edwardsville or at the request of the Director, more extensive monitoring is desired, such additional monitoring shall be paid for by the party making the request. If Edwardsville requests such additional monitoring, UG shall invoice Edwardsville for the operational and administrative costs and payment shall be made within (30) thirty days after receipt of invoice. Edwardsville shall receive copies of all sampling reports.

UG shall analyze the samples collected in accordance with Standard Methods. Edwardsville may be present during the initial set-up of sampling equipment and at the time of pick up for each twenty-four (24) hour composite sample. UG agrees, if requested, to split said wastewater samples with Edwardsville for independent analyses.

If, in the opinion of the Director, compliance monitoring is required, the Director may order that additional monitoring be performed with or without prior notice to Edwardsville. Said compliance monitoring is to be in addition to the periodic sampling set forth in Section 4.1. All information obtained because of such compliance monitoring shall be provided to the City of Edwardsville. UG will provide notice of the results of such compliance monitoring to Edwardsville within a reasonable time thereafter. UG shall pay all costs for additional monitoring ordered at the Director's discretion, pursuant to this paragraph.

4.2 All flow discharged into the UG System by Edwardsville shall be metered, unless specifically agreed to by both parties in writing. Should both parties agree in writing that metering is not possible, the agreed upon method for determining the volume shall include an adjustment for infiltration and inflow.

4.3 If, in the judgment of the Parties, the sewage generated within one or more areas of Edwardsville cannot be accurately measured by an approved type of metering station, then the charge for sanitary sewer service within that drainage area will be made on a per-connection basis as agreed to by the parties in writing.

4.4 Edwardsville agrees that UG shall have the right to sample wastewater at all Points of Entry and at such other locations as may be mutually agreed to in writing by both parties, for the purpose of determining the volume and quality of wastewater entering the UG System.

5.0 Rights-of-Way

The Parties shall grant, without charge, such easements and the use of rights-of-way along public highways or other property owned by the Parties, as requested by one Party to the other Party for the sole purpose of constructing or maintaining mains or facilities within the boundaries of either Party to convey Wastewater delivered to the Points of Entry. The Parties hereto will be required to restore the other's property to a condition equal to its original condition, unless otherwise mutually agreed in writing. UG and Edwardsville agree to coordinate their location of the mains and/or facilities in the other's easements and rights-of-way in order to prevent future conflicts insofar as reasonably practicable.

6.0 Flow Rates and Charges

6.1 The UG agrees that Edwardsville has been allocated the following flow rates:

Maximum Average Daily Flow	-	2.1 MGD
Peak (wet-weather) Flow	-	6.3 MGD

The rates provided in the Rate Schedule will apply to all flows at or below these rates. Flows that exceed these rates will be billed at 125% of the Rate Schedule Volume Charge.

6.2 Wholesale wastewater rates (wholesale class) will be based upon generally accepted cost-of-service rate methodologies. The cost-of-service for the wholesale class shall include reasonable and necessary operation and maintenance expenses, depreciation expenses, administrative expenses, and a fair and reasonable return on its investment in its system receiving wholesale wastewater from Edwardsville. The UG will conduct, at its sole expense, a cost-of-service or rate study at 3-to-5-year intervals. Edwardsville shall be notified in advance of such study and engaged in its development. Edwardsville shall provide such information as necessary to assist in the development of the study. UG internal rate reviews will be conducted annually, generally based upon consultant rate study methodology, to review rates and charges, and to adequately fund budgeted costs. The Parties shall have access to all data used to calculate the proposed rate to be charged, and the City of Edwardsville will be provided at least 60 days advance notice with

opportunity to review and comment on any proposed rate changes altering the rate schedule. Commencing the month after the effective date of this agreement, the rates in the Rate Schedule will apply.

6.3 Rate Schedule:

Volume Charge

July 1, 2023	\$ 2.230 per 1,000 gallons
July 2, 2024	\$ 2.319 per 1,000 gallons
July 1, 2025	\$ 2.411 per 1,000 gallons
July 1, 2026	\$ 2.508 per 1,000 gallons
July 1, 2027	\$ 2.608 per 1,000 gallons

Facility Charges

July 1, 2023	\$ 13,600.00/monthly
July 1, 2024	\$ 15,170.00/monthly
July 1, 2025	\$ 15,777.00/monthly
July 1, 2026	\$ 16,408.00/monthly
July 1, 2027	\$ 17,064.00/monthly

6.4 Amendment of Rate

The rate charged the City of Edwardsville shall increase or decrease in accordance with any amendment to the Rate Schedule contained herein. Both parties agree to the importance of conducting a cost-of-service study as described in 6.2 above. Generally, such cost-of service study confirms the rates the UG applies to all billing classes including Edwardsville and also assists in identifying target (annual) rate increases until the next planned study is completed. The UG will provide at least 60 day written notice to Edwardsville if the UG request an annual rate increase that will vary from the rates in 6.3 above.

6.5 UG shall render bills for Wastewater treatment and disposal service to Edwardsville monthly. All such bills shall be due and payable by Edwardsville not more than thirty (30) days

from the billing date. The bills will show current charges, as well as past-due charges. Current charges shall be the amount due for Wastewater treatment and disposal service provided since the prior billing period. Past-due charges shall be the total amount unpaid from all prior billings as of the current billing date. Payments received shall first be applied to the past due charges, if any, and thereafter to the current charges. For late payments, a finance charge of eight percent (8%) per annum may be calculated from the date when the payment was due until paid.

6.6 If Edwardsville disputes a bill and is unable to resolve the difference informally, Edwardsville shall notify the Director in writing. Dispute of a bill is not grounds for nonpayment. If Edwardsville at any time disputes the amount to be paid to UG, Edwardsville should nonetheless promptly make such payment; but, if it is subsequently determined by agreement or court decision that such disputed payment should have been less, or more, UG shall promptly correct the charges. All such amounts due and owing to UG by Edwardsville, or due and owing to Edwardsville by UG, shall be paid plus eight (8%) percent per annum from the date when due until paid.

6.7 The parties agree that services obtained pursuant to this Contract are essential and necessary to the operation of Edwardsville's wastewater facilities, and that all payments made by Edwardsville shall constitute reasonable and necessary operating expenses of wastewater systems within the meaning of Kansas Annotated Statutes, with the effect that the obligation to make such payments shall have priority over any obligation to make any payments from such revenue, with respect to all bonds or other debt obligations heretofore or hereafter issued by Edwardsville.

6.8 Edwardsville agrees, throughout the term of this Contract, to fix and collect such rates and charges for wastewater service in its system as will produce revenues in an amount equal to at least:

- (I) All of the operation and maintenance expenses of such system, including specifically, its payments under this Contract.
- (II) All other amounts as required by law and the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of, and interest on such bonds and other obligations.

7.0 Edwardsville Concerns and Disputes

7.1 Edwardsville shall notify the Director regarding any concern or dispute related to the wholesale Customer volumes billed and/or wholesale rates charged. UG shall provide explanations and/or documentation which outline the processes used by UG in order for Edwardsville to fully understand how the monthly volumes and billings were determined and/or wholesale rates were calculated.

7.2 If Edwardsville disputes the monthly billing and/or rates, Edwardsville must continue to make prompt monthly payments as required by this Contract. If, after a thorough review, the UG determines that Edwardsville's concern or dispute has merit and justification, the area of concern or dispute shall be promptly adjusted and corrected. Unless otherwise specified in this Contract, the determination or settlement in areas of dispute, will generally be judged in accordance with standard practices

8.0 Industrial Connection and Monitoring

8.1 Edwardsville agrees that it will not permit any Significant Industrial User within its jurisdiction to connect or remain connected directly or indirectly, to its system, without an approved UG issued wastewater discharge permit issued pursuant to UG Code.

8.2 Edwardsville agrees that the UG may conduct any monitoring, sampling and inspection of Edwardsville System and Industrial Users as necessary to ensure that industrial waste introduced into the City of Edwardsville System meets the quality standards set out in Section 10.2 hereof. Upon request to Edwardsville, a representative of UG will be permitted to observe Edwardsville's collection of samples from Industrial Users, and Edwardsville agrees to furnish UG separate duplicate samples for independent testing; and, upon request, to provide the Director sample analysis results and Pretreatment records.

8.3 Edwardsville agrees to disconnect from its system any Industrial User found to be in

violation of allowable discharges or who refuses access to its facilities for the purpose of sampling wastewater being discharged into the City of Edwardsville System; after such notice and appeal process afforded such Industrial Users.

8.4 Following reasonable notice to the City of Edwardsville by UG, UG may enter Edwardsville's jurisdiction if UG determines that questionable discharges or prohibited discharges are entering the UG System through the Point of Entry. Edwardsville agrees to assist UG and to coordinate with its customers in locating and eliminating such prohibited discharges within the Edwardsville System.

8.5 The Director shall send written notice to the City of Edwardsville if it is determined that a Customer is failing to provide a satisfactory Pretreatment program, or a discharge by the City of Edwardsville is in violation of this Contract. The notice shall contain the following:

- (a) the nature and description of the violation;
- (b) the provision of this Contract being violated;
- (c) the corrective action that must be taken; and
- (d) the time in which the corrective action must be taken.

UG and Edwardsville shall cooperate to determine the source of any wastewater discharge violation and agree to cooperate in remedying the violation; but, Edwardsville shall be responsible for insuring that the violation is properly and timely corrected. Edwardsville's failure to take reasonable efforts to have the violation corrected in the time specified shall be a breach of this Contract for which UG may terminate service to the particular Customer wherein the offending violation is taking place.

9.0 Wastewater Quality

9.1 Edwardsville agrees that it shall enact operating policies and enforce an ordinance governing industrial waste that is at least as stringent as requirements specified by the KDHE.

9.2 The parties recognize that federal and state laws and regulations concerning Wastewater

treatment and discharges may periodically change during the term of this Contract, requiring revisions in this contract. It is the intent of this Contract that it be reviewed periodically and revised in accordance with the latest laws and regulations of federal and state agencies having jurisdiction over wastewater treatment and discharges. Edwardsville agrees, upon reasonable notice, to enact and enforce ordinances, or any future ordinances relating to industrial discharges, prohibited or controlled wastes, or pretreatment requirements that is required in accordance with the latest laws and regulations.

9.3 Edwardsville shall require all Significant Industrial Users within its jurisdiction that ultimately discharge into the UG System to apply for and obtain a permit from the Unified Government allowing such discharge. Such permit shall require Industrial Users to abate prohibited substances from their discharge as a condition to discharging wastewater into the Edwardsville System. The permit application shall contain, as a minimum, the following:

1. Name and address of discharger
2. Agent for discharger
3. Type of industry
4. Products produced or services rendered
5. Chemicals being stored and/or used
6. Anticipated daily wastewater flow rates

Edwardsville shall provide UG a copy of such application and permit, if issued, within fourteen (14) days after issuance.

10.0 Title to and Liability for Damages and Responsibility for Treatment and Disposal of Wastewater

Liability for damages arising from the transportation, delivery, reception, treatment, and/or disposal of all wastewater discharged into the UG System hereunder shall remain with Edwardsville to the Point of Entry, and upon passing through Point of Entry, title to such wastewater and liability for such damages shall pass to UG. UG has the responsibility for the proper reception, transportation, treatment and disposal of all wastewater discharged into the UG System, but not for prohibited

discharges by any party at any Point of Entry. UG may, after treatment of such wastewater, reclaim, use or sell the water, sludge or any other product for reuse. Both parties hereby agree that neither party will have any obligation to indemnify any other party for acts for which the party would otherwise be immune pursuant to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6104, *et seq.*), and amendments thereto, nor will the indemnity obligations set forth herein act as a waiver of either party's protections under such provisions, and further that any liability of both parties will be subject to the liability limitations set forth in K.S.A. 75-6105, and amendments thereto. Additionally, and notwithstanding anything set forth herein to the contrary, the parties specifically agree that the terms of this section and the terms of this Agreement, will be subject to and limited by the Kansas Cash Basis Law (K.S.A. 10-1100 *et seq.*) and the budget law (K.S.A. 75-2935 *et seq.*), and amendments thereto.

11.0 Infiltration and Inflow

Edwardsville agrees that it has an obligation to prevent to the maximum extent practicable infiltration and inflow into its system and then into the UG System. Edwardsville further agrees that all sewer connections within its jurisdiction, which ultimately enter the UG System, will be constructed in accordance with applicable specifications and standards required by the KDHE. Further, Edwardsville covenants and agrees to maintain strict supervision and maintenance of its system to reasonably prevent connections through which surface drainage can enter the UG System. Edwardsville shall not make, nor shall it permit to be made, any connection, which will contribute storm water runoff from rainwater, spouts, drainage areas, streets, gutter drain or other source of rainwater into Edwardsville's System.

12.0 Assistance

12.1 In the event Edwardsville requests assistance with the Edwardsville System, UG may, at its option, assist Edwardsville. Edwardsville agrees to pay UG its actual costs incurred, including, but not limited to, administration, labor and material expended, as documented by UG. Nothing herein shall be construed to require UG to assist Edwardsville. Such costs will be invoiced to Edwardsville and payment made within thirty (30) days after receipt of invoice.

12.2 In the event, UG requests assistance with the UG system, Edwardsville may, at its option, assist UG. UG agrees to pay Edwardsville its actual costs incurred, including, but not limited to, administration, labor and material expended, as documented by Edwardsville. Nothing herein shall be construed to require Edwardsville to assist UG. Such costs will be invoiced to UG and payment made within thirty (30) days after receipt of invoice.

13.0 Reports and Records

If requested by either party, the other party shall provide the following data on an annual basis:

- A. Actual number of Customer accounts discharging into the Edwardsville System;
- B. Classification of Domestic and Non-Domestic Accounts within its service area by number and percentage of accounts discharging into the Edwardsville System.
- C. Additional data which may assist UG and/or Edwardsville in developing methodology for cost of service studies or planning studies; provided, however that UG shall not request data that will require Edwardsville to incur unreasonable expenses in providing such data.
- D. An annual report of Significant Industrial Users.

14.0 Notices

Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other party must be in writing and shall be sent by certified U.S. Mail postage prepaid to the following addresses:

UG:	Director of Water Pollution Control Unified Government 50 Market Street Kansas City, Kansas 66118
-----	--

With a Copy to:	Chief Counsel Unified Government 701 N. 7 th Street Kansas City, KS 66101
-----------------	---

Edwardsville:	City Manager
---------------	--------------

City of Edwardsville
690 South 4th Street
PO Box 13738
Edwardsville, Kansas 66113

With a Copy to

City Attorney
City of Edwardsville
690 South 4th Street
PO Box 13738
Edwardsville, Kansas 66113

The parties shall provide notice in writing of any change that may occur in their respective addresses from time to time as needed.

15.0 Inspection and Audit

Complete records and accounts required by each party hereto shall be kept for a period of five (5) years. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

Whenever, under the terms of this agreement, UG is permitted to give its written consent or approval, UG may give or may refuse such written consent or approval and, if given, may restrict, limit or condition such consent or approval in any manner it shall deem advisable; however, consent will not be unreasonably withheld.

16.0 Waiver, Remedy, Severability

16.1 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term, or condition, or subsequent waiver of the same term or condition.

16.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the parties hereto. Venue for any action shall be in Wyandotte County, Kansas. This Contract shall be governed by the laws of the State of Kansas.

16.3 It is agreed that, in the event any term or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such term or provision shall in no way affect any other term or provision contained herein; further, this Contract shall then continue in full force and effect as if such invalid term or provision had not been contained herein.

17.0 Ownership and Liability

17.1 Except as expressly provided herein, this Contract shall not be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor create any other property rights or liabilities. Edwardsville payments (whether past, present, or future) will not be construed as granting to Edwardsville any partial ownership of, prepaid capacity in, or equity in the UG system. Provided however, Edwardsville shall have the continuing right to receive the services provided for herein under the terms of this Contract.

17.2 Contracts made and entered into by either Edwardsville or UG for the construction, reconstruction or repair of any Delivery Facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both the City of Edwardsville and UG as ensured. Such contract must also provide that the independent contractor(s) covenant to indemnify, hold harmless and defend both the City of Edwardsville and UG against any and all suits or claims for damages of any nature arising out of the performance of such contract.

18.0 Compliance with Permit Conditions

Edwardsville acknowledges that UG is the holder of discharge permits issued by the United States of America and the State of Kansas. Edwardsville agrees that it will comply with all permit conditions in any way relating to its collection system and any discharge into the UG System. Edwardsville agrees that in the event, a fine is assessed against UG for any violation of any permit condition, and the violation is attributable to any act of omission or commission by Edwardsville, Edwardsville will pay to UG the amount of such fine. If such fine is not attributable to Edwardsville, such fine shall be paid by UG.

19.0 Term of Contract/Effective Date

The term of this Contract shall begin on July 1, 2023 and continue for ten (10) years, with the provision for two (2) 10-year term extensions based on mutual agreement from the date first stated above. The parties anticipate certain portions of this contract, specifically but not limited to the rates set in Section 6, will be subject to renegotiation after the completion of the cost of service analysis establishing a wholesale rate structure. . Thereafter this Contract shall be subject to re-negotiation if both Parties agree that it is in the best interests to re-negotiate the agreement. Any amendments to the Contract will be valid only if in a writing signed by both parties and approved by both governing bodies. . Any party electing to terminate this Contract must provide the other party with two (2) years notice.

20.0 Force Majeure

No party hereto shall be considered to be in default in the performance of any of the obligations hereunder (other than obligations of either party to pay costs and expenses), if such failure of performance shall be due to an uncontrollable force beyond the control of the parties, including but not limited to: failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, and action or non-action by a failure to obtain the necessary authorizations and approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage, or restraint by a court order or public authority, which by the exercise of due diligence and foresight such party could not have reasonably been

expected to avoid and which by exercise of due diligence it shall be unable to overcome. Either party rendered unable to fulfill any such obligation shall exercise due diligence to remove such inability with all reasonable dispatch.

In the event the proper operation of the UG System, as a result of the above, requires UG to temporarily interrupt all or part of the services to Edwardsville, no claims for damage shall be made by Edwardsville against UG. UG will exercise its best efforts to ensure that such interruptions will not adversely affect the health and welfare of Edwardsville's residents. In the event the proper operation of Edwardsville System, as a result of the above, requires Edwardsville to temporarily interrupt, reduce or increase flow to the UG System, no claims shall be made by UG against Edwardsville.

21.0 Termination

21.1 This Contract is not intended to specify an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the failure of either party to perform cannot be adequately compensated in money damages alone, both parties agree that in the event of any default on its part, the other shall have available to it the equitable remedy of mandamus and specific performance, in addition to any other legal or equitable remedies (other than termination) which may be available. The remedy of termination for default precluded by this paragraph does not prohibit either Party from terminating this Agreement for default in accordance with the terms of this Agreement, or as otherwise specifically provided herein.

21.2 Also this Contract may be terminated in whole or in part by the mutual consent of the governing bodies of the City of Edwardsville and the UG. Notwithstanding anything contained herein to the contrary, any material breach, as defined herein, by either party hereto shall be cause for termination of this Contract by the other Party in the manner set forth in this Section.

21.3 The UG may terminate this Contract if Edwardsville fails to pay the UG for undisputed costs of services rendered in accordance with this Contract. Upon Edwardsville's failure to pay for undisputed costs of services rendered in accordance with this Contract, the UG shall place a notice

of nonpayment in the mail to Edwardsville in the manner set forth in Section 14 of this Agreement. The UG shall send a notice of termination to Edwardsville in the manner set forth in Section 14 of this agreement if such unpaid charges are not paid in full (including incurred interest) within sixty (60) days of the notice of nonpayment. Termination for nonpayment of charges shall become effective upon the expiration of three (3) years from the date such notice of termination is placed in the mail to Edwardsville. Edwardsville shall remain liable to the UG for any obligations incurred for services provided prior to the effective date of the termination of this Agreement.

21.4 The terms and procedures set forth in Sections 24.3 and 24.4 while referring primarily to UG, shall be equally applicable to Edwardsville. UG shall deliver to Edwardsville ninety- (90) days prior written notice of its intention to so terminate this Contract if Edwardsville fails to cure or adjust such material breach, including in such notice a reasonable description of the breach. In the event Edwardsville does not agree that it is in such breach, default or failure, Edwardsville may respond in writing for UG's further review; or, in the alternative Edwardsville may respond with a plan of action for UG's approval, which approval will not be unreasonably denied. UG shall advise the City of Edwardsville in writing immediately upon acceptance of the cure of any such breach. If within said ninety- (90) days Edwardsville shall fail or refuse to cure such breach to the reasonable satisfaction of UG, then and in such event, UG shall have the right with six months advance written additional notice to Edwardsville, to declare this Contract terminated. In the event of termination of this Contract, all rights, powers, and privileges of Edwardsville hereunder shall cease and terminate. The following breach, default or failure to perform a duty or obligation shall be considered a material breach:

- a. Failure to adopt and enforce any ordinance required to be adopted and enforced herein, if Edwardsville has received notice as required in Section 4 of this Agreement, or if by a Customer of Edwardsville, the failure of Edwardsville to take reasonable steps to obtain such action by Customer.
- b. Making any connection to the UG system at any point except as provided in Section 2.3 hereof.
- c. Failure to provide UG ingress and egress for purposes of sampling and operation and maintenance of any metering or any sampling facility.
- d. Failure to permit any sampling of Wastewater as provided for herein.

- e. Failure to disconnect industrial users of Edwardsville pursuant to this Contract.
- f. Failure to maintain the quality of discharge as required in this Contract.
- g. Failure of Edwardsville to comply with Section 9 hereof.
- h. Failure of UG to provide the services required by this Contract or to carry out its duties and responsibilities under this Contract.

21.5 In case of any other breach, default, or failure to perform duties under this Contract, not addressed by Sections 21.1 or 21.4, UG shall deliver to Edwardsville sixty (60) day's advance written notice of such breach. In the event Edwardsville does not agree that it is in such breach, default or failure, Edwardsville may respond in writing for UG's further review; or in the alternative Edwardsville may respond with a plan of action for UG's approval, which approval will not be unreasonably denied. Edwardsville may timely appeal UG's determination of breach or UG's failure to approve its plan cure the alleged breach to the UG's Commission.

21.6 Any failure by UG to terminate this Contract or the acceptance by UG of any benefits under this Contract for any period of time after such material breach, default, or failure by Edwardsville, shall not be determined to be a waiver by UG of any rights to terminate this Contract for any subsequent material breach, default, or failure.

21.7 Any failure by Edwardsville to so terminate this Contract, or the acceptance by Edwardsville of any benefits under this Contract, for any period of time after such material breach, default, or failure by UG, shall not be determined to be a waiver by Edwardsville of any rights to terminate this Contract for any subsequent material breach, default or failure.

22.0 Miscellaneous

22.1 This Contract is subject to all applicable federal and state laws and any applicable permits, ordinances, or amendments adopted pursuant to Section 19.0 and any rules, orders, or regulations of any state or federal governmental authority having or asserting jurisdiction. Nothing contained herein shall be construed as a waiver of any right by either party to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

22.2 The parties hereto agree to make any changes in this Contract made necessary by any amendment or revision to state or federal regulations.

22.3 Upon prior notice by UG, any duly authorized employee of UG bearing proper credentials and identification shall notify Edwardsville of need for access to any premises located within Edwardsville's boundaries limits or served by Edwardsville for the purpose of inspections and observation, measurement, sampling and testing and/or auditing, in accordance with the provisions of this Contract. Edwardsville may elect to accompany the UG representative. To the extent permitted by law, UG agrees to indemnify Edwardsville and hold Edwardsville harmless for any damage or any injury to person or property caused by the negligence of such duly authorized employee while such employee is in the course and scope of his employment.

22.4 In each instance herein where reference is made to a federal or state regulation, it is the intention of the parties that, at any given time the current federal or state regulation shall apply. If a publication or reference work referred to herein is discontinued or ceases to be the generally accepted work in its field, or if conditions change, or new methods or processes are implemented by UG, new standards shall be adopted which are in compliance with state and federal laws and any valid rules and regulations pursuant thereto.

22.5 Section headings in this Contract are for convenience only and do not accurately or completely describe the contents of any Section. Such headings are not to be construed as a part of this Contract, or in any way defining, limiting or amplifying the provisions hereof.

22.6 Whenever any disputed matter herein is to be specifically determined by the use of a mediator, the following procedure is to be followed. The party requesting that the dispute be settled by mediation shall serve on the other party a request in writing that such matter be handled by mediation. Edwardsville Representative and Director shall mutually agree in writing on the selection of an impartial mediator. Such agreement shall be made within ten (10) days from the date that the request for mediation is received. If agreement is not reached on the selection of the impartial mediator on or before the tenth (10th) day after the date that notice is received, the Director shall immediately request a list of seven qualified neutral mediators on the list. If they do not agree within five (5) working days after the receipt of the list, Edwardsville Representative and Director

shall alternate striking a name from the list and the name remaining shall be the impartial mediator. Edwardsville Representative and Director shall mutually agree on a date for the mediation. The decision of the mediator shall not be final. Mediation shall not in any event toll any default period under the Contract, unless approved mutually in writing by UG and Edwardsville.

22.7 This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 *et seq.* and amendments thereto. Any automatic renewal of the terms of the Agreement shall create no legal obligation for either party. This Agreement shall be construed and interpreted so as to ensure that both parties shall at all times stay in conformity with such laws and, as a condition of this Agreement, both parties reserve the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement is deemed to violate the terms of such law. Both parties are obligated only to pay periodic payments or monthly installments under the Agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during the party's current budget year or (b) funds made available from any lawfully operated revenue producing source.

[Remainder of Page Intentionally Blank, Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed in duplicate original counterparts, by their respective officers and officials, thereunto duly authorized.

Carolyn Caiharr, Mayor

ATTEST:

Zachary Daniel, Assistant City Manager/City Clerk

APPROVED AS TO FORM:

Josh Ney, City Attorney

Tyrone Garner, Mayor/CEO

ATTEST:

Brett Deichler, Unified Government Clerk

APPROVED AS TO FORM:

UG Chief Counsel



Staff Request for Commission Action

Tracking No. 212517

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action:

(If none, please explain): For information only

Publication Required: No

<u>Date:</u> 06/12/2023	<u>Contact Name:</u> Jeff Fisher	<u>Contact Phone:</u> x5415	<u>Contact Email:</u> jfisher@wycokck.org	<u>Department/Division:</u> Public Works
----------------------------	-------------------------------------	--------------------------------	--	---

Item Description:

Public Works staff and Burns & McDonnell have been developing a solid waste rate study to provide a clear understanding of current operational cost of providing service and to develop proposed rates that meet the needs and objectives of the solid waste program for the next five years. The rate study includes a cost allocation strategy that captures capital, debt, operations, and maintenance costs, as well as indirect costs for each of the program components, submitted by Jeff Fisher, Executive Director of Public Works.

Action Requested:

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Solid-Waste-Cost of-Service-Study-06262023

Cost of Service and Rate Design Study

**Unified Government of Wyandotte County
and Kansas City, Kansas**

June 26, 2023

Methodology Overview



Develop “Test Year” Revenue Requirement

- ▶ Revenue Requirement represents the total revenue that the UG Solid Waste Enterprise Fund (SWEF) will need to recover during a year to fund all expenses associated with the provision of services
- ▶ Reviewed financial data and worked with UG staff to adjust costs to be representative of a typical year, establishing the Test Year Revenue Requirement
- ▶ Test Year based on 2023 Budget
- ▶ Resulting Test Year used as the basis for forecasting expenses for the five-year forecast, 2024 through 2028

Allocation of Costs to Cost Centers



**Costs related to City facility collection will be recovered by the General Fund in 2023 and 2024, then will gradually be recovered by the SWEF. By 2027, City facility collection costs will be fully funded by the SWEF.*

Annual (2023) Solid Waste Costs (All Customers)

Cost Center	Annual (2023) Cost	Cost Center Description
Public Works Dept Admin	\$114,500	KCK Staff time to support solid waste and recycling operations
Contract Residential Services	\$8,707,700	Contract with WM for residential collection services
Recycling & YW Center	\$20,800	Recycling processing, staff time, and operational costs
Closed Landfill	\$828,000	Ongoing maintenance, monitoring and repair for the closed landfill
Public Education and Outreach	\$30,000	Education related to solid waste and recycling services
Household Hazardous Waste Center	\$269,700	Disposal, staff time, and operational costs
Residential Contract Support	\$457,100	KCK staff time and operational costs for residential collection contract
Dumpster Days	\$114,800	Costs of clean up events
City Facility Collection*	-	WM collection for KCK facilities (e.g., City Hall)
General Fund Admin	\$261,000	Legal, HR, and other General Fund services
Total Revenue Requirement	\$10.8 M	

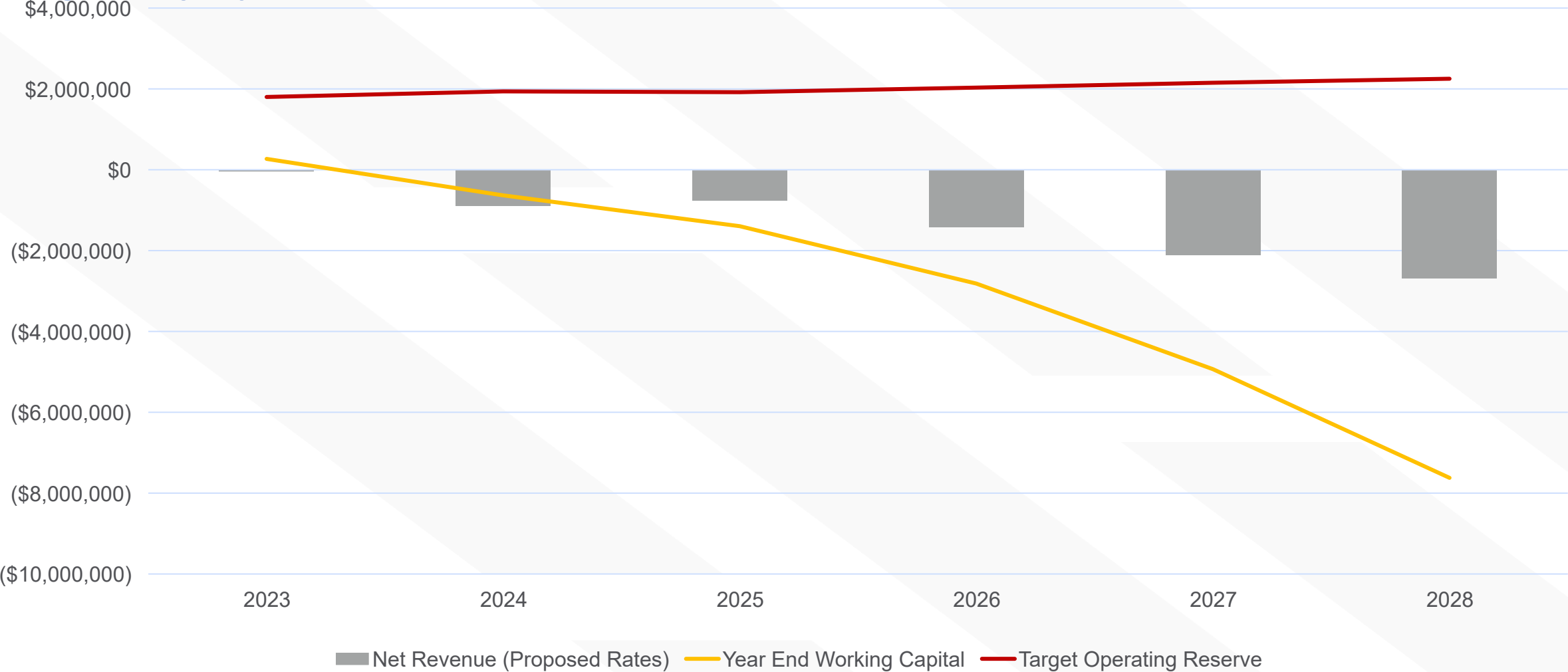
**Costs related to City facility collection (\$383,300 in 2023) will be recovered by the General Fund in 2023 and 2024, then will gradually be recovered by the SWEF. By 2027, City facility costs will be fully funded by the SWEF.*

Residential Cost per Household per Month (2023)

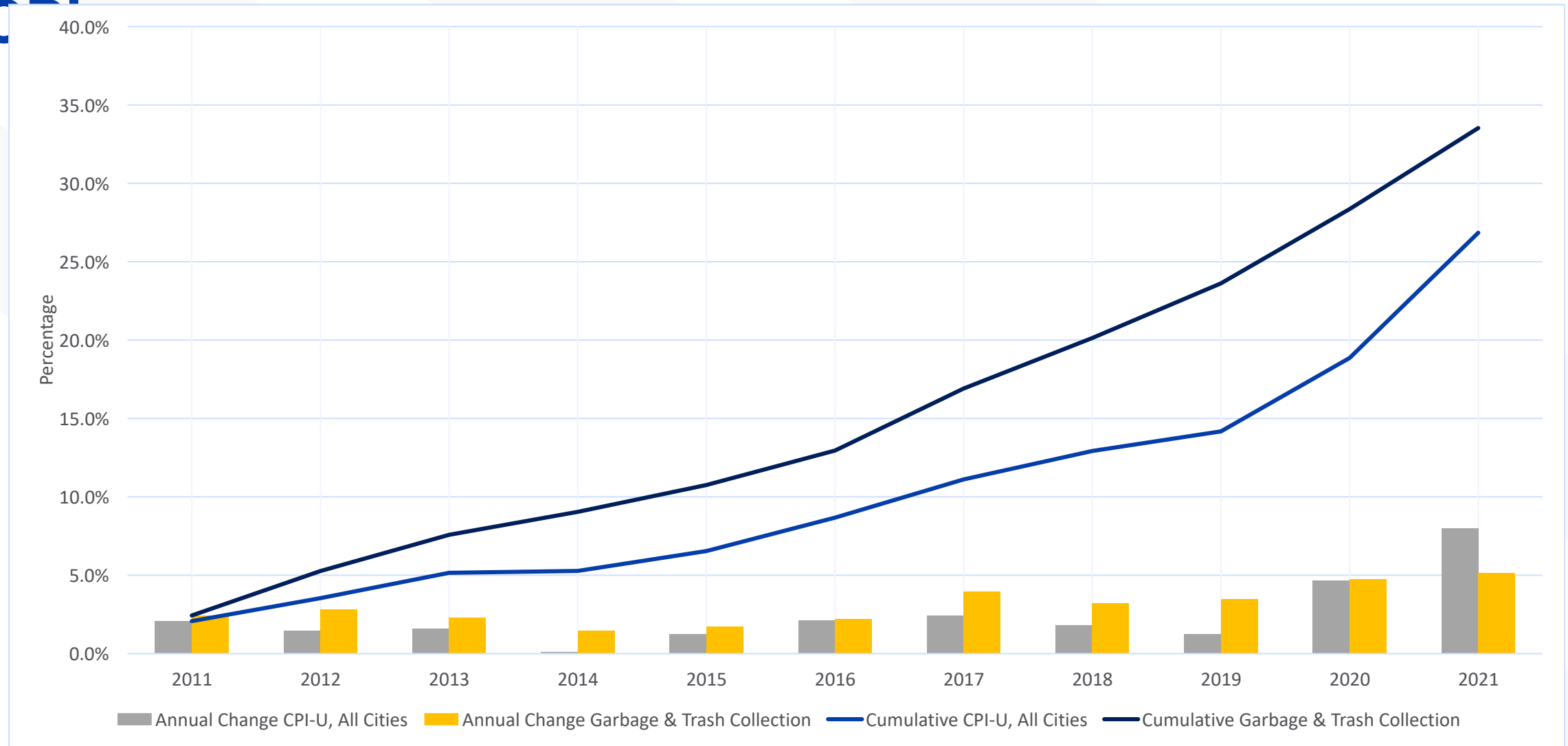
Cost Center	KCK/ Bonner Springs/ Allocation	Basis for Cost Allocation	Cost/Households (HHs)/Month	
			KCK (50K HHs)	Bonner Springs (2.4K HHs)
Public Works Dept Admin	95/5	Proportion of collection contract households	\$0.18	\$0.18
Contract Residential Services	95/5	Proportion of collection contract households	\$13.74	\$13.74
Recycling & YW Center	100/0	KCK residents are the primary beneficiary of service	\$0.03	
Closed Landfill	100/0	KCK residents are the primary beneficiary of service	\$1.37	
Public Education and Outreach	100/0	KCK residents are the primary beneficiary of service	\$0.05	
Household Hazardous Waste Center	100/0	KCK residents are the primary beneficiary of service	\$0.45	
Residential Contract Support	100/0	KCK residents are the primary beneficiary of service	\$0.76	
Dumpster Days	100/0	KCK residents are the primary beneficiary of service	\$0.19	
City Facility Collection*	100/0	KCK residents are the primary beneficiary of service	-	
General Fund Admin	95/5	Proportion of collection contract households	\$0.41	\$0.41
Total (May Not Calculate Exactly Due to Rounding)			\$17.18	\$14.33

*Costs related to City facility collection (\$383,300 in 2023) will be recovered by the General Fund in 2023 and 2024, then will gradually be recovered by the SWEF. By 2027, City facility costs will be fully funded by the SWEF.

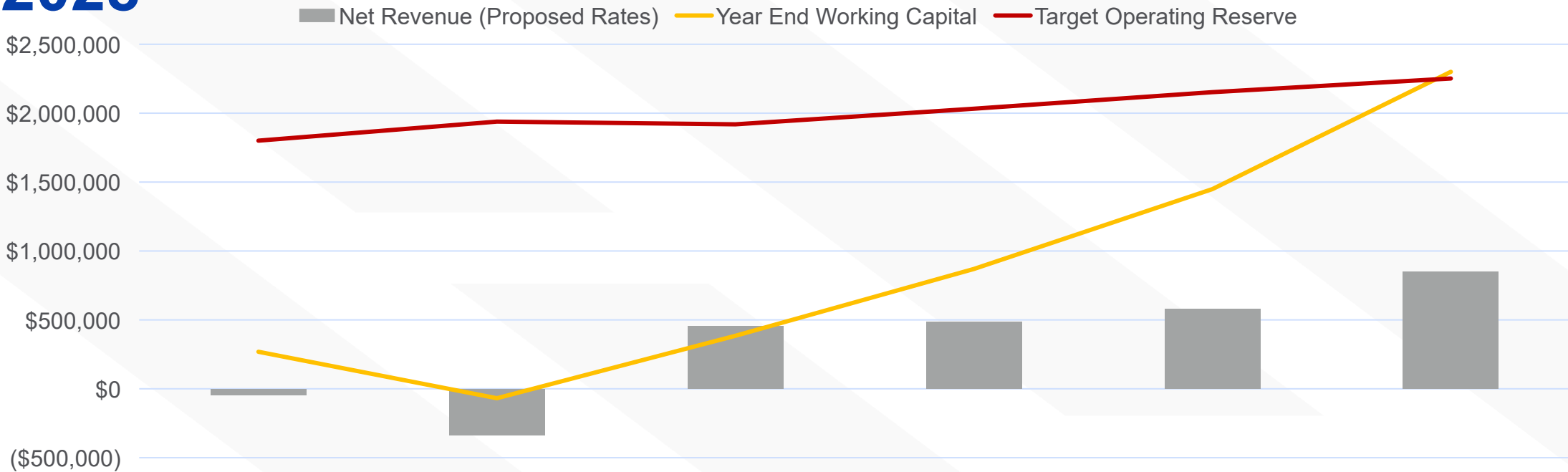
Current Rates Under-Recover SWEF Costs from 2023 Onward



On Average, Garbage and Trash Costs Outpace Overall CPI



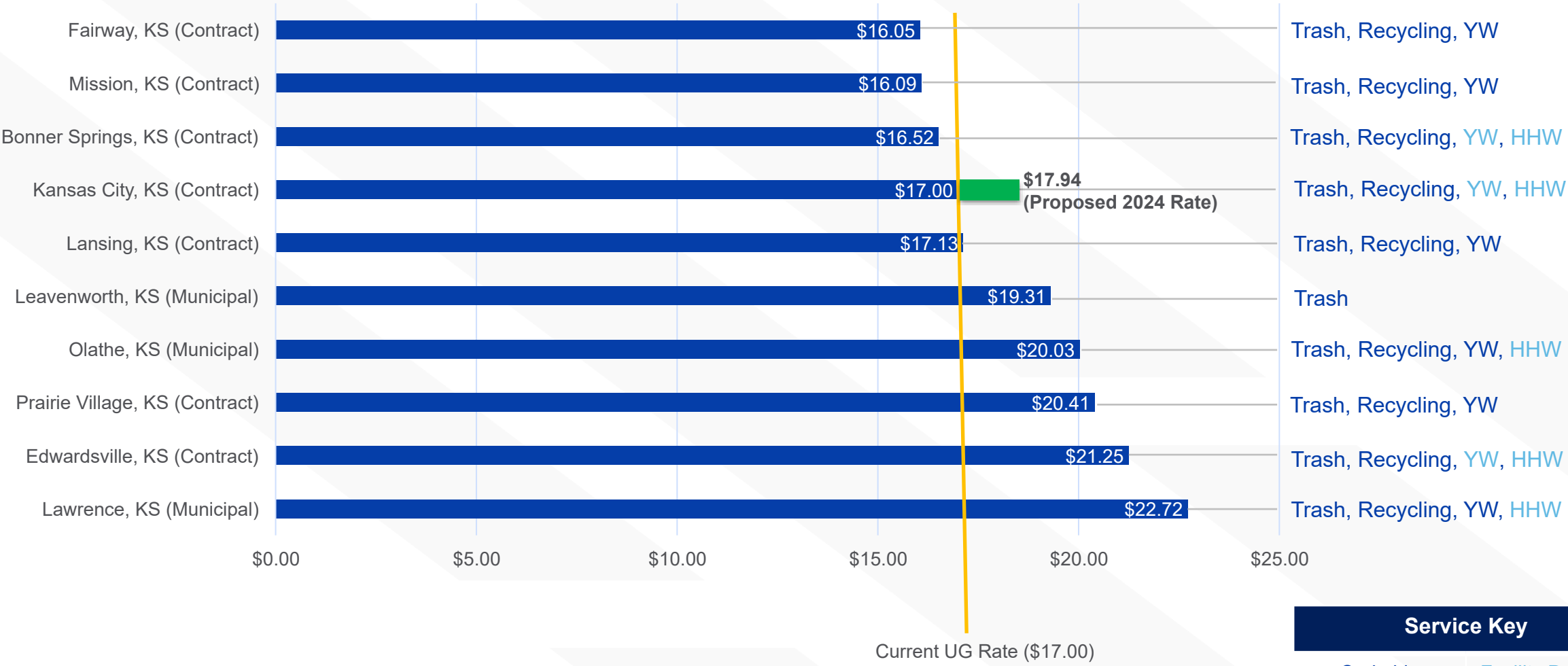
Proposed Rates Meet Target Operating Reserve by 2028



Proposed Rate	2023	2024	2025	2026	2027	2028
Rate*	\$17.00	\$17.94	\$19.01	\$20.15	\$21.46	\$22.86
Increase (\$)*	-	\$0.94	\$1.08	\$1.14	\$1.31	\$1.40

*Rate increases may not calculate exactly due to rounding

Proposed 2024 Rate Remains Competitive Among Benchmark Cities





Staff Request for Commission Action

Tracking No. 212521

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action:

(If none, please explain):

Publication Required: No

<u>Date:</u>	<u>Contact Name:</u>	<u>Contact Phone:</u>	<u>Contact Email:</u>	<u>Department/Division:</u>
06/12/2023	Jeff Fisher	x5415	jfisher@wycokck.org	Public Works

Item Description:

Armourdale is a significant watershed located within the Stormwater 7-basin Deficiency Study. The Muncie Bluss watershed plays a crucial role as a major contributor to the Armourdale Watershed. The Deficiency Study has recognized the necessity of implementing a watershed approach for effective stormwater planning. However, there is no funding allocated for stormwater management, watershed planning and modeling efforts.

The maintenance of the existing infrastructure in the watershed involves inspection and data collection. Fortunately, funds have already been planned and included in the budget for these activities. The US Army Corp of Engineers (USACE) offers the Planning Assistant to States (PAS) program, which requires a 50/50 participation match.

In this case, the budgeted maintenance dollars can serve as the 50% participation match, allowing the partnership between the USACE and the Unified Government (UG) to materialize. This partnership enables the UG to secure the necessary funding for watershed planning and modeling efforts, ensuring comprehensive and effective stormwater management in the Armourdale and Muncie Bluffs watersheds, submitted by Jeff Fisher, Executive Director of Public Works.

Action Requested:

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List: