

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, November 3, 2014. Mayor Peggy Dunn presided.

Councilmembers Present: James Azeltine, Jim Rawlings, Lou Rasmussen, Andrew Osman, Carrie Rezac, Debra Filla, Julie Cain and Chuck Sipple

Councilmembers Absent: None

Staff Present:	Scott Lambers, City Administrator	Richard Coleman, Comm. Dev. Director
	Dawn Long, Finance Director	Chief John Meier, Police Dept.
	Chief Dave Williams, Fire Dept.	Joe Johnson, Public Works Director
	Patty Bennett, City Attorney	Mark Andrasik, Info. Services Director
	Kim Curran, Parks & Rec. Supt.	Nic Sanders, Human Resources Director
	Chris Claxton, Parks & Rec. Dir.	Cindy Jacobus, Assistant City Clerk
	Deb Harper, City Clerk	

Others Present: Jamie West, Ironhorse Golf Club General Manager [Troon]
Kevin Jeffries, Leawood Chamber of Commerce President

AT&T:

Mike Scott, President AT&T Kansas
Ryan Matthews, Director of Construction and Engineering, Kansas/Missouri
Bruce Ney, Attorney General-Legal AT&T Kansas
Chris Lester, Director of Community Relations
Chris Carroll, Director of Regional Affairs

- 1. Discussion regarding Memorandum of Understanding [MOU] with AT&T; and**
- 2. Review Fee Policy; Proposed 2015 Fee Schedule; and**
- 3. Continued discussion from October 20, 2014 Governing Body meeting on Street Fees**

Mr. Lambers recommended that if the Memorandum of Understanding was agreed upon without significant changes, it should be added to the City Council agenda under 6. Special Business. Discussion of Work Session Items No. 2 Fee Schedule and No. 3 Street Fees could be continued to the December 1st Work Session and Council meeting, if necessary.

Discussion regarding Memorandum of Understanding [MOU] with AT&T

Ms. Bennett thanked Ms. Franki Parsons, former City Assistant Attorney, for working with Mr. Bruce Ney and his AT&T team to develop the draft MOU. Currently, there are three tiers of approval, based on height of the utility cabinet:

1. Less than 36 inches: staff approval
2. Between 36 and 55 inches: Planning Commission and City Council with a review and approval of a Site Plan
3. More than 55 inches and/or 15 square feet: Special Use Permit [SUP], including citizen notification

Staff recommended Tier 2 be deleted and all cabinets be less than 55 inches high, with a footprint of 15 or less square feet, to be approved by staff in compliance with all provisions of the Leawood Development Ordinance [LDO]. Cabinets smaller than 55 inches would not require a SUP. Cabinets over 55 inches would require a SUP which would be in effect for 20 years. If approved, revisions to the LDO would be required.

Councilmember Rasmussen expressed support of the change, but stated that Mr. Johnson should be able to notify the public that AT&T is working in the right-of-way [ROW]. He did not feel the wording of MOU Item 2.b. would support this.

Ms. Bennett asked those in attendance if there would be any objection to the City using “AT&T” in City communications with citizens. Mr. Ney stated AT&T’s intention was to work with the City to facilitate information sharing and assured that AT&T had no problem with the distribution of that information. As the plan is developed, the City could post construction activity on the City website without separate legal approval.

Mayor Dunn stated Item 2.b. was in regard to City participation in non-promotional communication. Mr. Ney agreed and pointed out this addresses the City’s concern about the ability to publicize where work would be done.

Councilmember Rezac asked about the definition of small businesses to be served and about institutions such as schools. Mr. Ney replied that AT&T’s business offering is still being finalized by their Marketing group. Businesses with 1,000 employees would not be considered small and large businesses may already have fiber. AT&T is bound by the E-rate Doctrine, which includes a competitive process to serve institutions.

Councilmember Azeltine asked if the Competitive Local Exchange Carriers [CLEC] would be able to come in as well. Mr. Ney replied that currently, the Federal Communications Commission [FCC] has determined AT&T is not a telecommunications service and is not required to unbundle the service and open the facilities to CLEC.

Councilmember Rawlings asked about the ratio of large cabinets to small cabinets, and Councilmember Cain asked about the location of the cabinets. Mr. Coleman replied that currently, all cabinets are planned to be smaller than 55 inches and required to be either in the rear yard utility easement or at least 25 feet back from the ROW in a residential district.

Councilmember Cain asked about a start time if the agreement is completed. Mr. Coleman replied that AT&T would start the field planning work at different locations, which could take several months. Once the layout is finalized, AT&T would go to second phase with Site Plans. Mr. Matthews added the engineering process would take 5 to 6 months.

Councilmember Sipple asked about the ratio of cabinets per household. Mr. Matthews replied it depends on the distribution area, as mentioned earlier.

Mayor Dunn asked if AT&T will build out all of Overland Park first, then Leawood. Mr. Matthews stated the process between the cities will be staggered and Leawood would not be at the bottom in order of priority. The estimated start date would depend on design elements and contractor availability.

Councilmember Filla asked about the duration of the rollout, the number of homes that currently have U-verse[®] service and fiber rates. Mr. Matthews replied that U-verse[®] has a distribution area of about 75% of a neighborhood and the fiber optic network will reach 100%. The projected timeline for completion is not finalized and he did not have the rates, but they should be competitive.

Councilmember Azeltine asked if there was an interconnection between the fiber and DSL systems. Mr. Matthews stated there would be no interconnection. Homes currently with U-verse[®] have copper footage to homes. The copper lines would remain in the ground and fiber would be installed. It is expected that not all residents will make the switch immediately. Other network elements include green pedestals and a device on the side of the home. Mr. Johnson inquired and it was confirmed that installation of fiber would be accomplished through a bore and pull process, which is minimally disruptive to properties.

Councilmember Rezac asked about the process for the AT&T sales team. Mr. Ney replied the exact process is to be determined, but would be a combination of in-person, on-line, telephone and door-to-door. AT&T will follow all solicitation ordinances. Mr. Lambers stated that many residents have asked for no door-to-door solicitation and AT&T would need an invitation to discuss the service.

Councilmember Filla stated a Sustainability Summit is scheduled in February with homeowner associations, schools and places of worship, and suggested this could be an appropriate venue for AT&T to have a booth where they can provide information.

Councilmember Rezac asked for clarification of the phrase in 3.b.(2), "recognizing that the equivalent consideration afforded by such other service providers may be different than what AT&T is obligated to provide." Mr. Ney replied that a number of cities enter into agreements for structure access, license and network services. Some of the agreements include compensation for access to city structures, and AT&T does not require such access and therefore does not provide compensation for it.

Mayor Dunn observed a consensus to amend the Council Meeting agenda for resolution approving and authorizing the execution of the MOU between the City and AT&T to provide ultra high-speed broadband U-verse® service.

Review Fee Policy; Proposed 2015 Fee Schedule

Impound Fees

Chief Meier stated the contract with State Line Animal Hospital was \$600 a month for over ten years and now it is \$1,200 a month, regardless of the number of animals brought in to this no-kill facility. This prompted the proposal to increase the impound fee from \$10 to \$15 per day.

Councilmember Rasmussen stated the recommendation is conservative and was in favor of an immediate increase to \$20.

Councilmember Rezac pointed out that a fee that is too high could discourage owners from redeeming their animals. Councilmember Osman questioned why the system is being subsidized because he felt most owners would pay a higher amount to have their animal returned.

Chief Meier agreed with Councilmember Rezac and predicted \$15 would encourage owners to pick-up their animal.

Councilmember Cain asked if the owners are also fined. Chief Meier stated owners are fined \$25, which increases incrementally for each occurrence, and the owners also appear in court if the animal was running loose and picked up.

Mayor Dunn confirmed that all agreed to the proposal of increase to \$15 per day.

Planning Schedule for 135th Street Community Center Copy Costs

Mr. Coleman stated the increase is cost recovery for copy work production.

Councilmember Sipple asked if the cost is a break-even point. Mr. Coleman confirmed \$35 was a break-even color copier production cost charged by an external printer.

Councilmember Cain asked if other plans are charged a printing fee. Mr. Coleman replied that if color copies are requested, mostly likely a fee would be charged. Documents are available on-line free of charge, for viewing and download, which may be slow due to file size. Mr. Andrasik suggested emailing a link for a document to the requestor.

Councilmember Filla questioned why the 135th Street Community Plan was being called out specifically versus developing a comprehensive policy for all document production. Mr. Coleman stated the plan consists of color copies and is bound, and that requests for copies of other substantial documents are charged at \$0.10 per page.

Tennis Court Lights; Soccer Fields

Councilmember Rasmussen recommended the tennis court light use fee should be increased from \$1 per half an hour to \$1.25 to compensate for increased utility rates in 2015. Additionally, he felt the soccer fees [Page 17] should be increased by \$5 to \$65 for residents and \$75 for non-residents.

Ms. Claxton replied the tennis court lighting system only accepts bills and the fee is to control light use. She suggested changing the amount to \$3 per hour rather than \$1 per half an hour; she will check with the system manufacturer in this regard. Regarding the soccer fees, she stated the fees were raised in 2010 and then raised by \$5 in 2014. Currently, the soccer program has the most cost recovery and services/fees are in-line with those of Blue Valley. Ms. Claxton asked for a fall implementation date if the Council would like to implement a fee increase.

Councilmember Azeltine asked if an increase could affect the City competitively. Ms. Claxton replied she did not know and pointed out that soccer is a recreational activity for many families, and any fee increase could also impact the late fee.

Councilmember Osman stated that a number of non-residents utilize the soccer fields and while it is an inexpensive activity, the fees should not be raised for another year or more. Mayor Dunn stated 75% of field users are non-residents.

Councilmember Rasmussen observed that trash from the soccer players is often strewn about, even though trash containers are available, causing extra work for the maintenance crew. Additionally, vehicles are damaging the grass.

Councilmember Osman expressed the need for additional recycling receptacles.

Councilmember Filla stated she would prefer a fee for littering rather than an increase in the soccer fees. She pointed out the City could emphasize teams' responsibility for trash and legal parking during registration. Councilmember Cain agreed, but questioned the practicality of a littering fine.

Mayor Dunn inquired how the Council felt about Councilmember Rasmussen's proposed increase.

Councilmember Filla stated that an increase should be postponed until 2016 since it was just raised; Councilmember Sipple agreed. Councilmember Rezac agreed as well, but felt discussion would justify a future increase.

Mayor Dunn agreed that some of the issues raised by Councilmember Rasmussen need to be addressed. She pointed out the general consensus was to postpone a fee increase for soccer and that the tennis court light use fee could increase to \$3 per hour.

Facility Rentals

Councilmember Rezac asked why a designation for Leawood versus non-Leawood business is not made. Ms. Curran stated the rates for businesses are the same, as the emphasis is on residence.

Councilmember Azeltine asked about the percentage of residents versus non-residents for lodge rental and if consideration was given to increase the non-resident fee. Ms. Curran stated the majority of rentals are non-residents, with a 60/40 split and fees was raised in 2014 by 3% for civic groups, 4% for non-Leawood civic residents and 5% for non-resident businesses.

Ms. Claxton stated the goal is to remain competitive while retaining volume.

Ironhorse Golf Club

Mr. West stated the goal is to increase fees slightly each year as fees had not increased for many years, until last year. The cart fee was increased by \$2 in 2013, which increased all other fees. The increase in 2014 was \$1. Additionally, the increase for Triple Crown was \$75 this year versus \$100 last year.

Mr. Lambers pointed out that the golf carts are electric and Kansas City Power & Light is anticipating a rate increase, which could justify an increase in fees.

Mayor Dunn stated she had never received any complaints about the fees or course quality. Councilmember Rasmussen thanked Ms. Claxton and Mr. West for a job well done.

Continued discussion from 10-20-2014 Governing Body meeting on Street Fees

Councilmember Rezac pointed out a change in charging developers per lineal foot or an Impact Fee recommended by Ms. Bennett.

Councilmember Filla stated all developments should pay, but felt staff could recommend whether it is through Impact Fees or fees per square footage.

Councilmember Azeltine stated that Overland Park is charging, regardless of abuttal or timing of the project, so it would not put Leawood at a competitive disadvantage.

Ms. Bennett pointed out that the excise tax would need to be evaluated in order to charge in the same manner as Overland Park. The Impact Fee could be a more direct method.

Councilmember Rezac spoke about the uncertainty with the developments that had not been charged the fee, and potential liability issues if the fee was implemented in the future.

All Councilmembers agreed that all developers should pay some fee. Mayor Dunn thanked the staff for all the research done on the topic.

There being no further business, the Work Session was adjourned at 7:20 P.M.

Deb Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk