

Minutes

DVD No. 432

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, January 7, 2019. Mayor Peggy Dunn presided.

**Councilmembers Present:** Julie Cain, Lisa Harrison, Chuck Sipple, James Azeltine, Jim Rawlings and Andrew Osman [arrived 7:45 P.M.]

**Councilmembers Absent:** Mary Larson and Debra Filla

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Richard Coleman, Comm. Dev. Director	Chris Claxton, Parks & Rec. Director
Nic Sanders, Human Resources Director	Chief Dave Williams, Fire Department
Chief Troy Rettig, Police Department	Ross Kurz, Info. Services Director
David Ley, Public Works Director	Dawn Long, Finance Director
Mark Tepesch, Info. Services Specialist III	Brian Anderson, Parks Superintendent
Dustin Branick, Horticulture Specialist	Marcia Knight, Assistant City Attorney
Mark Klein, Planning Official	Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk	

**Others Present:** Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

**1. PLEDGE OF ALLEGIANCE**

Mayor Dunn stated for the benefit of the students attending, Scouts are invited to lead the Pledge of Allegiance.

**2. APPROVAL OF AGENDA**

Mayor Dunn stated the agenda had been amended to add a proclamation under Agenda Item 4.

**A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0.**

**3. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

Mayor Dunn stated the citizen who had signed in to speak on Agenda Topic 9., Councilmembers' Report, would be called upon when the topic was discussed.

**4. PROCLAMATIONS** **Martin Luther King, Jr., Day, January 21, 2019**

Mayor Dunn read the proclamation. She pointed out the City would be observing the holiday and therefore the next Governing Body meeting would be held Tuesday, January 22, 2019.

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS – None**

**7. CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2018-50, 2018-51 and 2018-52
- B. Accept minutes of the December 17, 2018 Governing Body meeting
- C. Approve payment of \$23,677.38 to the League of Kansas Municipalities for 2019 membership dues
- D. Approve Co-op Bid in the amount of \$275,000.00, from Carter Energy, for the purchase of fuel
- E. **Resolution No. 5107**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$15,718.00, between the City and Lexipol, LLC, for a police policy software product
- F. **Resolution No. 5108**, approving and authorizing the Mayor to execute a Real Estate Agreement by and between the City of Leawood, Kansas and Paul and Barbara Kellerman, and other necessary documents, for the purchase of real estate for \$435,000.00, pertaining to the 143<sup>rd</sup> Street Improvement Project from Windsor Lane to Kenneth Road [Project #80129] [situs address: 3204 W. 143<sup>rd</sup> Street]
- G. **Resolution No. 5109**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$59,195.00, between the City and APEX Envirotech, Inc., pertaining to the 2018 Storage Tank Removal Project, located at 2008 W. 104<sup>th</sup> Street [former Parks & Recreation Maintenance Facility] [Project # 74095-FEMA Flood Project]
- H. **Resolution No. 5110**, approving and authorizing the Mayor to execute an Interlocal Agreement between the City and the Board of County Commissioners of Johnson County, Kansas, pertaining to the Lee Boulevard Improvement Project from 95<sup>th</sup> Street to 103<sup>rd</sup> Street [County Project # 3200001303] [Leawood Project # 72066]
- I. **Resolution No. 5111**, declaring it necessary to appropriate private property for the use of the City of Leawood for the Patrician Woods Stormwater Project, located in Leawood, Johnson County, Kansas, in accordance with K.S.A. § 26-201 [SMAC Project TM-04-006] [Project # 77018]
- J. **Resolution No. 5112**, calling for a Public Hearing to be heard on February 4, 2019, at 7:30 P.M., or as soon thereafter as may be heard to consider the vacation of a Right-of-Way located at 135<sup>th</sup> Street & Kenneth Road within the City of Leawood, Johnson County, Kansas [Requestor: Vic Regnier Builders, Inc.]

- K. **Resolution No. 5113**, approving and authorizing the Mayor to execute a Utility Agreement between the City and Kansas City Power & Light [KCP&L] for the burying of power lines on Mission Road from north of 92<sup>nd</sup> Street to south of Cure of Ars property [Project # 82074]
- L. Declaration of Surplus Property from Ironhorse Golf Course; Fire Dept. Range Serial/FB1030764

Councilmember Sipple requested Consent Agenda Item 7.F. be pulled.  
Councilmember Azeltine requested Consent Agenda Item 7.I. be pulled.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Harrison; seconded by Councilmember Sipple. The motion was approved by a unanimous vote of 5-0.**

- 7.F. **Resolution No. 5108**, approving and authorizing the Mayor to execute a Real Estate Agreement by and between the City of Leawood, Kansas and Paul and Barbara Kellerman, and other necessary documents, for the purchase of real estate for \$435,000.00, pertaining to the 143<sup>rd</sup> Street Improvement Project from Windsor Lane to Kenneth Road [Project #80129] [situs address: 3204 W. 143<sup>rd</sup> Street]

Councilmember Sipple asked about the condemnation process, the status of acquiring all required easements along 143<sup>rd</sup> Street and moving expenses for the Kellermans. Mr. Ley stated work continues on condemnations for two other properties. When those are finished, all easements will be in-hand. Estimated closing and moving expenses for the Kellermans is \$15,000. The City would obtain property so the project, including closing and moving costs, would be capitalized and bonded.

Ms. Bennett confirmed to Councilmember Azeltine that deed and title delivery to the buyer [City] within 60 days of closing was time allowance requested by the title company. The City will pay the Kellermans at closing. The \$10,000 paid by the City and held in escrow will be credited to the City against the purchase price. The deed will be filed in the City's name.

**A motion to approve Consent Agenda Item 7.F. was made by Councilmember Sipple; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 5-0.**

- 7.I. **Resolution No. 5111**, declaring it necessary to appropriate private property for the use of the City of Leawood for the Patrician Woods Stormwater Project, located in Leawood, Johnson County, Kansas, in accordance with K.S.A. § 26-201 [SMAC Project TM-04-006] [Project # 77018]

Councilmember Azeltine, Stormwater Management Committee Chair, stated the project had been reviewed by the committee a year ago last November. Construction is anticipated to begin in May 2019. He asked if the declaration at this time was appropriate, based on construction start date and time required for possible condemnation filings.

Mr. Ley confirmed the timing to Councilmember Azeltine, stating the plan would be to bring condemnation ordinances to the next Governing Body meeting in two weeks. It is not possible to start construction before May 2019 and the project will take about four months.

Ms. Bennett confirmed to Councilmember Azeltine there are several steps in the condemnation process including ordinance approval, publication and court filing.

Mayor Dunn noted the cover memo mentions that Staff will continue to work with property owners to obtain the three remaining storm sewer and temporary construction easements required for the project up to and through the condemnation process. She asked Mr. Ley for his estimate for successful outcome of continued work. Mr. Ley stated discussions of compensation were radically different, about \$100,000.

Mr. Lambers anticipated there would be no chance to come to agreement and the City would condemn because the project is at a critical point; the City needs to move forward. In the past the City would not undertake a project unless all easements were available. The property owners that have not provided required easements are not impacted by flooding. For fair treatment of those who voluntarily provided easements, he recommended volunteers be compensated a similar amount per square foot of the condemnation results.

Mr. Ley gave an example of Mr. Lambers' recommendation. For this project the hired appraiser determined an average value of \$6,900 for the three outstanding property easements. Based on the average cost per square foot and all easements necessary for the project, the total dollar amount that could be paid amongst all volunteers would be about \$29,000. The City pays all costs for condemnation. Mayor Dunn pointed out it had been a longstanding City practice to walk away from projects unless easements were dedicated.

Councilmember Harrison pointed out the opportunity for a teaching moment for the audience. She asked for confirmation of the properties with outstanding easements. Mr. Ley stated storm sewer easements are required for the three properties depicted in red on the map provided in the agenda documentation packet. He stated two easements are in the neighboring Aintree Manor subdivision, with the one at 12640 Catalina being owned by the Aintree Manor Home Owners Association. The third property is located in Patrician Woods subdivision. All flooding is occurring in Patrician Woods.

Councilmember Harrison asked if lack of cooperation is frequently encountered. Mr. Ley stated it can be a challenge to obtain storm water easements from owners whose properties that are not flooding.

Councilmember Osman arrived 7:45 P.M.

Mr. Lambers stated this involves the possibility to hold the City hostage for more money. To expedite future projects, he recommended the City's future policy be to initially approach property owners to see who would dedicate. If the City does not have to condemn for easements, volunteers would receive a share of the costs the City did not incur to condemn. If the City has to condemn for some easements, volunteers would receive additional money based on square footage of easements obtained through condemnation. The result would be property owners who initially dedicate would receive more money. Alternately, City practice could be to just condemn, always be prepared to pay condemnation costs and build condemnation process into the project timeline. He stated review of City process should be done by the Stormwater Management Committee and their recommendation brought back to the Council.

Mr. Lambers stated difficulty obtaining easements had not been anticipated on this project and predicted this will become a regular occurrence in the future. The City would condemn to procure needed easements for this project. It would be up to the Council if they wish to consider paying a portion of condemnation costs to property owners who voluntarily provided easements for this project. Mr. Lambers clarified to Councilmember Azeltine that Overland Park and other cities initially condemn for easements and incorporate the condemnation process timeline into the project. Mr. Lambers stated the City's longstanding policy has run its course. Councilmember Azeltine stated those being impacted by the flooding want the project and have waited over a year.

**A motion to approve Consent Agenda Item 7.I. was made by Councilmember Azeltine; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 6-0.**

## **8. MAYOR'S REPORT**

- A. Happy New Year to one and all!
- B. Acceptance of \$2,005.00 gift donation to Police and Fire Departments from The Cloisters Homes Association

Pleasure to report a letter was received from The Cloisters Homes Association providing a holiday gift in the amount of \$2,005 to be shared equally by the Police and Fire Departments. The gift comes from their residents on a voluntary basis in appreciation for services both rendered and available. An annual gift from The Cloisters Homes Association has been received for many years. The President of The Cloisters Homes Association and author of the gift letter, Robert Arther, has received written thanks from myself, Fire Chief Dave Williams and Police Chief Troy Rettig. Congratulations to Chiefs Williams and Rettig, and to their hard-working teams.

**A motion to accept the gift was made by Councilmember Cain; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0.**

Chief Rettig recalled a gift from The Cloisters has been received annually during his 25 years with the Police Department. Councilmember Sipple stated The Cloisters has raised the bar for other Home Owner Associations [HOA] and this needs to be shared at the upcoming HOA Sustainability Summit and HOA meeting.

- C. Police Chief Troy Rettig joined me at the Corinth D.A.R.E. [Drug Abuse Resistance Education] Graduation. Officer Phil Goff is doing a superb job with the students.
- D. Kansas City, Kansas & Wyandotte County Unified Government Mayor David Alvey hosted the Johnson & Wyandotte Counties Council of Mayors at the Pinnacle KC Training Complex in Kansas City, Kansas. Our guest speaker was Tim Deweese, Director of the Johnson County Mental Health Department, who provided information on the Crisis Intervention Team, Co-responder Program, two-person After Hours Unit, Mental Health First Aid, Juvenile Crisis Intervention Center, 12-week Strengthening Families Sessions and Suicide Prevention Coalition. Mike Taylor, lobbyist for Kansas City, Kansas & Wyandotte County also provided a legislative update regarding expectations for the upcoming session.
- E. Holiday greetings were exchanged between Leawood and our two Sister Cities. I will pass for your viewing the message from newly-elected Gezer Region of Israel Mayor Rotem Yadlin and re-elected I-Lan, Taiwan, Mayor Chiang Tsung-Yuan.

- F. Congratulations to Community Development Director Richard Coleman and his team for the 2018 Landscape Inspection Report. All properties inspected were either in compliance or working diligently on resolutions.
- G. Congratulations also in order on two recent recognitions noted in the January 2019 issue of *435 Kansas City's Magazine*. "The Ice at Park Place" was ranked first of six of the coolest chill-out skating rinks. The hill between City Hall and the Johnson County Leawood Pioneer Library ranked fourth of eleven of the coolest sledding hills. "There are tree hazards at the bottom of this hill, so sledders with intense speed have been known to jump or roll off their sleds. The hill gets bonus points for being next to the library and its restrooms."

## 9. COUNCILMEMBERS' REPORT

*[from the November 8, 2018, Sustainability Advisory Board Committee meeting]*

**Councilmember Sipple-** Recommendation to appoint permanent Tree Committee

Councilmember Sipple, Sustainability Advisory Board Chair, stated the Tree Task Force had discussed the formation of a permanent Tree Committee, which would be a sub-committee of the Sustainability Advisory Board [SAB]. The SAB currently has one sub-committee, Bike-Walk Leawood. The Tree Task Force started in the Fall of 2016, being comprised of concerned and knowledgeable Staff and citizens to collaborate on a response to the Emerald Ash Borer [EAB] tree infestation. An EAB triage program was developed to classify Ash trees as 1) survive if treatment was provided, 2) expected to survive without treatment, and 3) perish regardless of treatment.

Councilmember Sipple stated the Tree Task Force worked with HOAs and residents to fight the EAB, hosting a number of educational meetings and offering expert advice for street trees. The Task Force did not meet in 2017 because of the two flood events which impacted equipment availability and workload of Parks & Recreation staff. The Tree Task Force also participated in changes adopted in the Leawood Development Ordinance regarding size/caliper of new shrubs and trees. Current Tree Task Force members include Councilmember Filla, Parks Superintendent and Certified Arborist Brian Anderson, and Horticulture/Forest Supervisor and Certified Arborist Dustin Branick, and himself.

Councilmember Sipple stated if a permanent Tree Committee, as a sub-committee of the SAB, was approved the committee would organize Arbor Day activities which are required to continue Leawood's Tree City U.S.A. designation, assist with application for Tree City U.S.A. designation, participate in Best Management Practices for selection of street trees, disseminate information to HOAs and residents on new and existing tree ordinances, use of "tree-plotter" software, be a resource on tree issues and encourage excellent landscape plantings through a possible recognition program. The Tree Committee would strive to inspire citizens and Staff to nurture and maintain trees throughout the City. The Tree Committee would not be the "tree police" and would focus on street trees and not those on private property, and also commercial projects.

Councilmember Sipple confirmed to Councilmember Azeltine the draft by-laws were authored by proposed members of the Tree Committee, had been developed in conjunction with the Parks & Recreation Department and reviewed by the City Attorney. Any amendments to the by-laws would be brought forth through the SAB to Council.

Councilmember Azeltine inquired if the committee's Council Liaison would be counted in quorum. Mayor Dunn stated since the proposed permanent committee would be a sub-committee, its Council representative would be a committee member and part of quorum. She would foresee a Councilmember chairing the proposed committee and meeting minutes would be approved by the SAB and brought forth to the Governing Body for acceptance. If the committee is approved, the Tree Task Force would be dissolved. She suggested pages of the by-laws be numbered.

Ms. Bennett stated if the Council approves the concept, by-laws would be reviewed to address concerns and returned to the Governing Body for adoption. Any concerns would be addressed through the SAB to the Governing Body.

Councilmember Cain applauded the proactive proposed committee creation, noting this would be the second SAB sub-committee. She stated some HOAs in the southern part of the City have only Ash street trees and once EAB strikes, these street trees will be wiped out. In general, as trees mature they are considered more valuable. She shared the "tree-plotter" software program was recently used to determine trees had been removed by individuals who did not own the trees. She thanked everyone for their effort.

Mayor Dunn complimented the mission of the proposed sub-committee, especially the focus on inspiration, education and being a resource. She stated the sub-committee would not be the "tree police".

Mr. Thad Carver, 12408 Eaton Street, stated he had served on the Tree Task Force. The arrival of EAB brought to light the need to reconsider tree ordinances and give better thought to management of the urban forest. He thanked Councilmembers Filla and Sipple for keeping Tree Task Force work on track. In addition to ordinances, the Tree Task Force has proposed a permanent Tree Committee be established. A permanent committee can organize the Arbor Day event, which is a requirement to maintain designation as a Tree City U.S.A.; in the past this has fallen by default on the Parks & Recreation Department. The City is blessed that Horticulturist Dustin Branick and Parks Superintendent Brian Anderson have expert skills and particular knowledge. The Parks & Recreation Department will have a representative on the proposed committee. Overland Park, Prairie Village, Fairway and Lawrence, and likely others have tree committees with various mandates and level of authority. The proposed committee will focus on trees between the street and sidewalk, can inform the public on ordinances, can make recommendations for tree protection during tear-down/rebuild projects and will make tree-plotter software the subject of an SAB event. The committee will need to set realistic agendas.

Mayor Dunn asked volunteers Mr. John Ernest and Messrs. Anderson and Branick, as well as any others who had worked on the initiative to stand. Mr. Carver recognized two residents and Johnson County Extension Master Gardeners, Dr. John Kenny and Ms. Debbi Adams, who are interested and would be a valuable addition to the proposed committee. Councilmember Sipple pointed out Mr. Carver is also a Johnson County Extension Master Gardener.

Mayor Dunn asked Mr. Carver to provide any suggested contact information to Mr. Branick. She thanked everyone for their work, including Councilmember Filla who was unable to attend the meeting.

**A motion to form a standing Tree Committee, as a sub-committee of the Sustainability Advisory Board, was made by Councilmember Sipple; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.**

**10. CITY ADMINISTRATOR REPORT – None**

**11. STAFF REPORT – None**

***COMMITTEE RECOMMENDATIONS***

**12. PLANNING COMMISSION**

***[from the November 27, 2018 Planning Commission meeting]***

**Ordinance No. 2920**, approving a Preliminary Plan, Final Plan, Preliminary Plat and Final Plat for State Line North Office Building, located south of 127<sup>th</sup> Street and west of State Line Road. [PC Case 130-18] [ROLL CALL VOTE]

Applicant Mr. Scott Coryell, Architect Bell/Knott & Associates, 12730 State Line Road, stated the Staff Report was thorough and he provided a brief project overview. The building would be located on vacant property on State Line Road, north of the existing State Line Office Building, south of an assisted living facility, and east and west of residential. Site layout would be similar to that of the existing office building, having a southerly entrance. The proposed building would have a peak height of 20 ft. compared to the existing building peak height of 26 ft. Exterior materials would be a brick, stone and cementitious siding. The cementitious siding is a maintenance-free product, having a wood texture, faux-painted to resemble cedar, and has a 20-year warranty. Aluminum windows with a light gray tint and synthetic shake-roof from the City’s approved list of roofing would be used. Various elevations were displayed. Two-thirds of the new building would be occupied by a physical therapist and the remainder would be available for lease. The in-fill site is very small, so a deviation to the north property line was requested. During the two Citizen Interact meetings, Missouri residents to the east stated flooding was a concern. The team reassured the project would utilize Best Management Practices and actually reduce stormwater run-off due to three underground containment basins. The applicant is in agreement with stipulations, with clarifications to Stipulations 2, 14, 17, and 5 and 26.

Mr. Coryell stated for Stipulation 2 regarding utility services, existing poles on the adjacent property to the west have overhead lines that also feed residential homes in the area and these poles will remain. Mr. Coleman stated the poles are not located on the project property and therefore undergrounding is not required, but utility lines that supply the proposed building will be buried in compliance with City code. Mr. Klein stated this is a standard stipulation; the property does not have street frontage or public right-of-way. Councilmember Azeltine suggested language revision to state “any power lines” rather than “all power lines”.

Mr. Coryell stated for Stipulation 14 regarding screening, manufacturer ground-mounted equipment will not be painted. Mr. Klein clarified that utilities mounted on a building must blend in with the building and those that cannot be painted to match must be landscaped to screen.

Mr. Coryell stated for Stipulation 17 regarding visibility of illumination lighting source, LED light fixture sheets have been submitted and are acceptable. The applicant understands that light source cannot be visible. Mr. Klein stated there should not be a “hot spot” seen with the LED lighting. LED fixtures tend to be rather flat.

Mr. Coryell stated for Stipulations 5 and 26 regarding fire truck entrance/access, fire truck would enter from the west and pull/back out to the south side using a dedicated space. Mr. Coleman stated resolution was satisfactory and approved by him administratively. The dedicated pull/back space would be for emergency use only. He has confirmed acceptability with Fire Marshal Gene Hunter; it is not desirable to have trucks back out into State Line Road. Councilmember Sipple asked Chief Williams if this situation occurs elsewhere in the City and resolution acceptable. Chief Williams confirmed the layout was satisfactory and stated he was not aware of other instances, but would check with Fire Marshal Hunter.

Mr. Coleman confirmed to Councilmember Azeltine roof shakes would be used that are similar to those used on the Johnson County Library. Mayor Dunn stated the shakes are “DaVinci 2” type and used throughout the City.

Mr. Coleman confirmed to Councilmember Cain the sidewalk would remain as planned.

**A motion to pass Agenda Item 12. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 6-0.**

Mayor Dunn wished the project success and thanked Mr. Coryell and his team for attending.

### **13. SUSTAINABILITY COMMITTEE**

*[from the November 8, 2018, Sustainability Committee meeting]*

**Ordinance No. 2921C**, amending Chapter 13 Article 4 of the Code of the City of Leawood, Kansas, 2000, entitled, ‘Trees and Shrubs’ and repealing Chapter 13 Article 4 and other sections in conflict herewith [ROLL CALL VOTE]

Mr. Anderson, Parks Superintendent and Sustainability Advisory Board [SAB] Staff Liaison, reviewed highlights of the proposed ordinance amendment regarding street trees in the right-of-way developed that was developed by the Tree Task Force and reviewed by the SAB. The effort of Mr. Thad Carver and Councilmember Sipple is greatly appreciated, as well as the work of the entire Parks & Recreation Department, Messrs. Ley and Coleman, and Ms. Bennett. Their help was invaluable to ensure the ordinance was not the “tree police”.

Mayor Dunn was delighted to see the addition of Section 13-404a, in regard to street trees for new construction only.

Councilmember Cain asked how the amended ordinance would be communicated to the Home Owner Associations [HOA]. Mr. Anderson stated the ordinance would be provided at the upcoming SAB Summit and HOA Meeting, and perhaps could be shared on social media. Ms. Bennett noted the HOA database could be utilized. Councilmember Sipple stated review of ordinances and tree-plotter software demonstration by City Arborists are planned for the SAB Summit and HOA Meeting. Mayor Dunn suggested information could also be provided during the planning process for residential teardowns/rebuilds.

Mr. Coleman confirmed to Councilmember Azeltine, as always, Code Enforcement Courtesy Notices would be issued as appropriate.

Councilmember Osman inquired if the ability for a home owner to appeal, to request a deviation or variance, and the process was provided. He stated hypothetical examples of street tree planting 35 ft. from a corner that would block traffic sight lines or difficulty planting street trees in conjunction with a circular drive on a deep, but not very wide, property. Issues may be encountered, especially with mature trees in north Leawood.

Ms. Bennett stated the ordinance is part of City Code so there would not be, but provisions of the Leawood Development Ordinance could be subject to variance. Per section 13-403 of the proposed ordinance, home owners would be referred to the Public Works Director for review and administrative approval as appropriate. Mr. Ley stated street trees cannot be planted with 35 ft. of an intersection to maintain sight triangle, and any work in a right-of-way requires a permit. Being responsible for public safety, he would work closely with Mr. Coleman and Mr. Anderson in this regard.

Councilmember Harrison requested an explanation of “tree-topping” which has been done by many neighbors in Waterford subdivision, and she expressed concern the ordinance felt somewhat like “tree police”. Mr. Anderson stated tree-topping is the practice of cutting back a tree’s crown, leaving just a few major limbs about 4 inches or greater in diameter. This removes most of the leaves and creates open wounds, which can force weakly-attached sprouts. The sprouts are more likely to be storm-damaged and the trees have health issues from open wounds. Tree-topping is bad for the tree and its appearance. Ms. Bennett pointed out tree-topping of street trees is prohibited by existing ordinance, and the ordinance only applies to street trees.

Councilmember Harrison questioned how the ordinance would apply to “L” cuts made in tree canopies to accommodate power lines. Mr. Anderson stated these cuts are an example of a utility company clearing their easement by legal right. Utility companies typically clear limbs for five to seven years of anticipated growth. The City recommends plantings stay away from utilities and requires power line burial. The proposed ordinance would allow more trees to be planted near underground utilities as it has been determined utility lines are not as impacted by tree roots and lines are generally bored. The prior ordinance required trees to be 5 ft. away from utilities.

Mayor Dunn pointed that Leawood and Leawood Estate HOAs are responsible for street tree maintenance. She questioned if the proposed ordinance would increase the City’s responsibility, wanting to ensure Mr. Anderson was not unknowingly assuming more responsibility. She also questioned if existing right-of-way trees would count as part of the new requirement. Mr. Anderson stated he would not have increased responsibilities for street trees and that existing street trees would be included.

Councilmember Sipple stated the Tree Task Force and SAB had spent many hours on the proposed ordinance. The ordinance would provide great clarification and be presented at the Sustainability Summit and HOA Meeting in February.

**A motion to pass Agenda Item 13. was made by Councilmember Osman; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 6-0.**

**14. PUBLIC WORKS COMMITTEE**

***[from the December 5, 2018, Public Works Committee meeting]***

Assignment: Review Traffic Calming Petition on 97<sup>th</sup> Street between Lee Boulevard and State Line Road

Recommendation: Purchase and install two [2] electronic speed limit signs on 97<sup>th</sup> Street

Councilmember Osman, Public Works Committee Chair, stated the Staff Review memo summarizes history and recommendation, but does not mention this is a second request to review an entire street made after the request for 85<sup>th</sup> Terrace. The Public Works Committee deemed this close enough to take advantage for review/recommendation for a second phase. The committee believes there is an issue and provided residents options including speed tables and speedometers mounted on posted speed-limit signs. The committee recommends estimated \$8,000 purchase and installation of the electronic speed limit signs and to re-evaluate in two-years.

Mayor Dunn noted residents would have been required to pay for other traffic calming devices such as speed tables. Councilmember Osman stated a district of speed tables on 97<sup>th</sup> Street would have cost about \$400,000, so the electronic speed limit signs were considered the most cost-efficient option.

**A motion to approve Agenda Item 14. was made by Councilmember Osman; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0.**

**15. OLD BUSINESS – None**

**16. OTHER BUSINESS – None**

**17. NEW BUSINESS**

- A. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, February 4, 2019 to review proposal, plans, elevation and layout of new Fire Station No. 1 Building, to be located at 96 & Lee Boulevard [not park portion]

Mayor Dunn noted the purpose of the proposed Governing Body Work Session would not include the park portion of the site.

**A motion to schedule the Governing Body Work Session was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0.**

- B. **Ordinance No. 2922C**, amending Sections 2-111 and 2-112 of the Code of the City of Leawood, Kansas, 2000, entitled, ‘Bite and Scratch Procedures’ and ‘Unsecured Animal,’ respectively, and repealing existing Sections 2-111 and 2-112 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Knight stated the impetus for proposed revision was to reduce holding period for strays from seven to five days, and to prepare for the possibility of a new service provider.

Councilmember Cain asked if the new service provider had been identified, if dog-to-dog biting was addressed and if electric fences are prohibited. Ms. Knight stated the City has had discussions with Great Plains SPCA in Merriam, a location which would not be as convenient as the City's current service provider. Dog-to-dog biting would be an animal nuisance, for which recourse is available. Typically this involves a fine, restitution and payment of medical bills. Electric fences are allowed, but must be a minimum of 10 ft. from sidewalk and an adult must be present to command the animal with an electric fence. If an adult is not present, citation would be for unsecured animal.

Councilmember Harrison inquired for the disposition of animals after five days, and if owner fine of \$1,000 for an animal biting or causing harm to a person was similar to the fines of nearby cities. Ms. Knight stated after five days an animal would be adoptable. She was not aware of fine imposed by other cities. The fine for a Class A Misdemeanor could be \$2,500. In the past, the City has usually fined \$100 to \$200. The proposed amendment would allow the City to fine for an egregious case or repeat offender not more than \$1,000.

Councilmember Sipple noted State Line Animal Hospital is a no-kill facility and he inquired if the Great Plains SPCA was also a no-kill facility. Ms. Knight and Chief Rettig confirmed Great Plains SPCA is a no-kill facility. Councilmember Osman pointed out the facility is near IKEA on Johnson Drive. He suggested new service provider information be posted on the City's website and social media accounts. Mayor Dunn stated the facility has an excellent reputation.

**A motion to pass Agenda Item 17.B. was made by Councilmember Osman; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 6-0.**

- C. **Ordinance No. 2923C**, amending Section 15-405 of the Code of the City of Leawood, Kansas, 2000, entitled 'Collection and Disposal of Solid Waste' and repealing existing Section 15-405 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Bennett stated the proposed amendment was mainly for the purpose of clean-up. For many years the City has required a waste-hauler operating in Leawood to offer pick up of recyclables. Johnson County also mandates providers offer customers to contract for yard waste pick up.

Ms. Bennett confirmed to Mayor Dunn that specific months for yard waste pick up would be based on contract terms.

**A motion to pass Agenda Item 17.C. was made by Councilmember Azeltine; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 6-0.**

- D. **Ordinance No. 2924C**, adding a new Chapter 11, Article 10, of the Code of the City of Leawood, Kansas, 2000, pertaining to Alarm Systems, and repealing Chapter 11, Article 3, and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Knight stated the impetus for the proposed ordinance addition was in preparation for a potential move to a third-party vendor for alarm registrations. The existing ordinance had not been reviewed for several years and it was deemed easier to start fresh with a recommendation for a whole new article; no red-line was provided because of numerous revisions. The cover memo authored by Chief Rettig presents main points.

Councilmember Azeltine stated in the future, specific details should be provided in the cover memo about the ordinance sections that were eliminated and retained, if no red-line is provided. A list of changes gives the Council the opportunity to compare original to new. Chief Rettig confirmed to Mayor Dunn there would be no time constraint to continue the item to provide the requested detail at the next Governing Body meeting. The ordinance was planned in preparation for retirement of the current Alarm Coordinator, Jim Cogswell, on April 30, 2019. Councilmember Azeltine did not support continuance at this time.

Councilmember Azeltine asked for the benefit of eliminating annual alarm registration renewals, and if Government entities would be exempt. Chief Rettig stated the benefit of \$10 annual registration renewal was not be cost-effective and confirmed exemptions for facilities such as City Hall. Library and school districts. Ms. Knight stated exemption is part of the current ordinance.

Councilmember Cain supported the ordinance, but questioned how residents would be notified of the ordinance. As a realtor, she had never informed a client and suspected there was a large disparity in the number of alarms in the City and the number of registered alarms. She suggested this might be of interest to HOAs. Ms. Knight stated false alarms have resulted in many registrations and registration provides contact information. Home owners/occupants/businesses are tasked with registration of their alarms that summon law enforcement, including wireless alarm systems without a local presence such as SimpliSafe. Registration of alarm systems that notify only the home owner/occupant/business would not be required. Alarm companies having a presence in the City are required to have an Occupational License.

Ms. Knight confirmed to Councilmember Cain the Alarm Appeal Committee would not be eliminated, but exact handling process for appeals working with a third-party vendor needs to be addressed. At this time, initial appeal is made to City Staff; there have been instances where an alarm was activated due to lightening and no false alarm fee was charged. Chief Rettig confirmed that the City's Alarm School for those having repeated false alarms, would be eliminated.

Councilmember Sipple asked Ms. Knight to work with the SAB within the next 15 days to develop presentation/information that could be presented at the SAB Summit and HOA Meeting in this regard.

**A motion to pass Agenda Item 17.D. was made by Councilmember Cain; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote out 6-0.**

Mayor Dunn thanked Chief Rettig and Ms. Knight for their effort.

## **ADJOURN**

There being no further business, the meeting was adjourned at 9:12 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk