

Minutes

DVD No. 435

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, February 18, 2019. Mayor Peggy Dunn presided.

**Councilmembers Present:** James Azeltine, Julie Cain, Mary Larson, Debra Filla, Lisa Harrison, Chuck Sipple, Jim Rawlings and Andrew Osman

**Councilmembers Absent:** None

**Staff Present:** Scott Lambers, City Administrator  
Patty Bennett, City Attorney  
Chris Claxton, Parks & Recreation Director  
Nic Sanders, Human Resource Director  
Ross Kurz, Information Services Director  
Sergeant Troy Osborn, Police Department  
Mark Tepesch, Info. Services Specialist III  
Dawn Long, Finance Director  
David Ley, Public Works Director  
Chief Troy Rettig, Police Department  
Chief Dave Williams, Fire Department  
April Bishop, Cultural Arts Coordinator  
Debra Harper, City Clerk  
Cindy Jacobus, Assistant City Clerk

**Others Present:** Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce  
Anne Blessing, Arts in Public Places Initiative Chair, Arts Council Committee

1. **PLEDGE OF ALLEGIANCE** – Led by William Morgan, First Class Scout from Troop 522.

2. **APPROVAL OF AGENDA**

**A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

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 confirmed the citizen signed in wished to speak on network transmission services New Business agenda items, and would be called upon when those items were discussed.

4. **PROCLAMATIONS** – None

5. **PRESENTATIONS/RECOGNITIONS** Presentation of AAA Award to Police Department to Recognize Community Traffic Safety Efforts

Police Chief Rettig introduced Mr. Bob Hamilton, Law Enforcement Liaison from the Kansas Department of Transportation.

Mr. Hamilton stated he covers the northeast as one of four Law Enforcement Liaisons with the Kansas Department of Transportation. He was honored to present the Platinum Award, the highest possible, for the sixth consecutive year to the Leawood Police Department. Being retired from law enforcement, he knows what law enforcement goes through on a daily basis. Many officers are being hit by cars or shot in the line of duty. Some people do not realize the situations encountered by law enforcement, thinking they only eat donuts, drink coffee and write tickets. In the recent Chicago shooting, employees were running out of the business while Police were running in. They never know if they will see their family at the end of a shift.

Liaisons work with AAA Insurance to evaluate law enforcement agencies and determine Traffic Safety Award recipients. The Leawood Police Department was recognized for its employee policy of requiring seat belts to be worn, safety helmet and child passenger safety programs, eight-week Citizen Police Academy, supplying instructors to regional training to identify impaired drivers, accident and major crash scene reconstruction, and working with Public Works to install audible crosswalk signals, Americans with Disabilities ramps, two-lane bike trails and two radar speed signs.

Mr. Hamilton thanked the Council for their support of the Police Department and presented the 2018 award to Chief Rettig, which was followed by a round of applause. Mayor Dunn thanked Mr. Hamilton for his attendance, noting during his presentation last year there had been horrific storms and expressing gladness the Council meeting was not meeting tomorrow night due to snow and ice forecast. She stated the Council and citizens know the value, quality and how hard the Police work. Chief Rettig agreed with Mayor Dunn and introduced Traffic Unit Sgt. Troy Osborn, who was in charge of the application and did an excellent job. Chief Rettig recognized the application assistance provided by the Fire, Public Works and Parks & Recreation Departments, as well as the Council for supporting procurement of equipment such as the radar trailers. Mayor Dunn thanked Chief Rettig for sharing compliments with other departments.

6. **SPECIAL BUSINESS**

- A. **Resolution No. 5125**, reaffirming the City Administrator’s decision to authorize an Amended Independent Contractor Agreement between the City and Van Booven Tree Care, for an amount not to exceed \$30,000.00, for storm debris removal, related to the January, 2019, winter snow storm [Project # 74102]

Mr. Ley estimated clean-up was about 25% complete and he displayed a map, current through last week, depicting complete streets in green and areas in progress in red. Pick-up continued today, but because of snow events, in four weeks there had only been 11 days of pick-up. It is hoped all pick-up will be complete in six weeks if weather cooperates. The addition of a fourth truck is hoped for later this week or early next week, and that truck would start at 135th Street and move north. Most debris is north of 135<sup>th</sup> Street. Mayor Dunn stated the reasons for delay are understandable and this is a wonderful service offering for residents.

Councilmember Azeltine stated other First Class cities are not providing debris pick-up and Leawood had underestimated the scope of the work. Mr. Lambers stated he was responsible for the estimate. Councilmember Azeltine stated he hoped lessons were learned.

Mr. Ley confirmed to Councilmember Harrison the total cost for both contractors was \$60,000, \$30,000 each.

Councilmember Cain pointed out that Olathe and Prairie Village, both First Class Cities, had provided curb debris pick-up, while Overland Park had drop-off locations only. She asked if the City had considered drop-off locations for residents with a small amount of debris, and if debris was being removed from Home Owners Association [HOA] property. Mr. Ley stated drop-off had been discussed with Parks & Recreation, but no large parking lot were available. Having both pick-up and drop-off might be an option in the future. At this time, if debris is located on HOA property adjacent to residential, the City will pick-up. There is no pick-up from commercial property. Mr. Lambers stated with drop-off sites, there is no control over the type of debris and its origin. For example, if Overland Park does not pick-up, Leawood drop-off sites may see an increase in out-of-city contributions.

Mr. Ley confirmed to Councilmember Azeltine the map is updated every few days.

**A motion to approve Agenda Item 6.A. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- B. **Resolution No. 5126**, reaffirming the City Administrator's decision to authorize an Amended Independent Contractor Agreement between the City and Arbor Masters Tree & Landscape, for an amount not to exceed \$30,000.00, for storm debris removal, related to the January, 2019, winter snow storm [Project # 74102]

**A motion to approve Agenda Item 6.B. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- B. **Ordinance No. 2926C**, amending § 1-203 of the Code of the City of Leawood, Kansas, 2000, entitled, 'Meetings; Special Meetings' and repealing existing § 1-203 and other sections in conflict herewith [ROLL CALL VOTE]

Mr. Lambers reminded recommendation for revision of meeting start time had been brought forth at the February 4, 2019 Governing Body meeting by Councilmember Rawlings. Per discussion that night there was support to provide flexibility in start time from 7:30 P.M. to 7:00 P.M. on meeting nights when there is no Work Session. A plan to disseminate meeting start times is provided. Hopefully, this will work and be beneficial. If not, meeting start time can revert back.

Councilmember Azeltine stated he had not been present at the February 4, 2019 Governing Body meeting, but as documented in the meeting minutes his comment about the potential for start time confusion had been shared at the meeting by Mayor Dunn. He stated last year about 33% of Council meetings were preceded by a Work Session, in 2016 about 50%, in 2015 slightly more than 50% and in 2014 about 79%. He appreciates the intent which may get attendees home 30 minutes earlier, but questioned if any other cities and organizations had variable meeting start times, and if doing so would hamper public engagement. We want participation in City government. He would be agreeable to an earlier start time for Work Sessions, but understands this would not be an option for the Mayor. The City's website has a list of all meeting dates and this will need to change based on circumstances. He supports being consistent, whether starting at 7:00 P.M. or 7:30 P.M.

**A motion to approve Agenda Item 6.C. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a roll call vote of 7-1; Nay vote from Councilmember Azeltine for reasons stated.**

Mayor Dunn pointed out the effective date would be May 1 and the next Work Session would be in August, based on current schedule. Mr. Lambers pointed out further discussion of 96<sup>th</sup> and Lee Boulevard redevelopment may be on the horizon, but a Work Session on that topic is not scheduled at this time.

## **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. 2019-5 and 2019-6
- B. Accept minutes of the February 4, 2019 Governing Body meeting
- C. Accept minutes of the February 4, 2019 Governing Body Work Session
- D. Accept minutes of the November 28, 2018 Stormwater Management Committee meeting
- E. Accept minutes of the January 7, 2019 I-Lan Sister City Committee minutes
- F. Approve Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards [Effective March 1, 2019]
- G. Approve renewal of Retail Liquor Store License to Lancaster Liquor, located at 3731 W. 133<sup>rd</sup> Street
- H. Approve purchase in the amount of \$37,507.40, from Ka-Comm, for ten [10] police mobile radios
- I. Approve purchase in the amount of \$13,300.00 from Commercial Turf & Tractor for a Stec dump trailer for the Ironhorse Golf Course
- J. Approve purchase in the amount of \$178,953.75 from Professional Turf Products for [2] 2019 Toro riding greens mowers; [1] 2019 Toro HD Workman Truck with edger attachment; [1] 2019 Toro 3100 Surrounds Mower; and [1] 2019 1750 Greens Sprayer for Ironhorse Golf Course
- K. Approve Purchase Order in the amount of \$325,000.00, to Black & McDonald, pertaining to the 2019 Street Light and Traffic Signal Maintenance
- L. **Resolution No. 5127**, approving and authorizing the Mayor to execute a Cooperative Agreement in the amount of \$13,500.00, between the City and Mid-America Regional Council [MARC] for funding operations of Operation Green Light Traffic Control System for a 2-year term

- M. **Resolution No. 5128**, accepting a Permanent Storm Sewer Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]
- N. **Resolution No. 5129**, accepting a Temporary Construction Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]
- O. **Resolution No. 5130**, approving a Revised Landscape Plan for Market Square, located south of 133<sup>rd</sup> Street and east of Mission Road. (PC 88-18) [*from the January 29, 2019 Planning Commission meeting*]
- P. Declaration of Surplus Property, 2010 Ford Explorer, last 4 VIN/5681, Asset # 1483; Unit # 406
- Q. Police Department Monthly Report
- R. Fire Department Monthly Report
- S. Municipal Court Monthly Report

Mayor Dunn requested Consent Agenda Item 7.F. be pulled.

Councilmember Cain requested Consent Agenda Items 7.M. and 7.N. be pulled.

Councilmember Sipple requested Consent Agenda Items 7.M. and 7.Q. be pulled

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Larson; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

- 7.F. Approve Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards [Effective March 1, 2019]

Mayor Dunn asked any volunteer appointees to stand for recognition, noting Arts Council Chair-Elect Anne Blessing was present and a fine example of dedicated volunteers. Mayor Dunn also recognized all Councilmembers, each having four committee appointments as either a liaison or committee member. She expressed deep appreciation and thanks to all volunteers, including former members. Appointments are effective March 1.

**A motion to approve Consent Agenda Item 7.F. was made by Councilmember Cain; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- 7.M. **Resolution No. 5128**, accepting a Permanent Storm Sewer Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]

Councilmember Sipple recalled at prior meetings there were one or two additional neighbors in the area who had not provided easements required for the project, and he asked for a status update. Mr. Ley stated discussions with Aintree Manor has been ongoing for one and one-half years; they do not want the project through the HOA tract. As a result of discussions between the City and our engineer, the project construction limits have been pulled back slightly so easement through the HOA tract is no longer needed. One residential easement through condemnation is still needed. Construction is planned to start in May and the outstanding easement is needed for work to be done in the last phase, about two months after the project starts.

Councilmember Cain asked for clarification of the revised construction limits. She questioned if the property owners listed in Consent Agenda Items 7.M. and 7.N. would receive compensation while property owners who had dedicated easements would not.

Mr. Ley stated the revised construction limits will have the box culvert tied off before rather than cross HOA property, a decrease of about 160 ft. of box culvert. Water will come out of the channel and pool as it currently does. Engineers are comfortable with the revised design and functionality. Mr. Ley stated payment would be made to the property owners as stated in Agenda Items M. and N. He reminded a plan for easement reimbursement to volunteers based on cost per square foot had been described at a recent Council meeting. Mr. Lambers stated he recommended use of the plan for this project and would bring this to the Governing Body at a future meeting. Mayor Dunn stated the Council had been provided a rough estimate of \$30,000 total anticipated reimbursement, but had not voted on approval. Mr. Ley stated another Staff recommendation based on square footage to be paid in reimbursements from the 1/8 Cent Sales Tax for this project would be brought to the Council.

**A motion to approve Consent Agenda Item 7.M. was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

- 7.N. **Resolution No. 5129**, accepting a Temporary Construction Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]

**A motion to approve Consent Agenda Item 7.N. was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

## 7.Q. Police Department Monthly Report

Councilmember Sipple asked for background on the growing number of “Thefts from Vehicles” [16] and “Criminal Damage to Property/Vandalism” [9] in January. Chief Rettig stated a new group of organized criminals move in to fill the void after a group moves on or is apprehended. In one incident, a window was broken, but the rest were from unlocked vehicles all having keys inside. Leawood is not alone. Other Johnson County cities, and in both Kansas and Missouri overall, are experiencing a large increase in these thefts which fluctuate month-to-month. Vandalism to vehicles and residences does not fluctuate as much, but the City was hit hard in January.

Mayor Dunn asked if the Police Department posts items on NextDoor social app. Chief Rettig stated the department is trying to get creative with a slogan to re-emphasize goals and educate residents. Councilmember Larson stated the Lawrence Police Department Twitter feed is very clever. Chief Rettig agreed, stating the Twitter feed of the Lawrence Police Department is nationally known and colorful, garnering a lot of attention. Mayor Dunn pointed out imitation is the sincerest form of flattery and suggested he speak with Ms. Bennett. She expressed appreciation for Chief Rettig’s efforts. Mr. Lambers stated it does not make sense to leave vehicles unlocked with keys inside.

**A motion to approve Consent Agenda Item 7.Q. was made by Councilmember Sipple; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

## 8. MAYOR’S REPORT

- A. Many thanks to our Public Works crews for their exceptional efforts during our ongoing snow and ice events this winter.
- B. My thanks to Councilmember Chuck Sipple for standing in for me with photos of new Leawood Chamber members at their luncheon event when I was out of town.
- C. Reminder that the Sustainability Advisory Board will be hosting the annual Home Owners Association Sustainability Summit on Thursday, February 21, beginning at 5:00 P.M. at the Ironwoods Lodge.

Councilmember Sipple stated 90 attendees have registered for the Sustainability Summit, not including Council and City Staff. Weather permitting, about 100 attendees are anticipated.

## 9. COUNCILMEMBERS’ REPORT – None

## 10. CITY ADMINISTRATOR REPORT – None

## 11. STAFF REPORT – None

## **COMMITTEE RECOMMENDATIONS**

### **12. STORMWATER MANAGEMENT COMMITTEE**

*[from the January 30, 2019 Stormwater Management Committee]*

Recommendation of George Butler Associates, Inc., [GBA] for Design Consultant for Phase II of Waterford Subdivision Stormwater Project, SMAC Project # TM-04-007, [Project # 77017]; and Lamp Rynearson for Design Consultant for the 2020 CMP Replacement Project

Councilmember Azeltine, Stormwater Management Committee Chair, stated the committee met on January 30, 2019 to review proposals from five design firms for the second phase of the Waterford Stormwater Project. Public Works has a good system for grading/ranking and there was consensus to recommend George Butler for the Waterford project design. Lamp Rynearson was ranked second and the committee recommends this consultant for the 2020 Corrugated Metal Pipe [CMP] replacement project design.

**A motion to award project design of the Phase II Waterford Stormwater Project to George Butler Associates, Inc., was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

**A motion to award project design of the 2020 Corrugated Metal Pipe replacement program to Lamp Rynearson was made by Councilmember Azeltine; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

Mayor Dunn stated contracts would be brought forth at a future Governing Body meeting.

### **13. LEAWOOD ARTS COUNCIL/ART IN PUBLIC PLACES INITIATIVE [APPI]**

*[from the January 22, 2019 Art in Public Places Initiative [APPI]*

- A. Recommendation to Accept gift of Public Art Sculpture, entitled, 'Women of the World,' from 11350 Property, LLC, by local Artist, Kwan Wu

Ms. Bishop stated the piece was one the City had hoped to own a long time ago and the building owner was unwilling to deed the piece to the City. The piece has fallen into disrepair and the new owner of the building is anxious to deed the piece to the City.

Councilmember Larson stated she had loved the piece and enjoyed viewing it over the years. She would be happy the piece would be part of the City's collection. Mayor Dunn stated she had met the artist, and he is also glad. Ms. Bishop stated other artwork commission had been discussed with the artist, who is currently in China.

Councilmember Harrison suggested the piece remain at its current location, as part of the Tomahawk Creek Parkway Sculpture Garden. People look for the piece as they come around the bend of the road.

Councilmember Harrison questioned if restoration fees would come from the same fund used for art purchases. Ms. Bishop stated fees for this piece would be somewhat different. When a piece is acquired, 10% is placed into a maintenance fund covering all City art pieces. All City art pieces are maintained annually. This piece has never been maintained and will need to be restored, taking more than an annual maintenance fee. With donation of the art piece, the Art in Public Places Initiative will pay themselves the 10% based on the value of the piece for a maintenance program.

Councilmember Sipple stated he would like the piece placed in a more visible location, perhaps in the middle or on the trail-side of Tomahawk Creek Parkway, out of the trees. He asked if other locations had been considered. Ms. Bishop stated other locations considered were the front circle of the Justice Center and the grid outside the north doors behind the Mayor's office in City Hall. Landscaping at the current location is a problem as it needs to be cut-back and that may belong to the building.

Councilmember Sipple stated agreement with Ms. Bishop in regard to other locations she described. Mayor Dunn noted the piece has a great deal of symbolism. Councilmember Cain stated the piece should be viewed and enjoyed close-up and since the piece will need to be removed for restoration, this would go hand-in-hand with installation at a new location.

**A motion to approve Agenda Item 13.A. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- 13.B. Recommendation of sculpture refabrication by Cox Air Systems, for an amount not to exceed \$17,500.00, for sculpture, 'The Sentinel,' by artist Tex Jernigan, currently located at Leawood City Hall, 4800 Town Center Drive

Mayor Dunn pointed out the piece is located in the median in front of City Hall. Mr. Bishop stated the piece was constructed when the artist was a student at the Kansas City Art Institute and the best quality materials were not used due to affordability. The piece is rusting at the joints and requires refabrication. Cost estimates from bidding companies were quite varied and the lowest bid to refabricate with improved materials was from Cox Air Systems. Mayor Dunn asked if a youth hanging from the rods would ruin the piece. Mr. Bishop stated stainless steel would be used and would not rust, but the piece is fragile and not intended for play.

Ms. Bishop confirmed to Councilmember Harrison the piece would be completely remade, not just recoated. The base of black legs may be refinished/recoated, but all of the mild steel arms would be brand new made from a stainless steel.

Councilmember Harrison asked if the City had remade other art pieces. Ms. Bishop stated the City had not, but had repaired and refinished pieces. Mayor Dunn pointed out the piece began as an art-on-loan piece before City purchased.

Ms. Bishop confirmed to Councilmember Cain the piece was on loan for about one and one-half years, installed in 2008. The piece stood for 12 years without damage and it might not have sustained damage if constructed of better materials. Councilmember Cain pointed out the piece was damaged when there was a children's Pokémon game figure appearing near its location.

Councilmember Harrison stated the City should be good stewards of public money and acquire art pieces of the highest caliber materials to avoid such costs. Ms. Bishop stated the initial purchase price of the piece from a student was miniscule compared to the purchase price of a piece from a renowned artist.

Mr. Lambers questioned if the piece should be relocated since it will be remade, and have vegetation barriers that might prohibit access. He stated that Tomahawk Creek Parkway has enough stainless steel. Ms. Bishop stated a highly visible location on the parkway would increase the possibility of access/damage. She stated the City's Horticulture/Forest Supervisor, Dustin Branick, wants to re-landscape the median. Mayor Dunn stated the piece is a well-loved focal point, and was amazing to view the perfect starburst of rods when entering the location before damage. She stated Mr. Lambers' point was valid and Arts in Public Places Initiative should discuss ideas and bring forth to Council.

**A motion to recommend \$17,500 for re-fabrication by Cox Air Systems, with discussion to follow on possible relocation was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

Councilmember Sipple offered the possibility of exchanging the locations of the "Women of the World" and "The Sentinel" art pieces.

[from the November 27, 2018 Art in Public Places Initiative [APPI]

- 13.C. Recommendation to Accept gift of Public Art Sculpture, entitled, 'Inspiration,' from Leawood Resident, William Walker, by Leawood Artist, Rita Blitt; to be located on SE corner of College Boulevard & Tomahawk Creek Parkway

Ms. Bishop displayed a photograph of the piece as it exists today. The piece had been installed at the former Hillcrest Bank, at Hillcrest and Bannister Roads since the late 1980s. Bannister Mall is closed, the bank may not remain and the overall area is now blighted. The piece has not been maintained in a long time. It is an outstanding piece and if someone wanted to save, now is the time. There is rust at the joints and the piece needs to be resurfaced. The piece would be installed at the north end of the sculpture garden on the southeast corner of College Boulevard and Tomahawk Creek Parkway. The artist's favorite color is yellow, so the piece would be repainted to bright yellow which will stand out in the corner location. Ms. Bishop displayed a rendering of the proposed repainted piece.

Councilmember Larson stated she loved the piece, but was uncomfortable with the bright yellow. She asked if other colors had been considered. Ms. Bishop stated the proposed location is set-back from the road intersection and the bright yellow would help its visibility.

Councilmember Filla pointed out the proposed location with trees would not result in a lovely shadow on a backdrop of glass as shown in the photograph of the piece at its current location. She pointed out the good investment to refurbish the gifted piece for \$42,000 and after restoration the piece would appraise at \$70,000. Mayor Dunn pointed out installation would be a separate cost. Ms. Bishop stated the artist has offered to pay the 10% fee for maintenance, so the piece could be maintained into the future.

Councilmember Cain shared there is a stunning Blitt light piece at the University of Missouri-Kansas City campus that is a yellow the artist prefers. Selecting yellow was not a random choice, but based on like of a primary color, proposed location and the 39 ft. height of the piece.

Mayor Dunn stated appreciation for the generous gift by a well-known Leawood resident, and she thanked Ms. Bishop and Ms. Blessing.

**A motion to approve Agenda Item 13.C. was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

14. **PLANNING COMMISSION** – None

15. **OLD BUSINESS** – None

16. **OTHER BUSINESS** – None

17. **NEW BUSINESS**

- A. **Ordinance No. 2927C**, granting to MCIMetro Access Transmission Services, Corp., d/b/a Verizon Access Transmission Services, a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2879C [ROLL CALL VOTE]

Ms. Melody Allen, Verizon, 10740 Nall, Overland Park, who had signed in to address the Council, deferred to her colleague Mr. Menjash. Dedas. Mr. Dedas stated he worked with wire lines and fiber optics, while Ms. Allen worked with wireless. He stated Verizon received a franchise from the City about one year ago and one of their attorneys noticed there was a difference between the franchise agreement and Kansas State law. He stated agreements with Overland Park, Merriam and Leawood are all similar and contained the same language. Leawood's Assistant City Attorney Andrew Hall worked with Overland Park's Senior Assistant City Attorney Steve Horner, as this is Mr. Horner's area of expertise. Mr. Horner agreed with the deletion regarding gross receipts.

Ms. Bennett stated the City language was not verbatim with State statute and agreed to remove Item 7 in "Gross Receipts" definition. Mayor Dunn stated the deletion is marked in the red-lined draft ordinance, Page 2.

**A motion to pass Agenda Item 17.A. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.**

- 17.B. **Ordinance No. 2928C**, granting to Verizon Wireless [VAW] LLC, a Delaware Limited Liability Company d/b/a Verizon Wireless, a contract franchise to construct, operate and maintain wireless facilities as a wireless service provider in the public right-of-way of the City of Leawood, Kansas [ROLL CALL VOTE]

Ms. Melody Allen stated she had worked with Assistant City Attorney Andrew Hall and City Attorney Ms. Bennett on the attachment and franchise agreements for network equipment in the right-of-way. Verizon used to increase macro-network capacity with towers and monopoles. Verizon will now attach network equipment, antennae and radios, to Leawood or Kansas City Power & Light poles, or perhaps install on Verizon poles, in the right-of-way. Verizon prefers to attach to poles. It is imperative to have capacity due to the increase in the number of wireless devices and emergency service needs, and to prepare the City for additional future SMART City items, auto-cars and tele-medicine. Verizon has announced 5G is coming and the agreements will lay the foundation to support more capacity and capability. The agreements have been signed by Verizon.

Ms. Bennett stated these two agreements are similar but different from Mobility and ExteNet agreements. Mobility and ExteNet both lease tower space, but Verizon is a direct provider so it is impossible to calculate gross receipts. Verizon has agreed to pay \$25 per installation per year as a flat franchise fee. There has been some federal regulatory changes, subject to challenge, that limits what a city can charge for attachment, as detailed in Agenda Item 17.C. Verizon has also agreed to pay \$270 per attachment per year.

Ms. Allen confirmed to Councilmember Filla the City would be paid \$270 per attachment per year and \$25 per pole per year for a franchise fee.

Councilmember Sipple stated wireless users have a poor amount of service bars in south Leawood neighborhoods, and he asked if Verizon planned antennae installations in 2019 or 2020. Ms. Allen stated these agreements establish a relationship between the City and Verizon. She can be contacted direct with capacity concerns which engineers will investigate the need. Verizon would not do any work without submitting plans and City approval. To address needs with 96<sup>th</sup> and Lee Boulevard tower lease expiration in July, there will definitely be some small cell equipment installations in 2019.

**A motion to pass Agenda Item 17.B. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.**

17.C. **Resolution No. 5131**, approving and authorizing the Mayor to execute a Master License Agreement between the City and Verizon Wireless, LLC [VAW] for attachments to City facilities

Councilmember Azeltine questioned if per pole charges had been higher than the current federal restriction of \$270. Ms. Bennett stated Mobility and ExteNet fees were \$540 per year. Mr. Lambers stated there were cities that were charging thousands of dollars, which led to federal action, but they are now subject to revision.

**A motion to pass Agenda Item 17.C. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

17.D. Schedule a Joint Meeting with Governing Body / Planning Commission / Leawood Chamber of Commerce Executive Board & Executive Economic Development Council on Tuesday, April 9, 2019 at 6:00 P.M., regarding Discussion on Future Housing Options for the City of Leawood

Mr. Kevin Jeffries, Leawood Chamber of Commerce, confirmed to Mayor Dunn that Mr. Lambers would facilitate the proposed meeting. Mayor Dunn pointed out the date is a Tuesday night, which is typical of a Planning Commission meeting, and the meeting would be at held at Vista 154.

Councilmember Azeltine asked if the meeting was requested by the Chamber Economic Development Council or City. Mr. Lambers stated it was agreed by both after Councilmembers Rawlings and Sipple, Mr. Jeffries and he visited a Lee's Summit retro subdivision that consists of narrow-footprint houses, detached garages and alleyways. The project is an interesting alternative, but may not be suitable for all home owners. Overland Park has developed their vision "Forward OP", and at the top of their list is single-family housing to attract a variety of income levels. Leawood needs to discuss other atypical single-family housing options, and the meeting would be an opportunity for Council and Planning Commission interaction.

**A motion to pass Agenda Item 17.D. was made by Councilmember Cain; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- 17.E. Executive Session immediately following Regular Council Meeting to consult with attorney regarding matters subject to the attorney-client privilege; discuss matters relating to possible acquisition of real property

**A motion that the Governing Body recess into executive session for 20 minutes to discuss the possible acquisition of real property pursuant to the preliminary discussion of the acquisition of real property exception under K.S.A. 75-4319(b)(6), with the open meeting to resume at 9:10 P.M. in the Main Conference Room, was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

The Governing Body reconvened into open meeting at 9:10 P.M.

#### **ADJOURN**

There being no further business, the meeting was adjourned at 9:10 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk