

Minutes

DVD No. 448

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, September 16, 2019. Mayor Peggy Dunn presided.

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

**Councilmembers Absent:** Chuck Sipple

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
David Ley, Public Works Director	Chief Troy Rettig, Police Department
Chris Claxton, Parks & Recreation Director	Dawn Long, Finance Director
Mike Pelger, Info. Services Specialist II	Ross Kurz, Info. Services Director
Nic Sanders, Human Resources Director	Chief Dave Williams, Fire Department
April Bishop, Cultural Arts Coordinator	Brian Anderson, Parks Superintendent
Deputy Chief Jarrett Hawley, Fire Dept.	Marcia Knight, Asst. City Attorney
Deputy Chief Colin Fitzgerald, Fire Dept.	Mark Klein, Planning Official
Richard Coleman, Community Dev. Director	Cindy Jacobus, Asst. 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**
2. **APPROVAL OF AGENDA**

Mayor Dunn noted additional documentation had been provided for Agenda Item 12.

**A motion to approve the agenda was made by Councilmember Harrison; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 7-0.**

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 citizens who had signed in to speak on Agenda Item 13. would address the Governing Body when the item was reached on the agenda.

Mr. William Copeland, 8901 Mohawk Road, stated the City is replacing Mohawk Road in his area. He first became aware of the project only after receiving a letter stating the City wanted to replace more of his driveway past the easement, which he refused as there is a metal sensor and water pipe under his driveway. A neighbor alerted him when workers were cutting into his driveway. Both the contractor and City Inspector on site were advised they had no permission to do so. A large portion of the driveway was removed and chunks of concrete fell into the open hole and bent the water pipe. He was told he was on his own in this regard by Mr. Tom Klotz of the City's Public Works Department. He was without water for two days, which made caring for a handicapped family member difficult.

Mr. Klotz agreed rebar would be put back in, but this was not communicated to the contractor. After this contractor miscommunication, rebar was added and raised so it would be in the middle of the concrete thickness and a centered metal sensor added. None of the workers spoke English and he does not speak Spanish, so he could not get them to stop.

Finally, the new curb installed was not allowed to properly cure and was crushed by pull-in of a vehicle. He asked if the City could replace the damaged curb, and Mr. Klotz stated he thought there were 12 others broken on the street and these could be filled with asphalt. Further damage to the curb occurs as more cars drive on it, and it is doubtful an asphalt repair will work. Mr. Copeland stated he had spoken with Councilmember Osman regarding this situation. Mr. Copeland stated he did not know where to go with this and he was at the City's mercy.

Mayor Dunn thanked Mr. Copeland, stating his remarks were on the record, and Public Works Director Mr. Ley was present and likely to review the situation as soon as possible. She was sorry for Mr. Copeland's inconvenience.

#### **4. PROCLAMATIONS**

**Constitution Week, September 17-23, 2019**

Mayor Dunn read the proclamation into the record. The proclamation has been mailed to the requestor.

#### **5. PRESENTATIONS/RECOGNITIONS**

**Kansas Department of Commerce Award presented by Leawood Chamber President/CEO Kevin Jeffries to recipient PARS Consulting/PARS Bioscience for Contributions to Economic Development, Community Service and Leadership in Kansas**

Mr. Kevin Jeffries thanked Mayor Dunn and the Council, and he asked award recipient Dr. Rafie Hamidpour, President of PARS Consulting/PARS Bioscience, to come forward. Mr. Jeffries stated he was pleased to present the Regional Business Appreciation Month award to Leawood-based business PARS Consulting/Pars Bioscience. A Kansas Department of Commerce panel selects businesses to receive the regional award to recognize excellence in job creation, new area science and out-of-state business generation.

The PARS family of companies was established in Kansas in 1996 and now has offices in Kansas, California, Washington DC, and Missouri. In 2009, they built their headquarters in Leawood in the business park located near 141<sup>st</sup> Street and Kenneth Road. Dr. Hamidpour and his family have lived in Leawood since 2004.

PARS Bioscience conducts pharmacological research and is dedicated to developing herb-based formulations to treat a variety of diseases. Their products do not contain synthesized medicines and all promote healthy living. They have developed 50 products and currently several are moving towards market introduction to treat a variety of conditions such as irritable bowel syndrome, weight loss and liver disease.

Mr. Jeffries stated Dr. Hamidpour shared with him that he enjoys learning; this is certainly evident in the number of patents he holds and his wide variety of business pursuits. Mr. Jeffries stated it was a pleasure to present Dr. Hamidpour the award on behalf of the Kansas Department of Commerce and the Leawood Chamber of Commerce Economic Development Council.

Meeting attendees offered a round of applause.

Dr. Hamidpour thanked the Governing Body and Mr. Jeffries. He stated he came to the United States over 30 years ago and being here has been good for him. He introduced his family in attendance. His wife is physician and daughter a third-year medical student at the University of Missouri-Kansas City.

Mayor Dunn thanked attendees and Mr. Jeffries for the presentation.

**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. 2019-35 and 2019-36
- B. Accept minutes of the September 3, 2019 Governing Body meeting
- C. Accept minutes of the August 12, 2019 Governing Body meeting
- D. Accept minutes of the August 7, 2019 Public Works Committee meeting
- E. Accept minutes of the July 31, 2019 Stormwater Management Committee meeting
- F. Accept minutes of the July 9, 2019 Parks and Recreation Advisory Board meeting
- G. Accept minutes of the June 5, 2019 I-Lan Sister City Committee meeting
- H. Accept minutes of the June 4, 2019 Leawood Foundation meeting
- I. Approve 2021 Budget Calendar
- J. Approve purchase in the amount of \$22,681.10, from Zoll Medical Corporation, for purchase of fifteen [15] Zoll AED Plus Units with associated equipment for the Fire Department
- K. Approve MACPP co-op bid in the amount of \$158,452.00, from Shawnee Mission Ford for the purchase of [4] Ford Interceptor Explorers for the Police Department [\$39,613/ea.]
- L. Request to approve Kansas Department of Transportation-Bureau of Local Projects ‘Project Programming Request’ for the 2022 Program Year, Funding Program STP [Surface Transportation Program] for Mission Road Improvement Project from 133<sup>rd</sup> Street to 143<sup>rd</sup> Street [Project # 80175]
- M. **Resolution No. 5248**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$27,090.89, between the City and Blue Valley Public Safety, Inc., for the purchase and installation of electro-mechanical rotating siren, system optimization and activation of storm siren unit located at 3800 College Boulevard

- N. **Resolution No. 5249**, approving and authorizing the Mayor to execute an Engineering Agreement in the amount of \$248,900.00, between the City and BHC Rhodes, for the design of Lee Boulevard between 83<sup>rd</sup> Street and 95<sup>th</sup> Street [Phase II] [Project # 72054]
- O. **Resolution No. 5250**, approving and authorizing the Mayor to execute Amendment No. 4 to that certain Professional Service Agreement between the City and McClure Engineering Company, f/k/a Shafer, Kline & Warren, Inc., dated April 3, 2017, and as amended on May 7, 2018, in the amount of \$58,695.00, pertaining to the Leawood South Stormwater Project, SMAC # TM-04-008 [Project # 80255]
- P. **Resolution No. 5251**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$344,879.38, between the City and Kissick Construction Co., Inc., pertaining to the City Park Pond Restoration Project, located at 10601 Lee Boulevard, [Project # 74095]
- Q. **Resolution No. 5252**, approving and authorizing the Mayor to execute a Professional Engineering Agreement in the amount of \$84,000.00, between the City and Continental Consulting Engineers, for the design of the Trail Extension between Roe Avenue and Tomahawk Creek Trail [Project # 71028]
- R. **Resolution No. 5253**, approving a Revised Final Plat for Stone Ledge Lots 1-3 Replat, located north of 154<sup>th</sup> Street and east of Nall Avenue. (PC Case 75-19) *[from the August 27, 2019 Planning Commission meeting]*
- S. **Resolution No. 5254**, approving a Revised Final Plan for Hallbrook East Village – Fences and Walls, located south of 112<sup>th</sup> Terrace and west of State Line Road. (PC Case 84-19) *[from the August 27, 2019 Planning Commission meeting]*
- T. **Resolution No. 5255**, approving a Final Plan for Edgewood Subdivision – Private Art, located north of Town Center Drive and west of Roe Avenue. (PC Case 90-19) *[from the August 27, 2019 Planning Commission meeting]*
- U. Declaration of Surplus Property: 2013 Ford Interceptor, last 4 VIN/4625; Unit # 9112, Asset # 01698: 2009 Chevy Silverado Truck, last 4 VIN/3198; Unit # 9404, Asset # 01426: Tack Distributor w/Honda motor last 4 SER/0002: 2007 Brother Fax Machine 2920: 2004 Ricoh Aficio Copy Machine 2018D: [2] metal 4-drawer file cabinets: [1] cart caddy SER/8764-001
- V. Police Department Monthly Report
- W. Fire Department Monthly Report
- X. Municipal Court Monthly Report

Councilmember Osman requested Consent Agenda Item 7.P. be pulled.

Councilmember Harrison requested Consent Agenda Item 7.T. be pulled.

Councilmember Larson requested Consent Agenda Item 7.V. be pulled.

Mayor Dunn requested Consent Agenda Item 7.W. be pulled for comment.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 7-0.**

- 7.P. **Resolution No. 5251**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$344,879.38, between the City and Kissick Construction Co., Inc., pertaining to the City Park Pond Restoration Project, located at 10601 Lee Boulevard, [Project # 74095]

Councilmember Osman asked if the item was separate or part of the \$8 Million application submitted by Johnson and Wyandotte Counties to the Federal Emergency Management Agency [FEMA] for funding of park land or areas damaged by flooding from two major rainfall events in August.

Mr. Lambers stated he would defer to Ms. Claxton, but he thought this was part of the FEMA funding application. He confirmed to Councilmember Osman the City is attempting to receive as much funding as possible, but the City should not expect a 100% return. FEMA is conservative in its outlays, as they have very many demands. Councilmember Osman pointed out the application and this project is a step in the right direction.

**A motion to approve Consent Agenda Item 7.P. was made by Councilmember Osman; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.**

- 7.T. **Resolution No. 5255**, approving a Final Plan for Edgewood Subdivision – Private Art, located north of Town Center Drive and west of Roe Avenue. (PC Case 90-19) *[from the August 27, 2019 Planning Commission meeting]*

Mayor Dunn confirmed to Councilmember Harrison that private donors are responsible for the purchase of the art that will be located on a private street in the gated Edgewood subdivision. She stated this arrangement may be unique, but subdivisions have funded beautiful art pieces, fountains and sculptures throughout the City.

Ms. Bishop stated the art piece would not be viewed by the public from the street, and private dollars would fund future maintenance. Mayor Dunn stated the Edgewood Home Owners Association President Michael Shirley is the Arts in Public Places Initiative Chair for the City, and he is very keen to have the piece come about. Very likely, Edgewood residents would be very proud to say they funded the private purchase.

Mayor Dunn stated the piece is lovely and sorry that she may not have the opportunity to view.

**A motion to approve Consent Agenda Item 7.T. was made by Councilmember Harrison; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.**

#### 7.V. Police Department Monthly Report

Councilmember Larson noted the increase in the number of mental health calls, doubling from the prior month, and inquired about the reason. Chief Rettig stated the rise was not significant, as it was due to a change in tracking and reporting associated with the new records management system. For every call received by the Police Department, the officer is required to indicate if it is related to mental health. Also, in the past if an incident related to mental health was recorded only once, even if there were multiple call-backs on the same incident. With the new system, each call-back for the same incident is entered separately.

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

#### 7.W. Fire Department Monthly Report

Mayor Dunn pulled the item for two comments. She offered congratulations to Firefighter Sterling Fuller on successful completion of probationary training with minimum one year cognitive and skills-based training. She pointed out the Monthly Fire Loss & Value Saved in Leawood summary on Page 2 of the report indicates the Total Value Saved Estimate was \$2,449,937, based on a Pre-incident Estimated Value of \$3,727,937 and Total Fire Value Loss Estimate of \$1,278,000. She stated we often feel fortunate there are few fires in Leawood, with the majority of calls being medical, but the dollar values are impressive and the statistics are appreciated.

Mayor Dunn asked Chief Williams to pass along congratulations to Firefighter Fuller and thanks to the entire Fire Department. Chief Williams agreed to do so, stating the reasons for the largest fire loss was a lightning strike.

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

Chief Williams confirmed to Councilmember Osman that response times were minimally impacted from road construction in the areas of Fire Station No. 1 and Fire Station No. 2. He stated Public Works and the construction contractor provides notifications so routes can be proactively planned.

### 8. MAYOR'S REPORT

- A. Unified Government of Kansas City, Kansas and Wyandotte County Mayor David Alvey was host for our September Johnson & Wyandotte Counties Council of Mayors meeting. He took the gavel as our new Chair from Edgerton Mayor Don Roberts. Discussion was held regarding desired agenda topics for this next year.
- B. Attended the Shawnee Mission Education Foundation Breakfast and heard about all of the terrific achievements during the past year and plans for the year ahead.
- C. Had the pleasure of attending the Ability KC Luncheon where Leawood Councilmember Chuck Sipple was honored with the 2019 Ability Impact Award. For many years, Chuck has supported the children receiving services at the Center in both his time and treasure. Congratulations on this well-deserved recognition.
- D. Thanks to Fire Chief Dave Williams, Parks & Recreation Director Chris Claxton and Information Services Director Ross Kurz for joining me at the Greater Kansas City United Way Kick Off where numerous nonprofits were present to showcase the important work that they do.

- E. My thanks to Foundation Chair Alice Hawk and Parks & Recreation Director Chris Claxton for organizing a lovely donor reception for the Gezer Park Playground equipment. Councilmember James Azeltine was also in attendance.
- F. Congratulations to Arts Council Chair Anne Blessing and Cultural Arts Coordinator April Bishop on the successful Art Gallery Crawl on Friday evening.
- G. Congratulations to Lifestyle Publications Chief Executive Officer Steven Schowengerdt on the 10-year anniversary of their magazine. Leawood Lifestyle was their first and is published monthly at no cost to the City. They now have over 80 magazines across the country.
- H. Congratulations to Chamber President Kevin Jeffries and his team on another very successful Taste of Leawood this past Saturday evening. Councilmembers Andrew Osman, Jim Rawlings, Mary Larson and Lisa Harrison joined over 1,100 attendees for this annual fundraiser. Very pleased that the weather cooperated.
- I. Finally, thanks to City Administrator Scott Lambers for spending this evening with us on his birthday. I am sure there is nowhere else he would rather be! Happy Birthday, Scott!

9. **COUNCILMEMBERS' REPORT** – None

10. **CITY ADMINISTRATOR REPORT** – None

11. **STAFF REPORT** – None

## ***COMMITTEE RECOMMENDATIONS***

12. **ARTS COUNCIL**

***[from the July 23, 2019 Arts Council meeting]***

**Consider recommendation for relocation of 'Point Defiance' to Ironwoods Park**

**Entrance- *CONTINUED FROM THE SEPTEMBER 3, 2019 GOVERNING BODY MEETING***

Mayor Dunn thanked Staff for mock-up site views. Ms. Bishop stated Parks Maintenance Construction Supervisor Scott Fanning had erected height poles the day following continuance of the item at the September 3, 2019 Governing Body meeting. As depicted in the set of mock-ups of the north side of the entry road identified as "2", by moving the piece closer it is slightly more visible. The actual angle of the overall piece may be adjusted.

Mayor Dunn stated she viewed the height poles around Noon yesterday; continuance of the item from the last Governing Body meeting was beneficial. The trees on the south side provided quite a bit of shade; location on the north more visible. Ms. Bishop stated location on the south side, mock-ups identified as "1", would be close to trees and a bit more rustic, and would take advantage of an existing rock shelf. If the north side location is used, a small concrete base would be needed to level the ground in addition to the piece's existing base.

Councilmember Harrison stated she had discussed the future widening of Mission Road, which will move Mission Road 10 ft. to 12 ft. east, with Public Works Director David Ley. She reminded about her previous statement regarding the City's responsibility for public art to be as visible as possible from the busiest streets. Her preference would be for the piece to be moved closer to the stand of evergreens shown in the "Leaving Park 1" mock-up, and adding some limestone rock and prairie grasses. This would make the location 50 ft. to 80 ft. closer to Mission Road. A map depicting line of the future widening of Mission Road was displayed. She asked if the park median could be reconfigured for a median similar to the City Hall's art sculpture. If not, the piece needs to be much closer to Mission Road, even if doing so requires re-location of the mailbox and split rail fence. She likes the rock shelf and proposed building another.

Mayor Dunn pointed out the City has another art-on-loan piece, a kinetic sculpture, awaiting placement. Location of pieces could move in the future.

Councilmember Larson stated she visited the site this afternoon and now favors north side location, as this location will really showcase the piece, even when leaving the park. She would not be opposed to revisiting the location and options when Mission Road is widened in 2024. Mayor Dunn agreed location on the north would be most visible, when entering or leaving the park. She pointed out the bison is our national mammal.

Councilmember Filla favored use of native grasses to be used, whether placed on either side of the entry road. Ms. Claxton stated there had been grasses on the north side, but they became maintenance issue and were removed. The piece would be easy to move as needed and the City would install; a contractor would not be used. Ms. Bishop stated Horticulture/Forest Supervisor Dustin Branick would plant some low prairie grasses around the piece. Mr. Lambers supported replication of median like that at City Hall.

**A motion for Staff to proceed with the Council recommendation to use the north side and naturalize with prairie grasses and possible revisit of location options in 2024 when Mission Road is widened was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.**

### **13. STORMWATER MANAGEMENT COMMITTEE**

**[from the August 28, 2019 Stormwater Management Committee meeting]**

#### **Drainage concerns at 9320 Lee Court**

**Recommendation: Amend Contract with BHC Rhodes, to include Preliminary Engineering Study of 6.4 acre drainage area that flows to 9320 Lee Court**

Councilmember Azeltine, Stormwater Management Committee Chair, stated drainage concerns at 93<sup>rd</sup> Street and Lee Boulevard were discussed on August 28, 2019, with four property owners in attendance. The Committee recommends an amendment to the BHC Rhodes contract, funded by the 1/8<sup>th</sup> cent stormwater tax, to review, provide possible solutions and costs. Property owners have already attempted to remedy with their own significant investment, and the cost of the proposed contract amendment is a very small percentage of project cost and more efficient.

Ms. Laura Smith, 9316 Lee Court, has lived next door to 9320 Lee Court for seven years, and has had \$70,000 of water damage during that time. She hopes water coming into her basement is now resolved, but wants to prevent more water from coming towards her house; water comes from 95<sup>th</sup> Street and Lee Boulevard. There is a stormwater drain in her backyard that cannot keep up and this is the water that entered her house. She appreciates support of the study.

Ms. Leah Maugans, 9320 Lee Court, supports the addition to contract for a preliminary engineering study, to make a step in the right direction and find solid answers to move forward. She hopes potential impact of Lee Boulevard expansion would be taken into consideration. She thanked Mr. Ley for all his assistance. She displayed photographs of 9429 Lee Boulevard and 9320 Lee Court showing flowing water about 7 ft. to 8 ft. wide, that can reach a depth of 3 ft. to 4 ft. Over the two years she has lived in her house, she has seen water rushing from next door more frequently despite typical substantial rain amounts. There has been damage to landscaping that she must deal with.

Ms. Patti Kettler, 9429 Lee Boulevard, thanked the Governing Body for their service, and Mr. Ley and his team for their support, as we re-examine reasons for the problem of stormwater management coming off of 95<sup>th</sup> Street and Lee Boulevard. She has lived in her house for 30 years and during that time stormwater drainage has been a problem, but manageable. There has been a noticeable increase from 95<sup>th</sup> Street, coming east from houses at 95<sup>th</sup> Street and Lee Boulevard. She questioned if there would be negative impact on stormwater with decreased absorption of water with Lee Boulevard widened 10% to add bicycle lanes. The area is Y-shaped, with a river of water coming off Lee Boulevard running down towards her house and houses to the north. At one time a tennis court at the Smith residence may have been a contributing factor. Twenty years ago a fair amount of infrastructure had to be installed for increased run-off and it is unknown if this has been maintained. A study is warranted, at minimum, if the City is increasing the width of Lee Boulevard which might put residents over the top to manage their properties.

Mr. Richard Nowak, 9306 Lee Court, stated he has had trouble with water in his basement since moving into the house in 1998. Water comes from Lee Boulevard area and through abutting neighbor's property to the west. To get his basement dry, he has installed two berms close to his house and one on the west edge of his property, French drains, sump pumps and basement wall bracing and injections, amounting to several thousands of dollars.

Councilmember Filla expressed the hope the study would include options about the use of native, deep-rooted, drought resistant and resilient plantings.

**A motion to approve Agenda Item 13. to amend the contract to develop preliminary engineering study for Lee Boulevard from 95<sup>th</sup> Street to 92<sup>nd</sup> Street was made by Councilmember Azeltine; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.**

Mayor Dunn thanked citizens for their attendance and their appreciation of Staff work.

#### **14. PUBLIC WORKS COMMITTEE**

**[from the September 4, 2019 Public Works Committee meeting]**

**Review repair of retaining wall located on northeast corner of 127<sup>th</sup> & Roe Avenue**

**Recommendation: Replace the 28-foot section of retaining wall**

Councilmember Osman, Public Works Committee Chair, stated the section of the wall has failed and is protruding, and repair needs to ensure this does not increase. Mr. Lambers confirmed no budget amendment would be required.

Councilmember Harrison asked where water on the backside of a retaining wall goes, and if this was the cause for failure. Mr. Ley stated the 28 ft. section had "weep holes" on the south side and during construction a 6 inch drain pipe was drains to the north was installed. It is suspected this 6 inch pipe has failed.

Mr. Ley stated Staff would like to move forward with design and then construction over the Winter. Funding would come from the Arterial Street Fund.

**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 7-0.**

## **15. PLANNING COMMISSION**

***[from the August 27, 2019 Planning Commission meeting]***

- A. Resolution approving a Revised Final Sign Plan for Ranch Mart Shopping Center – Revised Sign Criteria, located north of 95<sup>th</sup> Street and east of Mission Road. (PC Case 76-19) –***CONTINUED TO THE OCTOBER 7, 2019 GOVERNING BODY MEETING***
  
- B. **Resolution No. 5256**, approving Amendment No. 2 to the Interlocal Agreement between the City of Leawood, Kansas and Water District No. 1 of Johnson County, Kansas, dated December 17, 2009, as amended, pertaining to the construction of facilities located at 146<sup>th</sup> and Nall Avenue (PC Case 85-19)

Ms. Michelle Wirth, Director of Production, WaterOne, 10747 Renner Boulevard, Lenexa, introduced other members of the team in attendance: Mr. Eric Arner, General Counsel, and Mr. Robert Beeson, Project Engineer from WaterOne, and Mr. Bill Nash, Ms. Sarah Tuite and Mike O’Connell from Burns & McDonnell.

Ms. Wirth gave a brief overview of WaterOne, a non-profit water utility. WaterOne supplies tap water only to a service area of 272 sq. miles, 17 cities and 440,000 customers nearly every day. Customers are your citizens and they rely on WaterOne to supply clean, fresh water on demand. The project’s Master Plan is a comprehensive road map for expansion and sustainability. The plan includes two phases: Phase I was in 2012 and Phase II in 2021. Infrastructure improvements are made in a timely manner to meet service area needs, anticipated future growth, and emergency response. Fifty percent of storage is for emergency responses such as fires and fire suppression.

The 9.7 acre site is on the east side of Nall Avenue from 143<sup>rd</sup> Street to 147<sup>th</sup> Street, based on connectivity and proximity to the service area. Ms. Wirth displayed a map of the site to include expansion for additional six million gallons of underground storage in a reservoir that is 350 ft. by 140 ft. by 20 ft. deep, about the size of a football field. There would be a total of 12 Million gallons of storage. There would be minor modifications to the existing internal pump station, and addition of pump and gear. What is seen on the exterior now would be what is seen at the end of the project. A picture of original construction site was displayed showing a white membrane that is covered with 2 ft. of topsoil. The anticipated project timeline is bidding in October 2019, construction 2020 to 2021, and operational in Summer 2021. There would be minor inconvenience to residents. Notification postcards would be sent to customers, and website will be updated regularly on progress, and include videos and contact information for questions and concerns.

Mayor Dunn stated the contact information would be very helpful for the City.

Ms. Wirth confirmed to Councilmember Azeltine that residents in the Highlands Ranch subdivision and others within 500 ft. of the property, as well as all Home Owners Association Presidents, would receive “excuse our dust” postcards closer to construction.

Councilmember Cain stated Highlands Ranch developers were very clear to buyers that the facility would be constructed in two phases. She noted that WaterOne has over ten different storage facilities in their service area. She expressed appreciation for use of videos, keeping the public updated and for allowing the public to use the grassy area.

Mayor Dunn observed at the Phase I ribbon cutting, the project turned out to be a beautiful addition to the community and was very well done. Ms. Wirth stated several Planning Commission members did not recognize the property for what it is, a beautiful amenity.

Councilmember Filla asked Ms. Wirth to speak about discussions with Parks & Recreation in regard to possible use of the space for a Community Garden. Ms. Wirth stated based on 2 ft. depth of topsoil, deep-rooted plants could damage the membrane so use as a Community Garden would be prohibited. The area could be used for active and passive space. Landscaping removed will be replaced in kind or better according to plan developed with the City.

**A motion to approve Agenda Item 15.B. was made by Councilmember Cain; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 7-0.**

15.C. Resolution approving a Final Plan for Parkway Plaza – Kiddi Kollege Office/Daycare Addition, located south of 134<sup>th</sup> Street and east of Briar Street. (PC Case 86-19) – ***CONTINUED TO THE OCTOBER 21, 2019 GOVERNING BODY MEETING***

15.D. **Ordinance No. 2959**, amending Sections 16-4-9.3 and 16-4-9.4 of the Leawood Development Ordinance [LDO] respectively entitled “General Requirements” and “Height and Location Requirements” and repealing existing Sections 16-4-9.3 and 16-4-9.4 and other sections in conflict herewith. (PC 16-19) **[ROLL CALL VOTE]**

Mr. Klein stated the proposed amendment attempts to address two issues seen by the Planning Department over time. The first involves platting of lot lines. On new plats, interior lots are platted from the right-of-way, but side and rear build lines are not shown as these are governed by the Leawood Development Ordinance. Some plats of older subdivisions show 30 ft. build line on rear, and this would prohibit fencing beyond the build line resulting in a very short backyard. The amendment would allow fencing to go beyond these build lines unless specifically prohibited on the plat, and still protect areas of common landscaping.

Currently, in RP-A5 zoning long Mission Road south of 143<sup>rd</sup> Street, when a front fence and gate are desired, a requestor must go before the Board of Zoning Appeals [BZA] for approval. The BZA receives many such requests. The proposed amendment would allow these without going before the BZA. There would be some restrictions such as 6 ft. maximum height and 2 ft. setback as a buffer between fence and sidewalk, and required materials of wooden split-rail, wrought iron, or aluminum designed to have the appearance of wrought iron.

Mr. Klein confirmed to Councilmember Harrison that RP-A5 zoning are lots over five acres. The amendment would continue to allow an entry monument and required fencing types should be more easily seen-through. He stated 6 ft. solid wooden privacy fences are typically associated with a swimming pool.

Mayor Dunn stated the BZA had approved many such property owner requests because of dogs and arterial street locations.

Councilmember Filla thanked Staff for their diligence and specificity. She asked if any consideration has been given to fencing in conjunction with natural swales. Her backyard has a natural swale and a neighbors' replacement of chain-link fencing with brick/wood fencing has caused problems for those neighbors and others. Issues are typically discovered after-the-fact, and she requested this be proactively addressed and sign-off required.

Mr. Coleman stated water cannot be impeded per the Leawood Development Ordinance. He stated a brochure may be available, and the City investigates complaints received. Mayor Dunn stated professional contractors applying for fence permits would hopefully understand the potential issue. Councilmember Filla pointed out that contractors may not be aware of water flow.

**A motion to pass Agenda Item 15.D. was made by Councilmember Larson; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 7-0.**

15.E. **Ordinance No. 2960**, amending Section 16-4-1.3 of the Leawood Development Ordinance [LDO] entitled "Permitted Accessory Uses, Buildings and Structures" and repealing existing section 16-4-1.3 and other sections in conflict herewith. (PC 82-19)  
**[ROLL CALL VOTE]**

Mr. Klein stated the proposed amendment focuses on solar collectors. The Leawood Development Ordinance currently addresses solar collectors for Single-Family Residential Districts, requiring exposed metal be finished with warm earth tones or black, and other components except panels be concealed. These same restrictions currently apply to Commercial Districts, and some commercial property owners with parapet roofs and total screening, have requested color exemption. The proposed amendment would allow solar collectors in Commercial Districts to not meet the color restrictions if the collector is located on a flat roof and completely screened.

Councilmember Cain shared she had viewed a fascinating presentation by Burns & McDonnell at a Leawood Chamber of Commerce event about the strained growth of electric grid; use of more solar panels would likely occur.

**A motion to pass Agenda Item 15.E. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 7-0.**

**16. OLD BUSINESS – None**

**17. OTHER BUSINESS**

Schedule Governing Body meeting on October 7, 2019 at 7:00 P.M.

Mayor Dunn pointed out the Governing Body Executive Session previously scheduled for October 7, 2019 will now be held on October 21, 2019.

**A motion to approve Agenda Item 17. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.**

**18. NEW BUSINESS**

- A. **Ordinance No. 2961C**, amending Chapter 11, Article 1 of the Code of the City of Leawood, Kansas, 2000, pertaining to Public Offenses in the City; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities,’ 2019 Edition, with certain amendments and omissions **[ROLL CALL VOTE]**

Ms. Knight stated the City updates Code as necessary and adopts the “Uniform Public Offense Code [UPOC] for Kansas Cities” published by the Kansas League of Municipalities each year. UPOC Spiral-bound books are kept in officer vehicles. This year, after a thorough review the editor made numerous edits. Inclusion of many misdemeanor offenses that were previously not included is not anticipated to increase the number of charges.

**A motion to pass Agenda Item 18.A. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous roll call vote of 7-0.**

- 18.B. **Ordinance No. 2962C**, amending Chapter 2, Article 5 of the Code of the City of Leawood, Kansas, 2000, by amending § 2-501 pertaining to penalties for animal offenses in the City **[ROLL CALL VOTE]**

Ms. Knight stated the proposed ordinance amendment would raise the maximum financial penalty for any violation involving animals from \$500 to \$1,000. The \$1,000 would not need to be imposed, but would allow more flexibility for repeat offender or significant violations.

Councilmember Cain inquired about the impetus for the amendment. She asked if there was a large amount of animal cruelty violations and if warnings are issued. Ms. Knight stated the City had only a handful of animal cruelty cases this year, with one of these being pretty significant. Jail penalty is up to 180 days. Kansas has Class A, B and C misdemeanors and Class B is 180 days and commensurate \$1,000 fine. No warnings are issued for animal cruelty as it is usually found after the fact.

Councilmember Harrison asked if this would also pertain to animal bites, how animal bites are reported and the financial fine. Ms. Knight confirmed this would be for any violation under the animal code, and bites should be reported to the Police or Animal Control, and an officer would be sent. The Judge can set a high fine and suspend a portion if no more bites occur in a year.

**A motion to pass Agenda Item 18.B. was made by Councilmember Larson; seconded by Councilmember Harrison. The motion was approved with a unanimous roll call vote of 7-0.**

- 18.C. Approve purchase from Conrad Fire Equipment in the amount not to exceed \$1,010,427.00 for the purchase of a Pierce Velocity Quint Fire Truck

Chief Williams stated the request would be a replacement for a current similar truck. A Battalion Chief and Firefighters provided input on storage compartments and options, and he has spoken with the vendor. The anticipated cost was underfunded in the budget, due to original estimate and process timing.

Councilmember Rawlings inquired about the life expectancy of a Pierce truck, if that is impacted by the number of trips and miles, and what typically wears out. Chief Williams was not aware of the mileage on the current truck, which runs every day out of Fire Station No. 3. The 75 ft. ladder truck is used for access and to protect exposure for large houses in the area. Trucks have many moving parts and as they age there are issues. The City's current truck has a hydraulic leak. Fire engines are replaced every 10 years and ladder trucks every 15 years. The proposed ladder truck is mid-sized and would be run like a pumper.

**A motion to approve Agenda Item 18.C. was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 7-0.**

18.D. **Resolution No. 5257**, of the City of Leawood, Kansas declaring the City's intent to reimburse certain costs of acquiring a Fire Truck from proceeds of a Lease Purchase Agreement

Ms. Long stated approval of the proposed resolution would allow the City to move forward with research and financing for the new Pierce fire truck. Two bids are provided in the agenda packet documentation: one from PNC Equipment Financing and one from Commerce Bank/Clayton Holdings, who offered the best rate of 2.18%. Clayton Holdings was used to finance the last two trucks.

**A motion to approve Agenda Item 18.D. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 7-0.**

#### **ADJOURN**

There being no further business, the meeting was adjourned at 9:03 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk