

**Regular Meeting****THE LEAWOOD CITY COUNCIL****August 3, 2020****Minutes**

**Councilmembers present:** Lisa Harrison, Jim Rawlings, Chuck Sipple, James Azeltine and Mary Larson

**Councilmembers present via Zoom:** Debra Filla, Andrew Osman and Julie Cain

**Councilmembers Absent:** none

<b>Staff present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Dawn Long, Finance Director	Ross Kurz, Information Services Director
Captain Brad Robbins, Police Department	Chief Colin Fitzgerald, Fire Department
Chris Claxton, Parks and Rec Director	Nic Sanders, HR Director
David Ley, Public Works Director	Mark Tepesch, Info. Services Specialist III
Kelly Varner, City Clerk	Stacie Stromberg, Assistant City Clerk
Megan Haines, Firefighter	Damon Harrison, Firefighter
Brooke Harshaw, Firefighter	

**Staff present via Zoom:** Richard Coleman, Planning Director

**Others present:** David Arteberry, Stifel Financial Corp.

**Others present via Zoom:** Ben Thompson, Gilmore & Bell; Linda Divine, constituent

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn stated the City Administrator will give a brief report on a modification to Item 10 on the agenda .

**A motion to approve the amended agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

**3. CITY CLERK STATEMENT**

To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Governing Body is being conducted remotely using the Zoom media format and some of the members of the Governing Body are appearing remotely. The meeting is being livestreamed on YouTube and the public can access the livestream by going to [www.leawood.org/](http://www.leawood.org/).

Public comments on non-agenda items will not be accepted during this meeting. Public comment on agenda items not requiring a public hearing may not be accepted. As always, public comment on any agenda item can be submitted in advance. Written public comments received at least 24

hours prior to the meeting have been distributed to members of the Governing Body prior to the meeting. Public comments should be directed to [LeawoodPublicCommentGB@leawood.org](mailto:LeawoodPublicCommentGB@leawood.org).

**4. PROCLAMATIONS - None**

**5. PRESENTATIONS/RECOGNITIONS** Introduction of new Firefighters Megan Haines, Damon Harrison and Brooke Harshaw

Fire Chief Colin Fitzgerald introduced three new Firefighters who have joined the Department and gave a brief summary of their education and backgrounds. Mayor Dunn asked at what station they will be assigned. Chief Fitzgerald stated they will all be working from Station #2 but on different shifts. Mayor Dunn thanked them for choosing the City of Leawood. She added she was disappointed the intern from France was not able to come this year. Chief Fitzgerald agreed and stated it would have been the 10<sup>th</sup> year for an intern.

**6. SPECIAL BUSINESS**

**A. Public Hearing** Consider the 2021 Fiscal Budget for the City of Leawood, Kansas

Mayor Dunn opened the public hearing. Having no advance comments or questions through the City Clerk's office, via Zoom or in person, Mayor Dunn closed the public hearing.

**A motion to approve Item 6A was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

**B. Resolution adopting the Fiscal Year 2021 annual budget for the City of Leawood, Kansas**

Mayor Dunn stated the memo provided from the City Administrator and Director of Finance mentions the many months of review and discussion by professional staff, the Governing Body, and the Budget and Finance Committee. Mayor Dunn thanked everyone involved.

Councilmember Harrison asked Dawn Long, Director of Finance, if the date of the pre-budget public hearing was held on April 6<sup>th</sup>. Ms. Long stated that the public hearing was scheduled on April 6<sup>th</sup> but did not occur due to the COVID closure of City Hall. Ms. Long stated she will email the Governing Body a memo with the corrected date.

**A motion to approve Item 6B as corrected was made by Councilmember Azeltine, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Sipple asked Ms. Long if any members of the public requested a copy of the proposed budget. She stated she received no requests.

The Mayor stated there is a certificate that needs signed by each member of the Governing Body. Kelly Varner, City Clerk, stated she would make arrangements to acquire signatures from those Councilmembers appearing remotely via Zoom.

**C. Ordinance authorizing and providing for the issuance and delivery of \$33,370,000 General Obligation Temporary Notes, Series 2020-1, of the City of Leawood, Kansas, to**

provide funds to finance the cost of certain public improvement projects within the City; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto [ROLL CALL VOTE] (F)

Ms. Long introduced David Arteberry to give his summary of the temporary notes and bond sale earlier that day. Ms. Long reported they received six bids on the temporary notes and four bids on the bonds. She added that the rates were very favorable. She provided the Governing Body an updated memo at the dais.

Ms. Long stated the City received a rate of .319% on the notes. On the bonds, the City received a rate of .534%.

Mr. Arteberry addressed the Governing Body. He stated he was pleasantly surprised at the aggressive bids, turn out and the low interest rate. Mr. Arteberry mentioned that Councilmember Sipple sat in on the bidding.

**A motion to approve Item 6C was made by Councilmember Harrison, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

- D. Resolution prescribing the form and details of and authorizing and directing the issuance, sale and delivery of \$33,370,000 General Obligation Temporary Notes, Series 2020-1, of the City of Leawood, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith (F)

**A motion to approve Item 6D was made by Councilmember Azeltine, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

- E. Ordinance authorizing and providing for the issuance and delivery of \$2,080,000 General Obligation Refunding Bonds, Series 2020-A, of the City of Leawood, Kansas for the purpose of refunding certain outstanding taxable general obligation bonds of the City; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on said bonds as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto [ROLL CALL VOTE] (F)

Ms. Long stated that originally the amount to bond was for \$2,460,000, but the City received a large premium when they received the bid. The Finance Department was able to reduce the bond issuance to \$2,080,000.

Councilmember Azeltine asked about the other amounts listed on the ordinances from 2017 and 2018. Mr. Arteberry stated those amounts were from the original principal amounts. He stated the figure represents about \$2M worth of principal on two bonds issued that come due September 1, 2020. The refinancing created about \$2.4M of relief in the debt services fund.

**A motion to approve Item 6E as amended was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

- F. Resolution prescribing the form and details of and authorizing and directing the sale and delivery of \$2,080,000, General Obligation Refunding Bonds, Series 2020-A, of the City of Leawood, Kansas, previously authorized by Ordinance No. 3009 of the City; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith (F)

**A motion to approve Item 6F as amended was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

- G. Discussion of Fireworks Display

Councilmember Azeltine asked if Lee Blvd. will be open by Labor Day. David Ley, Director of Public Works, addressed the Governing Body and stated because of the weather it is delayed until mid-September. Mayor Dunn mentioned other cities' displays were also cancelled for the 4<sup>th</sup> of July, so Leawood was not alone.

**A motion to approve Item 6G with regret to not move forward with a fireworks display on Labor Day was made by Councilmember Rawlings, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.**

## **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. 2020-27 and 2020-28
- B. Accept minutes of the July 20, 2020 Governing Body meeting
- C. Accept minutes of the June 9, 2020 Parks and Recreation Advisory Board meeting
- D. Accept Minutes of the May 5, 2020 Ironhorse Advisory Board meeting
- E. Accept Minutes of the March 12, 2019 Historic Commission meeting
- F. Resolution approving and authorizing the Mayor to execute an extension to that certain Financial Services Agreement dated August 17, 2015, between the City and Commerce Bank to provide certain banking service needs to the City of Leawood for a term ending December 31, 2021(F)
- G. Resolution approving and authorizing the Mayor to execute an Architectural Services Agreement in an amount of \$195,500.00 between the City and SFS Architecture, Inc., pertaining to the design of the new pool house at the Aquatic Center [Project #71028] (PR)
- H. Resolution approving and authorizing the Mayor to execute an Artwork Sale & Ownership Agreement in the amount of \$37,500 between the City and John King, pertaining to the purchase of public art piece "Skywriting 1" (PR)
- I. Resolution approving and authorizing the Mayor to execute a Services Agreement in the amount of \$39,750.00 between the City and K&G Striping Inc. pertaining to the installation of pavement markings and crosswalk beacons at 89<sup>th</sup> and Lee Boulevard and 85<sup>th</sup> Terrace [Project 72054] (PW)

- J. Resolution approving an eligible facilities request for the replacement of antennae and the replacement and addition of associated equipment at the Ira Stein cell tower for AT&T, located north of 135<sup>th</sup> Street and east of Nall Avenue (PC Case 55-20) (PC)
- K. Resolution requesting Johnson County, Kansas, participation in the City of Leawood's Five-Year Capital Improvement Program through the 2021-2025 County Assistance Road System (C.A.R.S.) (PW)
- L. Approve an expenditure in the amount of \$91,325.00 to Kansas City Freightliner for the purchase of One (1) 2021 MY Freightliner 108SD, tandem axle truck using an MACPP Bid (PW)
- M. Request to approve 1<sup>st</sup> and Final Payment in the amount of \$2,344,479.00 to EVERGY pertaining to the undergrounding of power lines on Mission Road, 119<sup>th</sup> to 127<sup>th</sup> Street [Project 82065]
- N. Declaration of surplus property: (1) Kerosene Heater, (1) pallet of building lights, (1) Troy Built Pony Ground Tiller, (2) Generators, (1) Concrete Stinger, (3) Chain Saws, (1) Concrete Saw and (1) Compactor (PW)

Councilmember Rawlings pulled Item 7G.

Councilmember Filla pulled Item 7I.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Sipple, seconded by Councilmember Cain. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Rawlings asked if the old pool house will be completely torn down. He stated he is pleased the pumps and electrical will be repurposed, and believed this structure was originally built in 1974. Chris Claxton addressed the Governing Body and stated the filters will be replaced, but the plan is to totally re-design the building.

**A motion to approve Item 7G was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Filla complimented the City Administrator and Public Works staff for their quick implementation and execution with fixing the crosswalk markings at 89<sup>th</sup> and 85<sup>th</sup> Terrace.

**A motion to approve Item 7I was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

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

- A. Our sincere sympathies to the family and friends of Senator Dick Bond, who passed away on July 23, 2020. Dick was appointed to the Kansas Senate in 1986 and then elected to three four-year terms. In 1997 until 2001, he served as Senate President. He was well respected by officials from both parties and did an amazing job of working across the aisle. Please join in a moment of silence.
- B. The July 22, 2020 *913* section of the *Kansas City Star* featured an article on Leawood's rich history. My thanks to special reporter Martha Zirschky for her efforts to document so accurately.

## 9. COUNCILMEMBERS' REPORT

Councilmember Debra Filla

Regarding Leawood Development Ordinance  
Home Occupations Regulations

Councilmember Filla stated she was contacted by Linda Divine regarding a request to provide marriage counseling services out of her home. Councilmember Filla requested a review of the Lenexa Development Ordinance because this is not currently covered in the LDO.

Councilmember Filla stated Ms. Divine would expect about 4 visits a day from clients. She stated Ms. Divine has received the approval from her neighbors, and that she lives on a cul-de-sac. Councilmember Filla said the LDO allows for a pre-school in a home with up to 6 people in the home business. She stated she understood there are limits in the LDO for pre-schools, and in talking to the City Administrator, wondered about a Special Use Permit. She asked if staff would review the LDO and whether or not changes could be done due to COVID restrictions, as she expects more people will be working from home.

**A motion to approve Item 9 for staff review of the Home Occupations Regulations was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.**

Mr. Lambers stated staff could review this request and report back to Council by the first meeting in September. Councilmember Harrison stated she is in favor of home-based businesses, but asked that staff consider the location for parking on cul-de-sacs, the number of cars at one time, and street vs. driveway parking. Councilmember Harrison stated she was also in favor of Ms. Divine getting a Temporary Use Permit, so it can be reviewed again after 6 months.

Mayor Dunn mentioned public safety, such as fire trucks having street access or site restrictions in cases of emergency.

Councilmember Filla corrected herself stating Ms. Divine lives on a circle drive, not a cul-de-sac.

Councilmember Cain mentioned there is a day care business next door to her home that she enjoys. She stated there are other things to consider in terms of the possibility of extra children, noise, and time of day.

Mayor Dunn stated some home owners associations may have deed restrictions that supersede what the City may allow, and staff would have to be mindful of any decisions covering the entire City.

Councilmember Rawlings stated the review should be more encompassing as more and more people perform their normal work from home.

Mr. Lambers stated he will instruct staff to review nearby cities' home occupation permitting regulations, and if they have had any recent changes due to COVID. He stated there is the issue of balance in protecting the character of a neighborhood vs. allowing commercial use, and the current climate favors residential neighborhoods.

Mayor Dunn allowed Councilmember Cain to add an item to the Councilmembers' Report.

Councilmember Cain stated she was contacted by a neighbor regarding their purchase and installation of a large, 14-ft across, above-ground pool at their home. Councilmember Cain stated she told the neighbor that for many decades the City of Leawood has not allowed above-ground pools. Councilmember Cain then reached out to Richard Coleman, who stated several of these types of pools have popped up within the City this year. Mr. Coleman told Councilmember Cain those homeowners have received courtesy notices and, as far as she knows, the pools have been taken down.

Councilmember Cain stated this particular neighbor's pool has a cover, a fence surrounding it, and includes a lock. She continued that the family has four front-line workers in the medical profession and their children are on lockdown. She was told if the family does not comply with the current code by this Friday, they are subject to a citation and fine of \$100/day.

Mr. Lambers commented that this can be a sensitive issue, yet it has been a long-term policy. He stated he would work with the family in this case, so that there would not be a fine but warns the Council changes to this policy should be done with great care and consideration. Mr. Lambers continued stating that if the LDO was changed, it would take considerable time to go through the process, and recommended a public hearing be scheduled before beginning the LDO process.

Mayor Dunn pointed out the City pool is open.

Councilmember Harrison stated she is not fond of the old above-ground, aluminum pools, but she understands some people cannot attend a public pool for various reasons. She is willing to agree to a temporary suspension of enforcement related only to the COVID crisis.

Mayor Dunn stated there may also be individual HOA deed restrictions regarding above-ground pools.

Councilmember Cain stated she was told by Mr. Coleman that in this particular case another resident was notified by the City to comply with the current code, but then questioned why his neighbor was apparently allowed to keep their pool. Councilmember Cain stated if the Council did decide to allow a temporary suspension, she believed other residents who already complied should be given the same allowance.

Councilmember Cain stated the neighbor acknowledged the City's code restrictions of above-ground pools, but believed they were being more socially responsible by not attending the City and neighbor pools, since they have more possible exposure to COVID as front-line workers.

Councilmember Azeltine agreed with Mr. Lambers in terms of the sensitivity of the issue. He stated other residents may have gone through the expense of in-ground pools and believes a temporary suspension could be messy and confusing. If they decided to change the LDO, it should be permanent, but until then, the current ordinance should be enforced.

Councilmember Osman agreed with Councilmember Azeltine that this could be a slippery slope. He stated if more and more homeowners installed above-ground pools, believing the City does not take action against the current restrictions due to COVID or allows an above-ground pool temporarily, it could create the potential for homeowners to use the same reasons to keep them up every year. Councilmember Osman stated some of the above-ground pools can be expensive and not easily taken down. He feels homeowners should do their due diligence before making that purchase. He agreed

with Mr. Lambers in allowing time for this particular homeowner to comply, but does not feel this should be a long-term option.

Mayor Dunn stated the City tries to be consistent to avoid complaints. She liked Mr. Lambers' suggestion of giving this homeowner time to comply without a fine.

Councilmember Filla stated she appreciates the Council's discussion. She would like for Mr. Lambers to work with homeowners on any COVID-related exceptions to the current code. Mr. Lambers stated he does not believe COVID will go away anytime soon, so if the Governing Body would like to have a work session to discuss a decision for next summer, he suggested a time in January. He stated he has the flexibility to work with this homeowner to come into compliance and consistency.

Mayor Dunn stated if a work session is planned there needs to be some research and communication with the HOAs to see what is allowed and to notify them of a public hearing. Mr. Lambers stated a work session could be planned for January so staff is prepared for next summer.

Councilmember Harrison stated, that in the City's communication with HOAs, she would like to see a distinction made between the temporary, inflatable, above-ground pools vs. permanent aluminum structures. Mr. Lambers stated the Governing Body would make the decision on what is allowed.

## **10. CITY ADMINISTRATOR REPORT**

Mr. Lambers stated he was directed to go through the MARC Climate Action KC manual at the end of last year by members of the Council that would be relevant to the City of Leawood. He created a list with the intention to schedule a work session to discuss what he prepared. Mr. Lambers stated he will provide the Governing Body his memo and the manual in advance of the work session.

Mayor Dunn stated she previewed the considerable work Mr. Lambers did on the manual, and agreed it will take a work session to discuss.

Mr. Lambers stated he would like to plan a work session regarding the above-ground pools the second week in January and the Climate Action KC discussion at the first meeting in February that is not already taken. Mr. Lambers instructed Ms. Varner to include Finance staff members Kathy Byard, Dawn Long, and himself in the work session for the manual.

Councilmember Sipple thanked Mr. Lambers for his work and review on the manual.

Councilmember Osman requested a schedule or synopsis of all work sessions planned from now until February 2021 to be emailed to the Governing Body.

## **11. STAFF REPORT - None**

## ***COMMITTEE RECOMMENDATIONS***

## **12. PLANNING COMMISSION - None**

## **13. OLD BUSINESS - None**

**14. OTHER BUSINESS - None**

**15. NEW BUSINESS**

A. Schedule Work Session – Discussion of refinancing of the Special Benefit District debt for the Villaggio August 17, 2020 at 6:00 P.M.

**A motion to approve Item 15A was made by Councilmember Harrison, seconded by Councilmember Cain. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Sipple requested ample lead time to review the materials for the SBD work session, and asked if it could be provided earlier than usual to the Council. Mr. Lambers stated the issue is not the financial details but rather the policy of Villaggio’s request of a new SBD debt of 15 years, extending it overall. Villaggio has a plan but Mr. Lambers stated it is separate from the aspect of the financial issue. He added the Council will not be discussing the plan, so as not to influence their decision.

Mayor Dunn asked if the materials would come from the developer. Mr. Lambers stated he has a draft copy of what will be presented, but said he will first get permission from the developer before distributing to the Council.

Councilmember Azeltine stated he had not heard of the term “collapse” in regards to a public finance breach, and asked if that was a refinance. Mr. Lambers stated it would be considered a payoff of the existing debt and acquiring new debt for different projects. Mr. Lambers stated the City has never been asked to do this before; therefore, there is no policy in place.

Councilmember Osman asked for Mr. Lambers to include with the draft presentation a history of the development, when their first SBD was requested and details, a schedule, site plan, and everything tangible prior to most of the members being on the Council.

Mr. Lambers stated he can provide the financing information, but the planning aspect needs to be separate.

B. Schedule Governing Body meeting on August 17, 2020 at 7:30 P.M.

**A motion to approve Item 15B was made by Councilmember Rawlings, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

Mr. Lambers stated the Governing Body should expect the regular meetings to start at 7:30 p.m. from now until the end of the year with the exception of the second week in December.

**ADJOURN**

*Meeting was adjourned at 8:54 PM*