

**Regular Meeting****THE LEAWOOD CITY COUNCIL**

September 8, 2020

**Minutes**

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

**Councilmembers present via Zoom:** Andrew Osman

**Councilmembers Absent:** None

<b>Staff present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Dawn Long, Finance Director	Ross Kurz, Information Services Director
Chief Troy Rettig, 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
Brian Anderson, Parks Superintendent	Kelly Varner, City Clerk
Stacie Stromberg, Assistant City Clerk	

**Staff present via Zoom:** Richard Coleman, Community Development Director

**Others present via Zoom:** Mike Schaadt and Jennifer Goeke, PGAV Architects

1. **PLEDGE OF ALLEGIANCE**
2. **APPROVAL OF AGENDA**

**A motion to approve the agenda as amended was made by Councilmember Harrison, seconded by Councilmember Cain. 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**

National Suicide Prevention + Action Month  
September 2020

Constitution Week, September 17-23, 2020

Mayor Dunn read selections of each proclamation into record. She stated the proclamations will be mailed to the requestors.

**5. PRESENTATIONS/RECOGNITIONS - None**

**6. SPECIAL BUSINESS - None**

**7. CONSENT AGENDA**

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

- A. Accept Appropriation Ordinance Nos. 2020-31, 2020-32 and 2020-33
- B. Accept minutes of the August 3, 2020 Governing Body Work Session
- C. Accept minutes of the August 17, 2020 Governing Body Work Session
- D. Accept minutes of the August 17, 2020 Governing Body Meeting
- E. Resolution approving and authorizing the Mayor to execute an Architectural Agreement not to exceed \$994,520.00 between the City and PGAV pertaining to the design of a new maintenance facility for Parks and Recreation [Project #80173] (PR)
- F. Resolution approving and authorizing the Mayor to execute an agreement in the amount not to exceed \$30,000.00 between the City and Camden Woods Homes Association, Inc. pertaining to the replacement of landscaping to the 143<sup>rd</sup> Street Improvement Project, Windsor to Overbook [Project #80129] (PW)
- G. Resolution approving and authorizing the Mayor to execute an agreement in the amount of \$8,425.06 between the City and Phoenix Concrete & Underground, LLC pertaining to the construction of an island at Ironhorse Circle and Bell Drive [Project #70028] (PW)

Councilmember Cain requested to pull Item 7G.

Councilmember Harrison requested to pull Item 7E.

**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 Harrison stated her concern for an item on the consent agenda of nearly \$1M in planning costs and asked if staff anticipated this amount in the budget. She also mentioned she thought the area on the new maintenance facility was in a flood plain.

Brian Anderson, Parks Superintendent, addressed the Governing Body. He stated the project is where the Parks Maintenance employees will be staffed and he will be the lead staff person in the building. Mr. Anderson stated the amount of the agreement is within their budget and less than what they anticipated. It also has some additional services that are not always included in a project like this, such as the survey and geotechnical report, which normally the City oversees.

Councilmember Harrison stated she believes the Park Maintenance staff deserves the best, but cautioned about unexpected costs.

Mayor Dunn indicated the new Parks Maintenance Facility will not be in a flood plain. Mr. Anderson confirmed it will not, but there is a portion of the land in the flood plain that will be reviewed. He stated the process for choosing a design firm started with over 20 firms that were then narrowed down to 3. Mr. Anderson stated his communication with PGAV has been positive, they seem very organized, and he is looking forward to working with them.

Councilmember Rawlings asked what the City's goal is for a move in date. Mr. Anderson stated the goal is October 2022.

Councilmember Sipple asked since PGAV recently designed the City of Lenexa's maintenance facility, will Leawood realize any benefits or ideas that can be incorporated into the design. Mr. Anderson stated part of the PGAV team includes a consultant who specializes in maintenance facility buildings, such as public works and park maintenance. Mr. Anderson stated in initial discussions he was pleased with how the PGAV expert mentioned working for efficiency and usage of the new space. He stated PGAV not only designed the renovation of the Lenexa Public Works Facility, but they also designed that City's new Recreation Center. Councilmember Sipple stated in his experience firms with substantial experience do not always have to start from scratch to solve any problems or "re-invent the wheel" and can start working quickly.

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

Councilmember Cain asked for a clarification of Item 7G to help refresh her memory of the project. Councilmember Sipple replied he believed a mechanical gate will be added along the driveway going into the Ironhorse parking lot for safety and security.

David Ley, Public Works Director, addressed the Governing Body. He stated Councilmember Sipple is correct that it is for construction of a future gate – pricing to come later this year to the Council. He stated after meeting with the gate company, it was found that the roadway is too wide of a span, so an island is needed for the double-gate system.

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

Councilmember Osman asked if a gate will be installed around the entire perimeter of the clubhouse. Mr. Ley stated the gate will not go around the entire clubhouse but across Bell Drive and approximately 25 feet on either side. There will be a fence that will block the roadway so no one can drive around the gate. Councilmember Osman stated there would be nothing to prevent a person from driving on the sidewalk or through the grass on the left side. Mr. Ley explained when they met with the gate contractor the company will offer a price to install a fence between the curb and sidewalk and another fence between the sidewalk and existing fence that surrounds the putting green. On the west side, a fence will be installed up the berm and landscape area of the subdivision.

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

- A. My sincere sympathies to the family and friends of Mayor Michael Copeland who passed away unexpectedly on August 19<sup>th</sup> at the age of 58. Mike joined the Olathe City Council in 1993 and was elected Mayor in 2001. Under his leadership Olathe has been

consistently recognized as one of the safest cities and best cities in which to live. Mike was engaged in Olathe and throughout the region with numerous philanthropic groups and activities. He leaves behind his wife Maria and three children, Olivia, Abigail and Joshua.

- B. I would also like to offer sympathies for the Leawood Baptist pastor, Adam Carter, for the recent passing of his wife, Marilane Carter. She left behind three children. I ask for a moment of silence for both of these untimely deaths.
- C. I attended a virtual annual meeting for the United Community Services of Johnson County. They hired RDG Consultants for a 6-month study on Seniors Housing Preference. They found nearly 50% had listed owner/occupied homes with shared maintenance as their preference. Johnson County has approximately 600,000 residents and by 2030 there will be an additional 90,000 people. There will be 36,000 more homes needed in the next 10 years. There was discussion at the meeting of the importance of not spending more than 30% of income for a home. Affordable housing was discussed at length and defined for Johnson County as being between \$150,000 - \$180,000. There are not too many in that price range, usually are older homes, and nothing new can be built for that. Affordable apartment living is no more than \$500/month, per the study.
- D. Councilmember Chuck Sipple joined me at the Leawood Chamber ribbon cutting for Engel & Volkers KC, who recently opened in Park Place. Their advisors specialize in high-end residential, commercial, aviation, etc. and are located in 30 countries on four continents with 12,000 employees. They have 800 shops. We are thrilled to have them in Park Place.
- E. The September 2020 issue of the *Leawood Lifestyle* magazine has an excellent feature on Park Place. The story mentions there were no closures during COVID and they are expanding and adding businesses.
- F. I would like to offer congratulations to Rotarians Chuck Sipple and our former Police Chief John Meier for co-chairing a most successful Rotary 5K Labor Day Run. Rotarians Jim Rawlings and Lisa Harrison worked the event while Councilmember Mary Larson ran in the race. The fundraiser had proceeds of nearly \$35,000 and 350 participants. It may be an all-time record for the seven years that Rotary has hosted the event.
- G. Councilmembers Jim Rawlings, Mary Larson, Lisa Harrison and Chuck Sipple joined Kevin Jeffries and myself on a tour today of the new Element Hotel at Cornerstone Shopping Center in Leawood. Everyone enjoyed the tour and the hotel is beautiful. Congratulations and best wishes for great success was offered.
- H. Leawood was voted by BarBend.com as the 4th Most Fit City in Kansas. We were ranked on 11 pieces of data: physical activity, obesity, smoking, health days taken, drinking, exercise opportunities, access to healthy food, air pollution, drinking water, mental distress, and physical distress days. Congratulations to our City for that honor.
- I. A second award was given to the City of Leawood from 247wallstreet.com. They ranked the best city to live in for each state and Leawood was ranked #1 for Kansas in home values, low unemployment rate, and one of the safest in the state (1/5 of the comparable national crime rate.) In the past 5 years the City's population has grown by 7.1%.

## 9. COUNCILMEMBERS' REPORT

**A. Councilmember Osman** – Referral to Public Works Committee, request to select a Design Engineer for Mission Road Improvements, 127<sup>th</sup> to 133<sup>rd</sup> Street

Councilmember Osman started by stating there is a street improvement project south of 135<sup>th</sup> but the City is also going to do road improvements in the second phase of the same project. Mr. Ley stated the first phase of the project, from 127<sup>th</sup> to 133<sup>rd</sup>, includes metal pipe replacement, mill and overlay of the roadway, and undergrounding of the power lines. It also includes an extension of the storm sewer into Gezer Park. He stated the project is scheduled for construction in 2022 and they would like to begin the design process in early 2021.

Councilmember Harrison asked if 127<sup>th</sup> to 133<sup>rd</sup> Street will be completed before the start of south of 133<sup>rd</sup> Street. Mr. Ley stated there will be two different contractors working in the area and City staff will work with scheduling for good movement along Mission Road. He stated they will be concurrent but that the City will provide good access for the neighborhood residents.

Mayor Dunn asked if this project is anticipated to go quicker than the project to the north. Mr. Ley replied this is the reason he would like to select the engineer a year in advance so work on the power lines can begin prior to the construction.

Councilmember Sipple asked if the roadway will be widened. Mr. Ley stated it will not, but at the intersections the roads may flair out a little for left turn lanes. Councilmember Sipple asked if there will be bike lanes, in which Mr. Ley affirmed they will be striped.

**A motion to approve referral to the Public Works Committee by Councilmember Osman, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.**

**B. Councilmember Osman** – Referral to Public Works Committee, request to select a Design Engineer for Lee Boulevard Improvements, Somerset to 83<sup>rd</sup> Street

Councilmember Osman stated this is the 3<sup>rd</sup> phase of the Lee Blvd. project. The first phase, 103<sup>rd</sup> to 95<sup>th</sup> Street, occurred a year and a half ago. The project was put on hold due to COVID-19. The next phase will be 95<sup>th</sup> to 83<sup>rd</sup> Street. Councilmember Osman stated 83<sup>rd</sup> St to Somerset on Lee Blvd. still needs to be designed.

Mr. Ley stated the intersection at Somerset and Lee Blvd will be reviewed for the access into the retail and office buildings.

Councilmember Sipple asked if the speed limit will be increased in that area. Mr. Ley stated there is currently on-street parking, but that he would like to hire a traffic engineer to review the area. Councilmember Sipple stated it would be nice if Lee Blvd. speed limits were consistent throughout the City. Mr. Ley stated the speed limit is 30 mph until it goes to Somerset then is reduced to 25 mph as it enters the City of Prairie Village.

**A motion to approve referral to the Public Works Committee was made by Councilmember Osman, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.**

**C. Councilmember Filla – Discuss consideration of paperless meeting packets**

Councilmember Filla addressed the Governing Body from the podium for a presentation. She stated some years back a citizen inquired about paperless packets and software, and although there had been some discussion with the Council, most Governing Body members preferred to receive paper copies. Councilmember Filla explained she wanted the Council to be aware that there are features already available with the online packet if anyone wanted to choose paperless.

She demonstrated using a .pdf document of the current agenda and explained how the bookmarks and links work, in which a person can move from item to item within the entire packet. She pointed out another feature she appreciated is how one can digitally enlarge data or print size to comfortably read the information that cannot be done on a paper copy. Councilmember Filla stated this capability is so much easier for constituents to find items on the agenda pertaining to their interests. She stated she would like a brief tutorial be available on the City’s website explaining how the public can use and maneuver through the online packet. Councilmember Filla stated this can be of good use during the pandemic and to help save paper.

Councilmember Harrison asked if the Council would be emailed either the packet or a link for it. Kelly Varner, City Clerk, confirmed yes. Councilmember Harrison stated she likes to make notes on her paper copy, but stated she understood she would be able to download and save the packet onto her computer, use the program’s tools for making comments and highlights, and then bring her computer to the meetings. She thanked Councilmember Filla for her explanation and said she changed her mind.

Councilmember Filla stated she does not want to be the last Council to go paperless, because the next generation will be familiar with this technology. She also mentioned she hoped the Stainability Advisory Board was made aware of her efforts going forward. Finally, Councilmember Filla mentioned it allows the City Clerk staff to put together a packet with the most up-to-date information, such as an amended agenda. She stated this technology allows them to be more responsive.

Mayor Dunn thanked Councilmember Filla and asked if any members of the Council wished to go this route to contact Ms. Varner or Ross Kurz, IS Director. She stated paper packets will still be provided for those who wish to keep them.

**10. CITY ADMINISTRATOR REPORT - None**

**11. STAFF REPORT**

- A. Update:** Regarding Leawood Development Ordinance Home Occupations Regulations

Richard Coleman, Community Development Director, addressed the Governing Body via Zoom. He stated City staff did research in neighboring cities to compare regulations. He stated Lenexa is more restrictive but Overland Park, Olathe, and Prairie Village are very similar to Leawood. He stated there was a work session with the Planning Commission on

August 11, 2020, in which two important items came up. One, in reviewing the prohibited list, counseling in the home, as long as it followed all the rules and regulations as far as not creating a traffic nuisance in the neighborhood, would be allowed. Secondly, it was discussed at the work session that it is important to differentiate between employees working from home versus someone who is operating a business out of their home. A business license is required for a home-based business. Mr. Coleman mentioned Cerner as an example, as their business model is now that much of their staff will be expected to continue to work from home, thus their employees would not be required to have a business license in the City of Leawood.

Mayor Dunn stated she understood there was some discussion about Special Use Permits (SUP) and she asked if the Planning Commission will bring anything to the Council about traffic in regards to SUPs. Mr. Coleman stated they will work on clarifying some items in the ordinance, but any changes will be minor.

Councilmember Cain thanked the Planning Commission for their review, but she wonders how it will be regulated and how the public is aware of the regulations. She asked if the Council is being asked to clarify the ordinance, because she does not feel there is a real problem with it currently. She stated she does not want the Council to over-legislate it. Mr. Coleman stated there are very few complaints regarding the City's home occupation regulations.

Councilmember Filla reiterated that Ms. Divine, the resident who requested licensing for her home-based marriage and family counseling business, has most of her appointment done remotely and very few family sessions in person. She desires to be legitimate because she plans to give up office space as she moves into retirement.

Mayor Dunn asked if the current Leawood Development Ordinance (LDO) list allows counseling. Mr. Coleman stated currently there is no allowance list; there is only a prohibited list. Councilmember Filla asked if home-based counseling would not be put on the list. Mr. Coleman stated it would not be added to the prohibited list.

Councilmember Osman stated he appreciated the intent, but he is not in favor of changing the ordinance. He stated that there are a number of small office suites within the City that property owners rely on for professional business leases. He also pointed out the consideration from a safety standpoint of working in a professional office building with a community versus a private home. He is not comfortable expanding home-based businesses. Councilmember Osman suggested having a SUP requirement, so that if anything gets out of hand, the City has the right to review the license on an annual or biannual basis.

Mayor Dunn mentioned there was a lot of discussion about Special Use Permits at the work session that centered on traffic and the number of cars coming to a particular home, and stated Councilmember Osman made some very good points.

Councilmember Filla asked which cities allow counseling in the home as a business and mentioned Ms. Divine is considering making improvements to her home for visitors both in person and via Zoom. Councilmember Filla explained Ms. Divine wished to reduce her working hours, which was why she wanted to reduce the overhead on an office lease. Mr.

Coleman stated Prairie Village and Overland Park parameters are basically that they do not create a nuisance or traffic. Lenexa requires a SUP for the business.

Councilmember Harrison asked if a resident would need extra home owners insurance that the City would need to verify as a protection. Mr. Coleman said he believed most people would want to have additional insurance, and mentioned one of the cities, depending on the business, requires their Fire Department to do a home inspection.

Scott Lambers, City Administrator, addressed the Governing Body. He said this issue is a sensitive situation, but feels the intent is to protect the integrity of the residential aspect of the neighborhood, and an SUP is not accomplishing that. He stated it is good that there needs to be a distinction that an employee working from home is not a business and does not need a license or any regulation. If there is a business, he suggested, the line of demarcation is if people are coming to the house or not.

Councilmember Osman asked if the intent tonight is to approve or not approve, or to direct staff to come up with guidelines with a policy to come back to the Council. Mayor Dunn stated she thought it was the latter, as was the reason for the work session. Patty Bennett, City Attorney, stated the LDO does allow counseling, teaching music, tutoring students, etc.; however, it does have a provision to not exceed above-normal traffic. She said counseling is currently not prohibited, as long as the business does not cause a nuisance or violate any other provisions of the LDO. Mayor Dunn stated the nuisance is a broad definition. Ms. Bennett replied nuisance is difficult to define. She stated a license is defined in the City Code because it is a business license; the LDO covers permitted uses. Ms. Bennett stated a business license would be required to run a business from a home, as opposed to working from home as an employee.

Councilmember Sipple asked how a neighbor would lodge a complaint to the City. Ms. Bennett stated they would contact the Neighborhood Services Department. Upon a complaint staff would check for a business license and contact the person with the complaint. Councilmember Sipple asked how many of those type of complaints does the City receive in a year. Mr. Coleman stated there is an action line for concerns and complaints, but the number of home occupation complaints is approximately 3-4 a year, at the most, and deals mostly with rental homes.

Councilmember Cain asked if a business license is an annual requirement. Mr. Coleman confirmed yes and there is a fee.

Mayor Dunn stated there is no action required from the Council at this time, but more education may be needed. She asked how licensing information is available to the public. Mr. Coleman stated there is information on the City's website regarding a business license, but that it does not specify the type of business.

Mayor Dunn thanked Mr. Coleman for the work session and research on this issue.

**B. Director of Finance Dawn Long**

2020 Sales Tax Report

Dawn Long, Finance Director, addressed the Governing Body. She stated the Council has been provided a report in the packet of the sales tax revenue in an effort to keep them informed of the latest revenues. The last report was provided to the Council in April.

Ms. Long reported that City Sales Tax has gone up but it is lower than this time last year. She stated the City Use Tax is 45% above last year. She explained this is the tax paid for purchases made outside the City of Leawood, such as online. The total for June is almost the same as last year. For the year, the City's revenue is approximately 12% below this time last year.

Mayor Dunn stated she felt this is a very optimistic report.

Councilmember Sipple asked what percentage of tax collected outside of the City is received. Ms. Long stated she is unsure of the actual percentage but she will find out.

Councilmember Azeltine asked if any budget amendments will be coming for the remainder of the year. Ms. Long stated there has been an amendment already to lower the revenue expectation for sales tax. She stated it is reviewed monthly and indicated it may need to be lowered again. Mayor Dunn confirmed the Council voted on the amendment recently. Ms. Long stated there will be amendments coming to the Council for expenditures in the next couple of months. Those amendments will need to go to the State.

Councilmember Osman thanked Ms. Long for the report and stated it is exactly the type of information the Council needs. He mentioned an article in the *Kansas City Star* recently regarding major retailers and restaurants just now coming into defaults. He encouraged everyone to support local restaurants and businesses and make a cognizant effort to do so. Mayor Dunn agreed and pointed out the malls mentioned in the *Star* article included no Leawood stores. Councilmember Osman requested that a updated report be provided to the Council each month. Ms. Long stated she will do that.

Councilmember Harrison asked if the Finance Department gets a breakdown of alcohol tax, and if staff has noticed if there has been a huge decline in alcohol sales. Ms. Long stated it is a separate account and is distributed quarterly. Councilmember Harrison asked if the City receives tax from alcohol by the drink and not through retail stores. Ms. Long confirmed and stated there has not been a significant decline in alcohol tax.

Mayor Dunn thanked Ms. Long for her report.

## ***COMMITTEE RECOMMENDATIONS***

- 12. PLANNING COMMISSION - None**
- 13. OLD BUSINESS - None**
- 14. OTHER BUSINESS**

Mayor Dunn reminded the Council there is a Work Session at the next meeting at 6:00 P.M. to continue reviewing the City's Economic Policies. The Council Meeting will then start at 7:30 P.M., she stated.

**15. NEW BUSINESS – None**

**ADJOURN**

*Meeting was adjourned at 9:01 PM*