

Regular Meeting**THE LEAWOOD CITY COUNCIL****December 7, 2020****Minutes**

Councilmembers Present: Lisa Harrison, Debra Filla, James Azeltine, Chuck Sipple and Mary Larson

Councilmembers Present via Zoom: Julie Cain, Andrew Osman and Jim Rawlings

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Chief Troy Rettig, Police Department
Chris Claxton, Parks and Rec Director
David Ley, Public Works Director
Mark Tepesch, Info. Services Specialist III

Patty Bennett, City Attorney
Nic Sanders, HR Director
Chief Colin Fitzgerald, Fire Department
Ross Kurz, Info. Services Director
Kelly Varner, City Clerk
Stacie Stromberg, Assistant City Clerk

Staff Present via Zoom: Richard Coleman, Community Development Director; and Mark Klein, City Planner

Others Present via Zoom: John Petersen, Polsinelli PC; Mark Simpson, Fontana Land Group; Ben Thompson, GilmoreBell; and Christina Guidry, United Community Services

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF AGENDA**

Mayor Dunn stated there are amendments to the agenda: an item was added under Special Business and Consent Agenda Item HH.

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

4. **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/.

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.

5. PROCLAMATIONS - None

6. PRESENTATIONS/RECOGNITIONS - None

7. SPECIAL BUSINESS

Resolution approving and authorizing the Mayor to execute a Development Agreement, pertaining to creation of a Special Benefit District for the Villas de Fontana Development
[Continued from the November 16, 2020 Governing Body Meeting]

Patty Bennett, City Attorney, addressed the Governing Body. She explained the draft Development Agreement (DA) before the Council is an increase in costs, per the Developer's request. She stated it now is a total with an issuance of management charges of \$3.3M with a 15-year term. She stated if the Council is inclined to approve this request, the Developer is not in agreement with the DA in regards to the timing of the prepayment of the bonds and the defeasing of the bonds.

John Petersen, on behalf of Fontana Land Company, addressed the Governing Body via Zoom. He stated there are eight sections in the DA, of which they agree to seven of them. He stated that the provision from Section 4.02 is not a matter of meeting the obligations, but rather the timing. Mr. Petersen shared a Commitment and Action Step graphic to explain their proposal of the City's and Developer's positions. He stated that the Developer would pay \$6.5M of financial obligations and commitment in 6 steps then the action of the City would be to approve a new Special Benefit District (SBD) financing ordinance. Mr. Petersen stated he understands the City cannot be legally committed to create a new SBD, pass an assessment ordinance, and issue bonds without going through a series of public hearings, but the dilemma is that the Developer is out \$6.5 million without a guarantee.

Mr. Petersen expressed that although the unknown can happen, they are asking the City to allow them to defease the bonds and pay the revised reserve in conjunction with the new SBD finance ordinance. He stated the Developer will pay the money upfront into escrow which is approximately \$2M, so as soon as the City issues the bonds, that money is released to defease the bonds. That would be a security deposit for the City, if future assessments were not paid on the new SBD bonds.

Mr. Petersen presented a letter from the Developer's bank as confirmation of an escrow agreement. He reiterated that under their proposal the City would have all the property taxes paid off as well as the past bond assessments reimbursed back to the City.

Mayor Dunn inquired about the term sheet provided by staff. Ms. Bennett stated the term sheet is the City's standard for any guarantee that the City gets from an SBD. The Developer requested to put the money in escrow under their draft. The City would ask them to put it in escrow under the City's draft for the reserve. Ms. Bennett stated the biggest difference is the pre-payments on the defeasements. She believed from the very beginning that the Developer would defease the bonds on the outset to take the burden off the property that currently exists. She explained the Developer now wants to pay money into escrow, have the County notified that no more assessment could be assessed on the property, and then if the bottom were to fall out on the bond market or the bonds were not issued or they did not finish the project, the money in the escrow would go back to the Developer. She pointed out that the City would have no way to levy assessments on the property since the County would have been notified that no more assessments are forthcoming. She explained it would essentially be defeasing the bonds without an irrevocable commitment of the funds to the City.

Ben Thompson of GilmoreBell addressed the Governing Body via Zoom. He stated that under the bond resolution, a defeasance of the bond is an irrevocable pledge of monies from the security of the bond owners. He stated that the Developer requests to defease the bonds, but if there is a condition where the Developer can claw back the money if the new SBD bonds are not issued and that is not an irrevocable pledge, so the old SBD bonds are not defeased.

Councilmember Harrison asked if the City has a history of not fulfilling a bond commitment. Ms. Bennett replied not that she is aware of. Councilmember Harrison asked what if the Developer does not finish the project, what situation would the City be in. Ms. Bennett explained that under the Developer's scenario the City would not issue bonds and therefore money in escrow could go back to the Developer. She explained that the escrow would be set up to pay the assessments, but the City would have already told the County that no more assessments are levied against that land. If something were to happen, the City would be left having to pay those assessments without being able to collect, levy, or foreclose against the property.

Mayor Dunn stated the past due levies are approximately \$1M. Ms. Bennett clarified she was referring to future levies and that the Developer needs to have an irrevocable commitment because the City would not be protected. Mayor Dunn asked at what point the City turns over the \$950,000.00 in the current escrow. Ms. Bennett stated that under the current agreement it would be within 30 days of the DA. The Developer would still pay the past due balance on the property.

Mr. Petersen stated that by the time the Developer gets to step 5 on their proposed action steps, they would have paid the delinquent ad valorem property taxes and the delinquent assessments that the City has been making payments on. He pointed out that securing the money to defease the bonds is within the control of the City to issue the bonds. He stated that if there was a reason the bonds were not issued, the City would have to pay the remainder of the bond payments, as it is doing now. He stated the City is not doing it now with assessments but rather out of the General Obligation fund.

Councilmember Sipple asked about the timing of the defeasance of the bonds. Mr. Thompson replied that under the Developer's proposal, they would pay the amount of defeasance into an escrow account, and within 15 days of receipt of that money the City notifies the County that the future assessments on the current SBD are paid in full. If no SBD bonds are issued then the money goes back to the Developer. The current SBD bonds are still outstanding but the assessments cannot be levied against the property. He explained that under that scenario the current SBD outstanding bonds are not defeased, because the definition of defeasance in the bond resolution is an irrevocable pledge of those funds. They are not defeased until the new SBD bonds are issued and the money is irrevocably turned over to the City. Mr. Thompson explained what normally happens in a universal bond agreement. Councilmember Sipple expressed his concern with this, putting the City in a bind.

Mayor Dunn stated the commitment made by the Developer in the beginning was that the amount to be put into escrow would be equal to the amount to defease the bond. Mr. Petersen stated that is still the proposal and they remain committed to it. He stated they would like the bonds issued in the 4th quarter of 2021.

Councilmember Azeltine stated the Council has spent more time on this application than any other that he remembers. He stated the Developer's bank requirement is not the problem of the City.

Mayor Dunn asked what happens to the proposal if the City holds back what is currently in escrow and does not turn it over to the Developer. Mr. Petersen pointed out that the City has already paid \$2M in

bond payments and the current escrow amount is only \$950,000.00. Ms. Bennett stated that the City has assessments on this property and can foreclose, yet under the Developer's proposal, that option would be out and there would be no remedy.

Ms. Bennett clarified that the Developer is not in agreement with the DA, so she mentioned this item may not be worth a vote, but rather to be withdrawn by staff.

Mark Simpson, Fontana Land Group, addressed the Governing Body via Zoom. He explained that the City will be in a better situation than it currently is in regards to land ownership, bonds, and payments to all the taxing entities. He explained what the Developer's risks are without a guarantee from the City.

Mr. Lambers explained the reason he did not use the current escrow money is that he is financially conservative and by using part of the City's finances he was able to finance the bonds payments knowing they would not be able to be paid. He explained the plan is to use the current escrow for the final bond payments.

Councilmember Filla stated it was clear in the last Council meeting that the Governing Body would not go against the City's bond counsel. She stated she is ready for the Council to be done with this discussion and asked if the item should be voted upon or withdrawn.

Mr. Petersen stated the version of the DA as proposed by staff is not workable for them.

Mr. Lambers suggested that the Council entertains a motion to favorably consider the Developer's request. Ms. Bennett made the request that if there is an agreement, it also be contingent on the Developer paying the bond counsel's bills that they have committed to. Mr. Petersen stated they will live up to their agreement to pay those statements.

Councilmember Harrison asked to clarify that the Developer's bank is demanding a certain requirement, and the City's bond counsel is saying the City must do something different. Councilmember Azeltine replied that if the Council goes against what the bond counsel recommends, the City is taking on a risk that might not otherwise be taken. Mr. Petersen responded by stating the bond counsel did not say the proposal is illegal or undoable. He added that there has been no evidence that taking the Developer's approach it would expose the City to any risk greater than or equal to what the City has today.

Mayor Dunn stated she read the draft of the City's proposed DA and she would entertain a motion to approve what the staff and bond counsel have prepared.

A motion to approve the Developer's proposal with a contingency of paying bills owed to the bond counsel was made by Councilmember Filla, seconded by Councilmember Harrison. Mayor Dunn pointed out that a vote for the motion is to deny what bond counsel recommends. Motion failed with a unanimous roll-call vote of 0-7. Councilmember Cain was unable to vote due to technical difficulties.

Mayor Dunn stated she would entertain a motion to approve what the City staff has brought forward.

A motion to approve the City Staff Development Agreement proposal with a contingency of paying bills owed to the bond counsel was made by Councilmember Larson. A second was not made. Motion dies for a lack of a second.

Mr. Petersen thanked the Council for their time and attention to the matter. Ms. Bennett stated she will visit with Mr. Petersen on how the Developer would like to move forward on the planning items for the next meeting.

8. 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. 2020-44, 2020-45 and 2020-46
- B. Accept minutes of the November 16, 2020 Governing Body Meeting
- C. Accept minutes of the November 16, 2020 Work Session
- D. Accept minutes of the November 9, 2020 Governing Body Special Call
- E. Accept minutes of the November 2, 2020 Work Session
- F. Accept minutes of the March 13, 2020 Sustainability Advisory Board Meeting
- G. Accept minutes of the July 29, 2020 Public Works Committee meeting
- H. Resolution approving a proposal from Travelers Insurance Company for the 2021 property/liability insurance and additional coverages and authorizing the Mayor to execute a Second Addendum to the Insurance Broker Agreement between Arthur J. Gallagher Risk Management Services, Inc. and the City of Leawood, Kansas (LD)
- I. Approve renewal of Cereal Malt Beverage (CMB) License for Mr. Gyros Greek Food and Pastries, located at 11707 Roe Ave, Ste. C (CC)
- J. Resolution approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2021 Alcohol Tax Fund for an amount not to exceed \$200,000 (F)
- K. Resolution adopting the 2021 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution No. 5275, in accordance with § 1-701 of the Code of the City of Leawood, 2000 (CC)
- L. Approve an expenditure in the amount of \$51,062.52 to Electronic Technology for the purchase of 7 fixed Genetec Automated License Plate Readers and 1 Pan/Tilt/Zoom intersection camera (PD)
- M. Resolution approving and authorizing the Mayor to execute an Addendum to the 2006 Agreement between the City and Overland Park for the Operation and Maintenance of Traffic Signal Systems (PD)
- N. Resolution approving and authorizing the Mayor to execute a Memorandum of Understanding between the City and Overland Park for the purpose of sharing video camera feeds (PD)
- O. Resolution approving and authorizing the Mayor to execute a State and Municipal Lease/Purchase Agreement between the City and Clayton Holdings, LLC, in the amount of \$742,495.05 pertaining to the lease of a fire truck and appurtenant equipment and support systems in the original principal (FD)
- P. Resolution approving a Final Landscape Plan for Somerset Acres – Lot 13 – Residential Generator, located south of 87th Street and east of Mission Road (Case 97-20) (PC)
- Q. Resolution approving a Final Plan for FCS Private Wealth Management – Monument Sign, located north of College Boulevard and west of Mission Road (Case 101-20) (PC)
- R. Resolution accepting a Temporary Construction Easement from Grantors Mary C. Nagy Trustee of Mary C. Nagy Trust and Richard J. Mundis, Trustee of Richard J. Mundis Trust for property located at 12615 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)

- S. Resolution accepting a Temporary Construction Easement from Grantor Malcolm Knarr Roth Investments, LLC for property located at 12702 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- T. Resolution accepting a Temporary Construction Easement from Grantor Malcolm Knarr Roth Investments, LLC for property located at 12702 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- U. Resolution accepting a Permanent Drainage Easement from Grantor Malcolm Knarr Roth Investments, LLC for property located at 12702 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- V. Resolution accepting a Permanent Drainage Easement from Grantor Malcolm Knarr Roth Investments, LLC for property located at 12702 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- W. Resolution accepting a Temporary Construction Easement from Grantor Paul A. Orrick, Co-Trustee of Orrick Living Trust and Anne M. Orrick, Co-Trustee of Orrick Living Trust for property located at 12703 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- X. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Lexington Plumbing Company in an amount not to exceed \$11,929.00 pertaining to the conversion and installation of various fixtures to hands free operation at Fire Station No.2 [Project #74109] (PW)
- Y. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Lexington Plumbing Company in an amount not to exceed \$87,312.00 pertaining to the conversion and installation of various fixtures to hands free operation at the Leawood Justice Center, Ironwoods Lodge and Ironhorse Golf Club [Project #74109] (PW)
- Z. Resolution approving and authorizing the Mayor to execute a Construction Agreement between the City and G-B Construction, LLC in the amount of \$520,773.75, pertaining to the Ironhorse Golf Course Parking Lot Improvement Project [Project #49140] (PW)
- AA. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Ice Masters LLC, in an amount not to exceed \$4,776.20 pertaining to the purchase and installation of a water/ice machine for the City Hall breakroom (Project #74109) (PW)
- BB. Resolution approving and authorizing the Mayor to execute Change Order No. 1 between the City and Miles Excavating Inc. in the amount of \$41,453.28 pertaining to the 143rd Street Improvement Project from Windsor Drive to Overbrook Road (Project #80129)
- CC. Resolution approving and authorizing an Agreement between the City and the Board of County Commissioners of Johnson County, Kansas for the Public Improvement of Kenneth Road/State Line Road from 135th Street to 143rd Street (Project #72034) (PW)
- DD. Request to approve 1st and Final Pay Request to Design Mechanical Inc. in the amount of \$110,000.00 pertaining to the installation of HVAC Ionization Systems, (Project #74109) (PW)
- EE. Request to approve 1st and Final Pay Request in the amount of \$8,425.06 to Phoenix Concrete LLC, pertaining to the construction of a street island at Ironhorse and Bell Drive [Project #70028] (PW)
- FF. Request to approve 1st and Final Pay Request in the amount of \$259,655.50, to Realm Construction Inc. pertaining to the 135th Concrete Repairs Project (PW)
- GG. Approve an expenditure in the amount of \$17,668.01 to MityLite Inc., for the purchase of replacement tables for the lower level of City Hall (PR)

HH. Resolution to approve an Eligible Facilities Request for the replacement of existing antennas with the addition of new antennas and associated equipment at Saddle & Sirloin Club – Cell Tower for T-Mobile Central, LLC., located east of Mission Road and south of I-435 (Case 99-20) (PC)

Mayor Dunn pulled Item 8J.

Councilmember Osman pulled Item 8K.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 7-0. Councilmember Cain was unable to vote due to technical difficulties.

Item 8J discussion:

Mayor Dunn recognized Christina Guidry from United Community Services (UCS) and Leawood resident and Drug and Alcohol Council volunteer, Stephanie Kelly. Ms. Guidry addressed the Governing Body via Zoom. She thanked the City of Leawood for supporting the Alcohol Tax Fund (ATF) since its inception in 1980. She explained the fund is a pooled fund of dollars from the County and nine cities, in which approximately 8% of the population in Johnson County received benefits from services in 2019. Ms. Guidry stated that due to the pandemic they have seen an increase in funding requests for 2021, and that UCS expects that need to rise, especially in mental health and substance abuse. There was a 6% decrease in funding commitments due to a reduction in collections of by-the-drink tax. She explained that some of the dollars were stretched or reallocated to alternative ways of service, such as telehealth and using social media platforms.

Ms. Guidry stated that Ms. Kelly is the Leawood representative and that she created the recommendation presented to the Council in this packet. Ms. Guidry expressed her gratitude of the commitment from the City of Leawood.

Mayor Dunn thanked UCS for all their work and the prudent use of funds. Councilmember Osman asked how restaurants closing due to COVID will affect their budget and planning. Ms. Guidry stated that they have taken steps to confirm that the cities who have committed funds do have them on hand for the remainder of 2020 and upcoming 2021. She stated those jurisdictions have stated their confidence in the amounts they have committed, and many cities including Leawood, have funds that are carried over and thus are able to pay the full-year's commitment in January. Ms. Guidry indicated they have done pro rata reductions and will continue, so that the Drug and Alcohol Council's recommendations are applied as closely as possible. She stated she does not know what their 2022 budget will look like, but they will continue to monitor expectations.

Councilmember Filla thanked Ms. Guidry for her work, especially reshaping some of the programs and their creativity with the 6% reduction.

A motion to approve Item 8J was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 7-0. Councilmember Cain was unable to vote due to technical difficulties.

Item 8K discussion:

Councilmember Osman stated he was asked by several young adults about the increase in rates regarding the fees at Ironhorse Golf Course. He pointed out that the rate for the pass holders under 40 increased 17%, from \$22.49 to \$26.35, when all other rate increases were at 5%. Chris Claxton, Parks and Rec Director, addressed the Governing Body. She stated she did not believe the increases were based on a 5% increase across the board.

Councilmember Osman asked about the reasoning for the Junior Triple Crown fee going from \$550 to \$1,000. Ms. Claxton stated the pass has expanded to include play year-round, instead of being limited to the summer months. She stated only one person took advantage of that pass, and staff talked to that individual who was agreeable to the change. Councilmember Larson confirmed that was her recollection in their last meeting, because the individual is an avid golfer and wanted to use it during the spring and fall months. Mayor Dunn asked to define “junior.” Councilmember Larson stated it is 18 years old and under. Councilmember Osman stated he was contacted by 3 different people who were told there is a wait-list for the Junior Triple Crown and they could not be a part of it. He explained when those individuals were made aware of the rate increase, they expressed their concern of raising the extra money. Ms. Claxton stated the only wait-list she is aware of is on the main Triple Crown pass.

Councilmember Azeltine commented that there is only one person who has the Junior Triple Crown pass and recognizes there is a problem in the sport of golf to encourage young people to play. Ms. Claxton stated the reason for the rate increase is not to make money, but to give a person the opportunity to play year-round.

Councilmember Sipple asked Ms. Claxton to check the numbers on some of the rate increases for typos. Councilmember Larson stated there are two types of junior golfers: avid players and those who dabble in the sport. She pointed out that it will be the parents who pay for the passes, who will make the final determination of its worth, but believes the rate is still very reasonable. Mayor Dunn asked if any school uses the passes, and Ms. Claxton stated no longer because of COVID. She stated that most of the junior golfers are coming through instructional programs, like First Tee.

Councilmember Osman stated some courses in the Johnson County area are more favorable to young players than others in their fees. He agreed that the City should be proactive in getting the youth involved in golf.

Ms. Claxton stated she will go through the figures again for review, and that the Golf Course Committee could do a Zoom meeting, if necessary.

A motion to continue Item 8K to the December 21, 2020 Governing Body meeting was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 7-0. Councilmember Cain was unable to vote due to technical difficulties.

9. MAYOR’S REPORT

- A. I want to express much appreciation to Leawood Foundation Chairman Alice Hawk for orchestrating the fundraising for two memorial benches honoring Leawood resident and volunteer Charles Lusk, who passed away earlier this year in an accident. Besides the Foundation donors, Leawood Rotary was involved and Rotarians Lisa Harrison, Jim Rawlings, and Chuck Sipple were among other Rotarians present. Funds were also received from the Leawood Historic Commission and from former members of the

Leawood Woman’s Club. The Lusk family also participated and were very grateful for the thoughtful recognition. My thanks to our Director of Parks and Recreation, Chris Claxton, and her team for all of their great assistance with this project.

- B. I attended the Greater Kansas City Chamber of Commerce virtual annual dinner where Mid-America Regional Council Executive Director David Warm was recognized as the 2020 “Kansas Citian of the Year.” We extend our sincere congratulations to David for this well-deserved honor.
- C. Our December Johnson and Wyandotte Counties Council of Mayors meeting was held virtually. Most of the discussion was led by League of Kansas Municipalities Executive Director Erik Sartorius regarding the *2021 Statement of Municipal Policy* and bills to watch for in the upcoming legislative session.
- D. I would like to congratulate Leawood Cultural Arts Coordinator Holly York on the recent public art installation of *Inspiration*, located at Tomahawk Creek Parkway and College Boulevard, and *Women of the World*, located in front of the Leawood Justice Center. Both are beautiful additions to our Art in Public Places Initiative and will be celebrated in the spring of 2021 with a ceremony.

10. COUNCILMEMBERS’ REPORT – None

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT

Dawn Long, Director of Finance

Report on Financial Update

Dawn Long, addressed the Governing Body. She indicated a new report was made available to the Council at the dais with the most current information. She stated the sales tax revenue is not regular, but that the staff is estimating at the end of the year the City will spend down its fund balance by approximately \$3.5M. Ms. Long reminded the Council that the City budgets very conservatively and had planned to spend down the fund balance by approximately \$5M.

Mayor Dunn stated that Leawood’s sales tax numbers are faring worse than other Johnson County cities due to the fact that the City does not have any big box stores that stayed open during the COVID lockdown. Ms. Long agreed that the groceries stores and big box stores did well during that time.

Councilmember Osman asked about retailers who are recording internet sales. Ms. Long stated there is no way to track those amounts because that information is not separated out when reported by the State. Councilmember Osman inquired that if a person purchases an iPad online and has it shipped to their home, would the City collect sales tax. Ms. Long explained that would be considered Use Tax, and that the City’s Use Tax has increased during COVID, which is mostly attributed to internet sales.

Mayor Dunn stated she is Chairman of the Johnson County Education Research Triangle and she receives a report from the State Treasurer each month. She stated that Johnson County is faring much better than one would expect.

13. COMMITTEE RECOMMENDATIONS - None

14. OLD BUSINESS - None

15. NEW BUSINESS

- A. Ordinance levying a one-eighth of one percent (.125%) City Retailers' Sales Tax, in addition to the one percent (1.0%) tax currently levied, within the City of Leawood, Kansas, for the purpose of funding an Accelerated Residential and Thoroughfare Street Improvement Program and for Stormwater Improvements in certain instances; such additional tax to take effect on July 1, 2021, and end on June 30, 2028

Mayor Dunn congratulated and gave appreciation to the Leawood residents who recognized the benefit of having non-Leawood residents visit our establishments assisting with infrastructure improvements.

A motion to approve Item 15A was made by Councilmember Azeltine, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 7-0. Councilmember Cain was unable to vote due to technical difficulties.

- B. Resolution approving and authorizing the Mayor to execute a Government Enforcement Services Agreement between the City and Johnson County, Kansas, pertaining to enforcement of Johnson County Board of Public Health Order No. 002-20

Mayor Dunn stated that Johnson County Commission Chairman Ed Eilert phoned her to express his appreciation for the City's partnership and support for this item. She mentioned that the Council also received a letter from the Leawood Chamber of Commerce President Kevin Jeffries regarding a mask order.

Ms. Bennett explained that the mask order is covered under the Governor's Executive Order that the County already adopted and is enforced by the District Attorney's Office. This Public Health Order was passed by the Board of County Commissioners several weeks ago and pertains to social distancing in restaurants, mass gatherings, closing hours, and maximum capacity (not applicable to retail stores.) Ms. Bennett stated this could apply to The Lodge or The Venue, however, the County has a specific process that a person could go through if they want to submit a plan for an exception. It would be reviewed by their Health Department.

She explained that this Public Health Order is not the City adopting its own order, but rather the City consenting to the County's jurisdiction of enforcement of their order. She iterated that the County Commission made it clear that education is the primary goal. This would be a codes enforcement issue, not a misdemeanor or criminal issue. She stated that the County's process is much like Leawood's for code enforcement.

Mayor Dunn asked if Ms. Bennett had read the written comment from the owner of the Talk of the Town restaurant. She stated she had and has also spoken with Mr. Jeffries. Mayor Dunn mentioned that the arguments made by the restaurant owner would be better addressed at the County Commission level, since what is before the Council tonight is a cooperation by the City's code enforcement.

Councilmember Harrison commented on the concerns brought up regarding wearing masks and the possibility of young persons having to possibly enforce it at their place of employment. Ms. Bennett stated that the Executive Order is still in effect, but that it is not this particular Health Order. Mayor Dunn pointed out that the Health Order states "the City retains sole discretionary authority regarding the extent and manner of aid it will provide."

Councilmember Azeltine stated his concern for struggling restaurants getting fined when a customer does not comply with the mask ordinance. He stated the County should enforce their own order and he

does not want to see the City spending its resources investigating and reporting complaints. Ms. Bennett stated that it is up to the City Administrator on who would be involved from the City, but if there was a complaint about a bar or restaurant not closing at midnight, it would be the police who would be contacted. She indicated the police would not cite anyone, but that they could report it to the County. She stated this is not about masks.

Mayor Dunn stated that Chairman Eilert stressed to her that he did not foresee any police involvement. Mr. Lambers replied that police involvement could occur if a customer was being belligerent, just as they normally would. He stated the citation aspect of this Order lies solely with the County.

A motion to approve Item 15B was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a roll-call vote of 5-2. Councilmembers Larson, Harrison, Filla, Osman and Rawlings voted AYE. Councilmembers Azeltine and Sipple voted NAY. Councilmember Cain was unable to vote due to technical difficulties.

Councilmember Sipple asked if there will be any undue burden on the police or Parks employees that oversee activities at The Lodge or Vista 154. He feels the City should be flexible and does not want to see the City get a bad reputation. Mr. Lambers stated there is no flexibility for closing times or with the 6 feet of separation. He stated that it is important that people understand what the rules and specific restrictions are. He stated it will impact the police, but not be a significant burden. He stated the County staff will be working with the businesses during working hours, but afterhours would be when police could be involved.

Councilmember Azeltine stated that it has been his experience throughout the City that restaurants have already complied with social distancing and feels this is a solution looking for a problem. Mayor Dunn stated what the County is asking for is the City's consent for the County's jurisdiction of enforcement of the order within the City's corporate boundaries. She pointed out that the City partners with the County on numerous items.

Councilmember Azeltine asked what would happen if the Council does not approve the item. Ms. Bennett replied that the County will not enforce the order within the City. Mr. Lambers responded that the County is asking for permission to enforce it in a cooperate fashion. Councilmember Sipple expressed his concern on the investigating and reporting statement in the order. Mr. Lambers stated that it would be on a complaint basis. Councilmember Sipple stated that restaurants and bars are most active in the evening hours when the City codes staff is at home, so it does become a burden on police officers. Mr. Lambers stated he is unsure if the County will arrange for their own staff to work beyond 5:00 p.m.

Mayor Dunn stressed that Chairman Eilert is not looking for police involvement nor is it the County's intent. Councilmember Larson stated she wants to support the City's local businesses and also support the County in stopping the spread of COVID. She stated she sees this order as support to the County and to be part of educating the public and businesses of the restrictions. Councilmember Filla stated she understands the fear of becoming a police state, but this is supporting an educational effort. Councilmember Harrison stated she has not seen any issues within the City, and feels that this will not be a great concern to the residents and business owners.

Meeting adjourned at 9:05 p.m.