

Regular Meeting**THE LEAWOOD CITY COUNCIL****January 19, 2021****Minutes**

Councilmembers Present: Lisa Harrison, Debra Filla, Julie Cain and Mary Larson

Councilmembers Present via Zoom: Andrew Osman, James Azeltine, Chuck Sipple and Jim Rawlings

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator
Nic Sanders, HR Director
Chief Troy Rettig, Police Department
David Ley, Public Works Director
Travis Torrez, Bldg/Code Enforcement Dir.
Mark Tepesch, Info. Services Specialist III
Stacie Stromberg, Assistant City Clerk

Patty Bennett, City Attorney
Chris Claxton, Parks and Rec Director
Chief Colin Fitzgerald, Fire Department
Mark Klein, Planning Services Director
Ross Kurz, Info. Services Director
Kelly Varner, City Clerk

Staff Present via Zoom: Ashlee Tomasic, Asst. City Attorney

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

Mayor Dunn stated there was a minor modification to the agenda as Item 7F has been continued to the February 1, 2021 Governing Body meeting.

A motion to approve an amended agenda was made by Councilmember Larson, seconded by Councilmember Cain. 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

Introduction of new Police Officers: Seth Hudson, Luke Milum and David Hulse

Chief Rettig introduced Seth Hudson stating that he is a graduate of UMKC and was an intern in Leawood during the summer of 2019. He graduated from the Police Academy last month and is currently in the field training program in Leawood.

Chief Rettig introduced Luke Milum and David Hulse, who are University of Central Missouri graduates and criminal justice majors. He stated they both worked security at Worlds of Fun. Both officers are currently in the Police Academy and will graduate in May this year.

Mayor Dunn stated that she is thrilled to have them working for the Leawood Police Department. Officer Hudson thanked the Mayor and Council for the opportunity and for inviting them to the Council meeting.

Councilmember Sipple asked how many open spots are still available in the Police Department. Chief Rettig replied that they are down to one.

7. SPECIAL BUSINESS

- A. Ordinance amending and restating Ordinance No. 2812C, a Contract Franchise to Mobilitie, LLC, its successors and assigns, to construct, operate and maintain a telecommunications system as a competitive infrastructure provider in the City of Leawood, Kansas and prescribing the terms of said amended Contract Franchise (LD)

Ashlee Tomasic, Assistant City Attorney, addressed the Governing Body via Zoom. She stated that this is a contract Franchise Amendment that was originally done at a shorter term than the Attachment Agreement, so it could allow the City to review the terms. She explained that the contract franchise has already been approved by the Governing Body. It has a few minor changes, such as allowing assignment to any entity to take over, changing the terms to coincide when the Attachment Agreement is up for renewal, and changing the fee structure that was mandated by statute.

Councilmember Harrison asked if there have been any reported damage to the City's light poles from the antennas. David Ley, Public Works Director, addressed the Governing Body. He stated the utility companies put up their own street light poles and they re-do the bases, so they are designed for the structural load for the antenna. He stated there have been no complaints.

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

- B. Resolution approving and authorizing the Mayor to execute an Addendum to the Master License Agreement dated October 24, 2016 between the City and Mobilitie, LLC for Attachments to City Facilities (LD)

Ashlee Tomasic stated this addendum is to allow Mobilitie the option to pay the safe harbor, which is pursuant to an FCC order guidance. The Attachment Agreement does not expire for several more years, so that is the purpose of the addendum.

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

- C. Ordinance granting to Zayo Group, LLC, formerly American Fiber Systems, Inc., and formerly Abovenet Communications, Inc. a Contract Franchise to construct, operate and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2778 (LD)

Ms. Tomasic explained this allows future assignments which is similar to the Mobilitie item. It is a 10-year term, but the City is removing the letter of credit in lieu of a performance bond to bring it in line with the other agreements. Ms. Tomasic explained that a performance bond gives the City greater protection. She stated that Zayo does not have an Attachment Agreement with the City, just the Public Lands Use Agreement, so there was no concern to tie this to an Attachment Agreement.

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

- D. Resolution approving and authorizing the Mayor to execute a Public Lands Use Agreement between the City of Leawood and Zayo Group, LLC, formerly American Fiber Systems, Inc., and formerly Abovenet Communications, Inc., pertaining to the installation and maintenance of communications facilities within existing conduit (LD)

Ms. Tomasic stated this is a Public Land Use Agreement and is a standard agreement that the City has with all other telecommunication companies in this area. It is in regards to lines that run through City park land at College Blvd. and Tomahawk Creek Pkwy. It matches the terms of the Attachment Agreement and what was just approved for the contract Franchise Agreement.

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

- E. Ordinance rescinding approval of a rezoning from SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 (Planned Cluster Attached Residential) to RP-2 (Planned Cluster Detached Residential), Preliminary Plan and Preliminary Plat for Villa de Fontana, located south of 135th Street and east of Roe Avenue (PC Case 70-20)

Patty Bennett, City Attorney, reminded Council that the Villa de Fontana Preliminary Plan and Preliminary Plat and the rezoning were approved, but the Final Plan was not approved. She stated that the developer/applicant and two other landowners within the development have asked the City to rescind the approval so that the zoning would remain, which was the SD-CR and SD-O and RP-3.

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

Councilmember Harrison asked who owns this property and if there are any visible for sale signs on the property. Ms. Bennett stated she is unsure but stated once this is rescinded, the applicant has indicated the application will be withdrawn. Councilmember Azeltine commented that he thought it was owned by the Canadian Imperial Bank of Commerce (CIBC.)

- F. Review request for City Park Upgrades (PR) *[Continued to the February 1, 2021 Governing Body meeting]*
- G. Review pond renovation projects for Ironwoods Park (PR)

Chris Claxton, Parks and Rec Director, addressed the Governing Body. She presented photos taken recently of the pond in Ironwoods Park showing an island created by silt build-up. She stated in the same area on the west side and around the perimeters of the pond that they are only 2-3 inches deep due to the silt. Ms. Claxton presented a photo of the overflow area on the east side and stated that in the original design of the pond, water would pass through the weirs and onto the overflow. Now, the weirs are blocked and she stated that one of the reasons for that is that the creek is silted in and has very little flow to the pond.

Ms. Claxton showed an aerial view pointing out the switchback trail. She pointed out that the overflow area is located and staff is recommending removal. She pointed out that the area is frequently wet, mossy and icy in the winter. She stated it can be dangerous for bike riders or runners.

Ms. Claxton showed a final map outlining the weirs staff would like to remove, the proposal of a bridge, and removal of the trail where the low-water crossing is located. She stated in the event of a drought, water could be added to the pond, as it was designed in 2008. Staff is also recommending a pond depth of 8-10' once the silt is removed. The silt would be buried in the park with several feet of topsoil added on top.

The staff recommendation is to bond the project so the work can be done all at once.

Mayor Dunn asked if the Corp of Engineers offers any financial assistance. Ms. Claxton stated they do not, but they do require a permit that staff has already applied for in order to work in the creek. Mayor Dunn ask if the cost includes the price for the bridge. Ms. Claxton stated it does and also the engineer's cost. She stated that the amount is all inclusive.

Councilmember Filla asked if the pond was created or natural. Ms. Claxton stated the City created it for fishing and aesthetics to the park. Councilmember Filla asked if the silt is a natural course due to rain. Ms. Claxton stated the silt is from the water coming in from the creek and is deposited in the pond. She explained it became worse as the creek silted in and now the pond has become the creek, in essence. Ms. Claxton noted if the weirs are closed off, the creek will no longer flow into the pond, and this should be a permanent solution to the silt problem.

Councilmember Cain states she uses this path often and it is very popular. She agreed the changes are needed. Ms. Claxton mentioned that the changes will also provide more areas in which people can fish and bubblers will be added to the pond for better water quality.

Councilmember Larson approved of the project and stated she remembers the pond looking beautiful years ago. She stated she is looking forward to seeing it restored to its original beauty.

Mayor Dunn noted that the accesses from the Hills of Ironhorse are now open to this area. Ms. Claxton replied that the Nature Center has seen an increase in visitorship, so the trail will become more popular.

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

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. 2020-51, 2020-52; 2021-01 and 2021-02
- B. Accept minutes of the January 4, 2021 Governing Body meeting
- C. Accept minutes of the November 10, 2020 Parks, Recreation and Cultural Arts Meeting
- D. Accept minutes of the November 11, 2020 Public Works Committee Meeting
- E. Approve renewal of Cereal Malt Beverage (CMB) License for Hen House, located at 11721 Roe Avenue (CC)
- F. Resolution accepting a Temporary Construction Easement from Grantors David J. Blaha and Kathy J. Blaha for property located at 2500 W. 84th Street, pertaining to the Lee Boulevard Improvements, 83rd to 95th Street [Project #72054] (PW)
- G. Resolution approving and authorizing the Mayor to execute Amendment No. 2 to the Agreement between the City and BHC Rhodes, not to exceed \$40,498 pertaining to the Lee Boulevard Improvement Project from 83rd to 95th Street, Phase 2 (PW)
- H. Resolution approving and authorizing the Mayor to execute Amendment No. 3 to the Agreement between the City and BHC Rhodes, 3 not to exceed \$31,860 pertaining to the Lee Boulevard Improvement Project from 83rd to 95th Street, Phase 2 (PW)
- I. Police Department Monthly Report
- J. Fire Department Monthly Report
- K. Municipal Court Monthly Report

Mayor Dunn pulled Items 8I and 8J.

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

Item 8I discussion:

Mayor Dunn highlighted two items from the Police Department's monthly report. She pointed out Officer Bacon who stopped two suspects minutes after they had committed a theft at a local park. She stated this came about from a report of suspicious activity made by a citizen. Chief Rettig affirmed the importance of help from citizens.

Mayor Dunn remarked on the generosity of former Leawood D.A.R.E. students who donated 20 \$50 VISA gift cards for officers to hand out to members of the public during the holidays. Chief Rettig stated this is the 4th year for this event and the donors wish to stay anonymous. He stated the officers enjoy handing out the gift cards.

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

Item 8J discussion:

Mayor Dunn commented that 32 Fire Department personnel have been vaccinated against the virus. Chief Fitzgerald pointed out that since the report was written, all 40 personnel who requested it have now been vaccinated with the first round. The second round will be completed in the next few days.

Mayor Dunn congratulated the Fire Department on their recent accreditation and pointed out that there are only 281 accredited departments in the world and Leawood Fire is one of only 102 departments with both accredited status and ISO rating of 1.

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

9. MAYOR'S REPORT

- A. Councilmember Filla pointed out that in Washington, D.C. this evening at the Lincoln Memorial's Reflecting Pool there are 400 lights representing the 400,000 individuals who have died of COVID in the United States. There are other public buildings around the Nation in major cities that are also lit tonight in memory of those individuals. A moment of silence was requested.
- B. The Leawood Chamber hosted a virtual Legislative update with several Leawood Representatives and Senators participating. The discussion centered on the expectations for the upcoming session, but the major point of the meeting was that public schools are the number one reason why businesses locate in a community. Public education is directly related to economic development. We are fortunate to have outstanding school systems in Leawood, both public and private.
- C. The January Council of Mayors was held virtually. The Executive Director of United Community Services of Johnson County, Julie Brewer, spoke about the Housing Task Force Study. It was a three-year \$450,000 study done by RDG Consultants who were also hired by the State of Kansas. The study found that cities that are not landlocked will have the largest growth, and that income is rising slower than home and rental costs. Ms. Brewer stressed that existing housing is the best affordable housing, and homes in the \$150,000-\$180,000 range are deemed affordable. Johnson County Chairman Ed Eilert also reported that there were only 4,000 COVID vaccines available at that time for 25,000 First Responders in Johnson County.
- D. I would like to thank Human Resource Director Nic Sanders for organizing a virtual Time and Service Award ceremony with assistance from our Information Services Director Ross Kurz. Congratulations to our 2020 Employee of the Year, Paul Dunn. He was nominated by the Public Works Maintenance Asphalt Crew. His nomination was extremely impressive and Paul is very deserving of this recognition.
- E. I had the pleasure of participating in the Olathe, Overland Park, and Leawood NAACP Dr. Martin Luther King, Jr. Legacy & Scholarship Awards virtual event. I would like to thank Chief Rettig and the Leawood Police Department for purchasing tickets for the event. Leawood resident and President of this NAACP branch, Henry Lyons, presented Diversity Advocate in Government Awards to Overland Park, Prairie Village and Leawood. Henry was very helpful to Chief Rettig during this past summer when protests were going on in Johnson County and forged a very beneficial partnership. Mr. Lyons hopes to attend a future City Council meeting sometime later this year to personally present this award.

10. COUNCILMEMBERS' REPORT - None

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT - None

13. COMMITTEE RECOMMENDATIONS

[From the January 6, 2021 Public Works Committee Meeting]

- A. Recommendation on the selection of a Design Engineer for Mission Road, 127th to 133rd Street Project

Councilmember Cain, co-chair of the Public Works Committee, stated that the Committee met on November 11 and January 6. There were two engineering firms for each project. The Committee used a scoring sheet and each firm was considered separately because there was no savings in consolidating the projects. The Committee selected Renaissance Infrastructure Consulting for the Mission Rd. Project and Trekk Design Group for the Lee Blvd. Project (Item 13B.) Councilmember Cain thanked the Public Works Committee members and their discussion of the projects moving forward. Mayor Dunn stated she read the minutes of their meeting and noted the extensive discussion.

A motion to approve Item 13A was made by Councilmember Cain, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.

- B. Recommendation on the selection of a Design Engineer for Lee Boulevard Improvement Project, Somerset to 83rd Street

Councilmember Cain stated Trekk Design Group was selected by the Public Works Committee as the engineer for the Lee Blvd. Improvement Project.

A motion to approve Item 13B was made by Councilmember Cain, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.

14. OLD BUSINESS - None

15. NEW BUSINESS

- A. Ordinance correcting Ordinance No. 2871C, amending Section 1-208 of the Code of the City of Leawood, Kansas, 2000, entitled “compensation” and repealing existing Section 1-208 and other Sections in conflict herewith (LD)

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

- B. Resolution declaring the City’s intent to reimburse certain costs of acquiring a fire truck and appurtenant equipment from proceeds of a lease purchase agreement (FD)

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

- C. Schedule Governing Body Short, Near & Long Term Goals on Monday, January 25, 2021 at 6:00 P.M.

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

Mayor Dunn stated that the Council should expect updates from prior goals meetings from Mr. Lambers on Thursday. Mr. Lambers reminded the Governing Body that there is no Work Session on February 1st so the City Council meeting will begin at 7:00 p.m.

Meeting was adjourned at 8:34 p.m.