

Regular Meeting**THE LEAWOOD CITY COUNCIL**

November 15, 2021

Minutes

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

Councilmembers Present via Zoom: Andrew Osman

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief Dale Finger, Police Dept.	Chief Colin Fitzgerald, Fire Dept.
Dawn Long, Finance Director	David Ley, Public Works Director
Mark Klein, Planning Services Director	Travis Torrez, Bldg/Code Enforcement Dir.
Nic Sanders, HR Director	Chris Claxton, Parks & Rec Director
Ross Kurz, Info. Services Director	Mark Tepesch, Info. Services Specialist
Stacie Stromberg, Assistant City Clerk	Holly York, Cultural Arts Coordinator

Others Present: Julie Brewer, United Community Services of Johnson County; Dave Slobodnik and Erik Pollom, Blue Valley School District; Kevin Wempe, Gilmore and Bell; Curt Petersen, Polsinelli PC

The meeting was called to order at 7:30 p.m. by Mayor Peggy Dunn.

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

Mayor Dunn stated that an amended agenda was made available to the Councilmembers at the dais that changed language in Item 8P. No content was altered in the meeting packet. An item was added under Staff Reports by Chris Claxton, Parks and Recreation Director.

A motion to approve the amended agenda was made by Councilmember Cain, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 8-0.

- 4. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES. A TOTAL OF 30 MINUTES WILL BE ALLOCATED PER MEETING FOR CITIZEN COMMENTS.**

Marc Casey, 2204 Condolea Terr, Leawood, appeared and spoke about Cameron's Court. He referred to the meeting in which the developer was asked to come to an agreement with the homeowners. He had

an issue with the process because of the 15 people permitted, 7 were city staff and the development team. He shared that there was friction between Homeowners' Associations (HOAs) and that he was unable to attend because of the number limitations. He tried to attend the following meeting but left because of similar restrictions. He also shared that he heard discussion about reviewing the 135th Street Corridor Plan. He felt that much of the Cameron's Court project is part of this plan. He referred to a study from 2020 that determined the project would not work. He expressed that the development will set precedents and that it should be given more serious consideration.

Mayor Dunn encouraged Mr. Casey to put his comments in writing and share those with Mr. Oddo, copying the City. She affirmed that the limitations were due to space and that the people who attended were selected by the residents. She shared that there will be no further review of the 135th Street Corridor Plan until open planning items are through the process.

Councilmember Azeltine shared that he was glad the developers met with the public but also stressed that it is not part of the formal planning process unless it is an Interact Meeting.

Brian Masilionis, 4304 W 132nd St., Leawood, appeared and spoke about his support of Cameron's Court. He moved to Leawood because of the schools and because of the availability of an appropriate home. He shared neighbors' concerns about traffic but felt that the proposed plans address many of the neighbors' concerns. He shared that he is encouraged about walking and biking through the new development and also that the developer is from Leawood, leading to a personal connection with the community. He didn't feel that the development will negatively affect the property values and that the schools could support it, and the traffic will be manageable. He further expressed that the homes with smaller yards could be widely appealing and are difficult to find.

5. PROCLAMATIONS

Blue Valley North Volleyball State Champion's Day

Mayor Dunn read the proclamation into the record and asked the players in attendance to introduce themselves.

Small Business Saturday

Mayor Dunn read part of the proclamation into the record.

6. PRESENTATIONS/RECOGNITIONS - none

7. SPECIAL BUSINESS

A. Public Hearing - Amendments to 2021 Fiscal Budget

Mayor Dunn saw that no one in the audience or Zoom was present to speak.

A motion to close the public hearing was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 8-0.

B. Resolution adopting amendments to the 2021 Fiscal Budget for the City of Leawood, Kansas

Dawn Long, Finance Director, stood for questions about the resolution.

A motion to approve Item 7B was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous 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. 2021-44, 2021-45
- B. Accept minutes of the October 18, 2021 Governing Body meeting
- C. Accept minutes of the October 26, 2021 Special Governing Body Call meeting
- D. Accept minutes of the November 1, 2021 Governing Body meeting
- E. **Pulled for discussion by Councilmember Cain.**
- F. **Pulled for discussion by Mayor Dunn.**
- G. Resolution approving and authorizing the Mayor to execute a Construction Agreement between the City and MegaKC Corporation in the amount of \$1,175,446.50 pertaining to the trail extension between Roe Avenue and Tomahawk Creek Parkway [Project # 71029] (PR)
- H. Resolution approving and authorizing the Mayor to execute an Agreement between the City and Landworks Studio, LLC in the amount of \$33,850.00 pertaining to development of a masterplan for Tomahawk Park Play Area (PR)
- I. Resolution approving a Final Sign Plan for Scottsdale Asset Management – Ascentist (Medical Office: Ear, Nose and Throat), located south of College Boulevard and west of Roe Avenue (PC 112-21) (PC)
- J. **Pulled for discussion by Councilmember Harrison.**
- K. Resolution approving and authorizing the Mayor to execute a Services Agreement between the City and G-B Construction, LLC in the amount of \$38,000.00 pertaining to Storm Water Curb Inlet Replacement work in Verona Gardens (PW)
- L. Resolution waiving the bidding process, in accordance with Charter Ordinance No. 39, pertaining to 143rd Street Pavement Repair Project (PW)
- M. **Pulled for discussion by Councilmember Sipple.**
- N. Resolution approving and authorizing the Mayor to execute Change Order No. 1 to the agreement between the City and RLM Underground, LLC in the amount of \$33,481.50 pertaining to the Kenneth Road Fiber Project (PW)
- O. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Paint Pros Inc., in the amount of \$17,353.49 pertaining to the interior painting of the Justice Center (PW)
- P. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement between the City and Olsson, Inc., in an amount not to exceed \$24,000.00 pertaining to the 2022 Pedestrian Signal Crossing - 143rd Street west of Windsor Street [Project #80402] (PW)
- Q. Resolution approving and authorizing the Mayor to execute a Supplemental Agreement No. 1 to the Engineering Services Agreement between the City and Olsson, Inc., in the amount of \$156,768.00 pertaining to the Tomahawk Creek Road Improvement Project [Project #80179] (PW)
- R. Declaration of Surplus Equipment: (1) Air Compressor (Unit 486), (9) Folding Tables, (3) Folding Chairs
- S. **Pulled for discussion by Councilmember Cain.**
- T. Fire Department Monthly Report
- U. Municipal Court Monthly Report

A motion to approve the consent agenda was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 8-0.

Discussion of Item 8E: Accept minutes of the August 26, 2021 Ironhorse Advisory Board meeting

Councilmember Cain pointed out that members of the committee included the Director of Strategic Communications at American Civil Liberties Union (ACLU) as well as county historians from University of Missouri, Kansas City (UMKC) and National Association for the Advancement of Colored People (NAACP). She encouraged everyone to read the notes.

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

Discussion of Item 8F: Resolution approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2022 Alcohol Tax Fund for an amount not to exceed \$160,685.00 (F)

Mayor Dunn invited Julie Brewer, Executive Director of United Community Services of Johnson County, to speak.

Ms. Brewer shared that the Alcohol Tax Fund has been in effect since 1980. It is a 10% state excise tax on liquor sold by the drink. Statute requires that 2/3 of the tax is returned to the jurisdiction and that 1/3 of those funds must be used for programs that include alcohol abuse education, prevention, intervention, and treatment. United Community Services of Johnson County has served in a contract position as the organization that runs the grant process. Stephanie Kelley serves as the Leawood representative on the Drug and Alcoholism Council, but was unable to attend the meeting tonight.

Mayor Dunn asked about the change from the first year.

Ms. Brewer did not have the figures, but in the 40-year history, more than \$40 million has been allocated to programs and services that address alcohol abuse, prevention, and treatment programs in the community.

Mayor Dunn thanked Ms. Brewer for all the efforts.

Ms. Brewer stated that \$200,000 of allocatable dollars were shifted from a program that no longer met the expectations of the council.

Mayor Dunn stated appreciation for Ms. Kelley's efforts and recommendation for her replacement.

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

Discussion of Item 8J: Resolution approving and authorizing the Mayor to execute a Supplemental Agreement No. 1 between the City and George Butler Associates, Inc., in the amount of \$51,600.00 pertaining to the Waterford Stormwater Project [Project #77017] (PW)

Councilmember Harrison asked David Ley about easements on the project.

Mr. Ley replied that the easements are not acquired yet, but the approximately 20 homeowners are aware of the request.

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

Discussion of Item 8M: Resolution approving and authorizing the Mayor to execute a Services Agreement between the City and Phoenix Concrete, LLC in the amount of \$150,000 pertaining to the 143rd Street Pavement Repair Project] (PW)

Councilmember Sipple asked David Ley about the anticipated date for the road to be shut down.

Mr. Ley replied that work should be completed in the next week.

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

Discussion of Item 8S: Police Department Monthly Report

Councilmember Cain complimented the Leawood Police, who attended 18 community events in October. She found it interesting that cell phone data helped solve store burglaries.

Chief Finger stated that the detective responsible for the cell phone data recently graduated from a school designed specifically for that purpose.

Mayor Dunn echoed all the comments and expressed appreciation to Chief Finger.

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

9. MAYOR'S REPORT

A. We would like to extend our sincere sympathies to the family and friends of former Kansas Representative Dennis Moore, who represented the State's 3rd Congressional District for many years. He passed away at the age of 75 years old. He was first elected to the U.S. House in 1998 and served 6 terms. Congressman Moore's wife recently said that some of his proudest legislative accomplishments were passing a law requiring the Federal government to pay for the return flights home of active-duty members of the military, as well as increasing the death benefit for families of fallen members of the military from \$12,000 to \$100,000.

I knew Congressman Moore quite well and found him to be a remarkable servant leader who had a knack for bipartisanship and always civility. Our thoughts and prayers are with his family and friends.

B. I would like to thank Anna Wilkinson, Parks Department, Chris Claxton, Director of Parks and Rec, and her department for organizing the annual holiday lighting ceremony that took place earlier tonight. I want to thank Councilmembers Filla, Rawlings, Harrison, Cain, Sipple and Larson for joining me. There was great entertainment provided by the Nativity Parish School Choir, the Leawood Elementary Children's Choir, and the Leawood Stage Company. My thanks to Chris Claxton and her team for always doing a wonderful job.

- C. Congratulations to Councilmembers Filla, Larson, Sipple, and Cain on their recent re-election to the Leawood City Council. Thank you for agreeing to serve again.
- D. I was joined recently by Kansas State Representative Mari-Lynn Poskin and Johnson County Commissioner Becky Fast at a ribbon cutting ceremony for Optiv, located in Park Place. Optiv is a cyber-advisory and solutions organization. They were located in the T-Mobile (formerly Sprint) campus for 10 years, but wanted to have their midwestern hub in a stand-alone building. A highlight of their ribbon cutting was to provide a \$10,000 generous donation to FosterAdopt Connect, and the Executive Director/CEO was there to accept the check. It was a grand celebration and we wish them much success.

10. COUNCILMEMBERS' REPORT

- A. Councilmember Osman: referral of Construction Inspection Selection for the Mission Road (133rd to 143rd) Project #90175 to the PW Committee

A motion to refer Item 10A to the January 5, 2022 Public Works Committee meeting was made by Councilmember Osman, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

- B. Councilmember Osman: referral of traffic concerns on 132nd St/High Dr. through Waterford and Wilshire Place and traffic concerns on Pembroke north of 133rd St through Greenbrier

Councilmember Osman stated that when the developments were built, residents had concerns about traffic. The speed analysis at the time did not have technology to evaluate who was coming and going. The residents are again expressing concerns about cutting through and speed, so the issue is being referred to see if there are changes.

David Ley shared a map showing the area that will be evaluated as a result of recent requests. The evaluation could take until August.

Councilmember Filla asked if the requests were related to the Oddo project.

David Ley replied that it is a concern for the unknown. Current counts will be compared to previous counts.

Councilmember Filla asked how it would be tied into the Oddo project agenda item on December 6th.

David Ley replied that traffic calming could be introduced. Cut-through traffic would also be evaluated during morning peak, afternoon school, and evening peak.

Councilmember Azeltine asked if 132nd Street extended west of Mission to Roe and if it should be included in the study.

David Ley replied that no one had expressed concern for the area.

Councilmember Cain expressed similar concerns with ongoing development. She hoped to hear new data prior to Public Works hearing it in March.

David Ley replied that there is current data on speed, volume, and license plates but that the old data is speed and volume only.

Councilmember Cain agreed with Councilmember Azeltine that the neighborhood should be advised about the consideration.

David Ley replied that the data can be provided in the Staff Report.

Councilmember Harrison echoed what Councilmember Cain requested. She applauded city staff for their efforts. Chief Finger shared a detailed response about traffic incidents in the area, and the primary issues were with stationary objects. She expressed appreciation for the data collector in her neighborhood.

Councilmember Cain asked if the radar collected speed and license plate information.

David Ley replied that the Police Department has stealth radar to collect data. City staff watched videos and timed the traffic to determine cut-throughs.

Councilmember Harrison asked if it was counting cars.

David Ley replied that the cameras count cars.

A motion to refer Item 10B to the March 2, 2022 Public Works Committee meeting was made by Councilmember Osman, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

11. CITY ADMINISTRATOR REPORT - none

12. STAFF REPORT

Chris Claxton, Parks and Rec Director

Chris Claxton shared that the Kansas Recreation and Park Association has numerous awards given at the annual conference. The Aquatic Branch Award nomination for best special event in the state was presented to City of Leawood, specifically Anna Wilkinson and her seasonal team. She shared photos.

Mayor Dunn expressed congratulations to all.

13. COMMITTEE RECOMMENDATIONS

[From the October 26, 2021 Planning Commission Meeting]

- A. Ordinance approving a Special Use Permit for Leawood Elementary School Mobile Classroom, located north of 123rd Street and west of State Line Road (PC 118-21)

Mayor Dunn shared that questions from the Planning Commission meeting have been answered in Exhibit A.

Jake Slobodnic, Director of Facilities and Operations for Blue Valley School District, 15020 Metcalf Avenue, Overland Park, appeared and spoke about the project. Eric Pollom, Assistant Director of Planning and Operations and resident enrollment expert stood for questions about enrollment. Dan Drake, Assistant Director of Facilities and Operations stood for questions as well. The Special Use Permit request is a renewal for a temporary mobile classroom. No changes are proposed, and all stipulations previously enforced will continue to be met. Enrollment at Leawood Elementary continue to be a challenge, but no funds have been allocated for building improvements. A neighborhood Interact Meeting was held on October 12th. One visitor asked about the nature of the project.

Councilmember Sipple asked how many more years the mobile classroom is anticipated.

Mr. Slobodnic replied that enrollment is anticipated to continue to climb, which presents challenges. The most recent bond, passed in 2020, has no funds allocated for building additions. Any new bond would not lead to a new building addition until at least 2025 or 2026.

Councilmember Cain asked if the numbers were higher than they have ever been.

Mr. Slobodnic shared that the numbers are the best educated guess, and they would be peak numbers.

Councilmember Harrison asked if there has been any talk of tweaking boundaries.

Mr. Pollom replied that Mission Trail has some room; however, projects are anticipated for the 135th Street Corridor that will affect attendance in that school. For that reason, boundary shifts are not being considered. Leawood Elementary's previous peak was 605 students in 1988-1989.

A motion approve Item 13A was made by Councilmember Rawlings, seconded by Councilmember Cain. Motion was approved with a roll-call vote of 7-1. Councilmember Osman voted nay.

Councilmember Osman stated that he is not opposed to the Special Use Permit; however, he is not in favor of utilizing mobile classrooms for an extended period of time. He hoped a nay vote expresses to the district and community that expedited expansion is important.

- B. Resolution approving a Final Plan for City of Leawood Public Art – “Skywriting I”, located north of Town Center Drive and east of Tomahawk Creek Parkway (PC 117-21)

Mark Klein shared a presentation that reviewed the art piece. It was previously located in another location. It is a kinetic art feature 14 feet high and 12 feet wide. It sits on a circular concrete base with lights. A path will allow people to go to the art feature. One tree will be removed and will be replaced along with 12 other trees on each side of Tomahawk Creek Parkway.

Mayor Dunn asked if the circular base lifted it out of the floodplain.

Mr. Klein replied that it is also on a berm. He didn't feel it was a concern.

Councilmember Sipple asked how far outside the radius of the roundabout the structure will be. He expressed concerns that there would be enough room to protect the visitors and the structure from traffic mishaps.

Mr. Ley shared that it would be 35-50 feet away.

Holly York appeared and stood for questions.

Mayor Dunn asked if the art would be moved before another piece was ready to go in the Art on Loan location.

Ms. York replied that the move would not occur until there was a replacement.

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

14. OLD BUSINESS - none

15. NEW BUSINESS

- A. Ordinance appropriating the amounts set up in each fund in the budget for Fiscal Year 2022, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts (F)

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

- B. Resolution determining the intent of the City of Leawood, Kansas to issue its Industrial Revenue Bonds in the amount not to exceed \$17,200,000 to finance the costs of acquiring, constructing and equipping a mixed use commercial facility for the benefit of Leawood MXD LLC., and its successors and assigns (sales tax exemption only) [city share: \$193,500]

Patty Bennett stated that the resolution was similar to one recently presented with another development. Curt Petersen was present to answer questions.

Mayor Dunn asked if the project dealt with structured parking.

Mr. Petersen stated that the parking would be underground.

Councilmember Azeltine asked if the bonds are privately placed. Ms. Bennett responded that a little different than being privately placed.

Kevin Wempe stated that privately placed is the correct term and that the bonds will be placed with the developer.

Councilmember Sipple asked when the developer expects to start construction and what the terms of conditions are. Mr. Wempe stated he is unsure when construction will begin, but the term expires several years into the future if bonds are not issued at that time.

Councilmember Filla asked for a break out of the shares. Mr. Wempe estimated that the State is 6.5% of the expected costs, so that is roughly 6 times what the City's share is. He estimated that the County has a share of approximately 1 3/8%.

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

- C. Schedule the Governing Body meeting for December 6, 2021 at 6:00 P.M.

Mayor Dunn stated that the meeting is anticipated to be lengthy because of public comment.

Councilmember Cain asked if setting an end time could be a possibility.

Mayor Dunn stated that 11:00 p.m. takes a motion to extend. If the group chooses not to continue, members are able to vote against a motion to extend. She recommended allowing citizens to speak after the developer presentation.

Councilmember Cain understood that a new plan would be proposed.

Councilmember Azeltine pointed out that a plan was available for review.

Mayor Dunn stated that allowing citizens to speak before the councilmember questioning should save time. She said that, depending on the number of people signed up to speak, the time allotted each person will be from 3-5 minutes.

Councilmember Harrison asked if a request could be made that the developer not speak for an hour, especially if it is repetitious.

Mayor Dunn replied that it could be suggested but that they would want to explain changes. She stated that an email she received encouraged comments from the public.

Councilmember Filla hoped the citizens would be encouraged to not repeat themselves from previous comments and that they know that the hope is for the meeting to not extend past 11:00 p.m.

Mayor Dunn stated that it might not be possible to avoid that.

Ms. Stromberg stated that she can keep Councilmembers updated on the number of people signed up to speak.

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

Meeting was adjourned at 8:58 p.m.