

Minutes

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 PM on Monday, September 19, 2022. Mayor Peggy Dunn presided.

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

Staff Present:

Patrick Geschwind, Interim City Administrator	Patty Bennett, City Attorney
Chief Dale Finger, Police Department	David Ley, Public Works Director
Chris Claxton, Parks & Rec Director	Nic Sanders, HR Director
Fire Chief Colin Fitzgerald, Fire Dept.	Travis Torrez, Bldg/Code Enforcement Dir.
Mark Klein, Planning Services Director	Stephen Powell, City Clerk
Stacie Stromberg, Assistant City Clerk	Mike Pelger, Info. Services Specialist
Mark Tepesch, Info. Services Specialist	Mike Blankenship, Senior Network Admin.
Kelci Weber, Assistant City Attorney	

Mayor Dunn called the meeting to order at 7:32 p.m.

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

Mayor Dunn stated that the agenda was amended to add an item under Item 13 - Committee Recommendations, and Item 8B was continued to the October 3, 2022 Governing Body meeting.

A motion to approve the agenda as amended was made by Councilmember Sipple and seconded by Councilmember Larson. Motion was approved by a unanimous vote of 8-0.

4. **CITIZEN COMMENTS**

Persons wanting to speak during the meeting must sign-in and indicate the agenda item they wish to address.

Members of the public are welcome to use Citizen Comments to make comments about City matters that do not appear on the agenda, or about items on the Consent Agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters, or personnel issues. Speakers are requested to keep their comments to 3 to 5 minutes. A total of 30 minutes per meeting is allocated for the Citizen Comment portion of the agenda.

The Governing Body will hear comments about items appearing on the agenda from those who have signed in, as each item is considered. In the event a large number of persons sign-in to speak, individual comment time may be further limited at the discretion of the Mayor.

Charles "Bob" Brettell, 9221 Wenonga Rd., Leawood, KS, addressed the Governing Body. He stated that he has started to record the Council meetings for himself and others on YouTube as opposed to

ordering DVDs from the City. He thanked Patty Bennett, City Attorney, for her email to him with helpful information. Mr. Brettell posed several questions to Councilmember Osman, but Mayor Dunn and Ms. Bennett reminded him that this portion of the agenda is for citizen comments and not direct questions to the Councilmembers at the dais. Mr. Brettell expressed frustration regarding the breed specific legislation and opined that a City survey should not be an opinion poll with no public understanding of the issue.

5. PROCLAMATION National Diaper Need Awareness Week

Mayor Dunn read portions of the proclamation into record.

6. PRESENTATIONS/RECOGNITIONS - None

7. SPECIAL BUSINESS

Consider approving and authorizing staff to engage with a private company to develop and administer a statistically valid survey regarding the City's dangerous dog ordinance (CC)

Mayor Dunn stated the Stephen Powell, City Clerk, made his presentation at the Work Session earlier in the evening. Mr. Powell thanked the Council and noted that if they decide to move forward, staff is recommending to use ETC, an Olathe based company.

Mayor Dunn reminded Council that this survey will be statistically valid and that there would be 2,500 surveys mailed to Leawood residents only. It would be considered 95% valid if 400 surveys are returned that the company can validate. The cost is \$11,500 and would take approximately 10 weeks to conduct. There would be a report back to the Council by the end of November.

Mayor Dunn reiterated that the Governing Body will not be involved in the cover memo or the questions.

A motion to approve staff to engage ETC to administer a survey was made by Councilmember Filla and seconded by Councilmember Larson.

Councilmember Cain asked if questions and comments of a work session are written down. Mayor Dunn stated that the minutes of all work sessions are made available and that the Council approves them at the Council meetings as public record.

Mr. Brettell stated that the City does not need to do a survey but should follow the science of other Johnson County cities and stated that a statistically valid survey of people's wrong impressions is pointless. He suggested that the City also conduct an educational campaign as part of the survey. He stated that the survey will only yield results of people's bias.

Councilmember Osman stated that based on the cost of the survey and at the request of the constituent, he has had a change of heart and therefore, is not in favor of conducting a survey.

Councilmember Harrison asked if staff knows how many people watched the work session online earlier tonight.

Councilmember Cain echoed Councilmember Osman's comments. She believed they were working in good faith for their citizens and believes in the concept of popular vote, but if the entity who was driving the discussion states the survey will be invalid, then she will vote no.

Mayor Dunn replied that she may vote however she chooses but the survey will be statistically valid.

Mike Blankenship, Information Services, offered a screenshot of the analytics from the live stream of the work session meeting that showed a peak of 10 viewers.

By a show of hands, the motion was approved by a vote of 5-4. Councilmembers Filla, Larson, Rawlings, and Sipple voted in favor of the survey. Councilmembers Osman, Cain, Harrison, and Azeltine voted nay. Mayor Dunn voted in favor of the survey.

Mayor Dunn stated that she feels it will offer added information from the citizenry.

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. 2022-36 and 2022-37
- B. Accept the minutes of the August 15, 2022 Governing Body Work Session meeting – *Continued to the October 3, 2022 Governing Body meeting*
- C. Accept minutes of the August 29, 2022 I-Lan Sister City Committee meeting
- D. Appointment of Mayor Dunn as the Voting Delegate and Councilmember Mary Larson as Delegate No. 2 to the League of Kansas Municipalities (CC)
- E. Approve the 2023 City Holidays (HR)
- F. **Pulled by Councilmember Filla.**
- G. **Pulled by Councilmember Filla.**
- H. Resolution approving and authorizing the Mayor to execute a Construction Agreement between the City and Phoenix Concrete, LLC, in the amount not to exceed \$115,705.20, pertaining to 95th Street Concrete Patching project (PW)
- I. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Mission Electronics, in an amount not to exceed \$44,972.69, pertaining to the purchase and installation of Audio/Visual equipment located at the Aquatic Center event space (PR)
- J. Approve the purchase of Mobile Data Terminals from Turn-Key Mobile, Inc., in the amount of \$44,850.00 for the Fire Department (FD)
- K. Approve the purchase of fitness equipment from Rogue Fitness in the amount of \$29,597.89 for Fire Station #1 [Project #80158] (FD)
- L. Approve the purchase of fitness equipment from Push, Pedal, Pull in the amount of \$12,143.75 for Fire Station #1 [Project #80158] (FD)
- M. Approve the purchase of eleven 2023 Ford Utility PI AWD Vehicles from Shawnee Mission Ford in the of \$531,267.00 for the Police Department (PW)
- N. Police Department Monthly Report
- O. Fire Department Monthly Report
- P. Municipal Court Monthly Report

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

Discussion of Item 8F - Resolution approving and authorizing the Mayor to execute Addendum No. 2 to the agreement between the City Voya Retirement Insurance and Annuity Company [VRIAC] and Voya Financial Partners, LLC, dated August 1, 2017, pertaining to the City's 457 and 401 Plans (HR)

Councilmember Filla thanked staff for doing the review and asked what the dollar impact may be. Nic Sanders, Human Resources Director, replied that the plan is operating currently with approximately \$5M in assets with Voya having approximately 3-4 years of experience with them. He explained that money

is rolled forward, so ultimately the employees save money on their fees that are associated with the investments they make.

A motion to approve Item 8F was made by Councilmember Filla and seconded by Councilmember Azeltine. Motion was approved by a unanimous vote of 8-0.

Councilmember Azeltine verified that 2 bases points equal 2/100th of a percent. Councilmember Larson agreed in a job well-done to staff.

Discussion of Item 8G - Resolution approving and authorizing the Mayor to execute a Memorandum of Understanding between the City and the Johnson County Mental Health Center, pertaining to a mental health diversion program for Municipal Court (LE)

Councilmember Filla expressed gratitude that the item was up for approval on the agenda. She asked staff if there was any information on other Johnson County cities' experiences with the program. Ms. Bennett stated that the Legal Department does not currently have that information but will find out.

A motion to approve Item 8G was made by Councilmember Filla and seconded by Councilmember Cain. Motion was approved by a unanimous vote of 8-0.

9. MAYOR'S REPORT

- A. It has come to my attention that today is a special day. Today is Public Works Director David Ley's birthday. I hope he has enjoyed a very happy birthday and has a great year.
- B. Councilmember Chuck Sipple joined me at the Leawood Chamber ribbon cutting for Sano Orthopedics, located at 137th and Roe Avenue in Plaza Point. We wish them much success.
- C. Another Leawood Chamber ribbon cutting took place at the Dan and Cassidy Towriss IDEA Space at 122nd and State Line. Councilmembers Larson, Rawlings, Sipple and Cain joined me along with a hundred other guests. It is a fabulous educational center. IDEA stands for Innovation, Discovery, Entrepreneurship and Arts. They have four main areas: Makerspace, Technology Lab, Fabrication Workshop and Incubation Hub. Only half of the facility is completed to date. They have raised private funds for the construction and all of the equipment. Fundraising for the other half of the space, which was the former Hy-Vee grocery store, has already begun. It is quite beautiful, and I encourage those of you who could not be there to go look at the amazing space. Congratulations to Shane Foster, Barstow President; Kellye Crockett, Director of the IDEA Space; and Jennifer Dreiling, (Vice President of Advancement) who is the person raising the funds.
- D. Congratulations are also in order for the new President and CEO of the Leawood Chamber, Stephanie Meyer. She will begin her new role on October 1st. We look forward to working with her.

10. COUNCILMEMBER REPORTS – None

11. INTERIM CITY ADMINISTRATOR'S REPORT

Patrick Geschwind reported that he attended the Johnson County City Managers Meeting recently. He stated the reports from other cities in the area were not universally great, particularly with discussions over their RNRs and budgets.

He stated that he and Mark Klein, Planning Director, attended the EDC (Economic Development Council) meeting last week and heard the Johnson County Appraiser as the speaker. The RNR was also discussed. He stated that it was a very informative discussion and Leawood was well represented.

Mr. Geschwind attended the Taste of Leawood last week. He mentioned it was a great evening and he was happy to represent Leawood.

Mayor Dunn thanked Mr. Geschwind for attending all the events.

12. STAFF REPORTS

Patty Bennett, City Attorney, introduced Kelci Weber, the city's newest Assistant City Attorney. She started working in the City in July.

Kelci Weber addressed the Governing Body. She stated that she graduated from the University of Kansas Law School in 2019 and previously worked in private practice before coming to the City of Leawood. She thanked Ms. Bennett and the Legal Department for their assistance and guidance, and expressed excitement for being a part of the City.

Mayor Dunn stated that the Council is thrilled she is here and welcomed her to the City.

13. COMMITTEE RECOMMENDATIONS

****/From the June 28, 2022 Planning Commission Meeting and continued from the August 15, 2022 Governing Body Meeting/***

Continue Ordinance approving a rezoning to SD-O (Planned Office), special use permit, and a preliminary plan for Johnson County Wastewater Pump Station #10/11, located south of 89th Street and west of State Line Road (PC 25-22) to the October 17, 2022 City Council meeting *[Johnson County Wastewater has requested this item be continued to the October 17, 2022 City Council meeting to allow more time to analyze alternative locations for the pump station.]*

Mr. Klein stated that Johnson County Wastewater (JCWW) is currently reviewing different options, so they have requested that this item be continued to the October 17, 2022 City Council meeting.

Mayor Dunn commented that she appreciates JCWW efforts and acknowledged Mr. Klein and David Ley, Public Works Director, working with them to get the pump station amenable to the interested residents. She stated that the City encourages the good efforts continue.

A motion to approve Item 13 was made by Councilmember Filla and seconded by Councilmember Larson. Motion was approved by a unanimous vote of 8-0.

Councilmember Azeltine echoed the Mayor's comments. He stated that often the intergovernmental cooperation within Johnson County is amazing.

/From the August 23, 2022 Planning Commission Meeting/

- A. Ordinance amending Article 9 of the Leawood Development Ordinance by amending Section 16-9-55 of the Leawood Development Ordinance entitled "Car Wash, Full Service/Totally Enclosed" and adding Section 16-9-55(a) entitled "Car Wash, Partially Enclosed," and repealing existing Section 16-9-55 and other sections in conflict therewith. (PC 79-22) *[Roll Call Vote]*

Mr. Klein stated that this item, along with the following two items, are all related to car washes: the first being for definitions, the second item for the table of uses, and the third for a special use permit. He stated that in June 2021 there was a single definition for full-service car washes. He stated that after some discussion, the Planning Commission considered the washing could be done inside the building and the drying and vacuuming could be done outside under a hard canopy. He stated that staff has received many requests to allow customers to do their own drying and vacuuming, so the Planning Commission and Governing Body was willing to consider that addition. Staff came up with two options: full-service, totally enclosed inside the building and the work done by the employees; and partially

enclosed, allowing the washing to be done inside but for either the employees or the customers to be under a hard canopy to vacuum and dry the vehicles. He stated the amendment would be to modify car wash - totally enclosed back to what it was originally and to add a second definition for partially enclosed.

Councilmember Harrison asked if the staff has received any applications in the last 6-9 months that were denied due to partially enclosed not being allowed. Mr. Klein replied that there have been a number of people who have approached the City regarding properties on 133rd and 135th Streets for this purpose. He stated that they would not be allowed under the current ordinance because of the definition of fully enclosed.

Councilmember Larson expressed concern about the aesthetics. Mr. Klein stated that the Planning Commission reviews the plan and design guidelines that lays out the colors and materials.

Councilmember Rawlings commented that car washes that allow customers to dry and vacuum their own vehicles seem to be very popular.

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

Councilmember Sipple asked if the Waterway Car Wash was considered a partially enclosed car wash. Mr. Klein confirmed it is and stated that the ordinance will allow the vacuuming and drying to be done by employees under a hard canopy as another option, but it is not a requirement for them to change.

- B. Ordinance amending Section 16-2-7 of the Leawood Development Ordinance entitled “Table of Uses” pertaining to car washes – partially enclosed, and repealing existing Section 16-2-7 and other sections in conflict herewith. (PC 80-22) *[Roll Call Vote]*

Mr. Klein stated that this ordinance adds “car washes – partially enclosed” to the table of uses.

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

Councilmember Azeltine asked how long the fully enclosed car wash topic has been in place. Mr. Klein guessed it has been many, many years.

- C. Ordinance amending Section 16-4-3.7 of the Leawood Development Ordinance entitled “Special Uses Designated” pertaining to car washes – partially enclosed, and repealing existing Section 16-4-3.7 and other sections in conflict herewith. (PC 81-22) *[Roll Call Vote]*

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

14. OLD BUSINESS

- A. Ordinance granting to Everfast Fiber Networks LLC 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 (LG) *[Roll Call Vote]*

Ms. Weber stated that the previous franchise was with Consolidated Communications, but they have been acquired by Everfast. She indicated that it has the same terms and the services provided will remain the same. She pointed out that as of July 2020, they serve 119 business and residences primarily along Tomahawk Creek Pkwy.

Councilmember Sipple asked if the cables located on the map are buried. Ms. Weber confirmed that they are buried. Councilmember Sipple asked for clarification of the lines on the map.

Mark Johnson, attorney with Dentons Law Firm, 4520 Main St., KCMO, representing Everfast Fiber Networks, addressed the Governing Body. He explained that Everfast is acquiring the assets of Consolidated Communications to provide telecommunications, video, and broadband services in the KC Metro area. He explained that the vast majority of the lines are buried throughout the service area, particularly in Leawood.

Mayor Dunn stated that the boundaries are whatever Consolidated had, and Mr. Johnson confirmed. He stated that his client has no plans to expand facilities but will watch as potential new customers approach them for service.

Ms. Bennett pointed out that the map is only for Leawood, although Consolidated covers many different areas.

A motion to approve Item 14A was made by Councilmember Larson and seconded by Councilmember Sipple. Motion was approved by a unanimous roll-call vote of 8-0.

- B. Resolution approving and authorizing the Mayor to execute a Public Lands Use Agreement between the City of Leawood and Everfast Fiber Networks LLC, pertaining to the installation and maintenance of communications facilities within existing conduit (LG)

Ms. Weber stated that this is similar to the last item but for a lands use agreement with Everfast. She stated that it adheres to the same terms with the previous agreement with Sprint and is a standard agreement.

A motion to approve Item 14B was made by Councilmember Azeltine and seconded by Councilmember Larson. Motion was approved by a unanimous vote of 8-0.

15. NEW BUSINESS

- A. Schedule a Work Session on Monday, October 3, 2022 at 6:00 P.M. - Licensing and permitting software and related licensing questions

A motion to approve Item 15 was made by Councilmember Cain and seconded by Councilmember Harrison. Motion was approved by a unanimous vote of 8-0.

- B. Schedule Governing Body meeting on Monday, October 3, 2022 at 7:30 P.M.

A motion to approve Item 15B was made by Councilmember Filla and seconded by Councilmember Cain. Motion was approved by a unanimous vote of 8-0.

Meeting was adjourned at 8:27 p.m.