

**MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF FAIRWAY, KANSAS**

The Council of the City of Fairway, Kansas, held their regular meeting at 6:30 P.M. at 5240 Belinder Road, Fairway, Kansas, on Monday, August 8, 2022.

Present: Council Members Jenna Brofsky, David Watkins, Jonalan Smith, Kelly-Ann Buszek, Jason Rogers, Dan Bailey, Joe Levin and Tanya Keys.

Absent: None.

Presiding: Mayor Melanie Hepperly.

Staff Present: Nathan Nogelmeier, City Administrator; Richard Cook, City Attorney; J.P. Thurlo, Police Chief; Brice Soeken, Director of Parks and Recreation; Bill Stogsdill, Director of Public Works.

Visitors: Jim Shull, Marr and Company, P.C., 1401 E. 104th St #100, Kansas City, Missouri.

CALL TO ORDER AND ANNOUNCEMENTS

Mayor Hepperly called the meeting to order.

PLEDGE OF ALLEGIANCE

Mayor Hepperly led the Council in the Pledge of Allegiance.

MONTHLY REPORTS OF STANDING COMMITTEES

CONSOLIDATED FIRE DISTRICT NO. 2, CHIEF CHICK

Mayor Hepperly explained that Fire Chief Chick was not present at the meeting and she referred the Council to the report in the packet, subject to questions.

ADMINISTRATION AND FINANCE COMMITTEE, MR. NOGELMEIER

Monthly Report

City Administrator Nogelmeier referred the Council to the report in the packet, subject to questions. The Committee did not meet in July. The Committee's next meeting is scheduled for Wednesday, August 31, 2022 at 6:30 P.M.

Responding to Councilwoman Brofsky's question, City Administrator Nogelmeier explained that Stretch Lab obtained a transient merchant license in July and opened in a tent outside in the parking lot. Since that time, they have applied for an occupational permit and hope to open their store in September.

POLICE COMMITTEE, CHIEF THURLO

### Monthly Report

Chief Thurlo referred to the report in the packet, subject to questions. He discussed the significant increase in property crime over the last few months. Over the weekend, there were three stolen cars and an estimated 20 cars were burglarized, although only one or two of those wanted to make a report. Each of the stolen autos were unlocked and had the keys inside. He has received many calls from residents and his advice is always to lock their doors.

While he does not want to scare anyone, Chief Thurlo explained that the videos from this weekend show that the suspects were on foot and walking along house lines. When they saw headlights, they ran behind and between houses to avoid being seen. The police will use their resources and manpower to combat the property crime, including officers patrolling on bicycles at night.

They are also planning a media push by sending a mailer to all residents since previous reminders have apparently not worked. He asked for everyone's help to pass along the message reminding residents to lock their cars.

City Administrator Nogelmeier explained that Assistant City Clerk Aldridge reviewed prior notifications to residents about this issue and over the last seven months notices appeared in the January and March newsletters and content specific emails were sent to residents. He understands that accidents can happen, but as long as residents continue to leave their cars unlocked, the property crime will continue.

Responding to Councilman Watkins' question, Chief Thurlo stated that cars could be stolen from garages if a resident leaves the garage door open while mowing their backyard; however, that is not typical. The current trend is cars left unlocked in the driveway with the garage opener in the car enabling suspects to gain access to the home and anything inside the car.

Chief Thurlo stated that in addition to auto burglaries there have been residential burglaries. They have had success in identifying suspects of the residential burglaries and taken them in to custody.

Responding to Mayor Hepperly's question, Chief Thurlo agreed that these types of incidents have occurred in surrounding cities for some time and have recently moved into Fairway. Over the last month the frequency has gone through the roof.

### PUBLIC WORKS COMMITTEE, MR. STOGSDILL

#### Monthly Report

Director Stogsdill referred to the report as submitted, subject to questions. He highlighted that staff has been preparing for the reaccreditation visit that will occur in October.

Responding to Councilman Watkins question, Director Stogsdill explained that the work on Howe and Glenfield is being done by contractors from Water One. Those streets will be milled and overlaid and have spot curb repair following completion of the work by Water One.

Referring to discussions from last month's meeting concerning streets that were removed from this year's mill and overlay work, Director Stogsdill stated that the only street removed was Brookridge and a small portion of Sheridan from the bridge to Shawnee Mission Parkway. Those two streets have been added to the 2023 Capital Improvement Plan.

City Administrator Nogelmeier stated that Brookridge and Sheridan have been added to next year's mill and overlay plan in hopes that prices will stabilize. If prices do not stabilize, then they will move some other street from 2023 to 2024 because they do not want to keep delaying the mill and overlay on Brookridge. For now, with Brookridge included, the mill and overlay for 2023 will be over \$1M.

Mayor Hepperly stated that the 2022 budget was put together 18 months ago and they must estimate future costs since that is the state's timeline to submit budgets.

Director Stogsdill added that he was caught flat footed by the cost increase in a year to a year and one half. Prices were good in 2020 and 2021 and then went up 400 percent in a year. He has never seen that before.

Responding to Councilman Smith's question, Director Stogsdill stated that he has received the street survey the City requested and the results will be discussed at the next Public Works Committee meeting. As for the reason Sheridan and Brookridge were removed from the list, Director Stogsdill stated that they were in the best of all the streets planned for mill and overlay. Howe and Glenfield had to be done because of the work by Water One.

## PARKS AND RECREATION COMMITTEE, MR. SOEKEN

### Monthly Report

Director Soeken referred to the report in the packet, subject to questions. He explained that the pool hours have been changed to school hours. The pool will be closed Monday through Thursday and will be open Fridays from 4:00 to 8:00 P.M. and Saturdays from 12:00 to 8:00 P.M. through Labor Day.

Mayor Hepperly thanked Director Soeken for the outstanding July numbers and asked that he pass along the compliments to his staff.

Councilman Watkins thanked Director Soeken for his work in investigating the pricing on phase 1 of the potential bathroom.

Director Soeken explained that he had hoped to have the contract ready for the Mayor to sign but they are still working on the language to allow the City to retain ownership of the plans prepared for phase 1.

#### MONTHLY REPORTS OF SPECIAL COMMITTEES

##### Tree Board

City Administrator Nogelmeier reported that the Annual Tree Plan is part of the Consent Agenda.

#### APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the four items on the Consent Agenda. The Consent Agenda items include the following: (A) Minutes of Previous Regular and Special City Council Meetings; (B) Claims and Appropriations – Ordinance #1766 – July 2022; (C) Annual Tree Plan; (D) Leaf Collection Agreement with Benjamin Lawn and Landscape.

Mayor Hepperly noted that because there was no one from the public present at the meeting, public comment would be dispensed.

Mayor Hepperly asked for discussion from the Council.

Discussion followed regarding leaf collection dates. Councilwoman Brofsky stated that she received complaints from Ward 4 residents last year that the leaf pick up was too late. She wondered if the dates are rotated each year.

Mayor Hepperly responded that she thinks the dates are rotated because she received comments last year that Ward 1 was too early and the current year dates are later with Ward 4 being earlier. She believes that Benjamin Lawn does a great job for the City and that it is a tough situation and they do the best they can.

Mayor Hepperly asked for further discussion. Hearing none, she asked for a motion.

Councilman Bailey moved that the Council approve the items A through D on the Consent Agenda. Councilman Watkins seconded the motion and the motion carried unanimously.

#### NEW BUSINESS

- A. Consider Accepting the 2021 Audit.

Jim Shull, Marr and Company, P.C., 1401 E. 104th St #100, Kansas City, Missouri, presented the 2021 Audit. He explained the audit process, stating that the auditors do not look at 100 percent of everything but do look at the more significant transactions and any changes from the current year to the prior year and design accounting tests to address those. The audit is risk based to determine what risks there are that something may be wrong in the financial statements. They also examine the City's internal checks and balances to see if they are designed effectively and in place. The City has good internal controls, things are being appropriately reviewed in multiple fashions to ensure that the accounting records are accurate.

While the auditor's report is substantial, the most important thing for the City is the auditor's unmodified opinion, which means that the auditors have taken no exception to the accounting reporting. It is the highest level of assurance.

Mr. Shull explained that because of changes required by the reporting standards, the audit report has expanded greatly. He highlighted the bullet points on page 2 that require that the auditors look at risks and internal controls to make sure that the City's accounting policies are appropriate, and the City has the ability to continue. While these items have always been reviewed by the auditor, they are now required to make affirmative statements in the report. Based on the results of the audit, he does not have any concern about the City of Fairway's ability to continue.

Mr. Shull discussed the Management's Discussion and Analysis, which is required by accounting standards. He thanked Councilman Levin for drafting the analysis.

He explained that for governments, there are two sets of financial statements using two different reporting perspectives. The more business-like model begins on page 10 and includes the City's capital assets and long-term debt and KPERS pension liability. The pension liability is shown to be \$1.5M; however, the City will never liquidate that liability as it is only for financial reporting purposes. The City pays KPERS the required contractual amount each month, but the accounting standards body decided that pension liability should be reported because there were a lot of unfunded governmental pensions.

Page 11 of the report shows the full accrual operating statement. It shows each department's expenses and how they are paid for. For example, administration generated \$564,000 of charges for services, like licenses, permits and fees, and expenses are shown to be \$1,337,000. The grants the City receives are noted, but generally the net expense is negative because no department fully funds itself. Those additional expenses are then covered through taxes, including property, sales and franchise taxes.

The footnotes begin on Page 16 and provide a deeper dive into the particulars of the accounting methods used and government accounting rules. These sections

are more unique to Fairway and provide details about capital assets, with a reconciliation of what was bought and disposed of by asset type.

One significant number is long term debt, which shows the general obligation bonds and other sources of debt in accordance with Kansas Statutes. The limit of debt margin is \$36M and the City currently has less than \$7M in debt, showing that the City's debt margin is quite low.

The Pension and other postemployment benefit plans are detailed on the next few pages. Risk management is also discussed and covers the City's risk management functions, whether by purchasing commercial insurance or participating in KERIT, which is a purchasing pool for workman's compensation insurance.

Finally, the notes discuss the Community Improvement District that will come online in 2022. Next year's audit will look different when the City starts collecting sales tax and making reimbursement to the developers.

The Required Supplementary Information begins on Page 39 and shows the budgetary comparison of the final and actual budget. These comparisons show that the City's budget was in compliance with Kansas Statutes with positive variances across the board.

Mr. Shull stated that the audit process went well. He appreciates all the assistance from staff and is always pleased to be able to serve the City. He offered to answer questions.

Mayor Hepperly asked if there were questions for Mr. Shull.

Mayor Hepperly thanked Mr. Shull for the audit report. She also thanked him for pointing out that the debt Fairway has is a very positive number in that it is significantly lower than state statute allows and indicates that Fairway is in a strong position going forward.

Mayor Hepperly also thanked City Administrator Nogelmeier and his staff for their assistance through the audit process.

Mayor Hepperly asked for a motion.

Councilman Levin moved that the Council accept the 2021 Audit. Councilman Watkins seconded the motion and the motion unanimously.

- B. Ordinance #1767 – An Ordinance Providing Approval for Transfer of Telecommunications Contract Franchise (Ordinance No. 1340) from Consolidated Communications Enterprise Services, Inc. to Everfast Fiber Networks LLC.

City Administrator Nogelmeier explained that this Ordinance is required because of a change in ownership of the communications company.

Mayor Hepperly asked for additional discussion.

Responding to Commissioner Bailey's question, City Attorney Cook explained that although the corporate structure is changing from a corporation to an LLC, the LLC is shielded in liability similarly to a corporation so any difference will be negligible.

Mayor Hepperly asked for further discussion. Hearing none, she asked for a motion.

Councilman Smith moved that the Council approve Ordinance #1767 – an Ordinance providing approval for transfer of telecommunications contract franchise (Ordinance No. 1340) from Consolidated Communications Enterprise Services, Inc. to Everfast Fiber Networks LLC. Councilwoman Brofsky seconded the motion and the motion unanimously.

C. Ordinance #1768 – An Ordinance Amending the Fairway Development Ordinances Pertaining to Driveways, Fences, Generator Pads and Graphics; Amending and Repealing Existing Sections 15-297, 15-298, and 15-438 of the Fairway Development Ordinances.

City Administrator Nogelmeier explained that this Ordinance will amend several Code requirements. The first amendment relates to the pad size for generators. The existing Code restricts the pad size to 48 inches with a maximum square footage of 12 square feet. Some larger homes have larger generators that exceed the 48 inches allowed in a single plane. Therefore, the 48-inch measurement is being removed and the restriction to 12 square feet will remain in the Code.

This Ordinance will also revise the graphics shown in the Code related to driveways. The graphic shows that the driveway is allowed to be 20 feet wide 20 feet out from the garage; however, the driveway width then must taper to 16 feet wide to the curb. The graphic shows a 90-degree angle at that transition but in practice, applicants are allowed to taper the driveway down within 10 feet to the 16-foot width. The graphic has been corrected so that it now aligns with what is being approved in practice.

Finally, this Ordinance will amend the Section related to fences on corner lots. The existing Code language includes the term "shall not" and requires an applicant seeking to install a fence on a corner lot that does not meet Code to go before the Board of Zoning Appeals for a variance. The language has been corrected so that if an applicant requests a fence location that does not meet Code, the exception request can go before the Planning Commission.

Responding to Councilwoman Brofsky's question, City Administrator Nogelmeier explained that the revisions to the driveway graphic will not affect the greenspace requirements because in most cases, the taper in the driveway was already being included in the calculations.

Mayor Hepperly asked for additional questions. Hearing none, she asked for a motion.

Councilman Watkins moved that the Council approve Ordinance #1768 – an Ordinance amending the Fairway Development Ordinances pertaining to driveways, fences, generator pads and graphics, amending and repealing existing Sections 15-297, 15-298, and 15-438 of the Fairway Development Ordinances. Councilman Smith seconded the motion. The motion carried unanimously.

#### COMMENTS BY GOVERNING BODY

Mayor Hepperly asked if there were comments from the Council on any item.

Councilwoman Brofsky announced that the Northeast Johnson County cities have banded together to support an Environmental Fair scheduled for September 17, 2022 from 9:00 A.M. to 12:00 P.M. at the Powell Community Center. The event is a free family-friendly event and for profit and non-profit companies will be present to provide information on things residents can do in their own homes to be more environmentally sustainable.

#### PUBLIC COMMENT

Mayor Hepperly noted that no public were present at the meeting so public comment was dispensed.

#### EXECUTIVE SESSION – ATTORNEY CLIENT PRIVILEGE

Councilman Bailey moved that the Council recess into Executive Session to obtain legal advice related to the intersection of Howe, 57<sup>th</sup> Terrace and Reinhardt in Fairway, Kansas, pursuant to the Attorney/Client Consultation Exception, K.S.A. 75-4319(b)2. The Executive Session will include Attorney Rich Cook, Attorney Ashley Garrett, Attorney Brian Goldstein, City Administrator Nogelmeier and Councilmembers. The open meeting will resume in Council Chambers at 8:30 P.M. Councilman Smith seconded the motion and the motion carried unanimously.

The Council recessed into Executive Session at 7:30 P.M.

The Council reconvened at 8:30 P.M.

#### ADJOURNMENT

Councilman \_\_\_\_\_ moved to adjourn. Councilman \_\_\_\_\_ seconded the motion and the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at \_\_\_\_\_ P.M.

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Mayor Melanie Hepperly

Attest:

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Barb Fox, Recording Secretary