

**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, December 11, 2023.

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

Absent: Council Member Jason Rogers.

Presiding: Mayor Melanie Hepperly.

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

Visitors: Police Officer Robert Metz; Kurt Kimmerling; Consolidated Fire District Battalion Chief Sanders; Lee Story; Jerry Williams.

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.

PRESENTATION: CITIZEN LIFESAVING AWARD

Chief Thurlo introduced Fairway Officer Robert Metz who read a letter he had written to Chief Thurlo concerning an extraordinary act of heroism displayed by Kurt Kimmerling in saving the lives of two workmen. On June 19, 2023, Officer Metz was dispatched to a lawn on fire. Upon his arrival, he contacted Mr. Kimmerling who had reported the fire to the Fire Department. Two other men were also in the backyard and had gotten the fire under control with personal fire extinguishers. The two men indicated they had been working in the crawlspace of the home when someone banged on the front door. The two men were going to continue their work, but the banging persisted and when they went to the door, Mr. Kimmerling advised them the yard was on fire. Mr. Kimmerling had been driving down Roe Avenue when he saw the fire and then stopped at the home. He observed the work truck in the driveway and knocked on the door to alert anyone in the residence. Without Mr. Kimmerling's swift action, the fire could have moved to the house and trapped the workmen in the crawlspace. In light of these circumstances, Officer Metz recommended that Mr. Kimmerling be considered for a lifesaving award. He believes the recognition will not only highlight the

importance of community engagement, but will also inspire others to step forward and contribute to the well being and safety of fellow citizens.

Chief Thurlo, Battalion Chief Sanders from the Consolidated Fire District No. 2, and Mayor Hepperly presented the Citizen's Life Saving Award to Mr. Kimmerling.

#### SWEARING IN OF NEW ELECTED OFFICIALS

Mayor Hepperly thanked outgoing Councilmembers Smith and Rogers for their time on the Council and for their contributions to the City.

Mayor Hepperly announced that two incumbents have been re-elected to the Council, Jenna Brofsky from Ward 4 and Joseph Levin from Ward 3. Mayor Hepperly also introduced the two newly elected Councilmembers, Lee Story from Ward 1 and Jerry Williams, from Ward 2.

City Clerk Aldridge performed the swearing-in ceremony for the four Councilmembers.

Mayor Hepperly welcomed the new and returning Councilmembers.

#### 20-MINUTE RECESS FOR RECEPTION

Mayor Hepperly announced there would be a 20-minute recess for a reception honoring the outgoing and new Councilmembers.

The Council meeting reconvened at 6:55 P.M.

#### MONTHLY REPORTS OF STANDING COMMITTEES

##### CONSOLIDATED FIRE DISTRICT NO. 2, CHIEF CHICK

Mayor Hepperly reported that Chief Chick is not present at the meeting and referred the Council to the report in the packet.

##### 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 met on November 28, 2023 and discussed the status of the Citizen Satisfaction Survey, the RFPs for the Police Department facility needs assessment, and Director Stogsdill presented a five-year plan for mill and overlay and stormwater projects. Staff was also asked to move forward with renovations at the Pool bathhouse and the restrooms at the Park.

As for Finance, the City anticipates making about \$750,000 in transfers into the CIP Fund by the end of 2023. This transfer was budgeted at \$463,000 so the transfer increased based on available revenue. With this transfer, the CIP Fund will be almost fully funded through 2026.

## POLICE COMMITTEE, CHIEF THURLO

### Monthly Report

Chief Thurlo referred the Council to the report, subject to questions. He reported that Officer Westhoff has completed her field training and is now on her own. Officer Metz has also completed Firearms Instructors School, which is a very difficult school to pass.

He discussed several recent car burglaries in the City and described the brazenness of the offenders, who during the car chase were taking selfies, holding firearms while the police were behind them, and posting the selfies on Facebook. Those offenders were apprehended.

He also reported that the license plate readers are being utilized and have helped to locate several individuals, including one vehicle that was stopped that had drugs and stolen firearms inside.

Chief Thurlo warned that there are violent criminals traveling through Fairway and he wanted to make sure that residents are aware.

Responding to Councilwoman Brofsky's question, Chief Thurlo explained that the Guardian Program has been somewhat stalled as it is dependent on manpower and call volume. The Department does still conduct home checks as requested by residents and also check on those residents who they are aware may need assistance.

Councilman Story noted that the report shows that moving and non-moving violations have doubled over the last year and he asked to what that increase was attributed.

Chief Thurlo responded that the increase is the result of traffic enforcement, stopping individuals who are not following traffic laws and slowing down the traffic to make the streets safe. He knows there are lots of concerns from citizens about traffic and the more enforcement and education the Police Department can give to the public, the better. He believes the increased enforcement will also deter criminals.

## PUBLIC WORKS COMMITTEE, MR. STOGSDILL

### Monthly Report

Director Stogsdill referred to the report in the packet, subject to questions. He discussed the recent snow event and reported that the last month has been spent gathering leaves.

#### PARKS AND RECREATION COMMITTEE, MR. SOEKEN

##### Monthly Report

Director Soeken referred the Council to the report in the packet, subject to questions. He discussed the Super Pass Program, stating that Leawood and Roeland Park will not be participating in the program in 2024. Thus, Prairie Village, Mission and Fairway will be the only cities involved in 2024 and he outlined how those changes might affect attendance at the pool.

#### MONTHLY REPORTS OF SPECIAL COMMITTEES

##### Tree Board

Director Stogsdill stated that the Tree Board will meet again during the first quarter of 2024. He explained that the location of all the tree plantings for this year have been identified and those will be planted before the end of the year.

#### RESPONSE TO QUESTION CONCERNING ADDITIONAL NOTICE REQUIREMENT FOR RESOLUTION 2023-G RELATED TO PROPERTY LOCATED AT 4013 WEST 62<sup>ND</sup> TERRACE, FAIRWAY, KANSAS

Mayor Hepperly asked City Attorney Cook to respond to Councilwoman Brofsky's question during the Public Hearing about notice requirements for Resolution 2023-G in the event a decision is made to raise the home.

City Attorney Cook explained that he reviewed the Kansas Statutes and discussed the issue with City Administrator Nogelmeier. It was determined that there is no additional statutory notice requirement if the decision is made to raise the home. The Resolution provides adequate notice to the property owners that there could be a situation where the property would be raised.

City Administrator Nogelmeier explained that he will be in contact with the homeowners on a regular basis. While he is confident that the property owners will get everything taken care of, in the unfortunate situation where that does not occur, the property owners will be given ample time to get their personal possessions out of the home prior to it being raised. He also stated that the Governing Body will get monthly updates on the status of the situation, most likely during the Administration and Finance Committee meetings.

#### APPROVAL OF CONSENT AGENDA

Mayor Hepperly outlined the six items on the Consent Agenda. The Consent Agenda items include the following: (A) Minutes of Previous Regular City

Council Meeting; (B) Claims and Appropriations – Ordinance #1794 – November 2023; (C) 2024 Holiday Schedule; (D) Cereal Malt Beverage License for Hen House; (E) Letter of Understanding with Johnson County Aging and Human Services for the 2024 Johnson County Utility Assistance Program; (F) 2024 Agreement for Information Technology Services with Johnson County Board of County Commissioners.

Mayor Hepperly asked for discussion from the Council.

Responding to Councilwoman Brofsky’s question, City Administrator Nogelmeier stated that there is a hardy balance in the Utility Assistance; however, there are specific criteria that have to be met in order to receive the assistance.

Responding to Councilman Watkins’ question, City Administrator Nogelmeier explained the reasons for the increased cost for technology services provided by the County.

Mayor Hepperly asked for additional discussion from the Council. Hearing none, she asked for a motion.

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

## NEW BUSINESS

A. Consider Resolution #2023-H – A Resolution Establishing the 2024 Fee Schedule.

City Administrator Nogelmeier reported that the only changes from the prior fee schedule relate to the Parks and Recreation Department. The proposed increases are for the Super Pool Pass and facility rentals. Staff believes there is an opportunity to increase the facility rental fees at City Hall because it is one of the busiest rental facilities in the County and the rental fees are the lowest.

City Administrator Nogelmeier explained that staff evaluates fees charged for all services, from dog licensing to permit fees, to ensure that the revenue generated offsets the costs for that particular service. Staff has confidence that fees charged are in line with other cities and those fees will also cover the costs involved.

Mayor Hepperly asked for public comment. Hearing none, she asked for a motion.

Councilwoman Brofsky moved that the Council approve Resolution #2023-H – A Resolution Establishing the 2024 Fee Schedule. Councilman Watkins seconded the motion and the motion carried unanimously.

- B. Consider Ordinance #1795 - An Ordinance Relating to the Regulation of Traffic Within the Corporate Limits of the City of Fairway, Kansas, Incorporating by Reference the Standard Traffic Ordinance for Kansas Cities, 49th Edition, with Certain Additions; Amending or Readopting and Repealing Existing Sections 10-19 Through 10-22, Inclusive, and Sections 10-48 Through 10-66, Inclusive, of the Code Of Ordinances, City Of Fairway, Kansas; and Repealing Ordinance No. 1771.

City Attorney Cook explained that this Standard Traffic Ordinance is routine and incorporates the updated Standard Traffic Ordinance published by the League of Kansas Municipalities.

Mayor Hepperly asked for questions from the Council. Hearing none, she asked for public comment. Hearing none, she asked for a motion.

Councilman Watkins moved that the Council approve Ordinance #1795 - An Ordinance Relating to the Regulation of Traffic Within the Corporate Limits of the City of Fairway, Kansas, Incorporating by Reference the Standard Traffic Ordinance for Kansas Cities, 49th Edition, with Certain Additions; Amending or Readopting and Repealing Existing Sections 10-19 Through 10-22, Inclusive, and Sections 10-48 Through 10-66, Inclusive, of the Code Of Ordinances, City Of Fairway, Kansas; and Repealing Ordinance No. 1771. Councilman Williams seconded the motion and the motion carried unanimously.

- C. Consider Ordinance #1796 - An Ordinance Relating to the Regulation of Public Offenses Within the Corporate Limits of the City of Fairway, Kansas; Incorporating by Reference the Uniform Public Offense Code for Kansas Cities, 38th Edition, with Certain Changes; Amending and Repealing Existing Sections 8-25, 8-26, 8-27, 8-29, 8-30, and Sections 8-49 Through 8-55, Inclusive, of the Code of Ordinances, City of Fairway, Kansas; and Repealing Ordinance No. 1772.

City Attorney Cook explained that the Uniform Public Offense Code is routine and is passed every year. Some new language was added that was inadvertently left out of the Code in 2021.

Mayor Hepperly asked for discussion from the Council.

Responding to Councilwoman Brofsky's question, City Attorney Cook confirmed that the only language in the Uniform Offense Code related to firearms is the language regarding unlawful discharge of a firearm. He noted that other language concerning firearms is set out in the State Statutes.

Councilwoman Brofsky asked whether Chief Thurlo thinks that the Ordinance should have stricter language concerning firearms. For example, one of the exceptions states that it is not unlawful discharge of a firearm if it is done in defense of property. She thinks some of the exceptions are overly broad.

Chief Thurlo responded that he would have to consider whether stricter language is needed, but he is comfortable with the current language.

Responding to Councilman Bailey's question, Chief Thurlo confirmed that language in the Ordinance allows for firing of blanks; however, if someone is firing blanks, there could be other violations of the Ordinance related to disorderly conduct or noise. He added that the language allowing for firing of blanks relates to events where blanks are used for the starting of races or other events.

Mayor Hepperly asked for public comment on this item. Hearing none, she asked for a motion.

Councilwoman Buszek moved that the Council approve Ordinance #1796 - An Ordinance Relating to the Regulation of Public Offenses Within the Corporate Limits of the City of Fairway, Kansas; Incorporating by Reference the Uniform Public Offense Code for Kansas Cities, 38th Edition, with Certain Changes; Amending and Repealing Existing Sections 8-25, 8-26, 8-27, 8-29, 8-30, and Sections 8-49 Through 8-55, Inclusive, of the Code of Ordinances, City of Fairway, Kansas; and Repealing Ordinance No. 1772. Councilman Watkins seconded the motion and the motion carried unanimously.

D. Consider Ordinance #1797 - An Ordinance Granting to Level 3 Telecom of Kansas City, LLC a Contract Franchise to Construct, Operate and Maintain a Telecommunications System in the City of Fairway, Kansas.

City Attorney Cook explained changes to the previous Franchise Agreement are statutory changes and fees have increased to 5 percent of gross revenues for the right to use the right of way.

City Administrator Nogelmeier added that while there is a 5 percent franchise fee in place, that fee will likely never be realized because there are no end users in Fairway. The fiber is simply running through Fairway as Level 3 Telecom does not service residential areas. As a municipality, State Statute requires that the City work with the telecommunications company, even if their equipment is just passing through the City. The company is still subject to a right of way permit and regulations of the City and thus, would be accountable to restore any damage caused by their work in the right of way.

Mayor Hepperly asked for questions from the Council. Hearing none, she asked for public comment. Hearing none, she asked for a motion.

Councilman Levin moved that the Council approve Ordinance #1797 - An Ordinance Granting to Level 3 Telecom of Kansas City, LLC a Contract Franchise to Construct, Operate and Maintain a Telecommunications System in the City of Fairway, Kansas. Councilwoman Keys seconded the motion and the motion carried unanimously.

COMMENTS BY GOVERNING BODY

Mayor Hepperly asked for comments by the Governing Body.

Councilman Watkins thanked former Councilmembers Jonalan Smith and Jason Rogers for their service on the Council. He also welcomed new Councilmembers Lee Story and Jerry Williams to the Council.

City Administrator Nogelmeier announced that the City purchased wreaths from the Shawnee Indian Mission Foundation sale and elected officials and staff are welcome to take one home.

Mayor Hepperly reported that she communicated with Senator Mike Thompson and Representative Will Carpenter, who are the Committee Chairs for the Kansas State Foreign Affairs Committee in Topeka. Chief Barnes submitted the Bill to this Committee over a year ago requesting that the Shawnee Indian Mission be given to the Shawnee Tribe. From her discussions with Senator Thompson and Representative Carpenter, she understands that the Bill will stay active during the next legislative session. Mayor Hepperly communicated Fairway's position, outlining what the City has done over the past year in meeting with the Tribes and the results of those meetings. Both Senator Thompson and Representative Carpenter have indicated that their position has not changed and the Bill will not make it to the Committee. Mayor Hepperly asked that she be notified if the Bill were to come before the Committee so that she can testify at any hearing.

PUBLIC COMMENT

Mayor Hepperly asked if there were members of the public who would like to comment. Hearing none, she closed public comment.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hepperly adjourned the meeting at 7:54 P.M.

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Mayor Melanie Hepperly

Attest:

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Barb Fox, Recording Secretary