



Welcome To Your City Commission Meeting - Please turn off or silence all cell phones during the commission meeting.
Meetings are televised everyday on Channel 2 at 7 p.m. and midnight

Call to Order – Pledge of Allegiance Followed by Silent Meditation

Proclamation:

1. Military Retiree Appreciation Day, October 27, 2018 (pg. 2)

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

2. Minutes from October 9, 2018 Regular Meeting & October 16, 2018 Spec. Meeting **Action:** Motion (pg. 3)

Second Consideration Ordinances:

3. Second Consideration Ordinance No 8089 Amending Chapter 82 Personnel **Action:** Roll Call Vote (pg. 11)

NEW BUSINESS:

Citizen Participation: *(i.e. Items not listed on the agenda or receipt of petitions- Please state your name and address)*

General Items:

4. Consider Cereal Malt Beverage (CMB) License 700 Kiowa Street **Action:** Motion (pg. 13)
5. Review and Discuss Massage Establishment & Massage Therapist Licensing **Action:** Consensus (pg. 14)
6. Region L. Multi-Jurisdictional Hazard Mitigation Plan Modifications **Action:** Motion (pg. 46)

Bids, Contracts and Agreements:

7. Consider Bids for Riverfront Community Center (RFCC) Phase 4 Stone Replacement Project
Action: Motion (pg. 48)
8. Consider Change Order #1 to Contract 2016-93 for McAfee Henderson Solutions – 4th & Marion Signal Project
Action: Motion (pg. 53)

Consent Agenda: Claims for October 6, 2018 through October 19, 2018 in the amount of \$1,222,657.06; Net amount for Payroll #21 effective October 12, 2018 in the amount of \$314,721.79; (No Police & Fire Pension). **Action:** Motion

Other:

Executive Session:

9. Discuss Personnel Matters of Nonelected Personnel per K.S.A. 75-4319 (b) (1), City Manager Contract Renewal
Action: Motion (pg. 61)

Adjourn

Action: Motion

City of Leavenworth, Kansas



Proclamation

WHEREAS, *Military Retirees have served our country faithfully in times of peace and war; and*

WHEREAS, *Military Retirees have made significant sacrifices in defense of our freedom and liberty; and*

WHEREAS, *a large number of Military Retirees and their families live, work, and play in the Leavenworth community; and*

WHEREAS, *the Fort Leavenworth Garrison will conduct a Retiree Appreciation Day on October 27, 2018.*

NOW, THEREFORE, *I, Mark Preisinger, Mayor of the City of Leavenworth, Kansas do hereby join the Fort Leavenworth Garrison in recognizing the contributions, sacrifices, and loyalty of Military Retirees in our community by proclaiming October 27, 2018 as:*

Military Retiree Appreciation Day

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this twenty-third day of October in the year of two-thousand and eighteen.*

Mark Preisinger, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk



CALL TO ORDER - The Governing Body met in regular session and the following commission members were present: Mayor Mark Preisinger, Mayor Pro-Tem Jermaine Wilson, Commissioners Nancy Bauder, Larry Dedeke and Myron J. (Mike) Griswold.

Others present: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Public Works Director Mike McDonald, Deputy Public Works Director Mike Hooper, City Planner Julie Hurley, Information Systems Manager Carol Charity, Operations Superintendent Curtis Marks, IT Specialist Amy Peters, WPC Superintendent Chuck Staples, Finance Director Ruby Maline, Public Information Officer Melissa Bower, City Attorney David E. Waters, Deputy City Clerk Cary L. Collins and City Clerk Carla K. Williamson.

Mayor Mark Preisinger opened the meeting with the pledge of allegiance followed by silent meditation.

Proclamation:

Domestic Violence Awareness Month – October 2018 – Members of Alliance Against Family Violence accepted the proclamation.

Food Day – October 25, 2018 – Bill Kromer of the Leavenworth Farmer’s Market accepted the proclamation.

Lights on After School – October 25, 2018 – Linda Graves from Horizon Kids accepted the proclamation.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

City Clerk Carla Williamson noted that the minutes provided in the agenda packet contained an error that has been amended. Under Citizens Participation, Mike Smith of Lansing was listed as the City Manager, it should read Mayor.

Commissioner Bauder moved to approve the minutes from the September 25, 2018 regular meeting as amended. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Second Consideration Ordinances:

Second Consideration Ordinance No. 8087 Wastewater Rates – City Manager Paul Kramer stated that the change will increase rates by 5%. There have been no changes since first consideration.

Mayor Preisinger called the roll and Ordinance No. 8087 was unanimously approved 5-0.

Second Consideration Ordinance No. 8088 Refuse Rates - City Manager Paul Kramer stated that the change will increase rates by 8%. The increase is needed to keep up with increased cost to include the purchase of an additional truck. No taxes fund this program. It is sustained by rates collected by citizens. There have been no changes since first consideration.

Mayor Preisinger called the roll and Ordinance No. 8088 was unanimously approved 5-0.

NEW BUSINESS:

Citizen Participation:

Dale Derrell – 559 South Street

First Issue

- Purchased Grandmothers house
- Neighboring property is rental
- Never a cockroach problem until neighboring rental property
- \$700 spent treating for roaches in his house
- Rental house is causing infestation in neighboring properties
- City does not have a mechanism to address this problem
- What options do people have that don't have funds to treat the problem
- Mother may have to sell her home due to the problems with neighboring properties

Second Issue

- Daughter lives in Olathe stays with him in summer
- Went to West Jr High to play basketball – not available in summer
- No place to play basketball outside
- Community Center not available
- No nets on goals at Dougherty Park

Commissioner Wilson asked about looking at times at the Community Center during the summer for open gym.

City Manager Kramer discussed the size of the gym, the location of the gym, the time it's available. Gym needs to be monitored due to incidents that have happened; therefore, times are limited but are available.

Commissioner Wilson noted that this is the second time pest infestation of rental property has been brought to the Commission. There is a need for a rental inspection program.

General Items:

Review Properties on Demolition List – 202 Pottawatomie Street and 209 Elm Street – City Planner Julie Hurley presented an update on two properties that were given extensions by the City Commission on June 26, 2018 under Resolution B-2203.

202 Pottawatomie:

- Some exterior work include:
 - Some siding repair on the front of the house
 - Roof repair on the rear portion of the house
 - Addition of a covered porch (not an item necessary to bring into code compliance)
- Items remaining to be completed include:
 - Roof repairs
 - Siding repair/replacement
 - Soffit and eave repair/replacement
 - Gutter repair/replacement

Property is on the Kansas Register of Historic Places. The Leavenworth Preservation Commission (LPC) reviewed the property on July 11, 2018 and instructed the property owner to commence repairs prior to October 9, 2018. The LPC reviewed the property again at their October 3, 2018 meeting. The property owner was not present to discuss his plans. The LPC instructed staff to send a letter requesting a written plan and timeline for completing repairs. Staff recommends the property remain on the demolition list with an extension to complete necessary repairs.

Rickey L Giles, Jr., Property owner addressed the Commission

- Built a new veranda
- Called someone about removing shingles (asbestos siding)
- The company has not been able to get to the job yet
- Does not want to put in new windows and doors until shingles have been replaced

Commissioner Bauder moved to keep 202 Pottawatomie Street on the demolition list and give an extension of 90 days. Commissioner Griswold seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

209 Elm Street:

- A permit to replace the roof was obtained on September 18, 2018
- Owner in the process of rebuilding the roof structure
- Gutters repair/replacement, window repair, replacement and repainting still remain to be completed

Staff recommends the property remain on the demolition list with an extension to complete necessary repairs.

Shane Sampson was present to speak on behalf of the owner

- Began the work of replacing the roof and found 5 layers of shingles
- Has taken longer than expected
- Thinks work can be completed in 30-45 days

Commissioner Dedeke moved to keep 209 Elm Street on the demolition list and grant a 30 day extension. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Acceptance of Dedication of Land for Public Purpose – West Glen 2nd Plat – City Planner Julie Hurley presented for consideration the acceptance of the dedication of land for public purposes.

This includes associated right-of-ways, utility easement and 3 tracts for open space and to accommodate an existing gas pipeline. The Planning Commission considered the plat at the October 1, 2018 meeting and unanimously recommended approval.

Commissioner Griswold moved to accept the dedication of land for public purposes as part of the final plat for the West Glen 2nd Plat. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Acceptance of Public Improvements West Glen 1st Plat – Public Works Director Mike McDonald presented for consideration the acceptance of the public improvements and approval of a permanent sewer easement for West Glen Subdivision 1st Plat. The developer constructed streets, sidewalks, sewers, storm sewers and other utilities at their expense. The work has been inspected by City forces. The developer, JMK Partners LLC, will be required to pay 6% of the cost of the improvements to the City for inspection and other services and post a 2 year bond. Staff recommends approval contingent upon receipt of the 6% inspection fee and posting of the bond being received by the City.

Commissioner Bauder moved to accept the public improvement contingent upon receipt of the 6% inspection fee and 2 year bond being received by the City for the West Glen 1st Plat. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Mayor's Appointments:

Mayor Preisinger moved to appoint Michael Prevou to Grow Leavenworth County to an unexpired term ending May 31, 2020. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Bids, Contracts and Agreements:

Consider Agreement for Additional Data Storage – Information Systems Manager Carol Charity and Amy Peters presented for consideration the purchase of additional storage from ISG Technology, LLC in the amount of \$121,203.00 with payment to be made on January 4, 2019.

Commissioner Bauder moved to approve the purchase of additional storage from ISG Technology, LLC in the amount not to exceed \$121,203.00 with payment to be made on January 4, 2019. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Consider Agreement for Lease of City Copiers – Finance Director Ruby Maline presented for consideration the lease of copiers for the City. The City announced a request for proposals. Of the proposals received and reviewed staff recommends entering into a 5 year lease and maintenance agreement with Network Computing Solutions. The annual lease, maintenance agreement and anticipated copy charges total \$27,756.00. Proposals were received from four companies and were as follows:

<u>Company</u>	<u>Quote (monthly lease)</u>
Network Computing Solutions	\$1,593.32
Canon Solutions	\$2,841.00
Century	\$1,787.52
Image Quest	\$3,185.58

Commissioner Griswold moved to approve the 5 year lease and maintenance agreement with Network Computing Solutions not to exceed \$30,000. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Consider Proposal for Audit Services – City Manager Paul Kramer and Finance Director Ruby Maline presented for consideration proposal for audit services to begin with the City’s 2018 financial records audit. Proposals were received from three firms (Berberich, Trahan & Co P.A., Dana F Cole & Co LLP and Mize Houser & Co P.A.). Staff recommends approval of the proposal submitted by Mize Houser & Co P.A. for the 2018 Comprehensive Audit with the option of four (4) one year renewals.

Commissioner Bauder moved to award the contract for audit services for the 2018 audit to Mize Houser & Company with the option of four (4) one year renewals. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Consider Bids for 16th Terrace & Thornton Phase 1 Detention Project – Public Works Director Mike McDonald presented for consideration a contract with Linaweaver Construction in the amount of \$135,501.00 for the 16th Terrace & Thornton Phase 1 Detention project. Bids were opened on October 3, 2018 and were as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alternate Bid 1</u>	<u>Total Bid</u>
Linaweaver Construction	\$135,501.00	\$20,111.00	\$155,612.00
Lexeco	\$136,660.20	\$11,666.20	\$148,326.40
King's Construction	\$264,200.75	\$38,732.50	\$302,933.25
<i>Engineer's Estimate</i>	<i>\$313,448.27</i>		

Commissioner Griswold moved to approve the base bid from Linaweaver Construction in the amount not to exceed \$135,501.00. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Consider Change Order No 1 to Contract 2017-68 Wilson & Company Design Services, 14th Street & Pawnee Culvert Replacement Project - Public Works Director Mike McDonald presented for consideration a change order to the design services contract with Wilson & Company for the 14th Street & Pawnee Culvert Replacement Project in the amount of \$7,500.00 for a new total contract amount of \$41,400.00. The additional improvements include limited bank stabilization, design of

erosion control measures, stream tree, brush and debris removal. The additions will also result in additional permits and the cost of those permits.

Commissioner Griswold moved to approve Change Order No 1 to the design contract with Wilson & Company for the 14th & Pawnee Culvert Replacement Project in an amount not to exceed \$7,500 for a total contract amount not to exceed \$41,400.00. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Consider Change Order No 1 to Contract 2017-69 Water Resource Solutions LLC Design Services 16th Terrace & Thornton Detention Storage Project - Public Works Director Mike McDonald presented for consideration a change order to the design services contract with Water Resource Solutions LLC for the 16th Terrace & Thornton Detention Storage Project in an amount not to exceed \$5,000 for a total contract amount not to exceed \$43,665.00.

Commissioner Bauder moved to approve Change Order No 1 to the design contract with Water Resource Solutions LLC for the 16th Terrace & Thornton Detention Storage Project in an amount not to exceed \$5,000 for a total contract amount not to exceed \$43,665.00. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

First Consideration Ordinance to Amend Chapter 82, Personnel – City Clerk Carla Williamson presented for first consideration an amendment to Chapter 82 of the City Code to remove all sections except Article I. The chapter was amended in 2017; however, the ordinance was not written correctly and the Civil Service section remained in place. All Personnel Policies and Procedures are governed by the City of Leavenworth Personnel Manual.

There was a consensus by the Commission to place on first consideration.

CONSENT AGENDA:

Commissioner Griswold moved to approve claims for September 22, 2018 through October 5, 2018 in the amount of \$1,510,696.06; Net amount for Payroll #20 effective September 28, 2018 in the amount of \$365,329.32; (Includes Police & Fire Pension in the amount of \$11,572.36). Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Other:

Commissioner Bauder:

Announced that the Chamber of Commerce is holding various forums regarding candidates for the upcoming elections. She also announced that early voting begins October 17th at the County Court House.

Commissioner Wilson:

Asked why Pit Bulls cannot be adopted.

City Manager Paul Kramer stated that there is no ban in the City on Pit Bulls or any breed and that he would look into the situation that Commissioner Wilson was referring to and get an answer.

Mayor Preisinger:

Ground breaking on the School's new addition at Warren Middle School on October 11, 2018 at 10:00 a.m.

City Manager Kramer:

Discussed the recent rains and flooding:

- River to crest on Wednesday, October 10, 2018
- Camp ground closed until further notice
- Brush Site close until Tuesday
- Riverfront Park will remain open for people to watch the river and a safe place for viewing
- 3 Mile Creek and trails rise because of the backup of the river and not necessarily due to rain fall
- The Community Center is not in danger of flooding
- If 2nd Street goes under water barricades will be put up but it is not anticipated to happen

Executive Session:

Discuss Personnel Matters of Nonelected Personnel per K.S.A. 75-4319 (b) (1), City Manager Contract Renewal

Mayor Preisinger moved that the City Commission recess into executive session pursuant to the *nonelected personnel matters* exception per K.S.A. 75-4319 (b) (1), in order to discuss the City Manager contract renewal. The open meeting to resume in the City Commission Chambers at 9:03 by the clock in the City Commission Chambers. City Attorney David Waters is requested to be present during the Executive Session. Commissioner Griswold seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

The City Commission returned to open session at 9:03 p.m.

Mayor Preisinger moved to extend the executive session to 9:10. Commissioner Bauder seconded the motion and was approved 3-0 (Votes by Preisinger, Bauder and Griswold).

The City Commission returned to open session at 9:10 p.m. with no action taken.

Adjourn:

Commissioner Griswold moved to adjourn the meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried and the meeting adjourned.

Time Meeting Adjourned 9:10 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC



The City Commission met for a Study Session with the following members present: Mayor Mark Preisinger, Mayor Pro-Tem Jermaine Wilson, Commissioners Nancy Bauder, Larry Dedeke and Myron J. (Mike) Griswold

Others Present: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Finance Director Ruby Maline, Public Works Director Mike McDonald, Deputy Public Works Director Mike Hooper, Operations Superintendent Curtis Marks, Sr., Public Information Officer Melissa Bower and City Clerk Carla K. Williamson.

The Governing Body signed the consent for the special meeting written waiver notice.

Mayor Preisinger called for a motion to open the special meeting.

Commissioner Dedeke moved to open a Special Meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Executive Session:

Discuss Personnel Matters of Nonelected Personnel per K.S.A. 75-4319 (b) (1), City Manager Contract Renewal

Mayor Preisinger moved that the City Commission recess into executive session pursuant to the *nonelected personnel matters* exception per K.S.A. 75-4319 (b) (1), in order to discuss the City Manager contract renewal. The open meeting to resume in the City Commission Chambers at 8:50 by the clock in the City Commission Chambers. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

The Commission returned to open session at 8:50 p.m. with no action taken.

Adjourn:

Commissioner Dedeke moved to adjourn the meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor Pro-Tem declared the motion carried and the meeting adjourned.

Meeting adjourned at 8:50 p.m.
Minutes taken by City Clerk Carla K. Williamson

**POLICY REPORT
SECOND CONSIDERATION
ORDINANCE No. 8089 AMENDING
CHAPTER 82 PERSONNEL**

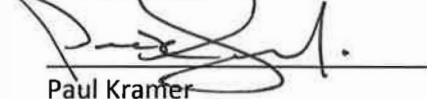
OCTOBER 23, 2018

Prepared by:



Carla K. Williamson, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

BACKGROUND:

At the October 9, 2018 City Commission meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF LEAVENWORTH, KANSAS, CHAPTER 82 PERSONNEL, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTIONS AMENDED.

There have been no changes since this item was placed on first consideration.

RECOMMENDATION:

Staff recommends approval of Ordinance No. 8089.

ACTION:

Ordinance No. 8089 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8089

(Summary Publish in the Leavenworth Times on October 26, 2018)

ORDINANCE NO. 8089

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF LEAVENWORTH, KANSAS, CHAPTER 82 PERSONNEL, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTIONS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. That the Code of Ordinances, City of Leavenworth, Kansas, Chapter 82, Personnel, is hereby deleted in its entirety and amended to read as follows:

Article I – In General

Sec. 82-1 All Personnel Policies and Procedures will be governed by the “City of Leavenworth Personnel Manual”.

Sec. 82-2 – 82-63 Reserved

Section 2. REPEAL. Chapter 82, Personnel, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after the date of its publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this 23rd day of October 2018.

Mark Preisinger, Mayor

{Seal}


ATTEST:

Carla K. Williamson, CMC, City Clerk

**POLICY REPORT
2018 CEREAL MALT BEVERAGE LICENSE**

October 23, 2018

Prepared by:


Beverly Wilson
Receivable/License Coordinator

Reviewed by:


Carla K. Williamson, CMC
City Clerk

Reviewed by:


Paul Kramer
City Manager

ISSUE:

Request for 2018 Cereal Malt Beverage License by Bill's Kitchen, 700 Kiowa St., Leavenworth, Kansas.

BACKGROUND:

The application has been approved by the Police Department and Sanitation Department for the following applicant:

Bill's Kitchen

700 Kiowa St

On Premise

ACTION:

Motion to approve the 2018 on premise Cereal Malt Beverage License for Bill's Kitchen, 700 Kiowa St, Leavenworth, Kansas.

POLICY REPORT
REVIEW AND DISCUSS CHAPTER 26 BUSINESSES
CODE OF ORDINANCES ARTICLE III-MASSAGE ESTABLISHMENTS,
BATHHOUSES, MODELING STUDIOS AND BODY PAINTING STUDIOS

OCTOBER 23, 2018

Prepared by:



Carla K. Williamson, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

BACKGROUND/ISSUE

At the October 2, 2018 Study Session staff presented for review the need for amendments to Chapter 26 Article III of the Code of Ordinances for the City of Leavenworth.

At that meeting there was a consensus by the Commission to update the ordinance and to remove the current requirement that a Massage Therapist provide *"A statement in writing from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases."*

The Commission was also in favor of options to allow home-based massage businesses and to allow massage therapy on a business premise or home of a massage client.

In addition, the Commission provided a consensus to discontinue the licensing of Tattoo Establishments and Tattoo Artists as these are regulated and licensed by the State Board of Cosmetology.

The regulating and licensing of Bathhouses, Modeling Studios and Body Painting Studios will be moved to a separate Article of Chapter 26 to allow Massage to be in an Article of the Code by itself.

The following discussion items will assist staff in preparing an ordinance that will come back to the City Commission for first consideration and then second consideration and approval.

Staff invited local massage business establishment owners in town to be part of a discussion regarding changes and held two meetings. The meetings were well attended and staff obtained some great feedback on the topic. Massage therapists and business owners were notified of the City Commission meeting on October 23rd and were encouraged to be part of the discussion.

Discussion Item 1

- We currently issue a license only
- Should a identification card also be issued?

Discussion Item 2

- Home Occupation Business by Special Use Permit
- Not currently in the Development Regulations but if the Commission approves the Development Regulations can be amended
- Should a person be allowed to have a home based business without providing actual massage on-site in their home? (Traveling massages only)

Discussion Item 3

- Allowing Massage Therapy in guest rooms of hotels and bed and breakfast establishments

Discussion Item 4

- Currently the Governing Body approves new and renewals of Massage Establishments. No other license comes before the Governing Body for approval other than Cereal Malt Beverage, which is required by State Statute

Discussion Item 5

- Provision to exempt Sole Practitioners who own and operate alone to pay the annual massage therapy establishment fee only (no cost for massage therapist license)

Discussion Item 6

- Should there be a requirement for managers of the establishment to be certified in CPR and First Aid?

Discussion Item 7

- Background checks
- Discussion on what is allowed by State Statutes

Discussion Item 8

- Hours of operation business
- Hours of operation in homes
- Alcoholic beverages – in homes
- Sec 26-92(k)

Discussion Item 9

- Educational requirements of Therapists in 26-131 (Discussion item #11)

Discussion Item 10

- Appeal to Governing Body or City Manager

Discussion Item 11

- Educational requirements of Therapists

Discussion Item 12

- Identification Cards (Discussion item 1)

Discussion Item 13

- Background checks (Discussion item 7)

Discussion Item 14

- Appeal Process (Discussion item 10)

Fees

The City of Leavenworth currently charges \$350.00 for the initial Massage Establishment License. Renewals are \$175.00. Staff researched the fees charged by surrounding municipalities for massage establishments and found the following:

Lenexa

No response

Overland Park

\$300.00 annual fee required

Olathe

\$300.00 fee first year \$150.00 renewal, \$50.00 fee to change locations

Shawnee

\$300.00 fee first year \$100.00 renewal

Bonner Springs

\$200.00 fee first year \$150.00 renewal

Lansing

\$300.00 fee first year \$150.00 renewal

Lawrence

No response

Ottawa & Basehor

They do not license Massage Establishments or Therapists

The City of Leavenworth currently charges \$50.00 per year for a massage therapist license (new and renewal) and requires a license for each business an individual therapist works for.

Options:

- \$50.00 for new license and \$30.00 for renewals
 - One license would cover all locations with a possible nominal fee required to “add-

on” another business establishment or for off-business premises therapy

- Keep fees for therapist unchanged

ATTACHED:

- Draft for discussion
- Chapter 26; Article III
- Appendix F-Schedule of Fees for Chapter 26

CHAPTER 26 BUSINESSES

ARTICLE III – MASSAGE THERAPY

DIVISION 1 – GENERALLY

Sec. 26-66 License Required/Fees.

Except as otherwise provided in the Article, no person, firm, partnership, association, corporation, trust, or other type of entity or organization, or individual shall operate a massage establishment, or perform massage therapy without having first obtained the required licenses/permits from the City Clerk. The fee for such licenses/permits shall be prescribed in Appendix F and are not prorated, refundable or transferable. Any application made, fees paid, and licenses obtained under the provision of this Article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinance of the City. Such license shall be valid from January 1 to December 31 of each calendar year.

Sec. 26-67 Reference to Chief of Police, City Clerk, City Health Officer.

Any reference in this Article to the Chief of Police, City Clerk or City Health Officer, shall include those persons, designees and any individuals designated by the City Manager.

DISCUSSION ITEM 1

Sec. 26-68 Identification Cards.

All massage therapy establishment owners, managers and massage therapists issued a license pursuant to the provisions of this Article shall, at all times when working in an establishment or providing any service regulated by the Article, have in their possession a valid identification card issued by the City to include the massage therapist's license number, physical description and photograph. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted licenses under this Article shall at all times keep their licenses available for inspection upon request of any person who by law may inspect same. *Provided further that all licensees shall, when conducting massage therapy off their business premises, wear on their clothing in a conspicuous location their identification card.*

Sec. 26-69 Restriction of Business to Premises.

- (a) All massage therapy provided for under this Article shall be conducted on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:

- (1) If done at the direction of a licensed healing arts practitioner;
- (2) **If done at the written request of a person that shall provide the name and address of the requesting person and the date and time of the service.** When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by the Chief of Police, City Clerk or City Health Inspector. Private residence massage therapy shall not be conducted between the hours of 10:00 p.m. and 9:00 a.m.

DISCUSSION ITEM 2

- (b) Licensed massage therapy establishments shall be operated from a commercial business premise or **shall be allowed as a home occupation by Special Use Permit as allowed in the Development Regulations of the City upon review and recommendation of the Planning Commission and approved by the Governing Body.**
- (c) Sole practitioners (therapists who work alone), are required to have both a massage therapist license and massage therapy establishment license and may work from a commercial business premise or private home, residence or non-commercial business establishment.

DISCUSSION ITEM 3

- (d) ***Massage therapy is permitted in the guest rooms of hotels, and bed and breakfast establishments upon written approval of the hotel and bed and breakfast owner(s) and/or manager(s).***

OR

Not allowed

OR

Allowed but limited to the type of massage

Sec. 26-70 Definitions

- (a) *Accredited School*: Any school or institute of learning which is accredited by the State Board of Education or equivalent and approved by any state massage specific license organization. For schools located in states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board of Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Article.
- (b) *Business Premises*: Those premises where a private or public commercial enterprise is conducted, but specifically not to include business conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.
- (c) *Employee*: Refers to any person, other than massage therapists, who renders any service to a licensee under this Article, who receives compensation from the licensee or patron.
- (d) *Establishment Applicant*: Refers to each individual owner, if applying as an individual or a group or individuals; each stockholder who holds more than ten (10) percent of the stock of the corporation and each officer and director, if the application is a corporation; each partner, to include limited partners, if the applicant is a partnership.
- (e) *Establishment Representative*: An employee, manager, independent contractor, unpaid volunteer or anyone who works at or on behalf of a massage establishment.
- (f) *Healing Arts Practitioner*: Defined by the provisions of K.S.A. 65-2801, et seq. and refers to a license issued to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.
- (g) *In-clients' Office Massage*: Massage that is conducted on the business premises of a therapist's massage client and is limited to massage therapy applied only above the massage client's waist. The patron must be fully clothed.
- (h) *In-clients' Home Massage*: Massage therapy conducted at a client's home or residence.
- (i) *Massage Therapy or Massage*: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulation of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in the practice. Massage as defined herein does not include the touching in any fashion of human genitalia.
- (j) *Massage Therapy Establishment (or Massage Establishment or Establishment)*: Any establishment where any person, firm, partnership, association, or corporation primarily

engages in offering massage therapy services. An establishment may operate from a business or corporate location or in the establishment licensee's home subject to the requirements of this chapter and the Development Regulations of the City.

(k) *Massage Therapy (therapeutic)*: The practice of therapeutic massage as the application of various techniques to the muscular structure and soft tissue of the human body, as a healing art, strictly non-sexual, requiring proof of education, training or education from an institution or business with accreditation recognized by the State, or as apprentice to a licensed therapeutic massage therapist.

(l) *Massage Therapist*: Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(m) *Patron*: Any person who utilizes or receives the services of any establishment subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore, **provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist only if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.**

Sec. 26-71 Exceptions.

The provisions of this Article shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of the State of Kansas, persons licensed to practice as a physical therapist under the laws of the State of Kansas, or persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate or registration issued by the State of Kansas.

Sec. 26-72 - 26-85 Reserved.

DIVISION 2 - MASSAGE BUSINESSES

Sec. 26-86 License Required.

DISCUSSION ITEM 4

Does the Governing Body wish to review all applications for a license? No other license comes before the Governing Body for approval other than a Cereal Malt Beverage License, which is

required by State Statute. This license like all others could be processed and approved by the City Clerk following the requirements approved by the Governing Body in this ordinance.

No person, firm, partnership, association or corporation shall operate a massage establishment as defined herein, without first having obtained a business license therefor, issued by the *City Clerk or Governing Body* of this City. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license shall be valid from January 1 to December 31 of each calendar year.

DISCUSSION ITEM 5

Sec. 26-87 Application for Massage Therapy Establishment License; Fees.

Every application for a business license to maintain, operate or conduct any establishment covered by this Article shall file an application with the City Clerk and pay an annual fee, as prescribed in Appendix F, which shall not be prorated, refundable or transferable and an annual renewal fee as prescribed in Appendix F, which shall not be prorated, refundable or transferable. *Sole Practitioners who own and operate an establishment and are the only massage therapist on the premises will only be required to pay the annual massage therapy establishment fee.*

The application for a license to operate any such establishment shall set forth the exact nature for the service to be provided, the proposed place of business and facilities and the name, address, and telephone number of each applicant.

In addition, any applicant for a business license shall furnish the following information:

- (a) Written proof that the applicant and manager(s) are at least 18 years old.
- (b) Copy of a valid government issued identification card.
- (c) Two portrait photographs at least two (2) inches by two (2) inches.
- (d) Fingerprints provided for new applications and applications that have lapsed for 1 year or more. Not required for annual renewals.
- (e) The business, occupation or employment locations and contact information for each applicant and manager for the three (3) years immediately prior to the date of application.
- (f) The massage therapy business license history of applicant and managers; whether such person, in previously operating in this or another City or State under an establishment or therapist license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such suspension or revocation.

DISCUSSION ITEM 6

- (g) *Proof that managers successfully completed an in-person (not online) certification program in American Heart Association CPR and American Red Cross first aid or equivalent in-person programs and provide current proof of certification.*
- (h) Any Criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- (i) In the case of applicants who intend to provide massage therapy, the applicant must also apply for and receive a massage therapist license as provided in this Article.

DISCUSSION ITEM 7

- (j) *Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the establishment applicant for the license and the manager to work in a massage establishment.*
- (k) Applicants for renewal of an existing license need only that information or documentation necessary to insure up-to-date renewal application processing.

Sec. 26-88 **Massage Therapy Establishment License Application Processing.**

Upon receipt of a complete application for a “massage therapy establishment license”, *the City Clerk shall transmit one copy of the application to the Chief of Police for investigation of the application, which will include a background check.* In addition, the City Clerk shall transmit a copy of the application to the City Health Officer, as applicable. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the City Health Officer to determine whether the premises meets the requirement of this Article. The City Clerk shall verify that all zoning requirements are met. All standards for premises set forth in Sec. 26-89 must be met prior to the first day the premises opens for business. The City Health Officer shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police, and City Health Officer, the City Clerk shall *issue the applicable license*

OR

schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application

shall be approved or disapproved within 45 days from the date filed with the City Clerk's office. The applicant shall be notified of the date the Governing Body will consider the application, at which time the applicant will be afforded an opportunity to be heard.

Sec. 26-89 Inspection Necessary

No business shall be conducted on licensed premises until an inspection by the City Health Officer reveals that the establishment complies with each of the following minimum requirements:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment, which is fitted with a door that can be locked.
- (b) Toilet facilities shall be provided in convenient locations. When five (5) or more massage establishment employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided.
- (c) Lavatories or washbasins provided with both hot and cold water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.
- (d) At least one water fountain, water cooler or bottled water shall be provide but shall not be located in toilet rooms or bathrooms.

The City Health Inspector shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk and Chief of Police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statutes or ordinances that relates to the maintenance of premises, not to preclude authorized inspection thereof.

Sec. 26-90 Issuance of Massage Therapy Establishment License.

After the filing of an application in the proper form, the **City Clerk or Governing Body** shall examine the application and after such examination, shall approve the issuance of the license for a massage therapy establishment, unless the **City Clerk or Governing Body** finds that:

- (a) The establishment operations, as proposed by the applicant, if permitted, would not comply with all applicable laws to include, but not limited to, the City's building, zoning and health regulations;
- (b) The applicant, if an individual, or any of the stockholders who holds more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, having been convicted of or diverted on,
 - (1) A person felony, as defined by Kansas law;
 - (2) A non-person felony, as defined by Kansas law, in the ten (10) year immediately preceding the date of the application;
 - (3) An offense involving sexual misconduct with children;
 - (4) Obscenity;
 - (5) Prostitution or Promoting prostitution or equivalent charge as defined by K.S.A. 21-3513;
 - (6) Solicitation of a lewd or unlawful act;
 - (7) Pandering or other sexually related offenses;
 - (8) Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.
- (c) The applicant made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- (d) The applicant or manager has had a massage therapy establishment or other similar permit or license denied, revoked, suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension for any of the above causes by the City or any other State or local agency within ten (10) years prior to the date of the application;
- (e) Any establishment applicant or manger has previously been issued a license for an adult entertainment business or escort service or has been employed by any such establishment;
- (f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a

partnership; and the manager or other person principally in charge of the operation of the business, has not attained the age of 18 years; and

- (g) The manager or other person principally in charge of the operation of the business would be ineligible to receive any license under the provisions of this Article.

The record of the Governing Body shall show the action taken on the application, and if the license is granted. The Governing Body shall direct the City Clerk to issue the proper license.

Or

The City Clerk shall issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval.

Sec. 26-91 Inspection, Immediate Right of Entry.

The Police Department and City Health Inspector may from time to time make an inspection of each licensed establishment in the City, to include those locations where an establishment conducts its business and areas where a therapist performs massage therapy, to determine that the provisions of this Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee, manager or representative to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee, manager or representative to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license.

Sec. 26-92 Operation Regulations.

The operation of any massage therapy establishment, to include the provision of service by massage therapists, shall be subject to the following regulations:

DISCUSSION ITEM 8

- (a) *Hours.* Such business shall be closed and operations shall cease between the hours of **10:00 p.m. and 6:00 a.m.** each day provided the hours of operation for in-office massage therapy may be extended for in-office therapy conducted on premises with established evening and night shifts.
- (b) *Alcoholic beverages.* No alcoholic beverage or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises licensed

under the provisions of this Article or during in-office massage therapy. **Provided this restriction shall not apply to businesses where the licensed massage therapy is accessory to the predominant business purpose of the establishment,** provided further, no alcohol is permitted on that portion of such premises where massage therapy occurs. As used in this Section, “that portion” shall mean physical, visual and audible separation by permanently installed walls and doors between the area where massage therapy occurs and the area where alcoholic beverages or cereal malt beverages are sold or consumed.

- (c) *Conduct of premises.* All licensees licensed under the provisions of this Article shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or her employees which constitutes a violation of the provisions of this Article. Any violation of the City, State, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or may be grounds for suspension or revocation of same.
- (d) Every portion of a licensed establishment to include appliances and personnel shall be kept clean and operated in a sanitary condition.
- (e) Provision for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing. **(IN HOME BUSINESSES??)**
- (f) All licensed employees and massage therapists must be modestly attired. Diaphanous or transparent clothing is prohibited. Clothing must, at all times, cover the chest of the licensee, employees and/or massage therapists.
- (g) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron’s genital area is prohibited.
- (h) All licensed establishments, when applicable, shall provide clean, laundered sheets and towels in sufficient quantity and such items shall be laundered after each use thereof and stored in a sanitary manner.
- (i) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soak areas shall be thoroughly cleaned after each use.
- (j) Table showers are strictly prohibited.
- (k) No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of the licensee who operates an establishment in his/her home or residence

but shall not reside, inhabit or sleep in the portion of the home or residence devoted to the practice of massage therapy. (separate “studio” set apart from the rest of the house)???

Sec. 26-93 Supervision.

A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed as a Massage Therapist shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this Article. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the employee.

Sec. 26-94 Employee and Patron Register.

- (a) All establishments licensed under the provisions of this Article shall keep and maintain on their premises a current register of all their establishment representatives and list such employee’s name, address and license number. Such register shall be open to inspection at all reasonable times by the City Health Officer or member of the Police Department.
- (b) Every person who engages in or conducts a licensed establishment shall keep a daily register of services provided and all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall, at all times during business hours, be subject to inspection by City officials and by the Police Department and shall be kept on file for one (1) year.

Sec. 26-95 Persons Under Age 18 Prohibited Services.

No licensee shall perform or permit any massage therapy to be provided to a person under the age of 18, *provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian authorized such therapy in writing.*

Sec. 26-96 Advertising.

No establishment granted a license under provision of this Article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of a human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in Sec. 26-70, or that employees or massage therapists are dressed in a manner other than described in Sec. 26-92.

DISCUSSION ITEM 9

Sec. 26-97 Application of Existing Businesses.

The operators of any existing massage therapy establishment must comply with all provisions of this Article, *subject to the education and experience requirement set for the in Sec. 26-131.*

Sec. 21-98 Revocation or Suspension of Business License.

- (a) Any business license issued for a massage therapy establishment may be suspended or revoked by the City Clerk or Chief of Police for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for this Article.
- (b) Written notice shall be sent to the person entitled to notice as stated in the business license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the *City Manager or Governing Body* to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the business license, if a licensee, its employee, or agent:
- (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof;
 - (2) Supplies false information to the permit administrator or Police on the application for license or licensure renewal;
 - (3) Allows the use of his or her establishment by an unlicensed person;
 - (4) Violates any zoning, building or fire prevention ordinance;
 - (5) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy;
 - (6) Has been convicted, to include a massage therapist, of any offense found in Sec. 26-98 and Sec. 26-133 herein and the licensee has actual or constructive knowledge of the violation or conviction;
 - (7) Conducts any illegal activities or allows them to be conducted by anyone else;
 - (8) Has an arrest record for any sexual offense or violation;
 - (9) Has fraudulently obtained a license pursuant to the provisions of this ordinance;
 - (10) Has ceased to meet any of the requirements for issuance of a massage therapy license or massage therapy establishment license;

(11) Refused to permit any duly authorized police officer or City Health Officer to inspect the premises or operations of the licensee;

(12) Fails to comply with all applicable laws and regulatory provisions herein.

(c) *Business Closed and Posted.* Upon suspension or revocation of the business license, the business shall cease to operate and the Chief of Police or City Clerk shall post the business as closed.

DISCUSSION ITEM 10

Sec. 26-99 Appeal.

Upon receipt of a written request delivered to the City Clerk, an appeal of the denial, suspension or revocation shall be heard by the *Governing Body or City Manager* within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing, which is relevant and material to the specific basis for suspension or revocation. The *Governing Body or City Manager* shall make a final determination as to denial, suspension or revocation.

Sec. 26-100 - 26-130 Reserved.

DIVISION 3 – MASSAGE THERAPISTS

Sec. 26-131 Massage Therapist License Required Categories, Educational Requirement, Renewal & Restrictions.

No person shall perform massage therapy, in-client's home massage or in-clients' office massage therapy within the City, unless he or she has a valid massage therapist license issued by the City pursuant to the provision of this Article. It is unlawful to perform such services unless the license issued is current, unrevoked and not suspended. Such license is not transferable or refundable and shall be valid from January 1 to December 31 of each calendar year.

DISCUSSION ITEM 11

The massage therapist license and educational requirement shall be as follows:

(a) Successful completion of a course of instruction of not less than *500/250/or some other number of hours*, in theory, method or practice of massage from one or more accredited schools. All practical and/or modality instruction must be completed as in-class/hands-on instruction, while theory instruction may be completed online. *The applicant must also*

have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent and provide current certification.

(b) Proof of successful passage of the Board Certification exam administered by the National Certification Examination for Therapeutic Massage and Bodywork.

Proof of completion of education and training requirements must be by *certified transcripts*. The educational training requirements required by the Article may be received from more than one school. An hour of instruction is defined as fifty minutes of actual instructional time.

All applications for renewal of a massage license in any category must provide proof of recertification in *American Red Cross first aid and American Heart Association CPR* or the equivalent thereof prior to the approval of any renewal.

All licensed massage therapists who apply for a renewal license must show proof that they received a minimum of twelve hours (fifty minutes per hour) of professional massage continuing education in the preceding twelve-month period. One hour continuing education credit will be awarded for each hour of attendance at programs that relate to the theory or clinical application of theory pertaining to the practice of massage to include, but not limited to clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws that are sponsored by a university, junior college or otherwise found to be acceptable by the City Clerk.

Possible language to Grandfather existing therapists

Individuals licensed with the City as a Massage Therapist for at least five (5) consecutive years as of the effective date of this Article may renew that license notwithstanding an inability or failure to satisfy the minimum education requirements set forth above, and continue to renew such license as long as there are no lapses in active licensure and the individual continues to satisfy all other requirements of this Article.

DISCUSSION ITEM 12

Sec. 26-132 Application for Massage Therapist License, Fees.

- (a) Any person who desires to perform or provide massage therapy in-client's home massage; in-clients' office massage therapy; or to perform any massage services in a massage therapy establishment, as defined therein, shall file a written application with the City Clerk and pay a fee as prescribed in Appendix F, which shall not be prorated, refundable or transferable and an annual renewal fee as prescribed in Appendix F. A massage therapy license shall be valid from January 1 to December 31 of each calendar year.

- (b) Only one massage therapy license shall be required for a massage therapist regardless of the number of location types where he/she intends to practice – in an establishment, in-clients’ office and/or in-clients’ home. *However, a separate identification card is required for each location type. The fee for each identification card subsequent to the initial card shall be as prescribed in Appendix F. The identification card fee is not prorated, refundable or transferable.*
- (c) Massage therapist shall notify the City of any change in employment within thirty (30) calendar days of the change to include a change in the therapist’s employer or the addition or reduction of locations they perform massage therapy.
- (d) Sole practitioners (who own and operate an establishment and are the only massage therapist on the premises), applying for a massage therapist license of any type and have successfully obtained a massage therapy establishment license are exempt from paying the massage therapist license fee. *However, a separate identification card is required for each location type. The fee for each identification card subsequent to the initial card shall be as prescribed in Appendix F. The identification card fee is not prorated, refundable or transferable.*

The application for a massage therapist license shall contain the following:

- (a) Name, address and telephone number.
- (b) Two (2) portrait photographs at least two (2) inches by two (2) inches.
- (c) Copy of a valid government issued identification card.
- (d) Applicant’s weight, height, color of hair and eyes.
- (e) Fingerprints provided for new applications and applications that have lapsed for 1 year or more. Not required for annual renewals.
- (f) Written evidence that the applicant is at least 18 years old.
- (g) Business, occupation or employment of the applicant for the three (3) years immediately prior to the date of application.
- (h) Disclosure of any criminal convictions or diversions, except minor traffic violations, and fully disclose the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.

DISCUSSION ITEM 13

- (i) *Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the applicant for the license.*
- (j) Proof of the education and experience requirements set forth in Sec. 26-131.
- (k) History of the applicant, whether such person, in operation in Kansas or another state under an establishment license, a therapist license or under another name had such license revoked or suspended and the reason therefor.

Sec. 26-133 Application Process and Issuance of Massage Therapist License.

Upon receipt of a complete application for a massage therapist license, the City Clerk shall transmit one copy of the application to the Chief of Police for investigation of the application, which will include a background check. The City Clerk shall issue a massage therapist license within 21 days following application unless there are findings that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on:
 - (1) A person felony, as defined by Kansas Law;
 - (2) A non-person felony, as defined by Kansas Law, in the ten (10) years immediately preceding the date of the application;
 - (3) An offense involving sexual misconduct with children;
 - (4) Obscenity;
 - (5) Prostitution or Promoting prostitution as defined by K.S.A. 21-3513;
 - (6) Solicitation of a lewd or unlawful act;
 - (7) Pandering or other sexually related offense;
 - (8) Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- (c) The applicant had a massage establishment or therapist permit or license denied, revoked, suspended, or involuntarily surrendered the permit or license in lieu of revocation or

suspension by the City or any other state or local agency within ten (10) years prior to the date of application.

- (d) The applicant was issued a license for an adult entertainment business or escort service or was employed by any such establishment within ten (10) years prior to the date of application.
- (e) The applicant has not attained the age of 18 years.
- (f) That the correct license fee has not been tendered to the City, and in that case of a check or bank draft, honored with payment upon presentation;
- (g) That the applicant has not successfully completed the education standards required under the provisions of this Article.

The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premise of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Appeals shall be in accordance with Sec. 26-135.

Sec. 26-134 Revocation of Massage Therapist License.

- (a) Any Massage Therapist license issued for a massage therapist may be suspended or revoked by the City Clerk or Chief of Police for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hinder any authorized City inspector or representative to conduct any investigation or inspection provided for in this Article.
- (b) Written notice shall be sent to the person entitled to notice as stated in the Massage Therapist license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the *City Manager or Governing Body* to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the Massage Therapist license, if a licensee:
 - (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof;
 - (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal;

- (3) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy;
- (4) Convicted of any offense found in this Article;
- (5) Conducts any illegal activities;
- (6) Has an arrest record for any sexual offense or violation;
- (7) Has fraudulently obtained a license pursuant to provision of this ordinance;
- (8) Has ceased to meet any of the requirements for issuance of a massage therapy license;
- (9) Refuses to permit any duly authorized police officer or City Health Officer to inspect the records of the operations of the licensee;
- (10) Fails to comply with all applicable laws and regulatory provisions herein.

(c) Upon suspension or revocation of the Massage Therapist license, the Massage Therapist shall cease to operate in the City of Leavenworth.

DISCUSSION ITEM 14

Sec. 26-135 Appeal.

Upon receipt of a written request delivered to the City Clerk, an appeal of the denial, suspension or revocation of a Massage Therapist License shall be heard by the *Governing Body or City Manager* within thirty (30) days of the denial, suspension or revocation. The licensee may submit evidence at the hearing, which is relevant and material to the specific basis for suspension or revocation. The *Governing Body or City Manager* shall make a final determination as to suspension or revocation.

Sec. 26-136 Severability.

In the event that any portion or section of this Article is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, the decision shall in no manner affect the remaining portions or sections of this Article, which shall remain in full force and effect.

Sec. 26-137 - 26-175 Reserved.

City of Leavenworth Code of Ordinances Chapter 26 Businesses

ARTICLE III. - MASSAGE ESTABLISHMENTS, BATHHOUSES, MODELING STUDIOS AND BODY PAINTING STUDIOS

DIVISION 1. - GENERALLY

Sec. 26-66. - Penalty for violation of article.

Any person convicted of violating any of the provisions of this article shall be deemed guilty of a class A misdemeanor and subject to the general penalty provisions of this Code, section 1-10.

(Code 1978, § 21-83)

Sec. 26-67. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bathhouse means the occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

Body painting studios means the occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or nontransparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique or process.

Employee means any person, other than masseurs or masseuses, who renders any service to a permittee under this article and who receives compensation from the permittee or patron.

Massage means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

Massage establishment means any establishment having a place of business where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in the definition of massage for compensation.

Masseur or masseuse means any person who, for any consideration whatsoever, engages in the practice of massage as defined in this section.

Modeling studios means the occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practice for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance, whether it is transparent or nontransparent.

Patron means any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this article and under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefor.

Recognized school means any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than 70 hours to be given in not more than three calendar months before the student shall be

furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

(Code 1978, § 21-60)

Cross reference— Definitions generally, § 1-2.

Sec. 26-68. - Fees and permits additional to other requirements.

Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinances of this city.

(Code 1978, § 21-78(b))

Sec. 26-69. - Inspections, immediate right of entry.

The police department and the department of environmental protection services may from time to time make an inspection of each permitted establishment in this city for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.

(Code 1978, § 21-72)

Sec. 26-70. - Identification cards.

All employees issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description, and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person who by law may inspect such permit.

(Code 1978, § 21-66)

Sec. 26-71. - Operation regulations.

The operation of any bathhouse, massage establishment, modeling studio, or body painting studio shall be subject to the following regulations:

- (1) *Hours.* Such business shall be closed and operations shall cease between the hours of 12:00 a.m. and 6:00 a.m. each day.
- (2) *Reserved.*
- (3) *Danger to safety, health prohibited.* No service shall be given which is clearly dangerous or harmful in the opinion of the health director to the safety or health of any person, and after such notice in writing to the licensee from such director.

- (4) *Alcoholic beverages.* No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises permitted under the provisions of this article.
- (5) *Conduct of premises.* All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his or any of his employees which constitutes a violation of the provisions of this article. Any violation of city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of such license or permit.
- (6) *Clean and sanitary premises.* Every portion of a permitted establishment, including appliances, and personnel, shall be kept clean and operated in a sanitary condition.
- (7) *Employee hygiene, dressing rooms.* All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (8) *Employee clothing.* All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, formfitting or tight clothing is prohibited. Clothing must cover the employees', masseurs' or masseuses' chests at all times. Hemlines of skirts, dresses, or other such attire may be no higher than the top of the knee.
- (9) *Genitals to be kept covered.* The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.
- (10) *Supply of clean sheets and towels.* All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved, sanitary manner.
- (11) *Cleaning maintenance.* Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(Code 1978, § 21-73; Ord. No. 7953, § 1, 9-9-14)

Sec. 26-72. - Supervision.

A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open. The permittee shall personally supervise the business, and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.

(Code 1978, § 21-74)

Sec. 26-73. - Employee and patron registers.

- (a) All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department.
- (b) Every person who engages in or conducts a permitted establishment shall keep a daily register, approved as to form by the police department, of all patrons, with names, addresses and hours of

arrival and, if applicable, the rooms or cubicles assigned. Such daily register shall at all times during business hours be subject to inspection by city health officials and by the police department and shall be kept on file for one year.

(Code 1978, § 21-75)

Sec. 26-74. - Persons under age 18 prohibited on premises.

No person shall permit any person under the age of 18 years to come or remain on the premises of any permitted business establishment as masseur, employee or patron, unless such person is on the premises on lawful business.

(Code 1978, § 21-76)

Sec. 26-75. - Advertising.

No establishment granted a permit under the provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 26-67, or that employees, masseurs or masseuses are dressed in any manner other than as described in section 26-71, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 26-67.

(Code 1978, § 21-77)

Sec. 26-76. - Restriction of business to premises.

All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that bathhouse or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such permittee or employee may render treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide such treatment to such persons at a permitted location, and provided further that all such services so rendered shall have received the prior approval of the chief of police or health director or their authorized representatives.

(Code 1978, § 21-82)

Sec. 26-77. - Exceptions.

The provisions of this chapter shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of this state, persons licensed to practice as a physical therapist under the laws of this state, or persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this chapter apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.

(Code 1978, § 21-80; Ord. No. 7394, § 1, 11-24-98)

Sec. 26-78. - Applicability of article to existing businesses.

The operators of any existing massage establishment, bathhouse, modeling studio or body painting studio are required to comply with all provisions of this article within 90 days of the effective date of the ordinance from which this article is derived.

(Code 1978, § 21-79(a))

Sec. 26-79. - Further regulations.

The chief of police or the health director may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article.

(Code 1978, § 21-81)

Secs. 26-80—26-90. - Reserved.

DIVISION 2. - BUSINESS PERMIT

Sec. 26-91. - Required.

No person shall operate a bathhouse, massage establishment, body painting studio or modeling studio without first having obtained a permit therefor issued by the governing body of this city. A separate permit shall be required for each and every separate place of business conducted by any one permittee, and the permit shall be valid only from January 1 to December 31 of each calendar year.

(Code 1978, § 21-61)

Sec. 26-92. - Application; fees.

- (a) Every applicant for a permit to maintain, operate or conduct any such establishment shall file an application with the city clerk and pay an annual filing fee as set out in appendix F, which shall not be refundable or prorated.
- (b) The application for a permit to operate an establishment under this article shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than ten percent of the stock of the corporation, any partner, when a partnership is involved, and any manager.
- (c) In addition to the foregoing requirements of this section, any applicant for a massage establishment permit shall furnish the following information:
 - (1) Written proof that the applicant is at least 18 years old.
 - (2) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
 - (3) The massage, bathhouse, modeling studio, and body painting studio business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation of the applicant subsequent to such action of suspension or revocation.
 - (4) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.

- (5) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(Code 1978, § 21-63; Ord. No. 7086, § 1, 2-25-92; Ord. No. 7986, § 1, 12-8-15)

Sec. 26-93. - Facilities necessary.

- (a) No permit to conduct a massage establishment, bathhouse, modeling studio or body painting studio shall be issued unless an inspection by the health director or his authorized representative reveals that the establishment complies with each of the following minimum requirements:
 - (1) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
 - (2) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
 - (3) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.
- (b) The health director shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Provided, however, that nothing contained in this section shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

(Code 1978, § 21-71)

Sec. 26-94. - Issuance of business permit; display.

- (a) After the filing of an application in the proper form, the governing body shall examine the application, and after such examination, shall issue a permit for a massage establishment, bathhouse, modeling studio or body painting studio, unless the governing body finds that:
 - (1) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;
 - (2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including but not limited to the city's building, zoning and health regulations;
 - (3) The applicant, if an individual; any of the stockholders holding more than ten percent of the stock of the corporation; any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business has been convicted of any crime which would make any person ineligible to receive a permit under this article, unless such conviction occurred at least five years prior to the date of the application;

- (4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;
 - (5) The applicant has had a massage establishment, bathhouse, body painting studio, modeling studio or other similar permit or license denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application;
 - (6) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years; or
 - (7) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article.
- (b) Any permit issued under the provisions of this article shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

(Code 1978, § 21-67)

Sec. 26-95. - Transfer of permits.

No massage business, bathhouse, modeling studio or body painting studio permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

(Code 1978, § 21-78(a))

Sec. 26-96. - Revocation or suspension of business permit.

- (a) Any permit issued for a massage establishment, bathhouse, modeling studio or body painting studio may be revoked or suspended by the governing body after a public hearing before the governing body where it is found that any of the provisions of this article are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in sections 26-94 and 26-109 and the permittee has actual or constructive knowledge of the violation or conviction, or in any case where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the city to inspect the premises or the operations therein.
- (b) The governing body, before revoking or suspending any permit under this article, shall give the permittee at least ten days' written notice of the charges against him and the opportunity for a public hearing before the governing body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(Code 1978, § 21-69)

Secs. 26-97—26-105. - Reserved.

DIVISION 3. - EMPLOYEE PERMIT

Sec. 26-106. - Required.

No person shall be employed as an attendant, masseur, masseuse, model or as an employee of any kind in any establishment subject to the provisions of this article, unless he has a valid employee's permit issued by the city pursuant to the provisions of this division.

(Code 1978, § 21-62)

Sec. 26-107. - Application; fees.

- (a) Any person employed to perform any services in a massage establishment, bathhouse, modeling studio or body painting studio shall file a written application with the chief of police and pay an annual filing fee to the city clerk as set out in appendix F, which fee shall not be refundable or prorated.
- (b) The application for an employee permit shall contain the following:
 - (1) Name, address and telephone number.
 - (2) Two portrait photographs at least two inches by two inches.
 - (3) Applicant's weight, height, color of hair and eyes, and fingerprints.
 - (4) Written evidence that the applicant is at least 18 years old.
 - (5) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
 - (6) Whether such person has ever been convicted of any crime except minor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
 - (7) The position or function the applicant is being hired to perform within such establishment.
 - (8) A statement in writing from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases.
 - (9) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(Code 1978, § 21-64; Ord. No. 7086, § 1, 2-25-92)

Sec. 26-108. - Education requirements, masseur or masseuse.

- (a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the practice of massage shall, upon making application for a permit, supply the name and address of the recognized school attended, the date attended, and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 70 hours of instruction in the theory, method or practice of massage.
- (b) Applicants for a masseur or masseuse permit may substitute one years' continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.

(Code 1978, §§ 21-65, 21-79(b))

Sec. 26-109. - Issuance.

The chief of police shall issue an employee permit under this division within 21 days following application therefor, unless he finds that:

- (1) The applicant for the employee permit has been convicted of:
 - a. A felony;
 - b. An offense involving sexual misconduct with children;
 - c. Obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering;
- (2) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;
- (3) The correct permit fee has not been tendered to the city, and in the case of a check or bank draft, honored with payment presentation; or
- (4) In the case of a masseur or masseuse, that the applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this article.

(Code 1978, § 21-68)

Sec. 26-110. - Transfer of permits.

No employee permits issued under the terms of this division are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

(Code 1978, § 21-78(a))

Sec. 26-111. - Revocation of employee permit.

- (a) An employee permit issued by the chief of police shall be revoked or suspended after a public hearing before the chief of police, or his designated representative, where it appears that the employee has been convicted of any offense enumerated in section 26-109.
- (b) The chief of police, before revoking or suspending any employee permit, shall give the employee at least ten days' written notice of the examination into his conviction record and the opportunity for a public hearing before the chief of police or his designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.

(Code 1978, § 21-70)

Secs. 26-112—26-175. - Reserved.

City Code Chapter	Applicable Section	Description	Effective Timeline	Requirements	Fee
26	BUSINESSES				
26	26	Special Use Permit Annual License	Mar 1 - Feb 28	Annual license fee for approved special use permits	\$25.00
26	92	Massage Establishments, Bathhouses, Modeling Studios, Tattoo Establishments and Body Painting Studios:			
26	92	Business Permit	Jan 1 - Dec 31	Initial Fee	\$350.00
26	92	Business Permit Renewal	Jan 1 - Dec 31	Renewal Fee	\$175.00
26	107	Employee Permit	Jan 1 - Dec 31	Employee Fee	\$50.00
26	187	Auction License	Daily	New goods public auctions	\$30.00
26	187	Auctioneer License	Daily	Auctioneers, other than those conducting new goods public auctions	\$30.00
26	187	Auctioneer License	Mar 1 - Feb 28	Auctioneers, other than those conducting new goods public auctions	\$150.00
26	211	Bill Posters, Distributors and Painters	Daily	Per Person	\$10.00
26	211	Bill Posters, Distributors and Painters	Weekly	Per Person	\$40.00
26	211	Bill Posters, Distributors and Painters	Monthly	Per Person	\$100.00
26	211	Bill Posters, Distributors and Painters	Mar 1 - Feb 28	Per Person Annual	\$250.00
26	266	Adult Entertainment Businesses:			
26	266	Adult entertainment business license	Annual	Business license	\$650.00
26	266	Adult entertainment manager's license	Annual	Manager's license	\$65.00
26	266	Adult entertainer's license	Annual	Entertainer's license	\$26.00
26	266	Adult entertainment service license	Annual	Service license	\$26.00

POLICY REPORT PWD NO. 18-46
CONSIDER APPROVAL OF CURRENT REGION L MULTI-JURISDICTIONAL
HAZARD MITIGATION PLAN AND MODIFICATIONS

October 23, 2018

Prepared by:


 Michael G. McDonald, P.E.,
 Director of Public Works

Reviewed by:


 Paul Kramer,
 City Manager

ISSUE:

Consider approval of current Region L Multi-Jurisdictional Hazard Mitigation Plan and modifications.

BACKGROUND:

The Current Region L Multi-Jurisdictional Hazard Mitigation Plan (Plan) was completed in 2013. Region L includes Leavenworth, Johnson and Wyandotte counties. It is necessary to update the plan at least every five years to be current with FEMA requirements.

The proposed changes to the plan were reviewed with the City Commission on October 16, 2018. Key responsibilities for the City Commission during this update process were identified as shown below:

1. Ensure opportunities for public comment are part of the process.
2. Review the Prioritization Matrix and rating of various threats and recommend any changes.
3. Review the updated mitigation projects listing and recommend any changes.

1. Public Participation:

Public participation opportunities will be ensured by having this document discussed at two Commission meetings. Meetings are televised live, rebroadcast on cable, and available on-line. In addition, the PIO (Public Information Officer) will prepare news releases and use social media to alert the public to the meetings.

2. Prioritization Matrix:

FEMA identified the threats shown below in 2013, and these have been evaluated regionally as shown in the Table 3.2 below. Staff opinion is that the current threats are ranked in the appropriate order.

Hazard Type	Probability	Magnitude	Warning Time	Duration	CPRI	Planning Significance
Tornado	4	4	4	1	3.70	High
Flood	4	3	3	4	3.55	High
Winter Storm	4	3	2	3	3.30	High
Windstorm	4	2	3	2	3.05	High
Utility Infrastructure Failure	4	1	4	3	3.00	High
Drought	4	2	3	4	2.95	Moderate
Hazardous Materials	4	1	4	2	2.90	Moderate
Lightning	4	2	2	1	2.80	Moderate
Wildfire	4	1	4	1	2.80	Moderate
Civil Disorder	2	4	4	1	2.80	Moderate
Major Disease Outbreak	2	4	1	4	2.75	Moderate
Hailstorm	4	1	2	1	2.65	Moderate
Terrorism/Agro-terrorism	1	4	4	4	2.65	Moderate
Extreme Temperatures	3	2	1	4	2.50	Moderate
Agricultural Infestation	3	2	1	4	2.50	Moderate
Expansive Soils	3	1	1	4	2.20	Moderate
Dam and Levee Failure	1	3	3	3	2.10	Moderate
Radiological	1	3	3	3	2.10	Moderate
Landslide	1	2	4	1	1.75	Low
Soil Erosion and Dust	2	1	1	4	1.75	Low
Earthquake	1	2	4	1	1.75	Low
Land Subsidence	1	1	3	2	1.40	Low

The additional threats identified by FEMA are proposed to be rated as shown below:

- **Cyber Threats are ranked 2.3**
 - Possible = 2 (1/5yrs)
 - Severity = 2 (one week impact)
 - Warning Time = 4 (less than 4 hours)
 - Duration = 2 (less than a day)

- **Climate Change is ranked 1.3**
 - Possible = 1 (unlikely in 10 years)
 - Severity = 1 (less than 10% of properties impacted)
 - Warning Time = 1 (more than 24 hours)
 - Duration = 4 (more than a week)

3. **Mitigation Projects:** A summary of current projects (2013 Plan) and status is shown below.

2013 Plan – City of Leavenworth Mitigation Items

1. Identify Flash Flood areas and address in planning process - **Active**
- 1a Continue NFIP (Flood Plain Management) – **Active**
2. Identify and Acquire repetitively flooded properties using FEMA grants – **Active**
3. Seek portable dam for RFCC protection – this became the wall at RFCC – **Complete**
4. Seek Portable Dam for WWTP protection – **Active**
5. Construct new Animal Control Building out of flood plain – **Completed**

Staff proposes that 1, 1a, 2 and 4 remain on the mitigation project list.

Staff recommends that the following items be added to the mitigation list for the 2018 Plan:

(Proposed) 2018 Plan – City of Leavenworth Additional Mitigation Items

- Stormwater Management Program with associated fees
- Construction and Protection of critical infrastructure using stormwater and CIP funds
 - Protect sewer and storm sewer lines from creek erosion
 - Replace undersized creek and stream crossings with modern structures
- Evaluate and report relationship between rainfall and streamflow through monitoring program
- Keep Building Codes Current
- Fire Suppression and Mutual Aid arrangements
 - Upgrade Fire Suppression Capabilities, especially related to wildfires
 - Review, update and expand Mutual Aid Agreements
- Active Shooter
- City participation in FEMA Community Rating System (CRS)

RECOMMENDATION:

Staff recommends that the City Commission approve changes to the current Region L Multi-Jurisdictional Hazard Mitigation Plan as proposed related to additional threat ranking, status of mitigation items and addition of mitigation items.

POLICY REPORT PWD NO. 18-47

**APPROVE THE LOW BID FOR THE
RFCC PHASE 4 STONE REPLACEMENT PROJECT**

Project 2017- 875

October 23, 2018

Prepared by:



Mike Hooper
Deputy Director of Public Works

Reviewed by:



Paul Kramer
City Manager

ISSUE:

Approve the low bid from Mid-Continental Restoration Co., Inc. for the RFCC Phase 4 Stone Replacement Project.

BACKGROUND:

In 2014, the City initiated a project to replace/repair a portion of the stone on the Riverfront Community Center. Phases 1 through 3 were completed in that project. Areas completed under Phases 1, 2, and 3 of the project are identified below:

- Main Hall entry rebuild and wall stabilization
- Main Hall corner and gable stone replacement (east & west side)
- Men's Wing corner and gable stone replacement
- Men's Wing chimney stone replacement

In March 2017, staff submitted an application to MARC (Mid-America Regional Council) for a grant to complete Phase 4 of the Stone Restoration Project. Funds for the project are provided by KDOT and distributed through MARC. In August of 2017, the City was awarded \$500,000 in grant funds to be used for construction of the project starting in 2019.

The Phase 4 project consists of the following work, which will complete all work originally anticipated for the project:

1. Remove/replace the structural stone on the east/west corners and gables of the Freight and Women's Wings of the building.
2. Remove/replace the belt course stones (including stone window sills) around the entire building.

The project plans were modified by Treanor HL to meet KDOT requirements and was advertised for bidding in the Leavenworth Times and Drexel Technologies in August. Bids were opened on October 3, 2018. Three (3) bids were received with only one bidder meeting the requirements of the bid submittal. The qualifying bid was reviewed by staff, Julia Manglitz of TreanorHL, and representatives of KDOT, and the City received the "Authority to Award" from KDOT on October 12, 2018.

Pre-construction work (individual stone carving) will take place over the winter months with construction to start in spring/early summer of 2019. Construction is expected to be complete in late 2019 or early 2020.

Costs associated with the Phase 4 project are summarized below:

- TreanorHL Design and Inspection Costs \$76,740
- Mid-Continental Restoration Construction Bid \$807,945
- MARC/KDOT Grant (\$500,000)
- Kansas Historic Tax Credit (\$202,000)
- Payment to MARC for Grant Admin \$2,500
- =====
Anticipated Cost to the City in 2019/2020 \$185,186

KDOT requires the local authority to award the contract to the lowest qualified bidder.

POLICY:

The City Commission generally approves the award of a project to the lowest qualified low bidder.

RECOMMENDATION:

Staff recommends that the City Commission approve the award of contract to Mid-Continental Restoration Co., Inc. for the RFCC Phase 4 Stone Replacement Project in the amount of \$807,945.00.

ATTACHMENTS:

- Bid Tabs
- KDOT Authority to Award Letter

CITY OF LEAVENWORTH
 Project No. 2017-875
 KDOT Project No. 52 N 0676-01
 Federal Aid Project No. TA-N067(601)
 Leavenworth RFCC Pase 4 Stone Replacement Project
 October 3, 2018

BID TABULATION				Engineer's Estimate		Mid-Continental Restoration Co., Inc.		MTS Contracting, Inc		Western Specialty Contractors	
Item	Description	Unit	Quantity	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Base Bid	LS	1	\$1,405,825	\$1,405,825.00	\$807,945.00	\$807,945.00		\$0.00		\$0.00
2	UNIT PRICES										
3	Unit Price No. 1 - Remove & relay face brick including setting and pointing mortar - Detail B2/A311 & A4/A312 (assume 270 SF, +25%)	SF	1		\$0.00	\$91.00	\$91.00		\$0.00		\$0.00
4	Unit Price No. 2a - Remove & relay backing brick including setting mortar - Detail A4/A312 (assume 50 SF, + 25%)	SF	1		\$0.00	\$202.50	\$202.50		\$0.00		\$0.00
5	Unit Price No. 2b - Remove & relay backing brick including setting mortar - Detail B2/A311 (assume 50 SF, + 25%)	SF	1		\$0.00	\$270.00	\$270.00		\$0.00		\$0.00
6	Unit Price No. 3 - Repointing select mortar joints in face brick (assume 120 LF, + 25%)	LF	1		\$0.00	\$14.00	\$14.00		\$0.00		\$0.00
7	Unit Price No. 4 - Pointing open joints in backing construction (brick, stone, or CMU) (assume 50 LF, + 25%)	LF	1		\$0.00	\$7.50	\$7.50		\$0.00		\$0.00
8	Unit Price No. 5 - Patching stone and brick with cementitious patching mortars (assume 20 patches, + 25%)	Each	1		\$0.00	\$178.00	\$178.00		\$0.00		\$0.00
9											
TOTAL - BASE BID					\$1,405,825.00		\$807,945.00		NOT READ		NOT READ

Department of Transportation
Bureau of Local Projects
Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, KS 66603-3745
Michael J. Stringer, P.E., Chief

STATE OF KANSAS



GOVERNOR JEFF COLYER, M.D.
RICHARD CARLSON, SECRETARY

Phone: 785-296-3861
Fax: 785-296-2079
kdot#publicinfo@ks.gov
<http://www.ksdot.org>

October 12, 2018

Re: 52 N-0676-01
ACTA-N067(601)
Riverfront Community Center
City of Leavenworth
Leavenworth County

Mr. Michael McDonald, P.E.
Director of Public Works
100 N 5th Street
Leavenworth, Kansas 66048

Dear Mr. McDonald,

Enclosed for your information and file is an original of the Authority to Award Contract for project 52 N-0676-01 signed by the State Transportation Engineer.

After the contract has been approved by the City and signed by all parties, please forward to this office the information as set out in the LPA Project Development Manual for LPA-Administered Projects.

Sincerely,

Dawn M. Hueske, P.E.

Digitally signed by Dawn M. Hueske, P.E.
DN: CN=Dawn M. Hueske, P.E.,
OU=Bureau of Local Projects, O=Kansas
Department of Transportation, L=Topeka,
E=Kansas, C=US
Date: 2018.10.12 14:59:28-0500

Dawn M. Hueske, P.E.
Local Road Engineer

DMH
Attachments

Mike Hooper, Deputy Public Works Director, City of Leavenworth
Chuck Protasio, Assistant Bureau Chief, Bureau of Program & Project Management
James R. Simerl, FHWA, Topeka Office
Pam Anderson, Chief Accountant-Federal Aid & Projects Accounting, w/a (original)
File, w/a (copy)

**AUTHORITY TO AWARD CONTRACT
COMMITMENT OF FEDERAL/STATE FUNDS**

OCTOBER 9, 2018

2 Copies to City of Leavenworth
Project No. 52 N 0676-01 (Leavenworth RFCC Phase 4 Stone Replacement Project)
TA-N067(601)

WHEREAS, bids were received at the City of Leavenworth, Kansas on October 3, 2018 for the performance of work covered by plans and specifications on the above numbered project, and


WHEREAS, the bidder and low bid on work covered on this project were:

CONTRACTOR	ADDRESS	TYPE OF WORK	AMOUNT
Mid-Continental Restoration Co., Inc.	103 W 26 th Suite 190 North Kansas City, MO 64116	Sone/Masonry	\$807,945.00

WHEREAS, bids are considered satisfactory and have been recommended by the City Engineer of the City of Leavenworth, for consideration and acceptance of the work on this project as covered by such bid or bids.

The Secretary of Transportation of the State of Kansas, and the City of Leavenworth agree to fund the cost of the construction in accordance with the State/City Agreement No. 143-18.

Recommended for Approval:



Michael G. McDonald, P.E.
City Engineer/Director of Public Works

10.9.18
Date



Mike Hooper, Project Manager
Deputy Director of Public Works

10-9-18
Date



Catherine M. Patrick, P.E.
State Transportation Engineer

10/12/18
Date

**POLICY REPORT PWD NO. 18-48
CONSIDER APPROVAL OF CHANGE ORDER NO. 1 TO THE
CONSTRUCTION ENGINEERING CONTRACT
FROM MCAFEE HENDERSON SOLUTIONS (MHS) RELATED TO
4th STREET AND MARION INTERSECTION IMPROVEMENTS PROJECT**

**City Project 2014-779
KDOT Project NO 52 KA-4057-01**

October 23, 2018

Prepared by:



Mike Hooper
Deputy Director of Public Works

Reviewed by:



Paul Kramer,
City Manager

ISSUE:

Consider approval of Change Order No. 1 to the contract for construction engineering (inspection) with McAfee Henderson Solutions (MHS) related to the 4th Street and Marion Intersection Improvements Project.

BACKGROUND:

In 2017, the City approved the contract with MHS to perform the inspection services during construction of the project. This is a complex process that involves much more than simply observing the daily activities of the contractor. Keeping of proper records and enforcing correct procedures ensures that Federal Highway Administration and KDOT funding will remain eligible for the project.

The fee structure of these agreements is determined by KDOT, and includes an audited overhead rate, and a set number of construction days for the project. KDOT can approve the extension of the project days due to weather or the contractor not being able to work on the "controlling item of work" and other contractual issues. KDOT extended the number of days past 55 days so it became necessary to adjust the inspection fee for MHS. City staff has worked closely with KDOT and MHS on previous projects to minimize hours from the contract inspection forces by using KDOT-certified City staff on these questionable days.

This change order will be reviewed by KDOT to verify it meets their expectations for commitment of personnel and services.

RECOMMENDATION:

Staff recommends that the City Commission approve Change Order No.1 with MHS for construction engineering related services to the 4th Street and Marion Intersection Improvements Project in an amount not to exceed \$13,372.24.

ATTACHMENTS:

MHS Inspection Services Supplemental Request

KDOT 52 KA 4057 01 Supplemental Inspection Request

Explanation: McAfee Henderson Solutions (MHS) completed KDOT CIT Inspection services for the 4th & Marion Intersection Improvements project for the City of Leavenworth Kansas. The original contract entered into between the City of Leavenworth and MHS identified 55 Working Days for the contractor to complete the project. The 55 Working Days was the basis for MHS's professional staff hour and expense estimate to complete the inspection work. During the course of the project unforeseen utility conflicts were discovered that required the KDOT to issue a "States Delay" to the contractor. A States Delay essentially allows the charging of working days to be suspended because the Controlling Item of Work can not be completed due to the reason for the States Delay. In the case of the 4th & Marion project the reason was utility conflicts that affected the planned Traffic Signal installation for the intersection. The project encountered a total of 29 States Delay days. On several of these days the contractor performed inspectable work on the project that required MHS staff to be on site. The additional inspectable days exhausted the MHS project budget for professional staff hours and expenses. MHS contacted the City of Leavenworth via email on 7/31/17 to alert the City that supplemental hours and expenses would be requested. The City requested a preliminary budgetary number for the supplemental request. MHS submitted the hours and expense budget of \$13,372.24 to complete the remaining inspection work and received preliminary staff approval due to the justification for additional inspection day requirements.

In October, 2018 all remaining KDOT documentation was completed for the project and at this time MHS is able to make formal request for the supplemental inspection fee. The additional fee request remains unchanged from the 7/31/17 request. Please note that the actual additional hours and expenses required to complete the additional inspection days was in excess of the original requested amount but MHS agrees to write-off the balance in an effort to maintain positive Client relationships with the City of Leavenworth. Cost statistics for the project are recorded below. Additionally, the original email documents requesting the supplemental inspection services is attached.

Original Contract Information

Total Staff Hours included in Original Contract = 854
Total Original Expense Miles included in Original Contract = 4,706
Total Inspectable Working Days allotted in Contract = 55

Actual Completed Work Information

Total Staff Hours used to Complete Project = 1047.5
Total Original Expense Miles to Complete Project = 7,188
Total Inspectable Working Days required to Complete Project = 86

Original KDOT Inspection Contract Amount = \$69,565.55
Actual Time and Expense Professional Fees expended by MHS to Complete the Project = \$86,776.77
MHS Write-Off of Additional Staff Time and Mileage Expense above requested Supplemental = \$3,838.98
Requested Supplemental Contract Amount for Additional Staff Hours and Mileage Expense = \$13,372.24

**ATTACHMENT A
SUPPORTING DATA SHEETS
For
Supplemental Services Estimate**

Project No. KDOT 52-KA-4057-01
City of Leavenworth, Kansas US-73/K-7 & Marion Street Intersection Improvements

CE Fee

Parameters: (a) Contractor Schedule for remaining work estimates 15 Working Days for field inspection
(b) We estimate 3 Working Days for completion of the KDOT CMS Finaling process.

Personnel: Project Manager: Joseph McAfee, CIT #1033
Chief Inspector: Ron Weyer, CIT #4561

A. REMAINING CONSTRUCTION PHASE - Includes Professional Staff Hours for 15 Working Days.

Project Manager – Joseph McAfee, Professional Labor Hours - 2 hours per week designated for management of staff, resolution of field issues and responding to KDOT and Owner questions.					
Month	Work Weeks (Mon-Fri)	Hours per Week	Saturdays Worked	Regular Hours	Overtime Hours
September	3	1	0	3	0
Phase Totals	3	N/A	0	3	0

Chief Inspector – Ron Weyer, Professional Labor Hours - 9 hours per day.					
Month	Working Days (Mon-Fri)	Hours per Day	Saturdays Worked	Regular Hours	Overtime Hours
September	15	9	0	120	9
Phase Totals	15	N/A	0	120	9

B. POST CONSTRUCTION-FINAL DOCUMENTATION PHASE - Includes production of As-Built Plans, Spreadsheet Calculations for Final Pay Quantities, Change Order production and documentation, and Material Certificate Sample IDs.

CONSULTANT STAFF	TITLE	HOURS
Joseph McAfee	Project Manager	2
Ron Weyer	Chief Inspector	24

C. SUPPLEMENTAL REIMBURSABLE PROJECT DIRECT EXPENSES

DESCRIPTION	UNIT	QUANTITY	UNIT COST	UNIT
Chief Inspector Project Mileage - Daily Inspection, for 15 Working Days, 3 Weekly KDOT Bonner Springs visits during Construction period, and 1 KDOT Bonner Springs visit during the 3 Day CMS Finaling Process.. Total: (15 trips @ 52 miles per trip) + (3 trips @ 30 miles) + (1 trip @ 60 miles per trip)	Mile	930	\$0.535	497.55
Direct Project Expense Total				\$497.55

D. TOTAL REQUESTED SUPPLEMENTAL CONSTRUCTION ENGINEERING ESTIMATE

Contract Phase	Project Duty	Employee	Hours	Professional Labor Rate	Extension
Remaining Construction Period	Project Manager	Joseph McAfee	3	\$ 40.00	120.00
	Chief Inspector	Ron Weyer	120	\$ 28.00	3,360.00
	Chief Inspector	Ron Weyer	9	\$ 42.00	378.00
Post Construction	Project Manager	Joseph McAfee	2	\$ 40.00	80.00
	Chief	Ron Weyer	24	\$ 28.00	672.00
Total Direct Payroll Cost					4,610.00
Salary Related Overhead @ 142.85%					6,585.39
Total Payroll plus Overhead					11,195.39
Net Fee @ 15.00%					1,679.31
Direct Expenses					497.55
Total Construction Engineering Fee					13,372.24

This completes our supplemental request for professional hours and direct expenses. If you have any questions regarding the listed hours please do not hesitate to contact me. We look forward to wrapping up this successful project for the City of Leavenworth.

Respectfully Submitted,



Joseph L. McAfee, President
McAfee Henderson Solutions, Inc.



Joe McAfee <joe.mcafee@mhs-eng.com>

4th & Marion Inspection Services 52 U 4057-01

1 message

Mike Hooper <mhooper@firstcity.org>

Thu, Aug 24, 2017 at 10:12 AM

To: Joe McAfee <joe.mcafee@mhs-eng.com>

Cc: Michael Stephan <mstephan@firstcity.org>

Joe,

The City is good with the proposed additional costs for inspection to complete the project at 4th & Marion. If you have any questions or need any additional information, don't hesitate to contact me.

Mike

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Joe Mcafee <joe.mcafee@mhs-eng.com>

RE: 52 KA-4057-01 CE Supplemental

1 message

Mike Hooper <mhooper@firstcity.org>

Mon, Jul 31, 2017 at 4:37 PM

To: Joe Mcafee <joe.mcafee@mhs-eng.com>

Can you give us an estimate of the additional fee based on our assumptions? Just so we have an idea, nothing to hold you to.

CITY OF LEAVENWORTH
REQUEST for Supplemental
Estimate

From: Joe Mcafee [mailto:joe.mcafee@mhs-eng.com]
Sent: Monday, July 31, 2017 4:37 PM
To: Mike Hooper
Subject: Re: 52 KA-4057-01 CE Supplemental

Mike,

That's what I am thinking. 1 week on the signals, a few days for the inlet change item, and then a few days in the future for permanent seeding during the seeding season.

On Mon, Jul 31, 2017 at 3:40 PM, Mike Hooper <mhooper@firstcity.org> wrote:

Joe,

Do you have any thoughts on length of time that will be necessary to complete the project? I don't see where it should be longer than a couple of weeks at the most. I may be all wrong on that though.

Mike

From: Joe Mcafee [mailto:joe.mcafee@mhs-eng.com]
Sent: Monday, July 31, 2017 3:11 PM
To: Mike Hooper
Cc: Michael Stephan
Subject: 52 KA-4057-01 CE Supplemental

Mike,

As you know the 4th & Marion project is currently in suspension and we are not billing to the project other than wrapping up any CMS finals that can be completed prior to the project starting again. With our latest invoice (Services through 7/22) we have reached our maximum proposed billing for the project. Just wanted to give you a heads up that this obviously puts us in the need for requesting a supplemental to complete the remaining inspection and CMS documentation. This is obviously never an email that I like sending, and I assure you that we have been, and will continue to be very diligent in limiting our hours to complete the service. But I just wanted to make the City aware of our current situation. I don't really have a good estimate for any supplemental amount at this time. I will know better once the contractor gets back to work and we see how quickly they can complete the remaining services. I don't expect much time to be required to final CMS the project because we have already wrapped a lot of that up. Its just the remaining construction inspection field time that I am a little worried about. Please let me know your thoughts if you can, and we will proceed as economically as we can to wrap the project up. thanks.

ORIGINAL EMAIL NOTICE TO
MIKE HOOPER ON 7/31/17
REQUESTING SUPPLEMENTAL

Joseph McAfee, PE Principal

McAFEE HENDERSON SOLUTIONS, INC.
Civil Engineering – Land Surveying
309 Jefferson Street, Box 397
Oskaloosa, Kansas 66066
785.863.2647 cell: 913.683.2760
www.mhs-eng.com

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Joseph McAfee, PE Principal

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EXECUTIVE SESSION

DISCUSS PERSONNEL MATTERS OF NONELECTED PERSONNEL

OCTOBER 23, 2018

CITY COMMISSION ACTION:

Motion:

Move that the City Commission recess into executive session pursuant to the *nonelected personnel matters* exception per K.S.A. 75-4319 (b) (1), in order to discuss the City Manager contract renewal. The open meeting to resume in the City Commission Chambers at _____ by the clock in the City Commission Chambers. _____ is requested to be present during the Executive Session.