Public Works and Safety Committee
Standing Committee Meeting Agenda
Monday, March 19, 2018
5:00 PM

Location:
Municipal Office Building
701 N 7th Street
Kansas City, Kansas 66101
5th Floor Conference Room (Suite 515)

Name	Absent
Commissioner Melissa Bynum, Chair	☐
Commissioner Harold Johnson	☐
Commissioner Mike Kane	☐
Commissioner Angela Markley	☐
Commissioner Jane Philbrook	☐
Tom Groneman, BPU Board Member	☐

I. **Call to Order/Roll Call**

II. **Revisions to March 19, 2018 Agenda**

III. **Approval of standing committee minutes from January 29, 2018.**

IV. **Committee Agenda**

Item No. 1 - RESOLUTION: 2018 PURCHASE- LEASE AGREEMENT (ZOLL)
Synopsis: A resolution authorizing the Unified Government to enter into a lease-purchase agreement, pursuant to K.S.A. 10-1116b and c, to obtain 13 Zoll X Series AEDs for a total purchase price of $384,043.50, interest free, to be paid in yearly installments of $100,000 starting in 2018, submitted by Ryan Haga, Assistant Counsel. Funds for the purchase have been allocated in the 2018 budget.

It is requested that this item be fast tracked to the March 22, 2018 full commission meeting.
Tracking #: 18136

Item No. 2 - ORDINANCE: AMENDMENT TO SEC. 15-92 FIREWORKS
Synopsis: The amendments to Sec. 15-92 revise the regulations for the storage and sale of

consumer grade fireworks, the distribution of pre-ordered fireworks, and requirements for the issuance of permits for the retail sale of fireworks, which include the requirement that possession of more than 125 pounds of consumer grade fireworks be reported to the Fire Marshall and be stored in the same manner as professional grade fireworks, and that pre-ordered consumer grade fireworks be distributed from a licensed Kansas fireworks retailer's permitted sale establishment, submitted by Ryan Haga, Assistant Counsel.

It is requested that this item be fast tracked to the March 22, 2018 full commission meeting.
Tracking #: 18135

Item No. 3 - PRESENTATION: HOLLIDAY DRIVE COLLAPSE
Synopsis: Presentation of findings and options for moving forward regarding the collapse of Holliday Drive, 100 feet east of South 65th Street, submitted by Brent Thompson, Director of Engineering/County Surveyor.

Handouts will be provided at the meeting.

For information only.
Tracking #: 18133

Item No. 4 - PRESENTATION: STORM TREE MANAGEMENT
Synopsis: Presentation on last year's major storms that caused severe damages throughout the city, and steps to mitigate tree damages in the future, submitted by Jeff Fisher, Executive Director of Public Works.

For information only.
Tracking #: 18134

V. Public Agenda

VI. Adjourn

PUBLIC WORKS AND SAFETY
STANDING COMMITTEE MINUTES
Monday, January 29, 2018

The meeting of the Public Works and Safety Standing Committee was held on Monday, January 29, 2018, at 5:00 p.m., in the 5th Floor Conference Room of the Municipal Office Building. The following members were present: Commissioner Bynum, Chairman; Commissioners Philbrook, Markley, McKiernan substituting for Kane, Johnson; and BPU Board Member Tom Groneman. Commissioner Kane was absent. The following officials were also in attendance: Gordon Criswell and Melissa Sieben, Assistant County Administrators; Misty Brown, Deputy Chief Counsel; Ryan Haga, Assistant Counsel; Jeff Fisher, Executive Director of Public Works; Alan Howze, Chief Knowledge Officer; Mike Tobin, Deputy Director of Public Works; Kathleen VonAchen, Chief Financial Officer; and Doug Bailey, Sergeant-at-Arms.

Chairman Bynum welcomed Mr. Tom Groneman. He is our new Board of Public Utilities' representative for this standing committee. Prior to Mr. Groneman, we were served well by his fellow Board Member Jeff Bryant who has moved to the Economic Development Standing Committee. We want to thank you for joining us and welcome you.

I also want to thank and welcome Commissioner Brian McKiernan who has joined the committee tonight subbing in for Commissioner Mike Kane who was unable to attend.

Chairman Bynum called the meeting to order. Roll call was taken and all members were present as shown above.

Approval of standing committee minutes from November 13, 2017**. On motion of Commissioner Markley, seconded by Commissioner Johnson, the minutes were approved.** Motion carried unanimously.

Committee Agenda:

Item No. 1 – 1844…RESOLUTION: FAIRFAX DRAINAGE DISTRICT AGREEMENT

Synopsis: A resolution authorizing the Unified Government to enter into an agreement with the Fairfax Drainage District to provide adequate sewer services to promote industrial growth in the Fairfax District, effective January 1, 2017 - December 31, 2017, submitted by Misty Brown, Deputy Chief Counsel. Further, it authorizes the UG to reimburse the District $197,700 for sewer services in 2017.

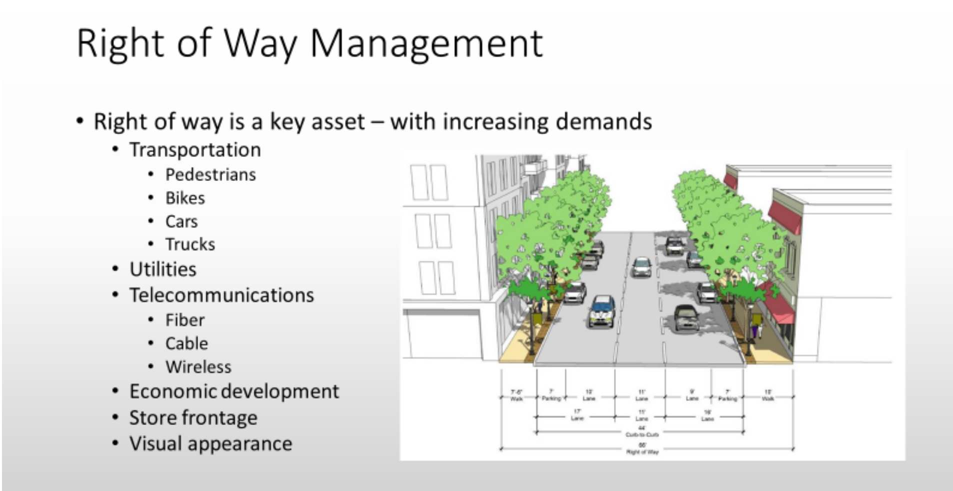
Misty Brown, Deputy Chief Counsel, said this is a resolution which authorizies the Unified Government to reimburse the Drainage District for the use of certain sewer lines that go through the district in 2017. The reimbursement amount is $197,700 for this year. This is a long-term agreement. Each year we come to the Commission and ask for reimbursement for that year's use of the sewer lines. We're currently going to be working on a long-term agreement so we don't have to come back every year, but this is hopefully the last yearly update and request for reimbursement.

Action: **Commissioner Markley made a motion, seconded by Commissioner Johnson, to approve.** Roll call was taken and there were six "Ayes," Groneman, Philbrook, Markley, McKiernan, Johnson, Bynum.

Item No. 2 - 1846…ORDINANCE: FRANCHISE ORDINANCE REVISIONS

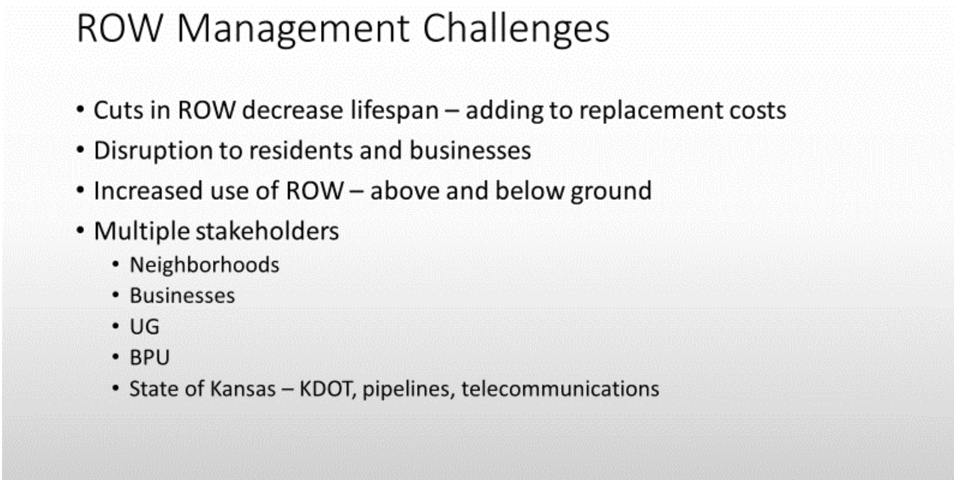
Synopsis: An ordinance revising the UG's prior franchise ordinance by requiring all entities installing, constructing, maintaining, extending, or operating facilities such as lines, pipes, wires, cables, conduit, ducts, poles, towers, pedestals, boxes, appliances, antennas, transmitters, gates, meters, or wireless communication infrastructure for the purpose of providing or otherwise facilitating any service within the UG to enter into a franchise agreement with the UG that will require the franchise to indemnify the UG, meet insurance and bond requirements, install excess conduit for the UG's future infrastructure needs when appropriate, and to pay the UG a reasonable franchise fee for the use of its right-of-way, submitted by Ryan Haga, Assistant Counsel.

Jeff Fisher, Director of Public Works, said we do have Ryan Haga from Legal and Alan Howze, our Chief Knowledge Officer, here to make this presentation. There's been a lot of discussion recently, at least internally, about the right-of-way space and how to manage it real effectively.



I think everybody in this room, most everybody in this room, understands how important this asset is. Public right-of-way provides a lot of services. It has been increasingly challenging with new technologies. The new technologies like fiber and small cells, have been challenging for staff to figure out how to administer those and make sure we have good processes. A lot of discussion here lately. There's limited space in the right-of-way. Water, sewer, gas, and now with new technologies, it's a very valuable asset, a very important asset and that's exactly how we need to start viewing this is it is a critical asset. It warrants protection and a smart solution.

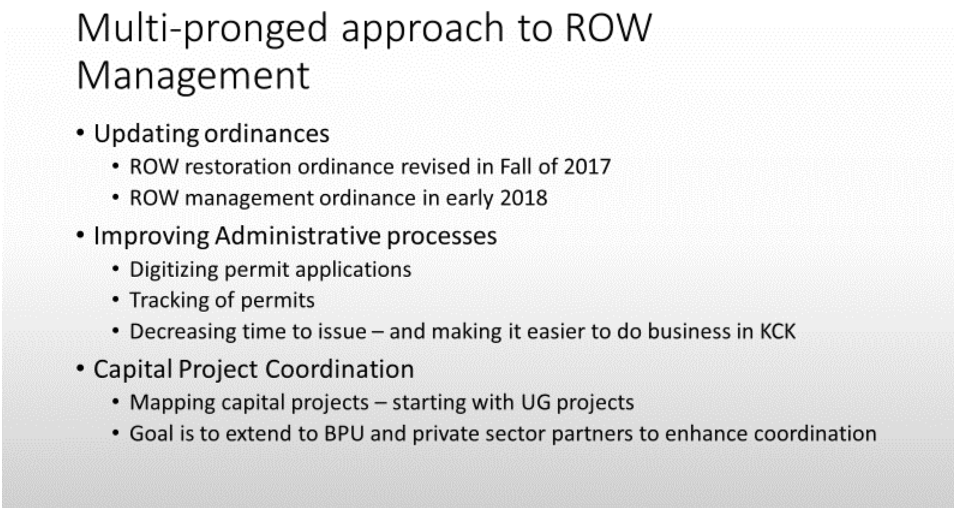
As you know, the Public Works Department last year created a new Asset Management Team. One of its big objectives is to be the hub of data and information and help others manage, protect and maximize the assets within the right-of-way.



One of the big things that we probably see more than anything is the protection part of it, right. We want to make sure that water and sewer in the streets and the sidewalks and all those things that the public enjoys that are necessary for quality of life are protected, that we coordinate work and minimize costs to maintain that work. Also, it's very important to access to businesses and residents so we want to make sure we maintain that access and minimize disruptions.

Again, the new technologies is an increase demand and increasing challenges associated with things like fiber and small cells. There's a lot of stakeholders when you're talking about right-of-way. I know Chief Knowledge Officer Alan has been leading the effort to put fiber in the right-of-way. That's exactly what we need to do. We need to stay committed to that.

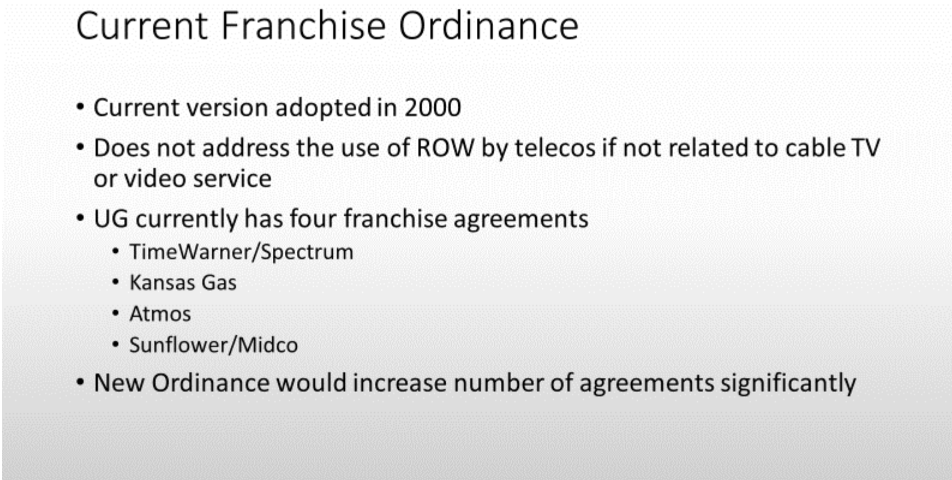
There's a lot of stakeholders associated with that and a lot of things to organize and coordinate, so that's going well. We need to take advantage of every opportunity to share conduit, build conduit, fiber and these small cells are kind of new. How do we handle that? How do we manage that effectively?



Ryan Haga, Assistant Counsel, said as Jeff said, we've been working on updating our right-of-way ordinances. In 2017, we updated the restoration portion for our right-of-way and now we're looking into how to manage it for different companies that come into the area. Primarily, we're looking at a lot of telecommunications providers wanting to come to the area to lay down new fiber or put up small cells to help deal with cell phone data usage. The franchise ordinance that we're going to be bringing before the committee here in another month will be dealing with that directly.

We've also worked internally regarding improving administrative processes like what Jeff referred to earlier and a capital project coordination as well. Alan, do you have anything else with regard to these last two points at all?

Alan Howze, Chief Knowledge Officer, said no. Just to note that hand-in-hand with the ordinance updates is a set of body at work that is being done on administrative processes to facilitate the improvement of those and working with the multiple stakeholders as noted in the previous slide. The BPU, State of Kansas, mountains, bridges and other portions of right-of-way. It's sort of a complexed right-of-way management environment. Part of the goal of the capital asset management group that Public Works has stood up and the GIS team is involved with is to begin to overlay all this different data on what we have in the ground, what we have above the ground, and what projects are coming so that we can help coordinate that and both maximize the value in the right-of-way and minimize the cost associated with road cuts, etc., etc.

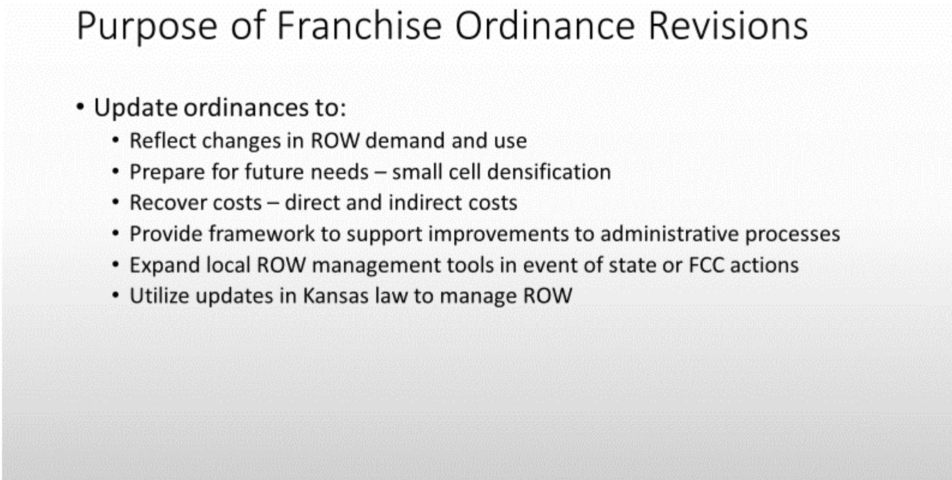


Mr. Haga said the current ordinance we have regarding franchises has been in place since about the year 2000. It primarily deals with cable television and video services providers. It is not broadly written enough to address telecoms generally speaking. They're going to want to come in and utilize the right-of-way and then provide the service within the county. What we're going to be doing is we're going to be expanding the franchise ordinance in order to capture that type of activity.

Currently, just to give you an idea of what we have for franchise agreements at this point has primarily dealt with Time Warner, Spectrum, that's a cable company; Kansas Gas and Atmos, those are gas providers in the county as well; and of course, Sunflower, I believe they're Midco now, another cable provider.

Since we're going to be expanding the franchise ordinance, it will be adding more franchise agreements to what we have listed.

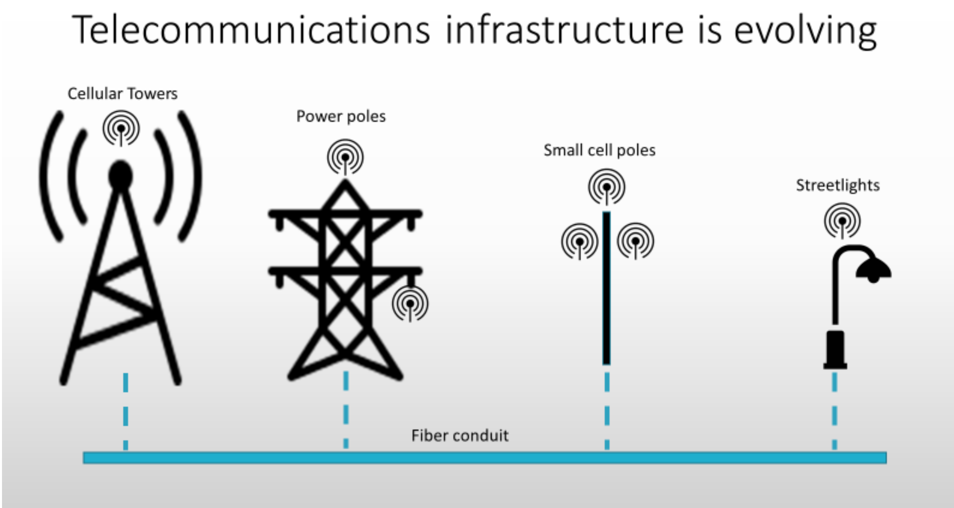
Commissioner Philbrook asked can you give me an example of what you're thinking. **Mr. Haga** said for instance if we have a carrier such as Verizon who wants to come in and start distributing small cells to different locations within the right-of-way, we're going to have them enter into a franchise agreement with the Unified Government that will provide a number of methods, which I'll be going through. Primarily, it's to make sure that the Unified Government is properly compensated for the space taken up in the right-of-way as they distribute their facilities throughout the county.



The update in our ordinance will be reflecting these changes in the right-of-way demand because it really has spiked significantly over the last couple of years to prepare for future needs. One of the facets of the ordinance is that they're going to be giving us plans regarding their distribution and what they intend to use. We can hopefully take that information and utilize it with other telecoms that come into the area to where we can have more opportunities for things like colocation and just try to help preserve the space, usage, and lack of disruption of the right-of-way.

A key element, really, is recovering costs. Under Kansas law, a franchise agreement ordinance would allow us to not just recover our direct costs which is already something we're able to do through just normal administrative right-of-way agreements, but moving to a franchise agreement structure allows us to also recover indirect costs besides specifically telecoms; telecoms comes in and disrupts the right-of-way. Let's say they don't fix it properly then we have to go fix it for them and then try to recover it that way. This will help us capture some of those more hidden costs that go on with administering the right-of-way.

Provide a framework for support improvements to administrative processes. Again, expand right-of-way management tools and utilizes, again, the franchise statue under Kansas law helps us capture some of those indirect costs.

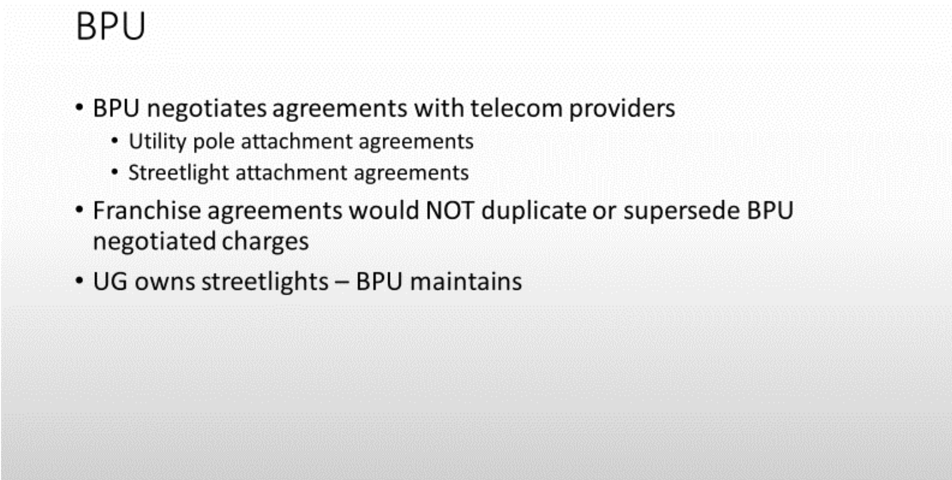


Just to kind of give you an idea of what we see happening is, especially in the small cells, which, again, are little, I guess it's a good way of describing them, a small antenna, if you will, that are being placed on street lights or utility poles to help boost cell phone—power is not the right word I'm probably looking for. I'm sorry.

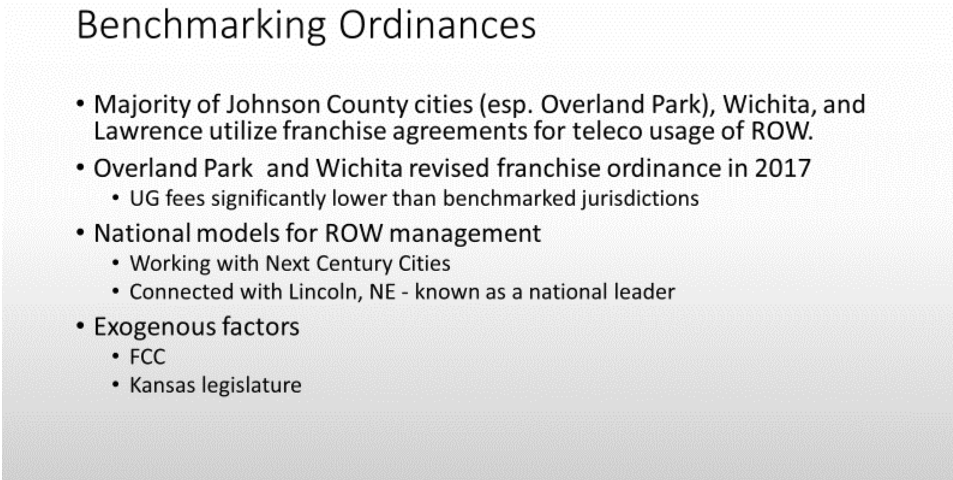
Mr. Howze said I'll jump in here as well. The industry model is shifting so what has been traditionally the tower model, a tower as high as you can reach and use of broadcast—the network signal is being augmented by the addition of smaller, high frequency, high capacity what's called small cells. Those would be at a lower height than a cell tower, but potentially still at a significant height or hung on a building or in some cases, on a street light or other things. You're seeing the perforation of some of the smaller antenna devises that are useful because they do provide better signal coverage and greater bandwidth.

One of the challenges that carriers are looking to meet is the growth of video and other really high bandwidth applications on mobile cell phones. That's driving the industry push towards the use of densification, is what they call it, of small cells. It is a compliment between cell towers and small cells. They can be put on street lights, in some cases, or it can be put on stand-alone polls. In some cases, it can be put on power poles. BPU has some agreements today with some of the carriers, I think, on some of the small cell deployments. It's a mix and we see this continuing to grow and accelerate over the next couple of years.

I would say, underlying all of that is sort of fiber conduit in the ground, generally in the right-of-way, backhaul capacity. Each of those transmission modes is really connected generally by fiber to a backbone network that then hauls the traffic back to the carrier or whatever. Again, there's this combination of deployment above ground on street lights and other public assets as well as utilization of the public right-of-way underground as part of the backhaul capacity.



Mr. Haga said when Alan mentioned BPU, what the new ordinance is looking to do is to, again, compenstate the Unified Government for installations, new installations into the righ-of-way to the extent that telecommunications providers have been coming in and signing pole attachment agreements with BPU for either use of communication space on a utility pole or for going on top of a street light. This won't be duplicating those costs or those efforts. We're not going to be layering an additional fine on top, an additional fee on top of what they'll be paying BPU if they're going just onto BPU poles and they're going onto light poles. Again, this is primarily going to be directed toward new installations by the telecom into the right-of-way versus using facilities that we already have available through BPU or other UG assets to go onto instead of making new installations in the right-of-way.

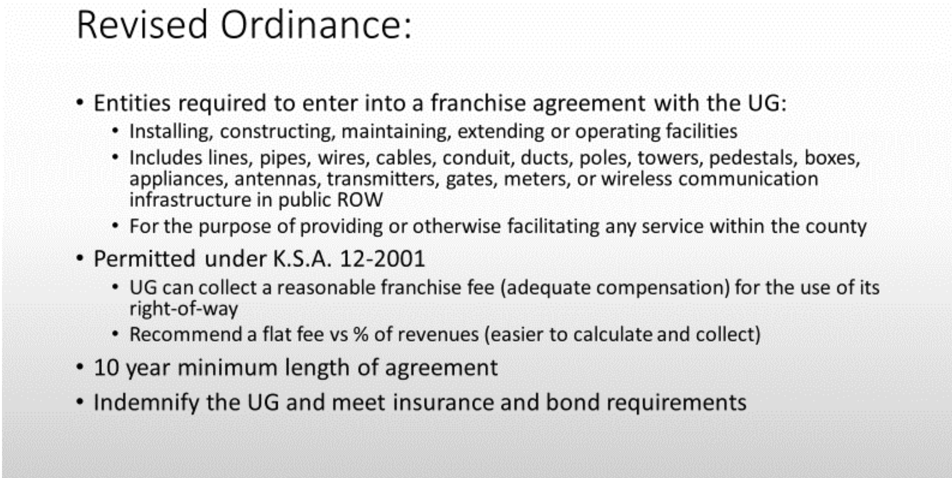


Mr. Haga said the new ordinance will be, for the most part, matching ordinances currently being used in Johnson County cities, especially Overland Park, Wichita, and Lawrence. All of these jurisdictions are using franchise agreements with telecommuncations providers that use the right-of-way. Overland Park and Wichita revised their franchise agreements just last year.

The national model for the right-of-way— actually it's getting in Alan's part if you want to go over those last two points.

Mr. Howze said we're benchmarking surrounding jurisdictions also with more of the national models. One of the organizations that we engage with is Next Century Cities, a non-profit that works on broadband and connectivity. They put us in touch with Lincoln, NE, which interestingly enough is a national leader in the right-of-way management and telecom access and those sorts of things. We've been in contact with them as well. Looking at what are those other models for how other jurisdictions are trying to manage this same challenge which is happening in jurisdictions across the country.

The last point of the exogenous factors is there are parts of the ordinance—we can manage our own ordinance but to understand that there are—FCC also plays in this space significantly. Kansas Legislature has been looking at this and they made changes in the last couple of years around this topic area. It's one that's gotten both national and state attention on it, and that's part of the impetus for updating the local ordinances to make sure that we have all the tools in our toolbox to manage the right-of-way at the local level as well.



Mr. Haga said the revised ordinance is primarily going to be focusing on—I'm sorry, I got a little ahead of myself there. The way we're going to be applying the ordinance is that any entity that's going to be coming in and wanting to install or construct any facilities in the right-of-way: pipes, wires, cables, conduits or wireless communication for structure in the public right-of-way will have to go through the franchise ordinance process. Again, they'll have to be providing service to the county.

Bascially, the way this will work is they'll come to us. We'll negotiate a franchise agreement under the structure of the ordinance which will include certain factors, one being a reasonable fee. After that agreement is negotiated and agreed to by the parties, it will then have to pass as an ordinance through the Commission, which is required under K.S.A. 12-2001, which is the state franchise statute. Specifically, it specifies we can charge a reasonable franchise fee for adequate compensation for use of the right-of-way, and it provides a ceiling for how much can be charged.

Under the statute, we can charge as much as 5% of gross receipts. However, the trend has been in Kansas, the cities I named off earlier, to actually just negotiate a flat fee in order to make it easier to calculate and collect that franchise fee.

Under Kansas law, any sort of franchise agreement for the use of the right-of-way is going to have to have a minimum of 10-year length and, of course, since it's an agreement or contract between us, between the Unified Government and the telecommunications, a company will have a standard of requirements indemnifying the Unified Government and meeting insuruance and bonding requirements.

Commissioner Johnson asked the agreements that we have right now, do they have fees attached to them for the agreements that we have right now. **Mr. Haga** said up to this point, we've primarily been using our right-of-way agreement which is basically an administrative agreement that we have with the telecoms. We do charge for actual damage to the right-of-way, which is to say if they excavate and improperly refill, if they don't restore it or whatnot, we have the ability to go in and do that restoration work and then charge them for our actual costs for maintaining the right-of-way.

The franchise agreement is structured a little bit differently in terms that we can recover our actual direct costs. It gives us a little more flexibility to also try to recover some of those (inaudible). I'm sorry for the four, we have for the franchise agreements with Atmos, for the cable, for natural gas providers, we do get 5%, I believe, of gross receipts from those two agreements. For the cable agreements, there is no 5% in those two agreements. Sorry, I got a little off track there. **Commissioner Johnson** said so basically a flat fee versus percentage of revenue; 5%, which is a flat fee, correct? **Mr. Haga** said that's right.

In talking to other municipalities and how they administrate this, one thing I learned is that frankly, they get a lot of pushback from the companies. I mean, that's in order to try to really try and trace that 5%. It requires auditing and just increases the administrative cost signficantly. What I've been told is that they're much more agreeable and quite frankly, it's just much easier to administrate a yearly or monthly flat fee for each installation that goes into the right-of-way versus trying to calculate that 5%.

Plus, there's other issues regarding if you're dealing with like a Verizon and they end up installing a system throughout the entire KC metro and you have somoeone traveling through these different jurisdictions, how do they go about calculating that. It's just very much the trend just to negotiate a flat fee.

Commissioner McKiernan said I thought it might—actually, I have a couple of questions about this revised ordinance, but I can definitely hold them until the end. **Chairman Bynum** said I think now is fine. **Commissioner McKiernan** said Mr. Fisher and I have had many conversations about right-of-way and especially third-party contractors who come and dig holes in our right-of-way. Will this revised ordinance have any requirement that these contractors actually ask permission before they begin parking equipment, parking supplies, or otherwise using a vacant lot? **Mr. Haga** said the franchise agreement specifically what they will do is they'll reference and require them to abide by our local right-of-way ordinances in their current form. I know that we did some changes to the right-of-way ordinance regarding trying to police the right-of-way better including adding staff to actually go out and take a look at right-of-way usage in connection with the permits that are being filed.

Commissioner McKiernan said I'll give you a specifc example. The northeast corner of 11th & Armstrong or 12th & Armstrong has equipment on it again, has supplies on it again. That's a Land Bank lot. Did somebody ask permission before they came and squatted on a Land Bank lot? What I'm more concerned about is, do they ask permission before they squat on privately-owned lots?

What requirements are we going to have built into this that you can't just come and set up shop and park your tractors and park your trailors and park your equipment and put your gravel on any lot that happens to be available? You actually have to ask permission. **Mr. Haga** said from my point of view, at least as far as this ordinance goes, again, we'll be referencing back to our local ordinances that are in place. I don't know what the status is of our current right-of-way inspectors. **Mr. Fisher** said I know, as Ryan indicated, a few months ago, we took a shot that we increased the expectations of those contractors and the restoration activities. I don't recall exactly if they're in that code required to get permission. I can look into that. I don't know in this case if they did, but I will check up on that.

Commissioner McKiernan said we had many conversations about many places that they showed up. I just want to make sure that they have to actually ask permission and get it before they set up shop. We've had conversations about restoring the right-of-way as they found it. Will we have an expectation that they restore whatever they dig up as they found it? **Mr. Fisher** said absolutely.

Chairman Bynum said to Commissioner's point, I think part of why this is an information item is because we want to hear that feedback. We want to make sure that we're protecting our interest and things like that as we do these kinds of updates, is my understanding. I think every one of us here probably has that same exact question. We've all experienced that in our districts, and we'd really like something that helps put a stop to that or at least a remediation to it when it does happen.

Commissioner Philbrook said to follow along on that, then when they come in just because they're another utility or whatever, I mean they still have to get the work permits and all that sort of thing like everybody else has to. In that, is there anything that states that they need to be aware of what they're doing that they can't just stomp over everybody else's rights? Is there anything in there that explains that to them? **Mr. Haga** said I don't recall at the moment. **Commissioner Philbrook** said we're getting picky but, I mean you know, be told upfront because there are a lot of people that are like, my front yard looks like h--, and I can't repeat what they say. **Mr. Fisher** said I thought we had addressed that in that last revision, but we'll check it.

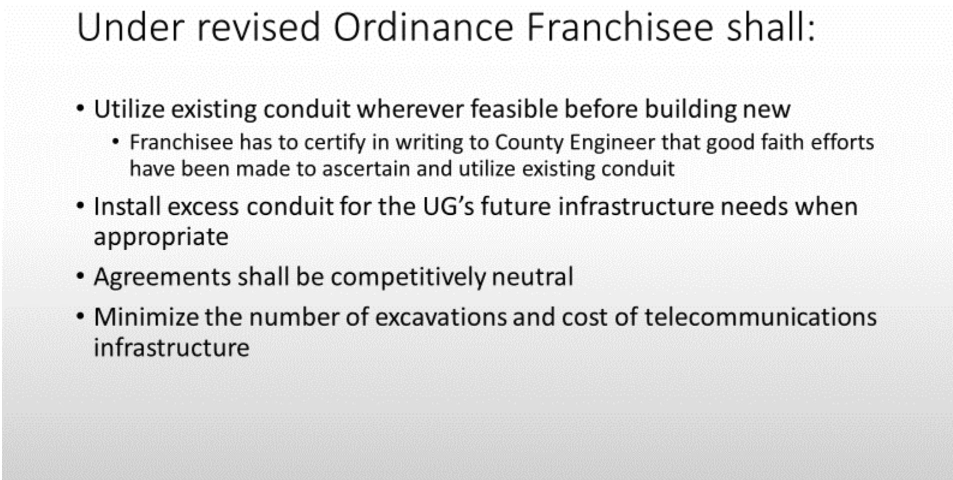
Mr. Howze said one more point on that. What we talked about earlier was the digitization of the permitting process itself. Right now, it's a paper-base process. One of the things we've been working on with Public Works as well is how do you make that into more of a digital process so that it makes it easier for staff to track and to understand where the work is being done and all that kind of stuff. It makes it easier on the contractors and it makes it easier to hold them acountable.

Mike Tobin, Deputy Director of Public Works, said if I might add to this, we have been working with the Planning Director. Rob and I were just talking right now. As far as Commissioner McKiernan's question as to the storage of materials and equipment on our property and/or vacant, privately-owned property, we can now also cite them, or will be able to shortly, for not having a special use permit and not being in compliance with planning and zoning. There will be greater supervision of what happens with that. We have not turned a deaf ear to your request.

Commissioner Philbrook said before you leave, let's get down in the weeds for a second. What about Stony Point North where they're working up there putting in, you know, all of the extra sewer lines and that sort of thing for regular water drainage? **Mr. Tobin** said those contractors are working for us. **Commissioner Philbrook** said yeah, I understand, but that doesn't make it any different on how they deal with the people that are there. **Mr. Tobin** said I know some of them are not the best people persons, but those contractors are much better. They generally tend to work out where they're going to store material ahead of time with the local residents.

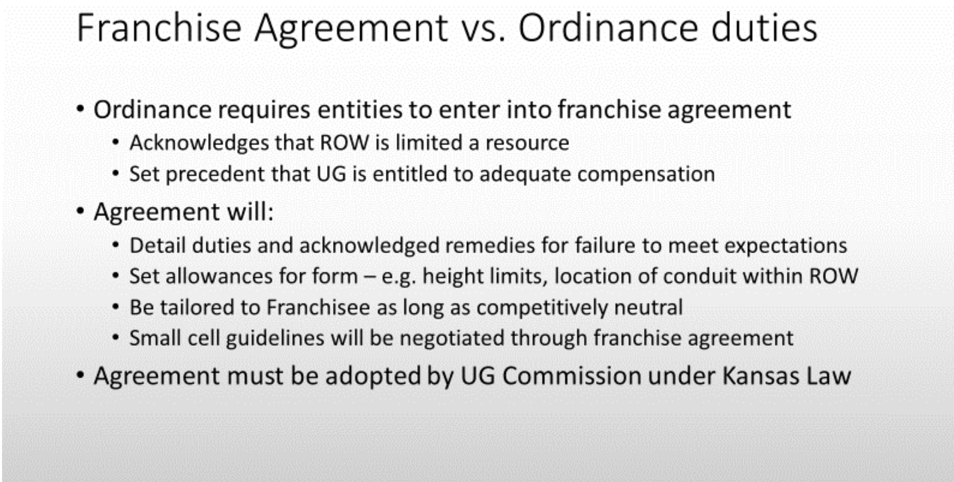
Commissioner Philbrook said I'm just asking because I'll be going to another one of those meetings pretty soon.

Chairman Bynum said now that we've drilled you, we'll let you get back to your slides.



Mr. Haga said well, one thing and another aspect of the right-of-way management that the franchise agreements are going to be addressing is conduit in the right-of-way. It will be making a requirement of where they'd have to work with the County Engineer regarding how much conduit is going to be installed for whatever potential needs we may have going forward with our own infrastructure plans.

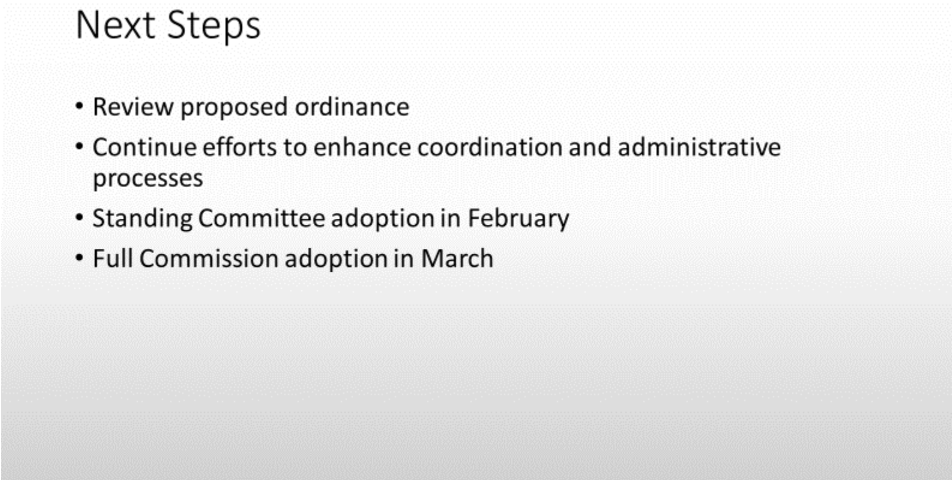
By Kansas law, but also just through good practice, the agreements have to be competitively neutral. Ultimately, what we're looking at trying to do here is minimize the number of excavations and the cost of the installation of such infrastructure.



The ordinance—I think I might have covered some of this—the ordinance will be requiring those entities, covered entities, entering the franchsie agreement acknowledges the road as a limited resource and that we, again, will be able to recover adequate compensation. The agreement will detail duties and acknowledge remedies for failure to meet expectations.

Regarding some specific issues that you brought up, we will have it (inaudible) to tailor these agreements for the specific projects that are going to be coming through. They'll set allowances as to the form, height limits, and location of conduit within the right-of-way. Again, it can be specifically tailored for the franchisee's project and small cell guidelines can be negotiated through the franchise agreement.

Again, after we have an agreement made between the parties, they'll have to go through the Commission for final codification.



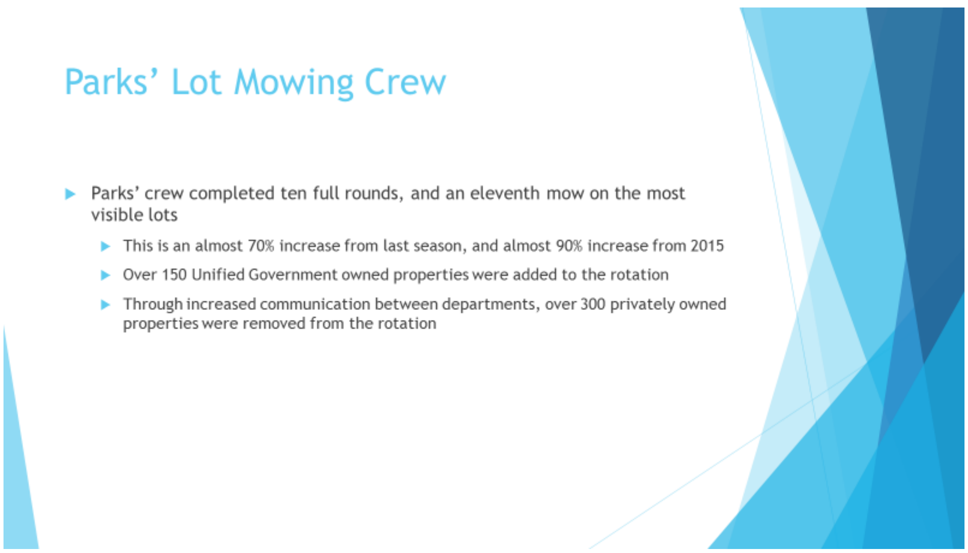
The next steps will be to review our proposed ordinance and continue efforts to enhance coordination and administrative process. We'll be bringing it back for adoption in February and the full Commission in March.

Action: Information only.

Item No. 3 – 1849…PRESENTATION: 2018 MOWING REPORT

Synopsis: Presentation of the 2018 Mowing Report (SOAR Program), presented by Jeremy Rogers, Parks & Recreation Director; and Jack Webb, Parks & Recreation Deputy Director.

Jeremy Rogers, Parks and Recreation Director, said I'm joined by Jack Webb, he is our Deputy Director; and Kristin Love, she's our Professional Assistant. Just to recap, last year about this time, Jeff, in Public Works, got together with Parks and Recreation. Through the SOAR Program, we decided to join forces and share resources in order to enhance our mowing program. That mowing program was decided to fall under Parks and Recreation. We oversaw it. Jack Webb was the key to overseeing that. We wanted to come before you to kind of tell you what we did in 2017 and then kind of give you an overview of what we're looking to do in 2018. I will turn it over to Jack and let him go through the presentation.



Jack Webb, Deputy Director of Parks & Recreation, said as you know, Parks has taken over all the mowing for the UG last year. Park crews completed 10 full rounds with 11 on the most visible lots. This is almost a 70% increase from last season and almost 90% for 2015. Over 150 Unified Government-owned properties were added to the rotation. Through increased communication between departments, over 300 privately-owned properties were removed from the rotation. Our complaint calls on lots, parks, medians dropped by over 90%. Our complaint calls have dropped by over 90%.

The contractor that we have mowing half of our lots, he completed six full rounds of mowing. On a typical year, we make about three, three and a half.

We started a tier system, but as we found out, the more frequent of mowing, we didn't have to go that deep into the tier system because we were mowing more frequently. We started a spray program. This was almost a 40% increase from last season; 75% from 2015.

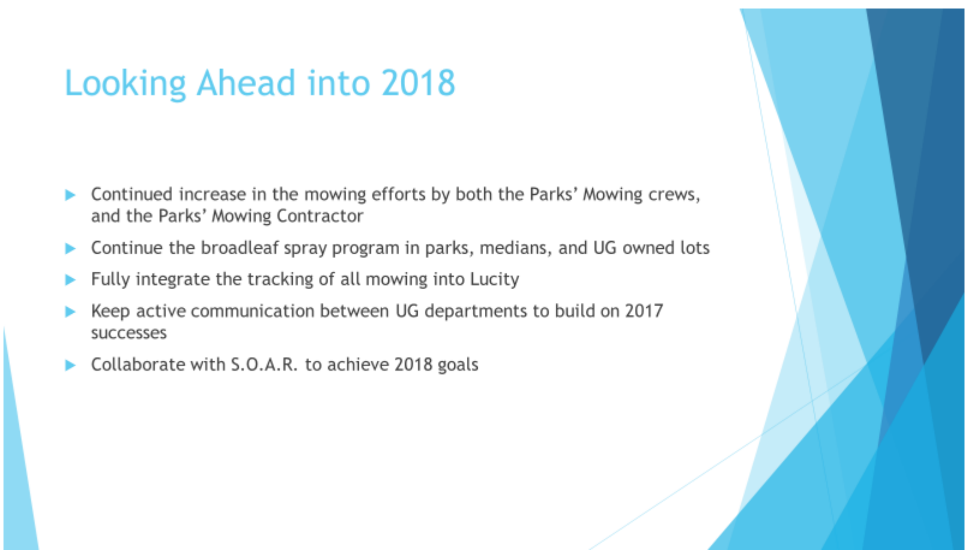
Through increased communication between UG departments, over 400 privately-owned properties were removed from the rotation.

The Quick Response Trash Team was moved from Public Works to the Parks Department last year. Parks' QRTT received over 2,000 14-day abatements from Codes in 2017. Lucity states that over 1,300 abatements were completed. QRTT was sent 613 abatements in all of 2016. You can see the increase on our team. Due to the increased amount of abatements, QRTT worked an average of 240 hours of overtime April through October. This does not account when they got behind 14 days and the Park crews went in to help them.

Chairman Bynum said, Mr. Webb, I apologize for interrupting you. For the purpose of our public, the folks here in the audience and watching, and we have a new member of our committee, would you just stop quickly and say QRTT again, what it stands for, and then tell us what Lucity is? **Mr. Webb** said QRTT Team is the Quick Response Trash Team. They work with Codes. I'll show you what they do here at the end. **Chairman Bynum** said and Lucity is our system. **Mr. Webb** said I'll let our Lucity guru tell you about that. **Kristin Love, Professional Assistant,** said Lucity is our asset management tracking system. It's through Lucity that we can track every single lot that gets mowed.

Mr. Webb said an abatement can range anywhere from mowing a property to cleaning and moving truckloads of trash and debris from privately-owned property. QRTT was also called over one hundred instances where the property owner was given a 24-hour notice to clean their property and failed to do so. These required immediate responses from our team and that can range anywhere from picking up dumped tires to entire houses being thrown out to the curb.

This is one that we done last week. As you can see, the before and after. This is over 55 truckloads of trash we removed. That's just one abatement.



We'll continue to increase the mowing efforts by both Parks' mowing crews and the mowing contractors. This worked really good last year. We want to tweak it a little bit and make it work even better this year.

We're going to continue the Broadleaf Spray Program in parks, medians, and UG-owned lots. You'll really notice it this year. Last year—it takes about two years, but you'll really notice it in the medians and the parks this year.

We're going to fully integrate the tracking of all mowing into Lucity which was never done until this last year.

We'll keep active communication open between UG departments and build on the 2017 success.

Of course, we'll collaborate with SOAR to achieve these goals in 2018.

Chairman Bynum said I think that I speak for everybody at the table and everybody on the Commission when we give you our kudos for the work you've done, the way that you've embraced the problem solving and the efforts with SOAR. You heard that a little bit from a lot of us last week when we had a full commission special session about SOAR, and we're just repeating that again.

I appreciate the mowing update. It's a big deal. Winter is going to end and the grass is going to grow.

Commissioner Johnson, did I see you with a comment or a…

Commissioner Johnson said no, I didn't have a comment, but since you asked. Again, kudos to you all. A lot of times our constituents may not be able to perceive that these are the beginning stages of what I think are going to be a renaissance in our community when you're able to keep the lots mowed, trimmed, keep the weeds off of the curbs and things of that nature. Again, we have to continue to be stewards over this process and again, kudos to Commissioners McKiernan and Markley for getting this thing started.

We've got to take a gorilla approach to this and continue to make sure that it's funded and adequately staffed and continue to see the kind of product that we're seeing right now. I believe that will lead to development; our improvement in quality of life east of I-635. That's been a big thing. Every time I step into a public arena, I have questions of what is going on east of I-635. These things may not be sexy, they may not be the things that get everyone's attention, but they are the really big things that matter, so kudos to you all. Doing a great job; keep up the great work.

Mr. Rogers said thank you, Commissioner Johnson. With that, you mentioned staffing. One thing, as director, that I would like to do is when you saw that picture up there, our QRTT team consists of a supervisor and three individuals. They can't do that level of work so we have to pull staff from Parks. That's one of my goals, as director, is to stabilize that staffing level while maintaining the maintenance that we do throughout the rest of the city.

Melissa Sieben, Assistant County Administrator, said first of all, thank you to this group of four people sitting here because there was a transition that occurred and then all the folks underneath them. I couldn't be happier.

I do want to piggyback on what Jeremy was talking about. We have to look at some kind of deep divine analysis and how we're doing that debris removal and those properties that are truly an eyesore in our community. What we need to do to bolster that because pulling from Parks was not what we ever intended to do with this. We're going to have to figure that out. It should stabilize this year, we're hoping. Then the goal is that as we increase our communications and work with residents that we get those numbers down overtime. What that looks like in between, we're going to have to figure out because it's going to take a few years probably to get to that point.

Mr. Fisher said this might be a good opportunity to provide the public watching the reminder that we're changing our right-of-way mowing policy as well. We started that in 2017 and in 2018 we'll not be mowing right-of-way except in public spaces, UG and state right-of-way areas. There might be a few exceptions to that just in the transition. We've messaged the public here in these meetings and we've messaged the public through the newsletter. Just another reminder that we'll make that policy change effective this spring.

Commissioner Philbrook said of course I'm going to make sure that there is a clarification so folks understand. So State Avenue, Parallel, all along those sidewalks, we're not going to be mowing any of that? Is that correct? **Mr. Fisher** said correct. **Commissioner Philbrook** asked is that what you're saying. **Mr. Fishe**r said correct. **Commissioner Philbrook** said so that means that we need to let people know that they're responsible for mowing along those frontage areas because I already see there's going to be an interesting issue along some of those. **Mr. Fisher** said there will be. I've been through this before. There will be a few, but we'll get through it.

Ms. Sieben said just a quick reminder that the transition and why we're doing that is to deploy our resources in areas that also have been an issue within our resident survey or citizen satisfaction survey that is actually currently out. This is to address a need and that need is to spend more time on our curbs, streets, and sidewalks. Staff that was doing this type of mowing was actually being pulled off of those other duties that our residents are concerned about. Hopefully, we can strike a grand bargain between folks if they can help us with that, we'll help to try to provide them with better curbs, streets, and sidewalks. Did I miss anything, Jeff? **Mr. Fisher** said that's absolutely true. Thank you.

Action: For information only.

Adjourn

Chairman Bynum adjourned the meeting at 5:45 p.m.

tk

Staff Request for Commission Action

Tracking No. 18136

Full Commission Meeting Date: 3/22/18

Committee: Public Works & Safety

Date of Standing Committee Action: 3/19/18 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
03/07/2018	Ryan Haga	x5075	rhaga@wycokck.org	Legal

Item Description:

A resolution authorizing the Unified Government to enter into a lease-purchase agreement, pursuant to K.S.A. 10-1116b and c, to obtain thirteen (13) Zoll X series AEDs for a total purchase price of $384,043.50, interest free, to be paid in yearly installments of $100,000.00 starting in 2018. Funds for the purchase have been allocated in the 2018 budget.

Action Requested:

to adopt the resolution and fast track to 3/22/18 full commission meeting.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

UG_Resolution_2018 Purchase - Lease agreement (Zoll), Zoll Medical Corporation (2018 lease-purchase agreement) Zoll reviewed-rph approved 2-28-18

RESOLUTION NO. R-___-__

RESOLUTION AUTHORIZING THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ENTER INTO A LEASE PURCHASE TRANSACTION, AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government") desires to obtain thirteen (13) Zoll X series Manual Monitor/Defibrillators (the "Equipment"); and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the Unified Government to enter into an annually renewable Single Schedule Lease Purchase Agreement, pursuant to K.S.A. 10-1116b and c, (the "Lease") with Zoll Medical Corporation, as lessor, to which the Unified Government, as lessee, will lease the Equipment from Zoll Medical Corporation on a year-to-year basis with an option to purchase the Equipment, a form of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY KANSAS, AS FOLLOWS:

Section 1. Authorization of Lease Transaction. The Unified Government states its intent to lease-purchase some or all of the Equipment with a maximum capital cost of $384,043.50, an annual average effective interest cost of 0%, and with $0.00 paid for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost.

The Chief Financial Officer of the Unified Government is herby authorized to accept the proposal of Zoll Medical Corporation for the lease-purchase transaction. The Equipment to be leased will be approved by subsequent resolution(s) of the Board of Commissioners.

Section 2. Authorization and Approval of Unified Government Documents. The Lease is hereby approved in substantially the form submitted to and reviewed by the Board of Commissioners on the date hereof, with such changes therein as are approved by the County Administrator, the County Administrator's execution of the Lease being conclusive evidence of such approval.

The obligation of the Unified Government to pay Lease Payments (as memorialized in the Unified Government's Lease-Purchase Agreement, attached hereto as **Attachment A**) under the Lease is subject to annual appropriation and will constitute a current expense of the Unified Government and will not in any way be construed to be an indebtedness or liability of the Unified Government in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness or liability by the Unified Government, nor will anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the Unified Government, and all provisions of the Lease will be construed so as to give effect to such intent.

The County Administrator is hereby authorized and directed to execute and deliver the Lease on behalf of and as the act and deed of the Unified Government.

Section 3. Further Authority. The Unified Government will, and the officials and agents of the Unified Government are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the Unified Government with respect to the Lease and the Equipment.

Section 4. Effective Date. This Resolution will take effect and be in full force from and after its passage by the Board of Commissioners.

ADOPTED by the Board of Commissioners of the Unified Government of Wyandotte County, Kansas City, Kansas, this ________________, 2018.

____
David Alvey, Mayor/CEO

ATTEST:

____
Unified Government Clerk

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

Lease-Purchase Agreement

THIS AGREEMENT, made this _____ day of __________________, by and between the Unified Government of Wyandotte County/Kansas City, Kansas, hereinafter called "Unified Government", and **Zoll Medical Corporation**, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

ARTICLE I

1.01. The Contractor shall supply, install and furnish such items and services as described and specified in its January 30, 2018 Price Quote.

Specifically, Contractor shall provide the Unified Government with 13 Zoll X series Manual Monitor/Defibrillators (“Equipment”) for:

a. The total purchase price/capital cost of the Equipment: **$384,043.50**;

b. The annual average effective interest cost: **0%**;

c. The amount included in the payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost : **$0.00**.

Payment Terms: $100,000 of the total purchase price/capital cost is due 30 days following the execution of this Agreement; $100,000 of the total capital cost is due January 31, 2019; $100,000 of the total capital cost is due January 31, 2020; and $84,043.50 of the total capital cost is due January 31, 2021.

1.02. Contractor hereby demises, sells and lets to the Unified Government, and the Unified Government hereby purchases from Contractor, the Equipment in accordance with this Agreement. The purchase price/capital cost shall be disbursed as provided in Section 1.01.

1.03 The Unified Government is obligated to make payments as provided in Section 1.01 as may lawfully be made from funds budgeted and appropriated for that purpose during the Unified Government's then current fiscal year. Should the Unified Government fail to budget, appropriate or otherwise make available funds to make payments under Section 1.01, this Agreement shall be deemed terminated. The Unified Government agrees to deliver notice to Contractor of such termination at least 90 days prior to the end of the then current term. If this Agreement is terminated in accordance with this Section, the Unified Government agrees, at its cost and expense, to peaceably deliver the Equipment to Contractor at the location or locations to be specified.

1.04 It is understood that the representative for the Unified Government shall be **Sharon Reed**.

1.05. The term "Contract Documents" shall mean the documents listed below which have been incorporated herein and as part of this agreement and shall include the following in order of procedure:

a) Agreement;
b) Exhibit A – Resolution authorizing lease-purchase agreement;
c) Exhibit B - Zoll Medical Corporation's January 30, 2018 Price Quote.

1.06. The conditions and/or provisions provided in this Agreement shall supersede and be given full force and effect for over and above any contradictory term contained in Exhibit B.

1.07. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

ARTICLE II

Unified Government represents, covenants and warrants for the benefit of Contractor as follows:

2.01. Unified Government is a municipal corporation duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

2.02. Unified Government has duly authorized the execution and delivery of this Agreement by proper action by its governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement.

2.03. This Agreement constitutes the legal, valid and binding obligation of Unified Government enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

2.04. Unified Government has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the payments scheduled to come due during the current fiscal year and to meet its other obligations under this Agreement for the current fiscal year, and such funds have not been expended for other purposes.

2.05. Unified Government will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a municipal corporation under the laws of the State.

2.06. Unified Government has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Unified Government of the Equipment listed on the Schedules that currently exist.

2.07. All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Unified Government of this Agreement or in connection with the carrying out by its of its obligations hereunder have been obtained.

2.08. The Equipment described in this Agreement is essential to the function of the Unified Government or to the service the Unified Government provides to its citizens. The Unified Government has an immediate need for the Equipment listed herein and expects to make immediate use of the Equipment. The Unified Government's need for the Equipment is not temporary and the Unified Government does not expect the need for any item of the Equipment to diminish in the foreseeable future including the Maximum Lease Term applicable to such item. The Equipment will be used by the Unified Government only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of the Unified Government's authority.

ARTICLE III

GENERAL CONTRACTUAL PROVISIONS

3.01. ***Compliance with Law.*** CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations in carrying out this Agreement, regardless of whether those legal requirements are specifically referenced in this Agreement.

3.02. ***Authority To Contract.*** CONTRACTOR represents that it possesses legal authority to contract, that it has undertaken any official action required by its governing documents to enter into this Agreement, that its undersigned representative is duly authorized to execute this document on its behalf, that it agrees to be bound by all the provisions of this Agreement, and that the person identified as its official representative is authorized to act on its behalf in the implementation of this Agreement.

3.03. ***Modification of Agreement.*** This Agreement may be modified or amended only in writing executed by both parties and will be subject to renegotiation in the event of changes to applicable law, rules, or regulations affecting the subject matter of this Agreement.

3.04. ***Assignment.*** Neither CONTRACTOR nor the Unified Government shall, sell, transfer, assign, or otherwise dispose of any rights or obligations created by this Agreement without the written consent of the other party.

3.05. ***Cash Basis Law.*** This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 *et seq*. and amendments thereto. Any automatic renewal of the terms of the Agreement shall create no legal obligation on the part of the Unified Government. This Agreement shall be construed and interpreted so as to ensure that the Unified Government shall at all times stay in conformity with such laws and, as a condition of this Agreement, the Unified Government reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement is deemed to violate the terms of such law. The Unified Government is obligated only to pay periodic payments or monthly installments under the Agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during the Unified Government's current budget year or (b) funds made available from any lawfully operated revenue producing source.

3.05.1 Appropriation of Funds

The purchase order issued by the Unified Government under and pursuant to the laws of the State of Kansas to fund the acquisition of the assets quoted in CONTRACTOR's January 30, 2018 Quotation ("Assets"). If, after the first fiscal year in which the assets are financed, funds are not appropriated or otherwise made available to continue making payments for the Assets in a subsequent fiscal year, then the Unified Government may terminate this Agreement as of the last day for which funds were appropriated or otherwise made available, but shall be obligated to pay all payments incurred through the end of that fiscal year. The Unified Government incurs no obligation under this Agreement for any period of time for which funds are not appropriated. It is reasonably expected that lease payments under this Agreement will be paid from annual appropriations of the Unified Government.

In the event of non-appropriation, the Unified Government shall provide CONTRACTOR a written notification to the effect that no funds have been appropriated or otherwise made available for payments due under this Agreement or for the acquisition of substantially similar Assets to replace those provided under this Agreement, to the extent permitted by law. In such event, the Unified Government at its own expense and at CONTRACTOR's direction shall ship the assets to a location within the contiguous United States specified by CONTRACTOR.

3.05.2 Best Efforts for Funding

The Unified Government will use its best efforts to obtain funding each fiscal year for the assets financed and purchased under this Agreement.

3.06. ***Payment of Taxes.*** The Unified Government shall not be responsible for, nor indemnify CONTRACTOR for any federal, state, or local taxes which may be imposed or levied upon the subject matter of this Agreement. If applicable, CONTRACTOR shall pay the Unified Government occupation tax prior to execution of the Agreement.

3.07. ***Licenses and Permits.*** CONTRACTOR shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state, or local authority for carrying out this Agreement. CONTRACTOR shall notify the Unified Government immediately if any required license, permit, bond, or insurance is cancelled, suspended, or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate termination by the Unified Government in its discretion.

3.08. ***Independent Contractor Relation.*** The parties agree that the legal relationship between them is of a contractual nature. Nothing in this Agreement shall be construed to create a relationship of employer and employee or principal and agent or any other relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of this Agreement. Nothing in this Agreement shall create any right or remedies in any third party. The parties agree that no persons supplied by CONTRACTOR are employees of the Unified Government and that no right of the Unified Government's civil service, retirement, or personnel rules accrue to such persons. The Unified Government shall not be responsible for withholding of social security, workers compensation insurance, unemployment compensation, bonuses, retirement benefits, other benefits, and any taxes and premiums from any payments made by the Unified Government to CONTRACTOR.

3.09. ***Discrimination in Delivery of Services Prohibited.*** During the performance of this Agreement, CONTRACTOR shall deny none of the benefits or services of the program to any eligible participant on the basis of race, religion, color, sex, disability, age, national original, or ancestry.

3.10. ***Equal Opportunity and Affirmative Action.***

a. CONTRACTOR shall observe the provisions of the Kansas Act Against Discrimination, K.S.A. 44-1001 *et seq*. and amendments thereto, and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, disability, age, national origin, or ancestry.

b. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, sex, disability, age, national origin, or ancestry. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Unified Government setting forth the provisions of this nondiscrimination clause.

c. CONTRACTOR, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, will state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, disability, age, national origin, or ancestry.

d. CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractors.

e. CONTRACTOR shall assure that it and all subcontractors will implement the certificate of compliance in connection with this Agreement.

f. If CONTRACTOR fails, refuses, or neglects to comply with the terms of these contractual conditions, such failure shall be deemed a total breach of the contract and this Agreement may be terminated, canceled, or suspended, in whole or in part, and CONTRACTOR may be declared ineligible for any further Unified Government contracts for a period of up to one year. Provided that, if a contract is terminated, canceled, or suspended for failure to comply with this section, CONTRACTOR shall have no claims for damages against the Unified Government on account of such termination, cancellation, or suspension or declaration of ineligibility.

g. CONTRACTOR shall maintain sufficient records to document that, under all aspects of this Agreement, it has acted in a manner which is in full compliance with the Kansas Act Against Discrimination. Such records shall at all times remain open to inspection by the Kansas Human Rights Commission or by the Unified Government.

h. CONTRACTOR, in carrying out this Agreement, shall also comply with all other applicable existing federal, state, and local laws relative to equal opportunity and nondiscrimination, all of which are incorporated by reference and made a part of this Agreement.

3.11. *Representations*.

CONTRACTOR makes the following representations:

a. The price submitted is independently arrived at without collusion.

b. It has not knowingly influenced and promises that it will not knowingly influence a Unified Government employee or former Unified Government employee to breach any of the ethical standards set forth in Article 12 of the Procurement Code.

c. It has not violated, and is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §12-106 (Gratuities and Kickbacks) of the Procurement Code.

d. It has not retained and will not retain a person to solicit or secure a Unified Government contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

3.12. ***Waiver of Breach**.* The waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach by such party.

3.13. ***Severability**.* If a court of competent jurisdiction declares any part of this Agreement to be invalid, the balance of the agreement will remain valid and enforceable.

3.14. ***Entire Agreement**.* This Agreement and its attachments set forth the parties' entire agreement. Neither party has made any oral or side agreements or representations not contained in this Agreement. This is a legal document and not a mere recital and is binding upon the parties, their representatives, and successors in interest.

3.15. ***Disclaimer of Liability*.** The Unified Government shall not hold harmless or indemnify CONTRACTOR for any liability whatsoever.

3.16. ***Termination for Default*.** If CONTRACTOR refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or commits any other substantial breach of this Agreement, the Procurement Officer may notify CONTRACTOR in writing of the delay or nonperformance and, if not cured in ten days or any longer time specified in writing by the Procurement Officer, such officer may terminate CONTRACTOR's rights to proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform.

The Unified Government shall pay CONTRACTOR the costs and expenses and reasonable profit for services performed by CONTRACTOR prior to receipt of the notice of termination; however, the Unified Government may withhold from amounts due CONTRACTOR such sums as the Procurement Officer deems to be necessary to protect the Unified Government against toss caused by CONTRACTOR because of the default.

Except with respect to defaults of subcontractors, CONTRACTOR shall not be in default by reason of any failure in performance of this Agreement in accordance with its terms if CONTRACTOR has notified the Procurement Officer within 15 days of the cause of the delay and the failure arises out of causes such as acts of God, acts of the public enemy, act of the Unified Government and any other governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, or other labor disputes. If the failure to perform is caused by the failure of a subcontractors to perform or to make progress, and if such failure arises out of causes similar to those set forth above, CONTRACTOR shall not be deemed to be in default, unless the services to be furnished by the subcontractors were reasonably obtainable from other sources in sufficient time to permit CONTRACTOR to meet the contract requirements Upon request of CONTRACTOR, the Procurement Officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, CONTRACTOR's progress and performance would have met the terms of the Agreement, the time for completion of the Agreement shall be revised accordingly.

If, after notice of termination of CONTRACTOR 's right to proceed under the provisions of this clause, it is determined for any reason that CONTRACTOR was not in default under the provisions of this clause, and both the Unified Government and CONTRACTOR agree, the rights and obligations of the parties shall be the same as if the notice of termination had not been issued.

The following acts committed by CONTRACTOR will constitute a substantial breach of the Agreement and may result in termination of the Agreement:

- If CONTRACTOR is adjudged bankrupt or insolvent;
- If CONTRACTOR makes a general assignment for the benefit of his creditors;
- If a trustee or receiver is appointed for CONTRACTOR or any of his property;
- If CONTRACTOR files a petition to take advantage of any debtor's act or to reorganize under bankruptcy or applicable laws;
- If CONTRACTOR repeatedly fails to supply sufficient services;
- If CONTRACTOR disregards the authority of the Procurement Officer;
- Acts other than those specified may constitute substantial breach of this Agreement.

3.17. ***Termination for Convenience.*** The Procurement Officer may, when the interests of the Unified Government so require, terminate this contract in whole or in part, for the convenience of the Unified Government. The Procurement Officer shall give written notice of the termination to CONTRACTOR specifying the part of the contract terminated and when termination becomes effective.

CONTRACTOR shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination CONTRACTOR will stop work to the extent specified. The Procurement Officer shall pay CONTRACTOR the following amounts:

All costs and expenses incurred by CONTRACTOR for work accepted by the Unified Government prior to CONTRACTOR's receipt of the notice of termination, plus a reasonable profit for said work.

All costs and expenses incurred by CONTRACTOR for work not yet accepted by the Unified Government but performed by CONTRACTOR prior to receipt of the notice of termination, plus a reasonable profit for said work.

Anticipatory profit for work and services not performed by CONTRACTOR shall not be allowed.

3.18. *__Disputes.__* All controversies between the Unified Government and CONTRACTOR which arise under, or are by virtue of, this Agreement and which are not resolved by mutual agreement, shall be decided by the Procurement Officer in writing, within 30 days after a written request by CONTRACTOR for a final decision concerning the controversy; provided, however, that if the Procurement Officer does not issue a written decision within 30 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then CONTRACTOR may proceed as if an adverse decision had been received.

The Procurement Officer shall immediately furnish a copy of the decision to CONTRACTOR by certified mail, return receipt requested, or by any other method that provides evidence of receipt. Any such decision shall be final and conclusive, unless fraudulent, or CONTRACTOR brings an action seeking judicial review of the decision in the Wyandotte County, Kansas District Court.

CONTRACTOR shall comply with any decision of the Procurement Officer and proceed diligently with performance of this Agreement pending final resolution by the Wyandotte County District Court of any controversy arising under, or by virtue of, this Agreement, except where there has been a material breach of the Agreement by the Unified Government; provided, however, that in any event CONTRACTOR shall proceed diligently with the performance of the Agreement where the Purchasing Director has made a written determination that continuation of work under the contract is essential to the public health and safety

Notwithstanding any language to the contrary, no interpretation shall be allowed to find the Unified Government has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of any contingency. Further, the Unified Government shall not agree to pay attorney fees and late payment charges.

3.19. __Ownership of Materials.__ All property rights, including publication rights, in all interim, draft, and final reports and other documentation, including machine-readable media, produced by CONTRACTOR in connection with the work pursuant to this Agreement, shall be in the Unified Government.

3.20. *__Availability of Records and Audit.__* CONTRACTOR agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of the services provided under the Agreement (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this Agreement. CONTRACTOR agrees to make available at the offices of the Unified Government at all times during the period set forth in the Request for Proposals any of the records for inspection, audit, or reproduction by any authorized representative of the Unified Government. Except for documentary evidence delivered to the offices of the Unified Government, CONTRACTOR shall preserve and make available to persons designated by the

Unified Government his records for a period of three years from the date of final payment under the Agreement or until all audit questions have been resolved, whichever period of time is longer.

3.21. ***No Limit of Liability.*** Nothing in this Agreement shall be construed to limit CONTRACTOR's liability to the Unified Government as such liability may exist by or under operation of law.

3.22. ***Indemnification.*** CONTRACTOR shall indemnify, defend, and hold the Unified Government harmless from and against all claims, losses, damages, judgments or costs to the extent arising directly from CONTRACTOR's negligent acts or omissions. This indemnification shall not be subject to any limitations of remedies or warranties which are contained in this or any other agreement and shall survive termination of this or any other agreement between the parties hereto or thereto.

3.23. ***Governing Law.*** This Agreement is subject to, governed by, and construed according to the laws of the State of Kansas.

+++

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) original forms which shall be deemed an original on the date first above written.

OWNER:

Unified Government

By ____________________________
Douglas G. Bach
County Administrator

CONTRACTOR:

Zoll Medical Corporation

____
(Contractor)

By ________________________________

Name ______________________________

Address ____________________________

____

ATTEST:

____
Unified Government Clerk

Staff Request for Commission Action

Tracking No. 18135

Full Commission Meeting Date: 3/22/18
Committee: Public Works & Safety

Date of Standing Committee Action: 3/19/18 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
03/07/2018	Ryan Haga	x5075	rhaga@wycokck.org	Legal

Item Description:
The amendments to Sec. 15-92 revise the regulations for the storage and sale of consumer grade fireworks, the distribution of pre-ordered fireworks, and requirements for the issuance of permits for the retail sale of fireworks, which include the requirement that possession of more than 125 pounds of consumer grade fireworks be reported to the Fire Marshall and be stored in the same manner as professional grade fireworks, and that pre-ordered consumer grade fireworks be distributed from a licensed Kansas fireworks retailer's permitted sale establishment.

Action Requested:
To approve the ord. and fast track to 3/22/18 full commission meeting.

Budget Impact: (if applicable)
Amount:
Source:
Included In Budget:
Other (explain):

Attachments List:
Sec._15_92 (2018 amendment)

Published______________________

ORDINANCE NO. ______________________

An ordinance relating to the updating of regulations, provisions, terms, and specifications for the storage of consumer grade fireworks, the distribution of pre-ordered fireworks, and retail sales of fireworks, amending Section 15-29, and repealing the original section.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That the following Section is hereby amended to read as follows:

Sec. 15-92. - Storage, sale, and handling.

(a) *In general.*

(1) Fireworks shall not be sold or kept for sale in a place of business where paints, oils, varnishes, turpentine, gasoline, or other flammable substances are kept.

(2) Fireworks shall not be stored, kept, sold, or discharged within 100 feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold or stored.

(3) Four approved and fully charged fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold or stored, except that three such fire extinguishers must be located in all temporary retail establishments. All fire extinguishers shall be at least of type A standards and have not less than a 2½ pound capacity. Two (2) of the fire extinguishers shall be a 2-A water type extinguisher. Failure to maintain the required number of fire extinguishers as set out in this subsection or maintaining nonoperational or partially discharged extinguishers shall be considered grounds for immediate suspension of any operation in the interest of public health, safety and welfare.

(4) The possession of more than 125 pounds of consumer grade fireworks shall:

a. Be reported to the Fire Marshal's office;

b. Require a permit be issued by the Fire Marshal's office; and

c. Be stored in compliance with Section 5609 of the International Fire Code

(b) *Wholesale sales or retail sales for public display.*

(1) Fireworks to be sold at wholesale or at retail for public displays shall be stored in a room set aside for the storage of fireworks only. Construction shall be of brick, block, concrete, or five-eighths-inch drywall interior and a brick, block, or concrete exterior wall.

(2) All structures shall have metal bars over doors and windows. A sign must be posted over the entrance reading "FIREWORKS—NO SMOKING."

(c) *Retail sales.*

(1) Retail sale of fireworks or storage of fireworks shall be from brick, block, concrete, metal, or frame, temporarily erected to be used as a place for storing and selling fireworks only. No tents, awnings, or other fabric enclosure shall be used unless the tents, awnings, or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a nonflammable material or are treated and maintained in a flame retardant condition. No fireworks stand shall hang, drape, display, or use plastic or plastic canvas for any purpose unless the plastic or plastic canvas is made from a nonflammable material or is treated and maintained in a flame-retardant condition. A sign must be posted over all the entrances reading "FIREWORKS-NO SMOKING." All tents, awnings, or other fabric enclosure shall be adequately roped, braced and anchored to withstand the elements of the weather and prevent against collapsing. Documentation of structural stability shall be furnished to the unified government upon request, and there shall be a minimum of ten feet between the stake lines. Where ten feet between take lines is not sufficient for means of egress, the distance necessary for means of egress shall govern. All adjacent tents, awnings, parking areas, lot lines, buildings, or other fabric enclosures shall be no closer than ten (10) from ~~to~~ each other (as measured from the end of the tent stake line) ~~than allowed~~ in order to provide an area to be used as a means of emergency egress. Exit openings from all tents, awnings, or other fabric enclosure shall be clearly marked.

(2) No person shall offer for sale or sell fireworks at temporary retail locations before June 29 and after July 4.

(3) No person shall offer for sale or sell fireworks at temporary retail locations before 9:00 a.m. or after 10:00 p.m.

(4) No person shall sell the fireworks listed in section 15-90(1)—(4) to any person under the age of 16.

(5) Single sale purchases in excess of 125 pounds shall be reported to the Fire Marshal's Office in accordance with Section (a)(4) above, and such notice shall be submitted prior to end of the sales period on July 4th.

(6) All pre-ordered fireworks shall be distributed to the purchaser from a licensed Kansas retailer. The purchaser shall pick up his/her pre-ordered purchase directly from the retailer's retail location.

(~~5~~7) No person shall expose fireworks where sun shines through glass on the merchandise displayed, except where such fireworks are in the original package. All fireworks kept for sale on front counters must remain in original packages, except where an attendant is on duty at all times.

(~~6~~8) All retail locations shall post "No Smoking" signs inside the structure.

(~~7~~9) No temporary authorized structures used for the sale or storage of fireworks shall be erected before June 24, and no materials associated with such structures shall be placed on the site before June 24. All temporary authorized and erected structures used for the sale or storage of fireworks shall be removed no later than July 7. Any remaining structures, debris, litter, or materials shall be removed by the unified government and the cost taxed against the owner of the property, the lessee of the property, or the holder of the retail fireworks permit.

(~~8~~10) It shall be the duty of the fire prevention bureau to inspect all locations where fireworks are sold at retail.

(~~9~~11) Permits shall be required subject to the following:

a. All persons desiring to sell fireworks in the city shall secure each year a permit from the license administrator upon payment of a fee in an amount set by the county administrator.

b. All applicants for a permit must be residents of the city and at least 18 years of age. Each applicant shall provide reasonable proof of residency and age.

c. A permit must be obtained for each stand and each location proposed. In this context, a stand shall be defined as each individual unit not connected by an enclosed walkway.

d. Every permit recipient shall sign and submit a statement to the license department indicating the recipient has received, reviewed, and understood the ordinances of the unified government pertaining to fireworks and will accept full responsibility for compliance with such ordinances.

e. No permit for retail sale shall be issued unless the proposed location is on property zoned at a minimum for retail-commercial use or can be shown to be a legal nonconforming retail-commercial use.

f. No permit shall be issued for any location within 100 feet of any structure used in whole or in part as a residence.

g. No permit will be issued after 5:00 p.m. on June 27.

h. No permit will be issued unless the applicant files with the unified government a cash bond, in a form approved by the chief counsel or his designated representative, in the amount of $1,000.00, conditioned upon the permit holder's removal of all temporarily authorized and erected structures used for the sale or storage of fireworks on or before July 7, together with any debris, litter, and material remaining at the site.

i. No permit will be issued unless the applicant files with the unified government a current year tax clearance letter from the state department of revenue stating that the applicant owes no back taxes.

j. No permit will be issued to an applicant delinquent on any unified government ad valorem tax assessments, interest, or penalties.

k. No permit will be issued for the sale of fireworks upon any property with any delinquent unified government ad valorem tax assessments, interest, or penalties.

l. No permit will be issued to an applicant who has not submitted the "Leftover Inventory" form from the previous year's sales to the Fire Marshal's office by the specified date.

m. All firework stand owners shall be present for the initial inspection of the stand by the Fire Department.

(~~10~~12) All permit holders shall cause to be posted in each stand, in a conspicuous location, and shall cause to be distributed with each sale a copy of sections 15-91 and 15-93, governing discharge of fireworks, in both English and Spanish.

(~~11~~13) Revocation of a permit shall be subject to the following:

a. The license administrator may revoke any permit issued under this section, without refund of the permit fee, in the event of a violation of any of the requirements of this article.

b. Any permit holder whose permit is revoked may appeal the decision to the county administrator by filing a written request with the license administrator and will be afforded a hearing before the county administrator or his designated representative within 24 hours of filing such request. The county administrator may uphold or overrule the decision of the license administrator.

c. Any revocation of a permit shall bar the permit holder from obtaining unified government permits and licenses relating to fireworks for a period of two years.

(~~12~~14) Any person or agency convicted of the violation of this section or for failure to obtain a permit for the retail sale of fireworks, as stated in this section, shall bar that individual and/or agency from obtaining unified government permits and licenses relating to fireworks for a period of two years.

Section 2. That said original Section Sec. 15-92 is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the Wyandotte Echo.

PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,

THIS __________ DAY OF ____________________________, 2018.

____
David Alvey, Mayor/CEO

Attest:

____
Unified Government Clerk

Approved As To Form:

____
Ryan Haga, Assistant Counsel

Staff Request for Commission Action

Tracking No. 18133

Full Commission Meeting Date: NA
Committee: Public Works & Safety

Date of Standing Committee Action: 3/19/18 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
03/05/2018	Brent Thompson	x5710	bthompson@wycokck.org	Public Works

Item Description:
Staff will present their findings and options for moving forward with the collapsed Holliday Drive.

Handouts will be provided at the meeting.

Action Requested:
No action, Informational only.

Budget Impact: (if applicable)
Amount:
Source:
Included In Budget:
Other (explain):

Attachments List:

Staff Request for Commission Action

Tracking No. 18134

Full Commission Meeting Date: NA

Committee: Public Works & Safety

Date of Standing Committee Action: 3/19/18
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
03/06/2018	Jeff Fisher	x5415	jfisher@wycokck.org	Public Works

Item Description:

Staff will present a summary of last year's major storms that caused severe damage in many areas throughout the city. The presentation will include information on the cleanup/disposal performed by the street division as well as possible changes to cleanup/disposal in the future. Staff will also present information on public education, tree management and steps to possibly mitigate this type of damage in the future.

Action Requested:

No action required. For information only.

PowerPoint presentation

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List: