

Minutes

DVD No. 368

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, April 18, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, James Azeltine, Chuck Sipple, Carrie Rezac, Lou Rasmussen, Andrew Osman, Julie Cain and Debra Filla

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator	Chief Dave Williams, Fire Department
Patty Bennett, City Attorney	Karl Weinfurter, Info. Services Specialist II
Mark Klein, Planning Official	Richard Coleman, Community Dev. Dir.
Nic Sanders, Human Resources Dir.	Chris Claxton, Parks & Recreation Director
David Ley, City Engineer	Dustin Branick, Horticulture/Forest Supv.
Brian Anderson, Parks Superintendent	Chief Troy Rettig, Police Department
Debra Harper, City Clerk	Regina Ellis-Shaw, Comm. Officer III
Cindy Jacobus, Assistant City Clerk	Dawn Long, Finance Director

Others Present: Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated the agenda would be amended to include City Administrator comments per the Work Session that just ended under Agenda Item 10, Staff Report.

A motion to approve the amended agenda was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

4. PROCLAMATIONS

Arbor Day, April 29, 2016

Mayor Dunn read the proclamation into the record and presented the proclamation to Mr. Anderson and Mr. Branick. She offered thanks for all they do to beautify the City, noting the department had a busy fall based on the lovely daffodils coming up in the park wooded areas.

Mr. Anderson stated there would be an Arbor Day event at Ironwoods Park for volunteers to plant 300 tree seedlings of the same species currently present in woods. Boy Scouts from Troop 10 may assist with this effort. In addition, some tree tags would be installed to inform visitors about the environmental benefits of trees. All this month, the Nature Center has given away tree seedlings to visitors.

Mr. Anderson stated this is also a special year as the City had been recognized with a small crystal plaque for being a Tree City USA for 20 consecutive years. Mayor Dunn offered congratulations and suggested the plaque be added to the City Hall lobby display case.

Councilmember Filla noted that Mr. Branick is now a Master Arborist, one of only two in Kansas.

5. PRESENTATIONS/RECOGNITIONS **MARC Outstanding Individual Performance in a Critical Incident Award to Communications Officer III, Regina Ellis-Shaw**

Police Chief Troy Rettig made presentation of the award that had been received at the Mid-America Regional Council [MARC] dinner on Friday, April 15, 2016. The award was the only one received in the metro area. He provided a synopsis of the critical incident and Officer Ellis-Shaw's actions; she was the lone-dispatcher. The incident started on October 16, 2015 at 7:44 A.M. when motorist called in a report intoxicated driver. Within five minutes a Leawood police officer had sighted and tried to contact the suspect vehicle, who fled at a high rate of speed. Approximately 10 minutes later, another Leawood police officer saw the same suspect vehicle stopped in traffic and began following at regular speed as the vehicle headed west into Overland Park. Officer Ellis-Shaw was called upon to coordinate radio traffic and contact Overland Park and direct their units into the area. Three minutes later the suspect driver noted the tailing vehicle and again fled at a high rate of speed, causing a four vehicle injury crash two blocks away at 123rd and Metcalf Avenue, before fleeing on foot into a nearby apartment complex. Office Ellis-Shaw was thrust into the responsibility to manage radio while officers set up a perimeter for the suspect while others responded to the crash for scene began to request medical and fire assistance for extrication of an injured driver; one of three eventually transported from the scene. She also kept Overland Park units updated. Over the next 25 minutes, Officer Ellis-Shaw handled the radios as officers switched to a second channel for the foot pursuit and perimeter, and cross-path communication with Overland Park units on air once the suspect was flushed into a second foot pursuit. Once the suspect was in custody the driver was found to be impaired, a career criminal and driving a stolen vehicle. Because the nature of the event that later claimed the life of one of the injured drivers, an off-duty Louisburg, Kansas, police officer, Officer Ellis-Shaw was required to dispatch and track 10 Leawood Police Officers involved in the event, move multi-units to a secondary channel, monitor Overland Park Police Department, patch taught groups to meet the changing needs of the situation, followed a canine track of the suspect and was on Overland Park air to keep them up to date. She did all this while handling the usual business, answering administrative telephone lines, 9-1-1 calls and dispatch for two additional medical calls.

Chief Rettig stated that Communications Officers are unsung heroes who efficiently multi-task every day. Mayor Dunn added that Communications Officers may be the only contact residents have with the Police Department. Besides their work, they have a very important public relations role. Officer Ellis-Shaw stated she was proud to work for the City and has done so for over 18 years.

Mayor Dunn congratulated Officer Ellis-Shaw and Office Ellis-Shaw shook the hand of all Governing Body members, as meeting attendees gave applause and a standing ovation.

6. SPECIAL BUSINESS
Public Hearing

Pre-Budget Public Hearing for 2017 Fiscal Budget

Mayor Dunn declared the public hearing open. No one was present to speak.

A motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2016-10, 2016-11, 2016-12 and 2016-13
- B. Accept March 21, 2016 Governing Body minutes
- C. Accept March 28, 2016 Executive Session minutes
- D. Accept January 26, 2016 Leawood Arts Council minutes
- E. Approve Renewal of Cereal Malt Beverage [CMB] license for Hallbrook Country Club, located at 11200 Overbrook Road
- F. Approve Massage Therapy Establishment, Hand & Stone Massage & Facial Spa, located at 11725 Roe Avenue, in accordance with Code § 5-510
- G. Accept Leawood Chamber of Commerce 2015 Economic Development Council Summary Report
- H. Approve Co-op bid from Shawnee Mission Ford in the amount of \$62,817.00 for the purchase of two [2] Ford Police Interceptor Vehicles and one [1] Service Manual
- I. Approve Change Order No. 1, in the amount of \$7,489.63 [deduct] to Mega Industries, pertaining to the Leawood City Park Access Improvement Project, located at 10601 Lee Boulevard [Project # 71021]
- J. Approve 6th and Final Pay Request in the amount of \$17,536.44 to Mega Industries, pertaining to the Leawood City Park Access Improvement Project, located at 10601 Lee Boulevard [Project # 71021]
- K. Approve 22nd and Final Pay Request in the amount of \$535.14 to Affinis Corporation, pertaining to the Leawood Heritage Storm Drainage Channel and corresponding roadway located near 87th & Ensley Lane [Stormwater Improvement Project DB-04-027] [Project # 77014]
- L. **Resolution No. 4596**, approving and authorizing the Mayor to execute a Restatement Agreement for the City's 401a plans [ICMA]
- M. **Resolution No. 4597**, approving and authorizing the Mayor to execute a Services Agreement between the City and New Directions Behavioral Health for Employee's Assistance Program [EAP]

- N. **Resolution No. 4598**, expressing the intent of the Governing Body of the City of Leawood, Kansas to finance the cost of a new ladder fire truck and appurtenant equipment and support systems and to reimburse costs of the equipment so incurred from proceeds of a lease purchase financing; and authorizing and approving certain related matters and actions
- O. **Resolution No. 4599**, approving a Federal Emergency Management Agency [FEMA] Matching Grant Request in the amount of \$10,000, with a 5% match for fire prevention
- P. **Resolution No. 4600**, requesting Johnson County, Kansas participation in the City of Leawood's 5-year Capital Improvement Program [CIP] through 2017-2021 County Assistance Road System [CARS]
- Q. **Resolution No. 4601**, approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and City of Overland Park, Kansas, pertaining to the 119th Street Improvement Project between Nall Avenue to Roe Avenue [MR-1711] [Project # 72064]
- R. **Resolution No. 4602**, approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and City of Overland Park, Kansas, pertaining to the Kenneth Road Improvement Project south of 143rd Street to southern city limits [Project # 72072]
- S. **Resolution No. 4603**, approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$29,100.00 between the City and George Butler Associates [GBA], pertaining to the biennial bridge inspections
- T. **Resolution No. 4604**, approving and authorizing the Mayor to execute a Professional Engineering Service Agreement in the amount of \$913,914.00 between the City and Burns & McDonnell Engineering Company, Inc., pertaining to the design of 143rd between Windsor Lane and Kenneth Road [Project # 80129]
- U. **Resolution No. 4605**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$73,800.00 between the City and Lexington Plumbing and Heating Company, Inc., pertaining to repairs at the Aquatic Center, located at 10601 Lee Boulevard [Project # 74078]
- V. **Resolution No. 4606**, reaffirming the City Administrator's decision to authorize a Service Agreement between the City and GMF INC., d/b/a Foundation Recovery Systems, in an amount not to exceed \$14,450.00, for repair and stabilization of the concrete slab located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- W. **Resolution No. 4607**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$9,381.00, between the City and RTI Consultants, to provide consulting services for structural repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- X. **Resolution No. 4608**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$14,980.00, between the City and JACOR Contracting, Inc., to provide services for structural repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- Y. **Resolution No. 4609**, approving a Final Landscape Plan for Leawood Subdivision – Lot 629 – Emergency Generator, located north of 88th Street and east of Meadow Lane (PC Case 27-16) [*From the March 22, 2016 Planning Commission Meeting*]
- Z. **Resolution No. 4610**, approving a Revised Final Plan for Park Place – The Residences, located south of Town Center Drive and east of Nall Avenue (PC Case 30-16) [*From the March 22, 2016 Planning Commission Meeting*]

- AA. **Resolution No. 4611**, approving a Revised Final Plat for LeaBrooke – 13th Plat, located north of 148th Street and west of Kenneth Road (PC Case 31-16) *[From the March 22, 2016 Planning Commission Meeting]*
- BB. **Resolution No. 4612**, approving a Revised Final Plat for Hazelwood Seventh Plat, located north of 119th Street and west of Mohawk Lane (PC Case 38-16) *[From the April 12, 2016 Planning Commission Meeting]*
- CC. Fire Department Monthly Report
- DD. Municipal Court Monthly Report
- EE. Police Department Monthly Report

Councilmember Sipple requested Consent Agenda Items 7.A. and 7.EE. be pulled.

Councilmember Osman requested Consent Agenda Item 7.H. be pulled.

Councilmember Filla requested Consent Agenda Items 7.J. and 7.K. be pulled.

Councilmember Azeltine required Consent Agenda Items 7.P. and 7.U. through 7.X. be pulled

A motion to approve the remaining Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

- A. Accept Appropriation Ordinance Nos. 2016-10, 2016-11, 2016-12 and 2016-13

Councilmember Sipple stated he would recuse from voting as his wife was listed as a payee.

A motion to approve Consent Agenda Item 7.A. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 7-0; Councilmember Sipple recusal from voting for reason previously stated.

- H. Approve Co-op bid from Shawnee Mission Ford in the amount of \$62,817.00 for the purchase of two [2] Ford Police Interceptor Vehicles and one [1] Service Manual

Councilmember Osman noted there had been some unfortunate circumstances involving City vehicles and he questioned insurance deductibles and premiums. Mr. Lambers stated the City is purchasing two new vehicles and the City had been fully compensated by insurance based on the depreciated value of the vehicles. Therefore, the City would experience a loss. Mayor Dunn stated the City was not at fault and no persons were injured.

A motion to approve Consent Agenda Item 7.H. was made by Councilmember Osman; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

- J. Approve 6th and Final Pay Request in the amount of \$17,536.44 to Mega Industries, pertaining to the Leawood City Park Access Improvement Project, located at 10601 Lee Boulevard [Project # 71021]

Councilmember Filla pointed out the project had been completed under budget, as mentioned in the Staff Review Fact Sheet for related Consent Agenda Item 7.I.

A motion to approve Consent Agenda Item 7.J. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

- K. Approve 22nd and Final Pay Request in the amount of \$535.14 to Affinis Corporation, pertaining to the Leawood Heritage Storm Drainage Channel and corresponding roadway located near 87th & Ensley Lane [Stormwater Improvement Project DB-04-027] [Project # 77014]

Councilmember Filla pointed out the vendor received a rating of five out of five in all categories on the City's Professional Performance Checklist and without complaints from residents or staff. The project involved removing a house, design of box culverts and reconstruction of a concrete channel. Mr. Ley stated this was the first stormwater project completed by the vendor for the City and they did an excellent job.

A motion to approve Consent Agenda Item 7.K. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.

- P. **Resolution No. 4600**, requesting Johnson County, Kansas participation in the City of Leawood's 5-year Capital Improvement Program [CIP] through 2017-2021 County Assistance Road System [CARS]

Councilmember Azeltine questioned Mr. Lambers if CARS funding may be in jeopardy in the future. Mr. Lambers stated his opinion that if CARS funding would be in danger it would be due to Johnson County claiming a larger portion of the funds, because the County is seeing an increase in their need. Initially, CARS funding was only administered by the counties and cities that did not have a revenue base would receive funds. The counties are now using CARS funding for projects in unincorporated areas.

Councilmember Filla stated the City reviews Capital Improvement Program [CIP] projects for bike-ability and walkability, and inquired if there are any special requirements for CARS funding for projects such bike paths, bike lanes, lanes and markings. Mr. Ley stated CARS looks at traffic counts and complete streets. The City is looking at bike lanes for 133rd Street, left turn lanes on 151st at Nall and Mission, and Roe to be just striped for a wider lane for cyclists.

A motion to approve Consent Agenda Item 7.P. was made by Councilmember Azeltine; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.

- U. **Resolution No. 4605**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$73,800.00 between the City and Lexington Plumbing and Heating Company, Inc., pertaining to repairs at the Aquatic Center, located at 10601 Lee Boulevard [Project # 74078]

Councilmember Azeltine noted Consent Agenda Items 7.U. through 7.X. all contained the same project number and questioned if that implies the project was budgeted. Mr. Lambers stated a project number is needed for financial tracking and a CIP number would track a project. In full disclosure, Mr. Lambers stated all four contracts have been authorized and approval by the Governing Body at this meeting would mean acceptance of this. Work is needed to ensure the Aquatic Center would open on time and contingency funds are being utilized. Mayor Dunn noted the piping was installed in mid-1970s and the wastewater treatment plant pipe is 55 years old. She stated her appreciation to Mr. Lambers for his executive order.

A motion to approve Consent Agenda Item 7.U. was made by Councilmember Azeltine; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.

- V. **Resolution No. 4606**, reaffirming the City Administrator's decision to authorize a Service Agreement between the City and GMF INC., d/b/a Foundation Recovery Systems, in an amount not to exceed \$14,450.00, for repair and stabilization of the concrete slab located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]

A motion to approve Consent Agenda Item 7.V. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- W. **Resolution No. 4607**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$9,381.00, between the City and RTI Consultants, to provide consulting services for structural repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]

A motion to approve Consent Agenda Item 7.W. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- X. **Resolution No. 4608**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$14,980.00, between the City and JACOR Contracting, Inc., to provide services for structural repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]

A motion to approve Consent Agenda Item 7.X. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- EE. Police Department Monthly Report

Councilmember Sipple noted the reduction in fraud offenses and the increase in criminal damage to property/vandalism. Chief Rettig stated the fraud offense decrease was due to a change in reporting requirements. Per the Internal Revenue Service, income tax fraud no longer needs to be reported. The increase in criminal damage was attributed to youths who had used a B-B gun to damage six or seven vehicles one night.

Mayor Dunn offered Officer Jack Bond congratulations for being chosen as the Police Department Employee of the Quarter for his performance during the recent bank robbery and pursuit through the City. She complimented Chief Rettig on the report format that provides monthly highlights.

A motion to approve Consent Agenda Item 7.EE. was made by Councilmember Sipple; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Attended Johnson County Chairman Ed Eilert's 2016 State of the County Address with Councilmembers Andrew Osman, Carrie Rezac, Chuck Sipple, Julie Cain and James Azeltine. City Administrator Scott Lambers and nearly all department heads were also present.

- B. Attended the retirement celebration for Police Officer Dave Jennings hosted by Chief Troy Rettig and his department. Officer Jennings served the City for 21 years and will be missed.
- C. City of Gardner Mayor Chris Morrow hosted the Johnson & Wyandotte Counties Council of Mayors in April. The majority of discussions focused on legislative updates from lobbyist Dick Carter.
- D. Participated in Mayors Day of Recognition for National Service at Comanche YMCA after-school club in Overland Park. This program partners with Youth Volunteer Corps of Greater Kansas City and AmeriCorps members.
- E. Councilmember Chuck Sipple and I, along with Police Chief Troy Rettig and Fire Chief Dave Williams, attended the 11th Annual Dialogue & Friendship Dinner hosted by the Dialogue Institute Kansas City. Reverend Adam Hamilton from the United Methodist Church of the Resurrection received the “Raindrop Award for Outstanding Service in the Community.”
- F. Participated in the kick-off for the 2nd “Seven Days – Make a Ripple, Change the World,” a series of events that focus on good overcoming evil. This was founded by the Corporon and LaManno-Hastings families to honor their family members who were killed on April 13, 2014 at the Jewish Community Campus and Village Shalom. The memorial art that is now on exhibition on the exterior of the Jewish Community Campus was commissioned and created by Jessie Small, sculptor of Leawood’s I-Lan Park “Cloud Gate.”
- G. Police Chief Troy Rettig and I attended the Nativity Drug Abuse Resistance Education [D.A.R.E.] graduation ceremony. This program is now run by Officer Sara Bednarik. She does a great job with the students.
- H. Attended a dinner hosted by the Kansas Secretary of Commerce Antonio Soave and Governor Sam Brownback at Gaslight Grill in Leawood. Governor Brownback provided remarks updating attendees on economic developments throughout the state.
- I. Our sincere sympathies to the families of Councilmember Jim Rawlings and City Clerk Debra Harper on the passing of their mothers. “Jet” Rawlings of Leawood was 96 and Nedra Turner was 85. They were beautiful women of faith.
- J. Reminder that the Historic Oxford Schoolhouse will be presenting a lecture by Paul Laird titled “Music in Service of Shaw: Lerner and Loewe’s *My Fair Lady*” on April 28 at 7:00 P.M. at the Oxford Schoolhouse in Ironwoods Park.
- K. Congratulations are in order for Leawood’s Ironhorse Golf Course for their recent recognition in the Kansas City Business Journal listing of Top Public Area Golf Courses. Ironhorse was ranked second, based on a variety of factors, out of 25 courses. Congratulations to the management team led by Troy Newport and to Ironhorse Advisory Board Chair Dick Fuller and the Ironhorse Advisory Board.
- L. Congratulations also to Police Administrative Assistant Donita Crossland for spearheading the successful blood drive where 25 units of life-giving blood were donated.

Councilmember Osman announced that approximately two weeks ago the Kansas City Business Journal recognized Leawood Mayor and resident Peggy J. Dunn on their 2016 Power 100 listing as the top member of the community. He stated we are fortunate to have to Mayor Dunn leading Leawood.

9. COUNCILMEMBERS’ REPORT – None

10. STAFF REPORT

Mr. Lambers stated the Governing Body had not discussed the next steps for a possible Tobacco 21 ordinance. As mentioned in the Work Session, notification of vendors had been desired and he suggested vendors of tobacco products be notified and invited to address the Governing Body during the Citizens Comments agenda item of the May 2, 2016 Governing Body Meeting. With vendor input and based on Prairie Village's ordinance as suggested by Mayor Dunn, Leawood's ordinance would be drafted or a Governing Body Work Session scheduled for further discussion. A public hearing would be called after the ordinance was drafted.

Mr. Lambers stated it was atypical for the Governing Body to flush-out an ordinance at a regular meeting, but felt the basic details regarding raising of age and fines could be determined rather quickly, eliminated the need for a Work Session.

Mayor Dunn thanked Mr. Lambers and confirmed the vendors should be notified and invited to address the Governing Body at the May 2, 2016 regular meeting.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the March 22, 2016 Planning Commission Meeting]

- A. **Ordinance No. 2775**, approving a Revised Preliminary Plan and Final Plan for Parkway Plaza – Lot 10, located north of 135th Street and east of Briar Street (PC Case 19-16) [ROLL CALL VOTE]

Engineer Jeffrey Skidmore, Schlagel & Associates, 14920 W. 107th Street, Lenexa, stated the parcel is located on the northeast corner of 135th and Briar, adjacent to the amenity area on the east side. The proposed construction would utilize the same colors of stone and stucco, similar roof lines, and copper and bronze materials. All stipulations are agreeable.

Councilmember Osman questioned if the building would be fully occupied. Mr. Skidmore stated it would be a speculative building. There are a couple of interested potential tenants, but their names could not be disclosed. Mayor Dunn was delighted to see additional activity in the development.

A motion to approve Agenda Item 11.A. was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion to pass the ordinance approved with a unanimous roll call vote of 8-0.

- B. **Resolution No. 4613**, approving a Revised Final Plan for Camelot Court – Red Door Grill – Patio, located north of 119th Street and east of Roe Avenue (PC Case 26-16)

Mayor Dunn called attention to the City Administrator's recommended additional stipulation stated on the first page of Staff Report. If accepted, this stipulation would become Stipulation 5 and Planning Commission Recommendation Stipulation 5 would become Stipulation 6.

Architect Paul Minto, Urban Prairie, 4523 Mercier Street, Kansas City, Missouri, stated the proposal was basically a change to the trellis in the seasonal vestibule. The outdoor area becomes too hot in the summer and too cold in the winter. A new trellis structure with operable windbreak panels and shades trimmed in wood would be used to enclose the seasonal vestibule. There would be a re-distribution of columns in the area and except for a change in slope, there would be no perceptible change in massing. Mr. Minto displayed photographs of various positioning of the proposed structure.

A motion to approve Agenda Item 11.B. was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

Mayor Dunn confirmed with the Councilmembers Rawlings and Rasmussen that the City Administrator's stipulation was included in their motion. The vote was an override of the Planning Commission Recommendations.

- C. **Ordinance No. 2776**, approving a Revised Preliminary Plan and Final Plan for The Enclave At Highland Villas, located south of 143rd Street and east of Nall Avenue (PC Case 28-16) [ROLL CALL VOTE]

Mr. Harold Phelps, Owner, Phelps Engineering, 1270 North Winchester Street, Olathe, stated he represented Bob and Patrick Willis, long-time builders and developers in Leawood. He stated the project had gone through some difficult times in transition from a rental property to a for-sale property. The proposal would be a revision from 4-plexes to seven attached twin villas, for a total of 14 units in the vacant tract of land. Some units will have side entry and some will have front entry, reducing the amount of car travel and headlight pollution. The residential development has changed its name from Grace Gardens to Highland Villas. There was no neighborhood opposition at the Interact Meeting.

Councilmember Cain inquired about the price point for the units. Mr. Paul Willis, 5275 West 150th Terrace, Leawood, stated new plans had been developed and prices were yet to be finalized. The goal would be to keep the units in the \$400,000 price range and the units would be age-restricted to 55 years or older. He confirmed to Councilmember Cain that he is a certified age-in-place builder incorporating zero height door thresholds and the potential to add elevators. Mr. Willis stated after approval, construction would begin this summer and with pre-sale interest, hoped to be complete in two years.

Councilmember Cain inquired about the pedestrian plaza. Mr. Phelps stated a new pedestrian plaza with landscaping and seating amenities would be located at the intersection of the private drive that loops through Highland Villas and a private drive that extends to the north to provide access to Grace Gardens assisted living facility.

Councilmember Rasmussen questioned if the landscaping detail of the proposed plan was sufficient to review and be enforced in the future. Mr. Klein confirmed and stated there is a swale in back and as buildings are constructed it this will be checked.

Councilmember Sipple inquired if Birch Street would be private or have custom or special streetlights, and if residents would be able to exist on 143rd Street. Mr. Klein confirmed Birch Street was and would remain a private street, but without a gate. Snow plowing of streets would not be the responsibility of the City. Residents would have two exit routes, one of which would be 143rd Street. Mr. Phelps stated all infrastructure such as sanitary sewers, streets and burnished aluminum streetlights are in place.

Councilmember Azeltine asked Mr. Klein the age of Birch Street and if the street was built to City specifications. Mr. Klein stated the street was part of the Grace Gardens complex and street width may not meet City code. Mayor Dunn stated the existing 4-plex units in Highland Villas may have been approved with private drives; Mr. Klein confirmed.

Mayor Dunn inquired about the density of the proposed plan. Mr. Willis stated there would be a reduction in density from the previous approved plan. Smaller units would have a first floor of approximately 1,750 sq. ft. and the larger units would have a first floor of approximately 2,000 sq. ft. All units would have full basements and two bedrooms, two bathrooms and a sunroom or screened porch on the first floor.

Councilmember Azeltine inquired if the proposed villas would have their own Home Owners Association [HOA] or part of Highland Villas HOA. Mr. Willis stated the villas would be part of the current HOA which is managed by First Service, the largest association management company in the metro area, covering the current 11 4-plex units and the proposed units for a total of 58 units. The HOA has adopted a new dues structure and is already reserving funds for the 44 units. The minimal increase is viewed by existing residents as an enhancement to maintain the clubhouse and other amenities.

Councilmember Cain stated her assurance that area residents would be thrilled about the completion of the development.

A motion to approve Agenda Item 11.C. was made by Councilmember Cain; seconded by Councilmember Sipple. The motion to pass the ordinance approved with a unanimous roll call vote of 8-0.

- D. **Resolution No. 4614**, approving a Final Plan and Final Plat for LeaBrooke Town Manors, located north of 148th Street and west of Kenneth Road (PC Case 29-16)

Engineer Judd Claussen, Phelps Engineering, 1270 North Winchester Street, Olathe, stood for Applicant and builder Dan Taylor. Mr. Taylor and his partners are ready to begin development of the last portion of LeaBrooke Town Manors. This was originally zoned RP-2 with 3-plex units with proposed change to 30 single-family villas. The change is consistent with the preliminary approved plan and the Applicant is agreeable to all stipulations.

Councilmember Cain remarked it was nice to see a rebound in the market and construction that would finish development along Kenneth Road. Mayor Dunn agreed and stated it is a beautiful development.

A motion to approve Agenda Item 11.D. was made by Councilmember Cain; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

12. OLD BUSINESS – None

13. OTHER BUSINESS

Ordinance No. 2777, amending Ordinance No. 2727, extending the Temporary Moratorium on the enforcement of the Leawood Development Ordinance [LDO] pertaining to containers designed to hold books or other media to be shared by members of the community [Little Libraries] [ROLL CALL VOTE]

Ms. Bennett stated the extension of the temporary moratorium would provide additional time for Council consideration. Councilmember Rezac asked for an update on the HOA survey results. Mr. Lambers stated the survey was a very passive approach to obtain HOA deed restriction position, if any, on a volunteer basis over the past year. About 45% of HOAs have not responded and information received has not been analyzed. The City would now initiate more direct steps to obtain a higher rate of return of HOA information. Not all HOAs are active, but goal was a return rate of 90%. Eventually, responses would be shown on a color-coded map.

Councilmember Filla stated the Sustainability Advisory Board has worked with staff and Geographic Information System [GIS] to ensure the City has appropriate HOA contact information for invitations to the Board's annual dinners. The information is also used to update the City's website HOA map. Approximately 28 to 30 HOAs represent about 80% of the buildings and 44 HOAs for 90%, so not a huge group of people to poll. About 10 to 12 HOAs are managed by an external service company which may or may not impact the coordination of information. Leawood is ahead of other Johnson County cities in regard to a database of HOA information and Johnson County would like to add Leawood's HOA information to their GIS database.

A motion to approve Agenda Item 13. was made by Councilmember Filla; seconded by Councilmember Rezac. The motion to pass the ordinance was approved with a unanimous roll call vote of 8-0.

14. NEW BUSINESS

A. **Resolution No. 4615**, approving and authorizing the Mayor to execute a Public Lands Use Agreement with Zayo Group, LLC [formerly known as Abovenet]

Ms. Bennett stated Agenda Items 14.A. and 14.B. were being combined and the franchise was previously held by Abovenet.

A motion to approve Agenda Item 14.A. was made by Councilmember Filla; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.

B. **Ordinance No. 2778**, granting to Zayo Group, LLC, formerly American Fiber Systems, Inc., and Formerly Abovenet Communications, Inc., a Contract Franchise to Construct, Operate and Maintain a Telecommunications System in the City of Leawood, Kansas and Prescribing the Terms of Said Contract Franchise, and repealing Ordinance No. 2508 and Ordinance No. 2610 [ROLL CALLVOTE]

Councilmember Azeltine inquired about the offered services and bandwidth. Ms. Bennett and Mr. Lambers replied no services would be offered; the franchise operations just pass through the City.

A motion to approve Agenda Item 14.B. was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion to pass the ordinance was approved with a unanimous roll vote of 8-0.

- C. **Resolution No. 4616**, accepting a Third Amended and Restated Petition for the creation of a Transportation Development District, [TDD] to amend and reaffirm a Transportation Development District for the Park Place Development in Leawood, Kansas pursuant to the provisions of K.S.A. § 12-17,140 et seq.; and calling a Public Hearing on the advisability of amending a Transportation Development District in the City of Leawood, Kansas, and financing of certain transportation project improvements therein [SALES TAX] [PROJECT # 83196]

Ms. Bennett stated this would set the public hearing for the amended petition, planned for the May 16, 2016 Governing Body Meeting. At that meeting, proposed development agreements would be brought forward by staff.

Mr. Lambers confirmed to Councilmember Rasmussen that if amended petition was approved, the next 22 years would start and be a new cycle, for a total of about 32 years. Mr. Lambers supports the amendment because when the TDDs came forward, the assumption was bonds would be issued to finance the improvements and not Pay-As-You-Go [PAYG]. There is nothing in the TDD statute that limits PAYG, but the clear intent would be a similar 22 years as this is what is in the Community Improvement District [CID] policy. While the amendment would ensure an extended tax collection period on retail sales, it starts the 22 year and in the future we will ensure the use of 22 years, regardless whether bonds or PAYG are used. The day the tax starts, the 22 year clock would also start and this would be reflected in the development agreements.

Councilmember Filla asked for an estimate of the PAYG pay-off. Mr. Lambers stated the petitioners are entitled to a large sum of money and more than retail sales have generated. There has not been that much retail sales activity in the area.

A motion to approve Agenda Item 14.C. was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

- D. **Resolution No. 4617**, accepting a Second Amended and Restated Petition for the creation of a Transportation Development District, [TDD] to amend and reaffirm a Transportation Development District for the Park Place Development in Leawood, Kansas pursuant to the provisions of K.S.A. § 12-17,140 et seq.; and calling a Public Hearing on the advisability of amending a Transportation Development District in the City of Leawood, Kansas, and financing of certain transportation project improvements therein [GUEST TAX] [PROJECT # 80455 & 80458]

Ms. Bennett confirmed to Councilmember Rezac the reason for statement of hotel build by 2026, was to provide a deadline and ensure the hotel was built within the next 10 years. The \$4.3 Million would not be paid out unless a new hotel is built.

A motion to approve Agenda Item 14.D. was made by Councilmember Rezac; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

- E. **Ordinance No. 2779C**, amending Section 6-101 of the Code of the City of Leawood, Kansas, 2000, entitled “City Elections; Terms of City Offices; Officer Qualifications” and repealing existing Section 6-101 and other sections in conflict herewith [ROLL CALL VOTE]

For the record, Councilmember Rezac stated her strong support of nonpartisan City elections.

A motion to approve Agenda Item 14.E. was made by Councilmember Rezac; seconded by Councilmember Filla. The motion to pass the ordinance was approved with a unanimous roll call vote of 8-0.

- F. **Charter Ordinance No. 43**, exempting the City of Leawood, Kansas, from the provisions of K.S.A. 12-104a, relating to the filling of Governing Body vacancies [ROLL CALL VOTE]

Mayor Dunn thanked Ms. Bennett for her work in this regard. Councilmember Filla requested background information. Ms. Bennett stated Kansas had passed a number of laws regarding election changes, one of which was a limit on how long it can take to fill a vacancy. If the charter ordinance passes, then in 61 days the City can use its own ordinance. Ms. Bennett would bring forth an ordinance similar to one used in the past. Mr. Lambers stated the timing of filling a vacancy in 60 days might fall outside the Council meeting schedule and there could be insufficient time.

A motion to approve Agenda Item 14.F. was made by Councilmember Rezac; seconded by Councilmember Sipple. The motion to pass the charter ordinance was approved with a unanimous roll call vote of 8-0.

ADJOURN

There being no further business, the meeting adjourned at 8:55 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk