

Minutes

DVD No. 372

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, June 20, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Andrew Osman, Jim Rawlings, James Azeltine, Chuck Sipple, Julie Cain and Debra Filla [intermittent teleconference participation]

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Richard Coleman, Comm. Dev. Director	Chief Dave Williams, Fire Department
Joe Johnson, Public Works Director	Chief Troy Rettig, Police Department
Nic Sanders, Human Resources Dir.	Mark Klein, Planning Official
Karl Weinfurter, Info. Services Specialist	Dawn Long, Finance Director
Chris Claxton, Parks & Recreation Director	Debra Harper, City Clerk
April Bishop, Cultural Arts Coordinator	Cindy Jacobus, Assistant City Clerk

Others Present: Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce
Anne Blessing, Chair, Arts in Public Places Initiative [APPI]

- 1. PLEDGE OF ALLEGIANCE** – Led by a Boy Scout from Troop 396.
- 2. APPROVAL OF AGENDA**

Mayor Dunn noted the amended agenda for a minor language clarification of Consent Agenda Item 7.L. Electronic copies of the amended agenda had been distributed to the Governing Body earlier in the day.

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 6-0.

- 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.**

Mayor Dunn stated the citizen who wished to address the Governing Body on Agenda Item 6.B. would be called upon when the topic was discussed.

4. **PROCLAMATIONS** – None

5. **PRESENTATIONS/RECOGNITIONS**

Recognition Resolution No. 4642 of Ward Two Councilmember Lou Rasmussen

Mayor Dunn invited former Councilmember Lou Rasmussen to come forward for the presentation. She stated it gave her great pleasure to read the resolution into the record. Mr. Rasmussen has been a historian, a champion of public art and an advocate beyond belief for the Ironwoods Golf Course and clubhouse expansion. He kept the Governing Body apprised of numerous stormwater issues throughout the City, county and metropolitan area, and always gave advance notice about potential issues and concerns. Mayor Dunn added Mr. Rasmussen had taught her and provided guidance. He was a tremendous friend and would be greatly missed by all. She presented Mr. Rasmussen with the resolution, an engraved crystal service award for 1990 to 2016, a Key to the City and his seating nameplate.

Mr. Rasmussen stated it was important to thank the constituents of Ward Two, who had always overwhelming voted to support the growth and development of the City, even if that required a tax increase. He thanked current and former City staff and councilmembers with whom he had worked for a quarter of a century. He had watched the growth of the children of City staff and the City too, noting many accomplishments had come to fruition over the years. He recalled the current Public Works Administration Building had started out as an idea scratched on the back of an envelope. The Councils were always a cohesive group that never took actions to the extreme; it had been a good run.

Mayor Dunn noted former Councilmembers Gary Bussing and James Taylor were present, and there were likely others in attendance to recognize Mr. Rasmussen.

A motion to approve the recognition resolution was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0, with applause and a standing ovation.

6. **SPECIAL BUSINESS**

- A. Approval from Nominating Committee of Lisa Harrison as Ward Three Councilmember To Fill Councilmember Rezac's Unexpired Term Until January 2018

Mayor Dunn thanked her fellow Nominating Committee members Presiding Officer and Councilmember Jim Rawlings and Ward Three Councilmember Chuck Sipple. All candidates were outstanding and it had been a difficult decision. Ms. Harrison is the former editor of *Leawood Lifestyle* magazine, a strong supporter of Leawood and should be exceptional in the position.

A motion to approve the Nominating Committee's recommendation was made by Councilmember Cain; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0.

B. Discuss yard waste pick-up issues with Waste Management Representative

Mr. Lambers stated a representative from Waste Management would address the Governing Body.

Mr. Paul Howe, Senior District Manager, Waste Management [WM] operating as Deffenbaugh, 2601 Midwest Drive, Kansas City, Kansas, stood and thanked the Council for the opportunity to speak. He had been contacted by City Administrator Mr. Lambers about two weeks ago in regard to service issues, perhaps not limited to yard waste collection. His presentation was not intended to be an excuse, but to share challenges and corrective actions. He stated the industry was being challenged by a labor force issue; a lack of qualified drivers. The trucking industry estimates nation-wide nearly 35,000 to 40,000 truck seats are not occupied. A recent study of the Kansas City market revealed 13,000 truck driver jobs posted and only 1,200 active applicants. The waste industry is dependent upon drivers and is not immune to the shortage. Tonight residential service would be addressed, but vacancies are also affecting commercial and roll-off routes. Although about 300 WM employees leave the truck yard to service customers each day, 220 drivers, 40 to 50 helpers and maintenance staff, additional workers are needed.

Two misconceptions or miscommunications need clarification. The first is that with WM's acquisition of Deffenbaugh in March 2015, new management had cut-back to become more efficient. There have been no cuts in routes since the acquisition. Since the end of 2015, WM has attempted to staff appropriately with sustainable employees. The second is that WM had discontinued yard waste collection. Due to the driver shortage, WM acknowledges it has focused on trash, followed by recycling collection. WM made a willful decision to suspend yard waste collection on a Friday in other cities with full intent to collect all yard waste the following Friday. WM's business license requires pick-up of all waste, each week, and employees are working the maximum amount of hours.

WM has full-time recruiting staff in Kansas City and has been hosting job fairs and hiring events. At a hiring event held two weeks ago, there were 40 applicants, with job offers made to 21. Of those 21, only 18 made it through the screening process and are being trained. Another job fair will be held the weekend of July 16th and WM will continue to add staff through perpetual hiring. The hot weather and high volume experienced at this time of year adds to the difficulty of hiring and retaining drivers. WM's new hire orientation and training process has been slowed down and expanded to seven weeks to ensure employee sustainability. Training is conducted in the classroom and on routes, and includes safety coursework.

Mr. Howe stated WM had not suspended or stopped service, but acknowledged there had been service delays. He apologized to the Mayor, Council and City Administrator, and said WM was working quickly to correct.

Mr. Howe clarified for Mayor Dunn that Town & Country Disposal is not owned by WM.

Councilmember Sipple inquired how customers are notified of service delays and the number of WM residential customers in Leawood. Mr. Howe stated WM does not communicate well. A telephone blast notification system has been tested and was used with limited success in the communities where WM made a willful decision to skip a Friday collection of yard waste. Customer contact information may be based on a billing address rather than a service address. WM continues to work on a method of notification. WM services approximately 83,000 residential units a day for trash, recycling and yard waste. The number of Leawood residential customers was unknown.

Mr. Howe stated WM starts each day knowing they have an employee shortage. WM does not have a process to anticipate which addresses will not be serviced. WM has initiated a system using electronic tablets that contains all route addresses. Once the system is fully deployed, WM should be able to proactively predict any service gaps.

Councilmember Cain noted there is often a limit on the number of yard waste bags that may be collected, as well as seasonal start and stop dates, and Olathe collects recycling every other week and yard waste, which may ferment, every week. Mr. Howe stated that Leawood has a large number of Home Owner Associations [HOAs], each with a different service level. When WM has a service issue and a collection is missed, all bags out at the next pick-up would be collected, regardless of whether stickers are applied to bags as typically required for over-maximum amount of bags. He stated recycling was typically a dry product and most customers have been provided with 65-gallon recycle carts, which tend to be very full.

Councilmember Osman noted a chain of dependence; the City relies upon the residents to properly dispose of waste, residents rely upon their HOAs to hire a disposal service and HOAs rely upon the disposal service to abide by the contract. He stated in 2015, there were three occasions where residents received code enforcement citations from the City because yard waste was placed at the curb and not collected. When collection does not occur, residents are required to move the bagged yard waste to an area shielded from view, and then place the bags at the curb a week later. Councilmember Osman stated Deffenbaugh had been a family-owned company and WM utilizes automation. WM trucks are equipped with cameras and residents, including him, have witnessed trucks not collect and erroneously report collection was made. Enough time has passed for the company transition; communication and employee satisfaction are key.

Mr. Howe stated there was no fool-proof system for collection status, other than employee accountability. GPS technology can determine truck location. "Skill or will" events are captured by the company, and if the event was willful, the employee is held accountable. He reminded there can be extenuating circumstances that impact collection such as when waste is not out by the required time, too much has been placed or is inappropriate for collection, or the container is blocked. Truck cameras can capture a picture of the issue and send automatically to the customer. Even with technology, there would always be human interaction and the need to hire good people. WM offers an enhanced benefits package; employees have typically seen a \$35 to \$40 savings per week. WM also offers a robust 401k plan with employer match, stock purchase plan and an hourly rate of pay rather than a day rate or by-stop rate previously used by Deffenbaugh. Deffenbaugh employees had not experienced a wage increase for several years; WM increased wages in March.

Mayor Dunn asked Mr. Howe to remain while the citizen addressed the Governing Body on this issue.

Ms. Marti Schach, 12601 Norway Road, Royse subdivision, thanked the Governing Body and Mr. Howe, and stated waste disposal has been a huge problem to which she does not have the answer. She has lived in Royse for 22 years and until about 8 to 10 weeks ago, collection occurred on schedule. She questioned what had changed and why the system is now broke. Two of her neighbors have had five bags of yard waste at the curb awaiting pick-up since Wednesday, June 15. There does not seem to be a lot of competition or choices to deal with waste. She inquired if the City had considered offering vacuum collection of leaves swept by residents into street gutters. Some residents appear to believe leaves are handled in this manner, with leaves washing down storm drains or in gutters until smashed by passing cars.

Mayor Dunn stated that curb vacuum leaf removal had been discussed in the past and deliberate decision made to not use this method. Leawood's street sweepers pick up tons of debris. In regard to why the system is now broken, Mr. Howe apologized and stated the problem is not new, but one occurring over the last 12 months. He cannot determine why Kansas City and other markets near the area are impacted. He stated WM has the resources and dedication to address the situation. The company attempts to staff appropriately in advance of seasonality. WM wants to return to their service levels, does not wish to lose one customer, understands they have contracts, they cannot become too aggressive in pricing, and the free market offers other disposal service options. Town & County Disposal, who has been purchased by WCA, was still an independent operator.

Mayor Dunn stated her appreciation to Mr. Howe and Ms. Schach for their attendance and remarks for the record. She expressed hope that WM's actions would be successful. Mr. Lambers stated that solid waste permit for Leawood expires June 30, 2016. Typically, these permits are issued with an annual renewal, but he would probably issue the permit for WM-Deffenbaugh for a shorter timeframe. Also, waste collection hours in the City end at 7:00 P.M. and this may be extended to 8:00 P.M. The extended collection hours would be part of the solid waste permit he would issue.

- C. Public Hearing One Nineteen Transportation Development District Assessments [Project # 80456]

Mayor Dunn declared the Public Hearing open; no one was seen or heard to speak.

A motion to close the public hearing was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.

- D. **Ordinance No. 2784**, levying assessments for tax year 2017 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of construction of certain public and private road and parking lot related improvements and other such transportation related improvements, located within 119th Street Development District [TDD], within the City of Leawood, Kansas [One Nineteen Transportation Development District] [Project # 80456] [ROLL CALL VOTE]

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 6-0.

- E. **Resolution No. 4643**, accepting Revised Proposed Assessments for Tax Year 2017 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of paying for construction of improvements to Nall Avenue, 117th Street, Town Center Drive and Roe Avenue and construction of storm water improvements within the City of Leawood, Kansas; and authorizing and directing the City Clerk to give notice thereof to the owners of properties within the District by publishing notice thereof and providing written notice to owners of property of such proposed assessments [Park Place Development] [CIP # 83196]

A motion to approve Agenda Item 6.E. was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 6-0.

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. 2016-21 and 2016-22
- B. Accept June 6, 2016 Governing Body minutes
- C. Accept June 6, 2016 Governing Body Work Session minutes
- D. Accept May 12, 2016 Sustainability Advisory Board minutes
- E. Accept May 10, 2016 Parks & Recreation Advisory Board minutes
- F. Accept March 31, 2016 Art in Public Places [APPI] minutes
- G. Accept March 22, 2016 Arts Council minutes
- H. Accept March 2, 2016 Public Works Committee minutes
- I. Renewal of Retail Liquor Store License for Par 4 Liquor, LLC, located at 4821 W. 135th Street
- J. Approve payment for an amount not to exceed \$34,452.44, pertaining to the Memorandum of Understanding for a Johnson County Mental Health Co-Responder [Johnson County Mental Health Co-Responder Project]
- K. **Resolution No. 4644**, establishing Nominating Committee to fill Council Vacancy in Ward Two, pursuant to § 1-210 of the Code of the City of Leawood, 2000
- L. **Resolution No. 4645**, approving and authorizing the Mayor to execute a Purchasing Agreement in the amount of \$70,125.49, between the City and Saltus Technologies, LLC, for the DigiTICKET Electronic Ticketing Solution for an electronic ticketing system for the Police Department
- M. **Resolution No. 4646**, approving and authorizing the City's consent for the enlargement of Consolidated Main Sewer District for the vicinity of 148th Street & Kenneth Road [Leabrooke Town Manor Villas]
- N. **Resolution No. 4647**, approving and authorizing the City's consent for the enlargement of Consolidated Main Sewer District for the vicinity of 151st Street & Canterbury Road [The Glyn of Leawood, 1st Plat; f/n/a Mission Heights]
- O. **Resolution No. 4648**, accepting new GASB-34 public Infrastructure [fiber] in accordance with GASB-34 Guidelines of reporting Inventory of Assets, pertaining to the Mission Road Fiber Project [Project # 76046]
- P. **Resolution No. 4649**, approving a Revised Final Plan for Prairie Star Middle School, located north of 143rd Street and east of Mission Road. (PC Case 47-16) [*from May 24, 2016 Planning Commission meeting*]
- Q. **Resolution No. 4650**, approving a Revised Final Plan for Pinnacle V – Trellises, located south of 114th Street and west of Tomahawk Creek Parkway. (PC Case 50-16) [*from May 24, 2016 Planning Commission meeting*]
- R. Fire Department Monthly Report
- S. Municipal Court Monthly Report
- T. Police Department Monthly Report

Councilmember Filla requested Consent Agenda Item 7.M. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Sipple; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.

- M. **Resolution No. 4646**, approving and authorizing the City’s consent for the enlargement of Consolidated Main Sewer District for the vicinity of 148th Street & Kenneth Road [Leabrooke Town Manor Villas]

Councilmember Filla asked Mr. Johnson for background. She did not recall an enlargement of sewer district in the past 13 years and questioned if there was any liability. Mr. Johnson stated the area does not have sanitary sewers. The proposed resolution would provide the City’s consent to bring the land into the Johnson County Wastewater District. Agenda Item 7.N. is similar.

A motion to approve Consent Agenda Item 7.M. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0.

8. MAYOR’S REPORT

- A. Sincere sympathies to the families and friends of the victims in the Orlando shooting tragedy that occurred in the past two weeks. As ordered by Governor Sam Brownback, flags are at half-staff in victims’ memory.
- B. Our condolences also to the family of Carolyn Bleish who was noted to be one of the longest-tenured residents of Leawood, living here for 55 years. Carolyn was an active member of both the Leawood Woman’s Club and the Leawood Garden Club.
- C. Attended a Leawood Chamber of Commerce ribbon cutting for Pita Pit located at Town Center Plaza. They specialize in fresh and healthy cuisine. We wish them much success.
- D. I had the pleasure of addressing the Leawood Rotary regarding the past, present and future happenings in our fine City. My thanks to Councilmember and Rotarian Jim Rawlings for introducing me.
- E. Joined Councilmembers Debra Filla and Chuck Sipple, as well as Planning Commissioners David Coleman and William Ramsey, at the “20th Annual Regional Assembly and Leadership Awards” ceremony. Community Development Director Richard Coleman, some of his leadership team and City Administrator Scott Lambers were also in attendance. Louisville, Kentucky, Mayor Greg Fischer was the keynote speaker.
- F. Community Development Director Richard Coleman and his leadership team hosted two retirement celebrations. The first was for Code Enforcement Officer Ted McIntosh for his 18 years of service in Leawood; the second was for Planning Commissioner Len Williams for his 13 years, with the last three years as Planning Commission Chair. Our sincere appreciation for their outstanding dedication.
- G. Attended the Crescent Peace Society’s Iftar Dinner during this holy month of Ramadan, held here in our Oak Room.
- H. Congratulations to Police Corporal Jordan Couturier for organizing the 2016 Leawood Torch Run team, which raises funds and awareness for Special Olympics across Kansas. The team ran over 100 miles and raised \$2,500 for Special Olympics Kansas. As in the past, the Leawood team ran throughout the entire route in Johnson and Wyandotte Counties; most teams run only in their jurisdiction. The team proudly represents the City by running mile for mile no matter where the route goes.

9. COUNCILMEMBERS’ REPORT – None

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the June 1, 2016 Public Works Committee meeting]

Request for Sidewalk at 124th & Mission Road

- A. Recommendation for installation of sidewalk on west side of Mission Road between 123rd and 124th Streets, in conjunction with the Mission Road Improvement Project scheduled for 2018

As the new Public Works Committee Chair, Councilmember Osman provided background on Agenda Items 11.A. and 11.B. Residents had been concerned about the safety of children going to and from the middle school to access the stoplight. Mission Road is scheduled for major street improvements in 2018 and if action was recommended in advance of the street improvement, sidewalk installation would not occur until 2017 or 2018. A phased installation request for sidewalks on the west side of Mission Road was broken into two separate recommendations, each with their own costs so the Council could vote independently. Sufficient funding was in the current budget for sidewalk improvements for 123rd to 124th only. Next year, a modified funding request could be made in conjunction with the County Assisted Roads System [CARS] for Mission Road improvements to cover 50% of sidewalk cost.

Mr. Johnson confirmed the street improvements are the City's number one CARS project, so no problems with anticipated funding would be expected. A CARS application would be made next year to cover 50% of funding for sidewalks in both locations.

Councilmember Sipple noted there are sections of the City where bike trails are located on one side of the road and sidewalks on the other side. He asked if there was enough room for a bike trail to connect on the west side. Mr. Johnson replied there was insufficient room and that some curbs would need to be replaced to allow a bit more room for the sidewalk. The road would be signed "Share the Road" for bicyclists.

Councilmember Cain stated the recommendations coincide with the priorities in the Master Bike-Pedestrian Plan. She noted this was not the first such request to come before the Council. Mr. Johnson confirmed the City had received several requests from cul-de-sac residents on the west side in regard to Nativity Parish School students who must cross the road.

A motion to approve Agenda Item 11.A. was made by Councilmember Cain; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 5-0 [Councilmember Filla not available].

- B. Recommendation for installation of sidewalk on west side of Mission Road between 119th and 123rd Streets, in conjunction with the Mission Road Improvement Project scheduled for 2018

A motion to approve Agenda Item 11.B. was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 5-0 [Councilmember Filla not available].

- C. Refer sidewalk petition to Public Works Committee for 93rd Street between Mission Road and Wenonga

Mr. Johnson stated the Public Works Committee had received a petition regarding 93rd Street between Mission Road and Wenonga that meets requirements. 93rd Street is scheduled for reconstruction next year. It is proposed the petition would be assigned to the committee in August or September. Residents along Mission would be invited to attend a meeting. Public Works Committee results would be brought before the Council.

A motion to approve referral to the Public Works Committee was made by Councilmember Azeltine; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0 [Councilmember Filla participating].

12. ARTS COUNCIL

[from the May 24, 2016 Arts Council meeting]

Approve recommendation to accept temporary art [on loan] from Artist Beth Nybeck

Ms. Bishop stated Ms. Anne Blessing, newly appointed APPI Chair, was present. Art on loan is a wonderful concept, but actual pieces are hard to acquire. The artist is local and was unable to attend due to her travel schedule. She has gained a lot of notoriety locally and with collectors. The Johnson County Justice Center has acquired a piece of her artwork for permanent installation. The artist is pleased to loan the piece, which is a stylized, abstract American Bison made of Cor-Ten weathered steel. In May, the American Bison became the National Mammal. The piece would be installed on the west side of City Hall, using the existing 10 ft. by 10 ft. pad and elevated on a limestone rock base. A two-year loan period has been requested because of the large scale of the proposed piece and the difficulty of obtaining art on loan.

Councilmember Rawlings asked if elevation on a limestone base would create liability. Ms. Bishop stated the City would install and the piece would be anchored to the limestone, which would add only another one or two feet in height. The art piece is 7.5 ft. long and the limestone base would give a better presence.

Councilmember Sipple inquired if the art piece was in the Kansas City area and the time needed for installation. Ms. Bishop stated the artist has the piece in her possession after being installed elsewhere. If the recommendation was approved, a contract could be presented to the Council at the next meeting and installation begin after the contract was executed.

Councilmember Osman questioned if it would be best to have two one-year option contracts rather than a two-year contract, in case another art on loan piece becomes available next year. Ms. Bishop pointed out contracts contain a removal for any reason clause, installation costs could be absorbed over two years rather than one year, and art on loan is hard to obtain. The two-year loan period cost of \$5,000 could be applied to a \$20,000 purchase price.

A motion to approve Agenda Item 12. was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0 [Councilmember Filla not available].

13. PLANNING COMMISSION

[from May 24, 2016 Planning Commission meeting]

- A. **Ordinance No. 2785**, approving a Preliminary Plan and Special Use Permit for a hospital for Village of Seville – Leawood Micro Hospital, located north of 133rd Street and west of State Line Road (PC Case 51-16) [ROLL CALL VOTE]

Applicant Steven Kirkpatrick, Embree Asset Group, Inc., 4747 Williams Drive, Georgetown, Texas, made a presentation on the proposed project and its planned services, ranging between the services of urgent care and major trauma facilities. The proposed single story, 16,400 sq. ft. hospital would be located in the southeast corner of the Village of Seville development, and would be a 24-hour, 8 bed inpatient nursing unit offering initial emergency management, imaging suite, and dietary and laboratory services. There would be no waiting room or outpatient services. Level IV traumas would be stabilized and transferred to an appropriate facility. The building would have a Spanish theme of stone, brick, stucco accents, glass storefronts and pitched red-clay roofs. Three separate rain gardens are proposed in addition to the existing retention basin. Embree is the owner and developer of the land, and will bid out the project to a general contractor; the client will lease from them.

Councilmember Cain inquired if Embree would be the applicant for the Roeland Park micro hospital, if micro hospitals were used in Texas, if they offered patients shorter wait times and less cost, and if EMS calls would be brought to the facility. Mr. Kirkpatrick stated Embree would be the applicant for Roeland Park facility, the micro hospital model was new to Texas, there would be no anticipated wait time, cost for same level of care would be no different from that of larger facilities, and patients always have a choice as to where they are taken for care. Typically, patients would be transported to the hospital by family rather than brought by ambulance. Ambulances would be used to transport patients to another facility.

Councilmember Sipple asked how Embree plans to market the opening of the facility. Mr. Kirkpatrick stated he was uncertain how his client would handle, but potentially through a robust advertising campaign in conjunction with visibility from the retail shopping center to the west and from thoroughfares.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 6-0 [Councilmember Filla participating].

- B. **Ordinance No. 2786**, approving a Special Use Permit for a temporary use of land for Parkway Plaza – Global Signal Acquisitions Cell on Wheels, located north of 135th Street and west of Briar Street (PC Case 55-16) [ROLL CALL VOTE]

Applicant Curtis Holland, Attorney, Polsinelli PC, 6201 College Boulevard, Suite 500, Overland Park, stated Agenda Items 13.B. and 13.C. were related. Tower modifications and use of Cell on Wheel [COW] temporary facilities to maintain some level of service were approved several months ago, and are were still intended. The prior approval contained a stipulation to obtain landscape easements on the north, south and west of the tower complex. The land surrounding the tower complex was previously sold off by the original owner, Ira Stein. Landscaping easements have been obtained for the south and west. The owner to the north, Demdaco, has provided a temporary easement for placement of COWs, but refused to provide the landscaping easement. They are not opposed to landscaping or maintenance of the perimeter landscaping, but Demdaco does not wish to encroach or have exceptions to title on the property. After repeated attempts to persuade, the stipulation cannot be fulfilled.

City staff supports the proposed requests to remove the stipulation for the north side and modify the 6-month permit for the COWs to commence when the building permit is issued. Tower modifications and use of COWs could not begin until the landscaping easements were obtained, and construction time has passed in the interim. Building permit applications are on file with the City and work could begin as early as July 6th.

Mr. Holland stated the existing landscaping consists of tall, full, mature trees in a 15 ft. wide landscaping easement surrounding the tower compound. Demdaco also installed and has mature landscaping on their property. The existing landscaping provides for partial visibility of the tower if standing on the north side and looking south. Replacement of trees when needed was not expected to be a problem and could be done in the current 15 ft. easement. If landscaping issues arise, it is understood the Special Use Permit [SUP] could be revoked; the risk is undertaken based on prior experience with Demdaco.

Mayor Dunn thanked Mr. Holland for his thorough explanation and noted that Planning Commission Stipulation 2 was for the SUP timeline.

A motion to pass the ordinance was made by Councilmember Cain; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 6-0.

- C. **Ordinance No. 2787**, approving an Amended Special Use Permit for a wireless communication facility for Parkway Plaza – STC Five Wireless Telecommunications Facility, located north of 135th Street and west of Briar Street (PC Case 56-16) [ROLL CALL VOTE]

Mayor Dunn noted that Planning Commission Stipulation 5 relating to risk of SUP revocation had been mentioned by Mr. Holland in his presentation on Agenda Item 13.B.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 6-0.

14. **OLD BUSINESS** – None

15. **OTHER BUSINESS** – None

16. **NEW BUSINESS**

Ordinance No. 2788C, amending Chapter 11, Article 1 of the Code of the City of Leawood, Kansas, 2000, amending the Uniform Public Offense Code, [UPO], by adding a New Section 11-101A, entitled, ‘Purchase or Possession of Cigarettes, Tobacco Products or Vapor Products by a Minor,’ and a new Section 11-101B, entitled ‘Selling, Giving or Furnishing Cigarettes, Tobacco Products or Vapor Products to a Minor,’ and a new Section 11-101C, entitled, ‘Vapor Products, defined,’ and repealing other sections in conflict herewith [ROLL CALL VOTE]

Ms. Bennett stated the cover memorandum reflects changes from two prior Governing Body Work Sessions, revising purchase to 21 and the same age for sale. Mayor Dunn noted that Mr. Scott Hall was present and invited him to speak.

Mr. Scott Hall, Vice President, Greater Kansas City Chamber, 2301 West 69th Terrace, Shawnee Mission, thanked the Mayor and Council and stated he was available for questions.

Councilmember Osman stated his opinion had changed from that presented in prior Work Session minutes related to actual tobacco and age in certain circumstances. In discussions with his young children, he had been swayed and would now vote in favor.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 6-0.

Mayor Dunn thanked Mr. Hall, the Healthcare Foundation, Kansas University Medical Center affiliates and the Johnson County Department of Health and Environment. The City had heard from a number of residents on the issue, who would be pleased. She also received a telephone call from a reporter asking if it would become illegal to smoke in Leawood. The ordinance affects purchase and sale only.

Mayor Dunn reminded the next Work Session and Governing Body would be Tuesday, July 5, 2016. She also advised that information on the City's July 4th event would be provided in the next Council mailing.

ADJOURN

There being no further business, the meeting was adjourned at 9:21 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk