

Minutes

DVD No. 378

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, September 19, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Andrew Osman, Debra Filla, Chuck Sipple, Julie Cain, Lisa Harrison, James Azeltine and Dr. Steven Kaster

Councilmembers Absent: None

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

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

1. **PLEDGE OF ALLEGIANCE** – Lead by Eagle Scouts from Troop 10.

2. **APPROVAL OF AGENDA**

Mayor Dunn stated the agenda had been amended to a report on Community Gardens from Councilmember Debra Filla under Agenda Item 9. Councilmembers' Report.

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

3. **CITIZEN COMMENTS** – None

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** – None

5. **PRESENTATIONS/RECOGNITIONS** – None

6. SPECIAL BUSINESS

- A. **Ordinance No. 2802C**, amending Chapter 11, Article 1 of the Code of the City of Leawood, 2000, by amending Sections 11-101, 11-101A, 11-101B, 11-101C, 11-102, 11-103, 11-104, 11-104A, and 11-105, and by adding a new Section 11-103A, pertaining to regulating Public Offenses in the City; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities, 2016 Edition,’ with certain amendments and omissions [ROLL CALL VOTE]

Ms. Knight stated Agenda Items 6.A. and 6.B. were similar. Agenda Item 6.A. regards the Uniform Public Offense Code [UPOC] and Agenda Item 6.B. regards the Standard Traffic Ordinance [STO]. The Kansas League of Municipalities annually publishes the UPOC and STO to incorporate changes to state criminal and traffic laws during the previous legislative session. The proposed ordinance revisions would mirror state statutes that can be prosecuted in Municipal Court.

The main changes to the UPOC were increased threshold for misdemeanor theft from \$1,000 to \$1,500 and, following a nation-wide trend, adding immunity from prosecution for a minor seeking medical assistance because of alcohol consumption.

There were few changes to the STO. The most significant change was repeal of criminal refusal of evidentiary breath test, as recently was found to be unconstitutional by the Kansas Supreme Court.

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

- B. **Ordinance No. 2803C**, amending Chapter 14, Article 1 of the Code of the City of Leawood, 2000, pertaining to regulating Traffic in the City; incorporating by reference the ‘Standard Traffic Ordinance for Kansas Cities, 2016 Edition,’ with certain amendments, and omissions [ROLL CALL VOTE]

A motion to pass the ordinance was made by Councilmember Harrison; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.

- C. **Ordinance No. 2804C**, amending Chapter 11, Article 6 of the Code of the City of Leawood, 2000, pertaining to Drugs [ROLL CALL VOTE]

Ms. Knight stated the proposed changes to the ordinance were prompted by changes in Kansas state law and nationwide trend. First offense for marijuana had been a Class A misdemeanor and has been reduced to a Class B misdemeanor. Maximum penalty of one year in jail and a \$2,500 fine has been reduced to maximum penalty of six months in jail and a \$1,000 fine. A second conviction for marijuana is a Class A misdemeanor. Penalty levels for marijuana offenses now differ from penalties for Driving Under Influence [DUI] for alcohol. Other minor language changes were proposed to bring the ordinance more in line with state laws.

Ms. Knight estimated for Councilmember Sipple that the Municipal Court handles approximately 200 cases per year. There could be the potential for an increase in cases, since a second conviction is now a Class A misdemeanor rather than a felony, but there would probably not be an increase in cases.

Councilmember Filla asked if there had been any conversation at the state level on marijuana testing, since it stays in the body much longer. Ms. Knight stated this is not a new problem and it has always been more difficult to test for marijuana use than for alcohol. Impairment at the time is what must be proven, using field sobriety tests as well as examination by a DRE, Drug Recognition Expert. The Police Department has several certified DRE officers who undergo extensive training to analyze blood pressure, pupil response and other factors to determine use for many kinds of drugs.

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

D. **Charter Ordinance No. 44**, exempting the City of Leawood, Kansas from the provisions of K.S.A. § 12-4108, 12-4205a, 12-4207, and 12-4215, relating to the Code of Procedure for Municipal Courts, and repealing Charter Ordinance No. 15 [ROLL CALL VOTE]

Ms. Knight stated Agenda Items 6.D. and 6.E. were related. The proposed Charter Ordinance would exempt the City from certain Kansas statutes, and facilitate the implementation of the City's digital paperless e-ticketing program by the end of the year. The proposed Charter Ordinance would also repeal Charter Ordinance 15 that requires a written form signed by a Police Officer to be mailed. In repeal of Charter Ordinance 15, a few other ordinance revisions may be necessary or statutes opted out of in regard to e-ticketing and who can sign or serve a ticket. Doing this would facilitate e-ticket program use by other departments such as Animal Control, Code Enforcement and the Fire Department.

Ms. Knight reminded that a Charter Ordinance requires an affirmative vote of two-thirds of the Governing Body, and if approved, two weeks of publication, followed by a 60-day delay in effective date to ensure no protest petition is received.

Councilmember Sipple inquired if other municipalities in the area were currently using the e-ticket program and if there would be anticipated manpower savings. Ms. Knight stated several nearby municipalities are using the program from the same vendor, so Leawood had been learning from their experience. She did not anticipate manpower savings in Municipal Court, but potential for reduced time spent during a traffic stop because the program uses scanning of driver licenses, eliminating manual data entry errors or errors from illegible report handwriting. Chief Rettig stated checks of e-ticket scanned data would to be conducted to verify all information can be accurately transmitted.

A motion to pass the ordinance was made by Councilmember Cain; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.

- E. **Ordinance No. 2805C**, amending Chapter 9, Article 1 of the Code of the City of Leawood, 2000, pertaining to Municipal Court [ROLL CALL VOTE]

Ms. Knight stated the proposed revisions provide coverage of substitute or opted out provisions of state statute in Municipal Court processes in regard to the e-ticket program. These changes include who may sign and serve a complaint and notice to appear, as well as requirements for mail service. As the Code for Municipal Court had not been reviewed in more than 10 years, other changes have been proposed for general clean-up and to clarify processes. The changes proposed for Municipal Judge appointment were previously discussed with the Mayor. If approved, the ordinance would be effective January 1, 2017, after the effective date Charter Ordinance 44 and about the time as e-ticket roll-out.

A motion to pass the ordinance was made by Councilmember Azeltine; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.

- F. **Ordinance No. 2806C**, granting to Southwestern Bell Telephone Company d/b/a AT&T Kansas, 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. 2584 [ROLL CALL VOTE]

Ms. Knight stated the ordinance had been prepared by City Attorney Patty Bennett and Assistant City Attorney Andrew Hall. The ordinance was a renewal of terms used in previous years. Mayor Dunn noted that Mr. Chris Carroll, AT&T Regional Director of External & Legislative Affairs, was present for questions.

Councilmember Azeltine noted the prior franchise agreement had expired November 19, 2015. He inquired about the delayed renewal and any legal implications. Mr. Lambers stated that typically the franchisee requests a renewal, which did not occur, and the City had not noticed. The blame was shared and the proposed ordinance would get this back on track.

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 8-0.

- G. **Ordinance No. 2807C**, pertaining to managing and regulating the use and occupancy of Public Right-of-Way in the City of Leawood, Kansas; amending § 13-303, 13-309 and 13-315 of the Code of the City of Leawood, Kansas, 2000, and repealing existing § 13-303, 13-309 and 13-315 and other sections in conflict herewith [ROLL CALL VOTE]

Councilmember Azeltine pointed out a conflict in recent state statute limiting City authority regarding wireless infrastructures in the right-of-way [ROW] and a statement in Staff Memo for Agenda Item 6.G. that confirms use of right-of-way by a provider is subject to and subordinate to reasonable public health, safety and welfare requirements. Mr. Lambers stated the law language is subject to interpretation, and the City has the right to reasonable limitations and would continue with this position.

Mr. Johnson confirmed to Councilmember Sipple that the City limits the height of poles and size of equipment placed on the poles, and encourages placement of wireless equipment on City street lights. Councilmember Sipple noted Home Owner Associations [HOAs] with privately-owned street lights would not be impacted. He expressed concern about the definition of ROW and also for home owner rights for their property abutting the ROW, and asked how HOAs could protest.

Mr. Lambers stated it is all pre-empted by the state. Pole height for residential is 35 ft. and at his residence, the ROW goes 20 ft. into his yard. He stated the statute is new and issues are expected, but Mr. Johnson and City Attorney Patty Bennett have been working with other cities to ensure Leawood is handling in the same manner.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Harrison. The motion was approved with a roll call vote of 7-0, with Nay Vote from Councilmember Sipple in protest on general principle of invasion of beautiful landscaping and individual home owner rights to keep that way.

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. 2016-35 and 2016-36
- B. Accept minutes of the September 6, 2016 Governing Body meeting
- C. Accept minutes of the August 18, 2016 Sustainability Advisory Board meeting
- D. Accept minutes of the August 15, 2016 Governing Body Executive Session
- E. Accept minutes of the June 9, 2016 Sustainability Advisory Board meeting
- F. Accept minutes of the June 1, 2016 Public Works Committee meeting
- G. Accept minutes of the May 10, 2016 Historic Commission meeting
- H. Approve Calendar for 2018 Budget
- I. Approve Mayoral Appointment of Stacey Belzer to Planning Commission to fill unexpired term of Wayne Walden, effective October 25, 2016
- J. Approve purchase for an amount not to exceed \$50,000 to Challenger TeamWear for Parks & Recreation Soccer League uniforms
- K. Approve purchase in the amount of \$12,793.00 to Gail's Harley Davidson for purchase of Police Motorcycle
- L. Approve Change Order No. 2, in the amount of \$178,239.03, to Phoenix Concrete & Underground, LLC, pertaining to the 2016 Curb Program & Residential Mill & Overlay [Project Nos. 72062 & 70020] [Change Order for Mill & Overlay of Granada, Cambridge Terrace, Cambridge Circle & Cambridge Court]
- M. **Resolution No. 4682**, calling for a Special Governing Body meeting on October 24, 2016, for the purpose of considering scheduled business items which otherwise would have been considered on October agendas
- N. **Resolution No. 4683**, approving and authorizing the Mayor to execute 2017 Employee Benefit Plan documents
- O. **Resolution No. 4684**, designating holidays for the year 2017, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- P. **Resolution No. 4685**, approving and authorizing the Mayor to execute a Professional Service Agreement between the City and RubinBrown, LLP, pertaining to audit services through December 31, 2018, for an amount not to exceed \$34,250 annually, and an amount not to exceed \$5,000 per program requiring audit

- Q. **Resolution No. 4686**, approving and authorizing the Mayor to execute a Letter of Engagement between the City and RubinBrown, LLP, for an amount not to exceed \$34,250, pertaining to 2016 audit services
- R. **Resolution No. 4687**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$27,593.00, between the City and Precision Concrete Cutting Midwest for sidewalk cutting repairs located in Hunter’s Ridge and Waterford Subdivisions
- S. **Resolution No. 4688**, approving a Revised Final Plat for Mission Prairie - Second Plat, located south of 141st Street and west of Pawnee Lane (PC Case 90-16) *[from the August 23, 2016 Planning Commission meeting]*
- T. **Resolution No. 4689**, approving a Revised Final Plan for Leawood United Methodist Church - Fence, located south of 95th Street and west of Belinder (PC Case 97-16) *[from the August 23, 2016 Planning Commission meeting]*
- U. **Resolution No. 4690**, approving a Final Plan for modifications to a façade of a storefront for Town Center Crossing – Kendra Scott (Retail: Women’s Jewelry), located south of 119th Street and east of Roe Avenue (PC Case 82-16) *[from the August 23, 2016 Planning Commission meeting]*
- V. Fire Department Monthly Report
- W. Municipal Court Monthly Report
- X. Police Department Monthly Report

Councilmember Sipple requested Consent Agenda Item 7.A. be pulled.

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

Councilmember Azeltine requested Consent Agenda Items 7.P. and 7.Q. be pulled.

Councilmember Cain requested Consent Agenda Item 7.R. be pulled.

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

7.A. Accept Appropriation Ordinance Nos. 2016-35 and 2016-36

Councilmember Sipple recused as his wife is a subcontractor to the City and listed as payee.

Councilmember Azeltine confirmed with Ms. Knight that Councilmembers Sipple, Cain and Azeltine would abstain from voting if they were listed as payees for travel advance vouchers. Mr. Lambers stated the payments were legitimate per City policy.

Councilmember Filla asked for additional details on Appropriation Ordinance 2016-35, Check #85860 payable to the City of Shawnee, for “Traffic Crash Investigation Class” and Check #85861 payable to Corporate Health KU Midwest, for “Physical and Drug Screen/Essential Functions Test.” Chief Rettig stated the class was an advanced traffic crash course that included mapping skid marks. Mr. Sanders stated the screenings were for preliminary verification of employment.

A motion to approve Consent Agenda Item 7.A. was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with five affirmative votes, with Councilmembers Sipple, Cain and Azeltine abstaining for reasons stated above.

- 7.I. Approve Mayoral Appointment of Stacey Belzer to Planning Commission to fill unexpired term of Wayne Walden, effective October 25, 2016

Councilmember Osman stated Ms. Belzer has been a valuable asset to the Gezer Region Sister City Committee and she was very involved in the community. Mayor Dunn noted Ms. Belzer was not present at the meeting and that she would continue to be on the Gezer Region Sister City Committee.

Councilmember Osman requested the Planning Commission meeting minute synopses that are part of the meeting packets provide a summary of attendees or absences on the first page, similar to Governing Body and other committee meeting minutes. Mr. Coleman confirmed to Mayor Dunn he would advise the Planning Commission.

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

- P. **Resolution No. 4685**, approving and authorizing the Mayor to execute a Professional Service Agreement between the City and RubinBrown, LLP, pertaining to audit services through December 31, 2018, for an amount not to exceed \$34,250 annually, and an amount not to exceed \$5,000 per program requiring audit

Councilmember Azeltine asked for cost clarifications of the three bidders presented in the Staff Memo, and questioned if the cost from AGH was three times the cost, since their cost was listed by year. Ms. Long stated the AGH bid had presented costs that increased per year and the City's Request for Proposal [RFP] had requested level costs for all three years. Mr. Lambers stated that with one exception, the cost differential between the bidders was nominal and he had started each bidder interview by stating cost was not a factor.

Councilmember Azeltine requested to see complete bid responses from bidders rather than just the response of the recommended bidder. Ms. Long acknowledged his request.

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

- Q. **Resolution No. 4686**, approving and authorizing the Mayor to execute a Letter of Engagement between the City and RubinBrown, LLP, for an amount not to exceed \$34,250, pertaining to 2016 audit services

Councilmember Azeltine had no specific additional comments for this item.

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

- R. **Resolution No. 4687**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$27,593.00, between the City and Precision Concrete Cutting Midwest for sidewalk cutting repairs located in Hunter's Ridge and Waterford Subdivisions

Councilmember Cain stated this contractor and method of repair had been used successfully in the past without major disruption. She asked Mr. Johnson if citizens notify the City of issues or if identification was made by the contractor. Mr. Johnson stated the contractor locates and has marked 653 alignment repair locations of 1.5 inches or less; depth of sidewalk concrete is 4 inches. Cost for \$25,000 for the work had been budgeted each year.

Mr. Johnson confirmed to Councilmember Azeltine that the repair cost is separate from the \$100,000 budgeted for sidewalk repair as part of the curb program. The repairs are made as a holistic and less expensive approach rather than removal of two affected sidewalk panels, and the flat slope of 12:1 exceeds Americans with Disabilities Act [ADA] slope requirements of 8:1. The City performs the repairs as a courtesy and has no obligation to do so, since property owners are responsible for sidewalk maintenance, including ADA compliance. Mr. Lambers added state statute and City ordinance allows the City to make the repairs and assess cost against the property owner, as needed. He stated he had recommended budgeting a small amount of funds for these repairs that could be used in areas of the curb program.

Councilmember Cain stated the sidewalks along 133rd and in Waterford subdivision have issues of greater depth. Mr. Johnson stated the City does not have a budget to specifically address, but these would be part of an ongoing list to be addressed as time permits.

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

8. MAYOR'S REPORT

- A. Sincere sympathies to the family of William Chiles, a volunteer for our Stormwater Management Committee from 2002 through 2009. He passed away on September 9, 2016, at the age of 81.
- B. Thanks to Presiding Officer Councilmember Julie Cain for participating on the Mayoral Forum and Kick-Off Breakfast at Central Exchange for the "Kids for Peace" event.
- C. Congratulations and much appreciation to Police Chief Troy Rettig and Fire Chief Dave Williams, and their departments, on another successful Open House at the Justice Center. This was the first time Police Officer Curtis Rice organized the event, and there were 750 people in attendance, including Councilmembers Lisa Harrison and Chuck Sipple. My thanks to all involved.
- D. Police Chief Troy Rettig hosted two retirement receptions for leaders in his department. The first was for Nancy Kelley, with 37 years of service to the City and 17 of those years with the Police Department. The second was for Detective Sergeant Scott Hansen for 31 years of service and 26 of those years with Investigations. Police Chiefs from many metro area departments came to pay tribute. Congratulations and best wishes to them both.
- E. Congratulations also to Leawood resident Roshann Parris on being honored by the Boy Scouts of America Heart of America Council as the 2016 Distinguished Citizen. This is a tremendous and well-deserved honor.

- F. Congratulations to the Leawood Chamber of Commerce on a successful Taste of Leawood. There were 1,300 attendees and 33 restaurants. The sold-out event was enjoyed by all.
- G. A couple of reminders:
 - 1. The Parks and Recreation Department will host the “Into the Night Fall Festival” family event, Friday, October 7, 2016, 5:30 to 9:00 P.M. at Ironwoods Park.
 - 2. The public is invited to the dedication of the Art on Loan Program metal sculpture piece, “*Point Defiance*”, by local artist Beth Nybeck. The event will be hosted by the Art in Public Places Initiative of the Leawood Arts Council on Monday, October 24, 2016, from 6:00 to 7:00 P.M., on the lawn west of City Hall. Additional information will be distributed at a later time.

9. COUNCILMEMBERS’ REPORT

Councilmember Debra Filla – Community Garden

Councilmember Filla shared details of communications received in regard to the Community Garden behind Fire Station No. 1. A gardener stated how much she enjoyed planting parsley and fennel to attract butterflies. A former resident who moved to Overland Park had indicated how much the garden had meant to her during her husband’s illness. A family of five with a garden plot desired a garden to always be an amenity at the location, even if there was also a playground, so children can understand food comes from a garden rather than a grocery store. An email received after the garden’s Harvest Party last Saturday wanted to know the garden’s permanent location and suggested, due to the City’s length, the potential for smaller gardens located throughout the City. North Leawood has heavy tree canopy which it makes it difficult to grow plants like pumpkins and squash, but there are gardeners who would like a garden to remain on the site.

To respond to the inquiries about garden location, Councilmember Filla requested Staff research and respond at the next Governing Body Meeting, October 24, 2016.

Mr. Lambers stated an architect-engineer had been retained for the site project. A late summer ground-breaking on the project is anticipated. The contractor would need space for mobilization, and he did not want to mix construction and gardeners. For 2017, there would be not a garden on the site.

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[From the September 7, 2016 Public Works Committee meeting]

- A. Request for Sidewalk along 93rd Street, between Mission Road and Wenonga
Recommendation: PW Committee does not support the sidewalk petition at this time

Councilmember Osman, Public Works Committee Chair, stated the Public Works Committee had received two petitions from residents.

Of the 21 or 22 residents that would be impacted by the requested sidewalk, 18 or 19 asked that the City investigate. The request proceeded to the Public Works Committee based on 82% of impacted residents requesting the City to investigate. Subsequently, five of the 18 or 19 requestors withdrew their support once aware they would be responsible for the cost before committee review, and the remaining residents that appeared both the committee were against. The Committee does not support the petition at this time. No street improvements are planned in the next couple of years, and trees and easements would make sidewalk placement difficult to determine.

A motion to approve the Public Works Committee recommendation was made by Councilmember Osman; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.

- B. Request for 'No Parking' signs to be erected along 133rd and 137th Streets, east of Nall Avenue

Recommendation: PW Committee recommends no changes to current condition

Councilmember Osman stated there had been a constituent request for no parking signs pertained to traffic impediments involving the Church of the Resurrection, a three-part intersection and Sunday drop-off/stopping in front of the church. The church indicated parking directly in front for even a short time was not practical, and this has been researched by Staff and validated by the Police Department.

Councilmember Azeltine asked Mr. Johnson the resident would be notified of the outcome; Mr. Johnson stated the resident had been notified of the committee meeting date and would notify tomorrow. He stated about one year ago, the City had reviewed parking on 133rd and 137th Streets. At that time, decision was made to move forward after the 135th Street Corridor Plan was complete and adopted. The area and parking surrounding the Church of the Resurrection were reviewed again, and though parking at the intersection is not ideal, the committee recommends no changes until the 135th Street Corridor Plan is adopted.

Councilmember Sipple stated he had visited the area on a Sunday during services at the Church of the Resurrection. No cars were parked on the north side of the main church where no parking signs are erected covering 500 ft. To the east of the main building there is a one-story administration building and cars were parked from their parking lot intersection to Roe during church services. He favored leaving as is for now.

A motion to approve the Public Works Committee recommendation was made by Councilmember Osman; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.

12. PLANNING COMMISSION

[From the August 9, 2016 Planning Commission meeting]

Resolution No. 4691, approving the Planning Commission's recommendation to deny a request for a Revised Final Plan and Revised Final Sign Plan for Park Place – Revised Signage, located north of 117th Street and east of Nall Avenue [PC Case 66-16] - *CONTINUED FROM THE SEPTEMBER 6, 2016 GOVERNING BODY MEETING*

Mr. Lambers suggested the Governing Body follow a procedure of a detailed overview on the Applicant's request by Planning Officer Mr. Klein, followed by a presentation by Applicant Mr. John Petersen, then responses to questions and identification of next steps or what the Governing Body wants to consider. Items in the proposed plan would require amendments to the Leawood Development Ordinance [LDO], so this cannot be approved tonight. LDO amendments would require remand back to the Planning Commission and direction to Staff to initiate the LDO amendment process. As a Planning Commission item typically requires a 90-day notification, estimate this could not return to the Governing Body until December 2016 or January 2017. If approved, time for publication would also be needed. Both the Planning Commission and Staff do not support the proposed plan. Mr. Lambers stated he had limited support of a very few plan items, including garage signage along Nall, but he did not support multiple tenant signs. He stated Mayor Dunn had expressed concern for city-wide impact on other mixed-use districts [MXD] and 135th Street development. Staff has noted that structured parking blocks retailers at Park Place, which is a difference between Park Place and Town Center Plaza.

Councilmember Azeltine expressed concern about the potential to be reactive rather than proactive, and suggested a Governing Body Work Session to review MXD rather than discussing at the Governing Body meeting. Mr. Lambers stated he envisioned discussion at the present meeting to be the same as a Work Session process, and would expedite the process. Review may take an hour or two. The Governing Body does not have the opportunity to schedule a Work Session until later in the year.

Mayor Dunn noted the Planning Commission had requested a Work Session, but Mr. Petersen wanted to come before the Governing Body first, in case the Governing Body would not want any LDO amendments. Mr. Klein's preamble at the Planning Commission meeting had been very helpful. Mr. Lambers stated the Planning Commission could conduct a Work Session during the time the proposed application was in process.

STAFF PRESENTATION

Mr. Klein gave a brief overview on Park Place, the LDO and Planning Commission review. The preliminary plan for Park Place was approved in 2003 and final plan approved in 2005, with a number of changes since that time. The City's LDO was approved at the end of 2002. Section 16-4-6.1 of the LDO addresses visual clutter/signs and intent. The Planning Commission reviewed Case 66-16 on August 9, 2016, and recommended denial for the following reasons:

- A. Application contained prohibited sign types; signs not specifically addressed in the LDO or specifically prohibited by the LDO.
- B. Signage that does not meet the criteria for deviations. Deviations can be made for size, the number of signs, colors, locations and lighting, but there is a limitation as LDO states that wall signs cannot exceed 5% or 200 sq. ft. of facade, whichever is less. Also, directory signs must be pedestrian scale.
- C. Proposed increased in sign size and number may set precedent. Current sign ordinance has worked well since late 2002 to ensure quality and restrict over-proliferation.

The Planning Commission reviews quite a few signage cases every day. Businesses want to advertise and the trend is for bigger and more signage. Without control, increasingly bigger signage eventually becomes lost.

Deviations can be approved for size, colors, locations, number of signs and illumination, if deviations met the following criteria:

- A. Equal or higher quality.
- B. Shall be in keeping with the intent of the LDO.
- C. Shall be clearly set out in minutes and exhibits.
- D. Specific justification reasons are included in the record.
- E. Maximum of all wall and canopy signs shall be 5% of the total façade area, or 200 sq. feet, whichever is less.
- F. Directory signs are scaled to pedestrian traffic.

Signage falls into three categories:

1. Signs requiring deviations of the LDO.
2. Signs not meeting deviation requirements of the LDO.
3. Sign types not permitted by the LDO which are signs not specifically addressed in the LDO or specifically prohibited by the LDO.

Page 8 of the proposed plan depicts the locations of 21 existing signs to remain and 29 additional signs.

SIGNS REQUIRING DEVIATIONS

Village Monument Signs (Pages 9 – 11)

The plan proposes six, two each on Nall, Town Center Drive and 117th Street. Size conforms to LDO, but deviations would be needed on the number of monuments and requested internal lamp box illumination. Staff supports a total of two signs: one on the live/work unit garage as the garage has no project identification and one for Parking Garage C at the north end of Nall in lieu of wall signs.

Village Via Directory Signs (Pages 43 – 44)

The plan proposes six at business locations. They list the businesses on one size and a map on the other. The signs would be located at the vias, or cut-throughs. Size of 15 sq. ft. conforms to LDO, but deviation would be needed for light cabinet illumination.

Parking Totem (Pages 52 – 53)

Considered a directional sign to be placed north of Parking Garage A and east of Nall; a total of 17.3 sq. ft. and 8 ft. in height. LDO limits sign to 6 sq. ft., so deviation would be needed for both size and illumination.

SIGNS NOT MEETING LDO REQUIREMENTS FOR DEVIATIONS

Garage Skyline Identity Signs (Pages 18 – 22)

Proposed for Parking Garage A on Nall and Parking Garage B on 117th Street. The signs would state “Park Place” in internally illuminated channel letters, one type would have a solid background and one type a trellis, and would be centered along highest top point of the garages. Staff supports the solid background and does not support trellis type design. The signs are 256 sq. ft. and exceed the 200 sq. ft. LDO maximum. Additional garage signage such as entry signs [140 sq. ft.] and multiple tenant directory signs [330 sq. ft.] have also been proposed.

Garage Entry Identity Signs (Pages 31 – 34)

Signs stating “Park Place” with logo, location and car park proposed over all three garage entrances. The signs are 140 sq. ft. and with other garage signage requested, total signage exceeds wall and canopy sign amount in LDO. Also, wall signs are limited to two per business, so the number of signs would exceed LDO maximum. The current garage entry signs and blade-type signs would remain and do not count towards the 200 sq. ft. LDO maximum for walls and canopies.

SIGN TYPES NOT PERMITTED BY THE LDO

Multi-Tenant Signs with Traffic Circle (Pages 12 – 14)

Located in the traffic circle at the major intersection of 116th Place and Ash Street. One of the signs would be 6 ft., 8 inches in height and one sign would be 7 ft. in height; both signs would be 4 ft. wide. Staff is not supportive per LDO and the Planning Commission expressed concern for pedestrian viewing and crossing safety at the busy intersection.

Multi-Tenant Garage Signs (Pages 30 – 34)

These signs are proposed above all three garage entries, 30 ft. in length and 11 ft. in height for a total 330 sq. ft., and would include a list of tenants with logos. The Planning Department receives frequent requests for this type of sign, so this would set a precedent. The signs are typically large for readability of tenants.

Column/Pylon Signs (Pages 15 – 17)

Proposing two both on Nall, one at the northwest corner of the project [Nall and Town Center Drive] and the other at the southwest corner [117th Street and Nall). There is an existing architectural structure at the southwest corner, in front of Aloft, and the other is in Town Center Plaza. Existing signs flank 117th Street both read “City of Leawood” and both have the Park Place logo. The plan proposes replacement of the Park Place sign with new design that is slightly smaller that does not contain the Park Place logo, but would include a light cabinet that is not permitted in the LDO. Current architectural structure is 27 ft., 10 inches in height and 6 ft., 4 inches on each side [3], triangular. The proposed sign would be 25 ft. in height and 8 ft., 4 inches on each side [3], triangular. With removal of the Park Place logo, Staff is concerned about symmetry.

SIGN REQUIRING A SPECIAL USE PERMIT

Off-Site Signs

LDO Section 16-4-6.14 defines off-site signs as those that advertises what is not sold, produced, manufactured or furnished at the property on which the sign is placed. Proposed addition of Chop House to wall that has signage for MBB+ Advertising and Aloft would need to be monitored to ensure compliance with 5%/200 sq. ft. maximum of façade for these signs.

Building Identity Signs (Page 45)

Propose to paint the raised lettering of the existing Aubrey Building [Building A] sign to be gold. Currently, the sign lettering and background are the same color.

Garage Banners (Page 35 – 42)

The application is also a final plan in addition to final sign plan because of architectural elements being proposed. Applicant proposes placing two stacked sets of canvas banners, each approximately 1 ft. wide and 9 ft., 8 inches on each side [total height of 20 ft., 8 inches] with small print Park Place logo at all garage door openings. The canvas banners would cover some of the garage openings.

APPLICANT PRESENTATION

Mr. John Petersen, Esq., Polsinelli, PC, on behalf of KBSII Park Place Village LLC, a single purpose entity that serves as new owners of Park Place. KBSII is a very experienced retail and multi-use developer. Mr. Brett Merz of KBSIII and architect Mr. Chris Molinsky of Vertical Design Group developed the proposed concept. The total effort was to recognize a signage application for a retail property not anticipated in signage code passed in 2006-2007, designed for strip shopping centers.

Park Place is the first and to-date, the only, true vertical mixed-use commercial center in Johnson County, with interesting architectural elements and beautiful landscaped streets. It is great and exciting to work, live and play in the City. The elevated view easily shows all components and when inside, a visitor perceives the mixed-use concept. There are parking garages, offices and residences with balconies surrounding a pool. Although the location of garage buildings are known, we wish to help visitors access the correct garage, and we want to help potential visitors know about the retail located in the center, whether they are driving by or walking. Once inside, a visitor may be directly in front of a retailer they wish to visit, but the view of signage is obstructed by the landscaping. The businesses have a challenge to survive. There is some truth to Mr. Klein's statement about developers wanting more and bigger signage, but the retail, owner and the developer of Park Place do not want more, just the same that is afforded to others in the City and nearby communities to level the playing field. He disagrees with the City Administrator that this could not be approved tonight because the LDO would not allow, but a summary will be provided of some very important components of the application the Governing Body could approve tonight. The summary would present the items eliminated, items that could be approved tonight with deviations with rationale and ones agreed that cannot be approved because of the LDO, respectful hope that the LDO be reviewed and expeditiously revised.

The Staff and the Planning Commission may have denied, but the Planning Commission meeting minutes suggest there was a lot of support on a number of elements. Based on the Planning Commission discussion, the number of requests has been pared down to strategic elements critical for success.

Mr. Petersen confirmed to Mayor Dunn that the documentation provided to the Governing Body was not the latest, which had been discussed with Staff this afternoon. Mr. Petersen stated they were not changing, just eliminating. Mr. Petersen introduced property owner Mr. Brett Merz.

Mr. Brett Merz, Senior Vice President/Asset Manager, KBSIII Park Place Village, LLC, owner, thanked the Governing Body for the opportunity to ensure the stability and future growth of Park Place, a property with a dynamic atmosphere and wonderful potential. Mixed-use is uncommon, with few locations in San Jose, Scottsdale, Phoenix, St. Louis and high-end suburbs of Chicago, but mixed-use could increase throughout the United States and planned in Leawood. The inadequate LDO needs to be updated as the current code does not support businesses and the project and, therefore, the citizens of Leawood. People do not know about or where Park Place is located, and retail competition is fierce. All Park Place retailers are local businesses. The trade area for Park Place is 675,000 households. Of those households, 40% indicate they do not know the location or would visit with signage, and 64% do not recognize the name of Leawood's crown jewel, Park Place. The existing 21 signs cannot be seen, are not effective and should not be meaningful to the discussion. Both the City and KBSIII are concerned about visual clutter, and KBSIII has zero intention of turning Park Place, or any of their Class A assets, into Times Square. This impacts both office and retailers. A few of the retail and office tenants are present tonight to provide testimony.

Mr. Chris Harris, Chief Financial Officer, 801 Restaurant Group, 4804 W. 138th Street, Overland Park, stated 801 Chophouse owns three restaurants in Park Place with different concepts, offering quality fine dining and superior service. There is nothing that compels potential visitors to enter the development, and once inside, no clear orientation because of treed streets. Often, by the time visitors enter their restaurants, they are frustrated and unhappy. The 801 Restaurant Group has invested a lot of money in advertising, and offered complimentary valet and paid parking. The City must now do its part to level the playing field; the restaurant industry is very competitive. Without signage, 801 Restaurant Group does not plan to renew any Park Place leases. It is a bottom tier portfolio performer, but could be top tier with the correct exposure.

Mr. Jonny Girson, Owner, Learning Tree, 11536 Ash Street, stated their store was the first to open in Town Center 20 years ago and they began leasing their Park Place location 9 or 10 years ago. In 20 years, the store has raised a total of \$1 Million in sales tax. He noted that several City Councilmembers are patrons of the store, but potential customers cannot find their location. Customers will drive from 135th past Park Place to their store on 83rd Street. When the stores opened, on-line sales were not a major concern for local retailers. Hawthorne in Overland Park has been recruiting tenants from Park Place. Without improved signage, Learning Tree will not remain in Leawood.

Mr. John Young, Owner, Picasso Exotic Aquatics, 11560 Ash Street, stated the situation is a serious business threat to his destination store in Park Place for six years that installs salt and freshwater aquariums. Signage requests may not comply with regulations from 15 years ago, but he is speaking from front-line sales. There is a perception of a market area with a 2 to 3 mile radius, but his is a destination store. Over \$150,000 has been spent to build the business, but that was not sustainable and was discontinued even though numerous advertising responses are received. Numerous telephone calls are received from potential customers that traveled from 40 minutes to four hours to shop, asking for directions when they were literally on a street next to Park Place. The sign package would not be harmful and lantern lighting does not seem brazen; the Apple beacon can be seen from a mile away. Park Place should not be penalized. Logic would dictate the sign package be approved. If not approved, the winners are other shopping centers. The owners, residents and the City of Leawood are all stakeholders. Now is the time to change and improve, by going instead of looking back.

Mr. Mike Hans, Vice President, AMC, 11500 Ash Street, stated his was a different perspective as an office rather than retail tenant. AMC Corporate Headquarters supports mixed-use and they favor enhancements to the sign package, because retailers and restaurants are an asset to mixed-use.

Mr. Petersen stated other tenants had wished to present, but attendees were limited to a few due to urgency and finding balance. The code is not up-to-date for mixed-use and the proposed signage is not excessive or visually cluttering. Mr. Petersen presented details, as follows:

External Monument Signs

The size of proposed monument signs complies with LDO. Original proposal requested six locations to cover each portal of mixed-use type, home, work, office, eat and shop, and respectfully suggest LDO contemplate the number of signs based on the number of entrances. Staff supported two monument signs in lieu of signs on Parking Garage C. Request is reduced to only four monuments, which would be a deviation the Governing Body could approve tonight. Also, the request for modern lantern box or halo illumination is withdrawn and ground spotlights will be used according to the 2007-2009 code.

Column Sign/Pylon

Proposed a modern update of the Park Place sign, which is one of a matched set of column/pylon signs on Nall. The other sign is for Town Center Plaza. This proposed request is withdrawn.

External Garage Wall Signs

Serious consideration of this key element should be given, because at least part of this is needed by tenants. Roe Boulevard at 119th Street has the highest sales per square foot in the metro area, higher than the Country Club Plaza, due to demographics and traffic. Approximately 25,000 to 40,000 travelers use Nall, but with the configuration of parking garages, those travelers do not know retailers are within Park Place. Parking Garage A along Nall has a 17,214 sq. ft. façade, probably one of the largest facades in Johnson County. Current garage signage consists of the letter “P” and the words “Car Park, with the words “Park Place” placed directly below. This parking garage might be erroneously thought to be for AMC or Ericsson offices. Park Place garage-top signs add a nice architectural element. As previously mentioned, the energetic canvas banners, used all over the country, are withdrawn. Garage wall signs would include multi-tenant business listings in all one color without corporate logos, Park Place, Car Park, Park Place logo, entrance location identification such as South Nall. Town Center Plaza uses six different colors and sizes of such signs, with corporate logos.

For these signs, the LDO would need to be amended on two points: 1) Allow tenant/individual listings on garage wall signs and 2) allow signage maximum to be 5% rather than 200 sq. ft. cap, to be in scale with facade. Parking Garage A has a façade of 17,214 sq. ft.; 5% would be 860 sq. ft. and the proposed garage signage format including multi-tenant listing is one-half of that, 471 sq. ft. Parking Garage B off 117th Street would have a sign with the same layout, with a size of 627 sq. ft. This signage for Parking Garage C by AMC is withdrawn, as this is more for corporate. Would want to do some of the signage on Parking Garage C that identifies Park Place.

Internal Central Roundabout

This is a critical situation. Visitors pull in and until oriented, do not know which way to go, as you cannot see tenant signs looking down the street. Proposed plan had contained six signs placed strategically. Based on Planning Commission comments, eliminated three of those and keeping three. The signs can be tasteful and done safely. Leawood City Hall has directional signage. The LDO would need to be amended to permit multi-tenant signs. Halo lighted would be eliminated to go with ground-mounted lighting.

Village Directory

The one proposed sign would be placed in the roundabout area. This type of sign is similar to those used at shopping malls. Sign size complies with LDO, but pedestrian level glow of light by internal illumination is the issue. Ground-mounting is not an acceptable option due to the approach of pedestrians.

Canvas Banners

Mr. Peterson stated proposed canvas banners were withdrawn.

Parking Totem

The one proposed sign would be located off Town Center Drive, past AMC, to the right. Size of the proposed sign would require an LDO deviation. Current sign at the location meets code.

Mr. Petersen stated the Governing Body could not approve the signage to add 801 Chophouse to the Nall-facing wall façade, centered between the existing wall signs for MBB+ Advertising and Aloft. He stated the required Special Use Permit would be filed for this sign.

Mr. Petersen displayed examples of directional tenant signs used at Corbin Park and Hawthorne Plaza in Overland Park, noting the architectural elements of the examples may not be favored by Leawood. He showed examples of similar signage used in Town Center Plaza.

Mr. Lambers stated LDO amendments must be official before the City could consider the application. He reiterated the required action steps and timeline of four months. The Planning Commission could discuss at their October meeting, the Governing Body would review the Planning Commission recommendation at a November meeting, followed by publication and application return before the Governing Body thereafter. He stated the next available Governing Body Work Session date would be December 5. Mr. Petersen refuted the four month LDO revision timeline, stated a revised application could be filed within 30 minutes, and that he would stay in discussion with the City if the process requires four months.

Mayor Dunn acknowledged that more retailers had wished to address the Governing Body and that all communications received on the proposed plan were part of the meeting documentation packet. She asked to hear from Staff and for Governing Body questions. She reminded the vote would require a super majority to override Planning Commission denial.

Councilmember Kaster asked for the rationale of signage maximum of the greater of 5% or 200 sq. ft. of façade, and wanted a superimposed mock-up to visualize. Mr. Klein stated the maximum was in the prior ordinance and is large for a sign. Councilmember Kaster proposed that Staff review allowing 5% on large facades.

Councilmember Harrison asked for full mock-up of all garage signage. Mr. Klein stated that the Planning Commission had wanted photographic simulations of facades and Mr. Petersen may be working to provide.

Councilmember Osman stated based on his love of real estate, community and Leawood, it was a travesty for the signage issue to have come to this point. A code that was implemented to do what is best for the City and community should continue to be updated as it becomes outdated. Park Place is an industry game-changer and the crown jewel of Leawood. City Staff, the Governing Body, developers and retailers all worked together through the industry downturn in 2008 to make Park Place happen, while other developments at that time failed. For the past seven to 10 years, Park Place has used the services of a premier real estate services company, CBRE, and tenant leases are going to be expiring soon. He gave examples of historic changes and lessons learned in signage in the Kansas City area. In the 1980s, retailers along Noland Road all wanted a monument and pylon signs, which resulted in eye pollution. In the 1990s, retailers and cities backtracked and reduced the number of signs allowed. Now, shopping centers are named and tenants use that recognition to identify their business. Camelback Square in Arizona is a successful example. Lack of name recognition is a factor for Park Place, which Camelot and the Country Club Plaza both have. Having Park Place signage in multiple locations is important for name recognition and directions. The matching set of column/pylon signs along Nall, one for Park Place and one for Town Center Plaza, are now hidden by landscaping. Retailers have spent money on signage that now cannot be seen because of tree canopies. Midwest shoppers take the opportunity to drive between stores rather than walk, which can be easily done at Town Center Plaza. He shared that retail lease documents used in his business prohibit the use of old Camelot Court-style light box fluorescent lettering signs. Professional companies such as KBSIII and

CBRE may even do the same in their leases. He had a list of five items from the plan that he did not think were egregious, and the Applicant was only asking for three. He did not favor ground-lighting monument signs. He favored the proposed size of the 17.5 sq. ft. directional sign. Although he could not support all items in the plan immediately as they need to be discussed in a Work Session, he takes the proposed plan seriously, as well as the opportunity for the Governing Body to send a positive message. First examples such as Park Place often involve heartache and are an opportunity to learn. When Park Place was developed, having anchor tenants were not part of mixed-use concept. Anchor tenants are part of mixed-use in Arizona and he hoped to see the City Code adapted for their use, in the 135th Street Corridor Plan.

Councilmember Osman expressed sorrow that Mr. Petersen was pulling some of the proposed signage. He was not in favor of ground-lighting monument signs and non-illumination of signs just to meet current City code. He was in favor of all sign types with exception of multi-tenant circle and garage tenant signs, as there are other ways to ensure tenant signage is visible, such as lifting the tree canopies. The City needs to understand the difference between halo and box illumination.

Councilmembers Filla agreed with Councilmember Osman's direction. Most people do not know where Park Place is located and she complimented the Applicant's plan. She favored the proposed sign change for the Aubrey Building, the garage signs using simple "A, B, C" designations on the parking garages rather than street reference, energy efficient LED-lit directories at garage exits, revision of the Park Place column/pylon in the matching set on Nall to clearly distinguish the two different retail areas, as well as garage banners, minimized circle signage, monuments and the 801 Chophouse sign. The right amount of other signage and signage at garages may alleviate the need for signage in the traffic circle. She confirmed with Mr. Coleman stated the current LDO would permit signs that were not boxes to have indirect lighting at top and bottom to flood with light or LED-lighting placed at the top. Councilmember Filla suggested creative amendment of the LDO. She also confirmed with Mr. Coleman that the garage entry signs would require a deviation if they contained the tenant listings, but the remainder of the elements of that proposed sign were compliant. The large skyline signage would require an LDO amendment.

Councilmember Sipple echoed the opinions of Councilmembers Osman and Filla. He stated he had read all communications from merchants contained in the meeting documentation packet. He was empathetic with merchants leasing space in Park Place who are at a disadvantage and would like to assist, sooner than later. Business success is a reflection upon the Governing Body, City Staff and the community. He was cognizant of the LDO amendment process and wanted to quickly move on items that could be addressed as a show of good intention, with documentation revised to match in follow-up. Garage skylines, merchant listings on garage signs and directory signs on vias/pass-throughs are important to identifying Park Place when traveling on Nall and 117th Street. These would be a step in the right direction until the City can determine signage for mixed use moving forward.

Councilmember Azeltine confirmed with Mr. Klein there were 50 signs and nearly all the proposed signage would require deviations until illumination was dropped by the Applicant. Councilmember Azeltine sympathized with retailers, but acknowledged the City has a process for revised final sign plans. He favored discussion of items that would be allowed with deviations and remand back to the Planning Commission, with part of the process to have a Planning Commission Work Session and minutes of that session available to the Governing Body. Staff input is used for decision-making. He expressed concern for a knee-jerk reaction, noting the City's sign ordinance had been in place in place for 14 years, that it had served the City well and that it impacts the entire City. He sympathized with the merchants, but stated it was not the City's job to promote Park Place. If the location of Park Place is not known, it was not due to bad planning.

Councilmember Azeltine inquired if internal illumination of the Village Directory Signs was critical and suggested a foot-candle reduction in lighting level.

Mr. Petersen stated internal illumination was important for readability and three signs, monument, village directory and parking totem sign, could be approved tonight with deviations. Mr. Klein confirmed the three signs presented by Mr. Petersen could be approved with deviations. Councilmember Azeltine stated for the record that Applicant agreed to work towards a reduced illumination level for the village directory signs.

Councilmember Rawlings asked for staff input. Mr. Coleman stated deviations with super-majority override vote could address deviations. Mayor Dunn confirmed the number of monuments signs to consider is now four; Mr. Coleman said deviation would be needed for the number of monuments. She asked for clarification on village directory signs; she is not comfortable with circle location. Mr. Coleman confirmed these would be outside the vias; a kiosk or corner sign with business names listed. Deviation would be needed for the internal illumination had been requested and added the sign panels could be lit by indirect illumination. Mr. Coleman stated for the parking totem, the deviations would be for size and internal illumination. The logo is not permitted by the LDO on directional sign. He stated the current sign that Mr. Petersen displayed was put up ad-hoc without permit. Mr. Petersen deviations are to give the Council discretion.

Councilmember Cain stated her agreement that something needs to be done for the Park Place tenants. She agreed with Councilmember Azeltine's concerns. She respects the City's procedures and that the City's signage ordinance had served the City well. Since both Staff and Planning Commission must follow the LDO, and the Planning Commission cannot grant deviations, the Staff and Commission had no choice but to recommend denial of the proposed plan. Mr. Coleman stated the amount of Planning Commission support was a mis-statement. Mr. Petersen stated for the record he had said the Planning Commission had not agreed with all, but particularly for the three items with deviations there was a majority of the Commission support, just like he hears the majority of Council supporting tonight.

Councilmember Cain inquired if the LDO would permit reduction of the abundant amount of trees and flower arrangements within Park Place. Mr. Coleman stated trees could not be removed, but their canopies could be raised. He added the trees are a mid-level growth point and they would eventually grow to a height above retail signage. Mr. Petersen stated the trees are trimmed twice a year and noted there may be no tenants left if progress is not made.

Mr. Petersen displayed a table of details of the three sign components of the proposed plan that could be approved by the Governing Body with deviations. If approved with deviations at the meeting, Park Place may be able to install some of the signs before the holidays. He stated commitment to continue to work with the Governing Body on Park Place signage, rather than remove landscaping.

Mayor Dunn asked Mr. Coleman if the parking totem sign required a deviation. Mr. Coleman replied a deviation would be needed because the proposed sign exceeded 6 sq. ft., but there was no maximum amount of deviation to consider. Considered a directional sign, the parking totem could not contain an internal logo of Park Place per the LDO. Mr. Petersen stated the logo would be removed to move forward with just a size deviation.

Councilmember Sipple estimated the size of the Park Place logo on the proposed parking totem sign to be about the size of a basketball. Councilmember Cain questioned the lost opportunity for branding. Mr. Coleman clarified for Councilmember Cain that even with the parking totem located within Park Place, use of a logo would require LDO amendment. Mr. Petersen stated they had hoped to incorporate a logo, but conceded the parking totem's location would be seen by visitors already inside Park Place. He stated the proposed size of the sign is appropriate for its green space location that may eventually become another building.

As confirmed by her review of the audio recording of the Planning Commission meeting, Mayor Dunn stated the Planning Commission had been concerned over the lack of visuals and color renderings, and unanimously wanted to see compromise to assist tenants. Mr. Petersen stated the plan documentation contained all required photographs; the Planning Commission did not receive the drawings. Mr. Coleman confirmed for Mayor Dunn that the Governing Body was on firm procedural ground.

A motion to approve was made by Councilmember Azeltine to override Planning Commission's recommended denial to approve deviations to allow four monument signs [ground-lit], village directory signs with lower pedestrian-level internal illumination, and size and internal illumination of parking totem sign [without logo]; seconded by Councilmember Filla.

Councilmember Filla made a Friendly Amendment to the motion to add a deviation for internal lighting of the monument signs, if Staff was agreeable. Mr. Coleman stated Staff does not support the lighting deviation; Councilmember Filla withdrew the Friendly Amendment.

Mr. Petersen protested, but agreed the monuments would be built with ground lighting. They would be built and show to Staff that these are not box signs. Mayor Dunn stated Staff was abiding by the LDO. Mr. Petersen disagreed stating the Staff could make this a deviation.

The motion was approved with unanimous vote of 8-0.

Mayor Dunn stated the duration of the meeting could not extend beyond 11:00 P.M. without an approved extension by the Governing Body, and she proposed a 30 minute rather a 15 minute extension.

A motion to extend the Governing Body for 30 minutes was made by Councilmember Filla; seconded by Councilmember Kaster. The motion was approved with a unanimous vote of 8-0.

Mayor Dunn entertained a motion to remand the signage ordinance topic to the Planning Commission for a Work Session, within the context of mixed-use zoning, recognizing the current ordinance had worked for years, and in preparation for the planning of the 135th Street. She stated signage is one of the most important tasks of the Planning Commission, and they take all very seriously. Therefore, the Planning Commission had almost four hours of discussion when this was in front of them, and they repeatedly extended their meeting, before sending this on to the Governing Body.

A motion to remand the signage ordinance topic to the Planning Commission for a Work Session with caveats as stated by Mayor Dunn was made by Councilmember Kaster; seconded by Councilmember Sipple.

As confirmed by Mr. Coleman, the next Planning Commission Work Session would be October 11. Councilmember Osman stated that in addition to Staff and developers attending the Planning

Commission Work Session, there also should be representatives from sign companies for new styles of signs and their classification in today's environment.

Mayor Dunn stated for the record that she was uncomfortable with circle signage within Park Place; she likes the trees and the rendering of proposed signage there was not appealing to her. For the record, Mr. Petersen said trees in the circle would not be removed.

Councilmember Filla confirmed with Mr. Petersen that he would file the Special Use Permit for the 801 Chophouse sign, and that he would continue to work on tenant signage.

The motion was approved with a unanimous vote of 8-0.

13. OLD BUSINESS – None

14. OTHER BUSINESS – None

15. NEW BUSINESS – None

ADJOURN

There being no further business, the meeting was adjourned at 11:06 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk