

Minutes

DVD No. 385

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, February 20, 2017. Mayor Peggy Dunn presided.

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

**Councilmembers Absent:** None

<b>Staff Present:</b> Scott Lambers, City Administrator	Karl Weinfurter, IS Specialist II
Patty Bennett, City Attorney	Chief Troy Rettig, Police Department
Chris Claxton, Parks & Recreation Director	Joe Johnson, Public Works Director
Richard Coleman, Comm. Dev. Director	Chief Dave Williams, Fire Department
Dawn Long, Finance Director	Nic Sanders, Human Resources Director
Brian Anderson, Parks Superintendent	Mark Klein, Planning Official
Mark Tepesch, IS Specialist III	Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk	

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

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

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

**3. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or 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 six citizens who had signed in to speak on Agenda Item 12.B. would be called when the item was up for discussion.

**4. PROCLAMATIONS – None**

5. **PRESENTATIONS/RECOGNITIONS** – None

6. **SPECIAL BUSINESS**

- A. **PUBLIC HEARING:** Creation of a Community Improvement District [CID] for Camelot Court Shopping Center [*Continued from the February 6, 2017 & January 23, 2017 Governing Body meetings*]

Mayor Dunn stated this would augment the previously approved CID and she opened the public hearing, asking for speakers.

Mr. Curtis Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, stated he would speak on behalf of the applicant and owner, Camelot Court LLC, and indicated the developer, Mr. Gary Hays, was present. The shopping center has become such a success since the public-private partnership launched several years ago, and parking is scarce. An agreement to acquire slightly less than one-half acre of City property located between the Justice Center and behind the shopping center has been worked out to expand the CID to construct additional parking to be used largely by employees in the back and alleviate parking for shoppers in the front. The CID amendment expands the district for the new area and allows for one-half of total estimated cost of the project costs, \$200,000 for purchase of land from City and one-half of the \$150,000 hard and soft costs, so the CID amendment would allow \$175,000 in CID reimbursable dollars on a pay-as-you-go basis. The resolution would make changes to the current development agreement in this regard.

Mr. Lambers confirmed to Councilmember Azeltine the City's CID Policy allows for the purchase of real estate/land.

No one else was seen or heard to speak.

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

- B. **Resolution No. 4724**, approving and authorizing the Mayor to execute a Second Amended and Restated Camelot Court Shopping Center Redevelopment Agreement, pertaining to the Community Improvement District [CID] [Camelot Court Shopping Center located at 119<sup>th</sup> and Roe Avenue]

**A motion to approve Agenda Item 6.B. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- C. **Ordinance No. 2818**, amending and restating Ordinance No. 2674, which authorized the creation of the Camelot Court Community Improvement District [CID] in the City of Leawood, Kansas; authorizing the Imposition of a Community Improvement District Sales Tax to be collected within such District; and approving and authorizing certain other actions in connection therewith [Camelot Court CID] [ROLL CALL VOTE]

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

- D. **Ordinance No. 2819**, amending Code § 5-120 of the Code of the City of Leawood, 2000, entitled, 'Occupation Fee Levied' and repealing existing § 5-120 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Claxton confirmed to Councilmember Cain the \$6 per day occupation license fee for walk-up businesses operated entirely within a van or truck was considered sufficient, as vendors would also pay a booth or participation event fee in addition to the license fee. Ms. Claxton stated if a vendor wishes to operate in the City for a longer period of time, they would apply for a different type of license.

**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 8-0.**

## **7. CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon 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. 2016-50, 2016-51, 2016-52, 2016-53, 2016-54, 2016-FINAL, 2017-1, 2017-2, 2017-3, 2017-4, 2017-5 and 2017-6
- B. Accept minutes of the January 3, 2017 Governing Body meeting
- C. Accept minutes of the January 3, 2017 Governing Body Work Session meeting
- D. Accept minutes of the January 23, 2017 Governing Body meeting
- E. Accept minutes of the December 7, 2016 Public Works Committee meeting
- F. Accept minutes of the November 17, 2016 Leawood Foundation meeting
- G. Accept minutes of the September 27, 2016 Leawood Arts Council meeting
- H. Approve Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards [Effective March 1, 2017]
- I. Reaffirm renewal of Cereal Malt Beverage [CMB] License for Hen House, located at 11721 Roe Avenue
- J. Approve payment in the amount of \$48,395.50 to the City of Overland Park, Kansas, pertaining to the Intergraph Software System [Intergraph Public Safety, Inc.] for the 2017 Computer Aided Dispatch System [CAD], Records Management and Mobile Operating Systems
- K. Approve payment in the amount of \$21,011.21 to the City of Overland Park, Kansas for 2017 annual maintenance fees pertaining to the Intergraph Software System [Intergraph Public Safety, Inc.] for the Computer Aided Dispatch System [CAD]
- L. Approve payment in the amount of \$59,225.00 to Leawood Chamber of Commerce pertaining to that certain Service & Funding Agreement dated February 2, 2015, between the City and the Leawood Chamber of commerce to provide funding for certain economic development services
- M. Approve purchase in the amount of \$72,659.34 from Murphy Tractor & Equipment Company for the purchase of [1] Backhoe Loader [includes trade-ins; see Surplus Property]
- N. Approve purchase in the amount of \$14,380.00 from Precision Small Engines for the purchase of Ironhorse Golf Course maintenance equipment
- O. Approve purchase in the amount of \$105,088.62 from Professional Turf Products for the purchase of a Sand Pro, Toro rough mower, Toro turf vacuum, Toro triplex mower and mower attachments

- P. Approve purchase in the amount of \$43,000.00 from Van Wall Equipment for the purchase of a tractor, 3-point blower, and brush-grapple attachment
- Q. Approve purchase in the amount of \$39,139.99 to Pro Deck & Patio to replace the Ironwoods Amphitheater decking
- R. **Resolution No. 4725**, approving and authorizing the Mayor to renew a Service Agreement in the amount of \$64,680.00, between the City and Next to Nature Landscape, LLC, pertaining to right-of-way and median maintenance
- S. **Resolution No. 4726**, approving and authorizing the Mayor to execute an Inter-local Agreement and Letter of Understanding by and between the City of Leawood and cities of Fairway, Merriam, Mission, Prairie Village, Roeland Park, and the Johnson County Parks and Recreation District, pertaining to the SuperPass Program at the Leawood Aquatic Center, located at 10601 Lee Boulevard
- T. **Resolution No. 4727**, approving and authorizing the Mayor to execute a Service Agreement between the City and Gilmore & Bell, to provide Bond Counsel services for the City of Leawood
- U. **Resolution No. 4728**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$17,600.46 between the City and American Sentry Electronic System, Inc., pertaining to the security for the Ironhorse Clubhouse Expansion Project [Project # 49133] – *CONTINUED FROM THE DECEMBER 19, 2016 GOVERNING BODY MEETING*
- V. **Resolution No. 4729**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$52,394.00, between the City and S & W Waterproofing, Inc., pertaining to the Sallyport Deck Repair Project at the Justice Center, located at 4201 Town Center Drive
- W. **Resolution No. 4730**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,495,266.10, between the City and O'Donnell & Sons Construction, pertaining to the 2017 USAB/Thin Asphalt Overlay Program [Project # 70022]
- X. **Resolution No. 4731**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$2,441,908.76, between the City and Miles Excavating, Inc., pertaining to the Roe Avenue Improvement Project between College Boulevard and 119<sup>th</sup> Street [Project # 72063; Street & Storm: Project # 80253; Curb]
- Y. **Resolution No. 4732**, approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the Board of Commissioners of Johnson County, Kansas for the Roe Avenue Improvement Project between 121<sup>st</sup> Street to 135<sup>th</sup> Street [Project # 72053]
- Z. **Resolution No. 4733**, accepting new GASB-34 Public Infrastructure [Traffic Signal] in accordance with GASB-34 Guidelines of reporting Inventory of Assets, for property located at 137<sup>th</sup> & Nall Avenue
- AA. **Resolution No. 4734**, accepting new GASB-34 Public Infrastructure [Vehicle Bridge, Fiber Optics Conduit, Storm Sewers, Street Lighting, Streets, Traffic Signals/Controllers] in accordance with GASB-34 Guidelines of reporting Inventory of Assets, for property located on 143<sup>rd</sup> Street between Nall Avenue and Windsor
- BB. **Resolution No. 4735**, accepting new GASB-34 Public Infrastructure [Right-of-Way] in accordance with GASB-34 Guidelines of reporting Inventory of Assets, for property located in Enclave at Cedar Point [131<sup>st</sup> Street, 132<sup>nd</sup> Street and Overbrook Road north of 133<sup>rd</sup> Street]
- CC. **Resolution No. 4736**, accepting and authorizing the Mayor to execute the National Pollutant Discharge Elimination System [NPDES] Annual Report

- DD. **Resolution No. 4737**, approving the City’s Stormwater Management Plan for compliance with the State Permit to discharge stormwater under the National Pollutant Discharge Elimination System [NPDES]
- EE. Declaration of Surplus Property: Public Works Sokkia Survey Equipment, Asset # 00588; 2009 JCB Backhoe, Asset # 1447; 2006 CAT Backhoe, Asset # 1279; and 2016 Skid Steer Loader, Asset # 2008
- FF. **Resolution No. 4738**, approving a Final Sign Plan for Bukaty Companies (Financial Services), located south of College Boulevard and east of Roe Avenue (PC Case 02-17) *[from the January 24, 2017 Planning Commission meeting]*
- GG. **Resolution No. 4739**, approving a Final Plan for changes to the façade of a tenant space for Park Place – Tom Tivol Jewels, located north of 117<sup>th</sup> Street and east of Nall Avenue (PC 04-17) *[from the January 24, 2017 Planning Commission meeting]*
- HH. Police Department Monthly December 2016 Report
- II. Fire Department Monthly December 2016 Report
- JJ. Municipal Court Monthly December 2016 Report
- KK. Police Department Monthly January 2017 Report
- LL. Fire Department Monthly January 2017 Report
- MM. Municipal Court Monthly January 2017 Report

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

Mayor Dunn requested Consent Agenda Item 7.H. be pulled.

Councilmember Azeltine requested Consent Agenda Item 7.V. 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.**

Councilmember Sipple stated he would recuse from voting on Consent Agenda 7.A. because his wife, an independent contractor to the Parks & Recreation Department, was listed as a payee.

Councilmember Harrison questioned if the three separate checks for Fire Station No. 1 design architectural fees were expected according to contract and project status. Mr. Johnson stated the contract for preliminary layout of building provides for monthly billing, project progress is tracked and billing to-date was appropriate.

Councilmember Harrison expressed appreciation for the donation to the Blue Valley North High School “Project Graduation”, a life-saving program. Mayor Dunn stated the City is fortunate to have the funds to provide support.

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

Mayor Dunn stated she had pulled Consent Agenda Item 7.H. to express sincere thanks to Councilmembers who serve as liaisons to numerous volunteer City groups, which adds about four to five meetings to their schedules, in addition to Governing Body meetings. She asked any Mayoral appointees present to stand. She recognized Alicia Jennings and Kevin Jeffries for their service, who were applauded by attendees.

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

Councilmember Azeltine questioned why the first four work items of the proposed contract for Justice Center parking deck repairs were for replacement of various types of sealant joints, since the Justice Center had been open just a few years. Mr. Johnson stated the deck had been in place for five years and has caulked joints between panels and along the edges of the building. Over four or five years, caulking dries out due to weathering, and the deck does not expand or contract well and leaks. This is a typical construction process, normal for caulk and replacement would be needed again in about five years. A significant portion of the contract cost is labor.

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

## **8. MAYOR'S REPORT**

- A. Attended the Leawood Chamber Legislative Luncheon where Leawood Senators and Representatives participated in a panel discussion of current session. A copy of the Chamber's 2017 State Legislative Priorities is included in packets.
- B. Councilmembers Jim Rawlings and Lisa Harrison joined me at the Conveners Reception held at Johnson County Community College with all Johnson County legislators. We were addressed by Representative Stephanie Clayton who is the Chair of the Johnson County delegation.
- C. Attended two Johnson & Wyandotte Counties Council of Mayors meetings; the first was hosted by Mission Hills Mayor Rick Boeshaar and the second one was hosted by Mission Mayor Steve Schowengerdt.
- D. Police Chief Troy Rettig and Captain Dale Finger joined me at the Martin Luther King Legacy & Scholarship Awards Committee Dinner co-sponsored by NAACP Representing Olathe, Overland Park and Leawood.
- E. My thanks to I-Lan Sister City Committee Chair Bette Monson and her committee for organizing a grand Lunar New Year celebration at Blue Koi. This event honors our Sister City relationship with I-Lan, Taiwan.
- F. Much appreciation to City Administrator Scott Lambers, Director of Parks & Recreation Chris Claxton and City Clerk Deb Harper for assistance with my State of the City event held at the Ironwoods Lodge.
- G. Participated in a Leawood Chamber ribbon cutting for KC Tan located in Parkway Plaza at 135<sup>th</sup> and Roe. We wish them much success.
- H. Congratulations to the presenters of our 6<sup>th</sup> Annual Juried Art Show held at the Ironwoods Lodge: the Leawood Arts Council, the Stage Company and the Leawood Foundation. Many thanks to Cultural Arts Coordinator April Bishop and her team for great support.

## **9. COUNCILMEMBERS' REPORT**

Councilmember Debra Filla

The 9<sup>th</sup> Annual HOA [Home Owners Association] Meeting and Leawood Sustainability Summit is tomorrow night, February 21, 2017, at the Ironwoods Lodge from 5:00 P.M. to 8:00 P.M. HOA representatives should register to attend if they have not. Mayor Dunn and Councilmembers are planned to attend.

Councilmember Filla stated she would defer update and discussion of the Task Force’s Community Garden Five-Year Plan until the next Governing Body meeting, March 6, 2017. Fire Station No. 1 will need to be constructed further south on the site due to cell tower lease that does not expire until 2019. For 2017, the pilot Community Garden will be located at 9615 Lee Boulevard behind Fire Station No. 1, as it was in 2016, with online resident plot requests opening March 1. Information would be posted on the City’s website, and the Parks & Recreation Facebook and Twitter accounts.

Mr. Lambers stated due to the preliminary engineering analysis indicating the need to relocate Old City Hall on the site prior to any construction and the need for a construction staging area, these would preclude the Community Garden on the site in 2018.

Mayor Dunn thanked Councilmember Filla for her report and stated anticipation for a great turnout at the HOA Meeting and Sustainability Summit.

**10. STAFF REPORT – None**

***COMMITTEE RECOMMENDATIONS***

**11. PARKS & RECREATION ADVISORY BOARD**

*[from the November 15, 2016 Parks & Recreation Advisory Board meeting]*

Resolution accepting Policy for gifts, sponsorships, and Naming Rights – *CONTINUED TO THE MARCH 6, 2017 GOVERNING BODY MEETING*

**12. PLANNING COMMISSION**

***[From the January 10, 2017 Planning Commission Meeting]***

- A. **Ordinance No. 2820**, approving a Revised Preliminary Plan for the Cornerstone development and a Special Use Permit for a hotel for Cornerstone Development Element Hotel, located south of 135<sup>th</sup> Street and east of Nall Avenue (PC Case 65-16) [ROLL CALL VOTE]

Mr. John Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, stated he was pleased to present on behalf of Robinson Development a new exciting addition for a hospitality concept of the 135<sup>th</sup> Street Corridor. Company president Mr. Brian Robinson and Civil Engineer Consultant Mr. Judd Claussen were also present.

Mr. Petersen stated the proposed hotel would add a new hospitality space to the existing Cornerstone development at 135<sup>th</sup> Street that would activate the site through a new concept of the 2002 Final Plan, 15 years ago, while still respecting good basic design elements of that plan. Over the past nine months, the applicant has worked with staff on issues and whether we could adhere to the plan conceived 15 years ago or do things differently. The 15 year old plan has stalled. The Planning Commission recommended approval unanimously, with 27 stipulations by staff and minor revisions to stipulations by the Planning Commission. The applicant agrees to all Planning Commission stipulations.

Mr. Petersen provided background on the issues raised, displaying the approved 2002 Final Plan with the proposed modified site area combining two lots into one lot outlined in red; a current aerial view of the development; a snapshot of pedestrian way from the eastern parking lot between Gaslight Grill and Bonefish restaurants, moving west to Seville Home store depicting some Gaslight Grill outdoor seating

and secondary door, Bonefish trash enclosure; and a snapshot of the first circular planter amenity with a wooden fence behind.

The original 2002 Final Plan called for a “center egg” series of buildings, not quite a circle, which would break with the traditional process of development and have the buildings orient inward to a pedestrian walkway. Parking was outside the circle of the development, so if retailers did not have a back door, visitors would access through spaces between the buildings, to reach the inside pedestrian way and the front of the retailer. The current aerial view of the development shows the “center egg” portion of the project has stalled. Throughfares are ringed with traditional pad sites and currently have filled out nicely with a pharmacy, restaurants and a brokerage firm on the corner. Gaslight Grill and Bonefish restaurants requested and were approved modifications to have doors opening to the parking lot. Gaslight Grill does have a secondary access to the pedestrian way, while Bonefish has very little access to the pedestrian way. Primary access to Seville Home is to the parking lot to the north, with a secondary receiving point and access currently located on the grass. Lot 17 in the southwest corner of the site was the infamous two-story steel-framed building that went up, but did not get market traction and was demolished.

Against this backdrop, a hospitality space makes sense and is a good use in the area. It would activate the center and promote visitors to other retailers in the development. The 2002 Final Plan does not quite work, but the proposed plan would bring together all the elements of the pedestrian way and gathering areas, in an equilibrium between concept and viable investment. The applicant is committed to the concept to continue and extend the pedestrian way, so visitors may stroll or gather. By modifying the 2002 Final Plan slightly for approval of the 110-room hotel, it may facilitate getting additional retailers to orient to the central pedestrian area and create “people of feet”, setting the table for completion of the development concept.

Mr. Petersen displayed an aerial plan view of The Element Hotel that would utilize 1.4 acres of the site, with a four-story building having 110 rooms. The front of the building would face south to the readily available parking field. Cross-parking agreements are in place. The front would have a porte-cochère drop-off area and nine head-in parking spaces for handicapped and short-term uses. The pool would be glass-enclosed with an outdoor seating area and a secondary ingress/egress to the hotel. Pedestrians would be welcomed to access the hotel during normal hours. The hotel would not have a full-service restaurant, so guests may visit nearby restaurants. The applicant is setting the table for retailers who may wish to orient to the pedestrian way. He displayed renderings showing a vision of the continued pedestrian way and additional retailers, as well as visitor areas activated by the hotel.

Staff raised issues with no activation of the pedestrian way, the intrusion of the pool into the pedestrian way blocking the way’s siteline, the porte-cochère drop off area and nine head-in parking spaces that back into the drive and the trash enclosure to the right in front of the building. The pool is a bit of intrusion, but it does not really abandon or exacerbate the issue of knowing other opportunities lay beyond. Although back-up of cars is not optimal, particular care was taken to bring drive and drop-off area out away from the building to protect guests that are using the head-in parking spaces. Both Gaslight Grill and Bonefish have head-in parking spaces. The Leawood Development Ordinance [LDO] does not allow trash enclosures that are not connected to building. The trash enclosure will be screened and of the same materials as the building. Bonefish trash faces Gaslight Grill guests at the same distance for the hotel trash enclosure. The hotel will have limited food service so there will be no grease traps needed.

Neighbors, mostly businesses, have welcomed the project. Meetings were held with the Church of Resurrection Board of Directors and with Rev. Adam Hamilton. Peak parking times for the Church and the hotel are anticipated to work well in opposition, and view of the Church's sanctuary was discussed. The Resurrection Church is excited for the hotel because of their out-of-town visitors.

Councilmember Sipple inquired if other options for the pool were considered, being concerned about the lack of bend and narrowing in the pedestrian way in the rear of the hotel siteline because of the pool jutting out to the north, and about street lighting for walking after dark. Mr. Petersen stated a pool is a critical amenity for a hotel of this size and a pool would typically be an appendage to the building. The back is the only available location as to the west is another lot for mixed use and to the front is the parking lot. The total corridor width around the pool would be 29 ft. wide. The Final Plan would have landscaping and contain ambient and safety-minded pedestrian lighting.

Mr. Petersen confirmed to Mayor Dunn the pool would be indoor and totally glass-enclosed, with access to the outdoor lounging area. Bar service and light snack menu would be available in the outdoor area.

Councilmember Filla asked for information about the metal panels mentioned in Planning Commission Recommendation Stipulation 6. Mr. Petersen stated accent metal panels were initially proposed, but architecture was not being approved with the proposed plan. The applicant would work with staff on an allowable accent of high quality to bring back in the Final Plan before the Governing Body.

Councilmember Cain noted Mr. Petersen had stated at the Planning Commission meeting [Page 18 of the meeting minutes], the applicant would return at Final Plan to show how the nine head-in parking spaces would work with traffic calming devices. Mr. Petersen clarified the "bow out" design of the parking area would alert traffic and the Final Plan would have demarcating pavers. There would be signage for handicap and time-limited temporary parking. Head-in parking area would also be used for staging and overflow of the porte-cochère drop-off area.

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

Mayor Dunn thanked Mr. Petersen for the presentation and stated the hotel would be a nice project and addition to the development.

- B. **Ordinance No. 2821**, approving Planning Commission's recommendation of denial of requests for Rezoning from REC (Planned Recreation) to RP-2 (Planned Cluster Detached Residential District), Preliminary Plan, Final Plan and Final Plat, for Village of Leawood [f/k/a Estates of Old Leawood] located north of 91<sup>st</sup> Street and east of High Drive (PC Case 113-16) [ROLL CALL VOTE]

***Staff Comment:*** *It is the position of the City Administrator the property located west of Sagamore and the four [4] lots be downzoned to R-1 and the developer have this portion of the project replatted to three [3] lots.*

*The City Administrator recognizes that the Governing Body may want to consider the property currently zoned recreation become public and owned & maintained by the City, as has been suggested by the applicant. Prior to this consideration, this issue should be vetted by the PW staff, Planning staff, P&R*

***staff and the Parks & Recreation Advisory Board. This review would provide the Governing Body with potential improvements to be stipulated as part of any favorable consideration to accept this property as parkland. Such improvements could include but not be limited to, additional trail improvements, pet waste stations, benches, playground equipment, drinking fountain, etc. In order for this to occur this application would need to be continued to the April 3, 2017 Governing Body meeting.***

Mayor Dunn stated the process for discussion would be as follows: 1) presentation by the applicant, 2) questions from the Governing Body to the applicant, 3) citizens in order of sign-in, 4) applicant comment and response, and 5) Governing Body discussion and possible action. As requested citizens and agreed by the Governing Body, the six citizens would have a total of 40 minutes to bring forth new, non-repetitive information.

Mr. John Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, stated he would present on behalf of Leawood Villas Devco LLC. Developers Mr. Mark Simpson and Mr. Saul Ellis, Civil Engineer Mr. Tim Tucker of Phelps Engineering, and Landscape Architect Mr. Brick Owens were also present.

Mr. Petersen displayed a current aerial view of the site, noting the investment of millions of dollars in streets and infrastructure waiting for the market to respond. He stated the simple, straightforward concept of an in-fill development of high quality single family homes, similar to what is exploding in north Leawood over the last five to 10 years, with trend to increasing larger and taller houses that still meet site requirements [Larson Effect]. The proposed plan includes the new concept that works well next to traditional R-1 homes and appeals to certain home buyers, by taking high quality homes and clustering them slightly and utilizing the remaining open space for enjoyment of those that live in that neighborhood. Hallbrook single family homes with yards backing up to Hallbrook Villages, that has clustered homes with smaller front and back yards, maintained common areas, and open space for use for those residents, has the same concept and living style.

The application has come out of a thorny history and much good faith and hard work, with both the neighbors and the developers attempting to find a plan that works. Although Mr. Ellis and Mr. Simpson are not dismissive to the concept of 12 years ago or dismissive of others, this is truly a redevelopment. The plan of 12 years ago was for homes on smaller lots, with an open recreational area with pool, parking lot and lights, and 7.5 acres behind the homes to be privately owned, but openly inviting the public with swings, tennis courts and cooking pavilions. The owner constructed streets, retaining walls and engineered the site. The market said “no thanks”; not a single lot sold because of many of the issues that will be heard tonight. Privately owned amenities for public use are a legal liability for an owner or an HOA.

The proposed plan is for the same 16.25 acres, 24 lots rather and 23 lots, with a density of 1.48 units per acres which is less than requirement for R-1 neighborhood. Average lot size in the plan from 12 years ago was about 9,500 sq. ft. and proposed plan lots range from 12,286 sq. ft. to 14,000 sq. ft. on the west side, still leaving 7.72 acres of open space. The development would be maintenance provided like Hallbrook Villas. A sidewalk per City’s requirements will come off the public sidewalk on the north and continue down to the bridge that was replaced by the owner because that had been identified as an important item by the City and the neighbors. The west side of recreation property west of Sagamore would contain four single family lots that meet LDO, per staff. Privately owned, but public access, recreation area on the east side along the creek was eliminated.

Developers Mr. Simpson and Mr. Ellis have broad experience and an impressive portfolio, some within the City configured on lots sized to meet today's market needs. Mr. Petersen displayed home exteriors of villa projects developed by Mr. Simpson and Mr. Ellis in the area, some in the City.

Staff took issue with the shape and average depth of Lot 21, recommending to the Planning Commission the four lots west of Sagamore, Lots 21, 22, 23 and 24, be reduced to three lots [Stipulation 1] for two reasons detailed on Page 12 of staff comments. Staff stated Lot 21 did not meet the LDO as it was not symmetrical in shape and did not have 120 ft. average lot depth. In response, the applicant submitted a revised plan for the four lots, using part of Lot 21 for a "pocket park." Based on LDO calculation, average lot depth for reconfigured Lot 21 would be Side Property Line X = 130 ft., Side Property Line Y = 110 ft, (X + Y) divided 2 = 120 ft. Lot 21 is generally rectangular in shape. There are many lots in the City that are irregular; that is what happens when you come to the end of a subdivision. Mr. Petersen displayed several examples of lots with irregular shape in the City. Having talked with the public, they do not want houses on the four-lot area and are of the opinion the area was always supposed to be a park.

The four-lot area was never intended to be an open recreational space, but a privately owned pool, parking lot and lights with paid public access. The public has been using privately owned property to access the bridge to State Line, walking for enjoyment and with pets. Since the property is privately owned, this is a liability issue especially in case of flooding. Also, development home owners may not want these activities in their back yards. The applicant proposed in a stipulation to the Planning Commission to grant a 20 ft. wide easement for a 10 ft. wide asphalt ADA-compliant footpath, following the public worn walking route. The stipulation was rejected by the Planning Commission. A process, not part of plan, to dedicate 6.5 acres to the City along Lot 2 to Lot 19 for a passive place of nature under control and auspices of the City, with no home owner liability and stipulation of no tennis courts or swings, has been made. The compromise offer is outstanding. If the City does not accept, the area would remain in a natural state, with slight enhancements. The offered park is not part of the application, but would be worked out.

The Staff Comment of the City Administrator is not part of application. The applicant is asking for the proposed plan to be approved in accordance with the LDO. Staff recommends approval except for Lot 21, and argument over irregular lot shape is not an issue. The most important part of the Staff Report is analysis of staff and City Attorney regarding the "Golden Analysis," criteria upheld by the Kansas Supreme Court for zoning, as follows: 1) character of neighborhood, 2) nearby zoning, 3) suitability of use, 4) time for which property has been vacant and 5) relative gain to the public health, safety and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of the denial of the application. Mr. Petersen hardly agrees with this analysis. He stated the vacant time criteria is critical and the most important of these criteria would be the "balance of hardship". He asked if the relative gain of the public for pool access or to walk their dog on someone else's property outweigh the relative hardship if the application of an owner who has invested millions of dollars were denied.

After 12 years, the plan would bring new residents or provide new homes for existing residents. The plan's 24 lots are under contract by three of the most well-known and highly-regarded Johnson County builders, with \$150,000 in non-refundable deposits if zoning is approved. Mr. Petersen asked the contracts be submitted to the record. He stated hopes for having some homes ready for the Kansas City Fall Parade of Homes would not happen; earliest would be in 2018.

Mayor Dunn asked City Attorney, Ms. Bennett, for comment. Ms. Bennett stated Mr. Petersen had pointed out what was part of the application and what was not, including some suggestions for revisions to the submission that can be considered. The stipulations and rezoning of years ago are not binding promises. As pointed out by Mr. Petersen, the “Golden Factors” do come into play for time vacant, suitability of use and history of the property itself. Kansas law allows the owner of a property to seek rezoning at any time and it is up to the Governing Body to evaluate the application in accordance to law.

Mr. Coleman confirmed to Mayor Dunn if approved, the application for Preliminary Plan, Final Plan and Final Plat would not come before the Governing Body again; if approved this would be the plan of record. Mr. Petersen stated builder contracts were presented with hopes of being a part of the fall 2017 Kansas City Parade of Homes. The design elements were presented to the Governing Body in response to the “Staff Comment” by the City Administrator. The Governing Body can approve the plan application tonight with a commitment the City can take 90 to 120 days on the verbal offer for the passive area and ingress/egress only. The land would not be dedicated if it would have playground equipment, etc., mentioned in the City Administrator’s comment. The applicant wants the plan approved tonight.

Councilmember Rawlings questioned the amount of acres offered to be deeded to City that is not part of plan and how that would be addressed, or not, in a vote. Mr. Petersen stated area along the creek is about 7 acres and the offer would be for about 6.5 acres, to keep a certain amount of area along the retaining walls for HOA maintenance. Ms. Bennett stated in regard to the offer, the applicant would work with the City under a different set of circumstances, at a later time. If making the land public, the property would need to be vetted by City staff. For the current plan, the Governing Body could approve with seven votes. If the Governing Body wants to change or have stipulations, that would also require seven votes. The Governing Body can also continue, remand or deny the proposed plan with a simple majority vote.

Mr. Petersen confirmed to Councilmember Filla the location of the existing retaining walls would not be changed.

Mr. Peterson confirmed to Councilmember Sipple a stipulation had been presented to the Planning Commission for a 20 ft. easement granted to the City along the creek to connect sidewalk at 89<sup>th</sup> Street to the bridge as a public walk, which was rejected. The applicant would have constructed a 10 ft. wide ADA-compliant asphalt trail from the public sidewalk to the bridge. Then, the applicant proposed to dedicate the 6.5 acres from the creek to right behind the retaining walls to the City.

Mr. Petersen confirmed to Councilmember Cain the large area between the proposed 10 ft. asphalt trail and the creek in the proposed plan would be privately owned and a natural buffer. The area of the 6.5 acre offer would wrap behind Lot 2 through Lot 5, Lot 9 through Lot 12, Lot 17 to Lot 19. The area is flood plain and if the City does not accept, the area will be a natural tree-covered meadow for their residents. If dedicated to the City, the applicant would not do a full landscape plan, but would install an all-weather cementitious material path and natural flues under trails where the footpath is now. A 10 ft. asphalt trail would not be installed by the applicant as it would need to be ADA-compliant and would require the removal of some trees, which is not desired.

Councilmember Cain asked Mr. Coleman if he was in agreement with the applicant's average lot depth calculation of Lot 21. Mr. Coleman stated he did not agree, as the calculation is not for irregular shaped lots, but regular shaped lots. The side lot line was taken at a severe angle rather than points from front to back of the lot, and it does not average out. Mr. Petersen stated the calculation is per City Code and not every lot in the City is a perfect square or rectangle.

Mayor Dunn indicated she had trespassed as others have done, walking the lower level of the property over the weekend. The land has been walked on for many years, as evidenced by the well-worn manmade trail going well beyond to both to south and north. The area offered for dedication is all brush and scrub and would be quite costly to transform to a true-covered meadow as detailed by the landscape architect. She made the suggestion that if the City would take over the area for liability and perpetuity and the applicant would not undertake the cost of landscaping, a 10 ft. ADA-compliant asphalt trail around the circumference of the tract would be a nice gift.

Mayor Dunn reiterated citizens would have a total of 40 minutes to present in the order of sign-in.

Ms. Martha Weber Conradt, 8625 Overhill Road, stated she and her family had lived at the address for 16 years and she is a member of the Save our Green Space Group. She thanked the Governing Body for their time and all the work they do to make the City great, and stated many residents care deeply and more would be attendance if not for the Presidents' Day holiday. She stated she would talk about the history of the property, importance of recreation property, vision for recreation space in north Leawood and fit. One-hundred and sixty-six residents had electronically signed a letter in opposition to the proposed plan, as evidenced by the updated documentation provided to the City Clerk at tonight's meeting. The history and background of the site are relevant. In the 1930s the property was considered unusable and was a landfill. The Leawood Club opened in 1954 and operated for nearly 50 years; nearby homes were purchased with this recreational option in mind. In 2002, Mr. Richard Jones purchased the property for \$1.75 Million and closed the club. There are eight acres in the 100-year flood plain and 8 acres targeted for residential high-density development. Keep it Recreational Group, now known as Save Our Green Space Group, and neighbors unanimously opposed rezoning from Recreational in 2002, and in 2003 and 2004. Various plans were denied by the Planning Commission three times, remanded from Governing Body to the Planning Commission once and denied once by the Governing Body. Two valid protest petitions were filed. She displayed a color image from the Old Leawood Estates brochure. In 2004, Mayor Dunn cast the tie-breaking vote for a compromise "donut" zoning plan calling for 58%, or 9.5 acres, to remain recreational with 1.3 acres of that to be used for small pool, cabana and tennis courts open a few months each year to dues-paying members. An area of 8.2 acres would be open with access afforded to all. A playground with public access was added at Final Plan approval. Buried power lines for adjunct homes were promised. City Ordinance 2087 includes 26 stipulations, and approval of the "donut" zoning and Final Plan hinged upon those stipulations. The partial rezoning was contingent upon the performance and observation of supplemental regulations, stipulations, conditions and restrictions. She was shocked at the November Citizen Interact meeting to hear Mr. Petersen state "no access." In 2005, when the Final Plan was approved, Councilmember Gill clarified with the applicant's attorney that deed restrictions remain in place, and Councilmember Gill commented he felt good the property had public access. At the January 10, 2017 Planning Commission meeting, Commissioner Strauss commented he could appreciate the market changes, but not to replace a pool with houses. Residents opposed agree with Mayor Dunn and Commissioner Strauss that the 2004 "donut" zoning was a necessary compromise. She asked the City to honor and deny the current proposed plan.

Mr. Flip LaMonica and Mrs. Janel LaMonica, 8745 High Drive, stated they would present in alternating fashion. They and two children have lived near the entrance to the club property near 89<sup>th</sup> and High Streets for 12 years. The LaMonica's displayed a visual of a "City Mission". Mr. LaMonica stated the mission ties to the promises made in 2004 about the history, wildlife and rarity of undeveloped green space in north Leawood. He stated north Leawood has 8,000 residents that share one-half acre Brook Beatty Park, while the 23,000 residents of central and south Leawood share 400 acres of park. If the same ratio of park space for residents of north Leawood were applied to the remainder of the City, central and south Leawood residents would share 1.5 acres rather than 400 acres of park. Play areas have been lost since 2004. Mission Valley Middle and Somerset Elementary Schools have closed, and the Corinth Elementary School playground is now locked after hours. An article in the fall edition of "Look to Leawood" magazine published by the Leawood Chamber of Commerce talks about the beauty of parks, preserving land for social interaction and physical activity and reducing stress. The article quotes Ms. Chris Claxton, Parks & Recreation Director that schools and parks are ranked high by employees/business, and property adjoining such places having 20% higher value. Nearby cities are buying back properties for recreation. Roeland Park spent \$525,000 for 5.4 acres and Prairie Village spent \$1.1 Million for three acres. When Meadowbrook closed, 94 acres were kept for recreation in partnership with Johnson County. Trails and pedestrian access are important as evidenced by Leawood's bicycle-pedestrian plan. As part of the bicycle-pedestrian plan, 85<sup>th</sup> Terrace was narrowed to construct sidewalks to access Lee Boulevard and State Line. The former Leawood Country Club connection would provide the same public access to Lee Boulevard and State Line. Recreational space can buffer neighborhoods from development; Gezer Park is an example.

Mrs. LaMonica stated she was thrilled and jealous of the amount of parks in other areas of the City. The 2010 census shows the number of residents in north Leawood is growing. Homes are being improved and families with young children are moving in; a rebirth. Homes with 11 children, age newborn to 14, abutt her property. Even with a small park at the Old City Hall site, the north area is underserved when compared to the 9.5 acres per 1,000 resident recommendation National Parks & Recreation Association, which would equate to 76 acres of park needed for north Leawood. This is not about pool, tennis courts or a bad gamble by a developer, but about kids playing in the streets. Mr. Petersen's trail idea is nice, but the buffer area that would have four lots, using part of the largest undeveloped green spaces in north Leawood. She asked the Governing Body to please save the green space and uphold the Planning Commission decision.

Mayor Dunn noted that Gezer Park and the Leawood Dog Park were constructed on donated land.

Mr. Mark Curfman, 2812 W. 90<sup>th</sup> Street, stated the proposed plan of in-fill development of 24 villas on less than 8 acres was out of character for the area of modest-size homes built in the 1950s and 1960s on large lots. He displayed a copy of Code Section 16-2-1 from the LDO, "Establishment of Districts, More Restrictive – Less Restrictive, Zoning Districts," noting that RP-2 provides a buffer against RP1. He displayed a City zoning map for north of 95<sup>th</sup> Street, pointing out the "sea of yellow" RP1 zoning, three small RP-2 zones in khaki color, and green color buffer space. In 2004, no one got everything they wanted, but the compromise was right. Density was an issue at that time and is now even more because the developer wants to build on the buffer zone. There would be an increase in density of 25%. He stated developer has offered \$3,000 for these lots to mitigate impact. He reviewed zoning requirements for development types, stating the proposed lots and setbacks are one-half of those in 2004, and the villas out of proportion to lot size. He asked the Governing Body to not help the developer's bottom line, to uphold the Planning Commission decision and deny approval of the plan.

Mr. Wolfgang Trost, 8732 High Drive, stated he and his wife and daughter moved to Leawood in 1991, 26 years ago. He provided 11 inch by 17 inch copies of the City zoning map, a copy of the former Leawood Club brochure, a copy of the applicant's proposed Park and Open Space Plan dated 12/22/16 with elements of the "pocket park" shaded in green, a graphic color "vision" superimposed on the applicant's proposed Park Exhibit dated 1/20/2017, 11 color renderings of details of the Park Exhibit vision and six photographs with hand-drawn features added. He would not repeat what had been said by other citizens, but wanted to share his vision. The need for green space is important and would not be satisfied by a 15 ft. "pocket park." Shallow Lot 21 could be a "Secret Garden"; the land is primed and ready for an accessible recreational space.

Mayor Dunn commented she was a personal fan of his work.

Ms. Grace DiFrance, 9018 High Drive, stated she and her husband purchased their home in 2003. She thanked the Governing Body for reading emails and taking telephone calls, and stated appreciation for time and consideration in a decision that would impact the community for generations to come. She is looking for a compromise of all parties to give peace. She displayed Mr. Trost's revision of the Park and Open Space Plan depicting the dramatic change of a one-twelfth acre "pocket park," to compare this vision from 2004 to now. She stated discussion boiled down to three points. Recreation space is in short supply in north Leawood and should be preserved. The Governing Body and Mr. Jones had come to an agreement on recreational space for nearby residents, and Governing Body approval of the proposed plan would negate that agreement. The proposed plan is out of character, and eliminates green buffer space and amenities, access to the bridge and recreational area. Neighbors would not object to a high-density development of only 20 RP-2 villas on cul-de-sacs for today's market as it is high time, or asking for a pool, cabana, tennis court and elaborate system of trails to be built. She appreciates the offer of an asphalt trail. The neighbors want access to lower green space with trails and buffer on west to buffer RP-2 from RP1. The developer will say the plan cannot work, without the three or four lots in the green space. Take the opportunity to do what is right and do not ignore the 2004 plan. Twenty years from now citizens will look back and thank every one of you for holding true to the City's own vision, and she asked all present in favor to stand, speaking loud and clear. She asked the City Administrator's comment be considered, taking time for staff review, noting after 15 years of active community interest and involvement in the matter, careful consideration is important for a few more weeks. Please protect the space and neighbor access to it. She questioned how the proposed plan could be approved tonight with only a verbal of other considerations. She asked for denial of the plan.

Mayor Dunn thanked all presenters and invited Mr. Petersen to speak. Mr. Petersen requested a five-minute recess to consult with this client. The Mayor agreed and stated the meeting would resume at 10:00 P.M.

Mayor Dunn resumed the public meeting with a call to order at 10:01 P.M.

Mr. Petersen stated there was no disagreement on the general concept of open and green space addressed by the 7 acres. The issue is confusion on ownership; inviting public onto privately owned property does not work. The developer has tried to move towards the City's desire to bring an amenity to the community. He stated Mr. Trost's depiction of the half-moon green space proposed for the City was great, but 2004 plan never contemplated Mr. Trost's Park Exhibit depicting a place of retreat where four lots are proposed. The 2004 plan was a pool for 60 families, parking and lights, not a grassy field for recreational use.

At the owner's expense, power lines are buried for Lots 21, 22, 23 and 24, and the line is buried behind the east side of existing homes and the west side of proposed new homes. All development lines will be buried. Kansas City Power & Light has received pre-payment for the cost of removing utility poles.

Mr. Petersen reviewed the average lot depth calculation for Lot 2. He stated Lots 21, 22, 23 and 24 on 1.3 acres meet City code and are good transitional elements. A \$3,000 allowance for each of these lots for \$900,000 homes would be provided as the buffer may be negatively perceived, though there will be extensive landscaping provided. The applicant would take this as a stipulation if the matter is approved and provide before pulling building permits in the development. The homes will be 11 ft. to 17 ft. lower than other homes in the area. He pointed out the home the corner of Sagamore and Lee having just a 25 ft. backyard. Despite the desire for compromise, if the proposed plan with four lots with reasonable size homes and setbacks is not approved, there would not be recreational space anywhere on the property. The City is offered 7 acres of green space for use within reasonable parameters.

Councilmember Azeltine inquired about R-1 lot square footage compared to the square footage of RP-2 lots. Mr. Petersen stated lots in an R-1 district are minimum 15,000 sq. ft. In the proposed plan, the RP-2 lots on the west side of Sagamore are 14,081 sq. ft., slightly under R-1. Plan lots east on the cul-de-sacs average 12,286 sq. ft. The lots are significantly larger than the 2004 approved plan and considered transitional, especially with massive commercial corridor in view across the creek. Mr. Petersen noted the applicant could review the number of houses on the west side of Sagamore. Mayor Dunn confirmed with Mr. Coleman that only three R-1 lots being 16,000 sq. ft. to 17,000 sq. ft. in size would be allowed where four lots are proposed.

Councilmember Azeltine thanked Mr. Petersen and his client for the offer of park land, stating this would be a major reason for his support of the plan. He stated time was needed for staff review of the offer. Mr. Petersen agreed with a 90 to 120 day review period.

Councilmember Filla was delighted that citizens are open to the build-out of the development. She stated the spirit of the golden criteria of the 2004 plan should be honored, and addressed the length of time the area has been vacant, expressing sorrow the current developer was not involved in 2004. The prior four partners did not possess the same experience and the group changed. With the explosion of large homes in the last five to 10 years, she questioned why the property had remained vacant and undeveloped for so long, despite partnership changes. She was disappointed and appalled there had been so much discussion on average size calculation for one lot and of the three / four lots when they should not be used at all; the focus should be on recreational space. At the Citizens Interact meeting, Mr. Petersen said the pool and cabana were the issues, now it is too make another \$800,000 to \$1 Million, despite saving \$500,000 for pool that was never installed. Mr. Petersen said without return on investment on Lots 21, 22, 23 and 24, the development would not be financially sound. The citizens and City cannot ensure an owner makes a profit at the expense of the 2004 golden criteria. It would be unacceptable to move away from the neighborhood covenant for the developer to gain money. She stated Mr. Petersen had gambled and did not offer a compromise until the plan was denied by the Planning Commission. People are willing to compromise and the developer should consider alternate home plans perhaps with two-car rather than three-car garages. She would vote for denial of the plan. Mr. Petersen stated seven acres with an all-weather trail are offered, land and money out-of-pocket, to find equilibrium. He stated his respect of Councilmember Filla's position.

Councilmember Rawlings asked Mr. Coleman to confirm the accuracy of the calculation of average lot depth of Lot 21. He questioned if the lot could ever be developed. Mr. Coleman stated Lot 21 is an irregular-shaped, shallow-depth lot, that does not meet City standards and the Governing Body could decide to if the lot could be built upon. Mr. Petersen stated Councilmember Rawling's inquiry was in regard to an objective mathematical calculation and Mr. Coleman's response was subjectivity of irregular lots. Mr. Petersen stated the average lot depth of Lot 21 is 120 sq. ft. to City Code. He pointed out the City has numerous irregular lots and noting "selected enforcement."

Councilmember Harrison inquired if Lot 21 could be used for a "secret garden." Mr. Petersen stated the neighbors want a park that has no return on value and kills the deal. A risk was taken all together. No one had approached him about a "secret garden". The development had an irregular lot and a "pocket park" was created to find balance and react to what has been heard as important.

Councilmember Cain stated appreciation for all the time taken. As a resident, realtor and Councilmember, the plan's developer portfolio in Leawood and nearby cities is stellar. She agreed with Ms. DiFranco's request to take additional time on critical factors before moving forward and how review how the City might best dedicate the 6 acres. She stated she was glad to hear citizens realize the site was not going to stay a green space forever and she noted the difference between recreation space and public space. The original plan was long since passed and the Governing Body must abide by Kansas Statute, as alluded to in the City Attorney's comments. She stated a compromise is needed for 2017.

Councilmember Osman stated as a resident and developer of commercial real estate for more than 20 years, he had personally been in the same position as the residents. His school prom was held at the Leawood Country Club, and it was heartbreaking to lose and have no development. The goal of building in north Leawood in the 1940s and 1950s was to build house after house, school after school, without green space and with some subdivisions having racial-biased deed restrictions. Through the years, antiquated zoning and codes are adjusted. The Cloisters were one of the first communities that were totally maintenance-free, with lots ranging from 11,700 sq. ft. to 14,000 sq. ft. Today, R-1 lot size is 15,000 sq. ft. Issues must be reviewed and the Governing Body must decide for the common good of both the City and residents, and move forward. There are 14 years of pent up frustration to take in and the developer has proposed several things at the meeting that must be considered. The City must determine legal ramifications, as well as how a trail will look and buffer space. He stated he was not comfortable with a vote tonight, and suggested the item be remanded so the Parks & Recreation Advisory Board could review at their meeting next month and staff time to revisit Lot 21 and other factors.

Mayor Dunn stated the racial-bias of the past was in HOA deed restrictions and not that of the City, and that many cities in Johnson County were involved. These had been purged by law.

Mayor Dunn pointed out the City had received a valid protest petition of the proposed plan; seven affirmative votes would be required to approve the plan tonight.

Mr. Petersen confirmed to Councilmember Sipple that if the City does not accept the offer of 6.5 acres, the land would be utilized by the developer as an open space meadow, with no public access except on the west side to access the bridge.

Mayor Dunn stated she heard the Council was interested in remand to the Planning Commission and the Governing Body would need to provide direction for that review. She also heard the applicant does not want to dedicate Lots 21, 22, 23 and 24. She stated her belief the City Administrator's comment to downsize the four lots to three lots as a buffer with RP-2 starting on the cul-de-sacs had merit, and the applicant did not seem to have the necessary Governing Body votes to override the Planning Commission's denial. She pointed out the Planning Commission did not have all items for consideration and they were not in a position to address liability. Mayor Dunn stated personal concern there were only four Planning Commission votes cast at the January 10, 2017 Planning Commission meeting.

Mr. Petersen stated a remand was unacceptable and the decision was the Governing Body's. A continuance of six weeks to April 3, would likely result in the project being shut down and litigation. Mayor Dunn proposed a Governing Body continuation until March 20, 2017.

Mr. Lambers confirmed to Mayor Dunn that if the applicant was agreeable to a continuance to the March 20, 2017 Governing Body Meeting, a Special Call meeting of the Parks & Recreation Advisory Board would be called if necessary. Since this would be a new to the board, the board would be provided as much information as possible in advance for their review. Mayor Dunn requested Parks & Recreation staff walk the area to truly comprehend the type of vegetation currently in the area and the tract's connectivity. Mr. Petersen was in agreement with continuance stating the proposed plan would remain 24 lots with high quality three-car garage homes; a public park in entirety would not happen. Councilmember Filla suggested consideration of creative possibilities for walking paths and meadow, leaving natural, unmown and manicured habitat for migratory birds.

Mayor Dunn confirmed with Ms. Bennett that a continuance would take a simple majority vote and the seven vote requirement would remain for anything but denial because of the protest petition.

**A motion was made by Councilmember Azeltine to continue the Agenda Item 12.B. to the March 20, 2017 Governing Body meeting and have review by Parks & Recreation Advisory Board review and staff, to include use of three R-1 lots west of Sagamore and the LDO's lot size calculation; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

13. **OLD BUSINESS** – None

14. **OTHER BUSINESS** – None

**15. NEW BUSINESS**

- A. Schedule a Governing Body Executive Session on Monday, March 27, 2017, at 6:00 P.M. for Personnel Matter; City Administrator's Annual Review

Mayor Dunn stated paperwork would be distributed on March 6, 2017, for completion and return by March 20, 2017.

**A motion to schedule the Governing Body Executive Session was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

**ADJOURN**

There being no further business, the meeting adjourned at 10:53 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk