

Minutes

DVD No. 393

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, June 19, 2017. Mayor Peggy Dunn presided.

**Councilmembers Present:** Jim Rawlings, Chuck Sipple, Julie Cain, Lisa Harrison and James Azeltine

**Councilmembers Absent:** Debra Filla and Andrew Osman

**Staff Present:** Scott Lambers, City Administrator  
Patty Bennett, City Attorney  
Chris Claxton, Parks & Recreation Director  
Richard Coleman, Comm. Dev. Director  
Mark Tepesch, Info. Services Specialist III  
David Ley, Interim Public Works Director  
and City Engineer  
Chief Troy Rettig, Police Department  
Chief Dave Williams, Fire Department  
Dawn Long, Finance Director  
Mark Klein, Planning Official  
Debra Harper, City Clerk  
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**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted a revised Staff Memo for Agenda Item 11.E.

**A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0.**

**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 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.

**4. PROCLAMATIONS – None**

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS**

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

Mayor Dunn declared the public hearing open. No one was seen or heard to speak.

**A motion to close the public hearing was made by Councilmember Azeltine; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 5-0.**

- B. **Ordinance No. 2841**, levying assessments for tax year 2018 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of construction of certain public and private road and parking lot related improvements and other such transportation related improvements, located within 119th Street Development District [TDD], within the City of Leawood, Kansas [One Nineteen Transportation Development District] [Project # 80456] [ROLL CALL VOTE]

Mayor Dunn confirmed with Ms. Bennett that just five affirmative votes would be needed for passage. Ms. Long stated she was available to answer any questions.

**A motion to pass Agenda Item 6.B. was made by Councilmember Azeltine; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 5-0.**

- C. Public Hearing Park Place Development Improvement District Assessments  
[Project # 83196]

Mayor Dunn declared the public hearing open. No one was seen or heard to speak.

**A motion to close the public hearing was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0.**

- D. **Ordinance No. 2842**, levying assessments for tax year 2018 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of paying for construction of improvements to Nall Avenue, 117<sup>th</sup> Street, Town Center Drive and Roe Avenue and construction of storm water improvements within the City of Leawood for establishment of an Improvement District, pursuant to K.S.A. § 12-6a01, et seq., and the City's Home Rule Authority of Article 12, Section 5 of the Kansas Constitution, located in Park Place Development [Project # 83196] [ROLL CALL VOTE]

Ms. Long stated she was available to answer any questions.

**A motion to pass Agenda Item 6.D. was made by Councilmember Sipple; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 5-0.**

- E. Appointment of New IS Director, Ross Kurz, effective July 10, 2017

Mr. Lambers stated Governing Body approval for department head appointments is required per Charter procedure. There were 116 applicants for the position. He expressed appreciation to department heads for interviewing candidates ending with selection of Mr. Kurz. Mr. Kurz has technical knowledge, expertise and the personality for this internal position that would work across all disciplines. He previously worked as IS Division Chief for Johnson County Med-Act.

Mayor Dunn stated Mr. Kurz was extremely competent and was glad to have him join the City.

**A motion to approve Agenda Item 6.E. was made by Councilmember Harrison; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 5-0.**

## 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. 2017-22 and 2017-23
- B. Accept minutes of the June 5, 2017 Governing Body minutes
- C. Accept minutes of the May 11, 2017 Sustainability Advisory Board
- D. Accept minutes of the April 13, 2017 Sustainability Advisory Board
- E. Approve Change Order No. 1 in the amount of \$120,000.00 to 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]
- F. Approve 7<sup>th</sup> and Final Pay Request in the amount of \$13,395.26, to RDG Planning & Design, pertaining to the art piece known as Weight of Your Heart/Weight of a Feather located at the Leawood Justice Center, 4201 Town Center Drive [Project # 79004]
- G. Approve Mayoral Appointment of Councilmember Julie Cain on Artist Selection Panel for Banner Project, in accordance with Public Arts Policy
- H. **Resolution No. 4805**, calling for a Public Hearing to be held on Monday, August 7, 2017 at 7:30 P.M., or as soon thereafter as may be heard, to consider the 2018 Fiscal Budget for the City of Leawood, Kansas
- I. **Resolution No. 4806**, waiving the bidding process, in accordance with Charter Ordinance No. 39, pertaining to the design and repair and construction of the retaining wall located along College Boulevard between Indian Creek Bridge and Brookwood [Project # 80602]
- J. **Resolution No. 4807**, approving and authorizing the Mayor to execute a Construction Agreement between the City and MTS Contracting in the amount of \$193,750.00, pertaining to the City Hall Courtyard Repair Project [Project # 74075]
- K. **Resolution No. 4808**, approving a Revised Final Plan for changes to the façade of a tenant space for Park Place – Ainsworth Restaurant, located north of 117<sup>th</sup> Street and east of Nall Avenue. (PC Case 51-17) [From the May 23, 2017 Planning Commission Meeting]
- L. **Resolution No. 4809**, approving a Revised Final Plan for Parkway Plaza – Hunter Family Vision, located north of 135<sup>th</sup> Street and west of Roe Avenue. (PC 52-17) [From the May 23, 2017 Planning Commission Meeting]
- M. Police Department May Monthly Report
- N. Fire Department May Monthly Report
- O. Municipal Court May Monthly Report

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

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

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Harrison; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0.**

- I. **Resolution No. 4806**, waiving the bidding process, in accordance with Charter Ordinance No. 39, pertaining to the design and repair and construction of the retaining wall located along College Boulevard between Indian Creek Bridge and Brookwood [Project # 80602]

Councilmember Sipple stated the Governing Body had approved the cost of \$800,000 and selection of GBA Builders for the project at the June 5, 2017 meeting. He asked if the resolution to waive the bidding process was a housekeeping item that could have easily been presented at the June 5, 2017 Governing Body meeting, listed after the agenda item for proposed cost and contractor. Mr. Lambers stated approval at the June 5 meeting was a presumption; it could have been approved or not, and he had thought the Governing Body would not approve based on project scope. If the sole-source contractor had not been approved, bids would have been requested.

Mayor Dunn recalled Mr. Lambers had stated at the June 5, 2017 meeting that a resolution to waive the bid process would be presented at the following meeting. Mr. Ley confirmed the project had not been delayed during the two weeks between Governing Body meetings. Mr. Ley met with GBA on Wednesday, June 14, 2017, and GBA has started to order materials for the project.

Councilmember Harrison inquired how often the bid process is waived. Mr. Lambers stated as previously discussed, wall repair was an unanticipated emergency. Waiving the bid process is more the exception than the rule. The City's only other experience for a sole-source project was the initial design-build for the Ironhorse Golf Course Clubhouse expansion.

Councilmember Cain stated her support of the accelerated project. She has received a large number of citizen calls expressing concern for safety of children who may want to play in the area.

Mayor Dunn stated her hope that the City would see good value with the selected company. As mentioned by former Public Works Director Joe Johnson at the June 5, 2017 Governing Body meeting, GBA specializes in this type of work. Mr. Lambers stated if the project was not undertaken in this manner, it may have had to wait until Spring 2018 due to unpredictable Fall weather conditions.

**A motion to approve Consent Agenda Item 7.I. was made by Councilmember Sipple; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 5-0.**

- M. Police Department May Monthly Report

Mayor Dunn stated she wanted to congratulate Officer Chris Hargis for his receipt of the Silver Award for Valor at the 2017 Kansas Association of Chiefs of Police Valor Awards dinner on May 10, 2017. Officer Hargis received the award for his actions on May 21, 2016, when he responded to a man choking. The elderly man was unconscious and not breathing. Using his training, Officer Hargis was able to clear the man's airway and restore breathing. She thanked Chief Rettig for providing good training to the department.

Mayor Dunn recognized and thanked Chief Rettig for the Police Department's second annual car show benefitting Special Olympics. The show was held May 20, 2017 and raised \$3,000.

**A motion to approve Consent Agenda Item 7.M. was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 5-0.**

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

- A. Lenexa Mayor Mike Boehm hosted the June meeting for the Johnson & Wyandotte Counties Council of Mayors that was to be the wrap-up session with the Legislative Delegation. Only Senators John Skubal and Dinah Sykes were in attendance. They had just come from Topeka, and the House was still in session. They lamented that after 11 weeks in regular session and six weeks in Veto session, all the work accomplished was during the last 72 hours. They will return to Topeka on June 26 for Sine Die.
- B. Councilmember Chuck Sipple, Community Development Director Richard Coleman and members of his department as well as Planning Commissioners joined me at the 21st Annual Regional Assembly and Leadership Awards hosted by the Mid-America Regional Council [MARC]. Theme was "Advancing Our Civic Capacity."
- C. Participated as the Grand Marshal for the Rally for Kids Red Wagon Parade held in Park Place. This event was organized by Leawood residents Barb and Bob Unell to showcase the new nonprofit organization Raised with Love and Limits Foundation. My thanks to Police Chief Troy Rettig and Fire Chief Dave Williams as well as Director of Parks & Recreation Chris Claxton for their departments' assistance.
- D. Police Chief Troy Rettig joined me at the 63rd anniversary event for the Leawood Lions Club hosted at the Lions Shelter. United States Senator Jerry Moran was the keynote speaker. Chief Rettig was honored with the Melvin Jones Fellowship Award. On June 14, the 913 Section of the Kansas City Star contained an article on the three dozen Lions Clubs in the metropolitan area. Leawood has its club and the Lions organization is now celebrating 100 years of community service.
- E. I was present for the Employee Activity Committee check presentation to the Ronald McDonald House. Thanks to Human Resources Director Nic Sanders for his leadership and to all participants.
- F. My thanks to Councilmember Chuck Sipple who is Presiding Officer for standing in for me at two Leawood Chamber of Commerce ribbon cuttings: the first was at Salon Ami in Town Center Plaza and the second was at Gordon Dental of Leawood in Ranch Mart.
- G. Reminder that the Leawood Stage Company will present the family classic musical "Annie" on July 13, 14, 15, 16 and 20, 21 and 22. Performances will begin at 8:00 P.M. in the Ironwoods Park Amphitheater. Councilmember Azeltine will be performing once again.
- H. The June 11 edition of the Kansas City Star contained an article on public arts and value to the community. The article featured Artist Beth Nybeck and her "Breathe" abstract sculpture than resembles a human head. Ms. Nybeck created the "Point Defiance" art piece located to the west of City Hall. The 913 Section of the June 7 edition of the Kansas City Star contained a beautiful article on parks staff and parks in Leawood.

## **9. COUNCILMEMBERS' REPORT – None**

## **10. STAFF REPORT – None**

## **COMMITTEE RECOMMENDATIONS**

### **11. PLANNING COMMISSION**

*[from the February 28, 2017 Planning Commission meeting]*

- A. **Ordinance No. 2843**, approving the renewal of a Special Use Permit [SUP] for a wireless communication facility including cellular tower, associated equipment and screening for Saddle and Sirloin Cellular Tower, located south of I-435 and east of Mission Road (PC Case 01-17) *[Continued From The March 20, 2017, April 17, 2017, May 1, 2017, and June 5, 2017 Governing Body Meetings]* [ROLL CALL VOTE]

Mr. Klein stated the meeting documentation for the item contained a revised landscape plan that had been reviewed by staff, and that the staff memo contained a paragraph outlining concerns that views, particularly on the south from the driveway, would be more visible in winter when deciduous trees do not have foliage.

Mr. Lambers stated that both parties had tried to work to bring the facility into compliance since March, without success. He suggested to return to an increase in wall height by date of November 26, 2017, for applicant to comply with ordinance. If this was done, a 20-year SUP would be recommended.

Mr. Curtis Holland, Polsinelli PC, 6201 College Boulevard, Suite 500, Overland Park, stated that prior discussion had been for screening and he was surprised by Mr. Lambers' recommendation. A revised landscape plan had been proposed. He reiterated details of prior SUPs for the facility that had been approved in 1998 and built in 1999. He stated substantial discussion about the wall and screening had taken place in 1998, and not one complaint from the public had been received regarding inadequate screening. Ordinance 16-4-12.3.H states a full perimeter wall is required when deemed necessary. He acknowledged the Governing Body may decide upon discretionary screening, but felt that adding 4 ft. to the wall height would be a harsh method.

Mr. Holland displayed photographic views of the facility from each direction. He stated the wall sits on a 1 ft. footer on the east side, for a total wall height of 9 ft. on that side. No footer is visible on the west side. As staff indicated, there is one portion of the south side where equipment can be seen by anyone. Trees cannot be planted in the driveway on the south side. The revised landscaping plan proposes the addition of 14 trees; three each on the north, east and west sides plus five on the south side, three on the east side of the driveway and two on the west side of the driveway. He asked for consideration of the SUP renewal, for a permit that expired at the end of 2016.

Mr. Lambers stated it had not been mentioned that Johnson County Wastewater plans to raise the section of Lee Boulevard that contains the entrance to their treatment plant out of the flood plain, so they can be assured of access to the plant if flooding occurs. The entrance driveway to the treatment plant would be sloped downward. Johnson County plans to raise the roadway 6 ft. as the last improvement near of the end of plant construction, which is proposed to take three or four years. The existing road would be used, and likely damage during the construction, until that time. With a raised roadway, the cell tower equipment would become more visible.

Mayor Dunn questioned the amount of wall height that would be needed to screen the equipment from a person travelling on Lee Boulevard or walking in the area. Mr. Coleman stated screening could be accomplished with less than 4 ft. additional wall height. Typically, mechanical equipment is screened as a minimum. With a raised roadway, the view of equipment would be close to eye-level, 11 ft., and another 2 ft. of wall height would be needed. Mr. Ley stated the raised roadway would be 2 ft. higher than the compound. On the west, the fence would be 6 ft. taller. Councilmember Rawlings questioned if there was a maximum wall height provided by ordinance that would need to be revised, noting a tall wall could look like a prison. Mr. Coleman stated there are ways to visually break-up the appearance of a wall. Johnson County's Wastewater treatment plant will have some walls that will exceed City height limitations.

Councilmember Harrison noted raising a portion of Lee Boulevard off Mission would result in the loss of two Ash trees shown in the cell tower landscaping plan. She noted the landscaping plan implies many lush and full trees, which is not how the landscaping actually appears. Trees may become stressed with the roadway construction, and she questioned if plantings should be postponed.

Councilmember Rawlings stated the unattractive caution/electrocution signs stand out against the recently repainted white wall. Councilmember Sipple agreed the wall was stark white, and he stated the Johnson County Wastewater uses neutral paint tones. He requested the dead tree by the entryway be fixed by the Fall and that paint color be toned down.

Councilmember Cain questioned why a fresh coat of white paint had been applied to the wall, increasing the visibility of the facility. Mr. Holland stated the wall has always been a white or light beige color. The wall had been fixed and was now compliant with what was previously approved. Mayor Dunn recalled, as reflected in the prior meeting minutes, the Governing Body had wanted to see an earth tone paint color used, but the specific color had not been selected.

Councilmember Rawlings stated he favored landscaping and noted the Planning Commission had a short discussion and unanimously recommended approval, voting 7-0. Mr. Coleman stated the Planning Commission thought landscaping was adequate, and staff had suggested increasing the wall height in discussion with the applicant.

Mr. Lambers suggested renewal of the SUP with a 5-year term, June 2022, to allow time for the Johnson County Wastewater treatment plant construction and road design. Mr. Holland agreed to the compromise, stating the applicant would work with staff on wall color. He reminded that new state law for wireless communication facilities requires a minimum 10-year use permit, but was voluntarily agreeable to a 5-year term. He stated there would be no legal issue if parties are in agreement, and that state law may not take the Johnson County Wastewater project into consideration as an extenuating circumstance.

Mayor Dunn pointed out that Page 5 of the staff memo states the some landscaping is dead or missing, and Neighborhood Services had issued a Courtesy Notice regarding the deficient landscaping. Mr. Holland stated landscaping to address the Courtesy Notice was intended to occur when the proposed additional landscaping was planted. Mayor Dunn stated if a 5-year SUP was approved, Courtesy Notice issues would need to be addressed.

Mayor Dunn pointed out the City had compromised on the 500 ft. setback requirement from residential areas as stated at the top of Page 4 of the Staff Memo. Mr. Holland stated he may not agree with this statement and setback cannot be changed now. He stated for the record they believe in compliance with City ordinance, and that wall height had not come into discussion until the Council meeting; it was not discussed at the Planning Commission meeting.

Ms. Bennett stated approval could be with revised stipulation for 5-year SUP term, a stipulation to bring landscaping up to standards in the landscaping plan and improve to the extent possible, and repaint all four walls an earthtone color to be approved by staff.

Mr. Coleman stated he would have the color sample provided to the Governing Body.

**The motion to pass Agenda Item 11.A. with revisions as stated by Ms. Bennett was made by Councilmember Azeltine; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 5-0.**

*[from the April 25, 2017 Planning Commission meeting]*

- B. Resolution approving and authorizing the Mayor to execute an Addendum to that certain Inter-local Agreement dated April 6, 2017, between the City and the Board of County Commissioners of Johnson County, Kansas, pertaining to the approval process for the improvement of the Tomahawk Creek Wastewater Treatment Facility, located at 10701 Lee Boulevard (PC 13-17) [Continued from the June 5, 2017 Governing Body Meeting] [ROLL CALL VOTE] [CONTINUED TO THE JULY 17, 2017 GOVERNING BODY MEETING]

*[from the May 23, 2017 Planning Commission meeting]*

- C. **Ordinance No. 2844**, amending Section 16-9-257 of the Leawood Development Ordinance [LDO] entitled “Signs”, and repealing existing section 16-9-257 and other sections in conflict herewith. (PC Case 49-17) [ROLL CALL VOTE]

Mr. Klein stated the proposed amendment would modify the definition of signs within Article 9 of the LDO. The amendment would provide a definition for halo-illuminated signs, a popular type of lighting currently used in the City, but not specifically defined in the LDO. Halo-illuminated signs have an opaque face and internal illumination creating a halo-glow around the edges of lettering or logos. The current roof sign definition would be clarified with additional detail. A roof sign would be a sign above the roof or eave line or deck of a parking garage. A sign on a parapet would not be a roof sign. Signable area is not currently defined and the Planning Commission encounters many issues in regard to sign applications. Typically, applicants want a large sign. The recommendation for ordinance amendment in PC Case 48-17 is for signs to have a 90% of maximum area and maximum height of 85% of the signable area to create a border around sign in the signable area. Staff recommends approval of the proposed amendment.

Mr. Coleman confirmed to Councilmember Rawlings the closest and most visible roof sign in the City is AMC20 Theatre in Town Center Plaza. The sign consists of AMC lettering on a steel grid structure on the roof which appears to float. This could have been the impetus to change the LDO. The Western Auto sign in downtown Kansas City, Missouri, would be defined as a roof sign.

Councilmember Sipple inquired if there were current applications that would be impacted by approval. Mr. Klein stated the amendment would just acknowledge halo-illuminated signs which have been used in the City for some time. Staff encounters issues and gets into negotiations with applicants in regard to signable area, so definition would be beneficial. The proposed roof sign definition provides more details.

Mr. John Petersen, Polsinelli, PC, 6201 College Boulevard, Overland Park, stated he appeared on behalf of KBS Park Place Village, LLC, and that Mr. Brett Merz from KBS, owner of retail components of Park Place, was in attendance. Mr. Petersen stated he had been present at the September 2016 Council meeting when Park Place signage was discussed. At that time the Governing Body approved some items, but could not consider some items due to code and could not approve the overall sign package. Staff began to review and work on code revisions, which he hoped would be breathable and flexible in light of specific architecture and utilization, which only became available in May, right before the Planning Commission meeting. He had not been present at the May 23, 2017 Planning Commission meeting. Park Place began in earnest their review of the proposed revised code for what would ultimately be a sign package for resubmittal. Previously proposed roundabout directional signs have now been declined by the applicant, because of a perceived negative reaction in working with staff on the revised code, so effort could focus on what was important. He did meet with staff on Friday, June 16, 2017, to discuss the proposed new definitions for signs and how they could impact signage on Garages A and B in Park Place. Mr. Petersen stated there seems to be confusion from the Planning Commission, not related to approval or disapproval, but related to option to consider. The Planning Commission believes the Governing Body would have the discretion to approve a roof sign. Roof signs are a prohibited use and the Governing Body could never approve. In his opinion, the existing definition for roof signs is better than the proposed revised definition.

Mr. Petersen stated the skyline signs would be a protrusion of façade of garage wall on south side of 116<sup>th</sup>, an extension of parapet. A key phrase in the proposed roof signs definition is "...unless wholly on the face of a continuous parapet wall..." The definition of a parapet in Section 16-9-199 of the LDO is "That part of any wall entirely above the roof line." The applicant believes this is a parapet. If considered a roof sign, an exception for the prohibition of Governing Body approval would be needed for Park Place signage. Mr. Petersen stated on behalf of his client he wants the ability to show the Governing Body these signs.

Mr. Petersen stated the sign for Garage A on Nall has two open squares at each end and fabric is proposed to be placed behind. Sign for Garage B on 117<sup>th</sup> has a different design with cylindrical metal and a background cannot be attached. Continuous does not necessarily mean solid. A parapet is part of design and could be solid or have some see-through area. Park Place is not trying to propose signage similar to AMC, but to take part of a current parapet and retrofit; not building from scratch. An applicant is not allowed to argue before the Board of Zoning Appeals [BZA] that signs look good. A definition of the structures interpreted as parapets is needed, so the signage can come before the Governing Body. The Planning Commission seem undecided on whether these were roof signs, which are prohibited and the Governing Body cannot override. They passed the issue to the Governing Body. Park Place has tried to bring forth signage in character with the architecture for nearly one year, and they do not want to be in a position where they cannot even argue a decision before the Governing Body. He asked if there could be some room to bring back signage for Garages A and B for Planning Commission recommendation and Governing Body approval, without the possibility that the Planning Commission would reject the application based on definition and appeal would be heard by the BZA.

Mayor Dunn noted the Planning Commission had discussion for hours on the topic; they are embracing definition which they did not feel had been available. She asked Ms. Bennett how often there had been language included for appeal to the Governing Body. Ms. Bennett stated any appeal of an argument with staff would go to the BZA. Mr. Petersen inquired if a roof sign placed on a parapet would be excluded from the roof sign definition. Mr. Coleman stated if there was an almost solid background between the two elements it would be considered a parapet wall. He stated this is the first time he had heard fabric would be placed behind the sign; during discussion with the applicant it was stated the City would consider solid backer wall in the openings. Drawings state synthetic stucco, not fabric. If the stucco is used, it is a parapet wall. If there is not wall and lettering is placed on framework, then the sign would be the same as AMC, which is considered a roof sign. Parapet walls are not made of fabric. Mr. Petersen stated Mr. Coleman did not reference the last plan on file and the term fabric may be a misnomer. Voids in façade would be filled with facet tensile fabric mesh, not stucco. There is no place on the Garage B sign on 117<sup>th</sup> to even put mesh. The issue tonight is not over mesh or stucco, as there are many ways to retrofit the buildings, but do not throw out standards or create an ordinance that bleeds out all discretion. He stated his belief the signs were not roof signs and the desire to keep options. For the record, he stated these are parapets which staff will review for aesthetics impact if the see-through portions of the parapet need to be filled.

Councilmember Sipple asked why the two endpoints would not be filled and why the suggested fill is see-through. Mr. Petersen stated the mesh fill for Garage A sign was for due to load and wind resistance. There is no way to fasten mesh on Garage B. Councilmember Sipple suggested steel wire cloth can be called mesh and material should be brought in for review. Mr. Petersen stated details would be brought forth at a meeting.

Councilmember Cain stated she did not have a concern with either one of the signs, but there is a need for aligned definitions for parapets, continuous parapets and signs placed on parapets. She questioned why the term “wall” was used in the definition of parapet in Section 16-9-199. She stated there seemed to be agreement there was a parapet and the sign would be attached to the parapet. If that definition is acceptable, the ordinance should be passed tonight. Ms. Bennett stated it was deemed a parapet before the City knew about fabric. Mr. Petersen stated by definition, parapets do not have to be solid and does not need to be a wall. Mr. Coleman stated a parapet wall is not made of fabric. The protrusion is an ornamental architectural feature, not a parapet. Mr. Coleman and Ms. Bennett agreed the proposed signage is not a wall.

Councilmember Azeltine stated the Governing Body relies upon staff and can either choose to take the advice of staff or not. If the Governing Body decides they are not roof signs and it is a parapet, the Governing Body has the ability to interpret ordinances. Mr. Petersen agreed with Councilmember Azeltine’s statement, and stated that if the consensus of record is that the ordinance gives guidance, but the Governing Body could approve, that is what he is seeking. He stated he does not want Park Place signage to be derailed after revision of the code. Councilmember Azeltine agreed with Councilmember Cain that it would be beneficial to pass the ordinance and encourage staff to add further details to definitions to preclude ambiguity, allowing Park Place signage work to move forward.

Councilmember Rawlings questioned if the item could be continued to have the applicant come before the Governing Body with materials and options. The City currently prohibits roof signs and applicant believes they are not proposing roof signs. The proposed definition for roof signs is much broader. We all want to support Park Place.

Mayor Dunn asked Ms. Bennett for her opinion on whether approval tonight would prohibit Park Place from coming back with new sign criteria for roof signs, noting these are existing buildings. Ms. Bennett stated the proposed roof sign definition adds details, which is more information for staff and the Governing Body to consider. As an attorney, she encourages details so they can be consistently applied to all development.

Mr. Lambers suggested the Governing Body would not want to have discussion on every signage plan as to sign type, and questioned if the Governing Body wanted to allow roof signs to be brought before them to say if they liked the sign or not. Councilmember Azeltine agreed with Mr. Lambers, noting the roof sign definition does not address materials. Mr. Lambers stated the simplest solution would be to eliminate the issue by removing the prohibition of roof signs, allowing time to revisit and Park Place to proceed. He pointed out that by stopping the prohibition of roof signs, the Planning Commission process is lost and there is nothing to deny. The portion could be remanded for development of roof sign limitations. Mr. Petersen agreed and acknowledged that if Mr. Lambers' approach was used, for the record he would argue this is a sign on a parapet under the existing definition, and the Governing Body could still deny due to the look of the sign. Mr. Petersen summarized Mr. Lambers' statement as pass the ordinance without the prohibition of roof signs now, send the portion of roof signs back to the Planning Commission, and then Park Place signage above the roof would go to the Planning Commission, then the Governing Body.

Ms. Bennett stated Agenda Item 11.E, PC Case 48-17, could be remanded back to the Planning Commission with recommendation to review roof sign prohibition for repeal by separate ordinance. She pointed out if repealed, there would be no standards for roof signs.

Councilmember Azeltine stated caution must be used to separate ordinance from a sign application that is not before the Governing Body. The ordinance would apply to the entire City. He suggested the ordinance could be passed with remand instructions to more specifically define wall or parapet, including allowable materials, and also consider the possibility of allowing roof signs. He stated the AMC sign was not particularly offensive, but some restrictions would be needed if roof signs were allowed. He inquired if roof signs were remanded and the remainder of the ordinance passed, could roof sign enforcement be suspended until Planning Commission consideration. Ms. Bennett stated if the ordinance was passed, then a moratorium on enforcement could be approved until the Planning Commission could review and bring back before the Governing Body. Her recommendation would be to pass this ordinance without the new definition for roof signs, remanding the roof signs portion of PC Case 48-17 [Agenda Item 11.E.] to the Planning Commission, since the timing of an enforcement moratorium may not coincide with the timing of the Park Place signage application.

Mayor Dunn noted that Park Place is waiting on the Governing Body and roof definition seemed to be the only issue for Mr. Petersen. She asked Mr. Petersen if the ordinance was passed without the revised roof sign definition, if Park Place signage could move forward. Mr. Petersen stated yes, but also for Park Place the current roof sign definition, "Wholly on roof of building supported by roof structure" be used and to leave in good faith that Park Place is putting sign on an architectural feature/parapet. Mr. Petersen expressed opinion the proposed revision of the parapet definition to state "continuous parapet" was a move to lower the signs to the building wall. The signs would be then be hidden by treeline and Park Place would be in the same deficient position in regard to advertising. He stated the fundamental concept is there is a consensus this is a parapet and a parapet does not have to be a wall.

Mr. Petersen asked if there was an option to pass the ordinance except for the roof sign definition provision, until common ground could be found, or pass the ordinance with acknowledgement and good faith consensus this is signage on a parapet. Mayor Dunn stated the ordinance would be for the entire City and she suggested pulling roof signs and leaving halo-illuminated and signage area from the proposed ordinance. She stated six affirmative votes would be required to override the Planning Commission.

Ms. Bennett clarified to Councilmember Azeltine that the ordinance without roof signs could be approved with an override vote and there was also an option to not remand roof signs back to the Planning Commission and leave the current definition status quo. Mayor Dunn stated the Planning Commission should be allowed to revisit and further discuss; staff has spent months on this as well and she would only be comfortable with their support. Ms. Bennett suggested a separate motion be made for staff direction to work with Planning Commission, it should not be part of approval.

**A motion to override recommendation of PC Case 49-17, approving only the ordinance definitions for halo-illuminated signs and signable area was made by Councilmember Azeltine; seconded by Councilmember Harrison. The motion was approved with a unanimous roll call vote of 6-0, Mayor Dunn voting.**

**A motion to remand roof sign definition portion in PC Case 49-17 to the Planning Commission for consideration of tonight's Governing Body discussion/minutes and for consideration of staff recommendations was made by Councilmember Azeltine; seconded by Councilmember Rawlings.**

Mr. Coleman confirmed to Councilmember Cain a Work Session with staff and the Planning Commission could be held to work on definitions.

Mr. Lambers stated the minutes should reflect the Governing Body wants the Planning Commission to eliminate prohibition of roof signs, consider their possibility and have staff suggest parameters. Mayor Dunn said or to look at existing roof sign definitions; roof signs have been prohibited for 18 years. Councilmember Azeltine requested a review of all options.

Councilmember Harrison stated favor for shorter definitions which are easier to understand. Mr. Klein stated a lengthy definition could be broken into sections.

Mayor Dunn requested a timeline for Work Session review and recommendation. Mr. Coleman stated 90 days for roof signs.

Mayor Dunn stated a remand would require five votes in the affirmative.

**The motion for roof signs remand was approved with a unanimous vote of 5-0.**

Mr. Petersen thanked the Governing Body and stated he looked forward to coming back with a sign package.

- D. **Ordinance No. 2845**, amending Section 16-9-256 of the Leawood Development Ordinance [LDO] entitled “Sight Triangle”, and repealing existing section 16-9-256 and other sections in conflict herewith. (PC Case 61-17) [ROLL CALL VOTE]

Mr. Klein stated the proposed ordinance amendment was tied to signs because signs are prohibited in the sight triangle for visibility. Sight triangles are generally located at intersections. Currently, the LDO defines a sight triangle as 30 ft. on each right-of-way and a hypotenuse line drawn to connect. The American Association of State Highway and Transportation Officials [AASHTO] has a more detailed definition for sight triangle based on speed and number of lanes, and it is proposed to use the AASHTO definition, which Public Works uses. Mr. Coleman stated this would clarify for Planning.

Mr. Klein and Mr. Ley confirmed to Mr. Lambers that the area of sight triangles would probably expand with the new definition, usually not as deep into the property, but longer. Mr. Ley stated this was especially true for curved roadways like those in Hallbrook Villas and would help visibility the required 300 ft. to 350 ft.

Councilmember Cain stated she passes a fence every day that would be in the sight triangle, and inquired if this would apply to fences and landscaping of houses on corners of roadway intersections. Mr. Ley stated anything 42 inches or less is allowed, so a 48 inch fence would be prohibited. Mr. Coleman stated there are not many instances of impact in the City since fences are not allowed in front yards and right-of-ways are 12 ft. wide. A sign or large bush that blocked the view would be prohibited. Monuments and statuary are already covered by Public Works requirements.

Mayor Dunn inquired if areas of impact would be grandfathered. Mr. Coleman stated they would be grandfathered until replacement. Mr. Ley confirmed to Mayor Dunn that Hallbrook had requested sight triangle information and have trimmed their evergreens to these standards.

Councilmember Sipple stated his opinion the most treacherous intersection in the City was exiting Ironhorse Golf Course, on to Mission Road looking south to Overland Park. There is a hedgerow on Mission Road that prevents view. He asked if Overland Park would also adopt the AASHTO sight triangle definition. Mr. Ley stated he would discuss this with Overland Park.

**A motion to pass Agenda Item 11.D. was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 5-0.**

- E. **Ordinance No. 2846**, amending Sections 16-4-6.3, 16-4-6.7, 16-4-6.9, 16-4-6.10, 16-4-6.11, 16-4-6.13, and 16-4-6.14, of the Leawood Development Ordinance, [LDO] respectively entitled “Office, and Commercial and Industrial Signage in Planned Districts”; “Sign Area Calculations”; “Prohibited Signs”; and “Permitted Signs by Type”; and repealing existing sections 16-4-6.3, 16-4-6.7, 16-4-6.9, 16-4-6.10, 16-4-6.11, 16-4-6.13, and 16-4-6.14 and other sections in conflict herewith. (PC Case 48-17) [ROLL CALL VOTE]

Ms. Bennett stated there would be no change to roof sign prohibitions with the proposed amendment. She pointed out the revised staff memo dated June 19, 2017. The proposed revised memo including clean-up of minimums, setbacks and other item that would be presented Mr. Klein. Approval of revisions would require an override vote.

Mr. Klein stated in working with the applicant for Park Place to address signage in Mixed Use Districts staff reviewed the sign ordinance and developed a section for MXD [MXD]. Part of the section was further broken down for parking garage signs and other signs in MXD use, as well as other standard signs in various districts. The intent was to create what Park Place was wanting to do, but with consideration that the ordinance is not just for Park Place, but for MXD overall, which currently includes the 135<sup>th</sup> Street Corridor and Mission Farms.

The first staff revision is recommendation of 5 ft. setbacks for all signs in all districts, rather than just application to monument signs, by adding the setback requirement as F) in Section 16-4-6.10, General Regulations.

The next three staff revisions are related to skyline wall, multi-tenant and entry signs for garages. These have a maximum size in square feet for each individual sign, but to ensure all of the wall and canopy signs do not exceed 5% of the building façade, the phrase “whichever is less” for parking garage identification wall signs, garage multi-tenant wall signs and parking garage entry wall signs would be removed.

Councilmember Sipple asked why two members of the Planning Commission had voted against the proposed amendment and if there would be grandfathering. Mr. Klein stated one Commissioner was not present at the Work Session discussion and had wanted more information and review time. Another Commissioner had concerns about definitions, similar to those expressed by the Governing Body during discussion of roof signs earlier tonight. He confirmed there would be grandfathering for current signs until modified by more than 50%. Most people spoken to did not take issue with setback of 5 ft. for safety. It is not ideal to have a sidewalk abutting a monument sign, and many monument signs have landscaping around their perimeter.

Councilmember Cain inquired if the minor modifications were the result of a Planning Commission meeting. If the Planning Commission was fully aware of the revisions, she inquired why an override vote would be required. Mr. Klein stated the Governing Body meeting packet had an erroneous version of the documentation which had been approved by the Planning Commission and he confirmed the Planning Commission was aware of the revisions, but an override vote would be need to approve the four staff revisions. The Planning Commission had approved only 5 ft. setback for monument signs and not for all signs, and the Planning Commission had approved the three signs discussed above with “whichever is less” phrase.

Mayor Dunn stated staff had discussed the revisions with Park Place representatives, who are comfortable with the revisions.

Ms. Bennett confirmed to Mayor Dunn in this item there were no changes in regard to definitions and roof sign prohibition.

**A motion to pass Agenda Item 11.E. with modifications proposed was made by Councilmember Cain.**

Mr. Petersen pointed out that Section 16-4-6.3, B) Deviations from Requirements, 1) reads “In commercial districts...or as permitted in Table 16-4-6.13, whichever is less.” Since the phrase “whichever is less” remains in this clause, the entire table of the ordinance has been gutted. He requested removal of the phrase, since the section was already being modified by reference to the table.

Ms. Bennett stated it may be best if staff has time to consider by continuing of the item until the July 17, 2017 Governing Body meeting rather than impromptu review of a newly-voiced concern. Mr. Petersen’s concern may be valid.

Mr. Petersen requested agreement to a provision that Park Place fall under definition with “whichever is less”, so that he could move forward with his application.

Mr. Coleman confirmed to Councilmember Cain that since the language was for Commercial Districts, this would not effect MXD or Park Place. Ms. Bennett reiterated her recommendation that staff needs time to review.

Ms. Bennett stated the ordinance could be split for consideration, similar to Agenda Item 11.C., with remand of Section 16-4-6.3, B) 1) for review. If the Governing Body makes the revision, it will be valid for all commercial districts and probable minimal impact on retail in MXD. There could be hypothetical situations of impact to Park Place related this deviation section. Commercial districts encompass many different types of zones.

Mayor Dunn stated she would be uncomfortable making the change to remove the phrase from Section 16-4-6.3, B) 1). Mr. Coleman stated the issue could be back to the Governing Body next month. Mayor Dunn noted one month would probably not be an issue and that the remand to the Planning Commission in regard to roof signs [Agenda Item 11.C.] would take 90 days.

**A motion to pass Agenda Item 11.E. with exception of Section 16-4-6.3, B) 1) and also four revisions proposed by staff memo dated June 19, 2017, was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 6-0, with Mayor Dunn voting.**

**A motion was made to have Section 16-4-6.3, B) 1) reviewed with consideration of tonight’s discussion and brought back to the Governing Body within a month was made by Councilmember Cain; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 5-0.**

Mayor Dunn stated she looked forward to completion and she thanked Mr. Petersen.

**12. OLD BUSINESS – None**

**13. OTHER BUSINESS – None**

**14. NEW BUSINESS**

**Ordinance No. 2847C**, amending Chapter 14, Article 1, Code of the City of Leawood, Kansas, 2000, by amending Section 14-109A, pertaining to Seat Belts [ROLL CALL VOTE]

Mayor Dunn noted the State of Kansas would receive credit for the higher fine; this is a state-required fee addition. Mr. Lambers stated for the record that for each fine, the City's portion is limited to \$10 and the State of Kansas would receive \$20. In his opinion, the portion of the fine collected and placed in the state's seat belt safety fund would be used to balance the state's general fund. Mayor Dunn pointed out there was a time when the City had received more than \$10 and the state then limited the City to \$10.

Ms. Bennett confirmed to Mayor Dunn this is according to law and the City has no choice but to pass the ordinance. Ms. Bennett confirmed to Councilmember Sipple the total cost paid, including court costs and other fees, for a driver without seat belts is \$30.

**A motion to pass Agenda Item 14. was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 5-0.**

Mayor Dunn reminded the grand opening of the Leawood All-Inclusive Playground in City Park was scheduled for tomorrow, Tuesday, June 20, 2017 at 10:00 A.M. The playground was a project of the Leawood Foundation. She hoped for good weather and to see everyone there.

**ADJOURN**

There being no further business, the meeting was adjourned at 10:17 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk