

Minutes

DVD No. 425

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, October 1, 2018. Mayor Peggy Dunn presided.

Councilmembers Present: Chuck Sipple, Andrew Osman, Debra Filla, Julie Cain, James Azeltine, Jim Rawlings, Lisa Harrison and Mary Larson

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator
Chris Claxton, Parks & Recreation Director
David Ley, Public Works Director
Marcia Knight, Assistant City Attorney
Mark Tepesch, Info. Services Specialist III
Richard Coleman, Comm. Dev. Director
Nic Sanders, Human Resources Director
Debra Harper, City Clerk
Patty Bennett, City Attorney
Chief Dave Williams, Fire Dept.
Ross Kurz, Info. Services Director
Mark Klein, Planning Official
Chief Troy Rettig, Police Dept.
Dawn Long, Finance Director
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

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

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to 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 four citizens who had signed in to speak on Agenda Item 13. would be recognized when the item was discussed.

4. PROCLAMATIONS

Double Ten Day, October 10, 2018

Mayor Dunn read the proclamation into the record, noting the City had entered into a Sister City relationship with I-Lan, Taiwan, 30 years ago. The proclamation has been sent Director General Jerry Chang of the Taipei Economic and Cultural Office now located in Denver for their celebration.

Fire Prevention Week, October 7-13, 2018

Mayor Dunn read the proclamation into the record. She thanked Fire Chief Dave Williams and his crews for all they do, not just in regard to fires, but also for medical response which is the majority of calls.

Chief Williams thanked Mayor Dunn for the proclamation and reminded everyone to check smoke detector batteries with the upcoming change of clocks for the end of Daylight Savings Time. He stated there are more fire deaths now because of the proliferation of synthetic materials in homes. The average amount of exit time has been reduced from five minutes to two minutes. Every family should have an exit plan and know where to go in the event of a fire.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

- A. **Public Hearing** Consider the vacation of a Street Right-of-Way located at 12728 State Line Road, within the City of Leawood, Johnson County, Kansas

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

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

- B. **Ordinance No. 2905**, vacating a Street Right-of-Way located at 12728 State Line Road, within the City of Leawood, Johnson County, Kansas [ROLL CALL VOTE]

A motion to pass Agenda Item 6.B. was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.

- C. **Resolution No. 5040**, accepting a Deed of Dedication for Right-of-Way from Madden Properties, LLC, for property located at 12728 State Line Road, within the City of Leawood, Johnson County, Kansas

A motion to approve Agenda Item 6.C. was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 8-0.

- D. **Ordinance No. 2906C**, amending Chapter 14, Article 1 of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating traffic in the City; incorporating by reference the 'Standard Traffic Ordinance [STO] for Kansas Cities, 2018 Edition,' with certain amendments and omissions [ROLL CALL VOTE]

Ms. Knight stated the proposed amendment would incorporate the 2018 Edition of the STO into City Code. Annual updates in regard to both the STO and Public Uniform Offense Code [UPOC] are typically made. However, the UPOC was updated last year and there were no significant changes made by the legislature which would justify book purchase and ordinance update.

Ms. Knight confirmed to Councilmember Cain that Parks & Recreation Departments of multiple cities plan to discuss electronic scooters in the future.

Per the request of Councilmember Azeltine, Ms. Knight would provide a copy of revised documentation to the Bike/Walk Leawood committee. She stated the proposed revision of §14-112C, Section 131 of the STO, duplicates the State statute except for the last line which attempts to clarify the definition of useable bike path which is not part of the State statute.

Councilmember Harrison questioned why Section 14-109A regarding seat belts would be repealed. Ms. Knight stated last year the Kansas Legislature changed the seat belt law and the City did not adopt the book, so a separate ordinance section was added to address. Because the City is now adopting the book, repeal of the added section is needed.

A motion to pass Agenda Item 6.D. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.

- E. **Ordinance No. 2907C**, amending Sections 14-501 and 14-502 of the Code of the City of Leawood, Kansas, 2000, regarding impoundment of motor vehicles [ROLL CALL VOTE]

Ms. Knight stated she had proposed the amendment to the Police Department, who were in agreement. The City recently revised the Police Tow and Impoundment Policy, and revisions of Sections 14-501 and 14-502 are needed to tidy up and slightly reformat City Code accordingly.

Mayor Dunn stated the proposed ordinance was as friendly as could be in this regard, and she thanked Ms. Knight for her effort.

Ms. Knight confirmed to Councilmember Sipple the City has control over tow charges incurred by car owners for City-initiated tows. The charges are specified in a different section and have been the same for years for City-initiated tows. This was discussed and no change to fees were desired at this time. Owner-initiated tows are not covered by City ordinance.

Councilmember Cain inquired if a boat, camper or recreational vehicle could be towed by the Police, referring to a concern expressed by a Ward Four resident having a very large vehicle frequently parked in the driveway across from their residence. Ms. Knight stated the proposed amendment was not applicable to a driveway located on private property. Mr. Lambers stated Community Development, Code Enforcement, would be the correct place to direct the concern on private property. Mayor Dunn stated an ordinance with specifics had been developed several years ago.

Councilmember Rawlings inquired where City-initiated tows are taken. Ms. Knight stated the City has a list of four or five qualified locations, used on a rotating basis. Car owners are notified of the location and the City controls storage fees.

A motion to pass Agenda Item 6.E. was made by Councilmember Filla; seconded by Councilmember Sipple. 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. 2018-37 and 2018-38
- B. Accept minutes of the September 17, 2018 Governing Body meeting
- C. Accept minutes of the July 11, 2018 Bike/Walk Leawood meeting
- D. Accept minutes of the June 14, 2018 Sustainability Advisory Board meeting
- E. Accept minutes of the June 12, 2018 Historic Commission meeting
- F. **Resolution No. 5041**, approving and authorizing the Mayor to execute 2019 Employee Benefit Plan documents
- G. Approve Change Order No. 1 in the amount of \$40,140.00, to Kissick Construction, pertaining to the 2018 CMP Replacement Program; Change Order for emergency underground repairs and reconstruction near Tee Box No. 4 on the Ironhorse Golf Course, located at 15400 Mission Road [Project # 49138 & 80255]
- H. Approve Change Order No. 1 in the amount of \$393,595.50, to O'Donnell & Sons Construction, pertaining to 2018 Residential Thin Lift Overlay Project; Change Order for 151st Street Left Turn Lanes at Mission Road and Mill & Overlay of 151st Street [Project Nos. 13080 and 72068]
- I. Approve Change Order No. 2 in the amount of \$49,502.50, to O'Donnell & Sons Construction, pertaining to 2018 Residential Thin Lift Project; Change Order for Asphalt Trail Overlay near 133rd Street [Roe Avenue to west City limits] [Project No. 70024]
- J. **Resolution No. 5042**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$26,659.22, with Blue Valley Public Safety, Inc., pertaining to the replacement of a storm siren located at 103rd and Wenonga
- K. **Resolution No. 5043**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$20,935.20 between the City and Creative Displays, pertaining to the holiday lighting at City Hall
- L. **Resolution No. 5044**, approving and authorizing the Mayor to execute an Agreement in the amount of \$9,895.20, between the City of Leawood and the City of Overland Park pertaining to improvement of the Tomahawk Creek Bike/Hike Trail from Roe Avenue to Nall Avenue
- M. **Resolution No. 5045**, accepting a Temporary Construction Easement from Grantor Camden Woods Homes Association, Inc., for property located on the southwest corner of 143rd & Aberdeen, Tract 6, Tract A, Camden Woods Subdivision, First Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]

- N. **Resolution No. 5046**, accepting a Temporary Construction Easement from Grantor Camden Woods Homes Association, Inc., for property located on the southeast corner of 143rd & Aberdeen, Tract 12, Tract B, Camden Woods Subdivision, First Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- O. **Resolution No. 5047**, accepting a Temporary Construction Easement from Grantor Camden Woods Homes Association, Inc., for property located on the southwest quadrant of 143rd & Aberdeen, Tract 15, Tract C, Camden Woods Subdivision, First Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- P. **Resolution No. 5048**, accepting a Temporary Construction Easement from Grantor Camden Woods Homes Association, Inc., for property located on the southwest corner of 144th & Kenneth Road, Tract 28, Tract G, Camden Woods Subdivision, Second Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- Q. **Resolution No. 5049**, accepting a Temporary Construction Easement from Grantor Camden Woods Homes Association, Inc., for property located on the northwest corner of 144th & Kenneth Road, Tract 29, Tract F, Camden Woods Subdivision, Second Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- R. **Resolution No. 5050**, accepting a Temporary Construction Easement from Grantor Leabrooke Master Homes Association, Inc., for property located on the northwest corner of 145th & Kenneth Road, Tract 25, Tract A, Leabrooke Subdivision, First Plat, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- S. **Resolution No. 5051**, accepting a Temporary Construction Easement from Grantors Brian L. Ripley and Angela D. Ripley, for property located at 2800 W. 143rd Street, Tract 13, Lot 1, Stonebridge Estates Subdivision, Replat of Lots 1 & 2, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- T. **Resolution No. 5052**, accepting a Temporary Construction Easement from Grantors Sean M. Graves and Rachel L. Graves, for property located at 2620 W. 143rd Street, Tract 17, Lot 3, Willow Lake Estates Subdivision, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- U. **Resolution No. 5053**, accepting a Permanent Utility Easement from Grantors Sean M. Graves and Rachel L. Graves, for property located at 2620 W. 143rd Street, Tract 17, Lot 3, Willow Lake Estates Subdivision, pertaining to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road [Project # 80129]
- V. Declaration of Surplus Property; weight lifting equipment from the Fire Dept.

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

8. MAYOR’S REPORT

- A. I had the privilege of hosting 65 fifth and sixth graders from Nativity School here in the Council Chambers a couple of weeks ago. They came to learn about the City and walked over in 100 degree heat. Although hot and exhausted, they were most attentive.
- B. Johnson County Commissioner Ron Shaffer joined me at an interesting ribbon cutting for AesthetiCare Med Spa, LLC, a Leawood Chamber of Commerce member since 2006, to open their new AesthetiCare Body Branch that offers coolsculpting. We had the opportunity to demo a piece of equipment that provides the value of doing 20,000 sit-ups in just 30 minutes. Commissioner Shaffer and I lasted only 5 minutes on this equipment.
- C. Reminder that “Into the Night Fall Festival” will be Friday, October 12, 5:30 P.M. to 8:30 P.M. in Ironwoods Park, 14701 Mission Road. Admission is \$10 per carload. Activities include a petting zoo, crafts, games, train rides, face painting, balloon artists, fortune telling and refreshments. Entertainers include Dino O’Dell, Mad Science, Vida Dance Company and Moon Pie Band. In the past, thousands have attended this enjoyable event.

9. COUNCILMEMBERS’ REPORT – None

10. CITY ADMINISTRATOR REPORT

Request for Budget Amendment – Upgrade Parks & Recreation position from ¾ to full time

Last week Mr. Lambers forwarded to the Governing Body an electronic communication he had received from Parks Superintendent Brian Anderson stating there had been difficulty filling a vacant 32-hour per week position in the department. Mr. Lambers proposed a budget amendment to cover the approximate \$10,000 cost to increase the hours from 32 to 40 per week, which may result in more interest in the position.

A motion to approve the request for the budget amendment was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

11. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

12. ARTS COUNCIL

[From the June 26, 2018 Arts Council Meeting]

Resolution No. 5054, approving and authorizing the Mayor to execute an Artwork Sale and Ownership Agreement in the amount of \$20,000.00 between the City and Beth Nybeck, pertaining to the purchase of the Art Piece, 'Point Defiance,' located to the west of the front of Leawood City Hall, 4800 Town Center Drive

Ms. Claxton stated the Council had previously approved the art purchase and the proposed resolution was for formal execution of the ownership agreement.

Councilmember Sipple asked if one or two potential permanent installation sites had been identified and timetable for move. Ms. Claxton stated the first choice site is just inside Ironwoods Park, on an outcropping on the south side of the driveway. The location may require a minor amount of excavation and it was hoped the piece would be moved in 2019. Identification of an art-on-loan piece was planned for the next 60 to 90 days, so the temporary installation site near City Hall would not remain empty as long as before.

A motion to approve Agenda Item 12. was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 8-0.

13. PLANNING COMMISSION

[From the September 11, 2018 Planning Commission Meeting]

Ordinance approving the Planning Commission's recommendation to deny a request for a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit for 135th Street and Kenneth Road – Mixed Use and Medium Density Residential, located south of 135th Street and west of Kenneth Road. (PC Case 71-18) [ROLL CALL VOTE]

City Administrator's Comment: The City Administrator strongly supports the City's Planning Commission and Planning Staff's recommendation for denial.

Mayor Dunn stated the Governing Body had received a number of electronic communications about the topic, which had been read and shared with Mr. Coleman, Mr. Klein and the Planning Staff.

Mr. John Petersen, Polsinelli PC, presented on behalf of Leawood 135 LLC, whose principals are Richard Lashbrook and Rick Lashbrook, and other entities for the project. The Lashbrooks would be the proposed majority purchaser and developer for the 56-acre site. Others present include architect Henry Klover with Klover Architects, civil engineer Tim Tucker with Phelps Engineering, and Len Corsi on behalf of Vic Regnier Builders, Inc., the property owner and one of the proposed developers for a piece of property for mixed-use.

Mr. Petersen stated the City had spent numerous hours in planning and evaluation, and a large amount of money for experts for the 135th Street Corridor Study, which has manifested into the 135th Street Community Plan for 600 acres, running 2.5 miles east to west from Nall to State Line Road. This is the first significant rezoning application to come against the City's 135th Street Study. A number of purchasers and developers have approached the City over the years and some decided not to pursue because an entire tract, rather than a portion, must be developed. The Lashbrook development team and Regnier ownership has gone head-to-head with the concept to bring forth an application and is at impasse, with a strong, not particularly detailed, recommendation for denial from the Planning Commission and City Staff.

He stated the impasse is not about required usage-type percentages for office, retail and residential, or mixture of uses, walkways, bikeways or interaction or interaction with single and multi-family homes and pedestrians. The impasse is about form. Mr. Petersen questioned if the City's Plan is a mandate or a guideline so applications can be formulated within guidelines.

Mr. Petersen stated for the record there is fundamental disagreement with the good work done in good faith by the City and the property owners who are ready to commit significant capital to move the corridor forward. As spokesperson, he would be direct and candid to articulate differences of opinion. He asked his comments be accepted with no disrespect from him or who he represents. There is agreement on one thing, a common theme found in City Plans: “Create a successful and economically sustainable development.” He suggested revision of “sustainable” with “feasible and reasonable”. “Reasonable” is a standard of review for land use and applicable to the City of Leawood. If held to the constraints in the Staff Report and testimony at the Planning Commission meeting, the project might be able to obtain financing, but would not be sustainable as the 135th Plan is articulated by Staff.

Mr. Petersen displayed a slide titled “City has three standards of review”, the Leawood Development Ordinance, Comprehensive Plan (independent of the 135th Street Community Plan) and the 135th Street Community Plan. As he stated at the Planning Commission meeting, he wanted stipulations. Mr. Petersen stated Staff had said the application could not be approved because the application is far from compliant with the 135th Plan. Staff did not prepare stipulations.

Mr. Lambers clarified that Staff provides opinions and comments on an application at a preliminary meeting, but applicants are not told they cannot apply because it is their right to do so and applicant’s decide to submit or not.

Mr. Petersen stated the City’s very specific street network grid was just changed one week ago, and 137th Street was moved without applicant’s knowledge. The grid is a footprint that drives where roads are placed to be compliant, and this creates parcels, form and design.

Mr. Petersen stated the City is familiar with its plans for transects, street grids and street character. Transects are transitional development, with office, retail/residential building height decreasing from four to eight-stories as you move south from 135th Street. Buildings on 136th Street should be two to four-stories, followed by two-story buildings or less, transitioning further south. This would provide for high density and value, but not if buildings could not be filled. Density can be expensive, requiring parking structures, and may not work everywhere. Mr. Petersen stated the minutes of Governing Body’s March 5, 2018 Work Session, when consultant Jim MacRae, Principal with Design Workshop, there were questions indicating it was unclear if transects and grid street systems would work at 135th Street and Kenneth Road.

Mr. Petersen presented displays of the mixed-use development Cherry Creek North in Denver, Colorado, and The Domain in Austin, Texas. He stated he worked with Mr. MacRae on Cherry Creek North and other mixed-use developments. Cherry Creek North is a highly-incentivized project located in the urban core involving redevelopment of existing streets, offices and retail, which is quite different from a “green field” site. There are some pieces of that project that might work on 135th Street. The Domain started as a very dense Class A office development having over 1 Million sq. ft. of office in place and operating, located on a major thoroughfare. Tenants such as Macy’s, Nordstrom and Dick’s were all brought to create synergy for the successful mixed-use development.

Mr. Petersen displayed a list of successful Johnson County mixed-use projects whose developers had spoken at the Leawood Chamber of Commerce Economic Development Meeting on August 10, 2018, to which he added Fred Merrill. He stated involvement with many of these projects and took the need to state judicial notice. Mr. Petersen made the following comments regarding each:

Keith Copaken – City Center, Lenexa

Buildings and structured parking just impressively popped up, seemingly from nowhere. Points of distinction that make this work are location at I-435 and 87th Street, distressed property was purchased by the City of Lenexa and the city became the master developer. A massive amount of city general fund money precipitated development and hundreds of millions of dollars in incentives for further development.

Rich Muller/Van Trust – Park Place, Leawood

Mr. Petersen stated for the record his belief that Van Trust would not build Park Place again in regard to return on investment, retail, retail streets and structured parking.

Hunter Johnson/Block – City Place, Overland Park

Located near the interstate right next to Corporate Woods, highway-orientated, low retail, mostly high-density multi-family with some senior living, significant incentives by the city, streets built, tax exemptions and CIDs [Community Improvement Districts].

Fred Merrill – Prairie Fire, Overland Park

As close as can come to “out of the ground” mixed-use with structured parking. The development is half-built.

Mr. Petersen presented photograph, aerial map and lot plan for The Villagio at Leawood, an under-utilized property. He stated the property had grid streets and power lines installed two years before the 2008 economic downturn. The \$18 Million investment ended in foreclosure. He stated he and a bank had come to the City with an application that did not go forward. The owner sold to Don Provost, a prolific developer involved in Cherry Creek North, for the cost of assessments left on the ground. Mr. Provost brought in a plan to the City for a grocery store and the wish to tear out the street grid. Mr. Petersen stated Mr. Provost indicated this was the only way he could develop.

Mr. Petersen displayed two quotes he attributed to Jim MacRae at the Joint Governing Body/Planning Commission March 5, 2018 Work Session:

“Design Workshop was not contracted to design the project, but just to provide guidelines and ideas for consideration.”

“He suggested the City to find a balance and that mixed-use does not always need to be vertical mixed use.”

Mr. Petersen displayed an overlay map of Tuscany Reserve Villas, located slightly to the east of the proposed development. He stated the development team looked at the features of this subdivision. Tuscany has residential to the south and slightly higher density residential north of 137th Street. They did not find 137th Street to be any kind of “Berlin Wall” to having mixed-use development.

Mr. Petersen displayed aerial and elevation plans of the proposed application. He stated the desire to bring in a high quality attached villa product that would begin at 137th Street with a little “bleed over” that would move into 17 acres of mixed-use on 135th Street. The development would bring elements of the 135th Plan, building height, street presence, rear parking and structured parking. The 8.43 acre area in the west presented in red would contain three multi-family buildings, one mixed-use office/residential building, total 173 units, 15,000 sq. ft. of retail and 50,000 sq. ft. of office that can be built and actually leased. The buildings would be podium-style, stick-built. The area to the east of the presented in blue would contain three commercial buildings. To the east of the commercial buildings the area presented in purple would contain 84 senior living units. Buildings would be four to eight stories in height, not eight stories, but what can actually be built for market. Both sides of the development would have structured parking, 100 spaces on the east and 190 on the west, balanced with some surface parking. The project includes a street roundabout and some art features in the middle. Every street has double sidewalks. There would be 4 ft. bike lanes on 137th Street per City Code, internal sidewalks would be 5 ft. wide, sidewalks on 135th Street would be 6 ft. wide, and there would be an 8 ft. wide trail south of the villas coming off 137th Street. Respect is given to those on foot and on bicycles. There is probably more work to do on pedestrian connectivity, such as rest stops and bicycle pumps, but no stipulations were provided and this is typically addressed in the Final Plan. The application has some vertical and some horizontal mixed-use. He stated a successful and economically feasible sustainable development cannot be done with a strict 135th Plan.

Mr. Petersen displayed a graphic generated by his design team, not part of the application, which depicted elements of the application placed over the latest street grid plan, showing mid-density and buildings of varying heights. He stated 135th Street stoplight access points are worthy of further future discussion to find common ground.

Mr. Petersen displayed the eight “Golden Criteria” of the Supreme Court of Kansas. He stated the City is familiar with these, and wanted to focus on Criteria 5. “Relative gain to the public health, safety and welfare due to the denial of the application compared to the hardship imposed, if any, as a result of denial of the application.” He stated he has not found a single person that says their property values will come down, and questioned the hardship to the application if the application is denied. He stated this is really a land use argument.

Mayor Dunn thanked Mr. Petersen and pointed out to meeting attendees that applicants present first at Council meetings, followed by Staff. At Planning Commission meetings, the order is reversed.

Mayor Dunn stated she was not aware of 137th Street move. Mr. Coleman stated there were two different plans with 137th Street, the 135th Community Plan and also the Implementation Plan. The Implementation Plan now aligns with the Comprehensive Plan, which shows the street swinging north then east to medium-density residential and to a small tract of land that borders Kenneth Road. The applicant’s plan removes a large tract of trees and has 137th Street rising about one block north, basically becoming 136th Street located one block south of 135th Street. In the Comprehensive Plan, 137th Street would be on the south side of these trees; the land slopes to the east. Another key Staff issue involves 135th Street. In 1982, Olathe, Overland Park and Leawood agreed to a conduct a planning study for K-150. K-150 was turned over to the cities, all three cities contributed to the plan, and each city adopted the plan. In 1996 Leawood adopted the plan and traffic engineering agreement for 135th Street. The street would carry a large volume of traffic and have intersections located at 0.50 and 0.25 miles. The distance between Kenneth Road and State Line Road is slightly different.

Mr. Coleman stated the applicant's plan moves an intersection on 135th Street, High Drive, to the east and this does not adhere to the intersection location agreement and Comprehensive Plan. The entrance to the development should be located over 400 ft. to the west.

Mr. Coleman stated Planning Staff has no disagreement on land uses or building height, but does have one issue with density criteria. Conformance to the road network and City Plan to meet criteria is desired, to create a sense of place for development. The street network is the foundation of the development plan. In the application, their 135th Street intersection needs to be relocated. 137th Street needs to be moved to the south; the applicant can move their duplexes to accomplish this. The applicant's plan has three buildings that face parking lots with nothing on the other side. There is a smaller issue with the proposed vehicular roundabout. Roundabouts do not create walkability as traffic continues through the roundabout. Pedestrians, including those with limited mobility or using wheelchairs, would be at risk when attempting to navigate the roundabout. Trees need to be preserved rather than removed. It is desired that Tract G be extended all the way across the site's southern property line for a landscape/tree preservation area. Because the developer does not own the tract of land to the west, the City needs a cul-de-sac constructed rather than a dead-end street. Dead-end streets tend to become trash dumping grounds.

Mr. Coleman confirmed to Mayor Dunn that if revisions were made and duplexes relocated north of 137th Street that has moved south, the same amount of land would be available for mixed-use.

Mr. Ley stated with the exception of distance of Kenneth Road which is off 200 ft., the 12 coordinated traffic signals along the 3.5 miles of 135th Street from Metcalf to Old K-150 have even spacing, plus or minus 20 ft. Traffic along 135th Street is coordinated 13 hours a day, seven days a week by the Mid-America Regional Council's "Operation Green Light". The applicant has provided a traffic study and proposed to remove the traffic signal at Kenneth Road, but the applicant did not supply any other information as part of their traffic study. The applicant proposes entrance 400 ft. from where a 0.25 mile interval would be, which would worsen traffic flow.

Mr. Ley confirmed to Councilmember Azeltine that removal of the traffic signal at Kenneth Road would result right-in/right-out turn at the location. He stated the signal is used to access the development at the southeast corner of the intersection and the church located to the north on Kenneth Road.

Councilmember Cain inquired if all traffic signal lights in the cities were in place and if the traffic flow system could be slightly adjusted to accommodate. Mr. Ley stated the only traffic signal not constructed on 135th Street between Nall and State Line Road is High Drive. System adjustments might be possible for a one-way street, but 135th Street has two-way traffic and its traffic timing is coordinated 13 hours a day, seven days a week, not just during high peak hours. He stated that cities may have their own traffic coordinators that are not part of "Operation Green Light", but all work within the overall flow system. Councilmember Cain stated stop-and-go traffic flow on 135th Street happens further to the west, and is not the way to go especially with future growth in the area.

Councilmember Rawlings inquired if the developer had been advised about High Drive and had been asked to move the entrance. Mr. Coleman stated the issue was brought up with the applicant, who had stated no interest in putting an intersection at High Drive. This was the end of the conversation. He would defer to Mr. Ley on whether there is any flexibility on intersection distance to accommodate the development, but this cannot be off by the 400 ft. proposed in the application.

Mr. Ley confirmed to Councilmember Sipple that intersection locations on 135th Street have been known since 1997 and the City was upfront in this regard at the first meeting with the applicant.

Councilmember Sipple stated if 137th Street is shifted south from the roundabout, he desired the current property owners to have a tree buffer from the duplexes. He inquired about the possibility to build duplexes on the south and north side of 137th Street, or build duplexes on the south and quadplexes on the north side of 137th Street for economic feasibility. He suggested it may be sensible to have duplexes all along the north side of 137th Street to preserve the wildlife area. Mr. Coleman stated the plan could increase to townhomes on the north side to off-set changes and keep some duplexes on the north side as well.

Councilmember Azeltine asked if there was any latitude on High Drive intersection. Mr. Ley stated the applicant would need to provide a traffic study for the future coordination plan for 40,000 vehicles a day.

Councilmember Larson stated Highland Ranch Villas residents are concerned about the closeness of 137th Street and property devaluation. She asked if 137th Street could be moved farther north to provide a buffer. Mr. Coleman stated there are two 10-acre tracts to the west of the applicant's tract. Chadwick Road, the furthest from the applicant's tract, already has a dedicated right-of-way in place so minimal could be done. The other tract has not been platted or zoned, so the City could work with a future developer to swing 137th Street north from dedicated right-of-way so by the time the street reached the applicant's tract the street would be well-away from the property lines of the residents. The City has reviewed the number of houses involved. The right-of-way is fixed for about three or four houses in Highland Ranch. Residents might work in conjunction with adjacent property owners to revise their plans. Councilmember Larson stated that residents would favor this; Mr. Coleman agreed. Councilmember Larson stated Leawood Falls residents are glad to have the street away from their properties.

Councilmember Larson stated support of the roundabout, sharing that she frequently walks through an area containing a roundabout and does not encounter any difficulty. She expressed the hope to find a win-win development plan containing many great items.

Councilmember Osman asked how many times City Staff had met with the applicant before the proposed plan was presented to the Planning Commission. Mr. Klein stated the process involves a pre-application meeting where the Staff provides guidance, the applicant submits and then Staff reviews and provides comments. In this case, the application was placed on a Planning Commission meeting agenda, but review of the application was continued to another Planning Commission meeting. Staff provided two sets of comments, so there had been good discussion. At the Planning Commission review, the applicant felt they needed to move forward per their proposal.

Councilmember Osman expressed concern that at the Planning Commission meeting, conducted with a quorum of members present, the developer did not receive guidance, direction or stipulations. To avoid stalemate, communication is needed. Mayor Dunn stated the Planning Commission, comprised of hard-working volunteers, had spent three hours on the topic. She had read the meeting minutes and listened to the recording of the meeting. The Planning Commission had been frustrated by the lack of stipulations. Vice-Chair James Pateidl presided as Chair at the meeting and asked Mr. Petersen for time to work on stipulations which are developed by the Planning Department. The Planning Commission earnestly wanted to continue to work with the applicant. Mr. Petersen stated if denied, he just wanted to go before the Council.

Councilmember Osman pointed out his position for several years is that he does not approve of the City's 135th Street Plan, but accepts the position of the Council and City Staff. Minutes from the Governing Body meeting on September 17, 2018, document his and Councilmember Harrison's concerns about the 135th Street Future Street Network Plan. They were told flexibility would possibly exist, but flexibility has not been demonstrated by the developer or City. Planning Commission guidance was lacking. He suggested consideration of the proposed application was not at a point for citizen comment. This is a catalyst and the City needs to step back and take time. As Chair of the Public Works Committee he understands a traffic signal cannot be moved 400 ft., but perhaps 50 ft. to 100 ft. might be possible. He pointed out focal-point roundabouts are successful in Hallbrook. He stated the application should be remanded to the Planning Commission for continued work and direction to City Staff, expending another few weeks to ensure this is done right.

Councilmember Cain agreed that more dialogue is needed between the developer and the City, pointing out this is the first application that complies with the 20-20-10 percentage use ratio. The stated size and price of the attached villas are rare in the City or surrounding areas, and are an indication of quality. She was curious about amenities. The Staff Report lists nine non-compliant parts of the application which have now been reduced to just two, and the Planning Commission should be alerted to this. She stated the Governing Body could not move the application forward tonight without majority vote.

Councilmember Harrison stated she had been surprised by the number of citizens who support the proposed application for a project in her Ward and applauded citizen interest and effort to attend the meeting. Only three out of 34 resident communications did not favor the project at this particular time.

Councilmember Harrison stated she hates to demand a land owner keep the large tract of trees and construct a huge street network grid. She thanked Councilmember Osman for pointing out her specific questions and concerns expressed at the September 17, 2018 Governing Body meeting in regard to the number of grids required, their intricacy and inconsistencies. The City has received an application that does not work with that system. She would support the proposed cul-de-sacs and roundabout. Retaining the tree line on the south would be desirable. The location of a major intersection on 135th Street is less flexible, and it is likely the traffic signal at Kenneth Road cannot be removed.

Councilmember Harrison stated she would like to make a motion to remand to the Planning Commission. Mayor Dunn stated comments from several Councilmembers still need to be heard.

Councilmember Azeltine pointed out the application does not meet the density requirement. He suggested the developer consider having a gathering space "mini-park" instead of four units to the south of the swimming pool near the roundabout. He supports the connectivity of the 135th Street Plan. The trails in the application go around structures. The cul-de-sacs should be connected. Green space requirement has been fulfilled by bio-retention [water treatment/rain gardens] and detention, but he would like to see increased creativity in regard to green space to promote a sense of place, along with more connectivity to promote community. These ideas may help the application meet the required density Floor Area Ratio [FAR] calculation. He agreed with Councilmember Cain's comments about anticipated demand for the proposed type of housing.

Councilmember Azeltine stated agreement with Councilmember Osman in regard to providing guidance. He stated a preliminary plan should not have been presented to the Planning Commission without any stipulations, something he has not observed in 15 years. Property owners have the right to develop their property. The property owner and Staff should work together to develop the stipulations. The item should be continued so this could happen.

Councilmember Rawlings stated he wanted to see compromise by City and developer; the application has much merit.

Mr. Petersen confirmed to Councilmember Sipple the developer heard Councilmember Azeltine's comments about connectivity between cul-de-sacs and commercial, and having a focal gathering point in the development.

Councilmember Filla noted each side of the attached units, referred to as duplexes, would be 2,000 sq. ft. and priced about \$600,000. She inquired if any consideration had been given to having "green roofs" on any flat roofs in the development, and to backyards and parking abutting old-fashioned alleys. Mr. Coleman stated a bonus might be given to the applicant if these were used on commercial building flat roofs.

Councilmember Filla stated office-retail-residential use percentages are not an issue. She does not favor cul-de-sacs, as they do not create a sense of space, or double-sidewalks on cul-de-sacs that create "mini highways". The roundabout should be removed as this would be difficult for vehicles and pedestrians to navigate, and the duplexes should be moved. She expressed appreciation for the underground parking. She asked if Staff was given the task to reconfigure, could an acceptable win-win compromise be reached. She suggested using scaled paper pieces to represent development structures to explore layout options.

Mr. Lambers stated Staff could reconfigure, but probably should not. If a Staff reconfiguration plan was developed, then there would be two plans to review, requiring more time. He stated the key issues are alignment of 136th Street/137th Street. He suggested continuance to the next Council meeting to have Staff discuss 136th Street and 137th Street and what might be done. However, if the applicant is adamant on the alignment of High Drive there would be an impasse because the City does not support. The intersection must be confirmed as planned for 30 years. Mr. Lambers stated tonight the Council could accept the Planning Commission's denial or remand to the Planning Commission for stipulations.

Mr. Petersen stated the team with him tonight agrees to meet to work on a compromise plan that makes sense. He suggested remand to a full Planning Commission on October 23 and back to Council in November. Mayor Dunn stated the Planning Commission agenda docket is unknown. Mr. Lambers recommended remand to the Planning Commission meeting scheduled for the second Tuesday in November and return to the Council at their first meeting in December. Mr. Petersen agreed with Mr. Lambers' recommendation.

Mr. Petersen stated he would continue to work with the City and would look at the street already present on the west side. He stated the team would live up to their commitments.

Ms. Carol Busch, 2724 West 137th Place [2428 West 137th Place per Sign-In], Leawood Falls, stated in June there had been a Community Meeting between the Leawood Falls home owners and the developer. The many home owners at the meeting totally support the development which curves and flows, and is not “cookie cutter” for blocks and blocks. They were assured the tree line at the south of proposed development would be maintained as a buffer, whether it was left wild or a different type of tree line. Also, as 137th Street curves slightly north this would provide more of a buffer. The roundabout would be acceptable as traffic would move slowly through residential, similar to the beautiful roundabout in Tuscany Reserve.

Mr. Will Henrichson, 2430 West 137th Place, was no longer present.

Ms. Kelly Sherman, 12920 El Monte, stated she was a resident of Leawood and the Managing Partner for 26Par Farm, property located directly west of the proposed development. She was encouraged to see the Council step back from denial, noting issues with the application had decreased from nine to two. The denial had become too much for the developer to deal with, lacking stipulations. The uncertainty created is what is detrimental to property values. Interested parties are watching to see how the Comprehensive Plan will be interpreted for real-life and market-drive. She is supportive of the fantastic development, with the developer having spent a large amount of money, passion and commitment. Her property is on the market for sale. A purchaser may want to divide the parcel. The Comprehensive Plan would need to be modified to consider great ideas on small 5-acre tracts. She expressed appreciation for all of the City’s work. She requested to submit the letter she had written for the record. Mayor Dunn confirmed the letter had been received.

Mr. Bob Regnier, 3400 West 119th Street, owner of the property, stated most of the comments he wanted to make had already been made. He expressed appreciation for discussion, reflective of the willingness to be flexible. Without some flexibility on zoning, the property would be zoned Agricultural forever. Under the current City plan, the property could not be developed and the application is a great compromise. Four-story buildings cannot be forced upon residential located behind. There is a huge demand for the proposed housing units. He hoped the Lashbrooks can continue work with the City to bring back a proposal to Council.

Mayor Dunn inquired if Mr. Lambers, Mr. Coleman or Mr. Klein needed further direction from the Governing Body. Mr. Lambers stated understanding of the Council’s desires, but two parties are fixed on one issue. If an impasse is reached on the one issue, the City will do what can be done. Mayor Dunn stated her belief the Planning Commission would welcome the opportunity to review with stipulations, and her understanding of why stipulations were not developed. She looks forward to positive discussion.

A motion to remand Agenda Item 13. to the Planning Commission, November 13, 2018 meeting was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

14. OLD BUSINESS – None

15. OTHER BUSINESS – None

16. NEW BUSINESS – None

ADJOURN

There being no further business, the meeting was adjourned at 9:42 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk