

Minutes

DVD No. 439

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, April 15, 2019. Mayor Peggy Dunn presided.

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

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator
David Ley, Public Works Director
Chief Troy Rettig, Police Department
Chris Claxton, Parks & Recreation Director
Nic Sanders, Human Resource Director
Dawn Long, Finance Director
Mark Tepesch, Info. Services Specialist III
Patty Bennett, City Attorney
Mark Klein, Planning Official
Chief Dave Williams, Fire Department
Ross Kurz, Info. Services Director
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** – Led by a First Class Rank Boy Scout from Troop 10 and a First Class Rank Boy Scout from Troop 92.

2. **APPROVAL OF AGENDA**

Mayor Dunn stated the agenda had been amended to add a report by Councilmember Harrison under Agenda Item 9., Councilmembers' Report.

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Larson. 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.**

District 1 County Commissioner Becky Fast, Johnson County Board of County Commissioners, stated she resides in Roeland Park. Prior to election to the County Board she had served on the Roeland Park Council for eight years. District 1 consists of 11 cities, one-half of the cities in Johnson County. Her

District runs from Merriam to Westwood Hills and south to just beyond Interstate 435, which includes a portion of Leawood. County Commissioner Steve Klika represents the remainder of Leawood. She has toured the Tomahawk Creek Wastewater Treatment Facility expansion project which is currently underway. She has briefly spoken with Mayor Dunn and plans to present to the Governing Body later this Fall. In the interim the City should contact her on County issues, and she provided her business cards to the City Clerk.

Commissioner Fast provided information on a few County priorities, as follows:

1. The County budget process is underway.
2. Today the County Manager and Sheriff Hayden met with City Managers met to discuss jail fees. Currently, cities pay \$35 and the County pays \$150 per day. This daily fee has been the same for 30 years and may need to be incrementally raised. This impacts city budgets.
3. One of the reasons she ran for office was mental health and access to services. A large number of individuals in the County jail related to mental health issues. She has brought forth there may need to be an increased response or a mobile response to this crisis.
4. Landfill Plan. She is liaison to the Solid Waste Management Committee. The landfill has a 20-year life and we are looking at how to divert more recycling. The previous plan did not allow yard waste and required haulers to collect recycling. Next five-year plan may need some regulation. She will provide documentation to City Staff for emailing, as public input is desired.
5. Liquor-by-the-drink. There is a 30% food requirement in urban Johnson County cities. A county-by-county ballot vote would be needed to eliminate this requirement. Many Leawood residents have indicated they would like to have a craft brewery. There are breweries planned in Shawnee and Lenexa.
6. Stormwater funding will continue with cities as a great cost-sharing opportunity.

Mayor Dunn thanked Commissioner Fast, stating Police Chief Troy Rettig and the Police Department appreciates the County Mental Health Department partnership. This has made a difference in the community in this important area. She stated Commissioner Fast will be contacted if the need arises.

4. PROCLAMATIONS

Arbor Day, April 26, 2019

Mayor Dunn read the proclamation into the record and presented to Parks & Recreation Director Chris Claxton.

Mayor Dunn noted on May 4, 2019 at 10:00 A.M. in Ironwoods Park near the Amphitheater, the Rotary Club will plant a tree, in addition to the twenty trees they donated to the park this year. This is the second year in the Rotary's three-year plan to dedicate a tree for each of their 60 members. As Rotary Club members, Councilmembers Sipple, Harrison and Rawlings will eventually have a tree planted in their honor.

Mayor Dunn acknowledged Debbie Adams and other members of the Tree Committee in attendance.

Ms. Claxton thanked the Rotarians for the continuing effort. She stated Ironwoods Park lacks shade in the planting area and appreciates the diversity of species. She looks forward to the exciting event.

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. 2019-13 and 2019-14
- B. Accept minutes of the April 1, 2019 Governing Body meeting
- C. Accept minutes of the April 1, 2019 Executive Session
- D. Accept minutes of the March 12, 2019 Parks & Recreation Advisory Board meeting
- E. Accept minutes of the March 5, 2019 Leawood Foundation meeting
- F. Accept minutes of the January 22, 2019 Arts Council meeting
- G. Accept minutes of the December 5, 2018 Public Works Committee meeting
- H. Approve purchase in the amount of \$30,000 from Western Enterprises, Inc., for purchase of fireworks for July 4th celebration at City Park, 10601 Lee Boulevard
- I. **Resolution No. 5165**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,428,278.70, between the City and Freeman Concrete Construction, LLC, pertaining to the 2019 Residential Street Reconstruction Program, Phase I [Project # 80219]
- J. **Resolution No. 5166**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$937,995.00, between the City and Wiedenmann, Inc., pertaining to the 2019 Patrician Woods Stormwater Improvement Project [SMAC Project TM-04-006] [Leawood Project # 77018]
- K. **Resolution No. 5167**, approving and authorizing the Mayor to execute an Encroachment Agreement between the City and Magellan Pipeline Company, L.P., pertaining to the utility relocation of the Magellan Pipeline for the 143rd Street Improvement Project, from Windsor to Kenneth Road [Project # 80129]
- L. **Resolution No. 5168**, approving a Revised Final Plan for the Manfield Multi-tenant Building, located south of 103rd Street and west of State Line Road. (PC Case 20-19) *[from the March 26, 2019 Planning Commission meeting]*
- M. **Resolution No. 5169**, approving a Revised Final Plan for changes to the façade of a tenant space for Town Center Plaza – American Century Investments, located south of Town Center Drive and west of Roe Avenue. (PC Case 21-19) *[from the March 26, 2019 Planning Commission meeting]*
- N. **Resolution No. 5170**, approving a Revised Final Plan for changes to the façade of a tenant space for Town Center Plaza – Pottery Barn Kids, located north of 119th Street and east of Nall Avenue. (PC Case 22-19) *[from the March 26, 2019 Planning Commission meeting]*
- O. **Resolution No. 5171**, approving a Revised Final Plat for the Enclave at Highland Villas, Fifth Plat, located south of 143rd Street and east of Nall Avenue. (PC Case 23-19) *[from the March 26, 2019 Planning Commission meeting]*
- P. **Resolution No. 5172**, authorizing the payment of Appraisers' Award and costs in the amount of \$53,290.00, to the Johnson County District Court for a Temporary Construction Easement and a Permanent Drainage Easement relating to the 143rd Street Improvement Project from Windsor Lane to Kenneth Road, located in Leawood, Johnson County, Kansas [Project # 80129]
- Q. Police Department Monthly Report
- R. Fire Department Monthly Report
- S. Municipal Court Monthly Report

Councilmember Filla requested Consent Agenda Item 7.A. be pulled.
Councilmember Harrison requested Consent Agenda Item 7.F. be pulled.
Councilmember Osman requested Consent Agenda Items 7.H. and 7.L. be pulled.
Councilmember Sipple requested Consent Agenda Item 7.J. be pulled.

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

7.A. Accept Appropriation Ordinance Nos. 2019-13 and 2019-14

Councilmember Filla inquired if Check No. 100537 payable to SolarWinds Inc. shown on Page 11 of Appropriation Ordinance 2019-13 was for a software program or renewable energy in the City. Ms. Long stated she would research and email the requested information to Councilmember Filla.

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

7.F. Accept minutes of the January 22, 2019 Arts Council meeting

Councilmember Harrison requested an update on arrival/installation of the Walking Female sculpture. The minutes indicate the sculpture was to be installed in February. Mayor Dunn stated her recollection from a more recent Arts Council meeting, the new target date is April 22, but this date could move again.

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

7.H. Approve purchase in the amount of \$30,000 from Western Enterprises, Inc., for purchase of fireworks for July 4th celebration at City Park, 10601 Lee Boulevard

Councilmember Osman noted this is the last year of a three-year contract. He advocates for better and bigger fireworks displays, and asked that Ms. Claxton review the budget to determine if funding is adequate or should be increased.

Mayor Dunn stated she attends the 4th of July celebration every year and feels the display is unbelievably spectacular, likely the best in Johnson County. She appreciates Councilmember Osman's enthusiasm. Councilmember Sipple agreed with Mayor Dunn in regard to the quality of the display. Councilmember Osman asked to imagine what the display would be if an additional \$5,000 were budgeted.

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

- 7.J. **Resolution No. 5166**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$937,995.00, between the City and Wiedenmann, Inc., pertaining to the 2019 Patrician Woods Stormwater Improvement Project [SMAC Project TM-04-006] [Leawood Project # 77018]

Councilmember Sipple recalled past discussions that occurred over a long period of time with neighbors in the area. He inquired if the proposed Construction Agreement bid amount would include reworking the cul-de-sac island, or if there had been a cost-sharing agreement between the Patrician Woods Home Owners Association [HOA] and the City in regard to the island.

Mr. Ley stated a 50/50 cost-sharing agreement between the HOA and the City to replace stone walls, with maximum City contribution of \$20,000, is being developed. When the City leaves the project the island will have only grass. Shrubbery is located on resident lots, not on the island. If the stormwater project is completed in August, landscaping would likely be planted in October.

Mr. Tom Messenger, 12515 Delmar, stated he was the Acting President of the Patrician Woods HOA, and it has been good to work with Mr. Ley and the Public Works Department in numerous meetings. He expressed concern on two issues. It will be difficult for a tree to grow in 2 ft. of soil above a buried concrete box culvert, and the foundation wall going over the culvert may be stressed and crack on side edges. It may take a year for settling to occur. A \$40,000 expenditure is penny-pinching for what is to be done. The appearance of the island makes a significant impact on home values and residents desire a good project. One house recently sold and a couple more houses will be going on the market. He stated a tree planted in August could die, therefore the project may not be complete in August. This will be a work in progress.

Mr. Messenger confirmed to Councilmember Sipple that the proposed General Contractor was acceptable.

Mr. Messenger conferred with an audience member who questioned two-point access to the area during construction. Mr. Ley stated an inspector on the project would inform emergency services about how to approach the area during construction. The contractor will maintain access to driveways as best possible on a daily basis. This is a very large project, and the contractor and inspector will work with individual property owners.

Councilmember Azeltine stated this is perhaps the most important stormwater project to-date, but may not be the largest. Progress has been slow, with a couple of hold-outs on needed easements. In the future, the City will be utilizing an eminent domain authority process to facilitate projects that are for the greater good.

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

- 7.L. **Resolution No. 5168**, approving a Revised Final Plan for the Manfield Multi-tenant Building, located south of 103rd Street and west of State Line Road. (PC Case 20-19) *[from the March 26, 2019 Planning Commission meeting]*

Councilmember Osman asked if the 12 junipers proposed for planting on the west side of the building could be expected to survive since the area is not irrigated. Mr. Klein stated Staff wants the junipers to be watered and applicant has agreed to do so. Parks & Recreation assisted in the selection of an appropriate species. There is not much space in the area. The junipers will be about 6 ft. tall when installed and will take three to four years to establish. Watering and growth will be monitored.

Councilmember Osman noted the property has some aesthetic issues involving electronic and/or unauthorized signage in the past few years. There is a very large real estate sign in front of the property. He questioned if the property was now in compliance, and when an enclosure for the dumpster located in the parking lot behind the building would be required.

Mr. Klein stated the building was recently purchased and the new owner has indicated they plan to submit a signage application and may also make additional improvements. An enclosure for the trash dumpster would be required when there was change to intensity in use. He will request Code Enforcement visit the property in regard to the large real estate sign.

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

8. MAYOR'S REPORT

- A. Merriam Mayor Ken Sisson hosted the Johnson & Wyandotte Counties Council of Mayors in April. Much of our agenda topics focused on legislative updates.
- B. My thanks to Leawood Chamber of Commerce Chief Executive Officer Kevin Jeffries and City Administrator Scott Lambers for organizing a joint meeting for the Governing Body, the Planning Commission, the Executive Committees for the Chamber and Economic Development Council, and the Planning Staff. The agenda item was a presentation on alternative housing options that may be appropriate for our City.
- C. Police Chief Troy Rettig and members of his Leadership Team joined me at two D.A.R.E. Graduations this past week. The first was led by Officer Emily Craighead at Nativity School; the second was led by Officer Phil Goff at Curé of Ars School. Both do an outstanding job with the students.
- D. I-Lan Sister City Committee Chair Bette Monson and I were hosted by Founder and President Vivian Swafford of the Taiwan-American Friendship Association at the International Relations Association celebration of the 40th anniversary of the Taiwan Relations Act. This event was held on the exact day, April 10, when President Jimmy Carter in 1979 signed the Act into law. TECO Denver Director General Jerry Chang presented keynote remarks.
- E. Congratulations are in order for Public Works Senior Stormwater Crewleader Calvin Burgess on his retirement after 24 years of dedicated service. We thank him and wish him well.
- F. Appreciation to the Leawood Rotary on Trail Cleanup Day. Twenty Rotarians and some Blue Valley North High School students filled 15 large bags of litter from debris along Tomahawk Creek Trails on April 6. Special thanks to Councilmembers and Rotarians Lisa Harrison, Jim Rawlings and Chuck Sipple.

- G. On Saturday, April 13, approximately 50 Scouts from Troop 10 assisted with brush and debris removal in Ironwoods Park, in preparation for the City’s egg hunt. The Scouts returned on Sunday to assist City Staff with placing eggs on fields, selling lunch and helping cleanup the park afterwards. We are grateful for their community service work.
- H. On Saturday, April 6, National Dance Day celebration was hosted by the Leawood Arts Council and the Leawood Stage Company at the Ironwoods Park Amphitheater. This is the third consecutive year for the celebration and 200 dancers of all ages performed 20 different styles of dance. The weather was nice and nearly 400 non-dancers attended.
- I. Congratulations to the Police Department on their 2018 Annual Report which looks terrific and is available on-line. Thanks to all who assisted in report preparation.
- J. SafeWise’s annual 20 Safest Cities in Kansas Report for 2019 ranked Leawood as the fifth safest city in Kansas. Last year, Leawood ranked eighth. Thanks to Police Chief Troy Rettig and his department.

9. COUNCILMEMBERS’ REPORT
Councilmember Harrison

SevenDays® Event, ‘Is Your Neighbor a White Supremacist?’ held on Thursday, April 11, 2019 at COR

Councilmember Harrison stated she was honored to attend the “Faith Always Wins” event last week, along with approximately 800 city-wide neighbors and a couple of mayors from local communities. The SevenDays® Event concludes tonight with a walk starting at the World War I Memorial. The event at the Church of the Resurrection she attended was life-changing for her, being moved to see reformed White Supremacists next to event founder Ms. Mindy Corporon, who lost her Father and Son in shootings. The presentation was top-notch, and all events are very well-done and a genuine effort to change our community. She encouraged participation in the event next year. Leawood is one of eight supporting cities in the community. She was presented a gratitude plaque for the City of Leawood for 2019 participation. The plaque has space for the addition of yearly stickers received for future participation in SevenDays® Event.

Mayor Dunn stated the events are spectacular and have grown larger each passing year. She thanked Councilmember Harrison for her attendance, representing the City of Leawood and the Governing Body, and presenting the plaque.

10. CITY ADMINISTRATOR REPORT – None

11. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

12. SUSTAINABILITY ADVISORY BOARD

[from the April 11, 2019 Sustainability Advisory Board meeting]

Recommendation for Kansas City Power & Light [KCP&L] Renewables

Councilmember Sipple, Chair of the Sustainability Advisory Board, stated he had hoped to share copies of hand-out documentation provided by KCP&L last Thursday morning. He gave a brief overview on the topic. KCP&L has proposed cost-sharing with municipalities on renewable energy, basically wind turbines. Municipalities would enter into agreements regarding future power, providing to use a certain number of kilowatt hours per month, per year, at a given rate. As a result, KCP&L would have an increasing percentage of wind-generated power, and this would demonstrate City action in regard to constituent desires for sustainable energy and reducing reliance on coal, gas and oil. The KCP&L hand-outs included anticipated costs. There would be modest increase over current rates. As Chair of the Sustainability Advisory Board, he recommends the Governing Body approve detailed review of the KCP&L agreement for this initiative, investigate anticipated costs, and our legal rights and obligations for a 5, 10 or 15-year commitment to the utility.

Mayor Dunn stated she and Mr. Lambers had also attended a presentation by KCP&L. Mr. Lambers stated KCP&L is working with Prairie Village and other northeast Johnson County cities in this regard. Participants become part of the production of wind power energy that is added to the energy grid. There is no assurance that power generated would come to Leawood, only the power added to grid. Anticipated cost would be minimal and perhaps there may be a cost reduction. He stated it would be appropriate to come back before the Governing Body with an agreement for consideration.

Mayor Dunn stated the reason why documentation was not provided was because KCP&L continues to have meetings with additional cities, and KCP&L is hoping to gather even more amicable terms in their final proposal. Mr. Lambers stated KCP&L has a minimal power usage requirement for a city to qualify, but looking to have smaller cities band together. Street light power usage does not qualify. KCP&L is looking to amend their agreement.

Councilmember Azeltine agreed with Councilmember Sipple that this was an intriguing opportunity. Mr. Lambers confirmed to Councilmember Azeltine referral should be sent to City Staff for review rather than referral to the Sustainability Advisory Board, based on concurrence of the Board.

Councilmember Osman inquired if a commitment was made to add wind power to the energy grid, would a wind turbine be located in the City. Mr. Lambers stated there may be a turbine within 20 miles of Leawood in an outlying area, but a turbine in the City would not be anticipated. He suspects KCP&L is attempting to work out turbine lease agreements.

Councilmember Rawlings noted there has been a large amount of news media about wind power generated in western Kansas sold on the nation-wide energy grid and farmers upset about eminent domain of their land. Electricity generated is being transmitted to Indiana and the East Coast. He asked if the City would receive any benefit. Mr. Lambers stated the benefit would be participation in supporting wind power. It was made very clear that there is no way of knowing where the power would go. Councilmember Sipple pointed out the KCP&L representative had stated power is brokered daily in the United States. Participation helps pay for wind turbine farms, which are beneficial.

A motion to have Staff study the issue and make a recommendation to the Governing Body was made by Councilmember Sipple; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

13. PUBLIC WORKS COMMITTEE

[from the April 3, 2019 Public Works Committee meeting]

Recommendation to approve Siena Leewood Homes Association to participate in the City's Privately Owned Street Light LED Replacement Program

Councilmember Osman, Public Works Committee Chair, stated the Committee had met on Wednesday, April 10, to discuss the referral given by the Governing Body. The Siena Home Owner's Association [HOA] application met all previously established criteria used in review of the prior Hallbrook HOA application. Siena's application was approved by the Committee and finalization by the Governing Body is proposed.

Councilmember Sipple stated he is a member of the Siena HOA so he would abstain from voting. He displayed examples of high-pressure sodium and LED light bulbs. He stated Siena HOA has 38 high-pressure sodium bulbs that produce a light having a slight orange cast, and each bulb lasts about five years. These bulbs have been replaced on a regular basis during the HOA's 15-year existence. The bulbs use a 240 volt socket and ballast must be replaced each time a bulb is replaced. LED bulbs are direct-wired to the socket and do not require ballast, guaranteed to last 50,000 hours or about eight to 10 years, and consume about one-third less electricity. The HOA has proposed a LED bulb that will produce light relatively similar in color to the current high-pressure sodium bulbs. Plastic globes are used over the bulbs.

Mr. Ley confirmed to Councilmember Azeltine on behalf of the audience, street lights in Siena and Hallbrook subdivisions are custom, with the bulbs/fixtures provided and maintained by the HOAs, not by the City. The City pays electricity cost for the street lights. LED bulbs reduce the electricity cost paid by the City, and the energy savings are paid back to the HOA. Total repayment typically occurs in four to six years.

Mr. Ley confirmed to Councilmember Harrison about 10 other HOAs would be eligible to participate in the LED replacement program. The City has been in contact with all, and others have not expressed interest. Hallbrook was the City's first participant and replacement was complete about three years ago.

A motion to approve Agenda Item 13. was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a vote of 7-0, with Councilmember Sipple abstaining for reason stated.

14. PLANNING COMMISSION

[from the March 26, 2019 Planning Commission meeting]

- A. **Resolution No. 5173**, approving a Revised Final Plan and Final Plat for Ranch Mart North Shopping Center – Redevelopment, located north of 95th Street and east of Mission Road. (PC Case 04-19)

Mr. Curt Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, stated Governing Body meetings had been held previously in regard to the Preliminary Plan and Community Improvement District [CID]. He stated there had been no substantial changes from those plans. The Planning Commission recommendation includes Stipulations 1 through 39, which are acceptable. He stated Stipulation 4 had been incorporated in the Revised Final Plan.

Councilmember Osman asked for an update on project timeline from start-to-finish and logistics, stating the information needs to be conveyed to nearby neighbors, center tenants and parents of Curé of Ars School students. Mr. Petersen stated timeline and logistics are subject to financing, but are considered on track for a Summer start in the northwest corner, with work done around the center in a counter-clockwise direction. It is anticipated the project would be done in about a year, in mid-to-late 2020.

Councilmember Osman stressed that communication is key and information shared with tenants in a forthcoming manner. Tenants need to be informed about what is happening in their section of the project over the next weeks/months. No one likes for businesses to be impacted, but Corinth and Prairie Village shopping centers tenants endured redevelopment and eventually experienced an upside. Camelot Court had a similar experience. Encourage continued patronage of the center during the redevelopment. As seen with improvements of 95th Street and Mission Road, planned by Prairie Village with Leawood participation, certain sections of roads closed and student pick-up/drop-off times at Curé of Ars School were significantly hampered. Traffic on Mission Road should not be impeded. Child safety is a priority and they may walk through the shopping center, despite instruction to avoid doing so. He requested the project team work with Public Works and Curé of Ars School to ensure the best traffic flow in and out of the school.

Mr. Petersen stated he has worked with Mr. Trip Ross of Cadence Commercial Real Estate on many similar projects, including the two Prairie Village projects referenced by Councilmember Osman, and he is an expert in this area. Mr. Ross is in attendance tonight, listening and duly noting these serious comments.

Councilmember Sipple inquired if the five phases would all be about equal length, about five months duration each based on Phase 1A beginning in the Fall. The City will receive inquiries and needs a general timing schedule. Mr. Petersen stated the phases would not necessarily be equal in length. Mr. Petersen stated it is premature to estimate, the request is duly noted, and deferred response until after General Contractor is selected the next few weeks. There will be detailed construction timelines. He stated the massive interior remodel of the grocery store and Meat Mitch restaurant had begun.

Councilmember Filla requested highlights of any changes. Mr. Petersen stated there is nothing out of conformance and he deferred to Brianna of Davidson Architecture & Engineering. Brianna stated numerous clarifications from Preliminary Plan to proposed Revised Final Plan were made with Staff in regard to design for safe vehicular traffic and planting bed growth and maintenance, resulting in a truly great plan.

Mayor Dunn requested a photograph of the trash enclosure location that was presented to the Board of Zoning Appeals, since the Governing Body has not seen. Mr. Petersen stated there would be masonry trash enclosure attached to the drive-through structure at the current bank building. This will be landscaped and have the required metal doors required by City Code. Brianna displayed a front elevation of the trash enclosure. She stated effort had been made to blend its appearance and to screen with landscaping. The window shown in the background would be the drive-through teller window, with vehicles passing under a canopy roof.

Mayor Dunn inquired if vehicles using the drive-through would be adjacent to the trash enclosure or if there would be a wall to separate. Mr. Petersen stated the trash enclosure would be on the right of vehicles traveling south in the four-lane drive-through, and drivers would see a masonry wall and landscaping. Brianna stated a wall of landscaping would be used for separation.

Councilmember Filla asked if social media such as Facebook, would be used to share daily project information with the public. Mr. Petersen stated Cadence has a website and has meetings with tenants, and the team would be open to suggestions as to method. Councilmember Filla stated use of social media would not negate the use of other types of communications to keep the public updated.

Councilmember Rawlings stated the existing McDonalds drive-through and traffic pattern is horrendous. He stated proposed plan landscaping might reduce the number of large vehicles and/or vehicles with large trailers parking for lunch. Mr. Petersen stated the plan has brought order to the entrance just north of McDonalds, and there are controlled access points. There is only one access point to the east off 95th Street; there had been two. Slanted parking is enclosed surrounded by islands on all sides.

Councilmember Rawlings requested McDonalds' reaction to the plan. Mr. Petersen stated this is a ground lease and consent must be obtained. The project team had approached McDonalds about the potential for additional changes, but consent was not given. The proposed plan is much improved over the current layout.

Councilmember Larson noted the atypical use of artificial AstroTurf by the Meat Mitch restaurant. Brianna stated Meat Mitch wanted an area having all-year access for games such as Bocce Ball. This would be similar to all-year use area at Park Place. Councilmember Larson noted AstroTurf is used at the downtown Char Bar restaurant.

Mayor Dunn noted the building materials utilize more earth tones, being less contemporary, and blending more with surrounding area than presented in prior plans/meetings; Mr. Petersen agreed. Mayor Dunn stated belief earth tone materials would be more applauded by the community.

Councilmember Rawlings inquired about the water feature, planned for a later date. Mr. Petersen stated art and water feature details would be presented in a separate plan. Brianna stated the shopping center would have two water features, one in the highly visible angled plaza near the Hallmark store and one located within the center's larger plaza.

A motion to approve Agenda Item 14.A. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

- 14.B. **Ordinance No. 2938**, approving a Special Use Permit for a temporary use of land for off-site parking for Molle Off-site Parking, located south of 104th Street and west of State Line Road. (PC Case 14-19) [ROLL CALL VOTE]

Mr. Matt Moriarity, Polsinelli, 900 West 48th Place, Kansas City, Missouri, stated the Special Use Permit [SUP] was for off-site parking on property that had been used for 20 years in the same manner. If approved, this would be the 12th renewal of the SUP.

Councilmember Harrison inquired about flooding concerns. Mr. Moriarity stated minor flooding had occurred as other area properties had experienced, but vehicles had never entered the creek as a result of flooding.

A motion to pass Agenda Item 14.B. was made by Councilmember Rawlings; seconded by Councilmember Larson. The motion was approved with a unanimous roll call vote of 8-0.

- C. **Ordinance No. 2939**, approving a Final Plan and a Special Use Permit for a commercial daycare for Barstow School – Leawood Campus, located north of 123rd Street and west of State Line Road. (PC Case 25-19) [ROLL CALL VOTE]

Ms. Ellen Pantaenius, Husch Blackwell LLP, 4801 Main Street, Suite 1000, Kansas City, Missouri, stated there had been a few minor modifications from the Preliminary Plan approved by the Governing Body in October 2018. She stated Barstow had completed their purchase of the property.

Ms. Pantaenius briefly reviewed proposed modifications, displaying revised elevations including Drawing A202. Front-facing entry doors were changed to a side-facing entryway for improved safety. An additional window was added to northeast corner of the building. A doorway and two windows were addition to the southern elevation. A new stair landing and an accessible exit ramp was added to the west elevation. Ten skylights added to the rooftop on the north portion of the building. Rooftop screening of mechanical equipment was slightly modified.

Mr. Jeff Schutzler, Hollis + Miller Architects, 1828 Walnut Street, Kansas City, Missouri, stated the revised entry would keep children out of the drive-aisle path of traffic. On the existing front entrance, window glazing would be modernized and some existing archway details removed. Some windows would be added to the end of the building to allow more daylight to enter.

Mr. Schutzler confirmed to Mayor Dunn that the skylights would be installed in the roof, with 9 of the ten of the lights installed behind the center bulk of the building over the STEAM and Makers space.

Councilmember Larson asked why there had been opposition by others in regard to parking lot improvements such as walkability and landscaping, when this was supported by Barstow and the City. Ms. Pantaenius speculated this was based on desire to maintain the shopping center parking lot look. Councilmember Larson expressed disappointment as there is ample parking for the proposed use, and stated perhaps something to look forward to in the future. Ms. Pantaenius stated Barstow wants to beautify the site and appreciates the Council's support.

Mr. Schutzler confirmed to Councilmember Azeltine the skylights would be just an infill installation. Ms. Pantaenius confirmed to Councilmember Azeltine the facility expects to accommodate 50 to 150 children, with the number fluctuating throughout the day due to the daycare and bussing from the main campus.

Councilmember Sipple asked for clarification of drop-off and shuttle transportation, and if any signage was anticipated, especially for recognition by non-Barstow-related public. Ms. Pantaenius stated daycare children would be dropped off directly at the location and older students bussed from the main campus. Mr. Schutzler stated the building does not have signage, but an interior green logo set back 10 ft. from the upper glass above the front entrance was planned. This would be more of an art piece. Barstow considers the building ancillary to the main campus.

Councilmember Harrison, a former Barstow teacher, asked about the process to ensure 40 infants and toddlers are taken to a safe place in a severe weather emergency, and for the teacher-student ratio. Mr. Schutzler stated ICC 500 safe area are the infant sleeping rooms. The remaining toddlers would need to be escorted across the hall to a safe area. The teacher-child ratio for the daycare is 3 teachers to 9 to 12 children, in the six classrooms.

Mayor Dunn pointed out there had been a great deal of discussion on the topic of storm shelters at the Planning Commission meeting. Mr. Klein stated the City's Building Official is satisfied with the revised language of Stipulation 9 in regard to storm shelters.

Councilmember Cain pointed out the building would contain a "black box design" theatre named Barstow Theatre. She inquired about the distribution of the resident survey conducted by the applicant and if programming would be open to non-Barstow students. Ms. Pantaenius stated the survey was distributed to the same group of neighbors in the vicinity that were notified of the Interact Meetings. She confirmed programming would be open.

Mayor Dunn asked for project timeline estimate. Mr. Schutzler stated tentative start is this Summer.

Councilmember Osman stated he would respectfully abstain from voting because his children attend Barstow. He shared he recently returned from a week-long trip to Washington D.C. with 50 Barstow students, and that Barstow was a phenomenal school.

A motion to pass Agenda Item 14.C. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 7-0, with recusal by Councilmember Osman for reason stated.

- D. **Ordinance No. 2940**, amending Section 16-4-12.4 of the Leawood Development Ordinance, entitled "Distributed Antennae System (DAS) and Small Cell Facilities" and repealing existing Section 16-4-12.4 and other sections in conflict herewith. (PC Case 32-19) [ROLL CALL VOTE]

Ms. Bennett stated the proposed amendment would make adjustments to aesthetic standards to DAS towers, which have come up before for ExteNet, Mobility and Verizon. Wireless carriers have used City street lights and Kansas City Power & Light utility poles for their equipment. Carriers may want to use private-owned poles and pole-owners will need to grant access. Carriers are entitled to install their own poles in the right-of-way, but must agree to right-of-way requirements.

Mayor Dunn expressed concern about possible pole locations. Ms. Bennett stated the City is limited in this regard, but would work with carriers on locations, which are typically installed where signals are weakest based on need. She confirmed to Councilmember Cain that Federal Law allows poles in any right-of-way, including residential, but locations along arterial streets would be more likely. Mr. Klein confirmed to Councilmember Cain pole height would be limited to be no taller than adjacent poles located within 300 ft. and be similar style.

Councilmember Cain questioned if the City had any control in this regard. Mr. Lambers stated a pole could be installed in anyone's front yard. New 5G wireless capacity requires increased amount of hardware, so distance between poles may become intense. Ms. Bennett stated that to-date, carriers have worked with cities because installation is easier on existing poles that already have power. This may not always be the case. Mr. Lambers pointed out the City's goal to underground power lines and reduce the number of poles.

Mayor Dunn encouraged amicable communications. She stated the Governing Body would attempt to assist, if there is anything that can be done. She thanked Mr. Lambers and Ms. Bennett for their effort.

A motion to pass Agenda Item 14.D. was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 8-0.

15. OLD BUSINESS – None

Ordinance vacating a Street Right-of-Way located at 135th Street and Kenneth Road, within the City of Leawood, Johnson County, Kansas [Requestor: Vic Regnier Builders, Inc.] [ROLL CALL VOTE]- *CONTINUED TO THE MAY 6, 2019 GOVERNING BODY MEETING*

16. OTHER BUSINESS – None

17. NEW BUSINESS

A. **Ordinance No. 2941C**, amending §11-1007 and 11-1008 of the Code of the City of Leawood, Kansas, 2000, regarding false alarms, and repealing existing sections and other provisions in conflict herewith [ROLL CALL VOTE]

Chief Rettig stated the impetus for the proposed amendment was two-fold. The amendment designates the City Administrator as contact for appeals, replacing the Alarm Appeal Committee. He stated the Alarm Appeal Committee has only been utilized twice since its inception according to Alarm Coordinator Jim Cogswell. The amendment would also align with the reorganization of the revised alarm process in light of Mr. Cogswell's departure.

Mayor Dunn commented the member positions on the Alarm Appeal Committee had been the easiest to fill of all the committees. She would advise current members of the change; the committee de-commissioned.

Chief Rettig confirmed to Councilmember Cain that alarms are required to be registered, but annual registration renewal would no longer be requirement. There would be a fee for initial registration of an alarm and fee for any false alarms. The result should be a more streamlined, self-sustaining program and better use of resources.

A motion to pass Agenda Item 17.A. was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.

- B. **PUBLIC HEARING** Advisability of creating a Community Improvement District [CID] for the Ranch Mart Shopping Center, located at 95th & Mission Road, in the City of Leawood, Kansas, and the financing of certain improvements therein

Mayor Dunn opened the public hearing.

Mr. Curt Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, spoke on behalf of the petitioner. He stated earlier in tonight's meeting the Governing Body approved Agenda Item 14.A., the Final Plan for redevelopment of Ranch Mart North shopping center and following the public hearing, the Governing Body will consider Agenda Item 17.C., asking for the creation of a Community Improvement District [CID] having boundaries exactly the same as the shopping center property lines. Starting July 1, 2020, a 1% add-on CID sales tax would be applicable within the boundaries. The developer would spend own money to redevelop and costs would be certified. Reimbursable costs would be based on City policy, which states only "cold shell" exterior walls costs, not interior costs, are reimbursable. The developer will incur interior costs. The CID cap is \$13.4 Million for a 22-year period. The agreement used for Camelot Court redevelopment was used as a framework.

Mr. Petersen stated two general notes in regard to timing would be per City policy that would start tonight if approved, and diligence expenses such as architectural and design fees could be included in the overall project cost, but not reimbursed per CID. At the February 18, 2019 Governing Body Work Session the urgent desire for two project tenants, Meat Mitch BBQ restaurant to be located in the former Seasonal Concepts space and grocery store, to start interior renovations had been stated. The developer will be given credit for these interior costs in the total redevelopment cost, but these interior costs are not to be reimbursed through the CID.

Mayor Dunn acknowledged the upcoming agenda items, stating the public hearing was the current agenda topic.

No other person was seen or heard to speak during the public hearing.

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

- C. **Ordinance No. 2942**, authorizing the creation of the Ranch Mart North Community Improvement District [CID] in the City of Leawood, Kansas; authorizing the imposition of a Community Improvement District Sales Tax to be collected within such District; and approving and authorizing certain other actions in connections therewith [Ranch Mart North CID] [ROLL CALL VOTE]

Ms. Bennett stated if the Governing Body approves the CID, then it would be subject to the next Agenda Item, 17.D.

Mayor Dunn asked for the current sales tax rate at Ranch Mart North shopping center. Ms. Long stated she would need to research. Both she and Mr. Lambers offered estimates. The current sales tax was subsequently confirmed by Ms. Long to be 9.1%. The addition of 1% CID sales tax would result in a total sales tax of 10.1% in the Ranch Mart North shopping center.

Mayor Dunn stated for the record, as pointed out by Ms. Bennett and Planning Staff, the City has received communications asserting no public money be used on interiors, and some indicating no public money be used on the cold shell. The City's CID policy allows for reimbursement of exterior cold shell costs. It is appropriate that how public dollars will be specifically used has been stated.

Councilmember Azeltine stated some people believe no public money should be used for private development. Leawood has been very conservative in the use of special tools such as tax abatements and tax-increment financing, compared to other 1st Class Johnson County cities. He suggested those in opposition do not shop in the center. He stated there is no impact on City Budget, as a CID is basically a pass-through.

Councilmember Filla stated for the record that millions of dollars would be spent and include improvements for parking lot safety and appearance, trash enclosure, screening, signage, undergrounding of power lines and the addition of contiguous perimeter sidewalks that would improve walkability for residents and children. Mayor Dunn pointed out that Exhibit C of Agenda Item 17.D. spells out specific private and public investment. The City's CID policy is unique to the City, and had been developed with assistance from Mr. John Peterson.

A motion to pass Agenda Item 17.C. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.

- D. **Resolution No. 5174**, approving and authorizing the Mayor to execute a Redevelopment Agreement by and between Ranch Mart North, LLC and the City of Leawood pertaining to the CID Redevelopment of the Ranch Mart North Shopping Center

Councilmember Sipple questioned what the maximum variance would be if CID costs were higher or lower than stated. Mr. Curt Petersen stated Mr. Ross and his design team had developed a very well-informed budget. The General Contractor has not been hired. Mr. Petersen stated he would be very surprised if there was a massive change to the aggregate budget. If there was, what the developer agreement states is what is to be delivered per plans. If the cost would go way up, we would come to the City to discuss.

Ms. Bennett stated each line item amount is not limited, so an increase in the cost of one item might be made up by a decrease in the cost of another line item. She confirmed to Councilmember Sipple the cap on the total CID is \$13,457,441.

Mayor Dunn acknowledged the presence of ownership entities Mr. Len Corsi and Bob Regnier. She stated the City is looking forward to the long-awaited improvements. She wished the project success.

A motion to approve Agenda Item 17.D. was made by Councilmember Osman; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

Mayor Dunn reminded the May 6 Governing Body meeting is scheduled to begin at 7:00 P.M., since there is no Work Session scheduled for that evening.

ADJOURN

There being no further business, the meeting was adjourned at 9:26 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk