

Minutes

DVD No. 446

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:00 P.M. on Monday, August 12, 2019. Mayor Peggy Dunn presided.

**Councilmembers Present:** James Azeltine, Julie Cain, Chuck Sipple, Jim Rawlings, Mary Larson, Debra Filla, Andrew Osman (arrival after Agenda Item 6.F.) and Lisa Harrison

**Councilmembers Absent:** None

**Staff Present:** Scott Lambers, City Administrator  
David Ley, Public Works Director  
Deputy Chief Colin Fitzgerald, Fire Dept.  
Mark Tepesch, Info. Services Specialist III  
Nic Sanders, Human Resources Director  
Richard Coleman, Comm. Services Director  
Chris Claxton, Parks & Recreation Director  
Patty Bennett, City Attorney  
Chief Troy Rettig, Police Department  
Dawn Long, Finance Director  
Mark Klein, Planning Official  
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  
David Arteberry, Sr. Vice President Kansas/Missouri Public Finance Group, George K. Baum & Company,  
Roger Edgar, Executive Vice President Kansas/Missouri Public Finance Group, George K. Baum & Company  
Ben Thompson, Director, Gilmore & Bell

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn stated revised documentation had been provided for Agenda Items 6.C. through 6.F. and 7.B., and supplemental documentation had been provided for Agenda Items 6.G. and 13.A., and Councilmember Filla would make a report on a Johnson County Community Services presentation under Agenda Item 9., Councilmembers' Report.

Ms. Harper pointed out the agenda had also been amended to state day of Monday rather than Tuesday for the September 16, 2019 meeting in Agenda Item 15.B.

**A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.**

**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 citizen who had signed in to speak on Agenda Item 6.G. would be called upon when the item was reached on the agenda.

**4. PROCLAMATIONS – None**

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS**

- A. **Public Hearing** Consider the 2020 Fiscal Budget for the City of Leawood, 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 Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.**

- B. **Resolution No. 5232**, adopting the Fiscal Year 2020 annual budget for the City of Leawood, Kansas

Mayor Dunn stated a large amount of hard work is done on the budget throughout the year, including numerous meetings beginning after January and a citizen Finance & Budget Committee meeting in June. She thanked everyone involved.

Councilmember Azeltine stated there had been an article in the Kansas City Star newspaper approximately two weeks ago about the threats and potential catastrophe of plunging sales tax revenue in the State and the “Dark Store Theory”, and he requested an update on the topic.

Mr. Lambers stated if the “Dark Store Theory” becomes reality the City would be impacted, along with other property tax jurisdictions. This is happening across the United States, but the process to final determination will be long. Whether the determination is by the Kansas Supreme Court or beyond, the City will take into account when preparing the budget. It will be unexpected, but not a surprise. Consequences for Leawood will not be as great as for other cities or the County, as the City’s revenue stream is balanced.

Councilmember Azeltine asked if there had been discussion by the Kansas League of Municipalities and any actions that may be taken. Mr. Lambers stated the legislative solution is quite simple. Per State Statute commercial property is assessed at 25% of market value, and if this is then increased by 5%, the appraisal ratio could be raised from 25% to 30% to make revenue neutral and then move forward. Whether the legislature handles in this manner is up to them; the State will also be impacted.

**A motion to approve Agenda Item 6.B. was made by Councilmember Harrison; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.**

Ms. Harper presented a County Certificate for the budget to the Governing Body for signature.

- 6.C. **Ordinance No. 2953**, authorizing and providing for the issuance and delivery of \$30,370,000 General Obligation Temporary Notes, Series 2019-1, of the City of Leawood, Kansas, to provide funds to finance the cost of certain public improvement projects within the City; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto [ROLL CALL VOTE]

Mayor Dunn offered congratulations to Finance Director Dawn Long, Budget Manager Kathy Byard, and Financial Advisors Roger Edgar and David Arteberry, on reaffirmation of Leawood's Aaa bond rating and which the City has had for many years now.

Ms. Long stated Financial Advisors Messrs. Edgar and Arteberry from George K. Baum & Company, as well as Bond Counsel Mr. Ben Thompson from Gilmore & Bell facilitated the sale of Temporary Notes and General Obligation Bonds around lunchtime today. Three firms had registered for the Temporary Notes sale, but there were actually five bids received. There were seven bids received for the General Obligation Bonds. Both sales were successful, with good responses. The lowest Temporary Notes net interest cost was 1.187293% and the lowest General Obligation Bonds for refunding true interest cost was 1.885786%, which is a great rate.

Mr. Arteberry expressed pleasure and offered congratulations on the Council's strong financial guidance which supports reaffirmation of the City's Aaa rating recognized by Moody's. He stated the City has completed 11 bond refinancings since 2008 totaling about \$45 Million. The bonds originally carried an interest rate of about 3.99%. As a result the average interest rate decreased to about 1.8%, generating approximately \$2,973,000 Million in savings. The savings from today's refunding was originally estimated to be about \$82,000, but because of the low interest rate the savings will almost double to \$153,689. The City does a good job being diligent and saving significant taxpayer money.

Mr. Arteberry confirmed to Councilmember Azeltine the bid rates are locked, just contingent on approval tonight. T.D. Securities/Ameritrade Bank was best offer for Temporary Notes and UMB Bank N.A. was best offer for General Obligation Bonds.

Councilmember Azeltine questioned why a small portion of the General Obligation Bonds, about \$2 Million are taxable and a large portion, about \$30 Million is not. Mr. Arteberry stated this is due to the nature of the benefits originally financed with the bond issue being refinanced today. Financing included storm water improvements along 117<sup>th</sup> Street. Many properties north of 117<sup>th</sup> Street also benefited, but bonds are being paid back by special assessments levied on just Park Place. Councilmember Azeltine summarized stating it was public purpose, but aspects benefitted private entities.

Mayor Dunn thanked Messrs. Arteberry, Edgar and Thompson for their wise and beneficial counsel.

**A motion to pass Agenda Item 6.C. was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 7-0.**

- 6.D. **Resolution No. 5233**, prescribing the form and details of and authorizing and directing the issuance, sale and delivery of \$30,370,000 General Obligation Temporary Notes, Series 2019-1, of the City of Leawood, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith

**A motion to approve Agenda Item 6.D. was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.**

- 6.E. **Ordinance No. 2954**, authorizing and providing for the issuance and delivery of \$2,435,000 Taxable General Obligation Refunding Bonds, Series 2019-A, of the City of Leawood, Kansas for the purpose of refunding certain outstanding taxable general obligation bonds of the City; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on said bonds as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto [ROLL CALL VOTE]

**A motion to pass Agenda Item 6.E. was made by Councilmember Harrison; seconded by Councilmember Larson. The motion was approved with a unanimous roll call vote of 7-0.**

- F. **Resolution No. 5234**, prescribing the form and details of and authorizing and directing the sale and delivery of \$2,435,000, Taxable General Obligation Refunding Bonds, Series 2019-A, of the City of Leawood, Kansas, previously authorized by Ordinance No. 2954 of the City; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith

**A motion to approve Agenda Item 6.F. was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.**

- G. Discussion and possible adoption of nondiscrimination ordinance: **Ordinance No. 2955C**, Amending Chapter XI of the Code of the City of Leawood, 2000, by adding a New Article 11, pertaining to Prohibited Discrimination [ROLL CALL VOTE]

Mayor Dunn stated additional information received from Mr. Robert Groves this week had been distributed and reminded one citizen had signed in to speak on the topic.

Ms. Bennett stated at the prior Governing Body meeting, the Council had asked Staff to bring forward a draft nondiscrimination ordinance. The proposed draft pertains to sexual orientation and gender identify only, as other categories are sufficiently covered by Federal and State law.

Ms. Bennett confirmed several points of content for Councilmember Azeltine, as follows:

1. Nearly all employers have internal policies for complaints and follow-up. The State usually does not become involved except, for example, if an employer requires women to wear only dresses.
2. The City and State could pursue claims concurrently.

3. The Kansas Religious Practices Protection Act was passed in 2014.
4. The City's complaint form will be narrative and should be delivered to the investigator, which is the Chief of Police or designee.
5. Complaint form filed within 60 days is a standard timeline to facilitate best recall of details.
6. If a complaint form was filed by a City employee against the City, an external Human Resources consulting or law firm would be utilized to avoid a perceived conflict.
7. Since investigator determination is an administrative proceeding rather than strict criminal proceeding, requested conciliation by all parties is attempted before going to civil penalty.
8. For ordinance violations, each party bears their own attorney fees. Under some Federal and State laws, some fees might be recouped.

Councilmember Harrison applauded Mr. Groves and the Council for adding the nondiscrimination ordinance to the Governing Body's 2019 Goals. She hoped most people have never experienced discrimination, and she is proud of the City's action.

Councilmember Cain thanked Councilmember Harrison for her pertinent goal suggestions addressing nondiscrimination and suicide prevention. She is proud of the diligent and thoughtful Goal sessions that have resulted in many fabulous things for citizens and resources, most requiring many months of work.

Mr. Shawn Moore, 11520 Canterbury Circle, thanked the Governing Body for all their efforts, including Councilmember Larson who he had contacted. He stated his family moved from New York City five years ago, where he and his spouse had successful careers at downtown Fortune 500 Companies. They desired to raise children in good public schools and not carrying them in subways, and love Leawood and Kansas, but noticed communities lacked nondiscrimination ordinances. Many cities have now added and he appreciates that Leawood will too. Leawood has been rated one of the best places to live in America by many media publications. By passing this ordinance, the City will be mirroring what Fortune 500 Companies have had in place since the 1990s. He stated the U.S. Chamber of Commerce recently published on this topic in April, exploring why Fortune 500 Companies have this policy and actively promote employee diversity through employee affinity groups and in other ways. Doing so allows employees to present their whole-self and employers can attract and retain the best employees. Leawood's ordinance sends the same message to businesses, employees and individuals who are free to identify, date and marry, welcoming all as long as law-abiding and contributing to the City's best. Leawood is keeping in step with the times. He looked forward to passage of the ordinance.

Mayor Dunn thanked Mr. Moore for his advocacy.

Councilmember Osman prefaced his comments with statement they not be misconstrued in meeting minutes and by the media. He stated what was being discussed was truly sad because 60 years ago his grandparents and their friends could not find a home in Kansas because they were Jewish and African-American. Fast-forward to today, there is no State and Federal mandate where there would be far greater impact. Each City is doing its best to recognize what the State and Federal Government is not doing. Leawood has been swift compared to other City Councils. He hoped the City's actions and timing would speak loudly and clearly.

**A motion to pass Agenda Item 6.G. was made by Councilmember Larson; seconded by Councilmember Azeltine. 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. 2019-28, 2019-29, 2019-30 and 2019-31
- B. Accept minutes of the June 26, 2019 Stormwater Management Committee meeting
- C. Accept minutes of the July 15, 2019 Governing Body meeting
- D. Accept minutes of the May 21, 2019 Arts Council meeting
- E. Accept minutes of the May 1, 2019 Bike/Walk Leawood meeting
- F. Accept minutes of the April 11, 2019 Sustainability Advisory Board meeting -
- G. Approve purchase in the amount of \$195,636.00 [\$57.54/ton] from Central Salt for 3,400 tons of salt for winter 2019-2020 season
- H. Approve 4<sup>th</sup> and Final Pay Request in the amount of \$29,115.00, to O'Donnell & Sons Construction, for the 2018 Ironwoods Park Parking Lot Improvement Project, located at 14701 Mission Road [Project # 71025]
- I. Approve purchase in the amount of \$16,425.00, from Zoll Medical Corporation, for purchase of six [6] Zoll AED3's with associated equipment for the Fire Department
- J. Approve purchase in the amount of \$149,727.00, from Zoll Medical Corporation, for the purchase of five [5] Zoll X Series monitor/defibrillators for the Fire Department
- K. Approve purchase in the amount of \$26,704.44 from American Equipment Company, for the purchase of [4] snow removal plows
- L. **Resolution No. 5235**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$2,500.00, between the City and John King, Artist, for the Art on Loan piece, Skywriting I
- M. **Resolution No. 5236**, approving and authorizing the Mayor to execute an Amendment to that certain Retirement Plan Services Agreement, dated August 1, 2017, by and between the City and Voya Retirement Insurance and Annuity Company [VRIAC] and Voya Financial Partners, LLC, pertaining to the City's 457 and 401Plans
- N. **Resolution No. 5237**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$123,267.30, between the City and J. M. Fahey Construction Co., pertaining to the State Line Road Mill & Overlay Project for Southbound Lanes from Carondolet to south of College Boulevard [Project # 72084] [KCMO Project # 19-3]
- O. **Resolution No. 5238**, approving and authorizing the Mayor to execute Amendment No. 1, to that certain agreement dated March 7, 2016, between the City and Olsson Associates, in an additional amount of \$15,000.00 for the Patrician Woods Stormwater Improvement Project, located at 127<sup>th</sup> & Roe Avenue [SMAC Project TM-04-006] [Leawood Project # 77018]
- P. **Resolution No. 5239**, approving and authorizing the Mayor to execute Amendment No. 3, to a Professional Service Agreement, between the City and McClure Engineering Company, f/k/a Shafer Kline & Warren, Inc., in the amount of \$38,170.00, pertaining to the Leawood South Stormwater Improvement Project, [SMAC Project TM-04-008] [Project # 80255]

- Q. **Resolution No. 5240**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$8,379,045.77, between the City and Miles Excavating, Inc., pertaining to the 143<sup>rd</sup> Street Improvement Project from Windsor to Overbrook [KDOT Project # 46 N-0656-01] [Project # 80129]
- R. **Resolution No. 5241**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,147,772.10, between the City and G-B Construction, LLC, pertaining to the 2019 Residential Street Reconstruction Program Phase II [Project # 80219]
- S. **Resolution No. 5242**, approving and authorizing the Mayor to execute Amendment No. 3, to that certain Professional Engineering Service Agreement dated April 18, 2016, and further amended February 19, 2018 and August 20, 2018, with the total amount of the agreement as amended to not exceed \$1,646,569.82, between the City and Burns & McDonnell Engineering Company, Inc., pertaining to the 143<sup>rd</sup> Street Improvement Project from Windsor to Overbrook [KDOT Project # 46 N-0656-01] [Project # 80129]
- T. **Resolution No. 5243**, approving an Eligible Facilities Request for the addition of antennas and associated equipment at Park Place – Aloft Hotel for Verizon Wireless, [VAW], LLC, located north of 117<sup>th</sup> Street and east of Nall Avenue. (Case 73-19)
- U. **Resolution No. 5244**, approving Final Landscape Plan for Leawood Subdivision – Lot 674 – Residential Emergency Generator, located north of 86<sup>th</sup> Street and west of Lee Boulevard. (PC Case 72-19) [*from the July 23, 2019 Planning Commission meeting*]
- V. Declaration of Surplus Property: [4] metal file cabinets; 2015 Ford Interceptor Utility, last 6 VIN/A66336, Unit 9151; 2014 Ford Taurus, last 6 VIN/127764, Unit 9149; 2012 Chevy Caprice, last 6 VIN/660172, Unit 9148; 2012 Chevy Caprice, last 6 VIN/660252, Unit 9181; 2010 Chevy Impala, last 6 VIN/218942, Unit 9192; 2008 Isuzu NPR-HD C/Cab, last 6 VIN/002206, Unit 9611; 2002 Ford Explorer, last 5 VIN/24242, Unit 9631

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

Mayor Dunn requested Consent Agenda Item 7.J. be pulled for comment.

Councilmember Harrison requested Consent Agenda Item 7.N. be pulled.

7.B. Accept minutes of the June 26, 2019 Stormwater Management Committee meeting

Councilmember Azeltine clarified committee actions taken at the meeting. For the Patrician Woods Stormwater Management Advisory Council [SMAC] project, the City would not reimburse property owners who volunteered easements, but that would not be the policy for future City projects. The committee endorsed and affirmed the City's new policy of taking easements in 60 days.

Mayor Dunn pointed out modified minutes of the meeting had been distributed to the Council. She stated the new easement policy had been discussed at the last Council meeting which Councilmember Azeltine was unable to attend. She stated easement payments will be evaluated on a case-by-case basis and Mr. Ley is working on a ranking system as part of the policy, because the new policy goes in direct opposition to the City's historic easement policy.

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

- 7.J. Approve purchase in the amount of \$149,727.00, from Zoll Medical Corporation, for the purchase of five [5] Zoll X Series monitor/defibrillators for the Fire Department

Mayor Dunn pulled the item to state the Fire Department had budgeted \$100,000 as a 2019 Capital Expense line item and an additional \$50,000 came from a personal donation from the Cocherl Family Foundation for the Fire Department's life-saving efforts on behalf of Mr. Cocherl. The Cocherl's were grateful and the City is extremely thankful for their generous gift.

Councilmember Harrison inquired about the locations of the six AED units in the City. Deputy Fire Chief Colin Fitzgerald stated the advanced model units would be carried by the fire trucks. Some AED units are located in City buildings such as City Hall.

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

- 7.N. **Resolution No. 5237**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$123,267.30, between the City and J. M. Fahey Construction Co., pertaining to the State Line Road Mill & Overlay Project for Southbound Lanes from Carondolet to south of College Boulevard [Project # 72084] [KCMO Project # 19-3]

Councilmember Harrison stated the road is very bumpy and expressed thanks for the project, and for collaboration with Kansas City; Mayor Dunn concurred.

Councilmember Filla pointed out that J.M. Fahey performed most of the reconstruction work on Ward Parkway and many people on both sides of the State Line were impressed with that project, which was done efficiently and without complications on a busy thoroughfare.

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

- 7.P. **Resolution No. 5239**, approving and authorizing the Mayor to execute Amendment No. 3, to a Professional Service Agreement, between the City and McClure Engineering Company, f/k/a Shafer Kline & Warren, Inc., in the amount of \$38,170.00, pertaining to the Leawood South Stormwater Improvement Project, [SMAC Project TM-04-008] [Project # 80255]

Councilmember Azeltine expressed concern about higher than anticipated cost in change orders, which is typically only 5% to 10%. Mr. Ley stated the project started in 2013, it went before the Stormwater Management Committee and an application was made to the Stormwater Management Advisory Council [SMAC] for 2018 construction. During design it became apparent the sanitary sewer along Wenonga was located in a private easement, not in the right-of-way, so the City had to pay for moving and redesign. The City received additional funding to pay for 75% of that cost. In addition, the storm sewer was relocated to meet the demands of two or three large property owners to minimize impact.

Councilmember Azeltine asked if the City could have better handled to avoid the issues increasing project cost approximately 36%. Mr. Ley suggested the City could have possibly known about the private easement, but not about the demands of the two or three large property owners.

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

**8. MAYOR'S REPORT**

- A. Offer sincere sympathies for families and friends of former Councilmember, Planning Commissioner and volunteer for a wide variety of roles, of James Taylor and also Paul Barber. Both recently passed away at age 84. Paul, formerly with the Army Corps of Engineers, assisted former Councilmember Lou Rasmussen in drafting of Leawood's Stormwater Ordinance. Sympathies also go to the family of Erin Langhofer, daughter of Church of Resurrection Pastor, who was killed at a First Friday Art Event. Finally, condolences to families and friends of all mass shooting victims in El Paso, Texas, and Dayton, Ohio. A moment of silence was observed.
- B. Agenda packet contains a letter from resident Dr. James Zaar in regard to speeding bicyclists on trails colliding into pedestrians and dogs. I would add skateboarders speeding as well, and respectfully ask for a motion to refer to the Bike/Walk Committee.

**A motion for referral to the August 21, 2019 Bike-Walk Committee meeting made by Councilmember Sipple; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- C. Police Chief Troy Rettig hosted a great retirement celebration for Sgt. Ken Whiteside honoring his 25 years with the Leawood Police Department. Sgt. Whiteside was very involved as a Crisis Intervention Team member, both in Leawood and throughout Kansas. We wish him well as he continues a career in this important field.
- D. Congratulations to Leawood Stage Company Chair Michael Blinn and Cultural Arts Coordinator April Bishop on the seven performances of "Kiss Me Kate," the company's 21<sup>st</sup> summer musical production. Attendance of 2,500 was good based on the weather. The orchestra featured 21 members plus the conductor, with one member from Leawood, 14 from Johnson County and 7 others. The Stage Company spent a minimum of 300 hours throughout the year in preparation and the musical required approximately 7,490 volunteer hours to make this production a success. Each night there were at least 70 on-site volunteers, with 15 working front and back of the house each night. The talented cast consisted of 30 members, with five from Leawood and others from all over the region. This was a truly cooperative effort.
- E. The Leawood Arts Council is presenting the "Sundays in the Park Concert Series" and began last night with a performance by the 24-musician Leawood Studio Orchestra. All concerts are free and start at 6:00 P.M. and end at 7:30 P.M. in Ironwoods Park. Due to high humidity, last night's performance was moved into the Lodge. The Hills of Leawood is sponsoring the series. The concert series continues on August 18 with Hard@Play, National Park Radio on August 25, and Heat Index on September 1. The series concludes on September 8 with the David Basse Trio.
- F. Leawood has received many awards, with another featured in the 913 section of the July 17 Kansas City Star newspaper. Leawood was ranked the number one City in Kansas in a list compiled by chamberofcommerce.org. The organization ranked cities across the nation based on employment, housing, quality of life, education and health/obesity ratios.

- G. Terrific “Look to Leawood” Fall 2019 edition of the Leawood Chamber’s magazine. The issue showcases our dedicated volunteers as well as our Citizen Police Academy, and features Bette Monson, I-Lan Sister City Committee Chair, on the cover. Congratulations to Kevin Jeffries, Leawood Chamber Chief Executive Officer and Director of Economic Development, and all involved.

**9. COUNCILMEMBERS’ REPORT**

- A. **Councilmember Osman-** Referral to Public Works Committee regarding repair to retaining wall located on northeast corner of 127<sup>th</sup> Street and Roe Avenue

Councilmember Osman stated the Public Works Committee could discuss the retaining wall at their meeting on September 4, 2019, scheduled to start at 7:30 A.M.

**A motion for referral was made by Councilmember Osman; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- B. **Councilmember Osman-** Review list of consultants and evaluate RFQ requests for Mission Road Improvement Project from 133<sup>rd</sup> to 143<sup>rd</sup> Street

Councilmember Osman stated the Public Works Committee could review consultants and evaluate RFQ requests for Mission Road also at their meeting on September 4, 2019, scheduled to start at 7:30 A.M.

**A motion for referral was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

- C. **Councilmember Filla-** Will be speaking to UCS on Thursday, August 22, 2019 at the County

Councilmember Filla stated she would be speaking to alcohol tax providers from 8:30 A.M. to 10:00 A.M. For the benefit of the Governing Body meeting audience, she stated the State collects alcohol tax. The State remands back to the cities and we collectively give a portion of this to our Parks & Recreation budget and to United Community Services. Her presentation will be on what nutrition has to do with it and the biochemistry of addiction and mental health. She stated Ms. Marya Schott, USC Director of Resource Allocation, invites everyone to attend.

Mayor Dunn thanked Councilmember Filla for presenting, stating Councilmember Filla has a great deal of expertise in this area.

**10. CITY ADMINISTRATOR REPORT – None**

**11. STAFF REPORT – None**

## **COMMITTEE RECOMMENDATIONS**

### **12. STORMWATER MANAGEMENT COMMITTEE**

**[from the July 31, 2019 Stormwater Management Committee meeting]**

**Review Drainage concerns near Gezer Park [13213 Howe Drive]**

**Recommendation: Add small stormsewer system in the Gezer Park area to the Mission Road Improvement Project scheduled for 2022 [Cost estimate: \$110,000]**

Councilmember Azeltine stated the Stormwater Management Committee reviewed drainage concerns on July 31, 2019. In the 2000s, the Market Square developer constructed berms on what is now Gezer Park and water moved north. Parks Superintendent Brian Anderson will relocate park irrigation zones to help with standing water concerns. To add this work to the 2022 Mission Road project would be approximately \$110,000, which would be a 5% increase in the estimated total project cost of \$2.2 Million. The proposed project could be funded by the 1/8 cent Stormwater Sales Tax. He thanked Councilmember Harrison for providing a great deal of information on this issue.

Mayor Dunn questioned if the documentation provided in the agenda packet was sufficient to allow Governing Body action. Ms. Bennett stated meeting minutes would document as Public Works moves forward with the project.

Councilmember Sipple requested additional details, questioning if the proposed drainage system would cover the entire north side of Gezer Park or just at 13123 Howe, and noting the area had experienced an exceptionally rainy Spring. Mr. Ley stated the current property owner had purchased the property three years ago and has installed three basement sump pumps, and the owner will still have to address grading drainage issue. He displayed a general vicinity map with 133<sup>rd</sup> Street along the bottom and Mission Road on the east, depicting two large berms, with the east berm a storm sewer system is already collecting water. The north berm shown in yellow. A red-line indicated the proposed storm sewer.

Councilmember Sipple stated he was agreeable with the Public Works recommendation and resolution as long as this was not a “one-off” situation.

Councilmember Cain stated the property owner has done quite a bit to mitigate the issue, and asked if assistance would be needed to mitigate that impact on other neighboring property owners. Mr. Ley stated the property owner would need to hire an engineer to survey his property, which is rather flat. The City’s storm sewer would be installed and the area regraded for water flow to the storm sewer.

Mr. Ley confirmed to Councilmember Azeltine there has been standing water on the trail, but mostly to the north.

Councilmember Cain stated she was glad the City was able to address a long-term problem for both the property owner and the City.

**A motion to approve the addition of the storm sewer system recommendation to the 2022 Mission Road Improvement Project was made by Councilmember Azeltine; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 8-0.**

### 13. PLANNING COMMISSION

[from the June 25, 2019 Planning Commission meeting]

- A. **Resolution No. 5245**, approving a Final Plan and Final Plat for Regents Park Multi-family Subdivision, located south of 135<sup>th</sup> Street and west of Kenneth Road (PC Case 33-19)- *[CONTINUED FROM THE JULY 15, 2019 GOVERNING BODY MEETING]*

Mayor Dunn pointed out addendum providing the Final Plat for the Regents Park Multi-family Subdivision, inadvertently omitted from the agenda documentation packet.

Mr. John Petersen, Polsinelli PC, 6201 College Boulevard, Suite 500, Overland Park, presented on behalf of Leawood 135 LLC. He stated Mr. Rick Lashbrook and other members of the design team were in attendance. This is first Final Plan and Final Plat for Phase I, essentially the villas, and including completion of 137<sup>th</sup> Street, additions to 135<sup>th</sup> Street, construction of Chadwick from 135<sup>th</sup> Street to 137<sup>th</sup> Street and pedestrian ways. All 42 stipulations are agreeable.

Mayor Dunn stated there were several things to be done before Governing Body consideration that may require modifications. Stipulation 12 requires the plan for amenity green space to be provided. Mr. Petersen stated the plan had been submitted to Staff. Mr. Klein stated site plans were modified and received showing connecting sidewalks from 137<sup>th</sup> Street to Mission Road, and location of some benches.

Mr. Coleman clarified the Mayor Dunn's comment was in regard to the Tract D retention area. He stated there were minimal amenity improvements there. After meeting with the applicant, the area ended up being a dry basin of mowed grass with benches and sidewalk along the top perimeter.

Mr. Klein stated in Tract D, the applicant proposes a sidewalk that wraps around and connects to Kenneth Road, and they have a sidewalk going into 137<sup>th</sup> Street, a five-foot asphalt trail and some benches.

Mayor Dunn questioned if the Staff comment listed at the top of the Staff Report in regard to Stipulation 25 would require modification. Mr. Coleman stated Staff felt it was pertinent that a water truck continue to irrigate landscaping along 135<sup>th</sup> Street until a permanent in-ground system is installed with future development; Mr. Petersen agreed. Mayor Dunn stated this may need to be codified.

Councilmember Sipple was disappointed in the lack of a water feature on the north side of the duplexes. A hole in the ground is quite a bit less than what could be along 137<sup>th</sup> Street. Leawood South, Tuscany, Siena and Tuscany Reserve subdivisions north of 137<sup>th</sup> Street all have successful water features, and the proposed development without a water feature is "plain vanilla."

Mr. Petersen stated the Preliminary Plan approval reflected a swale-type system to hold water during a storm event, but it would not be wet at all times. He displayed a picture of a concept similar to that proposed by the applicant. The applicant is trying to avoid a hole in the ground. Calculations were made on how to include a water feature, but Tract D is not big being only three acres. A water feature that would hold a 100, 50 or 10-year storm would require a deep hole in the ground with top of water surface being 9 ft. below sidewalk and passing vehicles, and the surface would need to be 7,000 sq. ft. He displayed a "slant drawing." A body of water would bring mosquitoes and bugs, and becomes a deterrent rather than brings attractiveness to the neighborhood. There would need to be security features for drop and depth of water, as well as cost to maintain. All Best Management Practices and

Stormwater Management have been met. This is a matter of preference for an area with a gentle grade, Americans with Disabilities Act compliant, that can be used for pets.

Councilmember Harrison asked about the lack of ingress/egress stated in Stipulation 4. Mr. Klein stated this became an issue for 133<sup>rd</sup> Street before he was with the City. Stipulation 4 was added to ensure direct access by driveways to 137<sup>th</sup> Street would be prohibited. Councilmember Harrison suggested inclusion of the term “driveways.”

Councilmember Filla noted the swale-type area was sparse of deep-rooted native plantings which would help bio-retention. Mr. Petersen stated headwater of the swale addresses Best Management Practices and Stormwater Management. Mr. Coleman stated there were to have been plantings at the bottom of the swale such as sedge, prairie blazing star and switchgrass. Mr. Petersen stated some open areas for green grass were desired.

Mr. Klein confirmed to Mayor Dunn that only the housing of light fixtures should be visible in Mixed-Use development and commercial downspouts are to be enclosed.

Mayor Dunn requested an estimated project timeline. Mr. Petersen stated there is already interest, but installation of sewers, utilities and streets on-site are needed to activate and further encourage.

Ms. Bennett suggested wording for revised Stipulation 25 in regard to continued irrigation along 135<sup>th</sup> Street. Mr. Petersen stated he was agreeable to the stipulation.

Mayor Dunn stated with modification an override vote requiring a super-majority to approve would be needed.

**A motion to approve Agenda Item 13.A. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a vote of 7-1; Nay vote from Councilmember Sipple for development being less than it could be compared to neighbors due to lack of water feature.**

**[from the July 23, 2019 Planning Commission meeting]**

13.B. **Ordinance No. 2956**, approving a Preliminary Plan, Final Plan and Special Use Permit [SUP] for a fast food restaurant for Ranch Mart – McDonald’s, located north of 95<sup>th</sup> Street and east of Mission Road. (PC Case 69-19) [ROLL CALL VOTE]

Mr. Doug Ubben, Phelps Engineering, stating he appeared on behalf of the applicant, McDonald’s and made a brief presentation. McDonald’s has been updating buildings and is proposing to add second drive-through lane on the back side of the existing building in the southwest portion of the Ranch Mart re-development to increase business. He presented drawings of the Ranch Mart re-development approved in April 2019 that did not include McDonald’s. Traffic flow would remain basically the same. The building façade and roofline would be updated. The mansard roof would be replaced and stucco added above windows. The same brick and glass would be used throughout. He stated signage is not shown on the direction 3-D renderings as signage as submitted as a separate approval.

Mayor Dunn inquired if the proposed plan would utilize the recently approved new landscaping code. Mr. Coleman confirmed and Mr. Ubben stated landscaping would match the existing Ranch Mart plan.

Councilmember Osman stated he was agreeable to the second drive-through lane, but expressed displeasure with the proposed façade update in relation to the Ranch Mart re-development. He pointed out it has taken 10 years of complaints from retailers and patrons to get this point. A fire occurred in the existing building during construction and nothing was done to dress-up the exterior; the building is sterile. The McDonald's in Camelot Court tried to match the rest of that development, and Cosentino's in Ranch Mart has updated its interior. His opinion would be different if this was a stand-alone project. Mr. Coleman stated the colors used are those of McDonald corporate design. The proposed changes will more closely match the overall Ranch Mart design. Councilmember Osman stated that many other companies adapt.

Councilmember Osman confirmed to Mayor Dunn he was aware that Ranch Mart had changed the color of re-development design from white to taupe.

Councilmember Filla thanked Mr. Ubben for participating in changes to allow sidewalks around 95<sup>th</sup> Street and Mission Road, especially for the school students.

Mr. Lambers confirmed to Councilmember Azeltine that McDonalds and bank were excluded from the Camelot Court Community Improvement District. Mr. Coleman stated the McDonald's in Ranch Mart operates as a franchise under a long-term property lease. Councilmember Azeltine asked Mr. Ubben who would decide if McDonald's participates in a Community Improvement District. Mr. Ubben stated his belief that decision would come from McDonald's corporate level.

Councilmember Sipple asked for a construction timeline and if the store would remain open during construction. Mr. Ubben stated it is hoped construction could start in the Fall and that some stipulations are dependent on Ranch Mart, including recording the plat. The store would remain open, with perhaps drive-through closed down periodically.

Councilmember Rawlings stated that traffic coming off Mission Road to the driveway is a disaster, with vehicles coming from all four directions. Mr. Ubben stated the old curb cut is being moved to the east and would keep visitors from using the curb cut to access the drive-through lane. Vehicles could continue to turn right or left after pick-up. The counter clock-wise traffic flow as it is today would not change.

Mayor Dunn pointed out the Planning Commission was concerned about the loss of escape plan from drive-through, with the addition of a drive-through lane. Mr. Ubben stated there is currently a full traffic lane behind the store, but with two drive-through lanes that would be lost. A Ranch Mart parking lot island cannot be moved, so the best was done with the space available.

Councilmember Rawlings asked where trash trucks and long construction trailers would park. Mr. Ubben stated they would likely park to the east and hopefully not block numerous parking spots. Councilmember Filla pointed out that the defined angled parking spaces in a new island in Ranch Mart to the north may help overall traffic flow.

Mr. Ubben confirmed to Councilmember Sipple that there would be exit only from the northeast corner of the property due to a median.

**A motion to pass Agenda Item 13.B. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a roll call vote of 7-1; Nay vote from Councilmember Osman for reasons stated.**

- 13.C. **Ordinance No. 2957**, amending Section 16-3-4 of the Leawood Development Ordinance [LDO] entitled “Development Plan Approval Process” and repealing existing Section 16-3-4 and other sections in conflict herewith. (PC 60-19) [ROLL CALL VOTE]

Mr. Klein stated a 2016 code change required an applicant be granted signature permission from all owners of the lots directly adjacent to the proposed project, which can hold-up the application. The proposed amendment would remove this requirement, so that applications could come before the Planning Commission and Governing Body for consideration before being stopped. The proposed amendment would not prohibit public hearings, notifications and protest petitions.

**A motion to pass Agenda Item 13.C. was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.**

- D. **Ordinance No. 2958**, amending Section 16-4-6.3 of the Leawood Development Ordinance [LDO] entitled “Office, Commercial and Industrial Signage in Planned Districts” and repealing existing Section 16-4-6.3 and other sections in conflict herewith. (PC 71-19) [ROLL CALL VOTE]

Mr. Klein stated the proposed amendment was in regard to signage criteria for developments. Currently at the time of final rezoning, criteria becomes applicable to all tenants. This worked well at the beginning, when under one developer. As time passes and parcel ownership changes, signage criteria need to be changed and there has been some reluctance by developments to update. The Planning Department compares signage criteria to the LDO and development criteria on-file, and finds many discrepancies. Staff asks for written sign-off by letter to document, but the letters are typically signed without much review and this causes future conflict. For example in 1995, signage criteria was developed for the overall Town Center Plaza which required neon illumination and now LED is used. Some original criteria are not enforced, such as color of signage lettering returns and thickness. The proposed amendment would allow the Governing Body to hear tenant desires and approve deviations to modify criteria for all tenants.

Councilmember Azeltine inquired if there would be a way to enforce. Mr. Klein stated the City provides a copy of the signage criteria for a development. Unfortunately, it has been difficult for the City to obtain amendments to development signage criteria.

Mayor Dunn thanked Mr. Klein for his work in this regard.

**A motion to pass Agenda Item 13.D. was made by Councilmember Osman; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.**

**14. OLD BUSINESS – None**

**15. OTHER BUSINESS**

- A. Schedule Governing Body meeting on Tuesday, September 3, 2019 at 7:30 P.M.

Mayor Dunn stated the proposed meeting would begin at 7:30 P.M. due to the Executive Work Session that was previously approved at the July 15, 2019 Governing Body meeting for September 3, 2019.

**A motion to approve Agenda Item 15.A. was made by Councilmember Cain; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 8-0.**

- B. Schedule a Governing Body Executive Session on Monday, September 16, 2019 at 6:00 P.M., Executive Session to consult with attorney regarding matters subject to the attorney-client privilege; discuss matters relating to possible acquisition of real property

**A motion to approve Agenda Item 15.B. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- C. Schedule Governing Body meeting on Monday, September 16, 2019 at 7:30 P.M.

**A motion to approve Agenda Item 15.C. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.**

**16. NEW BUSINESS – None**

**ADJOURN**

There being no further business, the meeting was adjourned at 9:00 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk