

Minutes

DVD No. 449

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, October 7, 2019. Mayor Peggy Dunn presided.

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

**Councilmembers Absent:** None

**Staff Present:** Scott Lambers, City Administrator  
David Ley, Public Works Director  
Chris Claxton, Parks & Recreation Director  
Mark Tepesch, Info. Services Specialist III  
Nic Sanders, Human Resources Director  
April Bishop, Cultural Arts Coordinator  
Richard Coleman, Community Dev. Director  
Debra Harper, City Clerk  
Patty Bennett, City Attorney  
Chief Troy Rettig, Police Department  
Dawn Long, Finance Director  
Ross Kurz, Info. Services Director  
Chief Dave Williams, Fire Department  
Mark Klein, Planning Official  
Cindy Jacobus, Asst. City Clerk

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

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn stated the agenda had been amended to add an update on the Mission Road construction project by Public Works Director David Ley under Agenda Item 11., Staff Report.

**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 8-0.**

The agenda was later amended to add update on sale of residence at 96<sup>th</sup> Street and Lee Boulevard by Mr. Lambers under Agenda Item 10., City Administrator Report.

**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 citizens signed in to speak on Agenda Item 12.A. would address the Governing Body when the item was reached on the agenda.

Mr. Rod Richardson, Wallace Saunders Attorney, 10111 W. 87<sup>th</sup> Street, Overland Park, introduced other members of McDonald's project team, and stated they were here to solicit support and direction to City Staff for an amendment to Section 16-4-6.9 of Leawood Development Ordinance [LDO] to allow new generation outdoor digital menu boards [ODMB] at the 95<sup>th</sup> Street and Mission and 119<sup>th</sup> Street restaurant locations. Digital signage is being rolled-out nationwide. Existing internal-illumination menu boards would be replaced with one preview board and one full menu board per drive-through lane. ODMB have already been replaced in five Johnson County cities. The new boards are smaller, easier to read and manage, and energy efficient. It is hoped the Governing Body would direct Staff to consider possible LDO changes to adopt new signs, as old technology signs are obsolete and being phased out. They would be happy to work with Staff in this regard.

Ms. Michelle Freeman, 9015 Kedzie, Evergreen Park, Illinois, Senior Project Manager, Keyser Industries, gave a brief presentation providing comparison data and pictures of existing menu boards and ODMBs. She stated ODMBs are an experience of the future. The signs would be much smaller in size and have a cleaner appearance. Existing four-panel boards are 43 sq. ft. and new ODMB would be 20 sq. ft. Existing single pre-browse boards are 12 sq. ft. to 14 sq. ft. and new would be 10 sq. ft. New boards are LED and have a sensor to naturally adjust to ambient lighting, resulting in less light pollution and are more environmentally sustainable. During the daytime, ODMBs have a white background with black text and for dinnertime menu would switch to a black background with white text. The signs could provide faster service and less queue time. Ms. Freeman displayed a list of other Kansas municipalities that have installed ODMBs.

Mr. Richardson confirmed to Councilmember Osman the restaurant in the area of 87<sup>th</sup> and Farley in Overland Park undergoing construction would utilize the new ODMBs.

Councilmember Osman asked for the impetus for the request and if this had been previously discussed with Staff. Mr. Richardson stated Ms. Bennett had advised presentation in this manner would be best method. The restaurant at 95<sup>th</sup> Street and Mission Road will soon be under construction; 119<sup>th</sup> Street would be second. The direct impetus was Board of Zoning Appeals advice that submitted variance could not be processed per LDO. McDonald's has two facilities in Leawood and no way to pursue.

Mr. Lambers stated the LDO amendment process takes about 90 days, but the City could issue an "at risk" permit to proceed so as to not delay work at the 95<sup>th</sup> Street and Mission Road project. The amendment could be drafted by City Staff in conjunction with the requestors.

Councilmember Rawlings inquired if Staff would be against for any other reason besides prohibition by the LDO. Mr. Lambers stated the amendment would need to be carefully tailored in regard to how far the City wishes to go. For example, Sonic restaurant menus change every 30 seconds.

Councilmember Osman stated it is very important for the Governing Body to review ever-changing signage technology and trends every few years. Menus at restaurants evolved from boards to revolving boards to electronic boards, which can adapt to special pricing and advertising for a specific restaurant or market. LED lighting is now weather-resistant, and more energy and labor efficient. Signage at Andy's Frozen Custard on the Missouri side of State Line Road flashes and meets Kansas City, Missouri, criteria. Leawood needs to adapt as was done for LED lighting a couple of years ago. He would like time for review and would not be comfortable with amending LDO at this meeting.

Councilmember Sipple requested a copy of the list of McDonald's locations with ODMB so Councilmembers can visit and see the signs in operation.

Councilmember Filla commended McDonald's and City Staff for work on renovation of Ranch Mart, and for choosing sustainability.

**A motion for Staff to draft an ordinance to be taken through the planning process was made by Councilmember Azeltine; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 8-0.**

**4. PROCLAMATIONS**

**Double Ten Day, October 10, 2019**

Mayor Dunn stated the proclamation honors Leawood's I-Lan Sister city relationship and she read the proclamation into the record. The proclamation has been mailed to the Director General of the Taipei Economic and Cultural Office in Denver, Colorado.

**National Arts & Humanities Month,  
October, 2019**

Mayor Dunn read the proclamation into the record and presented to Ms. April Bishop, with thanks for all Ms. Bishop does to make the City vibrant.

**Reentry and Returning Citizens' Month,  
October, 2019**

Mayor Dunn read the proclamation into the record, noting it had been requested on behalf of the Greater Kansas City Chamber of Commerce and Reaching Out from Within, [ROFW] event, spearheaded by Prairie Village resident Ms. SuEllen Fried. Mayor Dunn's husband is attending a ROFW benefit this evening.

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS – None**

**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. 2019-37, 2019-38 and 2019-39
- B. Accept minutes of the September 16, 2019 Governing Body meeting
- C. Approve payment in the amount of \$84,347.05, to Johnson County Information Management System [JIMS] for the RMS-NICHE Police Records Management System
- D. Approve Mid-America Council of Public Procurement [MACPP] Co-op bid in the amount of \$81,708.00, from Kansas City Freightliner, for [1] 2020 Freightliner 108SD Dump Truck for PW
- E. Approve revised request in the amount of \$26,550.00, [original amount was \$23,080.00] from Overbilt Trailer Company, to purchase for [1] Trailer

- F. Approve purchase in the amount of \$26,255.00 from Electronic Technology, Inc. [ETI] to purchase [3] mounted license plate reader cameras
- G. Approve Change Order. No. 1, in the amount of \$161,830.00, to Kissick Construction Company, pertaining to the Lee Boulevard Improvement Project from 95<sup>th</sup> Street to 103<sup>rd</sup> Street [Project # 72066]
- H. **Resolution No. 5258**, approving and authorizing the Mayor to execute 2020 Employee Benefit Plan documents
- I. **Resolution No. 5259**, designating holidays for the year 2020, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- J. **Resolution No. 5260**, approving and authorizing the Mayor to execute Amendment No. 1 to that certain Design Engineering Agreement, dated September 16, 2019, in the amount of \$29,930.00, between the City and Brungardt, Honomichl & Company [BHC Rhodes] for a drainage study, Lee Boulevard to Lee Court from 93<sup>rd</sup> Street to 95<sup>th</sup> Street, and culvert extension/wingwall replacement at 9117 Boulevard [Phase II] [Project Nos. # 77024 & 72054]
- K. **Resolution No. 5261**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$85,483.00, between the City and Mega Industries Corporation, pertaining to the Ironhorse Hole # 9 Golf Cart Path Relocation Project [Project # 74095]
- L. **Resolution No. 5262**, approving and authorizing the Mayor to execute a State and Municipal Lease/Purchase Agreement between the City of Leawood, Kansas and Clayton Holdings, LLC, pertaining to the lease of a fire truck and appurtenant equipment and support systems in the original principal amount of \$1,010,426.74
- M. Approve payment in the amount of \$20,935.20, to Creative Displays of Kansas City, Inc., for the purchase, installation and maintenance of holiday lights
- N. Declaration of Surplus Property: 2004 Sterling Acterra Dump Truck; PW Unit 451: 2012 8-foot Boss-Super Duty Snow Plow; Asset # 1696

Councilmember Harrison requested Consent Agenda Items 7.F. and 7.I. be pulled.

Councilmember Sipple requested Consent Agenda Items 7.J. and 7.K. be pulled.

Councilmember Osman requested Consent Agenda Item 7.M. be pulled.

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

- 7.F. Approve purchase in the amount of \$26,255.00 from Electronic Technology, Inc. [ETI] to purchase [3] mounted license plate reader cameras

Police Chief Rettig confirmed to Councilmember Harrison the reader cameras would photograph a license plate and check the number against an existing database of stolen vehicles and arrest warrants. The data remains on file and could also be useful in the investigation of crime. Data would not be searched for uninsured motorists and unregistered vehicles. Councilmember Harrison stated other states perform these searches and she would like to have capability added if the software becomes available.

Councilmember Sipple asked for an estimate of response time from reader camera to database to Police Officer. Chief Rettig stated the check is almost immediate and will send alarm to all on-duty vehicles. The City currently has two readers; one vehicle-mounted and one-trailer mounted. The new reader cameras would be stationary.

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

7.I. **Resolution No. 5259**, designating holidays for the year 2020, in accordance with the personnel rules and regulations of the City of Leawood, Kansas

Councilmember Harrison asked about the procedure or possibility for considering additional days off for employees, such as Columbus Day or one-half day on Christmas Eve or New Year's Eve. Schools and other agencies observe other holidays. She would like to see an additional paid time off [PTO] day added.

Mr. Lambers stated each year employees are surveyed about official exchange of personal days offered for other holidays in regard to proposed annual holiday calendar. For 2020, a slight majority of employees opted to keep three personal days. Each year, there are either two or three personal days. Most businesses, except banks, do not observe other holidays. The holidays typically impact only 8:00 A.M. to 5:00 P.M. office employees; 24-hour positions are treated differently. There has been no consideration of additional holidays in at least 18 years. He would recommend any addition be a floating holiday as to not preclude business at City Hall. Floating holidays cannot roll over to the following year.

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

7.J. **Resolution No. 5260**, approving and authorizing the Mayor to execute Amendment No. 1 to that certain Design Engineering Agreement, dated September 16, 2019, in the amount of \$29,930.00, between the City and Brungardt, Honomichl & Company [BHC Rhodes] for a drainage study, Lee Boulevard to Lee Court from 93<sup>rd</sup> Street to 95<sup>th</sup> Street, and culvert extension/wingwall replacement at 9117 Boulevard [Phase II] [Project Nos. # 77024 & 72054]

Mr. Ley confirmed to Councilmember Sipple the amendment was not requested due to the new addition of 24 houses to the east. The Stormwater Management Committee recommended moving forward with a study at their August meeting in regard to flooding at the northeast corner of the area.

Councilmember Sipple asked for clarification of "green" solutions to stormwater drainage, and if neighbors would have input into options to address drainage issues. Mr. Ley stated "green" solutions would likely include lower-cost solutions such as native plantings, detention and swales. Once the study is complete, neighbor input would be considered.

**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.K. **Resolution No. 5261**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$85,483.00, between the City and Mega Industries Corporation, pertaining to the Ironhorse Hole # 9 Golf Cart Path Relocation Project [Project # 74095]

Councilmember Sipple requested the anticipated start and completion dates for the work. Ms. Claxton stated the start would likely be after the conclusion of events at the end of October. The project is not large, estimated to take 30 to 45 days, weather dependent.

Ms. Claxton confirmed to Councilmember Sipple that golfers would be detoured. Since the cart path is moving closer to the fairway and green, they will be unable to enter the construction area. The project does not include rip-rap on the steep creek embankment. The proposed project should be a lasting solution at this sharp bend in the creek. At the October 24, 2019 Ironhorse Advisory Board meeting, future projects will be prioritized.

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

- 7.M. Approve payment in the amount of \$20,935.20, to Creative Displays of Kansas City, Inc., for the purchase, installation and maintenance of holiday lights

Councilmember Osman questioned if holiday lighting décor was adequately funded. He suggested this be reviewed next year before the end of the three-year contract. Mr. Lambers shared the same thoughts, stating the courtyard trees could be lit to the top and other courtyard items adorned. The décor has expanded through the years and he would recommend addition.

Councilmember Osman stated over the past few years some residents have questioned why a Menorah is not displayed in a City facility, especially in light of our Gezer Region Sister City relationship. Perhaps the Gezer Sister City Committee could select and display an art piece annually, or plan a Hanukkah event at Gezer Park or in conjunction with the City Hall lighting ceremony.

Mayor Dunn suggested Councilmember Osman, Chair of the Gezer Region Sister City Committee, should speak with committee members. She pointed out the City does host the Tzofim Friendship Scout Caravan from Israel each Summer.

**A motion to approve Consent Agenda Item 7.M. 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. Observed a moment of silence for the victims of the shooting at Tequila KC Bar in Kansas City, Kansas, over the weekend.
- B. Participated on an APWA/WTS [American Public Works Association/Women's Transportation Seminar] Mayor's Panel with Independence Mayor Eileen Weir and Parkville Mayor Nan Johnson. I appreciated Leawood City Engineer Brian Scovill for his attendance.
- C. Gardner Mayor Steve Shute hosted the October meeting of the Johnson & Wyandotte Counties Council of Mayors.
- D. Sculptor John King was in town from Colorado to assist in placement of our 10<sup>th</sup> piece of art-on-loan, Sky Writing I. My thanks to APPI Chair Michael Shirley, Arts Council Chair Anne Blessing and Cultural Arts Coordinator April Bishop for orchestrating a dedication ceremony. Councilmembers Lisa Harrison and Chuck Sipple were in attendance along with City Administrator Scott Lambers, Human Resources Director Nic Sanders, Finance Director Dawn Long, Fire Chief Dave Williams and Police Chief Troy Rettig. It's a beautiful new addition to the City's public art inventory.

- E. Councilmember Debra Filla joined me at the National Walk to School Day celebration that was organized by the Shawnee Mission School District and the City of Leawood Police Department. Many thanks to Police Officer Phil Goff and Principal Kevin Frick as well as Police Administrative Services Coordinator Karry Rood. Features that make walking and biking to school safer for students include a school zone, pedestrian-activated crosswalk light and multiple bike racks on school grounds. The weather cooperated nicely for this fun event.
- F. Congratulations are in order to Chief Troy Rettig and the Police Department. Both Backgroundchecks.org and Alarms.org recently ranked Leawood the safest city in Kansas.

Mr. Lambers emphasized retaining the strategic location of the temporary art-on-loan site. Mayor Dunn stated about 10,500 vehicles pass the site daily, before addition of new Park Place residences and the new Tortoise Capital Headquarters building.

## **9. COUNCILMEMBERS' REPORT**

### **Councilmember Debra Filla – Report on Metro KC Climate Action Summit**

Councilmember Filla presented a brief overview and few key points of the September 14, 2019 Metro KC Climate Action Summit, an event hosted by Roeland Park Mayor Mike Kelly and Shawnee Councilperson Lindsey Constance of the Metro KC Climate Action Coalition. The bulk of material was presented by Mr. Bob Berkebile of BNIM, along with speakers Retired Brigadier General W. Christopher King, U.S. Representative Sharice Davids and many others. The General made an interesting comment that inserting a new idea into the mind of a Brigadier General is harder than removing an idea. He was well-versed in change; change is a challenge for everyone.

The Metro KC Climate Action Coalition consists of 100 local and state elected officials and has 10 elected officers. The Coalition is working throughout the Kansas City metro region to drawdown greenhouse gases, improve resiliency and invigorate the economy, while improving public health and collective quality of life.

Mr. Berkebile opened the summit with the slide ““Fortunately, the Future is in Our Hands”. Slides presented information on dangerous new hot zones spreading around the world and maximum beyond-life carbon dioxide emission level hit in 1993. It is not enough to limit carbon dioxide, but reduce the current level. The author of the book *DRAWDOWN* presented “What If” slides, such as what would Kansans do differently if we experienced a drought like California. Leawood has possibly 250 acres of landscaping that could be converted to landscapes that are drought-resistant, are not irrigated and require no carbon dioxide to maintain. Around the world, people are embracing new solutions such as sailing and solar-power batteries used for outdoor concerts. Several years ago, Kansas City planted a “Heartland of Trees”.

All the information provided at the day summit cannot be shared in the few minutes of an oral report. The Coalition’s “playbook/policies” for buildings and cities will be reviewed in December to look at solutions.

Councilmember Filla suggested a Governing Body Work Session in January 2020 to review and understand the playbook, and determine solutions the City can embrace and take action.

Mayor Dunn confirmed to Councilmember Filla the Sustainability Advisory Board can recommend policy and the information should be reviewed by the Sustainability Advisory Board before coming before the Governing Body.

Councilmember Filla requested the curriculum information in the Governing Body agenda packet be provided to Staff. Mr. Lambers stated he may have some Public Works and Planning Staff participate.

**A motion to review at the November 14, 2019 Sustainability Advisory Board meeting was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

Mayor Dunn thanked Councilmember Filla for her attendance of the summit on a Saturday. Councilmember Filla stated the summit was very motivating.

**10. CITY ADMINISTRATOR REPORT – Update on Sale of Residence at 96<sup>th</sup> & Lee Boulevard**

Mr. Lambers stated the City had closed on the property at 96<sup>th</sup> Street and Lee Boulevard and would now move forward with issue of antiquated deed restriction removal. He will be meeting with the Leawood Estates Home Owners Association Board of Directors next week to discuss and determine how to approach their membership, a portion of which is affected. He will provide updates to the Governing Body.

Councilmember Osman stated in the last few weeks he had received inquiries from area residents asking about about the cell tower and who had heard about the sale of residence from the former owner. He stated the City needs to take a more active role in ongoing communication about the site and provide notifications of Governing Body Work Sessions on the topic.

Mr. Lambers stated the latest understanding/intent is for the cell tower to be down by October 31, 2019, then City must remove structure. In regard to the residence, he and Ms. Bennett will meet with a representative of Habitat for Humanity and for an approximate \$4,400 fee, he will deconstruct fixtures for use by Habitat for Humanity or sell items to other contractors. The City would then develop a demolition schedule for the structure. Neighbors would be notified.

Mayor Dunn pointed out the HOA Board of Directors will receive information in the meeting with Mr. Lambers that they can share with their HOA members.

Councilmember Sipple offered compliments and thanks to Mr. Lambers for selecting Habitat for Humanity to take fixtures for recycling; the right thing to do.

**11. STAFF REPORT**

**Public Works Director David Ley – Update on Mission Road Construction Project from 119<sup>th</sup> Street to 127<sup>th</sup> Street**

Mr. Ley stated the project cost of \$4.86 Million including burial of power line, roadway and storm sewers. He displayed a map of Mission Road with 119<sup>th</sup> Street to 123<sup>rd</sup> Street northern phase of project in red and 123<sup>rd</sup> Street to 127<sup>th</sup> Street southern phase of project in orange. He stated the northern phase, which currently has only northbound Mission traffic, will be opened to traffic in both directions in November. Work remaining to be done by Spectrum, AT&T and Kansas City Power & Light will continue to end of December. It is hoped to restore properties, and mill and overlay yet this year.

Rock in the southern phase created trouble for the utilities. Kansas City Power & Light took an extra three months, but all power lines are now buried, utility work is finished and contractor is installing storm sewers. It is hoped to have lanes of traffic open by end of October. Streetlights are scheduled to be installed by the end of December, and sidewalks and curbs in April 2020. Mill and overlay would happen in late April 2020, followed by pavement striping. The City is responsible for extra cost incurred in regard to the rock, so a change order, amount unknown at this time, is expected.

Mr. Ley confirmed to Councilmember Sipple that electric power lines are typically placed in the ground 3 ft. to 4 ft. deep, and LED streetlights would be installed on the west side of Mission Road north of 123<sup>rd</sup> Street and on the east side south of 123<sup>rd</sup> Street. The street is only three lanes and staggered LED streetlights would provide sufficient illumination.

Mr. Ley confirmed to Councilmember Cain that although the timeline was longer than anticipated because of the rock encountered in the southern phase of the project, coordinated overlapping phases significantly reduced overall timeline from 2 years to 1.25 years. Typically, power lines are buried the year prior and take 8 months. If this had been done on this project, periodic lane closures would have happened in 2018 and for six months in 2019. Councilmember Cain thanked Mr. Ley for the savings, which would have been even better if no rock had been encountered.

Councilmember Osman pointed out the City has a policy to bury power lines if possible. This was not done on the 103<sup>rd</sup> Street project several years ago. Anytime the City can do this it should be done. Lines buried in front of Ranch Mart from 92<sup>nd</sup> Street to 95<sup>th</sup> Street, and it makes a dramatic difference in appearance. LED streetlights are much better compared to old halogen/sodium streetlights north of 83<sup>rd</sup> Street. The front of Curé of Ars school looks wide open and area residents are extremely happy. He asked if spacing between utility boxes used in conjunction with buried lines could be extended or if the spacing is required by Kansas City Power & Light. The boxes are an eyesore and some are sizable, 5 ft. to 6 ft. tall, and box location near a traffic Stop sign can negatively impact visibility. Mr. Ley stated there are installation ranges that the City can work on with Kansas City Power & Light, and the City is attempting to have one box moved between a driveway and an intersection.

Mayor Dunn agreed with Councilmember Osman that the LED streetlights and elimination of visible pollution of wires and poles are fabulous.

Councilmember Rawlings asked for an update on Lee Boulevard, 103<sup>rd</sup> Street to 95<sup>th</sup> Street. Mr. Ley stated contractor continues to work on widening the road 2 ft. and curb installation. It is hoped to have open by mid-November, and work to start north of 95<sup>th</sup> Street in mid-April 2020.

Mayor Dunn thanked Mr. Ley for the report. Mr. Ley confirmed project updates are posted on the City's website every two weeks.

## ***COMMITTEE RECOMMENDATIONS***

### **12. PLANNING COMMISSION**

#### ***[from the August 27, 2019 Planning Commission meeting]***

- A. Residential District] to RP-2 [Planned Cluster Detached Residential District], Preliminary Plan and Preliminary Plat for Hills of Leawood Villas, located north of 151<sup>st</sup> Street and east of Mission Road. (PC Case 74-19) [ROLL CALL VOTE]

**Staff Comment:** *A valid protest petition was filed against this application. Passage of the ordinance approving this application requires a vote of 7 Governing Body members*

**City Administrator Comment:** *The City Administrator recommends the Governing Body override the Planning Commission's recommendation of approval of this application for zoning and plan approval. RP-2 zoning provides for a more dense development than the surrounding areas. The proposed plan does not blend with the surrounding zoning. Additionally, once zoned, a developer could seek a revised preliminary plan allowing for only 6,000 square feet of lot area per dwelling unit as allowed under the LDO. Alternatively, if an override is not approved, a remand to the Planning Commission to consider zoning the property as RP-1 would be in order.*

Mayor Dunn stated a valid Protest Petition had been filed, making passage requiring seven votes in the affirmative and she pointed out the City Administrator's comment on the agenda. She stated the Governing Body process is applicant presentation, questions from Governing Body to applicant and Staff, then citizen comments before Governing Body action.

Mr. Greg Musil, Rouse Frets Law Firm, 5250 W. 116<sup>th</sup> Place, Suite 400, stated it was a pleasure to speak to the Governing Body and hear citizens in favor and against the proposed development. He stated some of his presentation would be a duplicate of that made to the Planning Commission, a copy of which had been included in the Governing Body meeting documentation. Other project team members present are developers Mr. Mark Simpson and Mr. Saul Ellis, engineer Mr. Tim Tucker with Phelps Engineering and landscape architect Mr. Jason Meier with Meir Landscape.

Mr. Musil stated about one year ago, property to the east was rezoned R-1 for the Hills of Leawood development, with variance for 19,000 sq. ft. lots. He gave an overview the proposed development that would consist of 25 high-quality garden/walk-out level villas, 1.85 units per acre, main floors of 2,000 sq. ft. to 2,200 sq. ft. and value of \$800,000 and up. The property has some rarities and has been vacant for the history of the City of Leawood. There is a large power transmission line easement on the east edge and the property has a jagged west edge. He stated the project has credible proven developer, assuring high quality product that has much market demand. Development would eliminate a "mischief site", continue and complete a new neighborhood, and connect neighbors from safety and social aspects.

Mr. Mark Simpson, 15145 Windsor Circle, stated the proposed plans boils down to use of an unusual piece of land, which was studied for eight months and 15 different land plans generated. None of the plans were created to fit a zoning category. Seven homes were sited along the 160,000 volt power lines as buyers will not purchase with lines in the back. Maintenance would be provided. Mr. Simpson stated he stands on his record; 21 of 23 lots had been sold in Village of Leawood for \$900,000 to \$1.6 Million in nine months, and 44 of 48 lots sold in Villas of Ironwoods in four years, which are not in Leawood. Developments over the past 25 years such as Tuscany Reserve Villas and Whitehorse Villas are indicative of what would be done. They are an asset and many of you have been in one of these.

Mr. Simpson stated the Village of Ironhorse Home Owners Association President is here to speak tonight. The developers do just one quality level that stand the test of time. Mr. Ellis developed Brittany Court 40 years ago, and there are 340 families enjoying the lock-and-leave villa lifestyle in Leawood, adding a one-quarter of a billion in value. The development of all one-story homes would be an asset and bring value to the City. A stipulation prohibiting RP-2 6,000 sq. ft. lot size in the future would be agreeable.

Mr. Musil displayed aerial maps showing the odd-shape/size of the property, and the 1970s plan of the Mission Heights platted in 1961, and actual development was large estate lots with driveways and septic systems. He presented the history of the 2018 Hills of Leawood, zoned R-1 with variance for 19,000 sq. ft. lots. Per the LDO, 29,000 sq. ft. lots would have been required by the LDO. He stated the project team have taken many steps to address real or perceived concerns of nearby residents in regard to the proposed plan. To develop RP-1 or R-1 would require one-half acre lots because of surrounding large lots and design layout. The developer is committed to the proposed plan.

Mr. Musil stated development challenges are unrestricted 160 ft. wide easement, not 100 ft. wide as documentation states, for Kansas City Power & Light high voltage transmission lines on the east, large lot “legacy” homes with septic systems on the west, and the narrow and irregular shape of the property that has been vacant and undeveloped for the entire history of Leawood.

Mr. Musil stated his summary of Staff Report primary concerns as density, RP-2 zoning not compatible next to R-1 zoning, deviations required by the plan, “leaps” over interim zoning, and Comprehensive Plan change. He presented calculations on density for different zonings and comparison of densities to other developments, stating the proposed development density of 1.85 units per acre is smaller in density except for the Hills of Leawood to the east and Reserve at Ironhorse to the south. The average lot size is 13,642 sq. ft. and the smallest lot is 9,500 sq. ft. The plan is as close as possible to RP-1 zoning requirements, except for the number of lots which are needed to build all infrastructure. The City’s Comprehensive Plan shows RP-2 zoning abutting R-1 and RP-1 zoning in three locations within one mile; the Villas of White Horse at 150<sup>th</sup> Street and Nall, Mission Reserve at 151<sup>st</sup> Street and Mission Road and Villas of Leawood at 145<sup>th</sup> Street and Kenneth Road. He displayed a map with these locations circled in red. In regard to distance between the proposed villas and legacy homes, the largest distance is 220 ft. and the smallest is 75 ft. He stated under the Leawood Development Ordinance [LDO], houses can be 60 ft. apart in R-1 and RP-1. All six requested deviations total 0.5 acres, 2,000 sq. ft. or roughly the size of the Council Chambers, all are minor internal to the development and all are expressly allowed under the LDO. A map with lot deviations highlighted in yellow was displayed. He stated villas would be one-story and two-story homes allowed in R-1 zoning and could be a privacy issue.

Mr. Musil stated the City’s biggest concern is “skipping and leaping” to RP-2 zoning could allow 6,000 sq. ft. lots. He stated LDO Section 16-3-4 requires a revised Preliminary Plan to go through the same process as zoning, which provides the City control. A Preliminary Plan is good for 24 months. Applicant is agreeable to shorten this to one year, as assurance to residents and City that no one will come back one year from now with a request for 7,500 sq. ft. lots. He stated R-1 or RP-2 zoning would not provide a sufficient number of lots for development. The Comprehensive Plan is intended to guide community growth; it is not a mandate, especially in unique situations. When the prior three locations were rezoned, the Comprehensive Plan was likely revised to reflect.

In an effort to find consensus with neighbors, the plan includes dedication by deed of a 10 ft. of tree preservation easement buffering next to 10 ft. utility easement on the west property line. The area currently contains mature trees and a set of new trees planted between the villas and legacy homes. The development owns this land. Also proposed is a HOA-maintained buffering of berms and trees on both sides of the 150<sup>st</sup> Street entrance. This is good for neighbors and neighborhood. Those who have built in the area knew a street would be constructed with 50 ft. right-of-way.

Mr. Musil reviewed matters related to the Golden Criteria and stipulations. R-1 or RP-1 zoned development has never occurred. This is a difficult site. Lots placed one side would be narrow and fewer in number to bear infrastructure costs. Stipulation 16 is acceptable as long as it is known that sidewalks would be within the right-of-way for 150<sup>th</sup> Street. Stipulation 26 is agreeable with notice that a 10 ft. by 10 ft. area for the entry sign will increase to 13 ft. by 13 ft. for the monument sign. As previously stated, Stipulation 27 would change to state Preliminary Plan would lapse in one year rather than two years.

Councilmember Filla questioned why revision of Stipulation 27 from 24 months to 12 months gives greater assurance; a stipulation prohibiting a change in lot size could accomplish the same thing. Mr. Musil stated revision of Stipulation 27 does not actually guarantee, but perhaps alleviate the feeling that the longer the development is not built, there is chance there will be RP-2 size lots. Square footage cannot be changed without going through the planning process.

Mr. Musil confirmed to Councilmember Filla the legacy lots have septic systems and the proposed development may make sanitary sewer connection available for some.

Ms. Bennett confirmed to Councilmember Osman that zoning runs with land, rather than plan.

Councilmember Cain asked if zoning designation would impact the possibility that current homes could connect to the sanitary sewer, likely at a reduced price, and if all of Mr. Musil's offerings were reflected in the proposed Preliminary Plan. Mr. Musil stated sanitary sewer tie-in is only an option if the property is developed. The tree easement may not be in the plan. Mr. Klein stated some landscaping along 150<sup>th</sup> Street as it extended to Mission Road that is on adjacent residential private property and not in the plan. Councilmember Cain stated stipulations would be needed to put these in the plan.

Mayor Dunn stated she had forwarded to Ms. Bennett forward communications between legacy lot owners and Mr. Simpson from over the entire Summer. She asked if items promised in writing by Mr. Simpson were included in the proposed plan. Mr. Musil stated Mr. Simpson had reached agreement with some neighbors to the south on storm drainage concerns, and only outstanding concern was sharing of cost or cost to only Mr. Simpson on berms and additional landscaping of swales with Hills of Leawood to the east. Mr. Simpson agreed to stand by all his statements.

Councilmember Harrison asked how long the power transmission lines had been there. Mr. Musil said the Mission Heights development of legacy lots had no power lines shown. This was platted in 1961 and Kansas City Power & Light easements were obtained in 1961 and 1964. It is not known when the lines were constructed, but they were present when Dr. Reddy purchased the land.

Councilmember Harrison noted the power transmission lines were not a surprise obstacle, it was known the property proposed for development was never part of the 2018 plan approved for Hills of Leawood to the east, and this property would be challenge. Mr. Musil confirmed to Councilmember Harrison the Hills of Leawood received a Board of Zoning variance for reduced lot size to 19,000 sq. ft. from LDO requirement of 27,000 sq. ft. to 28,000 sq. ft. That plan took 1.5 years. He pointed out if the proposed plan would be substantially changed for any reason including reduced lot size, that plan would need to go through the planning process, although this is not the same as zoning.

Councilmember Harrison asked if the people who built the legacy lot homes from 1965 to 2000 were advised if the property was zoned for large lots that homes would be built upon, and for the average frontage of the proposed 25 lots. Mr. Musil assumed legacy home owners would have seen large lots next to them and the frontage of the smallest lot is 74 ft. and the average frontage is 76 ft. Mr. Coleman provided correction that frontage of the smallest lot is 71 ft.

Mayor Dunn confirmed to Councilmember Harrison the property became part Leawood when the City annexed the golf course to 154<sup>th</sup> Street in 1994. Mr. Coleman stated prior to incorporation the property was part of County.

Councilmember Filla pointed out large lots are required to handle a septic system, and not a fashion statement. Councilmembers Filla and Cain requested the number of large lot owners that would be offered the option and/or be required to tie-in to sanitary sewer. After consultation with Mr. Tucker, Mr. Musil estimated four of the seven might be able to tie-in. Mr. Coleman stated based on City's discussions and meetings with Johnson County several years ago in regard to sewers, Johnson County makes the final decision. The LDO states tie-in is required within 200 ft. of a sewer main, but a couple of houses on 143<sup>rd</sup> Street were within 200 ft. and the owners went to the County. The County could require tie-in under their rules for their system. Councilmember Cain stated she did not want to impose the cost of tie-in.

Mayor Dunn asked those who had signed in to speak to keep their comments to five minutes or less, and to bring forth new information, avoiding duplication by indicating agreement with comments of another speaker.

Mr. Bob McQuain, 14901 Mission Road, located in the northwest quadrant of the proposed project, stated owners of the nine residences signed the Protest Petition, and five of those selected to speak for all. He distributed a two-page summary opinion letter addressed to the City Council dated September 17, 2019, signed by Mr. Peter Oppermann of Oppermann LandDesign, LLC. The property of these five directly abuts the proposed development; property of others may abut easements. The proposed plan is classic developer wanting the most lots to sell rather than sound planning, and an attempt to gloss over zoning laws. Leawood is a favored community because the zoning rules provide for visual seamlessness as you move through one area to the next. In the proposed plan, 25 houses would be built on a tract of land that would support 10 to 12 under R-1 zoning. He displayed a rendering of the layout prepared by their architect. He stated by simply moving the roadway slightly to the east and combining some lots, green space is created in the development that abuts their homes. Mr. McQuain pointed out the "Row House Lane" in the proposed plan that consists of five lots, averaging less than 9,900 sq. ft., and all abutting house lots an average of 43,000 sq. ft. He stated this part of the plan is a "rubber stamp" and designed to sell another lot. Mr. Musil has stated there would be buffering for the benefit of neighbors, while Mr. McQuain was told by Mr. Simpson that if a Protest Petition was filed the buffering would be rescinded. Not one of the three developments referred to by Mr. Musil is sandwiched between R-1 residential districts. There is significant separation from neighbors by either a street, commercial property or undevelopable green space, and none directly abut. He is not opposed to villas or development of the tract, but wants R-1 development as shown from the 1980s. There is no other place in the City, and likely the County, where there is such a development. If the abutting lots were commercial, which they are not, the proposed plan would make sense.

Ms. Connie Krupco, 15005 Mission Road, stated it was unfortunate Mr. Simpson had not included this property in the Hills of Leawood, self-creating challenges that have been given to the Governing Body. As stated in the architect's letter, the proposed plan circumvents lot size required within 300 ft. The 300 ft. rules ensures compatibility. This parcel has a four acre power line easement which was included in the plan's density calculation. It has been stated those nearby will need to live with a little buzz. R-1 zoning is on the Master Plan, last approved in April. Market values of property will be detrimentally effected, as well as the park. If the rezoning is approved, another developer could come in with 6,000 sq. ft. lots. The length of time the property has been vacant is subjective and will be addressed by Ms. Lori Hull. Hardship of too-dense RP-2 zoning will be addressed by Ms. Shannon Maize. Dr. Reddy has had several offers to sell. City Staff and City Administrator do not recommend the proposed plan. Economic impact on the developer is not a factor, and this falls outside of sound land planning.

Ms. Lori Hull, 15007 Mission Road, stated she and her spouse purchased one of the legacy lots in 1986. Hardship to Dr. Reddy and vacancy history of 50 years presented by the developer is misleading. She has reviewed various meeting documentation and project team statements. Dr. Reddy purchased the property only 25 years ago, and he sold the adjacent property to Mr. Simpson. In 1990, Mr. Simpson offered to purchase the proposed property and stated economic conditions have finally come around. Other offers were made for the property. R-1 zoning is not why the property has remained vacant. Mr. Musil stated the City did not look at this parcel in the Comprehensive Plan; Mr. Klein states the City did. When the Hills of Leawood PC Case 129-17 was approved in 2018, Mr. Musil stated they were consistent with low density development and LDO, and 19,000 sq. ft. lots were required due to surrounding property. Legacy lot owners were considered part of the equation in 2018. Why did we not matter when we were not abutting and now do not, being referred to as a legacy problem. Staff recommendation should be important in regard to the Golden Criteria.

Ms. Theresa Entriken, 15009 Mission Road, stated her property directly abuts the proposed development. Her estate lot is just over 26,000 sq. ft., and proposed lots behind her of 9,500 sq. ft. and 9,800 sq. ft. would not be compatible. At the August 27, 2019 Planning Commission meeting, the Commission considered letters and comments from residents and HOAs. HOA support shown in correspondence on Pages 213 to 216 of meeting documentation should be questioned. The HOAs included Villas of Ironwoods, Mr. Simpson's Hills of Leawood, Reserve at Ironwoods and the Pavilions. Most of these are not in sight of the proposed development. In addition, the letter of support from Pavilions HOA Vice President mentions Hills of Leawood rather than villas and rezoning for villas. The author of the correspondence on Page 214 who supports lives south of RP-1, and does not abut nor would see the proposed development. The author of correspondence on Page 215 who supports, owns property to be sold to the developer and does not live nearby. Ms. Luanne Reeves, who spoke in support of the proposed plan at the Planning Commission meeting, documented on Page 274, does not live near the proposed development. On Page 285, Planning Commission Peterson, for voted in favor of rezoning, stated visibility is negligible from Mission Road or 151<sup>st</sup> Street. As shown on a map of the area, green space allotted to the west towards the Hills of Leawood demonstrates the developer favors the Hills. The developers map on Pages 243 and 244 shows that Mission Road provides a majority of distance house-to-house in comparison of villas and their homes. She supports the recommendation of the City Staff and City Administrator, and shared the concern that future Preliminary Plans could seek 6,000 sq. ft. lots.

Mr. Karl Lavender, 3400 W. 151<sup>st</sup> Street, was aware of septic system and County requirement of two acres for septic tank and lateral field when he brought his property in 1984. Tie-ins are not required and septic systems typically last about 26 years and are a maintenance nightmare. His system is 28 years old and he is looking forward to tie-in. He contacted the County in regard to cost, which would be \$5,400 fee to tie in if under age 62 and \$2,600 fee for 62 and over, and cost to extend. He is a proponent of the development though he will have seven new neighbors, and thinks the development enhance and bring value to an area which has a scrub field. His home on the far southeast section of the property. When he built his home in 1991, he knew the property behind would be developed and is excited. He stated the Kroh Brothers were the original owners of the land and they donated to the Kansas City Art Institute as a tax incentive. Another property that developed was the golf course. Mr. Ellis and Mr. Simpson have an excellent reputation. He has spoken with Mr. Simpson about his concerns and some screening. They have been working together and all is in writing. He is confident in Mr. Simpson's track record and reputation. He asked if an additional egress for emergency vehicles had been considered. There is only one road in and out for 72 homes and it is difficult to turn left out of his property. Finding villa housing is a challenge and there are not many in Leawood. If not development, the site could continue to sit idle. He is looking to the good of all the community, not just five residents.

Mayor Dunn stated for the record the golf course land was donated by Mr. Don Bell and then voters approved building the golf course.

Major General Michael Lynch, Reserves of Ironhorse HOA President, 3305 Ironhorse Court, power lines come across their development. He cautioned the five houses in regard to possibility of two-story houses rather than the proposed single-story villas. He is a friend and neighbor of Mr. Simpson and supports the proposed plan. Mr. Simpson is trustworthy, and has done many things for his HOA and the neighborhood. HOA members were canvassed and all were in favor.

Ms. Shannon Maize, 14913 Mission Road, stated she lived on the west side of the proposed development next to the street. She has been a Leawood resident for 30 years, moving from old Leawood to south Leawood in 2010. The beautiful trees and 36 lots outweighed the potential danger of having a street parallel to driveway. Mr. Tim Cunningham received approval to develop 51 homes, 20 more homes than planned, with additional trees along street and border. When Mr. Simpson took over he received approval for 70 homes and now he wants 25 more; total 100 homes. She displayed a picture depicting 35 ft. property line from her fence, stating this would be 15 ft. farther than two abutting proposed homes. Increased traffic is also a concern. Her young daughter and son have been involved in vehicle accidents and near-miss accidents. There is no biking to school. She asked if a traffic study would be done, stating research data from the Community & Environmental Defense Services indicates an increase in the number of access points increases the number of accidents. At the Planning Commission meeting, two persons spoke about the hardship of Dr. Reddy. Dr. Reddy paid \$300,000 for all and if he cannot sell that is a just a bad investment. Mr. Simpson purchased the property for the Hills of Leawood for \$3.4 Million. Mr. Simpson has already stated he could go with RP-1 zoning.

Ms. Maize confirmed to Mayor Dunn that Dr. Mark Maize was not present to speak.

Mr. Jeff Rosen, 15224 Linden Street, Villas of Ironhorse HOA President, stated he does not live adjacent; he lives right on the golf course. Living in a villa is wonderful, especially with an aging society, and there are not enough villas available. Mr. Simpson and Mr. Ellis do outstanding quality work, doing what they say they will do, throughout the community. The new development would enhance values. In his development, 151<sup>st</sup> Terrace cuts through residential to the east; villas back up to residential. He supports the proposed plan.

Ms. Luanne Reeves, 15001 Quivira Road, Olathe, stated she owns property that abuts the development to the east. Scrub lot mentioned earlier is hers. Someone said she had a contract with Mr. Simpson to sell. She does not, but would be happy to do so. She is a real estate agent and has attended many contentious zoning meetings as Quivira Road has developed. Change is difficult. Be careful what you wish for and cautious of what you oppose, as much worse could come along later. Two-story homes in the area would not fit, and character is the first Golden Criteria. The legacy homes are contrary and out of character for what is going on in the area. \$800,000 to \$1 Million villas would likely not negatively impact the value of her 1.4 acre lot, which she has tried to sell, but been unable to do so. If she would build, it would be a single-family spec home and require a variance for septic system offered by the City. Twelve RP-1 lots is not economically feasible, and if the opportunity is missed the property will just sit. She has seen the quality work of Mr. Simpson and this would be an opportunity for a beautiful development. Legacy homes actual location on Mission Road will negatively impact the values of those homes more than villas behind.

Mr. Gene Baldwin, 15037 Chadwick, stated he lives in the Villas of Ironwoods, which is not adjacent. He and wife are empty-nesters and like villas. He is very much in favor the proposed development of 25 lots rather than 10 or 12 lots, as that is what is economically feasible and would enhance values in the area. Mr. Simpson is abutting his own Hills of Leawood development and his 45-lot Villas of Ironwood to \$800,000 villas. Mr. Simpson and Mr. Ellis have been responsive and responsible.

Mayor Dunn thanked all for their attendance and comments.

Mr. Musil once again displayed the map of red-circled developments, stating the City has put R-1 next to RP-2 twice, and RP-1 next to RP-2 within one mile of the site and all have worked in practice. Mr. McQuain's hand-drawn plan with houses all on one side is not feasible. The proposed plan is not spot zoning, but placing residential use next to residential use. He stated Ms. Reeves has a valid point; legacy homes do not define the character of the neighborhood. The broader community tells what needs to develop if the legacy homes were not present. To develop this land, a proposed plan of 25 lots of average 13,000 sq. and 1.85 unit/acre density has been submitted. A pure RP-1 plan will not work. Two changes in the list of stipulations are agreeable; addition of a 10 ft. tree preservation easement and revision of Stipulation 26 from two years to one year.

Mayor Dunn questioned the comment about need for additional egress and a traffic study. Mr. Coleman stated there would be egress on 151<sup>st</sup> Street and on Mission Road. The main entrance of the Hills of Leawood is on 151<sup>st</sup> Street, which would connect through the villas to Mission Road. Mr. Ley stated a traffic study is not required, but the City does require the developer to pay for appropriate street signage.

Mayor Dunn asked about the 10 ft. tree preservation area. Mr. Coleman stated with a 20 ft. setback, the proposed villas would only have a 10 ft. backyard.

Mr. Coleman confirmed to Councilmember Cain that he is not aware of a fence on west side with the proposed plan, that nothing could be placed in the easement, and that potential villas and change of zoning was never stated when the Hills of Leawood estates and manors were discussed. Hills of Leawood received a variance for smaller 19,000 sq. ft. lots.

Mr. Coleman confirmed to Councilmember Sipple that 150<sup>th</sup> Street will not connect to the Hills of Leawood until this parcel is developed.

Councilmember Sipple asked clarification of statements regarding RP-2 zoning next to RP-1 or R-1 properties. Mr. Coleman stated RP-2 zoning was devised as a transition from higher commercial use and lower use single-family RP-1 and R-1 zoning. There is commercial on the corner of 151<sup>st</sup> Street and Nall, and on the south side of 151<sup>st</sup> Street on Hole 16/17 Tee-Box of the Ironhorse Golf Course; the Villas of Ironhorse are transitional. There is commercial at 143<sup>rd</sup> and Kenneth Road. The proposed plan has RP-2 between two single-family properties.

Councilmember Filla inquired if there was a plan for RP-1 and how many RP-1 homes would be in the plan. Mr. Coleman stated the plan for R-1, not RP-1, was 12 lots. Staff indicated for RP-1 you may have 21 lots. R-1 lot minimum lot size is 15,000 sq. ft. and RP-1 minimum lot size is 12,000 sq. ft. Setbacks are slightly difference, especially for sides. R-1 side setback is 15 ft. and RP-1 side setback is 12 ft.

Councilmember Filla pointed out the green space that facilitates the proposed plan is the power line easement and the openness that comes from the legacy homes. She asked about the size of the power lines. Mr. Coleman stated that an aerial view of the area shows the largest green space area the legacy home backyards, power line easement and park to the north. The power transmission lines go through the park. Councilmember Filla stated she would not want to live near the lines because of higher potential health risk. Mr. Coleman stated easement is similar to the one on 91<sup>st</sup> Street in Prairie Village, Overland Park, and Leabrooke, which is used for gardens and storage.

Mr. Coleman confirmed to Councilmember Azeltine this type of plan has never been proposed to the City before.

Councilmember Cain questioned if it would be possible to approve a zoning change for just this development plan for one year. Ms. Bennett stated zoning would remain and could not automatically revert. She postulated that Mr. Musil would be the first to say they could meet a 6,000 sq. ft. lot plan, if the proposed lots did not sell.

Mr. Coleman confirmed to Councilmember Cain the property could be planned RP-1 with 21 lots and a few deviations.

Mr. Simpson stated the team had evaluated 12 to 15 different land plans for quality lots without any consideration of zoning. RP-1 was 18 lots with several variances. RP-2 was 25 lots with six variances. The \$75,000 cost to construct the access road of Mission Road has to be spread out between lot owners. There is a large amount of extraordinary costs against 13 or 14 acres. Screening at cost of \$30,000 to \$40,000 has been offered to two property owners on 150<sup>th</sup> Street. Street construction would not be budgeted against the Hills of Leawood which will be complete, but to the villas. If the villas are not built, there will be no road connection.

Councilmember Rawlings questioned if Mr. Simpson had looked at the feasibility of maximum 12 lots for R-1, and if these would be close to the power lines or all to the west side of the property. Mr. Simpson stated a house, not a lot is being sold. Standard city lot frontage is 100 ft., like the manor lots in Hills of Leawood. Garages would be next to power lines and lots would need to be sold at a discounted price. Cost of building a road would need to be bore by 12 houses. The economics on the villas are not wonderful; just doing to not leave a “hole in the donut”. The property is a scrub, nuisance piece of land. The proposed plan is for a quality development and would add value, with two ways in and out. Pine and evergreen trees, maintained by the HOA, would be added as a buffer, and a \$1 Million amenity in the future. We are shovel-ready.

Mayor Dunn reiterated it would take seven affirmative votes for passage due to the Protest Petition.

Mayor Dunn asked Mr. Simpson if he would be agreeable to a legal agreement, similar to a development agreement, drafted by the City's Legal Staff that would revert zoning. Ms. Bennett stated the City cannot enter into a private agreement to revert, but the City could enter into an agreement with developer/owner to petition to revert back to R-1 zoning. Mr. Musil stated this would be a reasonable resolution and he would have to speak with Dr. Reddy as he would need to be the petitioner for rezoning.

Mayor Dunn suggested continuance of the item and Mr. Lambers recommended the November 4, 2019 Governing Body meeting, to provide sufficient time for review and additional work.

Councilmember Filla pointed out that old Leawood lost a large amount of green space when an economic recession hit and cautioned the same could happen again. North Leawood does not have a seamless look as a result. She questioned why \$75,000 road cost is too much for single-family homes to carry, as this equates to less than \$6,500 per approximately \$1 Million home. The City approved the Comprehensive Plan less than one year ago. She is generally opposed to the submitted plan.

Councilmember Larson was troubled that the legacy home owners are not onboard with the proposed development and concerns, on both sides, should be mediated in good faith. The legacy home owners should be able to feel good about what abuts their property. It is tremendously important their voices to be heard. She was concerned to hear the developer would not work because of the Protest Petition. Legacy owners need to be taken care of should this proposal pass.

Mr. Lambers agreed with Councilmember Filla in regard to the road cost, stating \$7,000 would be just 1% of an \$800,000 to \$1 Million home, and the Hills of Leawood is going to use the road and cost should be apportioned, reducing individual cost. In regard to Councilmember Larson comments, perhaps the size/number of lots abutting legacy could be revised to reduce the impact on the legacy homes.

Councilmember Osman stated altered zoning that runs with the land would not be acceptable.. In Ward One, the creek, tree line and commercial provide a buffer to State Line Road for the Simpson/Ellis development near the Country Club of Leawood. That development required extensive negotiations, including the number of lots, with citizens and the City. It has been only 18 to 24 months since Hills of Leawood was approved. Irrespective of where, there is a need for villas and maintenance-free homes due to downsizing and for aging parents.

**A motion to continue Agenda Item 12.A. to the November 4, 2019 Governing Body meeting was made by Councilmember Azeltine; seconded by Councilmember Larson. The motion was approved by a unanimous vote of 8-0.**

Mayor Dunn reminded the Protest Petition remains in place.

12.B. Resolution approving a Revised Final Sign Plan for Ranch Mart Shopping Center – Revised Sign Criteria, located north of 95<sup>th</sup> Street and east of Mission Road. (PC Case 76-19) ***–CONTINUED TO THE OCTOBER 21, 2019 GOVERNING BODY MEETING***

**13. OLD BUSINESS – None**

**14. OTHER BUSINESS**

Schedule Governing Body meeting on October 21, 2019 at 7:30 P.M.

Mr. Lambers stated the Executive Session previously scheduled for October 21, 2019 at 6:00 P.M. may not be held, but regardless, start time of the regular Council meeting that night would remain at 7:30 P.M.

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

**15. NEW BUSINESS – None**

**ADJOURN**

There being no further business, the meeting was adjourned at 10:31 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk